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# The Ripple Effects of Compliance: Reconfiguring EU Policy Effectiveness in Transboundary Environmental Governance

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## Abstract

Research on EU policy effectiveness focuses on implementation and compliance within the EU; however, there is a need for a greater understanding of how and why transboundary socio-ecological issues challenge policy effectiveness beyond the EU's borders. This article introduces the innovative concept of 'ripple effects' of compliance, which are harms perpetuated by structural inequalities, and discusses their implications for EU environmental governance. Contributing to transnational compliance research by integrating political ecology and green criminology, the analysis builds on qualitative data on the illegal bird trade from the Western Balkans into the EU. It demonstrates that compliance with conservation policies within Member States undermines EU policy objectives through crime displacement and institutional misfit, which externalise environmental harm to the Western Balkans. Increased enforcement and monitoring of policy implementation alone cannot function as a panacea for policy *ineffectiveness*. Addressing these dynamics requires strengthened multilevel and cross-jurisdictional governance that encompasses entire ecosystems.

**Keywords:** compliance; EU environmental governance; implementation; policy effectiveness; Western Balkans

## Introduction

Regulatory evaluations under the EU's REFIT programme<sup>1</sup> found that key environmental legislation, such as the Biodiversity Strategy to 2020 (European Commission, 2011) and the Birds Directive (European Union, 2010), has not effectively reduced pressures on biodiversity (Milieu et al., 2016). This is surprising because implementation performance and legal compliance with EU policies, which are often taken as proxies for policy effectiveness, are at an all-time high (cf. Börzel, 2021a; Zagonari, 2018; Zhelyazkova et al., 2018). The illegal bird trade is an overlooked threat to biodiversity in the EU and its neighbourhood. An estimated 45% of global bird species are subject to human exploitation, with 11 to 36 million birds illegally killed in the Mediterranean every year (Bird-Life, 2022, p. 44). Challenging environmental governance due to their migration patterns, birds are considered 'the most common contraband' in the illegal wildlife trade (IWT) (Nurse, 2016, p. 67). However, existing research in EU environmental governance does not explain why EU conservation policies are ineffective at tackling the illegal bird trade in the EU and its neighbourhood. Amidst rising ecosystemic pressures, there is a need to interrogate the link between implementation, compliance and effectiveness to explain *ineffectiveness*.

<sup>1</sup><https://op.europa.eu/webpub/com/refit-scoreboard/en/policy/7/7-2.html>.

Such an interrogation requires a deeper understanding of the transboundary dynamics shaping policy success or failure. This article aims to develop this understanding by looking beyond the geographically bounded jurisdiction of EU policy-making and examining the following research questions: How and why do transboundary environmental problems, such as the illegal bird trade, challenge our understanding of policy effectiveness in EU environmental governance? To address these questions, I develop the idea of ripple effects of compliance. Integrating novel insights from political ecology and green criminology into the study of EU policy processes, I define ripple effects of compliance as harms perpetuated by structural inequalities in EU environmental governance. Using the case of the illegal bird trade from the Western Balkans into the EU, I demonstrate that compliance with EU conservation policies in Member States leads to institutional misfit and crime displacement, thereby functioning as an overlooked driver of the trade. Through a synthesis of document analysis with original empirical material, I illustrate that socio-ecological commodification and the invisibilisation of environmental harm are mechanisms that create crime displacement and institutional misfit. However, precisely because the effects emerge in the Western Balkans, they are attributed to weak regional legislation and enforcement and therefore overlooked in assessments of EU environmental policy effectiveness. We must address these oversights in EU policy design and revision processes to ensure that responses to transboundary environmental challenges effectively target ecosystemic dynamics beyond the EU's political boundaries.

This article fills existing gaps in EU environmental governance by illuminating the cross-jurisdictional impacts of compliance on the effectiveness of environmental policies. First, existing research focuses on the *processes* of externalising EU policies to third countries or, on balance, assumes them to be positive (Bradford, 2020; Lavenex and Schimmelfennig, 2009; Scott, 2020). However, by integrating political ecology and green criminology to study the effects of EU environmental compliance, I demonstrate that systemic inequalities in EU environmental governance create ripple effects of compliance that are inherently negative and undermine overarching policy objectives (White, 2021, p. 89). Second, ripple effects of compliance exist across different policy areas of transboundary governance where harm is produced and distributed in different ways (e.g., social, health or energy sectors). This article concentrates on ripple effects in the environmental sector, which is ideally suited to illuminate underlying mechanisms that generate ripple effects of compliance because of the transboundary nature of environmental problems (e.g., the illegal bird trade).

Below, first, I situate the analysis within existing debates on implementation, compliance and effectiveness. Second, I introduce the idea of ripple effects of compliance and explain how socio-ecological commodification and the invisibilisation of environmental harm lead to institutional misfit and crime displacement. Third, I outline the methodology. Fourth, I discuss the scope of the illegal bird trade from the Western Balkans into the EU, identifying that overlaps between legality and illegality conceal crime displacement. I then demonstrate how misfits in regional institutional responses and the blurring of EU and international policy frameworks provide opportunities for the transference of illegal activity from Member States to the Western Balkans. Last, I analyse the implications of the results for our understanding of policy effectiveness and suggest responses to mitigate ripple effects of compliance.

## I. Limitations to Understanding Implementation, (Non-)compliance and Effectiveness

It is important to interrogate the links between implementation, (non-)compliance and effectiveness to understand how and why transboundary environmental problems challenge our understanding of EU policy effectiveness. Although transboundary challenges require transboundary responses (Milman et al., 2020), discussions on EU environmental policy effectiveness are inward-looking. Explanations of policy ineffectiveness concentrate on non-compliance and implementation failures within the EU, despite being the exception rather than the rule (Börzel, 2021a, p. 3). The effects of EU policies on third countries are assumed to be largely positive because they create stable and predictable regulatory systems, promoting 'good global governance' amidst increasing volatility (Bradford, 2020; Cremona, 2019, p. 66). However, these assumptions overlook the harm that compliance within Member States inflicts on environments beyond the EU's borders. Ultimately, policy adjustments to improve effectiveness build on an incomplete assessment of why policies are unsuccessful in the first place.

This oversight undermines EU environmental governance, which I define as a multilevel process to regulate environmental dynamics, for example, conservation (Fagan and Sircar, 2010, p. 602; cf. Börzel and Fagan, 2015; Pierre, 2000). The quality of regulations is thought to depend on their practical application (Schmälder, 2019, p. 2). However, this interrelation is more complex (Börzel, 2021a; Heidebreder, 2017; Hille and Knill, 2006), as current conceptualisations of implementation, compliance and effectiveness demonstrate.

First, evaluations of policy effectiveness depend on the underlying definition of implementation. It is often conceptualised as a multilevel and inherently political process that involves stakeholders with overlapping or clashing interests (Dimitrova and Steunenberg, 2017; Heidebreder, 2017; Thomann and Sager, 2017). The characteristics of implementation depend on the directionality of the process: The top-down approach is widespread in the Europeanisation literature, highlighting the degree of conformity between policy at the EU level and as it is applied in the Member States, whilst the bottom-up approach emphasises the process and practical outcomes, acknowledging the relative autonomy of national and local implementers (Thomann and Sager, 2017, pp. 1254–1256).

However, this conceptualisation is too state-centric, underestimating the supranational effects of EU policy-making (Heidebreder, 2017, p. 1367). To mitigate uncertainty of governing volatile processes (such as those caused by extreme climate events), implementing authority can be transferred horizontally between loose cross-jurisdictional networks of agents. These networks can mitigate the negative effects of uncertain knowledge that affect the implementation of EU regulations (Heidebreder, 2017, pp. 1369–1371; p. 1378). Therefore, flexible cross-jurisdictional networks are crucial in implementation (Heidebreder, 2017, p. 1371).

Second, recognising implementation as a multi-directional process also influences how we assess policy compliance. In EU integration and transposition literatures, compliance encompasses the integration of EU legislation into national legislative frameworks (Dimitrova and Steunenberg, 2017, p. 1213; Toshkov, 2007). Whilst legal compliance aids in determining whether Member States have transposed and implemented EU

legislation on paper, it reveals little about the quality of the transposed policy in practice (Knill and Liefferink, 2007, pp. 151–152; Thomann and Sager, 2017, p. 1256).

Hence, research aims to explain divergence in compliance across the EU. Part of the explanation lies in the design of the EU's regulatory framework. The Maastricht Treaty (1992) introduced a system of derogations that permits deviation from EU environmental regulations but complicates the study of policy effectiveness. Where derogations do not apply, non-compliance is attributed to weak capacity (e.g., Falkner et al., 2004; Hille and Knill, 2006; Schmälter, 2019), alongside actor preferences (Dimitrova and Steunenberg, 2017), perceptions of legitimacy (Turnhout et al., 2015), issue salience (Spendzharova and Versluis, 2013), enforcement (Hofmann, 2019) and institutional power (Börzel, 2021a), amongst others. If, however, we accept Börzel's claim that 'the functioning of the Internal Market suggests that almost all member states comply with almost all EU law almost all the time' (2021a, p. 3), then policy failures cannot be attributed solely to problems in formal policy implementation and legal compliance in Member States. These observations fundamentally call into question assumptions of the relationship between compliance and policy failure or success, upon which we build assessments of EU policy effectiveness.

## II. Defining Ripple Effects of Compliance

The limited focus on legal compliance within the EU hampers our ability to understand the effectiveness of EU responses to transboundary socio-ecological problems that originate from or affect systems outside of its borders. Paying attention to the ripple effects of compliance addresses this gap. To do so, I integrate novel insights from green criminology (Nurse, 2016; White, 2012, 2021) and political ecology (Duffy et al., 2016; Peet et al., 2011) and understand ripple effects of compliance as more than spillover effects of EU policies. Instead, these ripple effects are harms perpetuated by the structural inequalities ingrained in EU environmental governance. On the one hand, building on the notion of (in)visibilisation in green criminology (Gaarder, 2013; White, 2013), such a view allows us to consider those harms that are triggered by compliance inside of the EU, but which only become observable in the EU's neighbourhood. Observing the emergence of harms beyond the EU's jurisdiction is crucial as it broadens our gaze on the effects of EU policies on entire ecosystems, such as flyways. On the other hand, by understanding ripple effects of compliance as harms perpetuated by structural inequalities, we can address the underlying mechanisms that create environmental harm as a result of EU compliance, which departs from the literature emphasising the net positive effects of EU policies on third countries (Bradford, 2020). Thereby, the idea of ripple effects determines the root causes of transboundary policy *ineffectiveness*, making ripple effects of compliance applicable to other policy areas of transboundary governance (e.g., health or energy). However, an in-depth discussion of ripple effects in other policy sectors lies beyond the scope of this article. In the environmental sector, two mechanisms enable the emergence of ripple effects of compliance, namely, (a) socio-ecological commodification leading to institutional misfit and (b) the invisibilisation of harm leading to crime displacement. Both mechanisms require closer examination here.

*Socio-ecological Commodification and Institutional Misfit*

EU environmental governance is based on the logic of socio-ecological commodification because the EU is, in essence, a market-driven project of regulatory harmonisation (Bradford, 2020; Knill and Liefferink, 2013). Such an emphasis on commodification is problematic because it detaches the process of EU market expansion from ecosystemic dynamics, creating inequalities that harm people and nature (e.g., through exploitation or habitat loss) (Barry, 2012; Collard, 2020; White, 2012). Commodification externalises harm ‘from producers and consumers in ways that make it disappear from their sight and oversight’, blurring lines of (il)legality (White, 2013, p. 245). By extension, commodification detaches ecosystemic dynamics as a reference point from assessments of EU policy effectiveness. This detachment influences how we understand environmental policy failure, as the concept of institutional misfit illustrates.

Institutional misfit refers to ‘how well the attributes of institutions and wider governance systems at local to global levels match the dynamics of biophysical systems’ (Galaz et al., 2008, p. 147). The concept explains why environmental policies appear effective in one locality at a specific time yet ineffective in another, indicating that the mismatch can be spatial or temporal (Galaz et al., 2008, pp. 150–151). However, understanding how misfits emerge requires greater awareness of what constitutes an institution.

Rooted in new institutionalism, I define an institution as a synthesis of norms, values and rules that shapes and governs human behaviour (Lowndes, 2010; March and Olsen, 1984; Schmidt, 2006, p. 107; Young, 2008). Institutions consist of rules whilst also creating them; they influence agency and the structure in which they operate (Barnett and Finnemore, 2004, p. 18). This interrelationship explains why we have come to conceptualise policy effectiveness as the outcome of a process determined by the structures and agents of implementation and compliance.

Institutional misfits between EU environmental policies and transboundary socio-ecological problems challenge our understanding of policy effectiveness because they obscure how compliance with EU conservation policies creates harm. Complex policy processes further conceal the link between commodification, structural inequalities and environmental harm. The mechanism of invisibilisation plays a crucial role here.

*Invisibilisation of Environmental Harm and Crime Displacement*

Institutions can use socio-ecological inequalities (such as class, gender or race) to ‘make green harm less visible’ (Gaarder, 2013, p. 272). They do so by using regulatory interventions to transfer harmful activity to other locations (e.g., the illegal killing of endangered species) or by deflecting responsibility for the activity onto weaker states who are ill-equipped to respond to it (e.g., blaming weak in-country enforcement) (Gaarder, 2013, p. 274). Power determines who controls the regulatory levers that facilitate the invisibilisation of environmental harm (White, 2012, p. 227). However, invisibilising environmental harm creates the illusion of harm being location specific, which oversimplifies global environmental dynamics and detaches ecosystemic dynamics from production and consumption. Making harm visible requires a ‘mapping of movements from place of origin to place of destination’ (White, 2021, p. 95).

To understand how structural inequalities in policy processes enable and transfer environmental harm, we can visualise them as ripple effects. By paying attention to the subtle movements, we can identify the link between cause (e.g., compliance in Member States) and effect (e.g., illegal killing of birds in the Western Balkans), which is not immediately visible. The concept of crime displacement reveals how these patterns unfold in a transboundary context.

Crime displacement occurs when an intervention alters or shifts the incidence of crime, displacing it to another location or target (Johnson et al., 2014). Establishing whether EU compliance in Member States is generating crime displacement makes harm visible in assessments of policy effectiveness. However, such an analysis depends on the availability of data, the absence of which has been recognised by the European Commission (2021a, p. 8).

Observing crime displacement towards the Western Balkans is important in examining how and why transboundary environmental problems challenge our understanding of policy effectiveness for two reasons. First, it expands our focus to entire ecosystems when assessing the effects of EU conservation policies. Second, it streamlines policy responses towards addressing the root causes of environmental pressures instead of treating the symptoms through increased enforcement and monitoring (Johnson et al., 2014, p. 567; Vollaard, 2017, p. 170).

Below, I outline the methodology before I examine these arguments in context of the illegal bird trade from the Western Balkans into the EU.

### III. Methodology

There are many methodological approaches to studying EU environmental governance because questions of governance cut across competencies and sectors (cf. Angelova et al., 2012; Börzel, 2021a; Dimitrova and Steunenberg, 2017; Hille and Knill, 2006; Knill and Liefferink, 2007; Toshkov, 2007; Turnhout et al., 2015). To accommodate the complex nature of multilevel environmental governance, I engaged in an iterative exercise that considered on-the-ground actions (i.e., events) and high-level policy frameworks (i.e., context). I identified the mechanisms by which these influence responses to the illegal bird trade (Pawson and Tilley, 1994).

The illegal bird trade from the Western Balkans into the EU elucidates policy effectiveness for two reasons. First, it demonstrates the complexities of regulating a socio-ecological problem transcending political boundaries. By observing events relating to bird crime in the Western Balkans, my analysis uncovers deeper mechanisms relating to compliance with environmental policies in EU Member States. Second, all Western Balkan countries are EU candidate countries (Albania, Bosnia and Herzegovina, North Macedonia, Montenegro and Serbia) or potential candidate countries (Kosovo) who are harmonising their laws with the EU *acquis* (European Commission, 2019). Enlargement provides a unique opportunity to address structural inequalities, thereby limiting the ripple effects of compliance.

Given that official data on illegal bird trade in Europe are scarce (Brochet et al., 2016), I generated original empirical material from semi-structured interviews and participant observation in the Western Balkans. The combination of interviews and participant observation provided the best method to study the challenges the illegal bird trade poses to

policy effectiveness. They integrated those voices into my analysis that were marginalised in policy processes. Thereby, through interviews and observations, the production and distribution of environmental harm became visible in my analysis.

All research participants were granted anonymity for safeguarding reasons; their personal or professional identifiers, including their location, have been anonymised. Between November 2017 and July 2018, I conducted 21 interviews with 24 participants in the Western Balkans, focusing on Albania, Montenegro, Serbia and the Member State Croatia. I used the snowball technique to identify key stakeholders, such as environmental NGOs (12); employees of international organisations (5), including EU; researchers (3); government representatives (3); and a journalist (1). In March 2018, I conducted participant observation at a regional conference addressing bird crime in the Mediterranean, identifying key narratives used within a specific stakeholder group. I thematically coded interview transcripts to identify prominent themes about underlying drivers of the trade (Soldaña, 2016). These interviews, as interpretations of situated knowledge, generated valuable insights into the specifics of the illegal bird trade and their relation to broader challenges in EU environmental governance (Mansvelt and Berg, 2016; Mason, 2002). Given the lack of official data, these conversations indicated how and where ripple effects of compliance became visible, and how environmental harm was produced and distributed through the EU's policy process. Where possible, I use direct quotes to give a first-hand account. Language restrictions limited the selection of participants, as interviews were conducted in English. Due to this language barrier, only certain voices were heard in my analysis, whilst others were silenced (Temple and Young, 2004, p. 164). However, my research strategy integrates the social dynamics that characterise the research *process*, not simply the outcomes. The interaction between researcher and participant contextualises the interviews and provides analytical direction.

#### **IV. Bird Conservation and the Illegal Bird Trade From the Western Balkans Into the EU**

To determine how and why the illegal bird trade, as an example of a transboundary environmental problem, challenges our understanding of EU policy effectiveness, we must examine how ripple effects of compliance materialise in the Western Balkans. A synthesis of qualitative material with insights from document analyses reveals that the ripple effects of compliance emerge as environmental harms caused by crime displacement and institutional misfit. These processes are rooted in the commodification of birds in contexts of hunting tourism, blurring boundaries of (il)legality, and the invisibilisation of harm in complex regional bird conservation frameworks. Before I discuss these dynamics, I first give a brief overview of the extent of the illegal bird trade.

The Western Balkans are a hotspot for bird crime (EuroNatur and BPSSS, 2018). It is difficult to estimate how many birds are trafficked along the Adriatic Flyway, a major migratory route in South-Eastern Europe (Schneider-Jacoby and Spangenberg, 2010). Reliable data on illicit activity are often unavailable. Existing data-gathering and sharing initiatives, such as EU-TWIX, which collates seizure data from EU Member States related to IWT, or EuroBirdPortal, which records migratory patterns, track illegal cross-border activity and bird populations in Europe but overlook the Western Balkans or are not publicly available.



Birds are illegally traded from the Western Balkans into the EU, particularly (although not exclusively) in the context of hunting tourism, such as in Serbia (Ružić et al., 2017, p. 15). For example, between 104,000 and 163,000 birds are killed illegally in Serbia each year and trafficked into Member States, such as Italy, for human consumption or leisure (BIO Intelligence Service, 2011, p. 15; Schlingemann et al., 2017, p. 27). This type of bird crime affects many species but particularly targets meadow pipits, near-threatened common quails and threatened turtle doves (Ružić et al., 2017, p. 8, 17). Due to uncertain knowledge about migratory bird populations (BirdLife International, 2015, p. 12) and lacking research into hunting tourism in Europe (Matejevic et al., 2021, p. 4), the impact of the trade on species is unknown. Threats along the flyways undermine regional conservation efforts (BIO Intelligence Service, 2011, p. 17; UNEP-CMS, 2017).

Whilst law enforcement data may reveal the scope of the trade, reports of seizures or convictions are rare and anecdotal. Many stakeholders believe that rather than a reflection of reality, it indicates a lack of awareness. An Albanian interviewee explained, 'I haven't seen any cases on the bird trade because nobody registers it' (Interview 1). The problem is not new (e.g., BIO Intelligence Service, 2011). A Montenegrin interviewee indicated, 'it obviously exists, but we don't have any proof' (Interview 2). A Serbian interviewee confirmed that 'the most difficult procedure is finding the evidence' (Interview 3). Increased monitoring, enforcement and data-sharing are priority areas; however, these measures are unlikely to be effective. Enforcement-led interventions in the Western Balkans treat the symptoms rather than the root causes. Taking a closer look at crime displacement demonstrates why this is the case.

### *Patterns of Crime Displacement*

The trade flourishes in a grey area between legality and illegality, which obscures how illegal activity shifts from Member States to the Western Balkans and invisibilises environmental harm. Hunting tourism in the Western Balkans illustrates the fluid boundaries between legal and illegal.

Serbian and Croatian hunting industries depend on hunting tourism (Matejevic et al., 2021). Hunting is regulated in Serbia,<sup>2</sup> but legal and illegal activities overlap. One interviewee described that tourists who engage in hunting allegedly receive 'the full package, like bird shooting during the day, and then prostitutes during the evening and drugs and all sorts' (Interview 4). Hunting bags may not be checked for potential excesses of hunting quotas or protected bird species, such as turtle doves (Interview 5; Schlingemann et al., 2017). Specific hunting methods (e.g., recording devices or semi-automatic weapons) are illegal but often deployed to attract more birds (Interview 6; European Union, 2010, Article 8; Ružić et al., 2017, p. 11). Hunting seasons are regulated but not consistently enforced (Interview 7). Legally shot game can be trafficked to the hunters' country of residence, for example, from Serbia to Italy. An interviewee explained,

<sup>2</sup>Law on Wildlife and Hunting (2010), Official Gazette of the Republic of Serbia, No. 18/10; Amendments to the Rulebook on Proclamation and Hunting of Protected Wildlife Species [translated from original] (2021), Official Gazette of the Republic of Serbia, No. 92/21.

hunters will come to ... Serbia, will do their safari, will shoot, and then they will [go] back home. There is a service provider who will bring the [bird] trophy back. But they [the hunters] don't carry them [on] planes. (Interview 8)

Legal activity transitions into illegality, hindering monitoring and explaining the lack of statistical data.

Perceptions of illegality also matter. The likelihood of locals engaging in illegality increases if EU citizens become involved in illegal activities during their visits to the Western Balkans. Speaking about hunting tours in Serbia, one NGO member argued that

people that are paying to go there [Serbia] are not aware properly of the national legislation and in many cases, don't show a lot of respect [for] the national legislation. And suddenly, the people who organise these trips don't pay attention to it either. (Interview 5)

Observations by an EU employee match this assessment, explaining that EU citizens consider 'the Western Balkans as their back garden to do whatever they want because the law enforcement is weaker here' (Interview 8). A gradual tightening of environmental regulations within the EU has shifted illegal activity towards its neighbourhood.

Weaker enforcement in the Western Balkans is thought to drive the illegal bird trade (Schlingemann et al., 2017, pp. 11, 26), explaining how environmental harm shifts from the EU to its neighbourhood. Although the European Commission recognised Serbia's advancements in environmental legislation, it highlighted gaps in hunting legislation and institutional weaknesses in enforcing and regulating wildlife trade (European Commission, 2021b, p. 115). Similar issues exist in Albania (European Commission, 2020, p. 106). Legislative weaknesses create problems 'in the sense that', as one EU interviewee elaborates, 'there is a law, but the secondary legislation is not strong enough, so it happens sometimes that if police or customs catch an illegal package, they don't really know what to do' (Interview 8). Whilst weaker enforcement of patchier national environmental legislation creates opportunities for crime displacement to occur, legislative complexity caused by exemptions in EU regulations exacerbates this situation (BIO Intelligence Service, 2011, p. 24). An analysis of the multilevel policy framework for migratory bird conservation in South-Eastern Europe demonstrates that institutional misfits exist in regional bird conservation policies.

### *Institutional Misfits in Regional Migratory Bird Conservation*

The design of and compliance with existing policies create further opportunities for crime displacement, thereby moving ripple effects of compliance towards the Western Balkans. Misfits between migratory bird populations and static policy responses, and legislative disconnects concealing legal–illegal overlaps enable this shift.

A combination of international environmental agreements, non-binding regional commitments and EU policies shapes bird conservation and regulates the trade in wildlife in South-Eastern Europe. These include CITES, the Bern<sup>3</sup> and Bonn<sup>4</sup> Conventions to which the EU and five Western Balkan countries (Albania, Bosnia and Herzegovina, Montenegro, North Macedonia and Serbia) are signatories. The EU closely aligns its

<sup>3</sup>Council of Europe 1979, 2013.

<sup>4</sup>UNEP-CMS 1979, 2017.

approach to tackling IWT<sup>5</sup> with these conventions (van Uhm, 2016, p. 40). Building on the CITES framework, the EU commits to monitor the trade in species not currently listed in its three annexes of protected species (Council of the European Union, 1997, Article 3.4, p. 5). The revised EU Action Plan Against Wildlife Trafficking recognises that Member States are a 'hub' for illegal wildlife products (European Commission, 2022a, p. 2). In theory, this multilevel approach ensures effective conservation along transboundary flyways. But why is bird crime still prevalent in the Mediterranean? Non-compliance is only part of the explanation. Mismatches between policy design and migratory bird populations also matter.

The EU Birds Directive prescribes rules for bird conservation and prohibits the sale of wild birds across the Union (European Union, 2010, Article 6.1, p. 9). However, it allows for localised derogations that permit killing or trapping certain native species in specific regions of the Member States or at specific times of year, providing bird populations are not negatively affected (European Union, 2010, Article 9, p. 10). Marketing wild birds is prohibited, and derogations only apply to species 'whose biological status so permits' (European Union, 2010, p. 8). Monitoring the implementation of these derogations relies on self-reporting; however, in the last self-reporting period for 2021, 15 Member States did not submit any reports (European Commission, 2022b). Such legislative disconnects pose significant challenges (European Commission, 2017, p. 9; European Union, 2010, Article 9.3, p. 10).

The impacts of IWT-related actions on migratory bird populations are challenging to monitor. As one Croatian interviewee explained, incorrect reporting exacerbates the lack of scientific knowledge and enforcement data:

All these strictly protected species that are ... shot, they were simply just renamed into either hunting ducks. .... And nobody checks. And these figures, then, are reported ... to the EU statistics. And we know that this data is completely unreliable, false and they're basically corrupting ... the European databases. (Interview 7)

Illegally killed or trapped birds, meaning those hunted outside permitted hunting seasons, trapped with prohibited methods or poached in regions where derogations are not in place, can be laundered and mixed into the restricted EU market under the cover of legal derogations.

Despite gaps in official data, these findings demonstrate the existence of ripple effects of compliance that hamper multilevel conservation efforts along the flyways. The illegal bird trade is partially driven by crime displacement from the EU, particularly in the context of hunting tourism, and further enabled by misfits between localised policy responses and transboundary bird populations. Whilst weaker enforcement and patchier environmental legislation in the Western Balkans enable criminal activities, they merely form part of the problem. Disconnects across multilevel bird conservation frameworks create further opportunities for crime displacement as they conceal overlapping legality and illegality. These findings affect our understanding of policy effectiveness and the governance of transboundary environmental challenges, as I discuss below.

<sup>5</sup>EU Wildlife Trade Regulations encompass the Basic Regulation (No. 338/97), Implementing Regulation (No. 865/2006, amended by Regulation No. 2019/220) and Permit Regulation (No. 792/2012, amended by Regulation No. 2015/57).

## V. Responding to Ripple Effects of Compliance

As EU conservation policies regulate transboundary issues in a geographically bounded jurisdiction, they do so with insufficient thought for their external effects. However, compliance with these policies creates harm in the Western Balkans. It does so through the detachment of ecosystemic dynamics from policy processes, leading to institutional misfit and the invisibilisation of harm, resulting in displacement of illegal activity to the Western Balkans. These ripple effects of compliance must be addressed to ensure that EU environmental policies effectively target ecosystemic dynamics. There are three avenues of responding to the ripple effects of compliance that make EU transboundary environmental governance more effective: (a) If we know that compliance causes harm, we must extend our approach to policy effectiveness to more than compliance or implementation; (b) given that environmental compliance itself invisibilises harm by obscuring its link with structural inequalities, thereby leading to crime displacement, we must address underlying inequalities, for instance, by tackling demand for illegal bird products in Member States; and (c) being aware of institutional misfits that undermine regional bird conservation, we must strengthen multilevel governance encompassing entire flyways.

First, implementation and compliance are too often taken as proxies for policy effectiveness, leading to the erroneous conclusion that increased enforcement and monitoring are solutions to ineffectiveness. Although compliance with EU bird conservation policies and implementation of regional environmental agreements are prerequisites to curb bird crime along the Adriatic Flyway, infringement and bird crime data indicate that poor implementation or compliance is not always the problem. The European Commission launched infringement procedures against some Member States (e.g., Croatia and Malta) due to their non-conformity or non-compliance with the amended 2009 Birds Directive. Yet, it has not launched infringement procedures against other Member States that feature extensive bird crime, such as Cyprus (BirdLife International, 2015, p. 19; Börzel, 2021b). High levels of bird crime do not automatically mean high levels of non-compliance and infringement. These findings confirm Börzel's argument that most EU Member States comply with most EU policies (2021a). But legal and illegal activities overlap in ways that do not translate into infringement data. Therefore, we must extend our approach to environmental policy effectiveness beyond compliance and implementation.

Second, crime displacement from the EU to the Western Balkans demonstrates that compliance with conservation policies does not address the underlying drivers of illegality but transfers crime beyond EU borders. These ripple effects of compliance become visible in the context of hunting tourism. Tourists who hunt frequently disengage from their usual moral code when on holiday (Tickle and von Essen, 2020). Such an 'ethical fading of one's decision-making' (Tickle and von Essen, 2020, p. 3) is induced by a decoupling of the connection that hunters have with their familiar surroundings (Cohen, 2014; Tenbrunsel and Messick, 2004). Hunting tourists' satisfaction correlates with the amount of game encountered during a trip (Matejevic et al., 2021, p. 6), matching interviewees' reports of frequently used electronic devices to attract more birds to hunting grounds. Such illegal activity blurs the distinction between tourist and traditional hunting (Cohen, 2014, p. 5). Illicit behaviour in one type of hunting may spill over into the other (Tickle and von Essen, 2020), confirming my participants' observations that locals are more likely to engage in illegal activity when tourists disregard local legislation.

To counteract this, rather than tightening regulations, ‘ethics need to be cultivated also on a structural level’ to ensure that they apply across localities (Tickle and von Essen, 2020, p. 9). As institutions are syntheses of norms, values and rules that govern human behaviour whilst being shaped by them, they are crucial in cultivating a moral code of conduct. Here, this can be achieved by prioritising demand reduction for bird products in Member States. If such measures recognise the historical and cultural context in which they are embedded (e.g., the role of hunting traditions in national identity-building processes), they can reduce EU demand to the point where the grey area in which legal and illegal activity flourishes becomes insignificant.

Third, the misfit between conservation policies and bird crimes committed along migration routes poses a significant governance challenge, owing to the erroneous identification of weak legislation and enforcement as the reason for illegality. However, crime displacement from the EU is an enabling factor for criminality in the Western Balkans. The multilevel governance structure that drives bird conservation across the region (through CMS, the Bern Convention and EU policies) provides a strong foundation to shift implementing authority vertically and horizontally, within and beyond EU jurisdictions, which mitigates the uncertainty surrounding the bird trade (Heidbreder, 2017). Before bird crime can be addressed appropriately within those structures, stakeholders must recognise the ripple effects of compliance, that is, how the design and application of current policies further bird crime (e.g., by derogations concealing the overlaps between legality and illegality). It is crucial to consider and integrate the ripple effects of compliance that emerge outside of the EU into evaluations of policy effectiveness.

The European Commission’s Environmental Compliance Assurance Programme provides a platform to boost these efforts (European Commission, 2018, p. 6). Whilst it focuses on monitoring and enforcement within the EU (European Commission, 2018, p. 2), extending its scope to encompass the ripple effects of environmental compliance across ecosystems improves policy effectiveness. Currently, the EU’s Environmental Compliance and Governance Forum, comprising senior experts from Member States, does not include dedicated representations from Candidate Countries; they are represented through broader enforcement networks such as IMPEL (European Commission, 2022c). Given that the Western Balkans are preparing for EU accession, integrating them into these measures fosters regional environmental governance. It will mean a shift away from traditional top-down/bottom-up binaries in EU accession and instead strengthen multilevel environmental governance by promoting horizontal convergence and networking (Heidbreder, 2017). Such a shift supports legislative harmonisation amidst increasing volatility, for example, by nurturing the emergence of structural ethics instead of tighter hunting regulations (Tickle and von Essen, 2020). This process ensures that institutions are not simply part of the problem in shaping human–environment relations but also part of the solution (Young, 2008, pp. 119–120).

## Conclusions

Transboundary environmental problems, such as the illegal bird trade, expose the need to expand our approach to EU policy effectiveness beyond its geographically bounded jurisdiction. Although the illegal bird trade appears to stem from criminal activity and weak enforcement in the Western Balkans, it is also driven by crime displacement from

Member States and enabled by misfits between EU and international bird conservation frameworks and transboundary bird populations. These processes have their roots in compliance with EU conservation policy inside the Member States. However, these links are obscured by mechanisms of (a) socio-ecological commodification, which detaches ecosystemic dynamics from policy processes (institutional misfit), and (b) the invisibilisation of environmental harm, which transfers harmful activity to the EU's neighbourhood (crime displacement).

These findings have three implications for our understanding of EU policy effectiveness. First, equating compliance and implementation with policy effectiveness overlooks that policy design and compliance can hamper effectiveness. Second, crime displacement undermines EU environmental policy effectiveness, which cannot be tackled solely by increased enforcement and monitoring. It requires establishing institutional ethics to curb structural inequalities, for example, through demand reduction, placing responsibility on consumer countries. Third, institutional misfit hampers policy effectiveness by overlooking the transboundary nature of ecosystemic dynamics. Shifting implementation horizontally to strengthen cross-jurisdictional networks, for example, between the EU and the Western Balkans, provides a solution to increasingly volatile environmental pressures.

Awareness of these mechanisms is critical as the EU reviews key environmental legislation, such as the Environmental Crime Directive (European Commission, 2021c). The success of the review also depends on the ability to recognise the cross-jurisdictional effects of policy compliance. Here, closer engagement with conceptualisations of (in)justice in political ecology and green criminology can refine how we understand these cross-jurisdictional effects, for example, by analysing the role of systemic inequalities in creating and distributing harm across policy areas. Whilst the illegal bird trade provides examples from the environmental sector, more research is needed to understand how ripple effects of compliance impact effectiveness in other sectors of transboundary governance where harm may be hidden or transferred, such as social, food or energy sectors (cf. Barry, 2012; Davies et al., 2021; Peet et al., 2011). We also require a comprehensive assessment of the implications of the ripple effects on EU policy processes; we must examine how increasing institutionalisation of networks and agencies as forms of regulation affects the design of EU regulatory frameworks (Andonova and Tuta, 2014; Levi-Faur, 2011). These insights enhance ongoing policy assessments, such as those under the REFIT programme. Engaging critically with the ripple effects of compliance will allow us to harness the strengths of multilevel governance to mitigate uncertainty in transboundary governance across policy sectors.

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## Appendix A: List of Cited Interviews

- Interview 1: Interview conducted by author on 11 May 2018 in Albania.
- Interview 2: Interview conducted by author on 21 March 2018 in Serbia.
- Interview 3: Interview conducted by author on 27 March 2018 in Serbia.
- Interview 4: Interview conducted by author on 19 December 2017, online.
- Interview 5: Interview conducted by author on 1 November 2017, online.
- Interview 6: Interview conducted by author on 24 March 2018 in Serbia.
- Interview 7: Interview conducted by author on 22 March 2018 in Serbia.
- Interview 8: Interview conducted by author on 16 March 2018 in Serbia.