European governments and institutions also carry some responsibility for problems with Chinese infrastructure projects but how can Chinese investment in Europe avoid repeating past mistakes and fix the current ones?

In the summer of 2018, a group of environmental activists, experts and journalists gathered in Athens to discuss the actual effects of Chinese infrastructural activities in Southeast Europe. At the workshop, which was organised by the Lau China Institute of King's College London and hosted by the Mediterranean Programme for International Environmental Law and Negotiation (MEPIELAN), we quickly realised that many of the adverse effects could be traced back to an unfavourable coupling of Chinese capital and local political contexts.

From Greece to Bosnia, host governments and elites tended to welcome investments (or more often, loans) into politically important projects and sectors without considering their broader consequences. At the same time, Chinese companies repeatedly failed to engage with the regulatory frameworks where their investments were located. Moreover, we found that European institutions played an ambivalent role that often failed to promote compliance through incentives or enforcement, and sometimes even disincentivised it. We called this situation a synergy of failures.

Countries eager for investment

Examining cases in Greece, North Macedonia, Albania, Bosnia-Herzegovina and Serbia, we recently wrote an article in the Journal of Current Chinese Affairs that highlights the importance of the initial stage of negotiations between Chinese enterprises and local governmental, business and societal actors. In this early period of courting and negotiation, expectations about the importance of environmental regulation can be set quite low. When host governments jockey to attract investment, they might take on the full responsibility of providing environmental impact assessments or assure Chinese banks that the projects will get the necessary approval. As a result, Chinese investors are not brought into alignment with sustainable practices and norms and instead buy into the idea that environmental regulation is a box-ticking exercise that can be done after the fact.

My co-authors and I have identified two specific areas of concern that plague large infrastructural projects with Chinese backing in the region: environmental impact assessments (EIAs) and relations with the public. In North Macedonia, for example, a controversial highway building project demonstrates the laxness Chinese-backed projects can exhibit towards planning for sustainability. The road lacked a strategic EIA, had minimal opportunities for public consultation, was beset by poor planning and ended up being almost 50% more expensive than envisaged. But this incompetence would not have

been possible without the support of the host state. Indeed, cases in Greece, Serbia and Albania showed us that the role of host governments is a crucial variable that sometimes gets overlooked in more geopolitically minded analyses of Chinese influence globally.
The Chinese shipping giant COSCO had been active in the Greek port of Piraeus since 2009 as a concession holder before acquiring a majority stake in the port authority in 2015. Even back in 2009, COSCO pushed through an expansion of the container terminal without proper public consultation, redirecting any complaints to the port authority which was then still publicly owned. Sources within the port authority explained that Chinese managers lacked the relevant know-how to manage this expansion. Yet the conservative New Democracy government of the time imposed rules only loosely, giving COSCO the impression that legal requirements were open to bilateral negotiation. This changed under the left-wing Syriza government that rejected seven of COSCO’s master plans during 2015-2019. While Syriza was far more stringent in enforcing environmental regulation, the port privatisation law had already excluded many relevant stakeholders (local communities and environmental NGOs) from consultation. Currently, the port is expanding as planned, reflecting its importance to the Greek economy. What’s more, once a Chinese investor has been socialised into believing environmental regulation is a matter of negotiation, subsequent earnest steps to enforce compliance could be understood merely as a political play aiming to extract side payments from the investor.
In Serbia as well as in Bosnia, Chinese-financed coal projects ran afoul of national and international regulation, and in both cases, the host government stepped in to solve the problems. Serbia’s Kostolac coal power plant, designated a national developmental priority, has faced regulatory troubles since its inception. A flawed EIA was successfully challenged in court in 2016 for ignoring the transboundary effects of the coal power plant, situated just 15km from the Romanian border. Yet the EIA that replaced it was again investigated by the Espoo Convention Implementation Committee, this time for failing to account for the effects of expanding the Drmno open-cast mine associated with the power plant. Both the Serbian and Bosnian cases also found themselves under scrutiny by the Energy Community for breaching state aid rules, and once again the unyielding support of the government was key in pushing the projects through. The Chinese side, providing both finance and construction, relied fully on the ability (and willingness) of the host state to make such hurdles disappear. Chinese loans had enabled the projects to get off the ground, but Chinese capital became accustomed to a context where legal requirements are negotiable.
In Albania’s case, a private Chinese company named GeoJade acquired a large oilfield in the south of the country in 2016, through its takeover of a Canadian company, Bankers

Petroleum. When fracking had begun at the site in 2008, nearby villagers' protests were largely ignored and the national seismological institute even blamed the 30+ daily earthquakes on an unusual natural phenomenon. An explosion in 2015, however, strained relations between investor and state. The government launched an investigation and claimed Bankers had been evading taxes. Following its 2016 takeover, GeoJade froze the formal mediation process regarding fracking and even increased the frequency and intensity of the controversial practice. The incensed villagers of nearby Zharrëz mounted an escalating series of protests and, aided by a national social justice initiative, managed to sway the Albanian government to issue a moratorium on fracking and order Bankers to pay damages.

What changed? GeoJade lacked political clout in the capital Tirana – unlike Bankers, which had enjoyed the support of the US embassy. Civil society pressure on host governments can be crucial, but so is the mode of entry by Chinese capital. GeoJade is first of all not a state-owned enterprise and secondly, it took over a company which had already lost the trust of the host government. The case also shows it's not only Chinese capital that can take advantage of regulatory and normative lacunas in the region, so a rigorous compliance mechanism is needed even if China is banished from the region by the EU's newfound hawkishness towards Beijing.

Where does this leave European institutions?

EU support, both financial and institutional, is a lifeline to civil society in the Balkans, but the EU often contends with conflicting standards and priorities. Piraeus was privatised in a fire sale under the 2015 Greece bailout agreement, creating a situation where EU funding for the expansion of the cruise terminal is now in the hands of a Chinese firm with a poor track record of consulting the public or meeting minimum environmental standards, as its many failed EIAs suggest. EU accession states like Serbia or Montenegro are encouraged to upgrade their infrastructure, yet publicly scolded for taking on Chinese loans. On the other hand, the Serbians say EU and Western funds are insufficient and overly bureaucratic. Why should anyone be surprised that cheap and easy loans from Chinese state banks are an attractive alternative?

Even when institutions such as the Energy Community have rebuked states over illegal support for Chinese-backed projects, they have been unable to add any bite to their bark. Transnational regulatory frameworks are thus of limited use when the host government is either forced (as was the case with Greece), or is keen to accommodate a Chinese investor. Compliance needs to be built into the process of entry and socialisation of Chinese (and

other) companies. So far, the EU investor-screening mechanisms have neglected to pay much attention to environmental or societal issues, protecting instead vague notions of national security. A recent white paper on foreign subsidies does however refer to environmental issues, even if these are weaponised to exclude Chinese bidders from tendering procedures. This is a step in the right direction. In order to ensure maximum gain for the region's citizens, European and especially national authorities should help Chinese capital get accustomed to the European legal and normative context, reaping the benefits of increased investment while ensuring transparency and high environmental standards become the new normal of Chinese investment in Europe.
Source: chinadialogue.net