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Europeanization Revisited: Central and Eastern Europe in the European Union

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EUROPEANIZATION REVISITED: CENTRAL AND EASTERN EUROPE IN THE EUROPEAN UNION

Editors:

Michał Matlak, Frank Schimmelfennig and
Tomasz P. Woźniakowski

In memoriam Nicky Owtram

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ACKNOWLEDGMENTS

This edited volume has a long history. It started back in 2013, when we were second year doctoral students; as the tenth anniversary of the Eastern Enlargement was approaching, we thought that it might be a good occasion to look back at those ten years. As members of the new generation of Eastern Europeans, we have been given a marvellous opportunity to study in different countries, and – not least – at the European University Institute (EUI). We especially appreciate the opportunity that we have had, given that the dreams, plans and ambitions of several twentieth-century Polish generations, known as the ‘lost generations’, were hindered from realisation by the outbreak of World War II and the subsequent invasion by the communist regime. We are fortunate that when our country joined the European Union (EU) we were young enough to have been able to follow some of our dreams. We knew very well how important the EU membership was to the young Poles and the other Eastern Europeans: the open borders, the Erasmus programme, participation in hundreds of European initiatives, the EUI being the best example thereof - all that was a part of our lives. But we wanted to have this process examined in a scientific way. Therefore, we decided to organise a conference that would gather some of the most eminent scholars on the subject of Eastern Europe and the EU.

This would not have been possible without a large range of wonderful people whom we met on the hills of Fiesole. We would like to thank all of them for their support and trust. We are particularly grateful to Brigid Laffan, the Director of the Robert Schuman Centre (RSCAS), who believed in us from the very beginning, Artur Nowak-Far, the Deputy Minister of the Polish Ministry of Foreign Affairs, who enthusiastically welcomed our idea when we met at the State of the Union conference, Alexander Trechsel, the Head of the Department of Political and Social Sciences (SPS) of the EUI, who gave us valuable advice and support, Ulrich

Krotz, Professor at the SPS Department & the Head of the "Europe in the World" Programme at the RSCAS, - without him, we would not have aimed high, Marise Cremona, then President of the EUI, Adrienne Héritier, Stephan Albrechtskirchinger, then director of EUI Communications Service. We also received support from the Polish Ambassador to Italy, Wojciech Ponikiewski, who kindly agreed to co-finance the conference, Dieter Schlenker, Director of the EU Archives who prepared a special exhibition presented during the conference, as well as Mariana Spratley and Monika Rzemieniecka, who were extremely helpful in organisational matters. The financial support we received from the RSCAS, the EUI SPS Department, the Polish Embassy in Rome and the Historical Archives of the EU is kindly acknowledged.

After the initial conference in 2014, we tried to publish the presented papers and after a couple of long review processes we realised that a follow-up workshop was needed in order to increase the coherence of the papers. Moreover, we decided to invite Frank Schimmelfennig as a third editor who kindly agreed and helped us enormously in drafting the introduction and organising the workshop in Florence in June 2017. We would also like to sincerely thank Mei Lan Goei and Giorgio Giamberini from the RSCAS for the preparation of the volume.

We are truly grateful to all those who helped us in this project and we very much hope that it will become an important contribution for all those who seek to understand the phenomenon of Europeanisation and the transformation of Eastern Europe.

Michał Matlak and Tomasz P. Woźniakowski

Brussels and Berlin, October 2018



FOREWORD

I am delighted to publish the extremely valuable e-book *EUROPEANIZATION REVISITED: CENTRAL AND EASTERN EUROPE IN THE EUROPEAN UNION* as part of the European Governance and Politics Programme (EGPP) housed at the Robert Schuman Centre for Advanced Studies. It represents the fruits of a conference held at the European University Institute (EUI) in 2014 to mark 10 years of EU membership. The papers presented at the conference have been extensively up-dated so that the volume provides us with an important snapshot of the experience of EU membership of the countries that constituted the most extensive enlargement in the history of the Union and transformed the Union from a West European entity to one that was continental in scale. Europeanization provides the overarching theoretical framework for the chapters. The objective of the volume is to re-visit Europeanization and explore the different dynamics of this phenomenon before and after accession. Accession was a period of exceptional Europeanization as the goal of membership was so powerful. After accession the context of Europeanization, both as process and outcome, shifts and domestic factors play an increasingly significant role.

This volume is not just of academic interest but of relevance to the policy world as the Union grapples with the undoubted achievements but also deep concerns about the observance of EU values and the rule of law in the Eastern half of the continent. I wish to thank the three editors Michał Matlak, Frank Schimmelfennig and Tomasz P. Woźniakowski without whom this volume could not have seen the light of day.

Brigid Laffan

Director of the Robert Schuman Centre
for Advanced Studies



EUROPEANIZATION REVISITED: AN INTRODUCTION

*Tomasz P. Woźniakowski (Hertie School of Governance and Stanford University, Berlin),
Frank Schimmelfennig (ETH Zürich) and Michał Matlak (European Parliament, Brussels)*

Introduction

In 2004 and 2007, the European Union (EU) completed its Eastern enlargement, the largest intake of new member states in its history. EU accession also constituted a watershed in the history of Central and Eastern Europe (CEE). In the course of enlargement, the countries of the region have undergone pervasive “Europeanization” – a process of EU-driven or EU-oriented change of their political, economic, and administrative systems.

Earlier analyses of CEE Europeanization focused on the period, in which the Central and Eastern European countries (CEECs) were aspiring and preparing for EU membership and negotiated their accession. Initially, scholarship on the transition countries had viewed Europeanization predominantly as a domestically driven process focusing on the democratic transformation of political institutions and processes (e.g. Ágh and Kurtán 1995). With the start of accession negotiations, however, Europeanization turned from an aspiration to an obligation and shifted from political institutions to public policies (Ágh 1999; Pridham 2000; Grabbe 2001).

The literature on the accession period broadly agreed that CEE Europeanization was massive, effective and predominantly driven by the incentives of membership (Sedelmeier 2011). It was massive because the ex-communist countries of CEE not only adopted EU market and policy rules, which constitute a major regulatory

change for any new member state. Rather, the transfer of EU law was embedded in the CEECs’ transformation of their political, economic, and administrative systems towards liberal democracy, market economies, and accountable, rule-of-law based bureaucracies. It was effective because the CEECs’ strong desire to “return to Europe” accorded the EU unprecedented power to influence their development. Taken together, these conditions caused Europeanization in the CEE candidate countries to be more pervasive than in the case of older EU member states (Grabbe 2001; Héritier 2005). Finally, the Europeanization of the CEECs corroborated a rationalist bargaining model of Europeanization that focused on the conditionality mechanism and the relevance of EU external incentives and domestic adaptation costs for the effectiveness of Europeanization (Schimmelfennig and Sedelmeier 2004; 2005a).

This collection of working papers starts from two major reasons to revisit the Europeanization of CEE. First, it is clear that the accession phase was an exceptional period in the history of CEE Europeanization. As the CEECs have moved from candidate to member state status, the conditions and mechanisms of Europeanization have changed fundamentally. Conditionality has lost its centrality for the Europeanization of the new member states. On the one hand, legal enforcement replaces conditionality as the main mechanism of rule adoption and compliance for member states. On the other hand, where legal enforcement among member states is weak, conditionality is unlikely to be effective either, because the main incentive – membership – has already been consumed. Moreover, conditionality is also expected to be less effective in the remaining candidate countries for EU membership. For the Western Balkans, Turkey and potentially the countries of the Eastern Partnership, the perspective of EU accession has become less credible and the domestic adaptation costs have risen.

The second reason for revisiting CEE Europeanization is that earlier studies focused on formal, institutional Europeanization. In line with



the organization of the accession process, they put a strong emphasis on the political “Copenhagen” criteria for membership, liberal democracy, the rule of law, and the adoption of human and minority rights, and the transfer and adoption of the EU’s *acquis communautaire*, the body of rules that govern the internal market and the flanking European policy regimes. Correspondingly, most studies dealt with the effects of the EU’s political conditionality (e.g. Schimmelfennig et al. 2003, 2006; Schweltnus 2005; Vachudova 2005) and the administrative and regulatory transformation of the CEECs (e.g. Dimitrova 2005; Grabbe 2006). By contrast, the literature paid less attention to political Europeanization: the Europeanization of political actors – the citizens, the parties and interest groups – and political processes (Sedelmeier 2011: 20). Economic and social Europeanization have played an even minor role in the original Europeanization concept and research (Epstein and Jacoby 2014: 7).

We thus arrive at the major question for this collection: How has the Europeanization of CEE changed after accession, and how has it played out in the politics and the economies of the region? Several contributions to the volume focus on the first question. They examine whether the external incentives model of conditionality-based Europeanization remains relevant after Eastern enlargement (Schimmelfennig and Sedelmeier, this volume), explore alternative – horizontal – mechanisms of Europeanization (Crouch, this volume) and deal specifically with the most obvious “Europeanization failure”: the rule-of-law crisis of the EU (Kochenov and Bard, this volume). Another contribution provide insights into the effects of Europeanization on the policy-making process (Jurje, this volume). Yet another set of contributions analyse economic Europeanization: the effects of cohesion policy (Medve-Balint, this volume), the differential Euro adoption (Verdun, this volume), and the economic development strategies of the region (Vukov, this volume). Finally, Bohle and Jacoby (this volume) contrast the “visible” economic development strategies

examined by Medve-Balint and Vukov with two “invisible” strategies: regulatory forbearance and remittances.

In this introductory paper, we will provide a conceptual and theoretical framework for these contributions and give an overview of their findings. The conceptual and theoretical section introduces the concept of Europeanization and reflects on the changing nature of Europeanization after Eastern enlargement. We argue that the conceptual conflation of Europeanization as process and outcome, which was defensible in the CEE accession period, needs to be reconsidered. After the 2005 enlargement, domestic factors and alternative international influences have gained in importance vis-à-vis EU-driven policy change. Consequently, gaps between Europeanization as policy diffusion and Europeanization as actual policy convergence are likely to increase and need to be theorized. Moreover, the theorization of mechanisms of Europeanization needs to be move beyond the original focus on conditionality – and top-down, direct mechanisms more generally. After the accession period, and in the areas of political and economic Europeanization, indirect, horizontal and bottom-up mechanisms of Europeanization have gained in relevance.

Europeanization: process and outcome

Defining Europeanization

Originally, the concept and the study of Europeanization were limited to the EU and its member states. Moreover, Europeanization denoted a two-way street (e.g. Risse et al. 2001): the “uploading” of national policies to the European level and the “downloading” of EU policies to the national level. According to Claudio Radaelli’s encompassing definition, Europeanization comprises “processes of (a) construction, (b) diffusion, and (c) institutionalisation of formal and informal rules, procedures, policy paradigms,



styles, ‘ways of doing things’ and shared beliefs and norms which are first defined and consolidated in the making of EU decisions and then incorporated in the logic of domestic discourse, identities, political structures and public policies” (2003: 30). The dominant current usage of the term – especially in the context of Central and Eastern Europe – has, however, focused on the direction of downloading.

We define Europeanization as a process of EU policy diffusion. “Policy” is broadly understood to include all the objects of Europeanization in the Radaelli definition: beliefs, norms, rules, institutions, paradigms, styles, procedures, and routines. The potential targets of Europeanization are equally broad – all actors and structures in the member states of the EU but also in candidate and non-member countries affected by policy diffusion from the EU.

We further note that in its common usage the term Europeanization denotes both process and outcome. The literature speaks of Europeanization not only as a process, in which the EU disseminates its policies or non-EU actors orient themselves toward EU policies, but also as an outcome, the extent or state of policy alignment with the EU. In principle, it makes sense to keep the Europeanization process conceptually apart from its outcomes – in the same way as definitions of diffusion keep diffusion as a process apart from convergence, similarity or harmonization as potential results of diffusion (Gilardi 2012). Diffusion can fail to produce convergence, and convergence can result from other processes than diffusion. Whereas we refrain from coining different terms for the process and outcomes of Europeanization, we likewise point out that Europeanization processes may lead to various degrees of policy adoption and convergence, and that policy similarity may have other causes than Europeanization processes. They may result either from parallel but independent national processes or from international and transnational processes of policy diffusion that are independent of the EU.

Process and outcome before and after accession

During the accession process, the conflation of process and outcome was forgivable, indeed, and it made sense to assume Europeanization as the main, common and effective source of CEE policy convergence. Even ahead of EU accession, the CEECs took part in international and transnational policy diffusion processes. In their transition from the Soviet bloc and from the communist party-state and centrally administered economy, they took advice from international organizations and consultants and borrowed from institutional and policy models in their international environment (Keohane et al. 1993). At this time, however, the EU was only one of many sources of diffusion and the adoption of its policies was voluntary. Consequently, the Europeanization of the CEECs was selective and patchy in this period (Schimmelfennig and Sedelmeier 2005c).

By contrast, with the start of the accession process, Europeanization became “the only game in town”. In those policy areas that were subject to EU regulation and the EU accession conditions, the EU crowded out alternative policy providers. The adoption of EU policies became mandatory and absorbed the domestic policy-making process. Finally, thanks to the power of EU conditionality, Europeanization resulted in high policy convergence.

This exceptional period of Europeanization ended with accession, however. Of course, for the new member states, the EU has remained the primary source of international policy diffusion. Yet their Europeanization is likely to become “normalized” to the Europeanization experienced by the old member states – and as “differential” as Europeanization among the old member states (Héritier et al. 2001). Above all, this means that the domestic politics of the new member states has more leeway to shape – and limit – the Europeanization process. Generally, we should expect both less CEE convergence with EU policies and less policy similarity among the CEECs. More



importantly, however, Europeanization research needs to keep Europeanization as a process conceptually apart from Europeanization as an outcome and to theorize which factors narrow or widen the gap between the two.

Earlier research on CEE Europeanization during the accession process has given domestic politics short shrift (Sedelmeier 2011: 30). From the formation of government coalitions (e.g. Enyedi and Lewis 2007) via the setting of the domestic policy agenda to the decision-making process, the focus on meeting the conditions of EU accession was thought to overwhelm the regular domestic politics and policy process. At the same time, many of the earlier studies of CEE Europeanization pointed at potential longer-term weaknesses and backlashes of the external, top-down and incentives-driven Europeanization process of the accession period. Authors highlighted the problematic legacies of the executive bias and democratic deficit of the accession process (e.g. Grabbe 2001: 1029; Grzymala-Busse and Innes 2003) or expected the incentives-driven and shallow policy adoption compliance to stall or even backslide once accession conditionality ended (Schimmelfennig and Sedelmeier 2005c). The rise of populism, open attacks on core features of “liberal” democracy, judicial independence, freedom of the media and the fairness of elections, and endemic corruption in several new member states appear to corroborate these concerns.

One important challenge for the study of CEE Europeanization in the post-accession period is therefore to bring domestic politics back in. This does not mean that a more domestically shaped Europeanization process will invariably weaken policy adoption and policy convergence, as suggested by the prominent examples of backsliding (Kochenov and Bard, this volume). For one, domestic actors may be satisfied with or indifferent to EU policies – and willing to implement them. Moreover, recent research attests to the domestic institutionalization and internalization of effective EU policy adoption as a legacy of the strong conditionality and pervasive

Europeanization of the accession period. Börzel and Sedelmeier (2017) and Zhelyazkova et al. (2017) find that domestic factors such as adjustment costs, political preferences, veto players or general administrative capacities do not explain the variation in post-accession compliance across enlargement rounds and new member states. Börzel and Sedelmeier (2017) explain the positive compliance record of the new member states with the enduring institutional and attitudinal effects of conditionality. Jurje (this volume) confirms that the strong role of core executives, which has developed during the accession period, has continued to impact on policy-making processes afterwards. Similarly, Vukov (this volume) points to the “deep Europeanization” of state development strategies and capacities in CEE.

By contrast, Medve-Balint (this volume) demonstrates that the outcomes of the EU’s cohesion policy, the most redistributive policy of the EU, ultimately depend on the state capacity and governance quality of the new members. Likewise, Verdun (this volume) shows that the adoption of the euro, in spite of being a legal obligation for the new member states, depends on the willingness of national governments. Thus, domestic institutions, capacity and preferences have become important factors for the explanation of post-accession Europeanization in the new member states. These are the same factors, however, that dominate explanations of Europeanization in the old member states.

As we move away from institutional Europeanization to political and economic Europeanization, the causal link between Europeanization as a process and as an outcome becomes ever more brittle and dubious. Political Europeanization beyond the consolidation of democratic institutions has never been an explicit focus of the EU’s Europeanization efforts. Given the top-down, intergovernmental nature of the accession process and European policy-making, even side effects of institutional Europeanization are most likely to occur in state institutions and the elites that interact with the EU – e.g.

by strengthening the executive or socializing government officials. Down at the level of the attitudes and behaviours of citizens, either we should expect few convergence effects of Europeanization – or that convergence is hardly attributable to the impact of European integration or EU membership.

Finally, the earlier literature studied Europeanization as a process with a uniquely positive direction and outcome. The variation to be explained was between the absence and presence of Europeanization outcomes or different degrees of convergence with EU policies. Negative Europeanization or “de-Europeanization” appeared irrelevant. Yet in the post-accession period of the new member states, as well as for the current candidate countries, de-Europeanization is an indispensable part of the outcome range. Indeed, de-Europeanization has been used explicitly first in the context of the stalled Turkish accession process (Yilmaz 2016). In case of the new member states, the study of de-Europeanization has focused on the issue of “democratic backsliding” (e.g. Greskovits 2015). Kochenov and Bard (this volume) examine the gravest case of de-Europeanization in the new member states so far: the dismantling of the rule of law in Hungary and Poland.

Mechanisms of Europeanization: beyond conditionality and direct Europeanization

The weakening of conditionality

During the accession process, conditionality clearly dominated the Europeanization of CEE. In conditionality mode, the EU promotes its policies directly and top-down vis-à-vis governments. It offers governments rewards – such as financial assistance, participation in its policy regimes and, ultimately, full membership – conditional upon adopting EU policies. In addition, the EU provides states with additional resources to help them fulfil its conditions (capacity building).

The effectiveness of conditionality depends on the size of the EU’s rewards, the credibility of its conditionality and the domestic costs of policy adoption in the target state. The credibility of conditionality depends in turn on the credibility of the EU’s promise to withhold the reward if conditions are met and on the credibility of the EU’s threat to withhold the reward otherwise. The credibility of the threat increases with the EU’s bargaining power: the less the EU is in need of cooperation with the target state, the better it can afford to withhold the reward. By contrast, superior bargaining power may undermine the credibility of the promise to reward. The credibility of the promise is improved by transparent conditions, the consistent application of conditionality across target states, strong agreement among EU actors or the isolation of the rewarding decision from domestic and intergovernmental politics. Provided that conditionality is credible, the target state adopts the EU policy if the benefits of the EU rewards outweigh the costs of policy change (Schimmelfennig and Sedelmeier 2005b: 12-16).

In the process of Eastern enlargement, the conditions of effective conditionality were largely in place. First of all, the EU offered the CEECs full membership – its biggest “carrot”. Second, thanks to superior EU bargaining power, the threat to withhold membership was strong. The EU and its member states wanted and needed Eastern enlargement considerably less than the CEECs. At the same time, there was no fundamental political opposition to Eastern enlargement in the EU. Both public opinion and member state governments conditionally supported the membership of the CEECs. Moreover, the member states largely delegated the monitoring of the candidates, and the assessment of whether they met conditions, to the European Commission, a technocratic body. These factors enhanced the credibility of the membership promise. Finally, EU membership was the number-one foreign policy goal and hugely popular in the CEECs. To reach this goal, the elites and citizens of the CEECs were willing to adopt EU policies indiscriminately – and remained relatively insensitive to the potential costs.



After the 2005/2007 Eastern enlargement, either conditionality has become inapplicable, or the conditions of its effective application have worsened significantly. For the remaining CEE candidate countries, the accession perspective has become more costly and less credible in comparison with Eastern enlargement. Public support for further enlargement has decreased since 2007. Member states are more divided over whether enlargement should continue and which states should be admitted. Enlargement has become an issue of domestic politicization and accession treaties with new member states may be subject to referendums in the old member states. These factors weaken the credibility of the enlargement promise. At the same, the domestic costs of adaptation have increased. The remaining (potential) candidate states have worse starting conditions and a longer and more costly way to go before meeting the EU's accession conditions. A crisis-ridden EU is less attractive and less capable of generously supporting the capacity building of candidates, and an assertive Russia actively opposes the expansion of European integration in its former hegemonic sphere. In sum, whereas conditionality is still the dominant mechanism of Europeanization in the (potential) candidate countries, it is less likely to be effective (Schimmelfennig and Sedelmeier, this volume).

For the new member states, the dominant mechanism of Europeanization has shifted from conditionality to hierarchical policy enforcement based on legally binding EU regulations and directives and legal enforcement through the EU Commission and the EU Court of Justice. Some policy areas lie outside the domain of hierarchical enforcement, however. First, there are remaining “pockets of accession conditionality”, e.g., with regard to the admission of the new member states to the Eurozone and the Schengen Area. Second, there are areas of the so-called “enlargement acquis”, such as democracy, the rule of law, minority rights and administrative capacity, which were part of the EU's accession conditionality but are not, or only to a limited extent, part of the acquis

communautaire and can therefore not be legally enforced in the new member states. Kochenov and Bard (this volume) discuss the implications of this lack of enforcement.

In all these areas, in which conditionality could still be applied, however, the conditions of effective conditionality have weakened seriously, too. This is mainly because the new members already received the most important reward the EU has on offer – membership – and threats to exclude them from the benefits of membership or membership itself are not credible. The EU cannot coerce membership to adopt the euro against their will and is unlikely to impose sanctions against democratic backsliding because of the high consensus requirements of Article 7 procedures and the protection of illiberal regimes by their European party families (Kelemen 2017; Schimmelfennig and Sedelmeier, this volume).

Alternative mechanisms of Europeanization

The post-2004 context thus leads us to shift our attention to alternative mechanisms of Europeanization beyond conditionality and enforcement – both in the new member states and in the candidate countries. The Europeanization and policy diffusion literature has developed a rich taxonomy of diffusion mechanisms (Knill and Lenschow 2005; Schimmelfennig and Sedelmeier 2005b; Börzel and Risse 2012), from which the study of alternative mechanisms can draw. The basic distinctions in these taxonomies are, first, between direct mechanisms of Europeanization, in which EU actors pro-actively project and seek to transfer their policies, and indirect mechanisms, in which the EU remains passive and may not even intend to Europeanize its international environment. Second, the literature distinguishes mechanisms by their institutional logic: the “logic of consequences” or the “logic of appropriateness” (March and Olsen 1989: 160–162). Whereas the logic of consequences assumes actors choose



the behavioural option that maximizes their utility under given circumstances, the logic of appropriateness stipulates that actors choose the behaviour that is appropriate according to their social role and the social norms in a given situation.

Conditionality is the paradigmatic direct and consequentialist mechanism of Europeanization. By contrast, socialization is a direct mechanism based on the logic of appropriateness. It comprises all EU efforts to ‘teach’ EU policies – as well as the ideas and norms behind them – to persuade target actors that these policies are appropriate and, as a consequence, to motivate them to adopt EU policies. Studies of candidate-country Europeanization have generally found socialization to be less relevant and effective than conditionality. Yet, European socialization may operate on a longer time scale and may have been crowded out by the short-term dominance of conditionality during the accession process.

The indirect counterparts of conditionality and socialization are externalization, learning and emulation. According to the externalization or competition mechanism, internal EU governance may produce negative externalities towards third country governments and societal actors. External actors adopt and comply with EU rules because ignoring or violating them would generate net costs. Externalization is most noticeably produced by the EU’s internal market and competition policies; firms are interested in participating in the EU market because of its size; and in order to participate they must follow the EU’s rules. Countries whose economies are strongly interconnected with the EU make their internal rules compatible with those of the EU.

Like externalization, learning or lesson-drawing is a consequentialist mechanism. Here, states learn without being taught. They look around for policies of other states and international organizations in order to improve their own suboptimal or dysfunctional policies. They are likely to adopt EU policies to the extent that they are familiar with

the EU, EU policies appear effective and efficient, and EU policies seem to be applicable in their domestic context. Emulation is the equivalent of learning in the logic of appropriateness. Here, the EU’s procedures and policies provide a legitimate model for other states. Non-member actors emulate the EU because they recognize EU rules and policies as appropriate solutions.

Various contributions to this collection show that the earlier focus on conditionality and other forms of direct Europeanization become less relevant, as conditionality loses its effectiveness, as we move from the accession to the post-accession period and as we shift our focus from institutional and regulatory to political and economic Europeanization. In the Europeanization of the current candidates of the Western Balkans, top-down conditionality has weak credibility (Schimmelfennig and Sedelmeier, this volume). In this context, Crouch (this volume) therefore emphasizes “horizontal” mechanisms of Europeanization, which rely on transgovernmental linkages and transnational NGO networks as well as on socialization and learning. It remains to be seen, however, whether these horizontal mechanisms can be effective venues of Europeanization. Verdun (this volume) claims that the indirect mechanisms of learning or emulation rather than conditionality even shaped the post-accession of the euro in the new member states. Finally, Bohle and Jacoby (this volume) conceptualize and illustrate largely “invisible” Europeanization strategies and mechanisms of economic development in CEE: regulatory forbearance and remittances.

Overview of contributions and findings

The first contribution by Frank Schimmelfennig and Ulrich Sedelmeier (this volume) attempts to answer the question whether the External Incentives Model (EIM) of Europeanization works also outside the context of Eastern enlargement. EIM assumes that Europeanization is driven by



sanctions and rewards that alter the cost-benefit calculations of domestic actors (in contrast to the social learning model that stresses the normative authority of the EU). In order to answer their question, the authors consider two instances of Europeanization: the post-accession phase of the CEE countries and the pre-accession phase of the current Southeast European (SEE) countries – the Western Balkans and Turkey. With regard to the post-accession phase, they distinguish the successful record of CEE compliance with EU legislation and the unsuccessful record of sanctioning democratic backsliding. In line with the EIM, Schimmelfennig and Sedelmeier argue that the main difference between the effective CEE accession conditionality and post-accession legal compliance and the ineffective SEE accession conditionality and CEE sanctioning of democratic backsliding is the credibility of conditionality. The weakly credible accession promise vis-à-vis SEE and the weakly credible threat of sanctions vis-à-vis democratic backsliders explain the lack of Europeanization and the failure to prevent de-Europeanization.

The subsequent contribution by Flavia Jurje (this volume) examines the process of Europeanization from another angle: she poses the question how enlargement has changed the division of power between the executive and the legislative, and investigates the role of civil society actors engaged in policy-making. Her work draws on primary network data collected for Romania and by secondary sources for the other CEE countries. The empirical data gathered in Romania after enlargement suggests that “a substantial gap persists between the importance and role of core executives in decision-making affected by the EU and the rest of the actors”. (Jurje, this volume). This was a generally accepted finding in numerous Europeanization studies on the pre-accession period, but it was expected that the policy-making process would become less executive-centred after accession. Jurje’s analysis demonstrates that, although the peak of this phenomenon was observed before the accession, also afterwards

the executive was strengthened by the processes of Europeanization – both in the case of Romania and the other CEE member states. Jurje’s explanation stresses the legacies of pre-accession Europeanization: the dominance of the executive became a routine at the time of enlargement.

Dmitry Kochenov and Petra Bard (this volume), on the other hand, discuss the limits of political Europeanization, focus on the “rule of law backsliders” Poland and Hungary, and ask how the rule of law in the EU could be strengthened. The authors show how the enthusiasm for European values (mostly the rule of law and the separation of powers) in the new member states has decreased over time, describe the reversal of liberal democratic political systems and criticize the EU institutions for the lack of decisive actions against backsliding. The authors argue that the best answer should “necessarily involve not only the reform of the enforcement mechanisms, but the reform of the Union as such”. In the reformed Union “supranational law should be made more aware of the values it is obliged by the Treaties to respect and aspire to protect both at the national and also at the supranational levels”.

Graeme Crouch (this volume) suggests that in order to fully understand how the process of Europeanization works, one must go beyond the traditional approaches of “top-down”, where the rules are simply imposed by the EU (countries viewed as “takers”) and “bottom-up”, where member states can influence the shape of the EU policies (member states as “shapers”). He conceptualizes and illustrates “horizontal mechanisms” of Europeanization in SEE instead: transnational networking of NGOs and transgovernmental cooperation of civil servants. His first case study is on “twinning projects”, which paired Croatian authorities responsible for the implementation of Water Framework Directive with their German and Dutch counterparts and in doing so allowed transfer of knowledge and better implementation of the EU directive. The second case study examines the cooperation of NGOs from Croatia, Serbia and Montenegro with



the World Wildlife Foundation Mediterranean from Italy. This initiative improved the capacities of Balkan NGO networks and helped to bring local practices closer to EU procedures and – as a result – membership requirements. By employing a third, horizontal approach the author claims to overcome two problems associated with theorizing Europeanization: the fact that hierarchy is usually privileged over coordination and determining causality - ensuring that outcomes are ascribed to the impact of the EU. In so doing, the author is able to more fully explain the domestic adaptation in the Western Balkans.

The remaining contributions examine economic Europeanization process and outcomes. Gergo Medve-Balint (this volume) provides a detailed analysis of the workings of the EU's cohesion policy in CEE between 2014 and 2017. Being one of three pillars of economic Europeanization, next to market opening and the market regulation, the goal of cohesion policy is to counter-balance the negative effects of spatial inequality that the two other pillars of economic Europeanization would bring to less competitive regions of the East. With one third of the EU budget devoted to cohesion policy, it is perhaps the single most important EU policy area for CEE, sometimes labelled as an equivalent of the post-World War II US Marshall Plan, from which the Communist countries could not benefit at the time. This contribution demonstrates the difficult choices that CEECs had to make: whether to invest in more developed regions in order to enable them to compete with their Western counterparts or in the most backward regions within CEECs in order to help them to “catch up”, if not with the Western member states then with the more developed parts of their own countries. Whereas the original aim of cohesion policy was equity, the Lisbon Strategy of 2000 emphasized competitiveness and the efficient use of the funds. Coupled with the regional funds eligibility criteria in the 2007-13 period, which put nearly all the CEE regions in one category, created the conditions in which the richer regions of CEE were generally absorbing

more funds than the poorer ones. As a result, investment in the strongest regions to boost their competitiveness on the EU-level became a priority and tackling the internal disparities between regions within countries was neglected to a large extent. Nonetheless, this trend of economic Europeanization has been conditioned by the quality of government - measured using indicators for government effectiveness, rule of law and control of corruption. The contribution shows that the higher the governmental state capacities, the lower the advantage of the more prosperous regions.

Amy Verdun (this volume) examines the CEECs' euro adoption strategies. She identifies learning and emulation, both indirect Europeanization mechanisms, as those mechanisms that affected Euro adoption to the largest extent. By contrast, Verdun finds no evidence that coercion or conditionality played any role in the politics of Euro adoption. Moreover, external assistance of the EU was extremely limited as there were only few examples of twinning. Finally, the mechanisms of socialization and competition were rather scarce. The author examines three groups of countries that joined the EU in 2004: “the first four fast movers” Slovenia, Cyprus, Malta and Slovakia, the Baltic States, which adopted the euro after initial set-backs, and the “Euro outs”: the Czech Republic, Hungary and Poland. By investigating the convergence criteria of the euro adoption, the author is able to differentiate the extent of Europeanization also among the states, which did not join, but met the criteria to different degrees. This contribution explains the cross-country differences by the existence of domestic veto players. In the two groups of countries that joined the euro area – the early-ins and the Baltic countries – there was broad domestic agreement on the issue of euro adoption. While the first group met relatively quickly all the convergence criteria, which enabled them to join, the latter struggled in this regard, and missed, if only by a small margin like Lithuania, some of required criteria such as the level of inflation.



With regards to the Euro outs, while some of the met many of the criteria, the lack of political will prevented them from joining. Verdun argues that the position of sitting government is the most significant factor explaining the euro adoption or lack thereof. It is not a sufficient condition, however, as the convergence criteria must be met, too, and occasionally constitutional obstacles, such as Polish requirement of the two-thirds majority, must be overcome.

Visnja Vukov (this volume) sets out to examine the influence of European integration on the economic state capacities building in the new member states. She argues that the Europeanization of state capacities understood as “approximation to the EU policy goals and instruments” is stronger in the new member states than in the old ones. While in the old member states state restructuring came about through the creation of supranational sanctioning mechanisms as well as supranational development funds, the new members went through a deep transformation of developmental capacities which resulted in transnationalized, FDI-oriented economies, largely based on “developmental alliances with multinational corporations”. Vukov’s paper comes to a fundamental conclusion for this volume: while the effects of institutional and political Europeanization after the accession have weakened (among others as a result of weakening conditionality), economic Europeanization through the state capacity building has long lasting results. Vukov argues that the countries said to be backsliding (namely, Poland and Hungary) do not show any signs of the reversal of economic Europeanization. What is more (and goes beyond the scope of the paper), these countries are in the group of “free-marketeers”, countries which traditionally support economically liberal policies in the Council of the European Union (the Netherlands, Denmark, Finland, and still – Great Britain).

The final contribution, by Dorothee Bohle and Wade Jacoby (this volume), employs a political economy approach to analyse the Europeanization process of CEE developmental strategies and seeking to “rescue” the concept of Europeanization

by making it more dynamic. The authors argue that the positive image of Europeanization owes to a large extent to the external factors that provided a “relaxed” political and economic environment and the focus on visible forms of this process such as capacity building and FDI flows. This picture, they argue, changes when the analysis shifts to the post-2007 environment, characterized by the existence of multiple crises – the financial crisis, the refugee crisis, and the Crimean crisis. This contribution analyses two groups of CEE countries – the Visegrad and the Baltic countries – over time, taking into regard two junctures: accession to the EU and the global financial crisis. Thus, their analysis compares the pre-accession (before 2004) and the post-crisis period (after 2007). They discover that some forms of economic Europeanization are largely invisible, for instance regulatory forbearance on inflows of portfolio capital (until 2004) and remittances, i.e. income earned in the West and sent back to CEE households (after 2007). On the other hand, mechanisms such as building capacity for membership and attracting FDI as a development purposes, as well as cohesion funds acting as buffering economic contractions (both national and regional) remained rather visible. By introducing the concept of “invisible Europeanization”, this contribution explains that Europeanization sometimes passes “under the radar” of both the elites and the citizens. While the EU accession requirements helped to build economic capacities in the CEECs, the adjustment to the EU economic model required many invisible changes that were suboptimal for transition countries. The prime example is the regulatory forbearance on inflows of portfolio capital, which is linked to the national trade account and meant the CEE had to run trade deficits. Moreover, this “outsourcing” of the governance of the CEE financial system made those countries, much like Southern Europe, exposed to the financial crisis. By demonstrating how dynamic, invisible forms of Europeanization played out in the “catching up” process of the new member states, this contribution both enhances our understanding of this complex process and enriches it conceptually.



References

- Ágh, A. and Kurtán, S. (Eds.) (1995) *Democratization and Europeanization in Hungary: The First Parliament (1990-1994)*, Budapest: Hungarian Center for Democracy Studies.
- Ágh, A. (1999) 'Europeanization of Policy-Making in East-Central Europe', *Journal of European Public Policy* 6(5): 839-854.
- Bohle, D. and Jacoby, W. (2018), 'From Static to Dynamic Europeanization: The Case of Central and Eastern European Developmental Strategies', in this Volume: 84-101.
- Börzel, T. and Risse, T. (2012) 'From Europeanisation to Diffusion: an Introduction', *West European Politics* 35(1): 1-19.
- Börzel, T. and Sedelmeier, U. (2017) 'Larger and More Law Abiding? The Impact of Enlargement on Compliance in the European Union', *Journal of European Public Policy* 24(2): 197-215.
- Crouch, G. (2018) 'New Ways of Influence: "Horizontal" Europeanization in Southeast Europe', in this Volume: 32-48.
- Dimitrova, A. (2005) 'Europeanization and Civil Service Reform in Central and Eastern Europe', in Schimmelfennig, F. and Sedelmeier, U. (Eds.) (2005a) *The Europeanization of Central and Eastern Europe*. Ithaca: Cornell University Press, 71-90.
- Enyedi, Zs. and Lewis, P. (2007) 'The Impact of the European Union on Party Politics in Central and Eastern Europe', in *The European Union and Party Politics in Central and Eastern Europe*, (Eds.) Lewis, P., Mansfeldova, Z., Basingstoke: Palgrave, 231-249.
- Epstein, R. and Jacoby, W. (2014) 'Eastern Enlargement Ten Years On: Transcending the East-West Divide?', *Journal of Common Market Studies* 52, Special Issue: 1-16.
- Gilardi, F. (2012) 'Transnational diffusion: Norms, Ideas, and Policies', in Walter Carlsnaes, Thomas Risse and Beth Simmons (eds) (2012), *Handbook of International Relations*, Thousand Oaks: Sage: 453-477.
- Grabbe, H. (2001) 'How Does Europeanization Affect CEE Governance? Conditionality, Diffusion, and Uncertainty', *Journal of European Public Policy* 8(6): 1013-1031.
- Grabbe, H. (2006) *The EU's Transformative Power: Europeanization through Conditionality in Central and Eastern Europe*, Basingstoke: Palgrave Macmillan.
- Greskovits, B. (2015) 'The Hollowing and Backsliding of Democracy in East Central Europe', *Global Policy* 6, Special Issue: 28-37.
- Grzymala-Busse, A. and Innes, A. (2003) 'Great expectations: The EU and domestic political competition in East Central Europe', *East European Politics and Societies* 17(1): 64-73.
- Héritier, A. et al. (2001) *Differential Europe: The European Impact on National Policymaking*. Lanham: Rowman and Littlefield.
- Héritier, A. (2005) 'Europeanization Research East and West: a Comparative Assessment', in Schimmelfennig, F. and Sedelmeier, U. (Eds.) (2005a) *The Europeanization of Central and Eastern Europe*. Ithaca: Cornell University Press.
- Jurje, F. (2018) 'Europeanization in New Member States: Effects on Domestic Political Structures', in this Volume: 49-65.
- Kelemen, D. (2017) 'Europe's Other Democratic Deficit. National Authoritarianism in Europe's Democratic Union', *Government and Opposition* 52(2): 211-238.
- Keohane, R., Nye, J. and Hoffmann, S. (eds.) (1993) *After the Cold War. International Institutions and State Strategies in Europe, 1989-1991*. Cambridge: Harvard University Press.
- Knill, C. and Lenschow, A. (2005) 'Compliance, Competition and Communication: Different

- Approaches of European Governance and their Impact on National Institutions', *Journal of Common Market Studies*, 43(3): 583–604.
- Kochenov, D. and Bárd P. (2018) 'Against Overemphasizing Enforcement in the Current Crisis: EU Law and the Rule of Law in the (New) Member States', in this Volume: 66-83.
- March, J. and Olsen, J. (1989) *Rediscovering Institutions: The Organizational Basis of Politics*. New York: Free Press.
- Medve-Bálint, G. (2018) 'Implementing EU Cohesion Policy in The Eastern Member States: Quality of Government Balancing Between Equity and Efficiency', in this Volume: 102-120.
- Pridham, G. (2000) 'EU Accession and Domestic Politics: Policy Consensus and Interactive Dynamics in Central and Eastern Europe', *Perspectives on European Politics and Society* 1(1): 49-74.
- Radaelli, C. (2003) 'The Europeanization of Public Policy' in Featherstone, K. and Radaelli, C. (eds.) *The Politics of Europeanization*, Oxford: Oxford University Press, 27-56.
- Risse, T., Cowles, M.G. and Caporaso, J. (2001) 'Europeanization and Domestic Change: Introduction', in Cowles, M. G., Caporaso, J. and Risse, T. (eds.), *Transforming Europe: Europeanization and Domestic Change*, Ithaca, NY: Cornell University Press, 1-20.
- Schimmelfennig, F., Engert, S. and Knobel, H. (2003) 'Costs, Commitment and Compliance. The Impact of EU Democratic Conditionality on Latvia, Slovakia and Turkey', *Journal of Common Market Studies* 41(3): 495-518.
- Schimmelfennig, F., Engert, S. and Knobel, H. (2006) *International Socialization in Europe: European Organizations, Political Conditionality, and Democratic Change*. Basingstoke: Palgrave Macmillan.
- Schimmelfennig, F. and Sedelmeier, U. (2004) 'Governance by Conditionality: EU Rule Transfer to the Candidate Countries of Central and Eastern Europe', *Journal of European Public Policy* 11(4): 669-687.
- Schimmelfennig, F. and Sedelmeier, U. (Eds.) (2005a) *The Europeanization of Central and Eastern Europe*. Ithaca: Cornell University Press.
- Schimmelfennig, F. and Sedelmeier, U. (2005b) 'Introduction: Conceptualizing the Europeanization of Central and Eastern Europe', in Schimmelfennig, F. and Sedelmeier U. (eds.), *The Europeanization of Central and Eastern Europe*. Ithaca: Cornell University Press, 1-28.
- Schimmelfennig, F. and Sedelmeier, U. (2005c) 'Conclusions: The Impact of the EU on the Accession Countries', in Schimmelfennig, F. and Sedelmeier U. (eds.), *The Europeanization of Central and Eastern Europe*. Ithaca: Cornell University Press, 210-228.
- Schwellnus, G. (2005) 'The Adoption of Nondiscrimination and Minority Protection Rules in Romania, Hungary, and Poland', in Schimmelfennig, F. and Sedelmeier U. (eds.), *The Europeanization of Central and Eastern Europe*. Ithaca: Cornell University Press, 51-70.
- Schimmelfennig, F. and Sedelmeier, U. (2018) 'The Europeanization of Eastern Europe: The External Incentives Model Revisited', in this Volume: 13-31.
- Sedelmeier, U. (2011) 'Europeanisation in New Member and Candidate States', *Living Reviews in European Governance* 6(1), available at <http://www.europeangovernance-livingreviews.org/Articles/lreg-2011-1/download/lreg-2011-1Color.pdf>.
- Vachudova, M. (2005) *Europe Undivided: Democracy, Leverage, and Integration since 1989*. Oxford: Oxford University Press.
- Verdun, A. (2018) 'Europeanization and Euro Adoption', in this Volume: 137 – 149.
- Vukov, V. (2018) 'Europeanizing Development: EU Integration and Developmental State Capacities in Eastern Europe', in this Volume: 121-136.

Yilmaz, G. (2016) 'From Europeanization to De-Europeanization: The Europeanization Process of Turkey in 1999-2014', *Journal of Contemporary European Studies* 24(1): 86-100.

Zhelyazkova, A., Kaya, C. and Schrama, R. (2017) 'Notified and Substantive Compliance with EU Law in Enlarged Europe: Evidence from Four Policy Areas', *Journal of European Public Policy* 24(2): 216-238.



THE EUROPEANIZATION OF EASTERN EUROPE: THE EXTERNAL INCENTIVES MODEL REVISITED

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Introduction

Ten years ago, the European Union (EU) concluded its enlargement towards the Central and East European countries (CEECs). In its biggest enlargement round ever, the EU admitted twelve new member states, including ten post-communist countries. Accession to the EU completed the new member states' long 'return to Europe', which had begun together with their democratic and market-economic transitions at the start of the 1990s.

'Europeanization', defined as a 'process in which states adopt EU rules' (Schimmelfennig and Sedelmeier 2005b: 7) paved the way for the 'return to Europe'. Early scholarship on the transition countries viewed Europeanization predominantly as a domestically driven process focusing on the transformation of political institutions and processes (e.g. Ágh and Kurtán 1995). With the start of the accession process, however, Europeanization turned from an aspiration to an obligation and its focus shifted from democratic institutions to public policies (Ágh 1999; Pridham 2000; Grabbe 2001).

Why and how does Europeanization occur and succeed? In the early 2000s, the literature drew

heavily on the neo-institutionalist debate between rationalist institutionalism and constructivist or sociological institutionalism in International Relations and Comparative Politics to theorize Europeanization and to specify its conditions and mechanisms (Börzel and Risse 2000; Jacoby 2004; Kelley 2004; Schimmelfennig and Sedelmeier 2005a). The specification of mechanisms of Europeanization started with March and Olsen's (1989) distinction of two institutional logics, the (rationalist) 'logic of consequences' and the (constructivist) 'logic of appropriateness'. Whereas the logic of consequences assumes that actors choose the behavioural option that maximizes their utility under the circumstances, the logic of appropriateness stipulates that actors choose the behaviour that is appropriate according to their social role and the social norms in a given situation. In addition to these contrasting logics, Europeanization mechanisms differ with regard to whether the EU plays an active or passive role in the Europeanization process (Schimmelfennig and Sedelmeier 2005b; Vachudova 2005).

Combining the two dimensions, we proposed a four-fold classification of Europeanization models (Schimmelfennig and Sedelmeier 2005b). The external incentives model (EIM) assumes that the EU drives Europeanization through sanctions and rewards that alter the cost-benefit calculations of domestic actors. By contrast, the social learning model posits that the normative authority of the EU and the legitimacy of its policies persuade domestic actors to Europeanize. Less interested in domestically driven Europeanization, we somewhat carelessly subsumed both the consequentialist and appropriate adoption under 'lesson-drawing' (Rose 1991). By contrast, Börzel and Risse (2012) distinguish the instrumental or functional emulation of EU policies implied in lesson-drawing from normative emulation or 'mimicry'.

The EIM found strong empirical support across issue-areas of Europeanization for the Central and Eastern European candidate countries (Schimmelfennig and Sedelmeier 2005a;



Schimmelfennig et al. 2006). Before the EU offered membership, Europeanization was limited and selective. Afterwards, EU conditionality became the main driver of Europeanization. The CEECs' adoption of the EU's political norms and policy rules depended mainly on the credibility of the EU's promise to admit candidates that complied with its conditions, and of its threat to exclude non-compliant candidates. The importance of additional explanatory factors varied across broad sets of issue areas: governmental adoption costs mattered for political conditionality and the determinacy of conditions mattered for compliance with policy rules. While external incentives explained well the broad patterns of Europeanization, the social learning and lesson-drawing models were found to be useful mostly in the absence of accession conditionality (Schimmelfennig and Sedelmeier 2005c: 210-211).

We were, however, sceptical regarding the future perspectives of Europeanization after accession. Rule adoption had often remained superficial during the accession process and implementation could be halted, or even reversed, when EU conditionality weakened after accession. Alternatively, even if Europeanization did not suffer after accession, its sustainability might result from other mechanisms – such as social learning (Schimmelfennig and Sedelmeier 2005c: 226-228). Finally, it was not clear whether the EU would be able to repeat its successful Europeanization policy after the completion of the Eastern enlargement rounds of 2004 and 2007. On the one hand, the EU registered widespread 'enlargement fatigue' and started a debate on its 'integration capacity' as an obstacle to further enlargement immediately after the conclusion of accession negotiations with Bulgaria and Romania – thereby reducing the credibility of its accession promise to remaining candidates. On the other hand, the remaining candidates in the Western Balkans and Turkey faced higher domestic adoption costs than the new member states from Central and Eastern European (CEE) due to their more difficult legacies, such as recent histories

of ethnic conflict, weaker statehood and weaker democratic traditions.

This paper is guided by the question how well the EIM holds beyond the original Eastern enlargement context. We consider two alternative contexts characterized by variation in conditions and outcomes: the post-accession phase of the previous CEE candidates and the pre-accession phase of the current Southeast European (SEE) candidates in the Western Balkans and Turkey. We argue that the size of the EU rewards and the credibility of the threat to exclude states change in the post-accession context but are largely the same across the CEE and SEE pre-accession contexts. By contrast, the domestic adjustment costs and the credibility of the promise of membership have changed.

Of course, the explanatory success of the EIM does not depend on the Europeanization success of the EU's conditionality policy. Enlargement, once widely hailed as the most successful foreign policy of the EU, appears currently as a spent force. Yet what counts for the explanatory power of the EIM is whether Europeanization succeeds for the reasons specified by the model, where it succeeds, and fails because of the theoretically expected conditions, where it fails. Our paper finds that this is still largely the case after the 2004 enlargement. In particular, the credibility of positive and negative incentives respectively stands out as the crucial condition explaining successes in pre-accession compliance of the CEE candidates and their post-accession compliance with the *acquis*. By contrast, lack of credibility has undermined the effectiveness of pre-accession conditionality in SEE and post-accession sanctions against democratic backsliding in CEE.

This paper does not report original research but findings of studies that explicitly or implicitly test or refer to the EIM, accompanied by data on political developments in Eastern Europe. We start by briefly summarizing the main assumptions and propositions of the EIM. Subsequently, we turn to the post-accession Europeanization of



the new member states and the pre-accession Europeanization of current candidates. The concluding section provides a comparative assessment.

The External Incentives Model

The EIM is a rational bargaining model. It assumes independent actors who enter into a negotiation, in which they exchange information, promises, and threats to achieve their preferred outcome. They compare the costs and benefits of possible deals, reject those that produce net costs and seek to achieve those that maximize their utility. Whether they are able to attain their preferred outcome depends on their bargaining power. Bargaining power is a function of asymmetric interdependence between the actors. Actors who are less in need of agreement, or have better alternative options for agreement than their negotiating partners have, possess superior bargaining power and are in a better position to move the bargaining outcome in their favour (Moravcsik 1993).

According to the EIM, the key instrument of Europeanization is conditionality (Schimmelfennig and Sedelmeier 2005b: 10-12). The EU sets the adoption of its norms and rules as conditions that the target states have to fulfil in order to receive a reward. The EU is free to choose both the conditions and the reward. EU conditions comprise both political conditions (such as democracy and the rule of law) and regulatory conditions (pertaining to the EU's public policies). The model distinguishes political conditionality and *acquis* conditionality accordingly. Rewards range from financial and technical assistance to membership. In general, higher rewards are linked to more demanding conditions.

The target states are free to accept or reject compliance with the EU's conditions. They accept if they perceive the benefits of the reward to be higher than the costs of complying with the conditions. The cost-benefit assessment is subject

to domestic politics. Even though the EU negotiates with target state governments, these governments are constrained by domestic institutional and partisan veto-players and interest group pressures that may force them to accept a deal they consider too costly or reject a deal they would benefit from. If the target government rejects or fails to meet the conditions, the EU typically simply withholds the reward (without applying additional sanctions or coercion). It pays the reward if the target government fulfils the conditions.

The EIM further specifies several conditions under which conditionality is more or less likely to be effective (Schimmelfennig and Sedelmeier 2005b: 12-17): the size and speed of rewards, the determinacy of the conditions, the credibility of the conditionality, and the size of the adoption costs.

Rewards. Conditionality is more likely to be effective if rewards are tangible or material (increasing the state's welfare and power) rather than immaterial (such as mere public praise by the EU). Furthermore, effectiveness increases with the size of the reward. Membership, which comes with larger financial assistance and voting power in the EU, is a bigger 'carrot' than association. Finally, time to rewarding matters. The closer the date on which the reward would be paid, the stronger the compliance pull. Distant rewards reduce the willingness of target governments to meet costly conditions.

Conditions. For one, target governments value determinacy understood as clarity. They must know what exactly they need to do to meet the conditions and get the reward. By contrast, vagueness causes target governments to procrastinate, underachieve, or take the wrong measures. The EU enhances determinacy by specifying the conditions clearly and by giving regular feedback. In addition, determinacy depends on the relevance or salience of conditions for the EU. The more clearly the EU signals that conditions are *sine qua non*, the more likely target governments are to prioritize and meet them.



Credibility. Conditionality potentially suffers from time-inconsistency because target governments need to meet the conditions before they will receive the reward. Credibility refers both to the credibility of the EU's threat to withhold the reward if conditions are not met and the credibility of the EU's promise to pay the reward once they are met. Credibility is largely a function of bargaining power. The less the EU benefits from having a target state as a member or partner and the fewer alternative options to EU membership or association the target state has, the more credible is the EU's threat. By the same token, the credibility of the treat increases the weaker the intra-EU consensus on the desirability of enlargement. At the same time, however, superior bargaining power and weaker consensus undermine the credibility of the promise. In addition, credibility increases with the EU's coherence and consistency. The more the EU member states and supranational institutions agree on the conditions and the reward, the more the EU speaks with one voice, and the more consistently it applies its conditions over time and across target countries, the more credible its threats and promises are. Moreover, credibility varies over time. In that sense, the distance of the reward also affects its credibility. Distant rewards put the credibility of the EU promise in doubt. As negotiations progress and the EU makes investments in supporting and preparing the target states, the credibility of the promise increases and the credibility of the threat recedes. Finally, 'cross-conditionality' – incompatible conditions set by other international actors who offer comparable rewards at lower costs – decreases the credibility of EU conditionality.

Costs. For any given size and speed of rewards, determinacy of conditions, and credibility of conditionality, it is the size of domestic adoption costs that determines whether target governments will meet the EU's conditions. These costs can have various sources. First, target governments are unwilling to meet conditions if it might lead them to lose elections, coalition partners, and power as a result. Second, EU conditions may

harm institutional or societal actors with the capacity to block their adoption ('veto players'). Adoption costs rise with the number of negatively affected veto players. By contrast, if EU conditions and rewards are more popular among the electorate, interest groups, opposition parties, and state institutions than in the government, the government will be more likely to comply. Third, the government may be willing to meet the conditions, but lack the financial or administrative capacity and expertise to implement them.

CEE after accession: the new member states

Testing the predictive power of the EIM for the post-accession period, when the candidate countries have become new member states, requires some adaptation of the explanatory factors. We discuss these factors in turn, and derive expectations for post-accession with regard to two major policy areas – the (single market) *acquis* and liberal democratic norms. We then establish the extent of compliance in each of these policy areas and assess whether compliance – and its variation both across issues and new members – is in line with the expectations of the EIM.

Conditions of post-accession compliance

Rewards and credibility. Most notably, the incentives that EU institutions can draw on to elicit compliance changes after accession. Rather than using (conditional) rewards, EU institutions can only use negative incentives – sanctions – that vary across issue areas. In general, even the most sizable of these sanctions are far less costly than the pre-accession threat of withholding membership, which is precisely why the EIM leads to scepticism about the sustainability of incentive-driven pre-accession compliance after accession (Schimmelfennig and Sedelmeier 2005c: 226; Epstein and Sedelmeier 2008; Sedelmeier 2008).

With regard to rewards/incentives, a key dimension in which the EMI would expect variation with



regard to post-accession compliance in new member states is then across issue areas, according to the leverage that EU institutions can exercise through sanctioning non-compliance. Not only the size of the sanctions the EU institutions can use against non-compliance varies across the issue areas of the *acquis* and democracy, but also the credibility of the threat of sanctions. Credibility depends largely on the autonomy of EU institutions in the imposition of sanctions. With regard to the rules of liberal democracy, Article 7 TEU gives EU institutions potentially extremely far-reaching sanctions: it allows the Council to ‘suspend certain ... rights’ of a member state for ‘serious and persistent’ breaches. However, the autonomy of EU institutions in deciding sanctions is extremely limited, as the member states themselves determine by unanimity (minus one) whether such a breach has occurred. The sanctioning power of EU institutions is therefore comparatively far higher with regard to the (single market) *acquis*. Article 258 and 260 TFEU grant the Commission high autonomy to launch infringement cases and to refer a member state to the Court of Justice of the EU (CJEU), which can impose financial penalties for non-compliance. In sum, a focus on rewards and their credibility generally leads the EIM to expect a deterioration of compliance across the board after accession. Yet it would expect compliance problems to be less severe with regard to the *acquis* than with regard to liberal democracy.

(Determinacy of) conditions. The determinacy of the *acquis* is generally less problematic than for the rules of liberal democracy. The EU compliance process – which includes the infringement procedure, in which the Commission sets out its interpretation of the relevant *acquis* and adjudication by the CJEU – increases the clarity of rules that a member state is suspected to have infringed. Determinacy is lower for Article 7 since the determination of what constitutes a breach of liberal democratic values is carried out by the member states through voting rather than through legal reasoning of an autonomous institution.

The Commission’s new ‘rule of law framework’ that mirrors the initial stages of the infringement procedure of Art. 258 might help in this respect, as does the recourse to non-EU bodies, such as the expert opinion of the Council of Europe’s Venice Commission. Yet neither of these processes are binding on the member states. In sum, variation in determinacy leads the EIM to expect better compliance with the *acquis* (covered by Art. 258) than in the area of liberal democracy.

Costs. In contrast to sanctions, their credibility, and the determinacy of the EU’s conditions, which vary primarily across issue areas,¹ compliance costs can vary both across issue areas and new member states. With regard to compliance costs, the study of post-accession compliance is closely related to the study of compliance in the EU (and with international institutions more generally), in which the ‘enforcement school’ identifies domestic compliance costs as a key explanatory factor (see e.g. Börzel et al. 2010; Tallberg 2002). Costs are generally higher with regard to the political conditions of liberal democracy than the (single market) *acquis*, since the former are more likely to affect the basis of a government’s hold on office (Schimmelfennig and Sedelmeier 2005c: 213). In addition, we expect that variation in member states’ administrative capacities is more important for *acquis* compliance, while compliance with liberal democracy is predominantly a matter of government interest.

In the following sections, we analyse post-accession compliance across the single market *acquis* and the EU’s liberal democratic norms. In each area, we first establish descriptively the extent to which compliance problems have emerged and then analyse whether these observations fit the expectations of the EIM with regard to the compliance patterns across states. In a next step, we analyse whether the variation in compliance patterns across issue areas can be accounted for by the EIM.

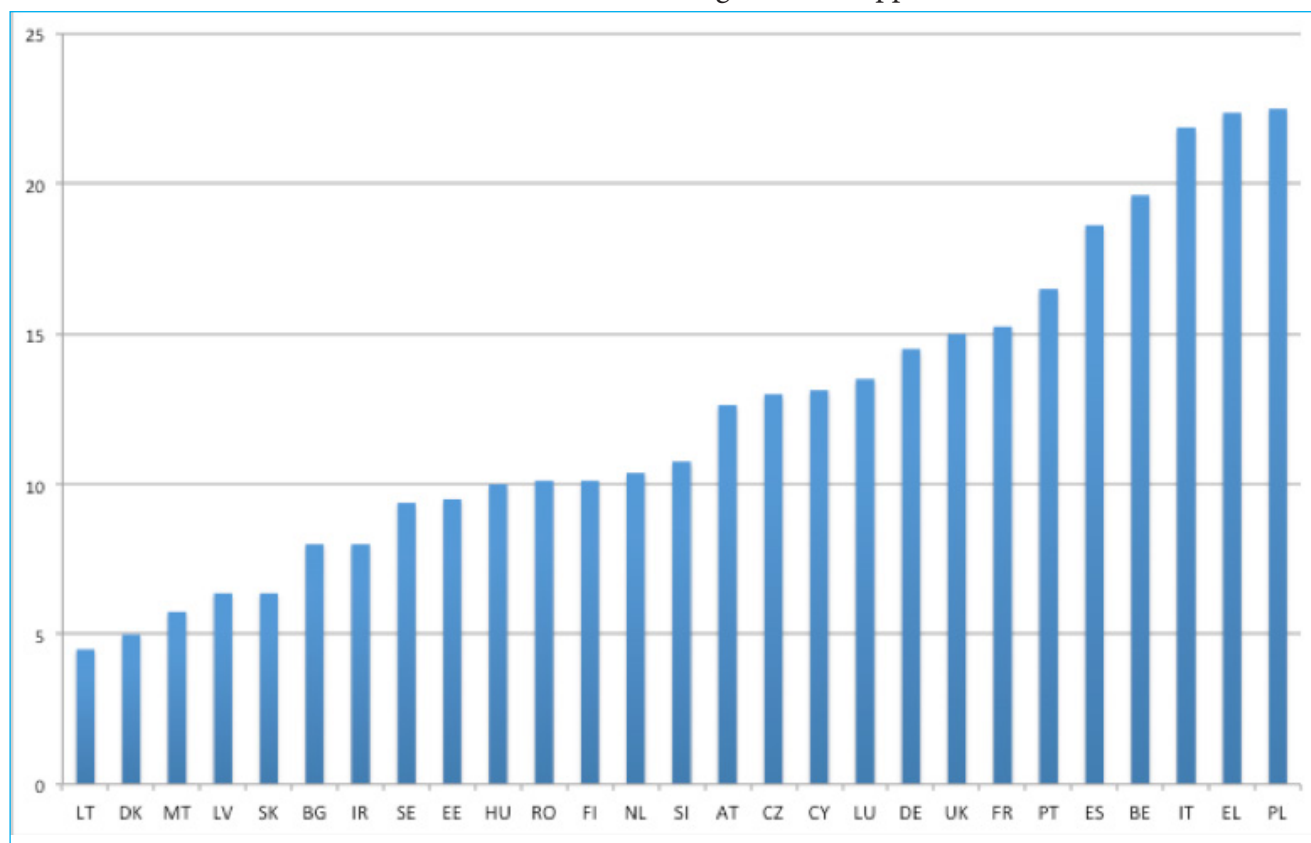
.....
1 Notwithstanding the debate whether the threat of sanctions is equally credible with regard to big and small member states (see e.g. Börzel et al. 2010).



Post-accession compliance with the (single market) acquis

In order to establish the extent of compliance problems in this broad issue area, we compare the compliance record of the new members against those of the old members. It is not straightforward to determine what extent of non-compliance would count as evidence for the prediction of the EIM that compliance will suffer after accession: would compliance of the new member need to be worse than compliance of the worst-performing old member states? Or worse than the median old member state? However, the actual compliance record of the new member states makes the assessment more straightforward: most new member states outperform most old member states; the main exception is Poland that has become a compliance laggard in the enlarged EU (see figure 1 below).

Figure 1: Infringements of EU law by Member State (average annual number of reasoned opinions, 2008-2015)



The infringement record of the new member states thus clearly seems to contradict the expectations of the EIM (see also Sedelmeier 2008, 2016; Börzel and Sedelmeier 2017: 203). These aggregate results are also confirmed in studies of specific policy areas. Studies of the new members' compliance in specific policy areas do not find much evidence of a deterioration (e.g. Blauburger 2009; Leiber 2007; Sedelmeier 2009, 2012; Toshkov 2008) and studies that compare old and new members do not find more severe problems in the latter (e.g. Steunenber and Toshkov 2009; Toshkov 2012; Zhelyazkova et al. 2017b).

At the same time, concerns have been raised that the new members' unexpectedly good record primarily captures formal compliance that masks undetected problems with behavioural compliance in the application of EU rules (Falkner et al. 2008; Dimitrova 2010). Although the infringement data cover not only formal transposition of EU law, but also its correct application, there might be reasons to fear that undetected non-compliance with regard to bad application is more salient in the new



member states than the old members (Sedelmeier 2008: 818-19). However, studies of the application of EU directives do not find evidence that it is generally more problematic in the new member states (Zhelyazkova et al. 2017b).

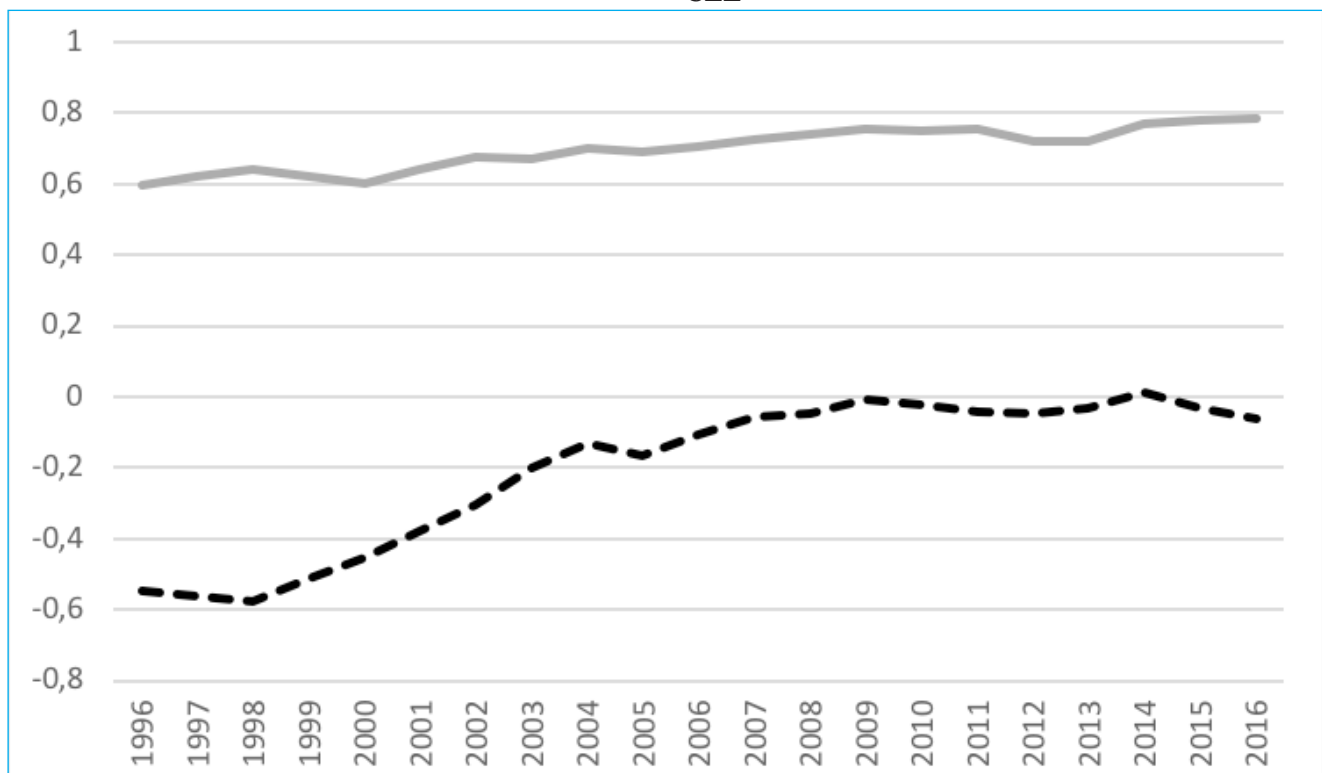
The findings for post-accession compliance with the (single market) acquis thus generally appear to contradict the EIM. At the same time, we have to bear in mind that according to the EIM, compliance is more likely with regard to the (single market) acquis than with regard to the political conditions. Moreover, although it is difficult to derive predictions from the EIM how compliance costs should affect cross-country variation in compliance at the aggregate level of the (internal market) acquis, some of the compliance patterns across countries can be plausibly explained from the perspective of the EIM. The observation that Poland is a compliance laggard, while a number of smaller new members are among the compliance leaders fits with the argument that powerful states need to care less about the reputational costs of non-compliance (Börzel et al. 2010). Sedelmeier (2016) provides evidence for the importance of administrative capacities for post-accession compliance: despite generally less efficient public administrations than in the old member states, those new member states that created during

the pre-accession more sophisticated specific administrative capacities for the implementation of the acquis (Dimitrova and Toshkov 2009; Zubek 2011) perform better after accession. In sum, conditionality appears to have a more durable positive impact on compliance with regard to the (single market) acquis (Sedelmeier 2016) than would have been expected by the EIM, although some of the more specific compliance patterns across countries fit its predictions.

Post-accession compliance with liberal democratic conditions

Early studies of the development of liberal democracy in the new member states found no evidence of ‘backsliding’ (Levitz and Pop-Eleches 2010). More recent evidence suggests that the new member states have experienced some backsliding in general (Börzel and Schimmelfennig 2017), but in most cases, it can be argued that this deterioration of democracy does not amount to clear non-compliance with EU rules. The upper line in Figure 2 shows that there is no general and sustained deterioration of democracy in the new member states.

Figure 2: Democratic development of CEE and SEE



Note: Mean of Worldwide Governance Indicators on ‘Voice and Accountability’ and ‘Rule of Law’ for the 10 Central and Eastern European new member states (solid grey line) and for the Western Balkans and Turkey (without Kosovo).



However, there are cases in which backsliding clearly breaches liberal democratic rules. In Hungary (since 2010) and Poland (since 2015), governments of new member states have concentrated power and undermined pluralistic democratic competition (see e.g. Bánkuti et al. 2012; Scheppele 2013; Kelemen 2017; Kelemen and Orenstein 2016). In Romania (in 2013), the government openly defied the rule of law, albeit only temporarily (Iusmen 2016; Pop-Eleches 2013).

While a deterioration of liberal democracy in the new members would be in line with the expectations of the EIM, it cannot easily explain why the most serious cases of backsliding occurred in these particular countries. However, the EIM correctly predicts the inability of EU institutions to redress backsliding once it occurred in Hungary and Poland, due to the lack of credible sanctions. And while the EIM struggles to explain why the Romanian government broadly complied with the demands of the presidents of the Commission and the Council to cease its breaches of the rule of law (Sedelmeier 2014), it correctly predicts that compliance is more likely in the case of the Romanian government, than in the cases of Hungary or Poland. The Romanian government broke the rule of law to impeach a deeply unpopular president who was unlikely to win re-election in the election scheduled for the following year. These measures were therefore hardly necessary to maintain or win office, and restoring compliance was accordingly much less costly than in Hungary or Poland. The EIM therefore correctly predicts that the influence of EU institutions on compliance decreases, the more a government's hold on power depends on its illiberal practices (Sedelmeier 2017). Moreover, the EIM also correctly predicts that the influence of the EU in the Hungarian case is strongest with regard to those selective issues in which illiberal practices also infringed the EU *acquis*, which allowed the Commission to use the compliance procedures under Article 258 TFEU. An example is the lowering of the retirement age of judges that

the Hungarian government had used to replace judges over the age of 62 with party loyalists (Sedelmeier 2014). At the same time, eventual compliance with these issues did not redress the damage that initial non-compliance did to liberal democratic practices (e.g. judges forced into early retirement were compensated rather than reinstated), let alone affect the broader patterns of the government's concentration of power.

In sum, post-accession compliance with regard to liberal democratic principles confirms the expectations of the EIM both with regard to a certain deterioration of compliance in general, and specifically the inability of the EU to redress non-compliance in Hungary and Poland, due to the lack of credible sanctions and high compliance costs for the governments concerned. At the same time, the EIM is less well equipped to explain whether compliance problems emerge in specific countries, but rather how likely it is that the EU can elicit compliance through the threat of sanctions once such problems arise.

If we compare the post-accession context for the CEECs – both with regard to the *acquis* and liberal democracy – and the pre-accession period, a first main difference is that the EU's rewards for compliance are generally weaker. The second, and crucial difference concerns the low credibility of the threat to use sanctions after accession with regard to breaches of liberal democracy even if they are more sizeable. The apparent absence of large-scale compliance problems in the new member states with regard to the single market *acquis* is then surprising for the EIM. But the broader patterns, specifically the greater severity of compliance problems in the area of liberal democracy than in the area of the *acquis*, fit well with the predictions of the EIM. A focus on credibility and domestic compliance costs explains well why compliance has been more problematic in the former, and why EU institutions have been least effective in redressing these compliance problems in Hungary and Poland.



SEE in pre-accession: the current candidates

Already before completing its fifth enlargement, the EU had begun to expand its enlargement policy beyond the CEE candidates. In 1999, it started the stabilization and association process with the countries of the Western Balkans and promoted Turkey to “official candidate” status. At the Thessaloniki European Council of 2003, the EU confirmed and reinforced the membership perspective for the Western Balkans, already declared in 1999. In 2005, the EU started accession negotiations with Croatia, which became a member in 2013, and Turkey; Macedonia achieved official candidate status. Since then, the EU has entered into accession negotiations with Montenegro (2012) and Serbia (2014), and accorded Albania (2014) official candidate status.

Conditions of pre-accession compliance

Rewards. As for the size of the reward, the conditions of conditionality do not differ from the CEE candidates. The EU promised all official and potential candidates full membership.

Credibility of the threat. Equally, the credibility of the EU’s threat to withhold membership in case of non-compliance does not differ significantly from CEE. Asymmetrical interdependence works strongly in favour of the EU, and while the EU has an interest in the stability and integration of the region, this interest will keep the EU engaged, but does not create an unconditional push towards enlargement (Vachudova 2014).

If anything, the SEE countries are less relevant and attractive for the EU economies, and more dependent on external support, than the CEECs given their smaller size and lower level of economic development. In 2016, the Western Balkans account for around one percent of EU imports and 1.5 percent of EU exports, while the EU accounts for almost 75 percent of the Western Balkans’ total trade. In spite of growing engagement of China

and Russia, these potentially rivalling economic powers remain distant second and third partners for the Western Balkans (China 5.5% and Russia 4.7%).² From the perspective of the external incentives model, this inferior position limits the cross-conditionality that China and Russia could exercise. Whereas Turkey is in a stronger position as a large and growing economy and one of the EU’s main non-EU trading partners, it still only accounts for a little over four percent of the EU’s total external trade. Moreover, the EU is Turkey’s most important trade partner, covering more than 40% of its total trade.³

Credibility of the promise. By contrast, the credibility of the EU promise to admit the candidates if they fulfil the conditions has suffered in comparison with Eastern enlargement. As in Eastern enlargement, the EU has not specified any ex ante timeline either but stuck to its official line that candidates would join when they are ready. However, Commission President Jean-Claude Juncker deviated from this stance when he announced that there would not be any enlargement during his tenure (2014-2019). In another signal of reduced priority, the current Commission abolished the Directorate-General for Enlargement and merged it in a bureaucratic unit responsible for all neighbouring countries.

Beyond these general indications, Turkey has been affected most by the lack of a credible membership promise. Turkey is the most contested EU candidate. According to the Eurobarometer surveys, it is the least preferred among the EU’s (potential) candidates for membership. The share of those opposed to Turkish membership has ranged between 55 and 59 percent between 2005 and 2010, and majority opposition is independent of whether or not Turkey fulfils the EU’s conditions (Dagdeverenis 2014: 7-8). Moreover, Turkey is a distant outlier when it comes to transnational trust among

2 http://trade.ec.europa.eu/doclib/docs/2006/september/tradoc_111477.pdf.

3 http://trade.ec.europa.eu/doclib/docs/2006/september/tradoc_113456.pdf.



Europeans (Klingemann and Weldon 2013). The fundamental cultural resistance revealed in the data is mirrored at the party level in the principled opposition of both radical and many centre-right parties towards Turkish membership. When the EU decided to start accession negotiations with Turkey, Austria and France raised the possibility of a national referendum on a future accession treaty – a very common procedure in accession states but hitherto rather the exception in old member states (France held a referendum on the UK's accession). Constitutional revisions in 2005 and 2008 introduced the obligation for France to hold a referendum on any further EU enlargement following Croatia (unless approved by both houses of parliament by a 3/5 majority). From the point of view of candidate countries, accession referendums in member states increase the number of veto players beyond the member state governments and thus reinforce their uncertainty about eventual membership.

In addition, the EU's institutional commitment to Turkish membership has been weaker than in the case of other candidates. First, the Negotiation Framework of 2005 declares the accession negotiations as 'open-ended' and includes the possibility of permanent derogations. Second, the admission of a divided Cyprus to the EU imported the Cyprus conflict into the accession process with Turkey. The EU governments sceptical about Turkey's accession obtained an agreement to make the continuation of accession negotiations dependent on Turkey's implementation of the Additional Protocol of the Ankara Agreement that would extend the customs union to the new member states, including Cyprus. When Turkey failed to comply, the EU reacted by partially blocking the negotiations. Around half of the negotiation chapters are currently frozen, mostly based on vetoes from Cyprus and France.

Whereas Turkey is an extreme case, support for EU enlargement has generally eroded over time (Toshkov et al. 2014). 'Enlargement fatigue' has been the dominant mood since 2005. In the 2015 Autumn Eurobarometer survey (EB 84.3), the

share of those opposed to further enlargement reached 51 percent. Even though Western Balkan countries do not face any principled or culturally motivated opposition among mainstream member state governments and parties, particular bilateral conflicts with Western Balkan countries, which have little to do with the formal membership conditions, have inhibited the accession process. The most important example is the state name dispute between Greece and Macedonia, which has led Greece to block the start of accession negotiations since 2009.

In sum, then, the credibility of the EU's promise to grant membership to compliant candidates is currently lower than it was during Eastern enlargement. This reduced credibility is a result of the unfavourable public opinion towards future enlargements, the increasing threat of referendums, the lack of consensus and coherence among the member states, the existence of substantial bilateral conflicts between individual member states and the candidate countries, and the weakened institutional commitment of the Commission.

(Determinacy of) conditions. Because the EU's *acquis* increases over time, the conditions to be met by candidate countries evolve, too. However, the EU has only developed gradually in the past ten years. Major changes were limited to the euro area, to which new member states do not belong upon accession. Yet the EU has also repeatedly revised its enlargement strategy and conditions. First, the candidates of the Western Balkans are subject to the 'Copenhagen Plus' criteria, which relate to specific problems of the region, including full cooperation with the International Criminal Tribunal for the former Yugoslavia (ICTY), the implementation of peace agreements, and the resolution of bilateral disputes. Indeed, the EU has not only been engaged in Europeanizing existing states as in CEE (and in Turkey) but in building and transforming states in the first place as a precondition even for association. According to Bieber (2011), the EU conditions related to state-building not only suffered from a lack of clear



criteria but also from a cacophony of voices from other actors involved in the peace and institution-building process.

Second, the EU has put stronger emphasis on democracy and the rule of law. Again, this emphasis on general political principles not specified in the EU *acquis* was susceptible to low determinacy. Yet the 'new approach' in EU enlargement strategy has increased both salience and precision. EU conditions in this area are now more detailed and better operationalized (by the introduction of specific opening, interim, and closing benchmarks) than during the Fifth Enlargement. The relevant negotiation chapters 23 and 24 are now opened at the beginning of the negotiations and remain open until their very end, thereby giving the candidate states a longer time to adopt and implement EU conditions and the Commission a better chance to monitor compliance. In addition, the Commission can link the opening of other chapters to progress in the rule-of-law chapters. Moreover, the EU upgraded the economic and administrative reforms it asks from the candidates (Dimitrova 2016; Zhelyazkova et al. 2017a). Finally, the EU announced that it would not treat the Western Balkans as a single 'enlargement round', but judge every candidate on its own merit. This approach strengthened the credibility of the EU's conditionality, as less compliant candidates cannot hope to hide behind the more compliant ones.

Consequently, the EU's conditionality has become both more demanding and (partly) more determinate. The EU has broadened the set of conditions, especially by expanding the 'enlargement *acquis*' beyond the regulatory public policy rules and into fundamental state-building, rule-of-law, administrative and economic reforms; it has improved the precision of its conditions in some of these areas; and it has strengthened its monitoring, feedback, and sanctioning mechanisms. Whereas higher determinacy of the conditions should improve the likelihood of successful Europeanization, more demanding conditions might increase the adoption costs

and delay membership, thereby undermining the effectiveness of conditionality.

Costs. As in CEE, EU membership has been highly popular in SEE at the beginning of the process. Whereas Turkish public support for membership has significantly cooled down over time, it has retained majorities in the Western Balkans overall (Toshkov et al. 2014). As in the previous enlargement, the popularity of EU accession generally lowers the domestic adoption costs and induces governments to engage in Europeanization and pursue accession progress. However, public support also reflects the credibility of the accession promise. Accordingly, public support in Turkey as well as in other SEE countries has decreased in line with the credibility of the process.

Political and administrative adoption costs, however, are generally higher for current candidates than in CEE. The SEE countries have started their transition and Europeanization from a lower level of fit. Many of them were still struggling with issues of statehood and state transformation at the start of the process; Bosnia-Herzegovina and Kosovo still are. With regard to both democracy and governance capacity, the gap between the CEE countries and the EU has been considerably smaller than the gap between SEE and the EU. With the exception of Croatia, the Western Balkans states are among the poorest and least developed countries in Europe. Indeed, according to most indicators, the CEE countries have been closer to the EU than SEE has been to CEE (Börzel and Schimmelfennig 2017).

Domestic adjustment cost therefore create a more unfavourable setting for Europeanization in SEE than in CEE. First, the governments of the region on average need to give up more power and rent-seeking opportunities and accept more constraints in order to meet the EU's conditions, in particular in the domain of the rule of law, in which the EU has strengthened its conditionality. Second, they need to meet the Copenhagen-Plus conditions that relate to recent ethnic conflict, concern identity-sensitive issues, and thus involve potentially



high political costs for governments to comply (Freyburg and Richter 2010). Overcoming such costs requires substantial and imminent rewards (Schimmelfennig et al. 2006; Schimmelfennig 2008). Finally, political conditions, which generally create higher adoption costs, dominate SEE pre-accession. Whereas violations of political conditions have been limited to a few countries in CEE and have mostly stopped before the accession negotiations started, they affect virtually all SEE countries and continue to affect the enlargement process well into the accession negotiations.

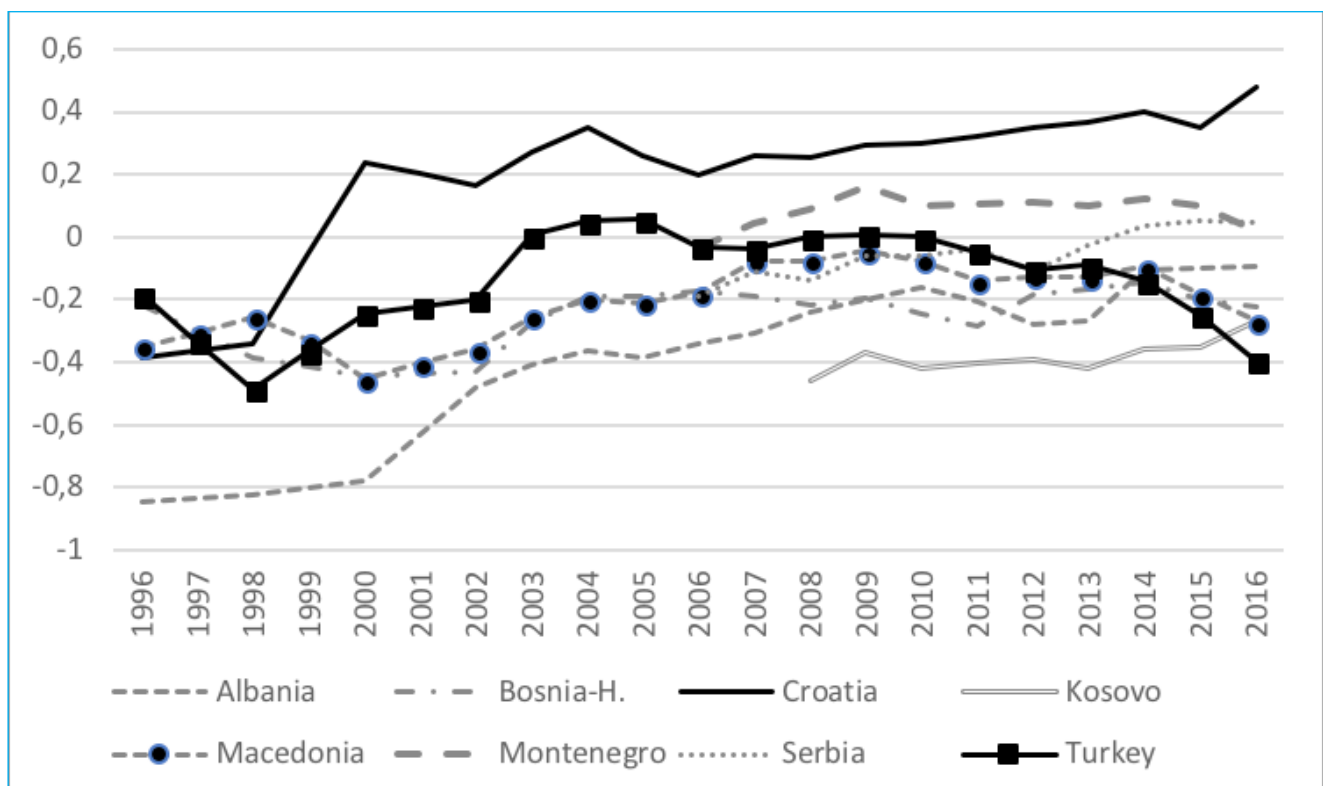
In sum, the EU offered the SEE candidates the same membership reward as the CEE countries. It preserved the high credibility of its threat to withhold this reward in case of non-compliance and even strengthened the determinacy of its conditions and its monitoring process. On the other hand, however, the credibility of the EU's membership promise has weakened and political and administrative domestic adoption costs have increased in general. Based on the external incentives model, we would therefore expect Europeanization to slow down and lose effectiveness. Governments that perceive a high

uncertainty of obtaining membership are likely to be unwilling to accept the considerable political and administrative costs that full compliance would entail.

The Europeanization of the Western Balkans and Turkey

How has the Europeanization of the current candidates proceeded and what do the outcomes tell us about the fit of the external incentives model? Figure 2 shows the democracy and governance trajectory of the entire region (Western Balkans and Turkey) in comparison with CEE. All indicators show an increase in the initial years of the period and a narrowing of the gap between the two subregions until recently. The membership perspective accorded to SEE in 1999 clearly gave democratic development a boost, which continued when in CEE the 'membership carrot' was consumed and development flattened. Since 2014, however, we have seen backsliding.

Figure 3: SEE democratic development by country



Note: see Figure 2.

Figure 3 shows the liberal-democratic trajectory for each SEE country. First, the data confirm that the EU has been largely consistent in rewarding the countries of the region for their progress. Croatia, the only new member state, clearly comes out top-of-the-league. Serbia and Montenegro, the two Western Balkan countries currently in accession negotiations, rank behind Croatia but ahead of the other Western Balkan countries. At the time, when Turkey started accession negotiations, its democratic performance was better, too, than that of the Western Balkan countries except Croatia. Albania, Bosnia-Herzegovina, and Kosovo, which have not had official candidate status during this period (Albania gained it in 2014), have ranked lowest. Thus, the credibility problems that EU conditionality has in the region do not stem from inconsistency.

Second, EU accession conditionality has not been able to induce sufficient and sustainable progress in the political development of its candidate countries. The fact that Bosnia-Herzegovina and Kosovo have remained at the bottom of the league with regard to democracy and governance testifies to the strength of statehood as a core condition of Europeanization (Börzel 2013) and the failure of EU conditionality in state-building (Bieber 2011). The cases of failure are clearly overdetermined, combining distant and uncertain rewards with particularly high domestic adaptation costs owing to powerful internal (and external) veto players and low state capacity.

Turkey and Macedonia are the two countries whose membership perspective has become least credible because of significant bilateral conflicts with EU member states and – in the case of Turkey – principled public and partisan opposition, both rooted in national and cultural identities. The effects can be seen in the trajectories of the two countries' liberal-democratic performance. Initial progress gave way to regression when it became clear that the EU would not reward their efforts in the near future.

In Turkey, a combination of external incentives and reduced political costs triggered the initial

reforms, which earned Turkey the start of the accession negotiations (Kubicek 2011; Müftüler-Bac 2005; Schimmelfennig et al. 2006). The official candidate status of 1999 raised the credibility of Turkey's membership perspective; the electoral victory of the AKP brought a party to power that had a strong self-interest in constraining and reforming the Kemalist state. After 2005, perceptions of EU double standards gained ground in Turkey, the political consensus behind the reform process broke down, and the Turkish government reoriented its international relations away from the EU focus (Kubicek 2011). Whereas the process of Europeanization has not come to a full stop after 2005, it has been limited to selective policy areas, driven by the government's domestic political interest (Cengiz and Hoffmann 2013; Yilmaz and Soyaltin 2014) or socialization and anticipatory compliance in policy networks (Aydin and Kirisci 2013; Bürgin and Asikoglu 2017). This confirms the finding that, in the absence of credible conditionality, Europeanization may still occur as a result of social learning and lesson-drawing. Since 2010, however, a process of retrenchment or 'de-Europeanization' has become dominant (Yilmaz 2016). The Turkish case shows most clearly how the decrease in the credibility of the EU's conditional membership promise has resulted in a decrease of the EU's influence on the country's general political development.

Besides Croatia, Macedonia has been an early and eager 'Europeanizer' in the Western Balkans. After its membership application in 2004 and obtaining candidate status in 2005, Macedonia engaged in high legislative activity to bring its institutions and policies in line with the EU, earning the country a series of recommendations by the European Commission to start accession negotiations, only to be vetoed by Greece. Since 2010, Macedonia's rule adoption has slowed down, interrupted by a short period of heightened activity when the High Level Accession Dialogue appeared to be able to overcome the name dispute in 2012/13 (Nechev 2017). During the same time, the Macedonian government of Nikola Gruevski stepped up state capture, revealed in the 'wiretapping scandal'



of 2015 and causing prolonged political crisis. In a remarkable statement after the formation of the new Zaeu government in June 2017, EU Commissioner Johannes Hahn admitted that the EU's handling of the name dispute between Macedonia and Greece 'was clearly not helpful for stabilizing the country' and that the EU 'should have learned their lesson and ... find a solution at last to start negotiations'.⁴

Finally, the EU is still able to elicit compliance with its demands, even if they involve high political costs, if it offers important and imminent intermediate rewards in return. To give a few examples, when the EU made the start of accession negotiations specifically dependent on the arrest of suspected war-criminal General Gotovina, Croatia cooperated with the ICTY (Schimmelfennig 2008). When the closing of accession negotiations approached, the Croatian government demonstrated resolve in the fight against corruption by arresting former Prime Minister Sanader (from the same political party) in December 2010 (Noutcheva and Aydin-Düzgit 2012). When the EU made clear in 2011 that Serbia's path to membership would be blocked without a constructive dialogue with Kosovo, the Serbian government complied and was promptly rewarded with a recommendation of the Commission to award official candidate status (Economides and Ker-Lindsay 2015). Whereas in Eastern enlargement the critical occasions for applying leverage on politically costly issues were limited to the starting and closing of accession negotiations (Schimmelfennig et al. 2006), the EU has now created many more such 'windows for leverage' (O'Brennan 2014), from the start of association negotiations to the decisions on closing benchmarks for individual negotiation chapters. These 'micro-conditionalities' have, indeed, helped to move the integration processes forward incrementally – especially in the cases of Croatia and Serbia, which were not durably blocked by bilateral conflicts with the member states.

4 'EU sees "momentum" on Macedonia name dispute', *EU Observer*, 12 June 2017, available at <https://euobserver.com/enlargement/138199>.

In the same vein, the EU has sought to compensate the distant and uncertain reward of membership with a series of smaller, sectoral agreements that would commit the Western Balkan countries to adopting a specific set of policy rules in return for short-term rewards in areas such as energy and border policy (Renner and Trauner 2009). Moreover, the visa liberalization for the Western Balkans demonstrated the effectiveness of tangible, credible, and imminent rewards in mobilizing compliance (Trauner 2009).

In sum, the major difference between CEE and SEE enlargement is the combination of higher adaptation costs with a lower credibility of the EU's conditionality. The SEE countries started from a much greater distance from EU standards, faced additional prerequisites of accession but were given a much more distant and uncertain membership perspective. This discrepancy slowed down Europeanization in the entire region, especially in those countries that suffered from weak statehood and were entangled in bilateral conflicts with a member state. Credibility clearly stands out as the most important factor weakening EU conditionality. As the development of Turkey in the early 2000s and several instances of Croatian and Serbian compliance demonstrate, compliance is possible even in highly politicized issue areas if conditionality is credible.

Conclusions

In the Eastern enlargement process, the EIM largely explained compliance with EU norms and rules because the constellation of conditions was favourable. Rewards were high and credible, domestic adoption costs moderate, and in the few cases, in which political costs were high, they could be overcome by even higher imminent rewards. In the two post-Eastern enlargement contexts we have examined in this paper, however, conditions have changed. Table 1 offers an overview of Europeanization outcomes and the constellation of the key conditions for Europeanization across the two groups of countries, and different time periods and main issue areas for the CEE, leaving



aside variations in some conditions across countries and disregarding determinacy, which is generally a secondary influence.

In general, the comparative evidence highlights the importance of credibility. Even if incentives (rewards and sanctions) are strong in principle, they fail to affect rule adoption and compliance if they lack credibility. In addition, highly credible incentives have proven capable of overcoming considerable domestic costs in the pre-accession

Table 1: General configurations of conditions in CEE and SEE accession contexts

	<i>Incentives</i>	<i>Credibility</i>	<i>Costs</i>	<i>Compliance</i>
<i>CEE pre-accession</i>	++	+	+ (<i>acquis</i>) - (<i>democracy</i>)	+
<i>CEE post-accession (acquis)</i>	-	+	+	+
<i>CEE post-accession (democracy)</i>	+	- (<i>threat</i>)	-	-
<i>SEE pre-accession</i>	++	- (<i>promise</i>)	-	-

In the post-accession period of the new member states, the membership reward had been consumed and could not be matched by any (credible) EU sanctions for non-compliance. Otherwise, conditions vary significantly between the issue areas of the market *acquis* and the EU's liberal democratic norms. The defiant stance of the EU's 'illiberal democracies' vis-à-vis potential EU sanctions in the area of democratic norms fits the prediction of the EIM based on low credibility and high domestic costs – and in spite of a significant loss of membership rewards if sanctions were actually applied. By contrast, higher credibility of sanctions for non-compliance and lower compliance costs are more conducive to compliance with regard to the single market *acquis* in the post-accession period. Given the considerable change in the reward structure, the strong compliance record of the new member states is nevertheless puzzling from the EIM perspective.

periods. *Ceteris paribus*, credibility is the core resource of EU conditionality. Its decline is the most important factor in the decline of the Europeanization effects of the EU's enlargement policy.

The main difference in the configuration of conditions in the CEE and SEE pre-accession contexts is the lack of credibility of the membership reward. As predicted by the EIM, it has led to a generally lower level of compliance. Moreover, compliance has varied across time and countries in line with variation in the credibility of EU rewards.



References

- Ágh, A. and Kurtán, S. (Eds.) (1995) *Democratization and Europeanization in Hungary: The First Parliament (1990-1994)*, Budapest: Hungarian Center for Democracy Studies.
- Ágh, A. (1999) 'Europeanization of Policy-Making in East-Central Europe', *Journal of European Public Policy* 6(5): 839-854.
- Aydin, U. and Kirisci, K. (2013) 'With or Without the EU: Europeanisation of Asylum and Competition Policies in Turkey', *South European Society and Politics* 18(3): 375-395.
- Bánkuti, M., Halmai, G. and Scheppele, K.L. (2012) 'Disabling the Constitution', *Journal of Democracy*, 23(3): 138-46.
- Bieber, F. (2011) Building Impossible States? State-building Strategies and EU Membership in the Western Balkans, *Europe-Asia Studies* 63(10): 1783-1802.
- Blauberger, M. (2009) 'Compliance with rules of negative integration: European state aid control in the new member states', *Journal of European Public Policy*, 16(7): 1030-1046.
- Börzel, T.A. (2013) 'When Europeanization Hits Limited Statehood. The Western Balkans as a Test Case for the Transformative Power of Europe', in: Elbasani, A. (ed.) *Europeanization and European Integration in the Western Balkans. Europeanization or Business As Usual?*, London: Routledge.
- Börzel, T. A., Hofmann, T., Panke, D., & Sprung, C. (2010) 'Obstinate and Inefficient: Why Member States Do Not Comply With European Law', *Comparative Political Studies*, 43(11): 1363-1390.
- Börzel, T.A. and Risse, T (2000) 'When Europe Hits Home: Europeanization and Domestic Change', *European Integration online Papers* 4(15).
- Börzel, T.A. and Risse, T. (2012) 'From Europeanisation to Diffusion: Introduction', *West European Politics* 35(1): 1-19.
- Börzel, T.A. and Schimmelfennig, F. (2017) 'Coming Together or Drifting Apart? The EU's Political Integration Capacity in Eastern Europe', *Journal of European Public Policy* 24(2): 278-296.
- Börzel, T.A. and Sedelmeier, U. (2017) 'Larger and More Law-Abiding? The Impact of Enlargement on Compliance in the European Union', *Journal of European Public Policy* 24(2): 197-215.
- Bürgin, A. and Asikoglu, D. (2017) 'Turkey's New Asylum Law: a Case of EU Influence', *Journal of Balkan and Near Eastern Studies* 19(2): 121-135.
- Cengiz, F. and Hoffmann, L. (2013) 'Rethinking Conditionality: Turkey's European Union Accession and the Kurdish Question', *Journal of Common Market Studies* 51(3): 416-432.
- Dagdeverenis, D. (2014) EU Public Opinion and Turkey's Membership (Bridging Europe, EU-Turkey Dialogue Initiative Working Paper 2), available at http://www.bridgingeurope.net/uploads/8/1/7/1/8171506/working_paper_on_eu_public_opinion_on_turkey_dagdeverenis_august.pdf.
- Dimitrova, A. (2010) 'The New Member States of the EU in the Aftermath of Enlargement: Do New European Rules Remain Empty Shells', *Journal of European Public Policy*, 17(1): 137-148.
- Dimitrova, A. (2016) The EU's Evolving Enlargement Strategies. Does Tougher Conditionality Open the Door for Further Enlargement? (MAXCAP Working Paper 30), available at http://userpage.fu-berlin.de/kfgeu/maxcap/system/files/maxcap_wp_30.pdf.
- Dimitrova, A., and Toshkov, D. (2009) 'Post-accession compliance between administrative co-ordination and political bargaining', *European Integration Online Papers*, 13(2), No. 19.



- Epstein, R. and Sedelmeier, U. (2008) 'Beyond conditionality: international institutions in postcommunist Europe after enlargement', *Journal of European Public Policy*, 15(6): 795-805.
- Falkner, G., Treib, O., & Holzleithner, E. (2008) *Compliance in the Enlarged European Union: Living Rights or Dead Letters?* Aldershot: Ashgate.
- Freyburg, T. and Richter, S. (2010) 'National identity matters: the limited impact of EU political conditionality on the Western Balkans', *Journal of European Public Policy* 17(2): 263-281.
- Grabbe, H. (2001) 'How does Europeanization Affect CEE Governance? Conditionality, Diffusion, and Uncertainty', *Journal of European Public Policy* 8(6): 1013-1031.
- Iusmen, I. (2015) 'EU leverage and democratic backsliding in Central and Eastern Europe: the case of Romania', *Journal of Common Market Studies* 53(3): 593-608.
- Kelemen, R. D. (2017). Europe's Other Democratic Deficit: National Authoritarianism in Europe's Democratic Union. *Government and Opposition*, 52(2), 211-238.
- Kelemen, R.D. and M.A. Orenstein (2016) 'Europe's Autocracy Problem: Polish Democracy's Final Days?', *Foreign Affairs*, 7 January.
- Klingemann, H. and Weldon, S. (2013) 'The Development of Transnational Dyadic Trust in the European Union, 1954-2004', *European Journal of Political Research* 52(4): 457-482.
- Kubicek, P. (2011) 'Political Conditionality and European Union's cultivation of Turkish democracy', *Democratization* 18(4): 910-931.
- Leiber, S. (2007) 'Transposition of EU social policy in Poland: are there different 'worlds of compliance' in East and West?', *Journal of European Social Policy*, 17(4): 349-360.
- Levitz, P., and Pop-Eleches, G. (2010). Why No Backsliding? The European Union's Impact on Democracy and Governance Before and After Accession. *Comparative Political Studies*, 43(4): 457-485.
- March, J.G. and Olsen, J. (1989) *Rediscovering Institutions. The Organizational Basis of Politics*, New York: Free Press.
- Moravcsik, M. (1993) 'Preferences and Power in the European Community. A Liberal Intergovernmentalist Approach', *Journal of Common Market Studies* 31(4): 473-524.
- Müftüler-Bac, M. (2005) Turkey's Political Reforms and the Impact of the European Union, *South European Society and Politics* 10(1): 17-31.
- Noutcheva, G. and Aydin-Düzgit, S. (2012) 'Lost in Europeanisation: The Western Balkans and Turkey', *West European Politics* 35(1): 59-78.
- O'Brennan, J. (2014) 'On the Slow Train to Nowhere? The European Union, "Enlargement Fatigue", and the Western Balkans', *European Foreign Affairs Review* 19(2): 221-241.
- Pop-Eleches, G. (2013) 'Learning from mistakes: Romanian democracy and the Hungarian precedent'. Newsletter of the European Politics and Society Section of the American Political Science Association Winter, 9-12.
- Pridham, G. (2000) 'EU Accession and Domestic Politics: Policy Consensus and Interactive Dynamics in Central and Eastern Europe', *Perspectives on European Politics and Society* 1(1): 49-74.
- Renner, S. and Trauner, F. (2009) 'Creeping EU Membership in Southeast Europe: The Dynamics of EU Rule Transfer to the Western Balkans', *European Integration* 31(4): 449-465.
- Rose, R. (1991) 'What is Lesson-Drawing?', *Journal of Public Policy* 11(1): 3-30.
- Scheppele, K.L. (2013) 'The rule of law and the Frankenstate: why governance checklists do not work'. *Governance* 26(4): 559-62.
- Schimmelfennig, F. (2008) 'EU Political



- Conditionality After the 2004 Enlargement: Consistency and Effectiveness', *Journal of European Public Policy* 15(6): 918-937.
- Schimmelfennig, F., Engert, S. and Knobel, H. (2006) *International Socialization in Europe. European Organizations, Political Conditionality and Democratic Change*. Basingstoke: Palgrave Macmillan.
- Schimmelfennig, F. and Sedelmeier, U. (Eds.) (2005a) *The Europeanization of Central and Eastern Europe*. Ithaca: Cornell University Press.
- Schimmelfennig, F. and Sedelmeier, U. (Eds.) (2005b) 'Introduction: Conceptualizing the Europeanization of Central and Eastern Europe', in Schimmelfennig, F. and Sedelmeier U. (eds.), *The Europeanization of Central and Eastern Europe*. Ithaca: Cornell University Press, 1-28.
- Schimmelfennig, F. and Sedelmeier, U. (Eds.) (2005c) 'Conclusions: The Impact of the EU on the Accession Countries', in Schimmelfennig, F. and Sedelmeier U. (eds.), *The Europeanization of Central and Eastern Europe*. Ithaca: Cornell University Press, 210-228.
- Sedelmeier, U. (2005) *Constructing the Path to Eastern Enlargement*. Manchester: Manchester University Press.
- Sedelmeier, U. (2008) 'After conditionality: Post-accession compliance with EU law in East Central Europe', *Journal of European Public Policy*, 15(6): 806-825.
- Sedelmeier, U. (2009) 'Post-accession compliance with EU gender equality legislation in post-communist new member states', *European Integration Online Papers*, 13(2), No. 23, available at <<http://eiop.or.at/eiop/texte/2009-023a.htm>>
- Sedelmeier, U. (2012) 'Is Europeanization through conditionality sustainable? Lock-in of institutional change after EU accession', *West European Politics* 35:1 (2012): 20-38.
- Sedelmeier, U. (2014). Anchoring Democracy from Above? The European Union and Democratic Backsliding in Hungary and Romania after Accession. *Journal of Common Market Studies*, 52(1), 105-121.
- Sedelmeier, U. (2016) 'Compliance after Conditionality: Why Are the European Union's New Member States So Good?', (MAXCAP Working Paper No. 22), available at http://userpage.fu-berlin.de/kfgeu/maxcap/system/files/maxcap_wp_22.pdf
- Sedelmeier, U. (2017) Political safeguards against democratic backsliding in the EU: the limits of material sanctions and the scope of social pressure, *Journal of European Public Policy*, 24(3): 337-351.
- Steunenberg, B. and Toshkov, D. (2009) 'Comparing transposition in the 27 member states of the EU: the impact of discretion and legal fit', *Journal of European Public Policy*, 16(7): 951-970.
- Tallberg, J. (2002) 'Paths to compliance: Enforcement, Management, and the European Union', *International Organization*, 56(3): 609-643.
- Toshkov, D. (2008) 'Embracing European law - Compliance with EU directives in Central and Eastern Europe', *European Union Politics*, 9(3): 379-402.
- Toshkov, D. (2012) 'Compliance with EU Law in Central and Eastern Europe: The Disaster that Didn't Happen (Yet)', *L'Europe en Formation*, 2(364): 91-109.
- Toshkov, D., Kortenska, E., Dimitrova, A. and Fagan, A. (2014) The 'Old' and the 'New' Europeans: Analyses of Public Opinion on EU Enlargement in Review (MAXCAP Working Paper 2), available at http://userpage.fu-berlin.de/kfgeu/maxcap/system/files/maxcap_wp_02.pdf.
- Trauner, F. (2009) 'From Membership Conditionality to Policy Conditionality: EU External Governance in South Eastern Europe',



Journal of European Public Policy 16(5): 774-790.

Vachudova, M. (2005) *Europe Undivided: Democracy, Leverage, and Integration since 1989*. Oxford: Oxford University Press.

Vachudova, M. (2014) 'EU Leverage and National Interests in the Western Balkans: The Puzzles of Enlargement Ten Years On', *Journal of Common Market Studies* 52(1): 122-138.

Yilmaz, G. (2016) From Europeanization to De-Europeanization: The Europeanization Process of Turkey in 1999-2014, *Journal of Contemporary European Studies* 24(1): 86-100.

Yilmaz, G. and Soyaltin, D. (2014) 'Zooming into the "Domestic" in Europeanization: Promotion of Fight against Corruption and Minority Rights in Turkey', *Journal of Balkan and Near Eastern Studies* 16(1): 11-29.

Zhelyazkova, A., Damjanovski, I., Nechev, Z. and Schimmelfennig, F. (2017a) European Union Conditionality in the Western Balkans: External Incentives and Europeanisation, Ms.

Zhelyazkova, A., Kaya, C., & Schrama, R. (2017b) 'Notified and substantive compliance with EU law in enlarged Europe: evidence from four policy areas', *Journal of European Public Policy*, 24(2): 216-238.

Zubek, R. (2011) 'Core Executives and Coordination of EU Law Transposition: Evidence from New Member States', *Public Administration*, 89(2): 433-450.



NEW WAYS OF INFLUENCE: 'HORIZONTAL' EUROPEANIZATION IN SOUTHEAST EUROPE

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New Ways of Influence: 'Horizontal' Europeanization in Southeast Europe

Despite deficient institutional practices, political resistance, and lagging public support for European Union (EU) membership, as well as the presence of three existential EU crises—the euro crisis, Brexit, and migration crisis—the states of Southeast Europe (SEE) continue to adapt their domestic policies, procedures, legislation, norms and values to the EU's *acquis communautaire*—Europeanization. The Europeanization literature explains that such processes of adaptation are induced by incentives, and informed by the (limited) ability of each state to negotiate its membership requirements. However, given the degree of political and institutional weakness in SEE, in addition to the EU's current apathetic stance towards enlargement, this article questions the explanatory power of traditional, hierarchical conceptualizations of Europeanization. In turn, it investigates the extent to which the EU and Southeast European candidates (SECs) have employed new,

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'horizontal' mechanisms of Europeanization involving sub-governmental units and networks of non-governmental organizations (NGOs). Contrary to conditionality approaches, horizontal mechanisms of Europeanization like twinning and NGO-led projects rely on cooperation, learning, and the co-production of outputs to overcome the technical and strategic problems facing the candidates.

Keywords: Horizontal Europeanization, Enlargement, NGOs, Southeast Europe, Twinning, Compliance

Introduction

European Union (EU) membership for the former-Yugoslav countries of Southeast Europe (SEE) is at a cross-roads. On the surface the EU seems committed to the promises made at the 2003 EU-Western Balkans Summit in Thessaloniki. Croatia and Slovenia are already EU members, and Kosovo and Bosnia-Herzegovina remain the only former-Yugoslav countries without candidacy status. At the domestic level the states have routinely professed their EU aspirations and appear, at least rhetorically, committed to implementing the necessary reforms. However, if European Commission ('Commission') President Jean-Claude Juncker's July 2014 speech to the European Parliament (EP) is any indication, then EU membership may be 'frozen' at 28 – or at least for the length of the current term of the Commission President. Similarly, the Commission's 2016 Enlargement Communication gave little indication that further enlargement was imminent.²

The prospect of an SEE enlargement has been hampered by a number of existential threats to the EU. In Brussels and across the European capitals enthusiasm for enlargement has been

2 European Commission, *Communication from the Commission to the European Parliament, The Council, the European Economic and Social Committee and the Committee of the Regions, 2016 Communication on EU Enlargement Policy* (Brussels: European Commission, 2016).



replaced by a predation for introspection—a ‘deepening’ rather than ‘widening’.³ As a result of the crises and the EU’s justifiably singular focus on developing solutions to the crises, negotiations with the Southeast European candidates (SECs) have slowed. Indeed, Bechev noted that SEE had been effectively demoted to ‘the periphery of the periphery’.

⁴ At the same time the crises have made it difficult for the EU to justify the political and economic obligations embodied by the enlargement *acquis*. Schimmelfennig and Sedelmeier explain that in order for the proverbial ‘carrot-and-stick’ or ‘conditionality’ principle to encourage EU-rule adoption the carrot must be sufficiently large.⁵ However, it is unclear whether membership to an unstable EU still represents a substantial enough reward to overcome domestic political and social barriers.

A similar acknowledgment of the domestic condition of the candidates and potential candidates from SEE is necessary. Opinion polls continue to show that support for EU membership is falling across SEE.⁶ Due to the polarization of the populous it has become increasingly complex for SEE politicians to maintain political power while balancing EU expectations. As a result, several SECs have silently and purposely become policy laggards, preferring to play a game of wait-and-see. Moreover, these nations still struggle to meet the basic demands of modern

3 Jean-Claude Juncker, “A New Start for Europe: My Agenda for Jobs, Growth, Fairness and Democratic Change” (speech, Strasbourg, July 15, 2014), European Commission, https://ec.europa.eu/commission/publications/president-junckers-political-guidelines_en.

4 Dimitar Bechev, *The Periphery of the Periphery: The Western Balkans and the Euro Crisis* (London: European Council of Foreign Relations, 2012).

5 Frank Schimmelfennig and Ulrich Sedelmeier, “Governance by Conditionality: EU Rule Transfer to the Candidate Countries of Central and Eastern Europe,” *Journal of European Public Policy* 11, no.4 (2004): 661-679.

6 Dimiter Toshkov, Elitsa Kortenska, Antoaneta Dimitrova, and Adam Fagan, “The ‘Old’ and ‘New’ Europeans: Analysis of Public Opinion on EU Enlargement in Review,” *MAXCAP Working Paper Series*, no.2 (2014): 1-41.

functioning states. For example, on the eve of accession Croatia was cited by the EU for deficient administrative practices and suspect institutional arrangements.⁷ To varying degrees, administrative incapacities and deficient institutional practices beleaguer all SECs. Communication is difficult, institutional isolation common, bureaucratic turnover endemic, and budgetary constraints an everyday reality. In order to overcome these issues, EU membership, although significant and undoubtedly a key motivation for SEE politicians, must be accompanied by concrete plans to address the institutional and administrative problems that limit a candidate’s ability to manage the *acquis*. The issue for the SECs is not the size of the reward nor the desire to join the EU, but rather an inability to meet the obligations that come with candidacy.

This paper acknowledges the significance of EU affairs and domestic contexts when considering the Europeanization of SEE. It sets out to investigate the mechanisms employed to help these states improve their administrative capacities, and bring their systems of governance in line with EU norms and values. The literature has suggested that Europeanization occurs as (1) the EU uses its position of power vis-à-vis its candidates to coerce domestic actors into complying with the Union’s values, norms, policies, and legislation, (2) domestic stakeholders contest the EU’s demands and attempt to integrate domestic preferences and norms into the accession process, or as (3) Howell admitted, a mixture of both processes.⁸ However, relying on these hierarchical understandings to explain the Europeanization of SEE overlooks the value of transgovernmental cooperation⁹,

7 European Commission, *Communication from the Commission to the European Parliament and the Council on the Main Findings of the Comprehensive Monitoring Report on Croatia’s State of Preparedness for EU Membership* (Brussels: European Commission, 2012), 4-5, 8, 15-17.

8 Kerry Howell, “Developing Conceptualisations of Europeanization: Synthesising Methodological Approaches,” *Queen’s Papers on Europeanization*, no.3 (2004): 1-13.

9 Transgovernmental refers to ‘cross-boundary relations among sub-units of national governments in the absence of centralized decisions by state executives’—Source: Thomas Risse, “Exploring the Nature of the Beast: International Relations Theory



facilitated by the EU's Twinning Initiative, as well as the efforts of non-governmental organizations (NGO) to network with like-minded organizations towards *acquis*-compliant policy change. Using Croatia, Serbia, and Montenegro as case studies, this paper assesses the impact of twinning and NGO-led projects to provide a more conceptually complete rendering of the Europeanization process, and highlight the emergence of 'horizontal' mechanisms of Europeanization in SEE. These cases were chosen based on their common historical legacies, geographic proximity, and geopolitical importance to the EU. Of course Croatia's experience as a candidate is discussed in retrospect, as it is the newest EU member state. Inferences made from these cases provide insights into twinning and NGO-led projects in SEE more generally, and provide a lens through which the integrative processes used by the EU in SEE can be more fully investigated.

The paper is organized into three substantive sections and one concluding section. The first section discusses the conceptual development of Europeanization, focusing more specifically on debates about its 'direction of causality', that is whether the mechanism of change originates from the top down, bottom-up or horizontally.¹⁰ The second section argues that Europeanization, presented as a combination of 'top-down' and 'bottom-up' processes is unable to explain fully the processes of domestic adaptation in SEE. The section introduces the concept of 'horizontal' Europeanization in more detail and contextualizes its theoretical significance within the field. The third section uses evidence from Serbia, Croatia, and Montenegro to show how the existence of transnational networking and transgovernmental cooperation are fundamentally changing the way Europeanization occurs in SEE. The final concluding section surveys the main points of this paper.

and Comparative Policy Analysis Meet the European Union," *Journal of Common Market Studies* 34, no.1 (1996): 58.

10 Robert Ladrech, *Europeanization and National Politics* (Basingstoke: Palgrave-Macmillan, 2010), 3.

The Conceptual Development of Europeanization

A series of key debates have guided the progression of Europeanization research. Initially many scholars wondered *what* Europeanization was and how it differed from European integration theories. Some scholars saw Europeanization as an *outcome* of European integration, where domestic policies, legislation, and procedures are more or less 'Europeanized' to meet EU regulations.¹¹ Some scholars even used Europeanization interchangeably with the notion of European integration.¹² Still other scholars, this one included, saw Europeanization as a *process* by which principles of EU governance are translated and converted into existing systems of domestic policy-making.¹³ Another key distinction made by more recent scholarship has been the difference between the Europeanization of member states and the Europeanization of EU candidate states¹⁴. Grabbe and others have shown that the power asymmetry between the EU and its candidates make the Europeanization of EU candidates fundamentally different from similar processes

11 Simon Hix and Klaus Goetz, "Introduction: European integration and National Political Systems," *West European Politics* 23, no.4 (2000): 1-26; Jim Buller and Anthony Gamble, "Conceptualizing Europeanization," *Public Policy and Administration* 17, no. 4 (2002): 4-24.

12 Maria Green Cowles, James Caporaso, and Thomas Risse, eds., *Transforming Europe: Europeanization and Domestic Change* (Ithaca: Cornell University Press, 2001).

13 Robert Ladrech, "Europeanization of Domestic Politics and Institutions: The Case of France," *Journal of Common Market Studies* 32, no.1 (1994): 69-88; Tanja Börzel, "Towards Convergence in Europe?," *Journal of Common Market Studies* 34, no.4 (1999): 573-596; Klaus Goetz, "Four Worlds of Europeanization" (presentation, ECPR Joint Session of Workshops, Turin, Italy, 22-27 March, 2002); Howell, "Developing Conceptualisations"; Frank Schimmelfennig and Ulrich Sedelmeier, *The Europeanization of Central and Eastern Europe* (Ithaca: Cornell University Press, 2005); Claudio Radaelli, "Europeanization: The Challenge of Establishing Causality," in *Research Design in European Studies: Establishing Causality in Europeanization*, eds. Theofanis Exadaktylos and Claudio Radaelli (New York: Palgrave-Macmillan, 2012), 1-16.

14 Heather Grabbe, *The EU's Transformative Power: Europeanization through Conditionality in Central and Eastern Europe* (New York: Palgrave MacMillan, 2006); Ulrich Sedelmeier, "Europeanization in New Member and Candidate States," *Living Reviews in European Governance* 6, no. 1 (2011): 1-52.

between the EU and its members¹⁵. More recently, scholars have focused on Europeanization's orientation or 'direction of causality'.¹⁶ The next subsection proceeds with an overview of this key debate and asks us to reconsider *who* is involved in the Europeanization process and *what* mechanisms they use to impact the process.

Europeanization: From What Direction?

Scholars have long debated the precise 'direction' of Europeanization—does it occur top-down, bottom-up or from some 'horizontal' direction? The first major contribution to this debate was offered by Ladrech who defined Europeanization as:

...an incremental process reorienting the direction and shape of politics to the degree that EC political and economic dynamics become part of the organizational logic of national politics and policy-making.¹⁷

While Ladrech maintained the primacy of domestic interests, he also recognized that supranational norms and values were quickly becoming interwoven with domestic and regional policy-making structures. In fact, 'organizational logic' was left purposefully vague so as to encompass all of the structural and administrative changes brought on by deeper EU integration and the new environmental inputs, resources, costs, and competition faced by new members.¹⁸ Yet, this definition fails to provide any clarity on *how* EU dynamics become a part of domestic political processes, and thus overlooks the impact of non-state actors and interagency cooperation. Such hierarchical, top-down renderings of Europeanization assume that the presence of formal EU policies exert pressure on member and candidate states to conform. This of course

15 Grabbe, *The EU's Transformative Power*.

16 Ladrech, *Europeanization*, 3

17 Ladrech, 'Europeanization of Domestic,' 69.

18 Ibid., 70.

also assumes that domestic actors are able to judge the 'goodness of fit' between domestic policy preferences and the requirements of EU membership.¹⁹ Yet, goodness of fit only explains scenarios where EU policy is clear and present. The EU does not possess one singular 'model' which candidates can simply download and merge with their domestic processes. Rather, it possesses a wealth of different political arrangements, each designed for unique domestic contexts. For instance, EU members may share monetary and competition policies, yet there is no such convergence of EU education and transportation policy. A set of general guiding principles certainly inform the policies and procedures of EU members, however these principles do not represent some higher EU model.

Even when EU requirements are clear, the presence of veto players, political instability, and public opinion can make it difficult for those requirements to become part of domestic practices.²⁰ Alternative forms of influence and persistence are often necessary for EU policies to produce their desired effect on domestic politics. Therefore, reducing the complex process of Europeanization to an act of copying or downloading is simply inaccurate and does not take into respect the important role 'horizontal' mechanisms of influence play in the accession process.

Elaborating on Ladrech's definition, Radaelli defined Europeanization as:

the '(a) construction (b) diffusion and (c) institutionalization of formal and informal rules, procedures, policy paradigms, styles, 'ways of doing things' and shared beliefs and norms, which are first defined and consolidated in the EU policy process and

19 Christoph Knill and Dirk Lehmkuhl, "How Europe matters: Different Mechanisms of Europeanization," *European Integration Online Papers* 3, no.7 (1999): 1-19.

20 Claudio Radaelli and Roman Pasquier, "Conceptual Issues," in *Europeanization: New Research Agendas*, eds. Paolo Graziano and Maarten Vink (New York: Palgrave-Macmillan, 2007), 37.



then incorporated in the logic of domestic (national and subnational) discourse, identities, political structures and public policies.²¹

While equally as vague about the process of Europeanization, Radaelli's definition encompasses the plethora of outcomes caused by EU influence, acknowledging less formal types of change like norm and belief adjustment. The definition also highlights the prominent role played by the EU, without disregarding adaptation by 'national and subnational' entities. Elaborating on this domestic dimension Börzel explains that in order to understand Europeanization we must see national governments as 'shapers and takers'.²² In other words, individual states maintain the ability to modify EU demands and attempt to 'shape' EU requirements from the 'bottom-up'. While it is reasonable to assume that candidate and potential candidates of SEE are more likely to 'take' than 'shape', even as the weaker members of an asymmetric relationship they are ultimately responsible for the implementation of the EU's demands. It is during the implementation phase that candidates are given the most opportunity to shape the degree to which they are Europeanized. Börzel's earlier work argues that states can participate in 'foot dragging', 'pace-setting', and 'fence sitting' activities that, to varying degrees, enable domestic actors to affect and react to the EU's demands in ways that undermine EU authority.²³ From this perspective it is reasonable to assume that Europeanization occurs as a 'two-way process'—top-down and bottom-up.²⁴ However, in instances where EU directions are

weak or candidates lack the institutional and political capacities to introduce appropriate reforms, this two-way process fails to explain domestic reform processes. Coercive mechanisms only work if the candidates are capable of reacting to such pressures. Moreover, the candidates' ability to upload policy preferences to the EU can only occur through informal channels, as they lack access to EU policy-making bodies.

Although Börzel recognized that multiple actors take part in the Europeanization process she saw Europeanization as a fundamentally elite-driven, hierarchical process. Howell on the other hand addressed what he called 'horizontal transfer', which 'incorporates learning from and assimilating other member state policies without EU involvement'.²⁵ Although he found it problematic that Europeanization could occur without an inherent EU component, he recognized that domestic conditions were influenced by other horizontal means of influence. Even Radaelli admitted that Europeanization may occur without a 'rational layer of EU decisions', further elaborating in Radaelli and Pasquier that 'horizontal processes of cooperation' and socialization have impacted European ideational norms and understandings.²⁶ Bulmer explicitly stated that 'an understanding of the EU in terms of domestic actors sharing good practice suggests other, more horizontal, mechanisms of Europeanization'.²⁷ Yet, none of the authors spent time elaborating on the concept of horizontal Europeanization, analyzing its effects, or extending the notion of horizontal influence beyond EU borders. This is problematic because they ignore the proliferation of transgovernmental

21 Claudio Radaelli, "Wither Europeanization? Concept Stretching and Substantive Change," *European Integration Online Papers* 4, no.8 (2000): 4.

22 Tanja Börzel, "Shaping and Taking EU Policies: Member State Responses to Europeanization," *Queen's Papers on Europeanization*, no.2 (2003): 1-15.

23 Tanja Börzel, "Member State Responses to Europeanization," *Journal of Common Market Studies* 40, no. 2 (2002): 193-214.

24 Börzel, "Member States".

25 Howell, "Developing Conceptualisations," 5.

26 Claudio Radaelli, "Europeanization of Public Policy," in *The Politics of Europeanization*, eds., Kevin Featherstone and Claudio Radaelli (Oxford: Oxford University Press, 2003), 31; Claudio Radaelli and Roman Pasquier, "Conceptual Issues," in *Europeanization: New Research Agendas*, eds. Paolo Graziano and Maarten Vink (New York: Palgrave-Macmillan, 2007), 37.

27 Simon Bulmer, "Theorizing Europeanization," in *Europeanization: New Research Agendas*, eds. Paolo Graziano and Maarten Vink (New York: Palgrave-Macmillan, 2007), 51.



cooperation and transnational networking²⁸ in policy sectors where the EU and candidate states have identified domestic incompatibilities. It is thus necessary to elaborate on the increasingly important role played by so-called horizontal mechanisms of Europeanization.

Incorporating a ‘Horizontal’ Dimension

Horizontal Europeanisation—defined as the incorporation of formal and informal EU requirements and norms into the domestic structures and practices of member, candidate, and third states by way of civil servant and non-state actor cooperation²⁹—helps explain how, once motivated by the prospect of EU membership or financial reward, the candidates enact reforms compliant with the *acquis*. It recognizes the importance of exchanging institutional ‘best practices’ and policy alternatives between sub-governmental units from member, candidate and potential candidate states (twinning). It also acknowledges the crucial linkages between interest groups, state and supranational actors, and the influence these networks have via lobbying and implementation activities. An investigation of these horizontal mechanisms of Europeanisation sheds light on *how* membership-required policy reforms are developed; *who* develops them; and to *what* end.

Horizontal Europeanization understands institutional action to be informed by norms and values, as well as internal and external incentives. It departs from Schimmelfennig and Sedelmeier’s conclusion that external incentives ultimately explain rule adoption, preferring to investigate rule adoption as the result of political socialization, or what the authors label the ‘social learning

28 Transnational networks refer to ‘transboundary relations that include at least one non-governmental actor’—Source: Risse, “Exploring the Nature,” 57.

29 It is possible to extend the definition to include corporations, business associations, academics, and other non-state forces. However, this paper focuses on civil servants and NGOs.

model.³⁰ Conditionality-based approaches do well to explain how financial and technical rewards motivate decision-makers to support reforms. However, the presence or absence of rewards does not explain the methods used by the candidates and potential candidates to develop and implement their reforms. Moreover, the Europeanization process necessarily entails convincing decision-makers of the appropriateness and legitimacy of the EU project and the demands it places on its candidates, tasks best explained by acts of socialization.

Processes of socialization involve acts of persuasion, deliberation, and argumentation.³¹ Checkel discerned between argumentative and manipulative persuasion.³² The latter is primarily used by rational-choice theorists to describe relationships between political elites and society. The former refers to interactions between actors where one actor attempts to influence the beliefs, attitudes, or behaviour of others while everyone maintains a degree of free choice.³³ Deliberation is the fundamental principle of argumentative persuasion, whereby actors are given the opportunity to assess reflexively their beliefs and positions in light of new information and perspectives.³⁴ Risse suggested that when argument and deliberation characterize the communicative environment, power and social hierarchies become less important.³⁵ In such environments, beliefs and preferences held by actors are open to discursive challenges and may change based on the arguments of others.³⁶

Processes of socialization, like twinning and

30 Schimmelfennig and Sedelmeier, “Governance by Conditionality”.

31 Jeffrey Checkel, “Why Comply? Social Learning and European Identity Change,” *International Organization* 55, no.3 (2001): 561.

32 Checkel, “Why Comply?,” 562.

33 Checkel, “Why Comply?,” 561.

34 Checkel, “Why Comply?,” 563.

35 Thomas Risse, “Global Governance and Communicative Action,” *Government and Opposition* 39, no.2 (2004): 294.

36 Risse, “Global Governance,” 294.



NGO-led projects, can lead to a number of outcomes. Checkel discerns between type I and type II socialization.³⁷ Type I socialization leads to a type of ‘role playing’ whereby the actor(s) being socialized become aware of community norms, and begin to act in accordance with these norms.³⁸ Type II socialization occurs when the socialized actor(s) move past mere role playing and come to accept the community or organization’s norms as correct and ‘right’.³⁹ Mechanisms of horizontal Europeanization represent a form of type I socialization. While candidate state actors may not be convinced that the reforms they are developing are ‘right’ or better than the status quo, they understand that in order to comply with EU requirements they must at least ‘play along’. At what point or after how long do government agents stop playing a part and ‘adopt the interests, or even possibly the identity’ of the EU is left for a longer-term analysis.⁴⁰

In the context of socialization, Börzel and Risse discussed the importance of ‘change agents’ or norm entrepreneurs, who seek to persuade actors to rethink their preferences and beliefs rather than increase the costs of certain courses of action.⁴¹ One particular type of ‘change agents’ are epistemic communities, which Börzel and Risse described as networks of actors with an authoritative claim to knowledge and a particular normative agenda.⁴² These networks use their position as experts to persuade key decision-makers of the value and appropriateness of a specific decision or behaviour. The Twinning Initiative clearly embodies this notion of influence and interaction. Civil servants from member states with the knowledge of and

37 Jeffrey Checkel, “International Institutions and Socialization in Europe: Introduction and Framework,” *International Organization* 59, no.4 (2005): 804.

38 Checkel, “International Institutions,” 804.

39 Checkel, “International Institutions,” 804.

40 Checkel, “International Institutions,” 804.

41 Tanja Börzel and Thomas Risse, “When Europe Hits Home: Europeanization and Domestic Change,” *European Integration Online Papers* 4, no.15 (2000): 9.

42 Börzel and Risse, “When Europe Hits Home,” 9.

experience dealing with EU regulations are partnered with their candidate state colleagues to co-develop policy, procedure, and legislation in line with EU-requirements. Similarly, members of NGOs often possess the grassroots connection, policy knowledge, and implementation capacities lacking in government institutions. Their expertise and involvement is thus foundational to the EU ambitions of the SECs.

The deep degree of political and administrative weakness in SEE make the integration of the SECs uniquely challenging for the EU.⁴³ Indeed, ethno-nationalism, war during the 1990s, and limited experience of sovereignty and ‘stateness’ have created underdeveloped systems of governance across most of SEE.⁴⁴ In the SECs, the *acquis* and other EU directives often require governments to develop policies, legislation, and procedures in issue areas where protocol and procedures are immature or nonexistent. It is when the basic knowledge of EU procedures, policies, and legislation is lacking that transgovernmental cooperation and transnational networks are critical to the successful Europeanization of EU candidates. In this respect, methods of socialization like twinning and NGO projects not only legitimize EU platforms but provide the experiential knowledge and tools necessary for decision-makers to form policy and procedural solutions.

It is important to distinguish ‘horizontal’ from ‘top-down’ and ‘bottom-up’. The concept of Europeanization—the adaption of domestic systems to EU legislation, norms, values, and procedures—is universal for all three approaches. Likewise, the goal of horizontal Europeanization is consistent with the other approaches—improve the target states’ chances of developing and maintaining EU-compliant practises and

43 Andrew Taylor, Andrew Geddes, and Charles Lees, *The European Union and South-East Europe: The Dynamics of Europeanisation and Multi-Level Governance* (London: Routledge, 2013).

44 Adam Fagan, *Europe’s Balkan Dilemma: Paths to Civil Society or State-Building?* (London: I.B. Tauris, 2010), 3.

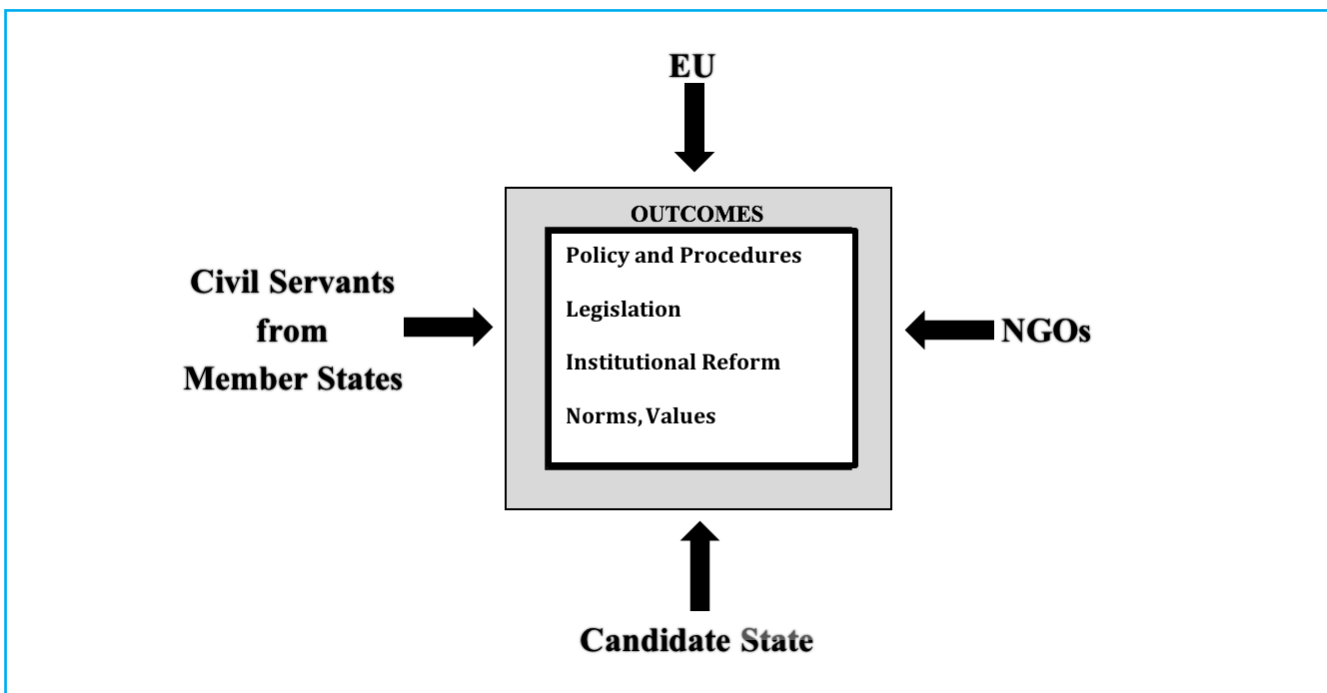


legislation. However, the concepts differ greatly in their understanding of the key actors and processes involved in Europeanization. Top-down Europeanization highlights the dominance of the EU in membership negotiations, and bottom-up Europeanization reminds us of the importance of domestic systems and their ability to manipulate supranational processes. In contrast, horizontal Europeanization suggests that the catalyst for change can occur below and often subsequent to formal membership negotiations, and apart from state efforts to influence and ease the burden of membership compliance. Horizontal Europeanization highlights the ability of sub-governmental units and NGOs to contribute to reform processes and influence the policies, legislations, and procedures developed to comply with EU membership requirements. Figure 1 illustrates this claim in more detail.

and processes involved. The *acquis communautaire*, as well as the wealth of assessments, reports, and opinions leave little doubt that the EU plays an important agenda-setting function. Moreover, EU aid represents a significant funding stream available to candidate and potential candidate states. However, the EU's function is much more complex than simply setting and downloading the membership requirements. The EU also acts as a facilitator; an actor that provides an environment where actors interact and exchange experiential knowledge, preferences, paradigms, etc., but where it does not formally steer these exchanges. In this way the EU may be most influential because it provides a platform for Europeanisation to occur.

Twinning and NGO-led projects are perhaps the best examples of horizontal Europeanization. The EU's Twinning Program was designed to connect civil servants from the member and candidate states and facilitate the co-creation of policy, legislation, procedures, and institutions in compliance with the *acquis communautaire*.⁴⁵ It

Figure 1: Direction of Europeanisation (Causality)



Horizontal Europeanisation incorporates the EU's asymmetric relationship with its candidates into a more sophisticated understanding of the actors

45 Dimitris Papadimitriou, "Exporting Europeanisation: EU Enlargement, the Twinning Exercise and Administrative Reform in Eastern Europe" (presentation, ECPR Joint Session of Workshops, Turin, Italy, 22-27 March, 2002), 2.



embodies exactly the type of transgovernmental cooperation that horizontal Europeanization recognizes. As domestic actors debate the potentially contentious issues required by the EU it is not uncommon for political infighting and disagreement to occur. The mere act of being an EU candidate is a highly politicized issue, one that necessarily brings together a diverse set of actors with potentially conflicting interests and ideas about how the state should proceed. When consensus can't be reached governmental sub-units may reach out to colleagues from other states, forming transgovernmental bonds that can help overcome domestic and EU-level obstacles. These transgovernmental elements have become institutionalized within the accession process in the form of EU-financed twinning projects.

Horizontal mechanisms of Europeanization need not, and indeed have not, only included political actors from EU, member, and candidate state administrations. Especially in SEE, non-governmental actors from interest groups, academia, business associations, and citizens groups possess valuable knowledge and experience often lacking in national institutions. Efforts to include these groups have increased, although additional steps are needed. Nonetheless, if we understand these actors to be vessels through which EU norms, values, and preferences are transmitted and subsequently imbedded in the domestic logic of the candidate states, our understanding of the Europeanization process is vastly improved. Moreover, it is together as networks of likeminded organizations that these actors have the greatest potential to influence policy-making processes and therefore, to participate in the Europeanization process.

The following section seeks to empirically substantiate the concept of horizontal Europeanization, tracing the conditions of use and effectiveness of twinning and NGO-led projects.

Horizontal Europeanization in Action

Echoing the sentiment of others, Bulmer identified four problems with theorizing Europeanization, two of which this paper explicitly addresses: (1) the 'privileging of hierarchy over coordination in the conceptualization of Europeanization', and (2) 'the ubiquitous methodological problem of ensuring that findings are attributable to Europeanization'.⁴⁶ Problem (1) has already been addressed, but it is the goal of this section to show that establishing causality—attributing an outcome to the process of Europeanization—is not as daunting in instances of horizontal Europeanization.

Twinning

The development and implementation of twinning projects is based upon a 'triangular partnership' between the European Commission, the member state (MS) partner(s), and the beneficiary country (BC), wherein each partner's influence and responsibilities vary depending on the project phase.⁴⁷ The roles of each partner are clearly set out in the 'twinning manuals', EU documents that establish the general structure and guidelines for twinning. The EU plays a central role in the design and funding of twinning projects by highlighting key policy issues, allocating funds, and endorsing projects that will deepen member-candidate state relations and best prepare the candidate to comply with the *acquis*. In its guidance capacity the EU maintains a level of control and influence over the candidate state's reform agenda while still upholding the principle that 'beneficiary countr[ies] retain ownership of the [twinning] project'.⁴⁸

46 Simon Bulmer, "Theorizing Europeanization," in *Europeanization: New Research Agendas*, eds. Paolo Graziano and Maarten Vink (New York: Palgrave-Macmillan, 2007), 55-56.

47 Dimitris Papadimitriou and David Phinnemore, "Exporting Europeanization the Wider Europe: The Twinning Exercise and Administrative Reform in the Candidate Countries and Beyond," *Southeast Europe and Black Sea Studies* 3, no.2 (2003): 11.

48 European Commission, *Institution Building in the*



MS partners also play a crucial role. They must ensure that the twinning project remains a ‘joint project of grant nature’ not a ‘one-way delivery of technical assistance from a MS [member state] to a BC [beneficiary country]’.⁴⁹ Projects are not to be used as vehicles through which MS administrative systems and legislative frameworks are replicated in the candidates.⁵⁰ Together with the BC, the MS partner(s) is in charge of developing the project work plan and setting the budget. These documents detail the project’s goals, resource requirements, and implementation strategies. Each task necessary to achieve the mandatory results is detailed, and the responsible person or group is assigned.⁵¹ Every task and budget item is connected with an *acquis*-related concern and scrutinized to ensure the project’s feasibility and justify the project’s budget.

Although the EU and MS partners play a crucial role in the twinning lifecycle, the BC is ultimately the most important stakeholder. Twinning projects seek to address areas identified in both the EU and the BC’s policy agendas.⁵² BCs retain the right to select their twinning partners, play an indispensable part in setting the project’s work plan and budget, and depending on the funding arrangement, must ensure the operational integrity of the twinning project. While the EU finances twinning projects, the BC’s must make practical commitments to supply twinning projects with adequate human and financial resources.⁵³ A firm and consistent political commitment is also needed to ensure operational standards and the timely adoption of policy and legislative outputs.

The proliferation of twinning projects in the candidates and potential candidates of SEE

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Framework of European Union Policies Common Twinning Manual, Revised Version (Brussels: European Commission, 2012), 11.

- 49 European Commission, *Institution-Building*, 11.
- 50 European Commission, *Institution-Building*, 14.
- 51 European Commission, *Institution-Building*, 18.
- 52 European Commission, *Institution-Building*, 11.
- 53 European Commission, *Institution-Building*, 19.

demand that we reanalyze the mechanisms and actors involved in the Europeanization of EU candidates. The following sub-section presents an overview of one such twinning project that was operational during Croatia’s candidacy. The project clearly shows that Europeanization involves a diverse set of actors who employ mechanisms of cooperation and learning, rather than coercion and manipulation, to co-design policy, legislation, and procedures in-line with EU norms. Moreover, this twinning project confirms that the task of establishing causality is easier in cases where horizontal mechanisms are used.

CARDS 2004: Capacity Building and Development of Guidelines for the Implementation of the Water Framework Directive

Croatia is a country with abundant water resources. Bordered by the Danube River to the east and the Adriatic Sea to the south Croatia possess over 31,000 square kilometres of coastal areas, and nearly 60% of its land surface is covered by river basins.⁵⁴ Water management is thus an important part of Croatia’s environmental protection plans. In October 2000, the EU enacted the Water Framework Directive (WFD) to harmonize and update water management policy across Europe, and ensure the sustainable use of water resources.⁵⁵ As an aspiring member of the EU, the implementation of the WFD was an integral part of Croatia’s compliance with Chapter 27 of the *acquis*.

Croatia’s outdated water management legislation and its complex arrangement of authority made the implementation of the WFD particularly difficult.⁵⁶ Water management in Croatia is primarily shared

54 European Commission, *Twinning Contract Number: HR/2009/IB/EN/01, Annex C5, Final Report* (Brussels: European Commission, 2014), 8.

55 International Commission for the Protection of the Danube River, *The Danube River Basin District Management Plan, Part A—Basin-wide Overview, Update 2015* (Vienna: International Commission for the Protection of the Danube River, 2015), 1.

56 Interviewee 1 (former twinning project member) in discussion with the author, 13 February 2014.



between two bodies—the Croatian Ministry of Regional Development, Forestry, and Water Management (MRDFWM) and Croatian Waters (HV)⁵⁷— with each organization working individually to regulate and enforce subsets of the larger policy area. Moreover, some tasks of water management are under the scope of other state bodies such as the Ministry for Environmental Protection, the Ministry of the Sea, Transport, and Infrastructure, and the Ministry of Health and Social Welfare.⁵⁸ This complex system of management has often led to coordination issues and inter-agency conflict.⁵⁹

Prior to the project, Croatia's water policy was primarily focused on water usage, and its system of management was diffuse.⁶⁰ Project members acknowledged that the main beneficiaries had limited knowledge about water protection and the ecological impact of their policy decisions.⁶¹ Water usage fees represented a key financial resource for HV and thus the emphasis of their work was on factors related to water access and use.⁶² The MRDFWM was criticized for being clearly understaffed, unable to supervise HV or sufficiently oversee the water *acquis*.⁶³ Hiring freezes, low wages, insufficient intra-agency exchange, and misplaced priorities plagued both organizations.⁶⁴ As a result, public administration reform, specifically changes to the recruitment, promotion, and training process, as well as the de-politicization of the civil service were recommended.⁶⁵ Local and regional governments were also criticized for lacking the administrative capacity and technical knowledge to address water protection issues, and for their reliance

on commercial consultants with the interest and means to impose their interests on local policy.⁶⁶ In this regard, a coordination mechanism was necessary to improve cooperation between the various administrative bodies responsible for the implementation and enforcement of the water *acquis*.⁶⁷

The WFD introduced completely new procedures, methodologies, and approaches to water management.⁶⁸ Staff were unaware of the technicalities of the WFD and were overwhelmed by the additional demands on their time and resources.⁶⁹ The MRDFWM and HV simply did not have the required knowledge or experience to implement the WFD alone.⁷⁰ These challenges were exacerbated by the fact that unlike the existing member states, Croatia had to implement many environmental directives simultaneously and within a particularly short time-frame.⁷¹ As a result, decision-makers felt a twinning project would make a valuable contribution to its domestic agenda, as well as its EU obligations.⁷²

The €1.2 million project, which lasted from 2007-2009, paired MRDFWM and HV with the German Federal Ministry of Environment, Nature Conservation and Nuclear Safety (MENCNS), an experienced twinning partner that had previously taken part in seven twinning projects focused on the implementation of the WFD, and the Dutch Governmental Service of Land and Water Management.⁷³ It also sought cooperation from

57 Croatia Waters is a legal entity established to help with water management

58 European Commission, *Twinning Contract*, 24.

59 Interviewee 1.

60 European Commission, *Twinning Contract*, 23-24.

61 European Commission, *Twinning Contract*, 23.

62 European Commission, *Twinning Contract*, 24.

63 European Commission, *Twinning Contract*, 23.

64 Interviewee 2; European Commission, *Twinning Contract*, 23.

65 European Commission, *Twinning Contract*, 23.

66 European Commission, *Twinning Contract*, 23.

67 European Commission, *Twinning Contract*, 48.

68 Interviewee 2.

69 Interviewee 1.

70 Interviewee 2.

71 European Commission, *Twinning Contract*, 8.

72 Interviewee 2.

73 Delegation of the European Commission to the Republic of Croatia, *Twinning Project: Capacity Building and Development of Guidelines for the Implementation of Water Framework Directive* (Zagreb: Delegation of the European Commission to the Republic of Croatia, 2007); *Participation of the German Federal Ministry for the Environment in Twinning Projects in the Water Sector* (PowerPoint presentation, n.d.), Retrieved from <http://www.wfd-croatia.eu/userfiles/file/presentations%20download/WFD...>



other government agencies including the Ministries of Agriculture, Education, Environment, and number of other non-governmental institutions.⁷⁴

The project was multifaceted, seeking to harmonize Croatia's water management legislation with the EU water *acquis*, strengthen HV's and the MRDFWM's capacities to enforce the WFD, and improve communication between all relevant stakeholders.⁷⁵ The project stressed the value of information exchange and relied heavily on a series of fourteen workshops and meetings between MS experts and their Croatian counterparts.⁷⁶ In these workshops Croatian team members were exposed to new methodologies, solutions, assessment methods, and monitoring techniques that could help them better address their institutional and administrative shortcomings.⁷⁷ These workshops were preferred over other activities because team members felt that they were the best medium to have deeper discussions about current issues and ways to address them.⁷⁸ Croatian team members were also taken on study tours to Germany and the Netherlands to gain practical experience working with the equipment and methodologies used in the administration of the WFD, as well as the responsibilities of state, regional, and local bodies.⁷⁹ An e-learning program was also organized by the twinning project to provide Croatian staff with an alternative way to deepen their understandings of EU water management.⁸⁰

The project also emphasized the importance

[Twinning Projects with German Participation.pdf](#)

74 European Commission, *Twinning Contract*, 13.

75 Delegation, *Twinning Project*.

76 "Workshops," *wfd-croatia.eu*, accessed 17 October 2015, <http://www.wfd-croatia.eu/templates/radnaEng.asp?sifraStranica=603>.

77 "Workshops."

78 "Workshops."

79 "Institution Building," *wfd-croatia.eu*, accessed 17 October 2015, <http://www.wfd-croatia.eu/templates/radnaEng.asp?sifraStranica=393>.

80 "Project Results," *wfd-croatia.eu*, accessed 17 October 2015, http://www.wfd-croatia.eu/userfiles/file/Activity%20reports%20final/Project_results__engl.pdf.

of cooperation between state, regional, local, and non-governmental organizations. Project members maintained close contact with local universities and NGOs, and opened up lines of communication with regional organizations and twinning projects in other candidate states.⁸¹ To improve public awareness the project also produced a number of topic-specific educational brochures that were discussed with and made available to the general public.⁸²

The design and implementation of this project stressed the importance of knowledge transfers. The project sought to complement its more technical tasks with dialogue and conversation, to ensure that what was being implemented was understood by all relevant parties. The exchange of technical, practical, and experiential knowledge was made a priority and steps were taken to ensure that these exchanges were wide-spread and enduring. Civil servants, NGOs, universities, and regional organizations were included so that knowledge could be exchanged among a variety of actors. The emphasis it placed on establishing partnerships and communities of relevant stakeholders demonstrates a firm commitment to the fundamental principles of twinning, and the importance of socialization in processes of compliance. Moreover, the project addressed the technical needs of the beneficiaries, exposing stakeholders to the methodologies, equipment, organizational arrangements, and administrative requirements of complying with the WFD.

The project made many improvements Croatia's water management system. In close collaboration with experts from the University of Zagreb, project members helped revise and upgrade the classification and assessment systems used to monitor the ecological status of Croatia's

81 "What We Did," *wfd-croatia.eu*, accessed 17 October 2015, <http://www.wfd-croatia.eu/templates/radnaEng.asp?sifraStranica=594>.

82 "Public Awareness," *wfd-croatia.eu*, accessed 17 October 2015, <http://www.wfd-croatia.eu/templates/radnaEng.asp?sifraStranica=410>.



water systems.⁸³ Water monitoring systems were installed across Croatia to assess chemical and biological compositions, and inform future water management procedure.⁸⁴ Based on these monitoring systems, HV's database was updated and an agreement on the distribution of analytical work was achieved between HV and several other stakeholders.⁸⁵ Work plans and economic analyses were produced to assist in future project planning.⁸⁶ Inter-agency cooperation and stakeholder involvement also improved. NGOs, national and regional authorities, and other key authorities participated in symposiums and training events in Zagreb.⁸⁷ National authorities also participated in EU-wide WFD events and developed ties with other water management bodies in Hungary, Turkey, and Bulgaria.⁸⁸ Perhaps most importantly, team members reported that a cooperative atmosphere defined the project, making it easier to understand and accept the EU 'ways of doing things'.⁸⁹

Subsequent EU reports and independent reviewers confirmed the improvements to Croatia's water management policy made possible by this twinning project. In its analysis of Croatia implementation of the WFD and its 2013 River Basin Management Plan (RBMP), the EU listed Croatia's monitoring capacities and legislative work as a key strength in its broader water management policy.⁹⁰ Croatia's commitment to engaging its neighbours in joint management plans and bilateral agreements was applauded by the EU.⁹¹ Indeed, Croatia is an active

participant on the International Committees for both the Danube and Sava River Districts, and it also maintains bilateral agreements with its neighbours on the management of the Adriatic Sea.⁹² The EU noted Croatia's complex system of water management, but commended the organizations for following a 'single, national approach'.⁹³ During the development of its 2013 RBMP Croatia consulted with the public and other interested parties through the internet, public consultation meetings, and written comments.⁹⁴ Of the one-hundred and seventy-two written notes received from academics, water service companies, energy, industry, agriculture, and inland navigation and nature protection stakeholders, two-thirds were integrated in to the RBMP.⁹⁵ While the EU did find weaknesses in Croatia's 2013 RBMP, noting that it was a 'preliminary exercise', it and others have conveyed confidence in Croatia updated 2015 RBMP.⁹⁶

This project demonstrated the complimentary role of twinning. The project supplemented its more technical tasks with events that brought team members in contact with a wide array of stakeholders. These events increased the project's reach, enabling deeper consultation between actors directly impacted by the WFD. Project members introduced the technical and procedural changes and ensured stakeholders had the knowledge to embrace these new changes. This project demonstrated that compliance requires not only legislative, procedural, and technical changes, but also knowledge transfers, and an acceptance of the merits and implications of these changes.

83 European Commission, *Twinning Contract*, 38.

84 European Commission, *Twinning Contract*, 39.

85 European Commission, *Twinning Contract*, 40.

86 European Commission, *Twinning Contract*, 43.

87 European Commission, *Twinning Contract*, 23.

88 European Commission, *Twinning Contract*, 26.

89 Interviewee 2; Interviewee 3 (former resident twinning advisor) in discussion with the author, 5 February 2014; European Commission, *Twinning Contract*, 7, 48.

90 European Commission, *Report on the Implementation of the Water Framework Directive River Basin Management Plans, Member State: Croatia* (Brussels: European Commission, 2015), 6.

91 European Commission, *Report on the Implementation*, 6

92 European Commission, *Report on the Implementation*, 9; International Commission for the Protection of the Danube River, *The Danube River Basin*, 1.

93 European Commission, *Report on the Implementation*, 8-9.

94 European Commission, *Report on the Implementation*, 9.

95 European Commission, *Report on the Implementation*, 9.

96 European Commission, *Report on the Implementation*, 6; Oikon LTD. Institute of Applied Ecology and Geonatura Ltd, *Strategic Environmental Assessment Summary, River Basin Management Plan (2016-2021)* (Zagreb: Oikon and Geonatura, 2016), 27.



Potential Europeanizers: Introducing Non-Governmental Organizations

NGOs in SEE have a tumultuous history. During the collapse of Yugoslavia and the wars that followed, NGOs were a vital source of support for many displaced persons. Indeed, for some remote and minority communities, NGO services were essential to their livelihood. In the years that followed, when much of the region was under the control of semi-authoritarian regimes, NGOs were at the forefront of the political opposition.⁹⁷ They juxtaposed themselves from formal government positions and worked to promote alternative values and interests. Consequently, NGOs were actively demonized by state authorities and presented by state-run media as anti-state or agents of foreign governments. These smear campaigns successfully turned public opinion against NGOs and most were forced to rely on international financial and technical support. As a result of their political opposition, NGOs in SEE have faced human and financial resource shortages, weak institutional capacities, sustainability concerns, and adversarial relationships with government entities for much of their history.

There is reason for optimism however. Closer relations with the EU starting in the 2000s has begun to improve the state of NGO development in SEE. The EU has made addressing the capacities of NGOs and ensuring their participation in policy and decision-making processes an area of emphasis. The EU has stressed the value of deeper state-NGO cooperation and worked to break down overly centralized and hierarchical decision making networks. The EU continues to represent a significant source of foreign aid, spending millions of euros annually on capacity-building projects.⁹⁸

97 Jelica Minić and Miljenko Dereta, “IZLAZ 2000: An Exit to Democracy in Serbia,” in *Reclaiming Democracy: Civil Society and Electoral Change in Central and Eastern Europe*, eds., Joerg Forbrig and Pavol Demeš (Washington: The German Marshall Fund of the United States, 2007), 79-97.

98 Mladen Ostojic and Adam Fagan, *Donor Strategies and Practices for Supporting Civil Society in the Western Balkans*, ed.

The EU’s emphasis on NGO development has also chipped away at domestic political barriers. Many within EU and domestic organizations understand that because NGOs play such an important role in implementation processes, their inclusion in the transposition of EU requirement is critical.⁹⁹ Their knowledge of local and regional interests is invaluable to domestic and EU efforts to consider an array of policy alternatives, and deliver comprehensive policy reform. NGOs help identify areas of need, coalesce support for community policy and act as an independent monitor of EU policy and projects well-after implementation.¹⁰⁰

As the next sub-section will show, with the help of EU funds, NGOs have begun to address their capacity deficits, form international partnerships, and supplement state reform efforts. In this way it is undeniable that NGOs play an active and important role in the Europeanization processes.

They Can Help: ‘Partnership Actions for Biodiversity Protection in Western Balkans’

From January 2010 to late 2011 a network of NGOs from Serbia, Montenegro, Croatia, and Italy led an IPA project¹⁰¹, ‘Partnership Actions for Biodiversity Protection in Western Balkans’, which sought to strengthen the capacity of environmental NGOs, entrench their networks, and promote the implementation of Natura 2000, a key EU policy

Tanja Hafner Ademi (Skopje: Balkan Civil Society Development Network, 2014); Mladen Jovanovic and Dragan Sreckovic, “Serbia,” in *2015 CSO Sustainability Index for Central and Eastern Europe and Eurasia*, ed., United States Agency for International Development (2015), 218; Balkan Civil Society Development Network, *EU Funds for Supporting Civil Society Development in the Western Balkans, 2007-2013* (Skopje: Balkan Civil Society Development Network, 2015).

99 Interviewee 4 (program manager for support of civil society at Directorate General-Enlargement) in discussion with the author, 20 March 2014; Interviewee 5 (advisor for project preparation and international cooperation at the Serbian Office for Cooperation with NGOs), in discussion with the author, 19 February, 2014.

100 Interviewee 4.

101 Mladi istraživači (Young Researchers of Serbia), World Wildlife Foundation Mediterranean (Italy), Green Home (Montenegro), Sunce (Croatia)



aimed at protecting European biodiversity.¹⁰² This EU-funded but NGO-led project educated regional NGOs on the merits of networking, allowed them to meet with EU representatives in Brussels, and trained them to implement projects compliant with the EU's Natura initiative. Indeed thirty-three participants from Serbia and fifteen from Montenegro attended key planning meetings and agreed to establish a regional network of environmental NGOs.¹⁰³ Members of this network would attend training meetings with the World Wildlife Foundation in Barcelona, where they learned about various approaches to NGO networking.¹⁰⁴ Similarly, project members participated in a Belgrade-based workshop on EU biodiversity policy, lobbying skills, and communication techniques.¹⁰⁵ Policy advocacy and the lobbying capacities of regional NGOs was an area of emphasis for this project because many of the participating NGOs were small or organized around individuals for who NGO participation was secondary to their daily profession or run as a hobby.¹⁰⁶ Therefore, introducing them to policy-makers, fellow activists, and exposing them to effective ways to communicate and promote environmental conservation was a critical part of improving NGO cooperation and capacity in the region.

The project also made it a priority to engage state policy-makers. Indeed the Europeanization potential of NGOs is contingent on productive links of communication developing between NGOs, local, and state policy-makers. A series of meetings

102 "Overview of Activities on the Project 'Partnership Actions for Protection of Biodiversity in the Region of the Western Balkans,'" *Mladi Istraživači Srbije - Volonterski Servis Srbije*, accessed 10 February 2015, <http://www.mis.org.rs/vss/pages/sr/ekoloski-programi/biodiverzitet/partnerske-akcije-za-zastitu-biodiverziteta/aktivnosti-na-projektu-partnerske-akcije-za-zastitu-biodiverziteta.php?lang=EN>; Milka Gvozdrenović, "About the IPA Project 'Partnerships for the Protection of Biodiversity in the Western Balkans,'" *ngonatura2000.blogspot.it*, accessed 10 February 2015, <http://ngonatura2000.blogspot.it/2010/07/o-ipa-projektu-partnerske-akcije-za.html>.

103 Gvozdrenović, "About the IPA Project."

104 Gvozdrenović, "About the IPA Project."

105 Gvozdrenović, "About the IPA Project."

106 Gvozdrenović, "About the IPA Project."

with politicians in Belgrade highlighted the work of local and regional NGOs and encouraged them to deepen their relationship with NGO networks. While there is still significant need for growth in this area, the project's effort to expose NGOs and policy-makers to the value of consultation and cooperation should be applauded. Indeed, the Minister of Environment, Mining and Spatial Planning for Serbia at the time commented that it was 'extremely important to strengthen the capacity of NGOs in the field of environmental protection' and he invited them to continue their cooperation with government and with their 'useful projects in the field of nature protection.'¹⁰⁷ Significant barriers still exist for NGOs in Serbia and Montenegro. However, training regional NGOs how to effectively communicate with and lobby government will serve to heighten their Europeanization potential and establish them as influential members of policy-making and implementing processes.

The aim of the project was not only short term capacity-building, but also long term planning on how to deepen regional cooperative networks and continue efforts to protect biodiversity in the Balkans. Workshops on Natura 2000 continued well-past the project's December 2011 closure and new project's targeting NGO participation in NATURA 2000 reforms were underway as of late 2016.¹⁰⁸ More importantly, regional NGOs are playing an active role in policy-making and planning meetings with professional and government agencies.¹⁰⁹ In this regard, it appears

107 Petra Boic Petrac, "Olivic Dulic: The Ministry has a Good Cooperation with NGOs," *ngonatura2000.blogspot.it*, accessed 27 September 2017, <http://ngonatura2000.blogspot.it/2011/12/oliver-dulic-ministry-has-good.html>.

108 Green Home, "News-Natura 2000 in Montenegro," *ngonatura2000.blogspot.it*, accessed 27 September 2017, <http://ngonatura2000.blogspot.it/2016/09/novosti-natura-2000-u-crnoj-gori.html>; Sonja Bađura, "Workshop on 'Natura 2000 and Forestry,'" *ngonatura2000.blogspot.it*, accessed 27 September 2017, <http://ngonatura2000.blogspot.it/2012/07/odrzana-radionica-natemu-natura-2000-i.html>.

109 "Public Hearing 'NATURA 2000 in Serbia 2013,'" *ngonatura2000.blogspot.it*, accessed 27 September 2017, <http://ngonatura2000.blogspot.it/2013/12/odrzano-javno-slusanje-natura-2000-u.html>.



that in area of environmental protection and NATURA 2000 promotion, NGOs are an active and important part of regional policy and implementation processes.

As long as NGOs remain leaders in developing and implementing *acquis*-compliant projects it is in the interest of local and state politicians to nurture relationships with NGOs. It is equally as important for NGOs to learn techniques that will allow them to be productive members of policy-making structures. It is critical to SEE's EU ambitions that NGOs and state politicians develop relationships based on cooperation, with a focus on reforming deficient policies and procedures in compliance with EU and international norms.

The merits of this project in terms of improving Serbia and Montenegro's membership preparedness are two-fold. First, it significantly improved the communication, organization, and lobbying potential of NGO networks and encouraged them to cultivate productive relationships with local and state policy-makers, rooted in cooperation and the attainment of mutual goals. This project also worked to harmonize regional practices with EU preferences and procedures. Both of these goals help bring Serbia and Montenegro closer to meeting EU-membership requirements. This project embodies exactly the type of alternative forms of Europeanization that traditional approaches frequently ignore. Without an acknowledgement of the Europeanization potential of NGO-networks we are progressively less able to explain the Europeanization of SEE.

Conclusion

This article suggested that we expand traditional notions of top-down and bottom-up Europeanization to include the emergence of horizontal means of influence. Transgovernmental cooperation, as embodied by the EU's twinning initiative, has become an important mechanism of Europeanization, bringing civil servants from member and candidate states together to exchange

experiential knowledge and 'good practices,' and jointly design and implement measures necessary to bring SEE candidates closer to EU membership. In addition, the Europeanization potential of NGOs and their networks should not be understated. While they are still constrained by internal deficiencies and political barriers, a role for them in the accession process is being etched out. Their ability and willingness to work with government officials is improving, and projects led by NGOs are beginning to be recognized by local, state, and international officials as valuable to the accession process.

What we learn from the experiences of SEE is that the Europeanization process is not static; the concept must acknowledge the contextual challenges of extending EU legislation, policy, preferences, and norms to progressively more difficult political, social, and economic environments. EU conditionality has reached its functional limit. While the reward of membership still appeals to the candidates of SEE, a reward alone is not enough to realize compliance. More than ever, the EU must open its coffers and provide the SECs with financial and technical aid. Its venture into CEE certainly exposed the EU to some of the difficulties in expanding its European project eastward. However, the legacy of deficient institutional practices, corrupt politicians, and bloated bureaucracies in SEE, coupled with weak public support threatens the EU's ability to 'Europeanize' these candidates using coercion. As a result, it has never been more important for the EU to employ alternative ways of influence, engaging state and non-state actors in the process. That is to say without an acknowledgment of the influence of interagency cooperation and NGO-networks we are left with a partial explanation of the Europeanization of SEE.

Completing this conceptual circle by acknowledging horizontal mechanisms of Europeanization opens up interesting new avenues of inquiry. Civil society organizations certainly have the motivation, and often the



knowledge to contribute to the Europeanization process. However, internal mismanagement, political mistrust, and inadequate resources still plague NGOs, fundamentally challenging their ability to turn potential into action. Further research into domestic and international efforts to improve the environment of NGO-state relations is needed to fully understand what contributes to the Europeanization potential of NGOs. More research is also needed to evaluate the sustainability of results and efficiency of twinning projects. Very little research has looked at what variables lead to the success or failure of twinning projects. The EU is committed to furthering their capacity-building mechanisms, and therefore there is little evidence that twinning projects will disappear from SEE. If scholars of Europeanization are to understand the complexities of the EU's inclusion of SEE it is imperative that they begin to analyze new 'horizontal' modes of interaction that emphasize cooperation, networking, and the exchange of good practices.



EUROPEANIZATION IN NEW MEMBER STATES: EFFECTS ON DOMESTIC POLITICAL STRUCTURES

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Abstract

This study examines how Europeanization has altered the horizontal division of power between the executive and the legislative, as well as, the role of civil society actors engaged in policy-making. It draws mainly on primary network data collected for Romania, complemented by secondary sources for other CEE countries. Previous Europeanization studies have largely highlighted a strengthening of executives over legislatures, especially during the integration process. At the level of civil society organizations across the CEE countries, authors have also signalled a weakening effect or an ambivalent outcome at best, despite EU's efforts to empower non-state actors. The strong executive empowerment effect identified during the accession period is explained mainly by the conditionality argument. After integration, this effect is expected to elapse, mainly as conditionality on accession and the time pressure to reform domestic legislation are no longer present, thus allowing for a more inclusive and representative policy-making style. The empirical data gathered for Romania post enlargement suggests however that a substantial gap persists between the importance and role of core executives in decision-making affected by the EU and the rest of the actors. Are these outcomes likely to endure and what would be the broader implications of power structure transformations

in decision-making for the new members, and, also relatively new democratized CEE countries, are questions addressed in this analysis.

Introduction

The consequences of European integration at the domestic level of states have been widely studied under the “Europeanization” framework (i.e., Featherstone and Radaelli 2003, Schmidt 2006, Graziano and Vink 2007). More generally, Europeanization is defined as a set of processes and mechanisms by which policymaking at the European level may cause changes at the domestic level (Börzel and Risse 2003). Most of the Europeanization literature looks at *policy* changes or to what extent domestic policies converge toward the EU model (see for example Héritier et al. 2001, Knill and Lehmkuhl 2002, Börzel and Risse 2003, Treib 2008, Falkner and Treib 2008, Agh 2004). A few studies have also investigated the *polity* and *politics* implications of Europeanization, i.e. its impact on institutions, power and conflict in domestic policymaking (Featherstone and Radaelli 2003, Sciarini et al. 2004, Schmidt 2006, Goetz and Meyer-Sahling 2008, Dimitrova and Toshkov 2007). The main findings of those studies show that Europeanization generally weakens parliaments and interest groups, while strengthening the executive, i.e. it undermines the “horizontal division of power” (Börzel and Sprungk 2007). However, there are very few systematic accounts, almost absent for CEE countries (see for example Sciarini et al. 2004 for a *quasi-member*, Switzerland) that explore methodically the power constellation changes that occurred among the executive, legislative, and interest groups in Europeanized decision-making processes. This study contributes to the Europeanization research agenda examining the polity and politics domestic transformations triggered by the EU integration process, accounting for changes that occurred both before and post enlargement. Based primarily on social network analysis, it uses quantitative indicators to measure the distribution of power



between state and non-state actors (*politics*) as well as the importance of the institutions of decision-making (*polity*) in Europeanized policy sectors as compared to domestic policy reforms. What implications do these transformations have for participatory democracy? Will these domestic changes endure post integration? What additional challenges would these pose for participatory democracy in the new Member States (MSs)? All these questions triggered by institutional and power transformations in Europeanized decision-making processes require a closer attention.

The study will draw on primary network data¹ collected for one of the newest MS, Romania, both before and after integration. Nevertheless, existing evidence about the Europeanization process of polity and politics that took place in the rest of the CEE countries will be discussed in comparative perspectives.

In the following, first the theoretical arguments are developed. Existing evidence on the impact of EU integration on polity and politics in the CEE members is further evaluated. The case study using quantitative social network analysis to investigate Europeanization of decision-making structures in Romania before and post enlargement follows. Finally, the main conclusions of this study are highlighted, addressing the overall implications of a strengthening of executives over other decision-making actors that is attributed to the EU integration process.

The EU impact on domestic political systems

Whereas in domestic policymaking, national autonomy over decision-making remains substantial, Europeanized policymaking is marked by the fact that national actors share authority with EU supranational bodies

¹ Comparable cross-country political network datasets are rare due mainly to the highly demanding process of data collection (it implies conducting face-to-face structured interviews with all the actors that form a policy network, generally more than 30 organizations per policy process).

(Afonso and Papadopoulos 2013). This leads to a series of domestic transformations, which can be explained following the rationalist or sociological institutionalism logics (Börzel and Risse 2003, Schimmelfennig and Sedelmeier 2005). Schimmelfennig and Sedelmeier (2005) have evaluated the mechanisms and conditions fostering Europeanization in the 2004 Eastern enlargement process, by comparing the explanatory power of a rationalist institutionalist ‘external incentives model’ with that of a sociological institutionalist ‘social learning model’ and a ‘lesson-drawing model’. They have asserted that the external incentives model (the *acquis* conditionality) is the dominant Europeanization method in nonmembers and accession countries. Turning to post-accession, the authors claim that depending on specific policy areas and the dominating mechanisms of pre-accession rule transfer – conditional incentives or social learning – a different post-accession compliance pathway would be identified (Schimmelfennig and Sedelmeier 2007).

The analysis developed by this study draws upon rationalist accounts of Europeanization. These approaches ascribe the effects of Europeanization to the amount of adaptational pressure the EU is able to exert on the respective country. Candidates depend strongly on the establishment of political and economic relations with the EU and will thus try to comply as much as possible with pre-set requirements (Knill and Lehmkuhl 2002). Following the “logic of consequentialism” (March and Olsen 1998), adaptational pressure from the EU provides domestic actors with new opportunities and constraints for influencing policies. For example, changes in the political opportunity structures (Kriesi 1995, Princen and Kerremans 2008) of policy processes due to the importance and exclusive character of international negotiations affect the functioning of domestic policymaking, as it confers power to executive and administrative actors at the expense of political parties and other societal groups.



Europeanization can be traced also at the level of private actors and their respective power configurations. A differential empowerment of non-state actors is expected to arise as Europeanization creates a new political opportunity structure that 'may offer domestic actors additional resource' (Börzel and Risse 2000, p.7). As Risse et al. (2001) notes, domestic actors may use the process of Europeanization as a favorable juncture to advance their policy preferences that might be otherwise difficult to achieve (in a national policy process). The entire process of adjusting to the EU *acquis* opens up opportunities for some and threatens the interests of others, thus creating various groups of 'winners' and 'losers' (Grabbe and Hughes 1999, Millard 1999). For instance, the export-oriented business sector that have more resources to lobby directly in Brussels or have similar policy preferences to those display at the EU level might gain more than other national actors that might not be so well organized or might face more barriers to access the EU institutions. Moreover, civil society organizations with a stronger institutional capacity that already benefit from privileged positions in policymaking domestically and transnationally are likely to benefit more from the opportunity structures created by the Europeanization process and further strengthen their positions and roles in influencing policy outcomes.

Europeanization of polity and politics

Europeanization literature (Schimmelfennig and Sedelmeier 2005, Sedelmeier 2006, Sciarini et al. 2004) has shown that domestic political decision-making influenced by decisions at the EU level further modifies national institutions. Institutions are defined as political opportunity structures of a policy process that affect the constellation of actors able to influence decisions (for institutional opportunity structures – see also Leifeld and Schneider 2012). This analysis investigates the impact of EU integration on decision-making

through the importance of the different stages of a policy process and actors' policy constellation therein. More specifically, it looks at the changes in importance of institutional arenas of decision-making – administrative vs. parliamentary phase – as well as the participation patterns of actors, identifying who are the actors empowered by Europeanization and those that lose access to policymaking.

Policymaking happens in different arenas of a political process: administrative, consultation procedures, and the parliamentary phase. These stages comprise various institutional venues, from consultations and drafting of a legislative act to the parliamentary committees' work and final vote in plenum. These institutional venues act as political opportunity structures, as actors' participation within allows them to influence a policy project, create collaboration contacts with other actors, and possibly reduce conflict (Laumann and Knoke 1987, Schneider et al. 2003, Leifeld and Schneider 2012). As compared to domestic processes, the administrative arena of Europeanized processes includes international negotiations, which shift the center of gravity away from the domestic level. Taking place at the beginning of the process, these negotiations influence the content of the act substantially. The administrative arena therefore tends to become the most important phase of the decision-making process (Moravcsik 1998). On the contrary, the importance of the consultative and parliamentary arenas is expected to be weaker in Europeanized cases than in domestic processes. The fact that the substantive content of a Europeanized act is defined at the international negotiation table does not leave much room for domestic debates and consultations (Sciarini et al. 2004). State actors are expected to be more strongly present in Europeanized processes than in domestic ones, especially in the executive/administrative phase of the policy process.

Along the lines of the institutional changes described above, Europeanization also leads to an unequal empowerment of domestic actors in favour of state actors, i.e. the executive and



its administration (Moravcsik 1994, Börzel and Sprungk 2007). State executives and direct administration can take advantage of the increasing importance of the administrative arena, where they are usually strongly present. Besides the changes in the institutional opportunity structures of the policy process, Moravcsik (1998: 2) detects three further mechanisms by which political resources are redistributed in favor of state actors: their control of the political agenda, informational asymmetries, and additional sources of ideological legitimization presented by the EU. These three factors are all directly related to the strong presence of state actors at the international negotiation table. First, non-state actors have less influence on the political agenda of international negotiations, which is defined by executive actors and their international negotiation partners. Second, given the absence of non-state actors from international negotiations, they suffer from a lack of information on the most important issues, contacts, and negotiation opportunities at the international level. Third, the discourse at the international level might confer state actors with additional arguments to legitimize their position vis-à-vis domestic non-state actors. Putnam's (1988) work on the two-level game, contending that the transfer of a domestic issue to the international level reinforces state executives, both at the national and international level, follows the same line of argumentation. Thus state actors are expected to be more powerful in Europeanized processes as compared to domestic ones.

Following the rationalist logic/conditionality pressure, all these effects would be stronger on a candidate state than a member, considering the extensive volume of European rules that need to be transposed into domestic legislation according to the enlargement agenda. Also, the strongest sanctioning mechanism the Union might apply in the event of non-compliance happens before integration, namely, postponing the accession date. This entire pre-accession setup might thus be used by the executives to 'legitimize' their strong presence in EU-related policymaking

processes. After integration the intensity of EU requirements starts to diminish, which in turn might change the picture depicted above. The importance of the parliamentary phases is likely to gain in importance as well as the participatory pattern and power of non-state actors would be expected to increase. Less EU pressure gives room for more domestic debate and contestation at all stages of the policy process. Although drafting of legislation usually takes place within the executive arena, the entire policy process is expected to have a more open character with parliamentary groups, political parties, and other non-state actors actively engaging more in decision-making. To summarize, the main hypotheses state that Europeanization leads to a 'closed' decision-making process, it empowers state executives and those social actors whose preferences are similar to those proposed by the EU or have the capacity to lobby directly in Brussels and the strongest Europeanization effects are likely to occur before integration than after a candidate becomes a member of the EU.

To test these hypotheses, the study will use social network analysis in one of the newest EU members, Romania. It assesses changes with regard to the importance of the institutional arena where policy decisions are taken and the power configuration among the relevant actors involved in policymaking. The analysis compares systematically these domestic transformations pre- and post-integration in a policy field influenced by the EU, i.e. immigration and asylum and in turn contrasts them to a domestic policy process, which is given by reforms in the area of education (a control case - for case selection see also below). Network data has been gathered through face-to-face expert interviews², covering state and non-state actors participating in the cases analyzed. To this adds pertinent secondary literature that investigates the impact of European integration on domestic political institutions and the differential empowerment of state executives, parliaments, and interest groups across CEE countries.

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2 The author has conducted 123 face-to-face interviews for the cases covered in this study



In the next section, an overview of the studies assessing the EU impact on polity and politics in the new CEE members is delineated. After setting the general picture, the case study on Romania will unfold the Europeanization process of the executive-legislative-civil society organizations structures and their importance in decision-making.

De-parliamentarization and strengthening of executives in CEE countries

The work carried out for CEE candidates find that Europeanization had a strong and systematic impact on domestic institutions (Zubek and Goetz 2010). As a result mainly of functional pressures to negotiate with the EU and implement policies, national core executives have been substantially affected by the EU integration. Europeanization studies have assessed these national transformations by looking at the EU impact on party politics, civil society, or the role of parliaments vis-à-vis governments in decision-making (Mair 2004, Innes 2002, Fagan 2005, Fagan and Tickle 2001, Börzel 2010). Authors like Dimitrova and Toshkov (2007), Fink-Hafner (2005), Goetz (2001, 2005) have also explored the EU impact on domestic public administrations. Analyzing the types of rules and institutional location where coordination on EU matters takes place, Dimitrova and Toshkov's study of all new CEE members shows to what extent there is an administrative led coordination system (council composed only of high-ranking civil servants or government officials), a political one (encompassing also political figures such as the prime ministers, chief negotiators), or rather a mixture of both. Their results of the before-after integration analysis find that EU policy coordination rely exclusively on the Council of Ministers in Slovenia; on political-level collective bodies in Lithuania, Slovakia, the Czech Republic prior to 2003, and Poland prior to 2004; on administrative-level collective bodies in Estonia,

Bulgaria prior to 1999, Romania prior to 2003, and the Czech Republic after 2004; and on the coexistence of political- and administrative-level collective bodies in Hungary, Latvia, Poland after 2004, Bulgaria after 2002, and Romania after 2003. Regardless of the final configuration, all these changes reflect the domestic struggle for power between the different parties involved (prime minister, foreign minister, other members of the government as well as the ruling political parties), with the administrative institutions at the top of the entire coordination machinery, setup that is further enhanced by Europeanization.

The strengthening of executives vis-à-vis legislatures (see for example Dimitrova and Pridham 2004, Goetz 2005, Grabbe 2006, Raik 2002, Sadurski 2006) has been critically discussed by Europeanization scholars. This is clearly underlined by Sadurski (2006: 7) in a contribution to post enlargement in the CEE countries where he states: "Enactment of EU-related laws was often fast-tracked, with little or no serious parliamentary discussions, and with the executive controlling the process throughout. This was perhaps no bad thing, given the notorious inefficiency and incompetence of parliamentary institutions in post-communist states, and was arguably the only way to ensure that the enormous body of EU law was transposed into domestic legislation... [However], it strengthened the executive bodies over their parliamentary equivalents, a secretive procedure over fully transparent ones, and the quick-fix pace of decision-making over comprehensive deliberation. [The goal of accession] gave the executive more power to by-pass parliament and to justify the centralisation of decision-making by the emergency-like circumstances." Börzel and Sprungk (2007) show that this effect is even present in old members, thus reinforcing the strong EU impact on national political systems. Using Germany as a critical case study, the authors find that the executive branch of the government is strengthened and national parliaments are faced with a severe loss of competencies, even in areas where parliamentary participation is required.



The disempowerment of parliaments is reinforced through the impact of European integration on the vertical division of power, namely a loss of power on the side of regional governments. Not denying the positive impact of the EU integration on democratization processes that took place in old members like Germany, Greece, Spain, or Portugal, and even more for the former communist states in CEE, their study highly questions this undermining effect of Europeanization on democratic governance structures.

Authors looking into the national institutional reforms aiming to restore parliamentary control over administrative bodies generally argue that although there are mechanisms set in place for legislatures to hold governments accountable (access to information, right to draft resolutions, creation of specialized EU committees, etc.), these seem to play rather a formal role and do not improve the *de facto* capacity of parliaments to create an impact on EU politics (Börzel and Sprungk 2007, Auel 2007, Holzhaacker 2007). In a cross-national comparison, Winzen (2012) shows that formally, levels of national parliamentary control over EU matters have increased over time due to a series of institutional reforms and means to improve access to formal documents. However, despite these potential improvements, it appears that legislatures are still reluctant to develop more forceful control mechanisms to hold governments accountable and formulate their own strategies in EU affairs. When comparing only the CEE new members, the results are even more pervasive. As Agh (2007) states: “the national public administrations, the parliamentary parties and, even more, the interest organizations were also rather weak in EU policymaking [...] ECE governments still tried to control the entire Europeanization process, and they were not ready to assign a greater role to parliaments.” Already weak parliamentary structures and incipient civil society organizations got even more marginalized in EU-related policymaking processes.

Looking at national party systems in CEE countries during the accession process, Mair (2004) has called

the general domestic consensus on integration a de-politicising effect, which hollows out political competition. In the same vein, Innes (2002: 101-102) argues that the EU had a “debilitating effect, arresting party developments by excluding from political competition those substantive, grass-roots, ideological policy conflicts around which western European party systems have evolved”. The EU impact on civil society organizations across the CEE countries has also been portrayed in rather negative terms. Paradoxically, although one of the EU objectives was to strengthen civil society in post-communist countries, it turned out to produce (most of the time and unintentionally) exactly the opposite effect. Börzel (2010) and collaborators to a special issue on EU enlargement and civil society in Central and Eastern Europe talk about an ambivalent effect produced by EU enlargement on societal groups from CEE countries (see also Wunsch 2016 on differential empowerment of NGOs in Croatia). Although the EU did constitute a new opportunity structure offering civil society actors additional rights, money, and networks, empowerment of non-state actors depended on their capacity to make use of these new opportunities. Most of the times, NGOs that had already a favorable position with access to decision-making, links to Brussels and part of transgovernmental networks were further empowered by Europeanization.

All the above-mentioned studies reveal the strong Europeanization impact that transformed domestic political systems, strengthening state actors (already quite dominant in post-communist CEE countries) and other civil society groups with strong links to Brussels. Nevertheless, these assessments have been rather general in approach, looking at the country level, rarely going deeper into specific Europeanized policymaking processes or evaluating changes of domestic power configurations over time. There is no systematic, quantitative assessment of these Europeanization processes so strongly present in the CEE countries. In the following, the case study on Romania will use quantitative network indicators to measure



institutional changes and domestic actors' power constellations across time. This research design allows exploring how the EU integration process has altered decision-making structures pre- and post-enlargement, clearly mapping all actors that gain more decision-making powers, or on the contrary, were excluded from decision-making in EU policy matters. After integration (absence of conditionality) the national democratic balance could be struck. The longitudinal dimension of the study thus enables a comprehensive analysis of the EU domestic impact, evaluating whether Europeanization goes beyond conditionality, producing much longer-term effects than initially anticipated.

EU impact on decision-making procedures in a new member state: Romania as a case study

This section investigates the Europeanization effects that occurred at the level of polity and politics in a new MS before and after integration. Using Romania as a case study and relying on quantitative network data, it compares two decision-making processes that were affected by Europeanization (before and after integration respectively) with two domestic reforms, during the same time frame: 2003-2005 the period before integration, and 2007-2010 the timespan after enlargement. The four cases analyzed are given by important decision-making processes: the Europeanized cases belong to the field of asylum and immigration (one reform taking place before integration and the other one after), while fiscal decentralization in the primary education sector represents the domestic reforms/control cases (similarly, one policy process took place before enlargement and the other one post integration). The Europeanized decision-making processes stem from the former first EU pillar. Based on the principle of *acquis* conditionality, the EU imposes various rules and is thus able to put pressure on member states or candidate countries. Policy

projects related to immigration and asylum were among the most important legislative changes within this field in Romania for the specified time frame. This policy area was part of the *acquis*, Chapter 24 on Justice and Home Affairs, strongly reformed in order to adopt binding EU directives.

Important changes brought by the immigration and asylum reform, as part of the *acquis* conditionality, before integration, refer to the implementation of various EU directives regarding aliens and asylum regulations. The reform of the immigration and asylum sector continued after integration as well, and the main policy transformations addressed aspects related to the status of third member states who are residents on a long term, the conditions for third member states to study (including student exchange) or engage in voluntary work. Additionally, various EU directives regarding the family reunification or air transit were incorporated into the domestic legislation. The establishment of the alleged Romanian Office for Immigration (ORI) was also part of the after integration reform and the unit was designated as the national specialized institution for migration management, following the EU practices and regulations in the area of immigration.

The fiscal decentralization reform in primary education refers to introducing a per capita formula for financing the primary education sector. This new legal framework aimed at a financing system based on standard costs and increased school autonomy in managing and allocating funds. The main steps for introducing a per capita formula for financing the primary education sector were taken by the 2004 Government. After integration, the fiscal decentralization reform continued with a new law regarding the allocation of funds from the central and local budget, addressing the division of financial responsibilities among the central and local governments, based on the number of students enrolled in each education unit. These policy processes were domestically driven (no EU conditionality) and constitute control cases. As introduced before, the decision-making processes taking place in these fields were compared both



before integration, i.e. Romania as a candidate state (during 2003-2005) and after enlargement, i.e. Romania as a member state (2007-2010).

These latter policy networks represent control cases that allow contrasting instances where the EU effect is present with situations where this is absent, thus allowing to rule out potential alternative explanations about the observed outcome (Saurugger and Radaelli 2008, Haverland 2008). Analyzing Europeanized cases pre- and post-enlargement and comparing the findings with domestic policy reforms that happened during the same time period, provides solid evidence about the variation over time of the EU domestic transformations.

Comparing various policymaking processes within a single country follows a most similar system design (Frendreis 1983, Landman 2003). This refers to a theoretically selection of cases that allows controlling for other potential explanations of the variance on the dependent variable, thus securing the internal validity of the research design (see also Haverland 2008). Applying Mill's method of difference for case selection assures that the identified domestic changes are a consequence of the European-level factor, rather than other global or domestic forces.

Data and measures

To test the EU impact on executive-legislative-interest group organizations, this study uses network analysis (see Wassermann and Faust 1999). The structural network analysis is regularly employed by researchers in the field of policy analysis to learn about the structures and power configuration that are formed in decision-making processes, i.e. policy networks (Laumann and Knoke 1987, Knoke and Pappi 1989, Knoke 1990, Schneider 1992, Scott 1997). As Börzel notes, the general understanding of policy networks is 'a set of relatively stable relationships [...] linking a variety of actors, who share common interests with regard to a policy and who exchange resources to pursue these shared interests acknowledging that co-operation is the best way to achieve common

goals' (1998, p.254). The basic assumptions of the social network method are that actors are interdependent and their relational ties constitute channels for transfer or flow of resources, providing opportunities or constraints on actors' actions. Following a similar operationalization of the concept, this analysis employs policy networks as an analytical tool to describe and explain the complex relationship between actors in various sectors of public policy making³.

For data collection, face-to-face, semi-structured interviews with more than 120 domestic elites were conducted. A comprehensive list of all actors (e.g. various ministries and governmental agencies, political parties, parliamentary committees, civil society organizations, trade, and business organizations) involved in the policymaking processes was elaborated. The questionnaire included a section on the perceived importance of the various stages of the decision-making⁴. Each policy process was broken down in two main parts: the pre-parliamentary and parliamentary stage. Given the general importance attributed to the pre-parliamentary stage, this was divided in other two main phases: drafting of the legislative act within working groups and committees at the ministerial level and consultation procedures with other government bodies and non-state actors. The parliamentary stage also consists of two main sub-parts, the committee work and final vote in plenum. For each policy process, a list with the respective phases and sub-phases of the decision-making was elaborated. Based on this list, the interview partners had to evaluate whether a certain sub-phase was among the three most important for the legislative outcome⁵.

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3 The 'governance school' approach that defines policy networks as non-hierarchical relationships between public-private actors is also acknowledged, however, the stance taken by this study is a methodological one to analyze the decision-making process.

4 The question covering importance of stages of a policy process was formulated as follow: "I would like to ask you to indicate in which three phases of the process the most important decisions were taken, in your view, with respect to the output of the decision-making process x."

5 A similar research design was developed by Fischer et al. (2002), Sciarini et al. (2004), however, employing only a cross-sector analysis for a non-EU member, Switzerland.



In order to measure the impact of the EU integration on power configuration a series of indicators were developed. On the one hand the questionnaire included a section on the evaluation of power an actor has according to the other members of the network – reputational power⁶. On the other hand, a social network measure, e.g. betweenness centrality, was tested. This shows to what extent an actor has a ‘broker’ or ‘gate-keeper’ role for the connection with the other actors in the collaboration network. Methodologically, the betweenness centrality of an actor measures the percentage of actors that have to transit through that actor in order to collaborate/connect with other actors from the network (see also see also Borgatti 2005). Consequently, the actors with a high score of the betweenness centrality measure are considered powerful actors, being in a favored position and having the capacity to ‘obstruct’, or ‘enhance’ the possibilities of other actors to make connections with the rest from the network. The actors that participated in each process were grouped as state officials (core executives and the central public administration) and non-state actors (various civil society organizations, political parties, parliamentary committees, employers’ organizations, trade unions, experts outside the government). The reputation and centrality indicators were expressed as percentages of the overall power scores.

6 The question covering reputational power was formulated as follow: “I would like to ask you to indicate which actors were, in your view, among the three most influential actors in the decision-making process x

Analysis

In the following, the results of the EU impact on the institutions and power configurations are discussed. The analysis compares the scores computed for each case of Europeanization with the values identified in the domestic policy processes, before as well as after integration.

Table 1 shows the importance of the different policy stages in each decision-making process analyzed, before and after Romania joined the EU. The aggregate values indicate that the pre-parliamentary stage is the most important institution, in all of the sectors investigated. The highest values are identified in the Europeanized case, especially for the period before enlargement. Post-accession, the administrative arena (particularly drafting operations) remains the most important stage as compared to the domestic case (where a relatively even distribution of the importance of each sub-stage of the decision-making process was identified), although with a slightly decreasing patten of the relevance attributed to it. The other sub-stages of the decision-making that rest within the parliament are considered less important in the case of Europeanized policymaking processes relatively to the domestic reforms. For example, the parliamentary committees’ work, which is a very important phase of a policy process in the control case, receives less than half of the score in the Europeanized sector before enlargement and does not gain much in importance after integration either.

Table 1 Importance of the phases of a decision-making process, before & after integration

Importance of the institutions of (%)				
Policy Sectors	Education reform (Control Case)		Immigration & asylum reform (Europeanized Case)	
	Before	After	Before	After
Pre-parliamentary stage				
Drafting	43%	41%	91%	84%
Consultations	21%	21 %	4%	7%
Sub-total pre-parliamentary phase	64%	62%	95%	91%
Parliamentary stage				
Committee	27%	31 %	4%	7%
Plenum	9%	7 %	1%	2%
Sub-total parliamentary phase	36%	38%	5%	9%
Total	100%	100%	100%	100%
N (no. of respondents)	32	30	29	32

When the legislation is EU-driven, the decision-making process has a more closed character, being almost entirely handled by the bureaucratic apparatus in the pre-parliamentary phase, mostly during the drafting activities. At this initial level, a policy proposition is formulated by the law initiator and further developed into a legislative

in Table 2, in Europeanized policy processes the number of non-state actors actively engaged in drafting and consultations is less than half when compared to the domestic reforms assessed.

Table 2 Access of non-state actors in the administrative phase, before & after integration

Policy Sectors	No. of non-state actors that participated in the pre-parliamentary stage		In % of all non-state actors		In % of all actors that participated in the pre-parliamentary stage	
	Before	After	Before	After	Before	After
Control case	9	10	56%	67%	35%	40%
Europeanized case	3	4	25%	20%	15%	14%

proposal generally by various executive bodies and EU experts (if these are involved in the reform).

This leaves little space for social participation, national debate or contestation in Parliament; it is rather an administrative-led process. This pattern was consistently identified in the Europeanized cases before and after enlargement. Although before integration the effect is the strongest, a similar impact seems to persist after accession, at least for the timeframe recorded. The administrative arena is ranked the most important also in the control case, nevertheless, the very high scores of importance attributed to this institution in Europeanized instances clearly indicates a strong EU effect.

The restricted character of Europeanized decision-making is further reflected by the composition of actors that participate in the administrative arenas. State actors dominate the Europeanized decision-making processes when compared to the domestic ones. In the immigration and asylum sector the important non-state actors that had access to the administrative stage are the International Organization for Migration Bucharest (OIM), UNHCR, and the Romanian Forum for Refugees and Migrants (ARCA). Nevertheless, organizations like UNHCR and IOM are intergovernmental agencies that provide assistance and consultancy for state executives, thus having close ties to the bureaucratic apparatus. Looking at the figures

The EU impact on power configuration

As already implied by the ‘closed’ nature of the decision-making, a powerful executive tends to dominate the political scene in sectors affected by the EU. This is further confirmed by the centrality measures employed to assess the importance of various actors (Tables 3 and 4 below). Both the reputational power (reflecting power of actors as evaluated by the other actors from the network) and the indicator based on the position of an actor in the cooperation network, betweenness centrality, show that state actors (core executives at the national level) substantially outweigh non-state actors (political parties/members of parliamentary committees, civil society organizations, etc.) in the Europeanized cases relatively to the domestic cases.



Table 3 Reputational Power (before and after the EU integration)

Reputational Power (%)						
Actors	Education reform (Control Case)			Immigration & asylum reform (Europeanized case)		
	Before	After	Change (before/after)	Before	After	Change (before/after)
Central public administration (key governmental bodies)	44%	46%	+2%	90%	83%	-7%
Local public authorities	8%	11%	+3%	0%	1%	+1%
Total state actors	52%	57%	+5%	90%	84%	-6%
Civil society organizations	6%	6%	0%	1%	6%	+5%
Trade unions	26%	22%	-4%	0%	0%	0%
Employers' organizations	8%	9%	+1%	0%	0%	0%
Political parties	7%	5%	-2%	0%	2%	+2%
Experts (EU, IOs)	1%	1%	0%	9%	8%	-1%
Total non-state actors	48%	43%	-5%	10%	16%	+6%
Total	100%			100%		
N (no. of respondents)	30			32		

In the Europeanized cases, the role played by state technocrats is considered the most important. Similar to the polity shifts identified across time in the importance of institutions, a strong executive dominates the decision-making process before, as well as, after integration. While in the domestic reform processes on the fiscal decentralization in primary education, state actors tend to share policymaking prerogatives with various non-state actors (such as labor unions, business organizations, political parties among others), the executive is much more powerful in the Europeanized processes, as confirmed both by all the actors forming the respective policy network (reputational power, Table 3) and the network betweenness centrality measure (Table 4). In particular, during the accession period core executives were almost solely coordinating the entire decision-making process. The formation of a cohesive group of the central administration can be explained by the required effort to timely cope with the entire EU legislative technicality and rigorousness, rules that had to be transposed in the national legislation in order to meet the

integration deadlines. This opportunity structure fostered by Europeanization enabled government bodies to nearly monopolize EU-related policy reforms. Besides some well-established social partners working on a regular basis with the government due to their expertise, none of the civil society organizations or political parties were engaged in decision-making processes affected by the EU.



Table 4 Betweenness Centrality (before and after the EU integration)

Betweenness Centrality (%)						
Actors	Education reform (Control Case)			Immigration & asylum reform (Europeanized pressure)		
	Before	After	Change (before/ after)	Before	After	Change (before/ after)
Central public administration (key governmental bodies)	57%	54%	-3%	97%	93%	-4%
Local public authorities	5%	6%	+1%	0%	0%	0%
Total state actors	62%	60%	-2%	97%	93%	-4%
Civil society organizations	6%	11%	+5%	0.5%	2%	+1.5%
Trade unions	16.5%	16%	-0.5%	0%	0%	0%
Employers' organizations	5%	4%	-1%	0%	0.5%	+0.5%
Political parties	7.5%	7%	-0.5%	0.5%	1.5%	+1%
Experts (EU, IOs)	3%	2%	-1%	2%	3%	+1%
Total non-state actors	38%	40%	+2%	3%	7%	+4%
Total	100%			100%		
N (no. of respondents)	30			32		

Overall, the empirical results on the actors' power – both in terms of reputation and network centrality – show the strong EU effect on empowering executive actors and a diminished importance of non-state actors. The very high importance scores attributed to state actors, together with the 'closed' Europeanized decision-making processes, both pre- and post-accession⁷, bring systematic empirical evidence about the EU impact on domestic governance structures. The lack of social participation and representation in important policy matters triggered to a large extent by Europeanization processes questions the basic principles of democratic policymaking. How can the consequences of this executive empowerment of the former communist, state-led and centralized CEE administrations, now democracies and EU member states, be addressed?

Conclusions

The findings support the argument that European integration has a strong impact on national political systems. While executives are clearly strengthened, the parliament and civil society actors have not gained much importance in Europeanized decision-making processes. These effects are stronger in candidates, nevertheless, similar outcomes seem to persist post integration in areas where the EU is present. In the domestic reforms, besides state actors, various non-state stakeholders have access to the legislative process. The results thus support the view that when the EU is involved in decision-making, a shift from the interventionist to the regulatory state that is dominated by technocratic, non-majoritarian and non-elected bodies occurs (Kohler-Koch and Rittberger 2008, Lavenex 2013). Although one of the EU's objectives for the CEE countries was to strengthen and build capacities of civil society, enabling non-state actors to participate more actively in decision-making, what is observed in practice is rather a strengthening of states.

⁷ At least until 2010, when the social network data is available



Especially during the integration process, the vast amount of EU legislation that had to be transposed in domestic policies in a relatively short time period did not allow for a consistent involvement of non-state actors beyond occasional assistance in drafting the laws (see also Börzel 2010).

This alleged domestic 'democratic deficit' together with the already contested EU-level 'democratic deficit' pose a series of questions about the input and output legitimacy of EU decision-making and subsequent impact on member states. While the EU institutional reforms, culminating with the Treaty of Lisbon, meant precisely to address the issue of democratic deficit by giving more powers to the European Parliament and member states' citizens directly, the question of whether this will also translate into a more democratic governance process across member states still requires a more nuanced answer. Developments for enhancing parliamentary participation in EU matters could also come from the implementation and use of the diversified tools already in place across member states that enable national legislatures to control their governments (see also Winzen 2012).

The case study on Romania shows with systematic data that the domestic changes identified at the level of polity (institutions of decision-making) highly corroborate with the shifts observed at the politics level (power configuration): a strengthening of the administrative arenas of decision-making and empowerment of state actors. As depicted from secondary literature this tends to be the dominant picture for all CEE countries (and often for Western democracies), with the strongest effect observed before integration. The network analysis has identified only a small decrease of these effects post enlargement. One possible explanation might be that policy styles that became routinized during the accession period were kept in place afterwards, but this might change as time elapses. Also, politically salient issues are more likely to attract contestation from strong domestic interest groups and thus stimulate greater national political debate. As well, the EU institutional reforms and political commitment to achieve greater civic

involvement and national parliaments scrutiny in European matters might incite participation and help alleviate the gap between executives-legislatures-civil society.

This study has addressed a number of questions identified in the Europeanization literature. It has developed an innovative inquiry area, looking at the effects of the EU pressure on polity and politics, across sectors and over time. The research designed employed a control cases (a domestic reform), thus, allowing a systematic comparison of the Europeanization impact with cases where the EU effect is absent. Furthermore, relying on the tools of social network analysis, the study has constructed a unique data set that enabled a thorough analysis of the policy-process. To bring additional evidence for the post enlargement question of whether the domestic changes identified so far will continue to persist, further research should be carried out, by monitoring and assessing the after integration consequences, on a longer time span and/or in different domestic milieus and policy areas. Collecting additional data about how the EU level interferes with the national policymaking context also in the light of the current EU institutional reforms would strengthen the analytical model and bring additional evidence about the consequences of the EU integration process.



References

- Afonso, A., und Y. Papadopoulos (2013). Europeanization or Party Politics? Explaining Government Choice for Corporatist Concertation. *Governance* 26 (1): 5-29.
- Agh, A. (2004). Post-accession in East Central Europe: the Emergence of EU25. Budapest: The Hungarian Center for Democracy Studies.
- Agh, A. (2007). The Role of the ECE Parliaments in the EU Integration. in R. Holzhaecker and E. Albaek (eds), *Democratic Governance and European Integration* (Aldershot: Edward Elgar), 249-269.
- Auel, K. (2007), 'Adapting to Europe: Strategic Europeanization of National Parliaments', in R. Holzhaecker and E. Albaek (eds), *Democratic Governance and European Integration* (Aldershot: Edward Elgar), 157-79.
- Borgatti, S.P., Everett, M.G. and Freeman, L.C. 2002. *Ucinet for Windows: Software for Social Network Analysis*. Harvard, MA: Analytic Technologies.
- Börzel, T.A. (1998) Organizing Babylon – on the different conceptions of policy networks, *Public Administration* 76: 253-273.
- Börzel, T. A. (2011). When Europe hits...beyond its borders: Europeanization and the near abroad. *Comparative European Politics* 9: 394-413.
- Börzel, T. A. (2010). Why you don't always get what you want: EU Enlargement and Civil Society in Central and Eastern Europe. *Acta Politica* 45: 1-10.
- Börzel, T.A. and T. Risse (2000) When Europe Hits Home: Europeanization and Domestic Changes, *European Integration online Papers* (EioP) 4(15).
- Börzel, T. and T. Risse (2003) Conceptualizing the Domestic Impact of Europe. In *The Politics of Europeanization*, eds. Kevin Featherstone and Claudio Radaelli. Oxford: Oxford University Press, p. 57-80.
- Börzel, T., und C. Sprungk (2007). Undermining Democratic Governance in the Member States? The Europeanization of National In R. Holzhaecker und E. Albaek (eds.), *Democratic Governance And European Integration. Linking Societal and State Processes of Democracy*. Cheltenham, UK: Edward Elgar.
- Dimitrova, A. L. and Pridham, G., (2004). "International Actors and Democracy Promotion in Central and Eastern Europe: The Integration Model and Its Limits", *Democratization*, 11(5).
- Dimitrova, A. and Toshkov, D. (2007) 'The Dynamics of Domestic Coordination of EU Policy in the New Member States: Impossible to Lock In?', *West European Politics*, 30:5, 961 – 986.
- Fagan, A. (2005). "Taking Stock of Civil-Society Development in Post-communist Europe: Evidence from the Czech Republic", *Democratization*, 12(4): 528–547.
- Fagan, A. and Tickle, A. (2001), "Globalisation and the building of civil society in Central and Eastern Europe: Environmental mobilisations as a case study", ECPR General conference, Canterbury, 6 – 8 September 2001, Canterbury, conference paper.
- Falkner, G. and Treib, O. (2008). "Three Worlds of Compliance or Four? The Eu-15 Compared to New Member States". *JCMS: Journal of Common Market Studies*, Vol. 46, Issue 2, pp. 293-313.
- Featherstone, K., und C. M. Radaelli (2003). *The Politics of Europeanization*. Oxford/New York: Oxford University Press.
- Fink-Hafner, D., (2005). "Europeanization of the Core Executive in the Transition from Circumstances of EU Accession to Full EU Membership", 9th Biennial EUSA Conference, Austin, TX, 31 March – 2 April 2005, conference paper.
- Fischer, A., P. Sciarini and S. Nicolet (2002) *Europeanization of a Non-EU Country: The Case of Swiss Immigration Policy*. West European



- Politics. 25 (4): 143-170.
- Frendreis, J.P. (1983). Explanation of variation and detection of covariation: The Purpose and Logic of Comparative Analysis, *Comparative Political Studies*, 16: 255-272.
- Goetz, K. H., (2001). "Making sense of post-communist central administration: modernization, Europeanization or Latinization?", *Journal of European Public Policy*, 8(6): 1032-1051.
- Goetz, K. H., (2005). "The New Member States and the EU: Responding to Europe", in *The Member States of the European Union*, (Eds.) Bulmer, Simon, Lequesne, Christian, pp. 254-284, Oxford University Press, Oxford; New York.
- Goetz, K. H., and J.-H. Meyer-Sahling (2008). The Europeanisation of national political systems: Parliaments and executives. *Living Reviews on European Governance* 3 (2).
- Grabbe, H. (2006). *The EU's Transformative Power. Europeanization Through Conditionality in Central and Eastern Europe*. Basingstoke/New York: Palgrave MacMillan.
- Grabbe, H. and K. Hughes (1999). "Central and east European views on EU enlargement: political debates and public opinion," in: Henderson, Karen (ed.): *Back to Europe. Central and Eastern Europe and the European Union*, London/ Philadelphia: UCL Press: 185-202.
- Graziano, P., und M. P. Vink, (eds.) (2007). *Europeanization - New Research Agendas*. Houndmills/New York: Palgrave Macmillan.
- Haverland, M. (2008) Methodology, in: Vink, Maarten P. and Graziano, P. (eds.), *Europeanization. New Research Agendas*. Houndmills, Basingstoke, 59-70.
- Héritier, A., D. Kerwer, C. Knill, D. Lehmkuhl, M. Teutsch, und A.-C. Douillet (2001). *Differential Europe - The European Union Impact on National Policymaking*. Lanham/Boulder/New York/Oxford: Rowman&Littlefield Publishers, Inc.
- Holzacker, R. (2007), 'Parliamentary Scrutiny'. In: Paulo Graziano and Martin Vink (Eds.), *Europeanization: New Research Agendas* (pp. 141-153). Basingstoke: Palgrave Macmillan.
- Innes, A. (2002). 'Party Competition in post-communist Europe', *Comparative Politics*, 35 (1): 85-104.
- Knill, C., und D. Lehmkuhl (2002). The national impact of European Union regulatory policy: Three Europeanization mechanisms. *European Journal of Political Research* 41: 255-80.
- Knoke, D. (1990) *Political Networks. The Structural Perspective*. Cambridge: Cambridge University Press.
- Knoke, D. and F. U. Pappi (1989) *Fighting Collectively: Action Sets and Opposition Networks in the US and West German Labor Policy Domains*. Proceedings of the American Sociological Meetings.
- Kohler-Koch, B., und B. Rittberger, (eds.) (2008). *Debating the Democratic Legitimacy of the European Union*. Boulder/Lanham: Rowman&Littlefield.
- Kriesi, H. (1995). The Political Opportunity Structure of New Social Movements: Its Impact on Their Mobilization. In J. C. Jenkins und B. Klandermans (eds.), *The Politics of Social Protest*. Minneapolis: University of Minnesota Press (167-98).
- Landman, T. (2003) *Issues and Methods in Comparative Politics: An Introduction*, London: Routledge.
- Laumann, E. and D. Knoke (1987) *Social Network Theory in Approaches to Social Theory*, Siegart Lindenber, James Coleman, and Stefan Nowak (eds.). New York: Russell Sage Foundation.
- Lavenex, S. (2013). Globalization and the Vertical Challenge for Democracy. In H. Kriesi, S. Lavenex, F. Esser, J. Matthes, M. Bühlmann und D. Bochler (eds.), *Democracy in the Age of Globalization and Mediatization*. Hound-

- mills/New York: Palgrave Macmillan (105-34).
- Leifeld, P., und V. Schneider (2012). Information Exchange in Policy Networks. *American Journal of Political Science* 53 (3): 731-44.
- Mair, P. (2004) The Europeanization Dimension. *Journal of European Public Policy*, 11(2): 337-48.
- March, J. G., und J. P. Olsen (1998). The Institutional Dynamics of International Political Orders. *International Organization* 52 (4): 943-69.
- Millard, F (1999), Polish Domestic Politics and Accession to the European Union in Hederson K., *Back to Europe: Central and Eastern Europe and the European Union*, London: UCL Press.
- Moravcsik, A. (1994). *Why the European Community strengthens the state: Domestic politics and international cooperation*. Vol. Working Paper 52, Working Paper 52. Cambridge: Harvard University Press.
- Moravcsik, A. (1998) Does International Cooperation Strengthen National Executives? The Case of Monetary Policy in the European Union. Paper prepared for the Third Project Workshop, Europeanization and Domestic Political Change, The European University Institute, Robert Schuman Centre, Florence, Italy.
- Radaelli, C. (2003) The Europeanization of Public Policy In The Politics of Europeanization, (eds.) Kevin Featherstone and Claudio Radaelli. Oxford University Press.
- Risse, T., M. Cowles and J. Caporaso (2001) Europeanization and Domestic Change: Introduction, in *Transforming Europe. Europeanization and Domestic Change*, M. Green Cowles, J. Caporaso and T. Risse (eds), Ithaca: Cornell University Press, pp. 1-20.
- Princen, S., und B. Kerremans (2008). Opportunity Structures in the EU Multi-Level System. *West European Politics* 31 (6): 1129-46.
- Putnam, R.D. (1988) Diplomacy and Domestic Politics: the Logic of Two Level Games, *International Organization* 42(3): 427-60.
- Raik, K., (2002). "Bureaucratization or Strengthening of the Political? Estonian Institutions and Integration into the European Union", *Cooperation and Conflict*, 37(2): 137-156
- Sadurski, W., (2006). "Introduction: The Law and Institutions of New Member States in Year One", in *Après Enlargement: Legal and Political Responses in Central and Eastern Europe*, (Eds.) Sadurski, Wojciech, Ziller, Jacques, Zurek, Karolina, pp. 3-18, European University Institute, Florence.
- Saurugger, S., und C. M. Radaelli (2008). The Europeanization of Public Policies: Introduction. *Journal of Comparative Policy Analysis: Research and Practice* 10 (3): 213-19.
- Schimmelfennig F. and U. Sedelmeier (2005) The Europeanization of Central and Eastern Europe. US: Cornell University.
- Schimmelfennig F. and U. Sedelmeier (2007) Candidate Countries and Conditionality in Europeanization, *New Research Agendas*, P. Graziano and M.P. Vink (eds.), New York: Palgrave Macmillan, p. 88-101.
- Schmidt, V. A. (2006). Procedural democracy in the EU: the Europeanization of national and sectoral policy-making processes. *Journal of European Public Policy* 13 (5): 670-91.
- Schneider, V. (1992) The Structure of Policy Networks. A Comparison of the 'Chemicals control' and 'Telecommunications' Policy Domains in Germany. Max-Planck Institute, Köln: Germany.
- Schneider, M., J. Scholz, M. Lubell, D. Mindruta, und M. Edwardsen (2003). Building Consensual Institutions: Networks and the National Estuary Program. *American Journal of Political Science* 47 (1): 143-58.
- Sciarini P., A. Fischer and S. Nicolet (2004). How Europe Hits Home: Evidence from the Swiss

- Case. *Journal of European Public Policy*. 11 (3): 353-378.
- Scott, J. (1997) *Social Network Analysis. A Handbook*, London.
- Sedelmeier, U. (2006). Europeanisation in new member and candidate states. *Living reviews in European governance*, 1 (3).
- Treib, O. (2008). Implementing and complying with EU governance outputs. *Living Reviews in European Governance* 3 (5).
- Wassermann, S. and K. Faust (1999) *Social Network Analysis. Methods and Applications*. Cambridge.
- Wunsch, N. (2016) Coming full circle? Differential empowerment in Croatia's EU accession process. *Journal of European Public Policy* 23 (8): 1199-1217.
- Winzen T. (2012) National Parliamentary Control of European Union Affairs: A Cross-national and Longitudinal Comparison, *West European Politics*, 35:3.
- Zubek, R. and K. Goetz (2010) 'Performing To Type? How State Institutions Matter in East Central Europe', *Journal of Public Policy*, 30 (1): 1-22.



AGAINST OVEREMPHASIZING ENFORCEMENT IN THE CURRENT CRISIS

EU LAW AND THE RULE OF LAW IN THE (NEW) MEMBER STATES

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Introduction

The European Union (EU) and the Member States seem to be doing as little as they can to combat rule of law backsliding in some of the EU's constituent parts. Each of the EU institutions came up with their own plan on what to do, inventing more and more soft law of questionable quality. All that is being done by the institutions appears to reveal one and only one point: there is a total disagreement among all the actors involved as to how to sort out the current impasse. This inaction

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assists the powers of the backsliding Member States in consolidating their assault upon the EU's values even further. At least four key legal-political techniques are used to consolidate the undermining of the rule of law and democracy, as the present work shall demonstrate.

The core question is how to ensure the upholding of the EU's own rule of law. We argue that the most mature answer to the problems at hand necessarily requires a long-term perspective and involves, besides the reform of the enforcement mechanisms, also the reform of the Union as such. Supranational law should be made more aware of the values it is obliged by the Treaties to respect and protect, both at the national and supranational levels. EU law should embrace the rule of law as an institutional ideal, which implies, inter alia, eventual substantive limitations on the *acquis* of the Union, as well as taking EU values to heart in the context of the day-to-day functioning of the Union, elevating them above the instrumentalism marking them today.

Poland² has now joined Hungary,³ doubling the number of the Member States where rule of law is not safeguarded. While more states could follow, the Union's position is, apparently, very weak: new soft law of questionable quality has been produced by each of the institutions,⁴ while positive

² Most importantly: T.T. Koncewicz, 'Of Institutions, Democracy, Constitutional Self-defence' (2016) 53 *Common Market Law Review* 1753. All websites were accessed on 20 July 2018; T.T. Koncewicz, 'The Capture of the Polish Constitutional Tribunal and Beyond: Of institution(s), Fidelities and the Rule of Law in Flux' (2018) 43 *Review of Central and East European Law* 116; W. Sadurski, 'How Democracy Dies (in Poland): A Case Study of Anti-Constitutional Populist Backsliding' (2018) *Sydney Law School Research Paper No. 18/01*.

³ K.L. Scheppele, 'Understanding Hungary's Constitutional Revolution', in A. von Bogdandy and P. Sonnevend (eds), *Constitutional Crisis in the European Constitutional Area: Theory, Law and Politics in Hungary and Romania* (Hart Publishing, 2015); Z. Sente, 'Challenging the Basic Values – The Problems with the Rule of Law in Hungary and the EU's Failure to Tackle Them', in A. Jakab and D. Kochenov (eds), *The Enforcement of EU Law and Values* (Oxford University Press, 2017) 456; K.L. Scheppele, 'Constitutional Coups in EU Law', in M. Adams, A. Meeuse and E. Hirsch Ballin (eds), *Constitutionalism and the Rule of Law: Bridging Idealism and Realism* (Cambridge University Press, 2017).

⁴ Council of the EU Press Release no. 16936/14, 3362nd Council meeting, General Affairs, [2014] 20–21; European



change is nowhere to be seen, notwithstanding even the belated activation of the Article 7(1) Treaty on European Union (hereinafter: TEU) mechanism.⁵ Indeed, the situation seems to be evolving extremely fast and only in the direction of the deterioration of the rule of law and abuse by the executive of the independent institutions.⁶ It seems that there is a total disagreement among essentially all the actors involved concerning what should be done, and the political will to sort out the current impasse is lacking at the level of the Member States, too. Supranational political party groups, instead of helping, seem to aggravate the situation.⁷ This inaction helps the powers of the backsliding Member States consolidate their assault upon EU's values even further.

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 Commission, 'A New EU Framework to Strengthen the Rule of Law' [2014] COM(2014)158; European Parliament, 'Report with Recommendations to the Commission on the Establishment of an EU Mechanism on Democracy, the Rule of Law and Fundamental Rights' [2016] (2015/2254(INL)). Cf. on all these instruments, D. Kochenov, A. Magen and L. Pech (eds), 'The Great Rule of Law Debate in the European Union' (2016 symposium), (2016) 54(5) *Journal of Common Market Studies*.

5 K.L. Scheppele and L. Pech, 'Poland and the European Commission' (Parts I, II, and III), 3 January, 6 January, and 3 March 2017, available at <http://verfassungsblog.de/author/laurent-pech/>; D. Kochenov and L. Pech, 'Better Late Than Never? On the Commission's Rule of Law Framework and Its First Activation' (2016) 24 *Journal of Common Market Studies* 1062; P. Oliver and J. Stefanelli, 'Strengthening the Rule of Law in the EU: The Council's Inaction' (2016) 24 *Journal of Common Market Studies* 1075; but see, E. Hirsch Ballin, 'Mutual Trust: The Virtue of Reciprocity – Strengthening the Acceptance of the Rule of Law through Peer Review', in C. Closa and D. Kochenov (eds), *Reinforcing Rule of Law Oversight in the European Union* (Cambridge University Press, 2016).

6 U. Sedelmeier, 'Anchoring Democracy from Above? The European Union and Democratic Backsliding in Hungary and Romania after Accession' (2014) 52 *Journal of Common Market Studies* 105; J.-W. Müller, 'The EU as a Militant Democracy, or: Are There Limits to Constitutional Mutations within the Member States' (2014) 165 *Revista de Estudios Políticos* 141; A. von Bogdandy and P. Sonnevend (eds), *Constitutional Crisis in the European Constitutional Area*, *op. cit.*; C. Closa and D. Kochenov (eds), *Reinforcing Rule of Law Oversight in the European Union* (Cambridge University Press, 2016); A. Jakab and D. Kochenov (eds), *The Enforcement of EU Law and Values: Methods to Achieve Compliance* (Oxford University Press, 2017); L. Pech and K.L. Scheppele, 'Illiberalism Within: Rule of Law Backsliding in the EU' (2017) 19 *Cambridge Yearbook of European Legal Studies* 3.

7 R.D. Kelemen, 'Europe's Other Democratic Deficit: National Authoritarianism in Europe's Democratic Union' (2017) 52 *Government and Opposition* 211.

A previously unimaginable situation arose whereby the EU harbours Member States which, besides obviously not qualifying for Union membership if they were to apply today, work hard to undermine key principles the EU was created to safeguard and promote: democracy, the rule of law, and the protection of fundamental rights.⁸ The underlying issue is the creation of a *modus vivendi* where the EU's own instrumentalist understanding of the rule of law, including principles such as mutual trust or the autonomy of EU law, reinforces and not jeopardises respect for values enshrined in Article 2 TEU.⁹

The paper starts out by defining the problem, focusing on the nature, and gravity of rule of law backsliding in Hungary and Poland in order to outline four key techniques deployed by the autocratic regimes in order to consolidate the constitutional capture and massive assault on European values. These techniques to achieve, legitimise, and consolidate the destruction of the rule of law include: appeals to national sovereignty; fetishisation of 'constitutional identity' taken out of context; appeals to national security complete with the harassment of the media, NGOs, and independent educational institutions; and international disinformation campaigns (Part 1). We proceed by discussing the state of the art with regard to values in the EU legal system (Part 2); followed by undergoing a normative assessment of how these values should preferably be approached (Part 3). Looking at supranational law, we argue that the root of the problem is the lack of a sufficient upgrade of the role played by values – including the rule of law – when the Union transformed from an ordinary treaty organisation into a constitutional system (Part 4). The EU's powerlessness is among

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 8 As well as other values expressed in Art. 2 TEU; L. Pech, 'A Union Founded on the Rule of Law': Meaning and Reality of the Rule of Law as a Constitutional Principle of EU Law' (2010) 6 *EU Constitutional Law Review* 359; D. Kochenov, 'The *Acquis* and Its Principles: The Enforcement of the "Law" Versus the Enforcement of "Values" in the EU', in A. Jakab and D. Kochenov (ed), *The Enforcement of EU Law and Values*, *op. cit.*

9 M. Klamert and D. Kochenov, 'Article 2', in M. Kellerbauer, M. Klamert and J. Tomkin (eds), *EU Treaties and the Charter of Fundamental Rights: A Commentary* (Oxford University Press, 2019).



the root causes of letting Member States slide into authoritarianism (Part 5). We conclude by arguing for shifting the focus of the discussion from the enforcement of the rule of law to the reform of the Union as such as a long-term solution (Part 6). There is time: illiberal regimes seem to be there to stay, and the options in regard to changing this reality, either supranationally or from a grass-roots level, are limited, if not non-existent: we might need to wait ten years – or thirty, for that matter – before Hungary and Poland are back on track. In the meantime, EU institutions should come to a more subtle realisation of the EU's constitutional role and should not insist on the specificities of EU law trumping all other considerations, including respect for the values the EU and the Member States are supposed to share, but should instead acknowledge the possibility of potential limitations so as to let the foundations of the EU, as provided for by the Lisbon Treaty, evolve. This could definitely be done in the context of a soft quarantine of Poland, Hungary, and any other backsliding states.

1. The EU: From high expectations to jeopardy?

Whereas all Member States suffer from deficiencies in at least some elements of the rule of law, in light of a pattern of constitutional capture we focus on rule of law backsliders and follow the definition proposed by Pech and Scheppele, according to which rule of law backsliding is a 'process through which elected public authorities deliberately implement governmental blueprints which aim to systematically weaken, annihilate or capture internal checks on power with the view of dismantling the liberal democratic state and entrenching the long-term rule of the dominant party.'¹⁰ In what follows we shall focus on the two Member States that presently satisfy these

definitional elements, i.e. Hungary¹¹ and Poland.¹² Even though countries acceding to the EU in 2004 had high hopes for joining the democratic world after the political changes, the enthusiasm for European values on the side of certain Central Eastern European Member States vanished on the way – a phenomenon which was unthinkable during the 1989 Eastern European 'velvet revolutions'. In all these countries, the separation of powers had been realised where parliamentary lawmaking procedure required extensive consultation with both civil society and opposition parties and crucial issues of constitutional concern required a supermajority vote of the Parliament. Independent self-governing judicial power ensured that the laws were fairly applied. Constitutional scrutiny played a special role in transitional democracies. After the regime change, Hungary was the first 'post-communist' country to join the Council of Europe and abide by the European Convention on Human Rights and Fundamental Freedoms (ECHR or Convention) in 1990. Poland gained membership in the Council of Europe in 1991 and became party to the ECHR in 1993. Hungary and Poland established official relations with the North Atlantic Treaty Organization (hereinafter: NATO) already in the early 1990s and became NATO members in 1999. They also started accession talks with the European Union Member States and signed the EU Association Agreements in the early 1990s, which paved the way for full EU membership.¹³ The Treaty of Accession to the

11 L. Sólyom, 'The Rise and Decline of Constitutional Culture in Hungary', in A. von Bogdandy and P. Sonnevend (eds), *Constitutional Crisis in the European Constitutional Area*, *op. cit.*; M. Bánkuti, G. Halmai and K. L. Scheppele, 'Hungary's Illiberal Turn: Disabling the Constitution' (2012) 23 *Journal of Democracy* 138.

12 For an overview of political court-packing and other Polish developments, see, e.g., T. T. Koncewicz, 'The Capture of the Polish Constitutional Tribunal and Beyond', *op. cit.*; W. Sadurski, 'How Democracy Dies (In Poland)', *op. cit.* See also The Venice Commission for Democracy through Law, Opinion on amendments to the Act of 25 June 2015 on the Constitutional Tribunal of Poland, CDL-AD(2016)001, Venice, 11 March 2016, available at: <http://www.venice.coe.int/webforms/documents/?pdf=CDL-AD%282016%29001-e>.

13 K. Inglis, 'The Europe Agreements Compared in the Light of Their Pre-Accession Reorientation' (2000) 37 *Common*

10 L. Pech and K.L. Scheppele, 'Illiberalism Within', *op. cit.*, at 8.



European Union was signed in 2003. Hungary, Poland, six other Central and Eastern European countries as well as two Mediterranean islands became members of the European Union on 1 May 2004 as part of the biggest enlargement in the Union's history.¹⁴ The European Union played an important role in the transformation of all the Eastern European states and in the context of their democratisation.¹⁵ The principle of conditionality was used to achieve this, coupled with the presumption that any democratic or rule of law 'backsliding' would not be possible once the transformation was in place.¹⁶ Alongside the Europe Agreements, the Union applied the Copenhagen criteria adopted by the 1993 Copenhagen European Council.¹⁷ Clearly going beyond the scope of the Europe Agreements,¹⁸ these criteria became the cornerstone of Hungary's and Poland's transformations throughout the first decade of this century, reshaping the core of EU constitutionalism in the process, too.¹⁹ The shocking rate at which the deconstruction of the rule of law occurs in Poland and Hungary today demonstrates the importance of a constitutional culture beyond black letter law including constitutions, institutions, and procedures. The shift came rather abruptly when, in April 2010, in a free and fair election the centre-right political parties Fidesz Hungarian Civic Union

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Market Law Review 1173.

14 A. Ott and K. Inglis (eds), *Handbook on European Enlargement* (T.M.C. Asser Press, 2002).

15 Cf. M. A. Vachudova: *Europe Undivided* (Oxford University Press, 2005).

16 D. Kochenov, *EU Enlargement and the Failure of Conditionality* (The Hague: Kluwer Law International, 2008).

17 C. Hillion, 'The Copenhagen Criteria and Their Progeny', in C. Hillion (ed) *EU Enlargement: A Legal Approach* (Hart Publishing, 2004)

18 P.-C. Müller-Graff: 'Legal Framework for Relations between the European Union and Central and Eastern Europe: General Aspects', in M. Maresceau (ed), *Enlarging the European Union: Relations between the EU and Central and Eastern Europe* (Longman, 1997) 42; M. Maresceau, 'The EU Pre-Accession Strategies: A Political and Legal Analysis', in M. Maresceau and E. Lanon (eds), *EU Enlargement and Mediterranean Strategies* (Palgrave, 2001).

19 W. Sadurski, *Constitutionalism and Enlargement of Europe* (Oxford University Press, 2012).

(Fidesz) and the Christian-Democratic People's Party (in Hungarian: Kereszténydemokrata Néppárt, KDNP)²⁰ got 53% of the votes, which translated into more than two-thirds of the seats in the unicameral Hungarian Parliament under the election law then in force.²¹ The ruling party did not tolerate any internal dissent, and after forming the second Fidesz government²² it eliminated – at least in the domestic setting – all sources of criticism by both the voters and state institutions, effectively disposing of any effective checks and balances. Should a discontent electorate now wish to correct deficiencies, it would be difficult for it to do so due to the novel rules of the national ballot, which fundamentally bring into question the fairness of future elections. Judicial oversight and most importantly the Hungarian Constitutional Court's room for correcting the failures of a majoritarian government have been considerably impaired, along the powers of other *fora* designed to serve as checks on government powers. Distortions of the media and lack of public information lead to the impossibility of a meaningful public debate and weaken the chances of restoring deliberative democracy. Support by the electorate is enhanced through emotionalism, revolutionary rhetoric, catchphrases such as 'law and order', 'family', 'tradition', 'nation', symbolic lawmaking, and identity politics in general. The friend/foe dichotomy is artificially created through punitive populism and scapegoating, partially through building on pre-existing prejudices, and partially by creating new enemies such as multinational companies or persons challenging Hungarian unorthodoxy on the international scene.

The changes can be traced back to the government's ideological roots. But unlike in Poland, ideology

20 The cooperation between Fidesz and KDNP shall not be regarded as a coalition, rather as a party alliance created already before the elections. According to their self-perception their relation is similar to the party alliance between CDU and CSU in the Federal Republic of Germany. KDNP is a tiny party that would probably not get into Parliament on its own. The insignificance of KDNP allows us to abbreviate for the sake of brevity: whenever the term 'Fidesz government' is used, the Fidesz–KDNP political alliance is meant.

21 Act C of 1997 on the Election Procedure.

22 Fidesz first governed between 1998 and 2002.



by the government is chosen by way of political convenience. Turning towards illiberalism was a necessity, for a government wishing to retain political and economic power at all costs, and capture the state to this end, cannot reconcile its ideological stance with the concept of liberal democracy. So Fidesz had to search for other role models than the democratic world, and found its allies in countries such as Turkey, and most importantly Russia. Even though illiberalism was relabelled as ‘Christian democracy’ after Fidesz was re-elected in April 2018, the same form of governance remains. Representing harshly opposing views within a short period of time never hurt Fidesz politicians, who are brilliant at explaining their reasons for a volte-face. The party, originally with strong anti-Russian sentiments, became pro-Putin – and still managed to retain public support.

Poland followed the path of illiberalism when the Law and Justice party (Prawo i Sprawiedliwość, PiS) entered government in 2015. The country experienced a very serious departure from liberal democratic principles and is going through the reversal of the rule of law in various fields.

The tools employed and the outcome are very similar to the ones in Hungary, but certain elements of the Polish case also make it distinct, illustrating that there was no Central Eastern European or even Visegrád pattern. First, unlike in Hungary, the Polish government does not have a constitution-making nor -amending majority, therefore – for the time being – it engages in rule of law backsliding by way of curbing ordinary laws; as Ewa **Łętowska** put it, the government has been ‘trying to change the system through the back door.’²³ Second, Hungary is essentially

23 P. Pacula, Poland’s ‘July Coup’ and What it Means for the Judiciary, 19 July 2017, available at: <http://euobserver.com/justice/138567>. Taking the President’s announcement of a 2018 constitutional referendum into account, this might change in the future: L. Kelly, Polish President Wants Referendum on Constitution in Nov 2018, 24 May 2017, available at: <http://www.reuters.com/article/poland-politics-president-constitution-idUSL8N1IQ6P0>. For an immediate analysis see M. Matczak, Why the Announced Constitutional Referendum in Poland is not a Constitutional Referendum after all, 13 May 2017, available at: <http://verfassungsblog.de/why-the-announced-constitutional-referendum-in-poland-is-not-a-constitutional-referendum-after>

a kleptocracy,²⁴ where the government may pick any ideology available on the political spectrum to acquire and retain economic and political powers. By contrast, the Polish government and especially PiS leader Jarosław Kaczyński, the *de facto* ruler of Poland, are more likely to truly believe in what they are preaching in terms of national interests. When justifying rule of law backsliding, a whole new worldview is developed, rewriting the democratic transition and the post-1989 Polish history as something fundamentally corrupt and poised by foreign interest in contravention to national ones.²⁵ For him, post-1989 Polish history, including the roundtable talks in 1989, is the result of an indecent compromise between the individuals and movements bringing about regime change and the outgoing Communist forces. Along these lines he sees all democratic institutions as a ‘sham’; for him, ‘the Third Republic is not a real state, but a phantom state built on the intellectual corruption of political elites, bribery, dysfunctional government caving Brussels and selling off Poland to strangers for peanuts.’²⁶ For PiS ‘repolonisation’ means taking over power, banks, land, and other property, and means reclaiming Poland from both foreigners and the corrupt political elites so as to bring about a true regime change.²⁷ Seemingly all means are allowed, and any checks or controls on power are seen as unnecessary burdens the state shall be freed from, so as to accomplish this purging exercise.

Illiberal governments are very well aware of the irreconcilability of their politics with European values. The states in question therefore lobby for exemptions.

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24 Also referred to as a mafia state. See B. Magyar, Post-communist Mafia State: The Case of Hungary (CEU Press, 2016).

25 J. Conelly, T.T. Konciewicz, Who are Today’s Polish Traitors? Of Politics of Paranoia and Resentment and Missed Lessons from the Past, 15 November 2016, available at: <http://verfassungsblog.de/who-are-todays-polish-traitors-of-politics-of-paranoia-and-resentment-and-missed-lessons-from-the-past/>.

26 Id.

27 Freedom House, Pluralism under Attack: The Assault on Press Freedom in Poland, available at: <https://freedomhouse.org/report/special-reports/assault-press-freedom-poland#sdendnote21anc>.



a. *Invocation of national sovereignty to undermine the institutions*

A first technique is the invocation of national sovereignty without any further justification. Polish capture of the Constitutional Tribunal, the Supreme Court, the National Council of the Judiciary, and ordinary courts happened under the pretext that ‘reform’ of the judiciary was a matter for the Member States and the EU acted *ultra vires* if it interfered. The Polish Constitutional Tribunal was the first institution to fall victim to state capture at the end of 2016.²⁸ Its powers have been considerably cut, changes were introduced to its structure and proceedings, budget cuts took place, and three justices elected constitutionally by the 7th Sejm (the lower chamber of the Polish Parliament) were not permitted to take oath, whereas three justices elected unconstitutionally by the 8th Sejm after PiS had won the elections were permitted to do so. After having rendered the Constitutional Tribunal irrelevant in upholding the rule of law, the government has done the same with the Supreme Court, the National Council for the Judiciary, and ordinary courts. The changes related to the reorganisation of the Supreme Court empower the executive to: prematurely end the tenure of judges, meaning forcefully retire them; determine the conditions and procedure for becoming a Supreme Court judge; control disciplinary procedures, amending the rules of procedure of the Supreme Court; change the total number of judges serving on the Supreme Court; reorganise the chambers in which Supreme Court justices are to serve; and restructure case allocation.²⁹ Ordinary court capture happened by subordinating all Presidents and Directors of courts, i.e. persons who decide on administrative

28 T.T. *Koncewicz*, ‘Of Institutions, Democracy, Constitutional Self-Defence’ (2016) 53 *Common Market Law Review* 1753.

29 In disregard of national and international criticism, on 8 December 2017, the laws on the Supreme Court and the Council were adopted by the Sejm, and on 15 December 2017 they were approved by the Senate.

and financial issues, to the Minister of Justice.³⁰ Even this short enumeration of government intrusions in to the powers of the courts which highlights only some of the milestones in judicial capture shows, in the words of the Venice Commission – the most authoritative body in Europe on the issues of the rule of law and judicial independence – that ‘the constitutionality of Polish laws can no longer be guaranteed.’³¹ Another example from the same jurisdiction is the dispute related to the felling of trees in the Białowieża Forest, a UNESCO World Heritage Site. In *Białowieża*, pending the judgment in the main proceedings, the Court of Justice ordered Poland to stop the forest management operations.³² The Polish response was an intensified logging of trees, and Poland even asked for removing the forest in question from the UNESCO World Heritage List.³³ Reference to national sovereignty often comes without any further justification. As the above controversy shows, by questioning the powers of the EU the Polish government does not aim to initiate a legitimate discussion about the delineation between national and EU powers. It much rather wishes ‘to break free from the supranational machinery of control and enforcement. Following the trajectory from the “exit in values” to the “exit in legality” reveals an inescapable logic. All institutions, domestic and supranational, are seen to be standing in the way, and their rejection is part of the comprehensive constitutional doctrine – the politics of resentment.’³⁴

30 Ustawa z dnia 23 marca 2017 r. o zmianie ustawy – Prawo o ustroju sądów powszechnych [Law amending the act on the organization of common courts system], OJ 2017, item 803, available at: <http://www.dziennikustaw.gov.pl/DU/2017/803> (in Polish).

31 European Commission, ‘Recommendation of 26.7.2017 regarding the rule of law in Poland’ [2017] C(2017)5320, para. 10.

32 Case C-441/17R *Commission v Poland* [2017] ECLI:EU:C:2017:877.

33 In Case C-441/17 *Commission v Poland* [2018] ECLI:EU:C:2018:255, of 18 April 2018, the Court ruled that by carrying on with the logging in the Białowieża Forest, Poland failed to fulfil its obligations under EU law.

34 T.T. *Koncewicz*, The *Białowieża* case. A Tragedy in Six Acts, *Verfassungsblog*, 17 May 2018, available at: <https://verfassungsblog.de/the-bialowieza-case-a-tragedy-in-six-acts/>.



b. Appeals to constitutional identity to undermine the institutions

The second and more sophisticated technique is the attempt to package departures from the rule of law in the name of constitutional identity.³⁵ Back in 2017, the Hungarian Parliament failed to acquire the necessary quorum to constitutionally entrench the concept of constitutional identity, but after the Fidesz and its tiny coalition partner the Christian Democratic People's Party acquired a two thirds i.e. constitution amending majority, a modification to Article R) of the Fundamental Law referring to 'Hungarian cultural and Christian identity' has again been tabled. But the amendment is somewhat redundant, since the already captured Hungarian Constitutional Court (hereinafter: HCC) came to rescue the government, and developed its own theory of constitutional identity after the failed attempt to embed the concept into the Fundamental Law. When delivering its abstract constitutional interpretation in relation to European Council decision 2015/1601 of 22 September 2015 establishing provisional measures benefitting Italy and Greece, to support them in better coping with an emergency situation characterised by a sudden inflow of nationals of third countries in those Member States, the HCC invoked constitutional identity.³⁶ However tautological this may sound, according to the HCC 'constitutional identity equals the constitutional (self-)identity of Hungary'.³⁷ Its content is to be determined by the HCC on a case-by-case basis based on the interpretation of the Fundamental Law, its purposes, the National Avowal contained therein, and the achievements of the Hungarian historical constitution. This definition is so vague that it can be considered as an attempt of granting a *carte blanche* type of derogation to the executive and the legislative from Hungary's obligations

35 G. Halmai, 'Abuse of Constitutional Identity. The Hungarian Constitutional Court on Interpretation of Article E) (2) of the Fundamental Law' (2018) 43 *Review of Central and East European Law* 1, 23–42.

36 22/2016 (XII. 5.) HCC decision.

37 Id.

under EU law.³⁸ Once Fidesz acquired a two thirds majority again in the 2018 parliamentary elections, it finally incorporated the constitutional identity to the Fundamental Law by way of the so-called seventh constitutional amendment.³⁹ Questioning claims of constitutional identity might well be criticised by those concerned as being ignorant or lacking respect, but European supervisory mechanisms should be well-suited and confident enough to tell the bluff apart from genuine claims of constitutional identity.⁴⁰

c. Invocation of national security to undermine the institutions

The third technique is reference to national security. Labelling virtually anyone still capable of formulating dissent as foreign agents is a technique long used, but in Hungary it was taken to a whole new level in 2017 with the adoption of Lex CEU and Lex NGO,⁴¹ targeting a private university and foreign-funded civil society organisations that are

38 For English language analyses see G. Halmai, *The Hungarian Constitutional Court and Constitutional Identity*, 10 January 2017, available at: <http://verfassungsblog.de/the-hungarian-constitutional-court-and-constitutional-identity/>.

39 See inserted Article R) Fundamental Law. The official government position is available at: <http://www.kormany.hu/en/ministry-of-justice/news/the-chief-goal-of-the-seventh-amendment-to-the-constitution-is-the-protection-of-national-sovereignty>.

40 R.D. Kelemen, 'The Dangers of Constitutional Pluralism', in M. Avbelj and G. Davies (eds), *Research Handbook on Legal Pluralism and EU Law* (Edward Elgar, 2018); V. Perju, 'On Uses and Misuses of Human Rights in European Constitutionalism', in S. Vöneky and G. L. Neuman (eds), *Human Rights, Democracy, and Legitimacy in a World in Disorder* (Cambridge University Press, 2018); G. Halmai, *Abuse of Constitutional Identity*, *op. cit.*

41 Act XXV of 2017 on the Modifications of Act CCIV of 20011 on National Higher Education and Act LXXVI of 2017 on the transparency of foreign-funded organisations. According to the law on NGOs, any association or foundation receiving foreign support above the amount of 23.200 EUR per year will have to notify the courts about this fact. EU money is exempted, but only if distributed by the Hungarian state through a budgetary institution. The respective organisation will be labelled as a so-called 'organization supported from abroad', which will need to be indicated at the entity's website, press releases, publications, etc. The law is disturbing in many aspects: it mimics Russian worst practices, which have been condemned by international organisations as violations of freedom of association and free speech.



independent of government funds and thereby fit to express government criticism. The explanations of the laws attempting to force CEU out of the country and to limit public space for NGOs respectively attempt to delegitimise these entities by claiming they pose national security threats to the country. The phenomenon of a shrinking space for civil society can be traced in both Hungary and Poland. The narrative surrounding NGOs got very hostile. We are witnessing orchestrated smear campaigns against civil society members that are criticising the government or simply not fitting its ideological agenda.⁴² In some cases, the smear campaigns are followed by investigations undertaken by law enforcement or tax authorities, which may create an even more hostile environment for NGOs.⁴³ Governments deprive civil society of effective functioning by limiting their access to funding, including state but also foreign funding, as the Hungarian law obliges NGOs to indicate that they are ‘organisations receiving support from abroad’, and to display this stigmatising label on all their materials published.⁴⁴ This is getting very close to demonising dissenters as terrorists and indeed the government claims that NGOs receiving foreign support – i.e. the most professional ones – are helping asylum seekers, and among them terrorists, enter the country. A modification of the Hungarian Criminal Code ensures that criminal sanctions can be imposed on NGOs and individuals that provide legal or other types of aid to migrants arriving at to the Hungarian borders.⁴⁵

42 Associated Press in Warsaw, Police Raid Offices of Women’s Groups in Poland After Protests, 5 October 2017, available at: <https://www.theguardian.com/world/2017/oct/05/police-raid-offices-of-womens-groups-in-poland>.

43 Hungarian Helsinki Committee et al., ‘Timeline of Governmental Attacks Against Hungarian NGO Sphere’, 7 April 2017, available at: https://tasz.hu/files/tasz/imce/timeline_of_gov_attacks_against_hu_ngos_07042017.pdf.

44 For more details see M. Szuleka, ‘First Victims or Last Guardians? The Consequences of Rule of Law Backsliding for NGOs: Case Studies of Hungary and Poland’ (2018) CEPS Paper in Liberty and Security No. 2018-06.

45 Article 353/ of Act C of 2012 on the Hungarian Criminal Code. For the official government position see: Website of the Hungarian Government, Strong Action is Required Against the Organisers of Migration, 24 May 2018, available at: <http://www.kormany.hu/en/news/strong-action-is-required-against-the-organisers-of-migration>.

National security claims might not only fit into the ruling party’s nationalistic, exclusionary rhetoric and scapegoating, but it can serve (i.e. be abused) as the basis for lobbying for exemptions from European standards. As Uitz points out, reference to national security, which is the sole responsibility of the Member States according to Article 4(2) TEU ‘can be a much stronger centrifugal force in Europe than cries of constitutional identity could ever be. [...] Therefore, it is all the more important that European constitutional and political actors realize: The carefully crafted new Hungarian laws use the cloak of national security to stab the rule of law, as understood in Europe, in the heart.’⁴⁶

d. Disinformation campaigns at the service of the backsliding regimes

The fourth technique the autocrats use to undermine the rule of law is disinformation or misinterpretation of the laws and policies of the government. Again Hungary took the lead in 2011 when they sent a wrong translation to Brussels of their controversial new Constitution, the Fundamental Law, which looked more in conformity with EU laws and values than the actual text.⁴⁷ From a more substantive view, the Polish⁴⁸

organisers-of-migration.

46 R. Uitz, The Return of the Sovereign: A Look at the Rule of Law in Hungary – and in Europe, 5 April 2017, available at: <http://verfassungsblog.de/the-return-of-the-sovereign-a-look-at-the-rule-of-law-in-hungary-and-in-europe/>.

47 For a detailed enumeration of the discrepancies see a joint document by the Hungarian Helsinki Committee, the Eötvös Károly Policy Institute, and the Hungarian Civil Liberties Union, Full List of Mistakes and Omissions of the English Version of the Hungarian Draft-Constitution, available at: https://tasz.hu/files/tasz/imce/list_of_all_the_omissions_and_mistranslations.pdf. This technique is also employed the other way round: when the Venice Commission delivered its highly critical opinion of the Fundamental Law, it was interpreted by the Government, as if the Hungarian constitution was being praised. See, The Hungarian Helsinki Committee, NGOs Analyze Government Reactions Concerning the Venice Commission’s Opinion on the New Constitution of Hungary, 18 July 2011, available at: <https://www.helsinki.hu/en/ngos-analyze-government-reactions-concerning-the-venice-commissions-opinion-on-the-new-constitution-of-hungary/>.

48 See: Chancellery of the Prime Minister, White Paper on the Reform of the Polish Judiciary, 7 March 2018, available at:



and Hungarian⁴⁹ responses to the Commission⁵⁰ and the European Parliament⁵¹ invitation for a Council Decision on the determination of a clear risk of a serious breach by Poland and Hungary of values enshrined in Article 2 TEU also contain factual mistakes and deliberate deceit.⁵² Up-to-date information following the fast legislative changes that sometimes happen literally overnight and solid legal research may deconstruct the fake information these texts contain and challenge the contention that these political forces engage in a dialogue, when all they do is produce documents or make some cosmetic changes in order to gain time and press on with their illiberal agenda. Such ‘anti-Member States’ that abuse the law and Constitution to create autocracies take full part in governing the Union, benefit from unprecedented direct financial support, and abuse the international prestige which is associated with the membership of this organisation.⁵³

https://www.premier.gov.pl/files/files/white_paper_en_full.pdf.

49 See, as made public by MEP Ujhelyi, ‘Information Sheet of the Hungarian Government on the Issues Raised by the Draft Report of Judith Sargentini on ‘A Proposal Calling on the Council to Determine, Pursuant to Article 7(1) of the Treaty on European Union, the Existence of a Clear Risk of a Serious Breach by Hungary of the Values on which the Union is Founded’, 2018, available at <http://ujhelyi.eu/wp-content/uploads/2018/05/Information-sheet-of-the-Hungarian-Government-on-the-issues-raised-by-th...pdf>.”

50 European Commission, ‘Proposal for a Council Decision on the Determination of a Clear Risk of a Serious Breach by the Republic of Poland of the Rule of Law’ [2017] COM(2017) 835 final.

51 Committee on Civil Liberties, Justice and Home Affairs, ‘Draft report on a Proposal Calling on the Council to Determine, Pursuant to Article 7(1) of the Treaty on European Union, the Existence of a Clear Risk of a Serious Breach by Hungary of the Values on which the Union is Founded [2017] (2017/2131(INL)), Rapporteur: Judith Sargentini).

52 For an assessment of the Polish White Paper by the Polish Judges Association ‘Iustitia’, together with a team of experts, see, Response to the White Paper Compendium on the Reforms of the Polish Justice System, Presented by the Government of the Republic of Poland to the European Commission, 2018, available at: <http://www.statewatch.org/news/2018/mar/pl-judges-association-response-judiciary-reform-3-18.pdf>. For an assessment of the Hungarian information sheet see the lengthy criticism by R. Labanino and Z. Nagy, The Social and Political Situation in Hungary, 17 May 2018 available at: https://drive.google.com/file/d/1OcILFUt9s1-FLMRo_qF4MbywRxAAbt5/view.

53 C. Closa, ‘Reinforcing EU Monitoring of the Rule of Law’, in C. Closa and D. Kochenov (eds), Reinforcing the Rule of Law

Poland will have received 86 billion euros under the current budgetary framework by 2020 and Hungary 24 billion, which is an unprecedented transfer of resources from democracies to illiberal regimes, which unquestionably contributes to the entrenchment of the regimes in power.

The international reactions to the current situation underline one thing: the Union is either content with the current situation or entirely powerless. The former is hardly convincing given both the size of direct economic transfers to Hungary and Poland as well as the dangers that these Member States bring into the Union, as fully expressed in the numerous public statements of the members of the College of Commissioners and heard during European Parliament debates. If a Member State breaches the EU’s fundamental values, this is likely to undermine the very foundations of the Union and the trust between its Member States, regardless of the field in which the breach occurs.⁵⁴ Beyond harming the nationals of a Member State, Union citizens residing in that state will also be detrimentally affected. Moreover, the lack of limitations on ‘illiberal practices’⁵⁵ may encourage other Member States’ governments to follow suit and subject other countries’ citizens to an abuse of their rights. In other words, violations of the rule of law may, if there are no consequences, become contagious.⁵⁶ Finally, all EU citizens will to some extent suffer due to the given state’s participation in the EU’s decision-making mechanisms. At the very least, the legitimacy of the Union’s decision-making process will be jeopardised. Therefore, Oversight in the European Union (Cambridge University Press, 2016), 13.

54 European Commission Communication, ‘On Article 7 of the Treaty on European Union – Respect for and Promotion of the Values on which the Union is Based’ [2003] COM(2003)606 final, p. 5.

55 The term ‘illiberal democracy’ was coined long ago, but it gained practical relevance in the EU after Hungarian Prime Minister praised the concept in his speech given in Tusnádfürdő on 25 July 2014. Cf. Frans Timmermans’ speech to the European Parliament: ‘There is no such thing as an illiberal democracy’. F. Timmermans, EU Framework for Democracy, Rule of Law and Fundamental Rights, Strasbourg, Speech/15/4402, 12 February 2015, available at: http://europa.eu/rapid/press-release_SPEECH-15-4402_en.htm.

56 s.a., Politico, Viktor Orbán: The Conservative Subversive, Politico 28, 2015, 12–15, 15.



the latter explanation, i.e. the EU's powerlessness, seems to be the core of the matter. Such powerlessness is a consequence of a combination of the real difficulties, conceptual as well as practical, related to the enforcement of EU values,⁵⁷ but also, equally importantly, to the systematic misrepresentation of the Union's capacity by the Member States and the institutions unwilling to act, as a clear consensus on forceful dealing with the rule of law backsliding is apparently lacking. The claims that little to nothing can be done under the current legal framework – which are heard with remarkable regularity, confirming the second supposition above – are entirely baseless, as Hillion, Besselink, and other scholars have consistently pointed out.⁵⁸ In making such claims, the Commission and other institutions point to the fact that this powerlessness is not caused by an absolute lack of Treaty instruments that would warrant intervention. Rather, the instruments that are available are apparently considered *too strong*, or, to put it differently, too toxic, to be used. Among possible instruments, the EU's 'nuclear' option stands out, we are told: Article 7 TEU could not be activated for a long time in fear that the fallout would have been too terrible and because the hurdles for starting the procedure were allegedly too insurmountable. Such justifications for inaction or engaging in substitute activity, like the invention of the new soft-law procedures, are difficult to reconcile with the radical deterioration of constitutionalism on the ground in the backsliding states.⁵⁹ Now that the Article 7(1) TEU

57 Cf. G. Itzcovich, 'On the Legal Enforcement of Values. The Importance of the Institutional Context', in A. Jakab and D. Kochenov (eds), *The Enforcement of EU Law and Values*, *op. cit.*; M. Avbelj, 'Pluralism and Systemic Defiance in the EU', in A. Jakab and D. Kochenov (eds), *The Enforcement of EU Law and Values*, *op. cit.*

58 C. Hillion, 'Overseeing the Rule of Law in the EU: Legal Mandate and Means', in C. Closa and D. Kochenov (eds), *Reinforcing the Rule of Law Oversight*, *op. cit.*; L. Besselink, 'The Bite, the Bark and the Howl: Article 7 TEU and the Rule of Law Initiatives', in A. Jakab and D. Kochenov (eds), *The Enforcement of EU Law and Values*, *op. cit.*

59 D. Kochenov, 'Busting the Myths Nuclear: A Commentary on Article 7 TEU' (2017) EUI Working Paper LAW 2017/10.

procedure has been triggered against Poland,⁶⁰ and there are serious attempts to have it initiated against Hungary,⁶¹ the opposite preoccupation comes to the fore, namely the inefficiency of the tool,⁶² which leads to the reinvention of other tools in place. For instance, Article 258 TFEU or 259 TFEU has been given a broader appeal in the backsliding context,⁶³ as evidenced by the infringement proceedings pursued against Poland in the context of its destruction of the Supreme Court, which build on the newly-found *effet utile* and EU law scope-shaping significance of Article 19(1) TEU (as well as Article 47 CFR, read in conjunction with the former),⁶⁴ in opposition to the Pyrrhic victories in the otherwise similar Hungarian context.⁶⁵ Scholars expected this development,⁶⁶ which infuses Article 258 TFEU with clear new potential, all the necessary caution in interpreting it too broadly notwithstanding. Some, like Vice President Timmermans, compare the present situation to that of the Austrian crisis at the turn of the millennium and fear that

60 European Commission, 'Reasoned Proposal in Accordance with Article 7(1) of the Treaty on European Union Regarding the Rule of Law in Poland – Proposal for a Council Decision on the Determination of a Clear Risk of a Serious Breach by the Republic of Poland of the Rule of Law' [2017] (COM(2017) 835 final).

61 Committee on Civil Liberties, Justice and Home Affairs, (2017/2131 (INL)), *op. cit.*

62 As a consequence, the institutions see the solution in the power of the purse to provide disincentives for rule of law violations. See European Commission, 'Proposal for a Regulation of the European Parliament and of the Council on the Protection of the Union's Budget in Case of Generalised Deficiencies as Regards the Rule of Law in the Member States' [2018] COM(2018)324 final.

63 K. L. Scheppele, 'The Case for Systemic Infringement Actions', in Closa and Kochenov (eds), *Reinforcing Rule of Law*, *op. cit.*; D. Kochenov, 'Biting Intergovernmentalism: The Case for the Reinvention of Article 259 TFEU to Make it a Viable Rule of Law Enforcement Tool' (2015) 7 *The Hague Journal of the Rule of Law*, 153.

64 Case C-64/16 *Associação sindical dos juizes portugueses* [2018] ECLI:EU:C:2018:117; M. Krajewski, '*Associação sindical dos juizes portugueses*: The Court of Justice and Athena's Dilemma' (2018) 3 *European Papers* 295.

65 Case C-286/12 *Commission v Hungary* [2012] ECLI:EU:C:2012:687 (compulsory retirement of judges). U. Belavusau, 'Case C-286/12 *Commission v. Hungary*' (2013) 50 *Common Market Law Review* 1145.

66 C. Hillion, 'Overseeing the Rule of Law in the EU' *op. cit.*



triggering Article 7 would similarly backfire.⁶⁷ The parallel drawn between the Austrian and current situations is misleading, however, for numerous reasons. The most obvious point is that the institutions could not have made use of the then non-existent preventive arm of Article 7 – currently Article 7(1) TEU – at the time the Freiheitliche Partei Österreichs (FPÖ) entered government, and there was no reason to make use of the provision as it then stood, i.e. to invoke the sanctioning arm.⁶⁸ Given the lack of a legally predefined preventive procedure, a political action was opted for that need not – but, very importantly, *could* – be taken vis-à-vis Hungary or Poland in light of Article 7. The political quarantine vis-à-vis Austria started right after the formation of the government, before those in power could have eroded European values, and once the situation was thoroughly investigated, the Three Wise Men commissioned with this task did not find a violation of EU values, and accordingly suggested lifting the political sanctions.⁶⁹ EU Member States' hostile intervention against Austria was not backed by either a proper legal basis or political necessity: an illegal ad hoc action triggered by a democratic election result. The current Hungarian and Polish situations cannot be compared to the former Austrian one, since the former are long in the state of constitutional capture, which is well documented both by European institutions and in the academic literature.

67 F. Timmermans, 'The European Union and the Rule of Law – Keynote Speech at Conference on the Rule of Law, Tilburg University, 31 August 2015', available at: https://ec.europa.eu/commission/commissioners/2014-2019/timmermans/announcements/european-union-and-rule-law-keynote-speech-conference-rule-law-tilburg-university-31-august-2015_en.

68 K. Lachmayer, 'Questioning the Basic Values – Austria and Jörg Haider', in Jakab and Kochenov (eds), *The Enforcement of EU Law and Values*, *op. cit.*

69 M. Ahtisaari, J. Frowein and M. Oreja, 'Report on the Austrian Government's Commitment to the Common European Values, in Particular Concerning the Rights of Minorities, Refugees and Immigrants, and the Evolution of the Political Nature of the FPÖ' (2001) 40 *International Legal Materials: Current Documents* 1, 102–123, (The Wise Men Report).

2. The place of values in the system of EU law

Article 2 TEU, which makes reference to democracy, the rule of law, and a series of other (interrelated) values of the Union, is somewhat different in nature from the rest of the *acquis*. The same unquestionably applies to the violations of values: Article 2 TEU violations are not the same as ordinary *acquis* violations. Such differences are particularly acute in the context of one specific type of chronically non-compliant states, where, like in Hungary, non-compliance is *ideological* and cannot be explained by reference to the lacking capacity, 'simple' corruption, and outright sloppiness⁷⁰ – arguments one might deploy in the context of some South-East European countries.⁷¹ Where chronic non-compliance is ideological, Article 260 TFEU becomes the *crux* of the whole story, as simple restatements of the breach under Article 258 TFEU (or Article 259 TFEU, for that matter)⁷² will presumably not be enough,⁷³ even if the recent innovations mentioned in the previous section would probably allow for hope even in the context of the most cautious reading of the potential of these provisions.⁷⁴ The question of the effectiveness of the ideological choice favouring non-compliance made by the relevant Member States will remain open for the years to come, as

70 R. Uitz, 'Can You Tell When an Illiberal Democracy is in the Making? An Appeal to Comparative Constitutional Scholarship from Hungary' (2015) 13 *International Journal of Constitutional Law* 279.

71 E.g. M. Ioannidis, 'The Greek Case', in Jakab and Kochenov (eds), *The Enforcement of EU Law*, *op. cit.*

72 See e.g., D. Kochenov, 'Biting Intergovernmentalism: The Case for the Reinvention of Article 259 TFEU to Make it a Viable Rule of Law Enforcement Tool' (2015) 7 *The Hague Journal of the Rule of Law* 153.

73 On the main deficiencies of the system, see, most importantly, B. Jack, 'Article 260(2) TFEU: An Effective Judicial Procedure for the Enforcement of Judgments?' (2013) 19 *European Law Journal*, 19 (2013) 420; P. Wennerås, 'Sanctions Against Member States under Article 260 TFEU: Alive, but not Kicking?' (2012) 49 *Common Market Law Review* 145; P. Wennerås, 'Making Effective Use of Article 260 TFEU', in Jakab and Kochenov (eds), *The Enforcement of EU Law and Values*, *op. cit.*

74 E.g. L.W. Gormley, 'Infringement Proceedings', in A. Jakab and D. Kochenov (eds), *The Enforcement of EU Law and Values* (Oxford University Press, 2017).



the Court in consort with other institutions is in search of a more effective means of deploying the current instruments in the context of rule of law backsliding.

While the literature has focused on restating the EU's presumed rule of law nature,⁷⁵ as well as the issue of the enforcement of EU rule of law and other values in the defiant Member States,⁷⁶ it is crucial to realise that Europe's structural constitutional vulnerability stretches far beyond enforcement issues per se. Instead, it is rooted in the discrepancies between the EU's proclaimed constitutional structure as we find it in the Treaties and the reality marking the development of EU integration, as outlined above, fostering doubt as to whether the Union is actually abiding by the rule of law.⁷⁷ In the light of this structural deficiency, one can argue that the much-analysed systemic deficiency⁷⁸ in the area of values and especially the rule of law was bound to emerge sooner or later, whether in Hungary, Poland or elsewhere, as the Union matured.⁷⁹ Dealing with it will necessarily require moving beyond preoccupation with enforcement, which has engulfed all the recent literature on the subject – quite understandably,

75 M. L. Fernández Esteban, *The Rule of Law in the European Constitution* (The Hague: Kluwer Law International, 1999); L. Pech, 'The Rule of Law as a Constitutional Principle'; W. Schröder (ed), *Strengthening the Rule of Law in Europe: From a Common Concept to Mechanisms of Implementation* (Oxford: Hart Publishing, 2016).

76 E.g., the contributions in C. Closa and D. Kochenov (eds), *Reinforcing Rule of Law*, *op. cit.*; A. Jakab and D. Kochenov (eds), *The Enforcement of EU Law and Values*, *op. cit.*; A. von Bogdandy and P. Sonnevend (eds), *Constitutional Crisis in the European Constitutional Area* (C.H. Beck, Hart, Nomos, 2015); J.-W. Müller, 'Safeguarding Democracy inside the EU: Brussels and the Future of Liberal Order' (2013) *Transatlantic Academy Working Paper No. 3*.

77 G. Palombella, 'The Rule of Law and its Core', in G. Palombella and N. Walker (eds), *Relocating the Rule of Law* (Oxford: Hart Publishing, 2009); G. Palombella, 'Beyond Legality – Before Democracy: Rule of Law Caveats in a Two-Level System', in Closa and Kochenov (eds), *Reinforcing Rule of Law*, *op. cit.*; D. Kochenov, 'EU Law Without the Rule of Law. Is the Veneration of Autonomy Worth It?' (2015) 34 *Yearbook of European Law*.

78 A. von Bogdandy and M. Ioannidis, 'Systemic Deficiency in the Rule of Law: What it is, What Has Been Done, What Can Be Done' (2014) 51 *Common Market Law Review* 59.

79 See, for a broad discussion, D. Kochenov, G. de Búrca and A. Williams (eds), *Europe's Justice Deficit?* (Oxford: Hart Publishing, 2015).

given the astonishing speed of the constitutional deterioration in both Hungary and Poland – and reforming the integration project at the core,⁸⁰ ensuring that democracy and the rule of law are endowed with a more important role to play in the context of the supranational law of the Union.

In this general context where the *acquis* and values are not synonymous, the application of the Copenhagen criteria in the context of the recent enlargement rounds particularly teaches a lesson of caution: the Commission has emerged as an institution that, when given all the responsibility regarding the preparedness of the new Member States for accession (values compliance outside the scope of the *acquis* included) failed the exercise.⁸¹ Here, to the void of substance the lack of the capability to generate such a substance was also added, the lack of virtually any limitations emerging from the scope of the law notwithstanding. Besides illustrating the EU's built-in limitations with regard to its ability to generate the substance of Article 2 TEU rules, the pre-accession context also sounds the alarm bell on institutional capacity: the Commission is probably not the best actor to entrust with the internal monitoring of Member States' compliance with Article 2 TEU.

3. How to approach the rule of law in the current context?

The essence of the rule of law, distinguishing it from legality, democracy, and other wonderful things, is that the law is constantly in tension with and controlled by law – how the EU is falling short of such institutional ideal will be demonstrated. Palombella's rule of law, which is *dialogical* in essence since it presupposes and constantly relies upon a constant taming of law with law, 'amounts

80 For a much more critical restatement of this particular argument, see, D. Kochenov, 'Is There EU Rule of Law?', in C. Closa and D. Kochenov (eds), *Reinforcing Rule of Law*, *op. cit.*; J.H.H. Weiler, 'Epilogue: Living in a Glass House: Europe, Democracy and the Rule of Law', in C. Closa and D. Kochenov (eds), *Reinforcing Rule of Law*, *op. cit.*

81 D. Kochenov, *EU Enlargement and the Failure of Conditionality*, *op. cit.*



to preventing one dominant source of law and its unconstrained whim, from absorbing all the available normativity.⁸² On this count the rule of law implies that the law – *gubernaculum* – should always be controlled by law – *jurisdictio* – lying outwith the sovereign’s reach.⁸³ The tension is necessarily dialogical in nature since the absolute domination of either *gubernaculum* or *jurisdictio* necessarily destroys the core of the rule of law, which is the tension between the two. It goes without saying that making use of such a definition should necessarily be qualified by the wise words of Krygier: ‘whatever one might propose as the *echt* meaning of the rule of law is precisely that: a proposal.’⁸⁴ The rule of law is a classic example of an essentially contested concept:⁸⁵ the EU is seemingly as hopeless at defining what it means as its Member States and the broad academic doctrine.⁸⁶ The debate is constantly ongoing,⁸⁷ but

82 G. Palombella, ‘The Principled, and Winding, Road to Al-Dulimi. Interpreting the Interpreters’ (2014) 1 Questions of International Law 17, 18. Similarly, see, D. Georgiev, ‘Politics of Rule of Law: Deconstruction and Legitimacy in International Law’ (1993) 4 EJIL 1, 4.

83 For an analysis of this perspective, see, id.; G. Palombella, *È possibile la legalità globale?* (Bologna: Il Mulino, 2012); G. Palombella, ‘The Rule of Law and its Core’, in G. Palombella and N. Walker (eds), *Relocating the Rule of Law* (Oxford: Hart Publishing, 2009) 17. See also, G. Palombella, ‘Beyond Legality – Before Democracy’, *op. cit.*

84 M. Krygier, ‘Inside the Rule of Law’ (2014) 3 Rivista di filosofia del diritto 77, at 78.

85 For a brilliant outline of the history of contestation, see, J. Waldron, ‘Is the Rule of Law an Essentially Contested Concept (in Florida)?’ (2002) 21 Law and Philosophy 127.

86 For a multi-disciplinary overview see e.g., G.K. Hadfield and B. R. Weingast, ‘Microfoundations of the Rule of Law’ (2014) 17 Annual Review of Political Science 21; L. Pech, ‘The Rule of Law as a Constitutional Principle of the European Union’ (2009) Jean Monnet Working Paper No. 04/09 (NYU Law School), and the literature cited therein. See also L. Pech, ‘Promoting the Rule of Law Abroad’, *op. cit.*, on the ‘holistic understanding’ of the rule of law. For a special ‘Eastern-European’ perspective, which is particularly important in the context of the on-going developments in the EU, see, J. Přibáň, ‘From “Which Rule of Law?” to “The Rule of Which Law?”: Post-Communist Experiences of European Legal Integration’ (2009) 1 The Hague Journal on the Rule of Law 337.

87 For key contributions, see, W. Schröder (2015), *op. cit.*; L. Morlino and G. Palombella (eds), *Rule of Law and Democracy* (Boston: Brill, 2010); G. Palombella and N. Walker (eds), *Relocating the Rule of Law* (Oxford: Hart Publishing, 2009).

the last available definition,⁸⁸ inspired by the Venice Commission’s guidelines,⁸⁹ could provide a solid illustration of the current state of the definitional debate. Whether one agrees with the Commission’s approach or not, it seems to be beyond any doubt what the rule of law is not. It is not democracy, the protection of human rights, nor similar wonderful things, each of them definitely boasting its own sound claim to existence as a notion independent from the rule of law.⁹⁰ And it is not mere legality, which is adherence to the law.

Once the rule of law and legality are distinguished, the basic meaning of the rule of law comes down to the idea of the subordination of the law to another kind of law, which is not up to the sovereign to change at will.⁹¹ This idea, traceable back to mediaeval England,⁹² is described with recourse to two key notions in order to reflect the fundamental duality of the law’s fabric, indispensable for the operation of the rule of law as a principle of law:⁹³ *jurisdictio* – the law untouchable for the day-to-day rules running the legal system and removed from the ambit of the purview of the sovereign – and *gubernaculum*, which is the use of the general rule-making power.⁹⁴ As Krygier put it in his

88 Commission, ‘A New EU Framework to Strengthen the Rule of Law’ COM (2014) 158.

89 Venice Commission Document CDL-AD(2016)007-e ‘Rule of Law Checklist’ (adopted in 106th Plenary Session, Venice, 11–12 March 2016), as well as in the earlier version thereof: Venice Commission Document CDL-AD(2011)003rev-e ‘Report on the Rule of Law’ (adopted in 86th Plenary Session, Venice, 25–26 March 2011).

90 One should not forget the wise words of Joseph Raz: ‘We have no need to be converted into the rule of law just in order to believe ... that good should triumph’: J. Raz, ‘The Rule of Law and Its Virtue’, in J. Raz, *The Authority of Law: Essays on Law and Morality* (Oxford: Clarendon Press, 1979) 210.

91 G. Palombella (2015) ‘Beyond Legality – Before Democracy’, *op. cit.*

92 J.P. Reid, *Rule of Law: The Jurisprudence of Liberty in the Seventeenth and the Eighteenth Centuries* (DeKalb: Northern Illinois University Press, 2004).

93 G. Palombella (2012) *Legalità globale?*, *op. cit.*

94 For a detailed exposé, see G. Palombella (2015) ‘Beyond Legality – Before Democracy’, *op. cit.* See also G. Palombella, ‘The Rule of Law and its Core’, in G. Palombella and N. Walker (eds), *Relocating the Rule of Law* (Oxford: Hart Publishing, 2009) 17, at 30, emphasising that this duality should not be disturbed by democratic outcomes and ethical choices.



commentary on Palombella's work, 'the king was subject to the law that he had not made, indeed that made him king. For the king – for anyone – to ignore or override that law was to violate the rule of law'.⁹⁵ Even in the contemporary age of popular sovereignty, this statement is obviously true, since democracy should not be capable of annihilating the law. Indeed, this is one of the key points made by the defenders of judicial review.⁹⁶

Unlike despotic or totalitarian regimes, where the ruler is free to do anything he pleases, or problematic EU Member States such as Hungary, where the constitution is a political tool, or Poland, where the executive ignores the constitution to undermine the separation of powers, or pre-constitutional democracies, which equate the law with legislation,⁹⁷ the majority of constitutional democracies in the world today recognise the distinction between *jurisdictio* and *gubernaculum*, thus achieving a sound approximation of Palombella's rule of law as an institutional ideal, in terms of maintaining and fostering the constant tension between these two facets of the law. The authority should be itself bound by clear legal norms which are outside of its control. Indeed, this is the key feature of post-war constitutionalism. The *jurisdictio-gubernaculum* distinction, lying at the core of what the rule of law is about, can be policed either by courts or even by the structure of the constitution itself through removing certain domains from *gubernaculum*'s scope.⁹⁸ The ideology of human rights is of huge significance in this context.⁹⁹ Furthermore, the existence of

international law and,¹⁰⁰ of course, supranational legal orders,¹⁰¹ definitely contributes to the policing of the aforementioned duality.¹⁰² The policing of the *jurisdictio-gubernaculum* divide is thus possible both through the means internal and external to the given legal system.

4. Supranational law and the instrumentalisation of values

From Lord Mackenzie Stuart¹⁰³ to *Les Verts*, which characterises the Treaties as 'a constitutional charter based on the rule of law',¹⁰⁴ what we have been hearing about on the subject of the rule of law in the EU actually amounts to compliance with own law.¹⁰⁵ This is an established understanding of legality.¹⁰⁶ Legality is not enough to ensure that the

100 R. Dworkin, 'A New Philosophy of International Law' (2013) 41 *Philosophy and Public Affairs* 2.

101 For an argument that numerous Central and Eastern European states were actually motivated by the desire for external legal checks on their laws – a *jurisdictio* – when joining the Council of Europe, see, W. Sadurski, *Constitutionalism and the Enlargement of Europe* (Oxford: Oxford University Press, 2012).

102 Palombella (2012) *Legalità globale?*, *op. cit.*, ch. 2.

103 Lord Mackenzie Stuart, *The European Communities and the Rule of Law* (London: Stevens and Sons, 1977). See also G. Bebr, *Rule of Law within the European Communities* (Brussels: Institut d'Etudes Européennes de l'Université Libre de Bruxelles, 1965).

104 Case 294/83 *Partie Ecologiste 'Les Verts' v Parliament* [1986] ECR 1339, 23. See also Opinion 1/91 EEA Agreement [1991] ECR 6097.

105 M.L. Fernandez Esteban, *The Rule of Law in the European Constitution* (The Hague: Kluwer Law International, 1999); also, U. Everling, 'The European Union as a Federal Association of States and Citizens', in A. von Bogdandy and J. Bast (eds), *Principles of European Constitutional Law* (2nd ed.) (Oxford/Munich: Hart Publishing/CH Beck, 2010) 701; M. Zuleeg, 'The Advantages of the European Constitution', in A. von Bogdandy and J. Bast (eds), *Principles of European Constitutional Law* (2nd edn) (Oxford/Munich: Hart Publishing/CH Beck, 2010) 763, 772–779. EU institutions' own accounts of what is meant by the rule of law beyond the tautology of 'being bound by law' present a most diverse account, which found an expression in the EU's external action: L. Pech, 'Promoting the Rule of Law Abroad', in D. Kochenov and F. Amtenbrink (eds), *The European Union's Shaping of the International Legal Order* (Cambridge: Cambridge University Press, 2013) 108.

106 E.g. the contributions in L.F.M. Besselink, F. Pennings and S. Prechal (eds), *The Eclipse of Legality in the European Union* (The Hague: Kluwer, 2010).

95 M. Krygier, 'Inside the Rule of Law' (2014) 3 *Rivista di filosofia del diritto* 77, 84.

96 Cf. M. Kumm, 'The Idea of Socratic Contestation', *op. cit.*

97 In a pre-constitutional state, the *Rechtsstaat* shapes a reality, in the words of Gianfranco Poggi, where 'there is a relation of near-identity between the state and its law': G. Poggi, *The Development of the Modern State: A Sociological Introduction* (Stanford: Stanford University Press, 1978) 238 (as cited in M. Krygier, 'Inside the Rule of Law', *op. cit.*, at 84).

98 Y. Roznai, *Unconstitutional Constitutional Amendments: The Limits of Amendment Powers*, (Oxford: Oxford University Press, 2017) 179–196.

99 G. Frankenberg, 'Human Rights and the Belief in a Just World' (2013) 12 *I-CON* 35.



EU behaves like – and is – a true rule of law-based constitutional system. Should one submit that equating the rule of law and legality is a legitimate move, then, as Palombella correctly notes, our thinking ‘shifts the issue from the rule of law to the [...] respect for the laws of a legal system.’¹⁰⁷ Yet ‘the rule of law cannot mean just the self-referentiality of a legal order’,¹⁰⁸ which is the reason why contemporary constitutionalism is usually understood as implying, among other things, additional restraints through law:¹⁰⁹ restraints which are, crucially, not simply democratic or political.¹¹⁰

By and large, the rearticulation of the Union from an ordinary treaty organisation into a constitutional system was not accompanied by a sufficient upgrade of the role played by the core values it is said to build upon.¹¹¹ These values do not inform the day-to-day functioning of EU law,

neither internally¹¹² nor externally.¹¹³ Let us not forget that the promotion of its values, including the rule of law, is an obligation lying on the Union in accordance with the Treaties.¹¹⁴ Indeed, unless we take the Commission’s scribbles for granted, the EU’s steering of countless issues directly related to the values at hand is more problematic than not. The EU is not about the values Article 2 TEU preaches, which any student of EU law and politics will readily confirm.¹¹⁵ The EU’s very self-definition is not about human rights, the rule of law or democracy.¹¹⁶ EU law functions differently: there is a whole other set of principles that actually matter and are held dear: supremacy, direct effect, and autonomy are the key trio coming to mind.¹¹⁷ Operating together, they can set aside both

107 G. Palombella (2015) ‘Beyond Legality – Before Democracy’, *op. cit.*

108 Id. Compare with M. Krygier: ‘To try to capture this elusive phenomenon by focusing on characteristics of laws and legal institutions is, I believe, to start in the wrong place and move in the wrong direction’: M. Krygier, ‘The Rule of Law. An Abuser’s Guide’, in A. Sajó (ed), *The Dark Side of Fundamental Rights* (Utrecht: Eleven, 2006) 129. See also B. Tamanaha, *Law and Means to an End* (Cambridge: Cambridge University Press, 2006).

109 For a clear discussion of the relationship between constitutionalism and the rule of law, see, M. Krygier, ‘Tempering Power: Realist-idealism, Constitutionalism, and the Rule of Law’, in M. Adams et al. (eds), *Constitutionalism and the Rule of Law: Bridging Idealism and Realism* (Cambridge: Cambridge University Press, 2017) 34–59.

110 Naturally, this is not to say that we should do away with the political restraints. Indeed, the virtually complete depoliticisation of the law has been one of the key criticisms of the EU legal order: J. Přibáň, ‘The Evolving Idea of Political Justice in the EU: From Substantive Deficits to the Systemic Contingency of European Society’, in D. Kochenov, G. de Búrca and A. Williams (eds), *Europe’s Justice Deficit?* (Oxford: Hart Publishing, 2015) 193 and M.A. Wilkinson, ‘Politicising Europe’s Justice Deficit: Some Preliminaries’, in D. Kochenov, G. de Búrca and A. Williams (eds), *Europe’s Justice Deficit?* *op. cit.*

111 A. Williams, ‘Taking Values Seriously: Towards a Philosophy of EU Law’ (2009) 29 *Oxford Journal of Legal Studies* 549.

112 J.H.H. Weiler, ‘Europa: “Nous coalisons des Etats nous n’unissons pas des hommes”’, in M. Cartabia and A. Simoncini (eds), *La sostenibilità della democrazia nel XXI secolo* (Bologna: Il Mulino, 2009) 51; A. Williams, *The Ethos of Europe: Values, Law, and Justice in the EU* (Cambridge: Cambridge University Press, 2012).

113 For critical engagements, see, M. Cremona, ‘Values in EU Foreign Policy’, in M. Evans and P. Koutrakos (eds), *Beyond the Established Legal Orders: Policy Interconnections between the EU and the Rest of the World* (Oxford: Hart Publishing, 2011), 275; P. Leino and R. Petrov, ‘Between “Common Values” and Competing Universals’ (2009) 15 *European Law Journal* 654.

114 Art. 3(5) TEU.

115 The crucial argument in this vein has been made, most powerfully, by Andrew Williams: A. Williams, ‘Taking Values Seriously’, *op. cit.* See, also, J.H.H. Weiler’s unpublished paper ‘Europe Against Itself: On the Distinction between Values and Virtues (and Vices) in the Construction and Development of European Integration’ (2010) *Integration Paper for the International Legal Theory Colloquium*.

116 See, most recently, Opinion 2/13 (ECHR Accession II) [2014] ECLI:EU:C:2014:2454, para. 170, which states that the fundamental right in the EU are ‘interpret[ed] [...] within the framework of the structure and objectives of the EU’.

117 Procedural principles cannot possibly replace the lack of substantive attention to the core values encompassed by Art. 2 TEU, including the Rule of Law, threatening to cause justice deficit of the Union: D. Kochenov, G. de Búrca and A. Williams (eds), *Europe’s Justice Deficit?* (Oxford: Hart Publishing, 2015). Cf., D. Halberstam, ‘“It’s the Autonomy, Stupid!” A Modest Defence of Opinion 2/13 on EU Accession to the ECHR, and the Way Forward’ (2015) 16 *German Law Journal* 105; and P. Eeckhout, ‘Opinion 2/13 on EU Accession to the ECHR and Judicial Dialogue – Autonomy or Autarky?’, *Fordham International Law Journal*, 38 (2015), 955; D. Kochenov, ‘Citizenship without Respect’ (2010) *Jean Monnet Working Paper* (NYU Law School) No. 08/10.



national constitutional¹¹⁸ and international human rights,¹¹⁹ as well as UN law constraints.¹²⁰ In the current crisis-rich environment,¹²¹ the Union frequently stars as part of the problem, rather than part of the solution. The problem is, it behaves like a constitutional system endowed with authority relying on the ECJ to police this claim – a natural expectation of any legal order¹²² – while failing, at the same time, to boast the necessary ABC of constitutionalism: when push comes to shove, its values play a foundational role in outlining neither the scope nor the substance of the law.¹²³

Bringing the values back in is indispensable in order to infuse the EU's constitutional claims with credibility. In practice, this would mean a return to the promise of EU integration made in the days of the Union's inception.¹²⁴ A *fédération européenne* (the one mentioned in the Schuman Declaration) to be brought about via the creation of the internal market, stood for a line of developments significantly more far-reaching than the idea of economic integration as such. The former is value-based – while the latter is probably not (at least, not based on the values of Article 2), as Andrew

118 Case C-399/11, Melloni [2013] 107.

119 Opinion 2/13 (ECHR Accession II) [2014] ECLI:EU:C:2014:2454; Kochenov 'EU Law without the Rule of Law'.

120 On the Kadi saga, see, G. de Búrca, 'The European Court of Justice and the International Legal Order after Kadi', *Harvard International Law Journal*, 51 (2010), 1. See also, of course, C-584/10 Kadi II [2013] ECLI:EU:C:2013:518.

121 Three equally important facets of the current crisis can be outlined: values; justice; and economic and monetary. On the crisis of values, see e.g., Williams, 'Taking Values Seriously' and Weiler, 'On the Distinction'. On the crisis of justice: Kochenov, de Búrca and Williams (eds), *Europe's Justice Deficit*. On the economic side of the crisis, see e.g., A. Menéndez, 'The Existential Crisis of the European Union', *German Law Journal*, 14 (2013), 453; M. Adams, F. Fabbrini and P. Larouche (eds), *The Constitutionalisation of European Budgetary Constraints* (Oxford: Hart Publishing, 2014).

122 J. Lindeboom, 'Why EU Law Claims Supremacy', 38 *Oxford Journal of Legal Studies*, 2018, 328.

123 G. Peebles, "A Very Eden of the Innate Rights of Man"? A Marxist Look at the European Union Treaties and Case Law', *Law and Social Inquiry*, 22 (1998), 581; D. Kochenov, 'On Tiles and Pillars', in D. Kochenov (ed), *EU Citizenship and Federalism: The Role of Rights* (Cambridge University Press, 2017) 3.

124 On the key aspects of dynamics of EU's legal history see, B. Davies and M. Rasmussen, 'Towards a New History of European Law', *Contemporary European History*, 21 (2012), 305.

Williams explained in his seminal work.¹²⁵

Not the whole story was negative, though. Although, the Union's ambition has gradually been scaled down to the market – call it a hijacking of the ends by the means¹²⁶ – the Union started *de facto* playing, mostly through negative integration, the role of the promoter of liberal and tolerant nationhood, as rightly characterised by Kymlicka – advancing a very clear idea of constitutionalism based on proportionality, tolerance, and the taming of nationalism.¹²⁷ Besides, at the core of the Union there lay basic mutual respect among the Member States: the Union would be impossible should they obstruct the principle of mutual recognition.¹²⁸ This came down to frowning upon the ideology of 'thick' national identities, however glorified in some schoolbooks. The ultimate result is that the EU, sub-consciously as it were, emerged as a promoter of *one* particular type of constitutionalism,¹²⁹ which is based on the rule of law understood through national democracy and the culture of justification implying human rights protection and strong judicial review. To be a Member State of the EU in the context of these developments came to signify one thing: to stick to this particular type of constitutionalism, which is now reflected in Article 2 TEU and which also represents the most important condition to be fulfilled before joining the EU, as hinted at in

125 Williams, *The Ethos of Europe*, *op. cit.*

126 D. Kochenov, 'The Citizenship Paradigm', *Cambridge Yearbook of European Legal Studies*, 15 (2013), 196.

127 W. Kymlicka, 'Liberal Nationalism and Cosmopolitan Justice', in S. Benhabib, *Another Cosmopolitanism* (Oxford University Press, 2006), p. 134. See also G. Davies, 'Humiliation of the State as a Constitutional Tactic', in F. Amtenbrink and P. van den Bergh (eds), *The Constitutional Integrity of the European Union* (The Hague: T.M.C. Asser Press, 2010).

128 M. Pórigues Maduro, 'So Close Yet So Far: The Paradoxes of Mutual Recognition', *Journal of European Public Policy*, 14 (2007). For a very sophisticated analysis of the Union's effects on the Member States see A. Somek, 'The Argument from Transnational Effects I', *European Law Journal*, 16 (2010), 315 and A. Somek, 'The Argument from Transnational Effects II', *European Law Journal*, 16 (2010), 375.

129 V. Perju, 'Proportionality and Freedom – An Essay on Method in Constitutional Law', *Global Constitutionalism*, 1 (2012), 334.



Article 49 TEU.¹³⁰

The EU thus emerged as a vehicle of the negative market-based approach to the ‘values’ question. Clearly, creating a market and questioning the state is not sufficient as a basis for a mature constitutional system, potentially creating a justice nugatory at the supranational level¹³¹ – and perpetuating the Union’s inability to help the Member States labouring hard to inflict a justice void on themselves, either through an outright embrace of Putin-style ‘illiberal democracy’, recently proclaimed as an ideal to strive for by the Hungarian Prime Minister Orbán,¹³² an attack on the judiciary and the media, as in contemporary Poland,¹³³ or through failing to build a well-ordered and functioning modern state, as it the case in Greece¹³⁴ and Romania,¹³⁵ for instance. Outright defiance is thus not required to fall out of adherence to Article 2 TEU aspirations.

5. Supranational powerlessness as an element of Member State-level Belarusisation

The Union is thus generally powerless concerning the *enforcement* of values and, more importantly, is also indecisive as to their *content*. The very fact that we are now concerned with enforcing them seriously amounts to nothing else but a concession that the presumption that there is a level playing field amongst all Member States in terms of the rule of law etc. – i.e. the fact that all of them actually adhere to the specific type of constitutionalism the

130 See e.g., D. Kochenov, *EU Enlargement and the Failure*, ch. 2.

131 S. Douglas-Scott, ‘Justice, Injustice and the Rule of Law in the EU’, in Kochenov, de Búrca and Williams (eds), *Europe’s Justice Deficit?*, p. 51.

132 For the full text of the speech, see, *The Budapest Beacon*, 27 July 2014, <http://budapestbeacon.com/public-policy/full-text-of-viktor-orbans-speech-at-baile-tusnad-tusnadfurdo-of-26-july-2014/10592>.

133 Cf. Venice Commission, Report of 11 March 2016.

134 M. Ioannidis, ‘The Greek Case’, in Jakab and Kochenov (eds), *The Enforcement of EU Law*, *op. cit.*

135 V. Perju, ‘The Romanian Double Executive’, 246.

EU set out to promote – does not hold (any more). This is something the European Court of Human Rights has already clearly hinted at in *M.S.S. v. Belgium and Greece*.¹³⁶ Acknowledging this alongside the EU’s obvious powerlessness as far as values are concerned is a potentially explosive combination in the Union built on Member State equality and the principle of mutual recognition. In a situation where the core values are not respected by Hungary, for instance, we are not dealing with a Member State that is revolting for one reason or another against a binding norm of European law. At the level of values, we are dealing with a *principally different Member State*, with the Belarusisation of the EU from the inside.¹³⁷

Once the values of Article 2 EU are not observed, the essential presumptions behind the core of the Union do not hold any more, undermining the very essence of the integration exercise: mutual recognition becomes an untenable fiction, which the Member States are nevertheless bound by EU law to adhere to. This is the core of what the autonomy of EU law stands for, as confirmed by the Court in the infamous Opinion 2/13 vetoing EU accession to the ECHR.¹³⁸ In this Opinion on the draft accession agreement of the EU to ECHR, the Court of Justice highlighted the principle of mutual trust between Member States, which forms the cornerstone of the area of freedom, security and justice. In the Court of Justice’s interpretation, this means that a Member State shall presume all other Member States to be in compliance with EU law, including the respect for fundamental rights. To be fair, it should be mentioned that the Court also referred to so-called ‘exceptional circumstances’, which would warrant deviations from the mutual trust principle,¹³⁹ but the exact nature of these exceptional circumstances was

136 *MSS v. Belgium and Greece* [2011] Application No. 30696/09.

137 U. Belavusau, ‘Case C-286/12 Commission v. Hungary’, *Common Market Law Review*, 50 (2013), 1145.

138 This point has been forcefully restated in the ECJ’s Opinion 2/13 (ECHR Accession II) [2014] ECLI:EU:C:2014:2454. See, e.g., para. 192.

139 *Id.*



left open.¹⁴⁰ So as a general rule, the Court insists that autonomy considerations in the context of EU law are usually prone to prevail over human rights and other values – including the rule of law – cherished in the national constitutional systems of the Member States. Indeed, it would probably not be incorrect to argue that this would be the shortest possible summary of Opinion 2/13, which summarised EU law as it stands. The consequences for the rule of law are drastic: all the principles invoked by the ECJ to justify giving EU law the upper hand in Opinion 2/13 are procedural, while the problems that the reliance on the ECHR is there to solve are substantive. Curing substantive deficiencies of the EU legal order with the remedies confined to autonomy and direct effect is a logical flaw plaguing the EU legal system, which puzzles the most renowned commentators.¹⁴¹ One cannot quarrel about the roses when the forests are burning. To agree with Eleanor Sharpston and Daniel Sarmiento, ‘in the balance between individual rights and primacy, the Court in Opinion 2/13 has fairly clearly sided with the latter. The losers under Opinion 2/13 are not the Member State of the signatory States of the Council of Europe, but the individual citizens of the European Union.’¹⁴² This is so, one must add, not only because of the potential reduction of the level of human rights protection. Rather, it is due to the fact that the EU, as Opinion 2/13 made clear, boasts an overwhelming potential to undermine the rule of law at the national level and this potential impact is not an empty threat.¹⁴³

140 In *Aranyosi and Căldăraru*, the Court of Justice had an opportunity to clarify what those exceptional circumstances might be and it made an attempt to do so, but ultimately opened more questions than it answered: see Joined Cases C-404/15 and C-659/15 PPU *Aranyosi and Căldăraru v Generalstaatsanwaltschaft Bremen* [2016] ECLI:EU:C:2016:198. For an analysis see W. Van Ballegooij, and P. Bárd, ‘Mutual Recognition and Individual Rights: Did the Court get it Right?’ (2016) 7 *New Journal of European Criminal Law* 439–464.

141 E.g. P. Eeckhout, ‘Opinion 2/13’, *op. cit.*; D. Halberstam, ‘It’s the Autonomy’, *op. cit.*

142 E. Sharpston and D. Sarmiento, ‘European Citizenship and its New Union: Time to Move on?’, in D. Kochenov (ed), *EU Citizenship and Federalism*, *op. cit.*

143 See, further, D. Kochenov ‘Is There EU Rule of Law?’, *op.*

6. Enforcement is not a panacea: as a conclusion

The core question which emerges in the light of the discussion above, is how to ensure that the EU’s own approach to the rule of law does not undermine, if not destroy, adherence to the principle of the rule of law in the Member States, which are, in fact, compliant with the values listed in Article 2 TEU. We submit that such an understanding of the rule of law cannot possibly lead to the much-needed solution of the outstanding problems. Instead, the most mature answer to the problems should necessarily involve not only the reform of the enforcement mechanisms, but *the reform of the Union as such*, as the supranational law should be made more aware of the values it is obliged by the Treaties to respect and also, crucially, to aspire to protect at both the national and supranational levels. Instead of hiding behind the veil of the procedural purity banners of autonomy, supremacy and the like, EU law should embrace the rule of law as an institutional ideal.¹⁴⁴ This implies, *inter alia*, eventual substantive limitations on the *acquis* of the Union as well as taking Article 2 TEU values to heart in the context of the day-to-day functioning of the Union, elevating the values above the instrumentalism marking them today. The result would be an emergence of a supranational constitutional system at the EU level, which would be truer to the glorious ‘constitutional’ label, and which would play a significantly more productive role in solving the backsliding challenges in Hungary and Poland, where the war against all what we believe in is currently on-going.

cit.

144 Cf. G. Palombella, *È possibile la legalità globale?*, *op. cit.*



FROM STATIC TO DYNAMIC EUROPEANIZATION: THE CASE OF CENTRAL AND EASTERN EUROPEAN DEVELOPMENTAL STRATEGIES

Dorothee Bohle and Wade Jacoby

Abstract

To what extent have Europeanization processes influenced development strategies in Central and Eastern Europe? Scholarship on the region has restricted the concept of Europeanization to the process of membership preparation, which took place in the years prior to EU enlargement in 2004. This conceptualization leaves out a lot. In this paper, we add to that highly visible Europeanization a focus on less visible Europeanization processes around capital flows that occurred in this same pre-enlargement period. We also establish that Europeanization continued after enlargement occurred and even intensified with the onset of the post-2008 period of lingering financial crisis. Here again, we identify both highly visible Europeanization processes, including buffering the crisis by adapting the Structural Funds programs, and largely invisible Europeanization, for example through remittance flows. Empirically, we establish the differential importance of capital inflows, buffering and remittances for the different development strategies of two clusters of Central and East European states, the Baltic and Visegrád states. Conceptually, we rescue the notion of Europeanization from its heretofore overly static

deployment in the EU enlargement literature for Central and Eastern Europe.

1. Introduction

How does one ‘revisit’ a concept as fuzzy as ‘Europeanization’? For a concept to flourish, it needs to name something that many observers agree does exist. Yet an initial flourishing hardly guarantees long-term durability. Some concepts initially win people over and then fade from use. For example, there was a time scientists thought ‘phlogiston’ was something contained in flammable materials that entered the air upon combustion, that ‘caloric’ was a liquid that caused heat, and that disease was caused by bad air containing ‘miasma.’ Subsequent investigation suggested that these previously-successful concepts were no longer useful or convincing.

By the mid-2000s, the scholarly community had little doubt that ‘Europeanization’ was a real thing.¹ Will that consensus stand the test of time? This paper tries to enhance the durability of the concept of Europeanization, which we still find very useful. It does so primarily by moving beyond its dominant usage in Central and Eastern Europe (CEE), which has emphasized how states *prepared for membership* in the EU during the late 1990s and early 2000s.² Instead, this paper looks also at processes of Europeanization that postdate membership and, in particular, postdate the onset of a devastating economic slump that has plagued European economies for a decade, setting back the developmental goals of many states. It also looks at Europeanization processes that occurred out of the spotlight of enlargement, with annual reports that, for a time, helped shape the electoral fortunes

1 E.g. Cowles et al. 2001, Featherstone and Radaelli 2003, Knill 2001, Schimmelfennig and Sedelmeier 2005. This paper adopts one of the simpler definitions of Europeanization, namely that it is ‘the change within a member state whose motivating logic is tied to a EU policy or decision making process’ (Ladrech 201: 2). We add the familiar notion that Europeanization processes can also affect aspirant member states (see e.g., Jacoby 2006).

2 Schimmelfennig and Sedelmeier 2005, Vachudova 2005, Epstein 2008; Jacoby 2006.



of parties across the region.³

Our broader focus attempts to lend a sense of dynamism to the concept of Europeanization as it applies to Central and Eastern Europe. To be sure, there has already been a certain attempt to inject dynamism by looking at ‘backsliding’ in the course of membership. This literature is, however, mostly concerned with identifying how Central and Eastern European countries have complied with accession obligations once they have become members.⁴ We develop the Europeanization literature in two directions. First, we look at new dimensions of Europeanization that have appeared after accession in 2004 and after the onset of economic troubles in 2007. This way, we lend a dynamism to the concept of Europeanization and tie it less directly to the immediate pre-enlargement period. Arguably, this also brings the notion of Europeanization in CEE closer to the broader scholarly discussion about Europeanization more generally. Second, rather than looking at how well older membership obligations have been met, we look at unexpected ways that European policies and instruments have impacted on Central and Eastern Europe. To this aim, we also add a novel ‘invisible’ dimension of Europeanization. This choice seeks to stretch the Europeanization notion beyond the well-known and visible process of membership preparation.⁵

To develop our dynamic and multifaceted concept of Europeanization, we look at how Central and Eastern Europe’s models of economic development have become Europeanized. Catching up with Europe’s more developed West has been an important motivation for Central and Eastern European countries to apply for EU membership, and arguably, some of the current disenchantment with European integration in the East is the fact that more than a decade of EU membership has not yet brought about substantial

economic convergence.⁶ Furthermore, while the EU has insisted on its new member states taking on existing policies and regulatory models, it has also acknowledged the need for special policies addressing the new members’ weaker state capacities, competitiveness, modernization gap and the related vulnerabilities.⁷ Yet while there has been a lively debate about how European integration might affect Eastern Europe’s potential for catch up development in the 1990s and early 2000s, the literature on Europeanization has largely ignored this question.⁸

Focusing on the Europeanization of developmental models also allows us to spell out more precisely what we mean by visible and invisible Europeanization. Visible Europeanization refers to policies that explicitly address the developmental gap between East and West. To be sure, many traditional tools of European states, such as channeling investments to favored firms or sectors, also have successively been ruled out of bounds by Europeanization processes since the late-1980s. We argue below, however, that a number of interesting tools remain that, following Bruszt and Vukov (2017), amount to a quite visible “liberal developmental state,” which Central and Eastern European states clearly did pursue in the run-up to membership and beyond.

Invisible Europeanization, by contrast, consists of – partly unintended – consequences stemming from the EU’s own economic model, which affect East Central Europe differently than old and more developed member states. In other words, though the definition of Europeanization requires the ‘motivating logic’ of national change to be ‘tied to EU policies or decision making processes’ (Ladrech 2010:2), these changes need not be (and often are not) always visible to elites, let alone to ordinary citizens. Indeed, the Central and East European states signed up for such a

3 See, for example, the ‘managerial competence’ debates summarized in Grzymala-Busse 2002.

4 Levitz and Pop-Eleces 2010, Sedelmeier 2014.

5 Radaelli 2000.

6 Epstein 2010, Podkaminer 2013, Grodzicki and Geodecki 2016.

7 Bruszt and Vukov 2017.

8 E.g. Delhey 2001, Dunford and Smith 2000, Ellingstad 1997, Baldwin 1994.



massive list of institutional and policy changes in the run-up to membership that many of the most consequential changes could occur mostly ‘under the radar’ of even careful observers. Our distinction further points to a contradiction of economic Europeanization that was highlighted early on by Heather Grabbe, namely that EU policies and regulatory models have been mostly created by and for advanced capitalist economies and thus might lead to suboptimal (or at least unanticipated) outcomes for transition countries.⁹

We combine our focus on visible and invisible Europeanization over time with an analysis of how the different developmental paths in CEE have become Europeanized, thus connecting our conceptual innovations to existing accounts of basic economic strategies. For the sake of simplicity, we will offer some insight on how the development paths of two groups of countries have been affected: the Visegrád countries and the Baltic States. As we have shown in our previous work on comparative political economy and small-state strategies, these countries have adopted different developmental strategies. The Baltic States have pursued a ‘lean’ strategy that mostly relies on orthodox macroeconomics and microeconomic efficiency and is associated with a strong deregulatory agenda and a limited state. In contrast, the Visegrád countries have much more built on the creation and defense of durable comparative advantages.¹⁰ We recognize that by history and by treaty the basic economic choices of members states – outside the EU-dominated domains of trade negotiations, monetary policy and certain dimensions of anti-trust regulation – have largely been left to the discretion of democratically-legitimated governments.¹¹ We

9 Grabbe 1999.

10 We developed this distinction for the small East European States, arguing that these were the ways they coped with the challenges of smallness. We also distinguished a third – ‘consensual’ – strategy. For reasons of space, we confine our analysis in this paper to the ‘lean’ and ‘special’ state clusters. See Bohle and Jacoby 2017 and also Bohle and Greskovits 2012.

11 Indeed, even the Single Market, which requires goods authorized for sale in one member state to be allowed in all member states, relies on the principle of ‘mutual recognition’ of different,

argue however that crucial economic policy choices of CEE countries, nevertheless, have become Europeanized in important ways during their EU accession, that such influences persisted well after membership commenced, and that some of the influences were largely beyond the perception of most voters and indeed even of many elites.

The rest of the paper unfolds as follows: section two spells out our arguments for a more dynamic concept of Europeanization and introduces our own conceptualization. Sections three to six look at cases of visible and invisible Europeanization both before accession and in reaction to the economic downturn of the last years of the 2000s. For the purpose of the paper, we hone in on a key challenge for economic latecomers, namely raising capital for development. Thus, the third section briefly sketches how the EU has encouraged foreign direct investment (FDI) to provide much needed capital for its new EU members. The fourth section introduces our concept of invisible Europeanization by looking at how aspirant member states were required to show regulatory forbearance on capital inflows and how these flows have profoundly shaped CEE’s developmental capacities in both positive and negative ways. The fifth section turns to newer form of Europeanization that has become important during the crisis, namely buffering through structural funds. The sixth section looks at how remittances, stemming from labor mobility, have emerged – largely invisibly – as a new European source of finance. The final section concludes.

2. Why ‘Europeanization’ in CEE Risks Becoming Overly Static

In retrospect, Europeanization’s reputation in CEE benefited from a series of structural factors, some of which are much easier to see in retrospect than they were at the time. First, the entire process nationally-determined regulations.



culminated in EU membership for all the countries that both seriously aspired to such membership and had the cross-party consensus needed to make membership preparation a priority. Second, the cumbersome and demanding process of membership preparation occurred during a time of economic growth and plentiful liquidity, which increased both investment and consumption simultaneously.¹² Europeanization came to mean prosperity in the minds of many citizens. Third, the Europeanization process took place against the backdrop of a larger period of geopolitical stability. Russia appeared weak, and authoritarian regimes in the Middle East and North Africa appeared strong. The result was that Eastern Europe was threatened neither on the existential grounds of a threat to its sovereignty nor on the difficult pragmatic grounds of major refugee inflows or other forms of regional instability.¹³ Overall, the pre-accession process took place in a much more relaxed atmosphere than had prevailed in prior decades.

To say that ‘structural reasons’ boosted the reputation of the Europeanization process is not at all to deny that this process had a coherent logic that made it both attractive to potential member states and also reasonably well-managed at the EU level. Brussels technocrats invented a series of conditional tools more or less on the fly, and these ‘screening’ mechanisms, along with more or less intrusive annual reports met willing national officials more or less halfway. The result was that eight states were ready for membership by 2004, albeit with uneven levels of preparation despite the uniform targets set by the Commission.

Moreover, Europeanization didn’t just work in the run-up to 2004, it also appeared to prove itself in the first big test faced by the new EU members,

12 That running such a capital account surplus meant running a corresponding current account deficit was not widely appreciated at the time, a point we take up below.

13 The Yugoslav Wars of the early 1990s had been indicative of just how disruptive major refugee flows could be, but these flows generally halted well before the explicit Europeanization process was launched in the late 1990s.

namely the global financial crisis (GFC).¹⁴ In the GFC, the CEE states were hit hard and early. All CEE states except Poland saw sharp contractions in domestic economic activity and had extremely painful adjustment processes. These adjustments worked in very different ways, but all of them resulted in a restoration of basic economic balances.¹⁵ Some CEE states needed official European rescues (always together with the IMF and World Bank), many needed assistance with liquidity through channels both official ECB (for those who were EMU members) and unofficial (e.g., Vienna Initiative), and all of them receive substantial buffering from the EU Structural Funds.¹⁶ Indeed, so apparently successful was the cluster of stabilization policies in CEE that the EU has tried for nearly a decade to get roughly the same mix of assistance and austerity to work in Southern Europe.

Were the Europeanization story to stop here, that story would be misleadingly positive and misleadingly static. For when we revisit Europeanization today, neither the successes of first-stage institution building and investment nor the successes of second-stage economic stabilization dominate our perception. Instead, we see Hungary with its surly transgression of multiple European economic (and political) norms. We see the Commission opening infringement procedures against Hungary, Poland, and the Czech Republic for their unwillingness to take refugees as part of the European quota system. We see, in other words, the violation both of what we might call ‘established Europeanization’ and also of ‘contemporary Europeanization.’ Past commitments are broken, new commitments are elided and avoided.

Moreover, we do not just see negative outcomes—outcomes that call into question the extent and durability of Europeanization. We also

14 The first big test these countries faced as Nato members had been the bombing of Serbia in 1999, weeks after most of the first wave new EU member states had joined Nato.

15 Bohle and Jacoby 2017

16 Henning 2017.



see a profound shift in the conditions external to CEE that arguably enhanced the power of Europeanization in the first place. The resurgence of geopolitical questions and big power confrontation, the rise of economic nationalism, regional destabilization resulting in the arrival of waves of refugees all shake the structural foundations on which Europeanization rests. Our goal in this paper is to broaden the account of Europeanization such that it speaks to these broad and important events. We then seek to empirically illustrate this broader conceptualization as a way of deepening the conversation in this special issue and in the field more broadly.

Towards a More Dynamic Concept of Europeanization

To reanimate the concept of Europeanization, we begin with two basic conceptual distinctions. The first, already alluded to, is to divide Europeanization into pre- and post-accession periods, or, more precisely, a pre-accession and post economic crisis period, as the crisis ushered in the shake-up of the foundations on which Europeanization rests.¹⁷ The second distinction is then between processes of Europeanization that are highly visible and politicized, such that relatively few citizens are ignorant of them, and the opposite case in which Europeanization proceeds under the radar of most citizens and even many political elites, but, as we will argue crucial for visible aspects of Europeanization to succeed.

Juxtaposing these two dimensions, we see, in principle, four basic combinations, as depicted in Table 1:

Table 1: Basic combinations of Europeanization

	Pre-accession	Post-crisis
Highly visible		
Largely invisible		

¹⁷ There have been a number of attempts to capture this distinction, e.g. Sedelmeier 2014, Levitz and Pop-Eleces 2010.

We propose to explore these four cells in the field of economic Europeanization as a way of moving beyond the rather mechanical ‘success story’ of pre-enlargement Europeanization processes represented by the upper left cell of Table 2 below. In addition to briefly revisiting the notions of Europeanization as capacity building¹⁸ or Europeanization as multiplex upgrading by ‘liberal developmental states,’¹⁹ we also address the closely-related surge of FDI that helped make this developmentalism possible. Europeanization prior to membership was not just concerned with the highly visible construction of national institutions to fulfill aspects of the *acquis communautaire*. As indicated in the upper left cell, while citizens may have been unaware of any individual project, few could be unaware that their country’s pursuit of EU membership was leading to wholesale changes in domestic legislation and institutions, and to a surge of job-creating FDI.

Parallel to these visible efforts, however, the lower left hand cell indicates a process both less visible and less understood, namely the sharp increase in portfolio capital inflows to the region. Our contention is not that the inflows themselves were invisible. Indeed, these inflows were widely understood as a fruit of EU association, were known to many citizens, and arguably helped provide the conditions for unprecedented catch-up growth. In this way, the capital inflows helped provide a key structural precondition for the success of the more visible Europeanization of capacity building. What was little seen and poorly understood, however, was the way these capital inflows made CEE states vulnerable to the crisis and how little elected officials could do to dampen or shape these flows. In particular, neither citizens nor even their elected leaders clearly understood that capital inflows are always tied directly to current account deficits.²⁰ Few knew that EU

¹⁸ Vachudova 2005, Schimmelfennig and Sedelmeier 2005, Epstein 2008, Jacoby 2006, Grabbe 2006.

¹⁹ Bruszt and Vukov 2017, Bruszt and McDermott 2012, Bruszt and Greskovits 2009.

²⁰ The size of a country’s current account balance is exactly equal to the size of its capital account and in the opposite direction. Thus, large capital inflows always mean equally large deficits in the current account (which is composed mostly of the trade account).



commitments forbade most state interventions in this domain, the ‘free flow of capital’ having been made sacrosanct only in recent years. This ‘under the radar’ dimension of the pre-accession process would have extreme consequences for CEE states, who reacted in markedly different ways to the same ‘sudden stop’ in credit.

Europeanization also continued after membership and the economic crisis that followed shortly after. An old agenda of macroeconomic stability and structural adjustment linked to – in principle mandatory – euro adoption was reinforced after the crisis to counter ballooning public debt and deficits. However, compliance was made much easier by ‘buffering’ through structural funds provided by the EU in the wake of the global financial crisis. Structural funds inflow have become highly visible after the crisis, and the way domestic policy makers draw on them has become highly politicized.

Finally, just as some important pre-accession Europeanization trends occurred mostly out of sight, some post-crisis Europeanization has also occurred below the radar. For example, the EU’s free movement policies have contributed to trends in which some CEE countries experience labor exit on a large scale, as labor migration goes hand in hand with a general lack of economic perspectives at home. What is more, there is little general public awareness or elite appreciation of the role the often substantial inflows of remittances have come to play in the income of households.

Table 2: Europeanization of State Development Strategies

	Pre-accession	Post-crisis
More visible	<i>Building capacity for membership and attracting FDI for long term development</i>	<i>Buffering national and regional economic contractions with structural funds</i>
Less visible	<i>Regulatory forbearance on inflows of portfolio capital</i>	<i>Topping up household income through remittances</i>

3. Visible Pre-Accession Europeanization: Capacity Building, FDI, and the ‘Liberal Developmental State’

The heart of the initial wave of Europeanization literature on CEE was on capacity building, institutional development and policy transfer and diffusion. While the details of these policy areas were unknown to most CEE citizens, the actual fact of domestic institutional change was quite visible. Most voters understood their elites were pursuing institutional adaptation as a condition of potential EU membership, and solid majorities backed these efforts across most of the CEE countries throughout the pre-accession period.²¹ Meanwhile, the main lines of analysis of the CEE political economy revolved not around Europeanization at all but around transitology, shock therapy debates, varieties of capitalism and, more recently, the spread of neo-liberalism.²² To the extent the CEE literature on Europeanization mirrored an existing Europeanization literature on the ‘old member states,’ its relative neglect of economic topics made sense. To repeat the obvious point for emphasis: the EU has not traditionally interfered deeply in the domestic economic management choices of its member states.

And yet more recently there has been a Europeanization literature looking at core economic topics. Some of this research on economic aspects of Europeanization suggests that the EU has ‘exercised remarkable control over the economic transformation in [E]CE.’²³ Bruszt and Vukov (2017) argue that the EU has been particularly concerned with strengthening state capacities for development, in order to ensure that the new member states’ economies would

21 Grzymala-Busse 2002, Vachudova 2005.

22 The literature here is large, and good recent summaries are contained in Ban 2017, Appel and Orenstein 2016.

23 Jacoby 2010: 418; see also Jacoby 2014, Grabbe 1996, Bruszt and Greskovits 2009, Bruszt and McDermott 2012, Bruszt and Vukov 2017, Vukov 2016.



be able to successfully compete with those of the old member states, while also abiding by the transnational European rules and regulations.

In their terms, the EU has promoted a 'liberal developmental state'.²⁴ This 'new type of economic state' combines 'capacities for increasing the role of transnational markets in shaping developmental outcomes with the capacities to maintain and increase the market power of various categories of domestic actors'.²⁵ Specifically, the authors show that during the accession process the EU sought to strengthen the applicant states' capacity to maintain the rule of law, uphold economic freedom, prevent discriminatory practices, foster domestic competitiveness and implement European rules and policies. In seeking to strengthen these capacities, EU actors have left much less room for domestic agency than during the Southern enlargements of the 1980s.

A specific aspect of the liberal developmental state was the encouragement of foreign direct investment (FDI). Though Western firms sought to explore opportunities stemming from the new low wage locations soon after the collapse of communism, initially most CEE host countries were cautious. This eventually changed, and EU accession played an important role in this. Thus, by the mid 1990s, almost all applicant countries had set up national investment promotion agencies that played a key role in persuading reluctant policy makers of the benefits of FDI, and in representing the interests of foreign investors. EU finance was crucial for operation of the agency, and the EU also trained its staff.²⁶

While the EU had no specific legal instruments to foster FDI, it relied on instruments developed for the accession process to promote foreign capital inflows.²⁷ In its Accession Partnerships and Annual Reports, the EU encouraged privatization via foreign ownership in a number of strategic sectors,

24 Bruszt and Vukov 2017: 672.

25 Ibid: 672.

26 Drahoukoupil 2008: 116-117, Bandelj 2008: 71-72; Medve-Balint 2014: 41.

27 Bandelj 2010: 478.

and openness to FDI crystallized as one important condition for membership.²⁸ EU accession also had an indirect effect on FDI inflows. Eastern Europe's compliance with the European rules and regulations opened these economies for capital flows and provided legal security for investors. All this resulted in a massive inflow of FDI from the early 2000s onwards.

Table 3 below gives a bird's eye view of how Europeanization via capacity building and FDI inflows has affected the Baltic States and Visegrád countries. Overall, as the literature on institutional capacity building predicts, we do see an increase in government effectiveness, regulatory quality and rule of law between 1996 – the last year before the accession negotiations – and 2004 – the year of EU accession. Clearly for evaluating proper progress, more fine-tuned indicators would be needed. FDI data show that the inward stock (per capita) increased almost tenfold in both groups of countries between 1996 and 2004, with the Visegrád countries attracting more FDI than the Baltic States and having slightly better scores on government effectiveness and regulatory quality.²⁹ At the same time, Visegrád states were actually a bit lower on rule of law measures (0.7 versus 0.6), and the overall differences in these areas do not stand out. This rough parity is in keeping with the broad picture of equivalence across the aspirant member states in 2004, despite their different starting points. In other domains, however, differences did appear.

28 Jacoby 2010, Medve-Balint 2014.

29 The clusters hide some important differences within the groups. For example, if measured in inward stock of FDI, tiny Estonia was frontrunner in 2004, followed by the Czech Republic and Hungary.



**Table 3: Pre-Accession Europeanization:
Capacity building and FDI inflow**

	Capacity building						FDI	
	Government effectiveness		Regulatory quality		Rule of law		Inward stock per capita (€)	
	1996	2004	1996	2004	1996	2004	1996	2004
Visegrád states	0.7	0.8	0.8	1.6	0.6	0.6	444	3493
Baltic states	0.4	0.7	1.2	1.1	0.3	0.7	312	2767

Sources: Columns 1-3 Kaufmann, Kraay, and Mastruzzi, “Governance Matters VIII.” Index values for each of the four indexes range from -2.5 (minimum) to 2.5 (maximum), Source 4 WIIW FDI Database.

4. Europeanization of Capital Flows and Regulatory Forbearance

The previous section summarized a broadly consensual understanding of economic Europeanization through capacity building and FDI inflow. However, there is a less well understood aspect of pre-accession Europeanization that also took place in the area of capital flows. More accurately, while the capital flows themselves were highly visible – citizens were generally aware of major FDI projects through their labor market effects and at least somewhat aware of portfolio inflows because they made access to credit suddenly far easier – neither citizens, nor domestic or EU politicians had any coherent grasp of the implications of such large inflows for the national trade accounts.

Indeed, relatively few policymakers even understand the necessary symmetry between capital and current accounts, the latter of which includes the goods trade balance that drives many headlines. For any country, capital and current accounts are equal in size to one another and with opposite signs. Countries that export capital (e.g., lend it abroad rather than invest it at home) *must* also run a current account surplus (unless they simultaneously sell off central bank reserves).

By contrast, countries that import capital must run a current account deficit of the same size as their capital surplus.³⁰ Thus, large inflows of FDI and of portfolio investment that both stoked consumption increases and often swelled housing prices must (if not covered by domestic savings) manifest themselves in large current account deficits. Capital rushing into CEE from EU-15 economies mean the CEE states had to run trade deficits, and they clearly did, as indicated below.

Importantly, capital inflows into the region were not restricted to FDI. As noted, accession also led to a more generalized credit boom in CEE, which was triggered by the combination of a ‘global wall of money,’ that is excess liquidity looking for investment opportunities and the ways the EU shaped CEE policies towards their financial systems.³¹ Integrating and globalizing Europe’s capital markets has been high on the EU’s agenda, and, in Katharina Pistor’s words, in the course of EU accession, CEE countries have effectively outsourced the governance of their financial systems. They opened their borders to capital inflows and promoted foreign ownership of the domestic banking.³² While the EU has ‘undertaken major efforts to Europeanize the governance of finance by standardizing financial regulation and improving coordination among national regulators,’³³ financial market integration nevertheless has created ‘a governance void for

30 Pettis 2013, Jones 2011, Jacoby 2017.

31 Fernandez and Aalbers 2016.

32 Epstein 2017.

33 Pistor 2011: 5



individual countries and the region as a whole that left them unable to control the risks associated with exposure to greater capital flows.³⁴ This is because the governance of the integrated financial systems remained incomplete and ‘were not fully aligned with the CEE countries.’³⁵

As a result, CEE countries – much like their southern European counterparts in the Eurozone – were unable to effectively control the large capital inflows stemming from excess supply of capital looking for higher returns. Whenever foreign capital supply outstrips investment needs, negative economic consequences are likely. Such surplus capital can incentivize mal-investment in unproductive endeavours (public or private), blow up asset bubbles, fund consumption booms, and generate unemployment through displaced demand abroad.³⁶ What is Europeanized here is the requirement that capital move freely, a fundamental principle of the contemporary EU but also an enormously disruptive principle that did not have a long and road-tested history in Western Europe but was, in fact, relatively new.³⁷ Thus, where the bulk of the pre-accession literature focused on capacity building – a finding with which we agree – we insist equally that another form of Europeanization was regulatory forbearance, or the denial of its (new) members’ ability to control or restrict in any meaningful way hugely disruptive inflows of foreign capital.³⁸

34 Ibid: 6

35 Ibid.

36 Pettis 2014.

37 Moreover, the most recent meta-analysis finds no evidence for the proposition that transnational capital flows are associated with higher growth rates. See Ray 2014.

38 While CEE states could not erect barriers to the inflow of portfolio capital, CEE central banks could try to limit their citizens’ access to such loans if they thought lending was excessive. Poland took the most aggressive stance here. In 2005, the Polish Commission for Banking Supervision forced domestic banks to place higher risk weights on foreign-denominated liabilities and inform consumers of risks associated with foreign lending and also limited access to foreign-denominated loans/mortgages to the highest earners. These two moves significantly reduced the flow of foreign denominated loans in 2006. We thank Kevin Aslett for very helpful conversations on this point. See also Buszko and Krupa 2016.

Table 4 shows how capital inflows increased the vulnerability of the CEE countries. While all countries amassed major current account imbalances, those of the Baltic states were of a magnitude unprecedented in recent economic history. Part of the explanation of the different magnitude of the current account deficits lies in the different composition of capital inflows: in the Visegrád countries, an important share of FDI was invested in the manufacturing sector and integrating parts of these economies into the German manufacturing archipelago.³⁹ In contrast, most of the investment in the Baltic states went to finance and real estate.

In all CEE countries these portfolio flows triggered credit and housing booms, but again, in different magnitudes. Once the flow of new credit diminished or even reversed, states were differentially exposed. All CEE states engaged in some form of austerity to try to restore competitiveness by means of internal devaluation, but some of the Visegrád states – particularly Hungary and Poland – also devalued their national currencies. Indeed, Hungary’s forint has fallen in value by about 20% vis-à-vis the Euro between 2008 and 2017 while the Polish zloty has fallen just over 10%, according to Eurostat data. Meanwhile, the Baltic states stuck to their currency pegs in spite of more brutal internal devaluations that were then required.⁴⁰

39 Bohle and Greskovits 2012, Scepanovic 2013

40 Blyth 2012.



Table 4: Capital inflows and macroeconomic imbalances

	FDI		Current Account Balance	Residential mortgage debt	
	Financial and real estate (percentage of total inward stock, 2007)	Manufacturing (percentage of total inward stock, 2007)	2007 Percentage of GDP	2000 Percentage of GDP	2007 Percentage of GDP
Baltic States	45	20	-18	3	28
Visegrád countries	30	39	-5	2	12

Sources: Column 1 & 2, WIIW database, Column 3 EBRD Transition Report 2009, Columns 4 & 5 European Mortgage Foundation Hypostat 2009

These trends have implications for the periodization we deploy. This is because in the teeth of these very harsh adjustments after the crisis onset in 2007-08, other Europeanization processes then came to the fore. Once again, one of them – buffering by the EU Structural Funds – was far more visible than the other – the rise of remittances as an important compensatory mechanism for some of the region’s economies. We thus see the onset of the GFC in 2007-08 – and not the onset of EU membership in 2004 as the real watershed date for a new Europeanization dynamic.

5. Buffering Shocks

The EU undoubtedly helped shelter its poorer members by accelerating Structural Fund payments after the onset of the GFC. The EU (temporarily) made this notoriously inflexible and rule-driven policy sector more flexible, and structural funds were a crucial buffer for each CEE state. As the crisis deepened, the European Council accelerated the spending rate of structural funds for all member states and even suspended normal requirements for state co-financing in most social policies, training, human capital investments in 2009 and 2010. The Commission also increased the monetary threshold requiring its approval from €25 million to €50 million.⁴¹

41 European Commission 2013a, Jacoby 2014.

Much existing literature tends to emphasize the harms that come from austerity but to neglect the buffering function that has been available especially to the EU’s East. While this particular buffering function was an unforeseen dimension of the GFC, we argue that such buffering can rightly be seen as a form of Europeanization. First, the main instrument we explore – the Structural Funds – were explicitly intended to buffer regions of member states undergoing major economic transformation, particularly after the newly enhanced Single Market of the late 1980s.⁴² Second, the CEE states’ elites and voters saw the Structural Funds as a highly desirable potential benefit of membership in the run-up to accession, even if they understandably had little visibility into the details of this complex policy area. Third, and related to this complexity, the CEE states underwent considerable administrative transformation in order to get access to the Funds.⁴³ Finally, the CEE states conformed to a highly dynamic and unpredictable set of policy innovations emanating from the Commission after the onset of the GFC and Eurocrisis.

Overall, the structural funds functioned as a kind of insurance mechanism against renewed

42 In other research, we look at other forms of buffering, including outmigration, intra-EU remittances, and ECB liquidity provision. Bohle and Jacoby 2017.

43 Jacoby 2006.



economic slowdowns. Indeed, as state investment declined, the structural funds came to provide over one-third of state capital investment in most of the East-Central European states. A 2011 Committee of the Regions survey found 37% of responding regional officials thought the structural funds had made ‘high’ or ‘very high’ contributions to recovery in their specific region.⁴⁴ For instance, total EU spending in Estonia jumped from 2.2% of GDP in 2008 to 5.1% in 2009, suggesting a fast and substantial response and emphasizing that domestic strategies were flanked with important counter-cyclical measures at the supranational level.

To further simplify state aid rules, the Commission temporarily allowed states to pay lump sum aid up to €500,000 per company for 2009 and 2010, guarantee business loans at a reduced premium, subsidize other loans, in particular for the production of green products, and provide risk capital aid up to €2.5 million per SME per year (instead of the statutory €1.5 million) in cases where at least 30% (instead of the usual 50%) of the investment is private.⁴⁵ In 2011, the Commission announced two states (Latvia and Hungary) would be among six (also Greece, Portugal, Romania, and Ireland) who could reduce their co-financing obligations from 50% to as low as 5% during the crisis. Of the €2.9 billion available, €1.4 billion would flow to East-Central Europe.⁴⁶

Commission data suggests over 80,000 jobs were created by the Structural Funds in CEE between

44 European Union Committee of the Regions 2011.

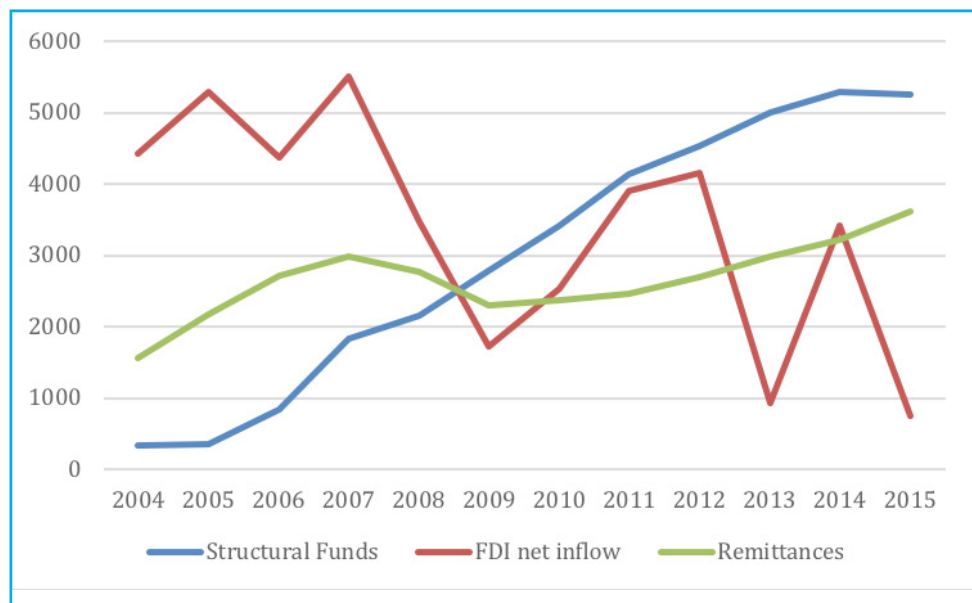
45 European Commission Directorate General for Regional Policy 2010.

46 European Commission 2011.

2007-2011—about 20% of the total for the entire EU.⁴⁷ CEE states that had fiscal room for co-financing after the crisis hit—especially Poland—were able to increase their use of the Structural Funds up to 2.5% beyond what was originally programmed; meanwhile, countries unable to co-finance even at reduced levels—such as Romania—saw their access to the funds fall.⁴⁸

Figures 1 and 2 below show for the Baltic States and the Visegrád countries, that FDI inflows have been very volatile since the crisis, whereas Structural Fund inflows have been rising steadily, and have replaced the FDI as the most important source of foreign finance. In addition, the figures show that another source of external finance, namely remittances, have assumed a major role in Europe’s East, an issue we will turn to in the next section.

Figure 1: Structural Funds, FDI and remittances in the Visegrád countries

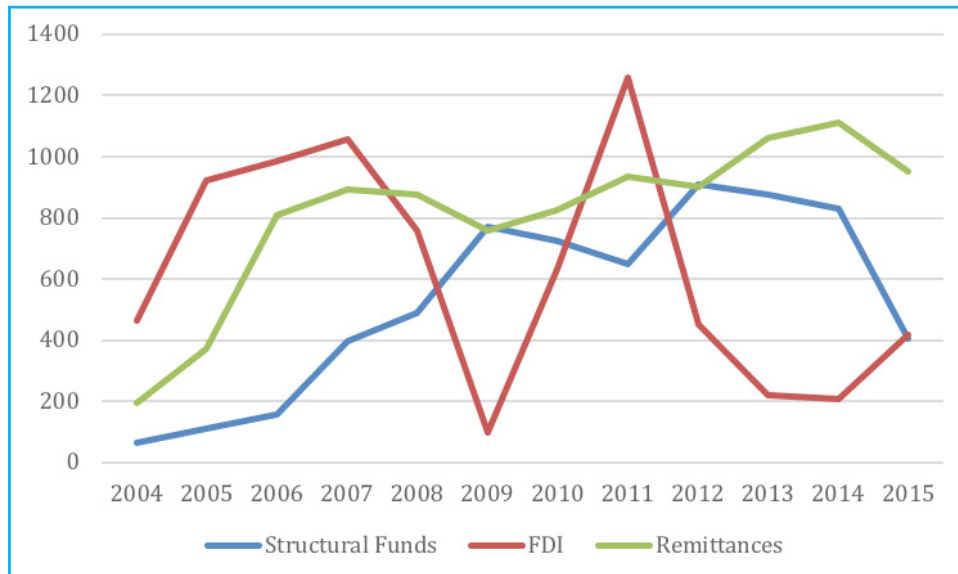


47 Author calculations based on data in EU Commission, 2013b. It is impossible to distinguish how many of these jobs may be due to ‘extra’ flexibility shown by the EU as an effort to buffer the crisis.

48 EU Commission, 2013b : 5.



Figure 2: Structural Funds, FDI and remittances in the Baltic states



Sources for figures 1 and 2: Structural Funds: European Commission: http://ec.europa.eu/budget/figures/interactive/index_en.cfm, FDI: WIIW FDI Database, Remittances: World Bank Remittance Database, <http://www.worldbank.org/en/topic/migrationremittancesdiasporaissues/brief/migration-remittances-data>

All are inflows measured in millions of Euros. The World Bank Data have been converted to euro based on <https://www.oanda.com/currency/average> (average annual exchange rates)

External buffering had important consequences for the post-crisis recovery, but it plays out somewhat differently in the two groups of countries. Importantly, structural funds are characterized by ‘a lack of clear priorities, and significant discretion for member states,’ which lends itself to very different uses.⁴⁹ Thus, in the Baltic States, which have experienced very deep recessions, structural funds had a net *compensatory* effect. For instance, Estonia, hailed as the posterchild of recovery through austerity,⁵⁰ instead benefitted substantially from a mix of external policies. Indeed, Kattel and Raudla show that Estonia ‘outsourced’ much of its

49 <https://www.ft.com/content/65ade8c0-7936-11e7-a3e8-60495fe6ca71>

50 Aslund 2010.

recovery and ‘insourced’ additional resources.⁵¹ In particular, Estonia made good use of massive

EU funding: up to 20% of Estonia’s 2012 budget was made up of EU transfers, and total EU spending in Estonia jumped from 2.2% of GDP in 2008 to 5.1% in 2009, suggesting a fast and substantial response and emphasizing that lean domestic strategies were compensated by important counter-cyclical supranational measures.⁵²

The countercyclical effects of structural funds were

also important for the Visegrád countries. For instance, a detailed report of the macroeconomic effects of Structural Funds in Hungary between 2007-2015 concludes that overall growth would have decreased by almost two percent, rather than increasing by more than four percent. In addition, investment, employment and public debt numbers all improved significantly due to incoming Structural Funds.⁵³ However, other sources also stress how incoming EU moneys allows the Orbán regime to stabilize his economic nationalist and increasingly authoritarian course by buying support among its core voters and fostering a new class of oligarchs.⁵⁴

Structural funds have recently become highly politicized exactly because the two countries Poland and Hungary that have most radically challenged their commitment to core European values as the rule of law, democracy, and solidarity are also the ones that have received the highest shares of EU funding. Clearly, however, the irony that the EU funds their anti-European course is quite lost on the leaders, as the following statement

51 Kattel and Raudla, 2013

52 OECD 2011: 55.

53 KPMG 2017.

54 Magyar and Vasarhely 2017, Johnson and Barnes 2015.



by Hungary's prime minister demonstrates:

'I don't think [Hungary] gets money as "help" from the West. This is a complete misunderstanding. ...It's completely obvious that we can't have honest and fair competition between businesses, people and countries that have had 40 years to become rich while the other group was robbed for 40 years. There has to be some kind of mechanism that provides fair and honest competition for these two groups to interact in. If we didn't have this, they would invade us economically. We would be a colony if this disparity was allowed to stand. They know this too because they've had colonies.'⁵⁵

This and other similar statements have ensured that the issue of Structural Funds have remained a part of the public discourse, which is really not so in our fourth and final cell.

6. Remittances

Next to structural funds, additional buffering for CEE countries badly hit by the crisis came from labor mobility. Massive emigration, especially but not only in the Baltic states has helped to keep unemployment rates somewhat under control, and remittance flows contributed to GDP growth and household consumption. Labor migration has arguably been one of the most politicized dimensions of CEE's Europeanization. Most old member states have used time-limited immigration bans on citizens from CEE to counter fears of a downward spiral of wages and working conditions and welfare tourism.⁵⁶ It was only in 2011 that the last immigration bans were lifted. Even after 2011, labor migration has remained high on the political agenda. A crucial motivation of the British population to vote for Brexit was the rejection of immigration from the East, and governments across old member states are

55 Viktor Orban, September 2015, quoted in Novak 2015.

56 Jacoby 2010.

looking for ways of protecting their welfare states and industrial relations against the perceived threats from the East. CEE home countries have traditionally perceived migration more positively. More recently, however, massive labor shortages have emerged, threatening the growth models in the region.⁵⁷

Curiously, while labor migration is highly politicized both in the West and the East, remittance inflows from the East European population working from abroad is not. This silence is even more puzzling as remittance inflows have become a crucial source of external finance in CEE, and are arguably the only positive effect of labor migration for the CEE home countries. As an increasing number of studies show, the East European countries are losing educated and younger cohorts, who are more likely to stay abroad.⁵⁸ As figures one and two above show, remittance inflows have increased significantly since 2010. In the Baltic States, remittances have become the most important source of external finance, and in the Visegrád countries, remittances have become a stable source of external finance, repeatedly exceeding that of FDI.⁵⁹

It is perhaps not by chance that there is relative silence about the role of remittances in East Central Europe. The EU's regime of free movement of labor is grounded in neoclassical economics. This paradigm sees "migration as a process that contributes to the optimal allocation of production factors for the benefit of all, in which the process of factor price equalization will lead to migration ceasing once wage levels are equal at both the origin and destination.... The free movement of labour—in an unconstrained market environment—is

57 Buckley et al. 2017.

58 E.g. OECD 2013, Dolvik and Eldring 2017.

59 However, there are also important differences within the two country groups. In 2015, two Baltic states and Hungary received the highest inflow of remittances as a share of GDP, which amounted to 5% in Latvia and above 3% in Lithuania and Hungary. In Estonia and the three other Visegrád countries, inflow from remittances was between 1.4 and 2.5 % of GDP. World Bank Remittance Database, <http://www.worldbank.org/en/topic/migrationremittancesdiasporaissues/brief/migration-remittances-data>



eventually expected to lead to the increasing scarcity of labour, which will then lead to a higher marginal productivity of labour and increasing wage levels in migrant-sending societies. Capital flows are expected to go in exactly the opposite direction as labour migration.”⁶⁰ In this paradigm, remittances do not play any role.

An important question is whether remittances impact on economic development and social improvement in the receiving countries. To put it differently, do they, as the above quotation might suggest, contribute in a similar way as capital movements to the convergence of living conditions, thus ultimately reducing the pressure on outward migration in the East? There is little evidence for this. Existing research in Latvia and Lithuania, the countries where remittances have become a major source of external revenues, far exceeding FDI, shows that remittances cannot compensate for the negative impact of emigration.⁶¹ Rather, they act as “surrogate social protection”, cushioning poorer household against the consequences of the economic downturn. In contrast, only little is spent on investment purposes or new jobs.⁶² Research on the Visegrád countries confirms that remittances complement the effects of welfare benefits by providing income for poorer households in geographically backward areas, thus reducing overall income inequalities and poverty. The effects are however rather limited.⁶³ Overall, therefore it seems that while remittances may serve as insurance against income shocks and complement welfare benefits for a limited group of households, they reflect rather than compensate for the structural deficiencies of the CEE.⁶⁴

7. Conclusion

Europeanization in CEE has been primarily conceived as a process of capacity building. This was true of the European institutional actors, who said this clearly and consistently in their Annual Reports. It was generally true of CEE political elites, who saw in the EU requirements a combination of sensible long-term reforms and unavoidable bureaucratic requirement. And it was true of the scholarly community, who emphasized precisely this dimension as a way of distinguishing the EU from less effective ‘transnational integration regimes’ such as NAFTA.⁶⁵

And yet while no coherent conception of Europeanization could exist without this notion of capacity building, the near-exclusive focus on capacity building risks turning Europeanization into an overly static concept. The paper has made a number of analytical innovations that should be taken into account in order to grasp more fully the dynamics of Europeanization and the somewhat contradictory results it has produced. The conclusion summarizes these points and discusses their impact.

First, we argued that a number of structural factors have allowed the initial success of Europeanization. Looking only at the narrow process of capacity building and investigating reasons for compliance with the *acquis* therefore is likely to miss important elements of why Europeanization was a success initially and why it has turned into a more contested process more recently. In particular, we submit that geopolitical stability and fast economic growth have provided ‘easy times’ for pre-accession Europeanization. More recent structural developments - geopolitical rivalry and war in the Middle East that displaced millions of people, the global financial crisis, and the rise of populist challenger parties in the West have created a new matrix of constraints and opportunities for CEE. Europeanization is not the only game in town any more. In addition, the liberal understanding of the European order,

⁶⁵ Bruszt and Vukov 2017, Bruszt and McDermott 2012.

⁶⁰ Hein 2009: 4.

⁶¹ Hazan 2013.

⁶² Sipaviciene and Stankuniene 2013

⁶³ Barbone et al. 2012, Gianetti et al. 2009, Atoyan et. al 2016

⁶⁴ Engbersen 2013.



which are pretty much taken for granted by the Europeanization literature is becoming highly contested, and an alternative European vision of putting the national interest first has risen as an alternate project.

This paper has not explored the consequences of these wider structural changes for Europeanization. Instead, it has focused on broadening the Europeanization concept, arguing that capacity building – important as it is – does not exhaust the range of influences that can and should be captured by Europeanization. We have stretched the concept of Europeanization to include three other processes, all of which are critical to understanding Europe's important effects on the domestic political economics of its CEE members states. Thus, during the pre-accession period, in addition to capacity building EEC has also become quietly Europeanized through regulatory forbearance and capital inflows. This had contradictory impacts on CEEs political economies. To put it in a pointed fashion, capacity building has simultaneously been undermined by the denial of CEEs' ability to control or restrict in any meaningful way hugely disruptive inflows of foreign capital. The concrete impact of this simultaneous but contradictory process of building and undermining economic capacities has differed: The Visegrád countries have been able to pursue a developmental agenda building on the inflow of FDI in their manufacturing sectors, while the Baltic States have been exposed to larger and more disruptive capital inflows in their banking and real estate sectors.

The content of Europeanization then changed after the onset of the GFC, as the liberal developmental states had to confront renewed calls for macroeconomic orthodoxy and structural adjustment. Interestingly, visible and invisible forms of Europeanization again have contradictory effects on the CEE political economies and development strategies. While macroeconomic orthodoxy pushes these countries towards very unpopular austerity, the buffering through structural funds has allowed them to

outsource important parts of their recovery. And as they learn the hard lesson that capital inflows oblige a country to run a trade deficit, they are more resistant to such inflows and have generally kept their current accounts in rough balance.⁶⁶ Again, post-accession Europeanization has played out differently in the two groups of countries. In the Visegrád countries, especially in Hungary, austerity has become politicized, and has led to a renunciation of the former Europeanization path. "Invisible" European resources are now being used to pursue anti-European policies, politics and economic strategies. The Baltic States have complied with the austerity and structural adjustment agenda of the EU. Frontloading EU requirements they have fulfilled all requirements to join the Eurozone at the time of the euro's deepest crisis. While often being hailed as posterchildren of austerity, it is however invisible Europeanization that have allowed them to comply.

66 Indeed, the *only* EU member state with a substantial current account deficit in 2017 was the United Kingdom (-4.3%). This is a major reason European-US trade tensions are on the rise, as European capital from a number of 'surplus states' pours into the US economy, which is not capital constrained. Jacoby 2017.



8. References

- Appel, Hilary and Mitchell Orenstein. 2016. "Why Did Neoliberalism Triumph and Endure in the Post-Communist World?" *Comparative Politics* 48 (3).
- Aslund, Anders. 2010. *The Last Shall Be the First: The East European Financial Crisis*. Washington, D.C.: Peterson Institute.
- Ban, Cornel. 2017. *Ruling Ideas: How Global Neoliberalism Goes Local*. New York: Oxford University Press.
- Bandelj, Nina. 2008. *From Communists to Foreign Capitalists: The Social Foundations of Foreign Direct Investment in Postsocialist Europe*. Princeton: Princeton University Press.
- Blyth, Mark. 2012. *Austerity: The History of a Dangerous Idea*. Oxford: Oxford University Press.
- Bohle, Dorothee and Wade Jacoby. 2017. "Lean, Special, or Consensual? Vulnerability and External Buffering in the Small States of East-Central Europe." *Comparative Politics*, January 2017: 191-211.
- Bohle, Dorothee and Bela Greskovits. 2012. *Capitalist Diversity on Europe's Periphery*. Ithaca: Cornell University Press.
- Bruszt, Laszlo and Gerald McDermott. 2012. "Integrating rule takers: transnational integration regimes shaping institutional change in emerging market democracies," *Review of International Political Economy* 19 (5): 742-778.
- Bruszt, Laszlo and Visnja Vukov. 2017. "Making states for the single market: European integration and the reshaping of economic states in the Southern and Eastern peripheries of Europe," forthcoming, *West European Politics*.
- Buszko, Michal and Dorota Krupa. 2016. "Foreign Currency Loans in Poland and Hungary: A Comparative Analysis," *Procedia Economics and Finance*, 30: 124-136.
- Cowles, Maria Green, James A. Caporaso, and Thomas Risse-Kappen. 2001. *Transforming Europe: Europeanization and Domestic Change*. Cornell University Press.
- Drahokoupil, Jan. 2008. *Globalization and the State in Central and Eastern Europe: The Politics of Foreign Direct Investment*. Abingdon: Routledge.
- Eihmanis, Edgars. 2017. "Cherry-Picking External Constraints: Latvia and EU Economic Governance, 2008-2014," *Journal of European Public Policy*, forthcoming.
- Epstein, Rachel A. 2008. *In Pursuit of Liberalism: International Institutions in Postcommunist Europe*. Baltimore: JHU Press.
- 2010. Special Issue of *Journal of European Public Policy*.
 - 2017. *Banking on Markets: The Transformation of Bank-State Ties in Europe and Beyond*. Oxford: Oxford University Press.
- European Commission, 2013a. "Cohesion Policy: Strategic Report, 2013." At http://ec.europa.eu/regional_policy/how/policy/doc/strategic_report/2013/strat_report_2013_en.pdf, p. 4.
- European Commission, 2013b. "Cohesion Policy: Commission Staff Working Document," SEC(2013)129) http://ec.europa.eu/regional_policy/how/policy/doc/strategic_report/2013/swd_strat_report_2013_en.pdf.
- European Commission Directorate General for Regional Policy 2010. "Cohesion Policy: Responding to the Economic Crisis." At http://ec.europa.eu/regional_policy/sources/docoffic/2007/working/economic_crisis_sec20101291.pdf.
- European Commission. 2011. "Increased Co-financing Rates for EU Funds." Press release. http://europa.eu/rapid/press-release_IP-11-942_en.htm?locale=en.
- European Union Committee of the Regions. 2011. *Anti-Crisis Policies in Regions and Cities Two Years On: Public Authorities Working in Part-*



nership, Brussels, Belgium: Committee of the Regions

- Featherstone, Kevin and Claudio Maria Radaelli. 2003. *The Politics of Europeanization*. Oxford: Oxford University Press.
- Fernandez, Rodrigo, and Manuel B. Aalbers. 2016. "Financialization and Housing: Between Globalization and Varieties of Capitalism." *Competition & Change* 20 (2): 71–88.
- Grabbe, Heather. 2006. *The EU's Transformative Power: Europeanization through Conditionality in Central and Eastern Europe*. Basingstoke: Palgrave Macmillan.
- Grodzicki, Maciej and Tomasz Geodecki. 2016. "New Dimensions of Core-Periphery Relations in an Economically Integrated Europe: The Role of Global Value Chains" *East European Economics*, 54 (5).
- Grzymala-Busse, Anna. 2002. *Redeeming the Communist Past: The Regeneration of Communist Parties in East-Central Europe*. New York: Cambridge University Press.
- Henning, C. Randall. 2017. *Tangled Governance: International Regime Complexity, the Troika, and the Eurocrisis*. New York: Oxford University Press.
- Jacoby, Wade. 2006. *The Enlargement of the European Union and NATO: Ordering from the Menu in Central Europe*. New York: Cambridge University Press.
- 2010. "Managing Globalization by Managing Central and Eastern Europe: The EU's Backyard as Threat and Opportunity," *Journal of European Public Policy* 17 (3): 416–432.
 - 2014. "The EU Factor in Fat Times and in Lean: Did the EU Amplify the Boom and Soften the Bust?" *JCMS: Journal of Common Market Studies* 52 (1): 52–70.
 - 2017. "Surplus Germany." Transatlantic Academy Paper Series. 8/2017. Available at: <http://www.transatlanticacademy.org/publications/surplus-germany>.
- Johnson, Juliet and Andrew Barnes. 2015. "Financial Nationalism and Its International Enablers: The Hungarian Experience." *Review of International Political Economy* 22 (3): 535–69.
- Jones, Erik. 2011. "Macroeconomic Imbalances and Sovereign Debt Markets." In *Europe, Canada and the Comprehensive Economic Partnership Agreement*, edited by Kurt Hübner, 289–305.
- Kattel, Rainer, and Ringa Raudla. 2013. "The Baltic Republics and the Crisis of 2008–2011." *Europe-Asia Studies* 65 (3): 426–49.
- Knill, Christoph. 2001. *The Europeanisation of National Administrations: Patterns of Institutional Change and Persistence*. Cambridge University Press.
- Ladrech, Robert. 2010. *Europeanization and National Politics*, Basingstoke: Palgrave Macmillan.
- Levitz, Philip, and Grigore Pop-Eleches. 2010. "Why No Backsliding? The European Union's Impact on Democracy and Governance before and after Accession," *Comparative Political Studies* 43 (4): 457–485.
- Lütz, Susanne, and Matthias Kranke. 2014. "The European Rescue of the Washington Consensus? EU and IMF Lending to Central and Eastern European Countries," *Review of International Political Economy* 21 (2): 310–338.
- Magyar, Balint, and Julia Vasarhelyi, eds. 2017. *Twenty-Five Sides of a Post-Communist Mafia State*. Budapest: Central European University Press.
- Medve-Bálint, Gergö. 2014. "The Role of the EU in Shaping FDI Flows to East Central Europe," *JCMS: Journal of Common Market Studies* 52 (1): 35–51.
- OECD 2011: *OECD Economic Surveys: Estonia 2011*. Paris: OECD



- Pettis, Michael. 2013. *The Great Rebalancing: Trade, Conflict, and the Perilous Road Ahead for the World Economy*. Princeton University Press.
- 2014. "Economic Consequences of Income Inequality," Carnegie Endowment for International Peace, March 23, 2014 <http://carnegieendowment.org/chinafinancialmarkets/55084>.
- Pistor, Katharina. 2009. "Into the Void: Governing Finance in Central & Eastern Europe." SSRN Scholarly Paper 355. Columbia Law and Economics Working Paper. New York: Columbia University. <http://papers.ssrn.com/abstract=1476889>.
- Podkaminer, Leon. 2013. "Development Patterns of Central and Eastern European Countries (in the Course of Transition and Following EU Accession), Vienna Institute for International Economic Studies. Research Report #338.
- Radaelli, Claudio M. 2000. "Whither Europeanization? Concept Stretching and Substantive Change." https://papers.ssrn.com/sol3/papers.cfm?abstract_id=302761.
- Ray, Helene. 2014. "Capital Account Management" in G. Akerlof, O. Blanchard, D. Romer and J. E. Stiglitz, (eds), *What Have We Learned? Macroeconomic Policy after the Crisis*, Cambridge, MA: MIT Press, pp. 307-13.
- Sartori, Giovanni. 1970. "Concept Misformation in Comparative Politics." *American Political Science Review* 64 (4): 1033–1053.
- Schimmelfennig, Frank and Ulrich Sedelmeier. 2005. *The Europeanization of Central and Eastern Europe*. Ithaca: Cornell University Press.
- Sedelmeier, Ulrich. 2008. "After Conditionality: Post-Accession Compliance with EU Law in East Central Europe." *Journal of European Public Policy* 15 (6): 806–825.
- 2014. "Anchoring Democracy from Above? The European Union and Democratic Backsliding in Hungary and Romania after Accession," *JCMS: Journal of Common Market Studies* 52 (1): 105–121.
- Underhill, Geoffrey R. D. 2002. "Global Integration, EMU and Monetary Governance in the European Union: The Political Economy of the 'Stability Culture.'" In *European States and the Euro: Europeanization, Variation, and Convergence*, edited by Kenneth HF Dyson, 31–52. Oxford: Oxford University Press.
- Vachudova, Milada Anna. 2005. *Europe Undivided: Democracy, Leverage, and Integration after Communism*. Oxford University Press.
- Vukov, Visnja. 2016. "The Rise of the Competition State: Transnationalization and State Transformations in Europe," *Comparative European Politics* 14: 523-546.



IMPLEMENTING EU COHESION POLICY IN THE EASTERN MEMBER STATES: QUALITY OF GOVERNMENT BALANCING BETWEEN EQUITY AND EFFICIENCY

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Abstract

Regional disparities in economic development within the European Union have long posed concerns for scholars and policy-makers alike. The entry of the relatively poor Eastern European countries further amplified the issue of widening developmental gaps and put the cohesion policy in the forefront of political and scholarly debates. However, since the launch of the Lisbon Agenda, the EU has promoted competitiveness and the efficient use of the funds (efficiency) over supporting the most backward regions (equity). This has posed an implementation challenge for the Eastern members as they needed to reduce their generally high territorial disparities while also facilitating their economic catch-up with the most advanced member states. This paper shows that the regional fund eligibility criteria in the 2007-13 programming period created such circumstances for fund distribution in Eastern Europe which were beneficial for the relatively more prosperous areas. At the same time, the paper also finds that this outcome was conditional on domestic quality of government. As quality of government

increases, the advantage of the more developed regions in securing EU funds decreases. This suggests that economic Europeanization in the domain of cohesion policy depends on domestic state capacities: while the EU has promoted the efficiency principle in the regional distribution of funds, the extent to which this has prevailed in the Eastern members was contingent on their domestic quality of government.

Keywords: cohesion policy, Eastern Europe, regional fund distribution, policy implementation, quality of government.

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Introduction

Economic Europeanization stands on three main pillars: the first two, market opening and the regulation of the expanding market are closely connected to each other. In contrast, the third pillar aims at counter-balancing the potential negative effects of economic integration: it is a market-correcting measure intended to reduce territorial inequality within and across the EU member states. The primary vehicle serving this goal is the EU's cohesion policy. Funds available through the policy's three major instruments¹ are expected to contribute to competitiveness and economic development and assist the catch-up of the backward regions.

Transfers from the policy represent one of the most visible and most tangible rewards of EU membership: they are the 'carrots' of compliance. This especially holds in the case of the Eastern member states where many of the EU's least developed regions are. Accordingly, Eastern members are among the top recipients of EU funds: both in the 2007-13 and the 2014-20 programming periods more than half of the total

1 European Regional Development Fund (ERDF), European Social Fund (ESF), and Cohesion Fund (CF)



cohesion policy budgets were allocated to them.²

The objectives of the policy emphasize the stimulation of economic activity in the least developed regions, which would imply that the financial transfers benefited the most backward areas. This is the principle of equity which would require concentration of spending in the laggard regions. However, the territorial distribution of the funds is not purely subject to this principle. Recently, considerations about fund absorption capacity and efficiency have also gained salience. This is because regional policies face a traditional trade-off between supporting the least developed regions with low absorption capacity and targeting the more prosperous areas to raise overall economic competitiveness.³

This paper shows that the implementation of the cohesion policy in the Eastern member states has benefited the relatively more developed regions thus the policy has failed to comply with its original objectives. The main reason for this lays in the fund eligibility criteria which were established according to an EU-wide benchmark. Relative to this benchmark the vast majority of the Eastern European regions are backward. As a consequence, the most prosperous and the most laggard Eastern regions were grouped together into the same eligibility category. The empirical evidence in this paper demonstrates that this 'level playing field' has proved advantageous for the economically more advanced regions with superior absorption capacity: they competed more effectively for the funds and secured more EU grants than their weaker counterparts.

2 In 2007-13 the EU fund allocation of the Eastern member states reached 50.8% of the combined budget of the three financial instruments while this share climbed to 55% in the 2014-20 programming period. Source: the author's own calculation based on data published by the European Commission (National Strategic Reference Frameworks for 2007-13 (http://ec.europa.eu/regional_policy/sources/atlas2007/fiche/nsrf.pdf, accessed 5 October 2017); and InfoRegio site for data on 2014-20 (http://ec.europa.eu/regional_policy/en/funding/available-budget/, accessed 5 October 2017)).

3 Harry W. Richardson, 'Aggregate Efficiency and Interregional Equity', in *Spatial Inequalities and Regional Development*, ed. Hendrik Folmer and Jan Oosterhaven (Springer Netherlands, 1979), 161–83.

While the fund eligibility criteria has favoured the more prosperous regions, the paper also reveals that the advantage of the most developed regions in obtaining EU grants diminishes with increasing state capacity. This suggests that state administrations in 'stronger' Eastern European states may compensate their most deprived regions for their competitive disadvantage in racing for the EU funds. This implies that the implementation of the cohesion policy in terms of whether the transfers rather support the more or less developed regions is conditional on domestic state capacities. Although by classifying nearly all the regions into the same support category the EU has created very similar structural conditions for fund distribution in Eastern Europe, economic Europeanization in this domain has not been uniform. States have struck the balance between the objectives of equity and efficiency differently: while higher state capacity is associated with more emphasis on the former goal, lower capacity seems to be advancing the principle of efficiency.

The paper is structured as follows. The first two sections lay the conceptual and theoretical framework by offering an overview about the economic rationale for the cohesion policy and by discussing the recently growing conflict between the equity and efficiency objectives with consequences for the Eastern European member states. This is followed by the empirical analysis of the regional distribution of EU funds in the East in the 2007-13 programming period. The final section concludes and outlines some potential future lines of inquiry.



Cohesion or competitiveness? Shifting priorities of the cohesion policy

In market economies spatial disparities emerge naturally. However, high or growing levels of territorial inequality may raise concerns among policy-makers and provide reasons for introducing market-correcting redistributive measures that aim to narrow the widening developmental gap between the most advanced and the poorest regions. European integration and especially the creation of the single market were expected to exacerbate economic disparities which required the strengthening of the EU's redistributive mechanisms to lower territorial inequality within and across the member states.

By eliminating all the barriers to the free flow of goods, labor, capital, and services, the single market has released those spatially divisive economic forces that had been previously contained within national borders. This is because the integration of domestic markets expands the economic space for agglomeration effects. This means that factors of production, innovation, and know-how tend to concentrate in certain privileged locations that will experience faster growth than the less preferred areas.⁴ If the direction of these flows does not change, then they generate spatial polarization and divergent economic development. European integration was expected to produce similar outcomes at least in the short and medium run because it has opened up national borders to these spatially divisive forces.⁵ The anticipated widening of the development gaps between the poor and the rich countries and regions had to be addressed by adequate policy measures.

4 Paul Krugman, 'Increasing Returns and Economic Geography', *Journal of Political Economy* 99, no. 3 (1991): 483–99; Robert E. Lucas, 'On the Mechanics of Economic Development', *Journal of Monetary Economics* 22, no. 1 (1988): 3–42; Gunnar Myrdal, *Economic Theory and Underdeveloped Regions* (London: Duckworth, 1957); Paul M. Romer, 'Increasing Returns and Long-Run Growth', *The Journal of Political Economy*, 1986, 1002–1037.

5 Mariassunta Giannetti, 'The Effects of Integration on Regional Disparities: Convergence, Divergence or Both?', *European Economic Review* 46, no. 3 (1 March 2002): 539–67.

In order to prevent divergence and to compensate for the negative territorial effects of integration, the cohesion policy became the key tool for the EU to address spatial imbalances. The Treaty of Rome laid down its main objectives by stipulating that the policy should address economic, social, and territorial cohesion across the member states. The Treaty stressed a territorially-oriented policy which redistributes financial resources from the more developed countries and regions to the backward areas: Article 174 of the Treaty on the Functioning of the European Union prescribes that "[i]n particular, the Union shall aim at reducing disparities between the levels of development of the various regions and the backwardness of the least favoured regions".⁶

Funds distributed through the cohesion policy were expected to enhance economic growth in the backward regions and facilitate their catch up with the most prosperous areas.⁷ In essence, a European development policy was an attempt to "match the territorial scale of the response with the source of the economic problems".⁸ The signing of the Single European Act in 1986 paved the way for the single market, thereby cohesion policy became one of the most important redistributive instruments of the EU taking more than one third of its entire budget.

Deepening integration amplified the intrinsic tension of the cohesion policy: should it assist the economically lagging regions in their often futile attempts to catch-up with the prosperous ones or should it instead reward the leading regions and the fast-growing areas to generate further economic growth and raise overall competitiveness of the domestic economies? Both

6 European Council, 'Consolidated Versions of the Treaty on European Union and the Treaty on the Functioning of the European Union Treaty', *Official Journal of the European Union*, no. C 83 (30 March 2010): 47–199.

7 David Allen, 'Structural Funds and Cohesion Policy. Extending the Bargain to Meet New Challenges', in *Policy-Making in the European Union*, ed. Helen Wallace, Mark Pollack, and Alasdair Young, 6th edition (Oxford: Oxford University Press, 2010), 226–49.

8 Iain Begg, 'Cohesion or Confusion: A Policy Searching for Objectives', *Journal of European Integration* 32, no. 1 (2010): 81.



options involve certain drawbacks. Commitment to the efficiency principle may deepen regional disparities while continued support to the backward areas may create disincentives for investing in growth and competitiveness.⁹ In the case of the Eastern member states „a parallel compromise has to be sought between the goals of economic efficiency and distributional equity, between external convergence of the country with the EU and internal convergence in terms of domestic regional disparities”.¹⁰

Balancing between these two objectives is not isolated from the broader socio-economic agenda and long-term strategic vision of the EU which have affected reforms of the cohesion policy. The launch of the Lisbon Strategy in March 2000 marked a turning point. The primary goal set by the Strategy was to make the EU the most competitive and dynamic knowledge-based economy in the world.¹¹ Although it mentioned the promotion of greater social cohesion, the main emphasis was placed on enhancing economic growth and competitiveness. The Lisbon Strategy, from which the spatial dimension was missing, shifted the delicate balance between equity and efficiency towards the latter. Since the 2007-13 programming period, instead of targeting the most backward regions, the cohesion policy has adopted a so-called place-based approach and began promoting growth in all the EU regions regardless of their level of development.¹² Due to the changes introduced to the geographical eligibility rules, for the first time in the EU's history, every European region became eligible for some funding through

9 John Bachtler and Fiona Wishlade, 'Regional Policy in Europe: Divergent Trajectories? Annual Review of Regional Policy in Europe', EoRPA Paper (European Regional Policy Research Consortium, University of Strathclyde, 2011), 52.

10 Martin Ferry and Irene McMaster, 'Implementing Structural Funds in Polish and Czech Regions: Convergence, Variation, Empowerment?', *Regional & Federal Studies* 15, no. 1 (2005): 19-39.

11 Council, 'Lisbon European Council Presidency Conclusions' (Brussels: European Council, 23 March 2000), http://www.europarl.europa.eu/summits/lis1_en.htm#a.

12 Bachtler and Wishlade, 'Regional Policy in Europe: Divergent Trajectories? Annual Review of Regional Policy in Europe', EoRPA Paper, 2011/1, Glasgow: University of Strathclyde.

the cohesion policy instruments.

Especially the net contributors to the EU budget urged these policy changes because, on the one hand, they wanted to avoid further deterioration in their net paying position (which was likely to happen with the Eastern enlargement), and, on the other hand, they were concerned by the funds' ability to generate economic growth.¹³ The net payers demanded more efficient spending while the traditional net beneficiaries (the Southern member states) wanted to preserve their privileged position. In the end, a major re-orientation in the allocation of funding from the more developed South to the East did not occur: per capita levels of assistance for the Southern members remained comparable to that in the pre-accession period. One may therefore argue that with the Lisbonization of the cohesion policy the richer member states managed to “successfully legitimize and defend their share in cohesion funding”.¹⁴

The shift in the cohesion policy away from the territorial focus continued with the financial and economic crisis in 2008. As the economic output of the member states plummeted, the European Commission accelerated spending from the cohesion policy instruments by relaxing some of the payment rules and granting access to advanced payments. By doing so, the funds served as a buffer against the external economic shock and represented a notable compensation for declining public consumption in the member states, particularly in Eastern Europe.¹⁵

Territorial cohesion thus suffered a further blow as in the post-crisis context the funds increasingly became a vehicle for fostering economic growth instead of narrowing regional disparities.

13 John Bachtler, Carlos Mendez, and Fiona Wishlade, 'National Interests in Cohesion Policy and the Positions of Member States', in *EU Cohesion Policy and European Integration: The Dynamics of Budget and Policy Reform* (Ashgate, 2013), 163–200.

14 George Andreou, *The New EU Cohesion Policy: Enlargement, 'Lisbonization' and the Challenge of Diversity*, vol. Deliverable No. 15b (EU-CONSENT - Constructing Europe Network, 2007), 27, http://www.eu-consent.net/library/deliverables/D15b_Team3.pdf.

15 Wade Jacoby, 'The EU Factor in Fat Times and in Lean: Did the EU Amplify the Boom and Soften the Bust?', *Journal of Common Market Studies*, no. 1 (2014. : 52-70).



Originally a market-correcting instrument aimed at reducing territorial inequality, the cohesion policy has gradually transformed into an external ‘top-up’ for member state budgets. It follows that the recent reforms of the cohesion policy’s regulatory framework may not serve the needs of the most backward regions. Because of the declining attention to spatial inequality and cohesion, and the greater salience attributed to increasing economic growth and competitiveness, some scholars even argue that the ‘Lisbonization’ of the policy may maintain or even widen existing regional disparities.¹⁶

The ‘Lisbonized’ cohesion policy and the regional distribution of funds in Eastern Europe: developing hypotheses

The Eastern enlargement raised the political and economic significance of the cohesion policy further because the EU had to integrate relatively poor countries into the European markets while also ensuring cohesion within and across the new members and the EU as a whole. The double challenge of fostering economic development and catch-up in Eastern Europe while maintaining territorial cohesion exposed the internal inconsistencies (equity vs. efficiency) of the policy. There were two fundamental issues to resolve in the case of the Eastern members: the amount of funding allocated to each country and the geographical spread of the funds. In both instances the arrangements echoed the Lisbonization process.

While in principle the poorer member states can expect a larger cohesion policy budget, domestic absorption capacity appears as a conditioning factor that may restrict their entitlement for the funds. It was argued that the effective utilization

(absorption) of the funds becomes onerous for member states if the funds reach beyond 4% of GNP.¹⁷ This is the reason why an absorption cap was introduced that set the maximum fund allocation at this level. While the limit applied to the Eastern members as well, some further considerations played a role in determining their final budgets for the 2007-13 programming period, the first full cycle that they benefited from.¹⁸

As recent research shows, institutional quality both at the local and the national level may influence development trajectories¹⁹ and may also limit the fund absorption capacity of a country or a region. This implies that EU funds may contribute to economic growth only in those areas that demonstrate a sufficiently high level of development²⁰ and institutional capacity.²¹ The quality of local and regional institutions seems to be a key mediating factor for the growth-generating potential of the funds: “greater levels of cohesion expenditure would, in the best-case scenario, only lead to a marginal improvement in economic growth, unless the quality of the government is significantly improved.”²² On the one hand, the scholarly literature reinforces the efficiency-based

17 George Andreou, ‘The EU New Economic Governance and EU Cohesion Policy: More Effectiveness and Less Solidarity?’ DRAFT PAPER for ECPR Annual Conference, September 2017, Oslo. (<https://ecpr.eu/Filestore/PaperProposal/de5f5e73-38c1-403b-9503-dd610456be47.pdf>).

18 Eight Eastern countries (Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Slovakia, and Slovenia) that joined the EU in 2004 received funding from the cohesion policy already between 2004 and 2006, while Bulgaria and Romania, which entered the EU in 2007, became entitled for funds in the 2007-13 programming period.

19 Andrés Rodríguez-Pose, ‘Do Institutions Matter for Regional Development?’, *Regional Studies* 47, no. 7 (2013): 1034–47.

20 Aadne Cappelen et al., ‘The Impact of EU Regional Support on Growth and Convergence in the European Union’, *JCMS: Journal of Common Market Studies* 41, no. 4 (2003): 621–44.

21 Sjeff Ederveen, Henri L.F. de Groot, and Richard Nahuis, ‘Fertile Soil for Structural Funds? A Panel Data Analysis of the Conditional Effectiveness of European Cohesion Policy’, *Kyklos* 59, no. 1 (2006): 17–42.

22 Andrés Rodríguez-Pose and Enrique Garcilazo, ‘Quality of Government and the Returns of Investment: Examining the Impact of Cohesion Expenditure in European Regions’, *Regional Studies* 49, no. 8 (2015): 1274–1290.

16 Vasilis Avdikos and Anastassios Chardas, ‘European Union Cohesion Policy Post 2014: More (Place-Based and Conditional) Growth – Less Redistribution and Cohesion’, *Territory, Politics, Governance* 4, no. 1 (2016): 97–117.



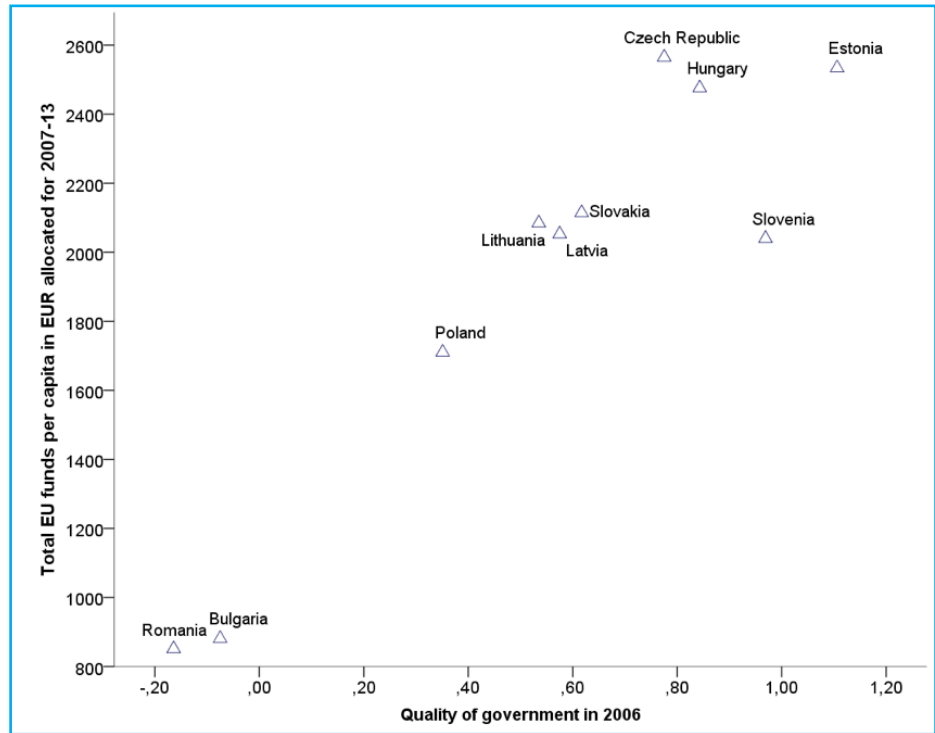
arguments of the net payers who preferred to promote economic growth and competitiveness instead of targeting the most backward areas which also often demonstrate inferior institutional quality and, as a consequence, funds are likely to be spent less efficiently there than in more prosperous regions. On the other hand, the overall fund absorption capacity of a member state may be conditional on the quality of government.

In the final budgetary arrangements for the 2007-13 programming period, concerns about absorption capacity played a more important role than the level of backwardness of the Eastern member states. Although poorer countries were supposed to receive higher funding allocations, their inferior absorption capacity compromised their budgets: in per capita terms those Eastern members benefited from larger fund allocations where the quality of government and, presumably, the absorption capacity was higher (Figure 1). To put it differently, at similar levels of GDP per capita, higher quality of government led to higher per capita budgets. This is why the national allocations for Bulgaria and Romania were much lower in per capita terms than it may have been expected from their heavily backward position.²³ Fund allocation to

23 Surely, the inter-governmental negotiations over the budget also involved complex considerations where national interests and coalitions between net payers and net beneficiaries determined the final fund allocations (see for instance Vasja Rant and Mojmir Mrak, 'The 2007-13 Financial Perspective: Domination of National Interests', *JCMS: Journal of Common Market Studies* 48, no. 2 (2010): 347-72.). Nevertheless, concerns about absorption capacity appeared as a dominant factor during the negotiations that the final national budgets also reflect.

the Eastern European members thus followed efficiency considerations which were justified by the anticipated variation in the countries' fund absorption capacity.

Figure 1: Quality of government and total EU funds per capita allocated for 2007-13 in the Eastern member states (without Croatia)



Note: Quality of government refers to the mean scores for government effectiveness, rule of law and control of corruption in the Worldwide Governance Indicators (WGI) dataset

Source: the author's own calculation based on data from Eurostat, WGI and European Commission

Regarding the regional eligibility criteria, which determined the level of support to subnational regions, Lisbonization played an indirect role. Before discussing these aspects, the EU's NUTS (Nomenclature of Territorial Units for Statistics) territorial classification has to be briefly introduced. The NUTS divides the territory of the member states into a hierarchical system whose goal is to harmonize regional statistical data across the EU. The system consists of three divisions: NUTS 1, 2, and 3, where higher figures represent smaller units. The NUTS 3 regions are thus nested

in the larger NUTS 2 regions which are embedded in NUTS 1 areas. Among these territorial levels the NUTS 2 and NUTS 3 are the most important because they inform several EU policies. Regional eligibility for the cohesion policy is defined at the NUTS 2 level, but, for instance, the competition policy's regional ceilings of state aid are set at the NUTS 3 level.

Before each programming period, the European Commission and the Council jointly determine the fund eligibility of each NUTS 2 region. In the 2007-13 programming period, NUTS 2 regions were classified into three categories: convergence regions, competitiveness and employment regions and so-called phasing-out regions. The latter category applied to mostly those Southern European regions which would have been convergence regions had the Eastern enlargement not taken place. The convergence regions, whose GDP per capita was lower than 75% of the EU average, were eligible for the highest level of support while the regions falling into the competitiveness and employment category were entitled to significantly less funding.²⁴

The European benchmark (EU average GDP per capita) that determined fund eligibility did not distinguish among the regions according to their domestic positions. In other words, the EU did not account for within-country regional disparities when it classified the regions into the above three categories. This crucially affected the classification of the Eastern regions because in most of them GDP per capita was well below 75% of the EU average. In the end, among the 54 Eastern European NUTS 2 regions²⁵ 51 became convergence regions and only three of them were grouped into the competitiveness and employment category.²⁶ On the one hand, this was advantageous for the Eastern members because with few exceptions

24 For more information consult the webpage of DG Regional and Urban Policy: http://ec.europa.eu/regional_policy/en/policy/how/is-my-region-covered/2007-2013/. (accessed on 23 June 2017)

25 Excluding the two Croatian NUTS 2 units.

26 Central Hungary, Bratislavsky, and the capital city of Prague

the entire territory of these countries was eligible for the highest level of support and this evidently maximized their budgets. On the other hand, the most backward Eastern regions were grouped together with more developed ones, thus weak and strong regions had to compete for the funds under the same rules.

The above circumstances resemble imperfect competition because the laggard regions presumably have lower absorption capacity than the richer areas; they may also have less own resources, and are less competent in preparing project applications. Yet, they face the same rules as the richer ones. As absorption capacity, own resources and know-how in project preparation and management are concentrated in the advanced areas, the 'level playing field' seem to be advantageous for them. This situation is analogous to that observed in capital-intensive industries where market competition tends to favour the bigger economic actors.²⁷ However, if the more prosperous areas in the East outcompete the backward ones by securing more funds, then the implementation of the cohesion policy will not serve its original objective of reducing regional disparities. If this hypothesis holds, then the geographical eligibility criteria applied to the Eastern European member states promotes efficiency at the expense of equity. Although such an outcome would be consistent with the "Lisbonized" cohesion policy, it would also imply that an originally market-correcting transnational financial instrument reinforces spatially divisive mechanisms in the Eastern members.

In short, the first expectation assumes that by grouping most of the Eastern regions into the same eligibility category, the funds will concentrate in the more developed areas having higher economic power and absorption capacity. However, as it has already been discussed, the quality of government influences the overall fund absorption capacity

27 See for instance Frederic M. Scherer, *Industrial Market Structure and Economic Performance*, 2nd ed. (Chicago: Rand McNally, 1980); Zoltan J. Acs and David B. Audretsch, 'Innovation, Market Structure, and Firm Size', *The Review of Economics and Statistics* 69, no. 4 (1987): 567-74.



of a member state. If this is the case, then it may also affect the territorial distribution of EU financial transfers. This is because national governments enjoy considerable freedom in the implementation of the cohesion policy: while the EU sets the external regulatory environment including the fund eligibility criteria, it does not have any legal mandate to demand harmonization of the domestic institutional systems responsible for policy implementation.²⁸

This suggests that in the case of the cohesion policy, economic Europeanization boils down to where the member states strike the balance between equity and efficiency. To put it differently, the externally set classification of the NUTS 2 regions into the same funding category pushes Eastern European states towards efficiency instead of promoting the least backward regions. But within these constraints they might shift the balance back by channelling support to the most deprived areas. On the one hand, this can be achieved by positive discrimination of the laggard regions through the operational programmes although this option was applied only in Poland and to a limited extent.²⁹ On the other hand, states with higher capacities (i.e. higher quality of government) are expected to be more capable of steering EU funds to the most deprived areas by providing additional assistance to those regions through various capacity-building programmes. Conversely, a weaker state may be more likely to reward the prosperous regions with funds, because of its greater exposure to the lobbying power of powerful economic agents that are likely to be concentrated in the more developed, economically strong regions.

Indeed, several empirical works have found a positive relationship between quality of

28 James Hughes, Gwendolyn Sasse, and Claire Gordon, 'Conditionality and Compliance in the EU's Eastward Enlargement: Regional Policy and the Reform of Sub-National Government', *JCMS: Journal of Common Market Studies* 42, no. 3 (2004): 523–51; Martin Ferry and Irene McMaster, 'Cohesion Policy and the Evolution of Regional Policy in Central and Eastern Europe', *Europe-Asia Studies* 65, no. 8 (2013): 1502–28.

29 In 2007–13, Poland implemented a multi-regional operational programme providing exclusive funding to the most backward five Polish voivodships. However, only 3.4 percent of the total Polish cohesion policy budget was allocated for this programme. (See Ferry and McMaster, 'Cohesion Policy and the Evolution of Regional Policy in Central and Eastern Europe').

government and fund absorption. For instance, recent quantitative research has shown that higher government capacity is associated with higher fund absorption rates.³⁰ Similarly, qualitative evidence for the same relationship has been established both at the country³¹ and the regional³² level. Furthermore, quality of government understood as administrative capacity is related to financial compliance with the cohesion policy: in countries with greater administrative capacity irregularities and infringements of the EU law are less likely to occur during the implementation stage.³³ These findings about the role of quality of government inform the second hypothesis: in member states with higher quality of government the advantage of the most prosperous areas in securing funds diminishes. In other words, stronger state administrations may be able to counter-balance the imperfect cross-regional competition for EU funds that the geographical eligibility rules created in Eastern Europe.

A limited number of scholarly works have already found evidence for the funds benefiting the wealthier municipalities³⁴ and regions³⁵

30 Jale Tosun, 'Absorption of Regional Funds: A Comparative Analysis', *JCMS: Journal of Common Market Studies* 52, no. 2 (2014): 371–87.

31 John Bachtler, Carlos Mendez, and Hildegard Oraže, 'From Conditionality to Europeanization in Central and Eastern Europe: Administrative Performance and Capacity in Cohesion Policy', *European Planning Studies* 22, no. 4 (2014): 735–57; Neculai-Cristian Surubaru, 'Administrative Capacity or Quality of Political Governance? EU Cohesion Policy in the New Europe, 2007–13', *Regional Studies* 51, no. 6 (2017): 844–56.

32 Simona Milio, 'Can Administrative Capacity Explain Differences in Regional Performances? Evidence from Structural Funds Implementation in Southern Italy', *Regional Studies* 41, no. 4 (2007): 429–42.

33 Carlos Mendez and John Bachtler, 'Financial Compliance in the European Union: A Cross-National Assessment of Financial Correction Patterns and Causes in Cohesion Policy', *JCMS: Journal of Common Market Studies* 55, no. 3 (2017): 569–92.

34 Stephen Bloom and Vladislava Petrova, 'National Subversion of Supranational Goals: "Pork-Barrel" Politics and EU Regional Aid', *Europe-Asia Studies* 65, no. 8 (2013): 1599–1620; Judit Kálmán, 'Derangement or Development? Political Economy of EU Structural Funds Allocation in New Member States - Insights from the Hungarian Case', CPS Working Paper Series (Budapest: Center for Policy Studies, Central European University, 2011), <https://cps.ceu.hu/sites/default/files/publications/cps-working-paper-eu-structural-funds-hungary-2011.pdf>.

35 Laila Kule, Zaiga Krisjane, and Maris Berzins, 'The Rhetoric and Reality of Pursuing Territorial Cohesion in Latvia', in



in the Eastern member states. However, these works are limited in their scope because they are at best comparative case studies of two countries and they do not account for quality of government influencing fund distribution. This paper contributes to the debate by examining the regional distribution of the 2007-13 EU grants across all the Eastern European regions by incorporating government quality into the analysis. The next section introduces the data and the analytical approach which is followed by the empirical analysis and the conclusion.

Analysis of the regional distribution of EU funds in the Eastern members

The Eastern member states have enjoyed a massive inflow of cohesion policy funds since their entry to the EU. Nevertheless, their net beneficiary position in per capita terms varies considerably (Table 1). This is partly because of the cross-country differences in fund absorption and partly because of the differences in the cohesion policy budgets which were determined by the countries' GDP and anticipated absorption capacity. Still, except for Croatia, which is the most recent entrant to the EU, in all the Eastern members the balance of total EU funds received and the total national contributions paid to the EU budget is positive. As the positive overall balances suggest, EU funds have contributed to the Eastern members' economic output and in this respect have served their catch-up with the more advanced member states. But the internal distribution of the EU funds offers a more nuanced picture: it reveals the subnational variation in EU grants and shows which regions have benefited the most from them.

Territorial Development, Cohesion and Spatial Planning, ed. Neil Adams, Giancarlo Cotella, and Richard Nunes, *Regions and Cities* (Abingdon and New York: Routledge, 2011), 291–319.



Table 1. Cumulative national contributions to the EU budget and total payments to the Eastern member states from the cohesion policy^a (2004-2015)

Country	Number of NUTS 2 regions	Number of NUTS 3 regions	Total EU payments in mn of EUR	Total national contributions to EU budget in mn of EUR	Balance of payments and contributions per capita in EUR	Balance in % of total GDP produced during EU membership ^e
Bulgaria ^b	6	28	5,825	3,122	362	.75
Croatia ^c	2	21	537	971	-101	-.33
Czech Republic	8	14	24,868	13,854	1,060	.63
Estonia	1	5	3,954	1,607	1,756	1.24
Hungary	7	20	25,835	9,577	1,626	1.37
Latvia	1	6	5,457	2,075	1,587	1.41
Lithuania	1	10	8,042	3,017	1,598	1.42
Poland	16	66 ^d	76,499	34,921	1,091	1.02
Romania ^b	8	42	14,338	10,692	177	.29
Slovakia	4	8	11,711	6,111	1,039	.75
Slovenia	2	12	4,485	3,619	426	.21
Total	56	232	181,552	89,565	877	.80

^a Payments from European Regional Development Fund, European Social Fund and the Cohesion Fund

^b Payments and contributions in 2007-2015

^c Payments and contributions in 2013-2015

^d The former Polish system of 66 NUTS 3 regions. As of 2015, there are 72 NUTS 3 regions in Poland

^e Total GDP for 2007-2015 in the case of Bulgaria and Romania; and 2013-2015 in the case of Croatia

Note: Population data was calculated as the annual average population in 2004-2015

Source: the author's own calculation based on Eurostat (population and GDP) and EU budget data

When discussing the regional distribution of the funds, there are two alternative choices for the units of analysis: one may either consider the NUTS 2 or the NUTS 3 regions. Although the bulk of regional statistical data in the EU are collected for the NUTS 2 territories and income disparities across these regions represent the key concern for decision makers involved in cohesion policy, there are some inherent problems with the NUTS 2 classification. Most importantly, in several instances these regions are not real subnational units. Currently, a single NUTS 2 area covers the whole territory of six member states³⁶ and further two members (Croatia and Slovenia) have only two NUTS 2 regions. The NUTS 2 level is therefore a

36 Cyprus, Estonia, Latvia, Lithuania, Luxembourg, and Malta.

mixture of small countries and larger subnational regions. What is more, some city-regions such as Prague, Berlin or Brussels are NUTS 2 units themselves thus in practice the NUTS 2 level extends from whole countries to single cities. This is a serious problem for the comparability of these units because different territorial levels are present in the same category.

The above problems appear in the case of the NUTS 3 regions to a lesser extent because each of them is a genuine subnational entity.³⁷ Choosing the NUTS 3 level as the unit of analysis is therefore beneficial not only because it increases the number of observations but also because the NUTS 3 areas offer a more detailed picture of the

37 With the exception of Cyprus, Luxembourg and Malta that represent a single NUTS 3 entity.



subnational dynamics of EU fund distribution in Eastern Europe. For these reasons, in this study the NUTS 3 regions of the Eastern members constitute the units of analysis. This choice, however, also involves certain compromises because the rather low availability of comparable cross-regional data at the NUTS 3 level poses limitations for the empirical analysis. Nevertheless, the range of accessible data is still sufficient for the purposes of this work.

The main explanatory variable is regional GDP per capita in 2006 (the year before funding commenced), which is both an indicator of the level of development and informs about the regional fund absorption capacity. Using GDP as a proxy for economic development has often been criticized on the grounds that it does not adequately reflect social well-being and progress. Alternative measures have been proposed by leading economists³⁸ but the role of GDP has remained influential in public policies and economics.³⁹ At the same time, more sophisticated indicators considering a broad range of economic dimensions show high correlation with GDP unless the alternative measures include individual dimensions of welfare relating to life satisfaction.⁴⁰ This implies that in spite of its shortcomings, GDP is still one of the best single indicators capturing the level of economic development. In addition, the national and regional eligibility criteria for receiving EU funds also rely on GDP per capita. As an alternative indicator, the regional Gross Value Added (GVA) per capita will also be used. This is a measure of the contribution of the private sector to the GDP: it shows the total value of goods and services produced after deducting intermediate consumption and the costs of inputs that went into the production of those goods and services.

38 Joseph E. Stiglitz, Amartya Sen, and Jean-Paul Fitoussi, 'The Measurement of Economic Performance and Social Progress Revisited: Reflections and Overview' (Paris: OFCE, 2009).

39 Jeroen C. J. M. van den Bergh, 'The GDP Paradox', *Journal of Economic Psychology* 30, no. 2 (2009): 117–35.

40 Jörg Döpke et al., 'Multidimensional Well-Being and Regional Disparities in Europe', *JCMS: Journal of Common Market Studies*, 55, no. 5 (2017): 1026–1044.

Besides GDP and GVA per capita, a binary indicator is also introduced which shows whether the region was classified as a competitiveness and employment unit. Only three Eastern European NUTS 3 regions fell into this category but because of their lower level of eligibility, they should have secured less funding than the other regions. In addition, the total regional population, population density, and an indicator of regional employment (all values are for 2006) are considered.⁴¹ Population density captures the level of urbanization and in this respect reveals whether there is a difference between rather rural or more urban regions in their ability to obtain funds. The size of population controls for the high cross-regional differences in the number of inhabitants. Finally, the employment indicator tests whether funds are concentrated in areas that suffer from structural challenges such as low employment levels.

At the country level, two indicators are introduced: GDP per capita and an index of quality of government. As previously discussed, overall fund absorption capacity is positively related to GDP per capita and also partially determines the cohesion policy budgets. In principle, countries with higher GDP should receive less support through EU funds thus the size of the funds that can be distributed across the regions should reflect this aspect. The quality of government index represents the mean of the 2006 Worldwide Governance Indicators for government effectiveness, rule of law, and control of corruption. This dataset is commonly used for estimating state capacity and quality of state institutions and has also been applied in cohesion policy studies.⁴² As Figure 1 has revealed, the quality of government is positively associated with the total per capita funds allocated to the Eastern member states. Moreover, this variable is the key to test the second hypothesis about whether quality of government assists the equity or the efficiency objective.

As for the dependent variable, it captures the total

41 For the description of the variables please consult the Appendix

42 see for instance Tosun, 'Absorption of Regional Funds'.



per capita EU funding disbursed between 2007 and 2014 from the European Regional Development Fund and the Cohesion Fund to beneficiaries registered in the corresponding regions. This indicator is thus an aggregate of the EU funds obtained by various actors in a NUTS 3 region. Data for the Croatian regions are also included even though the country became an EU member only in July 2013. However, the European Commission set aside funds for Croatia to be disbursed from the 2007-13 cohesion policy budget thus its exclusion from the analysis would not be justified even though the country received little support relative to the other Eastern members. The dataset suffers from certain limitations in that it does not contain projects funded from the European Social Fund, which represented 15% of the total allocation⁴³ for Eastern Europe in 2007-13 and served as the primary instrument for financing employment and human capital projects. Because of this, the regional employment indicator may not show any significant relationship with the dependent variable.

A visual representation of the total EU funds and regional GDP per capita provides some preliminary evidence for the first hypothesis that the richer regions benefited more from EU grants (Figure 2). The association between the two indicators is positive: the more advanced regions tended to secure more funds per capita.⁴⁴ The positive and significant correlation coefficient of the two indicators ($r = .552$, $p < .001$, $N =$

43 The author's own calculation based on the National Strategic Reference Frameworks (European Commission DG Regio, *Cohesion Policy 2007-2013. National Strategic Reference Frameworks* (Luxembourg: Office for Official Publications of the European Communities, 2007), http://ec.europa.eu/regional_policy/atlas2007/fiche/nsrf.pdf.

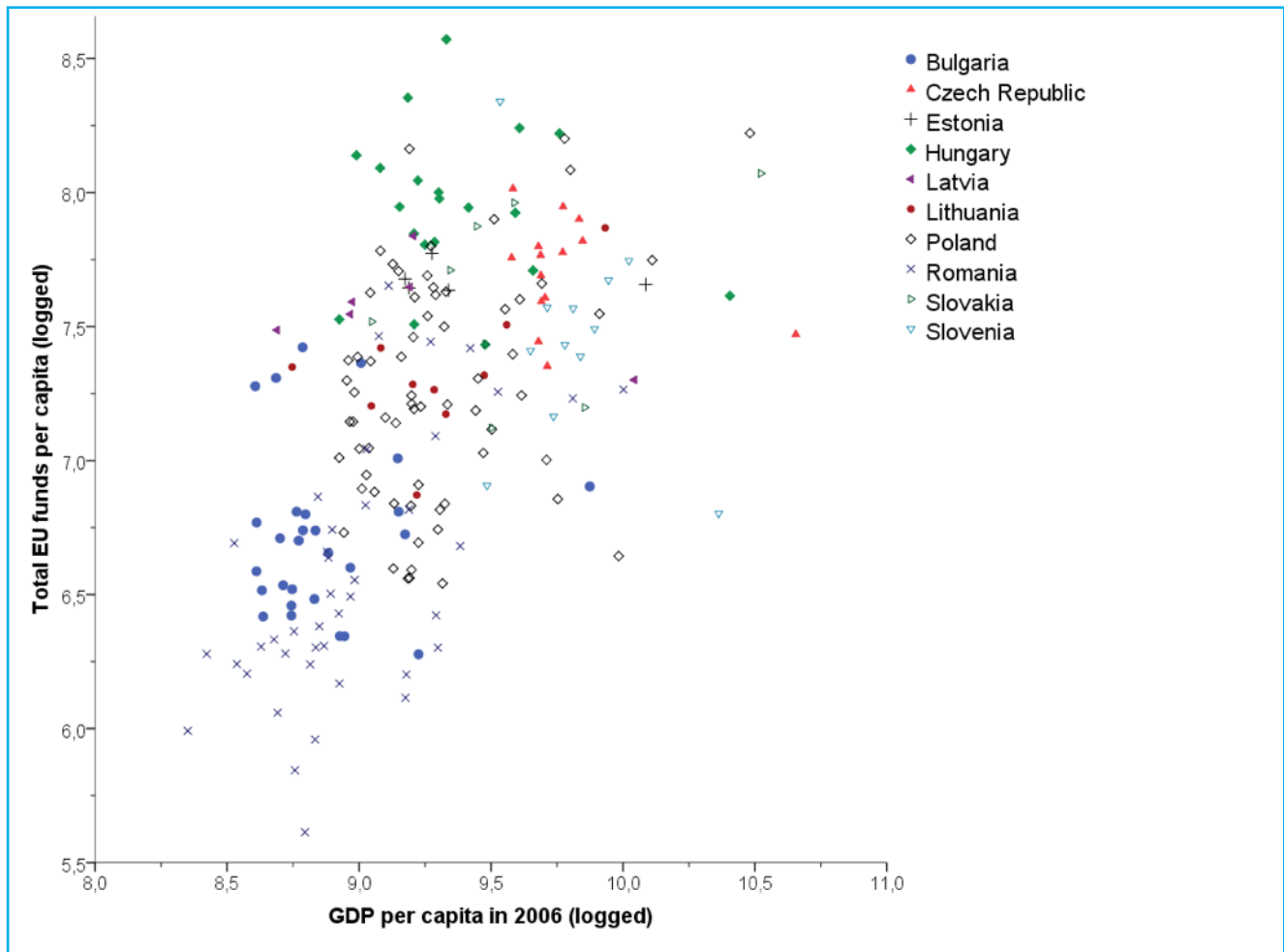
44 The data portrayed in Figure 6 accounts for expenditures from the European Regional Development Fund and the Cohesion Fund but does not include projects from the European Social Fund. However, a recent analysis (Medve-Bálint, Gergő (2015). *Converging on Divergence: The Political Economy of Uneven Regional Development in East Central Europe After the Change of Regime (1990-2014)*, PhD Dissertation, Budapest: Central European University) of the territorial distribution of the EU funds in four ECE countries (Czech Republic, Hungary, Poland, and Slovakia), which also accounted for ESF expenditures, reached similar conclusions.

211 (without Croatia) and $r = .277$, $p < .001$, $N = 232$ (with Croatia)) seems to confirm this observation.⁴⁵ If the funds were concentrated in the backward regions then there should be an inverse relationship between the regional level of development and per capita EU support. It seems that some of the most prosperous Eastern regions have been among the greatest fiscal beneficiaries of the funds while the least advanced ones were lagging behind. This is in line with the first expectation but the positive association between GDP and EU funds is partially driven by the fact that Bulgaria and Romania, the two poorest Eastern members where some of the EU's most backward regions are located, received the lowest per capita support in the 2007-13 funding period. This is also reflected in their low regional values of per capita funds and this is why a more thorough analysis is necessary that controls for other potential drivers of fund distribution.

45 The strength of association between the two indicators is lower if Croatian regions are included in the calculation. This is because Croatia became eligible for the cohesion policy support in 2013 and her per capita funds are substantially lower than the other Eastern members with similar levels of development but longer fund eligibility.



Figure 2. GDP per capita (2006) and total EU funds per capita spent in the Eastern European NUTS 3 regions between 2007 and 2014 (without Croatia)



Note: The same chart including data for the Croatian regions is available in the Appendix

Source: the authors' own calculation based on EU fund data provided by DG Urban and Regional Policy (http://ec.europa.eu/regional_policy/sources/docgener/evaluation/pdf/expost2013/wp13_2_db_nuts3_ae.xlsx) and Eurostat data.

Because the NUTS 3 regions are nested in countries, the dataset shows a hierarchical structure: variation in EU funds per capita appears both at the country and the regional level. Moreover, this variation is systematic: the differences in national cohesion policy budgets are responsible for country-level variation in the dependent variable while the regional factors are responsible for variance at the regional level. Consequently, the empirical analysis has to simultaneously account

for country-level and regional effects. Hierarchical linear models meet these criteria ⁴⁶ thus their application seems an appropriate strategy given the nested data structure.

The results of the regression models (Table 2) confirm both hypotheses. In the first model (Model 1) only the regional-level explanatory variables were included. The positive and

⁴⁶ Joop Hox, *Multilevel Analysis: Techniques and Applications*, Second Edition (New York: Routledge, 2010).



significant coefficient for initial regional GDP per capita shows that holding all things constant, richer regions – on average – secured more per capita EU funds than the poorer ones. On average, a one percent increase in the 2006 per capita GDP is associated with a nearly .6 percent rise in total EU funds per capita. To put it simply, the more developed a region, the more support it obtains. The dummy for the competitiveness and employment regions also shows a significant albeit negative association with the dependent variable. This suggests that limiting eligibility produces the intended outcome as regions in the lower funding category secured fewer funds per capita

employment units in the 2007-13 programming period, this effect does not apply to the vast majority of the Eastern regions. As for the other regional indicators, size of population shows a negative association with the funds at the 90% significance level but population density and – as expected – the employment indicator demonstrate a statistically not significant relationship with the dependent variable.

Table 2: Results of the multi-level models. Dependent variable: regional (NUTS 3) EU funds per capita (distributed until end of 2014)

	Model 1		Model 2		Model 3		Model 4	
	B	SE	B	SE	B	SE	B	SE
Constant	7.091***	.271	26.130***	9.238	24.991**	9.741	27.291***	1.223
<i>Regional level effects</i>								
GDP/capita (regional)	.568**	.236	.553**	.240	.689***	.163		
GVA/capita (regional)							.684***	.164
Competitiveness region ^a	-.452**	.175	-.451**	.183	-.233	.186	-.242	.182
Population	-.123*	.065	-.108*	.060	-.117*	.066	-.119*	.066
Population density	-.044	.076	-.037	.075	-.030	.073	-.030	.072
Employment	.044	.271	.021	.266	.130	.233	.129	.236
<i>Country level effects</i>								
Quality of government			2.996**	1.196	2.946**	1.268	3.022**	1.283
GDP/capita (country)			-2.295**	1.102	-2.159*	1.166	-2.418**	1.222
<i>Interaction effects</i>								
Qual. of gvt. & GDP/capita (reg.)					-.639***	.213		
Qual. of gvt. & GVA/capita (reg.)							-.616***	.210
<i>Random effects</i>								
Regional-level variance	.166***	.040	.167***	.040	.161***	.041	.161***	.041
Country-level variance	.654	.489	.244	.106	.264	.121	.268	.127
N	232 ^b		232 ^b		232 ^b		232 ^b	
Wald Chi-squared	42.16***		56.73***		603.25***		617.52***	

than the convergence regions. In other words, if a convergence region would lose its status to become a competitiveness and employment region, then its per capita EU funds will on average decrease by 57 percent, all else being equal.⁴⁷ Because only three regions qualified as competitiveness and

Reference group: Convergence regions

^bThe Polish data covers the former 66 NUTS 3 level regions (in effect until 31 December 2014).

Except for the dummy and the quality of government index, all explanatory variables are logged and centred on their mean. Logged dependent variable.

Unstandardized coefficients, robust standard errors; *** p < .01; ** p < .05; * p < .01

⁴⁷ If the dependent variable is logarithmic and the value of the dummy switches from 0 to 1, then its impact is as follows: 100 * [exp(coefficient) - 1] percent (see David E. A. Giles, 'The Interpretation of Dummy Variables in Semilogarithmic Equations: Unbiased Estimation'. *Economics Letters* 10, no. 1-2 (1982): 77-79.).



The introduction of the country-level explanatory variables (Model 2) does not modify the formerly established relationships: both the coefficients and the significance level for the regional indicators remain virtually unchanged. However, the country-level variables demonstrate the expected association with EU grants: holding all else constant, regional EU funds per capita declines if country-level GDP increases. Government quality reveals an opposite relationship: in countries with better quality of government the regional EU funds per capita are, on average, higher.⁴⁸ These results confirm what Figure 1 already suggested: the EU allocated a larger budget for those Eastern members whose anticipated fund absorption capacity was higher. At the same time, GDP per capita posed a limitation to budget expansion. This is why the two richest Easterners, the Czech Republic and Slovenia, whose quality of government were also relatively high, did not receive even more EU support.

Next, a cross-level interaction term between regional GDP per capita and quality of government is introduced (Model 3) to test the second hypothesis. If the regional distribution of the funds is more equitable in those Eastern members where the quality of government is higher, then government quality would reduce the effect of regional GDP per capita on the dependent variable thus the interaction term should be negative. The model produces exactly this result: the significant negative interaction term reveals that as the quality of government increases, the positive association between regional GDP and EU funds per capita decreases. In the end, at relatively high levels of government quality, the GDP's effect on the funds becomes zero (Figure 3). The regression

48 Quality of government and GDP per capita are strongly correlated with each other. However, the Variance Inflation Factor for the two indicators do not show excessive problems with multicollinearity (VIF = 4.43 for government quality and VIF = 6.13 for GDP). Collinearity typically inflates the standard errors and increases the likelihood of committing Type II errors. However, both variables produce a significant coefficient in each model thus collinearity does not seem to be a reason for concern here.

model produces the same results if regional GDP per capita is substituted with GVA per capita (Model 4).

As a robustness check, estimates were obtained for Model 3 by bootstrapping, too. This method is a process which draws samples from the observations with replacement and calculates the parameter estimates from those bootstrapped samples (the size of each bootstrapped sample equals to the total number of observations). Because of replacement, each observation has the same probability to enter the sample and each observation has the same probability to be picked again to the same sample. In this particular case, each NUTS 3 region may be drawn more than once in each bootstrapped sample or, because of the replacement procedure, may not be drawn at all. Bootstrapping allows for establishing reliable confidence intervals to calculate significance tests if the data violates normality assumptions or the sample is limited.⁴⁹ Here, bootstrapping served as a robustness check for the significance levels of the coefficients obtained in Model 3.

49 Michael Wood, 'Statistical Inference Using Bootstrap Confidence Intervals', *Significance* 1, no. 4 (2004): 180–82.



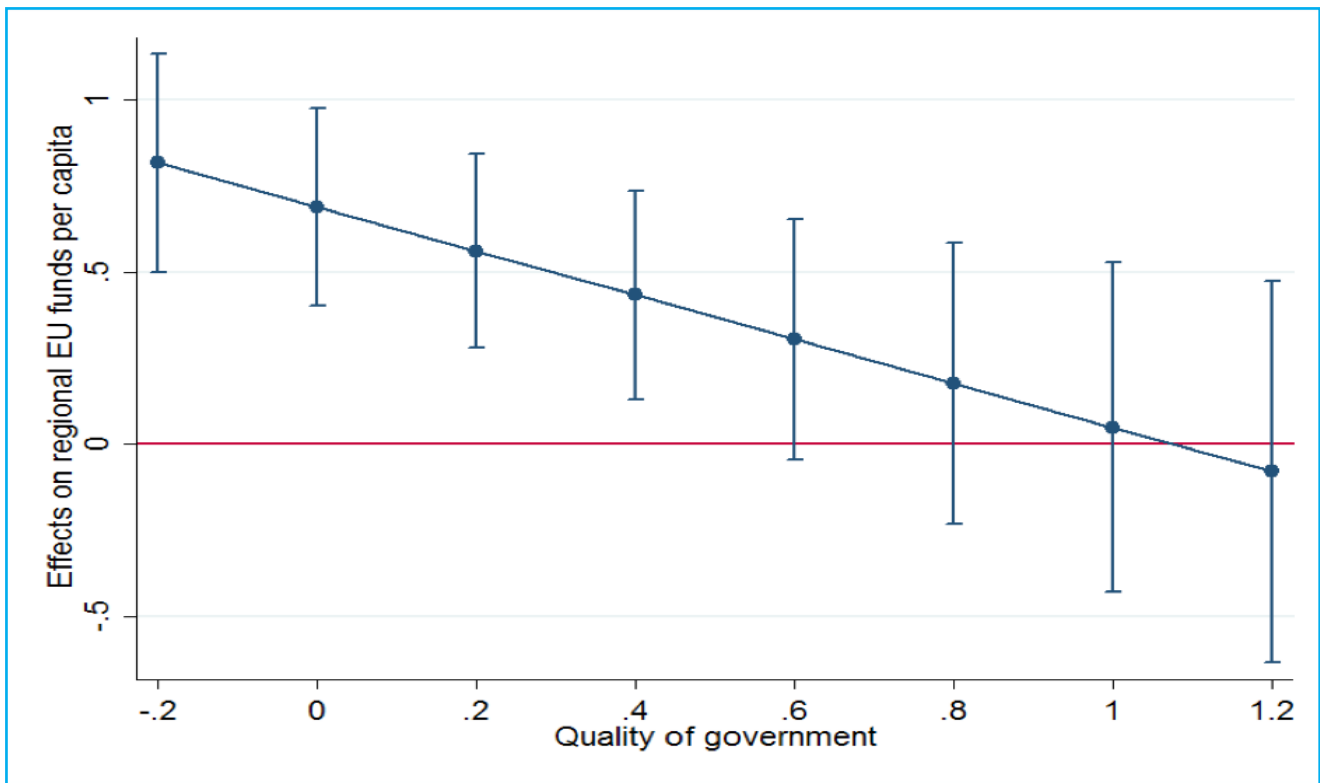


Figure 3: Average marginal effect of regional GDP per capita with quality of government on EU funds per capita (Model 3)

After generating 5000 bootstrapped samples, the bootstrapped standard errors⁵⁰ reinforced the already established relationships between the explanatory variables and the dependent variable: regional GDP and quality of government is positively related to EU funds per capita while country-level GDP shows a significant negative relationship. Most importantly, the interaction term between regional GDP and quality of government remained significant at the 99 percent confidence level. This reinforces the finding that as quality of government increases, the advantage of the more developed regions in securing EU funds decreases. In short, higher quality of government

50 Available on request from the author

counter-balances the imperfect competition created by the geographical eligibility rules that benefit the more prosperous Eastern European regions.

Conclusion

The regional distribution of the cohesion policy funds in Eastern Europe was one of the key questions of post-accession economic Europeanization. It was not merely about how the gains from one of the most visible rewards of membership would be distributed across the subnational regions of the Eastern members but also about how the regulatory circumstances and the formal and informal expectations expressed by the EU would influence the domestic implementation of the policy. This paper has argued that recently the EU has shifted its cohesion policy priorities because since the launch of the Lisbon Agenda



it has placed the emphasis on raising economic competitiveness through the efficient use of EU funds. The new orientation of the cohesion policy implied that its original guiding principle of equity embodied in the objective of promoting the most backward regions would be sidelined to a certain extent. The growing tension between equity and efficiency posed an implementation challenge for the Eastern members in that they had to strike a balance between the two principles.

The paper has shown that by applying a European benchmark to the regional fund eligibility criteria in the 2007-13 programming period, the EU did not distinguish between the Eastern European regions according to their relative domestic developmental positions. In practice, the vast majority of these regions were classified as backward and grouped into the same support category. This has created an imperfect competition for the funds because the most backward regions had to compete with the most advanced ones under the same rules. Because of their greater fund absorption capacity, these structural conditions set by the eligibility criteria were beneficial for the more prosperous regions at the expense of the laggards. In this way, the EU promoted the efficiency principle in Eastern Europe which also manifested in the allocation of the national budgets as those Easterners whose anticipated fund absorption capacity was higher enjoyed a larger cohesion policy budget.

The empirical analysis demonstrated that the more developed Eastern regions were indeed able to secure more funds per capita, all else being equal. However, the paper has also shown that the advantage of the advanced regions in obtaining EU grants diminishes as the domestic quality of government increases. This suggests that the effect of the geographical eligibility rules on regional fund distribution is conditional on state capacity. In essence, Eastern members with higher quality of government may be able to shift the balance back from efficiency to equity by reducing or even eliminating the competitive edge of their most advanced regions in securing the funds in order to narrow internal disparities in economic

development through EU grants. On the one hand, this implies that the implementation of the cohesion policy in terms of the territorial distribution of funds varies across Eastern Europe and this variation is linked to government quality. On the other hand, while the 'weaker' states seem to comply with the efficiency objective that is currently being promoted by the EU, the 'stronger' states may counter-balance this by advancing the original goal of supporting the backward areas.

These findings are consistent with recent empirical research on the role that domestic institutional quality plays in the use of EU funds. Moreover, the results reinforce previous findings about the variable outcome of Europeanization in the East being conditional on domestic circumstances. However, the paper faces some obvious limitations. Most importantly, because of its quantitative focus, it does not provide qualitative evidence on the exact mechanisms through which domestic quality of government influences fund distribution. It needs to be established how the implementation of cohesion policy in the Eastern member states favours the more or the less developed regions and what measures these states have introduced (or failed to introduce) to assist the backward areas and increase their absorption capacity. This potential line of inquiry may offer a more nuanced picture on cohesion policy implementation and would also empirically inform both the literatures on post-accession Europeanization and institutional quality.



Appendix

Description of the variables

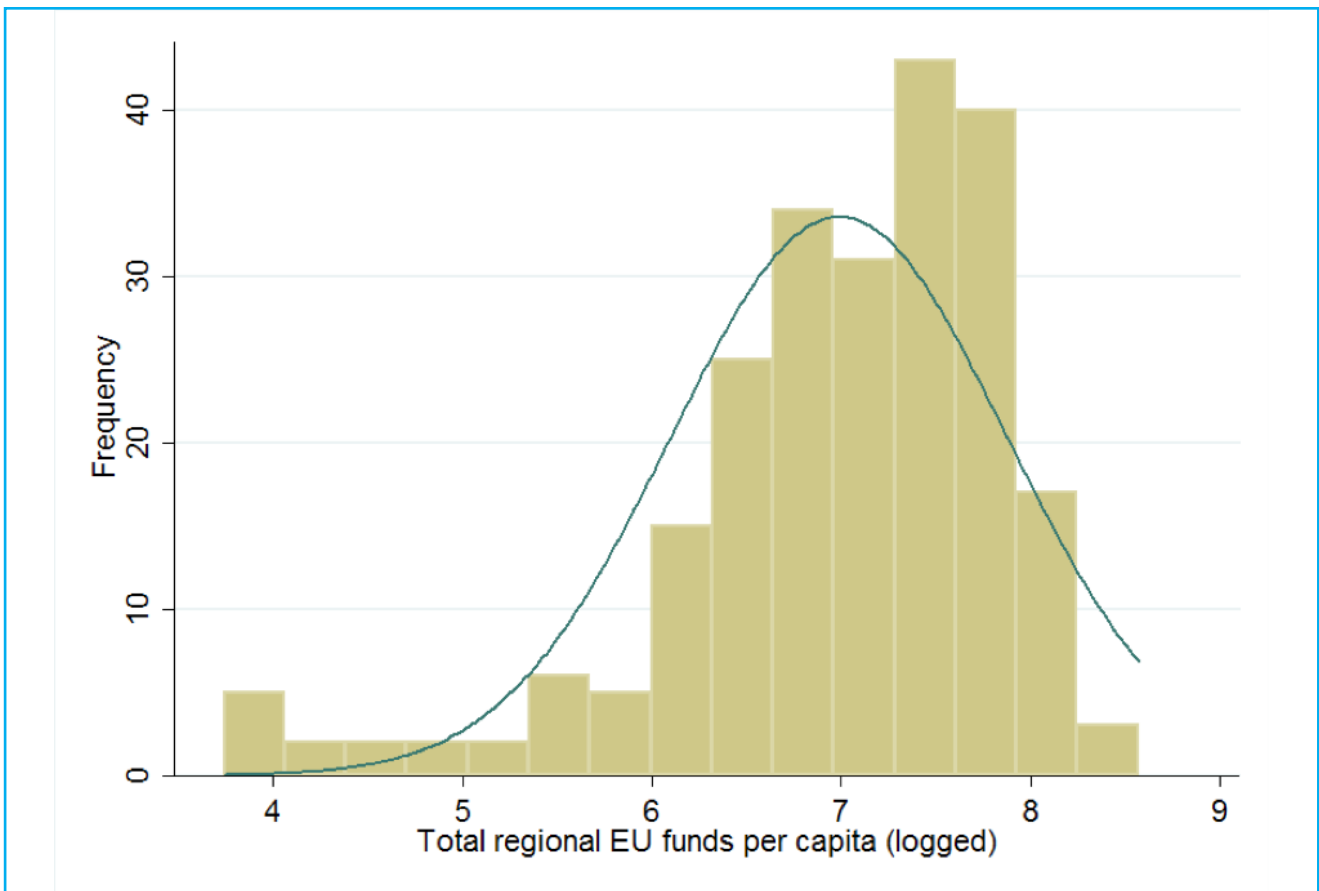
Name	Description	Source
EU funds per capita	The total amount of ERDF and Cohesion Fund grants per capita in EUR allocated until 31 December 2014 from the 2007-2013 cohesion policy budget	the author's own calculation based on data obtained from DG Regional and Urban Policy (http://ec.europa.eu/regional_policy/sources/docgener/evaluation/pdf/expost2013/wp13_2_db_nuts3_ae.xlsx , Accessed 7 October 2017)
GDP per capita (regional)	Gross Domestic Product per capita in PPS in 2006	Eurostat
GVA per capita (regional)	Gross Value Added per capita in 2006	Eurostat
Population	Total population on 1 January 2006	Eurostat
Employment	Number of employed persons per 1000 active inhabitants (from 15 to 64 years)	the author's own calculation based on Eurostat data
GDP per capita (country)	Gross Domestic Product per capita in EUR in 2006	Eurostat
Quality of government	Mean score of government effectiveness, rule of law and control of corruption	the author's own calculation based on Worldwide Governance Indicators

Descriptive statistics (variables are in their original scales)

Name	Min.	Max.	Mean	SD
EU funds per capita (EUR)	42.12	5,281.5	1,437.04	929.17
GDP per capita (regional)	4,234.22	42,398.98	11,599.28	5,629.14
GVA per capita (regional)	1,762.23	28,733.66	5,826.13	3,400.58
Population	51,173	1,930,390	453,069.1	281,125.9
Population density	10.1	8,459.5	249.44	745.14
Employment	257.29	1,092.3	439.47	116.75
GDP per capita (country)	3,400	15,500	7,365.52	2,912.26
Quality of government (country)	-.164	1.106	.334	.375



Histogram of the dependent variable (total EU funds per capita in EUR, logged transformed)



Correlation matrix of the regional-level explanatory variables

	Population	Population density	GDP per capita	Employment	GVA per capita	Convergence region
Population	1					
Population density	.590***	1				
GDP per capita	.275***	.559***	1			
Employment	.191***	.258***	.301***	1		
GVA per capita	.221***	.475***	.963***	.163**	1	
Convergence region	-.213***	-.280***	-.323***	-.270***	-.272***	1
*** p < .01; ** p < .05						



EUROPEANIZING DEVELOPMENT: EU INTEGRATION AND DEVELOPMENTAL STATE CAPACITIES IN EASTERN EUROPE

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Abstract

Ever since the launching of the Single Market, European integration has implied the restructuring of developmental state capacities, taking away the capacities for traditional development strategies based on protecting domestic markets and promoting national champions, and instead offering EU development funds for disadvantaged regions. While for the old member states this state restructuring came about primarily through the creation of supranational sanctioning mechanisms as well as supranational development funds, in case of the East European new members, state restructuring represented deep transformation of developmental capacities at the national level. As the East European countries started the process of adjustment to the EU legislation already prior to the accession, a distinctive feature of Eastern enlargement has been the building up of national institutions for monitoring the compliance of public policies with the EU acquis, resulting in a deep Europeanization of national development instruments such as state aids. Furthermore,

through its financial assistance for economic restructuring and institution building, the EU strengthened East European state capacities to forge developmental alliances with multinational corporations. The transnationalized development capacities of East European states contributed to the emergence of transnationalized, FDI-based economies, which in a path-dependent way locked-in state transformation. While the effects of political Europeanization waned, with a number of new member states experiencing democratic backsliding, the Europeanization of economic state capacities appears to have a long-lasting effect even after the EU accession.

Keywords: Eastern Europe, economic development, Europeanization, state aid, state capacity

Introduction

Ever since the launching of the Single Market, European integration has implied the restructuring of developmental state capacities, taking away the capacities for traditional development strategies based on protecting domestic markets and promoting national champions, and instead promoting horizontal policies based on empowerment and strengthening the capacity to participate in the transnational markets. While for many commentators, the EU would simply represent the reduction of state capacities to govern their economies or engage in developmental actions¹, more nuanced analysis shows that the EU instead still allows and even promotes certain kind of development strategies. Rather than relying solely on market-based mechanisms as the means of generating growth and increased competitiveness, the EU aimed to actively foster transformation

1 See F. W. Scharpf ‘The European Social Model. Coping with the Challenges of Diversity’, *Journal of Common Market Studies*, 40 (2002) 645–670., W. Streeck, ‘Competitive Solidarity: Rethinking the European Social Model’ MPIfG Working Paper 99/8, Cologne, Max Planck Institute for the Study of Societies (1999), and W. Streeck and D. Mertens ‘Public Finance and the Decline of State Capacity in Democratic Capitalism’, in W. Streeck and A. Schafer (eds.), *Politics in the Age of Austerity* (Cambridge: Polity Press, 2013) 26–58.



towards knowledge-based economy via its support for research and development, investment in skills and retraining of workers, support for small and medium enterprises etc. Although 'vertical', selective support for specific sectors and firms was heavily regulated with the aim of gradually phasing it out, the EU nevertheless promoted 'horizontal' industrial policy based on market-friendly support for firms awarded on competitive basis, subsidies for technological upgrading, investment in R&D etc. Such attempts were apparent already early on with the empowerment being the key principle behind the Structural Funds reforms in the 1980s and with the adoption of the Lisbon Agenda in 2000. After the 2008 economic crisis such tendency was only strengthened, with the new emphasis on industrial renaissance, smart growth and investment featuring high in the EU agenda².

Yet, if by Europeanization we understand the approximation to the EU policy goals: integrated and competitive European market; and instruments: horizontal and non-discriminatory industrial policies, somewhat paradoxically developmental capacities and economic models of the New Member States appear more Europeanized than that of the old. As will be demonstrated below, East European states are champions of using horizontal industrial policy as a cornerstone of their development model, while at the same time being perfectly compliant with the EU state aid regulation. Their economies also appear to be deeply integrated in the European Single Market, not only through trade and exports, but also via large amounts of foreign direct investments in export-oriented manufacturing, integrating East European economies in the pan-European production chains. Where does this deep Europeanization come from?

This paper aims to contribute to explaining this puzzle by focusing in particular on the agency of the EU in creating such deeply Europeanized development capacities and economic models in

2 European Commission, *Towards an Industrial Renaissance* (Bruxelles, 2014)

the East. With respect to their economic models, existing literature on the political economy of Eastern Europe demonstrates that the emergence of transnationalized capitalism in the region has been far from self-evident, apolitical development in which mobile capital simply goes to countries with relative scarcity of capital that promise the highest returns. Rather, the creation of FDI-based dependent market economies³ has been mired in complex political struggles among multinational corporations, domestic economic interest groups and political parties with different ideas about the kind of development models these countries can or should pursue and the kind of policies that would serve their goals best. By now an ample literature emerged that testifies to these struggles and the politics of economic transnationalization in the East, focusing in particular on the role of social networks in foreign investment⁴, the interplay of multinationals' strategies and domestic political agency^{5,6,7}, or the role of domestic political parties⁸.

The role of the EU in these struggles has however been largely downplayed and the EU accession figured primarily as an additional attraction factor in the economic studies of determinants of foreign investment in the East. Only more recent literature started to explore the role of the EU and in particular the political agency of the old member states or supranational institutions in shaping the domestic politics of transnationalized

3 A. Nölke and A. Vliegenthart, 'Enlarging the varieties of capitalism: The emergence of dependent market economies in East Central Europe', *World Politics* 61 (2009): 670–702.

4 N. Bandelj, *From Communists to Foreign Capitalists: The Social Foundations of Foreign Direct Investment in Postsocialist Europe*. (Princeton and Oxford, Princeton University Press, 2008)

5 D. Bohle and B. Greskovits *Capitalist Diversity on Europe's Periphery* (Cornell University Press, Ithaca, NY, 2012)

6 J. Drahokoupil, *Globalization and the State in Central and Eastern Europe. The Politics of Foreign Direct Investment* (London: Routledge, 2009)

7 H. Appel, *Tax Politics in Eastern Europe. Globalization, Regional Integration and the Democratic Compromise* (Ann Arbor: University of Michigan Press, 2011)

8 V. Vukov, *Competition States on Europe's Periphery: Race to the Bottom and to the Top* (PhD Dissertation. Florence: European University Institute, 2013)



capitalism. Jacoby⁹ focuses on the EU backyard management as a way of managing globalization by increasing opportunities and reducing threats of integration of the East in the EU, while Medve-Balint¹⁰ highlights the role of the EU conditionality / coercion through legal and quasi-legal instruments and subsequent regulatory convergence in fostering remarkable FDI inflow in the region. Bruszt and Vukov¹¹ compare the EU enlargement strategy in the East with the one in the Southern periphery and argue that while the two enlargements shared similar challenges and goals, the EU was much more active in building market-making and EU-conform institutions in the East as well as in managing developmental consequences of integration, contributing to the emergence of their liberal developmental states.

This paper aims to contribute to this emerging literature by highlighting less explored mechanisms through which the EU shaped developmental models and policies in the new member states, in particular the influence of pre-accession assistance in facilitating domestic developmental realignments, as well as the institutional legacy of some aspects of pre-accession harmonization which resulted in deeper Europeanization of developmental instruments in the new than in the old member states. As the East European countries started the process of adjustment to the EU legislation already prior to the accession, a distinctive feature of Eastern enlargement has been the building up of *national* institutions for monitoring the compliance of public policies with the *acquis*, rather than relying only on the sanctioning powers of the supra-national institutions. The pre-accession conditionality required not only that East European states

converge in their practices with the EU regulation, but it also required the building of specific national institutions that would act as the guardian of the *acquis*, in some cases performing the role that for the old member states was played by the European Commission. State aid is a case in point: while for the old member states the monitoring and sanctioning of state aid is done by the European Commission, all the new member states before accession had to adopt national institutions for monitoring the compliance of their state aid rules with the EU *acquis*. Thus, pre-accession conditionality that required the establishment of national institutions mimicking the work normally done by the European Commission simultaneously functioned as the channel of domestic capacity building and it subsequently strengthened the ability of East European states to engage in activist market-friendly developmental policies, while being perfectly in compliance with the EU rules of market regulation. The resulting developmental capacities of the East European states are thus actually more Europeanized than those of the old member states and this has contributed also to the much deeper transnationalization of their economies, with much higher shares of FDI than in the West and also much stronger export orientation than the South European periphery.

The existing literature on Europeanization focuses predominantly on the mechanisms of adoption and compliance with the EU rules¹², both before and after accession and it has already noted surprisingly good performance of the new member states when it comes to implementing

9 W. Jacoby, 'Managing Globalization by Managing Central and Eastern Europe: the EU's Backyard as Threat and Opportunity', *Journal of European Public Policy*, 17 (2010), 416-432

10 G. Medve-Balint, 'The Role of the EU in Shaping FDI Flows to East Central Europe', *Journal of Common Market Studies* 52(2014): 35-51.

11 L. Bruszt and V. Vukov, 'Making states for the Single Market: European integration and the reshaping of economic states in the Southern and Eastern peripheries of Europe', *West European Politics* 40 (2017) 663-687

12 See L. Andonova, *Transnational Politics of the Environment: The EU and Environmental Policy in Central and Eastern Europe* (Cambridge, MA: MIT Press, 2004), F. Schimmelfening, F., and U. Sedelmeier eds. *The Europeanization of Central and Eastern Europe* (Ithaca, NY: Cornell University Press, 2005), M. Blauburger, 'Compliance with Rules of Negative Integration: European State Aid Control in the New Member States', *Journal of European Public Policy*, 16, 7 (2009) 1030-46.



EU regulations¹³. Sedelmeier¹⁴ argues that the continued compliance after conditionality has to do with the pre-accession building up of administrative capacities for coordinating the implementation of the EU law, as well as the socialization effect of being perceived as a good community member. While broadly concurring with Sedelmeier's argument on the importance of pre-accession administrative capacities, this paper stresses not only the relevance of capacities for overall *coordination* of EU law implementation, but also the specific capacities for implementing parts of EU regulations that were created in the new, but not in the old member states. Furthermore, the creation of such national institutions was not only the result of domestic executives' efforts to cope with the demands of the accession¹⁵; but in some areas, such as state aid, it was actually the result of direct EU requirements as agreed in the Europe Agreements. On the other hand, when it comes to state aid, Blauburger¹⁶ argues that post-accession compliance has to do with good supranational sanctioning mechanisms in the field of state aid. In contrast, this analysis shows that the exceptionally good performance of the new member states cannot be explained only by the supranational institutions as these are the same for all member states. Rather, it is the pre-accession institution building, as well as the effects of this institution building on economic development models and consequent transformation of the domestic

13 See U. Sedelmeier 'After Conditionality: Post-Accession Compliance with EU Law in East Central Europe', *Journal of European Public Policy*, 15:6 (2008) 806–825, U. Sedelmeier, *Compliance after Conditionality: Why Are the European Union's New Member States so Good?* No. 22, May 2016, 'Maximizing the integration capacity of the European Union: Lessons of and prospects for enlargement and beyond' (MAXCAP, 2016), and M. Blauburger, 'Compliance with Rules of Negative Integration: European State Aid Control in the New Member States', *Journal of European Public Policy*, 16, 7 (2009) 1030–46.

14 U. Sedelmeier, *Compliance after Conditionality: Why Are the European Union's New Member States so Good?* No. 22, May 2016, 'Maximizing the integration capacity of the European Union: Lessons of and prospects for enlargement and beyond' (MAXCAP, 2016)

15 See U. Sedelmeier (2016) and R. Zubek, *Core Executive and Europeanization in Central Europe*, Palgrave MacMillan, 2008

16 M. Blauburger (2009)

economic actors that sustain compliance even after membership.

Finally, the study also aims to contribute to the Europeanization literature by putting more emphasis on the developmental aspects of Europeanization and on the political economy implications of compliance. In particular, the paper argues that the deep Europeanization of developmental capacities in Eastern Europe is sustained thanks to the path dependency and the increasing returns mechanisms¹⁷. Once countries have embarked on the path of FDI-based export-oriented growth models and once their economic landscape has changed accordingly, it becomes increasingly more difficult to shift onto another path and to dismantle the Europeanized development strategy put in place. The policies of the more recently elected populist governments that espouse economic nationalism and engage in openly anti-multinationals rhetoric do attempt to make changes at the margins, in particular in the service sector where foreign investment was predominantly market-seeking. However, they still stop short of jeopardizing in any way the existing instruments for attracting manufacturing FDI and helping the upgrading within the transnational production chains. The core of the East European transnationalized development models thus remains intact and their Europeanized developmental capacities continue to persist, notwithstanding the apparent reversal of their democratization achievements.

The rest of the paper is organized as follows. The next section presents an overview of Europeanization of development, demonstrating that in the EU we can speak about specific 'European' (i.e. EU-level) developmental goals and the promotion of a specific set of development instruments, rather than only about the limitation of national development strategies. While such restructuring of development capacities is primarily a matter of supranational regulations and policies in the case

17 P. Pierson, "Increasing Returns, Path Dependence, and the Study of Politics." *American Political Science Review* 92:4 (2000) 251–267.



of the old EU members, the reconfiguration of national development institutions through direct interventions has been a distinctive feature of Eastern enlargement. The third section focuses in particular on the case of state aid as one of the key developmental instrument and shows how pre-accession conditionality resulted in much deeper internalization of EU regulations on state aid in the new than in the old member states, increasing their capacity to use EU-conforming state aid as the key pillar of their development strategy after accession. The fourth section discusses the contemporary challenges to Europeanization in some of the East European member states that have seen the rise of economic nationalism and argues that while there are changes in the margins, the core of their development models continues to persist, with the deep economic transnationalization locking-in the Europeanization of their developmental capacities. The final section concludes.

Europeanization and developmental capacities

The main premise of the European integration since the 1980s has been the creation of the common market where the flow of goods, capital, services and labour would not be hindered by the nation-specific regulations and where any discrimination against non-domestic economic actors from other EU member states would be abolished, thus creating a level-playing field across the entire continent. The complex legal architecture of the EU with its common rules and regulations, mutual recognition of standards, and the rulings of the European Court of Justice all worked towards the effective abolishment of any discriminatory state actions that would try to favour national against other European firms or workers. Many scholars thus concluded that the building of the Single European Market, and the embedding of national states into transnational markets and regulatory regimes, are responsible for the uniform dramatic weakening of state

capacities to govern their national economies¹⁸.

From a political economy perspective and in particular from the point of view of development, this Europeanization of market regulation meant that traditional development strategies apparent in the 19th century Western European latecomers, but also in the large share of the Global South¹⁹ became nearly impossible, as they were all based on the protection of domestic firms from outside competitors, selective promotion of national champions or the luring of MNCs based on providing domestic, national-specific market regulations. With the deepening of the European market integration all of these practices were however rendered illegal as the EU *acquis communautaire* regulated precisely against such discriminatory development instruments.

This is not to say that the European integration made *any* kind of developmental action impossible. First, the EU has very early on established instruments and financial resources that would help less developed, less competitive regions in their convergence with their more developed counterparts. Such instruments were however based primarily on the principle of empowerment, strengthening the capacity of weaker actors to participate in the common market, rather than on the principle of protection from the vagaries and insecurities of market competition²⁰. Secondly, the deepening of European integration was also

18 See F. W. Scharpf 'The European Social Model. Coping with the Challenges of Diversity', *Journal of Common Market Studies*, 40 (2002) 645–670., W. Streeck, 'Competitive Solidarity: Rethinking the European Social Model' MPIfG Working Paper 99/8, Cologne, Max Planck Institute for the Study of Societies (1999), and W. Streeck and D. Mertens 'Public Finance and the Decline of State Capacity in Democratic Capitalism', in W. Streeck and A. Schafer (eds.), *Politics in the Age of Austerity* (Cambridge: Polity Press, 2013) 26–58.

19 See, P. Evans, *Dependent development: the alliance of multinational, state, and local capital in Brazil* (Princeton: Princeton University Press, 1979) and A. Amsden, *The Rise of 'the Rest'. Challenges to the West from Late-Industrializing Economies* (Oxford: Oxford University Press, 2001).

20 Delors Report, *Report on Economic and Monetary Union in the European Community. Committee for the Study of Economic and Monetary Union*. (Luxembourg: Office for Official Publications of the EC, 1989)



coupled with a number of strategies designed to make the EU as a whole a competitive, knowledge-based economy, from the Lisbon strategy in 2000 till Europe 2020 strategy 10 years later. Rather than relying solely on market-based mechanisms as the means of generating growth and increased competitiveness, the EU aimed to actively foster such transformation towards knowledge-based economy via its environmental policies, the support for research and development, investment in skills and retraining of workers, support for small and medium enterprises etc. While 'vertical', selective support for specific sectors and firms was thus heavily regulated with the aim of gradually phasing it out, the EU nevertheless promoted 'horizontal' industrial policy based on market-friendly support for firms awarded on competitive basis, subsidies for technological upgrading, investment in R&D etc. In the late 1990s and early 2000s such EU industrial policy persisted but was perhaps less salient than the macroeconomic conditionality associated with the EMU or the efforts at regulating the Single Market. Yet, the post-2008 economic crisis brought industrial policy firmly back on the EU agenda. The Commission strategy 'For a European Industrial Renaissance' sets as its key priorities mainstreaming industrial competitiveness; maximising the potential of the internal market, implementing the instruments of regional development in support of innovation, skills, and entrepreneurship, promoting access to critical inputs in order to encourage investment and facilitating the integration of EU firms in global value chains²¹.

Both the cutting off the old and the promotion of new developmental capacities within the EU (i.e. for the old member states) happened primarily through the establishment of the EU-level supranational mechanisms for sanctioning the first and enabling the second. With regards to the sanctioning, the European Commission as the guardian of the Treaties has been in charge of monitoring the compliance of the member states

21 European Commission, *Towards an Industrial Renaissance* (Bruxelles, 2014)

with the EU regulation, while the European Court of Justice commands the authority to rule in cases of non-compliance. Discriminatory practices that would appear similar to the traditional development strategies are thus in principle ruled-out, but in practice this works primarily through the possibility that the European Commission and the ECJ would *a posteriori* sanction the member states that try to engage in such practices. On the other hand, the EU rules and regulations still leave open the possibility of using national instruments aligned with the principle of horizontal industrial policy (in particular in the field of state aid). Furthermore, the EU itself provides financial resources in the form of Structural Funds and the low interest-rate European Investment Bank loans that the member states can make use of in their pursuit of liberal developmental policies.

The situation was however different in the countries that were not yet EU members, but aspiring to become ones – namely, the current New EU member states. There, the compliance with the EU rules and regulations had to happen already before the formal accession, thus taking place when EU-level sanctioning mechanisms were still not sovereign on the territory of the then-candidate states. Consequently, the EU could not rely on the Commission and the ECJ to sanction possible non-compliance and instead the Agreements between the EU and the candidate states typically provided for the establishment of national level institutions that were in charge of monitoring and ensuring the compatibility between the domestic policies and the common European market regulations. In some policy fields thus, the Eastern enlargement involved the building of national institutions that were not existing in the old member states and were not even required to exist by the EU rules but were rather mimicking the functions that were in the old member state provided by supranational institutions.

As a result, national developmental strategies in the new member states turned out to be much more deeply Europeanized than those of the old member states. Furthermore, the European



Commission had a number of instruments, including both conditionality and assistance to further the adoption of policies and institutions promoting liberal, FDI-based development, rather than any kind of ‘independentist’ model.

The cutting off of old capacity to promote and protect domestic actors was thus internalized more deeply in the East, as apparent in particular in the regulation of state aid (more on this below). Furthermore, the adoption of policies and instruments that effectively abolish non-tariff barriers, including common regulation, standards, or environmental protection was also coupled with a historically unprecedented exercise of extensive institution building in the acceding countries²². From public administration²³, to independent judiciary and efforts at curbing corruption²⁴ to different regulatory institutions or regional development agencies, the EU monitored institutional changes in the region and invested substantive amount of financial and human resources into aligning these changes with the practices established in the old member states and with the requirements of the EU *acquis communautaire*.

Besides ensuring compliance with EU regulation, the pre-accession conditionality and assistance also fostered the building of liberal developmental states²⁵, as European pre-accession assistance programs aimed in particular to help weak Eastern economies adjust to the competitive pressures in the Common Market. In contrast with any previous episode of enlargement, the EU created clear conditionality for the aspiring candidate states, with economic parts of the conditionality including the capacity to implement the *acquis communautaire*, but also the existence of a

22 L. Bruszt and V. Vukov (2017)

23 J. H. Meyer Sahling, *The Sustainability of Civil Service Reforms in Central and Eastern Europe Five Years after Accession* (Paris: SIGMA Publications, 2009)

24 M. Vachudova and A. Spendzharova, ‘The EU’s Cooperation and Verification Mechanism: Fighting Corruption in Bulgaria and Romania after EU Accession’, *European Policy Analysis*, 1 (2012) 1–20.

25 L. Bruszt and V. Vukov (2017)

functioning market economy able to withstand competitive pressures within the Common Market. Both of these aspects were clearly to be helped by the pre-accession financial assistance programs that aimed in particular to help the restructuring of these economies in a way that would enable their successful insertion in the Single Market.

The economic conditionality of the EU did not include meeting specific indicators: the EU was not telling the candidate states what exactly should be the share of private sector in total economy or what export shares they should achieve in order to be considered competitive enough. Nevertheless, privatization and attracting FDI were clearly promoted by the EU as these were by and large seen as the fastest ways to introduce market principles, ensure that the enterprises face hard-budget constraints, as well as foster the transfer of technology and know-how to the East European economies.

As is widely acknowledged in the literature²⁶, the initial privatization in most East European countries was not very open to foreign investors and with the exception of Hungary and Estonia, the predominant strategy was either the creation of national capitalisms with privatization to domestic owners, or delayed reforms and sluggish privatization to begin with. The coercive power of the EU through its economic conditionality and demand for liberalization reforms in order for countries to be considered as ‘functioning market economies’ played an important role in strengthening the political clout of liberal reformers and fostering reorientation towards FDI attraction²⁷. The reports on the progress of candidate countries in complying with the EU economic conditionality regularly monitored the trends in privatization and the share of private sector in the economy as well as trends in the openness for foreign investment. The strategy of the EU however involved more than just coercion and conditionality and the influence of the EU

26 See D. Bohle and B. Greskovits (2012), J. Drahokoupil (2009), G. Medve-Balint (2014)

27 G. Medve-Balint (2014)



on building institutions and fostering foreign investment began much before the accession conditionality kicked in. In particular, the EU financial assistance programs served as an important complement facilitating reorientation towards FDI-based strategies.

Already in the early 1990s, the EU provided financial and technical assistance to privatization agencies, programs for industrial restructuring, as well as investment promotion agencies, the key institutions in FDI-oriented strategies²⁸. The financing of the latter was particularly important since at the time they faced rather unfriendly political environment and it was precisely EU assistance that enabled their existence and the accumulation of expertise. The EU thus helped maintain the institutional basis for an alternative, marginal development models which could then become predominant in the late 1990s when most national capitalisms failed and the broad consensus around the need to attract FDI emerged in the region. In the Czech Republic in particular the EU financing was pivotal for the survival of the CzechInvest during the 1990s, when the ODS government was openly hostile towards the Agency and its functioning entirely depended on PHARE program which provided 90% of its financing²⁹. The agency was a key actor in negotiating with interested multinationals and even though its success in FDI attraction was minor at the time, it served an incubator for the training of officials in negotiations with MNCs as well as provided space for the development of alternative economic ideas about activist FDI attraction. Once the development model and the political climate shifted, CzechInvest experience and the activist approach towards FDI attraction it maintained throughout the decade became the cornerstone of the new transnationalized development strategy.

Besides financing investment promotion agencies, the EU pre-accession financial assistance provided substantive support for the processes of industrial

restructuring which was seen as a key aspect of economic conditionality of accession and was often granted in coordination with other international financial organizations such as the IMF and the World Bank. The EU in this respect again turned out to be much more politically and socially sensitive than the mere idea of coercion and conditionality would suggest. Particularly in South Eastern Europe where privatization was often stalled due to the inability of their weak state to resist the demands from domestic managers and trade unions³⁰, not only conditionality, but also the financial assistance helped strengthen state capacity to engage in privatization, including making deals with foreign investors. Both Bulgaria and Romania in the late 1990s resorted to the World Bank and the IMF and the EU included the compliance with the arrangements with IFIs into their requirements for progress towards accession. Furthermore, in order to complement the IFI loans, the EU provided additional finance through its macro-financial assistance as well as through PHARE program for industrial restructuring. The Commission was however also aware of the high social costs of economic transformation and open to addressing social and political problems that might emerge in the process. For instance, when Romanian liberal government argued that the restructuring required by the Commission might present serious political problems, the Commission accepted their arguments and assigned part of the PHARE funds also for cushioning the adverse social effects and financing trainings and redundancy compensation for workers³¹. The availability of such financing strengthened both administrative and political state capacity for engaging in industrial restructuring. In addition, it created resources that states could use to foster the creation of developmental alliances between multinationals and domestic actors for whom social costs of privatization contracts represented key obstacle for reaching a deal with multinationals interested in brownfield investment³².

28 See J. Drahekoupil, (2009) and European Commission, *The PHARE Program: An Interim Evaluation*. (Brussels: European Commission. DG External Relations, 1997)

29 See J. Drahekoupil (2009) and V. Vukov (2013)

30 D. Bohle and B. Greskovits (2012)

31 Interview with former EU officials, DG Enlargement, June 2015

32 V. Vukov, *Towards a Transnational Developmental*



Both conditionality and assistance thus helped in reorienting East European policies and institutions towards those conducive with the FDI-based growth models. However, besides helping the emergence of this transnationalized capitalism, the pre-accession institution building in the East also played a key role in strengthening the capacity for sustaining such model and supporting the activities of multinational corporations well after the accession. The ability to provide investment incentives in the form of various types of EU-conform state aid represents a key element of such developmental capacity. The next section thus looks into the case of state aid compliance in more details.

Conditionality and development - the case of state aid

The transformation of state aid policy represents one of the key aspects of the Europeanization of developmental state capacities, for two main reasons. First, after the abolition of tariffs and non-tariff barriers to trade and the harmonization of product and process regulation, state aid is one of the very few developmental instruments still left in the hands of the EU member states and one of the few means through which they can still actively foster certain types of economic activities, such as investment in R&D, technological upgrading, or training of the workforce. Secondly, the Europeanization of state aid is a process that simultaneously entails both the abolishment of old developmental strategies based on selective subsidies to domestic enterprises, as well as enables new development strategies based on FDI attraction and horizontal subsidies for investment that promises positive externalities.

For the majority of the existing literature, state aid is perceived primarily as an instrument

Alliance? EU Integration and Automotive Industry in Romania' (paper presented at the workshop 'Manufacturing development: How transnational market integration shapes developmental agency at Europe's peripheries.' Freie Universität Berlin, Berlin, 18-20 October 2016).

of traditional independentist developmental strategies which the EU is trying to abolish. However, the argument here is that the state aid regulation in the EU should be understood in a more nuanced way as the EU is not merely trying to reduce the levels of state aid. Rather, the EU is actually engaged in the process of institutional conversion³³, where the goals and the purpose of state aid shifts from the one of subsidizing specific sectors or enterprises to the one of supporting investment in higher-value added activities.

While the levels of total state aid in the EU today is much lower than in the 1980s, amounting to around 0.6 % of the EU GDP, it is nevertheless 6 times higher than a comparable figure in the USA³⁴. Moreover, this is still twice higher than the Structural Funds resources, which amount to only around 0.3% of the EU's GDP. Thus, state aid in the EU still represents an important element of activist state approach to industrial policy, but the key difference is that this activism is no longer discriminatory and serving the 'independentist' development model. Rather, the state aid has, at least in some countries, become an important part of the liberal developmental model.

Around 90% of the state aid in the EU today is given for the so called horizontal objectives, including regional development, research and development, employment, training aid etc. The horizontal objectives of the state aid as well as the ban on state aid that distorts trade among EU member states mean that state aid today increasingly serves not for promoting domestic firms and building national champions but rather as incentives for foreign investment. Indeed, the majority of investment incentives in the EU today come in the form of regional development aid, with locational competition for investments becoming fiercer in the EU over time³⁵.

33 W. Streeck and K. Thelen, *Beyond Continuity. Institutional change in Advance Political Economy* (Oxford: Oxford University Press, 2005)

34 R. Stöllinger, R. and M. Holzner 'State Aid and Export Competitiveness in the EU'. WIIW Working Paper No 106. (Vienna: WIIW, 2013)

35 See K. Thomas, *Competing for Capital. Europe and*

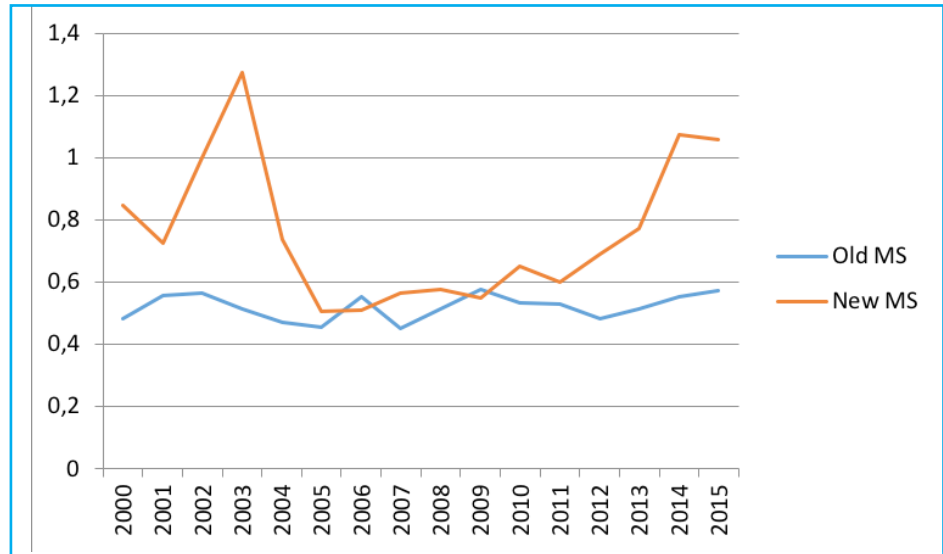


By governing state aids at the supranational level and by regulating aid intensity, the EU certainly limited cut-throat competition in investment incentives as apparent among the USA states³⁶ and provided a threshold above which the states cannot go. However, the EU cap on state aids has much less of an effect in the competition for investment among the EU member states as they are all exposed to the same rules. These limitations also frame the expectations of the firms as to what they actually can get within the EU. The

game within the EU thus becomes the one of who is capable (and willing) to provide investment incentives that would fully use the space still left by the EU regulations of state aid and that would be compatible with the EU goals and policies.

East European member states in this game appear in a particularly favourable position and the data demonstrate that they indeed spend higher share of their GDP on state aid than the old member states. While this has been the case already before the accession, in the final years before the accession the candidate states were typically reducing their levels of state aid, cutting the aid incompatible with the EU regulations and reorienting it towards the EU conform goals. Whilst there was thus a brief convergence in the levels of state aid in 2005-2006, and throughout the first crisis years, since 2010 divergence appears again with the new member states recording much higher shares of state aid in GDP than the old ones.

Figure 1. Total state aid as a % of GDP.



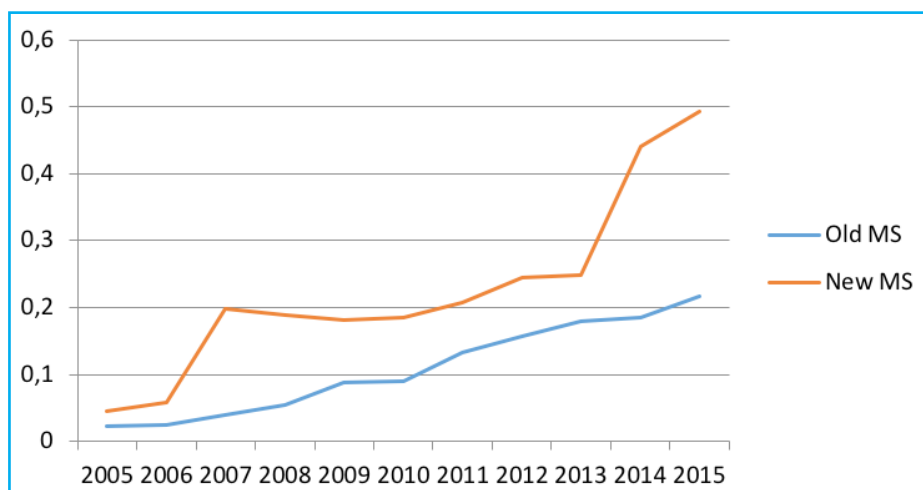
Source: Author's calculation based on the European Union State Aid Scoreboard

At the same time, however, this was not simply the result of the crisis measures. Rather, divergence is particularly apparent with regards to the state aid given for the so called horizontal objectives, or block-exempted aid which the European Commission itself considers non-distorting and which is thus exempt from the notification requirement. Block-exempted state aid includes aid for SMEs, regional aid, aid for R&D, training aid, aid for disadvantaged workers, environmental protection and similar. It is precisely in this kind of aid that new member states by far outperform the old ones in the level of aid they provide.

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North America in the Global Era (Washington DC: Georgetown University Press, 2000) and K. Thomas, *Investment Incentives and the Global Competition for Capital*. (Palgrave MacMillan, 2011)

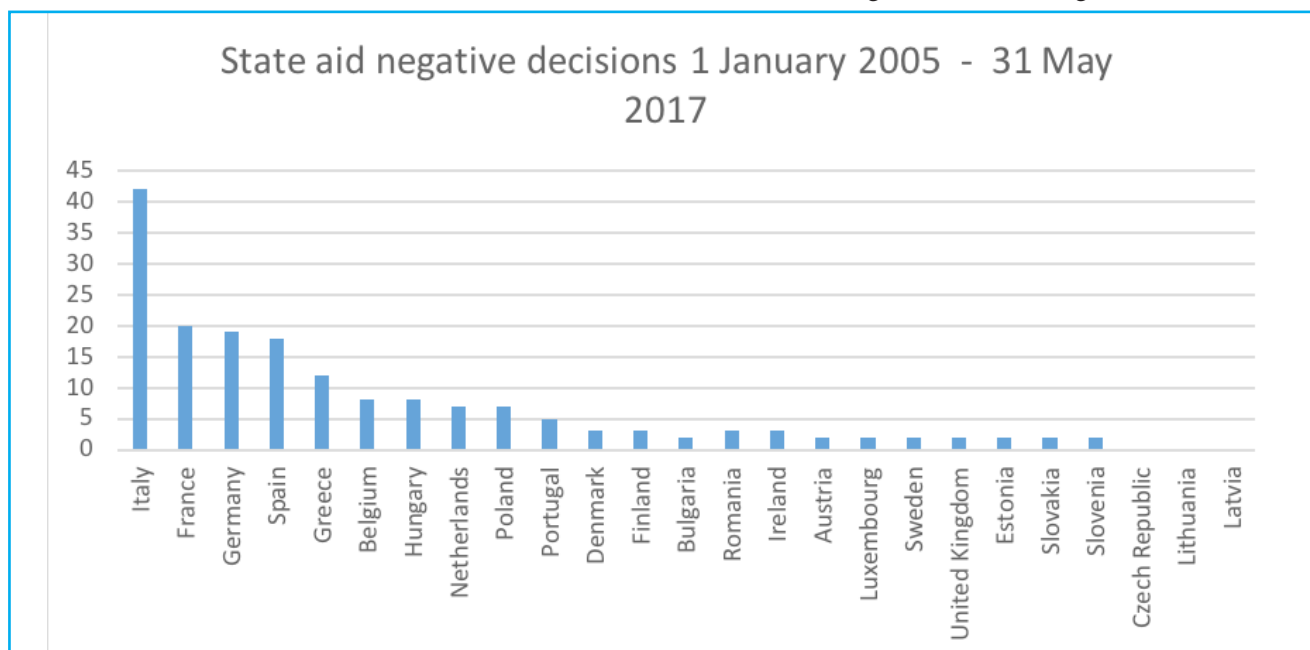
36 K. Thomas (2000)

Figure 2. Block-exempted aid as a % of GDP



Source: Author's calculation based on the European Union State Aid Scoreboard

Figure 3. State aid negative decisions January 2005 – May 2017



Source: Author's calculation based on the cases in the European Union State Aid Scoreboard

While the rise of ‘horizontal’ state aid is apparent across both old and new member states, it is much higher in the new ones, already from their first years of accession.

Furthermore, despite relatively higher levels of state aid (as a share of GDP) in the new member states, they typically score among the best performers when it comes to the negative decisions on state aid received by the European Commission³⁷.

There are two main reasons as to why East European NMS appear in a particularly strong position to offer generous state aid to investors. First, the EU rules on state aid actually favour less developed states, where due to their lower levels of GDP more regions qualify for the derogations and higher aid intensity

37 Member states can in principle avoid Commission's negative decision by withdrawing state aid before such decision. The European Commission data however show that cases from new member states are a small minority among the withdrawn cases, accounting for 14 out of 112 total withdrawn cases. I am most grateful to Gergo Medve-Balint for pointing out the relevance of withdrawal cases.



ceilings. Second, the East European member states internalized the EU rules about state aid much deeper in their national legislation than the old member states. The experience of early harmonization of state aid rules with the EU policies played an important role in increasing the capacity of the East European states to grant EU-conform investment incentives. Before joining the EU, candidate states were subject to the provisions on state aid stemming from the Europe Agreement. This means that they harmonized their legal definition of state aid with the EU rules, stipulating that the criteria for evaluating the effects of state aid are those arising from the application of the EC Treaty - including the EU secondary legislation, Commission policy guidelines and decisions, and the jurisprudence of the ECJ. Furthermore, they were required to establish a national monitoring authority for state aid, which in the old member states did not need to exist. The EU regulation of state aid was thus deeply internalized into national legislation, creating a somewhat paradoxical situation in which national bodies were in charge of evaluating the compliance of their state aid with the 'common interest', the function which would normally fall upon the European Commission³⁸.

The enforcement of the state aid provisions contained in the Agreement relied on the cooperation between the state aid authorities of the associated parties – the European Commission from the side of the EU and the relevant body in the candidate state, usually an independent Competition Agency or a department within the Ministry of Economy or Finance. Europe Agreement thus obliged candidate countries to establish an institutional framework for the monitoring of state aid similar to the functions of the Commission within the EU³⁹. Before granting the authorization of state aid, the national bodies always obtained the opinion from the European Commission and had long discussions with the Commission in order to be sure that the state aid was in line with the EU rules⁴⁰. Such an

38 M. Cremona, 'State Aid Control: Substance and Procedures in the Europe Agreements and the Stabilisation and Association Agreements', *European Law Journal*, 9 (2003) 265–287.

39 M. Cremona (2003)

40 Interviews with competition authorities in Bucharest,

approval was in the interest of the candidate states' authorities since upon accession the competence for state aid was to be transferred to the European Commission and the state had to take the necessary steps to avoid the problems with specific state aid cases later on. The consultations with the EC were also crucial for the local bureaucrats to get used to thinking in the European terms and a number of East European experts were sent for training to the DG Competition⁴¹. Similarly, Appel⁴² reports how this early harmonization played a key role in the capacity of the Czech Investment Promotion Agency to grant investment incentives, with local officials travelling to Brussels to check if every paragraph of their draft legislation on state aid was in line with the EU state aid regulation.

During the accession negotiations the EU thus helped to strengthen the position of competition authorities which became the key institutions for the authorization of state aid schemes and individual grants before the accession⁴³. The EU technical assistance granted to the competition authorities helped to transfer the knowledge of the EU legislation and policies so that after the accession new member states could continue to offer relatively generous packages that would still be compatible with the *acquis communautaire*. Furthermore, many of them incorporated the *acquis* on state aid into their own legal system by adopting State aid laws whose provisions mimicked the relevant articles of the EU Treaty. Even though the laws on state aid were subsequently changed due to the direct effect of the EU legislation which precludes parallel legislation at the national level, national offices for state aid maintained their position of controlling state aid prior to the notification to the Commission, as well as advising relevant government bodies about the state aid compatibility with the EU law⁴⁴.

July 2015 and Zagreb, April 2014

41 Interviews with competition authorities in Bucharest, July 2015 and Zagreb, April 2014

42 H. Appel (2011)

43 Interviews with competition authorities in Bucharest, July 2015 and Zagreb, April 2014

44 See J. Bednar, D. Lagzina, S. Cemnolonskis, *State Aid Control Procedures in the Czech Republic, Latvia and Lithuania before and after Accession*. Vol 2 *European State Aid Law Quarterly*



The data on state aid demonstrate this deep Europeanization. While some existing studies assess Europeanization by looking at the convergence in the levels of state aid⁴⁵, the argument here is that it is not levels but the compliance of state aid with EU regulation that we should focus on. A state that is capable of granting high amounts of state aid, while nevertheless receiving very few negative decisions from the European Commission should actually be considered more deeply Europeanized than the one that is simply not able to provide any aid that would be compatible with the acquis. Czech Republic is a good case in point: with its 1.15 % of GDP spent on state aid it counts among the highest spenders in the EU. Yet, out of the 140 total decisions the European Commission made about state aid granted in the country, there was no (zero) negative decision included. Similarly to Blauberger⁴⁶ study for the early post-accession years, this analysis shows that the good performance of NMS continues well after the accession. Furthermore, not only do East European countries display equally good or even better conformance with the EU norms when it comes to their decisions to grant aid – they actually do so, while giving much higher shares of their GDP to state aid than the EU-15. Europeanized state aid has indeed become one of the cornerstones of their developmental model and while it has initially contributed to the emergence of FDI-led export-oriented growth, it is that same growth model with the continuous inflow of foreign investment that ensures the sustained reproduction of compliance. Blauberger⁴⁷ attributes the continued compliance to the effective Commission's mechanisms of surveillance – yet, the Commission's oversight cannot account for the large variation within the EU when it comes to state aid compliance, and the exceptionally good performance of the East European countries in this respect. Rather,

(2005) 265-273 and E. Hargita, Z. Remeti Filep, State Aid Control in Hungary, Vol. 4 European State Aid Law Quarterly 585-590 (2004)

45 M. Botta and G. Schwellnus, 'Enforcing state aid rules in EU candidate countries: a qualitative comparative analysis of the direct and indirect effects of conditionality', *Journal of European Public Policy*, 22:3 (2014) 335-352

46 M. Blauberger (2009)

47 M. Blauberger (2009)

it is the particular features of pre-accession harmonization and embeddedness of EU state aid rules in national institutions of East European countries that accounts for this ability to comply. While the role of pre-accession institutions has been highlighted as an important element of coercion, helping to reduce state aid in the pre-accession period⁴⁸, the argument here is that these institutions also served as the channel of transmission of information about EU regulations. Chart 1 depicting the levels of state aid can thus be read as the learning curve of the EU new member states, first decreasing the old-style discriminatory aid, and then increasing the new EU-conforming aid for horizontal objectives. Instead of merely cutting the state aid levels or bringing them to the EU average, deep Europeanization of state aid rules in the East actually increased the capacity of these states to grant relatively generous and credible incentives to investors, which would later on not be overruled by Bruxelles. The continued monitoring and advisory role of the national institutions established before the accession in the New Member States (but not in the old ones) thus ensured the continued compliance

Path dependency: Is the transnationalized development model seriously challenged?

The transnationalized development capacities of East European states contributed to the emergence of transnationalized, FDI-based economies, which in a path-dependent way locked-in state transformation. The liberalisation of capital markets, coupled with the failure of domestic attempts at building national capitalism, prompted strong regional competition for foreign direct investment⁴⁹. The simultaneous imposition of the EU rules that prevented the discriminatory treatment of non-domestic firms dramatically altered the composition of players in the domestic economies. In the most developed new member

48 M. Botta and G. Schwellnus (2014)

49 J. Drahokoupil (2009)



states 60% to 80% of productive assets are in the hands of non-domestic actors, mainly MNCs. The share of FDI stock in all non-financial sectors in these countries is above the EU-15 average⁵⁰.

The rapid transnationalisation of the new member states' economies changed the domestic demand side for state developmental capacities. While FDI is very high in different sectors, including manufacturing as well as services, the distinct strength and the most important source of growth in Central and Eastern Europe has certainly been the export-oriented manufacturing sector, predominantly foreign-owned and tightly integrated into the European transnational production chains. The concept of Dependent Market Economies⁵¹ captures this growth model rather well, although it represents an overly static image since many of these economies experienced substantive upgrading, rather than being stuck in the production of low-skill, low-value-added goods. Furthermore, while for Nolke and Vliegthart only the Visegrad countries would qualify as DMEs, more recently other EU-10 states such as Romania have also displayed some of the key features of that model⁵².

State aid represents a key aspect of state capacities for the creation and maintenance of such a model. In particular, automotive industry has been notable for its exceptional levels of investment in EU-10, and an important role it played both in terms of investment and the reproduction of 'dependence', as well as upgrading in the local industry⁵³. Automotive industry however is a sector in which firms do not even consider investing if a government is not willing and capable

to provide substantive investment incentives⁵⁴ and not surprisingly automotive industry turned out to be one of the biggest beneficiaries of various state aid schemes. In Romania, for instance the share of automotive industry in total state aid between 2008 and 2014 rose to impressive 60%⁵⁵, while in Hungary automotive sector accounts for one-third of the total jobs created in the projects managed by the Hungarian Investment Promotion Agency⁵⁶. Yet, since accession, Romania witnessed only one negative decision with regards to its aid to automotive industry (privatization of Craiova factory for below-the-market price) and even in that case, despite the ordered recovery of 57 million EUR, the same plant in the same year managed to benefit from another 137 million EUR of regional aid⁵⁷.

Interestingly enough, investment incentives (i.e. state aid) for foreign investment in the manufacturing sector continue to remain the linchpin of development strategies of these countries, political changes and the rise of populism and economic nationalism notwithstanding.

In Slovakia, populist left government of SMER retained the same development model as its predecessors, somewhat increasing corporate tax rate, but maintaining investment incentives. In its more recent big investment deal, Slovakia bid against Poland for the investment of Jaguar Land Rover, with Prime Minister Fico personally appearing in the negotiations and convincing the car maker to choose Slovakia, offering 125 million EUR in subsidies⁵⁸.

Hungary is probably the best case in point, with its substantive democratic backsliding and the open economic nationalism proclaimed by its controversial Prime Minister Viktor Orban. In response to the economic crisis, Orban's

50 G. Medve-Balint (2014)

51 A. Nölke. and A.Vliegthart (2009)

52 See C. Ban, 'From Cocktail to Dependence: Revisiting the Foundations of Dependent Market Economies' available at SSRN 2233056 (2013) on Romania as well as on the criticism of DME

53 V. Scepanovic, *FDI as a solution to the challenges of late development: catch-up without convergence?* (PhD Dissertation, Budapest, CEU, 2013) and L. Bruszt et. al. The developmental impact of the EU integration: Insights from the automotive industry in Europe's peripheries. WP 16, (MAXCAP Working Papers Series, Berlin, 2015)

54 K. Thomas (2011)

55 V. Vukov (2016)

56 Financial Times 'Hungary seeks rapprochement with bruised foreign investors' 12 May 2016, Accessed on 15 June 2017

57 V. Vukov (2016).

58 Financial Times, 'How Slovakia Overtook Poland in Jaguar Land Rover Factory Race', 17 November 2015



government engaged in a series of measures that could be qualified as instances of economic nationalism, from asking for the closure of the IMF office in Budapest to the specially designed crisis tax which targeted predominantly foreign-owned multinationals. Yet, the multinationals targeted by the tax were in particular those in the service sector: banking, telecommunications and retail sector, while the investment incentives and favourable treatment foreign manufacturing firms enjoy have so far not been challenged. And while it is true that more recently the number of state aid cases with EC negative decisions in Hungary rose, these again refer primarily to the attempts at discriminatory taxation of foreign-owned firms in retail and telecommunication, not in manufacturing. The government declared as its official goal to rise the share of manufacturing in the economy from 26 to 30 % of GDP, and with 30 % of manufacturing in Hungary constituted by a highly transnationalized automotive sector⁵⁹, even a self-proclaimed enemy of foreign multinationals such as Orban, is left with no other choice but to continue rolling out generous investment incentives.

Similarly, Polish conservative right government also announced increased taxation on banks, but it nevertheless retained generous state aid schemes for investments, in particular in automotive sector, aviation, biotechnology, electronic and household appliances, food processing, and research and development⁶⁰.

Rather than changing economic model, what might present a bigger challenge for compliance with the EU regulation of state aid are the attempts of the Hungarian government to curb the freedom of speech and encroach upon political liberties. In 2016 the European Commission made a negative decision with regards to the Hungarian progressive advertisement tax, which it deemed

incompatible with the EU state aid rules as it gave unfair advantage to some media companies while disadvantaging the others, in particular big international media like the RTL. Hungarian government thus had to adjust the law, lowering the tax so that the total amount of state aid would fall within the boundaries of the *de minimis* state aid, which the European Commission permits. This case demonstrates two things: first, East European states have got fairly skilful when it comes to using state aid by the EU rules in order to advance their own objectives, as the adjustment afterwards suggests, and second, departure from the rules and 'disobedience' reflects more the governments' reversals with regards to political Europeanization than with regards to the economic one. The Europeanization of East European development models, which relies on participation in European production chains and efforts at upgrading in those chains in line with the EU industrial policy goals and state aid rules, remains largely intact and none of the populist leaders appears willing to challenge it. While the continued compliance with the EU state aid rules stems from the institutional legacy of pre-accession harmonization and the concomitant monitoring exercised by national state aid institutions, the continued reliance on generous state aid schemes as the key economic policy is rather the result of the governments' reluctance to change the development model that has produced growth and increased competitiveness of these countries.

59 HIPA, 'General overview for investors in Hungary's manufacturing sector' Online resources, accessed 15 June 2017

60 Polish Investment and Trade Agency, online resource <http://www.paih.gov.pl/index/?id=3f4bd1f117b18afa131c48d15486652>. Accessed on 15 June 2017.



Conclusion

The analysis above suggests that Europeanization of developmental capacities - understood as approximation to the EU policy goals and instruments - goes further in the East European new member states than in the old ones. New member states are both more deeply integrated in the common European market than the old ones and rely more strongly on the usage of EU-conforming horizontal and non-discriminatory industrial policies. Such deep Europeanization can in turn be attributed to the direct actions of the European Union itself, as well as to the specific institutional and economic legacies that in a path-dependent way locked-in Europeanization beyond accession.

With respect to the EU actions, both general economic conditionality and financial assistance before accession played a key role in shifting domestic developmental strategies from internally to externally oriented ones. At the same time, as part of pre-accession regulatory harmonization, the EU required the building of national institutions that mimicked the monitoring and sanctioning capacities of European Commission but at the domestic level. Even if the scope of work of these national institutions somewhat changed upon accession, their continuous monitoring role and pre-accession administrative capacities still represent institutional legacy which locked-in continued good compliance of the new member states⁶¹.

Yet, while pre-accession institutional legacy helps account for the compliance with EU rules, it does not on its own guarantee continued generosity of horizontal state aid schemes as the means to lure multinational corporations in the new member states and continue their economic transnationalization. Particularly in the context of the rise of populism and elements of economic nationalism in some of the East European countries, one might expect the reversal of such

development strategies. Yet, preliminary evidence suggests that this has not been the case, as even self-proclaimed enemies of foreign investors retain generous investment incentives and still strive to attract manufacturing FDI. Once East European countries embarked on the Dependent Market Economy model⁶², with more and more production and employment coming from the activities of manufacturing multinational corporations in the region, the domestic demand side also changed in favour of Europeanized industrial policy. Deep economic transnationalization thus provides another path-dependent mechanism that locked in new member states' reliance on Europeanized development policies. While the effects of political Europeanization seem to be waning⁶³, the Europeanization of economic state capacities appears to have a long-lasting effect even after the EU accession.

61 See also Sedelmeier (2016) on the role of administrative capacities as the mechanism for continued compliance

62 A. Nolke and A. Vliegthart (2009)

63 T. Wozniakowski, F. Schimmelfennig and M. Matlak, this issue, this issue



EUROPEANIZATION AND EURO ADOPTION

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Keywords: convergence criteria, central and eastern Europe, economic and monetary union, euro adoption, Europeanization

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Abstract

To what extent has Europeanization occurred in Euro Adoption policies in the ten member states that joined the EU in May 2004? This paper examines how to explain the cross-country differences in the degrees of Europeanization in this policy area. The findings are mixed: a majority of the member states have experienced Europeanization, defined as a process whereby EU norms and policies as well as EU institutions and patterns have influenced the domestic setting. Three member states have not yet to join the euro

area. Europeanization occurred in all of the ten NMS that joined in 2004, but not to the same degree or the same outcome. In the early-ins there was an early choice to adopt the euro, which was predominantly decided domestically by political elites. Subsequently they were affected by extreme Europeanization and they were able to adopt the euro within a few years. The late-comers were keen to join but due to a variety of domestic and structural factors were unable to meet the criteria at an earlier stage. Europeanization affected them as well and eventually led to euro adoption. The remaining three outs, did not get exposed to as much Europeanization, but in part it was due to not having made a firm domestic commitment to euro adoption. Yet some Europeanization occurred in recent years as these member states, despite not having set a euro adoption date, have managed to meet a number of the convergence criteria.

1. Introduction

Today the euro area (EA) counts nineteen member states. Twelve of the then European Union (EU) fifteen member states were part of the EA when banknotes and coins started circulating in 2002. When the EU expanded in 2004 the Accession Agreements included provisions that stipulated that each of the ten acceding member states would join the EA eventually. Because there were no deadlines, the time-table of euro adoption was unclear. Yet there was a sense, early on, that new member states would likely try to join as soon as possible.¹ Indeed, by 2009 four countries had already adopted the euro (Slovenia, Cyprus, Malta and Slovakia) and the three Baltic States had joined by 2015.² Three member states – the Czech Republic, Hungary and Poland – however, still remain outside the EA. This paper does not consider member states that have joined the EU after 2014.

1 Gallup Europe “Heading to the euro-zone, hopes and fears about the euro in the new member states” (2007).

2 Slovenia joined the euro area in 2007, Cyprus and Malta in 2008, Slovakia in 2009, Estonia in 2011, Latvia in 2014 and Lithuania in 2015.



In keeping with the overall theme of this Special Issue ‘Europeanization revisited’, and based on about one hundred interviews with participant observers, this paper examines to what extent Europeanization has occurred in this policy area, in these ten member states that joined in 2004.³ Europeanization is defined here as a process of a change of the political and economic systems of European states, which is brought about through EU membership, or a credible prospect of joining.⁴ It asks two further sub questions (a): Has there been convergence towards policy outcomes that can be described as “European”, either in terms of EU norms and policies or in terms of policies, institutions, and patterns we find in the member states that have already joined the euro area (or do we see divergence from the rest of the EU)? (b) To what extent can these findings be attributed to a Europeanization process, (i.e. a process of direct, pro-active policy of the EU or its member states or a process of indirect, unintended diffusion from the rest of Europe to the new member states), or is it due to an independent domestic development or a development influenced from outside the EU?

The second large set of questions that is asked here is what the relevant mechanisms are that have led to this Europeanization process. That is, to what extent do these mechanisms include a) coercion or legal enforcement; b) conditionality or incentives-based effects; c) external assistance/support; d) socialization, i.e. “teaching” and persuasion processes designed to change beliefs and preferences. Among the indirect mechanisms, we distinguish mechanisms of e) competition, f) learning or adaptation based on “lesson-drawing”

3 Kenneth Dyson has in an earlier article considered the Europeanization framework to explore euro adoption in member states. See K. Dyson (ed.), *Enlarging the Euro Area: External Empowerment and Domestic Transformation in East Central Europe* (Oxford: Oxford University Press, 2006). K. Dyson, (ed.) *The Euro at 10: Europeanization, Power and Convergence*. (Oxford: Oxford University Press, 2008).

4 For a discussion of the many definitions of Europeanization see J.P. Olsen “The many faces of Europeanization”, *JCMS: Journal of Common Market Studies* 40 (2002): 921-52. See also K. Featherstone, and D. Papadimitriou, *The Limits of Europeanization: Reform Capacity and Policy Conflict in Greece*, (Houndmills: Palgrave 2008).

or search for efficient/effective institutional or policy solution; g) emulation based on the adoption of appropriate or legitimate ideas, institutions, and policies. Here special attention is given on domestic mechanisms (that is, cultural, institutional, political, economic, mechanisms) that give rise to resistance. In other words, what are the relevant factors or conditions of (non-) Europeanization in the process of euro adoption in the ten member states that joined in 2004?

In addressing these questions this paper seeks to contribute to the literature that compares economic and political aspects of Europeanization.⁵ Based on the preceding analysis this paper seeks to draw some tentative conclusions about how to explain the cross-country differences in the degrees of Europeanization in this policy area.

The structure of the paper is as follows: the next section provides an overview of euro adoption in the ten member states broken up into three groups of countries. Section three examines whether from a theoretical point of view we can attribute the developments in euro adoption policies to the process of Europeanization. The next section examines what mechanisms are at work, highlighting also some specific domestic mechanisms. The final section concludes.

2. An overview of euro adoption policies in the new member states

The ten member states that joined in 2004 can be categorised in three groups, based on their euro adoption policies: fast movers (or ‘early ins’); adopters after setback (‘late-comers’); and the outs (some call them ‘laggards’). The section below discusses each of the three groups of countries in turn.

5 R.A. Epstein, and W. Jacoby, “Eastern Enlargement Ten Years On: Transcending the East–West Divide?” *JCMS: Journal of Common Market Studies*, 52 (2014): 1–16.



2.1. The First Four Fast Movers: Slovenia, Cyprus, Malta and Slovakia

As was mentioned above, Slovenia, Cyprus, Malta, and Slovakia were the first to adopt the euro. The process of euro adoption in those ‘early ins’ suggests that a few factors have been crucial in euro adoption. First, they had joined the Exchange Rate Mechanism-2 (ERM-2) early on and in most cases they had been keen to maintain stable exchange rates. Second, the government of the day in these countries considered it an important symbol to adopt the euro, so as to have their nation-state be seen as closer to the ‘core’ of the EU. In some cases there was a change in the government that briefly contemplated a modification in euro adoption policy. Yet those governments realized quickly that financial markets would ‘punish’ them for u-turning on the matter.⁶ In some cases, the national government consisted of a number of policy entrepreneurs who were keen to adopt the euro. In some of them, such as Slovenia, they put democratic processes to the side in order to push through the legislation needed to facilitate euro adoption.⁷ In that particular case, the Slovenian currency was also subject to a lot of volatility before joining the EU. The advantage of adopting the euro was more clearly made in this particular case. In the cases of Cyprus and Malta, there had been a long period of stable exchange rates, pegged first to the European Currency Unit (ECU) later

6 (e.g. Slovakia in June/July 2006, interviews with Slovakian policy makers, November 2009).

7 Interviews with Slovenian policy makers, July 2009; M. Mrak, M. Rojec and C. Silva-Jáuregui (eds) *Slovenia: From Yugoslavia to the European Union*, (Washington: The International Bank for Reconstruction and Development and The World Bank, 2004). Bank of Slovenia, Annual Report, (Ljubljana 2003). Bank of Slovenia and the Republic of Slovenia (2003), ‘Programme for ERM II Entry and Adoption of the Euro. Joint Programme of the Slovenian Government and the Bank of Slovenia,’ November. Bank of Slovenia (2003) Annual Report, Ljubljana; Bank of Slovenia (2005) ‘Basic Plan’, January. For a similar account of the disciplinary working of having joined the ERM before the elections and the restrictive effect it had on the incoming government, see also Juliet Johnson, *Priests of Prosperity: The Transnational Central Banking Community and Post-Communist Transformation*. (Ithaca: Cornell University Press, 2017).

the euro. In all four cases, there were no major domestic veto points blocking euro adoption and both the central banks and the governments agreed on the main policies regarding euro adoption and did not have major disagreements. Moreover, the majority of the ruling elites were in favour of euro adoption and which is why the changes in the ruling coalitions (after elections) did not change the policies in regards of that – which might have caused delays in euro adoption.

2.2. The Baltic States: Adoption after Set-back

Despite its commitment to join the euro in 2006, Lithuania was rejected for euro membership because the European Commission judged that it had missed the inflation criterion by 0.1 per cent.⁸ As mentioned above, it nevertheless managed to meet the criteria in 2014 and joined the euro on 1 January 2015. The Estonian government was also aiming to join the euro sooner rather than later but in the 2006 period was still having difficulties meeting the inflation criterion. When it became clear that Lithuania did not qualify for euro adoption with its inflation performance, Estonia also quickly decided to delay. Yet this country remained committed to the ultimate goal of euro adoption and by 2008-2009, during the financial crisis realised that inflation would come down and it then targeted euro adoption as a policy objective. It eventually was approved in the midst of the financial crisis and joined on 1 January 2011.

The case of Latvia diverges from the first two in that this country did not make the same serious attempt to meet the criteria as Lithuania did in the middle of the first decade of the 2000s. However, in 2009, the aftermath of the onset of the financial

8 European Commission “2006 Convergence Report on Lithuania” *European Economy*, Special Report No 2: 9. This judgement came across as rather harsh as the three member states with the best performance in terms of price stability were Sweden, Finland and Poland (two of which are not even a member of the euro area). Although the Commission spelled out that the long-term concerns played a role as well: “The 12-month average inflation in Lithuania has been above the reference value since April 2005 and is likely to stay above it in the months ahead. Lithuania does not fulfil the criterion on price stability.”



crisis, and at the start of what would become a very turbulent period in the history of the euro, Latvia was hard hit by the effects of the global financial crisis – harder than any other EU member state in 2009. Thus it was initially unwilling and unable to concentrate on euro adoption. Remarkably, however, and against the recommendation of the European Commission and the International Monetary Fund (IMF), it chose not to abandon its exchange rate regime but instead maintain its commitment to euro adoption (interviews with Latvian officials, October 2009). It subsequently made steady progress to meet the convergence criteria and ultimately joined the euro in 2014.

In the three cases, while the domestic political commitment to adopt the euro was present in the three cases, only Estonia managed to join early (1 January 2011) followed by the other two (2014 and 2015). The main reason for the delayed euro adoption in the other two cases was missing the convergence criteria, in particular in regarding the inflation rate criterion. Meeting this criterion in these three countries was difficult mostly due to the nature of real convergence catch-up even though there were some contributing factors related to domestic policy choice by the government (for instance regulated prices of transportation or energy). Later on, the low inflation was a result of the financial crisis which dampened growth and hence inflation. The ‘late-comers’ would have been happy to be among the ‘early-ins’ but a mix of seeking to catch up and not being given leeway by the EU-institutions, made them take a little longer to join.

2.3 The Euro Outs - Czech Republic, Hungary and Poland

There is no clear political consensus within the Czech Republic, Hungary or Poland on euro adoption.⁹ All three countries have had domestic

9 R.A. Epstein, and J. Johnson “Uneven integration: economic and monetary union in Central and Eastern Europe”. *JCMS: Journal of Common Market Studies* 48(2010): 1237–1260; J. Johnson, “Two-track diffusion and central bank embeddedness: the politics of euro adoption in Hungary and the Czech Republic” *Review of International Political Economy* 13(2006): 361–386.

problems and internal struggles that have made euro adoption difficult. The Czech Republic has been close to meeting the convergence criteria but has waived; initially being more positive, but then for clearly domestic political reasons becoming more opposed to euro adoption, without any change attributable to macroeconomic conditions.¹⁰ The Czech Republic experienced a long-time conflict between the Czech National Bank (CNB) on one hand¹¹ and the government and the former president on the other – before the monetary board was changed during the two presidential terms of Václav Klaus (2003–2013).¹² In the period since Klaus resigned, the sitting Czech government did not take action to take further steps to join the euro even though many of the criteria were met.¹³ With the end

10 Czech National Bank. “The Czech Republic’s updated euro-area accession strategy: a (joint document of the Czech Government and the Czech National Bank, 29 Aug 2007)”. Czech National Bank “Assessment of the fulfilment of the Maastricht convergence criteria and the degree of economic alignment of the Czech Republic with the euro area: a joint document of the Ministry of Finance of the Czech Republic and the Czech National Bank approved by the Government of the Czech Republic on 16 December 2008”; Czech Ministry of Finance “Assessment of the fulfilment of the Maastricht convergence criteria and the degree of economic alignment of the Czech Republic with the euro area: a joint document of the Ministry of Finance of the Czech Republic and the Czech National Bank” approved by the Government of the Czech Republic on 21 December 2009. See also T. Haughton, For business, for pleasure or for necessity? The Czech Republic’s choices for Europe. *Europe-Asia Studies* 61 (2009): 1371–1392 and A. Pechova, “Legitimising discourses in the framework of European integration: The politics of Euro adoption in the Czech Republic and Slovakia” *Review of International Political Economy* 19 (2012): 779–807.

11 A. Geršl, A. Political pressure on central banks: the case of the Czech National Bank. *Czech Journal of Economics and Finance* 56 (2006): 18–39.

12 V. Klaus, *The Future of Euro: A View of A Concerned Outsider*, Prague 20 November 2003 <http://www.klaus.cz/clanky/439>, last accessed 22 June 2017. S. Hanley, *The New Right in the New Europe: Czech Transformation and Right-wing politics*, 1998–2006. (London and New York; Routledge 2007). Prague Daily Monitor Czech euro adoption date to be set in Nov. (2 January 2009). M. Feldstein, “Vaclav Klaus and the Euro”. (Cambridge, Massachusetts, March 2011) <http://www.nber.org/feldstein/essaysinhonorofVaclavKlaus.pdf> accessed 6 December 2011.

13 A. Dandashly and A. Verdun. “Boarding the euro plane: euro adoption in the Czech Republic and Slovakia” *Review of European and Russian Affairs* 9 (2015): 1–25. Dandashly et al. “Euro Adoption in the Czech Republic, Hungary and Poland”. D. Král, The Czech 2010 elections: beginning of a new political era?



of Klaus' term, the new president Milos Zeman (who is more pro-euro), and with the arrival of a centre-left government of Bohuslav Sobotka in 2014, some elites became a little more favourable to euro adoption, but the public and others in the government remained sceptical.¹⁴ PM Bohuslav Sobotka went on record saying that euro adoption should be decided upon by the next government.¹⁵ With elections on 20-21 October 2017, and some parties against euro adoption, the timetable for the Czech Republic will depend much on the stance towards the euro of the winning political party (coalition government).

Hungary had a macroeconomic situation that could have made it easy to adopt the euro sooner rather than later but the government did not pursue the policies needed to enable early euro adoption.¹⁶ In the Hungarian case, the political battles among the main political parties to try to win over the voters during election years in the run up to the financial crisis resulted in major electoral commitments at considerable cost to public coffers – a mounting budgetary deficit and public debt, which pushed

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European Policies Initiative Policy Brief 22, June 2010. See also J. Horvath, "Global financial crisis: implications for the Hungarian and the Slovak economy".

14 J. Harper "Czech Republic is not preparing to join Eurozone" *Financial Observer.eu*, 28 January 2017, accessed 22 June 2017. Prague Post "A decade after EU entry, the Czech Republic has yet to take steps toward the single currency". 16 August 2014. See also the latest "Assessment of the Fulfillment of the Maastricht Convergence Criteria and the Degree of Economic Alignment of the Czech Republic with the Euro Area (December 2016) which concluded: "In view of the above facts, the Ministry of Finance and the Czech National Bank, in line with the Czech Republic's Updated Euro-area Accession Strategy, recommend that the Czech government should not set a target date for euro area entry for the time being. This recommendation implies the conclusion that the Czech Republic should not attempt to enter ERM II during 2017." On Zeman: "Zeeman says Czechs are irrationally afraid of euro adoption" *Prague Daily Monitor*, 23 June 2017.

15 "PM: Next government to decide on euro adoption" *Prague Daily Monitor*, 19 May 2017.

16 B. Greskovits, "The first shall be the last? Hungary's road to EMU". In: K. Dyson (ed.) *Enlarging the Euro Area: External Empowerment and Domestic Transformation in East Central Europe*. pp. 178–196. (Oxford: Oxford University Press 2006); B. Greskovits, "Hungary and Slovakia: compliance and its discontent". In: K. Dyson (ed.) *The Euro at 10: Europeanization, Power and Convergence*. pp. 274–291. (Oxford: Oxford University Press 2008).

Hungary further away from the prospect of joining. Furthermore, with the right wing party in government (Fiatalkor Demokraták Szövetsége (Fidesz)), euro adoption seems to be further delayed. Remarkably, however, in recent years, the government has been pursuing policies so as to meet the convergence criteria, on all criteria but joining the exchange rate mechanism or central bank legislation. The government of Viktor Orbán is positioning his country as needing to 'catch up' before it can join the euro. The issue of the euro is a relatively small one compared to the many issues that the Orbán government has with the EU as a whole. Orbán's stance to European integration has been one of defying the EU and concentrating on new nationalism. The issue of euro adoption is very low on the radar of the Hungarian government. Some prominent Hungarians have recently started to lobby for a referendum to join the Exchange Rate Mechanism.¹⁷

In Poland, several domestic challenges led to euro accession delays, even though its government was initially quite keen to join the euro sooner rather than later.¹⁸ It experienced a struggle between the National Bank of Poland (NBP) and the government during various periods; clashes between the consecutive Civic Platform (Platforma Obywatelska, PO) governments and the opposition; and some constitutional issues that need resolving before joining the euro.¹⁹ In

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 17 "Should Hungary adopt the euro?" *Hungarian Free Press* 5 September 2017. Those advocating for joining the ERM include Péter Balázs, (former minister of foreign affairs 2009-2010), Péter Ákos Bod (former Governor of the Hungarian National Bank) and György Surányi (former Governor of the Hungarian National Bank 1990-1991 and 1995-2001). This referendum is also supported by a small political party called Polgári Világ (Civic World) and hopes to gain some support in the April 2018 national elections. J. Horvath, Global financial crisis: implications for the Hungarian and the Slovak economy. In: A. Dandashly, A. Surdej and H. T. Własczuzuk (eds.) *Global Financial Crisis and Euro Zone Enlargement*. (Krakow, Poland: Adam Marszalek Publishing House 2009), pp. 47–59.

18 Polish Ministry of Finance "The roadmap for Poland's euro adoption: policy outline". Warsaw, October (2008).

19 R. Zubek, R. "Poland: from pacesetter to semi-permanent outsider". In: *The Euro at 10: Europeanization, Power and Convergence*. K. Dyson (ed.) pp. 292–306 (Oxford: Oxford University Press 2008).



order to join the ERM-2 a two-thirds majority in parliament is required to amend the constitution. Furthermore, observers were concerned to remain 'stuck' in ERM-2 as a two-thirds majority is also needed to move from the ERM to the euro area and fear that Poland might not meet the criteria at that point or then would lack the willingness to adopt the euro.²⁰ They only would like to join the ERM-2 the shortest time; in other words when there is a good chance they could join the euro two years after being in the ERM-2.²¹ With the euroskeptic party Law and Justice (Prawo i Sprawiedliwość, PiS) in government, euro adoption has been delayed further in Poland.²² Yet more recently the business sector and its population is showing increased support for euro adoption²³ although the general public in this country has been more negative in recent years.²⁴

It is difficult to gauge when the three 'outs' may be seeking to adopt the euro. What has been remarkable in recent years has been the policies towards securing convergence criteria. Although the rhetoric has been profoundly euro sceptic the behaviour by these governments has been to ensure that their national economy complies with many of the convergence criteria. It seems that

20 Dandashly and Verdun "Boarding the euro plane": Dandashly and Verdun et al. "Euro Adoption in the Czech Republic, Hungary and Poland"; Zubek, R. (2006) "Poland: unbalanced domestic leadership in negotiating fit". In: K. Dyson (ed.) *Enlarging the Euro Area: External Empowerment and Domestic Transformation in East Central Europe*. Oxford: Oxford University Press, pp. 197–214. Z. Polański, "Poland and the euro zone enlargement: monetary policy, ERM II, and other issues". *Atlantic Economic Journal* 32(2004): 280–292.

21 Interview by the author with former Polish central bank official, 7 June 2016.

22 *Financial Times* "Euro Entry Looms large in Polish election campaign", (20 July 2015). Also, interview with Polish former national central bank official with the author 20 June 2016.

23 P. Polaczek "Poland: Is it ready, and is it time to adopt the euro?" *Emerging Europe*, 30 January (accessed 22 June 2017)

24 European Commission "Introduction of the euro in the Member States that have not yet adopted the common currency". *Flash Eurobarometer* 418, Brussels (2015). "Eurobarometer: Support for the euro varies greatly among the seven newer EU Member States" http://ec.europa.eu/economy_finance/articles/euro/2016-05-20-eurobarometer_en.htm.

the decision to join the ERM has been reserved to when there might be the political will to join the euro soon. There has not been a plan to join the ERM much in advance of the plan of joining the euro.

3. Is Euro Adoption Europeanization?

This section examines to what extent Europeanization has occurred in this policy area, in these ten member states. As mentioned in the introduction, Europeanization is defined here as 'a process of a change of the political and economic systems of European states, which is brought about through membership, or its credible prospective, in the European Union'. Let us turn to examine what that means in this particular case.

The concept Europeanization is used in various contexts, but in particular in those cases when one cannot use the term European *integration* whilst still observing a process whereby the EU or membership in the EU affects the member states. Drawing on Ladrech, Kevin Featherstone and Claudio Radaelli define it as "Processes of (a) construction, (b) diffusion, and (c) institutionalization of formal and informal rules, procedures, policy paradigms, styles 'ways of doing things', and shared beliefs and norms which are first defined and consolidated in the making of EU public policy and politics and then incorporated in the logic of domestic discourse, identities, political structures, and public policies."²⁵ The first question thus should be, should a development this policy area perhaps simply be referred to as European *integration*. An argument could be made for it. After all, the process of euro adoption (the three-staged process towards Economic and Monetary Union or EMU) has been set out very clearly in the Maastricht Treaty and subsequent treaties and there is no ambiguity about the expectation that member states should prepare to join. From earlier

25 C.M. Radaelli "The Europeanization of Public Policy" in K. Featherstone and C.M. Radaelli (Ed.) *The Politics of Europeanization* (Oxford: Oxford University Press, 2003): 30.



research on when “Europeanization” is used rather than “European Integration”, one finds that when there is top-down (hierarchical steering) with either the EU supranational institutions giving clear instructions to member states or when policy-making or competence is transferred to the supranational level that can be labelled “European integration”.

The reason that in this case one can still talk about Europeanization, however, is that this policy area is characterised by differentiation, in that not all member states are participating in EMU.²⁶ As is well documented, Denmark and the United Kingdom (UK) have a formal opt-out whereas Sweden has not. Yet the latter has been behaving as if it has an opt-out. By not joining the ERM, for instance, and not adjusting its central banking laws in line with the Treaty requirements it does not meet the convergence criteria set out in the Maastricht Treaty.²⁷ Indeed, to be considered eligible to join euro area a member state must meet the so-called Maastricht convergence criteria. Besides the criterion of remaining two years in the normal bandwidth of the ERM, the other criteria refer to budgetary deficit, public debt, low inflation and some compatibility with legal provisions such as central bank independence. Once every two years, or at the request of the member state in question, the Council will assess based on a report by the Commission (after consulting and discussing with the European Central Bank, the European Parliament and the European Council) to what extent a member state is ready to join the euro. Over the past years it has become clear that the divergence in experiences of euro adoption is such that one can use the Europeanization framework as a useful analytical tool to assess euro adoption policies.

In terms of the questions raised in the introduction, (a): Has there been convergence towards policy

26 J.-V. Louis “Differentiation and the EMU” in *The Many Faces of Differentiation in EU Law* (43-64) B. De Witte, D. Hanf and E. Vos (ed.) (Antwerpen/Oxford/New York: Intersentia, 2001).

27 European Commission “Convergence Report” *European Economy*, Institutional Paper, 026, June, 2016.

outcomes that can be described as “European”, either in terms of EU norms and policies or in terms of policies, institutions, and patterns we find in the member states that have already joined the euro area (or do we see divergence from the rest of the EU)? One can answer this question in the following way. We have identified three groups of euro adoption policies. The first group, which Dyson and Johnson each separately have called “pace-setters”²⁸ we call “the early ins” worked hard to meet all the criteria and join as soon as possible. The second group, we call the “late-comers”, have done exceptional work to adjust to the convergence criteria, despite extraordinary challenges induced by the financial crisis. The third group, (by Dyson and Johnson called “laggards”²⁹) the “outs” have not been able, nor have had a government willing and able, to conduct policies to be ready to adopt the euro. Within each of these groups of member states there were specific processes that took place that were on some level idiosyncratic, but on the whole, for the purpose of this paper, we will concentrate on the outcome. In other words, two of the three groups have ensured that there were policies in place that enabled them to meet the convergence criteria. The most challenging part for each of these member states has been to produce the domestic circumstances, including often policy reform that led to that outcome. It has in no case been very easy to pursue the policies that led to meeting the convergence criteria. In the case of the early ins and the late-comers it required a governing political party strongly committed to meeting the criteria and in most cases even the opposition party or parties had some buy-in. The outs have not had a government party who has been effective in both having a policy claim towards euro adoption or the effective meeting

28 Dyson “Euro Area entry in East-Central Europe: Paradoxical Europeanisation and Clustered Convergence” *West European Politics* 30 (2007): 153-74. Johnson “The remains of conditionality: the faltering enlargement of the euro zone” *Journal of European Public Policy* 15 (2008): 826-841.

29 Ibid. See also A. Dandashly and A. Verdun “Euro adoption in the Czech Republic, Hungary and Poland: Laggards by default and laggards by choice”, *Comparative European Politics*, 2016 DOI: 10.1057/cep.2015.46.



of the convergence criteria. The developments in recent years are a bit different in that more focus has been meeting the convergence criteria (even if not the ERM) without a political commitment to set a date for euro adoption. In most these cases it only makes sense to set a date when such a date can be achieved within the electoral term of the next government.

4. Mechanisms of Europeanization

(b) To what extent can these findings be attributed to a Europeanization process, (i.e. a process of direct, pro-active policy of the EU or its member states or a process of indirect, unintended diffusion from the rest of Europe to the new member states), or is it due to an independent domestic development or a development influenced from outside the EU?

Turning to the second large set of questions that is asked here, namely is what are the relevant mechanisms that have led to this Europeanization process? Let us discuss to those one by one. For a schematic portrayal see figure 1 below.

4.1 Coercion or legal enforcement

The common denominator here for the *early ins* and the *latecomers* that the member states sought to meet the criteria themselves. There was no pressure or coercion from the European Commission or other member states for these countries to join the euro. If there was any legal enforcement or coercion it was rather on applying the convergence criteria in a rather strict fashion thereby not permitting member states to adopt the euro unless they met all the criteria completely. The Commission has also been a weak enforcer of member states who could easily meet the criteria but have simply dragged their feet, such as the case of Sweden. Another case of a member state that could probably easily meet the criteria is the Czech Republic. Again, the Commission has not been coercing these member states into

euro adoption and is not planning to do so, even though there were some leaked news to that effect in the run up to the publication of the reflection paper on the future of EMU issued in May 2017.³⁰ Yet there has been an increasing talk of whether EU member states should be trying to be part of the euro by 2025.³¹

4.2 Conditionality or incentives-based effects

To what extent has conditionality³² or an incentives-based effect been effective? This question is difficult to assess. From a high level of abstraction one would argue that there is obviously the attraction of obtaining the euro as a 'prize' for having met the convergence criteria. Add to that, the fact that some EU member states right away worked very hard to join the euro, and one would say, 'yes' there is that effect. Yet the literature judges the matter differently. Johnson asks "Why did the conditionality of Maastricht prove less potent than that of Copenhagen?" Her answer is that the smaller member states did a cost-benefit analysis, and concluded that the euro adoption was beneficial for them. By contrast she argues that the laggards experienced the euro area conditionality as having the opposite effect.³³ The difficulties set up by the EU and the convergence criteria assessment process made it more difficult for those not yet in to embark on the process to prepare for entry.

30 Various European newspapers reported that a message was leaked to the press that the Commission was planning to coerce member states to all have adopted the euro by 2025. These leaks were quickly contradicted stating that it was about a goal or target rather than coercion, see Business Insider Nordic "EU leak: Sweden has to adopt the euro by 2025" <http://nordic.businessinsider.com/leaked-document-sweden-and-denmark-to-be-forced-into-the-euro-by-2025-2017-5/>, 22 May 2017 (accessed on 22 June 2017).

31 Jean-Claude Juncker "State of the Union Address 2017", 13 September 2017.

32 F. Schimmelfennig and U. Sedelmeier, "Governance by conditionality: EU rule transfer to the candidate countries of Central and Eastern Europe", *Journal of European Public Policy*, 11 (2004): 661-679.

33 Johnson "The remains of conditionality..."



4.3 External assistance and support

Since the new member states joined the EU in 2004 there was increasingly less support from EU level institutions for an early euro adoption.³⁴ The Commission did start offering technical support once the member state in question had decided, and had been approved by the Council, to have its derogation lifted, meaning that it could prepare for the change-over. The example of Lithuania in 2006 is perhaps a clear case in point. Rather than enabling Lithuania to work with the Commission to adjust to the very small difference between the convergence criteria and their inflation performance, the decision was simply not to be permitted to join the euro area at that time. Lithuania would take another 9 years before it introduced the euro. In 2009 when speaking to experts in face-to-face interviews they indicated not having received much support to get ready to meet the convergence criteria. There have been some reports of twinning (finance ministry government employees spending some time in other EU member states to learn about how it works in other member states, especially to learn about how to do the change-over). In face-to-face interviews officials in Brussels mentioned that one reason why the Lithuania case was held up to such high standards is to set an example for the larger member states (they mentioned in particular Poland) that were still to adopt the euro.

4.4 Socialization

In terms of socialization it seems that there are only few opportunities for direct socialization. Above it was briefly mentioned that some of the government employees have been offered ‘twinning’ opportunities. In interviews with Estonian experts it was mentioned that the Estonians made a real effort to learn about how to behave in “Brussels” and build good relationships. They felt the Lithuanian experience showed that

34 Interviews with various policy-makers in the ten member states. See also Johnson “The remains of conditionality...”

the Lithuanians had not fully understood that the Commission would be measuring the convergence criteria very precisely. The Estonians commented on how in their assessment the Lithuanians may have left to chance a few government policies that could impact the inflation rate, which meant that they were at risk at having an inflation rate in a convergence report year, that was just that little bit higher than needed.³⁵ But it was not clear if this matter would have been dealt with successfully through socialization or not. Furthermore, seen that most of the adjustments would be domestic, and the path that needs to be taken to meet the convergence criteria is quite country specific, it is not immediately clear, other than the above example, how socialization would generate changes in behaviour or policy within each of the member states in question.

4.5 Competition

The mechanism of competition may have some impact, although it is a bit of a double-edged sword. There may be some elements of competition if euro adoption is perceived as joining the core of a two-speed Europe. Another element of competition during the height of the financial crisis was whether member states without the euro were doing as well, better or worse, than those that were staying outside the euro area. In the case of Poland, a member state that had not adopted the euro, but never went into recession during the euro crisis, it meant that euro adoption did not seem to be so desirable. So again, a bit mixed to say so. With the rebounding of the EU in a more integrationalist direction, with Macron as President of France, with strong integrationist language of Juncker in his State-of-the-Union speech, with the re-election of German Chancellor Angela Merkel, and thus with a sense that the integration motor has started up again, possibly with a stronger Franco-German integration force, the factor of competition might start to play a more important role favouring the

35 Interviews with government officials, 6 October 2009



pull towards adopting the euro.³⁶ But at the time of writing it is still too soon to tell.

4.6 Learning and adaptation

This mechanism may have more of a role to play. Member states did learn from other member states' experiences in a few ways.³⁷ Those adopting the euro from 2007 onwards could learn from those who had adopted the euro in 1999-2002 for instance about the concerns about rising prices. Experts from those countries that had already adopted the euro would come over to the ones aspiring to introduce the euro to assist the latter with the technicalities and best-practices associated with the change-over. As we saw in the Lithuania-Estonia case, aspiring states also learnt from other cases that failed to enter the euro area. They also frequently adapted (although it did mean that they adapted to a new and different equilibrium that ended up having three groups of euro adoption groups, the early-ins, the

36 *Financial Times* "Berlin cheered by prospect of Macron reviving Franco-German motor", 24 April 2017 (last accessed 22 June 2017)

37 A. Zito, and A. Schout, "Learning theory reconsidered: EU integration theories and learning", *Journal of European Public Policy* 16 (2009): 1103-1123. C.M. Radaelli, "Measuring policy learning: regulatory impact assessment in Europe", *Journal of European Public Policy* 16 (2009): 1145-1164.

latecomers and euro-outs). The euro-outs in fact had learnt from Sweden and adapted to a new situation that few had actually expected upfront to happen. Thus one can see a different equilibrium having emerged, one that assumes differentiated European integration. Whether learning and adaptation will soon change the equilibrium remains to be seen. It is perhaps worth noting that the Czech Republic and Hungary are each seeking to meet the convergence criteria, just in case, even though there is no political will in the short run to join the euro area.

4.7 Emulation

Needless to say, for those that have adopted the euro, and in order to meet the convergence criteria, those seeking to join the euro have emulated policies and laws so as to be ready to join the euro. Those who joined the euro changed their central banking laws and altered institutions and policies to qualify. Perhaps more interestingly, even those who are not yet seeking to join have also already changed some policies and institutions, but not all.

Figure 1: Mechanisms of Europeanization and Euro Adoption

Europeanization mechanism:	Applicable in euro adoption in ten member states?
a) coercion or legal enforcement;	No.
b) conditionality or incentives-based effects;	No. If criteria were met, the euro could be adopted (incentive)
c) external assistance/support;	Not much. Commission and twinning occurred after a Council to join the euro. Few opportunities for support before decision.
d) socialization	Mixed. Few opportunities for direct socialization as most of the adjustments would be domestic and it is not immediately clear how socialization would generate that in the member state in question.
e) competition	Mixed. Some elements of competition if perceived that staying outside the euro area meant being in a lower league. Also the feeling was that each member state wanted to perform as good as possible along macroeconomic criteria and euro adoption is a tool to achieve those goals.
f) learning or adaptation	Yes. Member states did learn from other member states' experiences, either about the change-over or being ready for meeting the convergence criteria
g) emulation	Yes. In order to meet the convergence criteria and have the policies and laws in place to join the euro spurs emulation based on the adoption of appropriate or legitimate ideas, institutions, and policies occurs.



What the above analysis of the mechanisms of Europeanization in the case of euro adoption in the ten new member states shows, is that some mechanisms are more salient than others. Especially compared to the impact of conditionality and its mechanisms on member states seeking to join the EU the process of euro adoption has not had as stark an impact. Yet there has been a process of learning, emulation and to some extent competition and socialization. There has been little to no coercion and very little support prior to deciding and having been approved to join the euro. A study by Dandashly and Verdun³⁸ suggests that domestic mechanisms deserve special attention. There are cultural, institutional, political, economic, mechanisms that give rise to resistance to euro adoption. In particular the domestic political setting, the elections time-table, and the size of the government and opposition, and any constitutional requirements, are of importance in making it more difficult for some member states to join the euro. In other words, what are the relevant factors or conditions of (non-) Europeanization in the process of euro adoption in the ten member states that joined in 2004?

The above analysis suggests that a mix of economic and political factors contribute the fast or slow adoption of the euro in the ten member states that joined in 2004. It seems however that the political issues are more prominent than the economic issues in determining the euro adoption path. The cases of Czech Republic and Slovakia indicate that a simple cost-benefit analysis for instance is insufficient to determine whether a member state would adopt the euro, which is a finding of interest to the literature that compares economic and political aspects of Europeanization.³⁹ Based on the preceding analysis we can start to draw

38 A. Dandashly and A. Verdun, *Joining the Euro Area? Central and Eastern European Countries and their Quest for Euro Adoption*. Oxford: Oxford University Press, forthcoming.

39 R.A. Epstein, and W. Jacoby, "Eastern Enlargement Ten Years On: Transcending the East-West Divide?" *JCMS: Journal of Common Market Studies*, 52 (2014): 1–16. See also A. Dandashly and A. Verdun "Boarding the euro plane: euro adoption in the Czech Republic and Slovakia" *Review of European and Russian Studies*, 9 (2015): 1–26.

some tentative conclusions about how to explain the cross-country differences in the degrees of Europeanization in this policy area.

5. Conclusion: The Europeanization of Euro Adoption in Ten Member States

This paper examines to what extent Europeanization has occurred in euro adoption in the ten member states that joined the EU in 2004. Has there been convergence towards policy outcomes? The result is mixed. In this policy area we find a majority of the member states having experienced Europeanization, defined as a process whereby EU norms and policies as well as EU institutions and patterns have influenced the domestic setting. However, there are still three member states that have decided not yet to join and they have over time become more entrenched in their opposition than would have appeared when they first joined the EU in 2004 or even in the years right after. The experience of being laggards, and the experience of the euro area, as well as the lack of EU encouragement in earlier years, may have further solidified the stance of the government that has positioned itself as firmly outside the euro area. In the past year we have seen the first attempt by the European Commission to seek to find ways to encourage these outs to consider joining the euro, or signal that they might risk becoming part of a more firmly entrenched two-tier system.

Can both these sets of findings be attributed to a Europeanization process, (i.e. a process of direct, pro-active policy of the EU or its member states or a process of indirect, unintended diffusion from the rest of Europe to the new member states), or is it due to an independent domestic development or a development influenced from outside the EU? Again the result is mixed. In this paper we saw different outcomes of euro adoption policies in the ten member states that joined the EU in 2004. First, countries that joined the Exchange



Rate Mechanism-2 (ERM-2) soon after joining the EU found it much easier to adopt the euro in comparison to those that did not. Second, having a pro-EU government is a necessary but not sufficient condition to adopt the euro. Third, the existence of veto points in the domestic political system reduces the likelihood of fast euro adoption. Fourth, until recently, the European Commission has treated euro adoption as a domestic affair without any clear encouragement or support prior to being officially 'approved' to join (after assessment of the convergence report). It is only very recently that the Commission is putting pressure (and presumably will eventually assist these members) to adopt the euro. One could argue that the Commission previously was harsh in its assessment of aspiring members which was not at all seen as encouraging.

Thus this paper shows that the underlying domestic political reasons for those results have been different. Reflecting on these ten cases in order to understand euro adoption strategy a domestic politics approach offers valuable insights into de facto euro adoption outcomes, still leaves us the possibility to speak to the value of the Europeanization framework in this regard. As we saw that a focus on convergence criteria is insufficient to explain why NMS change their stance on euro adoption. Countries like the Czech Republic have been close to meeting the convergence criteria early on but have waived – initially being more positive, but then for clearly political reasons becoming more opposed to euro adoption, without any change attributable to macroeconomic conditions. Analyses of government euro adoption policies as well as constitutional factors make it easier to explain the outcome. We find that various domestic factors play important roles in the process of euro adoption even if some factors are more important than others. The most important factor in these cases is the stance of the government in power. Where the government is pro-European there is a much stronger likelihood that it will aim for euro adoption. By contrast, having a eurosceptic

government (or president) in place poses as a real obstacle to euro adoption. Yet merely having a pro-European government is insufficient. Governments also have to be willing to pursue a genuine effort to meet the convergence criteria, often at the expense of other government goals. In some cases (e.g., the case of Poland) the government is restricted more than others by the need for a constitutional change and ensuing two-thirds parliamentary majority required. Thus in such a case the dynamics between government and opposition play a larger role than in those cases where there is no such need. Still in recent years the outs have pursued policies that have made them meet many more of the convergence criteria but still at the time of writing there is no official euro adoption date in the Czech Republic, Hungary, or Poland

Turning to the value of the Europeanization framework to explain the outcome we find that various mechanisms have been of differing importance. For instance, until very recently (and it is still too early to say if there is any real change) 'coercion' had not been of importance in the euro adoption policies. As mentioned, only in 2017 things may have changed, but to date we cannot differentiate yet between empty language and real coercion. More difficult is the assessment of 'conditionality', which scholars, such as Johnson, find less influential in this domain. Similarly, 'socialization' and 'competition' worked in some cases much more than in others. Mechanisms such as 'learning' or 'emulation' seem to have been taking place, but have not in all cases led to the policy of euro adoption. These mechanisms are useful lenses to look through so as to identify how Europeanization might be occurring.

Europeanization occurred in all of the ten NMS that joined in 2004, but not leading to the same degree or the same outcome. In the early ins there was an early choice to adopt the euro, which was predominantly decided domestically by political elites. Once they decided that, they were affected by extreme Europeanization and they were able to adopt the euro within a few years. The late-comers



in a sense were extremely keen to join but due to a variety of domestic and structural factors were unable to meet the criteria at an earlier stage, but did not fundamentally disagree with the goal. They were prepared to hold on to the euro adoption original rules, even when presented with various options. They were prepared to meet the criteria and wait till they were in. The remaining three outs, discussed here, went through turbulent early years whereby a mix of factors led them sometimes to have an early adoption date; other times not so much; but in each of these cases they eventually abandoned a date. The financial crisis and the lack of a clear signal by the EU institutions may have contributed to the rise of more Eurosceptic parties which in turn further fuelled the current position whereby not one of them has a date to adopt the euro.





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