Romanian Journal of Political Science

PolSci
Romanian Journal of Political Science

Governance after the CRISIS

Volume 10, Number 1, Summer 2010

Romanian Academic Society

Romanian Journal of Political Science

ISSN 1582 – 456X

Romanian Journal of Political Science
Volume 10 number 1 July 2010

GOVERNANCE AFTER THE CRISIS

PolSci Focus

Foreign Direct Investment and Civil Rights: Testing Decreasing Returns to Civil Rights
Aldo Fernando Ponce **5**

International and Domestic Policy Responses to the Financial Crisis in Central and Eastern Europe: Lessons for Ukraine
Tetiana Polyvana **22**

Non-Partisan Local Actors as the Element of Absorbed Local Democracy?
Miro Hacek **38**

PolSci Papers

European Rules as 'Law of the Land'? Towards Optimalisation of EU Member State Compliance
Henri de Waele **52**

Modern "Don-Quixotism" or an Emerging Norm of International Relations? Prevention of Armed Conflicts in the European Union and the Organization for Security and Cooperation in Europe
Rok Zupancic **71**

PolSci Reviews

Gill Ringland, Oliver Sparrow and Patricia Lustig – "Beyond Crisis: Achieving Renewal in a Turbulent World"
reviewed by *Marian Zulean* **95**

Tom Gallagher – "Romania and the European Union. How the Weak Vanquished the Strong"
reviewed by *Sinziana – Elena Poiana* **96**

Rectifying statement, regarding Volume 9, Number 1, Summer 2009

The editorial team of the Romanian Journal of Political Science would like to hereby bring to the attention of our readers that the article entitled Europe and the Extreme Right: Comparing Partidul Romania Mare and Vlaams Belang, published in Volume 9, Number 1 of 2009 belongs to Kevin Adamson and Robert Johns. The work will be withdrawn from our journal, as our readers will be able to find the material in the volume L'Europe contestee. Espaces et enjeux des positionnements contre l'integration europeenne, edited in 2008 by Michel Houdiard Editeur.

Foreword

Governance after the crisis

The global financial and economic crisis has taken its toll on national politics. Ranging from doubts over the legitimacy of capitalism in the West to the (re)election of socialist leaders and military coups in some parts of the South and conflict escalation all across the Middle East and South Asia, the effects of the recent crisis brought into attention a series of governance related issues. Everyone had to look into their own yard, count the livestock and reflect. The aftermath pushed higher on the public agenda a series of questions regarding the current international governance arrangement. What was the impact of the crisis on civil rights protection in transition countries? How appropriate were the anti-crisis policy responses in Eastern Europe and what can be learned from them? What was the impact on local democratic construction in selected countries? The current issue of the Romanian Journal of Political Science will try to tackle some of these issues.

Foreign Direct Investment and Civil Rights: Testing Decreasing Returns to Civil Rights

- *Aldo Fernando Ponce*[1]

Abstract:

In this paper, I examine the effectiveness of improvements in political and civil rights for attracting foreign direct investment flows (FDI) into democracies. I contend that advances in the quality of democracy – specifically those concerning civil rights – present positive but decreasing marginal returns in attracting FDI inflows. I empirically prove this proposition by using panel data regressions within the Latin American and Eastern European contexts from periods following their democratization (1991-2003)

Keywords: foreign direct investment, civil rights, democratization, developing nations, Latin America, Eastern Europe.

Overview

This study addresses the relationship between quality of democracy and the level of inflows of foreign direct investment (FDI inflows). In particular, it examines how effective improvements in political and civil rights are to attract inflows of foreign direct investment for democracies. I contend that advances in the quality of democracy -- specifically in the area of civil rights -- present positive but decreasing marginal returns for attracting FDI inflows. In other words, as the quality of democracy progresses, the marginal returns to civil rights decline. I empirically prove this regularity in polities with recent democratization experiences --- more precisely by using panel data regressions within the Latin American and Eastern European contexts from periods following their democratization (1991-2003).

Due to the evidence of decreasing returns to civil rights, I conclude that 1) countries that boost the scope of civil rights after democratizing (despite its diminishing but positive returns) are relatively more successful in attracting FDI inflows than those with extreme levels; 2) politicians and policy-makers should expand the provision of civil rights selectively if the maximum impact in terms of foreign investment (and eventually more economic development through foreign direct investment) becomes a priority; and 3) despite the existence of diminishing returns, the impact of any increase in

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the scope of civil rights is almost always positive on the amount of FDI inflows.

In order to extend the literature on the role of political variables in attracting FDI inflows, I estimate the impact of changes in the quality of democracy during the first stages of democratic consolidation on the behavior of foreign investment inflows. After verifying the existence of decreasing returns to the quality of democracy – measured by the scope of civil rights – new venues for further research are suggested to explore why and how different components of civil rights can produce such a property (decreasing returns to civil rights).

Politics and Foreign Direct Investment

Previous studies on the role of good governance or other political variables (concerning democratic quality) in attracting FDI inflows have mainly concentrated on the relationship between FDI inflows and 1) type of regime (whether democratic or not); or 2) only one aspect of democratic consolidation or political condition (e.g., corruption, tests of expropriation, political risks insurance, tax incentives, and property rights).

Using the first approach, several scholars have focused on determining the link between regime type and investor confidence (Jessup 1999; Jensen 2003; Li and Resnick 2003; O´Neal 1994). For example, O´Neal (1994) finds that authoritarian regimes provide investors with higher returns of profitability in developing countries. However, overall investment flows are not generally related to regime type. Likewise, Jessup (1999) argues that authoritarian regimes in developing nations attract more international investment. On the other hand, Jensen (2003) concludes that democratic governments attract higher levels of FDI. Between these divergent views, Li and Resnick (2003) were perhaps the first to suggest that democratic institutions can affect FDI inflows both positively and negatively. However, Li and Resnick mainly focus on the role of property rights, arguing that increases in democracy improve property rights protection, thus encouraging FDI inflows. Like Li and Resnick, another group of scholars tested the hypothesis that enforcement of property rights can increase the attractiveness of a host country for foreign investors (Biglaiser and Danis 2002; Jensen 2003).

The second approach has more recently incited debate among scholars. This research has tended to move away from aggregate FDI flows. Traditionally, these studies were focused on the role of corruption in explaining FDI inflows. New studies, however, include tests of expropriation (Li 2009), political risks insurance (Jensen 2008), and tax incentives (Li 2006).

[2] Some scholars conclude that corruption could provide incentives for investment, and consequently for economic growth (Leff 1964; Huntington 1968). Leff (1964), for example, addresses several positive effects of corruption on investment. First, corrupt practices encourage individuals to avoid bureaucratic delay. Thus, transaction costs are diminished. Second, bureaucrats who are "allowed" to receive bribes work harder. Therefore, a tendency toward competition and efficiency is introduced into the system. While the first mechanism increases the likelihood that corruption is beneficial to growth only in countries where bureaucratic regulations are numerous, the second theory would operate regardless of bureaucratic performance. In a similar vein, Huntington (1968) provides an interesting view on the nature of corruption as a product of the distinction between public welfare and private interest, which comes with modernization (defined as a transition from autocratic to more democratic government). Since modernization contributes to corruption by creating new sources of wealth and power, corruption in this sense is produced by a rise of new groups with new resources. Thus, Huntington sees corruption as a natural path to assimilate new forces into the political system. In other words, corruption represents a natural and predictable outcome of the modernization process in a country.
However, other scholars emphasize the negative consequences of corruption on the economy, namely lower economic growth (Murphy, Shleifer, and Vishny 1991; North 1990; Shleifer & Vishny 1993). For instance, Murphy, Shleifer, and Vishny (1991) provide evidence that nations where skilled people must resort to rent-seeking activities tend to grow more slowly. For these scholars, talented and highly educated individuals will be more likely to engage in rent-seeking activities than productive work, with adverse consequences for their country's economic health. Likewise, under the institutional neoclassical assumptions, corruption inhibits economic growth because it destabilizes rules and generates uncertainty for private investors (North 1990).

Democracy, Civil rights, Political rights, and Foreign Direct Investment

As noted above, regime type and specific political conditions -- as explanatory variables of foreign direct investment -- have been addressed in the literature. Even when FDI flows have been disaggregated, regime type has always been a focus of every study, evaluating the relationship of a certain political or economic variable and FDI flows under democracy or autocracy. In general, too much attention in the FDI literature has focused on regime type.

However, other aspects and features of the quality of democracy or the level of democratic consolidation may also matter when explaining FDI inflows. In fact, some of these may better explain the role of democracy in attracting FDI inflows. More precisely, regime type cannot determine whether (and what to extent) the degree of institutional development can explain the amount of FDI inflows within a group of democracies. Variations in the degree of institutional development or democratic quality might considerably matter when explaining institutional effectiveness in attracting FDI inflows. In addition, the marginal impact of improvements in institutional development on FDI inflows might not be constant or fixed over time. As institutional development or quality of democracy increases, the impact on FDI – positive or negative – might also change. By only taking into account the type of regime, the study risks missing the potential existence of relevant dynamics in the relationship between democratic quality and FDI inflows.

Concerning more focused studies, different analyses on the role of either corruption or property rights only account for one aspect of democratic consolidation, not the *level of democratic development* as a whole (disaggregated into two general categories: political and civil rights). In order to go beyond these limits and evaluate the implications of the level of democratic development on FDI inflows, the index created by the Freedom House Institute is employed.

Despite of being often accused of a conservative bias, the Freedom House Index offers several advantages not present in other indexes: 1) it covers the entire period in which economic liberalization took place (in this project from 1985 to 2003); 2) it evaluates a broad range of characteristics associated with democratic consolidation or quality of democracy; 3) it disaggregates its scores on democratic consolidation into two categories: political[6] and civil rights[7].

[3] Through an analysis of actual expropriation acts of 63 developing countries from 1960 and 1990, Li (2009) shows that the chief executive's political incentives, constraints, and policy-making capacity determine the host government's expropriation decisions.

[4] By employing price data from political risk agencies, Jensen (2008) studies how domestic political institutions affect the multinationals pay for coverage against government expropriations. Jensen finds that democratic regimes are better able to reduce risks for foreign investors, specifically through enhancing constraints on the executive.

[5] Li (2006) offers a theory that explains how regime type influences tax incentive policy in order to attract foreign direct investment. In general, Li shows that countries with better rule of law offer lower levels of tax incentives, and the effect is even stronger for more democratic countries.

[6] Political rights in the Freedom House Index are measured using answers to the following questions: 1. Is the head of government or other chief national authority elected through free and fair elections?; 2. Are the national legislative representatives elected through free and fair elections?; 3. Are the electoral laws and framework fair?; 4. Do the people have the right to organize in different political parties or other competitive political groupings of their choice, and is the system open to the rise and fall of these competing parties or groupings?; 5. Is there a significant opposition vote and a realistic possibility for the opposition to increase its support or gain power through elections?; 6. Are the people's political choices free from domination by the military, foreign powers, totalitarian parties, religious hierarchies, economic oligarchies, or any other powerful group?; 7. Do cultural, ethnic, religious, or other minority groups have full political rights and electoral opportunities?; 8. Do the freely elected head of government and national legislative representatives determine the policies of the government?; 9. Is the government free from pervasive corruption?; 10. Is the government accountable to the electorate between elections, and does it operate with openness and transparency?; 11. Is the government or occupying power deliberately changing the ethnic composition of a country or territory so as to destroy a culture or tip the political balance in favor of another group?

Thus, the Freedom House Index includes several political and civil rights seen in any democratic consolidation process. Within the category of political rights, procedural democratic features such as free and fair elections; fairness of electoral laws; rights to organize political parties; opportunities for the opposition to gain political power through elections; political and electoral rights of cultural, ethnic, religious, or other minority groups; the degree of corruption; accountability of the executive, and respect for the ethnic composition of a country are all included.

Likewise, the category of civil rights incorporates other procedural democratic features such as independence of the media; freedom of religious institutions and communities; academic freedom; freedom in private discussion; freedom of assembly, demonstration, and open public discussion; freedom of organization for nongovernmental organizations (NGOs); freedom of organization for trade unions and peasant organizations; independence of the judiciary; rule of law; protection from political terror; equal legal treatment of various segments of the populace; state control of travel or choice of residence and employment; right to own property and establish private businesses; personal social freedoms (including gender equality, choice of marriage partners, and size of family); equality of opportunity, and the absence of economic exploitation.

The design of these indexes -- like the Freedom's House Index -- can certainly help test theories on democratic consolidation[8]. In particular, the Freedom House Index takes into account several aspects of procedural definitions of democracy[9] (which herein are called political and civil rights). Any expansion of such rights has always been seen as normatively "good." Thus, this paper pushes beyond these normative considerations to evaluate whether political and civil rights can increase the amount of FDI inflows, and through further investment, eventually foster economic growth.[10]

Along with the benefits of the Freedom House Index noted above, the use of this index provides additional advantages. First, the political rights index concentrates on characteristics pertaining to the type of regime such as free and fair elections,

[7] Civil rights in the Freedom House index are measured through the answers to the following questions: 1. Are there free and independent media and other forms of cultural expression?; 2. Are religious institutions and communities free to practice their faith and express themselves in public and private?; 3. Is there academic freedom and is the educational system free of extensive political indoctrination?; 4. Is there open and free private discussion?; 5. Is there freedom of assembly, demonstration, and open public discussion?; 6. Is there freedom for nongovernmental organizations? (Note: This includes civic organizations, interest groups, foundations, etc.); 7. Are there free trade unions and peasant organizations or equivalents, and is there effective collective bargaining? Are there free professional and other private organizations?; 8. Is there an independent judiciary?; 9. Does the rule of law prevail in civil and criminal matters? Are police under direct civilian control?; 10. Is there protection from political terror, unjustified imprisonment, exile, or torture, whether by groups that support or oppose the system? Is there freedom from war and insurgencies?; 11. Do laws, policies, and practices guarantee equal treatment of various segments of the population?; 12. Does the state control travel or choice of residence, employment, or institution of higher education?; 13. Do citizens have the right to own property and establish private businesses? Is private business activity unduly influenced by government officials, the security forces, political parties/organizations, or organized crime?; 14. Are there personal social freedoms, including gender equality, choice of marriage partners, and size of family?; 15. Is there equality of opportunity and the absence of economic exploitation?

[8] In general, two main definitions have arisen within the empirical tradition of democratization and consolidation: the minimalist definition and the other procedural definitions of democracy. From the viewpoint of the minimalists, democracy is a system whereby the population votes in election time but concedes political power to govern to political leaders (Schumpeter 1942). In this perspective, Joseph Schumpeter essentially states that only certain minimal requirements must exist for a polity to be considered a democracy, such as free and fair elections. In other words, there must be competition.
Other procedural contributions expand the "minimal" requirements of the minimalist definition to include several aspects of political and civil rights of individuals participating in a polity. These factors are socioeconomic, institutional, and cultural and are not considered by Schumpeter's (1942) minimalist definition of democracy. Although the minimalist definition of democracy has tended toward more direct empirical applications (Przeworski et. al. 2000; Epstein, et. al. 2005), these conceptual additions of the more procedural definitions (e.g. Dahl (1971), Putnam (1994)), and others are now being considered seriously by several institutions and research centers. This is being done to build up new ways for measuring and comparing the degree of institutional development around the world (across countries and regions, and over time).

fairness of electoral laws, rights to organize political parties, and opportunities for the opposition to gain power through elections (which could be to some degree accounted for by the minimalist definition of democracy) that have been traditionally measured through the use of a dichotomous or a trichotomous variable (Schumpeter 1942). Conversely, the political rights index allows for additional variation (based on a 1 to 7 scale), which could help provide a more precise and detailed estimation of marginal increases in FDI inflows due to improvements in the scope of political rights of a polity.

In general, the opening of the political system, a product of the democratization process, immediately allows for substantial improvements in enforcing property rights, judicial decisions, and the rule of law. This provides political information that is necessary and relevant for potential foreign investors as they decide where to invest. Considering this argument, I put forth the following hypothesis:

Hypothesis 1: Because most of the gains in political rights are associated with the democratization process (and only democracies are being primarily analyzed in this study), I do not expect to find a statistically significant impact for changes in political rights on FDI inflows.

Second, the use of civil rights in this paper also contributes to testing and empirically analyzing several implications from the democratization literature. The concept of individual "civil rights" has been broadly employed within the literature to characterize and determine the degree of democratic quality or state of democracy in a polity. Most of these follow normative or ideological considerations (Fonte 1997; Layton 2000; Kotlowski 2001; Delton 2002).

The institutional characteristics employed by the civil rights index differ from those in the political rights index by their thematic orientation. In general, while institutions in the political rights index ensure democracy at the macro-institutional level, the characteristics considered by the civil rights index measure the degree of state intervention at the micro-level. An example would be state policies regarding institutions and rules that affect civil society and individuals.

Although the index does not provide an endogenous measurement of "civic community" as Putnam might have wished, it does render an exogenous evaluation of state regulations in societal life, which could concern foreign investors. In particular, judicial independence, the rule of law, freedom of organization for nongovernmental organizations (NGOs), freedom of organization for trade unions and peasant organizations, protection from political terror, equal legal treatment of various segments of the population, state control of travel or choice of residence and employment, and rights to own property and establish private businesses directly affect foreign financial interests.

[9] The Index, however, intentionally dismisses societal or cultural factors considered relevant by some scholars in the literature democratic consolidation literature. Among these discarded concepts, I directly identify, 1) Putnam's (2000) definition of social capital and its role as a predictor of democratic quality; 2) Dahl's (1971) arguments on political cleavages and internal conflicts, elite and voter beliefs in democratic institutions (legitimacy), levels of trust and confidence in each other, and beliefs in either strictly competitive or strictly cooperative politics as relevant determinants of democratic consolidation. In addition, other social variables traditionally relevant in the literature on democratization such as capitalist development (Moore 1966; Rueschemeyer, Huber and Stephens 1992) and economic development (Przeworski 1991) are excluded from the Freedom House Index. In short, the Freedom House Index is focused on providing an evaluation of democratic quality, rather than an explanatory analysis.

[10] Borensztein, De Gregorio, and Lee (1998) show FDI to be a relevant medium for the transfer of technology, contributing relatively more to economic growth than domestic investment. Likewise, Bengoa and Sanchez-Robles (2003) find the same positive relationship between economic growth and foreign direct investment. Bengoa and Sanchez-Robles employed a panel data analysis on a sample of 18 Latin American countries in the period 1970-1999.

This study contends that an overall expansion of civil rights would produce positive but decreasing marginal returns to civil rights in attracting FDI inflows[11]. The presence of positive but decreasing returns to civil rights can be explained by contrasting those rights that increase transactional and labor costs with those that strengthen the rule of law. In general, foreign investors expect legal guarantees for their investments, and are particularly interested in strong rule of law and an independent judiciary. Credible legal guarantees for investments are expected to strongly and positively impact the amount of FDI inflows. However, foreign investors at the same time hope to avoid high transactional and labor costs, barriers to establishing private businesses, and overregulated labor markets. As the scope of civil rights increases, transactional and labor costs also rise as a product of the increasing strength of trade unions, collective bargaining, and some nongovernmental organizations (e.g., those that oppose trade and labor market liberalization or work to protect the environment), which produces decreasing returns to civil rights.

Regarding transactional costs, there are two types clearly taken into account by the civil rights index. First, since barriers to establish private businesses[12] increase the initial costs of starting any new business, they matter when foreign investors make decisions about where to invest. Second, the Freedom House Index takes into account excessive state control of travel or choice of residence as barriers and disproportionate freedom of organization for "anti-market¨ nongovernmental organizations.

The demands of relatively powerful trade unions can create and increase labor costs to potential investors from hiring, firing, and paying relatively high minimum salaries. Substantial empirical work supports this theoretical statement. For instance, Javorcik and Spatareanu´s results (2004) suggest that greater flexibility in the host country´s labor market in absolute terms or relative to the investor´s home country is associated with larger FDI inflows. In addition, Besley and Burgess (2004) find that pro-worker amendments to the Industrial Disputes Act were associated with lowered investment, employment, productivity, and output in registered manufacturing from 1952 to 1992 in India. Likewise, Botero et al (2004) state that labor regulation generates costs without benefits[13].

Specifically, those civil rights that tend to increase transactional and labor costs might exert a more durable influence on FDI inflows than those associated with enforcement of the law. As opposed to indefinite negative effects on FDI inflows due to increases in transactional and labor costs, improvements in the enforcement of laws might exert only a limited or truncated positive impact on FDI inflows over time. Once a certain level of legal enforcement has been reached, the positive impact on FDI inflows of this determinant may decline and eventually disappear.

In other words, while enforcement of the law would produce a positive but limited effect on attracting foreign direct investment, any increase in transactional costs would always raise marginal costs and discourage foreign investors. Thus, combining the relatively more rapid decay of the positive impacts of legal enforcement with the

[11] Indeed, Freedom House´s disaggregated data on the level or scope of civil rights -- by type of civil right -- (which has become available only for four years), indicates that the scopes of every type of civil right are highly correlated among them. The existence of this regularity makes this empirical study relevant.

[12] Because barriers to establishing private businesses increase the initial costs of starting any new business, they matter when foreign investors make decisions about where to invest. In relation to the Freedom House Index, it takes into account excessive state control of travel or choice of residence, and disproportionate freedom of organization for nongovernmental organizations as barriers.

[13] More precisely, Botero et al (2004) find that heavier regulation of labor causes lower labor force participation and higher unemployment, especially for the young.

negative and indefinite effect of increases in transactional and labor costs might produce decreasing returns to civil rights. This assertion appears promising for further research[14], which might reveal important implications for politicians and policy-makers in determining which and how civil rights should be implemented or modified to maximize FDI inflows, if in fact that becomes a priority.

After assuming the presence of decreasing returns to civil rights (in terms of FDI inflows), the relationship between FDI inflows and the scope of civil rights can be modeled through a curvilinear function as follows:

$$\textbf{FDI } \textit{inflows} = \beta * CR + \theta * CR^2 \qquad (1)$$

In this formula, FDI represents foreign direct investment, and CR the scope of civil rights.
The top quadrant of figure 1 shows how civil rights relate to FDI inflows; given the quadratic relationship existing between them, the second graph in figure 1 displays positive but decreasing returns to civil rights (fig.1)

Therefore, as a product of how these components influence FDI inflows, a second hypothesis follows:

Hypothesis 2: The impacts of increases in civil rights on FDI inflows present positive but decreasing returns[15].

As a consequence, a certain scope of civil rights should maximize -- ceteris paribus -- the amount of FDI inflows. Such a level would guarantee a scenario where the judiciary would not be totally controlled by the state (and there would

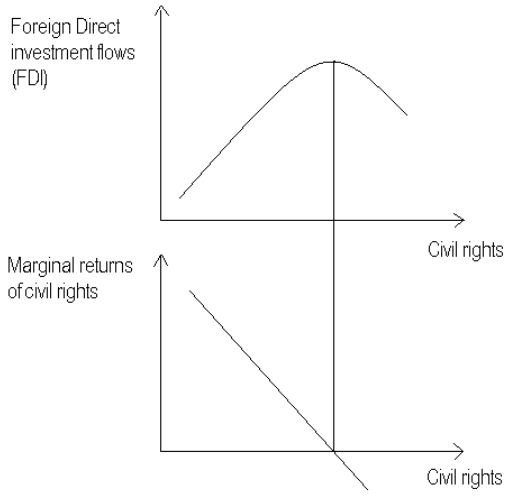


Figure 1. Decreasing returns to civil rights

be strong rule of law), and while, trade unions and NGOs could not simultaneously operate in an over-regulated labor market[16].

Research Design and Method

Testing this phenomenon of decreasing returns in recently democratized polities becomes the most appropriate option, given the potentially higher levels of sensitivity or elasticity between FDI inflows and civil rights, which are likely to be depressed following periods of democratization. Given that civil rights present depressed levels in their scope before periods of democratization, the marginal impact of any increase in civil rights´ scope on FDI inflows is highest (during a certain period of time immediately following democratization) when assuming the existence of these positive but

[14] Given the highly volatile nature of FDI inflows, a panel data regression controlling for a reasonable time span becomes the most appropriate method of evaluation. Unfortunately, Freedom House only reports disaggregated data ("subcategory scores") on civil rights since 2005 (only 4 periods).
[15] At some point, these marginal impacts could become negative as the transactional and labor costs increase with the polity producing increases in the "amount" of civil rights.
[16] Mathematically, negative returns for transactional costs would equal the positive returns for levels of legal enforcement.

decreasing returns to civil rights. Hence, testing the dynamics and behavior of this assumption over time becomes critical to verify the existence of this phenomenon.

Considering the relatively recent and massive democratization experiences in Eastern Europe and Latin America, these two regions constitute an ideal setting for this study. First, given that countries within these two regions saw massive waves of democratization prior to the selected periods of analysis (1985-2003 for Latin America and 1991-2003 for Eastern Europe), the selection of these regions becomes convenient. In addition, studying these regions provides an opportunity to construct a compact database for a panel data regression in which all countries included have recently democratized. This allows us to evaluate the existence and characteristics of this phenomenon over time. I excluded other democracies from my sample for two reasons. First, each wave of democratization presents different characteristics from the rest of waves (Huntington 1991; Chull Shin 1994[17]). In fact, the magnitude and elasticity of the returns to civil rights on FDI inflows might significantly change from one wave of democratization to another one. Combining democracies belonging to different waves may distort the estimations without any valid generalization[18].

Second, this substantial increase in FDI inflows coincided with the implementation of market-oriented reforms in both regions[19]. Overall, both regions embarked on the implementation of market-oriented programs and initiated processes of political consolidation. This coincidence allows the econometric analysis in this study to remain as parsimonious as possible. This particular combination of these political and economic reforms could have created special dynamics, which might have triggered FDI inflows[20]. Other regions and countries have also democratized; however, they did not always adopt market-oriented reforms. Indeed, including these other democracies or other regions into the study might also distort the estimated magnitude of the marginal returns to civil

[17] Samuel Huntington distinguishes the wave of democratization under study in this paper from the others. Huntington argues for a shift in the research focus from causes to causers of democratization. Huntington proposed this shift since he observed so many democratizing countries (in the wave of democratization employed in this study) lacking the necessary or sufficient conditions for democracy that had characterized other waves of democratization. More precisely, democratization and democratic consolidation in this wave responded to a combination of factors – formula not present in other waves. Chull Shin (1994) takes the distinctiveness of Huntington´s argument even further to state that ¨in Eastern Europe and Latin America, many authoritarian regimes lost legitimacy simply because they failed to solve the economic and other problems that had allowed them to take power in the first place….In Eastern Europe, for example, international factors played the more influential role. By contrast, in the majority of democratic transitions in Latin America, domestic factors played the more powerful role. Despite such differences, it is this confluence of domestic and international factors that distinguishes the current wave from the previous ones ¨ (152). As I note below, this key difference between Latin America and Eastern Europe is accounted by my model.

After excluding this difference, the other common characteristics belonging to this wave and these two regions make these regions – Eastern Europe and Latin America -- suitable to be employed in my study. In general, including other cases, originated from other waves and even other regions, might offer estimations that could not be valid for any case in particular. In general, differences among waves and its implications for political and economic risk, especially those related to structures (such as industrialization, urbanization, rise of the middle class) and actors (relevant for the wave under study) makes necessary a separate analysis.

[18] Further research could help test whether this phenomenon also existed, and if this is the case, how the magnitude of the decreasing returns has evolved.

[19] The goals of these economic reforms were to adjust the macroeconomies -- by reducing inflation -- and improve competitiveness by liberalizing trade, privatizing state-owned companies, and deregulating their markets. These reforms ended the import-substitution industrialization (ISI) policies in Latin America and the socialist centrally-planned economies in Eastern Europe, which had produced economic stagnation in these regions during the 1980s. In addition to stabilizing and liberalizing, these economic reforms were implemented as incentives to prospective businessmen to invest their financial resources in order to reduce current account deficits and reduce unemployment. For example, Rodrik (1996) argues that several Latin American nations initiated these reforms in hopes of signaling good intentions to international investors. However, after several years of economic reforms, Biglaiser and DeRouen (2006) find that countries where governments implemented economic reforms were not always the most effective in attracting FDI flows. For Biglaiser and DeRouen, the reduction of expropriation risk could enhance the effects of domestic financial and trade reform, and bolster reinvestment by multinational companies.

rights on FDI inflows. Therefore, further research is needed to test hypothesis 2 in other settings[21]. Finally, by testing hypothesis 2 only on Latin America and Eastern Europe, the potential effects of regional differences are minimized in the model.

Considering the need to test the existence of decreasing returns to civil rights by combining 1) cases (in this case, across countries in two regions), and 2) time; the panel data regression becomes ideal to use for periods following the democratization process (1991-2003)[22]. If positive but decreasing returns to civil rights exists (on FDI inflows), I shall conclude from this regression that those Latin American and Eastern European nations that enjoyed a scope of civil rights closer to a maximizing level of civil rights (after democratizing) were relatively more successful in attracting FDI inflows than those with extreme levels. This particular result is produced by a curvilinear (quadratic) relationship between the scope of civil rights and FDI inflows. The existence of this curvilinear relationship can be explained by the presence of decreasing returns to civil rights.

As noted above, this study tests whether advances in the quality of democracy -- specifically concerning civil rights -- create positive but decreasing marginal returns to civil rights in attracting foreign direct investment. I show empirically that in the initial stages of democratic consolidation, the marginal returns to civil rights are positive, and decrease as the quality of democracy improves in Latin America and Eastern Europe. In order to test the regularity of decreasing returns, panel data regressions with feasible generalized least square (FGLS)[23] estimators are employed.

In this study, the dependent variable is FDI inflows (measured in constant U.S. dollars) that these nations receive from abroad divided by the gross domestic product of the host country[24]. The key independent variables to test the hypotheses are civil and political rights[25]. The control variables included in the model are as follows:

GDP per capita (in constant U.S. dollars): This indicator controls for a nation's development and economic performance. By accounting for citizens' buying capacity in a given country, GDP per capita also captures the magnitude of the market for a potential investor. Hence, higher FDI inflows should appear as a response to higher GDP per capita levels. In fact, Campos and Kinoshita (2008) find a positive and statistically significant relationship between these two variables for Latin America and Eastern Europe[26].

Inflation rates: High rates of inflation are a sign of economic instability for foreign investors, as well as a host government's inability to maintain healthy monetary policies. Foreign companies may avoid countries where governments are institutionally

[20] Both Latin America (since the mid 1980s), and Eastern Europe (beginning in the 1990s, have experienced significantly increased inflows of foreign direct investment from other regions (Birch 1991; Grosse 2001).

[21] An econometric analysis including all regions or nations would hardly capture differences in the types of politico-economic dynamics produced by various combinations of economic and political reforms ,or their implications for attracting FDI inflows (e.g. political liberalization with no economic reforms might produce a different dynamic in attracting FDI inflows).

[22] The Latin American countries included in this analysis are: Argentina, Bolivia, Brazil, Chile, Colombia, Costa Rica, Dominican Republic, Ecuador, El Salvador, Guatemala, Honduras, Panama, Peru, Uruguay, and Venezuela. The Eastern European nations considered are: Bulgaria, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Romania, Russian Federation, Slovak Republic, and Ukraine. I purposively exclude Paraguay, Belarus, Mexico, and Moldova from the sample due to their authoritarian regimes during most of the period selected.

[23] A Random Effects Model is estimated using feasible generalized least squares (FGLS).

[24] The resultant ratio was scaled using logarithms and Source: UNCTAD. 2005. United Nations Conference on Trade and Development.

[25] Source of the data: Freedom House

[26] Source of the data: International Monetary Fund.

weak or have low technical capabilities. In addition, high inflation or recurrent changes in prices make short-term pricing decisions more costly. For example, Schneider and Frey (1985) find that transnational companies invest less in developing countries with higher rates of inflation[27].

Current account balance (constant U.S. dollars): Nations may finance their balance of payments deficits - possibly caused by deficits in current accounts - either by spending their official reserves or attracting more foreign capital. If governments desire to pursue the second alternative, they may modify some policies in order to attract foreign investment. Thus, the relationship between current account deficits and FDI inflows should be negative. In other words, the larger a country's current account deficit (negative values for the current account balance), the greater that country's FDI inflows will be. Schneider and Frey (1985) confirm the empirical validity of this relationship in a previous study[28].

Global FDI (constant U.S. dollars): This variable measures FDI inflows in the world economy. Given that a relevant portion of this global FDI is captured by Latin America, global FDI may exert some relevant influence on what Latin American countries receive from abroad. The model also controls for this exogenous determinant[29].

Ideology: Both economists and political scientists have researched whether differences in party ideology can explain differences in fiscal policy[30]. For instance, Cameron (1978) illustrates that the percentage of the government's electoral base that is composed of social-democrat or labor parties can explain a higher public spending share of the GDP in industrialized countries. Likewise, Roubini and Sachs (1988) find that leftist cabinets evince higher levels of public spending. Higher levels of public spending would tend to diminish prospects for severe macroeconomic adjustment programs.

During the period under analysis, the majority of the countries in both regions – Latin America and Eastern Europe – faced dramatic macroeconomic adjustments and massive market-oriented reforms. Within this context, the credibility of the cabinet -- as a function of lower (conducive to lower deficits) -- could explain differences in the willingness of foreign investors to act. To account for these differences, a trichotomous variable (right=2, center=1, left=0) is included in the model. If rightist cabinets tend to generate more credible and conservative fiscal policies, then I expect to see a positive coefficient for this variable. Since conservative policies would increase the likelihood of a more predictable macroeconomic environment (less risk), foreign investors might prefer such conditions[31].

Literacy: Human capital levels can also represent an important determinant of FDI inflows. Given that foreign investors are interested in maximizing profits, they will be more willing to invest in countries that have greater productivity levels. In regard to this potential determinant, Bengoa and Sanchez-Robles (2003) find a positive relationship between human capital and FDI inflows. Likewise, Noorbakhsh and Paloni's (2001) empirical findings point out that (a) human capital is a statistically

[27] International Monetary Fund (IMF): International Financial Statistics.
[28] Data source: International Monetary Fund (IMF), Balance of Payments.
[29] Data source: UNCTAD. 2005. United Nations Conference on Trade and Development.
[30] Lewis-Beck (1988) offers a general discussion on the relevance of left-right ideological orientations.
[31] Data source: World Bank, Database of Political Institutions.

significant determinant of FDI inflows; (b) human capital is one of the most important determinants; and (c) its importance has increased over time. Rates of literacy are utilized here as a proxy for human capital. Given the potential positive impact of human capital on FDI inflows, a positive sign is expected for the coefficient of this variable[32].

Majority: Haggard and McCubbins (2001) characterize polities along with two dimensions of institutions: separation of power, and separation of purpose. Separation of power and separation of purpose establish a trade-off regarding policy-making: decisiveness vs. resoluteness. On the one hand, decisiveness is characterized by the ease with which government can enact and implement policy change. As the effective number of vetoes decreases, the polity becomes more decisive and less resolute (e.g., at one extreme an authoritarian government could enact but would have no credibility to adhere to those policies). Resoluteness, on the other hand, is the ability to stick with a certain policy once it has been passed. As the effective number of vetoes increases, the polity becomes more resolute and less decisive (e.g. polities with very fragmented party systems could not enact or implement changes to improve policy performance)[33].

Given this, potential foreign investors will prefer to invest in more-decisive polities if those governments are implementing or committing to market-oriented reforms. This is precisely the case of Latin America and Eastern Europe during the period under study. At the same time, political stability and government commitment to existing policies reduce risk levels in the economy – information that is crucial for investors when making portfolio decisions. In order to account for the level of decisiveness, the ratio of total seats divided by government seats is employed as a proxy. It is expected that an increase in the number of seats for the government will make the polity more decisive, and consequently less attractive to foreign investors[34]. In order to reflect the potential existence of a trade-off between decisiveness and resoluteness, a quadratic term of this variable is included to gauge whether loss of resoluteness reduces positive impacts of decisiveness on the attractiveness of markets for investors when governments implementing market-oriented reforms.

Dummy for Eastern European Countries: A dummy for Eastern European countries is included to capture the potential influence of the prospective European Union membership. The assumption is based on the idea that this expected membership might play a relevant role in attracting export-platform FDI (Resmini 2000; Bevan and Estrin 2000).

Statistical Results and Additional Testing

Table 1 shows the results of estimations for four different specifications. In order to control for the presence of autocorrelation of first order AR(1) and heterokedasticity, a three-step feasible generalized least squares (FGLS) estimator was chosen for panel data models[35].

[32] Data source: United Nations Statistics.
[33] Cioroianu (2009) looks deeper into the effect that constitutional rules in Eastern Europe and Central Asia had on their economic development pattern.
[34] Data source: World Bank, Database of Political Institutions.
[35] This estimator allows estimation in the presence of heterocedasticity and AR(1) autocorrelation within panels (Greene 2003; Maddala 2001). I also lag the dependent variable and include it as an additional independent variable in order to evaluate whether previous FDI inflows affect future flows in my sample. As the FDI literature commonly states, the expectation is that FDI does not respond immediately to changes in economic and political conditions.

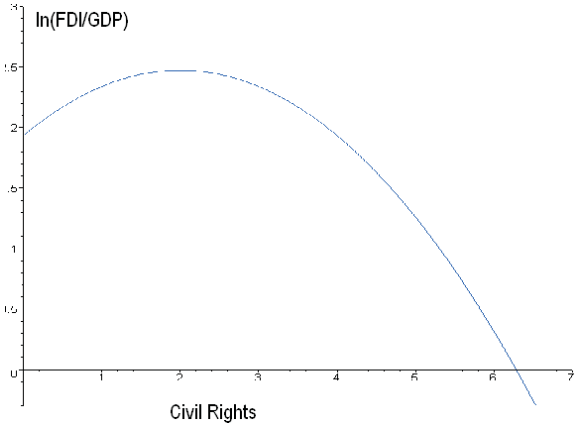
Table 1.- Panel data model for Latin America and Eastern Europe (1991-2003)

Dependent variable:	Inward FDI/GDP (log)	Inward FDI/GDP (log)	Inward FDI/GDP (log)	Inward FDI/GDP (log)
	FGLS estimator	*FGLS estimator*	*FGLS estimator*	*FGLS estimator*
Lagged FDI/GDP (log) (-1)	.666*** (.051)	.667*** (.051)	.658*** (.052)	.659*** (.052)
Civil rights	.540** (.269)	.550** (.271)	.522** (.267)	.537** (.272)
Civil rights ^ 2	-.135*** (.046)	-.133*** (.046)	-.131*** (.046)	-.133*** (.047)
Political rights	.020 (.038)	-.123 (.116)		
Political rights ^ 2		.024 (.018)		
Polity2			-.014 (.021)	-.044 (.078)
Polity2 ^ 2				.002 (.005)
Dummy for Eastern European countries	-.142* (.074)	-.147** (.074)	-.161** (.078)	-.146* (.082)
GDP per capita of the host country	-.00009*** (.00002)	-.00009*** (.00002)	-.00009*** (.00002)	-.00009*** (.00002)
Current account balance	-.028*** (.006)	-.029*** (.006)	-.028*** (.006)	-.028*** (.006)
Inflation (log)	-.023 (.023)	-.019 (.023)	-.026 (.023)	-.025 (.023)
Global FDI (log)	.058 (.051)	.052 (.051)	.059 (.051)	.059 (.051)
Ideology	.015 (.034)	.019 (.035)	.011 (.035)	.015 (.036)
Literacy (log)	1.009* (.523)	.808 (.540)	1.085** (.541)	.992* (.556)
Majority (log): Ln(Total seats/gov ernment seats)	-3.368*** (1.27)	-3.553*** (1.27)	-3.405*** (1.240)	-3.486*** (1.244)
Majority ^ 2 (log)	.449*** (.170)	.468*** (.170)	.453*** (.166)	.462*** (.166)
Constant	1.935	3.459	1.886	2.516

Based on the results, the impact of political rights on the flows of foreign direct investment is not conclusive in supporting hypothesis 1. Neither the coefficient for the political rights variable nor the quadratic political rights term matters in the first two specifications when explaining FDI inflows (consistent with hypothesis 1). To verify the irrelevance of these explanatory variables in explaining FDI inflows, the polity2 index is also employed. Similar to the political rights index, it measures procedural democracy features. Both specifications -- third and fourth – do not exhibit a statistically significant effect for these on FDI inflows. To sum up, once countries have already democratized, improvements in political rights do not seem to substantially alter FDI inflows.

With respect to the coefficients reflecting the impact of civil rights on FDI inflows, the coefficients show positive and statistically significant values in all specifications, consistent with hypothesis 2. Estimated coefficients for the square of civil rights are also statistically significant and negative in all specifications, confirming the validity of hypothesis 2. Similar results in all model specifications display high levels of robustness for the two coefficients associated with civil rights[36]. Given these results, I conclude that the impact of increases in the scope of civil rights on FDI inflows points to positive but decreasing returns. As a consequence, only a certain scope of civil rights can maximize -- ceteris paribus -- the amount of FDI inflows.

Graph 1 shows the maximum level of FDI considering different scopes of civil rights, while holding other variables constant. The curve was constructed by accounting for the coefficient value of the civil rights variables in the panel data regression (shown in Table 1). Since only the dependent variable (FDI inflows) was scaled using logarithms, graph 1 reflects the relationship between civil rights and FDI inflows shown in the bottom quadrant of figure 1. This graph shows that only a scope of civil rights over the value of 6.3 (in a 1-7 scale) could produce negative returns. This finding ensures policy makers that any expansion in the scope of civil rights almost always guarantees greater FDI inflows despite its changing effectiveness (as the scope of civil rights is expanded).



Graph 1. Civil Rights and Foreign Direct Investment Ln(FDI inward/GDP) in both regions (decreasing returns to civil rights)

Other variables that render statistically significant coefficients are the dummy for Eastern European countries (prospect of European Union membership), current account balance, GDP per capita of the host country, the lagged dependent variable, global FDI, majority (and its square), and literacy rates as a proxy for human capital. All estimations of the coefficients for these variables present the expected signs, as discussed above. However, coefficients of the variables for inflation, ideology do not rise to statistical significance. Several free trade agreements signed by Latin American nations may have mitigated the effects of prospective European Union membership for attracting FDI inflows (Ponce 2008). Because reducing inflation and plans for macroeconomic

[36] Two different robustness checks are employed regarding the statistical significance of the civil rights coefficients. First, these estimated coefficients (statistically significant) are robust to any change in the models – more precisely, to any combination of independent variables. Second, I test whether the panel model presents a non-stationarity structure. Through a test inspired from Fisher´s work (1932), Maddala and Wu (1999) propose a non-parametric test that is a better test than the Levin-Lin (LL) and Im-Pesaran-Shin (IPS) panel data unit root tests. Given that the test is applied to a model with a nonzero drift, the Fisher´s test is used in its Phillips and Perron (1988) version. The test fails to reject stationarity as the null hypothesis.

stabilization were a priority in both regions regardless of government ideology or legislative composition during the selected period, rates of inflation and the ideological orientation of the government do not appear to matter.

Conclusions

Several conclusions can be drawn from this study. In general, it appears that the design of certain institutional rules may still alter the amount of FDI inflows after democratization occurs. First, advances in the quality of democracy -- specifically those concerning civil rights -- present decreasing marginal returns to civil rights in attracting FDI inflows. Empirical evidence points out that in the initial stages of democratic consolidation, marginal returns to civil rights become positive and decline as the quality of democracy improves in Latin America and Eastern Europe. However, as the quality of democracy or democratic consolidation progresses in accord to broader definitions of democracy (e.g. Dahl (1971)), the marginal returns to civil rights decline to eventually become negative.

Second, I contend that those Latin American and Eastern European countries expanding their civil rights after democratizing were more successful in attracting FDI inflows relative to those nations with extreme levels (except if the scope exceeded a relatively high scope of civil rights (6.3)). Moreover, this study offers important lessons for politicians and policy-makers. On the one hand, if the maximization of FDI inflows becomes a priority -- for boosting economic growth and development -- they must selectively increase the scope of civil rights. Specifically, if this maximization goal becomes the aim of policymakers, they will balance (equalize) the negative marginal returns of transactional and labor costs with the positive marginal returns from more stringent legal enforcement. Under this scenario, the total marginal returns to civil rights should equal zero. Further research is also suggested for estimating (separately) the marginal impact of increases in these types of civil rights – transactional, labor costs, and legal enforcement -- on the amount of FDI inflows.

Third, greater decisiveness augments the chances of increasing FDI inflows. Like the scope of civil rights, decisiveness also presents decreasing returns. Since both regions actively pursued market-oriented reforms, greater decisiveness can provide a proxy of the effectiveness of governments in changing rules and creating a more favorable environment to attract foreign direct investment. As expected, when decisiveness increases, the government loses credibility in adhering to adopted policies. At the same time, this loss of resoluteness increasingly diminishes the ability of government to stick with policies which might favor potential investors. Further empirical research could confirm the validity of this trade-off in explaining the behavior of FDI inflows notwithstanding the presence of market-oriented reforms.

Finally, this project moves beyond these normative considerations to evaluate positively whether political and civil rights can contribute to economic development through greater FDI inflows. This paper illustrates that political scientists might face a "tragedy" when they make normative assumptions about the goodness and convenience of always "more democracy" in their research (Ricci 1984). Once again, the empirical results challenge these normative presuppositions, which view "more democracy" as always being best for a society.

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International And Domestic Policy Responses To The Financial Crisis In Central And Eastern Europe[1]: Lessons For Ukraine

- *Tetiana Polyvana**

Abstract

The paper looks into the main successes and failures in policy responses to the financial crisis in Central and Eastern Europe at global, EU and domestic levels. The paper argues that despite the failure to prevent the crisis at all levels, coordination of regulatory actions at global and EU levels and high discipline of the CEE countries on domestic level helped them in confronting the crisis. The paper identifies key lessons for Ukraine, the main of which is that coherent and consistent economic reforms are the only key to success.

Keywords: financial crisis, Central and Eastern Europe, policy responses, crisis prevention and resolution

Introduction

The ongoing financial and economic crisis raised a number of new questions and challenges to be addressed by academics and state officials both on the global and national levels. What are the primary causes of the crisis? What lessons should be learnt? How to adjust the global financial system and prevent such negative consequences in future? Those questions became subject for political discussions at the highest levels, such as the G20 Summits and the World Economic Fora in Davos.

The global crisis has many particular traits. One of them is the unequal distribution of the crisis impact across world regions. Central and Eastern Europe (CEE) is believed to be among the regions most severely hit by the crisis. According to the IMF assessments the overall GDP decline in the region in 2009 was around 8,4%. At the same time the region is anticipated to recover quite soon. The IMF forecasts the region to have a positive output starting already in mid 2010 and reaching 4,0% GDP growth in 2012[2].

Meanwhile, individual countries in the region were also unevenly hit by the crisis. Estonia, Latvia, Lithuania were the most harshly damaged, registering a GDP decline in 2009 of -4,0%, -18,0%, and respectively -18,5%. At the same time, the Czech Republic (-4,3%), Slovakia (-4,6%) and Slovenia (-4,7%) suffered the least, withe the Polish economy experiencing a 0,97% growth in 2009[3]. The explanations for these differences in

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[1] Central and Eastern Europe here includes Bulgaria, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Romania, Slovak Republic, and Slovenia.

[2] World Economic Outlook [Internet source]/International Monetary Fund. – Access: http://www.imf.org/external/pubs/ft/weo/2009/02/weodata/index.aspx

[3] http://www.imf.org/external/pubs/ft/weo/2009/02/weodata/index.aspx

crisis impact across countries vary. Diverse macroeconomic and financial vulnerabilities, as well as national policy responses to the crisis are among them.

Central and Eastern European countries in times of the crisis became subject to a number of academic and policy studies and debates. Authors focused on the main causes of the crisis (Anders Aslund[4]), lessons to be learnt (Agnes Benassy-Quere, Benoit Coeure, Pierre Jacquet, Jean Pisani-Ferry[5]), or the role of the EU in dealing with the crisis (Zsolt Darvas, Béla Galgóczi[6]). Ukrainian authors are mostly focused on theoretical approaches to explain root causes of the crisis, its global imperatives and impact on the Ukrainian economy (Umantsiv Y., Shevchenko V, Shelud'ko N, Shklyar[7]) . This paper comes to complete the existing literature in the field by analyzing the main successes and failures in policy responses to the crisis in Central and Eastern Europe on the global, regional and domestic levels, and thus revealing relevant lessons for Ukraine. The paper argues that *despite the failure to prevent the crisis at all levels, coordination of actions at global and EU levels and high discipline of the CEE countries in national policy supported their efforts to manage the crisis efficiently.* First of all, the paper presents key data on the extent to which CEE countries were affected by the crisis. Second, it introduces the main findings on successes and failures in policy responses to the financial crisis in CEE countries on global, EU and domestic levels. It finally reveals key obstacles to successful resolution of the crisis in Ukraine and draws recommendations for Ukraine.

CEE countries in crisis: heavy damages but fast recovery

Central and Eastern Europe was among the regions that were the most severely hit by the financial crisis. In 2009 the regional GDP declined by 8,4%, which was the lowest among all emerging and developing regions (Figure 1.)[8] This was to a large extent influenced by the growth in trade and financial links of the region with the rest of the world and especially with the EU after accession of the twelve new member states in 2004 and 2007. As the Director of the IMF's European Department Marek Belka said "*because Europe is very open in terms of trade, and because its financial sector is so closely integrated with the rest of the world, the region cannot avoid being significantly impacted by the financial crisis*"[9].

Indeed, market reforms in times of transition, liberalization of trade and financial markets and fast-growing economies of the region spurred international trade, attracted new investments and foreign capital. At the same time these growing links became also major channels of transmission of external shocks to the economies. Financial crisis

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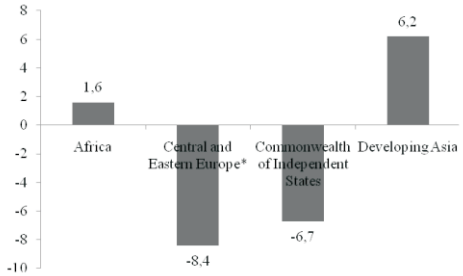

Figure 1 GDP growth in emerging and developing regions in 2009, %

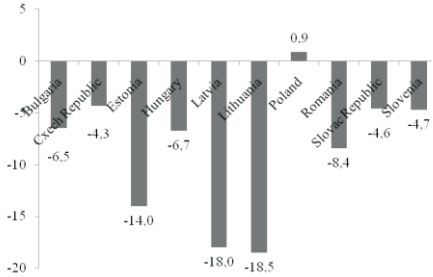

Figure 2 GDP growth in CEE by countries in 2009, %

** According to the IMF, CEE does not include Czech Republic, Slovakia and Slovenia, which are considered as an advanced economy. However, for the purpose of this research GDP growth was recalculated by taking into account the data on these countries.*

originated in advanced economies spilled over to the emerging European countries including those from CEE. Liquidity markets were frozen. Short-term foreign debt capital was withdrawn. Global demand fell bringing to stagnation the commodity markets. Consequently, international trade volumes also declined. Overall, all this had a very negative impact on regional economic growth.

At the same time, the extent to which CEE countries were affected differed from one to the other. The most severely hit were the Baltic states with a GDP decline in 2009 that reached 18,5% in Lithuania, 18,0% in Latvia, and 14,0% in Estonia. Hungary, Bulgaria and Romania also suffered significantly with a fall of GDP by 6,7%, 6,5%, and respectively 8,4%. Meanwhile, the Czech Republic, Slovakia and Slovenia had a GDP drop by less than 5%, while Polish economy even grew by 0,9% in 2009 (Figure 2)[10].

Key explanations can reside in different macroeconomic and financial vulnerabilities in national economies. The countries that suffered the most had very weak macroeconomic fundamentals, such as excessive current account and budget deficits, fixed exchange rate regimes, and huge credit expansions before the crisis. In all of the six countries with the largest GDP decline, current account deficits throughout 2002-2007 were far larger than 5% (Hungary: -6,9%, Bulgaria: -11,1%, Romania: -8,3%, Estonia: -12,3%. Latvia: -14,4%, Lithuania: -8,6%)[11]. Estonia, Latvia, Lithuania and Bulgaria have also fixed exchange rates. As a result, much of the current account deficit was supported by increasingly accumulated foreign debt that exceeded 100% of GDP in those states.

Hungary had also a very large budget deficit throughout 2005-2007 (5-10% of GDP) and thus had accumulated a large amount of public debt (more than 70% in 2008). Consequently, when the global liquidity and commodity markets froze and economic activity and export volumes fell, these countries had very few tools to support their economies, while their creditworthiness was

[10] http://www.imf.org/external/pubs/ft/weo/2009/02/weodata/index.aspx
[11] Aslund A. (2009), p.11

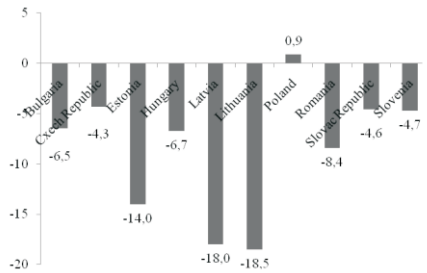

Figure 3. IMF forecast for GDP growth rate in CEE countries, %

undermined. All this brought to a very sharp decline in output growth and challenged macroeconomic stability of the economies.

On the other hand, the region is expected to overcome the crisis successfully and relatively fast. The IMF forecasts the region to have a positive output starting as soon as mid 2010 and reaching 4% output growth in 2012 (Figure 3) .

There are various reasons for those projections. Among the mitigating factors are foreign bank ownership in the CEE countries by West European member states, Eurozone membership of some of them (Slovenia and Slovakia) and political and economic integration within the EU. In this paper it i s

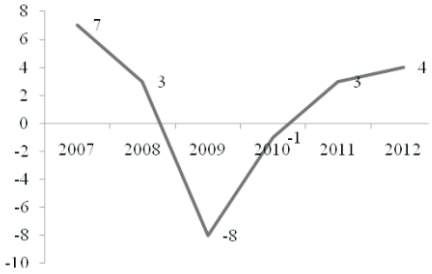

Figure 3. IMF forecast for GDP growth rate in CEE countries, %

argued that successful international and domestic policy responses, supported by EU membership *inter alia*, had helped CEE countries to deal with the crisis effectively and relatively fast.

Policy responses to the crisis: successes and failures

Global level

One of the main failures of policy-makers at all levels was their inability to prevent the crisis. At global level it is the IMF that is responsible for maintaining the stability of the global financial system. Quite frequently it is argued that post-2000 "the IMF was itself in a crisis, because it had almost no clients left for its emergency lending facilities after the crises of the 1990s"[14]. There were plenty of debates on whether it was the responsibility of the IMF for the crisis to become global or not. However, the role of the IMF is not indeed adequate to the current developments in the global financial system. As a result, the issues regarding IMF reform and global financial architecture at large have been vividly discussed at the highest political levels, namely G20 Summits.

Nevertheless, crisis control and resolution policies were quite successful at the global level. Coordination of efforts of the most powerful economies can be assessed as strong enough. Starting November 2008 a new global institution was created – G20 - with the purpose to increase the voice of the developing countries in resolution of global problems. So far three G20 Summits have been held: in Washington, London and Pittsburgh.

[12] see Aslund A. (2009)
[13] http://www.imf.org/external/pubs/ft/weo/2009/02/weodata/index.aspx
[14] The Financial Development Report 2009 [Internet source]]//World Economic Forum. -2010. - 32 p.- Access: http://www.weforum.org/pdf/FinancialDevelopmentReport/Report2009.pdf , p. 32

The main outcomes of the Summits are presented in Table 1.
One of the most effective outcomes of the Summits was the decision to provide US$1,1 trillion for recovery programs. Great deal of the money was used to provide financial support to the hardest hit economies, including those from CEE, through international financial institutions, mainly the IMF.

TABLE 1. Main outcomes of the G20 Summits [15]

Summit	Date	Main outcomes
Washington	November 14-15, 2008	Reached a common understanding of the root causes of the global crisis. Reviewed actions countries have taken and will take to address the immediate crisis and strengthen gro wth. Agreed on common principles for reforming national financial markets: *strengthening transparency and accountability, enhancing sound regulation, promoting integrity in financial markets, reinforcing international cooperation and reforming internationa1 financial institutions* . Launched an action plan to implement those principles
London	April 2, 2009	Launched a Global plan for recovery and reform, where five main priorities were defined: restoring growth and jobs, strengthening financial supervision a nd regulation, strengthening global financial institutions, resisting protectionism and promoting global trade and investment, ensuring a fair and sustainable recovery for all. It was agreed to provide US$1,1 trillion for recovery programs.
Pittsburgh	September 24-25, 2009	Agreed to develop a framework for strong, sustainable and balanced growth, to strengthen the international financial regulation system, to modernize global institutions to reflect today's global economy.

TABLE 2. Financial support to the CEE countries during the crisis, US $ billion

Country	Date	Overall sum	Allowed by the IMF	Allowed by the EU	IMF loan type
Hungary	October 2008	25,5	15,7	8,4	17- month SBA
Latvia	December 2008	17,75*	2,35	4,3	27- month SBA
Romania	May2009	26,4	17,1	6,6	24- month SBA
Poland	May 2009		20,58	-	12- month FCL **

* the lion's share of the funds were allowed by Scandinavian countries – Denmark, Estonia, Norway, Sweden.
** flexible credit line

[15] (1) Outcomes of the London Summit [Internet source]/The Official website of the London Summit 2009. – Access: http://www.londonsummit.gov.uk/en/summit-aims/timeline-events/summit-outcomes;
(2) The Pittsburgh Summit 2009[Internet source]/The Official website of the Pittsburgh Summit 2009.- Access: http://www.pittsburghsummit.gov/resources/129665.htm
[16] The Financial Development Report 2009 [Internet source]]//World Economic Forum. -2010. - 32 p.- Access: http://www.weforum.org/pdf/FinancialDevelopmentReport/Report2009.pdf , p. 32

As a result, the IMF had allowed around US $50 billion under standby arrangements (SBAs) to 14 countries in crisis[16]. Under the SBAs the country gets loans in exchange for reforms in monetary, financial and fiscal policies. Emerging European countries have obtained the largest part of the IMF loans.

In the CEE region main recipients of the IMF loans were Hungary, Latvia and Romania. Along with the IMF support those countries received financial resources from other international financial institutions: the World Bank, the European Commission, the European Investment Bank, or the European Bank for Reconstruction and Development. However, the share of the IMF financial support was the largest, while resources granted by other institutions, especially European ones, were limited (Table 2).

Consequently, coordination of international efforts on the global level to overcome crisis (in CEE countries inter alia) may be assessed as effective so far, even though a number of planned actions for global economy recovery are still to be done.

EU level

Policy responses to the crisis in the CEE countries at the EU level gained different assessments by EU economic policy researchers and experts. Some argue "policy responses from Europe were neither timely nor adequate and the initiative was left to a large extent to the International Monetary Fund"[17], while others say both the IMF and EC showed an excellent ad hoc cooperation: "the IMF had the staff, rules, and procedures for handling a financial crisis, while the EC had neither, so it conceded and assisted instead"[18]. The crisis thus pointed on necessity to rethink EU level financial supervision and regulatory framework with aim to enhance ability to prevent and successfully deal with union-wide financial difficulties in future. So far the EU had made a number of steps aimed at developing efficient regulatory framework for economic recovery of the EU region (Box 1).

Box 1. Main policy actions of the EU during the crisis[19]

- Refi (interest rate on main refinancing operation) was cut from more than 4% in September 2008 to 1% in May 2009;
- A European Economic Recovery Plan developed by the de Larosière Group was adopted in November 2008. The plan was built on two key pillars: a major injection of purchasing power into the economy (to boost demand and stimulate confidence) and the need to direct short-term action to reinforce Europe's competitiveness in the long term ("smart investments");
- Large public interventions in the banking sector were approved (around 44% of total EU budget);
- An increase from € 12 to € 50 billion of the lending ceiling was approved for the EU support facility for non-euro area Member States in financial difficulty.
- An ambitious reform on European supervision system was launched in parallel to what was agreed during the G20 Summits. According to this reform the EU member states financial stability will be secured based on two main principles: creation of a European System of Financial Supervision through establishment of the network of financial supervisor at the EU level and formation of a European Systemic Risk Council responsible for macro-prudential surveillance, mitigation of systemic risks and prevention of large-scaled financial crises.

[17] Béla Galgóczi (2009) Central Eastern Europe five years after: from "emerging Europe" to "submerging" Europe? ETUI Policy Brief ț 4, p. 5
[18] Anders Aslund, Implications of the crisis for Eastern Europe [Internet source]// Newsletter of the United Nations Development Programme and London School of Economics and Political Science. – June 2009. – Access: http://www.iie.com/publications/papers/paper.cfm?ResearchID=1250
[19] Economic Crisis in Europe: Causes, Consequences and Responses, European Commission, DG Economic and Financial Affairs, European Economy ț 7, 2009.

Moreover, EU membership itself had a mitigation impact on financial stability in CEE countries. It helped making policy institutions stronger and more credible in the new member states and EU membership perspective at large was a strong motivation for them to provide institutional and market reforms, what enabled them to overcome the crisis quite efficiently.

Thus, despite the failure of the EU to provide sufficient financial support to the CEE countries in crisis it proved to be successful enough in learning financial crisis lessons. EU actions went in line with the agreements reached at the global level and were aimed at development of effective crisis prevention policies through establishment of supranational European financial supervision institutions.

Domestic level

To study successes and failures in domestic policy responses four case studies will be examined: Hungary, Latvia, Romania and Poland. The first three are the cases of the most harshly hit economies in the CEE region and Poland is a successful case of the country that managed to overcome the crisis relatively easy.

Hungary

Despite the fact that Hungary was among the most developed countries that joined the EU in 2004, it was also one of the most severely hit by the crisis. The reasons for Hungary to become the region's weakest link include: risky financial solutions to improve the popular feel good by successive governments that accumulated excessive public debt, large amount of foreign exchange-based domestic lending and lack of effective cooperation among two main political parties[20]. As a result GDP fell in mid 2009 by 7,2%, manufacturing by 21,3%, while the unemployment rate was 10%.[21]

In response, the policy measures in the country included both immediate and long-term measures.[22] Large foreign and domestic currency liquidity provisions were given, social transfers shortened and taxes were increased. In November 2008 Hungary received $15,7 bn USD from the IMF under a 17 months SBA. The IMF program in the country was targeted at sustainable fiscal adjustment of 2,5% of GDP and bank capital enhancement through additional resources provided to finance a guarantee fund for interbank lending.[23] The implementation of reforms seemed successful, up until the results of the April 2010 parliamentary elections made the political cost of the measures surface. According to the IMF executive board third review (September 25, 2009), "macroeconomic and financial policies in Hungary are on track"[24]. Fiscal sustainability has been further strengthening through implementation of structural spending reforms. Financial stability is being maintained by providing institutional reforms,

[20] László Andor, Hungary's boomerang effect [Internet source]//Guardian. - October 2008. – Access: http://www.guardian.co.uk/commentisfree/2008/oct/29/creditcrunch-eu

[21] Cseres-Gergely, Zsombor, Recovery measures in Hungary – dealing with the crisis in a small, open, indebted economy [Internet source]// PowerPoint presentation at winter meeting of European Employment Observatory. – January 2010. – Access: http://www.eu-employment-observatory.net/resources/meetings/CseresGergely-SYSDEM14Jan2010.pdf

[22] Júlia Király, Hungary: Pre-Crisis Macro Vulnerabilities, Policy Responses and Current Outlook [Internet source]// PowerPoint presentation during Czech National Bank conference on Introducing counter-cyclicality into prudential regulation; its role in Basel II. – October 2009. - Access: http://www0.gsb.columbia.edu/ipd/pub/Kiraly_CNB_Prague_2009_Oct.pdf

[23] IMF Executive Board Approves €12.3 Billion Stand-By Arrangement for Hungary [Internet source]// IMF Press Release No. 08/275. – November 2008. - Access: http://www.imf.org/external/np/sec/pr/2008/pr08275.htm

[24] IMF Executive Board Completes Third Review Under Hungary's Stand-By Arrangement, Extends the Arrangement, and Approves €53.7 Million Disbursement [Internet source]// IMF Press Release No. 09/331. – September 2009. - Access: http://www.imf.org/external/np/sec/pr/2009/pr09331.htm

improving the supervisory agency's independence, enhancing the central bank's authority in macro prudential supervision and monitoring the banks that received the state's financial support.

Latvia

Latvia is the second CEE country that met with harsh economic challenges during the crisis. Major preconditions for that were large foreign capital inflows and pre-crisis credit boom, especially after its accession to the EU. Consequently, the country accumulated large external imbalances that were at the core of severe financial difficulties in times of the crisis. In December 2008 Latvia got large financial support from the IMF, the EU, and Scandinavian countries. The Latvian case is special in that the country opted for not leting its currency float in order to increase its chances for fast Eurozone accession. This had an impact on the reforms package approved for the country by the IMF.

The main objectives of the IMF 27- months SBA for Latvia were aimed at restoring confidence in the Latvian banking system, providing fiscal measures to limit budget deficit and preparing the country for fulfilling the Maastricht criteria, all by implementing structural reforms to rebuild competitiveness under fixed exchange rates[25]. The decision of the Latvian government to preserve the fixed exchange rate was assessed as a policy failure by many researchers. Indeed, according to some estimations loss of output from peak to bottom of the crisis will be around 30% and "the depth of the recession and the difficulty of recovery are attributable in large part to the decision to maintain the country's overvalued fixed exchange rate"[26]. Nevertheless, the reasons staying behind this decision were quite clear: Eurozone memebership, small estimated affect on export growth and possible negative impact on the pegs of Estonia and Lithuania.[27] Overall, IMF's second review under SBA as of February 17, 2010, assessed the program implementation process as quite successful. Economic and GDP growth recovery is expected to take place in the end of 2010-beginning of 2011.

Romania

The main problems the country encountered with during the crisis were external imbalances, credit expansion, and high budget deficit. However, the Romanian government had at once launched a comprehensive program to respond to the crisis challenges. The program was twofold: institutionally, it included the creation of ministerial working groups in charge with implementing the anti-crisis measures adopted by the government and strategic component focused on the adoption of an anti-crisis program for which € 13 billion was allocated. The anti-crisis program consisted of 23 policy measures divided in three categories: economic (stimulation of economic recovery and growth), financial (increase of liquidity) and social. The lion's share of the total budget was allocated for economic measures (81%).[28] Along these measures the IMF has approved US$17,1 billion to Romania under a 24 months SBA in May 2009. The IMF program objectives required a budget deficit reduction representing 3% of GDP by 2011, maintaining adequate capitalization of bank and

[25] IMF Executive Board Completes Third Review Under Hungary's Stand-By Arrangement, Extends the Arrangement, and Approves €53.7 Million Disbursement [Internet source]// IMF Press Release No. 09/331. – September 2009. - Access: http://www.imf.org/external/np/sec/pr/2009/pr09331.htm

[26] Mark Weisbrot and Rebecca Ray (2009) Latvia's Recession: The Cost of Adjustment With An "Internal Devaluation", Centre for Economic and Policy Research

[27] IMF Helping Counter Crisis Fallout in Emerging Europe. Interview with Marek Belka, the Head of the IMF's European Department by Camilla Andersen. [Internet source]/ International Monetary Fund. – January 2009. -Access: http://www.imf.org/external/Pubs/FT/SURVEY/so/2009/INT011409A.htm

[28] Constantin Zaman (2010) Romania and the global crisis: from excessive confidence to high uncertainty, CASE Warsaw.

liquidity, targeting inflation and bringing it within the range of the National Bank of Romania by end 2009, and securing adequate external financing.[29]

The case of Romania reminds that of Ukraine. The country was also embarked in political infightings before Presidential elections scheduled for November 22, 2009. The IMF delayed its next loan installment to Romania in November 2009 until the new government was formed. Nevertheless, the latest reviews under SBA with Romania held in February 19, 2010, approved disbursement of the next installment. The policy implementation process was assessed as strong "despite a difficult political and economic environment".[31]

Poland

Poland can doubtlessly be called the most successful case. It is the strongest economy in the CEE region and the only European country to achieve a positive GDP growth in 2009. Such success is explained by nothing else but timely and proper market reforms and efficient and well-thought macroeconomic policy. The statement of Mr. John Lipsky, First Deputy Managing Director and Acting Chair of the IMF, quoted in the IMF press-release on approving US$20.58 billion to the country under flexible credit line arrangement, gives a comprehensive explanation for economic soundness of the Polish economy:

"Poland's economic growth has been very strong and well-balanced in recent years. Private consumption growth has been robust, the external position is sustainable, and the banking sector is well-capitalized. The avoidance of acute imbalances during the boom years reflects a very strong and timely policy implementation. A long-standing and effective inflation-targeting regime and a freely-floating exchange rate have helped build confidence in monetary institutions and anchor inflation expectations. The authorities' EU commitments and their euro adoption target have provided a strong fiscal anchor. Banking supervision has been fully compliant with EU laws and directives. Its institutional framework has been buttressed by the unification of financial supervision and the creation of the Financial Stability Committee"[32]

Moreover, a large domestic market, a diversified economic space, strong human capital, a number of economically significant regional clusters, and residual effects of Poland's shock therapy program in 1990s are considered as mitigation factors that helped the country to manage economic downturn better than others in the region [29]. Thus, the assessment of the four case studies had shown that all the three countries that suffered the most – Hungary, Latvia, and Romania – failed to eliminate major risk factors before the crisis, mostly large external imbalances. The Hungarian case has proved how dangerous excessive populism followed by accumulation of large public debt can be. Latvia proved that delay in letting the national currency to float may have very negative consequences. Political instability in Romania demonstrated how lack of internal cooperation may prolong the crisis in time. Finally, the Polish case proved that only coherent and consistent reforms bring to economic prosperity and stability in times of crisis.

[29] IMF Executive Board Approves €12.9 Billion Stand-By Arrangement for Romania [Internet source]// IMF Press Release No. 09/148. – May 2010. - Access: http://www.imf.org/external/np/sec/pr/2009/pr09148.htm

[30] Romania: political crisis and severe economic conditions [Internet source]//Focus news. – January 2010. - Access: —http://flarenetwork.org/blog/2010/01/03/romania--political-crisis-and-severe-economic-conditions/

[31] IMF Completes Second and Third Review Under Stand-By Arrangement with Romania and Approves US$3.32 Billion Disbursement [Internet source]//IMF Press Release No. 10/54. – February 2010. - Access: http://www.imf.org/external/np/sec/pr/2010/pr1054.htm

[32] IMF Executive Board Approves US$20.58 Billion Arrangement for Poland Under the Flexible Credit Line [Internet source]// IMF Press Release No. 09/153. – May 2010. - Access: http://www.imf.org/external/np/sec/pr/2009/pr09153.htm

Crisis in Ukraine: causes, consequences and responses

Ukraine may doubtlessly be called the economy that suffered the most among emerging European countries in times of crisis. The Ukrainian economy has grown very fast since 2000 (more than 7% annually) but appeared to be greatly overheated by mid 2008: credit growth exceeded 70%, inflation increased to almost 30%, nominal wages accelerated by around 30-40%, consumption boom led to surge in imports at an annual rate of 50–60% increasing thus current account deficit to almost 7% of GDP, leaving the rigidly managed currency substantially overvalued.[33]

The Ukrainian economy was exposed to external shocks through two main channels of transmission:

- **Trade links**. Terms-of-trade for Ukraine, in which steel represents around 40% of exports and 15% of GDP and gas imports around 6% of GDP, deteriorated substantially with the fall in commodity prices due to sharp drop in global demand and raise of prices for gas imported from Russia from around $180/tcm in 2008 to approximately $330/tcm in 2009.[34]
- **Financial links.** Growing economy and opening of the financial sector led to significant increase in foreign capital inflows, especially external short-term debt, which was covered by international reserves only at 75% in September 2008. Large capital supply resulted in credit expansion especially in foreign currency due to overvalued domestic currency and low interest rates.

As a result, the Ukrainian economy experienced significant losses in 2009: real GDP fell by 14%, inflation reached 16,3%, unemployment rate was almost 11%, and real monthly wages fell by 11%.[35] (Table 3) As an immediate policy response to the crisis Ukraine had no choice but to request IMF financial support. In December 2008 the IMF approved a US$16.5 billion two-year stand-by-arrangement for Ukraine, which was 802 percent of Ukraine's quota and was granted under the Emergency Financing Mechanism.[36] The SBA program for Ukraine has two key objectives: 1) "to restore financial and macroeconomic stability and thereby facilitate better confidence"; 2) "to facilitate adjustment to potentially large external shocks and allow a gradual reduction of inflation".[37] To achieve those objectives the following measures were defined:

Objective 1: To restore financial and macroeconomic stability

Measures: a) appropriate liquidity support and expansion of deposit guarantees; b) a stronger bank resolution framework, including availability of public funds for recapitalization; c) a stronger framework for resolution of household and enterprise sector debts.

Objective 2: To facilitate adjustment to potentially large external shocks and allow a gradual reduction of inflation

Measures: a) a flexible exchange rate policy, supported by base money targets and an appropriate intervention strategy; b) transition to inflation targeting (as a new nominal anchor); c) resetting incomes policy in line with targeted inflation, while protecting the most vulnerable;

[33] Ukraine: Request for Stand-by Arrangement [Internet source]//IMF Country Report No. 08/384. - December 2008. – Access: http://www.imf.org/external/pubs/ft/scr/2008/cr08384.pdf
[34] Idem.
[35] IMF Approves US$16.4 Billion Stand-By Arrangement for Ukraine [Internet source]// IMF Press Release No. 08/271. – November 2008. - Access: http://www.imf.org/external/np/sec/pr/2008/pr08271.htm
[36] http://www.imf.org/external/np/sec/pr/2008/pr08271.htm
[37] http://www.imf.org/external/pubs/ft/scr/2008/cr08384.pdf

Table 3. Ukraine: Selected economic and social indicators, 2006-2010[38]

	2006	2007	2008	2009	2010
Real economy					
Real GDP	7,3	7,9	2,1	-14,0	2,7
Unemployment rate	6,8	6,4	6,4	10,7	10,0
Consumer prices (period average)	9,1	12,8	25,2	16,3	10,3
Real monthly wages (average)	18,4	15,0	6,8	-11,0	-1,2
Public finance					
General government balance	-1,4	-2,0	-3,2	-6,0	-3,0
Public debt (end of period)	15,7	12,9	19,9	35,4	38,6
Of which: external debt(foreign currency denominated)	12,5	10,1	15,0	25,0	23,8
Balance of payments (percent of GDP)					
Current account balance	-1,5	-3,7	-7,2	0,6	0,1
Foreign direct investment (end of period, billions of U.S. dollars)	5,3	6,4	5,5	3,4	3,8
Share of metals in merchandise exports (percent)	42,2	41,7	40,8	35,3	34,5
Net imports of energy (billions of U.S. dollars)	8,1	11,5	16,7	11,5	16,1
Goods terms of trade (percent change)	-0,3	9,0	8,0	-13,6	-2,1
Goods and services terms of trade (percent change)	1,5	7,4	8,8	-9,1	2,2
Exchange rate					
Exchange rate regime	de facto peg		managed float		
Hryvnia per U.S. dollar, end of period	5,1	5,1	7,7	…	…

d) maintaining a prudent fiscal stance; and e) bringing energy sector prices more in line with costs.

Along with the IMF SBA, on December 25, 2008 the Cabinet of Ministers of Ukraine launched a domestic anti-crisis action plan, entitled "Overcoming the global financial and economic

[38] http://www.imf.org/external/np/sec/pr/2008/pr08271.htm

crisis impact and consistent development". The main objective of the action plan was defined as "to alleviate the negative impact of the global financial crisis on the Ukrainian economy, to contain further spread of the crisis, which would hinder economic development and worsen people's quality of life, and overcome negative consequences of the crisis".[39]
Major priorities of the program include: 1) to achieve macroeconomic stability; 2) not to allow for worsening of the people's quality of life; 3) to facilitate entrepreneurship development; 4) to promote investment activity; 5) to support real sector of the economy.[40]

Out of the number of commitments taken by Ukraine, almost none were achieved. The National Bank of Ukraine let hryvna float in the end of 2008, what had a stabilizing effect on current account deficit but substantially decreased real wages (Table 3). A large bank stabilization program was launched. Many banks were recapitalized (Rodovidbank, Ukrgazbank, bank "Kyiv", Prominvestbank,) and deposit insurance coverage was increased from UAH 50,000 to UAH 150,000, which had to cover 99% of individual accounts.[41]

Many highly needed structural reforms Ukraine was supposed to do are still put on hold mostly due to their unpopularity. First of all, it is necessary to increase gas and heating tariffs for households in order to rebalance NAK Naftogaz financial structure. The tariffs were supposed to be gradually increased and reach the level of gas import price by mid 2011. However, the National Electricity Regulatory Commission of Ukraine had so far increased the tariffs only by 35% in October 2008.[42] Further gas price increases for households were cancelled[43] mostly due to Presidential elections in Ukraine.

Additionally, commitments to provide tax and pension reforms with aim to cut budget deficit, were also not fulfilled. The Law on social standards signed in October 2009 by the former President of Ukraine, Victor Yuschenko, and intention to approve an expansionary budget were harshly criticized by the IMF. Consequently, in October 2009 the IMF delayed the next installment of the loan. As the IMF Mission Chief to Ukraine Ceyla Pazarbasioglu said at that time:

"For any economic program to be successful, there must be a minimum level of consensus… When the economic program was designed a year ago, there was a broad consensus in Ukraine… but the pressure of events and political developments means that consensus is now much harder to achieve".[44]

Now the new President and the new Government are showing their readiness and intention to resume cooperation with the IMF. This is quite understandable since without the IMF funds it will be very hard for the Ukrainian economy to recover

[39] "Подолання впливу світової фінансово-економічної кризи та поступальний розвиток" [Інтернет ресурс]/ Кабінт Міністрів України. – Програма діяльності КМУ. – Грудень 2008. – Режим доступу: http://www.kmu.gov.ua/control/uk/publish/article?art_id=181072357&cat_id=35883, p. 5
[40] "Подолання впливу світової фінансово-економічної кризи та поступальний розвиток" [Інтернет ресурс]/ Кабінт Міністрів України. – Програма діяльності КМУ. – Грудень 2008. – Режим доступу: http://www.kmu.gov.ua/control/uk/publish/article?art_id=181072357&cat_id=35883, p. 5 - 7
[41] http://www.imf.org/external/np/sec/pr/2008/pr08271.htm
[42] 31 грудня НКРЕ підвищує тарифи на газ для населення [Інтернет ресурс]//News.ru.ua. – Листопад 2008. – Режим доступу http://www.newsru.ua/finance/13nov2008/gas.html
[43] НКРЕ скасувала підвищення тарифів на газ для населення з вересня 2009 року [Інтернет ресурс]//Zik. – Лютий 2010. – Режим доступу: http://zik.com.ua/ua/news/2010/02/25/218535
[44] IMF Mission Chief: IMF Expects Ukrainian Authorities' Cnsensus on Implementation of Cooperation Program [Internet source]//US.-Ukraine Business Council. – November 2009. – Access: http://www.usubc.org/news/ukrainebusinessnewstenarticles_111209.php#a2

soon. Negotiations are being held at the moment and the IMF seems to be inclined to provide the next installment under the condition of further reforms implementation.

So, now everything depends on whether new Ukrainian officials stop continuing doing populist promises and improve their discipline in terms of commitments fulfillment or not. As there is not much choice, the first option seems more feasible.

Lessons for Ukraine: the only key to success is coherent and consistent reforms

While the financial crisis is global in its nature and very few countries in the world managed to avoid dramatic economic losses, the extent to which the crisis affected some countries as opposed to other draws the attention on the presence of much deeper economic problems in the economies that suffered the most. This is especially relevant for Ukraine, the economy of which was virtually unreformed for more than a decade.

It is often argued that periods of crisis may be regarded as both losses and opportunities as it gives new impetus for rethinking the current state of affairs and drawing lessons for the future. The analysis of successes and failures in policy responses to the financial crisis in the CEE countries at global, EU and domestic levels allows drawing the following lessons for Ukraine:

Lesson 1: Key causes of the crisis are deeply rooted in structurally unreformed Ukrainian economy and lack of timely and proper policy responses to major economic challenges. There has been a significant amount of literature written on key priorities for reforming the Ukrainian economy. The most recent is the World Bank's staff paper "Making Ukraine Stronger Post - Crisis".[45] The policy paper summary identifies three main challenges that stand out as high priority for Ukraine:

- stabilization of public financing through fiscal reforms;
- stimulation of private investment by upgrading technologically, rebalancing the excessively commodity-driven sources for growth, and deregulating Ukraine's economy and fostering competition;
- restructuring of the financial sector through reconsidering of the past legislation and strengthening regulation and transparency to regain trust.

The main problem here is whether the new Government will finally find the political will for those reforms or it will limit itself only to extinguishing the fire and solving the short-term problems.

Lesson 2: EU membership proved to be both a good benchmark for implementation of successful reforms and a source of an added value in terms of coordination efforts in times of crisis. Economic and political integration with the EU is seen as one of the mitigating factors in the CEE region during the crisis. First of all, as the Polish case has shown, using EU practices and implementing EU standards on timely and proper manner can help avoiding significant losses. Second, EU financial support, although not too large, still presents an additional source for fostering the post-crisis recovery. Therefore, it is crucially important for Ukraine to go on with its European course, use EU best practices to the maximum, implement EU

[45] Making Ukraine Stronger Post-Crisis [Internet source]// World Bank policy paper . – March 2010. Access: http://siteresources.worldbank.org/INTUKRAINE/News%20and%20Events/22497867/PolicyNotesENG.pdf

standards and thus speed up its EU integration perspectives.

Lesson 3: IMF assistance is very important for fostering economic recovery in emerging countries during the crisis. All CEE countries, which suffered the most during the crisis, have requested for IMF support to deal with the crisis. The IMF's support is crucially important not only in terms of finances but also in getting assistance of its experienced staff. The SBAs, which are being developed together with the national authorities and take into account the national economic situation, enable to set a clear anti-crisis program with identification of major priorities and policy actions. Therefore, it is vitally important for Ukraine to resume cooperation with the IMF, which will not only bring to the benefits outlined above but will also send a positive message to the international investors implying the restoration of political stability in the country and direct course on reforming process acceleration.

This list of course is not exhaustive, but all in all, there is one main lesson to be learnt by Ukraine: **only coherent and consistent reforms lead to sustainable economic development and help to maintain macroeconomic and financial stability on the long-run.**

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Non-partisan Local Actors As The Element Of Absorbed Local Democracy?

- Miro Haček*

Abstract

The paper focuses on a lesser known political phenomenon seen in Slovenia since the country gained its independence in 1991. At every local election since 1994 so-called independent candidates and non-partisan lists have been gaining ever more votes and increasing support[1]. For various reasons, this phenomenon does not exist at the national level of government, while local elections are sometimes seen as not being so important and are often in the shadow of presidential or parliamentary elections (Haček 1999: 220). By drawing on several debates, analyses and empirical researches, in the paper, we make the presumption that there are three origins of the successfulness of these independent candidates and non-partisan lists. We also try to ascertain whether these independent candidates and non-partisan lists are truly a product of an anti-party climate and movements or whether they are simply another way for political parties to gain political power at local levels of government. At the same time, we analyse the success and appearance of local and regional political parties at local elections.

1. A Conductive Political Sphere: Anti-partisanship In Slovenia

Political parties first appeared in Slovenian territory in the second half of the 19th century and disappeared prior to World War II. One can only identify two periods in Slovenian history during which partisanship flourished: the early 1920s and the early 1990s (Lukšic 1994: 23). Instead of witnessing the rise of partisanship, Slovenian politics were harshly criticised by partisanship which developed new forms of political and social organisation instead of parties. An anti-party trend is – on the other side – one of the more recent phenomena in contemporary democracies around the world (Bale and Roberts 2002: 1).

In different periods of the 20th century in Slovenia, the Catholic side offered a corporatist state featuring the strong role of the Church, while the socialist side offered a corporatist state with the stressed role of a single class (Zver 1990: 154). The tradition of the non-partisan organisation was first enhanced by Ljudska fronta – the People's Front – and even more so by Osvobodilna fronta – the Liberation Front. However, the Catholic side opposed the Liberation Front and, in so doing, opted against the non-partisanship type of organisation and strived towards the old party structure in which it had played a hegemonic role.

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[1] We regard independent candidates as those who are not placed on the candidate lists of political parties or proposed by any registered political party. Also see Fink Hafner and Krašovec (2000: 160).

Thus, during the war, a battle for the type of post-war political organisation to be put in place was also being fought: a battle between partisanship and non-partisanship (Lukšic 1994: 24). As an alternative to partisanship, a system of self-governance fictitious-democracy developed after WW II whose main aim was to express the interests of a human who is the embodiment of a range of personal and social interests.

It was only in the late 1980s and early 1990s that political parties were revived, with the democratisation of political life culminating in the first post-war democratic elections which were held in the spring of 1990. The end of the 1980s saw the formation of new political parties while the old socio-political organisations which had, until then, enjoyed a guaranteed monopoly status in organising and leading all political interests and activities, were transformed into new political parties (Krašovec 2000: 23).

In the commentary on the Law on Political Parties (1994) political parties were defined as "a form of organisation with a clearly defined ideology (a party's programme is mentioned), whose goal is to contest or maintain political power through democratic elections. That is the reason political parties are organised groups with political goals that are distinguishable from other political organisations, whose members come together for the purpose of protecting defined interests with political means… Political parties exercise their active role on all levels of public life.«

In the years when Slovenia was gaining its independence, the newly established parties were primarily a vehicle of mass protest against the former regime and a form of striving for a more sovereign status of Slovenia, but they did not have any more precisely elaborated programmes encompassing the most important spheres of life (Krašovec 2000: 24). Political parties are organisations which in society and in the state perform several different functions. Through historical development political parties became an actor playing key roles at elections to political representative institutions and in candidate-selection processes for elections (Fink-Hafner and Krašovec 2000: 143). Political parties are organisations which assist candidates in entering political representative institutions; in exchange, the selected candidates are expected to be loyal to their political party and act in accordance with the party's expectations. As a reflection of the thesis that political parties are the main actors at parliamentary elections, we only see a relatively small number of independent candidates and an even smaller number of successful independent candidates. But this description does not apply equally to the local levels of government, as will be discussed a little later.

A relatively strong resistance to party politics can be recognised in the Constitution of the Republic of Slovenia since it only mentions political parties in a negative context. Article 42 of the Constitution states that membership in political parties is forbidden for professional members of the police and the armed forces. The Constitution consistently reveals its liberal, anti-partisan nature, including in the article which states that members of parliament are representatives of the nation and are not obliged to follow any directions. The drafters of the Constitution realised that political parties exist and

that Parliament will always be a partisan institution, but political parties were still not given a natural right to be included in the Constitution (Lukšic 1994: 27). Moreover, the apex of Slovenian distrust of parties is represented by a corporatist body – Državni svet – the National Council. It was supposed to be beyond the influence of political parties since the candidates for it are chosen by associations, social organisations and unions, chambers and universities, that is, non-partisan organisations. However, half of its members, namely 22 representatives of local interests are also elected to the National Council for each term of office and these candidates appear on party lists. One therefore cannot say that the operation of this body is absolutely non-partisan.

Alenka Krašovec (2000: 26) states that a common problem of all Slovenian political parties is the problem of unsatisfied structural connections to society, as indicated in the negative public opinion of Slovenian political parties. Trust in political parties has declined rapidly since 1991; in 1991 12.1 percent of voters had high or middle levels of trust in political parties, in 1995 this description only applied to 4.5 percent of voters (Toš in Krašovec 2000: 26), and in 2001 (survey SPO 2/2001) to 9.3 percent of voters. At the end of 2008 (Politbarometer research, 12/2008) 9 percent of voters had high or middle levels of trust in political parties, although 43 percent of voters had extensive levels of distrust.

The lack of trust in political parties is regarded as a consequence of the visible egoistic and ideologically burdened activity of political elites (Fink-Hafner 1997: 152). A Politbarometer survey (2003) ascertained that Slovenian political parties are among the least trusted institutions; moderate levels of trust in political parties could only be seen in 10 percent of voters but, on the other hand, 42 percent of them had high levels of distrust.[2] The 2008 Politbarometer survey found that political parties are the least trusted political organisation among 24 listed political institutions and organisations.[3] If we take into account the different Politbarometer surveys conducted from 1996 onwards, we can comprehend that political parties are, among the five most important political institutions[4], constantly the one that voters distrust the most. The level of membership in political parties in Slovenia is quite low, especially in comparison with older EU members. According to various sets of available data, around 10 percent of voters were members of a political party at the end of the last decade (Krašovec 2000: 26)[5], just below 5 percent of voters were members of a political party in 2005 (Slovenian public opinion 2005/2)[6], and 6.5 percent of all voters were members of a political party in 2007 (Brezovšek et al., 2008: 148).

[2] On a scale from 1 to 5, where 1 represents »I trust the least« and 5 »I trust the most«. For comparison reasons we should mention that political parties are the least trusted political institution (10 percent of voters have at least moderate levels of trust; answers 1 and 2 combined), other institutions included in this survey: general courts (13 percent), the Catholic Church (21 percent), the Constitutional Court (23 percent) etc. (N=1,002).

[3] On a scale from 1 to 5, where 1 represents »I trust the least« and 5 »I trust the most«. For comparison we can state that political institutions received an average grade (from three surveys conducted in April, June and December 2008) of 2.46, the Catholic Church received 2.47, general courts 2.50, the government 2.77 etc. Source: Public Opinion and Mass Communication Research Centre, available at http://www.cjm.si/PB_rezultati (10.8.2009). N=944.

[4] The President of the Republic, the Prime Minister, the National Assembly, the Government of the Republic and political parties.

[5] Membership in political parties as a percentage of eligible voters is calculated on the basis of data available from political parties and the official number of eligible voters for 1998 (Krašovec 2000: 26). The Liberal Democracy of Slovenia (LDS) then had (according to its own data) 5,342 members, the Slovenian People's Party (SPP) around 40,000, the Social Democratic Party (SDP) around 20,000, the Slovenian Christian Democrats (SCD) 36,576, the United List of Social Democrats (ULSD) around 23,000 (Pašek in Krašovec ibid.), the Democratic Party of Pensioners (DPP) 26,000 and the Slovenian National Party (SNP) 5,783 (Praprotnik in Krašovec ibid.).

[6] Question 7.17: »Are you a member of a political party?« There were 42 yes, 948 no and 121 do not know answers (N=1002). Source: Slovenian public opinion survey 2005/2, Public Opinion and Mass Communication Research Centre, 2005.

2. Electoral Systems, Non-partisan Lists And Independent Candidates On The Local Level Of Government

This article adopts the supposition that electoral systems have a strong influence on both the candidacy possibility of independent candidates and non-partisan lists and on actual chances of being elected. The electoral system that is used for elections to the National Assembly discriminates in favour of established political parties; according to empirical evidence gathered from all five parliamentary elections carried out so far, is it clear that independent candidates and non-partisan lists only have slim chances of being elected. Since the country's attainment of independence in 1991, no independent candidate has been even close to being elected to the National Assembly and, in addition, the number of such candidatures has always been small or even non-existent. At the election to the National Assembly in 2000 there were seven independent candidates, but not a single one managed to gather more than one percent of the votes; in 2004 there were three independent candidates and none even managed to attract more than 0.1 percent of the votes; and even worse, at the last election to the National Assembly in 2008 there were no independent candidates at all.[7]

However, the situation is quite different on the local level of government. At mayoral elections Slovenia applies a two-round absolute electoral system[8], whereas at municipal council elections both a one-round relative majority and a proportional electoral system are used depending on the size of the municipality.[9]

We will focus our analysis initially on mayoral elections where we can state that candidates can be put forward by either (registered) political parties or groups of voters. Independent candidates can only run with the support of a group of voters; the size of the groups again depends upon the size of the municipality in which the candidature is lodged.[10] This allows independent candidates to realise their passive eligibility in a relatively undemanding way. Empirical data concerning local elections since 1994 strongly confirm this as independent candidates were convincing winners of the last two mayoral elections with the highest share of municipalities in which at least one candidate for mayor was running as an independent. The number of elected mayors at least formally running as an independent has been sharply rising since 1998; since the local elections in 1998 most municipalities have had a mayor who was not put forward by a political party – 43 independent mayors were elected at the local elections in 1998 (192 municipalities), 59 at the local elections in 2002 (193 municipalities) and 66 at the local elections in 2006 (210 municipalities).

[7] Source: State Electoral Commission data, http://www.dvk.gov.si/VOLITVE_DZ2004/index.html and http://www.dvk.gov.si/DZ2008/index.html (August 2009).

[8] The candidate is elected for the function of mayor if they receive the majority of votes. If no candidate receives the majority of votes, a second-round election involving the two candidates with the most votes is performed. If several candidates received the exact same highest (or second highest) number of votes, the selection for the second-round election is performed by lot. Both candidates are listed on the ballot paper according to the number of votes they received in the first-round election. If the number of votes received is exactly the same, the order on the ballot is determined by lot.

[9] If a municipal council has between 7 and 11 councillors inclusive, its members are chosen by a relative one-round majority electoral system. If a municipal council has 12 or more councillors, the members are chosen by a proportional electoral system involving the use of preferential voting (Local Elections Act, Article 9).

[10] When a candidate for mayor is proposed by a group of voters, they need to accumulate at least two percent of the signatures of voters in the municipality who had universal suffrage at the last local elections, but no less than 15 and no more than 2,500 signatures (Local Elections Act, Article 106).

Table 1: Candidacies and electoral results for local elections in 1998, 2002 and 2006 elections of mayors (in percentages)

Political party	Share of municipalities in which a political party had its own candidate for mayor with regard to the total number of municip. in Slovenia	Share of elected mayors with regard to the total number of a party's candidatures	Share of municipalities in which a political party had its own candidate for mayor with regard to the total number of municip. in Slovenia	Share of elected mayors with regard to the total number of a party's candidatures	Share of municipalities in which a political party had its own candidate for mayor with regard to the total number of municip. in Slovenia	Share of elected mayors with regard to the total number of a party's candidatures
	1998	**1998**	**2002**	**2002**	**2006**	**2006**
LDS	65	18	55	26	44	18
ULSD / SD	48	11	39	17	44	14
DPP	7	0	8	0	9	0
SCD	63	17	-	-	-	-
NS	-	-	23	9	38	13
SPP	72	29	41	56	49	48
SDP	66	17	35	24	56	22
SNP	4	14	5	11	10	10
Seven parliamentary parties	**46**	**15**	**29**	**21**	**36**	**18**
Non-partisan lists and independent candidates	**57**	**40**	**85**	**36**	**79**	**40**
Candidates of at least two parties	-	*	26	44	22	41

** Candidates of two or more political parties were elected in 251 municipalities; data on the number of candidatures is not available.*
Source: State Electoral Commission.

Legend: Liberal Democracy of Slovenia (LDS); Slovenian People's Party (SPP); Slovenian Democratic Party (SDP); Slovenian Christian Democrats (SCD) and its successor New Slovenia – Christian People's Party (NS); United List of Social Democrats (ULSD) / new name Social Democrats (SD); Democratic Party of Pensioners (DPP); Slovenian National Party (SNP).

Independent candidates and non-partisan lists are only a fraction less successful at elections to municipal councils. Here one can detect a significant difference between small municipalities (where a one-round relative majority electoral system is used) and middle-sized and bigger municipalities (where a proportional electoral system with preferential voting is used).

At local elections applying the majority principle a vote is cast for an individual candidate. A voter can cast as many votes as the municipal councillors to be elected in a single electoral unit. The candidates with the most votes are elected. Candidacies can be put forward by either a political party or a group of voters with permanent residence in the electoral unit. Groups of voters can demonstrate their support for a candidate by collecting the signatures of voters. Such a group of voters must gather

supporting signatures from at least one percent of all voters in a municipality who had universal suffrage at the last local election, but no less than 15 signatures are required.[11] In other municipalities a proportional electoral system is used and voters cast their votes on lists of candidates. Again, lists can be put forward by either a political party or a group of voters with permanent residence in the electoral unit. A group of voters must gather supporting signatures from at least one percent of all voters in a municipality who had universal suffrage at the last local election, but no less than 15 and no more than 2,500 signatures are required[12]. In this way, candidates who are not placed on the candidate lists of political parties can

Table 2: Candidacies and electoral results for local elections in 2002 and 2006 – elections of municipal councils in all municipalities*

Political party	Number of municipalities in which a political party put candidates forward for the municipal council (max: 193)	Number of municipalities in which a political party had at least one municipal councillor elected	Number of municipalities in which a political party put candidates forward for the municipal council (max: 210)	Number of municipalities in which a political party had at least one municipal councillor elected
	2002	2002	2006	2006
Liberal Democracy of Slovenia (LDS)	180	176	189	173
United List of Social Democrats (ULSD)	165	135	-	-
Social Democrats (SD)	-	-	172	150
Democratic Party of Pensioners (DPP)	132	103	159	109
Slovenian People's Party (SPP)	181	171	196	173
Slovenian Democratic Party (SDP)	178	166	196	182
New Slovenia – Christian people's Party (NS)	160	138	172	132
Slovenian National Party (SNP)	39	28	62	38
Non-partisan lists and independent candidates	160	104	182	147

[11] Local Elections Act, Article 54, Official Gazette of Slovenia, 94/2007.
[12] Local Elections Act, Article 68, Official Gazette of Slovenia, 94/2007.

fairly simply realise their eligibility and be elected to the municipal representative body.

The data in Tables 2 and 3 indicate that independent candidates and non-partisan lists also represent an important political force at municipal council elections, albeit not to such an extent as we just saw with mayoral elections. In our analysis we sought to find out to what extent the electoral system is influencing the successfulness of independent candidates and non-partisan lists. We calculated (Table 4) the *electoral efficiency*[13] of seven parliamentary political parties and of independent

Table 3: Candidacies and electoral results for local elections in 2002 and 2006 – elections of municipal councils in municipalities with a majority electoral system*

Political party	Number of municipalities in which a political party put candidates forward for the municipal council (max: 48)	Number of municipalities in which a political party had at least one municipal councillor elected	Number of municipalities in which a political party put candidates forward for the municipal council (max: 60)	Number of municipalities in which a political party had at least one municipal councillor elected
	2002	2002	2006	2006
Liberal Democracy of Slovenia (LDS)	35	32	40	25
United List of Social Democrats (ULSD)	22	12	-	-
Social Democrats (SD)	-	-	29	15
Democratic Party of Pensioners (DPP)	16	4	29	6
Slovenian People's Party (SPP)	37	35	47	40
Slovenian Democratic Party (SDP)	33	23	47	33
New Slovenia – Christian people's Party (NS)	26	16	32	17
Slovenian National Party (SNP)	1	0	4	2
Non-partisan lists and independent candidates	36	30	52	45

** We have not included various coalition linkages among two or more political parties (in 2006 coalition candidates appeared in five municipalities with a majority electoral system).*

Source: State Electoral Commission.

[13] Electoral efficiency is calculated as the quotient between the number of municipalities in which a political party or non-partisan list had at least one municipal councillor elected and the total number of candidacies in all municipalities with a certain type of electoral system.

candidates and non-partisan lists in both electoral systems that are employed at local elections.

All political parties – with the partial exception of the Slovenian People's Party at the local elections in 2002 – were more successful in municipalities where the proportional electoral system is in use. the most successful political party is the Slovenian Democratic Party, which at the last local elections in 2006 managed to gain at least one municipal councillor in all municipalities where it had at least one candidate for the municipal council.[14]

The analysis of local elections following the reform

Table 4: The electoral efficiency* of political parties, non-partisan lists and independent candidates at the local elections in 2002 and 2006 with regard to the electoral system in the municipality (in percent)

Political party	Majority electoral system 2002	Majority electoral system 2006	Proportional electoral system 2002	Proportional electoral system 2006
Liberal Democracy of Slovenia (LDS)	91.4	62.5	99.3	93.1
United List of Social Democrats (ULSD)	54.6	-	86.0	-
Social Democrats (SD)	-	51.7	-	94.4
Democratic Party of Pensioners (DPP)	25.0	20.7	85.3	79.2
Slovenian People's Party (SPP)	94.6	85.1	94.4	89.3
Slovenian Democratic Party (SDP)	69.7	70.2	98.6	100.0
New Slovenia – Christian people's Party (NS)	61.5	53.1	91.0	82.1
Slovenian National Party (SNP)	0	50.0	73.7	62.1
Non-partisan lists and independent candidates	83.3	86.5	59.7	78.5

The contrary applies to independent candidates and non-partisan lists whose electoral efficiency is much greater in municipalities with a majority electoral system. Both findings confirm the influence of the electoral system on the chances of election of candidates not running on lists put forward by political parties. In municipalities with a majority electoral system the most successful political party has been the Slovenian People's Party, while in municipalities with a proportional electoral system of the local self-government system in 1994 indicates the strong growth of support for independent candidates and non-partisan lists in all types of municipalities, irrespective of the electoral system. The only deviations are middle-sized municipalities (from 10,000 to 30,000 inhabitants) where support for independent candidates and non-partisan lists is somewhat unstable from election to election, although the trend is still generally increasing; here we can also notice the

[14] At the local election in 2006 there were 149 such municipalities (Bačlija 2007: 51).

smallest number of candidacies of independent candidates and non-partisan lists.[15] Independent candidates and non-partisan lists could consolidate to become the single most important and powerful political force in Slovenian municipalities if the current trends were to continue at the next local elections in 2010; this could also permanently alter our understanding and comprehension of local politics.

Table 5: Share of electoral votes for independent candidates and non-partisan lists at the local elections in 1994, 1998, 2002 and 2006

Size of municipality with regard to the number of inhabitants	Independent candidates and non-partisan lists in 1994	Independent candidates and non-partisan lists in 1998	Independent candidates and non-partisan lists in 2002	Independent candidates and non-partisan lists in 2006
To 3,000	18.0	-	21.4	30.8
3,001-5,000	11.7	14.2	19.8	20.7
5,001-10,000	13.1	14.7	17.8	18.3
10,001-15,000	8.8	13.6	21.0	14.3
15,001-20,000	7.2	6.2	11.2	10.6
20,001-30,000	9.7	5.7	5.7	11.7
30,001-100,000	9.3	11.0	26.9	15.5
Above 100,000	7.9	8.0	15.4	32.0
Total Slovenia	**9.5**	**11.7**	**17.1**	**21.4**

Sources: State Electoral Commission and data from the Statistical Office of the Republic of Slovenia, available at http://www.stat.si/pxweb/Database/Splosno/Splosno.asp#06 (August 2009).

Table 6: Shares of electoral votes for major political parties and independent candidates and non-partisan lists with regard to the size of a municipality at the local elections in 2002 and 2006* (in percent)

Size of municipality with regard to the number of inhabitants	LDS 2002	LDS 2006	SPP 2002	SPP 2006	ULSD 2002	SD 2006	Indep. and non-partisan total 2002	Indep. and non-partisan total2006	SDP 2002	SDP 2006	NS 2002	NS 2006	DPP 2002	DPP 2006
To 3,000	19.1	11.1	23.9	17.2	3.8	6.3	21.4	30.8	12.8	15.9	6,6	9,7	1,3	3,5
3,001-5,000	19.9	15.0	14.9	12.8	8.0	11.0	20.2	20.7	13.1	19.0	9,9	8,6	5,2	5,4
5,001-10,000	21.3	14.0	16.4	15.5	6.8	10.5	13.7	18.3	9.6	18.9	8,2	7,9	4,9	5,4
10,001-15,000	13.8	16.1	6.5	11.3	6.2	11.6	13.6	14.3	6.7	17.5	4,6	7,5	3,4	7,0
15,001-20,000	25.7	20.2	9.6	7.6	10.0	14.3	9.0	10.6	16.2	18.6	9,1	5,6	5,2	5,1
20,001-30,000	25.7	18.2	11.2	11.8	10.2	13.1	6.5	11.7	14.8	21.0	9,8	6,5	6,3	6,4
30,001-100,000	21.6	15.7	5.4	6.1	14.5	16.1	26.1	15.5	9.0	14.3	6,1	5,0	5,0	4,8
Above 100,000	24.5	9.9	4.4	4.4	13.1	10.6	16.7	32.0	11.9	14.0	5,6	3,5	5,9	4,4
Total Slovenia	**23.3**	**14.2**	**10.9**	**10.5**	**10.3**	**11.1**	**17.1**	**21.4**	**12.6**	**16.9**	**8,2**	**6,8**	**5,0**	**4,9**

Legend: Liberal Democracy of Slovenia (LDS); Slovenian People's Party (SPP); Slovenian Democratic Party (SDP); New Slovenia – Christian People's Party (NS); United List of Social Democrats (ULSD) / new name Social Democrats (SD); Democratic Party of Pensioners (DPP).
** Data from the Statistical Office of the Republic of Slovenia, available at http://www.stat.si/pxweb/Database/Splosno/Splosno.asp#06 (August 2009).*

[15] For the local elections in 2002 in the city municipality of Murska Sobota, for instance, there was only one independent candidate, in the city municipality of Velenje only five independent candidates (Savec 2002).

3. (Un)Successfulness Of Local And Regional Political Parties At The Local Elections In 2002 And 2006

The Republic of Slovenia has no special electoral rules for political parties at the national level and political parties at the local level. When fulfilling their electoral functions all registered political parties are totally equal.

Table 7: The activity of local and regional political parties at local elections to municipal councils in 2002 and 2006 (in percent)

Registered political party	Local elections 2002 Candidacies	Local elections 2002 Elected candidates	Local elections 2006 Candidacies	Local elections 2006 Elected candidates
Union for Primorska	51 (19)	26 (16)	330 (20)	16 (12)
Union for the Progress of the Radeče Municipality	16 (1)	3 (1)	16 (1)	3 (1)
Provincial Party of Štajerska	43 (1)	-	-	-
Democratic Assembly of Istria	33 (2)	-	36 (3)	-
List for the Municipality of Miklavž na DP	16 (1)	3 (1)		
Koper is Ours*	-	-	30 (1)	19 (1)
Izola is Ours	-	-	20 (1)	7 (1)
Piran is Ours	-	-	22 (1)	6 (1)
List for Clean Drinking Water*	-	-	54 (7)	2 (2)
Ljubljana, My City	-	-	45 (1)	-
Independent Party of Štajerska	-	-	59 (3)	-
Union for Dolenjska	-	-	29 (1)	5 (1)
Youth for the Izola Municipality	-	-	17 (1)	1 (1)
Independent List Zarja (Sežana Municipality)	-	-	20 (1)	1 (1)
Youth Union of Posavje (Sevnica Municipality)	-	-	19 (1)	1 (1)
Party for Working Places (Celje and Štore municipalities)	-	-	47 (2)	3 (2)
TOTAL NUMBER OF CANDIDATES OF LOCAL/REGIONAL POLITICAL PARTIES	**159**	**32**	**744**	**64**
TOTAL NUMBER OF ALL CANDIDATES IN SLOVENIA	**23,426**	**3,231**	**26,721**	**3,386**

** Already participated at previous local elections, but as a non-partisan list.*
The first figure shows the number of candidacies or elected candidates, while the figure in parentheses shows the number of municipalities in which a political party has put forward candidacies or had at least one municipal councillor elected.
Source: State Electoral Commission.

On 10 December 2008 58 political parties were listed on the register of political parties publicly available at the portal of the Ministry of the Interior.[16] Nineteen political parties have a strong local or regional context of activity; seven of them can be identified as "regional" political parties[18] (the Provincial Party of Štajerska, the Independent Party of Štajerska, the Youth Union of Posavje, the Democratic Assembly of Istria, Primorska is Ours, the Union for Primorska and the Union for Dolenjska), as their activity is limited to a particular Slovenian region. The activities of 12 political parties are more or less limited to the environment of one or a very limited number of municipalities.[17]
What is also interesting, although for experts on electoral systems and the specifics of Slovenian local elections perhaps not surprising, is the fact that regional and local political parties are much more successful at elections to the municipal council than at mayoral elections. At the local elections in 2002 regional and local political parties together put forward 159 candidacies for municipal councillors (0.68 percent of total candidacies in Slovenia); among those, only 32 candidates were actually elected (0.99 percent of the total in Slovenia). Together, at the same time the same political parties had nine candidates for mayors, but only a single candidate succeeded.

Before the local elections in 2006 several non-partisan lists that had with more or less success appeared at previous local elections became registered as political parties (Koper is Ours, List for Clean Drinking Water in Ljubljana etc.); at the same time, new political parties with a distinct local focus appeared (Izola is Ours, Piran is Ours, Ljubljana My City etc.).

At the local elections in 2006 – as Table 7 shows – one could witness a distinct increase in the number of registered political parties with a local or regional focus of activity, as 14 of them had candidates in at least one Slovenian municipality (compared to only five such parties at the previous local elections in 2002). As we can see, the majority of local and regional political parties had candidates in only one municipality. Together, local and regional parties put 744 candidates forward for municipal councils (2.78 percent of all candidates in all Slovenian municipalities), among which 64 candidates actually succeeded (1.89 percent of all elected municipal councillors). When comparing the 2006 local elections with the 2002 local elections, we can notice: a) the greater success of local and regional political parties in lodging candidatures (four times more candidates than at the 2002 local elections); as well as b) greater electoral efficiency because twice as many candidates were elected compared with the previous local elections. But little had changed when we talk about the mayoral elections; despite a higher number of candidacies (18) only three mayors in the Primorska region were elected (in Koper, Izola and Piran), and even those successes can be attributed to a very specific situation concerning a former non-partisan list and the current political party Koper is Ours.

We can conclude our short analysis of the (un)successfulness of local and regional political parties in Slovenia with the finding that prior to the local elections in 2006 several former non-partisan lists decided to formally register as a political party. At the local elections in 2006 local and regional political parties achieved better electoral results than at the previous local elections, which is

[16] Registered political parties in Slovenia, Ministry of the Interior, available at http://www.mnz.si (5 August 2009).
[17] Of these the most notorious is Koper is Ours, which has before its registration in 2006 had already been quite successful as a non-partisan local list at the local elections in 2002 in the city municipality of Koper.
[18] In our analysis, we have only included officially registered political parties, but not the various non-partisan lists.

especially true of elections to municipal councils and much less for mayoral elections. However, in order to confidently declare any trend we must wait until the next local elections in 2010.

4. Why Are Independent Candidates And Non-partisan Lists Successful?

When considering all of the local elections held so far in the country we face the inevitable question of why are non-partisan lists and independent candidates (increasingly) successful. On the basis of ongoing debates and empirical research projects we can assert that the phenomenon of the relative success of non-partisan lists and independent candidates at the local level has at least three origins.

First, at the national level independent, non-partisan candidates have literally no chance of being elected to the national parliament due to the existing electoral system and the explicitly emphasised role of political parties. Accordingly, their only viable option for successfully realising their passive suffrage is to stand as candidates at local elections. There the majority electoral system, which is used for mayoral elections and elections of the municipal council in small municipalities, is more supportive of non-partisan lists and independent candidates than the proportional electoral system applied at parliamentary elections or the municipal council elections of bigger municipalities. Yet, notwithstanding this and despite the proportional electoral system we can already see that especially non-partisan lists are gaining ground in bigger municipalities and even the big cities.

Second, one can detect in Slovenia a strong tradition of non-partisanship or, in other words, Slovenian political parties constantly attract some sort of distrust or criticism (Lukšič 1994). While Slovenian public opinion is clearly not in favour of political parties, it is also true that levels of trust in political parties are less than in other political institutions.

Finally, local elections are also more suitable for realising the passive suffrage of independent, non-partisan candidates due to their narrower scope. Namely, at local elections voters choose candidates who come from the same place they themselves originate from and live in and so party allegiance does not play as important a role as it does on the national level. It is often the case that voters know the candidates personally, especially in very small municipalities. The candidacy and election of someone not linked to a party can contribute to local inhabitants' perception that in their own municipality they actually can exercise their right to local self-government, as guaranteed by Article 9 of the Slovenian Constitution. The analysis of electoral results at local elections indicates the relative improvement of political parties' results with an increase in the size of a municipality but, despite this, in bigger municipalities non-partisan lists and independent candidates are also at least equally successful as political parties.

When comprehensively analysing local elections one should not forget another crucial issue, namely, the problem of the actual independence of candidates or the non-partisanship of non-partisan lists. We have clearly found that the trends at Slovenian local elections have been and still are in favour of independent candidates, which is peculiarly true of mayoral elections.

For the average Slovenian voter, a candidate's independence as one of their key qualities is their second most important quality, immediately after their previous experience[19]. Further, the average voter puts a candidate's independence in front of their affiliation to a political party and in front of personal familiarity with a candidate. In comparison with parliamentary elections, at local elections a candidate's party affiliation is far less important to the average voter.[20] It is obvious that on the local level there must be a ubiquitous anti-party frame of mind which is ultimately verified when looking at the results of numerous public opinion polls.[21]

On the other side, it is particularly interesting to consider the actual independence of many so-called independent candidates. If we only take the mayoral elections in 2002 and 2006 into consideration, when 60 and 66 independent mayors were elected, respectively, and we simply superficially browse though the list of names of the elected mayors we can easily find names that are not only clearly (known) members of a major political party, but also current or former members of the national parliament, who were elected on a list of the most important political parties in the country. This simple, non-scientific finding should by itself be sufficient to allow some doubt in the true independence and anti-partisanship of several of these elected officials.

Or, to highlight two older statements by Ogris (1926: 60): »who has a program that is in any way, even in the requirement of non-partisanship, distinguished from the programs of others, that one is eo ipso already partisan, even if they are not organised in any political form. Such a person cannot judge others from the non-partisan point of view…« and Gramsci (1977: 1573) »in a certain society no one is disorganised and without a political party,…, parties can act under different names and labels, even as »anti-parties« but, in reality, even so-called individuals are actually people-parties, they only want to be party leaders in acknowledgement of God and of the imbecility of those following them«.

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[19] Question 3.20: »How important for you are the following characteristics of individual candidates when deciding at local elections? For each statement choose a figure between 1 and 5, where 1 means it is not important at all, and 5 means it is essential.« The average values of the answers were: a) affiliation to a political party 2.90; b) political experience 3.90; c) gender of the candidate 1.78; d) I know the candidate personally 2.56; and e) independence of the candidate 3.23. N=1093 (source: Research project "Viewpoints on local democracy". Ljubljana: Centre for Political Science Research, Faculty of Social Sciences, 2003).

[20] Question 3.21: »Is the party affiliation of a candidate more important for you at parliamentary or local elections?' Scores of answers: it is more important at parliamentary elections (26.2%); it is equally (in)significant at both elections (49.9%); it is more important at local elections (6.8%); do not know, cannot decide (17.2%). N=1093 (source: Research project "Viewpoints on local democracy". Ljubljana: Centre for Political Science Research, Faculty of Social Sciences, 2003).

[21] For instance, the research project 'Viewpoints on local democracy' (2003), question 3.40: »Who do you trust most in your municipality?« Scores of answers: the mayor (45.5%); the municipal council (21.5%); the municipal administration (5.0%); political parties (2.7%); do not know (25.2%). N=1,093.

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European Rules as 'Law of the Land'? Towards Optimalisation of EU Member State Compliance

- *Henri de Waele**

ABSTRACT

This paper deals with Member State compliance with EU rules, and explores how current structures and practises may be transformed and adapted so as to arrive at a situation where optimal effectiveness is ensured. It hereby differentiates between the various layers of public authority, and devotes special attention to two topics: a novel Dutch legal framework that strengthens the control of central government vis-à-vis subnational actors, and private enforcement as a means to greater rule observance. Lastly, it points to a number of negative ramifications of the dominant vision on the duties of Member States, and makes a case for a small but subtle paradigmatic shift: if EU rules are truly to be recognised as 'law of the land', there should remain room for 'diversity in unity' in their application, and for a broad representation of the interests of the many, instead of just the subjective interests of the few.

Keywords: Compliance; European Union law; Implementation; European integration; Europeanisation; Optimalisation

Introduction

For many lawyers, politicians and policy officials in the European Union, it has always remained a glorious pipe dream to achieve and maintain a maximal effectiveness of all the rules adopted. In accordance with United States' constitutional terminology, this would denote a situation in which the laws and principles originating from the EU are no longer considered foreign and external to the national legal systems, but are regarded everywhere as part of 'the law of the land'. Such a situation, in which Member State compliance is both optimal and natural, has remained a desideratum up to the present day, however utopian it may have seemed from the outset.

In the meanwhile, an abundant literature on compliance has been steadily amassing. Especially in the past decade, scholars have been hyperactive in researching, proving and disproving the relevance of numerous parameters believed or alleged to influence Member State practises, implementation strategies, and the success ratio of various types of

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EU rules (for overviews, see Mastenbroek 2005; Sverdrup 2007; Treib 2008). Yet, studies on the general prerequisites and facilitating factors for successful compliance in abstracto have so far not been conducted. Moreover, the research up until now has had but two main focal points, namely 1) the transposition, implementation and execution of EU rules (treaty provisions, directives etc.), and 2) the practise of national and European administrative bodies, such as the Commission and governmental departments, decentralised offices and (quasi-)autonomous entities. By consequence, the literature at present is replete with black holes on at least two counts: first, as regards studies on the actual enforcement of EU rules, the application thereof 'on the ground', in everyday reality – despite recent calls to broaden our view and incorporate this dimension in future research (e.g. Treib 2008: 18-19; but see Versluis 2007). Second, too little is known about the conduct of the judiciary, i.e. the state of compliance with EU rules by judicial bodies, the third and supposedly 'least dangerous branch' of government (Bickel 1962). The latter gap may be due to the fact that legal scholars, after a relatively strong presence at the birth of this field of research (e.g. Krislov et. al. 1986; Snyder 1993; Weiler 1994) appear to have withdrawn in the mid-1990s, and chiefly left the debate to political scientist and students of public administration.

The present article, written from a lawyer's perspective, is a first attempt at overcoming the current dearth: by taking a comprehensive view on what constitutes a member state, encompassing all three governmental powers (legislative, executive, judicial), and also, by considering compliance as both process and output, from the adoption of the rules concerned, up to and including their factual application and enforcement. Nonetheless, the author considers as the main void to be filled an outlining of the route towards optimalisation, leaving empirical issues aside for now, and bypassing the (unresolved as ever) debate on what the decisive factor(s) might be that trigger, tempt or induce Member State authorities to comply. This approach is, to a great extent, predicated upon the author's conviction that it may well be impossible to locate the 'holy grail' and conclude that particular debate once and for all, at least on short notice. Said 'grail' might not even exist at all: for all we know now, compliance may well come down to an inchoate multitude of factors, factors which are so random and so reliant on time, space and context that it is impossible to make sound inferences valid for all other situations. This supposition is strengthened by the fact that the accession of new EU members in 2004 and 2007, rather than bringing us closer to uncovering the true and universal parameters at play, has shed less light than was originally hoped for, as evident from the clashing assertions in the recently published research concentrated on the performance of the EU-10 and EU-2 (contrast e.g. Sedelmeier 2006 and Toshkov 2008 on the one hand with Falkner & Treib 2008 on the other).

In what follows, we shall first clarify a number of terminological and methodological issues, inter alia the notion of effectiveness, the constitutive elements of compliance, the EU rules and instruments concerned, and the various actors at play. Next, we shall discuss the main sticking points encountered in earlier scholarship on compliance, and canvass the present knowns and unknowns in the field. Hereafter, we will look at the avenues and opportunities for optimalisation, addressing the

main layers of authority and various branches of government in the Member States in successive order. The outmoded unitary actor approach, though still adhered to by some theorists of European integration, is thus deliberately left aside. For our purposes, it is decidedly unhelpful at any rate to regard Member States as monolithic structures, and cling to the highly fictitious idea that they possess a single drive and mindset.

During our exploration of the possibilities for optimalisation, several improvements and modifications will be suggested. Hereby, two specific topics will receive separate attention, namely a new Dutch legal framework aimed at ensuring compliance with European law by decentralised public bodies, and also, the highly topical issue of private enforcement of EU law. In the final paragraph of this paper, some limitations and negative aspects of the pursuit of optimal compliance will be sketched. Particularly, the dominant approach in the EU as regards ensuring full effectiveness will be critiqued, arguing that this approach may have many more detrimental and counterproductive effects than is commonly acknowledged.

Booting Up: Some Terminological And Methodological Issues

Effectiveness

What is meant by the term 'effectiveness' with regard to legal rules? The celebrated scholar Francis Snyder has taken it to mean the fact that 'law matters', that 'it has effects on political, economic and social life outside the law, apart from simply the elaboration of legal doctrine' (Snyder 1990:3). In the 'real world' under consideration here, that of the European Union, we may distinguish between several types of effectiveness, such as the enactment of EU policy into legislation by the European institutions, the execution of EU regulations by the Member States, the transposition of EU directives into domestic law; recourse to litigation in national courts on the basis of EU rules, or the use of EU law by economic undertakings, other organisations and individuals, in the sense, following Max Weber, that they orient their behaviour in relation to European law (cf. Rheinstein 1966:3-5).

As such, effectiveness is an issue of public policy, but it is an issue which is certainly not unique to the EU and common to most contemporary states. A main cause of ineffectiveness is generally found to be the tension (perennial, but only properly acknowledged in the modern age) between centralised steering and decentralised action (see e.g. Teubner 1983; Handler 1986). In the EU, this tension was thought to be mitigated by the principle of 'institutional autonomy', entailing that European law is principally applied and enforced through national regulatory frameworks, with only a residual role for supranational supervision, monitoring and control mechanisms. Thus, in the system of shared administration that characterises the integrated European legal order, the primary responsibility for law observance lies with the Member States themselves (Jans et al. 2007:200; see also Rideau 1985:864; Treib 2008:5). In this respect, the European multi-level system resembles the German system of co-operative federalism, in which federal legislation is carried out by the administrations of the Länder, much more than the US model of dual federalism, where each level has its own bureaucracy to put the respective laws into practise (Scharpf 1988). This absence of a strictly hierarchical, command-and-control type of relationship is thought to be beneficial to the EU rules' effects on political, economic and social life, as in the application of these rules, a considerable amount of flexibility is retained. Simultaneously, this does place a greater strain on a member state's

scarce resources, which are distributed unequally across the EU, and often even unequally distributed within a single country (Shapiro 2004:255-7).

Compliance

The concept of 'compliance' is closely related to the notion of effectiveness, and denotes a state of conformity or identity between an actor's behaviour and a specified rule (Raustiala and Slaughter 2002: 539). Thus, the compliance perspective also starts from a given norm and asks whether the addressees thereof actually conform to it (Treib 2008:4). Compliance aims at achieving effectiveness. Effectiveness may however also exist without compliance proper, for example, if a practice already happens to be in conformity with what a norm requires.

The general rule on compliance in EU law is that a Member State is accountable for any deficiency or negligence, at whatever level of government it may lay. Thus, it may not plead its internal, decentralised or functional devolution of power so as to escape the obligations incumbent upon it with regard to the application and enforcement of European norms and instruments (EU Treaty: Article 4; ECJ, Konle v Österreich, 1999, and Commission v Italy, 2002, amongst others). Under limited circumstances however, non-compliance may be tolerated: in those rare situations in which there exists an 'absolute impossibility' to meet the goals of the European rule concerned, in particular due to technical reasons (ECJ: Blackpool, 1993), when the European rules themselves allow for derogations (e.g. Directive 91/689, article 7: "In cases of emergency or grave danger, Member States shall take all necessary steps, including, where appropriate, temporary derogations from this Directive, to ensure that hazardous waste is so dealt with as not to constitute a threat to the population or the environment"), or when non-compliance can be justified on exceptional grounds corresponding to a general interest that is superior to the general interest represented by the European rule (ECJ: Leybucht, 1989).

Non-compliance

Compliance constitutes a major challenge to Member States. The fact that they are bound to transpose directives entails that they may not fail to enact the transposing legislation, neither transpose a directive inadequately, partially or untimely. On the other hand, uniform application requires some real dedication from national administrations, courts and potential litigators, and can be hampered or facilitated by parameters inherent to the particular political system or culture. Thus, non-compliance can occur all too easily, and takes various forms. Krislov et al. identified numerous different manifestations, including lack of implementation, lack of application, lack of enforcement, pre- and post-litigation non-compliance, defiance and evasion (Krislov et al. 1986:61 ff.). Their taxonomy is however rather murky, and their distinction between the various types is far from clear-cut. It would seem more useful to focus on the various stages following the adoption of a (new) European rule, wherewith the myriad of possibilities for failure and deficiency may emerge to the fullest extent.

What may be dubbed the 'implementation trajectory' can be broken down into four phases (Jans et al. 1999:32 ff.): transposition (obligatory in case of EU directives, illegal as regards EU regulations and decisions); operationalisation (the designation of competent authorities and entrusting these with the execution, application and enforcement); application (putting the new rules in practise, outlining and/or updating possible internal

policy guidelines); and finally, enforcement (monitoring transgressions and sanctioning transgressors). In each of these stages, the conduct of the responsible authority can be tardy, incomplete, or partially or wholly incorrect. Non-compliance by national courts can take the specific forms of delay, evasion or (partial) non-application of rules and precedents. Volcansek has brought further refinement to the latter analysis by distinguishing accidental malpractice from more deliberate defiance (Volcansek 1986:8-9).

Actors

As indicated already above, an equally wide-ranging list could be drawn up of all actors involved in the successfully completion of the implementation trajectory in a given Member State. Nonetheless, the most relevant players at differing levels of public authority have come to be well established. Scurrying through the classic branches of government, it concerns the legislature, the executive and the judiciary. Typically though, legislative, executive and administrative offices and bodies may be found at more than one layer (especially in federal states) and subdivided further into central and decentralised ones. Effectiveness of EU law is then only guaranteed if all of these function within normal parameters, and operate in tandem where necessary. Further below, we shall address these in close succession, exploring existing obstacles and bottlenecks and outlining possible routes towards optimalisation.

Rules

Finally, there are the types of rules adopted on the European plane that Member States have to comply with. As touched upon already, EU regulations and decisions 'merely' require execution, application or enforcement, and the same holds true for certain provisions in the European treaties themselves. Directives also demand transposing legislation. All of these rules may be 'directly effective', meaning that they can be invoked before national courts of law, albeit not 'horizontally', i.e. between individuals, where directives are concerned (ECJ: Marshall, 1986; Faccini Dori, 1994). Yet, only few rules in the treaties enjoy such effect, though there are many certified cases of the (more common) 'vertical' direct effect, i.e. that the provisions may always be relied upon in court against public authorities.

There exists, moreover, the nebulous category of 'soft-law', policy instruments lacking officially binding status, which are employed ever more frequently in the past decade and appear to be incrementally gaining in legal stature (Senden 2004; Senden 2005). Nonetheless, one encounters such great diversity here that no inferences can be made on their general implications and as regards the obligations they impose. The treaties also remain completely silent on the issue.

Lastly, there are the orders and judgments of the EU courts (the European Court of Justice, the General Court, the Civil Service Tribunal) that should be adhered to. Although a system of precedent did not exist originally and officially still does not exist today, ECJ case-law has successfully set an evolution into this direction in motion, and EU courts' pronouncements are nowadays regarded as binding precedents by most national judges (Craig and De Búrca 2008:467-474).

Compliance: Knowns And Unknowns

Compliance is officially monitored by the European Commission, which, since 1997, annually draws up

Internal Market Scoreboards (e.g. European Commission 2009). It may also investigate and pursue possible situations of non-compliance through the so-called infraction procedure, contained in Articles 258-260 of the Treaty on the Functioning of the Union (formerly Articles 226-228 of the EC Treaty). It may do so either of its own motion, on the basis of a complaint from individuals, or following information submitted by Member States or Members of the European Parliament. Owing to these monitoring and verification mechanisms, much statistical information on infringements of EU law by Member State has become available, but unfortunately, these overall give only a limited view of the actual state of affairs. Infringements unnoticed by and/or not brought to the attention of the Commission do not appear in the official figures. Furthermore, the Commission enjoys discretion as regards the formal instigation of proceedings, and it may refrain from doing so at any given time. By consequence, as regards the factual state of compliance, the 'unknowns' still appear to greatly outnumber the 'knowns', and the evidence in figures is sketchy at best.

Many theorists on compliance have nonetheless sought recourse to the statistics on infraction procedures and drawn far-reaching conclusions on the basis of official data on non-transposition and subsequent court cases (e.g. Mendrinou 1996; Ciavarini Azzi 2000; Börzel 2001; Tallberg 2002; Beach 2005). More realism is displayed by Falkner et al. (2005:18), who assert that 'Commission statistics (…) only represent the bit of non-compliance the Commission can see and wants to publicise'. Mastenbroek too has rightly criticised the research as revealing only the 'tip of the iceberg' (Mastenbroek 2005:1115), and Treib has estimated that scholars concentrating solely on transposition rates and notification data may be turning a blind eye to some 40 percent of all actual cases of non-compliance (Treib 2008:16). In all, nobody knows the true size of the compliance deficit, and more systematic research on the actual level of non-compliance is to be welcomed (Falkner et al. 2005:18).

Unfortunately, there has yet to emerge a methodological consensus on how compliance can best be measured. Some prefer a qualitative approach, focusing on a small number of directives in a single policy field and studying compliance in a select number of Member States. Others engage in quantitative studies, comparing compliance across countries and policy sectors. The involvement of both too many and too few EU legal instruments hampers the possibility to draw general conclusions – yet, what number of instruments would be 'about right' to focus on is unclear. In all likelihood, cross-sectoral studies are much more helpful than single-sector ones, but each sector is characterised by its own idiosyncrasies, and it remains tricky to pick out those sectors that are truly suitable to be compared. By consequence, theories on compliance developed so far have turned out to be 'sometimes true theories' at most (Falkner et al. 2007), valid for some countries, but certainly not for all. The empirical results do however convincingly show that there are huge inter-country disparities, but that strong similarities exist nonetheless among (members of) different groups of countries. Falkner and Treib (2008) have distinguished four 'world of compliance': the world of law observance (predominated by a culture of respect for the rule of law), the world of neglect (where such a culture is absent), the world of domestic politics (where political preferences of government parties and other powerful players determine compliance) and the world of dead letters (where obligations are met on paper, but not put into actual practice).

The certainties are thus few and far between. The size of the compliance deficit and the correct methodology with which it could be assessed

currently belong to the category of the unknowns. The knowns are that there exists a compliance deficit, and that several patterns of compliance persist among the Member States. Since every legal system is familiar with the gap between the law in the books and the law in action in every legal system, there is no greater cause for concern here than elsewhere: long delays and attempts at shirking the rules are a matter of everyday business (Treib 2008:5). As Snyder asserted, it would be rather more remarkable if, in this respect, the EU would be any different from other legal systems (Snyder 1993:26). This is not to say however that no efforts should be made to minimise the discrepancy, and to tackle those problems and obstacles that are capable of being overcome. This is the focal point of the next section of this paper, where, drawing from previous research, and in an attempt to fill a vexing lacuna in compliance literature, improvements of current structures and practises and specific strategies towards optimalisation will be outlined. As announced, in line with earlier suggestions not to overemphasise formal transposition data and statistics and neglect the side of actual application and enforcement, we shall take all stages of the implementation trajectory into account (although through the prism of optimalisation and not to investigate empirical claims). Also, as said, one cannot fail to acknowledge that the different stages involve different actors; by studying these at multiple levels, we will move beyond simplistic causal models, highlighting and unravelling the complex web of administrative, institutional and actor-based factors that determine the success of certain EU rules and the lack of success of others' (Falkner et al. 2002; 2004). Finally, also in contrast with earlier research, we shall also incorporate the perspectives of the judiciary, and address the issue of compliance by national courts. It was already recommended more than a decade ago to point out those inadequacies that can at least be partially resolved or closed (Snyder 1993:26). Thereby, one simultaneously sheds light on why these defects exist. For public officials, building on this analysis, it should prove possible to stimulate a further aligning of the various worlds of compliance, in spite of the cultural variables that are specific to a country or group of countries and may justifiably be considered immutable. In so doing, more counterweight would be given to those states profiting from suboptimal control and enforcement structures on the side of the EU bodies and institutions.

Towards Optimalisation

Legislative Offices

Despite the clear obligations imposed by EU law on any national office not to act contrary to European rules and objectives (EU Treaty: Article 4; ECJ: Simmenthal, 1977), from an internal perspective, official law-makers still enjoy a free rein to engage in such transgressions, as long as no clear national rules and principles stand in their way. For this reason, the insertion of so-called 'Europe-clauses' in national constitutions is a practise to be encouraged; for entrenching references to European law in the charter that ranks as the highest piece of legislation in a country, ensures that the possible (in)validity of (proposed) legislation is not just considered in light of domestic practises and provisions. Experiences in Belgium and Italy have demonstrated that whenever the membership of the EU and the incumbent responsibilities are 'constitutionalised', the chances decrease for the future that contravening rules of national laws are adopted (Vandamme 2008; Rossi 2009). Exceptions to this rule do exist, most notably in the Netherlands, a country characterised by an extreme openness to European law, despite the absence of any explicit reference thereto in the Dutch 'grondwet' (basic law) (see e.g. Claes and De Witte 1998). Nonetheless, a solid anchoring of EU tasks and exigencies in national (constitutional) law

surely facilitates their being lived up to. The big boon thereof would be that legislative offices are no longer able to ignore them at their discretion; henceforth, such would entail a violation of domestic law (obligations that have been enshrined in the highest law of the land) as well. This also increases a sense of 'co-ownership' of particular norm conflicts, which may spur the drive towards their resolution.

A second important element concerns knowledge distribution and adequate information management. Of course, the individual members of governments and parliaments must remain highly vigilant themselves, but they should be kept abreast of novel EU rules and policies by others as well. The responsibilities and duties of EU bodies in this regard have been enshrined in the European treaties long ago, and the system is further enhanced by the new 'early warning system' that the Lisbon Treaty provides for (see Protocol Nr. 1 'On the Role of National Parliaments in the European Union, and Protocol Nr. 2 'On the Application of the Principles of the Subsidiarity and Proportionality', annexed to the newly consolidated EU Treaties). Preferably then, the awareness among staff officials in national legislative branches of possible European dimensions to the issues to be addressed is at maximum level. This entails first of all that their permanent education and training include modules on EU law and policy. Special attention for (obtaining) such awareness could also be incorporated in the standard recruitment and human resource policy.

Next, the forming and expansion of networks of law-making experts (already existent in some fields, e.g. IMPEL for the environment) is highly desirable, offering a broad forum and direct contacts for exchanging best practises (cf. De Visser 2009). Such initiatives already received the thumbs-up long ago, and the subsequent processes have been described as bureaucratic interpenetration, structural coupling or inter-organisatorial exchange (Levine and White 1961). Finally, all relevant data resources should be generally accessible and fully kept up-to-date. All pointers, guidelines and benchmarks for (future) national legislation supplied by the various EU institutions, agencies and bodies should thus be immediately disseminated and followed-up upon, which requires permanent vigilance at the departments concerned with drafting, attending and revising legislation. Because of the widespread availability, affordability and sophistication of modern information and communication technologies, there is no excuse anymore for public sector organisations not establishing the necessary internal linkages or ensuring the proper knowledge infrastructure. Some Member States have rushed ahead in impressive fashion, enabling jurists to tap into splendid data resources, provided for by dedicated agencies set up to transmit specific EU law expertise (e.g. 'Europa Decentraal' in the Netherlands, a knowledge and training centre that aims to supply decentralised authorities with know-how).

Executive and Administrative Bodies

Much of what has been said just now in relation to legislative offices can be repeated when it comes to national executive and administrative bodies. Particularly, the quality of the training of civil servants and the range of resources at their disposal is of crucial significance for (improving) the compliance ratio. Likewise, structural transnational cooperation between administrative and executive bodies, both on the horizontal (= between Member States) and the vertical plane (= between Member States and EU authorities), could guarantee that more and more potential infringements of EU law are staved off (Jans et al. 2007:222). In eurospeak, it

is common to refer to the term of parténariat, partnership, in this context (Snyder 1993:36). Again, many of such linkages are already up and running (e.g. EUROPOL and EUROJUST as networks for police and judicial cooperation, as well as various other EU agencies dealing with e.g. food safety, trademarks and designs, transport, chemicals and fundamental rights). Dialogues with Member States are undertaken in the preparation of transposing legislation, and 'sectoral' or 'package meetings' also occur regularly, scheduled encounters between Commission and national officials to review progress in the application of directives and other secondary law instruments. Reciprocal staff exchanges also take place.

In the executive and administrative domain, quite a lot then has already been achieved. We have witnessed the creation of special bodies dealing with EU issues, and of special sections within existing departments. Thus, for example in the United Kingdom, trusted quantities such as the Ministry for Agriculture and Fisheries, the Department of Customs and Excise and of Trade and Industry underwent spectacular transformations already in the mid-1970s (Bender 1991:13). Other illustrious precedents, extremely instructive for the newly acceded EU Member States, are the secretariat general du comité interministeriél pour les questions de co-opération économique européenne in France (see Meny 1988:285-294; in 2005, it was finally transformed into the secrétariat général des affaires européennes) and the dipartimento per il coordinamento delle politiche comunitarie in Italy (see Chiti 1989:90). Much however remains to be done, even in the 'old' EU-15. Especially for federal or decentralised Member States, the prior suggestions could yet prove inadequate, and not even a rock-solid entrenchment of EU commitments in the basic law may suffice there to optimise the daily dealings of a plethora of executive and administrative bodies at the various levels of government. Arguably, following an old Dutch maxim that 'it is good to trust a person, but better to keep him under close control', the installation of a more rigid legal framework would produce better results still. This is at least the choice that has been made recently in the Netherlands' decentralised system of governance, with the launch of the 'wet NErpe'.

o *Leading by Example: The Dutch NErpe*

Translated into English, the Dutch abbreviation 'NErpe' stands for 'compliance with European rules by public entities' (Naleving Europese regels door publieke entiteiten). The proposed law, expected to enter into force in early 2010, has to be read to the background of the rather dire Dutch compliance record, as well as the imminent challenges presented by the (in)famous Services Directive of the EU (see e.g. Barnard 2008; De Waele 2009). The objective of the NErpe is to strengthen the hold of the central authorities in The Hague over all other public sector actors that are involved, at any stage, in the implementation trajectory of European rules. In case of deficiencies, whether deliberate or inadvertent, it provides for a capacious tool-box that enables a swift (though fairly authoritarian) form of resolution. The general practise will be that a cabinet minister, sometimes after conferral with one of this equals at a different department, issues a binding instruction to the public entity concerned when it does not live up to its EU law obligations, or when it does so untimely. The entity concerned may explain itself and give its views on the matter, but if it fails to convince and the instruction is still not complied with within the time-limit specified, the required remedy shall be put in place immediately on the order of the central government (Articles 2 and 5).

The NErpe was designed with a special view to the sectors of state aid and public procurement, where substantial financial interests are involved, and the Dutch record is rather unimpressive, to say the least (Telgen 2004). Member States will, as explained above, be continually held accountable for any mishaps nonetheless, even if attributable to quasi-autonomous governmental bodies. The NErpe will however fulfil a particularly important role in guaranteeing the proper observance of the Services Directive. This EU instrument, which was to be fully implemented by the end of 2009, requires that the entire public sector of a Member State verify whether existing, new or modified national rules are in accordance with the provisions of the Directive, and send notifications thereof to the European Commission. The bureaucratic impact of this Herculean exercise has opened up the floor for manifold violations of European rules, even if purely accidental, on an unprecedented scale (cf. De Waele 2009). The NErpe law may thus be interpreted as the latest of 'damage-control' mechanisms.

The severe impact of direct intervention, subordinating the entity concerned to a higher command, irrespective of competences specifically attributed to it, entails though that it be employed with extreme caution. The law also rules out interference with court practise and correction errors of judges, which appears more than sensible in light of the age-old principle of the separation of powers.

As remarked before, all EU Member States should have the instruments at their disposal that guarantee a situation optimal compliance. The Netherlands already possesses a generic legal framework for supervision and control in inter alia the municipal and provincial law (the 'Gemeentewet' and the 'Provinciewet'), but the NErpe offers an ultimate and extremely powerful means. It could, and perhaps should, be emulated by other Member States. Belgium and Germany already have similar systems in place. In France however, the competences of decentralised authorities have expanded greatly since the 1980s, yet they are merely obliged to inform the central government of important decisions, and there exist only specialised and fairly weak control mechanisms in case of omissions or gross negligence. The same goes mutatis mutandis for Spain, and for the United Kingdom in the post-devolution era. For these and other countries, it is contended that it would be worthwhile to take a pit-stop on the road towards optimalisation, and take a closer look at the merits of the Dutch NErpe.

The Judiciary

As clear as day, to get any closer to a situation of full compliance, the importance of efficient and well co-ordinated administrations can hardly be underestimated (Treib 2008:11). What goes for policy officials and civil servants in the other branches of government, equally holds true then for courts: the awareness among magistrates and legal practitioners of the EU dimension of their work should be maximized (Biondi 2009:225; Prechal 2006:431). The European Parliament has recently called for 'a systematic incorporation of an EU component into the training for, and examinations to enter the judicial professions'; for a 'further strengthening of that component from the earliest possible stage onwards, with an increased focus on practical aspects', and for that component to 'cover methods of interpretation and legal principles which may be unknown to the domestic legal order, but which play an important role in Community law' (European Parliament 2008; see also Working Group 2008:7). Similarly, Prechal has argued for a revision of the place of that subject area in existing law degree programmes (Prechal 2006:433-434). Swifter and easier to achieve would seem to be a greater dissemination of European law knowledge

to those in the field. Of course, they may equally profit from the resources and linkages already referred to above (e.g. services that EUROPOL may render, dedicated agencies like 'Europa Decentraal' in the Netherlands, organisations such as the Association of Councils of State and Supreme Administrative Jurisdictions of the European Union and the Network of Presidents of Supreme Courts). Attention should also be drawn to the Dutch 'Eurinfra'-project, which has resulted in the appointment of resident experts on EU law in all national courts, and an expansion and permanent sedimentation of the necessary resources (Winter 2006; see also Prechal et al. 2005). However, the EU Courts themselves could contribute here as well by drafting US-style 'restatements' of their case-law (complimentary publications that outline the 'state of the art' on a particular topic), preferably handing new versions out on a regular basis.

For the uniform interpretation and effective application of EU law, the pursuit of a continual inter-judicial dialogue between national magistrates would most likely have a favourable impact (cf. Benvenisti & Downs 2009:65-71). Domestic courts are however also expected to cooperate with their EU counterparts, especially through the so-called preliminary references mechanism (Treaty on the Functioning of the EU: Article 267). In the early 1980s however, the EU courts have taken a huge leap of faith, by allowing national courts to resolve disputes on their own without asking for guidance in Luxembourg, as long as the issue is 'manifestly clear' or if the EU courts themselves have already ruled on the issue in a similar case (ECJ: CILFIT, 1981).

It is contended here that national courts would be increasingly good at enforcing Member State compliance if even greater trust was placed in them, which would imply further relaxation of the so-called 'CILFIT-criteria', and greater reticence from the side of the Commission as regards initiating infringement proceedings for deviant court behaviour (cf. ECJ, Commission v Italy, 2004; Commission v Spain, 2009). For arguably, the latter only breeds opposition, and upsets the balance of power in Member States: since the main branches of government cannot freely correct the judiciary, due to the sacrosanct principle of judicial independence, holding these branches liable for judicial acts nonetheless delivers a 'shock to the system' which may result in increased resistance, hostility and non-compliance. The former suggestion, a relaxation of the so-called CILFIT criteria, is nowadays advocated by multiple authors (e.g. Broberg 2008:1390; see also Working Group 2008). This would mean that national courts would be entitled to make even fewer references and only when strictly necessary, thus reducing delay in national court procedures (ordinarily, the preliminary reference procedure takes more than a year before the national court will receive an answer from Luxembourg: see ECJ, Annual Report 2008). In addition, if they then would be able to propose answers themselves to the ECJ when making a reference, the whole process could be considerably sped-up as well (Working Group 2008:7). Of course, this would equally pose the risk of greater non-compliance, rather than the converse situation. Lessons may well be drawn here from Sweden, where stronger motivation requirements were introduced for judges attempting to resolve EU law disputes without making a reference to the European courts (cf. Broberg 2008:1395).

In similar vein, it is perhaps already time to ditch the Köbler-doctrine – though still in its infancy – through which litigants can hold EU Member States liable for any judicial errors related to questions of EU law (ECJ: Köbler, 2004). This newly created remedy could be welcomed for strengthening court compliance, but may equally cause further court-clogging at both national and European courts (Wattel 2004:186). If nevertheless retained, there is

good reason to demand that the ECJ itself render judgments that are clear, understandable, convincing and solidly argued. The Köbler judgment fails to live up to that standard (Wattel 2004:178-182), and the general trend, sadly, appears to be one of decline (Bobek 2008:1639-1640).

o ***Private Enforcement: A Questionable Route?***

Over the past years, the European Commission has presented itself as a zealous proponent of private enforcement of EU legal norms, especially as regards the rules of competition law (European Commission 2005; 2008). National competition authorities can impose penalty payments and (administrative) fines on undertakings violating the competition rules, yet actions for damages brought by private parties before national civil courts are alleged to be just as effective. It is estimated that increased litigation in national courts by individual consumers and undertakings even ensures a better observance of the rules concerned, diminishing the enforcement burden for public authorities. This tactic has been gradually facilitated by the EU Courts, starting in the early 1990s, by enabling private actors to sue negligent Member States for financial compensation (ECJ: Francovich, Brasserie du Pêcheur), progressively moving on in the next ten years, galvanising inter-party litigation (ECJ: Courage v Crehan, 2001; Muñoz, 2002; Manfredi, 2006). Here too, of course, success will depend heavily on the aptitude, training and vigilance of national judges.

A slight hesitancy is however cropping up here, and not wholly unjustifiably. For indeed, if all those negatively affected by non-compliance of others would more quickly take matters into their own hands, compliance would increase, and public enforcement could indeed become largely redundant. This would however reinforce a 'litigation culture' in the EU similar to that in the US, setting an unfamiliar, sparking a more distrustful sentiment in European society. In addition, it should not be forgotten that it is lawyers who benefit mostly from an increase in court cases, whereas after lengthy and costly litigation, client satisfaction is far from assured (cf. Wigger and Nölke 2007). Also, a greater stimulus of private enforcement would result in higher administrative and logistical burdens for the judiciary, which can probably not be easily shouldered in all Member States without extra expenditure. Finally, across the board, a further harmonisation of national procedural law is likely to prove an exigency, leading to a further erosion of Member State autonomy in this particular field (cf. Jans et al. 2007:369-370).

These pitfalls are both real and substantial. Private parties could then in many other ways be induced to live up to EU principles more fully. Targeted communication strategies and specific financial incentives (from the European or national level) may, for instance, stimulate voluntary and more spontaneous observance of the rules in force. After an elaborate and concentrated (inherently moral, though not necessarily moralistic) appeal, transgressors may become more fully aware of the added value for their own conduct of business of full rule observance by others. The Kantian moral imperative could then kick in, bringing us closer to the utopian world of optimal compliance at a much more rapid pace. Thus, though private enforcement holds great promise, there appear to be more serene ways towards attaining the goals pursued.

But Has The Eu Got It Right?

The latter points already shed doubts on some of the overall EU objectives. Even when those concerned would fully commit themselves to all the strategies outlined above, leading eventually to a

world of more perfect Member State compliance, three major limitations and potentially harmful ramifications of said strategies must ultimately not be overlooked.

Firstly, even if Member States are to go 'all the way', a great responsibility continues to lie with EU bodies and agencies as well, and for several years already, the quality of EU governance and legislation has been a subject of hefty debate. When then the rule-making output of the European branches of government is of itself substandard, and when their record is not without fault as regards communicating efficiently and offering full and proper guidance to their national counterparts, the latter surely cannot be held accountable automatically for the occurrence of any non-compliant practises. As indicated, the Commission already stages so-called 'package meetings' with domestic civil servants, where the latter are given room to evaluate on EU rules and comment on their practical applicability, but this amounts at most to curing the symptoms, not the underlying ailments. It is thus essential to come up with clear, well-churned, meticulously drafted EU legislation that links in smoothly with national rules and policies.

Despite the recent disproving of the so-called 'goodness of fit'-hypothesis, which claimed that the successful implementation of European rules is largely determined by pre-existent national laws and attitudes towards EU integration (see Knill and Lenschow 1998; Haverland 2000; Falkner et al. 2005), this does not entail that the quality and acceptability of those rules is completely irrelevant, and it remains advisable to seize each and every opportunity for enhancement in this regard. A similar responsibility falls to dedicated EU agencies and bodies: the more their daily running of business is in shipshape order, the more Member State officials could profit from it. Moreover, a lack of monitoring and surveillance increases the possibilities for abuse, rendering it ever more crucial that an entity like OLAF (Office de la lutte anti-fraude, the Brussels-based anti-fraud watchdog of the EU) performs in accordance with ordinary working parameters (cf. Spiteri 2004). In some areas, EU intervention goes somewhat further, requiring the Member States themselves to set up specialised enforcement agencies. This has been the case in the most fraud-ridden sectors, for example in the olive oil and tobacco industry (see further Jans et al. 2005:221-222). These agencies are in fact testimony of a nearly perfect middle-way approach: though they operate as such under national control, their duties and organisation are largely spelled out by the EU.

A second point to consider here, limiting the purport of what has been remarked so far, is that a situation of full Member State compliance is perhaps of itself an intrinsically misguided objective. Unsettling as this may seem, there is ample evidence to suggest that a demand of faithful and integral rule observance easily turns out to be counterproductive, and actually strengthens latent inclinations for non-compliant behaviour. The well-known Dutch approach of 'gedogen' is a case in point. 'Gedogen' denotes deliberate inaction from the side of public authorities vis-à-vis norm violations, rooted in the idea that certain situations and practises can be better regulated and contained through a non-repressive approach. The typical Netherlands example concerns the national drug policy, which differentiates in the applicable sanction and enforcement system between hard and soft drugs, as well as between the trade, sale, production and consumption phases thereof. Generally, the sale and consumption of limited amounts of soft drugs is condoned, freeing up resources to combat mass-sale and production. International and comparative health surveys have through the years underscored the success of 'gedogen': the figures display a highly favourable

record of the Netherlands concerning addiction and drug abuse, the crime rate is comparatively lower, and the legalisation of specific forms of trade and consumption has allowed for a concentration of limited government means (see EMCDDA 2009).

As seen above, in EU law however, non-compliance may only be tolerated in extremely limited circumstances (see also, recently, ECJ, Commission v Netherlands, 2009). The strong emphasis on effectiveness of European rules at almost any cost appears to leave little room for condoning certain forms of non-compliance. In addition, a gradual shift can be observed in recent years, where the EU institutions have started to move beyond the promotion of administrative sanctions at rule violations, but are moving closer and closer towards obliging a purely punitive approach (ECJ, Commission v Greece, 1988; Germany v Commission, 1994; Commission v Council, 2005; Commission v Council, 2007). Among scholars, this relentless EU intrusion into the domain of national criminal law has raised many an eyebrow. Punitive sanctions are nowadays considered 'sexy' in Brussels offices, but the true added value for the sought-after effectiveness of European law is rather dubious (see Buruma and Somsen 2001; Faure and Heine 2005). The time might be rife for a step back, and for a more open admission of Member States' ability to judge the approach they themselves deem the 'best fit'. Hackneyed as such an appeal may seem, a subtle paradigmatic shift is called for here, partly inspired by the principle of subsidiarity, from the remorseless command-and-control perspective towards more cooperative reining and steering methods.

Lastly, even when the outlined strategies are implemented in full, taking the strict perspective wherein full adherence to the rules in force always equals a situation of optimal compliance, there remains cause for caution on other grounds, when engaging in structural reform. Especially to the countries that recently acceded to the Union, the limitations of the official EU vision on Member States' duties and responsibilities have become poignantly clear. The soft stimulus, most manifest during the accession process, towards the creation of greater vertical linkages between European and national actors, as outlined above, are generally to be welcomed. Besides, the emergence of a true culture of dialogue would go a long way in quelling the democratic deficit and the uncanny sense of distance still experienced by the governed.

Considerable care should be taken here to allow for a broad representation of interests, not limited to those subjective interests expressed by governments, or by the most powerful undertakings and organisations (Streeck and Schmitter 1991:133 ff.) What is more, establishing greater horizontal linkages within a single Member State, and also among Member States, so as to streamline the information flows relating to EU rules and practises, instigating cross-cutting dialogues, and becoming accustomed to structural dialogues with Brussels-based officials, can give rise to a disturbing condition of myopia: for legislative offices, executive and administrative bodies, as well as the judiciary, will more often than not press for their own agenda, and seek to adjust to the new reality without sacrificing too much of their bureaucratic autonomy. Thus, they will attempt to use, mould and bend the rules in their own favour, supposedly for the benefit of EU effectiveness, but in truth slightly more to the detriment of their national seniors; after all, from the moment one is forced to serve two masters, instead of the previous one, it becomes easier and more tempting to deceive both, and finally have one's own cake and eat it too.

More than forty years ago, one scholar already warned of the danger that technical ministries and

services will grow rampantly and become the dominant actors, along with their EU counterparts, in the direction and management of major parts of society, if not the entire economy (Scheinman 1966:769). Once they realise the novel potential here, matters will be all too anxious to present particular (political) choices of their own as inevitable, or if more convenient, as ideologically neutral at most. Simultaneously, once a dossier is presented as containing a European dimension, this may serve as a magician's wand to e.g. unlock previously unavailable funds, or set aside legitimate concerns, compelling politicians and citizens into directions that were in fact not tyrannically superimposed on the supranational plane at all (cf. Putnam 1988). In sum, the increasing interpenetration of the EU and national levels of governmental authority risks accentuating an already great orientation towards bureaucratic means of policy-making, encouraging cultures and techniques of problem-solving that escape public scrutiny, and to a growing extent, serve the interests of anonymous and unaccountable civil servants only. Thus, though it is foolish to object to multi-level governance and the stale mantra of interlinked policy and communication networks, the interdependence of domestic and European actors ought not to function as a va banque type motto: tried and tested national approaches are to be kept and refined, not pre-emptively abandoned; equally, sub-national actors and civil servants should not suddenly be permitted a free reign.

On the road towards optimalisation of Member State compliance with EU laws and policies, it is the ultimate contention of this paper, varying on the Union's own creed, that there should remain sufficient room for 'diversity in unity' as to how rules are being applied; and that the interests of the many should be broadly represented, instead of the subjective and (dangerously parochial) ones of the few. Thus, on relatively short notice, Europe may stand on a par with the United States – which, after all, adheres to the idea of 'E Pluribus Unum' itself. The rules created on the lofty European stratum may then in each and every Member State be regarded as something that is profoundly native – as 'law of the land'.

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Modern "Don-Quixotism" or an Emerging Norm of International Relations?
Prevention of Armed Conflicts in the European Union and the Organization for Security and Cooperation in Europe

- Rok Zupančič[1]

Abstract

The prevention of armed conflicts is stated as the priority policy of various international organizations, among which the EU and the OSCE. Based on the semi-structured interviews with high bureaucrats and civilian experts, who are engaged in conflict prevention policies within the two international organizations, the article compares the development and implementation of EU and OSCE strategies to prevent armed conflicts. With the support of the second method, the analysis of primary and secondary sources regarding the prevention of armed conflicts (legal acts, e. g. declarations, resolutions, action-plans and other documents the EU and the OSCE have adopted), the author tries to answer the research questions through three domains: (1) what are the connecting points between the conflict prevention policies led by the EU and those led by the OSCE ; (2) what are the differences among them; and (3) what are the lessons learned/good practices and what could be done in order to make the EU and the OSCE (as well as other subjects of international relations) more effective in preventive action. The analysis has shown both international organizations rely mostly on "structural" (long-term) prevention, meanwhile they lack the capacities to enforce hard(er) power. However, each of them has a set of comparative advantages that can be maximized only if the coordination and cooperation among them (and other subjects of international relations) improve. The major obstacle for more effective prevention is the lack of political will, and not the lack of capacities/resources. Therefore, the only way forward is to promote the concept of conflict prevention on all levels of international relations, aiming towards turning it into a norm in international relations (and not "a noble idea" of lonely Don-Quixotes only, as it is today).

KEYWORDS: Conflict prevention, the European Union (EU)

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Introduction

There is no doubt: history is a bad teacher, especially when looked at through the perspective of armed conflicts.[2] Despite the efforts of numerous subjects of international relations to prevent armed conflicts or at least to solve them in a peaceful manner, only a few positive signs have emerged so far in the respective field. Some parts of the world, which is nowadays more inter-linked and inter-twinned as it has ever been, are still witnessing bloodshed and violence every single day. Thus, a logical explanation of such violent reality leads us to three different options of inference: firstly, that the subjects of international relations have not learned much from history so far; secondly, that international relations actors, often resorting to the violent way of "solving" a dispute, are simply not interested in becoming cognizant and reversing the nature of such violent history; or thirdly, that the various approaches and strategies[3] for the prevention of armed conflicts, developed by the subjects of international relations, are too inadequate and/or wrong to be successful (taking into consideration the specifics of modern armed conflicts), or that something is wrong with the implementation of these approaches and strategies in practice.

The latter "explanation" is also the main topic of this article and research: what is done wrongly and what *shall* be done in the international community to avert armed conflicts. In this article, I am focusing on the prevention of armed conflicts by the European Union (EU) and the Organization for Security and Cooperation in Europe (OSCE) only; though, the complete answer to that complex question should be widened to the analysis of the prevention of armed conflicts of as many international relations actors as possible, since the two international organizations can contribute to the prevention of armed conflicts only partially.

Background and scope of the article

The prevention of armed conflicts (mostly dubbed as "conflict prevention" only) has become the priority policy of various subjects of international relations. The EU and the OSCE are among the international organizations that adopted such policy among the first. Besides the two mentioned, the efforts to emphasize the necessity of the prevention of armed conflicts and to put it at the forefront of their actions can be seen in various other international organizations (at least on the ideational and normative level, yet the implementation in practice is improving with slower pace): the United Nations as the first modern promoter of the prevention of armed conflicts, the World Bank, the G-8, the Economic Community of West African States, the Commonwealth of Independent States, the Asia-Pacific Economic Cooperation (APEC), the Association of Southeast Asian Nations (ASEAN) and many others. Furthermore, also some other subjects of international relations (esp. countries and non-governmental organizations) have been recognizing the importance of the prevention of armed conflicts whenever and wherever possible.

[2] It should be noted that the international scientific community does not pay much attention to the semantic issues. Moreover, many conceptual misunderstandings arise due to inaccuracy. When speaking about conflict prevention, authors usually mean the prevention of armed conflicts (and not some other types of conflicts, e. g. personal conflicts etc.). For that reason, I propose the use of the term prevention of armed conflict in order to achieve a more precise use of terminology. If we thoroughly analyze the concept of »conflict prevention«, we can see it addresses the prevention of armed conflicts (and not other types of conflicts, e. g. political conflicts in the country) that could have hazardous consequences on the international community as a whole.

[3] In this article, the term approach is understood as the conceptual pattern of all the activities the subject of international relations (e. g. the international organization, the state …) is taking to prevent the armed conflict. Meanwhile, the term strategy is narrower than the term approach; it could be defined as a bunch of procedures, means and ways of achieving the fundamental aim – the prevention of armed conflicts.

The reality is often far away from the desired goals. Unfortunately, the field of prevention of armed conflicts is not an exception. There is a big gap between the normative aspect of prevention of armed conflicts (there are numerous declarations, resolutions, strategies and other documents, aiming at preventing armed conflicts at early stages) and the bleak reality (the number of interstate conflicts has been increasing constantly after the end of the Cold War, although the number of severe crisis and wars remains about the same in recent years).[4] Therefore, the main aim of the article is to present the results of the comparative analysis of approaches and strategies that the EU and the OSCE have developed (and have been trying to pursue) for the prevention of armed conflicts in the last two decades. Moreover, I will answer the questions which are the main characteristics of the approaches, strategies, policies, instruments and mechanisms for the prevention of armed conflicts by the EU and the OSCE, what are the differences among them, what are the lessons-learned and good practices in each of the two international organizations and finally, are the EU and the OSCE, often claiming the partnership and cooperation between themselves, actually unnecessarily doubling the capacities for prevention of armed conflicts. Having carried out such analysis, I will try to find out why the EU and the OSCE cannot always mitigate the tensions and avert armed conflict in the areas they are dealing with.

This analysis is relevant for at least five groups of reasons:

1) strategic reason: the prevention of armed conflicts is one of the fundamental raison d'être of the EU and the OSCE, the two international organizations that are seen as the pillars of the European security architecture by many European countries (also Romania); therefore, it is important to identify advantages, disadvantages, problems and challenges the two international organizations are facing with, in order that the members of both organizations could actively contribute to the capacity- and ideational-building in the field of preventing armed conflicts in the future;

2) institutional-operative reason: both international organizations are constantly facing reproaches of being ineffective in various fields (prevention of armed conflicts is not an exception); for that reason, it is necessary to identify the reasons for such (allegedly) bad performance in order to improve the approaches/strategies/instruments/mechanisms for the prevention of armed conflicts;

3) credibility and recognition: when some Central and Eastern European countries have accomplished their main foreign-policy goals and joined international organizations, such as the OSCE, the NATO, the EU, they were faced with the strategic question »What to do next?«; slowly, countries are realizing that the »being-member-only« policy is not enough to pursue the national interests, so they seek opportunities to participate actively in the policy- and decision-making in international organizations; the field of prevention of armed conflicts is definitely one where only few countries are contributing actively; in the future, such active contribution can elevate the credibility and recognition of a country on the international scene;

4) actuality of the »liberalistic school« in modern international relations: »liberalistic school«, emphasizing the role of international order, rule of law and importance of international institutions, does have some strong groundings when trying to explain modern international relations;[5] since the concept of conflict prevention arose from the »liberalistic school«

[4] More in Heidelberg Institute for International Conflict Research (2008: 2).

mainly, it is worth promoting the idea and practice of conflict prevention in the aspirations to avert the bloodshed;

5) scientific and practical reasons: despite the numerous efforts of the scientists, experts, humanists, politicians and others, engaged in the prevention of armed conflicts, we can conclude that the scientific and expert literature from this field does not provide the complex solutions for the (successful) prevention of armed conflicts – neither in the territorial sense (that the solutions would address the problems of the prevention of armed conflicts on a global scale), neither in the field of essence/contents (that the solutions would coherently address the root-causes of armed conflicts, and consequently, provide with the effective means to avert them).

Methodological framework

The prevention of armed conflicts in each of the two international organizations is analyzed according to similar criteria and procedure. Firstly, the prevention of armed conflicts in the EU is analyzed, followed by the analysis of the prevention of armed conflicts in the OSCE. The first part (of the respective chapter for each international organization) is focusing on the *analysis of approaches, strategies and evolution* of the concept of prevention of armed conflicts. The second part analyses the *existing mechanisms and instruments* of the prevention of armed conflicts and categorizes them in the scheme. The third part focuses on the policy of prevention of armed conflicts in each of the two international organizations.

Two complementary and mutually reinforcing research methods were used to conduct the comparative analysis:

1) Analysis of primary and secondary[6] sources enabled us to see how did the concept of prevention of armed conflicts evolve on its way from an idea towards a coherent and defined policy of the respective international organization. Furthermore, this method gave us the possibility to get thorough insight in the legal and political framework in the field of prevention of armed conflicts in both international organizations. More precisely, on the normative level the analysis is focused on the legal acts of the EU and the OSCE, while on the political-instrumental level the analysis is focused on approaches and strategies the two international organizations are pursuing in order to prevent armed conflicts.

2) Semi-structured interviews with high rank officials and civilian experts who are engaged in planning, decision-making and/or analysis of conflict prevention policies within the EU and the OSCE. Interviewing the experts/bureaucrats enabled us to get the data about the gap between »the state« of conflict prevention on the normative level and the actual practice, as well as provided us with in-depth insight into the problems, related to the questions/topics from the questionnaire.7 At first, I identified the list of potential interviewees in both international organizations. However, the actual interviewees in the focus group were chosen later, after having consulted the representatives of the EU DG Relex and the OSCE Conflict Prevention Centre, the two institutions within the EU and the OSCE that are the most closely connected to my analysis. The representatives of the respective

[5] Various cases of successful prevention of armed conflicts occurred after the Cold War, e. g. the mission UNPREDEP in Macedonia, efforts of the OSCE to reduce tensions in the Baltics and Ukraine in 1990's etc.

[6] Legal acts, e. g. declarations, resolutions, action-plans and other documents both international organizations have adopted regarding the prevention of armed conflicts.

international organizations helped us to narrow the list of potential interviewees in order to conduct the interviews only with those bureaucrats/experts, who are the most competent in the field. The interviews were conducted by telephone from October to December 2009.8

The article consists of five chapters. First chapter defines the research problem, background and scope of the article, provides with the reasoning and relevancy for my analysis and delineates the methodological framework of the research. Second chapter defines conflict prevention as a developing sub-discipline of international relations and reviews the state of the art in the field; it also elaborates the evolution of the concept of conflict prevention (this is necessary to understand the conflict prevention in the EU and the OSCE).[9] Third chapter, as explained in the details above, analyses approaches, strategies and the evolution of the concept of prevention of armed conflicts in the EU, as well as existing mechanisms/instruments/policy of the prevention of armed conflicts in the EU. Fourth chapter follows the logic of the third chapter, with the analysis focused on the OSCE. In the fifth, concluding chapter, the results of the comparative analysis are explained, and a set of recommendations for further analysis and action in the field of prevention of armed conflicts is given (based on the findings of the research).

Conflict-prevention as an emerging sub-discipline of the »conflict life-span«: the State of the Art and reasoning for further analysis

For analytical purposes, we define an armed conflict as a range of following occurrences: dissent/misunderstanding among the potential adversaries, escalation of tensions, escalation of conditions, outburst of conflict, escalation of conflict and intensification of violence, culmination of conflict, de-escalation of hostilities, searching for and finding a solution, end of hostilities and post-conflict reconstruction. In some cases it is not always possible to determine which occurrence of the conflict is taking place at the moment, since they often overlap. For that reason, we shall not understand the conflict in a linear way or try to part it into chronological phases that are irreversible. Namely, some »occurrences« in the conflict may happen more times, not only once, while some of them do not happen at all.[10] Conflict prevention is dealing with the very first occurrences in the life-span of the conflict: dissent/misunderstanding among the potential adversaries, escalation of tensions and (potentially) escalation of conditions.

Having defined the main occurrences within the conflict and the »target-time« of conflict prevention, we can connect the practice with the theoretical explanations of armed conflicts (the state of the art

[7] The questionnaire for the semi-structured interview consisted of the following topics/questions: (1) the differentiation between the mechanisms and the instruments for prevention of armed conflicts, (2) priorities of the respective organizations related to the prevention of armed conflicts (in the context of geographical dispersion and in the context of contents of activities for prevention of armed conflicts), (3) the use of mechanisms and instruments by the respective organizations in recent armed conflicts (e. g. Georgia); (4) the distribution of the resources (should your respective international organization devote more resources to some specific instruments or mechanisms for the prevention of armed conflicts?); (5) the measures to be taken within the respective international organization in order to be more successful in the prevention of armed conflicts; (6) the main obstacles for a more successful prevention of armed conflicts; (7) the decision-making processes in international organizations related to the prevention of armed conflicts: where and why in the »chain of the command« within the respective international organization does the deadlock occur; (8) cooperation of the respective international organizations with other international organizations in the research field; (9) comparative advantages of the respective international organization vis-a-vis other international organizations related to the prevention of armed conflicts; (10) the prospects for the prevention of armed conflicts within the international organization (should new policies/strategies/instruments/mechanisms be developed?).

[8] List of the interviewees and the audio files of the interviews are available in the archive of the author of this article. The interviewees did not speak to us on condition of anonimity, but most of them preferred not to be quoted.

[9] In the cases when I use the term "conflict prevention", it is so because the term is so established and well-known that it would be contra-productive to stick to the term "prevention of armed conflicts". This is esp. the case in the theoretical and practical discussions (official terminology of the EU and the OSCE) in the following chapters.

in the field). After the end of the Cold War many analyses, researches and studies on the reasons of armed conflicts and their consequences were conducted (e. g. Freedman, 1994; Keegan, 1994; Smith, 1995; Bollerup and Christensen, 1997; Holsti, 1998; Brownlie and Mason, 2002; Moyo and Yeros, 2005; Billon, 2005; Grizold and Zupancic, 2008; Senese and Vasquez, 2008). Only in the last few years, one can notice an increase of studies and scientists/experts that go further from explaining the reasons of armed conflicts: some scientists/experts started to analyse the means/ways the armed conflicts could be managed (e. g. Butler, 2009; Bercovitch et al, 2008; Jeong, 2008; Schlee, 2008; Ramsbotham et al, 2005; Schmidl, 2000) or the possibilities and ways of its prevention (e. g. Mason and Meernik, 2006; Ramcharan, 2005; Lund, 2008; Carment and Schnabel, 2003; Ackermann, 2003; Kronenberger and Wouters, 2004). However detailed and fragmented the research on the armed conflicts is, it has to be understood and analyzed in the general framework of the modern concept of comprehensive security in international relations, analyzed by many scientists (e. g. Buzan, 1991; Kegley, 1995; Grizold, 2001).

Anyhow, as we have seen from the review of the literature's state of the art, thorough scientific research in the field of conflict prevention began relatively late, comparing to other »subdisciplines« of conflict-analysis that are analyzing other occurrences within the conflict (such as conflict-management, conflict-resolution and post-conflict reconstruction/rehabilitation). The main reasons why the other subdisciplines of international relations (more specifically, the security in international relations) began developing before conflict prevention are the lack of the »culture of prevention« and a certain unpopularity of conflict prevention as a concept. Namely, conflict prevention is a long-lasting and expensive activity and it is difficult to mobilize enough resources for proactive conflict prevention: when the conflict is "unseen", subtle and latent (which is exactly the time when conflict prevention activities should start), other (political) priorities have higher stakes on (political) agendas of countries and other subjects of international relations. The rationale of the political elites (as well as of the public) is understandable to some extent: why should we consume time, energy and scarce resources for something that cannot be translated into immediate results? Besides that, we do not have any guarantees that the conflict prevention activities could actually avert the conflict or that certain conflict prevention activities that were taken were the main reason that the conflict did not turn violent.[11]

Despite the post-Cold War trend to emphasize the role of conflict prevention much rather than resolution, a vast majority of EU member states and OSCE participating countries have not developed their (national) strategies and systematic approaches towards conflict prevention. They can however participate in conflict prevention indirectly, as members of these institutions. Consequently, the decision-makers (the ambassadors of the countries in both organizations, as well as politicians and high bureaucrats within the governmental institutions) do not have the appropriate knowledge, the basis and directives as to what kind of policy to follow in that field. Even if all the countries of the EU and the OSCE officially support conflict prevention and peaceful resolution of disputes, most of them do not yet know how to

[10] That is the case esp. if one of the warring party is the absolute winner.
[11] More about that in Zupančič (2009).

do materialise conflict prevention in practice, therefore the answers of the decision-makers on the challenges are usually sporadic and unsystematic. However, this is not the case in certain countries, such as Sweden, the Netherlands and Canada, where they have already realized the necessity of conflict prevention and consequently, taken some initiatives in the field.[12] We may conclude that the »culture of prevention« must be adopted at all levels of the international community (individuals, countries, international governmental and non-governmental organizations and other subjects of international relations). In this article, we are going to focus on two »actors« of conflict prevention only, the EU and the OSCE. Namely, the two organizations are one of the most important actors in the field of conflict prevention.

The EU and the prevention of armed conflicts

The first part of this chapter is focused on the analysis of approaches, strategies and the evolution of conflict prevention in the EU, the second part on the analysis of existing mechanisms and instruments the EU has developed for conflict prevention, and the third on the EU conflict prevention policy. There is no official strategy for conflict prevention in the EU, but it has to be ascertained indirectly with the analysis of the legal framework of the EU, current activities which may be considered as conflict-preventive, as well as with the help of semi-structured interviews that were conducted for the purpose of this article.

1. Evolution of conflict-prevention in the EU: approaches and strategies

As a regional organization with relatively high budget and »political weight«, the EU has quite a few comparative advantages in the field of conflict prevention comparing to other international organizations. Among the regional organizations in the world, the EU is one of the most strenuous promoters of conflict prevention since its origins. When the latest phase of the EU integration happened at the end of 2009 with the Lisbon Treaty, the EU has put conflict prevention again at the forefront as one of its priority foreign policy goals.

Conflict prevention implicitly lays at the beginning of integration processes on the European continent. With the signature of the Paris Treaty in 1951 (entered into force 1952) and the establishment of the European Coal and Steel Community, six European nations laid grounds to interconnect their countries, promote economic and diplomatic ties, with the aim to prevent further war.[13] At that time, conflict prevention was directed inwards, into the stabilisation of members of the organization. Conflict prevention as a concept was present implicitly or explicitly in the treaties that were signed and entered into force after the Paris Treaty and that furthered integration in Europe: Treaties of Rome (1957/1958), Merger Treaty (1965/67, also know as Brussels Treaty), Single European Act (1986/1987).

A more proactive approach and raised awareness about the necessity of conflict prevention has been reinforced by the turmoil in the European neighbourhood at or after the end of the Cold War

[12] More about the so called "do-gooders" in the field of prevention of armed conflicts in Björkdahl (2002).
[13] West Germany, France, Italy, Belgium, Netherlands and Luxembourg, also known as The Six or The Inner Six, were the signatories of the Paris Treaty.

(war in ex-Yugoslavia, wars in the Caucasus, instability in Eastern Europe and the Baltics, armed conflicts in Africa). Furthermore, the necessity of conflict prevention was brought upon Europe »from above«, with strong incentives for preventive action by the United Nations that saw the end of bipolar world as a means to surpass the deadlock of the Cold War international relations.

Realising that the end of the Cold War did not bring a more secure and stable world, the EU prolonged its conflict prevention approach. In the beginning of 1990's, the idea of conflict prevention actually prevailed as one of the priority policies of the EU, at least on the normative level. This reflects in the provisions of the Treaty on European Union (also known as the Maastricht Treaty, signed in 1992/entered into force in 1993), the Treaty of Amsterdam (1997/1999) and the Treaty of Nice (2001/2003), though it has not been defined clearly what exactly is embraced in the concept of conflict prevention within the EU.

After lengthy discussions and persuasion by the EU bureaucracy that the Lisbon Treaty would make the EU a stronger player in the global arena and after October 2009, when Irish voters approved the new treaty on the referendum, it became evident that the Lisbon Treaty became a new legal pillar of the integration. Conflict prevention has been explicitly stated as the official policy of the EU, most precisely in Chapter 1, Article 10a, paragraph 2 (c), saying:

> *"The Union shall define and pursue common policies and actions, and shall work for a high degree of cooperation in all fields of international relations, in order to: /…/ (c) preserve peace, prevent conflicts and strengthen international security …"* (Treaty of Lisbon amending the Treaty on European Union and the Treaty establishing the European Community, 2007: 25),

as well as in the provision in Chapter 2, Article 28a, paragraph 1, saying:

> *"The common security and defence policy shall be an integral part of the common foreign and security policy. /…/ The Union may use them on missions outside the Union for peace-keeping, conflict prevention and strengthening international security in accordance with the principles of the United Nations Charter."* (Treaty of Lisbon amending the Treaty on European Union and the Treaty establishing the European Community, 2007: 36),

Conflict prevention is inherently embodied also in some other provisions (Chapter 2, Article 28b; Chapter 4, Article 69a), but we cannot find the exact definition which measures the EU considers as conflict-preventive. However, since conflict prevention has been explicitly stated in the new normative framework the EU, it has become also the official goal in the area of external relations of the EU. This furthers the affirmation of the conflict prevention idea in international relations.

The review of the fundamental legal acts of the EU has shown a growing commitment to conflict prevention. On the level of lower and more concrete documents, the commitments go even higher. The main breakthrough came in 2001, when the EU Programme for the Prevention of Violent Conflicts has been adopted. The Programme states that conflict prevention is becoming one of the main goals of the EU's foreign relations that will be achieved in accordance with the United Nations, the organization that holds the primary

responsibility for conflict prevention (European Peacebuilding Liaison Office 2001).
As stated at the beginning of the chapter, the analysis of conflict prevention of the EU shall not be limited to the analysis of the legal framework only. Review of the activities shows the approach and the »strategy«[14] of the EU in the field of conflict prevention is mostly centred around diplomatic and economic measures towards third countries, as well as the promotion of human rights. However, since there is a lack of military capabilities in the EU, the organization is usually considered as a "soft power" institution.

According to a narrow understanding, the EU conceptualizes conflict prevention as all short-term activities that decrease manifest tensions and/or prevent (another) outbreak of a violent conflict. These activities are related to those situations where the conflict in a society becomes imminent and visible (e. g. when open use of violence takes place) and where further escalation depends on two elements: political strength of the parties and certain events. In a wider sense, the EU conceptualizes conflict prevention as targeted medium- and long-term activities, related to the elimination of the root-causes of the violent conflict. Accordingly, conflict prevention is related also to momentarily stable countries, where reasons for potential outbreak of a violent conflict exist. In that sense, the EU understands conflict prevention as peace-building (Perez, 2004a: 5).

2. Mechanisms and instruments of conflict prevention in the EU

At the institutional level, it has to be noted that the scope and the number of actors and institutions within the EU that are dealing with conflict prevention has expanded after the Lisbon Treaty entered into force. Two important new positions have been introduced: the president of the European Council and the High Representative for Foreign Affairs and Security Policy, who is also Vice-President of the European Commission. Within the EU, there is one institution that deals with conflict prevention only: The Conflict Prevention and Crisis Management Unit in DG Relex. The Unit is responsible for coordinating Commission conflict prevention activities. It provides expertise and training to headquarters and field staff as well as promotes conflict assessment methodologies within the Commission. As Cameron (2004: 2) argues, despite its extensive mandate, the Unit which was established only in 2001 has a very small staff.[15]

Among other important actors in the field of conflict prevention, special representatives, the EU Troika[16], the Secretariat, the Policy Planning and Early Warning Unit, the Crisis Room, the Joint Situation Centre and the Watch-Keeping Capability have to be mentioned.[17] Among programmes and initiatives for conflict prevention in the EU the most known were the Conflict Prevention Partnership and the Conflict Prevention Network. None of the two operates anymore.

[14] The word strategy is put in brackets because the EU does not have an official strategy for conflict prevention.
[15] In close cooperation with the Council Secretariat and the Joint Situation Centre, the Unit provides the Council with a Watchlist of potential crisis states on which the EU should focus. However, despite their recent creation, the C/SRP have been criticized for overly stressing the economic and financial issues contained in the check list, while only superficially covering the questions on the existence of a civil society or the political legitimacy of the regime in place (Cameron, 2004: 2).
[16] The EU Troika consists of President of the European Council, the High Representative of the Union for Foreign Affairs and Security Policy and the President of the Commission. However, it is not exactly known how the work/competences in the field of conflict prevention are going to be distributed in practice.

Moving from the institutional to the instrumental level, among *long-term instruments* of the EU for conflict prevention we can categorize the following: promises to integrate third countries into the EU, treaties between the EU and third countries on various issues, regional cooperation, financial assistance and allowance for the products from third countries to access the EU market (Pérez 2004b: 116).

Among more »concrete« instruments, the EU has at its disposal a variety of instruments such as political dialogue, diplomatic measures, cooperation of the EU and the non-members in the regional forums/organizations, mechanisms of early-warning, fact-finding missions, observer mission, long-term missions, supportive measures for the organizations that are working on nuclear non-proliferation, programmes for storing and destroying weapons, humanitarian aid, assistance to the electoral, peace and other processes, support for human rights protection, encouraging »green policies«, security-sector reform, fight against terrorism, different types of monitoring, sanctions or threats with sanctions (general embargo, weapons embargo, targeted embargoes, e. g. freezing of financial assets of certain people or limiting the movement of certain people/goods), actions of demining, actions against the proliferation of small arms, border-control etc.

For a better understanding, the instruments of conflict prevention in the EU are systematically shown in this table
Because of relatively slow decision-making and response in cases of crises, the EU has established the Rapid Reaction Mechanism (RRM) in 2001. It included short-term (maximum 6-months), but quick interventions before, during or after the crisis (European Commission, 2004). Therefore, we can classify it in the conflict prevention instruments. It was meant also as a basis for long-term instruments. It was used in the DR Congo, Afghanistan, Macedonia, Aceh and Trans-Dnistria. In 2007, RRM was replaced by Instrument for Stability (IfS). With the launch of IfS, the EU has considerably intensified its work in the area of conflict prevention, crisis management and peace-building. The seven-year budget of IfS (2007-2013) is 1,3 billion euro, which is a big increase comparing to RRM.[18]

3. Policy of conflict prevention in the EU

Table 1 shows the EU has a variety of instruments and mechanisms at disposal. The majority of them have already been used in practice. Furthermore, with IfS, the financial resources devoted to conflict prevention have increased significantly. However, the policy of conflict prevention is in many cases hostage of (the lack of) political will. This has been confirmed also by the interviewees. By far the biggest efforts in the field of conflict prevention are devoted to the so-called »instruments of help« (structural/long-term conflict prevention), meanwhile the usage of robust instruments (esp. military force) is relatively rare.[19]

Interviewees and other sources mostly agree the EU lacks »hard-power«, therefore the integration is trying to develop it. The problem of not having

[17] The High Representative for Foreign Affairs and Security Policy Catherine Ashton intends to introduce some changes and merge three intelligence-sharing bureaus to create a single EU intelligence hub. She plans to merge into one new department the EU Council's Joint Situation Centre, its Watch-Keeping Capability and the European Commission's Crisis Room. The Joint Situation Centre, "contains a cell of secret service agents seconded from EU capitals", and "pools classified information sent in by member states". Watch-Keeping Capability "pulls in news from the EU's 23 police and military missions" while the Crisis Room "operates a secure website with breaking news about the world's 118 active conflicts from open sources and from the commission's foreign embassies". The mandate for the new department is so far unclear, but it will not have undercover operatives in the field (EU Observer 2010).

[18] The budget of RRM in 2001 was 20 million euro and 25 million euro in 2002 (Duke 2004:131). If we divided the seven-year budget of IfS, we see that 186 million euro could be spend annually, which is a significant increase comparing to the financial resources of the RRM. If one of the strong criticisms of the RRM was that it does not devote enough resources to Africa, the IfS has changed the situation. Namely, Africa was the main receiver of EU funds in the last two years. Most of the resources ware donated to DR Congo, Central African Republic, Chad and Somalia (all together about 29 %).

Table 1: Instruments of conflict prevention in the EU

Military instruments	Threats with use of force or the use of force	• Peace-enforcing and peace-keeping missions (»classic« missions or the deployment of Rapid Reaction Force) • Preventive deployment of armed force
	Monitoring the use of force	• Programmes for arms-control
Non-military instruments	Coercive measures (without the use of armed force)	• sanctions (general embargo or targeted sanctions, e. g. economic, political, sanctions on weapons, prohibition of investment, freeze of financial assets, restrictions on the movement of certain people ...) • threats with sanctions
	Non-coercive diplomatic measures	• political partnerships, cooperation of countries in forums, regional initiatives etc. (European Neighbourhood Policy) • short- and long-term observer missions (election-monitoring and other observer missions) • fact-finding mission • visits of high-level politicians in volatile areas, special representatives • early-warning instruments • cooperation in institutions for non-proliferation of armed and conventional weapons • directing peace talks • mediation • issuing démarches, special declarations, resolutions, statements regarding third countries
Development and good-governance instruments	Policies of economic and social development	• establishing and promoting commercial ties • direct financial aid • humanitarian aid • promoting »green policies« • building infrastructure (water-supplies, transport infrastructure etc.) • educational programmes
	Promoting human rights and other democratic standards	• programmes of human rights promotion • programmes of training and education of customs, armed and police forces
	Establishment of structures promoting the conflict resolution	• encouraging and/or implementing programmes of arms-destruction • assistance in establishing the security sector (reform of judiciary and armed forces ...) • financing programmes of mine-clearance • actions against proliferation of light weapons • programmes of assistance in border-control • programmes against organized crime, terrorism and money laundering • programmes for post-conflict demobilisation, repatriation and reintegration

concise, short-term instruments at disposal becomes very obvious in cases where harder approaches should be used, for example when direct, decisive, robust and quick intervention is the only means for preventing further escalation of violence (e. g. the response in humanitarian disasters is usually quick, since in that kind of events consensus among member states is relatively easily achieved). However, as the interviewees emphasize, the military capacities are not enough, if they are not employed in accordance with other sources of »power« the EU already has and if the »harsher« instruments are not used simultaneously and in coordination with other international

[19] About 68 % of the initiatives can be classified in the category of aid, followed by the instruments for promotion of democracy and human rights (18 %). Only 5 % of initiatives can be classified in the category of military instruments (Racovita 2009, 13).

organizations.

The EU does not have a defined policy in the field of conflict prevention (since it also does not have strategy, as we have argued in previous paragraphs). Therefore, the EU has to act ad hoc, on the basis of the wider foreign policy orientation of the organization, when the need for response arises. The data obtained by the interviews shows very loosen and undefined focus in the field of conflict prevention, that is, *de facto*, aimed mostly on the so-called European neighbourhood (however, the interviewees argue the »priority-areas« where EU conflict prevention is to be applied officially do not exist). However, the »priority-areas« are not difficult to set, if you only look at the distribution of the resources of the EU for foreign countries. As already said, Africa as one of the most vulnerable regions previously used to receive a relatively small portion of money, but that has changed significantly in recent years.

The EU does not have a »prescription« for conflict prevention. It deals with (potential and manifest) conflicts generically, on a case-by-case basis. This may be positive to some extent, since the rigid and inflexible system of action-reaction cannot be set. On the other hand, with such a system conflict prevention becomes much more a subject of political will. Analysis has also shown there are almost no areas in the world where the EU does not have its »eyes and ears«, that way or another. Observer missions, embassies and other sources of intelligence provide it with the necessary data. Therefore, the EU cannot exculpate itself for not knowing what is going on in certain area. This data, as argued by the interviewees, get to Brussels relatively fast (to the DG Relex or to the Commissioner in charge). Yet, exactly this is the point when the (potential or manifest) conflict gets in the area of *politeia* that works according to its own »lawfulness« (of the political representatives of the EU member states and the Commission).

As Duke (2004: 131) argues, bureaucratisation is, besides slow decision-making, one of the main obstacles for effective conflict prevention. This argumentation is also supported by the interviewees. The EU has to some extent responded to these critiques with the establishment of RRM that was later (in 2004) replaced by more efficient IfS.

We finish this chapter with consideration about the on-going processes in the EU. Nowadays, the relatively stable EU (that may be also described as a security community where conflict among its members is relatively impossible) is oriented mainly outwards, when thinking of conflict prevention: towards its immediate neighbourhood (Africa, the Caucasus, the Middle East). The need for even stronger outward orientation has been confirmed also by the new Lisbon Treaty that institutionalized the position of »Foreign Minister of the EU«. Not only has the EU finally emplaced the constant »phone number«, but it has institutionalized the central point of conflict prevention.[20] The EU has undoubtedly strengthened its capacity to deal with tensions and insecurity. It employs development co-operation, external assistance, trade policy instruments, social and environmental policies, diplomatic instruments and political dialogue, co-operation with international partners and non-governmental organizations etc.

However, we cannot ignore rumours that

[20] These were the words supposedly used by US State Secretary Kissinger to say that the European Community is not an unified and united actor of international relations.

Catherine Ashton as the first person holding that position is not that kind of personality who could actively contribute to conflict-prevention and conflict-resolution. For a successful conflict prevention it is urgent to find synergy between short-, middle- and long-term instruments, supported by coherent and unequivocal strategy. That can, indeed, be achieved only when conflict prevention becomes the norm of international relations, and not only the norm of a few lonely »Don-Quixotes«.

OSCE and the prevention of armed conflicts

In this chapter, we apply the same methodological framework as in the previous chapter, where we analyzed conflict prevention in the EU. The first part of the chapter analyses approaches, strategies and the evolution of conflict prevention in the OSCE, the second part focuses on the analysis of existing mechanisms and instruments in this organization and the third part analyzes the policy of conflict prevention in the OSCE (findings of that part are mostly based on the semi-structured interviews with high bureaucrats and experts in the OSCE).

1. Evolution of conflict prevention in the OSCE: approaches and strategies

It is necessary to begin the analysis of conflict prevention in the OSCE with the conceptualization of security of this international organization. From the very beginning of the OSCE's institutionalization in 1970's, the organization has perceived security in a comprehensive way, and not strictly limited to the military aspects of security only. The understanding of security in a broad sense is embodied also in conflict prevention of the OSCE, the activity that may be characterised also as the main raison d'être of this organisation.

Although the OSCE's participating states have not defined conflict prevention explicitly, we may conclude from the documents the OSCE has adopted and the interviews conducted for the purpose of this article that conflict prevention is understood in a broad sense, arising from the broad conceptualization of security and following a general definition from the literature: »...efforts to avoid the development of contentious issues and the incompatibility of goals« and/or »measures which contribute to the prevention of undesirable conflict behaviour once some situation involving goal of incompatibility has arisen...« (Reychler and Mychajlyszyn 2004, 134). In the first instance, the OSCE is concerned with the elimination of the root causes of conflict as a means of avoiding the development of incompatible goals, meanwhile in the second instance the OSCE tries to prevent the development of undesired conflict behaviour.

In order to fully understand the approach of the OSCE towards conflict prevention, the Charter of Paris for New Europe from 1990 should be analysed (at the same time having in mind the policy of conflict prevention in the OSCE had been adopted more than decade before that). In the Charter of Paris, the creation of the Conflict Prevention Centre has been foreseen, and conflict prevention defined as one of the fundamental policies of the institution, saying that the participating states:

> »decide to develop mechanisms for the prevention and resolution of conflicts among the

> participating States /.../ will not only seek effective ways of preventing, through political means, conflicts which may yet emerge, but also define, in conformity with international law, appropriate mechanisms for the peaceful resolution of any disputes which may arise« (Charter of Paris for a New Europe, 1990).

The participating states of then Conference on Security and Cooperation in Europe (CSCE) realized armed conflicts in the future would be mainly of an internal character. As Jentleson (2003: 37) argues, one of the main steps for enacting a successful framework for conflict prevention is to establish such normative grounds for preventive action that would also address the internal-state issues. The end of the Cold War significantly transformed international relations and the ways the international organizations approached them. That can be seen also from the Charter of Paris.

The institutionalization and promotion of conflict prevention has been furthered also with the transformation of the CSCE into the OSCE. It was not about renaming the institution only. Having established the permanent bodies, such as the Secretariat, the position of Secretary General, the Permanent Council, the High Commissioner on National Minorities (HCNM), the Forum for Security Cooperation (FSC), the Office of Free Elections (later replaced by the Office of Democratic Institutions and Human Rights, ODIHR)

By finalising the transformation of the CSCE into the OSCE at the Summit in Budapest in 1994, the organization started to spill-over the concept of conflict prevention from idea into practice (George, McGee 2006, 84). The OSCE has been declared as a primary tool for conflict prevention in the region at the Summit, which is the highest level meeting of the OSCE. The commitment to conflict prevention has been enshrined in the final document of the Summit (Budapest Summit Declaration: Towards a Genuine Partnership in a New Era, 1994: 2). The commitment has been re-confirmed in 1997 at the annual meeting of the participating states in Koebenhavn (Mychajlyszyn 2004, 133), as well as at the Summit of Istanbul in 1999 in the Charter for European security etc. (Charter for European Security, 1999: 9).

2. Mechanisms and instruments of conflict prevention in the OSCE

The OSCE has quite a few instruments and mechanisms for preventing conflicts at its disposal. The Permanent Council, the highest political body of the OSCE, debates and adopts decisions on all matters, also about conflicts and possibilities of preventing them and/or resolving them. If the Permanent Council can be described as the »queen-bee« of conflict prevention, the »worker-bee« (main operative body) is the Conflict Prevention Centre, which assists the Council in reducing the risk of conflict and giving support to the implementation of confidence- and security-building measures.[21] It coordinates the conflict prevention activities and provides the support to 56 participating states at all occurrences of conflict: early-warning activities, conflict prevention, crisis-management and post-conflict reconstruction. (OSCE 2009c, 1).

Field operations, also described as the eyes and the ears of the OSCE, are one of the comparative advantages of the OSCE in the area of conflict prevention vis-a-vis other international

[21] Mechanism for consultation and co-operation as regards unusual military activities, annual exchange of military information, communications network, annual implementation assessment meetings, co-operation as regards hazardous incidents of a military nature.

organizations. They are the major spender of the budget: about 70-80 % of money is spent on them (OSCE 2009c, 1; Bakker 2004, 400). Field operations are deployed to those participating states of the OSCE (with the consent of the host-country only) where an ethnic conflict with grave consequences for the state and the wider international community could occur.[22] Their mandates, defined by the Permanent Council and usually prolonged every six months, in most of the cases promote such processes that reduce tensions and may bring disputed parties together (e. g. cultural events, common projects etc). The main advantage of field operations is their continued presence. From the perspective of conflict prevention, continued presence is important because it gives the possibility of monitoring and early-warning. Furthermore, the information the OSCE provides from the terrain are seen as the most impartial in the international community, since none of the disputed parties does not have the possibility to distort them. Continued presence of the field operation is also the means of reference point for the disputed parties, who can claim for the clarification of certain measures. Last, but not least, the field operations have some kind of reassuring and warning effect: they give the feeling that the international community is interested in preventing further escalation of a conflict, and that outside intervention can happen if the disputed parties take the steps that could aggravate the conflict.

The next important conflict prevention instrument of the OSCE is *High Commissioner on National Minorities* (HCNM). HCNM, whose aim is exclusively the protection of national minorities' rights, enables early-warning and, if necessary, early-action in those participating states of the OSCE where violation of minority rights could develop into violent conflict. The work of High Commissioner includes personal visits to the states, where such violations take place, and also correspondence with the governments of the participating states on the issues related to the protection of minority rights. Furthermore, HCNM also tries to persuade minorities to refrain from actions that could deteriorate the situation. Methods of work of HCNM are discreet, the work is usually conducted in the spirit of silent diplomacy (in order not to officially blame the participating state for violating the rights of national minorities, but to achieve improvement mostly away from the media pomposity; such methods are mostly accepted by governments, because they do not need to spend a lot of energy for face-saving in front of larger audiences).[23]

Fact-finding and *rapporteur missions* can be characterized as conflict prevention instruments of the OSCE, when employed in certain circumstances. Usually they consist of experts and/or diplomats, who visit certain country on a short-term basis. This sort of missions report to the institutions of the OSCE. Besides that, their task is also to obtain more information about certain country, when the deployment of long-term mission is in question (Bakker 2004, 396). Among other institutions within the OSCE, also the so-called *Ad-*

[22] There were 18 field operations operating in April 2010. Each of them has a specific mandate. The majority of field operations are deployed in South-Eastern Europe (Albania, Bosnia in Herzegovina, Montenegro, Serbia, Kosovo, Macedonia and Croatia); field operations are deployed in all the countries of Central Asia (Tajikistan, Turkmenistan, Kyrgyzstan, Kazakhstan and Uzbekistan); in the Caucasus, the field operations are in Azerbaijan, Armenia and Nagorno-Kharabakh (which is actually not the typical field mission, but the position of personal representative for the disputed region has been established; no limitations as to the duration of the personal representative's mandate have been set; the headquarters are in Georgia, Tbilisi, and not in Nagorno-Kharabakh). In Eastern Europe, field operations are deployed in Belarus, Moldavia and Ukraine (OSCE 2010).

[23] The most well-known successful example of preventive action of the HCNM took place in Ukraine in the beginning of 1990's, when then-HCNM Max van der Stoel actively contributed to reducing tensions between the community of Crimean Tatars and the government of Ukraine. Crimean Tatars achived more autonomy and some other rights (Mychajlyszyn 2004, 143-4; Hopmann 2005, 131-2). However, the status of Crimean Tatars is not finally resolved yet, and tensions still persist nowadays due to poverty and lack of respect for their rights.

hoc Steering Groups, established on a case-by-case basis for dealing with specific conflicts, could be categorized as an important instrument of conflict prevention.

Special representatives of the Chairman-in-Office are the next important institution that can prevent conflicts. The role of special representatives is usually given to well-known diplomats, who travel to the affected country immediately after the violence begins. Since they try to reach the beginning of political dialogue between the adversaries on the spot, this kind of approach can give the parties the feeling that all the actions they take are under scrutiny of international community.

Besides that, the OSCE has also developed some very specific mechanisms and instruments that could be characterized as conflict preventive. Among the most important are *destruction and safe storage of light weapons and ammunition, arms-control, demobilisation, conversion of military into civilian objects, assistance with establishing democratic supervision of the security sector, build-up of democratic institutions, build-up of the rule of law, border control, election-monitoring, assistance with organization of elections etc*. (George, McGee 2006, 89-100)..

3. Policy of conflict prevention in the OSCE

The policy of conflict prevention in the OSCE has evolved gradually, adapting to the circumstances in international relations. The policy can also be traced in the development of certain mechanisms and instruments; their number and »quality« increased significantly after the end of the Cold War, when the stalemate between the two political-ideological blocs was finally surpassed. As we have seen from the analysis of the relevant documents in the first part of this chapter, with the end of the Cold War conflict prevention has become the primary task of the OSCE. However, the transformation has not occurred on the normative level only, but it was implemented in practice, when the OSCE institutions helped to solve some important issues that could turn into violent clashes (e. g. activities of the OSCE in the Baltics, Ukraine at the beginning of 1990's etc.).

Nowadays, one of the most important components of the OSCE conflict prevention policy are the military aspects of reducing tensions, esp. confidence- and security-building measures (inspections, aerial surveillance flights, announcements of military exercises and invitation of foreign delegations to observe them ...), as well as very specific and concrete activities, such as establishing professionally and democratically controlled armed forces (OSCE, 2008a; OSCE, 2008b).

From the analysis we may conclude that the OSCE has at its disposal a wide variety of instruments and mechanisms. However, having many instruments and mechanisms does not necessarily lead to their implementation. One of the main characteristics of the OSCE in the field of conflict prevention is connected to the decision-making and obtaining consensus: for the decision to be taken none of the participating states shall vote against (in some rare exceptions, the so called »consensus minus one« or »consensus minus two« rule can be applied).[25] The decisions of the OSCE are politically-binding only, not legally-binding, and this in many ways effects

Table 2: Instruments of conflict prevention in the OSCE

Military instruments	Threat with or use of force	• peace-keeping missions[24]
	Control of the use of force	• short- and long-term observing missions (peace-observing) • fact-finding missions • instruments for reducing tensions in the framework of established mechanisms of conflict-resolution (Vienna, Moscow, Berlin and Valleta mechanisms; consultation and cooperation regarding unusual military activities; hazardous incidents of a military nature, voluntary hosting of visits to dispel concern about military activities) • programmes of destruction and safe storage of weapons; control of the arms production • exchange of information concerning military-political activities (amount and type of weapons, weapons-acquisition, military spending, percentage of GDP spent on defence) • announcement of military exercises and invitation of observers • aerial surveillance flights (in accordance with the Treaty on Open Skies), inspections
Non-military instruments	Coercive measures (without the use of armed force)	• suspension of the participating state from the OSCE
	Non-coercive diplomatic measures	• election-monitoring • early-warning • leading of peace talks, mediation • promotion of reconciliation talks, arbitrage (Court of Conciliation and Arbitration) • special representatives, high-level visits in participating state • political declarations against the participating state • support of political cooperation among the participating states • bi- or multilateral meetings of the OSCE political and expert bodies
Development and good-governance instruments	Policies of promoting economic and social development	• promotion of »green policies« • programmes of infrastructure building • education programmes
	Promotion of human rights, democratic and other standards	• raising awareness about human rights • programmes of education and training of customs, police- and armed forces • programmes for establishing civilian control of the security sector
	Establishing governing structures for conflict-resolution	• reform of judiciary • actions against proliferation of light weapons and mine clearance • assistance with border control • programmes against organized crime, terrorism and money laundering • programmes for post-conflict demobilisation, repatriation and reintegration

conflict prevention (more robust actions cannot be taken due to that, as well as due to the lack of robust and enforcing capabilities). Howsoever, when the consensus is reached, one of important advantages of the OSCE is that the high-ranking diplomats (e. g. special representatives) and experts can come to the affected region very quickly.

[24] Although there were some initiatives in order to transform field missions of the OSCE into peace-keeping missions, it has not happened so far. However, field operations do involve some tasks that are usually performed by modern peace-keeping missions, e. g. the training of armed forces, assistance at border-control etc. (George, McGee 2006, 88).

[25] Consensus minus one rule was invoked in July 1992 to suspend Yugoslavia from the OSCE, meanwhile consensus minus two rule has not been invoked yet (OSCE, 2007: 14).

The fact that some of the most influential countries in international relations are »sitting behind common table« in the framework of the OSCE is usually seen as comparative advantage from the perspective of conflict prevention, but the very same fact is sometimes also a huge drawback. Namely, it is sometimes very difficult to reach consensus just because of the contradictory political views among participating states, with the dividing line going »through Vienna« (the OSCE is colloquially divided into the »countries west from Vienna« and the »countries east of Vienna«).

The OSCE, whose budget does not exceed the budget of a normal city, has to select carefully how to disperse resources among very different areas it is dealing with, from reintegration of ex-warriors into unified armed forces to artificial irrigation. The budget of the OSCE in 2009 was less than 159 million euro, and even lower for 2010 – about 151 million euro (OSCE 2009a, OSCE 2009b).

The findings, emerging from the interviews, and the analysis of documents showed that the policy of conflict prevention in the OSCE is oriented inwards, on the area of participating states (area spreading »from Vancouver to Vladivostok«). Very rarely, some activities are also directed towards the area outside the 56 participating states (e. g. border management in Tajikistan for curbing the problems of Afghanistan). Interviewees agree there is no priority list of the conflict prevention activities within the OSCE: according to them, the activities are aimed at the participating states that ask for the OSCE assistance. However, the interviewees mostly agree that the centre of gravity regarding conflict prevention is shifting from the Balkans towards Central Asia, which is nowadays facing serious challenges. This argument is also supported by the number of personnel, which is decreasing in the Balkans. However, some of the field operations had to leave the conflict-area due to political reasons (e. g. Georgia, Chechnya). That, furthermore, supports the thesis of how big the influence of political will on conflict prevention is.

The policy of conflict prevention of the OSCE can be described as a way of assuring the long-term presence in the field. In most cases, as the interviewees say, long-term presence contributes to decrease tensions among adversaries or at least makes sure that the status quo is not endangered. However good or bad the status quo may be for adversaries, it is better than the renewal of violence. With long-term presence, the OSCE gains good knowledge of the conflict and can sometimes tie the adversaries to itself or in the best case bring them to the table. Anyhow, also the interviewees agree that the OSCE alone could hardly avert hostilities, if one of the parties is too determined to »resolve« the conflict violently (this was very evident in the case of Georgian-Russian war in 2008). Being aware of its limited reach, the OSCE mainly focuses on long-term and structural means of conflict prevention.

The analysis of interviews showed the OSCE does not lack the instruments for conflict prevention (on the contrary, there are many that have not been applied yet). What the OSCE is short of are the capacities for conflict prevention (according to the interviewees, qualified personnel for certain conflict-areas mostly, as well as financial resources are scarce). In addition, the interviewees also think that the capacities on the terrain for early-warning are well-developed, while the inaction of the OSCE usually derives from the stalemate in the OSCE Permanent Council.

Therefore, the main challenge for OSCE is to answer the question how to move from early-warning to early action. This can be achieved with building-up of conflict prevention policy as a raison d' être of the OSCE, as well as with the development of conflict prevention as the new norm of international relations (the necessity of conflict prevention should be promoted also in those participating states that currently see such activities as political meddling in their internal affairs). Because of that some vivid debates within the OSCE are recently taking place. Among them there is also a discussion, whether to establish a new instrument that would enable visits of the Chairman-in-Office or civilian observers in the participating state also without the consent of the participating state. An additional contribution of the OSCE in the area of conflict prevention could be the strengthening of cooperation with local communities and non-governmental organizations in the field.

Conclusion

The comparative analysis of the approaches, strategies, instruments/mechanisms and policies for the prevention of armed conflicts in the EU and the OSCE has shown some interesting findings for the theory and practice. I try to answer the research questions from the beginning of the article (what is done wrongly and what shall be done to avert the armed conflicts in a more effective way) through three domains: a) connecting points between the EU and the OSCE in the field of prevention of armed conflicts; b) differences between the EU and the OSCE in the respective field; c) recommendations for the future work in the field of conflict prevention (in the EU and the OSCE, as well as in the wider framework of international relations).

a) Connecting points between the EU and the OSCE in the field of prevention of armed conflicts:

- *Relying on structural (long-term) prevention of armed conflicts and deficiency of the capacities of hard(er) power*: both international organizations rely mostly on structural (long-term) prevention of armed conflicts comparing to resources and capacities they have for operative (short-term) prevention. In the EU it is mostly so because of inability of reaching consensus among 27 sovereign states to build strong and unified "European force" that would be able to react quickly and decisively, meanwhile the OSCE lacks the political will and resources. Therefore, it is obvious that both international organizations would try to act preventively with the means of soft power, although it would be necessary to build the military capacities as well, if the two international organizations really want to become strong players in the field of prevention of armed conflicts.
- *Prevention of armed conflicts almost simultaneously adopted as a priority policy:* although the prevention of armed conflicts has been inherently embodied in the EU and the OSCE from the very beginning of their functioning, it must be noted that it has been adopted as a priority policy of each of the two international organizations in the same era, at the beginning and in the midst 1990's (later on that has been reapproved in a series of documents). After the adoption of the idea of necessity of preventive action, the development of the concept, strategies and capacities (instruments and mechanisms)

followed, and gradually, much bigger financial and material resources for preventive action were assigned to the prevention of the armed conflicts (this was especially the case in the EU).

- *Well-established strategies, instruments and mechanisms*: the analysis of interviews and some other resources on the prevention of armed conflicts in the EU and the OSCE has shown there is no need to invent new strategies, instruments and mechanisms, since they are well-defined for the current state of international relations.
- *Lack of political will for preventive action*: in order to prevent armed conflicts more effectively it is necessary to build consensus among partners that armed "solving" of the conflict is not a solutions, and that a decisive action (diplomatic, economic or in last case, military) is more important than political and geostrategic calculations. Therefore, the policy of prevention is the area where the efforts shall be definitely put into. Only sometimes the inaction rests on other reasons, such as lack of resources (in the OSCE) and complicated and too bureaucratized decision-making (in the EU).
- *Ad-hoc mechanisms and instruments*: none of the two international organizations rely on a strictly defined set of actions for the prevention of armed conflicts, but they both do their preventive actions with a "tailor-made" approach.
- *Weak process of mutual exchange of ideas on implementing the policy of prevention of armed conflicts among the members/ participating states of the EU and the OSCE and the capitals*: policies, strategies, mechanisms and instruments are mostly made in the headquarters of the EU and the OSCE, with limited support and exchange information coming from the capitals (the prevention of armed conflicts is not done in a coordinated way, but separately – with emphasis that the policy in the respective field is debated and done in only few capitals of both organizations).

b) Differences between the EU and the OSCE in the respective field:

- *Resources*: the resources (material, financial, human capital etc.) and the capacities of the EU assigned for the prevention of armed conflicts are significantly higher than those of the OSCE. Therefore, the economic and political projects the EU has introduced in the name of development of a country and prevention of armed conflicts are significantly stronger than those of the OSCE, where the projects are of a limited scale.
- *(Non-)diversity of member states*: the membership of the OSCE is twice as high as that of the EU. That means also higher diversity of political opinions, esp. when the issues are related to the necessity of prevention of armed conflicts. On the other hand, the vast area the OSCE is covering means better knowledge and first-hand information about the problems.
- *Long-term presence in the field*: field operations of the OSCE are usually deployed on a long-term basis, which contributes to confidence-building of the local population, and brings better knowledge about the conflict. Meanwhile, the long-term presence of the EU in the conflict-zones is yet to come (the political will among the member states for that already exists).

- *"Prioritization" of the conflicts and general orientation of the preventive actions*: although there is no official policy as to which armed conflicts each of the international organizations tries to avert, the target areas of the preventive

action by the EU and the OSCE are overlapping to some extent only: the EU focuses its preventive actions inwards, on the so called "European neighbourhood" (the Mediterranean countries, the Balkans, the Middle East), meanwhile the OSCE, with its inward orientation on the 56 participating states, shifted its centre of gravity from the Balkans to Central Asia (and potentially to the Caucasus).

c) Recommendations for the EU and the OSCE in the field of prevention of armed conflicts:

- *Coordination and cooperation among the EU and the OSCE is limited*. However, there are meetings and discussions about how to improve it (among bureaucrats/experts of the two organizations, but the majority of the interviewees think there is no true division of tasks and there is no high-level of cooperation when dealing with the same conflict – this is also clearly seen sometimes when both organizations do the same thing in the same area, e. g. election-observation).
- *Necessity of understanding that the prevention of armed conflicts is a »joint venture« of international community*: all the subjects of international relations (states, international organizations etc.) must perceive the prevention of armed conflicts as a common project. Being aware of that, we can say the EU and the OSCE have common grounds for cooperation: the EU has enormous economic, political and diplomatic potentials for preventive action, meanwhile the OSCE has good knowledge, networks, experience, some very useful instruments (e. g. High Commissioner on National Minorities, field missions), and last but not least, also the infrastructure in the regions where the reach of EU is limited (Central Asia, the Caucasus). If that could be connected in the mid-term future, the prevention of armed conflicts would be more effective.
- *Defining the role in the field of prevention of armed conflicts*: the EU will have to decide whether it wants to play a regional or a global role in the prevention of armed conflicts (the OSCE does not have such global ambitions, it has defined its area of operation within the 56 participating states). In the last decades in some cases (Bosnia and Herzegovina, Kosovo ...), the intervention came from the other side of Atlantic, since the EU was not able to reach the consensus to react. If the EU wants to become a strong actor in the prevention of armed conflicts, it has to consolidate on some basic questions related to joint capacities of soft and hard power for preventive action.
- *Raising awareness through education* by emphasizing that the prevention of armed conflicts is needed in order to achieve more stable international environment – not only at the level of high-politics, but also at the level of »ordinary people« who do not have direct links to international politics. Building on mutual understanding and higher education would disable dangerous political mobilization on the basis of the idea »us against the others«. As long as that is not achieved in a wider part of international community, the prevention of armed conflicts cannot become a norm of international relations.
- *Focusing research on the policy of prevention of armed conflicts* is needed. So far, most researches were focused on approaches, strategies, instruments and mechanisms of preventive action, but the findings of this article showed the policy of international organizations is the area where the prevention usually fails. This is also the idea of some other authors.

Ergo. If it is in the interest of certain (influential) actors of international relations to »resolve« disputes with other than peaceful means, also very completed and precise policies, strategies, instruments and mechanisms cannot prevent the armed conflict to happen. Namely, the prevention of armed conflicts has not become a general norm of the international relations (so far). However, the idea has been adopted in the majority of international organizations, and what is even more important, also in some individual countries (Sweden, Canada, Netherlands ...), where they do not rely on the normative level of writing noble ideas in their legal acts only, but they also act. The only way forward is, therefore, spreading the idea that the prevention of armed conflicts should become a norm. Being captured in current, often hostile state of international relations, this may seem a lone idea of some *Don-Quixots*. However, we tend to forget Bismarck's idea that politics is the art of the possible. Think: only about a half century ago (not even thinking about longer historical perspective!) it was impossible to imagine that the Germans, allegedly »eternal and historic« archenemies of the French, would carefree eat *baguette avec frommage*, when walking down the Champs-Élysées. Nowadays this, sometimes unimaginable scene, seems normal. So, why wouldn't we think that the armed conflicts would be averted at the point when they start to glow? Very ambitious, maybe also naive, but undoubtedly not impossible – and however, urgently: states, international governmental and non-governmental organizations, individuals and other subjects of international relations should begin thinking about the prevention of armed conflicts courageously and strenuously in order to enhance the culture of prevention of armed conflicts.

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The Role of "Hedgehogs" and "Foxes" in Turbulent Times

Gill Ringland, Oliver Sparrow and Patricia Lustig -
Beyond Crisis: Achieving Renewal in a Turbulent World, John Wiley & Sons Publishing House, UK, 2010

- Book Review by Marian Zulean

After the financial crush of 2007 – 2008, "crisis" became the buzzword not only in the media and political circles but also for economists operating in the global market. It triggered panic among politicians, bankers, rich and poor alike. A group of three authors, Gill Ringland, Oliver Sparrow and Patricia Lustig, having a cumulative 100 years of experience as senior managers or consultants in transnational corporations or government, put together their knowledge and expertise to offer a clear guide for managers of organizations, helping them to navigate through these uncertain times. The book "Beyond Crisis" describes an evolving "purposefully self–renewing organization" (PS-RO) that will be able to understand the future, adapt the best genres, renew itself and be successful.

The first part of the book provides a very simple and clear insight of the crisis, easy to be read by any non-specialist in finance or economics. It focuses on the new operating environment explaining the drivers of change and trends such as demographics, economic development, technology or systemic challenges. Three scenarios – the Low Road, My Road and the High Road are played back by the authors based on the assumption that next decade will be a turbulent one.

The second part of the book describes the PS-RO which is not a fictional creation, but an organization characterized by analytical Insight and a clear sense of Values, which relates its current activity to Options for the future and has an organizational Narrative that knits the organization together through the operations provided by Machinery (people and processes). All those five elements that define a PS-RO need to be in place to achieve renewal.

It is important to point out the role of leaders in renewing the organizations after the crisis. Authors consider that two types of leaders can run the process: Hedgehogs and Foxes. Hedgehogs are people who are happiest operating within a closed domain or implementing a formula to change the organization, while Foxes are happy when exploring new terrains and re-thinking certainties. In fact it is about two management styles: hedgehogs are good at specified tasks while Foxes at dealing with ambiguity. Hedgehogs are the managers running the companies in the last 20 years while the foxes are congregate in strategic consultancies and brought in when the Hedgehogs hit the wall. The book recommends that organizations evolve their own style, process and combination of both Foxes' and Hedgehogs' management styles.

The third part of the book is a toolkit for purposeful renewal in turbulent times, describing how the attributes of PS-RO – a strong future-orientation, a coherent narrative, a set of values that provides a stable context for innovation, leadership and senior staff committed to support extraordinary competence – are able to drive the renewal process and efficiently manage organizations in difficult times. The book is accompanied by an online forum that is meant to further develop on the toolkit.
This is an indispensable book for leaders, politicians, students interested to manage any type of organization as well as any individual interested in renewing himself/herself.

Tom Gallagher - Romania and the European Union – How the Weak Vanquished the Strong

Manchester University Press, Manchester and New York, Palgrave Macmillan, 2009

-book review by Sinziana – Elena Poiana

"Spare no one!" – seems to yell between the lines one of Tom Gallagher's most recent books. Written in 2008 and published one year later, "Romania and the European Union – How the Weak Vanquished the Strong" is undesirably relevant for 2010's Romania. Skilful national politics managed to drive an underprepared Eastern country into the EU counting on its blind eye: the rule of law and anti-corruption regulation. How? What did allow for that to happen? What did this situation lead to ultimately? The author discusses all these issues and more throughout the more than 250 pages of the book.

Gallagher's book does not address one audience alone. Anyone that has ever had anything to do with the Romanian political life – be it as an observer alone – will find him or herself nodding while reading this book. Chapter by chapter, the story of Romania's accession to the EU is decomposed. Characters: a post-communist clique playing the usual game with a regional organization that had underestimated its craftsmanship and a bureaucratic giant unable to adjust to the realities of one of its future/current member states. Thinking of it this way, the book can speak beyond Romania's good governance issues and EU's capacity to deal with them. It is the lesson of a regional integration model that has little to do with geography, but much rather with the importance of sufficient institutional health to foster consequent models of economic development.

Romanian Journal of Political Science
Volume 10 number 1 July 2010

Call for Papers

PolSci (Romanian Journal of Political Science) is a bi-annual journal edited by the Romanian Academic Society. It is the first peer reviewed journal of political science in Romania and also the first in the field being indexed by ISI Thompson under the Social Sciences Citation Index. The journal benefits from the extensive experience and professionalism of the board members and from valuable contributions of researchers and scholars in the field, being also indexed by other prominent institutions such as IPSA, GESIS, CIAONET, EBSCO, CEEOL and EPNET.

The journal invites academic papers, reviews of recent publications and announcements of forthcoming volumes from various fields of research in social sciences. The papers can address both policy issues related to the announced theme, as well as broad theoretical debates on world governance trends. PolSci also accepts a limited number of articles outside its focus to be published in the current or future issues.

For the issue to be published in the winter of 2010, authors are invited to submit their work by October 1st, 2010, midnight CET+1. If you are interested in submitting an article please visit our website for details on authors' guidelines and submission procedure: http://www.sar.org.ro/polsci.

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POLSCI REVIEWS

• Gill Ringland, Oliver Sparrow and Patricia Lustig – "Beyond Crisis: Achieving Renewal in a Turbulent World"
reviewed by Marian Zulean

• Tom Gallagher – "Romania and the European Union. How the Weak Vanquished the Strong"
reviewed by Sinziana – Elena Poiana

Volume 10, number 1, July 2010