Local reforms by political conditionality: trials and erros in Central and Eastern Europe

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Abstract. This article gives an overview of the local reforms undertaken between 1998 and 2011 in seven CEE countries (Bulgaria, Czech Republic, Hungary, Poland, Romania, Slovakia and Slovenia). The interest lies especially in determining national actions for increasing transparency of local self-government and decentralisation. Reading the European monitoring documents prior and after accession (where available), and national strategies of reform, the author argues that for the CEE region reforms undertaken during accession to the European Union had not been entirely internalized, and that in the absence of any conditionality costs, these countries experienced a reform regress. As results are presented, the prediction proves invalid for some part of the region and the authors advocate for the need of cross-referencing data and advance research.

Keywords: political conditionality; Europeanization; transparency; decentralization; CEE region.

JEL Codes: H11, H71. **REL Codes:** 13C, 13G.

1. Introduction

Europeanisation became an interesting tool of analysis for Central and Eastern European (CEE) states once they embarked on the road to democratization and the European Union (EU). Defined by Ladrech (1994, p. 69) as an incremental process, aimed at integrating the economic and political dynamics of EU in the national policy-making, Europeanisation was also articulated as an export process in which EU was the producer (of governance recipes), while the states outside its borders, the consumers (Olsen, 2002). For the purpose of this article, Europeanisation would imply an incremental process of export and import of European policies and politics between EU and candidate transition democracies.

Although it may sound quite straightforward, this process has known quite different methodological approaches. For instance, March and Olsen (1998) identified two ways of dealing with the problem of an international order (thus also of the newly European one) built on the basis of Europeanisation. The first was the logic of anticipated consequences or that of external, exogenous stimuli. The second was called the logic of appropriateness, or of cultural assimilation. While in the first logic, the European rules and policies are supposed to be transferred towards national domains by means of rewards and punishments, in the second one, the transfer is made possible by accumulating new identities in a given institutional framework, through collective socialization and learning. These descriptions are referential for what Borzel and Risse (2000) and Schimmelfenning and Sedelmeier (2002) acknowledged as the (classical) rationalist and sociological institutionalism. Schimmelfenning and Sedelmeier (2002, 2004), Kelley (2004) Schimmelfenning (2005) identify an additional alternative (without explicitly presenting it), a hybrid which challenges the universality expectations of the classical approaches and complements the trials of explaining Europeanisation. In the following, we will focus on this last perspective, considering that the causal factors refer to actors' reactivity to costs, and their capacity to internalize the European "ways". We argue that for the CEE, the reforms targeted on increasing transparency and decentralisation of local policy-making had not been entirely internalized, and that in the absence of any conditionality costs, these countries experienced a reform regress, therefore a democratic regress or a process of de-Europenisation.

2. Conditionality and regress hypothesis

Political conditionality has been widely discussed by scholars of international relations and European integration (1). In general, it is assimilated to a system of positive and/or negative stimuli used for different international actors so as to generate certain behaviour (Kelley, 2004, p. 428), while *stricto* sensu, Schimmelfennig, Engert and Knobel (2003, p. 495) defined it as "the central strategy of EU to induce non-member state harmonization with its own standards [...]". For Schimmelfennig and Sedelmeier (2004), Europeanisation entailed two forms. The first one was based on democratic conditionality, focused on EU's fundamental political principles, human rights rules and liberal democracy (Schimmelfennig, Sedelmeier, 2004, p. 669); compliance with these criteria would have started the accession negotiations (2). The second one referred to conditionality by acquis, aimed at obtaining the Member status. In that particular situation, EU membership would have been granted in exchange for importing the specific rules of the European legislation (Schimmelfennig and Sedelmeier, 2004, p. 669). This latter approach to Europeanisation is the one of interest for our argument. The conditionality by acquis argues that accession countries see EU membership as an important objective of their foreign policy and as such, importing the acquis becomes a reasonable step towards that. Theoretical predictions on the effectiveness of the conditionality strategy rely on several assumptions regarding the actors involved in the process, mainly built on the rationalist institutionalism (Schimmelfennig, Sedelmeier, 2004, Schimmelfennig, 2005). In 2004 Kelley offered a clear form of that idea when classifying conditionality "as a traditional mechanism of rational choice (...) which defined actors making cost-benefit analyses and considering the utility maximizers" (Kelley, 2004, pp. 425-428).

Starting with these assumptions, the theoretical prediction here is that accession states would successfully import the (formal) European acquis. Schimmelfennig and Sedelmeier (2004) tested such a prediction and concluded that that type of conditionality was responsible for the massive import of legislation from EU 15 to CEE. If the membership award made the CEE countries to import the European institutional structure, there is one question that lingers: what about CEE after accession? Similar assumptions that led to the prediction of conditionality effectiveness generate the expectation that in the absence of such conditionality, CEE would regress after accession. Such a regress hypothesis, be it explicitly or implicitly, was formulated by

Schimmelfenning and Sedelmeier (2004), Schimmelfenning (2005, 2008), Sedelmeier (2006, 2008), Epstein and Sedelmeier (2008), Meyer-Sahling (2009), (2011), Pridham (2008), Ungureanu and Iancu (2010), Cirtautas and Schimmelfenning (2010).

Unlike the conditionality theory which received a considerable attention in the literature, testing the *regress hypothesis* is still a young attempt. There are some inherent difficulties. Firstly, there is not enough time between the two moments relevant for our analysis: the CEE countries joined EU nine (respectively six) years ago and any eventual regress might be a contextual, short-term effect which could not infer a tendency. Secondly, the hypothesis cover the whole area of the European acquis, which generates an immense research effort on several levels. As such, authors usually chose to test such an hypothesis locally, on specific policies and countries. This article follows this trend and gives an overview of the local policy reforms in seven CEE countries based on the reading of their official strategic documents and EU monitoring between 1998 and 2011⁽³⁾.

3. Testing the regress hypothesis on the CEE region

The seven countries chosen for this testing of the regress hypothesis come from the CEE region and exhibit quite different tempos and backgrounds of reforms. If to discuss the interest in joining the European Union, then one might distinguish between Poland and Hungary, the very first countries in the region that signed the Association Agreements in 1991, the second wave (Bulgaria, Czech Republic, Romania and Slovakia), which did that similar step in 1993, and Slovenia, which started rather late, in 1996. If to consider the moment of formally requesting the membership, then Hungary and Poland would be again the frontrunners (1994), but Slovenia would probably compete for the most pragmatic behaviour, as it applied to become a candidate in the same time with signing the Association Agreement (1996). The starting of negotiation would also cut the region into two: Bulgaria, Romania and Slovakia started in 2000, while the rest had already experiencing full download of European policies and politics since 1998. Different gears in reforms were visible even in the accession year: while most of the region joined EU in 2004, Bulgaria and Romania became full Member States in 2007.

Differences also existe in the ways the CEE countries addressed reforms. In this regard, the studies of Iancu (2010), Junjan and Iancu (2011) and Iancu (2013) become of interest, as they point that even though

democratisation and administrative consolidation were the main struggles the region had to fight, and the weapons were quite similar, the results were hardly comparable. Reorganising these former researches and focusing them solely on decentralisation and transparency, I explore here the most visible documents of the CEE-EU written dialogue and discuss whether there was a strategic interest in local policy-making. The limits of our inquiry are quite obvious, however my preliminary findings may prove valuable for future research of political conditionality in the area.

3.1. Local reforms in Bulgaria

Local self-government and decentralization were not exactly the principles that draw the explicit attention of EU in the accession trials of Bulgaria. In fact, none of the Regular or Monitoring reports issued between 1998 and 2011 dedicated more than one phrase (at most) about the progress in fiscal decentralization or efficient allocation of competencies between different levels of government. That did not mean, however, that there was no European interest given to the matter. In fact, by autumn 2006, considering the former pieces of advice regarding the need to strengthen local reforms⁽⁴⁾, Bulgaria reaffirmed its interest in pursuing the decentralization process and elaborated the Strategy for Decentralization (2006-2015) and the Action Plan for its implementation (2006-2009). It also included its formal commitment to strengthening good governance in the Strategic Reference Framework (2007). Taking into account the warding of the CVM reports of July 2008 (p. 2) and March 2010 (p. 3), Bulgarian institutions seemed to have managed to keep up the rhythm of reform envisaged by the European Union.

As for the principles of openness and transparency in local policy-making, only indirect references were even being made. However, be it for minimizing corruption, engaging in transparent privatization, or enjoying more open judicial trials, European reports did advocated in favor of reforming the Bulgarian government as a whole. Positive responses were received: in 2001 Bulgaria adopted a Law on Access to Public Information (to be implemented also at local level), started the implementation of "one-stop-shops" and granted access to the public to policymaking processes, by publishing draft laws on the Internet (RR 2001, p. 16). Since, progress in these areas was annually reported⁽⁵⁾, even after EU accession⁽⁶⁾. This does generate a paradox: as the very problems that led Bulgaria into being monitored after accession were those closely related to corruption (and additionally, organized crime and weak

judicial system). In 2008, the CVM Report of July even urged Bulgaria "to translate words into deeds and deliver on its commitment to serious reform" (pp. 3-6). One year later, the country seemed to have understood the substantial need to change and started to address the European issues up to the point when the European Commission accepted the new wave of reforms (CVM March 2010, p. 3).

3.2. Local reforms in Czech Republic

The European reports documenting the progress towards accession were quite elaborated as they grounded the information on both national and external monitoring. That may explain why in the case of the Czech Republic, local self-government and decentralization did emerge as a topic of dialogue as early as 1998. The European Commission appraised then the regional reform attempts, and suggested that the country should have ratified the Council's of Europe Charter on Local Self-Government (p. 8). An interesting reference point, giving that the literature on local policy-making usually refers to that Charter as to a genuine piece of the European acquis (xxx). Between 2000 and 2003, the Regular Reports followed quite closely the decentralization/regional reforms the country undertook⁽⁷⁾, and concluded that reform was going to the right direction. By 2007, the National Strategic Reference Framework kept the same tone when discussing the efforts taken in strengthening the territorial selfgovernment and bringing public services closer to citizens; in fact, it concluded that there were no (further) reasons for concern, and that no significant changes were planned in the institutional area (p. 22).

A quite different approach was given to the openness and transparency issue: between 1998 and 2003, there were only three very succinct/moments when the European Commission seemed to have been interested in it. For example, in 1999, after a slow start and political disinterest⁽⁸⁾, the Regular Report noted that a law on free access to public information was adopted (pp. 15-34); and by 2001 it expressed the European concern in the little amount of transparency and anti-corruption means to ensure a transparent business environment (Regular Report 2001, p. 15). It was, in fact, the national voice that addressed the issue of reform: in 2007, the Strategic Reference Framework called for a sustainable administrative capacity of the subnational levels of government (p. 23), giving that "the weaknesses in the public administration endangers the fulfillment of the objectives of the cohesion policies" (p. 34). By 2010, increasing transparency and reducing corruption became national

priorities, and several actions were enumerated as necessary: introduction of Regulation Impact Assessments and Corruption Impact Assessments; submission a comprehensive legal amendment of lobbying; and introduction of the institution of "reliability tests" for persons operating in public bodies.

3.3. Local reforms in Hungary

European rhetoric on decentralization in the Hungarian case was quite different from other CEE countries. More specifically, Hungary presented too much decentralization, which led to "the inefficient provision of services, and strains on local finances" (Regular Report 2000, p. 27). Accordingly, the government was called to proportionally allocate resources until the official accession to the European Union⁽⁹⁾. Several documents were elaborated to tackle this problem: National Spatial Development Concept (2005), the National and Regional Development Policy Concept (2005-2020), and the New Rural Development Strategic Plan (2007-2013), they all acknowledged the need for consolidating principles like subsidiarity, decentralization, openness, partnership and transparency. By 2007, not many had been changed: the National Strategic Reference Framework still accused the excessive decentralization and wanton centralization (pp. 48-49) and advised for continuing the reform under the framework of the State Reform and the Electronic Public Administration Operational Program (pp. 5, 8-9).

Hungary offers again an interesting case in transparency building. Starting with appraisals at the beginning of the accession trials (between 1998 and 1999)⁽¹⁰⁾, by 2000 Hungarian policy-making processes catch the eye of the European monitoring and are persuaded into addressing more seriously the fight against corruption (Regular Report 2000, p. 28). Such demands continued to be raised up to the moment of accession⁽¹¹⁾, and, apparently, with success⁽¹²⁾.

3.4. Local reforms in Poland

Local reforms in Poland were closely watched by the European monitors between 1998 and 2003. Starting with appraisals for adopting a new structure for the administrative system, the Regular Reports also advised for an adequate allocation of financial revenues and an imperative need for consolidating local policy-making⁽¹³⁾. To some degree, the extensive concern for local self-government, that lasted as long as Poland's road to the European Union,

generated a sort of burnout of the topic; as a consequence, soon after accession, no additional references were being made on the subject.

Poland also received positive remarks on its openness and transparency related reforms. Between 1998 and 2003, the country enacted a new law on civil service that was highly appreciated both at national and European level⁽¹⁴⁾, a Program for Fighting against Corruption – Anticorruption Strategy (in 2002) and a Plan for Combating Corruption 2005-2009⁽¹⁵⁾ and created a Central Office against Corruption. Special attention was being paid to the meritocratic recruitment of local government employees, which, as expected, was reported to have been a success.

3.5. Local reforms in Romania

Decentralization and local self-government were two issues highly present in the European regular reports on Romania. Starting with 1999, the European Commission expressed its concern on the sound fiscal decentralization attempts and the successful proportional allocation of competencies between different levels of government(16). By 2004, despite the considerable efforts of the Romanian authorities in developing a strategy for managing the decentralization process, the transfer of responsibilities from central to local authorities was still not matched with an adequate transfer of resources, and not enough transparency was ensured (Regular Report 2004, p. 18). After three years of sustained trials for improving the insufficient local financial autonomy of governments and consolidate decentralization and regional development, in 2007, the National Reform Plan put administrative capacity and its improvement on top of the national priorities list (pp. 5, 24 et seq.). In the same year, the National Strategic Reference Framework concluded that due to a political oriented management of public institutions, much yet remained to be done (p. 64). By 2009, several strategies on decentralization in areas like sports and youth, health, education, and police were adopted (17), yet no specific reference to their success was comprised by the following CVM reports.

As for the openness and transparency measures, Romania engaged on the road to EU accession with a red flag. Secrecy of public information, closed policy-making processes and deterioration of equitable application of law were unacceptable for the European monitors⁽¹⁸⁾. Progress was achieved with the enactment of the law on free access to public information (2001) and transparent policy-making (2003), yet the European Commission remained interested in monitoring their implementation⁽¹⁹⁾. By 2007, the poor

performance in reforming the judicial system and fighting against corruption made the safeguard clause to become a subject of concern for Romania. Unfortunately, by 2011 no significant changes were being made: "The review of the strategy on anti-corruption identified a lack of national and unitary approach in preventing and fighting corruption" (p. 7), so Romanian is still perceived as a slow reformer in CEE group of countries.

3.6. Local reforms in Slovakia

Similar to the case of the Czech Republic, Slovakia also received European compliments for signing and ratifying the Charter of Local Self-Government⁽²⁰⁾. By 2001, the European Union favorably noted the enactment of a new law on local administrative authority, the administrative reorganization and the new conditions set forward for the fiscal decentralization (Regular Report 2001, pp. 15-16, 24). The National Strategic Reference Framework (2007, pp. 10-11; pp. 58-62) additionally argued that significant changes were carried out in the structure and organization of local government after 2004. Mainly, in close connection to the decentralization trials, more than 400 competences were transferred from state administration to municipalities and higher territorial units with the aims of increasing the efficiency and quality of public administration managed. Speaking of errors, however, the public administration system had yet insufficient tools for assessing the quality of public services, especially at local level.

Quite similar to the average reform rhythm in the CEE region, Slovakia also experienced a slow beginning in making its local policies more transparent. In the early years of accession (1998-1999), it dealt with low efficient fight against corruption and lack of fairness in privatization processes⁽²¹⁾. By 2003, after the enactment of the law on free access to public information (in 2000), progress on openness and transparency seemed evident (Regular Report 2002, p. 22, p. 25). However, efforts in consolidating the pace of reform were required (Monitoring Report 2003, p. 12). And until last year no substantial measures were being noticed in that regard; in January 2011, a new Government measure was put in place, in the form of a Central Register of Contracts. It represented a public list of contracts by the Government Office, ministries, central government authorities, public bodies and subordinate organizations (subsidized, budgetary organizations, etc.) and its presence seemed to comfort the aches of an ill, (still) corrupted public sector.

3.7. Local reforms in Slovenia

Although regular, just in the case of the other CEE countries, the written accession dialogue between Slovenia and EU was quite synthetic: the regular reports were by far the less detailed in the region. However, the decentralization issue did appear: by 1998, progress was slow (Regular Report, p. 8), and remained so by 1999 (Regular Report, p. 59), the last year when references on local government were being made. By 2005, Slovenia's Development Strategy still talked of a bureaucratic and centralized development model (p. 8).

In what transparency is concerned, between 1998 and 2000, no European report spoke of it. In July 2000, however, Slovenia adopted a directive on transparency in the information society (Regular Report 2000, p. 37) which contributed to the European Commission's later conclusion that an overall increase of transparency was ensured (Regular Report 2002, p. 21). By 2003, the Commission raised the issues of public accountability, and the right of citizens to access public information, considering that the two would contribute to the improvement of administrative openness, transparency and efficiency (Monitoring Report 2003, p. 11). More transparency and accountability from local governments was also advocated by the National Strategic Reference Framework, in 2007 (p. 23, p. 61).

4. Discussing results

The reports above clearly show that the tempo for reform in the two areas of interest, namely decentralisation and transparency in local policy-making, did change after accesssion. The most striking example is that of Romania, closely followed by Bulgaria: two countries which still fight corruption, although politicisation and lack of transparency make current reforms not as vibrant as prior accession. Stagnant reformers seem to be the Czech Republic – by far, the most active one, Slovakia and Slovenia. Poland and, to some extent, Hungary seem to maintain a certain interest in consolidating reforms, and even improve their past results. Such a picture is yet to be improved.

One cannot dismiss the clear limitations this kind of research exhibits. EU's monitoring offered a clear picture of the reforms that were important for the sake of becoming a Member. As such, there might be an informational gap after the accession, as not all countries offer English translations of their documents, nor synthetic reports of their recent successes and failures in local

policy-making. Incidently, only Bulgaria and Romania had their post-accession regularly monitored, and that might have created an assymetry in the data used in comparing.

Secondly, there might be argued that in the decentralisation process one needs a certain framework to arrange the transfer of competencies and resources (major changes) and then adjustments so to better accommodate local needs and money with central expectations (minor changes). As the first would enjoy a wider visibility if one uses the strategic documents of the centre, the latter might only be considered consolidation trials and escape the researcher's eye.

Thirdly, no data on the actual implementation of the reforms the strategic documents talked about was taken into account; and that might have hindered the final results. Even so, the documentary research conducted lso far leads me into considering that the regress hypothesis is validated at least in the cases of Bulgaria and Romania. As such, further analysis of the relationship between the ryhthm of reform in new Member States and that exhibited before accession is recommended.

Notes

⁽¹⁾ See for instance: Schimmelfennig, Engert and Knobel (2003), Kelley (2004), Schimmelfennig and Sedelmeier (2004), Schimmelfennig (2005), (2008), Epstein, Sedelmeier (2008), Cirtautas and Schimmelfennig (2010), Sedelmeier (2006), (2008), Epstein (2008), Pridham (2008), Sasse (2008), Sippel and Neuhoff (2009) and Trauner (2009).

⁽²⁾ For CEE countries, this type of conditionality was expressed in the Copenhagen criteria (1993).

⁽³⁾ EU's Regular and Monitoring Reports, Cooperation and Verification Mechanisms Reports (for Bulgaria and Romania), National Strategies and Strategic Reference Framework.

⁽⁴⁾ Regular Report 2004, p. 16; Monitoring Report 2005, pp. 7-8; Monitoring Report May 2006, p. 6.

⁽⁵⁾ Regular Report 2002, p. 21; Regular Report 2003, pp. 15-16; Monitoring Report 2005, p. 5; Monitoring Report September 2006, p. 4.

⁽⁶⁾ In 2007 Bulgaria adopted a Civil Procedure Code and a Judicial Systems Act, and created a new institution, namely the National Security Agency. By 2008 it announced a new Conflict of Interest Prevention and Disclosure Act (2008), and amended the Constitution and the Criminal Procedure Code.

⁽⁷⁾ Regular Report 2000, p. 19; Regular Report 2001, p. 18; Regular Report 2002, p. 21; Regular Report 2003, p. 11.

(8) In 1998, the Czech Senate rejected a draft act on the access of citizens to information on grounds of being impracticable for the civil servants (Regular Report 1998, p. 10).

- (9) Regular Report 2001, p. 16; Regular Report 2002, pp. 21-22; Monitoring Report 2003, p. 12.
- (10) Regular Report 1998, p. 24; Regular Report 1999, p. 28.
- (11) Regular Report 2001, pp. 31, 37, 42; Regular Report 2003, p. 15.
- (12) Transparency International Hungary provides a well-systematized portrait of the national progress in fighting corruption. More data is available at: http://www.transparency.hu/ (last access: November 2012).
- (13) Regular Report 1998, p. 9; Regular Report 1999, pp. 13-60; Regular Report 2000, p. 15; Regular Report 2001, p. 78; Regular Report 2002, pp. 22-23; Monitoring Report 2003, p. 14.
- (14) Regular Report 1999, p. 14; Regular Report 2001, p. 17; Regular Report 2002, p. 27; Monitoring Report 2003, p. 13.
- (15) The original text of the Program is available online on the webpage of the Ministry of the Interior and Administration (Public Administration section): http://www.mswia.gov.pl/ (last acess: November 2012).
- (16) Regular Report 1999, pp. 11-63; Regular Report 2000, pp. 16-20; Regular Report 2001, p. 17; Regular Report 2002, pp. 22, 24, 44; Regular Report 2003, p. 17; Regular Report 2004, p. 18.
- (17) The Romanian versions of the strategies are available online on the official website of the Romanian Ministry of Administration and Interior: http://www.mai.gov.ro/ (last access: November 2012).
- (18) Regular Report 1998, p. 9; Regular Report 1999, p. 31; Regular Report 2001, pp. 22, 35; Regular Report 2002, p. 22.
- (19) Monitoring Reports 2005, pp. 9,12,16; and May 2006, p. 30.
- (20) Regular Report 1999, p. 14; Regular Report 2000, p. 16.
- (21) Regular Report 1998, pp. 16.18; Regular Report 1999, p. 23.

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