

# Institution Building in Central and Eastern Europe: Foreign Influences and Domestic Responses

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## Abstract

In this article, the author discusses how and to what extent external influences (*i.e.*, actors, resources, norms and administrative models) have affected institutional reform in Central and Eastern Europe, a region that for centuries has been dominated by foreign powers. The article demonstrates: (a) how three aspects of governments of the so-called transition countries—administrative and cultural traditions, political leadership and reform management—affect the extent to which these countries are penetrated by outside influence or profit from external assistance in the area of public administration; and (b) how policies/institutional models may be transferred across nations and cultures in different ways and how various modalities of transfer may shape the impact of foreign involvement.

## Keywords

capacity building, institution building, legacies, legal and administrative traditions, policy making, policy transfer, political leadership, public administration reform, reform management, transition processes

## 1. Introduction

The post-1989 transitions may be seen as massive transfers of material resources, know-how, and political and economic models from the West to the East of Europe. The process is driven both by demand and supply—by the desire of Eastern<sup>1</sup> countries to obtain Western assistance and membership in Western institutions and by a readiness in the West to support and influence developments in the East.

Unlike the revolutions of 1776, 1789, and 1917, the momentous series of events of 1989-1991 were essentially apolitical and not the harbingers of ideological innovations.<sup>2</sup> The changes of 1989-1991 have been described as

<sup>1</sup> I use 'Eastern' or 'East' as convenient short-hand for countries in Central and Eastern Europe and the Commonwealth of Independent States formerly belonging to the Council for Mutual Economic Assistance and the Warsaw Pact plus the former Yugoslavia and Albania and 'Western' or 'West' to refer to member states of the OECD.

<sup>2</sup> Milada Vachudova and Tim Snyder, "Are Transitions Transitory? Two Types of Political Change

“rectifying revolutions, in that they aimed to connect up constitutionally with the inheritance of bourgeois revolutions and politically with the styles of commerce and life associated with developed capitalism”.<sup>3</sup>

The Eastern countries have aspired to fill the empty space created by the breakdown of the communist system by re-establishing ‘normal societies’ following Western norms and, thus, becoming accepted by the West as integral parts of the Western cultural sphere.<sup>4</sup> Arguing that they had been isolated from Europe by the politics of the Cold War and rejecting the “Soviet tainted ‘Eastern’ association”, Czechoslovaks, Hungarians and Poles insisted they were part of Central Europe.<sup>5</sup> According to the Czech sociologist, Michal Illner, the image was of a “lost child returning home”.<sup>6</sup>

The universal emphasis on a ‘return to Europe’ and the extent of Western involvement may seem to indicate that the range of strategic options and policy alternatives open to post-communist countries is strictly limited and that, by and large, the well-known Western form of democracy and market economy predestines their choices of political paths to follow.

Scholars have explicitly or implicitly argued that the previous institutional arrangement would play no role in the future, since, “like water and oil”,<sup>7</sup> the established systems and the future systems would not blend. The fall of communism was seen as a universal triumph for Western liberal democracy and human rationality, culminating in modernization and convergence on Western patterns and perhaps even in ‘the end of history’.<sup>8</sup> The USSR had for decades been the main enemy of the West and its final demise permitted the notion that its institutional system and the ones

in Eastern Europe Since 1989”, 11(1) *East European Politics and Societies* (1997), 1-35, at 1.

<sup>3</sup> Jürgen Habermas quoted in Stephen White, “Rethinking Postcommunist Transition”, 38(4) *Government and Opposition* (2003), 417-435, at 423.

<sup>4</sup> Claus Offe, “Cultural Aspects of Consolidation: A Note on the Peculiarities of Postcommunist Transformations”, 6(4) *The East European Constitutional Review* (1997), available at <<http://www.law.nyu.edu/eecr/vol6no4/culturalaspects.html>>; and Anna Savicka, *Postmaterialism and Globalisation* (Research Institute of Culture, Philosophy and Arts, Vilnius, 2004).

<sup>5</sup> Janine R. Wedel, *Collision and Collusion. The Strange Case of Western Aid to Eastern Europe* (Palgrave, New York, 2001), 16.

<sup>6</sup> Illner quoted in *ibid.*, 16.

<sup>7</sup> We owe this expression to Akos Rona-Tas, “Path Dependence and Capital Theory: Sociology of the Post-Communist Economic Transformation”, 12(1) *East European Politics and Societies* (1998), 107-131, at 110.

<sup>8</sup> Andrew C. Janos, “From Eastern Empire to Western Hegemony: East and Central Europe under Two International Regimes”, 15(2) *East European Politics and Societies*, 221-249, at 221.

which it had imposed on its satellites would have to be completely uprooted and replaced by new ones acceptable to the Western ‘victors’.<sup>9</sup>

However, the weight of the evidence accumulated over the post-1989 period does not support the thesis that the transition countries are following the same path of development or sharing a common end station. The dominant pattern of post-socialism has been one of variation, not uniformity, and the ways in which new institutional patterns have been introduced in the East differ significantly from the processes of modernization in the West. Thus, students of the transition process argue that:

- (a) Eastern countries have chosen distinctly divergent models of government and devoted varying levels of attention to reform issues;<sup>10</sup>
- (b) Eastern countries have often feigned rather than implemented Western standards;<sup>11</sup> and
- (c) The choices of economic policies differ across Eastern Europe<sup>12</sup>—in some countries, it is not an easily recognizable form of capitalism that is developing but a flawed, deviant model.<sup>13</sup>

The wide variety of developmental paths, found across and within countries of the previous Eastern bloc, have led scholars to doubt the usefulness of the transition concept. Thus, Stephen White contends that “many of the post-communist regimes are not (any longer) *going* anywhere, they have reached the point they wished to reach—at least as far as their governing elites are concerned”.<sup>14</sup> In the same vein, Thomas Caruthers argues that ex-Soviet republics and countries of Southeastern Europe have settled into some half-way house between outright dictatorship and well-established democracy.<sup>15</sup> According to David Coombes, only by seeing many of the post-communist states as semi-authoritarian and not as pre-democratic is it possible to understand the difficulties encountered by foreign consul-

<sup>9</sup> David Coombes, “Redesigning Technical Assistance for Professional Public Administration in CEE and CIS”, paper presented at the 14th Annual Conference of the NISPAcee, May 2006, Ljubljana, Slovenia, 13, available at <<http://unpan1.un.org/intradoc/groups/public/documents/NISPAcee/UNPAN024315.pdf>>.

<sup>10</sup> Tony Verheijen, “Context and Structure”, in *id.* (ed.), *Civil Service Systems in Central and Eastern Europe* (Edward Elgar, Cheltenham, 1999), 1–6.

<sup>11</sup> Janos, *op.cit.* note 8.

<sup>12</sup> Robert Zuzowski, “Are the Czechs Prague-matic?”, 23(4) *East European Quarterly* (2000), 475–490.

<sup>13</sup> Kazmierz Poznanski, “Building Capitalism with Communist Tools: Eastern Europe’s Defective Transition”, 15(2) *East European Politics and Societies* (2001), 320–355, at 320.

<sup>14</sup> White, *op.cit.* note 3, 434.

<sup>15</sup> Thomas Caruthers, “The End of the Transition Paradigm”, 13(1) *Journal of Democracy* (2002), 5–21.

tants attempting to advocate and assist in public administration reform in these countries.<sup>16</sup>

The diversity of transitional paths and the discrepancy between Western institutional prototypes and Eastern imitations clearly show that transition processes and outcomes are not predetermined by external patterns. There are always two sides to international policy transfers: external and domestic. Transferring know-how and practices from one political and cultural setting to another is a demanding task. According to Janine R. Wedel, *how* the transplantation happens—through whom and to whom, under what circumstances and with what goals—determines not only the nature of what recipients actually get and how they respond but also the ultimate success or failure of policy transfer.<sup>17</sup>

We will show that diffusion of institutional models across the East-West divide rarely leads to full policy convergence and that efforts by Western countries and international organizations to support institutional development in Eastern Europe are fraught with difficulties and unintended consequences.

A post-communist country is not a *tabula rasa* that can be inscribed with foreign ideas. Such ideas will be ignored, interpreted or rejected as a consequence of local conditions. Given the big and deeply embedded differences between the ‘exporting’ and ‘importing’ countries, between foreign and domestic actors, it seems only natural that external models will meet with local resistance and that policies will retain distinctly national traits. Even in international systems with noticeably asymmetric power relations, seemingly weak domestic actors will have opportunities to obstruct externally imposed solutions.<sup>18</sup>

Indeed, a comprehensive survey of the literature on policy transfer finds that a typical explanation brought forward for the absence of cross-national policy convergence is that “domestic aspects act as filters” and that national differences persist.<sup>19</sup> The national variables that are often used to explain the extent of policy convergence concern domestic culture, institutions and socio-economic structure, the argument being that externally inspired policies are adopted and properly implemented insofar as they fit in with these types of domestic patterns.<sup>20</sup>

<sup>16</sup> Coombes, *op.cit.* note 9, 6.

<sup>17</sup> Wedel, *op.cit.* note 5, 6.

<sup>18</sup> Janos, *op.cit.* note 8.

<sup>19</sup> Stephan Heichel, Jessica Pape and Thomas Sommerer, “Is there Convergence in Convergence Research? An Overview of Empirical Studies on Policy Convergence”, 12(5) *Journal of European Public Policy* (2005), 817–840, at 825.

<sup>20</sup> Andrea Lenschow, Duncan Liefferink and Sietske Veenman, “When the Birds Sing. A Framework for Analysing Domestic Factors behind Policy Convergence”, 12(5) *Journal of European*

This article aims to demonstrate how three aspects of governments of Central and Eastern European transition countries—administrative and cultural traditions, political leadership and reform management—affect the extent to which these countries are penetrated by outside influence or profit from external assistance in the area of public administration. Moreover, we will discuss how policies may be transferred across nations and cultures in different ways and how various modalities of transfer may have shaped the impact of foreign involvement in Central and Eastern Europe.

The article is mainly based on a review of transition literature and the author's own experience from capacity building in Eastern Europe, particularly Balkan countries.

## 2. Administrative and Cultural Traditions

### 2.1. *The Past in the Present*

When, at the onset of transition, the Eastern European countries redirected their geopolitical orientation from the East to the West, they obeyed an “escape from the past” imperative.<sup>21</sup> The West—and, in particular, the EU—seemed to offer a new image and an “escape mechanism”.<sup>22</sup> However, historians argue that rather than finding relief from their history the Eastern European countries were being haunted by it. Post-communist transitions did not only mean a “return to Europe” but also a “return to history”.<sup>23</sup> The revolts against communist rule and Soviet domination expressed essentially conservative strivings “to restore the past”.<sup>24</sup>

### 2.2. *Administrative Traditions*

#### 2.2.1. The Impact of Administrative Traditions

Deeply rooted legal and institutional patterns define the context in which policy change takes place and may have significantly influenced transition processes and outcomes. As a group of German and Dutch political scientists observe, when adapting to international trends or foreign models, political actors tend to:

*Public Policy* (2005), 797–816.

<sup>21</sup> Geoffrey Priedham quoted in Mustafa Türkes and Göksu Gökğöz, “The European Union’s Strategy towards the Western Balkans: Exclusion or Integration?”, 20(4) *East European Politics and Societies* (2006), 659–690, at 664.

<sup>22</sup> *Ibid.*, 664.

<sup>23</sup> Robert Bideleux and Ian Jeffries, *A History of Eastern Europe. Crisis and Change* (Routledge, London, 1998), 30.

<sup>24</sup> The Czech author, Milan Kundera, quoted in *ibid.*, 32.

“[O]rient their decisions on the already existing repertoire of institutional procedures, technologies, and organizational forms [...] [and] social and cultural understandings of appropriateness [...] National institutions and institutional practices are generally [...] ‘sticky’ and resistant against eradication or fundamental change.”<sup>25</sup>

In the same vein, Hellmut Wollman argues that European countries—despite being exposed to uniform external pressures—will remain institutionally different, at least in the foreseeable future. Though external factors may shape and harmonize *policies* across nations, questions regarding *national institutions* will jealously be regarded as prerogatives of national governments.<sup>26</sup> Since public administration may be said to bear on “the very identity of the State and goes to the root of power” we may assume that domestic decision makers may be reluctant to listen to the advice of foreigners in this sensitive area.<sup>27</sup>

### 2.2.2. Pre-Communist Patterns: the Case of Yugoslavia

Yugoslavia is generally considered to have been an exception among ex-communist states in Central and Eastern Europe because it preserved key features of its pre-World War II system of public administration.<sup>28</sup> The notion of the civil service as an essential state institution remained unchanged after 1945.<sup>29</sup> In contrast to all other ex-socialist countries, the Yugoslav communists retained all former royal civil servants who were not openly anti-communist and who had not cooperated with the German occupants. This practice is considered the main reason why the Yugoslav civil service kept several of its traditions after 1945.<sup>30</sup>

Old habits endure when they are well-entrenched and exposed to less than whole-hearted reform efforts. This appears to have been the case in Yugoslavia, where ingrained administrative traditions withstood more than forty years of communism.<sup>31</sup> Despite a reputation for being socially reformist, Yugoslavia seems to have been a conservative country where the public administration was unreceptive to new ideas and practices.<sup>32</sup> Current efforts at public administration reform in Serbia and Croatia,

<sup>25</sup> Lenschow, Lieferrink and Veenman, *op.cit.* note 20, 805 and 807.

<sup>26</sup> Hellmut Wollmann, “Policy Change in Public Sector Reforms in Comparative Perspective. Between Convergence and Divergence”, *GIS Working Paper* No.4, December 2004.

<sup>27</sup> Coombes, *op.cit.* note 9, 3.

<sup>28</sup> Tony Verheijen and Aleksandra Rabrenovic, “Review of the Theory on Politico-Administrative Relations”, in Tony Verheijen (ed.), *Politico-Administrative Relations: Who Rules?* (NISPAce, Bratislava, 2001), 10-25.

<sup>29</sup> Zeljko Sevic, “Politico-Administrative Relations in Yugoslavia”, in *ibid.*, 295-319.

<sup>30</sup> *Ibid.*, 318.

<sup>31</sup> Zeljko Sevic and Aleksandra Rabrenovic, “The Civil Service in Yugoslavia, Tradition vs. Transition”, in Verheijen, *op.cit.* note 10, 47-82.

<sup>32</sup> *Ibid.*

the largest and most self-conscious ex-Yugoslav states, are to some extent guided by wishes to restore domestic pre-communist traditions. In Croatia, this consideration has, at times, figured more prominently than the need to conform to EU requirements.<sup>33</sup>

The Yugoslav system of administrative law is based on the continental model, which emphasizes that the exercise of state power is governed by a set of codified legal provisions and, consequently, that the public administration is a law-bound quasi-judicial activity.<sup>34</sup> However, during forty-five years of communism, the Yugoslav system of public administration was separated from the evolution of the northwestern continental systems. A key difference emerging during this period was the extent of formalism in the application of Yugoslav law as compared to the more pragmatic approach that developed in Western Europe, partly under the influence of EU legislation.

The continental model of public administration—let alone the Yugoslav version thereof—differs clearly from that found in the UK and other countries with Anglo-Saxon traditions, where comparatively little of the routine work of civil servants is governed by law and where administration has been considered an “art learned in practice”.<sup>35</sup>

Reform efforts inspired by the latter tradition, most notably the New Public Management (NPM), aimed at modernizing the public sector by applying organizational and operational principles from the private business sector (managerialism, contractualism, etc.), have met with institutional, cognitive and normative barriers in countries that are deeply rooted in the continental European tradition, such as the Yugoslav successor states. Thus, writing in 2001, Klaus Goetz concluded that NPM models had hardly featured in the reform discourse in Central and Eastern European countries.<sup>36</sup>

In the former Yugoslavia, the extent of formalism in the public administration may seem to have made it unresponsive to administrative reform altogether. Serbian officials perceive the reform effort of the post-Milosevic period as overly legalistic. They argue that the extent of legalism makes the public service rigid and hard to change and that questions of policy are easily turned into matters of legal technicalities. Ministers complain

<sup>33</sup> Aleksandra Rabrenovic and Tony Verheijen, “Politicians and Top Civil Servants in former Yugoslav States, Back to Discarded Traditions?”, undated manuscript.

<sup>34</sup> Wollmann, *op.cit.* note 26; and F. F. Ridley, “The New Public Management in Europe: Comparative Perspectives”, 11(1) *Public Policy and Administration* (1996), 16–29.

<sup>35</sup> Ridley, *op.cit.* note 34, 24.

<sup>36</sup> Klaus Goetz, “Making Sense of Post-Communist Central Administration: Modernization, Europeanization or Latinization?”, 8(6) *Journal of European Public Policy* (2001), 1032–1051, at 1034.

that the system is extremely hierarchic and static, that there is nothing to help them to be flexible and creative.<sup>37</sup>

### 2.2.3. Communist Legal Patterns

Long-term historical patterns may be influenced by intermediate experiences.<sup>38</sup> Though communism may have been “superficial and short-lived”<sup>39</sup>—compared to more deep-seated divisions between Eastern and Western Europe—it was, however, a fact until only seventeen years ago with millions of people who experienced it still alive today. Arguably, the communist legacy is particularly influential in Russia, where the Soviet government abolished all pre-revolutionary legislation and where there is no living memory of law and public administration prior to the communist era. However, elsewhere in the previous Eastern bloc, too, the remnants of communist ideology and practices still influence governmental frameworks and the actual behavior of political leaders. Scholars argue that the weight of communist legacies seems to have been seriously underestimated by those who associated the fall of communism with a process of general deinstitutionalization and that socialist remnants may represent dangers for the consolidation of a legal culture based on the rule of law.<sup>40</sup>

For instance, the current Hungarian Constitution accords parliament the role as supreme state power. This provision has been termed a “fossil” of socialist state theory, according to which parliament is at the apex of the hierarchy of state bodies and enjoys absolute power.<sup>41</sup> In a constitutional state with division of powers, there is no ‘supreme power’. On the contrary, there is a system of checks and balances—of state organs mutually restricting and controlling each other. Rulings of the Hungarian Constitutional Court strongly suggest that the provision on the role of parliament is not an empty stipulation but a clear reflection of the Leninist dogma of unity of powers.<sup>42</sup>

During the communist period, the term ‘state administration’ gradually came to cover both the traditional state administration and local self-government bodies. The use of this term reflected the predominant idea of democratic centralism, which compromised the notion of self-government

<sup>37</sup> Statskonsult, *Unfinished Transition. Serbian Public Administration Reform 2001-2004* (Statskonsult, Oslo, Belgrade, 2005).

<sup>38</sup> Geoffrey Pridham, “Confining Conditions and Breaking with the Past: Historical Legacies and Political Learning in Transitions to Democracy”, 7(2) *Democratization* (2000), 36-64, at 42.

<sup>39</sup> Bideleux and Jeffries, *op.cit.* note 23, 48.

<sup>40</sup> Goetz, *op.cit.* note 36, 1039; and Andras Jakab and Miklos Hollan, “Die dogmatische Hinterlassenschaft des Sozialismus im heutigen Recht: Das Beispiel Ungarns”, 46 *Jahrbuch für Ostrecht* (2005), 11-40, at 11.

<sup>41</sup> Jakab and Hollan, *op.cit.* note 40, 28.

<sup>42</sup> *Ibid.*, 30.

and defined it as the antithesis of what it was expected to be. The fact that the term ‘state administration’ is still widely used has been seen as an indication that the old ideas of the state as a monolith and of public administration as an instrument of power are very much alive.<sup>43</sup>

To some extent, communist definitions of law as well as other features of the communist system of decision making were related to domestic pre-communist patterns, which, arguably, may make them particularly resistant to reform. Legal experts have suggested that the communist notion of the state bureaucracy as an apparatus of the ruling class is connected to the concept of state administration as an instrument of state power that prevailed in continental European state theories, *inter alia*, the *Staatsrecht* of the German *Obrigkeitsstaat* and the German *Machtstaat*. Stevan Lilic observes that this traditional concept of “state law” was prevalent in Central and East European countries under communism, particularly under the influence of Soviet legal theory.<sup>44</sup> In similar fashion, other Yugoslav legal theorists have argued that—from the late 1930s onwards—Soviet legal theory was mechanically stuck onto the classical conclusions of particularly German *etatist* legal theorists.<sup>45</sup>

### 2.3. Cultural Traditions

#### 2.3.1. The Impact of Cultural Traditions

Samuel Huntington argues that cultural factors are likely to play an even greater role in the future than in the past and even predicts a clash of civilizations.<sup>46</sup> Andrea Lenschow and her colleagues point out that:

“Policy-specific discourses—the ideas and narratives behind policies and policy change—are set within the broader culture of a country. Thus culture offers an important key to understanding how policy specific discourses are developed, interpreted and eventually integrated into the domestic policy-making context.”<sup>47</sup>

In their search for relevant foreign models, national decision makers will look to the experience of countries that have cultural patterns with which they can identify.<sup>48</sup> As Lenschow and associates observe, the literature on

<sup>43</sup> *Ibid.*

<sup>44</sup> Stevan Lilic, “Challenges of Government Reconstruction: Turbulence in Administrative Transition. From Administration as an Instrument of Government to Administration as a Public Service”, 2(1) *Facta Universitatis* (1998), 183-193, at 187.

<sup>45</sup> Ivo Lapenna, *State and Law: Soviet and Yugoslav Theory* (Yale University Press, New Haven, 1964), 88.

<sup>46</sup> Samuel P. Huntington, *The Clash of Civilizations And the Remaking of the World Order* (Simon and Schuster, London, 1997).

<sup>47</sup> Lenschow, Lieferink and Veenman, *op.cit.* note 20, 801.

<sup>48</sup> Katharina Holzinger and Christoph Knill, “Causes and Conditions of Cross-national Policy Convergence”, 12(5) *Journal of European Public Policy* (2005), 775-796, at 790.

policy convergence emphasizes “the importance of resonance between the exported ‘object’ and the cultural and institutional setting of the potential importer”.<sup>49</sup>

Cultural differences have created serious difficulties for the implementation of cross-national projects and, more generally, the cultural factor has been described as “the real bottleneck” in public administration reform in Central and Eastern Europe.<sup>50</sup> Foreign advisors who fail to understand essential cultural characteristics of the countries in which they are working may cause serious cultural shocks and policy failures.<sup>51</sup>

### 2.3.2. Hofstede’s Five Dimensions of Culture

Geert Hofstede has developed five characteristics of culture (power distance, individualism, masculinity, uncertainty avoidance and long-term orientation) that have a profound impact on how organizations function and how organizational members interact.<sup>52</sup>

There are systematic differences between Western and Eastern European countries with regard to Hofstede’s dimensions. Countries in the former group tend to be more egalitarian, more individualistic, more long-term oriented and more tolerant of uncertainty than countries in the latter.

Hofstede’s categories have been used in studies of policy transfer and post-communist transitions. Lenschow and associates contend that attitudes regarding power distance are likely to influence a country’s preference for legally enforceable rules as opposed to more participatory approaches, that the individualism versus collectivism index will impact on market versus state dominance in the economy, and that countries with authoritarian cultures will be hesitant in the adoption and use of communication-based policy instruments.<sup>53</sup>

A group of European and American social scientists argue that Hofstede’s cultural dimensions affect key aspects of the transformation processes in Eastern Europe, such as EU integration, the adoption of the *acquis communautaire* and the implementation of NPM-inspired reforms. The group observes:

<sup>49</sup> Lenschow, Liefferink and Veenman, *op.cit.* note 20, 799.

<sup>50</sup> William N. Dunn, Katarina Staronova and Sergei Pushkarev, “Implementation: The Missing Link”, in William N. Dunn, Katarina Staronova and Sergei Pushkarev (eds.), *Implementation: The Missing Link in Public Administration Reform in Central and Eastern Europe* (NISPAcee, Bratislava, 2006), 13-25; and Attila Agh, “Public Administration in Central and Eastern Europe”, in B. Guy Peters and Jon Pierre (eds.), *Handbook of Public Administration* (Sage, Thousand Oaks, 2003), 536-548.

<sup>51</sup> Birger Nerré, *Steuerkultur und Steuerreform* (Lit Verlag, Hamburg, 2006).

<sup>52</sup> Geert Hofstede, *Cultures and Organizations. Intercultural Cooperation and its Importance for Survival. Software of the Mind* (Harper Collins, London, 1994).

<sup>53</sup> Lenschow, Liefferink and Veenman, *op.cit.* note 20, 806 and 807.

"[C]onsider the Uncertainty Avoidance Index. A High Uncertainty Avoidance ranking (the Czech Republic, Poland, and Hungary) indicates that the country has low tolerance for uncertainty and ambiguity. This is a society that institutes laws, regulations, and controls in order to reduce the amount of uncertainty. A Low Uncertainty Avoidance ranking (United Kingdom) indicates the country has concern about ambiguity and uncertainty and has more tolerance for a variety of opinions. This is reflected in a society that more readily accepts change, and takes more risks. This may have direct implications for administrative reforms and their implementation."<sup>54</sup>

### 2.3.3. Authoritarianism

Students of transition processes have devoted particular attention to the level of power distance in East and Southeast European countries. The cult of the leader was a hallmark not only of fascism but also of communism and found expression in the unconditional acceptance of rulers like Josip Broz Tito, Nicolae Ceausescu and Slobodan Milosevic.<sup>55</sup>

Although dictators may have disappeared, the weight of authoritarianism persists. The legacy of communist authoritarianism has significantly influenced the development of post-communist party systems and transition processes more generally. Political scientists argue that the more repressive the communist system, the more successful the communist successor parties and, in turn, the efforts by these parties to prevent radical changes in the state apparatus.

Decades of authoritarianism made opposition groups too weak and disorganized to stand up to the ex-communists. In Romania and Bulgaria, the only bond uniting the various opposition forces was resistance to communism. As soon as the communist regimes seemed to have collapsed, the democratic movements started to disintegrate. After the fall of Nicolae Ceausescu, the lack of democratic traditions facilitated a revival of Romanian authoritarianism.<sup>56</sup> Well into the 1990s, leading members of the country's justice system have been reluctant or even afraid to make decisions or articulate opinions that may be interpreted as criticism of leading politicians.<sup>57</sup>

<sup>54</sup> Katarina Staronova, Sergei Pushkarev and William N. Dunn, "Conclusions: Strengthening Linkages Between Administrative Reforms, Implementation, and Performance", in Dunn, Staronova and Pushkarev, *op.cit.* note 50, 199-205.

<sup>55</sup> Balázs Apor *et al.*, *The Leader Cult in Communist Dictatorship. Stalin and the Eastern Bloc* (Palgrave MacMillan, Basingstoke, 2004); Radu Cinpoes, "The Role of Authoritarianism and Totalitarianism in Romanian Post-Communist Nationalism", 30 *Southeastern Europe/L'Europe du Sud-Est* (2003), 39-52; and Mladen Lazic, "Les obstacles sociaux et institutionnels au processus de transformation en Serbie", 35(1-2) *Revue d'Études Comparatives Est-Ouest* (2004), 17-34.

<sup>56</sup> Cinpoes, *op.cit.* note 55.

<sup>57</sup> Monica Macovei, "Citizen and Law after Communism. Legal Culture in Romania", 7(1) *East European Constitutional Review* (1998), available at <<http://www.law.nyu.edu/eecr/vol7num1/feature/legalculture.html>>.

The hegemonic Communist Parties tried to modernize their countries by decree, without much involvement of broad social strata. Because of the top-down and occasionally draconian reform methods, society became alienated from and felt no responsibility for political decisions. Thus, the misconception gained ground that modernization is a fixed and clearly defined historical end state and not a dynamic, continuously evolving objective; that modernization should be proclaimed by those in power, rather than developed through constant, interactive processes of adaptation.<sup>58</sup>

This approach to modernization has had a significant impact on the course of post-1990 transition processes. It put the responsibility for modernization squarely on the shoulders of the political leadership: when the right leaders have been installed, the main obstacles to modernization are removed. The idea that a number of complex preconditions have to be fulfilled in order for Eastern European societies to achieve Western levels of stability and affluence is not widely acknowledged. Thus, the distance between these societies and those of Western Europe may actually have increased and not decreased.<sup>59</sup>

In Serbia, the inherited hierarchic nature of decision making has influenced and probably hampered the process of public administration reform.<sup>60</sup> After the upheavals of 2000/2001, ministries continued to function in the old-fashioned authoritarian ways, with decision makers taking their cue from top leaders, without whose explicit support and direction little would happen.<sup>61</sup> In the often-protracted periods when public institutions were without effective leadership—for instance, in the months before and after elections—work actually came to a complete standstill. Moreover, the ‘command and control’ philosophy of ministries created a sense of uncertainty, even fear, among the permanent staff, which was not conducive to innovation.

### 2.3.4. Legacies May Influence but not Determine Transition Outcomes

Unfavorable legacies do not necessarily present insurmountable obstacles to reforming entrenched governmental institutions. The nature of the previous authoritarian regime—especially if it was imposed from without—may stimulate progressive thinking and an urge to break with the past

<sup>58</sup> Harald Heppner, “Modernisierung der Politik als Strukturproblem in Südosteuropa”, 37(3) *Österreichische Ostbeite* (1995), 717-746, at 744.

<sup>59</sup> *Ibid.*, 745.

<sup>60</sup> Statskonsult, *op.cit.* note 37.

<sup>61</sup> Aleksandra Rabrenovic, “Role Perceptions of Senior Officials in the Republic of Serbia”, unpublished manuscript (2003); and *ibid.*

and attempt a new beginning.<sup>62</sup> The sudden and unexpected breakdown of state socialism suggests that, in some historical phases, disjuncture and reversals may figure more prominently than legacies and continuities.<sup>63</sup>

Observers argue that, in Poland, NATO used its power to shape the interests of civil reformers so that they established democratically accountable civilian control over the armed forces. The Polish case is interesting because it illustrates how external influences may radically modify resilient and long-standing domestic traditions. Ever since the partitions of Poland during the late eighteenth century, the Polish military has been regarded as the guardian of Polish national independence and, on the basis of this perception, has enjoyed a uniquely autonomous position *vis-à-vis* the political leadership, no matter who has been in power, whether it be the authoritarian nationalists of the inter-war period or the post-1945 communists.<sup>64</sup> Thus, NATO is seen to have neutralized a 200-year-old legacy that withstood decades of Soviet indoctrination and hegemony.<sup>65</sup>

Some students of administrative developments in transition countries—such as Aleksandra Rabrenovic and Tony Verheijen—have viewed arguments that political culture and lack of traditions may explain the failure to establish impartial and professional systems of civil service across Eastern Europe with skepticism, though they admit that these factors may be highly significant in ex-Soviet states and, in particular, Central Asian republics.<sup>66</sup> According to this line of argument, “the Ottoman legacy and ‘dividing line’ theorems have often been misused in trying to explain difficulties in Southeastern Europe”.<sup>67</sup>

Attempts to work through the dark sides of the communist past (what the Germans call ‘*Vergangenheitsbewältigung*’) are key elements of efforts to develop social values and attitudes that are conducive to democratic forms of government. The ways in which the abuses of the previous regimes regime have been handled vary considerably across Eastern Europe. Whereas in East Germany and Czechoslovakia there have been detailed investigations of Communist leaders and collaborators, Poland, Hungary and the Balkan countries never went far down this path.<sup>68</sup>

<sup>62</sup> Pridham, *op.cit.* note 38.

<sup>63</sup> *Ibid.*

<sup>64</sup> Rachel A. Epstein, “When Legacies Meet Realities: NATO and the Refashioning of Polish Military Tradition”, 20(2) *East European Politics and Societies* (2006), 254–285.

<sup>65</sup> *Ibid.*

<sup>66</sup> Verheijen and Rabrenovic, *op.cit.* note 28, 419.

<sup>67</sup> *Ibid.*, 419.

<sup>68</sup> Pridham, *op.cit.* note 38.

### 3. Political Leadership

It is often argued that forceful political leadership is essential to achieve successful reforms in transition countries and, conversely, that insufficient political demand for institutions or institutional reform is the single most important obstacle to institutional development in poor countries.<sup>69</sup>

The stable, regulated Western democracies leave little latitude for transformative leadership. Indeed, the very notion of democracy may not correlate positively with strong leadership, since the success of liberal democracies consists in a reduction of the elbowroom of powerful individuals.<sup>70</sup> However, the situation is clearly different in non-democratic systems and in systems experiencing rapid and wide-ranging transitions where old patterns of decision making have collapsed and not yet been replaced by new sets of procedures.<sup>71</sup> These rare moments of “extraordinary politics”<sup>72</sup> offer rich opportunities for individual actors. One of the best examples of a groundbreaking East European leader is the Czech prime minister (and current president), Vaclav Klaus, whose admiration for Margaret Thatcher translated into extensive market-liberal reforms.<sup>73</sup> In Serbia, Prime Minister Zoran Djindjic played a key role in the Western-oriented reform process after the fall of the Milosevic regime. Some of his decisions to reform the Serbian public administration—especially the establishment of agencies by government decrees and not by laws—were not in line with the country’s administrative traditions. The political opposition consistently accused Djindjic of overstepping the limits of legality, thus modifying the picture of a government solely dedicated to caution and gradualism (see above). His assassination in 2003 brought the reform process to a standstill for a long period of time.<sup>74</sup>

<sup>69</sup> Yehezkel Dror, “Gearing Central and Eastern European Governments Towards Weaving the Future through Ruptures in History”, in Bryane Michel, Rainer Kattel and Wolfgang Dreschler (eds.), *Enhancing the Capacities to Govern: Challenges Facing the CEE Countries* (NISPAcee, Bratislava, 2004), 17–26; and Francis Fukuyama, *State Building: Governance and World Order in The Twenty First Century* (Profile Books, London, 2004).

<sup>70</sup> Jean Blondel, *Political Leadership* (Sage, London, 1987).

<sup>71</sup> Anton Pelinka, “Leadership: Zur Funktionalität eines Konzepts”, 26(4) *Österreichische Zeitschrift für Politikwissenschaft* (1997), 369–376; and Ausra Park, “Starting from Scratch: The Role of Leadership in the Foreign Policymaking of the Baltic States 1991–1999”, 39(2) *East European Quarterly* (2005), 229–270.

<sup>72</sup> Term used by Leszek Balcerowicz, the architect of radical Polish reforms of 1990, to describe the context of decision making in the early transition period.

<sup>73</sup> Mitchell A. Orenstein, *Out of the Red: Building Capitalism and Democracy in Postcommunist Europe* (University of Michigan Press, Ann Arbor, MI 2001).

<sup>74</sup> Statskonsult, *op.cit.* note 37.

By the same token, lack of political leadership may have detrimental effects on the transition process. Leaders like Milosevic in Serbia, Tudjman in Croatia and Meciar in Slovakia held up reform processes for several years and isolated their countries from European developments.<sup>75</sup> Also, leaders on lower levels who were educated and socialized under the communist regimes have prevented the introduction of new, Western-inspired methods and principles because such innovations would have made their own experience irrelevant and, thus, been a threat to their positions and status. Apparently, this mechanism to some extent explains the lack of reform of higher education in Eastern Europe.<sup>76</sup>

Generally, observers seem to doubt both the ability and will of the new political elites in parts of Eastern Europe to design and implement reforms of the public administration. Thus, David Coombes argues that:

“The selection of new political leaders by untried and incomplete ‘democratic’ methods of election has often transferred power to those who are only too willing both to underestimate the needs of public administration and to ignore, or abandon altogether, the established means of meeting those needs. Those who come to power this way are often former dissidents, without experience of government, or have experience limited to what was previously a kind of provincial and local government.”<sup>77</sup>

Foreign observers contend that, in the Balkans, politicians are inclined to understand their jobs not as making policies but as producing symbolic change or mere gestures and distributing patronage.<sup>78</sup> A study of Serbian public administration reform argues that, generally, leadership has impacted negatively mainly because it has been fragmented, conflicting, distracted by other issues and not sufficiently dedicated to questions of public administration.<sup>79</sup>

In the post-1989/1990 era, executive political leadership in Central and Eastern Europe has been distinctly unstable. In several countries, the average tenure of ministers during the 1990s was less than two years. Though the frequent changes of governments and ministers did not lead

<sup>75</sup> Robert Thomas, *Serbia under Milosevic. Politics in the 1990s* (Hurst and Company, London, 1998); Antje Helmerich, “Kroatien unter Franjo Tudman Plebiszitärer Autoritarismus hinter demokratischer Fassade”, 53(2) *Südost Europa Zeitschrift für Gegenwartsforschung* (2005), 242-271; and Jeffrey S. Kopstein and David A. Reilly, “Postcommunist Spaces: A Political Geography Approach to Explaining Postcommunist Outcomes”, in Grzegorz Ekiert and Stephen E. Hanson (eds.), *Capitalism and Democracy in Central and Eastern Europe: Assessing the Legacy of the Communist Rule* (Cambridge University Press, Cambridge, 2003), 120-154.

<sup>76</sup> Manfred Füllsack, “Reform oder Restauration? Zur Transformation der Höheren Bildung im östlichen Europa”, 46(1-2) *Österreichische Osthefte* (2004), 143-160.

<sup>77</sup> Coombes, *op.cit.* note 9.

<sup>78</sup> SIGMA, “Public Administration in the Balkans: Overview”, *SIGMA Assessment Report* (2004), 8 and 10, available at <<http://www.sigmaweb.org/dataoecd/45/2/34862245.pdf>>.

<sup>79</sup> Statskonsult, *op.cit.* note 37.

to u-turns in the general direction of reform policies, it has probably slowed down efforts in the area of public administration.<sup>80</sup>

Executives, who rarely have a realistic prospect of re-election and senior officials who—with few exceptions—do not possess permanent tenure, face a trade-off between spending resources on comprehensive institutional reform and building institutions around trusted individuals. The latter strategy can be studied in the case of institutional arrangements for EU accession in both Hungary and Poland.<sup>81</sup>

Over the past 150 years, at least, the issue of the extent to which Western models of governance should be adopted has split political elites in countries of Eastern Europe. The argument between ‘Westerners’ and nationalists runs like a thread through Serbia’s modern history, for instance. Recently, the conflict between the late Serbian Prime Minister, Zoran Djindjic, and the current Prime Minister, Vojislav Kostunica, has been interpreted as one between a Western-oriented modernizer and a Serb traditionalist.<sup>82</sup>

#### 4. Reform Management

The ways in which public administration reform is managed may influence reform outcomes. We shall address three aspects of reform management: the choice of responsible institutions; the ability to design and implement reform policies; and the capacity to profit from foreign assistance.

##### 4.1. *The Choice of Responsible Institution*

There are several possible candidates for the leading roles in the reform effort: the ministry of the interior (Hungary and Slovenia); the ministry of labor (the Czech Republic and Slovakia); the ministry of justice (Serbia until 2003); the ministry of public administration (Serbia after 2004); and separate agencies (Poland, Slovakia, Croatia and Serbia until 2004).

The choice of leading reform institution may significantly influence the reform process and its outcomes.

*Ministries of the interior* tend to be conservative institutions that take a cautious approach to reform.<sup>83</sup> Moreover, the urgency and visibility

<sup>80</sup> Barbara Lippert and Gaby Umbach, *The Pressure of Europeanisation: From Post-communist State Administrations to Normal Players in the EU System* (Nomos Europäische Schriften, Baden-Baden, 2005).

<sup>81</sup> Attila Agh, “The Reform of the State Administration in Hungary: The Capacity of Core Ministries to Manage Europeanization”, paper presented at the ECPR Turin Session, March 2002; and Radoslaw Zubek, “A Core in Check: The Transformation of the Polish Core Executive”, 8(6) *Journal of European Public Policy* (2001), 911–932.

<sup>82</sup> Norman Cigar, *Vojislav Kostunica and Serbia’s Future* (The Bosnian Institute, London, 2001).

<sup>83</sup> Miroslav Beblavy, “Management of Civil Service Reform in Central Europe”, undated manuscript.

of police and other law enforcement issues within the portfolio of the ministry may turn the attention of the minister away from public administration reform.<sup>84</sup>

Apparently, *ministries of labor* almost exclusively emphasize social aspects of reform and, particularly, personnel issues. This choice of responsible ministry may skew the reform focus towards training and job protection for insiders and away from the issue of reducing the number of civil servants.<sup>85</sup>

*Ministries of justice* have traditionally been responsible for issues of public administration in, *inter alia*, ex-Yugoslav countries. They represent a legal—even legalistic—approach to reform. In Serbia, the Ministry of Justice appears to have reacted to the proposals of other ministries, checking whether these were in line with the Constitution and other pieces of legislation, rather than challenging or taking a critical view of the existing legal framework. Also, *ministries of public administration* and other institutions carved out of the ministries of justice show a strong legal orientation.<sup>86</sup>

The establishment of *agencies for public administration reform* without any overall reorganization of the reform effort will increase the number of public bodies involved and add to the problems of coordination. If the agency is not given a quasi-ministerial status, it may be too weak *vis-à-vis* other actors and lose influence over policies and legislation.<sup>87</sup> However, in Serbia, the establishment of administrative bodies outside the ordinary ministerial structure that were staffed with young, well-educated people may have prevented the new bodies from being weighed down by the old bureaucracy and, thus, actually promoted reform.<sup>88</sup>

#### 4.2. *The Capacity to Design and Implement Reforms*

To be conducive to change, institutional structures must provide capabilities for both policy design and policy implementation. Both capabilities have been described as “extremely weak in central and eastern European countries”.<sup>89</sup> Blind import of Western models—for instance, those associated with New Public Management—may lead to serious difficulties, such as state capture, corruption and policy failures, because there are no or

<sup>84</sup> Statskonsult, *op.cit.* note 37.

<sup>85</sup> Beblavy, *op.cit.* note 83.

<sup>86</sup> Statskonsult, *Functional Review of the Serbian Ministry of State Administration and Local Self Government* (Statskonsult, Oslo, 2006).

<sup>87</sup> Beblavy, *op.cit.* note 83.

<sup>88</sup> Statskonsult, *op.cit.* note 37.

<sup>89</sup> Dunn, Staronova and Pushkarev, *op.cit.* note 50, 23.

only insufficient institutional capacities to ensure proper implementation of the imported models.<sup>90</sup>

In Serbia, the institutional structure has had adverse effects on the reform process mainly because there are insufficient capacities for coordination, cooperation, communication and policy development. Several ministers seem to have been overwhelmed by an inhospitable administrative structure and have become resigned to it. Apparently, the capacity of the Serbian ministries responsible for managing the process of public administration reform has been restricted by limited strategic orientation, weak internal coordination, high turnover, strong centralization of decision-making authority and little support for the effective use of IT.<sup>91</sup> There are, however, cross-institutional variations. In some Serbian ministries, internal communication—and the atmosphere more generally—is significantly better than in others and more conducive to innovation.<sup>92</sup>

In addition to structural deficiencies, there are conceptual impediments to reform. In the Balkans, the concept of ‘policy development’ is not understood in the Western sense but usually as the process of technically drafting legislation without prior analysis.<sup>93</sup> Moreover, in several countries of the previous Eastern bloc, the discipline of public administration is not well developed. There are few domestic experts in the field and, arguably, no well-established professional vocabulary. Thus, the question has been asked: “[h]ow can one conduct administrative reform when there is not even a language for it—or when the language is only foreign?”<sup>94</sup>

#### 4.3. *The Capacity to Profit from Foreign Assistance*

The argument that the nature of domestic bureaucracies influences the ability of Eastern European countries to benefit fully from external aid has been heard for decades. Immediately after the First World War, the US Rockefeller Foundation tried to support the development of a modern health care system in Czechoslovakia. One issue that was problematic for the Foundation’s work in that country was the bureaucratic system inherited from the Austro-Hungarian monarchy. Within weeks of his arrival in Czechoslovakia, the Foundation’s representative wrote:

<sup>90</sup> *Ibid.*

<sup>91</sup> Statskonsult, *op.cit.* note 86.

<sup>92</sup> Statskonsult, *op.cit.* note 37.

<sup>93</sup> *SIGMA*, *op.cit.* note 78, 10.

<sup>94</sup> Ronald Young, “Mercenaries, Missionaries or ... Consultants? Is Administrative Reform in Transition Countries a Business, Religion or ... Surgery?”, paper presented at the 14th Annual Conference of the NISPAcee, May 2006, Ljubljana, Slovenia available at <<http://unpan1.un.org/intradoc/groups/public/documents/NISPAcee/UNPAN024320.pdf>>.

“It takes weeks and sometimes many months to accomplish anything. The whole system is bureaucratic in the extreme [...] The Minister is disposed to change the methods but realizes that it is a difficult thing to do, as it is part of the whole state system. It comes from the whole principle of government. All authority rests with a very few and the system of protocol is designed to protect those who hold the responsibility. The enormous delays in getting things done discourages men who are really interested in their work.”<sup>95</sup>

Circumstances—like the ones described here—still seem to make it difficult for Eastern countries to benefit from foreign assistance. In Croatia and Serbia, only half of the EU funds earmarked in 2001 for projects in public administration were disbursed in 2004.<sup>96</sup> The ability to assimilate aid seems to have become increasingly weaker over the 2001–2004 period.<sup>97</sup> One obvious interpretation of this state of affairs is that—as more complex reform issues are addressed over time and the volume of assistance grows—aid absorption becomes increasingly vulnerable to bottlenecks in the public administration.

In Balkan countries, projects have come up against a common feature of the local administrative apparatus, the absence of communication and coordination. A consultant responsible for a cross-ministerial project reports that “experience has been mixed. In several ministries there is a communication ‘black hole’. People do not share information. The word is not spread.”<sup>98</sup> In ministries that have separate units for external assistance or externally funded projects, there appears to be little communication between these bodies and the parts of the ministry that are responsible for forming and implementing policies. Thus, the projects may not significantly promote domestic reforms or enhance the capacities of the local public administration.

The noticeable centralization of the public administration as well as the limited interaction between employees and political appointees in recipient countries have also influenced decision making on foreign assistance. There is a great deal of anecdotal evidence of civil servants engaged in externally-funded projects who have been reluctant to approach their superiors in project-related matters, let alone speak their mind in the presence of political appointees. The fact that only ministers or the government plenary are entitled to make decisions has considerably delayed projects.

<sup>95</sup> Benjamin B. Page, “First Steps: The Rockefeller Foundation in Early Czechoslovakia”, 35(3) *East European Quarterly* (2001), 259–308, at 282.

<sup>96</sup> Development Researchers’ Network Consortium, “Evaluation of the Assistance to the Balkan Countries Under CARDS Regulation 2666/2000”, *Synthesis Report Vol.I, Findings of the Evaluation* (2004); and Statskonsult, *op.cit.* note 37.

<sup>97</sup> Statskonsult, *op.cit.* note 37.

<sup>98</sup> Interview with the author.

Local civil servants have been engaged in externally funded projects on top of their ordinary workloads, which has led to a lack of dedication and in-depth involvement in reform efforts.<sup>99</sup> High turnover among employees, often as a result of poor pay conditions, has often disrupted project implementation and reduced effectiveness and impact.<sup>100</sup> Simultaneously, lack of competence and analytical skills makes it difficult for the recipient countries to identify their needs and, as a corollary, to secure ownership of the assistance package.<sup>101</sup>

However, the capacity of governmental bodies to absorb foreign aid differs across the public service. Available evidence indicates that there may be systematic variations vertically between administrative levels and horizontally across policy sectors. An evaluation of the EU Phare Programme concluded that—while most of the projects directly addressing the central level of government performed deficiently—local government projects scored considerably better.<sup>102</sup> The evaluator argues that this pattern may be an indication that central government institutions are more prone to political volatility and risks than local government bodies.<sup>103</sup>

In the Western Balkans, the progress of reforms regarding the state apparatus, the justice sector and public administration is significantly slower than developments in the areas of trade, energy and infrastructure.<sup>104</sup> Arguably, this pattern is also reflected in the actual absorption of external assistance. In Serbia, for instance, the percentage of aid actually spent was significantly lower in the area of administrative reform than in other sectors.<sup>105</sup> The discrepancy can be interpreted in the light of data from other parts of the world, which indicates that support for capacity building tends to be successful in sectors with clear goals, familiar techniques, measurable results and strong lobbies pressing for reforms of the administration.<sup>106</sup> These features are not easily replicable, particularly not in the area of general public administration.

<sup>99</sup> David Bailey and Lisa De Propriis, "A Bridge Too Phare? EU Pre-Accession Aid and Capacity-Building in the Candidate Countries", 42(1) *Journal of Common Market Studies* (2004), 77-98.

<sup>100</sup> International Policy Services, "An Evaluation of Phare Public Administration Programmes. Final Report", March 1999, available at <<http://ec.europa.eu/europeaid/evaluation/reports/cards/951465.pdf>>.

<sup>101</sup> Bailey and De Propriis, *op.cit.* note 99.

<sup>102</sup> International Policy Services, *op.cit.* note 100.

<sup>103</sup> *Ibid.*

<sup>104</sup> Marie-Janine Calic, "Strategien zur Europäisierung des Westlichen Balkans. Der Stabilisierungs- und Assoziierungsprozeß auf dem Prüfstand", 53(1) *Südosteuropa* (2005), 137.

<sup>105</sup> Statskonsult, *op.cit.* note 37.

<sup>106</sup> The World Bank, *Capacity Building in Africa. An OED Evaluation of World Bank Support* (World Bank, Washington, DC, 2005).

The fact that there is no direct relationship between the volume of aid provided and the amount actually put to use—that the efficiency of foreign assistance is dependent on domestic patterns of decision making—is not generally recognized. Whereas the Croatian Ministry of Foreign Affairs and European Integration has made efforts to improve the national aid absorption capacity, other countries generally repeat the standard complaint that overall levels of support are too low.<sup>107</sup>

## 5. The Impact of External Actors

We have now demonstrated the probability that domestic conditions significantly influence the impact of foreign involvement in transitions processes. This conclusion may raise doubt about the actual impact of external actors and resources on transition processes. However, there is no professional consensus regarding the extent to which foreign governments and international organizations may promote institutional development in weak states. Policies are transferred across nations and cultures in a number of ways and the effect of external involvement may depend on the modalities of transfer.

### 5.1. Various Models of Policy Transfer

Colin Bennett has identified four different types of policy transfer:

- *Emulation*: borrowing ideas and policies and adapting them to local conditions;
- *Harmonization*: the promotion of standardized policies through supranational institutions like the European Union;
- *Transnational policy communities*: where experts and professionals share their expertise and information and form common patterns of understanding; and
- *Penetration*: involving the clear use of power and entailing a compulsion to conform.<sup>108</sup>

Migration of policy stimuli may or may not lead to policy convergence. A recent review of the literature on this topic has identified four mechanisms of convergence:

- *Imposition*: convergence occurs through submission to political demand or pressure;
- *International harmonization*: convergence occurs through compliance with international law;

<sup>107</sup> Calic, *op.cit.* note 104.

<sup>108</sup> Colin Bennet, "Review Article: What is Policy Convergence and What Causes It?", 21(2) *British Journal of Political Science* (1991), 215-233.

- *Regulatory competition*: convergence occurs through competitive pressure; and
- *Transnational communication*: convergence occurs through transfer of models found elsewhere or independent similar responses to problem pressure.<sup>109</sup>

As indicated by these overviews, the relationship between exogenous and domestic actors may vary considerably. It may make a huge difference if an external model is imposed unilaterally on a country by an occupying power or whether it is adopted voluntarily by a fully sovereign state.

The relationship between foreign actors and the transition countries may be defined in different ways. Two factors implicitly influencing the systematizations above may be of particular relevance: the extent of hierarchy and the degree of communication. *Hierarchy* indicates the extent to which the external agent may impose solutions or priorities on the transition country and *communication* the scale of contact and discussions between the parties. Both variables may affect the extent to which foreign models are successfully transplanted.

It is often assumed that a hierarchic relationship will not facilitate the implementation of foreign models: institutions can be at most imported, never exported, let alone imposed.<sup>110</sup> Moreover, such relationships clash with current global norms of sovereignty. However, arguments to the contrary may also be heard. “New ideas are likely to travel if they have powerful participants.”<sup>111</sup> Prominent observers hold that the EU’s reluctance to recommend specific institutional solutions to accession countries may be dysfunctional in relation to the weak states of the Balkans and suggest that the EU should take on a much more proactive role and assume the responsibility for some of the institutional choices that prospective member states will be forced to make.<sup>112</sup>

The efforts to introduce democracy to Japan and Germany through military occupation are often mentioned as successful examples of coercive transfer of governmental models. Some historians and political scientists have contended that the British Empire—despite the destructive legacies of colonialism—was a modernizing force, leaving behind viable systems

<sup>109</sup> Holzinger and Knill, *op.cit.* note 48.

<sup>110</sup> Adam Przeworski, “Institutions Matter?”, 39(4) *Government and Opposition* (2004), 527-540.

<sup>111</sup> Stephen Walt quoted in Diane Stone, “Learning Lessons, Policy Transfer and the International Diffusion of Policy Ideas”, *Centre for the Study of Globalisation and Regionalisation Working Paper No.69/01*, April 2001.

<sup>112</sup> Giuliano Amato *et al.*, “The Balkans in Europe’s Future”, 52(2) *SüdOst-Europa Zeitschrift für Gegenwartforschung* (2005), 185-212. See, also, the German political scientist, Herfried Münkler, as quoted in Charles S. Maier, “Imperien als ambivalente Ordnungsmächte in Europa 1905-2005”, 30 *Transit* (2005/2006), 27-37, at 37.

of public administration in colonies held for long periods of time, such as India and Hong Kong.<sup>113</sup> The argument has been put forward that the story of the British Empire is pregnant with lessons for today when, in severe cases of failed states, the only option may be a return to a colonial or mandate system.<sup>114</sup>

Generally, the systems of public administration in the rich Western countries are the results of processes involving considerable amounts of interaction and bargaining between state elites and citizens. Using the logic of cooperation and consent, one might argue that close interaction is also a precondition for policy transfer and for successful delivery of technical assistance. Only through an open policy dialogue and free flow of information is it possible to ensure local ownership and solutions that suit the local context. Lack of interaction may make it difficult for a government adopting policies from abroad to have sufficient information on how they operate in the originating country.

However, in periods of major ideological reorientations, it appears that the wholesale adoption of foreign blueprints—even unadjusted to local conditions—may be of considerable symbolic importance.<sup>115</sup> At these junctures, governments may have to legitimize themselves through the establishment of direct policy links to developments in the outside world and, thus, demonstrate that they are moving away from the discredited legacies of the past.

By combining the two variables—hierarchy and communication—four major types of relationships emerge: paternalism, collaboration, dominance and disconnection.

<sup>113</sup> Niall Fergusson, *Empire. How Britain Made the Modern World* (Penguin, London, 2004); and Wilson Wong, “From a British-Style Administrative State to a Chinese-Style Political State. Civil Service Reforms in Hong Kong after the Transfer of Sovereignty”, *CNAPS Working Paper* (2003), available at <<http://www.brookings.edu/dybdocroot/FP/cnaps/papers/wong2003.pdf>>.

<sup>114</sup> Fergusson, *op.cit.* note 113.

<sup>115</sup> David Phillips and Kimberly Ochs (eds.), *Educational Policy Borrowing: Historical Perspectives* (Symposion, Oxford, 2004).

Table 1: Four Types of Relationships between Exogenous Actors and Transition Governments

		Extent of hierarchy	
		High	Low
Degree of communication	High	Paternalism	Collaboration
	Low	Dominance	Disconnection

Source: compiled by the author

In both *paternalistic* and *collaborative* relationships, there is close contact between exogenous actors and transition governments. However, the extent of hierarchy is markedly different. In a paternalistic relationship, the transition government is in a subordinate position *vis-à-vis* the external agent, whereas in a collaborative relation the parties are in principle equal. While *dominant* and *disconnected* relationships are both distinguished by low levels of interaction, there is a significant difference regarding the degree of hierarchy. In a dominant relation, the external agent imposes unilaterally and in a disconnected relationship the local party may one-sidedly reject or accept foreign models.

*Dominant relationships*, which mainly exist in colonies, occupied territories and protectorates, have frequently been seen in Eastern Europe. However, foreign dominance has rarely provided a favorable basis for the establishment of sustainable domestic institutions. By and large, domestic elites—and, from time to time, local populations more generally—have dissociated themselves from and challenged institutional legacies left by external hegemons. Key examples are the Ottoman and Soviet Empires.

The creation of independent states on the territory of the Ottoman Empire represented not only a breach with but also a rejection of the political legacy left by the imperial masters.<sup>116</sup> To the elites of the new Balkan states, the Ottoman rule was in all respects a foreign burden. Moreover, there was almost no personnel continuity in leading governmental positions when the Islamic rulers left the Balkans. The local Christians had been employed mostly at the lowest levels of the Ottoman public administration and largely been excluded from the political process. Thus, in contrast to the ex-Habsburg territories, there was only a negligible

<sup>116</sup> Maria Todorova, *Imaging the Balkans* (Oxford University Press, Oxford, 1997), 170.

number of domestic officials who had experience from or any interest in preserving imperial institutions.<sup>117</sup>

Similarly, in several countries, communism was considered an alien imposition. In Czechoslovakia, Poland and Hungary, the events of 1989/1990 were accompanied by strong feelings of liberation from a foreign yoke and arguably by wishes to remake the political culture that was identified with the foreign occupant. Thus, post-communist developmental objectives constitute mirror images of the 'real socialist' state model in the sense that the predominant features of this model are the key challenges to be addressed in programs of state reform.<sup>118</sup>

However, as we have already noted, attempts to replace the communist inheritance with Western models have been easier said than done. Though, in a very general sense, communism may have lost the competition with Western democracy and capitalism, this does not mean that the latter have won unconditionally. People who have lived for a long time under communist regimes may have difficulties in understanding, accepting and internalizing norms of democracy, market economy and the rule of law. Where norms underlying specific institutional arrangements deviate substantially from those held by people actually working in these organizations, institutionalization is precarious.<sup>119</sup> This can be seen in the ways in which laws modeled on Western patterns are actually applied in the new EU member states. Administrators and judges in Central and Eastern Europe have significant difficulties with Western working methods, such as due process, procedural safeguards and treatment of precedents, which may seriously endanger the rule of law.<sup>120</sup>

We may expect to find collaborative relationships in, *inter alia*, various assistance programs. In the model aid project, the donor and recipient cooperate closely in defining and putting into practice the aid package. The donor institution has few specific preferences of its own but supports local priorities and processes.<sup>121</sup> In Eastern Europe, technical assistance has been effective when recipients have identified the type of expertise they need, handpicked the consultant and developed long-term working relationships with informed oversight from aid agencies.<sup>122</sup> However, the

<sup>117</sup> *Ibid.*

<sup>118</sup> Goetz, *op.cit.* note 36, 1033.

<sup>119</sup> Savicka, *op.cit.* note 4.

<sup>120</sup> Frank Emmert, "Administrative and Court Reform in Central and Eastern Europe", 9(3) *European Law Journal* (2003), 288-315, at 288.

<sup>121</sup> Carlos Lopes and Thomas Theison, *Ownership, Leadership and Transformation. Can We Do Better for Capacity Development?* (Earthscan, London, 2003).

<sup>122</sup> Wedel, *op.cit.* note 5, 79.

occurrence of this type of relationship—which is close to our category of collaboration—seems to have been the exception rather than the rule in post-1989 Eastern Europe.<sup>123</sup>

Several factors seem to restrict the extent of interaction between local and foreign actors. As we already have seen, the capacity of post-communist countries to define their needs and work closely with external aid providers is limited. The foreign actors, for their part, often lack the skills to understand the cultural context of the recipient country and seem to be motivated less by a genuine commitment to build professionalism in the public service than the desire to see significant political changes in states emerging from previous dependence on the USSR.<sup>124</sup> It has also been argued that Western ministries and aid agencies have not given so much attention to the situation in the Central and Eastern European countries as to their own bureaucratic routines and internal power struggles.<sup>125</sup>

While policy transfers between Western states—for instance, through transnational issue networks—may be of a non-hierarchic nature, it is less obvious that this is the case with transfers across the East-West divide. Scholars argue that the hierarchic or coercive character of many forms of policy transfer remains unaccounted and even masked through the use of apolitical language like ‘diffusion’ and ‘sharing of knowledge’ and technical terms like ‘best practice’ and ‘power sharing’.<sup>126</sup>

In a disconnected relationship, external and domestic actors operate largely independently of each other—for instance, when the latter copy foreign models only by downloading information from the internet or when the former implement assistance programmes without informing or consulting with domestic governments. While the EU has tried to establish partnerships with Eastern European authorities, the US has systematically sought to bypass recipient governments that were seen to be full of former communist officials.<sup>127</sup> A lack of interaction and, arguably, insufficient exchange of information between importers and exporters of policies may lead to uninformed, incomplete or inappropriate adoption of foreign models and eventually to policy failures.<sup>128</sup>

<sup>123</sup> *Ibid.*

<sup>124</sup> Young, *op.cit.* note 94; and Coombes, *op.cit.* note 9.

<sup>125</sup> Iwona Sobies and Michiel de Vries, “The Non-Implementation of Western Assistance Programmes: The Advisor’s Point of View”, in Dunn, Staronova and Pushkarev, *op.cit.* note 50, 65–87, at 83.

<sup>126</sup> Stone, *op.cit.* note III.

<sup>127</sup> Wedel, *op.cit.* note 5.

<sup>128</sup> David P. Dolowitz and David Marsh, “Learning from Abroad: The Role of Policy Transfer in Contemporary Policy-Making”, 13(1) *Governance: An International Journal of Policy and Administration* (2000), 5–24.

The logic of imitation implies that the ways in which new institutional patterns are introduced differ significantly from the processes of modernization in Western countries. While in the West economic and political institutions evolved incrementally over an extended period of time, in the East institutions modelled on Western patterns have been introduced by decree—almost from one day to another. This discrepancy in modes of institution building has led Claus Offe to ask whether the “non-Western” logic of implementation alters the content of what is being introduced, thus resulting in a notable variance between the “original” and the “imitation”.<sup>129</sup> He himself suggests that the “instrumental shortcuts” undertaken by post-communist governments may expose these new democracies and market systems to “dangers of opportunism, defection, erosion and opportunist subversion of the newly introduced rules”.<sup>130</sup>

In parts of Eastern Europe, not least in the Balkans, there is a long history of uncritical and arguably uninformed adoption of foreign governmental patterns. The independent states that during the nineteenth and early twentieth centuries were established on the territory of the collapsing Ottoman Empire attempted with varying degrees of intensity to substitute the previous Sultanistic system of government with models from Western Europe. For instance, in almost all Balkan states, the solutions of highly contentious constitutional issues were inspired by the Belgian constitution of 1831.<sup>131</sup>

The new systems of government were never firmly rooted in the new states. Key problems were the lack of experience of local leaders and the fact that their knowledge of Western governmental patterns—often picked up during brief visits to Western Europe—was far too cursory to allow any in-depth understanding of the systems of government which they wanted to emulate.<sup>132</sup> At the same time, the “countless Western aid workers—experts of public administration, bankers, and engineers”—asked to assist in the modernization of the Balkan countries knew very little of the region’s historical legacies.<sup>133</sup> The uncritical adoption of foreign governmental patterns led to serious disturbances in state functions. Modern systems of government could hardly function in the largely rural and illiterate Balkans societies. Thus, Edgar Hösch argues that developmental

<sup>129</sup> Offe, *op.cit.* note 4, 2.

<sup>130</sup> *Ibid.*

<sup>131</sup> Edgar Hösch, *Geschichte des Balkans* (Verlag C.H. Beck oHG, München, 2004), 67.

<sup>132</sup> Heppner, *op.cit.* note 58.

<sup>133</sup> *Ibid.*, 728.

aid—however much it is needed—had already been brought into disrepute by the nineteenth century.<sup>134</sup>

Although the complex relationships involved in cross-national policy transfer hardly justify sweeping generalizations, it seems that some of the most noticeable and successful instances of such transfer may be found in *paternalistic relationships*, particularly in the current efforts at EU integration and in the century-long process of legal alignment across the Habsburg Empire. Notwithstanding the substantial differences in, *inter alia*, their popular support and the types of hierarchies they represent, some common denominators seem to exist between Brussels-centered and Vienna-centered integration. In both cases, there is an external actor defining and enforcing institutional agendas for Central and Eastern Europe, mainly based on legal harmonization,<sup>135</sup> while at the same time interpreting and paying attention to domestic demands and stimulating professional interaction between the supranational center and the regional periphery. Under the Habsburg Monarchy as well as the EU, the processes of policy development have had a continuous, *quasi*-permanent character. Thus, time limits matter less or take on different qualities than in other types of policy transfer.

Arguably, the combination of hierarchy and communication—a mixture with promises of making external influence both legitimate and efficient—may be a key to understanding the sustainability of Habsburg legal harmonization and the apparent success of the EU's eastward expansion.

### 5.2. Habsburg Integration

The Habsburg Monarchy, with its “enlightened semi-rationality of the state” and rule of law traditions, is considered to have significantly facilitated the development of “legal scholarship, public administration and political culture more generally” across Central and Eastern Europe.<sup>136</sup>

Habsburg influence on institutional development in Central and Eastern Europe was closely linked with legal assimilation. Though the impact of Habsburg—or, more precisely, Austrian—law may not be compared with the worldwide influence of the 1805 Code Napoléon, it largely shaped the development of legal systems in the independent successor states to

<sup>134</sup> Hösch, *op.cit.* note 131, 63.

<sup>135</sup> The 1811 Austrian Civil Code has been described as a kind of equivalent to the present *acquis communautaire*. See Helmut Slapnicka, *Österreichs Recht außerhalb Österreichs* (Verlag für Geschichte und Politik, Vienna, 1973), 36.

<sup>136</sup> Pridham, *op.cit.* note 38, 42; and Jacques Rupnik, “The Postcommunist Divide”, 10(1) *Journal of Democracy* (1999), 57–62, at 60.

the Danube Monarchy.<sup>137</sup> For instance, the Yugoslav law of administrative procedure adopted in 1930 was modeled—in part, word for word—on the Austrian *Verwaltungsverfahrensgesetz* (Law on Administrative Procedure) of 1925.<sup>138</sup> This was also the case with the corresponding legislation of Poland and Czechoslovakia. The Czechoslovak governments of the inter-war period kept a larger part of the imperial laws on public administration unchanged than the republican governments of Austria.<sup>139</sup> In 1938, the unified Austrian Civil Code, *das Allgemeine Bürgerliche Gesetzbuch* (ABGB) was a source of law in most countries on the territory of the former Habsburg Empire, the main exceptions being Slovakia<sup>140</sup> and Hungary.<sup>141</sup>

The influence of Austrian legal patterns did not end with World War II. The Habsburg legacy was rediscovered during communism and continued to exert its influence during the 1990s.<sup>142</sup> The death of Stalin in 1953 and the denunciation of Stalinism at the XXth Soviet Party Congress in 1956 allowed the Eastern European countries outside the USSR to gradually return to their national legal traditions and to prepare independent studies in administrative law.<sup>143</sup> During the late 1950s and early 1960s, several communist countries adopted laws on administrative procedure—Czechoslovakia in 1955, Yugoslavia in 1956, Hungary in 1957 and Poland in 1960. Czechoslovakia, Yugoslavia and Poland based the new statutes on corresponding Austrian-inspired laws from the inter-war period.<sup>144</sup>

Among the socialist states, Poland showed a particular attachment to national administrative traditions.<sup>145</sup> Whenever there was a window of opportunity, pre-war solutions were introduced without, however, abandoning orthodox elements of the soviet system. Thus, for instance, in 1980, the High Administrative Court was established. It was patterned on the

<sup>137</sup> Slapnicka, *op.cit.* note 135, 36.

<sup>138</sup> Bundesgesetz vom 21. Juli 1925 über das allgemeine Verwaltungsverfahren (Allgemeines Verwaltungsverfahrensgesetz) [Federal Law of 21 July 1925 on General Administrative Proceedings (General Administrative Proceedings Law)], signed 21 July 1925, *Bundesgesetzblatt für die Republik Österreich* [Federal Law Gazette for the Republic of Austria] (1925) No.274.

<sup>139</sup> Slapnicka, *op.cit.* note 135, 42.

<sup>140</sup> Then a part of Czechoslovakia.

<sup>141</sup> Slapnicka, *op.cit.* note 135, 95.

<sup>142</sup> Rupnik, *op.cit.* note 136.

<sup>143</sup> Andreas Bilinsky, “Das sowjetische Verwaltungsverfahren vor dem Hintergrund des Verwaltungsverfahrens in den übrigen osteuropäischen Staaten”, 20(1) *Jahrbuch für Ostrecht* (1979), 425-458.

<sup>144</sup> *Ibid.*

<sup>145</sup> Hubert Izdebski, *Introduction to Public Administration and Administrative Law* (LIBER sp. z.o.o., Warsaw, undated).

pre-war Supreme Administrative Tribunal, which in turn was inspired by the Austrian Administrative Court and, more generally, the Austrian idea that the public administration should be put under judicial control.<sup>146</sup>

The establishment of communist rule in Yugoslavia seemed to herald a period of legal discontinuity. In 1946, the new regime passed a law declaring that the principles of civil law in force before 6 April 1941 (the date of the German invasion of Yugoslavia) were no longer effective. However, in 1951, the Yugoslav Supreme Court ruled that the courts could not base their decisions on the presumption that pre-war legislation was no longer valid. This had to be resolved on a case-by-case basis. In wide areas where there had been no new codifications, the *ABGB* was still valid. Key parts of the Yugoslav Civil Code, adopted in 1960/1961, were direct translations of Austrian legislation.

What can account for this process of legal harmonization, which was in no way self-evident? Immediately after 1918, influential politicians in the new states that had been carved out of the territory of the Austro-Hungarian Empire advocated a policy of 'de-austrian-ization' (*Entösterreichung*). Although French legal models—and, in the former Kingdom of Serbia, domestic traditions—were advocated as attractive alternatives to Austrian patterns, the latter largely prevailed. Several factors related to our two variables—hierarchy and communication—might have contributed to this result.

### 5.2.1. Hierarchy

On the eve of the dissolution of the Danube Monarchy, Austrian legal arrangements were overwhelmingly present in the soon-to-be successor states. In Bohemia, Moravia, Galicia, Bukowina and the parts of Yugoslavia that until 1918 had been directly administered by Austria—Slovenia and parts of present-day Croatia (Dalmatia)<sup>147</sup>—Austrian law applied. A combination of Austrian and Hungarian law was found in the rest of current Croatia;<sup>148</sup> and in Bosnia and Herzegovina<sup>149</sup> a modified version of Austrian law applied. Even in the Kingdom of Serbia, which had never been a part of the Austro-Hungarian Empire, Austrian models had been

<sup>146</sup> *Ibid.*, 107.

<sup>147</sup> These territories were directly governed by the Austrian part of the Austro-Hungarian Empire.

<sup>148</sup> These parts of present-day Croatia (Croatia and Slavonia) were governed by Hungary (as part of the Austro-Hungarian double monarchy) from 1867 until 1918.

<sup>149</sup> Bosnia and Herzegovina were placed under Austro-Hungarian administration by the Berlin Congress in 1878 (though it formally still belonged to the Ottoman Empire) and forcibly annexed by the Danube Monarchy in 1908. The territory was jointly governed by both parts of the Empire.

adopted long before the country joined Yugoslavia.<sup>150</sup> In the states that were established on the territory of the Danube Monarchy after the First World War, there was a fear that attempts to replace the established legal order with a new one would create chaos and instability. Continuity seemed a safer and more attractive course of action than innovation, let alone experimentation.

### 5.2.2. Communication

The *ABGB* adopted in 1811 was no imperial *Diktat*. It was the result of thorough preparation that included representatives of various parts of the extensive Empire and also paid heed to the rich variety of local traditions and practices. Partly for this reason, legal experts in the Austro-Hungarian successor states generally praised the quality of the *ABGB*.<sup>151</sup> Representatives of all Habsburg lands took part, not only in the formal adoption of the civil code but also in the extensive preparatory process.<sup>152</sup> A key objective was to compare and contrast all provincial laws and to preserve those that were most useful.<sup>153</sup> In 1904, when the *ABGB* was to be revised, Polish and Czech experts were appointed as members of the six man preparatory committee.<sup>154</sup>

Though the German language version of the *ABGB* was considered the original or basic text, the Code was available in the different languages of the Empire. After 1849, new legal texts were regularly presented in ten languages—for instance, in two varieties of Serbian: one with Cyrillic, the other with Latin script.

The last decades of the Austro-Hungarian Empire saw a rich, multilingual literature on a variety of legal questions.<sup>155</sup> These writings significantly influenced judicial thinking all over the Empire and became key sources of inspiration for legal experts in the post-1918 Central and Eastern European states.<sup>156</sup>

Representatives of all Habsburg lands found employment in imperial institutions, such as the Supreme Court, the Administrative Court and the ministries. After the collapse of the Danube Monarchy, members of the judicial and administrative elite in the Habsburg successor states

<sup>150</sup> Vojvodina, which became part of Serbia after the Second World War, was governed by Hungary from 1867 until 1918. Thus, Hungarian (common) law applied here.

<sup>151</sup> *Ibid.*, 49.

<sup>152</sup> Slapnicka, *op.cit.* note 135, 47.

<sup>153</sup> *Ibid.*

<sup>154</sup> *Ibid.*, 48.

<sup>155</sup> *Ibid.*

<sup>156</sup> *Ibid.*

were often recruited from senior positions in the imperial institutions. Leading members of the Imperial Administrative Court became leaders of corresponding institutions in their new home countries. A former *Senatspräsident* of the Administrative Court in Vienna was appointed Minister of Justice of Czechoslovakia. Arguably, the establishment of new ministries in Prague in 1918/1919 could hardly have been possible without extensive involvement by Czech officials from Vienna.<sup>157</sup>

Yugoslav, Czech and Polish legal experts—with experience from the Austro-Hungarian court system—played key roles in the development of the domestic legal system. Generally, the administrative elites in the new Central and Eastern European states had studied at Austrian universities. Even after the collapse of the Habsburg Empire, universities outside Austria (Ljubljana, Brno and Bratislava) remained centers for the study of Austrian law.<sup>158</sup>

Given the strong professional and personnel linkages between the previous imperial institutions and corresponding bodies in the new Eastern and Central European countries, it is no wonder that the administrative practice of these states reflected patterns developed in the ministries in Vienna and, more generally, the bureaucratically correct but liberal Austrian administrative traditions.<sup>159</sup>

### 5.3. *The EU Accession Process*

Several scholars argue that the process of European integration has contributed significantly to the post 1989/1990 process of democratization and introduction of market economies across Central and Eastern Europe.<sup>160</sup> The EU is considered to have done far more to expedite the transition process than the other external actors and their aid packages taken together.<sup>161</sup>

Regarding the reduction of national sovereignty involved in the accession process, David Coombes observes:

“[A] fundamental paradox of technical assistance in a post-communist context is that membership in the UN system does not seem to have the same confidence-building

<sup>157</sup> *Ibid.*, 61.

<sup>158</sup> *Ibid.*, 62.

<sup>159</sup> *Ibid.*, 61–62.

<sup>160</sup> See, for example, Michael Emerson and Gergana Noutcheva, “Europeanisation as a Gravity Model of Democratisation”, paper presented at the Conference on Promoting Democracy and the Rule of Law: EU and US Strategies and Instruments, October 2004, Stanford University, available at <[http://iis-db.stanford.edu/pubs/20744/Europeanisation\\_and\\_democratisation-Stanford\\_28.9.4.pdf](http://iis-db.stanford.edu/pubs/20744/Europeanisation_and_democratisation-Stanford_28.9.4.pdf)>.

<sup>161</sup> Alexander Cooley, “Western Conditions and Domestic Choices: The Influence of External Actors on the Post-Communist Transition”, 2002, 35, available at <<http://www.unpan1.un.org/intradoc/groups/public/documents/NISPA/cee/UNPAN012485.pdf>>.

effects as accession. On the face of it, we should expect the purported advantages of state sovereignty, which is enshrined in the UN charter, championed by the donor countries themselves, and much sought-after by the beneficiaries of international aid, to be better safeguarded, even enhanced through conventional technical assistance, especially by way of UN agencies, including the IMF and World Bank. Accession to the EU is often viewed, in contrast, as a threat to sovereignty and risk to its associated benefits. Yet, the whole history of European integration, and its enlargement, suggests that it has proved to be a uniquely successful means of assisting not only post-communist, but also post-authoritarian and post-fascist states to achieve a peaceful transition compatible with both economic development and democracy [...] Is it, therefore, better to align expectations with the real capacity of political institutions, even at the expense of ceding some sovereignty, than to equate successful development with unqualified national autonomy and self-sufficiency?<sup>162</sup>

The combination of high levels of both hierarchy and communication characterizing the EU accession process largely corresponds to the EU policy dualism of conditionality and socialization. It is widely held that, during the recent round of enlargement, the EU increasingly combined both policies to promote reforms in the candidate countries.<sup>163</sup>

### 5.3.1. *Hierarchy*<sup>164</sup>

The EU's most powerful conditionality tool is access to different stages in the accession process, particularly achieving candidate status and starting negotiations. As Bernard Steunenberg and Antoaneta Dimitrova observe, by means of breaking the accession process into multiple phases and making the access to each new phase contingent upon the fulfillment of a series of conditions, the EU has aimed at preventing the candidate states from halting their reform efforts by increasing the uncertainty about the final date of accession.<sup>165</sup>

On the candidates' side, the perceived benefits of joining the EU provide strong incentives to meet the EU requirements. The EU agenda for institutional change is far more extensive than was the case in previous Western accessions. Whereas in Western Europe EU adjustment has been a long-term process, in Eastern Europe the time frame is more compressed. Among the applicants, only Poland was in a position to bargain forcefully

<sup>162</sup> Coombes and Meaker, *op.cit.* note 9, 11.

<sup>163</sup> Judith Kelley, "New Wine in Old Wineskins: Promoting Political Reforms through the New European Neighbourhood Policy", 44(1) *Journal of Common Market Studies* (2006), 29-55, at 39.

<sup>164</sup> The arguments in this and the next paragraph (Communication) is largely based on Heather Grabbe, "How does Europeanization Affect CEE Governance? Conditionality, Diffusion and Diversity", 8(6) *Journal of European Public Policy* (2001), 1013-1031; and Goetz, *op.cit.* note 36.

<sup>165</sup> Bernard Steunenberg and Antoaneta Dimitrova, "Compliance in the EU Enlargement Process: Institutional Reform and the Limits of Conditionality", paper presented at the 6th Corsican Law and Economics Workshop, May 2005, Reims, France, 1.

because the country's size and geopolitical importance prevented the EU from excluding the country from the first group of accessions.

### 5.3.2. Communication

The EU has at its disposal a number of instruments to socialize applicant countries into the normative framework of the union and help them adapt domestic institutions and decision-making patterns to EU requirements. The EU can influence policy and institutional development through screening and ranking the applicants' overall progress, benchmarking in particular areas and providing examples of best practice that the applicants can seek to emulate. EU officials not only negotiate with candidate countries but, also, seek to stimulate domestic debates in areas that are central to the accession process, such as democracy, human rights and the need to cooperate with nongovernmental organizations.<sup>166</sup>

The EU is the largest external source of aid for the accession countries. For instance, the Phare<sup>167</sup> Programme covered the ten countries joining the EU in 2004. In institution building—to which some 30% of the program was targeted—Phare's emphasis was on developing the applicants' capacity to implement EU legislation and prepare for participation in EU policies. In addition, the EU provides advice through twinning arrangements aimed at helping accession countries to adapt their administrative and political institutions to comply with membership requirements by learning from member state experiences.

The effect of the EU's instruments of communication *vis-à-vis* Central and Eastern European countries appears to be closely linked to the hierarchic setting into which they are embedded. Thus, the evaluation of the Phare program found that the impact of EU assistance was highest in areas where the support was *acquis*-oriented—that is, when it addressed issues where there was a distinct normative hierarchy.<sup>168</sup> The impact was lower in areas where there was no such framework, for instance in general public administration reform. Conceivably, aid and other forms of communication would in themselves be insufficient to stimulate the extent of change that has been brought about by the EU integration process.

Studies of the EU's European Neighbourhood Policy (ENP) may lend some support to this argument.<sup>169</sup> Broadly speaking, the ENP is a copy

<sup>166</sup> Kelley, *op.cit.* note 163, 39.

<sup>167</sup> Phare originally stood for 'Poland, Hungary Aid for the Reconstruction of the Economy'. It was the EU's financial instrument designed to assist Central European countries in their transition from economically and politically centralized systems to decentralized market economies and democratic societies.

<sup>168</sup> PLS Rambøll Management and Eureval-C3E, "Phare ex post Evaluation of Country Support Implemented from 1997-1998 to 2000-2001. Consolidated Summary Report", May 2003.

<sup>169</sup> The ENP is a framework for cooperation between the EU and all North African and Middle

of the EU enlargement policies without the membership carrot. In our terminology, it may be said to include communication but not hierarchy. Given this discrepancy, the question has been raised as to whether the ENP can promote domestic political reforms—whether it provides the EU with a strong enough position to make local politicians ask their people to suffer under painful deprivations.<sup>170</sup>

#### 5.4. *Still Room for National Variations*

A common feature of both Habsburg- and EU-centered integration is the focus on legal harmonization. Thus, these supranational entities largely influence the structure and processes of domestic public administrations in indirect ways, *i.e.*, through the need of governments to have sufficient administrative capacity for law enforcement in particular fields.

The Commission practice of dedicating its pre-accession assistance to institution building in the candidate countries almost exclusively as sectoral assistance indicates that the main priority of the EU remains the readiness of the candidate states to implement the *acquis* in sectoral areas. EU requirements may, therefore, have more influence on the substance of civil service development in particular policy fields than on the level of priority accorded to public administration reform in general.<sup>171</sup>

The fact that key aspects of public administration are not regulated by EU legislation, that there is no separate *acquis* for administrative issues, leaves ample room for local traditions and initiatives in public administration reform. Thus, the accession process did not lead to institutional convergence, to the development of a particular post-communist administrative pattern among the new member states. There were distinct cross-national differences in the development of systems of public administration—for instance, between Poland and Hungary.<sup>172</sup> Before the Second World War, Central and Eastern European states had German or French-influenced models of public administration. These pre-communist traditions were revitalized during the accession process and used as points of reference for reform of the state apparatus.<sup>173</sup>

Thus, the situation in Eastern Europe appears similar to the one observed in the West. A common challenge for all member governments is to find “translator devices” so that business emanating from the EU

Eastern EU sea border states, the land states of Ukraine, Belarus, Moldova, and also the states of the Caucasus.

<sup>170</sup> Kelley, *op.cit.* note 163.

<sup>171</sup> Verheijen, *op.cit.* note 9.

<sup>172</sup> *Ibid.*

<sup>173</sup> Lippert and Umbach, *op.cit.* note 80.

can be absorbed into the domestic pattern of governance, complete with its own institutional and cultural vernacular.<sup>174</sup>

## 6. Conclusions

In this article, we have studied how key characteristics of governments of Central and Eastern European states affect the extent to which these countries are penetrated by outside influence or profit from external assistance in the area of public administration. Moreover, we have examined how policies may be transferred across nations and cultures in different ways and how various modalities of transfer may shape the impact of foreign involvement.

We have demonstrated that domestic conditions significantly influence the impact of foreign involvement in transition processes. When adapting to foreign models or international trends, local actors tend to be oriented towards the preexisting repertoire of organizational and decision-making patterns. Thus, it may be expected that external models will meet with local resistance and that policies will retain distinctly national traits. Moreover, administrative bottlenecks, centralization of authority and lack of communication among local decision makers have made it difficult for Eastern European countries to benefit from foreign assistance.

Our observations on the centrality of domestic conditions may raise doubts about the impact of external actors and resources on transition processes. However, there is no professional consensus regarding the extent to which foreign governments and international organizations may promote institutional development in weak states. Policies are transferred across nations and cultures in a number of ways and the effect of external involvement may depend on the modalities of transfer.

The extent of hierarchy and communication between exogenous and domestic actors may help us to identify various types of policy transfer. Hierarchy indicates the extent to which the external agent may impose solutions or priorities on the transition country and communication the scale of contact and discussions between the parties. By combining the two variables, four major types of relationships emerge: paternalism, collaboration, dominance and disconnection.

On the basis of the available evidence, it seems that dominant and disconnected and even collaborative relationships have rarely provided favorable bases for the establishment of sustainable institutions. While collaborative forms of policy transfer may have been effective, this type of relationship has been difficult to realize in practice.

<sup>174</sup> Simon Bulmer and Martin Burch, "The Europeanization of UK Government: From Quiet Revolution to Explicit Step-Change?", 83(4) *Public Administration* (2005), 861-890, at 864.

Some of the most noticeable and successful instances of cross-national policy transfer seem to be found in paternalistic relationships, particularly in the current efforts at EU integration and in the century-long process of legal alignment across the Habsburg Empire. Notwithstanding the substantial differences in, *inter alia*, their ends and means and popular support, some common denominators seem to exist between Brussels-centered and Vienna-centered integration. In both cases, there is an external actor defining and enforcing institutional agendas for Central and Eastern Europe while, at the same time, interpreting and paying attention to domestic demands and stimulating professional interaction between the supranational centre and the regional periphery. Arguably, the combination of hierarchy and communication, a mixture with promises of making external influence both legitimate and efficient, may be a key to understanding the sustainability of Habsburg integration and the apparent success of the EU's eastward expansion.

A common feature of both Habsburg- and EU-centered integration is the focus on legal harmonization. Thus, these supranational entities largely influence the structure and processes of domestic public administrations in indirect ways, *i.e.*, through the need of governments to have sufficient administrative capacity for law enforcement in particular fields. The fact that day-to-day key aspects of public administration are not regulated by EU legislation, that there is no separate *acquis* for administrative issues, leaves ample room for local traditions and initiatives in public administration reform.