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EU integration, norms and crises in East Central Europe – Sources of information

EU-Integration, Normen und Krisen in Ostmitteleuropa – Informationsquellen



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This compilation provides an overview of relevant studies and data banks covering European integration, EU norms transfer and competition with national law, and the impact of the current EU crises in the particular region of East Central European (ECE) member states.

Diese Sammlung gibt einen Überblick über einschlägige Studien und Datenbanken zur EU-Integration, EU-Normentransfer und Normenkonkurrenz mit nationalem Recht sowie den Einfluss der aktuellen EU-Krisen in der spezifischen Region der ostmitteleuropäischen Staaten.

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A EU integration and EU crises and East Central Europe / EU-Integration und EU-Krisen und Ostmitteleuropa

Ágh, Attila (2016): Cohesive Europe or Core-Periphery Divide in the EU28: The regional challenge of dual crisis in the New Member States. Conference Paper. Online available at: <https://www.researchgate.net/publication/300051520>

After the global crisis, in the 2010s the EU cohesion policy has recently been challenged by the dual crisis: the Ukrainian security crisis and the refugee crisis. This paper tries to outline the impact of this dual crisis on the New Member States (NMS) with special regard to the Cohesive Europe. It concentrates on the regional political challenge of this dual crisis, and it



takes into account its socioeconomic dimension as well, including the impact of the Eurozone on NMS. The point of departure is that the global crisis intensified the Core-Periphery Divide in the EU and it produced a new regional form of negative divergence in NMS region with its alienation from the Core Europe. After the global crisis, in the ensuing transformation crisis, the EU has concentrated even more on the main problems of the Core in the Eurozone, which has also involved saving of the Southern Periphery. These efforts have resulted in marginalising the problems of the Eastern Periphery, although it has also been deeply shaken by the global crisis that has created its own specific crisis features in NMS. Therefore, when unexpectedly these two new geopolitical crisis waves have appeared the EU has been taken by surprise, especially in the V4 case. Not only by the particular nature of these crisis waves, but also by the negative reactions of NMS to these challenges because the EU has not been aware of the post-global crisis situation in NMS that has produced these reactions. In the mid-2010s there is a growing danger of an increasing regional divergence from the European mainstream towards the " illiberal states " in general and with an " Unholy Alliance " in the Visegrád Four (V4) in particular. Introduction: The wake-up call for the creative crisis in the EU.

Bohle, Dorothee (2017): European Integration, Capitalist Diversity and Crises Trajectories on Europe's Eastern Periphery. In: New Political Economy 33 (1), S. 1–15. DOI: 10.1080/13563467.2017.1370448.

European policy responses to the Global Financial Crisis and its European manifestation have set off a scholarly debate whether different national varieties of capitalism are equally able to cope with deepened European integration. To date, this debate has mostly focused on the contrasting fates of the thriving northern export-oriented capitalisms and the ailing southern European ones. This paper seeks to broaden the debate by focusing on Europe's Eastern periphery. It argues that a combination of domestic transformation strategies and the EU's accession policies resulted in two different growth regimes on Europe's Eastern periphery: a dependent export-driven in the Visegrád countries and a dependent debt-driven in the Baltic States. On the basis of the pre- and post-crisis trajectories of these two growth models, this paper finds that because East Central European capitalisms were profoundly shaped by EU integration, they are on balance also more compatible with deepened integration than Southern European capitalisms.

Keywords: Growth models, Eastern Europe, Baltic States, Visegrád countries, dependency, crisis



Brusis, Martin (2016): Democracies Adrift. How the European Crises Affect East-Central Europe. In: Problems of Post-Communism 63 (5-6), S. 263–276. DOI: 10.1080/10758216.2016.1201772.

Electoral landslides, corruption scandals, mass protests, a declining satisfaction with democracy and weakened democratic accountability in Hungary and Poland pose questions about where East-Central European democracies are heading and how their paths are related to the crisis of European integration. I argue that the crises of economic and European integration have discredited the nexus between economic integration and prosperity and made responsive and responsible government more incongruent. Multi-dimensional policy spaces facilitated the growth of anti-establishment parties in the Czech Republic and Slovenia. Higher performance expectations of citizens, the mixed electoral system, and missing institutional safeguards of societal-political pluralism rendered Hungary's democracy more vulnerable.

Bruszt, Laszlo; Vukov, Visnja (2017): Making states for the single market: European integration and the reshaping of economic states in the Southern and Eastern peripheries of Europe. In: West European Politics, S. 663-687. DOI: 10.1080/01402382.2017.1281624.

European integration has profoundly reshaped states in Europe's peripheries. It has deprived them of the traditional means of autonomously managing development, imposed institutions defending the integrity of the regional market from domestic actors, and provided them, in exchange, with EU-level development policies. However, whereas in the South the EU has relied primarily on incentives for remaking the economic state, in the East it has engaged in direct institutionbuilding. The different EU strategies pushed the evolution of the economic state in the two peripheries in different directions and the two parts of Europe now face different developmental dilemmas. Despite their differences, neither the Eastern nor the Southern states have the capacity to get in synch the triple challenge of integration: playing by the uniform regional rules, improving their positions in the European markets and extending the range of domestic beneficiaries of integration. While the ensuing economic and political tensions might endanger regional integration, EU-level capacities for addressing the developmental problems of the peripheries are in short supply.

Keywords: Development; economic integration; EU; periphery; state

Dandashly, Aseem; Verdun, Amy (2016): Euro adaption in the Czech Republic, Hungary and Poland: Laggards by default and Laggards by choice. In: Comparative European Politics. DOI: 10.1057/cep.2015.46.

How can we explain the politics of euro adoption in the Czech Republic, Hungary and Poland? How did the euro crisis influence their positions regarding euro adoption? This article builds on the domestic politics literature and argues: (i) countries that had joined the Exchange Rate Mechanism-2 early had an easier time adopting the euro compared with those that did not; (ii) having a pro-euro government is a necessary but not sufficient condition to adopt the euro; (iii) the political ideology of the ruling elites is important; (iv) the existence of veto points in the domestic political system influences the entire process; (v) although the three countries have made central banks technically independent, the appointment process remains highly political and complex, which has led to conflicts between the central banks and the governments – negatively influencing euro adoption policies; and (vi) the issue does not have much salience in public opinion and thus does not usually feature



high on the agenda of the political elites in the three countries. These three countries to date have not adopted the euro for various domestic political reasons. They have at different times been laggards by default or laggards by choice.

Keywords: Central Europe domestic politics economic and monetary union euro adoption new member states political elites

De Vries, Catherine E. (2013): Ambivalent Europeans? Public Support for European Integration in East and West. In: Government and Opposition 48 (3), S. 434–461. DOI: 10.1017/gov.2013.15.

In the midst of the economic crisis sweeping across the European continent, popular support for European integration has become a common theme in political discourse. This article revisits the debate regarding popular support for European integration. Although many journalists, politicians and pundits currently argue that the public is becoming increasingly sceptical of further steps towards integration, this study qualifies that claim and suggests that public opinion towards Europe is best described as ambivalent. Also, it shows that ambivalence regarding European integration is higher in Western than in Central and Eastern Europe. This is probably due to the fact that as citizens in Western Europe have gained more experience with the positive and negative consequences of integration over the years, they have also become more ambivalent about the European project. Rather than suggesting that citizens are by and large turning their backs on Europe, I put forward the view that we seem to be witnessing growing uncertainty about the future scope and depth of the integration process. This, I argue, could be viewed as a natural by-product of experiencing both the virtues and the vices association with membership. Consequently, attitude ambivalence as such may be demonstrative of a maturation of public opinion concerning European integration.

Epstein, Rachel A.; Jacoby, Wade (2014): Eastern enlargement ten years on: transcending the East-West divide? In: Journal of Common Market Studies 52 (1). DOI: 10.1111/jcms.12089.

This introduction summarizes the findings of nine research articles that examine the consequences of the European Union's eastern enlargement ten years on. The volume reaches three surprising conclusions: since 2004, the EU's economic effects have been more far-reaching than its political effects; all of the new Member States (NMS) have had problems with democratic consolidation; and, despite four years of intense crisis in the eurozone, both the EU's enlargement and neighbourhood-shaping efforts have continued. We set these economic, political and institutional developments in the context of the long-standing east-west divide in Europe, and ask whether EU membership for post-communist countries upends the continent's traditionally persistent divisions. Notable achievements of EU enlargement notwithstanding, the volume points to the continuing important differences between east and west and highlights the issue areas in which the EU transcends but also reinforces the centuries-old partition.

Falkner, Gerda (2016): The EU's current crisis and its policy effects. Research design and comparative findings. In: Journal of European Integration 38 (3), S. 219–235. DOI: 10.1080/07036337.2016.1140154.

The paper summarises a collaborative international research project comparing the impact of the ongoing conglomerate of crises in nine EU policies. All of them saw significant crisis-



induced pressures and challenges. Beyond changes in discourse, the crisis-induced pressures have, in many areas, also triggered a rather sizable amount of policy change. Considering EU competences, no single example of re-nationalisation was found, but many new EU-level tasks. The governments were of prime importance in immediate crisis management but supranational institutions and processes continue to matter.

Keywords: EU competences; Community method; intergovernmentalism; jointdecision trap; policy change; crisis

Freyburg, Tina; Richter, Solveig (2010): National identity matters. The limited impact of EU political conditionality in the Western Balkans. In: Journal of European Public Policy 17 (2), S. 263–281. DOI: 10.1080/13501760903561450.

Political developments in South Eastern Europe raise serious doubts about the prospects for the effectiveness of the European Union's external democracy promotion via political conditionality. They make it questionable whether the European Union (EU) can repeat its success story as it is widely acknowledged in Central Eastern Europe. With reference to countries characterized by legacies of ethnic conflict, this article shows that incentive-based instruments only trigger democratic change if certain domestic preconditions are met. It will be argued that if national identity runs counter to democratic requirements, this will 'block' compliance by framing it as inappropriate action. The argument is empirically demonstrated using the example of one of the most problematic issue areas in Croatia, for which the EU has only partially succeeded in bringing about democratic change: the prosecution of war crimes.

Keywords: Conditionality, enlargement, European Union, ICTY, identity, Western Balkans

Galgóczi, Béla (2012): A "Europe of multiple speed" in a downward spiral. In: South East Europe Review 15 (1), S. 27-37. DOI: 10.5771/1435-2869-2012-1-27.

Central and east European new member states are being affected by the shock- waves of the Eurozone crisis, made manifest also in the presence of different stages, or 'speeds', of integration. In this article, we attempt to examine the different aspects of this picture of a multi-speed Europe, and the lessons of those regions and countries that have been affected by the crisis and by the implemented therapy, and we identify the major risks that this means for the future of Europe. New member states find themselves in a rather unique situation in the context of the enduring Eurozone crisis. On the one hand, as 'junior partners' they are more vulnerable (and are also in the eye of the financial markets); on the other hand, economically they are fully docked to the core of the EU, i.e. Germany, that results in ambiguous and sometimes contradictory consequences. One particular aspect will be to examine if 'convergence' - a basic and distinguishing idea behind European integration - would ultimately turn out to be a myth.

Keywords: International economic integration; European Union countries; European Union -- Membership; Employment (Economic theory) -- European Union countries; Financial crises -- European Union countries; Eurozone

Haughton, Tim (2017): Central and Eastern Europe: The Sacrifices of Solidarity, the Discomforts of Diversity, and the Vexations of Vulnerabilities. In: Desmond Dinan, Neill Nugent und William E. Paterson (Hg.): European Union in crisis. London: Palgrave macmillan education, S. 253–267.

Book chapter – no abstract available



Kohl, Heribert (2015): Convergence and divergence – 10 years since EU enlargement. In: *Transfer* 21 (3), S. 285-311. DOI: 10.1177/1024258915585939

The enlargement of the EU to Central and Eastern Europe after 2004 was accompanied by great optimism: more dynamic economic development was expected in the wider Europe and also a general further development of social standards. The banking and debt crisis that started in 2008, however, has revealed structural shortcomings that disrupted and partly reversed the desired trends. The main reasons were inadequate governance options with regard to European economic and financial policy, together with substantial interference in the social dimension in the old and the new Member States. The impact of these processes in terms of convergence and divergence in the EU can be demonstrated on the basis of comparative empirical data series of core indicators in key areas for EU citizens. This impact has been exacerbated by inadequate state social protection and its funding by means of widely varying forms of taxation. A summary composite convergence/divergence index shows the current effects of crisis strategies in the EU regions.

Keywords: Convergence and Europe 2020 strategy, impact of the crisis, labour standards, social justice and cohesion, social protection, divergent taxation, education trends, gender and intergenerational equity, Europeanization, future of social Europe

Krastev, Ivan (2017): The Refugee Crisis and the Return of the East-West Divide in Europe. In: *Slavic Review* 76 (2), S. 291–296. DOI: 10.1017/slr.2017.77.

Of the many crises that Europe faces today, it is the migration crisis that most profoundly defines the changing nature of European politics. It is also a turning point in central and east European societies' attitudes to the European Union, and it signals the return of the east-west divide in Europe. The article argues that what Brussels describes as a lack of solidarity is actually a clash of solidarities: national, ethnic, and religious solidarity chafing against our moral and legal obligations with respect to the refugees. The east-west divide over migration has its roots in history, demography and the twists of post-communist transition, while at the same time representing an east European version of popular revolt against globalization. The attitude divide between Europe's west and east on issues of diversity and migration strongly resembles the divide between the big cosmopolitan capital cities and the countryside within western societies themselves.

Magone, José M. (2015): Divided Europe? Euroscepticism in Central, Eastern and Southern Europe. In: Kyriakos N. Dēmētriu (Hg.): *The European Union in Crisis. Explorations in Representation and Democratic Legitimacy*. Cham Heidelberg New York Dordrecht Londo: Springer, S. 33–56. DOI: 10.1007/978-3-319-08774-0_3

European integration is at the crossroads. A growing divide in terms of politics, society, economy and culture is emerging in the European Union. The peripheralization of central, eastern and southern Europe after 2008 due to the finance crisis has changed the perception of merits of being member of European Union. A growing instrumental Euroscepticism has become more prominent in most central, eastern and southern European countries. Although the divide between core and periphery Europe became more prominent after 2008, this chapter argues that a divergence between rich and poor countries started already at the beginning of the millennium. The cleavage between rich net payer member-states and poor net receivers has certainly contributed to the consolidation of a centre-periphery divide. After delineating the objective transformation of the discourse or discourses among the member-states at the



European level, a discussion of what is Euroscepticism and which kinds of the phenomenon exists in the present national debates. Here the literature related to the conceptualization by Paul Taggart and Alex Sczerbiak will be reviewed and discussed. The chapter argues that a large part of Euroscepticism is instrumental and related to the negative impact of the austerity policies of the European Union. The austerity policies of the EU have exposed the myth that the EU could be instrumentalised to transform ailing socioeconomic structures. The EU as *vincolo esterno* has changed from a soft touch approach of transformation to a hard one. This clearly alienated many populations from the EU. The chapter will address this change of mood and how it is being instrumentalised by more radical groups such as Golden Dawn in Greece and Jobbik in Hungary to return to nationalist policies. In spite of differences, Euroscepticism has become a phenomenon in central, eastern and southern European countries. However, the chapter will also try to delineate different groups of countries and the level of Euroscepticism in each one of them.

Méro, Katalin; Piroska, Dora (2016): Banking Union and banking nationalism – Explaining opt-out choices of Hungary, Poland and the Czech Republic. In: Policy and Society 35 (3), S. 215-226. DOI: 10.1016/j.polsoc.2016.10.001.

The purpose of this study is to understand Hungary, the Czech Republic and Poland's opt out position from the Banking Union (BU). The Banking Union is compulsory for Eurozone member states and optional for non-Eurozone member states. From the Central and Eastern European (CEE) region only Romania and Bulgaria decided to join. First, we attempt to explain this fact based on structural characteristics of the CEE banking sectors, but we find no substantial difference between the opt-in and opt-out countries' banking sectors. Second, we look at the role of state capacity in maintaining a stable banking sector, and find that state capacity is a necessary condition for opting out. Finally, using Hungary as a case study, and the Czech Republic and Poland as further examples, we argue that these countries opted out because their governments' policy preference of banking nationalism conflicts with the BU's ideals.

Keywords: Banking Union; Central and Eastern Europe; Hungary; Banking nationalism; Financial nationalism; Bank regulation

Rohrschneider, Robert; Whitefield, Stephen (2016): Responding to growing European Union-skepticism? The stances of political parties toward European integration in Western and Eastern Europe following the financial crisis. In: European Union Politics 17 (1), S. 138-161. DOI: 10.1177/1465116515610641

Using data from two expert surveys conducted in 2007–2008 and 2013 in 24 European democracies, we examine the response of political parties—especially mainstream ones—across the European Union to the growth in public European Union-skepticism since the onset of the financial crisis. Theoretically, we point to competing spatial and reputational pressures on mainstream and extreme parties to adjust their integration positions. We find that mainstream parties respond fairly little over time and that this has left a representational opening for extreme parties, which is especially filled by new European Union-skeptic parties.

Keywords: Economic crisis, European Union, extreme parties, mainstream parties, representation



Scicluna, Nicole (2017): Integration through the disintegration of law? The ECB and EU constitutionalism in the crisis. In: Journal of European Public Policy, S. 1–18. DOI: 10.1080/13501763.2017.1362026.

Rather than halting European integration, the euro crisis, in some ways, has accelerated it. However, it is integration of a different type, which departs significantly from the rule of law-based model of integration that traditionally burnished the European Union's legitimacy. The crisis-induced transformation of the European Central Bank (ECB) captures this trend. Through schemes such as Outright Monetary Transactions, the Bank bolstered its capacity to stabilize the euro without having its mandate formally enlarged, thus confirming the ascendancy of technocratic, and often ad hoc, governance over democratically and legally circumscribed alternatives. This article posits the ECB's expanded and politicized role as the manifestation of a new mode of integration – integration through the disintegration of law – which inverts the court-driven integration-through-law that consolidated the single market. However, the lack of a solid legitimacy base casts doubt on the long-term sustainability of this integration mode.

Keywords: Constitutionalism; euro crisis; European Central Bank; eurozone; integration-through-law

Walter, Stefanie (2015): Crisis Politics in Europe. Why Austerity Is Easier to Implement in Some Countries Than in Others. In: Comparative Political Studies 49 (7), S. 841–873. DOI: 10.1177/0010414015617967.

When countries face balance-of-payments crises, their policy responses vary widely. This article argues that the choice between the two main options of *internal adjustment* (i.e., austerity and structural reforms) and *external adjustment* (i.e., exchange-rate devaluation) depends on how costly each of these strategies is for a country overall. Although the choice of adjustment strategy is thus structurally determined, the level of political conflict associated with crisis management depends on both the national vulnerability profile and partisan interests. Moreover, irrespective of the adjustment strategy, all governments design the specific reforms in ways that shelter their own voters. Empirically, this article uses qualitative case studies and survey data to examine the significant variation in crisis responses, crisis politics, and distributive outcomes of the 2008-2010 global financial crisis in eight Eastern European countries. The article concludes with a discussion of the implications of the Eastern European experience for crisis politics in the Eurozone crisis.

Keywords: economic policy, political economy, east European politics, politics of growth/development, euro crisis, financial crisis



B Compliance in East Central European EU member states / Beachtung von EU-Recht in den ostmitteleuropäischen EU- Mitgliedstaaten

Börzel, Tanja A. (2011): Non-compliance in the European Union. Pathology or statistical artefact? In: Journal of European Public Policy 8 (5), S. 803–824. DOI: 10.1080/13501760110083527.

Does the European Union have a compliance problem? This article argues that we have simply no evidence that the EU suffers from a serious compliance deficit which is claimed by the European Commission and academics alike. First, there are no data that measure the actual level of non-compliance in the EU member states. Second, the statistics published by the European Commission, which allow us to compare non-compliance between the different member states, are often not properly interpreted. If we control for changes in the Commission's enforcement strategy, on the one hand, and the rising items of legislation to be complied with as well as member states that have to comply, on the other hand, the level of non-compliance in the EU has not significantly increased over time. Moreover, non-compliance varies significantly and is focused on four particular member states that account for up to two-thirds of all violations of Community law.

Keywords: Compliance, Enforcement, Implementation, Infringements, Leader-LAGGARD, Southern Problem

Börzel, Tanja A. (2007): Guarding the Treaty: The Compliance Strategies of the European Commission. In: Tanja A. Börzel und Rachel A. Cichowski (Hg.): Law, politics, and society. Oxford: Oxford University Press, S. 197–220. DOI: 10.1093/019925740X.003.0009

Analyses the role of the European Commission as guardian of the European Treaty in ensuring compliance with EU law. The study shows that the Commission relies on four different compliance strategies, which include monitoring and (the threat of) sanctions (enforcement), capacity-building and contracting (management), persuasion and learning, and legal internalization (litigation). National mobilized interests prove to be a key element to all four of these compliance mechanisms. Draws on a database compiled by its author to evaluate how effective the Commission is in bringing member states into compliance with EU law. The first part of the chapter develops a conceptual framework, and identifies the different compliance strategies used by the Commission; the second shows that the Commission uses all four compliance strategies; the third looks at the effectiveness of the Commission's compliance strategies; and the concluding section considers how the four strategies used may relate to one another.

Keywords: capacity-building; compliance; compliance strategies; contracting; effectiveness; enforcement; EU law; European Commission; EU; learning; legal internalization; litigation; monitoring; persuasion; sanctions

Börzel, Tanja A.; Hofmann, Tobias; Sprungk, Carina (2003): Einhaltung von Recht jenseits des Nationalstaats. Zur Implementationslogik marktkorrigierender Regelungen in der EU (Compliance with Law Beyond the Nation State On the Logic of Implementing



Market-Correcting Regulations). In: Zeitschrift für Internationale Beziehungen 10 (2), S. 247–286. DOI: 10.5771/0946-7165-2003-2-247.

Probleme bei der Um- und Durchsetzung von Recht jenseits des Nationalstaats sind in den letzten Jahren verstärkt zum Gegenstand politikwissenschaftlicher Forschung geworden. In diesem Rahmen wurden insbesondere die Schwierigkeiten »positiven« Regierens (marktkorrigierender Steuerung) in Mehrebenensystemen diskutiert. Dieser Beitrag greift das von Michael Zürn in seinem ZIB-Aufsatz von 1997 vertretene Argument auf, dass marktkorrigierende Regelungen besonders anfällig für Implementationsprobleme sind, und überprüft es anhand der Verstöße gegen Europäisches Recht. Wir zeigen mit statistischen Analysen, dass der positive oder negative Charakter einer Regelung keinen entscheidenden Einfluss auf ihre Um- und Durchsetzungschancen hat. Es erweist sich allerdings, dass andere Politikbeschaffenheiten für das Auftreten von Implementationsproblemen bedeutsam sein sollten. Neben Eigenschaften der Politikfelder hängt die effektive Um- und Durchsetzung von Recht jenseits des Nationalstaats insbesondere von systembezogenen Faktoren wie der Kapazität von Staaten ab. Dies wird durch die Daten zu Verstößen gegen Europäisches Recht bestätigt.

Our article seeks to contribute to the growing literature on non-compliance with law beyond the nation state. We take issue with an argument advanced by Michael Zürn that »positive« (market-correcting) policies give rise to more compliance problems than »negative« (market-making) policies. Our statistical analysis of data on noncompliance with European Law shows that the positive or negative character of a policy has no significant influence on its level of compliance. Country-specific variables, such as state capacity, are causally more important. We conclude with a summary of our most important findings and some considerations on the relevance of other policy-specific factors that might explain non-compliance with law beyond the nation state.

Börzel, Tanja A.; Hofmann, Tobias; Panke, Diana; Sprungk, Carina (2010): Obstinate and Inefficient. Why Member States Do Not Comply With European Law. In: Comparative Political Studies 43 (11), S. 1363–1390. DOI: 10.1177/0010414010376910.

This article seeks to explain cross-country variation in noncompliance with European law. Although noncompliance has not significantly increased over time, some European Union member states violate European law more frequently than others. To account for the observed variance, the authors draw on three prominent approaches widely used in the compliance literature— enforcement, management, and legitimacy. They develop hypotheses for each of these approaches before combining them in theoretically consistent ways. They empirically test their hypotheses using a comprehensive data set of more than 6,300 violations of European law. The findings highlight the importance of combining the enforcement and management approaches. Powerful member states are most likely to violate European law, whereas the best compliers are small countries with efficient bureaucracies. Yet administrative capacity also matters for powerful member states. The United Kingdom is much more compliant than Italy, which commands similar political power but whose bureaucracy is far less efficient.

Keywords: compliance, enforcement, management, legitimacy, European Union



Börzel, Tanja A.; Hofmann, Tobias; Panke, Diana (2012): Caving in or sitting it out? Longitudinal patterns of non-compliance in the European Union. In: Journal of European Public Policy 19 (4), S. 454–471. DOI: 10.1080/13501763.2011.607338.

Member states of the European Union (EU) respond differently when they get caught for violations of European law and face prosecution. While Portugal tends to settle its non-compliance cases quickly and at an early stage of the EU's official infringement proceedings, Italy and Belgium like to sit them out and do not even comply with rulings of the European Court of Justice after being convicted twice – first for violating EU law and then for not acting upon the court's original judgment. This paper explores the explanatory power of prominent compliance theories to address these diverging patterns of persistent non-compliance across EU member states and tests a set of hypotheses that accounts for the non-compliance dynamics across the different stages of the EU's infringement proceedings and over time. We find that both differences in capacity and power explain the variation in longitudinal non-compliance patterns.

Keywords: Enforcement, European Commission, European Union member states, infringement proceedings, management, survival analysis

Cirtautas, Arista Maria; Schimmelfennig, Frank (2010): Europeanisation Before and After Accession. Conditionality, Legacies and Compliance. In: Europe-Asia Studies 62 (3), S. 421–441. DOI: 10.1080/09668131003647812.

This introductory essay reviews the literature on historical legacies in the post-communist area and relates it to the study of enlargement and Europeanisation. The authors develop a framework for the special section, specify various ways in which historical legacies can be conceived of affecting conditionality and compliance, give an overview of the contributions and summarise the findings.

Checkel, Jeffrey T. (2001): Why Comply? Social Learning and European Identity Change. In: International Organization 55 (3), S. 553–588. DOI: 10.1162/00208180152507551.

Why do agents comply with the norms embedded in regimes and international institutions? Scholars have proposed two competing answers to this compliance puzzle, one rationalist, the other constructivist. Rationalists emphasize coercion, cost/benefit calculations, and material incentives; constructivists stress social learning, socialization, and social norms. Both schools, however, explain important aspects of compliance. To build a bridge between them, I examine the role of argumentative persuasion and social learning. This makes explicit the theory of social choice and interaction implicit in many constructivist compliance studies, and it broadens rationalist arguments about the instrumental and noninstrumental processes through which actors comply. I argue that domestic politics—in particular, institutional and historical contexts—delimit the causal role of persuasion/social learning, thus helping both rationalists and constructivists to refine the scope of their compliance claims. To assess the plausibility of these arguments, I examine why states comply with new citizenship/membership norms promoted by European regional organizations.



Dimitrova, Antoaneta; Toshkov, Dimiter (2009): Post-accession compliance between administrative co-ordination and political bargaining. In: European Integration online Papers Special Issue 2 (13), S. 1–18. DOI: 10.1695/2009019.

This paper explores the relationship between administrative co-ordination of EU affairs at the national level and compliance with EU law. First, we develop two hypotheses about the impact of co-ordination. We expect that the strength of the co-ordination structure (level of centralisation and political support) will improve levels of transposition of EU law. Administrative co-ordination becomes irrelevant, however, for the transposition of EU laws that attain political salience and trigger political opposition. We test these conjectures by an aggregate country-level analysis of transposition rates and a qualitative comparative analysis of eight cases covering two directives. Both analyses support our expectations that strong administrative co-ordination of EU affairs leads to smaller transposition deficits in the aggregate. However, for highly salient directives that touch upon constitutional issues and trigger opposition from political actors outside the executive, administrative co-ordination cannot help.

Keywords: policy co-ordination; implementation; comparative public policy; administrative adaptation; Central and Eastern Europe; political science

Downs, George W.; Rocke, David M.; Barsoom, Peter N. (1996): Is the good news about compliance good news about cooperation? In: International Organization 50 (3), S. 379. DOI: 10.1017/S0020818300033427.

Recent research on compliance in international regulatory regimes has argued (1) that compliance is generally quite good; (2) that this high level of compliance has been achieved with little attention to enforcement; (3) that those compliance problems that do exist are best addressed as management rather than enforcement problems; and (4) that the management rather than the enforcement approach holds the key to the evolution of future regulatory cooperation in the international system. While the descriptive findings above are largely correct, the policy inferences are dangerously contaminated by endogeneity and selection problems. A high rate of compliance is often the result of states formulating treaties that require them to do little more than they would do in the absence of a treaty. In those cases where noncompliance does occur and where the effects of selection are attenuated, both self-interest and enforcement play significant roles.

Epstein, Rachel A.; Sedelmeier, Ulrich (2008): Beyond conditionality. International institutions in postcommunist Europe after enlargement. In: Journal of European Public Policy 15 (6), S. 795–805. DOI: 10.1080/13501760802196465.

According to the dominant incentive-based explanation, European Union (EU) conditionality has been particularly effective when the EU offered a credible membership incentive and when incumbent governments did not consider the domestic costs of compliance threatening to their hold on power. However, after the EU's eastern enlargement the influence of international institutions could then be expected to decrease in three different contexts: (i) the new member states after accession; (ii) the current candidate countries; and (iii) the postcommunist countries in the European neighbourhood policy. Yet although the incentive-based explanation receives support in some issue areas, in others, external influence is more enduring than predicted. To the extent that our understanding of the power of incentives is complicated by



post-enlargement findings, there are new avenues for research into the full range of mechanisms that international institutions have at their disposal for influencing target states.

Keywords: Conditionality, East Central Europe, enlargement, European Union, international institutions, postcommunism

Falkner, Gerda (2010): Institutional Performance and Compliance with EU Law. Czech Republic, Hungary, Slovakia and Slovenia. In: Journal of Public Policy 30 (1), S. 101–116. DOI: 10.1017/S0143814X09990183.

This article compares the performance of state institutions and compliance with EU law in the Czech Republic, Hungary, Slovakia and Slovenia. The public institutions highlighted are of crucial relevance when it comes to enforcing EU social standards and include the court and legal systems as well as labour inspectorates and equal treatment authorities. Expert and practitioner assessments point to major shortcomings in their institutional performance. The procedural compliance pattern to which these shortcomings give rise closely resembles that found by previous studies in some Western European countries, notably Ireland and Italy. Thus, the four countries examined here fall within a ‘world of dead letters’ as far as their compliance with EU law is concerned. In this ‘world’, EU directives tend to be transposed in a politicised mode (although so far, this happened rather timely and correctly) and there is frequent non-compliance at the later stages of monitoring and enforcement.

Keywords: compliance, EU law, enforcement, state, East Central Europe

Falkner, Gerda; Treib, Oliver; Holzleithner, Elisabeth (2008): Compliance in the enlarged European Union. Living rights or dead letters? Aldershot: Ashgate. ISBN: 9780754675099

This book offers a rigorous empirical and theoretical analysis of an important dimension of European integration - the implementation of EU legislation and its effect in the wake of the accession of ten new member states to the EU in 2004. The authors concentrate on the key field of social policy, which is of vital interest for the viability of the welfare state and the future of labour law standards in Europe. Following on from a previous prize-winning study, *Complying with Europe: EU Harmonization and Soft Law in the Member States*, this new volume looks at how EU social legislation works in practice, particularly in Central and Eastern European countries. The authors offer in-depth empirical case studies of three of the most significant pieces of EU social legislation: the Working Time Directive, the Equal Treatment Directive and the Employment Equality Directive. Their analysis makes it possible for the authors to make useful generalizations for the policy field as a whole.

Falkner, Gerda; Hartlapp, Miriam; Leiber, Simone; Treib, Oliver (2004): Non-Compliance with EU Directives in the Member States. Opposition through the Backdoor? In: West European Politics 27 (3), S. 452–473. DOI: 10.1080/0140238042000228095.

To what extent are European rules complied with, and what are the reasons for non-compliance with EU law? According to an intergovernmentalist perspective, implementation problems should occur when member states failed to assert their interests in the European decision-making process. Focusing on 26 infringement procedures from the area of labour law, we show that such ‘opposition through the backdoor’ does occur occasionally. However, we demonstrate that opposition at the end of the EU policy process may also arise without prior opposition at the beginning. Additionally, our findings indicate that non-compliance is often



unrelated to opposition, and due to administrative shortcomings, interpretation problems, and issue linkage. This study is based on unique in-depth data stemming from a ground-level analysis of the implementation of six EU Directives in all 15 member states.

Falkner, Gerda; Treib, Oliver; Hartlapp, Miriam; Leiber, Simone (2005): *Complying with Europe. EU harmonisation and soft law in the member states*. Cambridge: Cambridge University Press. Online verfügbar unter <https://doi.org/10.1017/CBO9780511491931>.

What does EU law truly mean for the member states? Do they abide or don't they? This book presents the first encompassing and in-depth empirical study of the effects of 'voluntaristic' and (partly) 'soft' EU policies in all 15 member states. The authors examine 90 case studies across a range of EU Directives and shed light on burning contemporary issues in political science, integration theory, and social policy. They reveal that there are major implementation failures and that, to date, the European Commission has not been able adequately to perform its control function. While all countries are occasional non-compliers, some quite frequently privilege their domestic political concerns over performance of their EU-related duties. Others neglect these EU obligations as a matter of course. This study answers questions of crucial importance for politics in theory and in practice, and suggests how implementation of EU law can be fostered in the future.

Falkner, Gerda; Treib, Oliver (2008): *Three Worlds of Compliance or Four? The EU-15 Compared to New Member States*. In: *JCMS: Journal of Common Market Studies* 46 (2), S. 293–313. DOI: 10.1111/j.1468-5965.2007.00777.x.

Starting from the findings of an earlier compliance study covering the 15 'old' Member States of the European Union, which identified three 'worlds of compliance', this article seeks to establish whether or not the new Member States from Central and Eastern Europe (CEE) represent a separate world of compliance. We present empirical findings from a research project on the implementation of three EU Directives from the field of working time and equal treatment in four CEE countries. The evidence suggests that the new Member States display implementation styles that are similar to a few countries in the EU-15. The expectation that the new Member States might behave according to their own specific logic, such as significantly decreasing their compliance efforts after accession in order to take 'revenge' for the strong pressure of conditionality, is not supported by our case studies. Instead, all four new Member States appear to fall within a group that could be dubbed the 'world of dead letters'. It is crucial to highlight, however, that this specific 'world of compliance', characterized by politicized transposition processes and systematic application and enforcement problems, also includes two countries from the EU-15.

Grabbe, Heather (2001): *How does Europeanization affect CEE governance? Conditionality, diffusion and diversity*. In: *Journal of European Public Policy* 8 (6), S. 1013–1031. DOI: 10.1080/13501760110098323.

The EU influences the development of governance in central and eastern Europe through its accession process in ways that go well beyond its official competences in the current member states. However, the EU's impact is diffused by the complexity of actor constellations involved. Moreover, it lacks the comprehensive institutional templates that would be needed to shape political institutions into an identifiably 'EU' mould. Instead, EU influence interacts with other pressures, both external and internal, becoming woven into domestic debates about



institutional change. Accession conditions and negotiations privilege a relatively small group of central government officials over other political actors. The lack of involvement of parliamentarians and wider society in the accession process could, in turn, exacerbate the EU's own democratic deficit after enlargement.

Keywords: Accession, Conditionality, Enlargement, Europeanization, Governance, Regionalization

Haas, Peter M. (1998): Compliance with EU directives. Insights from international relations and comparative politics. In: Journal of European Public Policy 5 (1), S. 17–37. DOI: 10.1080/1350176888000021.

The European Union (EU) has issued hundreds if not thousands of directives and decisions over the last twenty-five years. Yet questions of compliance — to what extent do states comply, which states are likely to comply, what patterns of compliance exist within and across areas of regulation? — have not been extensively investigated and remain poorly understood. This article argues that compliance is a matter of state choice, and reviews current theoretical writings in international relations and comparative politics in order to better identify reasons for states' choices to comply with EU directives.

Keywords: Compliance, constructivism, environmental policy, institutionalism, IR theory

Hartlapp, Miriam; Falkner, Gerda (2009): Problems of Operationalization and Data in EU Compliance Research. In: European Union Politics 10 (2), S. 281–304. DOI: 10.1177/1465116509103370.

Substantial theoretical, conceptual and empirical advances have been made in research on the implementation of EU policies during recent years. However, our findings have remained ambivalent and our theoretical insights disparate. It therefore seems high time to address some methodological issues and to raise awareness of the limits of the various approaches and of the data commonly used. We highlight the challenges of operationalizing and of choosing adequate indicators for the dependent variable (compliance). We also discuss the promises and perils of different types of data used in the field, such as official statistics on notifications and infringements published by the European Commission.

Haverland, Markus (2000): National Adaptation to European Integration. The Importance of Institutional Veto Points. In: Journal of Public Policy 20 (1), S. 83–103.

The repercussions of European integration on national policymaking have increasingly drawn scholarly attention, yet, the determinants of national adaptation to the European Union are still poorly understood. This article takes issue with evolving arguments which grant crucial importance to the "goodness of fit" between European provisions and national rules and practices for explaining the degree of national adjustment to European requirements. In the case of the

implementation of the Packaging and Packaging Waste Directive in Germany, the Netherlands and the United Kingdom, the country with the greatest misfit, the United Kingdom, adapted more successfully than the country which only needed incremental adjustments, Germany. The German record was also worse than the Dutch, despite the higher adaptation pressure of the latter. The case study suggests that the number of institutional veto points that central governments



has to face when imposing European provisions on their constituencies, ultimately tend to shape the pace and quality of implementation, regardless of differential degrees in the goodness of fit.

Hille, Peter; Knill, Christoph (2016): 'It's the Bureaucracy, Stupid'. The implementation of the *Acquis Communautaire* in EU candidate countries, 1999-2003. In: *European Union Politics* 7 (4), S. 531–552. DOI: 10.1177/1465116506069442.

The Central and East European (CEE) countries that had applied for membership in the European Union were confronted with far-reaching requirements in order to bring domestic policies in line with EU standards. Notwithstanding these rather uniform pressures emerging from conditionality, there is considerable variety in alignment performance across the candidate countries and over time. To account for this, we use time series cross-sectional data on the implementation performance of 13 EU candidate countries between 1999 and 2003. Our results indicate that the bureaucratic strength and effectiveness of a country positively influence its ability to adjust domestic arrangements to EU requirements. By contrast, we find no support for veto-player theories of political constraints on legislative change. We hence conclude that the implementation of the *acquis communautaire* in candidate countries prior to accession has been a question of bureaucratic problems rather than of political veto-manoeuvres.

Knill, Christoph; Tosun, Jale (2009): Post-accession transposition of EU law in the new member states: a cross-country comparison. In: *European Integration online Papers Special Issue 2* (13), S. 1–18. DOI: 10.1695/2009018.

In this paper we examine the transposition of European Union (EU) legislation in the twelve 'new' member states during the post-accession stage. To this end, we scrutinize the number of formal notice letters received by the new member states in the period from 2004 to 2007. Our analysis shows that there is considerable variation in the transposition behaviour. While Lithuania, Hungary as well as Slovenia are the best performers, the transposition of EU legislation is less effective in Bulgaria, the Czech Republic, and particularly Romania. The comparatively high number of transposition shortcomings by this latter country group clearly indicates that even the process of incorporating European provisions into domestic law is far from unproblematic, which suggests the existence of even more substantive problems with the practical side of implementation. The results of our descriptive analysis show that transposition failure is predominantly related to the degree of trade with the EU, bureaucratic capacity and pre-accession policy alignment. We conclude that in the intermediate-term increasing bureaucratic capacities and stronger economic ties with the EU may help to reduce transposition failures.

Keywords: acquis communautaire, public administration, implementation, economic Integration, enlargement, Europeanization, harmonization, comparative public policy, post-Communism, European law, political science

Krizsan; Andrea (2009): From formal adoption to enforcement. Post-accession shifts in EU impact on Hungary in the equality policy field. In: *European Integration online Papers Special Issue 2* (2), 1-18. DOI: 10.1695/2009022.

Research on EU conditionality in equality policy in Hungary shows that while the formal EU *acquis* has been transposed in a fast and successful way, its enforcement and application



largely lag behind. Most researchers explain this weak enforcement with factors such as state capacity problems, the absence of inclusive policy making, and low norm resonance at the domestic level. This paper analyzes how changes in EU influence in the post-accession, post-conditionality period contribute to maintaining compliance with and improving the enforcement of EU equality policy in Hungary. It aims to understand implementation processes that take place in the post-accession period through the Hungarian case of equality policy. The paper argues that in order to capture the impact of the EU in the post-accession period, one must look beyond formal transposition-related mechanisms and increasingly at financial assistance and social learning mechanisms. While mechanisms connected to formal transposition might suggest major drawbacks in formal compliance, financial assistance and social learning mechanisms seem to address more directly the application and enforcement problems that Hungary faces in the equality realm. The paper shows that these mechanisms directly and indirectly impact the most crucial factors that determine enforcement – state capacity, the strength and involvement of civil society, and norm resonance. A slow but steady move toward sustainable improvement in enforcement is indicated.

Keywords: Central and Eastern Europe, Hungary, civil society, Europeanization, enlargement, Implementation, policy learning, policy diffusion, policy coordination, non-discrimination, gender policy, Roma, structural funds, political science

Mbaye, Heather A. D. (2016): Why National States Comply with Supranational Law. In: European Union Politics 2 (3), S. 259–281. DOI: 10.1177/1465116501002003001.

European Union (EU) member states have at times failed to implement EU directives, thus falling short of their treaty obligations. Implementation is crucial to this loosely quasifederal organization because compliance is the foundation of cooperation in Europe. This paper addresses the inability of states to comply and state reluctance to conform. I demonstrate that cross-national factors rather than idiosyncratic characteristics are responsible for non-compliance. I have crafted hypotheses regarding implementation that can be tested in a systematic fashion. Using count data of infringements, I use negative binomial regression to test the hypotheses. I find modest support for many of the hypotheses in the literature, but little support for others. Bureaucratic efficiency, corruption, power in the Council of Ministers, economic power, length of membership, and public approval of EU membership are the most important predictors of compliance.

Mattli, Walter; Plümpert, Thomas (2011): The demand-side politics of EU enlargement. Democracy and the application for EU membership. In: Journal of European Public Policy 9 (4), S. 550–574. DOI: 10.1080/13501760210152439.

Most theoretical arguments about enlargement have sought to elucidate why the EU may have an interest in accepting CEECs. While these 'supply-side' arguments are essential building blocks of a comprehensive account of enlargement, they need to be complemented by a theory that seeks to understand the politics and economics of enlargement from a demand-side perspective. We show in a formal model how a transition country's demand for EU membership relates to both regime type and its willingness to implement economic reforms. Specifically, we argue that leaders in more democratic regimes had a greater incentive to push ahead with costly 'institution-building reforms' which, in effect, aligned their countries with EU rules and institutions. The impetus for continuing pro-integration regulatory reforms came from the greater electoral accountability of these leaders. We test this claim with a Cox continuous time



survival model with time-dependent covariates. The results confirm the dominant impact of increasing political participation on the likelihood of an EU application.

Keywords: Central and Eastern European Countries, Enlargement, European Union, Lobbying, Public Choice, Reforms, Transition

Noutcheva, Gergana (2009): Fake, partial and imposed compliance. The limits of the EU's normative power in the Western Balkans. In: Journal of European Public Policy 16 (7), S. 1065–1084. DOI: 10.1080/13501760903226872.

This article examines the EU's external power through the prism of perceptions by non-EU countries of the aims of EU's foreign policy, as shown in the Western Balkans. It argues that the EU's policy in the Western Balkans lacks a strong normative justification, which affects the degree of compliance with the EU's demands in areas related to state sovereignty. The perceived lack of legitimacy opens up political space for domestic actors to contest the positions taken by the EU on normative grounds. The Western Balkan countries have responded by giving preference to internal sources of legitimacy and asserting domestic reasons for fake compliance, partial compliance or non-compliance with the EU's conditions, with the latter provoking imposed compliance. The article links the enlargement literature with the study of EU foreign policy by offering a new approach to analysing the normative and strategic dimensions of the EU's external power.

Keywords: Compliance, EU conditionality, European foreign policy, Europeanization, legitimacy, 'normative power Europe'

Perkins, Richard; Neumayer, Eric (2007): Do Membership Benefits Buy Regulatory Compliance? In: European Union Politics 8 (2), S. 180–206. DOI: 10.1177/1465116507076429.

Underlying several theories of European integration is the idea that countries' willingness to sign up to supranational rules is dependent on the expectation and/or realization of various benefits. In this paper, we explore whether such benefits also affect member states' implementation of these rules. Using econometric techniques, we estimate the influence of several measures of membership benefits on the annual number of legal infringements received by 15 member states over the period from 1978 to 1999. Our results provide qualified support for the idea that benefits positively influence compliance. We find that greater intra-EU trade dependence and voting power in European institutions relative to population size are negatively associated with legal infringements. Yet, contrary to a priori expectations, net fiscal transfers are positively correlated with infringements.

Sasse, Gwendolyn (2008): The politics of EU conditionality. The norm of minority protection during and beyond EU accession. In: Journal of European Public Policy 15 (6), S. 842–860. DOI: 10.1080/13501760802196580.

The norm of minority protection is often singled out as a prime example of the political impact of European Union (EU) conditionality on the ethnically diverse states of Central and Eastern Europe. The EU's 'minority condition' is best understood as a political and social construct rooted in European security concerns. As such, it has had very 'real' effects, both intended and unintended, and direct and indirect. This article extends the study of EU conditionality by including the post-accession period, and by concentrating on the politics surrounding conditionality. As the cases of Latvia and Estonia demonstrate, high-intensity EU involvement



during the accession process did generate a rationalist momentum for legislative change, and formal compliance gave rise to a perception of behavioural change. However, socialization effects can point in the opposite direction of the rationalist momentum that informs formal legal change and thereby 'lock in' deeper structural problems and contradictory behavioural trends.
Keywords: Behavioural change, Estonia, EU conditionality, Latvia, legal change, minority protection, socialization

Schimmelfennig, Frank; Sedelmeier, Ulrich (2004): Governance by conditionality. EU rule transfer to the candidate countries of Central and Eastern Europe. In: Journal of European Public Policy 11 (4), S. 661–679. DOI: 10.1080/1350176042000248089.

In the process of the EU's eastern enlargement, the Central and Eastern European countries (CEECs) have undergone a major process of external governance. What are the main characteristics of the mode of EU external governance in this region, and under which conditions is it most effective for the transfer of EU rules to the CEECs? The article presents the findings of a collaborative international research project including comparative case studies of EU rule transfer in a great variety of policy areas and CEECs. They show that rule transfer is best explained by an external incentives model of governance; its effectiveness varies with the credibility of EU conditionality and the domestic costs of rule adoption. The impact of these conditions, however, depends on two contexts of conditionality: democratic conditionality and *acquis* conditionality.

Keywords: Central and Eastern European Countries, Conditionality, Enlargement, European Union, Europeanization, External Governance

Schimmelfennig, Frank (2008): EU political accession conditionality after the 2004 enlargement. Consistency and effectiveness. In: Journal of European Public Policy 15 (6), S. 918–937. DOI: 10.1080/13501760802196861.

Has the EU's political accession conditionality changed after the enlargement of 2004 against the backdrop of apparent 'enlargement fatigue' and domestic obstacles in the remaining non-member countries? Based on an empirical analysis of non-member eligibility and EU discrimination, this article concludes that EU enlargement policy has remained consistently linked to compliance with basic democratic norms in the target countries. The recent drawbacks in the negotiations of the EU with Croatia, Serbia, and Turkey have been caused by issues of national identity related to legacies of ethnic conflict that are likely to create high political costs to the target governments. As a result, whereas consistency has remained high, effectiveness is reduced. The findings confirm the continuing relevance of the external incentives model of EU conditionality after the recent enlargement.

Keywords: Conditionality, Croatia, democracy, enlargement, European Union, Serbia, Turkey

Schimmelfennig, Frank; Sedelmeier, Ulrich (2011): Theorizing EU enlargement. Research focus, hypotheses, and the state of research. In: Journal of European Public Policy 9 (4), S. 500–528. DOI: 10.1080/13501760210152411.

Despite its indisputable political relevance, the enlargement of the EU has suffered from a theoretical neglect in studies of European integration. While theoretically informed studies have emerged recently, this literature suffers from a predominant focus on single cases and from not being linked to the more general study of international organizations in the social sciences. This article aims to structure the emerging debate in order to generate more



generalizable and cumulative insights. First, we define enlargement as a process of gradual and formal horizontal institutionalization. We identify key dependent variables of a so-defined enlargement, for which we propose comparative research strategies. Second, we draw on two basic approaches to the analysis of international organizations - rationalist and sociological or constructivist institutionalism - to derive core hypotheses on the conditions of enlargement. Finally, we demonstrate the usefulness of these theoretical approaches in structuring the debate by giving an overview of the state of research on EU enlargement.

Keywords: Constructivism, Enlargement, European Union, Integration Theory, Rationalist Institutionalism, Regional Organizations

Sedelmeier, Ulrich (2009): Post-accession compliance with EU gender equality legislation in post-communist new member states. In: European Integration online Papers 2 (13), S. 1–20. <http://eiop.or.at/eiop/pdf/2009-023.pdf>

This paper analyses the transposition of EU legislation on gender equality at the workplace in the Czech Republic, Hungary, Lithuania and Slovenia, as well as the enforcement powers of their national equality institutions. It does not find significant differences between post- and pre-accession compliance. Overall compliance can be considered good in Hungary, Lithuania, and Slovenia, while it is considerably worse in the Czech Republic – both pre- and post-accession. As an explanation for these variations in legal transposition and enforcement bodies, the paper finds two equifinal paths towards correct transposition of EU gender equality legislation and strong enforcement bodies: either the absence of high adjustment costs, or the combination of strong social democratic governments and NGOs with special expertise in EU gender equality legislation.

Keywords: acquis communautaire, Czech Republic, directives, enlargement, gender policy, Hungary, implementation, Lithuania, NGOs, non-discrimination, post-Communism, Slovenia, political science

Sedelmeier, Ulrich (2008): After conditionality. Post-accession compliance with EU law in East Central Europe. In: Journal of European Public Policy 15 (6), S. 806–825. DOI: 10.1080/13501760802196549.

The European Union's pre-accession conditionality was very effective in prompting the alignment of the post-communist candidate countries with EU law. As the conditional membership incentive was the main factor driving alignment, the changing incentive structure after accession suggests that – ceteris paribus – post-accession compliance with EU law will deteriorate. Data on infringements of EU law allow us a first insight into whether this negative scenario has materialized. The data suggest that, far from constituting an 'eastern problem', virtually all of the new member states outperformed virtually all of the old members during the first four years of membership. To explain this unexpectedly good performance, further research should focus on two factors, both related to the experience of pre-accession conditionality: a greater susceptibility of the new member states to shaming and an institutional investment in legislative capacity.

Keywords: Acquis communautaire, compliance, conditionality, East Central Europe, enlargement, post-accession



Sedelmeier, Ulrich (2012): Is Europeanisation through Conditionality Sustainable? Lock-in of Institutional Change after EU Accession. In: West European Politics 35 (1), S. 20–38. DOI: 10.1080/01402382.2012.631311.

Is the impact of EU accession conditionality sustainable after target states achieve EU membership? Although accession changes the incentive structure for compliance, this article suggests that a lock-in of pre-accession institutional changes can contribute to their persistence even after the EU's sanctioning power weakens. A case study of gender equality institutions in five new member states suggests that a combination of government partisan preferences and veto players explains whether such lock-in occurs. If institutional change no longer fits government preferences, the key condition is the presence of veto players who can lock in institutional change. Rather than impairing Europeanisation, as the literature often assumes, domestic veto players can thus foster it. However, the case study also finds that veto players can lock in non-compliance too if conditionality was unsuccessful, and it appears easier to reverse earlier institutional change than to redress the lack of it.

Tallberg, Jonas (2002): Paths to Compliance. Enforcement, Management, and the European Union. In: International Organization 56 (3), S. 609–643. DOI: 10.1162/002081802760199908.

The contemporary debate on compliance has been framed in terms of two contending perspectives on how best to make states comply with international rules: enforcement or management. Whereas enforcement theorists stress a coercive strategy of monitoring and sanctions, management theorists embrace a problem-solving approach based on capacity building, rule interpretation, and transparency. In this article, I challenge the conception that enforcement and management are competing strategies for achieving compliance. Based on the case of the European Union (EU) and a comparison with other international regimes, I suggest that enforcement and management mechanisms are most effective when combined. The twinning of cooperative and coercive instruments in a “management-enforcement ladder” makes the EU highly successful in combating violations, thus reducing non-compliance to a temporal phenomenon. An examination of regimes in the areas of trade, environment, and human rights lends additional support to this proposition; compliance systems that offer both forms of mechanism are particularly effective in securing rule conformance, whereas systems that only rely on one of the strategies suffer in identifiable ways.

Toshkov, Dimiter (2008): Embracing European Law. In: European Union Politics 9 (3), S. 379–402. DOI: 10.1177/1465116508093490.

Accession to the European Union (EU) demands the adoption of a vast body of legislation. This paper analyses compliance with EU directives in eight post-communist countries during the Eastern enlargement and tries to account for the puzzling embrace of EU law in Central and Eastern Europe. Drawing on a new data set tracking the transposition of a sample of 119 directives, the paper finds effects of both political preferences and government capacity on the likelihood of timely transposition. Furthermore, important sectoral differences are uncovered, with trade-related legislation having a better chance and environmental legislation having a significantly worse chance of being incorporated into national legal systems on time. Beyond the conditionality of the accession process, the paper unveils a complex causal structure behind the ups and downs in transposition performance.



Keywords: Central and Eastern, Europe, compliance, Enlargement implementation, transposition

Trauner, Florian (2009): Post-accession compliance with EU law in Bulgaria and Romania: a comparative perspective. In: European Integration online Papers Special Issue 2 (13). Online available at: <http://eiop.or.at/eiop/pdf/2009-021.pdf>

This paper takes stock of academic literature and official sources on post-accession compliance in Bulgaria and Romania, the only new member states where the Commission has preserved the right to monitor key reforms following accession. The data used in the analysis suggests that formal compliance with EU law has not decreased since their accession. Quite the contrary; Bulgaria and Romania have performed well with regard to the transposition of EU law, yet signs of shortcomings have appeared at the enforcement level, possibly on a greater scale than in other CEECs. Moreover, it is argued that in the first years of membership, the Commission's post-accession monitoring did not yield the same results in Bulgaria and Romania. While Romania has managed to convince the Commission of its good will and determination to meet the benchmarks set by the EU, Bulgaria has failed to do so and has faced sanctions in relation to the EU's extended conditionality. The analysis concludes by presenting possible directions for further research.

Keywords: administrative adaptation, benchmarking, Bulgaria, European law, implementation, post-Communism, Romania, political science

Trauner, Florian (2009): From membership conditionality to policy conditionality. EU external governance in South Eastern Europe. In: Journal of European Public Policy 16 (5), S. 774–790. DOI: 10.1080/13501760902983564.

In view of the uncertainty about the final outcome of the current enlargement process, how effective is the EU's *acquis* conditionality in South Eastern Europe? By elaborating on the example of justice and home affairs, the article argues that the EU's external leverage has remained strong, as the EU has developed additional ways to render its conditionality approach credible. Although the hurdles for entering the EU have been raised, Croatia's compliance efforts can be considered to be similar to the logic observed in the eastern enlargement. The key to understanding the compliance of Macedonia, whose membership prospect is less certain or even questionable, is to take into account policy conditionality in addition to membership conditionality. The EU managed to compensate for less credible membership rewards by substantially increasing the value of the policy reward of visa-free travel. This strategy was effective but has created tensions with regard to the EU's broader objectives in the region.

Keywords: Conditionality, enlargement, external governance, justice and home affairs, South Eastern Europe



C Data banks related to European law, national law and infringement procedures / Datenbanken zum EU-Recht, nationalem Recht und Vertragsverletzungsverfahren

EUR-Lex: The Official Journal of the European Union, EU case law and other resources for EU law

<http://eur-lex.europa.eu/homepage.html>

European Commission: Annual reports on monitoring the application of EU law

https://ec.europa.eu/info/publications/annual-reports-monitoring-application-eu-law_en

European Commission: Data on infringement cases

http://ec.europa.eu/atwork/applying-eu-law/infringements-proceedings/infringement_decisions/index.cfm?lang_code=EN&r_dossier=&noncom=0&decision_date_from=&decision_date_to=&active_only=0&DG=TAXU&title=&submit=Search

N-Lex: Entry point to national law databases in individual EU countries

http://eur-lex.europa.eu/n-lex/index_en

Data on infringements and transposition rates (European University institute)

<https://www.eui.eu/DepartmentsAndCentres/RobertSchumanCentre/Research/ArchivesInstitutionsGovernanceDemocracy/Compliance/aggregateresults>

European Parliament Legislative Observatory (OEIL): European Parliament's database for monitoring the EU decision-making process

<http://www.europarl.europa.eu/oeil/home/home.do>



D ECJ infringement procedures against Hungary and the Czech Republic / EuGH-Vertragsverletzungsverfahren gegen Ungarn und Tschechien

Hungary

http://ec.europa.eu/atwork/applying-eu-law/infringements-proceedings/infringement_decisions/index.cfm?lang_code=EN&r_dossier=&noncom=0&decision_date_from=&decision_date_to=&active_only=0&EM=HU&title=&submit=Search

Czech Republic

http://ec.europa.eu/atwork/applying-eu-law/infringements-proceedings/infringement_decisions/index.cfm?lang_code=EN&r_dossier=&noncom=0&decision_date_from=&decision_date_to=&active_only=0&EM=CZ&title=&submit=Search

Related Journal Articles/Working Papers/Book chapters

Blauberger, Michael (2016): Europäischer Schutz gegen nationale Demokratiedefizite? In: Leviathan 44 (2), S. 280–302. DOI: 10.5771/0340-0425-2016-2-280.

Debatten über das europäische „Demokratiedefizit“ beziehen sich gewöhnlich auf die EU selbst. Daneben stellt sich in den letzten Jahren aber auch zunehmend die Frage, ob die EU eingreifen sollte beziehungsweise überhaupt wirksame Schutzmechanismen besitzt, wenn Mitgliedstaaten gegen europäische Grundwerte - Demokratie, Rechtsstaatlichkeit, Menschenrechte - verstoßen. Der Beitrag diskutiert die Rechtfertigungen sowie Erfolgsaussichten europäischer Schutzmechanismen mit besonderem Blick auf die aktuelle politische Entwicklung in Ungarn und Polen vor dem Hintergrund der „Haider-Sanktionen“ gegen Österreich im Jahr 2000. Rechtfertigen lässt sich eine europäische Einmischung in Fragen gemeinsamer Grundwerte vergleichsweise einfach. Statt einer „Viel-hilft-viel“-Strategie, so die These, bedarf es jedoch vor der Anwendung europäischer Schutzmechanismen einer vorsichtigen Abwägung ihrer Erfolgsaussichten und möglicher unbeabsichtigter Nebenwirkungen.

Most debates about a „democratic deficit“ in Europe concentrate on the EU’s own political system. Increasingly, however, the EU faces the additional challenge of whether and how to intervene domestically against member state violations of European fundamental values such as democracy, rule of law, and fundamental rights. This contribution addresses the normative justifications as well as the chances of success of potential EU safeguards. Empirically, the focus is on political developments in Hungary and Poland; the „Haider sanctions“ against Austria in 2000 serve as an important background. It will be shown that EU safeguards are relatively easy to justify in principle, but it is much harder to make them effective and to avoid unanticipated consequences in practice. Rather than relying on a strategy of „trial and error“, the EU, therefore, needs to carefully assess the potential impact of its safeguard measures prior to their application.



Blauberger, Michael; Kelemen, R. Daniel (2016): Can courts rescue national democracy? Judicial safeguards against democratic backsliding in the EU. In: Journal of European Public Policy 24 (3), S. 321–336. DOI: 10.1080/13501763.2016.1229357.

This article explores the potential efficacy and limitations of judicial mechanisms as tools to combat democratic backsliding in European Union (EU) member states. The article argues that more can be done to maximize the effectiveness of existing judicial tools, such as infringement proceedings brought to the European Court of Justice (ECJ) by the Commission and private enforcement litigation in national courts. At the same time, we highlight risks inherent in many proposals for novel judicial tools to defend national democracy. We conclude that despite their importance, judicial safeguards alone – whether existing ones or novel proposals – will not suffice to stop democratic backsliding by a determined national government: if the Union is to rein in such attacks on its core values, heads of government and other EU leaders will have to intervene politically as well.

Keywords: Democratic backsliding, European Union, infringement proceedings, judicial safeguards, private litigation

Marek, Dan; Baun, Michael; Dabrowski, Marcin (2017): The challenge of implementing European Union environmental law in the new member states: The Urban Waste Water Treatment Directive in the Czech Republic and Poland. In: Environment and Planning C: Politics and Space 35 (6), S. 1117-1135. DOI: 10.1177/0263774X16686071.

This article examines the problematic implementation of the Urban Waste Water Treatment Directive (UWWTD) in the Czech Republic and Poland from the perspective of the scholarly debate on European Union (EU) and post-accession compliance, focusing on the competing ‘goodness of fit’ and administrative-legal approaches to explaining variations in compliance with EU rules. It finds that administrative shortcomings of various kinds are a major reason for implementation problems in both countries, and that problems have also stemmed from the multilevel nature of the implementation process, which places a heavy administrative and financial burden on municipalities, and requires cooperation between national and local government authorities. In the Czech case, however, the ‘misfit’ between EU standards and contracting and regulatory practices in the Czech water sector has also undermined UWWTD compliance, through its negative impact on the country's ability to access EU funding.

Scheppele, Kim Lane (2016): Enforcing the Basic Principles of EU Law through Systemic Infringement Actions. In: Carlos Closa und Dimitry Kochenov (Hg.): Reinforcing rule of law oversight in the European Union. Cambridge: Cambridge University Press, S. 105–132. DOI: 10.1017/CBO9781316258774.007

Book-chapter – no Abstract available



E EU Rule of Law Framework and related processes / EU-Rechtsstaatlichkeitsverfahren und verwandte Vorgänge

General information on the EU's rule of law framework

Commission

European Commission: Communication from the Commission to the European Parliament and the Council: A Framework to strengthen the Rule of Law; 11 March 2014

<http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52014DC0158&from=EN>

Annexes to the Communication from the Commission to the European Parliament and the Council: A new EU Framework to strengthen the Rule of Law; 11 March 2014

http://ec.europa.eu/justice/effective-justice/files/com_2014_158_annexes_en.pdf

European Commission: Communication from the Commission to the European Parliament and the Council: A Framework to strengthen the Rule of Law; 19 March 2014 (CORRIGENDUM)

http://ec.europa.eu/justice/effective-justice/files/com_2014_158_en.pdf

European Commission – Press Release: European Commission presents a framework to safeguard the rule of law in the European Union; 11 March 2014 (informs about the main characteristics and the evolution of the rule of law framework)

http://europa.eu/rapid/press-release_IP-14-237_en.htm

European Council

European Council: Conclusions of the Council and the Member States meeting within the Council on ensuring respect for the rule of law of 16 December 2014.

http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/EN/genaff/146323.pdf

Council Legal Service: Opinion of the Council Legal Service, Commission's Communication on a New EU Mechanism to Strengthen the Rule of Law, 27 May 2014

<http://data.consilium.europa.eu/doc/document/ST-10296-2014-INIT/en/pdf>

Related speeches

European Commission – Speech: Commission Statement: EU framework for democracy, rule of law and fundamental rights; 12 February 2015 (Speech of First Vice-President Frans Timmermans to the European Parliament)

http://europa.eu/rapid/press-release_SPEECH-15-4402_en.htm

European Commission: The European Union and the Rule of Law - Keynote speech at Conference on the Rule of Law, Tilburg University, 31 August 2015 (Speech of First Vice-President Frans Timmermans)

https://ec.europa.eu/commission/commissioners/2014-2019/timmermans/announcements/european-union-and-rule-law-keynote-speech-conference-rule-law-tilburg-university-31-august-2015_en



Hungary

European Parliament resolution on the situation in Hungary, 10 June 2015

<http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P8-TA-2015-0227+0+DOC+XML+V0//EN>

European Parliament resolution on the situation in Hungary; of 16 December 2015

<http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P8-TA-2015-0461+0+DOC+XML+V0//EN>

Poland

European Commission - Fact Sheet: College Orientation Debate on recent developments in Poland and the Rule of Law Framework: Questions & Answers; Brussels, 13 January 2016

[http://europa.eu/rapid/press-release MEMO-16-62_en.htm](http://europa.eu/rapid/press-release_MEMO-16-62_en.htm)

European Parliament: European Parliament resolution on the situation in Poland; 13 April 2016

<http://www.europarl.europa.eu/sides/getDoc.do?type=TA&reference=P8-TA-2016-0123&language=EN&ring=B8-2016-0461>

1 June 2016: Commission Opinion

European Commission: Commission Opinion on the Rule of Law in Poland and the Rule of Law Framework: Questions & Answers, 1 June 2016

http://europa.eu/rapid/press-release MEMO-16-2017_en.htm

European Commission - Press release: Commission adopts Rule of Law Opinion on the situation in Poland; Brussels, 1 June 2016

http://europa.eu/rapid/press-release IP-16-2015_en.htm

27 July 2016: Commission Recommendation

European Commission: Commission Recommendation regarding the rule of law in Poland final; 27 July 2016

http://ec.europa.eu/justice/effective-justice/files/recommendation-rule-of-law-poland-20160727_en.pdf

European Commission: Commission Recommendation regarding the rule of law in Poland final; 27 July 2016; complementary to Commission Recommendations (EU) 2016/1374 and (EU) 2017/146

http://ec.europa.eu/newsroom/document.cfm?doc_id=46116

European Commission – Press Release: Commission issues recommendation to Poland; 27 July 2016

http://europa.eu/rapid/press-release IP-16-2643_en.htm



European Commission - Fact Sheet: Commission Recommendation regarding the Rule of Law in Poland: Questions & Answers; 27 July 2016

[http://europa.eu/rapid/press-release MEMO-16-2644 en.htm](http://europa.eu/rapid/press-release_MEMO-16-2644_en.htm)

European Commission – Speech: Remarks of Frans Timmermans on European Commission action to preserve the rule of law in Poland; 26 July 2017

[http://europa.eu/rapid/press-release SPEECH-17-2170 en.htm](http://europa.eu/rapid/press-release_SPEECH-17-2170_en.htm)

Related Journal Articles/Working Papers/Book chapters

Bogdandy, Armin von; Ioannidis, Michael (2014): Das systemische Defizit. Merkmale, Instrumente und Probleme am Beispiel der Rechtsstaatlichkeit und des neuen Rechtsstaatslichkeitsverfahrens. Zeitschrift für ausländisches öffentliches Recht und Völkerrecht, 74, S. 283-328. http://www.zaoerv.de/74_2014/74_2014_2_a_283_328.pdf

Die Europäische Union steckt in einer tiefen Krise, die vielfältige Ursachen und Aspekte hat. Dazu zählt, dass ein die europäische Integration tragendes Grundprinzip bedroht erscheint: die Rechtsstaatlichkeit. Aufgrund verbreiteter Korruption, schwacher Institutionen oder unzureichender Ressourcen zeigen einige EU-Mitgliedstaaten so schwere rechtsstaatliche Defizite, dass die Rechtsstaatlichkeit als Wert im Sinne des Art. 2 EUV in Frage steht. Es ist offensichtlich, dass die EU

angesichts solcher Defizite nicht untätig bleiben kann, aber es bleibt weitgehend ungeklärt, wie eine rechtlich und politisch überzeugende Strategie des Umgangs aussehen könnte. Dieser Beitrag prägt zu diesem Zweck unionsverfassungsrechtlich den Begriff des systemischen Defizits, beschreibt in seinem Lichte einige Maßnahmen der Union zur Krisenbewältigung, u. a. das neue Rechtsstaatslichkeitsaufsichtsverfahren, und skizziert deren verfassungsrechtliche Problematik.

Bugarič, Bojan (2016): Protecting Democracy inside the EU. On Article 7 TEU and the Hungarian Turn to Authoritarianism. In: Carlos Closa und Dimitry Kochenov (Hg.): Reinforcing Rule of Law Oversight in the European Union. Cambridge: Cambridge University Press, S. 82–101. DOI: 10.1017/CBO9781316258774.006

Book-chapter – no Abstract available

Eppler, Annegret (2016): Die »Rechtsstaatskrise« der EU. Verderben zu viele Köche den Brei? In: ZfP Zeitschrift für Politik 63 (4), S. 406–425. DOI: 10.5771/0044-3360-2016-4-406.

Der Artikel ordnet die »EU-Rechtsstaatskrise« politikwissenschaftlich als durch vertikale und horizontale Gewaltenschränkung im supranationalen Mehrebenensystem verursachte Integrationshindernisse und -rückschritte ein. Gezeigt wird, wie die Instrumente der Integration rechtsstaatlicher Systeme (Primat von EU-Recht und -Rechtsprechung) durch frühere (Prüfung von Unionsrecht durch nationale Gerichte) und aktuelle (Abbau der Rechtsstaatlichkeit in Ungarn, Rumänien und Polen) Entwicklungen auf mitgliederschaftlicher Ebene konterkariert werden und die EU-Organe diesem Trend wegen der Unschärfe ihrer Kompetenzen nicht begegnen können. Diese Rückschritte in der rechtlichen Dimension der europäischen Integration korrelieren mit Entwicklungen in anderen Integrationsdimensionen, insbesondere dem Erfolg EU-skeptischer Parteien.



The paper classifies the so called »rule of law crisis« of the EU as a disintegrative moment caused by interferences of powers in the vertical and horizontal axis of the supranational EU multi-level system. It analyzes the instruments of legal EU-integration (primacy of EU law and jurisdiction) as well as resistances against further integration on the national level (jurisdiction of the national courts, reduction of rule of law systems in Hungary, Romania, Poland) as well as the inability of EU organs to react. These disintegrative trends in the legal dimension of european integration are interdependent with disintegrative trends in other dimensions, especially with the success of EU-skeptic parties.

Kelemen, R. Daniel; Blauburger, Michael (2016): Introducing the debate. European Union safeguards against member states' democratic backsliding. In: Journal of European Public Policy 24 (3), S. 317–320. DOI: 10.1080/13501763.2016.1229356.

Today, the European Union (EU) is confronting a new democratic deficit at the national level. A number of EU member states have experienced an erosion of democracy and the rule of law in recent years, most severely in Hungary and Poland. Drawing on different strands of political science research, the contributions to this section debate the strengths and weaknesses of the various safeguards and tactics the EU has deployed or might deploy to resist democratic backsliding by member governments. This brief introduction raises the main questions of the debate: how politically feasible is the application of existing and proposed EU safeguards, and what are the likely consequences, intended as well as unintended, of various judicial and political approaches?

Keywords: Democratic backsliding, European Union, Hungary, Poland, rule of law, safeguards

Kochenov, Dimitry; Pech, Laurent (2016): Better Late than Never? On the European Commission's Rule of Law Framework and its First Activation. In: JCMS: Journal of Common Market Studies 54 (5), S. 1062–1074. DOI: 10.1111/jcms.12401.

This article first offers an overview of the European Commission's Rule of Law Framework, which was adopted in March 2014. The mechanism's potential effectiveness and the Commission's reasoning to justify its first activation against Poland in January 2016, when it has failed to do so against Hungary, are subsequently analyzed. While the Commission should be commended for seeking to address increasing rule of law backsliding at Member State level, our main submission is that reliance on the Rule of Law Framework alone, if only because of its soft and discursive nature, will not remedy a situation where systemic violations of EU values form part of a governmental plan to set up an 'illiberal' regime.

Kochenov, Dimitry; Pech, Laurent (2015): Upholding the Rule of Law in the EU: On the Commission's 'Pre-Article 7 Procedure' as a Timid Step in the Right Direction. In: EU Working Paper (2015/24).

http://cadmus.eui.eu/bitstream/handle/1814/35437/RSCAS_2015_24.pdf

This paper provides a detailed analysis of two institutional reforms, respectively put forward by the European Commission in March 2014 and by the Council of the EU in December 2014 – on how to tackle the problem of Member States' non-compliance with the principle of the rule of law, which is one of the fundamental values of the Union according to Article 2 TEU. It is submitted that while both proposals definitely represent a timid step in the right direction, the Commission's 'light-touch' proposal falls short of what is required to effectively address ongoing and serious threats to the rule of law within the EU but is however clearly preferable



to the Council's alternative proposal to hold an annual rule of law dialogue among all Member States within the Council itself.

Keywords: Rule of Law, EU values, Hungary, Article 2 TEU, Article 7 TEU, pre-Article 7 procedure

Mendelski, Martin (2016): Das europäische Evaluierungsdefizit der Rechtsstaatlichkeit. In: *Leviathan* 44 (3), S. 366–398. DOI: 10.5771/0340-0425-2016-3-366.

Liberaler Repräsentanten der Europäischen Union (EU) sowie Anhänger eines liberalen Konstitutionalismus beurteilen die jüngsten „Verfassungskrisen“ in Zentral- und Osteuropa als einen Angriff auf Demokratie und Rechtsstaatlichkeit. Diese einseitige Bewertung resultiert unter anderem aus einer inadäquaten Methodologie zur Evaluierung der Rechtsstaatlichkeit. Der Autor dieses Beitrags identifiziert ein Defizit der EU bei der Evaluierung der Rechtsstaatlichkeit, welches sich in drei Kernproblematiken widerspiegelt: (1) quantitativer „Je mehr desto besser“-Ansatz, (2) parteiische Evaluierung der Rechtsstaatlichkeit, (3) parteiliches „rhetorisches Handeln“ im Namen der Rechtsstaatlichkeit. Das Evaluierungsdefizit der EU wird anhand ausgewählter Beispiele zu Justizreformen und „Verfassungskrisen“ in Zentral- und Osteuropa (beispielsweise Rumänien, Polen, Ungarn) dargestellt. Es wird argumentiert, dass die EU aufgrund ihres Evaluierungsdefizits nicht imstande ist, die Rechtsstaatlichkeit objektiv und systematisch zu beurteilen. Die EU sollte deshalb die Rechtsstaatlichkeit in ihren Mitglieds- und Beitrittsländern nicht mehr evaluieren, es sei denn, sie ändert ihre defizitäre Evaluationsmethodik, indem sie zum Beispiel den Politikempfehlungen dieses Beitrags folgt.

Liberal representatives of the European Union (EU) and adherents of liberal constitutionalism assess the recent „constitutional crises“ in Central and Eastern Europe as an attack on democracy and the rule of law. This one-sided assessment results, among others, from an inadequate rule of law evaluation methodology. The author of this paper identifies the EU's rule of law evaluation deficit, which is reflected in three fundamental problems: (1) A quantitative „more is better“ mindset, (2) A biased assessment of the rule of law, (3) Partisan „rhetoric action“ in the name of the rule of law. The EU's evaluation deficit is illustrated with selected examples of judicial reform and constitutional crises in CEE (e.g. Romania, Poland, Hungary). It is argued that given the EU's inability to objectively and systematically assess the rule of law, the EU should either abstain from evaluating rule of law in member states and candidate countries or change its deficient evaluation approach, for instance by following the policy advice provided in this paper.

Müller, Jan-Werner (2016): Protecting the Rule of Law (and Democracy!) in the EU: The Idea of a Copenhagen Commission. In: Carlos Cloas und Dimitry Kochenov (Hg.): Reinforcing rule of law oversight in the European Union. Cambridge: Cambridge University Press, S. 206–224. DOI: 10.1017/CBO9781316258774.012

Book-chapter – no Abstract available

Müller, Jan-Werner (2013): Wo Europa endet. Ungarn, Brüssel und das Schicksal der liberalen Demokratie. Berlin: Suhrkamp.

Kann es innerhalb der EU eine Diktatur geben? Eine Frage, die man noch vor Kurzem als Gedankenspiel abgetan hätte, stellt sich angesichts der Entwicklungen in Ungarn und Rumänien plötzlich ganz real. Wie hat Europa darauf bislang reagiert? Was kann, was darf



Brüssel tun? Jan-Werner Müller erläutert die Hintergründe der Situation in Ungarn und entwickelt robuste Kriterien für Interventionen zum Schutz der Demokratie

Schlipphak, Bernd; Treib, Oliver (2016): Playing the blame game on Brussels. The domestic political effects of EU interventions against democratic backsliding. In: Journal of European Public Policy 24 (3), S. 352–365. DOI: 10.1080/13501763.2016.1229359.

This article develops the argument that European Union (EU) intervention to protect its core values is likely to provoke unintended and undesired consequences at the domestic level. EU intervention will typically invite the accused government to play the blame game on Brussels. By criticizing the EU for illegitimately interfering with domestic affairs, the government may frame EU intervention as a threat from the outside and present itself as the only safeguard against this threat. As a consequence, support for those domestic actors that were supposed to be weakened by EU intervention is likely to increase in the aftermath of a European intervention, while EU support might significantly drop. The article illustrates this argument by tracing domestic reactions to EU interventions against Austria between 2000 and 2002 and against Hungary since 2010. In conclusion, the EU should be very cautious with such external interventions, since they may easily strengthen anti-EU and illiberal political forces at the domestic level. To minimize the risk of such undesired consequences, bottom-up mechanisms against democratic backsliding should be installed, which would allow disadvantaged domestic groups to appeal to an independent European democracy watchdog if they feel that democratic rules are being violated in their country.

Keywords: Austria, democratic backsliding, European Union, Hungary, independent supervisory body, rally-round-the-flag effect

Schmahl, Stefanie (2015): Filling a Legal gap? Das neue EU-Monitoring-Verfahren bei Rechtsstaatsdefiziten. In: Christian Calliess (Hg.): Herausforderungen an Staat und Verfassung. Völkerrecht, Europarecht, Menschenrechte; Liber Amicorum für Torsten Stein zum 70. Geburtstag. Unter Mitarbeit von Torsten Stein. Baden-Baden: Nomos, S. 834–855.

Book-chapter – no Abstract available

Sedelmeier, Ulrich (2017): Political safeguards against democratic backsliding in the EU. The limits of material sanctions and the scope of social pressure. In: Journal of European Public Policy 24 (3), S. 337–351. DOI: 10.1080/13501763.2016.1229358.

When confronting democratic backsliding in its member states, the European Union (EU) cannot rely on material sanctions. There are formidable obstacles to using the one political safeguard that entails material sanctions, namely Article 7 of the Treaty on European Union (TEU). Moreover, the experience of the EU's pre-accession conditionality suggests that even a credible threat of material sanctions is least effective the more severe the breaches of liberal democracy. However, EU interventions without material leverage are not necessarily doomed, as the case of Romania in 2012 shows. Under favourable conditions the EU can thus elicit governments to repeal illiberal practices by relying primarily on social pressure and persuasion. This contribution assesses to what extent novel instruments that EU institutions have developed to confront democratic backsliding meet the requirements for effective social influence. It argues that the Commission's Rule of Law Framework has potential because it



meets the criteria of formalization, publicity and impartiality. Yet, to increase the likelihood of influence, it needs to be applied more consistently and should be embedded in a process of regular monitoring through a democracy scoreboard covering all member states.

Keywords: Democratic backsliding, European Union, Hungary, Poland, rule of law, sanctions, social pressure