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DESIGN

Kink Creative, New York, www.kinkcreative.com

Journal of Comparative Politics is published twice a year, in January and July.

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(NON)DETERMINANTS OF CORRUPTION: A SCEPTICAL VIEW FROM EASTERN EUROPE

Andris ZIMELIS¹

The article assesses the current state of corruption literature and conducts relevant empirical tests. It explores the validity of the corruption indicators regarded as having high explanatory power and juxtaposes them with empirical facts from several Eastern European countries. The article points out the existing problems with corruption indicators and the oversimplification of the term corruption as well as calls for a more comprehensive approach to studying corruption.

Corruption is widely regarded as a major problem many countries of the world. In spite of unprecedented prevalence of democracy today which has made a false impression of democracy's resilience to the harms prevalent in other societies, corruption scandals can be seen not only in Russia, China or Lithuania, but also in France, the United States and Austria. Corruption is "endemic in all governments"² and corruption "eats into the cultural, political, and economic fabric of society, and destroys the functioning of vital organs"³

Corruption poses some of the most pernicious threats to democratic states, new and old alike. Policy-makers and scholars agree on the negative effects

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² Joseph Nye, "Corruption and political development: a cost-benefit analysis," *American Political Science Review*, 61 (1967), 417-427.

³ Inge Amundsen, "Political corruption: an introduction to the issues," *Development Studies and Human Rights*, working paper 7 (1999), 1.

of corruption on economy and society.⁴ Mauro demonstrates that corruption negatively affects economic growth and lowers growth rates by lowering private investment.⁵ Similarly, Glynn, Kobrin, and Naim have shown how corruption distorts international trade and investment flows besides hampering economic growth.⁶ Rothstein and Uslaner convincingly demonstrate that corruption erodes social capital.⁷ These are the reasons international organizations such as the World Bank and Organization for Economic Cooperation and Development (OECD) have made it a priority to combat corruption.

Predictably, there is a burgeoning literature attempting to understand and dissect this notoriously ubiquitous phenomenon. The frequent corruption scandals around the globe warrant a rigorous analysis of the subject, and scholars and policy-makers alike are in dire need to understand corruption in order to minimize its pernicious effects on society and government.

Even a cursory overview of the literature reveals corruption as an exceedingly complex and interconnected phenomenon. The degree of corruption is a function of multiple variables interacting with each other in almost every aspect of society. Hence, many studies of corruption attempt to analyze this occurrence by putting emphasis on different variables- economic, political, institutional, bureaucratic and cultural. Most researchers focus on one variable they deem as most important, which has resulted in the dearth of cross-disciplinary studies of corruption, especially in comparison with the areas of study such as democratization. Fortunately, some scholars have begun to conduct multi-disciplinary studies.⁸

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⁴ See Arvind Jain, "Corruption: a review," *Journal of Economic Surveys*, 15, 1 (2001), 71–121; Paolo Mauro, "The effects of corruption on growth, investment, and government expenditure," *IMF working paper 96/98* (1996); Susan Rose-Ackerman and Janos Kornai (eds.), *Building a Trustworthy State in Post-Socialist Transition* (New York: Palgrave/McMillan, 2004); Bo Rothstein and Eric Uslaner, "All for one: equality, corruption, and social trust," *World Politics*, 58, 1 (2005), 41–72; Bo Rothstein, *Social traps and the problem of trust* (Cambridge: Cambridge University Press, 2005).

⁵ Paolo Mauro, "The effects of corruption on growth, investment, and government expenditure," *IMF working paper 96/98* (1996).

⁶ Patrick Glynn, Stephen J. Kobrin and Moises Naim, "The globalization of corruption," in *Corruption and the global economy*, ed. Kimberly A. Elliott (Washington DC: Institute for international economics, 1997), 7–27.

⁷ Bo Rothstein and Eric Uslaner, "All for one: equality, corruption, and social trust," *World Politics*, 58, 1 (2005), 41–72.

⁸ See Park Hoon, "Determinants of corruption: a cross-national analysis," *The Multinational business review*, 11, 2 (2003), 29–48; Seldadyo, Harry and Jakob de Haan, *The determinants of corruption: a literature survey and new evidence*, paper presented for the 2006 EPCS conference, Turku, Finland, 2006; Daniel Treisman, "The causes of corruption: a cross-national study," *Journal of public economics*, 76, 2 (2000), 399–457.

Scholars tend to focus on single case studies and some have begun conducting large-N cross-sectional analyses of corruption. Conspicuous is the relative absence of small-N comparative studies of corruption. This study will attempt to fill in this void by conducting a comparative analysis of corruption in several countries. The purpose of comparison in this study will be contextual description which allows scientists to know other states and the goal is to obtain more knowledge about the nation studied, and hypothesis-testing comparisons which allow rival explanations to be ruled out and hypothesis derived from certain theoretical perspective to be tested.⁹

Research to this point has focused mainly on broader theoretical issues relating to the causes or effects of corruption rather than on the practical application and effects of it. The existing explanations are also theoretically weak and the empirical tests are far from adequate. Therefore, a comprehensive and fresh review as well as a better understanding of the explanatory power of the determinants of corruption is timely and relevant, from both a policy and academic point of view. This article aspires to contribute to the relevant research by empirically investigating the utility of the most important determinants of corruption as agreed by scholars and applying these explanations to the Eastern European cases selected. The most agreed upon determinants of corruption will be discussed in greater detail later and they are democracy, income, inequality, government's spending on education, religion, ethnicity, as well as two variables that have attracted only scant attention from scholars thus far: percentage of females in government (parliament) and labour force.

How well do these variables explain differences in selected countries? Do they indeed help explain variations in the levels of corruption? The overview of the literature on the determinants of corruption indicates the factors that are regarded as important in determining the levels of corruption. A comparative study of the causes of political corruption will deepen our understanding of this amorphous phenomenon and allow us to draw some policy recommendations.

I ANALYTICAL FRAMEWORK AND MEASURES

The analytical motivation for this article stems from a few interesting facts found while reading the World Bank's corruption level indices. The countries of Eastern and Central Europe have been known to have higher levels of corruption than the older Western democracies. It is not surprising given the correlation between income, democracy and corruption. There are also very diverse levels of corruption among these countries which can be explained by

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⁹ Todd Landman, *Issues and methods in comparative politics* (London: Routledge, 2000).

the different economic and social “starting points” of these countries after the disappearance of communism in Europe. However, attempting to meet the criteria for the accession into the European Union and working together with the “old” European democracies were deemed as positive influences on reducing the levels of corruption in the region. Thus, one would expect, irrespective of the different starting points, the countries of Eastern Europe to have lowered the levels of corruption after their independence due to the preparations to accede into the EU and the positive influence from the Western democracies after the accession.

However, as seen on table I on the next page, this has not been the case. While countries such as Latvia, Estonia and Lithuania have moved up in the ranking (in table I, the higher the score, the better the ranking, and the best score is 100) from their rather unfavourable initial levels of corruption, not all eastern European countries have followed the suit. In fact, the Eastern and Central European countries that have been regarded as the most developed and have had much higher initial scores, have in fact *experienced the rise of corruption as demonstrated by the decrease in the rankings from 1996 to 2005*. The Czech Republic, Hungary and Poland are the most noticeable. What explains this unusual trend? After all, few would expect the Czech Republic to have less progress in fighting corruption than Lithuania. The findings of the World Bank demonstrate just the opposite- the countries with lower initial levels of corruption tend to have more progress fighting corruption. The look at the Transparency International rankings reveals a similar trend. Thus, Poland was ranked 39 in 1998 out of about 170 countries but ended up ranked 70 in 2005.¹⁰ The data for this research project will be used from the World Bank and complemented where necessary from other sources. The concept of corruption is measured through the Governance Research Indicator Country Snapshots from the Governance Group of the World Bank Institute, Governance and Anti- Corruption program. The data comes in form of six aggregate indicators from a number of surveys on corruption.

TABLE I: CONTROL OF CORRUPTION, COMPARISON ACROSS SELECTED COUNTRIES

Country	Year	Percentile Rank (0-100)	Standard Error	Number of surveys/polls
ALBANIA	2005	27.6	0.15	7
	1996	61.0	0.49	2

.....
¹⁰ See Transparency International yearly reports at www.transparency.org.

BOSNIA-HERZEGOVINA	2005	46.3	0.15	8
	1996	N/A	N/A	N/A
BULGARIA	2005	55.2	0.13	11
	1996	25.9	0.28	4
CROATIA	2005	59.1	0.13	11
	1996	33.7	0.29	3
CZECH REPUBLIC	2005	68.0	0.12	12
	1996	77.6	0.20	7
ESTONIA	2005	79.8	0.12	11
	1996	61.5	0.29	3
HUNGARY	2005	70.4	0.12	12
	1996	78.0	0.20	7
KOSOVO	2005	32.0	0.21	2
	1996	N/A	N/A	N/A
LATVIA	2005	66.0	0.13	10
	1996	30.7	0.29	3
LITHUANIA	2005	64.0	0.13	11
	1996	53.7	0.29	3
MACEDONIA	2005	40.4	0.14	9
	1996	8.3	0.38	1
POLAND	2005	61.1	0.12	13
	1996	73.2	0.20	7
ROMANIA	2005	51.7	0.12	13
	1996	51.2	0.28	4
SERBIA AND MONTENEGRO	2005	39.4	0.13	10
	1996	16.1	0.35	2
SLOVAK REPUBLIC	2005	68.5	0.12	11
	1996	73.7	0.26	5

SLOVENIA	2005	80.3	0.12	10
	1996	84.9	0.29	3
TURKEY	2005	59.6	0.14	13
	1996	62.0	0.20	7

Source: Kaufmann et al 2006, World Bank 2006.

I am interested in examining what accounts for this variation by examining how well the existing explanations found in the relevant literature explain what causes corruption to be higher in one place than another. As mentioned in the beginning, a small number comparative analysis of corruption is preferred due to the dearth of such studies. The central distinction between different comparative methods depends on the key trade-off between the level of abstraction and the scope of countries under study. The higher the level of abstraction, the more potential there is for the inclusion of a larger number of countries in a study, where political science concepts travel across different contexts.¹¹ Focus on one country or a few countries means that the scholar can use less abstract concepts that are more grounded in the specific contexts under study. A study of few countries achieves control through the careful selection of countries that are analyzed using a middle level of conceptual abstraction, and it is more intensive and less extensive.¹²

Comparing implies choosing variables and we need to specify whether the cases are comparable or incomparable with respect to certain properties and characteristics. Evidently, the cases we choose will be similar in certain respects and different in others so we need to be specific in our explanations. Because social sciences lack the ability to conduct experimental methods by manipulating variables at will, social scientists have to take advantages of the similarities and differences characterizing our variables.

One method of small number comparisons is Mill's method of difference, also known as the most similar systems design. Most similar systems design (MSSD) seeks to compare political systems that share a host of common features in an effort to neutralize some differences while highlighting others.¹³ It seeks to identify key features that are different among similar countries and which account for the observed outcome. According to Przeworski and Teune, this design is well suited for area studies due to the assumption that there is something inherently similar about states making up a certain region

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¹¹ Giovanni Sartori, "Concept misformation in comparative politics," *American political science review*, 64 (1970), 1033–1053.

¹² Todd Landman, *Issues and methods in comparative politics* (London: Routledge, 2000).

¹³ Ibid.

which controls for the features that are common while seeking out the ones that are not.¹⁴ The dependent variable is the level of corruption in the country and independent variables are democracy, income, inequality, government's spending on education, religion, ethnicity, and percentage of females in government and labour force.

We now need to specify with respect to what characteristics the cases are comparable when studying corruption in Eastern Europe. After all, corruption is present at varying degrees in each Eastern European country (or any country for that matter). In part, the high level of corruption in these states is considered to reflect the lingering effects of decades of authoritarian rule, lack of transparency and powerful bureaucracies that try to extract benefits from the positions that they still hold. At the same time, however, corruption cannot be blamed only on the experiences of the past. It is not only the old elites that can slow down the process of democratic consolidation but also the new ones.¹⁵ In countries where the political changes take place simultaneously with the economic ones, the new political elites have an interest in maintaining conditions that can potentially bring them material benefits.¹⁶

The focus of this study will be on four Eastern European countries- Czech Republic, Poland, Latvia, and Bulgaria- for the following reasons. First, these and all other countries of Eastern Europe have similar structure of government which is functioning democracy with free media. These countries had to meet stringent economic and democratic criteria in order to join the European Union (Bulgaria and Romania joined on January 1, 2007); thus, these countries all meet the requirements for democratic institutions and freedoms. While there are some variations in the levels of democracy, they all nevertheless meet the criteria of a democratic regime as described by the Freedom House and have comparable levels of democracy.¹⁷ This eliminates the need to pay specific attention to the democratic variables in these countries.

Second, it can be argued that what is happening today can be explained by the past. Besides geographic proximity, the countries chosen have similar recent past- communism. Thus we can hypothesize for our purposes that these states have had similar cultural experiences in the second half of the 20th

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¹⁴ Adam Przeworski and Henry Teune, *The logic of comparative social inquiry* (New York: Wiley-Interscience, 1970), 33.

¹⁵ Joel Hellman, "Winners take all: the politics of partial reform in post-communist transitions," *World Politics*, 50, 2 (1998), 203–234.

¹⁶ Stephen Holmes, "Crime and corruption after communism: introduction," *East European constitutional review*, 6, 4 (1997), 69–70.

¹⁷ See www.freedomhouse.org for further information, especially "Freedom in the World. Nations in Transit," (2006), available at <http://www.freedomhouse.org/template.cfm?page=15&year=2006> (June 2011).

century. Moreover, these countries have experienced a relatively substantial growth of national income which would imply more money and higher efficacy in combating corruption. To avoid selecting only countries with success in combating corruption, we will choose the states in our sample from a group of countries in which the levels of corruption have actually increased and a group of states where countries have managed to reduce the levels of corruption in the last decade or so. This selection will help us isolate the variables that account for the different levels of corruption. According to the data from the World Bank, the Czech Republic and Poland have dropped in the rankings by 9 and 11 places respectively. On the contrast, Latvia and Bulgaria have moved up in the rankings by 33 and 30 places respectively (see Table I).

2 DEFINITIONAL ISSUES

At first, the definition of corruption does not appear to pose any substantial problems to a researcher. However, a more detailed analysis of the problem reveals a great deal of difficulties. Definition is extremely important because our findings and measurements will be based on the definition we utilize- "how corruption is defined actually ends up determining what gets modelled and measured."¹⁸ In order to measure a phenomenon effectively, we first need to define it clearly.

Corruption most often refers to an activity that diverges from some ideal condition¹⁹ and is defined in terms of "misuse of public power for private gain."²⁰ It has been acknowledged that "although corruption comes in many shapes, shades, and sizes, and with different degrees of tolerability, corruption is always defined with one feature- the inappropriate mix of public and private as it is corrupt for officials to profit personally from public office."²¹

Rasma Karklins emphasizes the fact that the "misuse of public power for private

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¹⁸ Arvind Jain, "Corruption: a review," *Journal of Economic Surveys*, 15, 1 (2001), 73.

¹⁹ Thomas D. Lancaster and Gabriella R. Montinola, "Toward a methodology for the comparative study of political corruption," *Crime, Law and Social Change*, 27, 3-4 (1997), 185-206.

²⁰ See Transparency International <http://www.transparency.org/publications/gcr>; Joseph LaPalombara, "Structural and institutional aspects of corruption," *Social Research*, 61, 2 (1994), 325-350; Rasma Karklins, "Typology of post-communist corruption," *Problems of Post-Communism*, 49, 4 (2002), 22-32; Michael Johnston, *Syndromes of corruption: wealth, power, and democracy* (Cambridge: Cambridge University Press, 2005); Jakob Svensson, "Eight questions about corruption," *Journal of Economic Perspectives*, 19, 3 (2005): 19-42.

²¹ Roberta A. Johnson and Shalendra Sharma, "Chapter 1," in *The struggle against corruption: a comparative study*, ed. Roberta A. Johnson (New York: Palgrave, 2004), 3.

gain" should incorporate "at the expense of the public good."²² Obviously, this notion entails an explicit assumption of corruption as a "deviation from behaviour in the public interest."²³ Arvind Jain also defines corruption as "those activities in which public officials, bureaucrats, legislators and politicians use powers delegated to them by the public to further their own economic interest at the expense of the common good."²⁴

Another way to define corruption is to view it as a deviation from society's legal norms: "corruption refers to behaviour which deviates from the formal duties of a public role because of private-regarding pecuniary or status gains; or violates rules against the exercise of certain types of private-regarding influence."²⁵

Obviously, no definition of corruption is completely unambiguous. Each researcher needs to determine what definition best suits their needs. However, because the most often used data sets on corruption- Transparency International and the World Bank - view corruption as the misuse of public power for private gain, researchers often choose to employ the same definition for the sake of convenience. This article will also utilize the common definition- misuse of public good for private benefit- due to the reliance on the data from the World Bank and Transparency International.

3 LITERATURE REVIEW: DETERMINANTS OF CORRUPTION

Reviewing the literature on corruption will reveal the deficiencies of the existing methods and will provide an opportunity to reconsider the challenges to studying corruption. On the one hand, the utilization of a mixture of variables can provide a comparative advantage to researchers by considering and exposing various facets of "corruption" thus deepening our understanding of this complex and amorphous phenomenon. On the other hand, the great variety of possible factors has not helped scholars agree on which factors are in fact the most important ones affecting the levels of corruption. Generally, scholars have focused on economic, political, and cultural variables or a mixture of several of these variables to study corruption. Given the definitional and conceptual difficulties, it is not surprising that studies produce contradictory results and there is no general theory on which scholars could base their empirical models.

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²² Rasma Karklins, "Typology of post-communist corruption," *Problems of Post-Communism*, 49, 4 (2002), 2.

²³ Thomas Lancaster and Gabriella Montinola, "Toward a methodology for the comparative study of political corruption," *Crime, Law, and Social Change*, 27, 3-4 (1997), 185-206.

²⁴ Arvind Jain, "Corruption: a review," *Journal of Economic Surveys*, 15, 1 (2001), 73.

²⁵ Joseph Nye, "Corruption and political development: a cost-benefit analysis," *American Political Science Review*, 61 (1967), 419.

One of the most popular factors in explaining the levels of corruption has been economic development, particularly income.²⁶ Countries with higher per capita income tend to have lower levels of corruption although some scholars question the causal link and others find the opposite.²⁷ It is, however, widely agreed that the richer the country in general, the lower corruption.²⁸ The underlying assumption is the idea that economic factors make better institutions and less corrupt people. At the same time, countries with relatively high levels of economic development are ranked very low in corruption perception indexes such as Argentina and developing countries like Botswana have unusually high rankings. Obviously, these theories remain incomplete.

Similarly, some scholars find that income equality reduces corruption²⁹ whereas others do not statistically significant relationship.³⁰ The main assumption is that the rich have greater incentives to engage in corruption as redistributive pressures increase with inequality, while the poor are less able to hold accountable the rich and powerful. Inequality also adversely affects social norms about corruption and people's beliefs about the legitimacy of rules and institutions, thereby making it easier for them to tolerate corruption as acceptable behaviour. Bo Rothstein and Eric Uslaner discover that social trust reduces corruption and

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²⁶ See Kunicova Jana and Susan Rose Ackerman, *Electoral rules as constraints on corruption: the risks of closed list proportional representation*, presented at the department of political science, Yale University, 2005; Daniel Lederman, Norman Loayza and Rodrigo Soares, "Accountability and corruption: political institutions matter," *Economics & Politics*, 17, 1 (2005), 1–35; Richard Damania, Per Fredriksson and Muthukumara Mani, "The persistence of corruption and regulatory compliance failures: theory and evidence," *Public Choice*, 121 (2004), 363–390; Torsten Persson and Guido Tabellini, *The economic effects of constitution* (Cambridge: MIT Press, 2003); Martin Paldam, "The cross country pattern of corruption: economics, culture, and the seesaw dynamics," *European Journal of Political Economy*, 18, 2 (2002), 215–240; Anand Swamy et al., "Gender and corruption," *Journal of Development Economics*, 64, 1 (2001), 25–55; Daniel Treisman, "The causes of corruption: a cross-national study," *Journal of public economics*, 76, 2 (2000), 399–457; Alberto Ades and Rafael Di Tella, "Rents, competition, and corruption," *The American Economic Review*, 89, 4 (1999), 982–993.

²⁷ Kaufmann, Daniel and Pablo Zoido-Lobaton, *Governance Matters*, World Bank policy research working paper 2195, 1999; Miguel Braun and Rafael Di Tella, "Inflation, inflation variability, and corruption," *Economics & Politics*, 16, 1 (2004), 77–100; Frechette, Guillaume, *A Panel Data Analysis of the Time-Varying Determinants of Corruption*, paper presented at the EPCS, 2001.

²⁸ Jakob Svensson, "Eight questions about corruption," *Journal of Economic Perspectives*, 19, 3 (2005), 19–42; Daniel Treisman, "The causes of corruption: a cross-national study," *Journal of public economics*, 76, 2 (2000), 399–457.

²⁹ See Martin Paldam, "The cross country pattern of corruption: economics, culture, and the seesaw dynamics," *European Journal of Political Economy*, 18, 2 (2002), 215–240; Bo Rothstein and Eric Uslaner, "All for one: equality, corruption, and social trust," *World Politics*, 58, 1 (2005), 41–72.

³⁰ Brown, David, Michael Touchton and Andrew Whitford, *Political polarization as a constraint on government: evidence from corruption*, 2006. Available at <http://ssrn.com/abstract=782845> (June 2011).

trust, in turn, is caused by economic equality and equality of opportunity.³¹ Glaeser, Scheinkman, and Shleifer³² argue that inequality enables the rich to subvert the political, regulatory, and legal institutions of society for their own benefit, and Scott argues that a more equal income distribution will allow a large middle class to hold elites accountable.³³ The literature however remains silent on why the rich should be motivated to engage in corruption in more unequal societies and the middle class should be less corrupt than the elites.

Scholars have also explored the size of government as a determinant of corruption by arguing that a large government sector creates more opportunities for corruption. Empirical studies find contradictory results so there is no consensus about the relationship between government size and corruption. Fisman and Gatti³⁴ discover that government size reduces corruption in contradiction to Ali and Isse³⁵ who argue the opposite. Similarly, economic freedoms are thought to lessen corruption.³⁶ However, other scholars find opposite outcomes.³⁷

Some researchers have focused on human capital as a determinant of corruption, particularly education.³⁸ Moreover, Swamy et al. has found that a higher female labour participation together with higher proportion of women in parliament and government lessens corruption.³⁹ The supporting arguments include the assumption that women are more risk averse than men, they practice honesty while teaching their children, they feel that laws exist because they are not as physically strong as men, and women may have been brought up to have higher levels of self-control than men. The problem of causality remains unresolved nevertheless- perhaps it is the low levels of corruption that lead to better education and higher women representation in parliament.

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³¹ Bo Rothstein and Eric Uslaner, "All for one: equality, corruption, and social trust," *World Politics*, 58, 1 (2005), 41–72.

³² Glaeser, Edward, Jose Scheinkman and Andrei Shleifer, *The Injustice of Inequality*, Harvard Institute Research Working Paper 1967, 2003.

³³ James Scott, *Comparative Political Corruption* (Englewood Cliffs, NJ: Prentice-Hall, 1972).

³⁴ Raymond Fisman and Roberta Gatti, "Decentralization and Corruption: Evidence across Countries," *Journal of Public Economics*, 83 (2002), 325–345.

³⁵ Abdiweli Ali and Hodan Said Isse, "Determinants of Economic Corruption: A Cross-country Comparison," *Cato Journal*, 22, 3 (2003), 449–466.

³⁶ Daniel Treisman, "The causes of corruption: a cross-national study," *Journal of public economics*, 76, 2 (2000), 399–457.

³⁷ See Daniel Lederman, Norman Loayza and Rodrigo Soares, "Accountability and corruption: political institutions matter," *Economics & Politics*, 17, 1 (2005), 1–35; Martin Paldam, "The cross country pattern of corruption: economics, culture, and the seesaw dynamics," *European Journal of Political Economy*, 18, 2 (2002), 215–240.

³⁸ See Jakob Svensson, "Eight questions about corruption," *Journal of Economic Perspectives*, 19, 3 (2005), 19–42; Abdiweli Ali and Hodan Said Isse, "Determinants of Economic Corruption: A Cross-country Comparison," *Cato Journal*, 22, 3 (2003), 449–466.

³⁹ See Anand Swamy et al., "Gender and corruption," *Journal of Development Economics*, 64, 1 (2001), 25–55.

Various political variables have been used to account for varying levels of corruption across countries. Most work has resolved around the forms of government and their impact on corruption. There is a consensus among researchers that democratic regimes are closely related with corruption. More specifically, democracy and civil liberties are widely considered to reduce corruption.⁴⁰ Similarly, free media is thought to reduce corruption.⁴¹ Garoupa argues that reporters typically have more information than the public.⁴² Armed with more useful information than the average citizen, reporters can potentially deter political corruption by acting as auditors. Made aware of the political corruption by the media or interest groups, voters can punish incumbent politicians at the ballot box.

However, Treisman fails to find a statistically significant relationship between political corruption and democracy.⁴³ He only finds a significant and negative correlation between a long exposure to democracy and political corruption. The scholar also discovers that government stability could reduce political corruption by lengthening the time horizon of public officials. The prospect of a long career may persuade public officials to value long term gains.

Bueno de Mesquita et al. argues that corruption is more likely in countries with small selectorate and winning coalition that are typically non-democratic because leaders can retain power by offering private goods.⁴⁴ The selectorate refers to the citizens who have a prospect of becoming members of an incumbent's winning coalition. Corruption is, therefore, less likely to occur in a country with a larger selectorate and winning coalition- that is democracy- as leaders must offer public goods in order to stay in office. Democratic regime increases the size of the selectorate and winning coalition by expanding the number of individuals able to participate in the political process.

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⁴⁰ See Kunicova Jana and Susan Rose Ackerman, *Electoral rules as constraints on corruption: the risks of closed list proportional representation*, presented at the department of political science, Yale University, 2005; Jakob Svensson, "Eight questions about corruption," *Journal of Economic Perspectives*, 19, 3 (2005): 19–42; Richard Damania, Per Fredriksson and Muthukumara Mani, "The persistence of corruption and regulatory compliance failures: theory and evidence," *Public Choice*, 121 (2004), 363–390; Arthur Goldsmith, "Slapping the grasping hand: correlates of political corruption in emerging markets," *American Journal of Economics and Sociology*, 58, 4 (1999), 865–883.

⁴¹ Aymo Brunetti and Beatrice Weder, "A free press is bad news for corruption," *Journal of Public Economic*, 87 (2003), 1801–1824.

⁴² Nuno Garoupa, "The Economics of Political Dishonesty and Defamation: An Economic Analysis," *International Review of Law and Economics*, 19, 1 (1999), 167–180.

⁴³ Daniel Treisman, "The causes of corruption: a cross-national study," *Journal of public economics*, 76, 2 (2000), 399–457.

⁴⁴ Bruce Bueno de Mesquita et al. *Stealing from the State: The Effect of Political Institutions on Corruption* (Hoover Institution and Yale University, 1999).

While the causal link remains unspecified, whether it is democracy that leads to lower corruption or lower corruption that consolidates democracy, and various proxies have been used such as civil liberties, political freedoms, or political rights, the correlation between democracy and corruption is statistically significant.

The least studied determinant of corruption is culture, perhaps due to the inherent difficulty of conceptualizing it.⁴⁵ "Only a limited number of researchers recognize national culture as a potential source of corruption"⁴⁶ and, according to Bryan Husted, "culture has been neglected [in the studies of corruption]... this neglect seems odd given the fact that cultural values have such a significant impact on a wide array of business practices in different countries."⁴⁷ Cultural variables can help provide answers to many uneasy questions regarding corruption. Fisman and Miguel discovered that the diplomats from the countries with high corruption levels tend to break rules of the host countries, even if the rules are only unpaid parking tickets.⁴⁸ Culture then transcends the institutional and economic boundaries and should be afforded more attention from scholars.

Treisman argues that countries with a strong Protestant tradition should experience low levels of political corruption.⁴⁹ He contends that political corruption should be higher in countries where a majority of the population adheres to a hierarchical religion, such as Islam, Catholicism, or Eastern Orthodoxy. Socialized not to challenge authority, citizens raised within a hierarchical religion should be less likely to confront a public official suspected of engaging in acts of political corruption. On the other hand, countries dominated by a non-hierarchical or more egalitarian religion, such as Protestantism, should experience lower levels of political corruption.

Ethnic and racial homogeneity are also deemed as highly significant in determining a country's level of corruption. Alesina and La Ferrara have proposed what they call "aversion to heterogeneity" theory.⁵⁰ Using "similarity/

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⁴⁵ Gael McDonald, "Value modification strategies on a national scale: the activities of independent commission against corruption in Hong Kong," in *Emerging Global Business Ethic*, eds. Michael Hoffman et al. (Westport, CT: Quorum Books, 1994).

⁴⁶ See Park Hoon, "Determinants of corruption: a cross-national analysis," *The Multinational business review*, 11, 2 (2003), 29–48.

⁴⁷ Bryan Husted, "Wealth, culture, and corruption," *Journal of International Business Studies*, 30, 2 (1999), 340.

⁴⁸ Raymond Fisman and Edward Miguel, "Cultures of Corruption: Evidence From Diplomatic Parking Tickets," NBER Working Paper 12312, 2006.

⁴⁹ Daniel Treisman, "The causes of corruption: a cross-national study," *Journal of public economics*, 76, 2 (2000), 399–457.

⁵⁰ Alesina, Alberto and George-Marios Angeletos, *Corruption, Inequality and Fairness*, working paper 11399. (Cambridge, MA: National Bureau of Economic Research, 2005).

dissimilarity explanation" they argue that people find it easier to trust people who are similar than those who are considered different in various aspects such as race or ethnicity. In essence, "aversion to heterogeneity" theory argues that trust should be lower and corruption higher in heterogeneous societies which are diverse in racial, ethnic, and linguistic terms.

It has also been acknowledged that, although everybody "knows" that transparent, efficient institutions and open system are needed to minimize corruption, there is no consensus on what is the best way to achieve it. After all, if we know what to do to reduce corruption, why can the corrupt countries not do it? Indeed, corrupt officials are typically the main benefactors of corruption and will not be willing to change the system, whereas the ordinary citizens encounter "the collective action problem" or may simply not know what to do.⁵¹ Marcur Olson has demonstrated that in large groups it is extremely difficult to achieve collective action. Collective action for the common good is impossible to establish, at least as long as the majority of the players act so as to maximize their expected utility. After all, ordinary citizens and low level officials would reason like this: "Well, if everybody seems corrupt, why shouldn't I be corrupt?"⁵² The implication is that it can be extremely difficult to change a corrupt system "from below."

Likewise, corrupt elites are united by a common self-interest and by the mutual fear of being exposed and punished and will therefore be unwilling to combat corruption. It is argued that external influence is necessary to induce changes in the system because elites will resist the changes in the system they benefit from. Consequently, it is external influence that is believed to be able to induce positive changes in the system.

According to Rothstein and Tegnhammar, "there is little reason to believe that a corrupt system can be changed from within even if there is a significant political will for change among citizens and/or the political elite... the reason is that corruption can be seen as a *social trap* type of situation in which neither the agents at the bottom nor the agents at the top as individuals have reason for changing the system if they do not believe that most other agents are willing to change" (italics in original).⁵³ Indeed, scholars have paid great attention to what might determine the levels of corruption and what is needed to fight corruption, but they tend to neglect to elucidate on how exactly achieve the necessary changes given the "collective action problem". Once corruption becomes

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⁵¹ Marcur Olson, *The Logic of Collective Action* (Massachusetts: Harvard University Press, 1965).

⁵² Rothstein, Bo and Markus Tegnhammar, *The Mechanisms of Corruption: Interest vs. Cognition*, prepared for delivery at the Annual Meeting of the American Political Science Association, Philadelphia, 2006, 4.

⁵³ *Ibid.*, 6.

systemic and its existence widespread, corrupt practices becomes "common knowledge" and extremely difficult to alter.⁵⁴

As a result, it is believed that "if neither a top-down nor a bottom-up approach to corruption is likely to work, this leads to a situation where it is reasonable to look at what agents outside the corrupt system can do."⁵⁵ International organizations are obviously becoming more important in the fight against corruption. Thus, Sandholtz and Gray show that a country's integration into the international system by becoming a member of international organizations is reflected in a lower rate of corruption.⁵⁶

4 RESEARCH HYPOTHESES AND FINDINGS

What are the factors that are likely to explain the unusual variance in the levels of corruption among similar countries? The present goals aim at providing a stepping stone for the future research by pointing out the most important variables as agreed by scholars and a brief application of these explanations to the cases selected. To simplify the task of assessing the general usefulness of the "crucial" determinants of corruption, a table summarizing these main variables across the selected countries is offered. Table II demonstrates the progress toward democracy in Eastern Europe. Table III summarizes the most agreed upon determinants of corruption- income, inequality, money spent on education, religion, ethnicity and includes two variables that have attracted only scant attention from scholars- percentage of females in government (parliament) and labour force. National income is measured as Gross National Product per capita, inequality of income as measured by Gini coefficient (ranging from 0 to 100 with 0 being perfect equality and 100 perfect inequality), education is measured as the total expenditure on education as a percentage of GDP, religion is measured as the percentage of the largest religious group, ethnicity is measured as the percentage of the largest ethnic group, and female presence is measured as the percentage of females in government and labour force.

A caveat is in place, however. The studies of corruption suffer from inconsistent and rather arbitrary operationalization of variables. For example, ethnicity and

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⁵⁴ Alina Mungiu-Pippidi, "Corruption: Diagnosis and Treatment," *Journal of Democracy*, 17, 3, (2006), 86-99.

⁵⁵ See Rothstein, Bo and Markus Tegnhammar. *The Mechanisms of Corruption: Interest vs. Cognition*. Prepared for delivery at the Annual Meeting of the American Political Science Association, Philadelphia, 2006, 4.

⁵⁶ Wayne Sandholtz and Mark Gray, "International Integration and National Corruption," *International Organization*, 57, (2003), 761-800.

religion are considered as cultural variables.⁵⁷ It is arguable whether ethnicity is a cultural or merely a demographic variable showing ethnic homogeneity. Likewise, the percentage of females in government and labour has been viewed as a cultural, political, and social variable. This study believes the ways of operationalizing these variables has been inconsistent and arbitrary which, in turn, has resulted in inconsistent and contradictory findings. In general, the significance of corruption variables has varied depending on the data, sample, and specifications. Agreement on simple definitions would greatly increase the value of the scholarly findings. Nevertheless, for the current purposes the explanatory power of the variables will be tested regardless whether a certain variable falls into one or another category of definition. We are interested in the effect of the variable itself and will not worry about the problem of operationalizing variables.

We can now formulate our research hypotheses based on the reviewed literature. These hypotheses are as follows:

H1: Higher national income per capita will lead to lower levels of corruption.

H2: Higher income equality will lead to lower levels of corruption.

H3: Higher presence of females in government will lead to lower corruption.

H4: Higher presence of females in the labour force will lead to lower corruption.

H5: Higher amount of money spent on education will lead to lower corruption.

H6: Countries that are mostly Protestant will have lower levels of corruption.

H7: Countries with large ethnic majority will have lower levels of corruption.

TABLE II: FREEDOM HOUSE DEMOCRACY SCORES

	1999-2000	2001	2002	2003	2004	2005	2006
Czech Republic	2.08	2.25	2.46	2.33	2.33	2.29	2.25
Estonia	2.25	2.13	2.00	2.00	1.92	1.96	1.96
Hungary	1.88	2.13	2.13	1.96	1.96	1.96	2.00
Latvia	2.29	2.29	2.25	2.25	2.17	2.14	2.07
Lithuania	2.29	2.21	2.21	2.13	2.13	2.21	2.21
Poland	1.58	1.58	1.63	1.75	1.75	2.00	2.14
Slovakia	2.71	2.50	2.17	2.08	2.08	2.00	1.96
Slovenia	1.88	1.88	1.83	1.79	1.75	1.68	1.75
Bulgaria	2.12	2.11	2.08	2.04	2.01	2.03	2.04

Source: Freedom House 2006. *The Freedom house score produces annual scores representing

⁵⁷ See Daniel Treisman, "The causes of corruption: a cross-national study," *Journal of public economics*, 76, 2 (2000), 399–457.

the levels of electoral democracy, political rights and civil liberties in each state and territory, on a scale from 1 (most democratic) to 7 (least democratic).

TABLE III: SELECTED INDICATORS

	Czech Rep	Poland	Latvia	Bulgaria
GNP per capita 2002 \$	15,780	10,560	9,210	7,130
GNP per capita 2005 \$	20,000	13,100	13,000	9,600
Income Inequality Gini coef.	25.4	31.6	32.4	31.9
Females in Government %	15.7	20.7	21	26.3
Females in Labour Force %	51	60	66	64
Edu \$. as % of GDP 2001	4.4	5.4	5.9	5.8
Religion % Main Group	Unaffiliated 59%	Catholics 90%	Lutherans 51%	Orthodox 83%
Ethnicity % Main group	91%	96.70%	57.70%	83.90%

Source: UN Development Office.

How well do these hypotheses perform in empirical tests? The review of the literature on corruption revealed the consensus on the fact that democracy reduces corruption. Scholars have found a general correlation between democracy and corruption, and it is assumed that the older the democracy, the lower the rates of corruption.⁵⁸ If this is indeed true and democratic structure reduces corruption, all of the four countries chosen for this study should have decreasing levels of corruption as they all have become genuinely democratic and have become the members of EU. Countries like the Czech Republic or Poland have always been deemed as more developed and with less corruption than countries like Latvia or Romania.

However, as we saw earlier, when we examine the progress toward democratic consolidation in Eastern Europe and the expected reduction in corruption, we see unexpectedly anomalous developments. The countries Czech Republic and Poland- two most developed and democratic countries of the region have actually regressed in their efforts to control corruption whereas as Latvia and Bulgaria have made substantial progress combating corruption. This anomaly casts serious doubts on the widely held simplistic belief that the more democratic the country, the lower the levels of corruption. As these countries became more democratic, only some of them lowered corruption levels; in other countries corruption increased. The single measure of corruption in democratic terms

⁵⁸ See Jakob Svensson, "Eight questions about corruption," *Journal of Economic Perspectives*, 19, 3 (2005), 19-42.

simply does not work, and it can actually be argued that democracy is correlated with higher levels of corruption as seen in the Czech Republic and Poland. In fact, there seems to be a strange coincidence that the more developed and democratic countries of the region have less progress than the poorer countries frequently labelled as “laggards”.

Another widely used determinant of corruption is national income. Again, the link is too simplistic and does not explain the pattern of development we see in the region. The Czech Republic and Poland are by far the richest of the Eastern European countries yet have failed to control corruption unlike the poorer countries like Latvia and Bulgaria. In all four countries national income per capita has grown, most notably in the Czech Republic. And the Czech Republic and Poland have a higher income than the other two countries (although Latvia has roughly equal national income with Poland). Again, this measure fails to explain why corruption has worsened in the Czech Republic and Poland despite the higher levels of income. According to the prevailing theories, the richer countries should be able to fight corruption more efficiently. We see this is not the case. Bulgaria has made more progress than the Czech Republic despite the large gap in national income. This hypothesis is not confirmed.

Income inequality similarly cannot account for the variation in the levels of corruption. As indicated by Gini index, the Czech Republic has more income equality than the other countries, but it has not been successful in fighting corruption in the past ten years. In fact, the countries that are more unequal appear to be able to fight corruption better- Latvia and Bulgaria.

Although the female presence in government and labour force has not been studied extensively, it was included because it offers novel insights into a different way of studying corruption. The research hypotheses about female presence seem to have small credence. Countries with larger female presence in both government and labour force- Latvia and Bulgaria- have managed to lower the levels of corruption. Poland has almost the same percentages of females in government and labour force yet it has regressed in the efforts to fight corruption. The Czech Republic has lower percentages and less effective anti-corruption efforts. Future research needs to explore this issue more meticulously.

Government's spending on education similarly fails to stand the empirical reality. While Latvia and Bulgaria would prove that higher spending on education will lower corruption, a trivial difference in spending between these two countries and Poland put the hypothesis in doubt. Religion likewise does not appear to be an effective determinant in fighting corruption. Bulgarians are predominantly Bulgarian Orthodox which, according to the literature, should facilitate

breeding corruption. But Bulgaria's substantial success in combating corruption contradicts the hypothesis. On the other hand, the case of Poland would seem to be explained well by this assumption.

Finally, it has been argued in literature that the larger the major ethnic group in the country, the lower the levels of corruption. Looking at the four countries reveals that, in fact, the opposite seems to be true- the more ethnically heterogeneous the state is, the more efficiently it fights corruption. The large ethnic majorities in Poland and the Czech Republic have not helped them reduce corruption.

5 CONCLUSION

What conclusions can we draw from the overview of the literature on corruption and the application of the main explanations to the four Eastern European countries? The goal of this article was to test the robustness of the existing explanations of corruption, and general finding is that the present research is inadequate in explaining corruption. First, current explanations of variations in the levels of corruption between countries and the following policy recommendations have focused too much on structural and organizational variables, at the expense of the importance of other factors such as the cognitive aspects and culture. The Czech Republic has all or most of the favourable conditions discussed in the literature that are needed to successfully reduce corruption. Despite the widespread belief that this country is the most successful and "Western" of all the Eastern European states, we see that the Czech Republic has actually *failed to combat corruption and has slid down in the rankings*. And this happened despite the higher levels of economic development and democracy in the country. Thus, structural variables have failed to prove their usefulness. It may be true that corruption goes down as a country becomes democratic, but once countries become democratic and more developed, the democracy and income variables do not yield much explanatory power.

Second, it is reasonable to assume that the existing culture in a country determines the extent of corruption in that state. After all, states with similar economic and institutional structures still have different levels of corruption and we can argue that culture imbues people with certain moral and behavioural standards. Why does corruption vary across countries with similar structural variables? As one scholar has put it aptly "the usefulness of these studies [economic and political] is limited to the countries in which they originated because the recommendations fail to take into account the variety of cultural contexts in which corrupt activities occur."⁵⁹ In other words, what existing studies

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⁵⁹ Bryan Husted, "Wealth, culture, and corruption," *Journal of International Business Studies*, 30, 2 (1999), 340.

cannot tell us is why corruption varies, particularly across similar contexts. If diplomats from a corrupt country tend to abuse their public power in the New York City whereas diplomats from Finland do not abuse their public power in a similar situation, we are forced to acknowledge the importance of normative values.

Finally, we have to admit that the existing single measures of corruption will not fully capture the phenomenon of corruption. Corruption is the result of multiple conditions affecting one another in the society. Studying corruption will therefore require an approach that analyzes the interactive effects of top level (e.g. top officials, government policies), bottom level (e.g. culture of corruption, civil action groups), and outside factors (e.g. international organizations). Only by combining these various factors together and realizing their interactive nature, will we be able to understand, explain, and combat corruption in a given society. The empirical findings and the demonstrated inefficiency of the existing determinants of corruption should serve as a critique and sober reminder for corruption scholars to not languish in complacency. Future research on corruption needs to better operationalize the elements of analysis, devise better measures of the variability of corruption, should go beyond simplistic general correlations, and, most importantly, it needs to improve the understanding of the interconnectedness of various determining factors and forms of corruption.

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COSMOPOLITISM AS THE END OF PATRIOTISM AMONG SLOVENIAN YOUTH

Lea NAHTIGAL and Vladimir PREBILIČ¹

The success of modern democratic societies is dependent on the spontaneous and unforced support of the members of these societies; that is, on their identification with the communities to which they belong. In order to reinforce the sense of adherence on the part of members of a modern democratic community, a certain moderate level of patriotic sentiment is required. This sentiment should be conveyed (and gained) during the process of education, and should of course also arise as a part of belonging to a reasonably successful society with which an individual shares certain common traits. In this article, we define the notion of patriotism and place it in a broader context, namely from the perspective of globalisation, a perspective from which the question of whether patriotism represents an obstacle to cosmopolitanism and successful European integration cannot be avoided. In the empirical part of this article, the emphasis, aided by the selected parameters, is on the presentation of the results of comparative studies performed in 2008 and 2010 among primary school pupils and secondary school students. This presentation enables us to analyse the degree of patriotism among the young in Slovenia.

I PATRIOTISM: GOOD OR EVIL?

Most often, patriotism is defined as allegiance to a state, while some authors also define it as allegiance to a nation. National identity, being one of the social identities of an individual, is understood both as identification with a nation state and as identification with a certain ethnic group or a nation that does not

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necessarily have its own nation state.² The notions of nation and state cannot simply be equated with one another, as a nation is neither a state nor an ethnic community. Furthermore, a nation is not a state, as the concept of state refers to institutional activities, whereas the concept of a nation refers to a kind of community. A nation is not an ethnic community, either, as it usually does not bear any political label and often does not include public culture and territorial dimensions. A nation has to populate its homeland for some extended period of time in order to establish itself as a nation, and also must develop its own public culture and strive for a certain degree of self-determination. Additionally, a state represents a dimension that enables the formulation of ethnic groups into nations. State formation allows nations to assert their positions as subjects of international politics, and allows their members to be regarded as political subjects with civic rights and liberties.

Due to our research needs, we deal with patriotism in the context of allegiance to a state and not in the wider sense that the very understanding of patriotism otherwise allows (i.e., allegiance to a nation). At the same time, we also intend to draw a clear distinction between patriotism and nationalism, two categories that must not be equated, even though they share the same point of departure with respect to values. Nations do exist, and the existence of one's own nation has a specific moral value for an individual; therefore, individuals show a special affinity toward the nation to which they belong. In this sense, every nationalist is most certainly a patriot as well, committed to adherence to his or her own homeland and nation; but not every patriot is a nationalist in the sense of searching for national congruence.³

In the context of democracy, patriotism reflects the love that unites the people, who are as a consequence ready to support their nation state through their actions.⁴ Tocqueville talks of an instinctive love of one's own country, meaning that patriotism is something completely natural to them.⁵ Hence, this is a natural tendency toward territoriality, which, together with one's family, represents the primary bond of an individual's personality with their subconsciously internalised territorial community. People become devoted to other people and places

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² Mitja Hafner Fink, "Nacionalna identiteta in evropska identiteta: Stališča Slovencev v primerjavi z drugimi Evropejci," in *Demokracija v Sloveniji*, ed. Niko Toš (Ljubljana: Faculty of Social Sciences, 2002), 194.

³ Nationalism is primarily related to the concept of a nation, i.e., a constitutive nation that has achieved or has provided itself a state. Therefore it is, intentionally or unintentionally, related to the attributes of a state as well and is, as such, a more general term in relation to patriotism, which can and also does emerge in a multinational state or in a state with a majority nation, the strongest or the most influential nation. The relationship between the two notions is usually not a complementary one, but includes several sources of tension.

⁴ Steven Kautz, *Liberalism and Community* (Ithaca, London: Cornell University Press, 1995), 136; Douglas C. Lummis, *Radical Democracy* (Ithaca, London: Cornell University Press, 1997), 37.

⁵ Steven Kautz, *Liberalism and Community* (Ithaca, London: Cornell University Press, 1995), 139.

familiar to them and to the education they have been subjected to, a process that creates the root of their patriotism.⁶ The fact that all this occurs in a given set of socio-cultural, historical, regional, and other circumstances and contexts beyond the influence of an individual should not be forgotten. Human beings are born into a certain culture and into certain behaviour patterns characteristic of all the members of a certain nation. These patterns strongly resonate with an individual during the rest of his or her life.

In terms of political context, we distinguish between authoritarian and democratic patriotism.⁷ Authoritarian patriotism demands unambiguous loyalty without any questioning; that is, loyalty to the goal and loyalty to the principles determined exclusively by a leader or the ruling elite, as individuals are deprived of the right to choose and express their own will. This type of patriotism hence demands devotion to the ruling principles and therefore opposes differences of opinion or any kind of contradiction or conflict with the ideals of the ruling elite. The opposite of the described type of patriotism is represented by democratic patriotism, which is based on truth and loyalty, not to the ruling power, but to the principles that comprise the foundations of democracy. One of the more important principles is the right to difference in opinion. The care for quintessential values and principles is the fundamental property of democratic patriotism. However, this is not to indicate that no room is left for symbolic expression of support and solidarity. Democratic patriotism does not solely mean allegiance to a nation, its insignia, and political leaders past and future, but to every member of this nation and to the well-being of fellow citizens of the nation (see also Table 1).

TABLE 1: PATRIOTISM POLICY

	Authoritarian Patriotism	Democratic Patriotism
Ideology	<ul style="list-style-type: none"> - belief that my country is naturally superior to others - primary loyalty to the land, heritage, citizenship, and principles of government - loyalty without questioning - reflexive following and unconditional support of national leaders - blindness to drawbacks and social disunity - conformism; differing opinions seen as dangerous and destabilising 	<ul style="list-style-type: none"> - belief that ideals of a nation are worth admiring and respecting - primary loyalty to the set of principles fundamental for democracy - critical attitude, caution, questioning - care for people within a society based on principles of freedom, justice, etc. - warning of shortcomings, especially those within a society - respect for and encouragement of differing opinions

Source: Adapted from Westheimer (2006).

⁶ John H. Schaar, *Legitimacy in the Modern State* (New Brunswick: Transaction Books, 1981), 287.

⁷ Joel Westheimer, "Politics and patriotism in education," *Phi Delta Kappan*, 4 (2006): 608–620.

Patriotism can also be found on the list of civic virtues, namely as a derived virtue, dependent upon time and place and not on the general moral character of a person.⁸ Gutmann agrees with this formulation as well,⁹ as she thinks of patriotism as a feeling and not a moral expectation. As such, patriotism is one of the elements of personal identity. In spite of all this, certain philosophers and experts do not rank patriotism among civic virtues. Nussbaum and other liberals reject the idea of patriotism due to their fondness of universalism, cosmopolitanism, and other associated features and, at the same time, suggest that justice and equality shall be better served under an otherwise very old ideal of cosmopolitanism in which the primary loyalty of an individual is to the entire world community.¹⁰

Patriotism cannot be bought, ordered, or prohibited. It is to be understood as a special feeling; hence it has an important place in the hierarchy of values. To love one's own home and country in the broader context has been and will always be a noble deed, as it assists and assures the survival of both family and nation.

Patriotism, as perceived by Hegel, entails the acceptance of all the norms and policies of one's own country in addition to readiness to defend one's own interests.¹¹ Hegel's patriotism represents a completely modern virtue, which personifies and respects personal liberty and freedom of choice, two decisive characteristics of contemporary time. Patriotism, expressed as the will of citizens, is an essential prerequisite for understanding the actual form of social freedom or common freedom and, as such, represents the fundamental sense of order, whereby legitimacy must be present within a political community as well. The cohabitation of morality and freedom can only be possible in a community in which order is established on the basis of civic feeling for order and patriotism.¹²

Gutmann warns of a darker side of patriotism, which is represented by an uncritical loyalty of millions of people to individual states. States possess institutionalised means for killing, torturing, shaming, humiliating, and other methods for depriving other people of the most fundamental conditions for decent life. Not only do states often threaten use of these means, they have been employing some of these techniques and tactics more frequently as time has passed. Love of one's own country, often understood as 'my country, be

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⁸ Sigal Ben-Porath, "Civic virtue out of necessity - Patriotism and democratic education," *Theory and Research in Education*, 5, 1 (2007), 42.

⁹ Amy Gutmann, *Democratic Education* (Princeton, NJ: Princeton University Press, 1999), 312.

¹⁰ Martha Nussbaum, "Patriotism and cosmopolitanism," *Boston Review*, 19, 5 (1994): 3-34.

¹¹ Rupert H. Gordon, "Modernity, freedom and the state: Hegel's concept of Patriotism," *The Review of Politics*, 62, 2 (2000), 309-310.

¹² *Ibid*, 320.

it wrong or right', can therefore prove extremely dangerous. A citizen can have patriotic feelings only towards their own state and not towards some state that plays no role in the order of their political community, hence patriotism always has the potential to contribute toward hatred, discrimination, and aggression directed against foreigners (that is, those who are not part of the nation).¹³ Nussbaum¹⁴ says that exaggerated emphasis and expression of patriotism should be avoided due to a potential for producing a national exclusivity whose consequences include racism, xenophobia, discrimination, war, terrorism, genocide, and ethnic (national) cleansing. Democratic education agrees with this view, as it encourages students to oppose injustices, such as slavery, ethnic cleansing, anti-Semitism, racial segregation, sexual discrimination, and all forms of nationalistic patriotism.¹⁵ As far as education on civic virtues is concerned, the best choice currently is to navigate a middle ground that includes the introduction of students both to the history of their state and its governmental structure and mode of operation as well as to other cultural and historical patterns of states that can be seen as perfect antitheses to their way of living. The introduction of these different kinds of states should in no way entail that these states deserve to be the object of hostile sentiments or intimidating ways of expressing one's own patriotic feelings.

Expression of patriotism becomes an especially acute issue in times of conflict.¹⁶ The stability and security of contemporary democratic societies can also be negatively affected by other social phenomena, among which the following deserve to be exposed: 'democratic deficit', increasingly frequent cases of racism in its various forms, xenophobia and other forms of discrimination and intolerance, plus growing pluralism and diversity within modern democratic societies. With an unclear or even blurred understanding of patriotism and its confusion with nationalism, the very diversity of a society becomes a basis on which, during times of internal state conflict based on asymmetric warfare, individual enclosed social communities form as cells from which armed conflicts are led. Hence, patriotism as a constructed feeling, on which national consciousness and tolerance are based, must be understood as a guarantee for the decreasing of conflict possibilities and for a greater social cohesiveness within a society in spite of its potential internal differences.

In the introductory section, we noted that certain authors regard patriotism merely as a state of primary connection or attachment to the territory and

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¹³ Ajume Wingo, "To Love your Country as your Mother - Patriotism after 9/11," *Theory and Research in Education*, 5, 1 (2007), 29.

¹⁴ Martha Nussbaum, "Patriotism and cosmopolitanism," *Boston Review*, 19, 5 (1994): 3-34.

¹⁵ Amy Gutmann, *Democratic Education* (Princeton, NJ: Princeton University Press, 1999), 312.

¹⁶ Typical cases are the 9/11 events (September 11, 2001) in the USA, and the related strategy of national security as set down in the *Patriot Act*.

society.¹⁷ But what happens if this kind of affection is no longer a rule, when a certain neighbourhood becomes solely a matter of one's residence and not of civic identity? This problem is being faced more and more often in our modern world as we become more physically mobile. Moving to other states, even for longer periods of time, no longer presents an obstacle to us.

On the other hand, the feeling of homesickness, also related to patriotism, remains for those who emigrate. The very deprivation of one's homeland causes this emotional state. Therefore, the studying of patriotism as an ostensibly conservative principle of perceiving one's own homeland, as the homeland appears through the perspective of intensive globalism, remains appropriate and even necessary.

2 DOES PATRIOTISM REPRESENT AN OBSTACLE TO COSMOPOLITANISM?

In modern political theory, an increased interest in global governance and consequently in global citizenship as an alternative to national citizenship can be observed. The idea of the citizen of the world has been around for a long time as part of a visionary, utopian aspiration of Western tradition. This aspiration remains too abstract and unclear to realise, as it is difficult to understand just how individuals could actually feel fidelity and loyalty to a global government or some other form of global institution.¹⁸ The obligations that a global citizen should have (e.g., showing respect for other cultures, the consequent protection of cultural diversity among nations) must be brought into question.

Cosmopolitanism¹⁹ arose as a consequence of specific social changes related to the process of globalisation. Social changes manifest themselves in the erosion of national sovereignty, the emergence of a double or multiple citizenship(s), the growth of global markets, multiculturalism, cultural hybridisation, and so forth.²⁰

In terms of the relationship between the state and the national identity, patriotism and cosmopolitanism are opposing theoretical concepts. Alasdair MacIntyre defends patriotism,²¹ because he thinks that loyalty to a nation is moral and

¹⁷ Morris Janowitz, *The Reconstruction of Patriotism: Education for Civic Consciousness* (Chicago: University of Chicago Press, 1983), 8.

¹⁸ Bryan S. Turner, "Cosmopolitan virtue, globalization and patriotism," *Theory, Culture and Society*, 19, 1–2 (2002), 45–48.

¹⁹ A worldview according to which a person does not belong to an individual nation or a state, but rather to the world as a whole.

²⁰ Bryan S. Turner, "Cosmopolitan virtue, globalization and patriotism," *Theory, Culture and Society*, 19, 1–2 (2002), 58.

²¹ Alasdair MacIntyre, *Is patriotism a virtue?* (Kansas: University of Kansas, 1984).

that, without living within a nation, one would feel no need for a moral construct of similar gravitas.²² On the contrary, Martha Nussbaum²³ argues for the ethical superiority of cosmopolitanism over patriotism. She harshly criticizes patriotic pride, as she considers it to be morally dangerous. Nussbaum suggests that human beings should direct their alliance towards a worldwide community of people.²⁴ In her opinion, the ideal of cosmopolitanism should be capable of realising all patriotic ideas, as the former strives for faithfulness to the entire human community and not only to one's nation. In other words, for the sake of faithfulness to the moral good, one has to renounce certain national feelings. This should enable us to overcome many obstacles and divisions and to actually do good to everyone, as a cosmopolitan cannot support the belief that any nation could be superior over others.²⁵

A cosmopolitan is therefore someone who puts justice before a state, and universal values before symbols of national identity. In this manner, the cosmopolitan perspective represents a fundamental opposition to the unification of state power and collective identity. Accordingly, when looked at from the cosmopolitan perspective, membership in a certain nation does not contain any moral value.²⁶ However, a drawback of global cosmopolitanism is its abstractness, whereas patriotism has the advantage of being based on 'living culture'.

A cosmopolitan is a citizen of the world; such a type of membership, to the world rather than to a specific nation, opens up the question of whether a cosmopolitan can also be a patriot²⁷ and whether citizenship can exist with its territorial association removed. The cosmopolitanism sceptics hold the opinion that a true democracy cannot exist without a territory, since love for a state represents a necessary precondition for expressing one's pride within a democratic community and political values are learnt by humans within a spatial context.²⁸ However, cosmopolitanism does not mean that someone does not have their own country or homeland, but rather that an individual should maintain a certain distance towards their own native country. The fundamental concept of a cosmopolitan virtue is the 'Socrates' irony', or a feigned ignorance, asserting that other cultures can only be understood and respected after

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²² Rupert H. Gordon, "Modernity, freedom and the state: Hegel's concept of Patriotism," *The Review of Politics*, 62, 2 (2000), 296.

²³ Martha Nussbaum, "Patriotism and cosmopolitanism," *Boston Review*, 19, 5 (1994), 3–34.

²⁴ Samuel Huntington, *Who Are We? America's Great Debate* (London: Simon & Schuster UK Ltd, 2004), 270.

²⁵ Martha Nussbaum, "Patriotism and cosmopolitanism," *Boston Review*, 19, 5 (1994), 3–34.

²⁶ Rupert H. Gordon, "Modernity, freedom and the state: Hegel's concept of patriotism," *The Review of Politics*, 62, 2 (2000), 296.

²⁷ Bryan S. Turner, "Cosmopolitan virtue, globalization and patriotism," *Theory, Culture and Society*, 19, 1–2 (2002), 55–56.

²⁸ Patrick J. Deenen, *The Odyssey of Political Theory: The Politics of Departure and Return* (Lanham: Rowman and Littlefield, 2000).

one distances themselves from their own national culture. Cosmopolitanism expresses a set of virtues (care for other cultures, for the integrity of cultures in a hybrid world, openness for cultural criticisms) that all people should possess.²⁹ One of the attempts at defining an appropriate balance between cosmopolitanism and patriotism is the theory of so-called 'limited patriotism', which states that people understand their patriotic position in accordance with the principle that they can fulfil their patriotic obligations only in the context of a global social environment in which the needs of all people are equitably taken into account.³⁰ Reflection on global equity hence demands that we do not permit nationality to be the only factor influencing our views.

The aforementioned form of patriotism thus represents the most appropriate path for our understanding of, and development of equilibrium between, the requirements of cosmopolitanism, equity, and patriotism. We argue that cosmopolitanism and patriotism are not mutually exclusive concepts, and that patriotic connotation represents an inevitable and important attribute of every human person.

Recently, increasing attention has been paid to the relationship between the national and the European identity, which represents a somewhat narrower scope of cosmopolitanism. The relationship between a national and a supranational, global European identity has been emerging as an increasingly important question in terms of further enlargement of the European Union, as nation-states have lost a part of their sovereignty to the European Union. This new European identity is being formed within the institutional framework of the emergent supranational state (i.e., the EU), whereby state is understood as a territorial, political, economic, and social dimension of the notion of a nation.

The relation between the national and the European identities can be conceptualised in at least two ways. The first way is as a single-dimensional continuum that goes from an extremely national identification on the one side to the identification with Europe on the other, meaning that an individual cannot develop both identities to equally high levels. However, the two-dimensional model, which holds that an individual plays widely differing social roles on a daily basis, enables an individual to feature both national and European identities, each of them expressed at high levels, or whatever combination of the two without the need to sacrifice one in favour of the other. So we can say that national and European identities have a parallel existence in one's consciousness. Various components of national and European identities are not

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²⁹ Bryan S. Turner, "Cosmopolitan virtue, globalization and patriotism," *Theory, Culture and Society*, 19, 1–2 (2002), 55–56.

³⁰ Tan Kok-Chor, *Justice Without Borders: Cosmopolitanism, Nationalism and Patriotism* (Cambridge: Cambridge University press, 2004), 158.

only engaged in constant mutual interaction and interdependent, but are also mixed and intertwined.³¹

In the aftermath of democratic transition that took place parallel to Slovenia's gaining of independence from Yugoslavia, Slovenia has become a full member of the EU. In this way the institutional framework of Slovenian national identity, only recently established, has slowly been disintegrating under European influence. However, even under such circumstances, the feeling of national affiliation nevertheless remains stronger than the feeling of adherence to Europe or the European Union. The latter is corroborated by the results of the research project entitled 'European values study',³² which reveals that the fear of loss of one's national identity is present to a large extent. This fear is particularly prominent in Great Britain, where nearly 70 per cent of its citizens say they are afraid of losing their national identity. The reason for this is most likely the surge in immigration, as all citizens who come from the European Union Member States are granted fairly easy access to work permits for the whole EU and hence are able to immigrate freely. In this manner, Great Britain has been in the process of becoming a more multicultural society in which national identity is slowly being lost in a multitude of various cultures.

The fear of losing national identity can be felt in Slovenia, too, as almost 60 per cent of survey respondents say they are afraid of losing Slovenian national identity. The Bulgarians, Cypriots, and Dutch are least worried about losing their national identities and about the domination of European identity; only about one-third of individuals from these national identities was worried about this outcome.

Hereby, one should be aware that the place of patriotism on a hierarchical scale of a certain state changes in accordance with the existing situation. This is also evident from studies of patriotism among Slovenians, as the highest level of patriotism was recorded during times of severe outside pressures, especially so when the independence and sovereignty of the Slovenian state had to be defended in the early 1990s, whereas in the post-independence period, it was already possible to detect stagnation of patriotism with respect to other values on the hierarchical scale. Research results³³ show that patriotism is strongly

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³¹ See Thomas Risse, *An Emerging European Identity? What we know, And How to Make Sense Of It*. Paper is part of the lectures held at Helsinki University in 2003. Available at [http://www.helsinki.fi/collegium/events/european identity.pdf](http://www.helsinki.fi/collegium/events/european%20identity.pdf) (March 2011).

³² See *European Values Study 4th wave*. 2004. Available at <http://zacat.gesis.org/webview/index.jsp?rights=mode%3Ddocumentation%26submode%3Dcatalog%26catalog%3Dhttp%3A/zacat.gesis.org%3A80/obj/fCatalog/Catalog16&treeview=mode%3Dtreeview%26object%3Dhttp%3A/zacat.gesis.org/obj/fCatalog/Catalog16%26open%3Dhttp%3A/zacat.gesis.org%3A80/obj/fCatalog/Catalog16> (April 2011).

³³ Niko Toš et al, *Vrednote v prehodu III. Slovensko javno mnenje 1999–2004* (Ljubljana: Faculty of Social Sciences, 2004).

related to security. The greater degree to which a state is threatened by an outside aggressor, the higher patriotism will place on a hierarchical scale of values, and vice-versa.

Given the fairly low age of our state, it could be argued that patriotism toward one's hometown or toward the entire territory of Slovenia is higher than in states that have been independent for decades or even centuries. In Slovenia, it is also hard to speak of any attachment to Europe, as we have actually been part of the European Union since 2004 when Slovenia entered the community of European Union Member States. The latter truth is evident from the public opinion poll '*Slovensko javno mnenje*' (translates to 'Slovenian Public Opinion'), as Slovenians express the highest level of allegiance to their hometown or to the entire territory of Slovenia. In total, 94.4 per cent of survey respondents claim they are attached to the territory of Slovenia, whereas only 64.5 per cent, a much lower figure, admit they are attached to Europe.

It can be concluded that, in case of Slovenians, their territorial attachment refers to patriotism towards their own hometowns in its narrower sense and to evident expression of patriotism towards the entire territory of the Republic of Slovenia in its wider sense. The public opinion poll '*Slovensko javno mnenje*' reveals that 95.8 per cent of Slovenians claim they are proud to be citizens of Slovenia. Similar data concerning the pride of belonging to a certain nation is given by the European Values Study. Its data show that, in 2008, 93.5 per cent of survey respondents from Slovenia claimed they were proud to be citizens of Slovenia.

For all the European Union Member States included in the survey, the percentage of inhabitants who are very proud or partially proud of being members of a certain nation is higher than 70 per cent. However, the lowest level of pride is expressed by residents of Lithuania, which has the highest percentage of answers recorded for 'not proud at all' among the EU Member States included in the survey, namely 7.1 per cent; it is followed by the Germany, of which 6.3 per cent of respondents say they are not proud of their citizenship. Those most proud of their nation are the Irish, with 98.7 per cent of respondents expressing pride, followed by the Maltese (96.6 per cent) and Turks (95 per cent).

3 THE YOUNG AND PATRIOTISM IN SLOVENIA: EMPIRICAL ANALYSES FROM 2008 AND 2010

When speaking of patriotism, debates on values (liberty, equality, democracy, non-discrimination, tolerance, equity, solidarity, peacefulness, security, welfare, friendship, etc.) and on ideology as a plan for ameliorating society simply cannot be avoided. If conceptualised in a correct manner, patriotism becomes part of a package of civic virtues that support a democratic public sphere. Patriotic and

civic feelings are cultivated through national insignia consisting of symbols that represent the state at every moment in time and reinforce our love for it. The presence of these symbols unifies citizens and maintains a positive attitude towards the state.³⁴

An adult who is considered a patriotic citizen should, apart from knowing the national insignia, national holidays, and the democratic institutions and their workings, know the history of the Slovenian state, respect its Constitution and laws, and regularly participate in democratic elections as well. Accordingly, they should preserve a respectful attitude towards Slovenian language.

In our research, conducted in 2008 and then repeated in 2010, we wanted to find out the degree of patriotism among the young, i.e., among primary school pupils and secondary school students, to be more precise. Comparative analysis of the degree of patriotism among Slovenian primary school pupils and secondary school students was performed on the basis of the following indicators: the knowledge of Slovenian flag, national holidays, and history of the Slovenian nation.

During the first part of our research, the young were asked about the properties that a patriotic citizen had to possess in their view. According to the opinions of primary school pupils and secondary school students, the properties that best describe an adult patriotic citizen, as expressed in both the 2008 survey and the most recent one from 2010 (see Table 2), are especially: a) *a respectful attitude towards Slovenian language*; b) *respect for the Constitution and laws*; and c) *not to be a disgrace to the homeland*. Both groups of the young seem to be quite uniform in terms of all the given characteristics, and the lowest standard deviation was recorded exactly for these three items. All the remaining characteristics (*knows the history of their state, works hard, knows the lyrics of the National Anthem and other national insignia, votes at elections, is prepared to defend their homeland, is unconditionally loyal to their homeland, takes part in activities that help all Slovenians, takes part in activities that help all the citizens, participates in activities aimed at protecting natural and cultural heritage, and so forth*) that should define a patriotic citizen can be placed into the second group and designated as moderately important for a patriotic citizen.

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³⁴ Gregor Jagodič, "Državlјanska vzgoja ter vloga glasbe in simbolov v šoli," in *Državlјanska in domovinska vzgoja*, eds. Andreja Barle Lakota, Erika Rustja and Janez Jug (Slovenska Bistrica: Beja, 2006), 184–185.

TABLE 2: PERSPECTIVES OF THE YOUNG ON PATRIOTISM AND PATRIOTIC ACTS

AN ADULT WHO IS A PATRIOTIC CITIZEN, ...	UNIMPOR- TANT	SLIGHTLY IMPORTANT	IMPORTANT	VERY IMPORTANT	AVERAGE VALUE OF ANSWERS 2010	AVERAGE VALUE OF ANSWERS 2008
	(% ANSWERS)	(% ANSWERS)	(% ANSWERS)	(% ANSWERS)		
	1	2	3	4		
... respects the Constitution and laws						
PRIMARY SCHOOL	4.8	6.6	19.3	62.0	3.50	3.47
SECONDARY SCHOOL	4.5	8.6	24.0	56.4	3.41	3.54
... works hard						
PRIMARY SCHOOL	6.5	10.8	39.2	34.2	3.12	2.99
SECONDARY SCHOOL	7.9	11.3	43.0	30.8	3.04	2.90
... knows the lyrics of Slovenian National Anthem and other National Insignia						
PRIMARY SCHOOL	5.1	8.4	26.1	52.0	3.36	3.10
SECONDARY SCHOOL	7.1	11.2	25.4	49.8	3.26	3.23
... knows the history of our state						
PRIMARY SCHOOL	7.5	15.2	44.2	25.8	2.95	2.88
SECONDARY SCHOOL	6.4	15.2	41.7	30.9	3.03	3.13
... casts a vote at elections						
PRIMARY SCHOOL	14.1	13.3	32.8	31.2	2.89	2.88
SECONDARY SCHOOL	10.3	15.4	30.2	36.6	3.01	3.15
... is prepared to defend their homeland						
PRIMARY SCHOOL	4.5	7.3	22.1	57.0	3.45	-
SECONDARY SCHOOL	11.3	21.1	33.5	25.9	2.81	-
... hangs Slovenian national flag for all national holidays						
PRIMARY SCHOOL	13.2	15.0	38.3	25.8	2.83	2.54
SECONDARY SCHOOL	20.3	22.8	31.0	19.1	2.52	2.34
... takes part in activities helping all Slovenians						
PRIMARY SCHOOL	6.8	12.9	40.0	29.9	3.04	3.00
SECONDARY SCHOOL	7.0	18.4	39.1	28.0	2.95	2.90
... takes part in activities helping all the citizens						
PRIMARY SCHOOL	6.6	12.8	38.9	29.7	3.04	2.94
SECONDARY SCHOOL	8.2	21.1	39.9	23.0	2.84	2.87

... takes part in activities aimed at protecting natural and cultural heritage						
PRIMARY SCHOOL	7.6	19.1	35.0	27.4	2.92	2.89
SECONDARY SCHOOL	9.6	21.0	37.3	23.4	2.82	2.75
... is unconditionally loyal to their homeland						
PRIMARY SCHOOL	7.9	13.3	32.6	32.9	3.04	2.82
SECONDARY SCHOOL	10.1	18.8	34.6	27.6	2.87	2.81
... is not a disgrace to their homeland						
PRIMARY SCHOOL	5.8	8.2	22.4	53.0	3.37	3.20
SECONDARY SCHOOL	5.9	9.1	25.5	50.3	3.32	3.27
... has a respectful attitude towards Slovenian language						
PRIMARY SCHOOL	3.4	5.1	17.5	65.8	3.59	3.49
SECONDARY SCHOOL	3.1	6.0	20.8	62.9	3.55	3.59
... knows Slovenian democratic institutions and their workings						
PRIMARY SCHOOL	10.8	18.5	37.1	16.8	2.72	2.70
SECONDARY SCHOOL	11.9	22.3	39.5	17.0	2.68	2.73

Source: Research Project "The Young and the EU" (Faculty of Social Sciences, 10/2010, N (prim. sch.) = 881, N (sec. sch.) = 928). Research Project "The Development of Patriotism Among the Young" (Faculty of Social Sciences, 9-10/2008, N (prim. sch.) = 516, N (sec. sch.) = 648.³⁵

The only two properties denoted by the young as being of relatively minor importance for a patriotic citizen are *the hanging of the national flag for national holidays* (still, primary school pupils ascribed greater importance to this than did secondary school students) and *the knowledge of Slovenian democratic institutions and their workings*; the first category is of course one of the most crucial patriotic acts, so the fact that the younger generation believe it to be relatively unimportant is somewhat surprising. It is this feature that the young seem to be least unified on (and that has the highest value of standard deviation). Maybe this deviation could best be explained by the relatively short history of our own statehood and national insignia; however, such an explanation cannot be supported with certitude until further research is performed.

From the perspective of the political context of patriotism study, two properties

³⁵ Survey respondents estimated the importance of various patriotic actions of an adult citizen (importance of each of the described actions with reference to who a patriotic citizen is and what a patriotic citizen does) on a scale ranging from 1 to 4; 1 represents the answer "unimportant" and 4 represents the answer "very important". When analysing and computing the average value of answers, "don't know" responses were not taken into consideration. The greater the average value of the answers is (value in the right-hand column), the greater the extent to which citizens believe a certain type of act is an important facet of being a patriotic citizen.

are of special interest to us: *'an adult who is a patriotic citizen ... is unconditionally loyal to their homeland'* and *'an adult who is a patriotic citizen ... is not a disgrace to their homeland'*; namely, both support so-called authoritarian patriotism, especially characteristic of the socio-political reality present in the United States during the recent Republican presidency. Interestingly, both properties were estimated by the young as being more important for a patriotic citizen than was the hanging of the national flag.

In sum, patriotism of an adult citizen is explicitly related by young generations to respect for the Constitution and the laws, to a respectful attitude toward the Slovenian language, and to not causing any disgrace to one's own homeland, whereas they least relate an adult person's patriotism to the hanging of the national flag for national holidays and the knowledge of Slovenian democratic institutions and their workings.

When studying the degree of patriotism, the level of pride of living in a certain state must be subject to research as well. The question of whether they are proud to live in Slovenia (see Table 3) was answered 'yes' by 74.6 per cent of primary school pupils and 76.2 per cent of secondary school students in 2008. In the most recent survey, this percentage was even somewhat higher, as in 2010 87.0 per cent of primary school pupils and 84.8 per cent of secondary school students responded they were very or quite proud of living in Slovenia. Additionally, the share of those not very proud or not proud at all of living in Slovenia was low for both the years studied—11.6 per cent (2008) and 8.4 per cent (2010) for primary school pupils, respectively (no difference could be detected as to the environment of the school they were attending), and 11.6 per cent (2008) and 11.9 per cent (2010) for secondary school students. Among secondary school students, a slightly larger percentage of 'less proud ones' existed among students of vocational schools (20.5 per cent). We can thus conclude that a convincing majority of both pupils and students are proud to live in Slovenia.

TABLE 3: ATTITUDE OF YOUNG PEOPLE CONCERNING SLOVENIAN IDENTITY AND LIFE IN SLOVENIA (PER CENT)

	RESEARCH – PRIMARY SCHOOLS	RESEARCH – SECONDARY SCHOOLS	RESEARCH – PRIMARY SCHOOLS	RESEARCH – SECONDARY SCHOOLS
	2008		2010	
N=	(516)	(648)	(881)	(928)
I AM VERY PROUD OF	48.4	40.7	62.9	56.8
I AM QUITE PROUD OF	26.2	35.5	24.1	28.0
I AM NOT VERY PROUD OF	8.4	9.9	6.5	9.6

I AM NOT PROUD OF AT ALL	3.2	1.7	1.9	2.3
I DON'T KNOW, I HAVEN'T THOUGHT ABOUT IT	13.8	12.2	4.6	6.3
TOTAL	100.0	100.0	100.0	100.0

Source: Research Project "The Young and the EU" (Faculty of Social Sciences, 10/2010, N (prim. sch.) = 881, N (sec. sch.) = 928)³⁶; Research Project "The Development of Patriotism Among the Young" (Faculty of Social Sciences, 9-10/2008, N (prim. sch.) = 516, N (sec. sch.) = 648.

The second part of our survey questionnaire was aimed at studying the knowledge of Slovenian national flag, national holidays (whereby we devoted special attention to those with a more patriotic connotation), and elements of civic literacy (the latter was tested by a series of questions concerning suffrage, the Slovenian Constitution and political system, fundamental human rights and freedoms, etc.). The objective of this part of the study was cognitive identification of knowledge that primary school pupils and secondary school students possessed in the fields of patriotism and civic education. For the question in which survey respondents had to recognise the Slovenian national flag from among the three pictures of different flags, the rate of correct answers was 91.9 per cent for primary school pupils and 92.6 per cent for secondary school students in 2008 survey, whereas in the most recent survey (2010) the rates were even higher, namely 97.2 and 97.3 per cent, respectively. The share of incorrect answers was by far the lowest (less than one per cent) for the incorrectly depicted national flag of the Republic of Slovenia (in a red-blue-white combination of stripes). Based on these results, we conclude that the knowledge of the national flag of the Republic of Slovenia is very high among both groups of survey respondents.

In the next question related to the topic of civic literacy, pupils and students had to connect the given names of national holidays with corresponding dates on which these holidays are celebrated. Both groups of respondents were asked an identical question; we expected somewhat fewer correct answers from schoolchildren as a result of this process, and our presumption was confirmed (see Table 4). We wanted to answer questions concerning how well pupils and students knew the two typical patriotic holidays (we chose the Statehood Day, June 25, and the Independence and Unity Day, December 26), to which we added three other well-known holidays (Christmas, Reformation Day, and Slovenian Cultural Holiday) that the general public does not *a priori* link with a patriotic context, even though the last of these days undoubtedly has a patriotic connotation. Furthermore, we also incorporated two less-

³⁶ Research Project "The Development of Patriotism among the Young" (Faculty of Social Sciences, 9-10/2008, N (prim. sch.) = 516, N (sec. sch.) = 648. Survey respondents had to answer the question: 'Are you proud of living in Slovenia?'

known holidays that were recently recognised (moreover, these two *are not free days*), Rudolf Maister's Day and the day of the Restitution of Primorska as Part of Our Mother Country, which do have explicitly patriotic connotations. Answers are presented in Table 4. A majority of students knew all the seven given holidays, whereas the recognition of holidays by primary school pupils was somewhat less encouraging—55.4 per cent of pupils did not correctly recognise the date on which Slovenia celebrates the Independence and Unity day, or they confused this date with Statehood Day and even Christmas. Even more worrisome is the lack of knowledge of Rudolf Maister's Day and the day of Restitution of Primorska as Part of Our Mother Country. Both groups most often recognised the two well-known holidays, Christmas and Slovenian Cultural Holiday, which was to be expected. Schoolchildren showed no differences in correct or incorrect responses according to the settings in which they were attending school; however, one expected correlation did manifest, as students with higher results (that is, marks or grades) in the previous school year showed exceptionally better knowledge of holidays. This latter finding is also true of secondary school students, but to a slightly lesser degree. We also observed a very strong correlation between the knowledge of holidays and the type of secondary school students were attending. Students attending secondary grammar schools had a markedly better knowledge of holidays. From these answers, we conclude that knowledge of national holidays that refer to Slovenia's gaining of independence has remained relatively poor; we observed that pupils and students frequently confused the Statehood Day and the Independence and Unity day; an even worse situation was found in the case of Rudolf Maister's Day and the day of Restitution of Primorska as Part of Our Mother Country, which were successfully recognised by only around 40 per cent of schoolchildren and just over half of secondary school students.

TABLE 4: KNOWLEDGE OF NATIONAL HOLIDAYS AMONG PRIMARY SCHOOL PUPILS AND SECONDARY SCHOOL STUDENTS

	RESEARCH – PRIMARY SCHOOLS	RESEARCH – SECONDARY SCHOOLS	RESEARCH – PRIMARY SCHOOLS	RESEARCH – SECONDARY SCHOOLS
	2008	2008	2010	2010
Slovenian Cultural Holiday	83.7	94.9	70.5	88.1
Statehood Day	64.1	63.7	50.5	60.5
Restitution of Primorska as Part of Our Mother Country	-	-	42.1	55.6
Reformation Day	70.5	83.2	57.5	69.6
Rudolf Maister's Day	-	-	39.9	51.8

Christmas	90.5	96.6	84.9	93.6
Independence and Unity Day	58.5	61.4	44.6	53.6

Sources: Research Project "The Young and the EU" (Faculty of Social Sciences, 10/2010, N (prim. sch.) = 881, N (sec. sch.) = 928). Research Project "The Development of Patriotism among the Young" (Faculty of Social Sciences, 9-10/2008, N (prim. sch.) = 516, N (sec. sch.) = 648. Survey respondents had to connect five/seven given dates with the names of five/seven corresponding different national holidays. Answers were considered incorrect in instances of avoiding a question, or not giving an answer for individual dates ('valid per cent' data is available in the attached statistical summaries).

The set of questions related to the analysis of civic literacy (Table 5) was used to test the respondents' knowledge of the Slovenian Constitution and political system, human rights and fundamental freedoms, democracy, and other issues of civic education. Analysis of answers reveals three qualitative levels of knowledge. The highest level of knowledge (with more than 80 per cent of respondents answering correctly on average) was displayed by both groups for the following statements: 'Elections can be attended by any citizen who is at least 18 years old,' 'President of the Republic of Slovenia is elected at elections,' 'Slovenia is a Member State of both the European Union and the NATO,' 'Slovenian Constitution was adopted after Slovenia had gained its independence,' 'Slovenian Constitution speaks of human rights as well,' and 'Slovenia was already an independent state after World War I, between 1918 and 1941'. Evidently, both primary school pupils and secondary school students exhibited a fairly high level of knowledge regarding the foundations of civic literacy. The statement 'In the Republic of Slovenia, the Catholic Church and the state are separated' was the only one where the difference between the knowledge of primary school pupils and secondary school students was significant (17.9 per cent).

Both groups showed a medium level of knowledge (with between 60 and 80 per cent of respondents answering correctly on average) in their judgement of the statement 'Slovenian Parliament consists of the National Assembly, which comprises 90 deputies, and of the National Council, which has 40 councillors'. However, a relatively low level of knowledge (with between 40 to 60 per cent of respondents answering correctly on average) was shown by both groups regarding the statements 'Our fundamental human rights are already guaranteed by international treaties and various conventions,' 'Slovenian Parliament elects the Prime Minister and ministers'; primary school pupils also exhibited a low level of knowledge for the statement 'In the Republic of Slovenia, the Catholic Church and the state are separated'. The lowest level of civic literacy was (somewhat expectedly) recorded for the otherwise false statement 'Slovenian Government passes laws', as this statement was not recognised as wrong by three quarters of respondents among schoolchildren, and by two thirds of survey respondents among secondary school students.

The results of these short civic literacy tests reveal that it would make sense, especially in primary schools but also in secondary schools, to pay more attention to the basic workings of the Slovenian state and to the relationship between the executive and the legislative branch, which is also of crucial importance for strongly performing parliamentary democracy.

TABLE 5: KNOWLEDGE OF THE SLOVENIAN CONSTITUTION, POLITICAL SYSTEM, HUMAN RIGHTS, DEMOCRACY, AND SIMILAR TOPICS AMONG YOUNG PEOPLE (% OF CORRECT ANSWERS)

STATEMENTS		RESEARCH – PRIMARY SCHOOLS	RESEARCH – SECONDARY SCHOOLS	RESEARCH – PRIMARY SCHOOLS	RESEARCH – SECONDARY SCHOOLS
		2007	2007	2010	2010
(N=)		(906)	(1035)	(881)	(928)
1	Slovenian Constitution was adopted after Slovenia had gained its independence.	85.5	89.0	83.4	83.5
2	Among other things, the Slovenian Constitution speaks of human rights as well.	82.3	89.5	80.3	81.5
3	Slovenian Parliament consists of the National Assembly, which comprises 90 deputies, and of the National Council, which has 40 councillors.	65.1	63.0	65.3	67.6
4	Slovenian Government passes laws.	27.3	25.4	24.3	33.4
5	Slovenian Parliament elects the Prime Minister and ministers.	63.1	59.8	51.2	47.7
6	Our fundamental human rights are already guaranteed by international treaties and various conventions.	55.2	57.7	57.4	54.0
7	Elections can be attended by any citizen who is at least 18 years old.	93.9	97.3	90.0	91.2
8	President of the Republic of Slovenia is elected at elections.	93.9	97.4	90.1	89.8
9	In the Republic of Slovenia, the Catholic Church and the state are separated.	53.4	80.7	55.8	73.7
10	Slovenia is a Member State of both the European Union and the NATO.	85.7	95.2	78.1	86.3
11	During the first half of 2010, Slovenia is going to hold the European Union Presidency.	67.5	76.0	-	-

12	Slovenia was already an independent state after World War I, between 1918 and 1941.	-	-	80.2	83.2
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Source: Research Project "The Young and the EU" (Faculty of Social Sciences, 10/2010, N (prim. sch.) = 881, N (sec. sch.) = 928); Research Project "Homeland and Civic Education in the Republic of Slovenia" (Faculty of Social Sciences, 11-12/2007, N (prim. sch.) = 906, N (sec. sch.) = 1035.

4 CONCLUSION

Results of our comparative study show that both target groups of the young hold *the hanging of Slovenian national flag for national holidays* and *the knowledge of Slovenian democratic institutions and their workings* as the least important traits of a patriotic citizen and that they emphasise *the respect towards Slovenian language* as the most desired property of a patriotic citizen. Data acquired in the process of studying the degree of pride for individuals living in Slovenia reveal that, in 2010, our young were even more proud to live in Slovenia than they had been in 2008, which is very positive information, and delightful if you are a Slovenian who takes pride in his or her country. We should not worry that Slovenians are going to meet their demise as a nation, as the young have been increasingly explicit in their expression of love towards their state.

However, we should be at least slightly worried about the data showing the state of knowledge of Slovenian national holidays, as the level of knowledge recorded during the last survey proved to be significantly lower than that which had been found by the 2008 survey. This fact was true of both groups included in our study. Interestingly, for both years in which our survey was performed, more respondents correctly recognised the Reformation Day than the two most important (patriotic) national holidays, i.e., the Statehood Day and the Independence and Unity Day.

Considering that the young exhibited a fairly high level of knowledge about civic literacy when answering the set of questions regarding the Slovenian Constitution and political system, human rights, and fundamental freedoms, it was somewhat surprising to observe poor knowledge of national holidays.

Based on facts gathered in these patriotism surveys, a question can be posed: does it make sense to devote more attention to the feeling of patriotism? As researchers, we give an affirmative answer, and present two arguments to support this affirmation. Firstly, patriotism as a feeling will never disappear. Patriotism is not exclusively linked to a nation-state, but to a nation, which does not always achieve its own state. Therefore, we predict the further existence of patriotism, regardless of the projected evolution of nation-states toward greater integration with the international community, and the possibility of further

development of supranational political entities. Reservations by those who claim that patriotism is going to be replaced by cosmopolitanism or globalism, which herald further erosion of nation-states, are hence wrong. Secondly, patriotism is often related to and, unfortunately, too frequently confused with the term nationalism. In fact, the meanings of these words are quite different. If the former features a universally positive character, then the latter is burdened by the weight of extremism as manifested in xenophobia, chauvinism, and intolerance towards others. For exactly these reasons, nationalism is a negation of all the positive characteristics of patriotism. However, the aforementioned extreme forms of nationalism surface in times of hardship for a nation. When the state does not take care of helping engender a correct understanding of its identity, its insignia, and so forth, it passes the responsibility for this understanding on to individual interpretations, which may or may not be desirable. This trait can be recognised in Slovenian society as well, especially among the young (who were the target population in our study).

Patriotism is not an alien feeling among our young. However, great inconsistency and confusion is present with respect to the understanding of patriotism and in terms of how patriotism is shown. The reasons for this confusion are very complex and feature an array of different factors, but the following generalisations can be made: the young are especially uninformed about the understanding of patriotism, as too little is done by families, the fundamental cells of every society, to define patriotism and pass this definition on to their children; the educational system focuses on some 'more important' matters; and the state as an institution does not pay proper attention to this issue. Clearly, resources are limited, especially so in times such as those we are currently facing, yet it is true that a lot can be done in the field of patriotism without any direct financial input. So, what could be added, changed, and improved? Undoubtedly, even without any upgrade of school curricula (though segmentary changes in school curricula would, in fact, be desirable), the educational system could place more emphasis on increasing instruction related to the already present topics that are related to patriotism, and much more could be done in terms of drawing connections between individual school subject, which have not reached the pre-planned scope. Unquestionably, the unused potential with respect to this approach remains enormous. However, there is another background issue: are teachers qualified enough, and do they desire to teach the young in such a manner?

These topics urgently need to be paid more attention. Through patriotism, our young shall receive national self-esteem, which will assist them both at home and abroad. Size does not play such an important role, as, in terms of meaning, no nation is 'small'. Nations are only either more or less self-assured, and self-confidence is derived from patriotism as well. Hence, investing real effort with

respect to the conveyance of patriotism would be worthwhile.

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THE EUROPEAN FUTURES AND COHESIVE EUROPE

EU2020 STRATEGY AND COHESION POLICY WITH FLEXIBLE INTEGRATION

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The EU is at a crossroad in 2011, since this year can become an important turning point in the EU history. The EU may turn to a wider comprehensive profile with a Cohesive Europe along the lines of the Europe 2020 Strategy (EU2020) and the Lisbon Treaty (LT), or it may turn to a more narrow competitiveness profile with a "Eurofortress" that can produce a widening gap between the Centre and Periphery in the EU27. This crossroads as a historical turning point in 2011 necessitates a new mission statement about the future the EU is heading for. It has to formulate also the EU's role in the global world in order to redesign the EU's future in this "risky," quickly globalizing world. This paper analyses the emerging organic link between the EU2020 Strategy and cohesion policy on one side, and the increasing tension between the Core and the Periphery in the efforts to achieve stronger economic governance on the other.

I INTRODUCTION: THE MORE COMPETITIVE CORE EUROPE, THE LESS COHESIVE EUROPE?

Since its foundations there have been many definitions of the EU as a constant redefinition of "Europe," both in its external and internal dimensions. Nowadays, however a future-oriented definition of the EU is needed because with the new developments - the LT, the EU2020 and recently the Europact ("Euro Plus Pact") - the EU is heading for a new future. The impact of the global crisis on the EU has usually been described only in negative terms, although these global developments have also pushed the EU towards a creative crisis. In 2010 a new five year cycle of the EU institutions started in the European Parliament (EP)

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and the European Commission (EC), but the European Council (EUCO) changed beyond recognition, too. The global pressures have generated urgent internal needs for the strict economic policy coordination, thus the EU has entered a new era with the strong leadership role of the EUCO and its permanent president.²

The years of 2011-2012 are the decisive period for the EU developments. While in 2010 the focus was on the exit strategy or on the direct crisis management, in 2011 there has been a clear shift of preferences to the strategic goals of the EU2020. Indicating the tasks after the exit strategy as a turn to the long term vision, the February 2011 Conclusions have noted: "Beyond the immediate action required to tackle the most pressing challenges posed by the economic and financial crisis, it is important to continue laying solid foundations for a sustainable and job-creating growth."³ There is no return to the pre-crisis world, so nowadays the main effort of the EU is to contribute to this task of "laying foundations" for the post-crisis world both within the EU and in its new global dimension. Obviously, the post-crisis situation will be very different. It will demand a more "Cohesive Europe" as it has been summarized in the LT and the EU2020. The comprehensive – economic, political, social, cultural and infrastructural – integration of the EU27 as Cohesive Europe can also be termed as Continentalization, in which the EU has taken the lead.⁴

Indeed, the basic mission of the EU2020 is delivering the Cohesive Europe by 2020, since "Europe can succeed if it acts collectively, as a Union."⁵ This new vision has put forward "three mutually reinforcing priorities" as smart, sustainable and inclusive growth, indicating the "social progress" as a key term for the EU's future. Thus, maintaining the efforts for economic cohesion, the latest EU documents have been focusing particularly on social and territorial cohesion. The "iron triangle" or the organic links between the EU2020 megaproject, the renewed cohesion policy and the stronger economic governance has been the main message of these EU documents, since the implementation of the EU2020 presupposes both the renewed cohesion policy and the stronger economic governance. This connection is the main message of the March 2011 Conclusions by pointing out that the stronger economic governance both by the European Semester (EU27) and the Europact (EU17) is needed for the successful implementation of the EU2020: "The European Council today adopted a comprehensive package of measures to respond to

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² This paper is a summary of my recent analyses and findings based on a large overview of literature (see Ágh 2010a to 2010f and 2011a to 2011b), and it is part of a larger, comprehensive study.

³ See European Council. *European Council 4 February 2011, Conclusions*, EUCO 2/11, 1.

⁴ See Jeremy Rifkin, "The Coming of the Third Industrial Revolution", *The Globalist*, 3 May 2010, available at <http://www.theglobalist.com/printStoryId.aspx?StoryId=8359> (June 2011), 1–2.

⁵ European Commission. *Europe 2020: A strategy for smart, sustainable and inclusive growth*, Brussels, 3.3.2010, COM(2010) 2020 final, 5.

the crisis, preserve financial stability and lay the ground for smart, sustainable, social inclusive and job-creating growth.”⁶

However, although this Europact or “competitiveness pact” is a necessary and important step as “turning point in the management of the crisis”, it is at the same time a controversial achievement, since “several key question remain unanswered!”⁷ It has been needed for the stabilization of the eurozone, and beyond it, for the EU27 as a whole. Nonetheless it can split the EU27 into two parts as the terms of the Two-Speed Europe or Core-Periphery Europe indicate, even if it has officially been denied several times. Nowadays the EU is facing the dilemma of the more competitive Core and the less Cohesive Europe, with a declining Periphery.

The Europact “remains open for other Member States to join”, and in fact, six MS has done it.⁸ But given the fact that even many euro member states may have serious difficulties to implement this Pact, it is not fair to expect the NMS to implement it successfully without a facilitating device as the Cohesion Fund was in 1993. This Cohesion Fund is an emblematic case for the special practice of the EU that may be called “*integrative balancing*”. Namely, the EU integration presupposes that at the same time the proper cohesive measures enter for the (new) member states to strengthen the convergence processes within the EU. Actually, there has been a constant need for these cohesive measures, since the large diversity of the member states (MS) necessitates permanent mechanisms for the EU assistance in various policy fields.

Beyond the general task of catching up with the EU in the economic terms, the post-crisis situation has demanded special tasks from the new member states (NMS) to switch from the crisis management to the socio-economic recovery. Therefore, nowadays the vital issue for the NMS is how to cope with this new situation and whether they can expect the proper cohesive measures from the EU in the framework of the integrative balancing. In this respect it is necessary to express some doubts concerning the “cohesiveness” and viability of the Europact, whether it leads to the convergence of all MS or to the divergence between Core and Periphery in the EU27. The message referring to the organic link between the EU2020 and the renewed cohesion policy has a particular importance also for the NMS because Cohesive Europe can produce the best - and the Two Speed Europe the worst - EU environment for their post-crisis catching up process. The future-oriented definition of the EU has also aimed at

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⁶ See European Council, *European Council 24/25 March 2011, Conclusions*, EUCO 10/11, 2.

⁷ See Emmanouilidis, Janis, *A quantum leap in economic governance – but questions remain*, EPC Post-Summit Analysis, available at http://www.epc.eu/documents/uploads/pub_1247_post-summit_analysis_-_28_march_2011.pdf (June 2011), 1.

⁸ See European Council, *European Council 24/25 March 2011, Conclusions*, EUCO 10/11, 5.

the rediscovery of these post-crisis perspectives for the NMS. The most likely European Futures are termed in this paper as Continental versus Fragmented EU scenarios that will be characterized below as Bumpy Road versus Rocky Road.

Thus, the research agenda in 2011 at this juncture focuses on the two basic issues:

(1) The European Futures as the implementation of LT and its extension to the strong economic governance, or in general the reform of the European institutional architecture and the EU policy universe.

(2) The emerging virtual Core-Periphery divided Europe as the drastic redefinition of “differentiated membership” and/or the perspectives of the Cohesive Europe through the implementation of the EU2020 in its close linkages with the renewed cohesion policy.

2 THE EUROPEAN FUTURES AFTER THE “ANNUS HORRIBILIS”

The “annus horribilis” was 2010, the turbulent year of horror with the deepening euro-crisis. As a result of the global financial crisis, the euro faced a public debt crisis in 2010 because of the structural problems in some eurozone countries. The following steps taken for strengthening economic governance have also provoked deep tensions among the member states due to the large competitiveness gap between them. The MS still had “little appetite for policy reform”; therefore “Policy integration continued at a slow pace. Only modest progress was made in strengthening eurozone governance.”⁹ Actually, the spring 2010 euro crisis of the EU was more or less overcome by June 2010, but it turned out that the Lisbon Treaty framework was not enough for a long-term consolidation. Thus, after the exit strategy, as a direct reaction to the global financial, economic or even social crises, a long-term answer was needed. Already the LT contains an extension of cohesion policy from economic and social cohesion to territorial cohesion. Moreover, parallel with the developments of the global crisis, the EU launched the EU2020 as a long term vision or mega project in 2010 in a very strong linkage with the renewed cohesion policy designed in the *Fifth Cohesion Report* in November 2010.

In early 2011 the EU wanted to be “inward looking”, i.e. focusing on the economic governance in order to arrange an institutional reform for more global competitiveness. The Arab uprisings forced it to a great extent, however, to be also “outward looking” that has disturbed the process of domestic reforms. In 2011 a revolt swept across the Arab countries against the age-old dictatorships,

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⁹ Loukas Tsoukalis et al, *An EU “fit for purpose” in the global age* (London: Policy network, 2010), 12.

and the EU was forced to react to the radical changes at its Southern Rim at the 11 March 2011 Informal Summit. In fact, there has been no genuine process of democratization in the Arab world, just a power transition to the softer versions of authoritarian regimes. As with the “coloured revolutions” in Eastern Europe (e.g. in Ukraine and Georgia) a new hybrid democracy might have emerged in the best case, thus similar developments can be expected in the South, so democratization as a full term can be an exaggeration for this process. It is clear, however, that the EU has decided “to develop a new partnership with the region.”¹⁰ No doubt that the former ENP strategy of the EU has been weakened by the revolt in the Arab world, since the former initiatives in the West Balkans (WB) and the Eastern Partnership (EaP) that have also been connected with the renewed cohesion policy through the functional macro-regions (Baltic and Danube Strategies). Therefore this revolt has disturbed the preparations for the new neighbourhood policy in the “East”, in both the West Balkans and in the Eastern Partnership (EaP) countries.¹¹

The new European architecture built on the LT and EU2020 has been under high pressure from the very beginning, and it will be so in the coming years. Therefore, to break the vicious circle, the EU has turned in 2011 to some major reforms. The reform of economic governance became the central topic on the 4 February 2011 European Council meeting, and at the Eurozone Summits on 11 and 15 March 2011, finally, the 24-25 March 2011 Summit endorsed the Europact. The first arrangement of the stronger economic governance was completed after the negotiations with the EP by the European Council on 24 June 2011, although many “technicalities” of regulation are still to be arranged in the coming years. Thus, after the “annus horribilis”, the year of horror for the EU in 2010, there has recently been a positive turn towards the post-crisis consolidation, although with a big question mark on the future of Cohesive Europe.

Alongside the short-term actions – aid packages to Greece and Ireland (and later Portugal) – the EU has designed the structural reforms of economic governance with two innovations. The first step has been the European Semester as an “ex ante” coordination of fiscal policies in the EU27 with the “Community” method. At the same time, it has been supposed that the European Semester as a strong and binding coordination would support the implementation of the EU2020 instead of the “weak” OMC (Open Method of Coordination) in the former Lisbon Strategy.¹² The second one has been proposed as the

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¹⁰ See European Council, *European Council 24/25 March 2011, Conclusions*, EUCO 10/11, 9.

¹¹ See European Commission. *A new response to a changing Neighbourhood*, Brussels, 25/05/2011, COM(2011) 303.

¹² Tanja Börzel, “European Governance,” *Journal of Common Market Studies*, 48, 2 (2010), 191–219.

competitiveness pact (later Europact) for the eurozone members (EU17), which has been based on the intergovernmental method relying on peer pressure for enforcement.¹³ Altogether, because the shock absorbing capacity of the EU was very low at the outbreak of the crisis, there was a need for a new initiative. The German-French proposal for the competitiveness could not be condemned as an “intergovernmental” approach,¹⁴ since it has been based, indeed, on a combination of the Community and intergovernmental methods. The new approach has been called by Angela Merkel in her Bruges speech as a “coordinated European position” or the “Union method.”¹⁵ In this current debate in the Notre Europe Institute the eminent analysts have pointed out that “the difference between the two methods was no longer a matter of their nature but a matter of degree.”¹⁶ Thus, the main problem with the Europact is not in its intergovernmentalism, but in its neglect for the possible consequences for the growing gap between Centre and Periphery.

Altogether, the main indicators for the European Futures can be outlined in 2011 as follows:

I. Internal reforms

1. Policy reform – the EU2020 as the brave vision of the Cohesive Europe.
2. Institutional reform – the LT completed with the strong economic governance.
3. Budgeting reform – policy driven budget with the renewed cohesion policy.

II. External reforms

1. The West Balkan enlargement – well designed Road Map for pre-accession.
2. The ENP renewal – widening as the regionalization in the neighbourhood.
3. EU as global actor – promoting European values for the global governance.

With these reform-drivers four scenarios can be outlined in 2011 about the European Futures for the next decade. These alternative futures indicate the move from the narrow views of status quo to the new vision based on the new policy triangle between the EU2020, the renewed cohesion policy and the stronger economic governance. These four scenarios represent the main types of the possible future outcomes for the EU27 in a SWOT analysis with positive or negative synergies. In order to see the diverging perspectives, it

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¹³ See Jacques Delors et al, *The European Semester: only a first step*, Notre Europe Policy Brief No. 22, February 2011, available at http://www.notre-europe.eu/uploads/tx_publication/bref22-EN.pdf (June 2011).

¹⁴ E.g. Paolo Ponzano, “Community and intergovernmental method: an irrelevant debate?” Notre Europe Policy Brief No. 23, April 2011, available at www.notre-europe.eu (June 2011).

¹⁵ See Angela Merkel, *Speech in College of Europe, Bruges*, on 2 November 2010, available at <http://notre-europe.eu/fileadmin/IMG/pdf/Speech.Merkel-english.pdf> (June 2011), 7.

¹⁶ De Philippe Schoutheete, “Decision-making in the Union,” Notre Europe Policy Brief 24, April 2011, available at www.notre-europe.eu (June 2011), 3.

is important to enlist the major features that give at the same time the matrix for the alternative scenarios that have to be distinguished in three dimensions. Namely, they differ according to (A) their dominating deep divides among the member states in general and/or between the old and the new member states in particular, since the dominant cleavage line as the main controversy is very different in these diverging scenarios. Second, (B) they can also be described as alternative responses to the global crisis, since the global environment will also play a big role in deciding the future of the EU27 until 2020. Finally, (C) based on their hidden assumptions they may also be distinguished according to their different "geographical patterns". If these key drivers are properly discovered, then the alternative futures can properly be described as the following four scenarios:

1. Head start scenario (best case scenario – strengths)

- (A) The small versus big MS
- (B) Basic reform with a creative crisis in a V (or U) shaped model
- (C) The "Nordic" scenario (Europe – the World's Scandinavia).

2. Continental scenario (partial success scenario – opportunities)

- (A) The good performer versus laggard MS
- (B) Partial reform with moderate divergence in a W shaped model
- (C) The "Western" scenario (German-French engine).

3. Fragmented EU scenario (partial disintegration – weaknesses)

- (A) The pro-integration versus Eurosceptic MS
- (B) Weak reform with increasing divergence in an L shaped model
- (C) The "British" scenario (weak EU reduced to the Common Market).

4. Doomsday scenario (worst case scenario – threats)

- (A) The "new-new" virtual members versus all MS of EU27
- (B) Missing reform and overextension of the EU in a "0" or zero shaped model
- (C) The "Stagnation" scenario (long term zero growth with quasi disintegration).

These alternative futures as analytical devices can indicate the move from boring to daring, from the status quo mentality to the new brave vision. In fact, the best case and the worst case scenarios are the polar scenarios or the positive and negative ideal types that outline only the frames within which the future itinerary of the EU may be designed. Head start scenario is a scenario with a relatively quick convergence and homogenization in the EU27. It is based on the success of the creative crisis and on the "V model" of the global recovery. Accordingly, the EU as the civil superpower could be the trendsetter in the global governance of the post-crisis world. On the other side, the Doomsday scenario is based on the "zero growth model" in the European economy leading

slowly to the quasi disintegration of the EU. In this case, the EU as global actor has to face quickly declining influence in the global arena. Both extremities are nowadays unlikely, although from time to time high expectations have still been echoed about the EU's leading global role. Or, in deep crisis periods – for instance in the spring 2010 euro crisis - the Domsday scenario has been set in motion, as the favourite idea of “the European Union is dying” in the Anglo-American press.¹⁷

The polar scenarios as the positive and negative ideal types indicate the main directions. Their softer varieties - Continental and Fragmented EU - are combined scenarios because the future may be some kind of combination of the two polar scenarios, depending on the strength of the various factors described above. As a result of the relative successful crisis management with the “W model” of the global recovery, the Continental scenario presupposes a strong convergence and increasing coherence in the EU. It can be the relatively short itinerary, but it is still a Bumpy Road to the Cohesive Europe due to the over-reaction of big states with their emerging economic nationalisms. This relatively successful Cohesive Europe means that the EU as global actor can withstand the tough competition in a conflicting multi-polar world. The two per cent economic growth of the whole European economy in 2010 offers some cautious optimism about the take-off within the EU with a multi-speed global recovery. The EU is set to grow by around two per cent also in 2011 and 2012, which allows for the return to normalcy in the EU after the exit strategy. With the second attempt at the recovery in 2013-2014 the opportunities seem to be stronger than weaknesses. Altogether, after the global crisis the programme “Making Europe Work” is high on the agenda in the EU. The New European architecture, however, has to be completed by the stronger economic governance even after the LT in order to give a chance for the implementation of the EU2020 in the take-off period after 2013.

The Bumpy Road is based on the Continental scenario with partial success and “opportunities”, but it can produce the desired indicators of social progress at much slower rhythm with big delays and more controversial features in the above fields than the Head start scenario. The Continental scenario depends heavily on a successful start of the EU2020 through a rather deep reform in the classical policy areas of growth and jobs, with a better integration of the

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¹⁷ I have elaborated this four scenario model in a series of former papers and I have readjusted this model from time to time to the new developments. Until 2020 the EU27 will turn to the EU28 with Croatia, and eventually to the EU29 with Iceland, but this enlargement will not change these scenarios. Paul Krugman has recently designed four scenarios for the EU crisis management: (1) “Revived Europeanism” as moving closer towards a fiscal union, (2) “Toughing it out” as contracting budgets and services but avoiding default, (3) “Debt restructuring” as losing the ability to borrow any more money, (4) “Full Argentina” as troubled economies breaking their link with the euro (“Can Europe Be Saved?” *New York Times Magazine*, 16 January 2011).

new union (community) policies and a slight improvement of their budgeting. However, if the economic nationalism as a perverse reaction to the global crisis becomes durable, then it may unleash a counterweight reaction. Namely, if the Franco-German rapprochement as an engine is so intensified that it creates an exclusive bilateral system of cooperation, as a reproduction of the Charlemagne Empire, then the integration in general slows down, since it leads to the small and big MS controversy in decision-making in the first steps and to a widening gap between the Core and Periphery for the long run. If these strong EU member states – arguing with the necessity of the global crisis management – organize a *directoire* as the G8-G20 type of international organizations, then the other member states might also look for their own “macro-regional” solutions. But the main problem is the widening gap between the good and laggard MS that will be discussed later in detail.

On the other side, the Fragmented EU scenario is based on the “L model” in the European economy with very slow recovery. It indicates the partial disintegration due to the failures and long hesitations in crisis management, and to the sluggish implementation of the EU2020 long term strategy. This partially negative scenario predicts the continued convergence and increasing coherence only in some key policy fields, while the marked “sectoral” divergences in many other policy fields may provoke deep disintegration, since sectoral integrations will be organized by some willing states in these “neglected” policy fields. If the “no crisis-no solution” stalemate situation becomes too long, then the like minded member states will decide to choose enhanced cooperation structures, and to go ahead in closer policy cooperation as an ad hoc coalition of the MS. The Fragmented EU scenario means policy-wise first of all that the eurozone will divide the EU for a long time, and as a result, polity-wise the defensive macro-regions may appear as the strong features of the EU territorial division. If the deep policy-wise differentiation with the diverging “policy memberships” start, then they may generate the polity-wise macro-regionalization as well. Nonetheless, these kinds of diverging policy memberships may not go necessarily along the lines of the macro-regionalization, since not all policies with enhanced cooperation may be the same in a virtual or actual macro-region. The MS differentiation may also emerge along the lines of sectoral integration as a set of different memberships at various policy levels.

Thus, due to the paralysing effects of the battle between pro-integration and anti-integration MS a weak Cohesive Europe may emerge. If the EU2020 fails generating policy reforms for regaining the strength and global competitiveness of the EU, then the EU can be hurt in its internal cohesion and homogenization. The poor crisis management and missing basic reforms for the EU2020, including the sluggish implementation of LT, coupled with the insufficient financial support for the new union policies may produce a relative decline of

the EU global competitiveness. This case provokes partial disintegration or fragmentation, as an unhappy mixture of divergences and convergences within the EU, in a word, an internally weak Cohesive Europe without the necessary policy cooperation and coherence. Moreover, the EU as global actor can also be paralyzed by the conflicts in its close neighbourhood e.g. by the disturbances of its energy supplies and/or by the civil wars in the neighbouring countries, offering only a Rocky Road to Cohesive Europe. Consequently, the Fragmented EU scenario will be earmarked by some institutional and policy failures. Both the overdriven internal macro-regionalization and the sectoral divergences can lead to the Multi-Speed or the Two-Speed Europe in various policies, as a distortion/degradation of the differentiated/flexible membership into the deep fragmentation.

These two more realistic scenarios with opportunities and weaknesses outline the main alternative itineraries for the next years. All in all, in 2011 both the Bumpy Road to a stronger Cohesive Europe and the Rocky Road to a weaker Cohesive Europe are still on the horizon for the EU27. Therefore, the Europact can only be a Pyrrhic victory if it leads to the Rocky Road with the deep divide between the Core and Periphery in Europe: "On both sides, an increasing national focus and a rise in populism as well as anti-EU sentiment are evident in all parts of society. The EU is more and more perceived as a problem. The weakest hold that the EU, and especially core countries in the euro zone, are imposing too much on them and asking too much from them. The strongest fear that they will have to pay for the self-inflicted problems on Europe's periphery and that the EU will turn into a 'transfer union'!"¹⁸

3 DIFFERENTIATED MEMBERSHIPS: THE WIDENING CORE AND PERIPHERY GAP

The EU has always been a "unity in diversity" that has meant differentiated memberships or flexible integration from the very beginning. This membership differentiation, as the alternative scenarios have demonstrated, has become more and more marked not only with the widening, but also with the deepening process, namely with the broadening institutional architecture and the increasing policy universe. As Janis Emmanouilidis has recently noted, "More than ever before the EU needs to operate at different speeds – and there are numerous reasons why this is so. The enlarged Union is characterised by a growing diversity of interests, an increase of economic, financial, social and geopolitical heterogeneity and diverging objectives and expectations concerning the future

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¹⁸ See Emmanouilidis, Janis, *A quantum leap in economic governance – but questions remain*, EPC Post-Summit Analysis, available at http://www.epc.eu/documents/uploads/pub_1247_post-summit_analysis_-_28_march_2011.pdf (June 2011), 13.

path of integration prevent consensus about Europe's *finalité*.¹⁹

The Amsterdam Treaty as a preparation for the Eastern enlargement was one of the turning points in coping with diversity. The Amsterdam Treaty has split the EU into two parts, since some former members has been allowed to opt out from the incoming policies (euro and Schengen), whereas no opt-outs have been allowed for the new member states, only some derogations for their introduction. The Schengen acquis and the eurozone memberships are mandatory for the NMS, but only after some time when the "internal" conditionalities are met. This implies that the Eastern enlargement was not a "full" accession, only a partial one that has to be completed with some policy memberships afterwards, already within the EU. Therefore, at the time of the Eastern enlargement the debates were very intensive on the differentiated membership issues, and these debates have returned with a vengeance nowadays when the split between the Core and Periphery is again high on the agenda. In general, the EU history has shown that the conditionalities have always been increased as the EU has "redefined" itself.²⁰ In fact, the Europact can be the creation of a "new supranational union", as Emmanouilidis has explained it: "A group of countries creates a new separate union. (...) The new union aims at a higher level of supranational cooperation and thus includes the immediate transfer of competences and the pooling the sovereignty beyond the level inside the 'old EU'".²¹ Therefore, now it is a new turning point ahead to avoid the fatal split between Core and Periphery, and to elaborate a model of flexible integration.²²

The Two-Speed Europe that may be institutionalized by the Europact is, at a closer look, a Three-Speed Europe with a wider peripheralization process, since both the most developed and the least developed countries have been left out from the "Eurofortress". Hence, the Three-Speed Europe can be the simplest description of this project. Namely, Scandinavia is the "overdeveloped" group,

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¹⁹ Janis Emmanouilidis, "The case for differentiated integration in the EU: making right choices," in *Rescuing the European project: EU legitimacy, governance and security*, ed. Olaf Cramme (London: Policy Network, 2010), 97.

²⁰ Sarah Kahn-Nisser, *Drawing the line: The EU's Political Accession Criteria and the Construction of Membership*, Jean Monnet Working Paper 07/10, available at www.JeanMonnetProgram.org (June 2011).

²¹ Janis Emmanouilidis, "The case for differentiated integration in the EU: making right choices," in *Rescuing the European project: EU legitimacy, governance and security*, ed. Olaf Cramme (London: Policy Network, 2010), 98.

²² See recently Bache et al, "Europeanization and multi-level governance in south-east Europe: the domestic impact of EU cohesion policy and pre-accession aid," *Journal of European Public Policy*, 18, 1 (2011), 122–141; see also Cramme et al, *Rescuing the European project: EU legitimacy, governance and security* (London: Policy Network, 2010). Some experts have suggested "A Club within the Club" for the core countries since a long time (see Frank Dohmen and Hans-Jürgen Schlamp, "A Club Within the Club," *Spiegel*, 19 December 2005, available at <http://www.spiegel.de/international/0,1518,391251,00.html> (June 2011)).

including the Norway and Iceland as quasi MS. This first group does not want to join the eurozone (including the UK for various reasons), but these countries are the real "high speed group". The "Eastern" new member states are the second, "underdeveloped" group, including still the eurozone MS like Slovakia and Estonia, and to some extent also Slovenia. The description of the third group, the eurozone member states is the most difficult. History matters, since some less developed countries like Greece and Portugal have joined the third group, but nowadays they are financially the most vulnerable members of the EU27. Thus, when the EU17 dares to take a big step ahead in the European integration, it finds the biggest difficulty in its own group due to public debt crisis in these high risk MS, and the Core-Periphery split re-appears within the eurozone.

In fact, the direct reason for the Europact is to compensate for the low competitiveness of these weak euro-member states. The Two-Speed Europe as a "project" can be dangerous, but the term is rather meaningless because the main tension is just within the eurozone group. This group has been supposed to move ahead at the high speed but it has recently been fatally divided between the good and bad performers that will continue for some more years to come.²³ There has been an increasing gap between the "Northern lights" and the "Southern cross" as *The Economist* comments: "A two-speed Europe has historically been a political spectre, but is has now become an economic reality. It is happening within the euro area, the heartland of European integration. On the fringes of the single-currency zone Greece, Ireland and Portugal have become ensnared in a sovereign-debt crisis. But in its northern core, driven by the German powerhouse, economies are reviving and public finances are solid. Now many fear that the economic divide could turn into a political chasm."²⁴

However, in the last analysis, the EU27 proves to be a Multi-Speed Europe, in which the "common denominator" has always been redefined. If it is reduced to a minimum, then the Cohesive Europe will fail. The EU27 has very differentiated membership system, or a very varied legal-political and socio-economic landscape with different "policy memberships" that has been analyzed several times under various titles like e.g. the "concentric circles". The EU needs nowadays a positive strategy for the differentiated or flexible integration²⁵, since as Janis Emmanouilidis has pointed out "a higher degree of flexible integration is a necessity if the EU27+ wants to remain effective (...) closer cooperation between a limited number of EU countries can help to

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²³ See European Commission, ECFIN. *European Economic Forecast, Spring 2011*, available at http://ec.europa.eu/economy_finance/eu/forecasts/2011_spring_forecast_en.htm (June 2011).

²⁴ See *The Economist*, 2011:31-32.

²⁵ Loukas Tsoukalis et al, *An EU "fit for purpose" in the global age* (London: Policy network, 2010), 21-22.

overcome stalemate, improve the functioning of the Union and reduce tensions between those who want to deepen collaboration and those who are not (yet) ready or willing to do so.”²⁶ Therefore, flexible integration and the increasingly “closer cooperation” should go together, i.e. when making a substantial decision about the convergence – as it is the case with the Europact -, it is at the same time the right moment to elaborate the proper flexible integration in order to be able to implement it. Nowadays the flexible integration as some kind of integrative balancing cannot be seen (yet?) in the Europact, since the EU is weaker and the pressure of the euro crisis is bigger than it was in 1993 when the Cohesion Countries were integrated into the eurozone by the facilitating fund. The EU27 has recently been weakened by the same Cohesion Countries, since they have fatally been wounded by the global crisis, and it has recreated and/or deepened the North-South divide in the EU. Hence, the EU is unable to prepare the same kind of facilitating fund for the NMS as it did earlier in the nineties in the case of the Cohesion Countries, so at present the integrative balancing mechanism does not seem to work. However, after these first urgent measures, the financially Cohesive Europe may be the solution with a well regulated structure of the European institutional architecture, in which the flexible transitions between the policy membership levels are to be institutionally arranged and financially facilitated.²⁷

At this crossroads it has to be clear that Cohesive Europe has two meanings. First of all, the Cohesive Europe presupposes a general policy for the EU27 with a broadly defined and permanently recreated strong “basic membership”. Beyond this, however, in the post-crisis situation Cohesive Europe demands a special cohesion and/or regional policy for the less developed MS. In such a way there has been a double track of maintaining and recreating the convergence for all MS and, at the same time, leaving way for the MS idiosyncrasies, including their catching up exercises that can only be dealt with in a separate paper.²⁸ The divergences in the EU may be “regional” or “sectoral”, depending on whether a group of neighbouring countries takes together the escape road of “enhanced cooperation” or some countries from different regions use this method in a particular policy field. The efforts for the big states dominance may be leading to the regulated internal “macro-regionalization” within the EU, following the model of the Nordic countries that can still be the positive side of differentiated

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²⁶ Janis Emmanouilidis, “The case for differentiated integration in the EU: making right choices,” in *Rescuing the European project: EU legitimacy, governance and security*, ed. Olaf Cramme (London: Policy Network, 2010), 97.

²⁷ Thus, the facilitating fund is not a new idea, it originates from 1993, and with a similar Fund the Eastern enlargement can also lead “to rapid convergence, as it had earlier in the case of the Cohesion Four (Greece, Ireland, Portugal and Spain)”. See Loukas Tsoukalis et al, *An EU “fit for purpose” in the global age* (London: Policy network, 2010), 11.

²⁸ See Attila Ágh, “Post-Accession Crisis in the New Member States: Progressing or Backsliding in the EU?,” *Studies of Transition States and Societies*, 2, 1 (2010a), 74–93.

membership. A new checks and balances system may emerge, i.e. balancing the EU not only in its central institutions but also macro-regionally, by distancing the big regional units from each other. This might actually generate some partial decomposition of the EU to the five worlds of the regional - Nordic, West-Continental, Mediterranean, Central European and Balkan – regimes, although EU institutions might still hover above them as relatively well regulated functional meta-system. This is not a disintegration situation but a transparent, balanced, institutionalized and legitimate process, through which the relationships within the regions would be intensified as stable coalitions, and among them some common interests would be formulated and represented at the EU level. Yet, a regionalized EU could still be relatively successful in competing in the global arena along the Bumpy Road. But it would be a looser organization, in which the solidarity principle might be applied more and more within a region, to a smaller circle of neighbouring countries than in the EU as a whole.

However, the desire of the strong states to continue or even strengthen their dominant role that has appeared in the Europact may still be some threat for the common future of the EU27. As a result, there might be a Europe of the regional diversity, above all with the growing economic-financial tensions between North and South in the EU, instead of overcoming the economic differences through conscious political actions and having tolerance for the socio-political and cultural differences. The genuine idea of the EU has been based on overcoming the short term national interests by accepting the well-considered long term transnational interests. The EU will still be competitive with the BRICs, since the reactions to the global crisis have intensively pushed it into this direction of half-made reforms, which will produce less than a real creative crisis. Albeit this scenario would only be a half-success of the genuine idea of the European integration, it still shows that the rash and angry reaction against the growing diversity that has been emerging in the big states can partly derail the EU along the Rocky Road.

All in all, Cohesive Europe presupposes a flexible integration, including the transition to the other membership levels of the policy integration. It needs a well organized structure for the upward efforts between these levels of policy memberships that facilitate the transitions between these policy integration levels in order to create in such a way a dynamic unity of diversity in the EU27. Otherwise, the present dangerous fragmentation processes will be accelerated and they will produce new kinds of deep division in the EU27. As it has been described in the much-repeated analyses, the EU is a highly compound polity, in which the EU cohesion policy means a wide range of financial instruments addressing economic, social and territorial disparities in Europe. No doubt that cohesion policy is the main instrument and the dynamic vehicle to keep the MS together to create a Cohesive Europe. The role of cohesion policy cannot be

reduced to the NMS, and its importance is growing, since the European policy universe has undergone deep changes in the last years as its own “deepening” and “widening”; and much more is to come.²⁹

Namely, the EU has tried to elaborate some new “union” – earlier “community” – policies as energy, climate change and knowledge triangle (higher education – research – innovation), and it has extended its common policy universe to the new policy fields also in the justice and home affairs. The EU has usually more initiatives in policies than for institutions, that is, despite all the delays and hesitations, the EU is more dynamic in introducing new policies than in regulating the interfaces of these policies by creating the proper institutions for them. In the present open situation it is risky that the Europact may produce strict regulations for a well defined policy field, but leaves the wider linkages and the precise social indicators of economic governance unregulated and unbalanced. There is no clear delineation between the policy integration levels that would also provide the “elevators” between the different levels of the European institutional architecture. This situation can create a “Eurofortress” with strong some bastions but with long weak walls. It will reproduce the pre-accession situation for the NMS at a higher level, since they are already within the EU legally but still just “partially” and they have to “enter” the EU again, under more difficult conditionalities than originally. All NMS face similar difficulties, even if they are already eurozone MS. Nevertheless, it is not only an East-West Divide. The choice between the regulated-orchestrated convergence and the “free competition” with increasing divergence concerns both the European institutional architecture and the EU2020 policy universe in all MS.

4 CONCLUSION: THE URGENT NEED FOR THE NEW INTEGRATIVE BALANCING MECHANISMS

The debates on the Lisbon Strategy have demonstrated, and this reminder has come back in the preparation of the EU2020 Strategy, that competitiveness and solidarity are not necessarily going together to produce social market economy: “it is a mistake to think that social inclusion will inevitably be enhanced through policies aimed at reinforcing growth and competitiveness. (...) It is therefore essential to identify what intervention within Cohesion Policy can contribute to achieving each of the goals of the Europe 2020 Strategy if the Union wants

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²⁹ On the basic features of cohesion policy for the Cohesive Europe see European Commission. *Europe 2020: A strategy for smart, sustainable and inclusive growth*, Brussels, 3.3.2010, COM(2010) 2020 final; European Commission. *Cohesion Policy: Responding to the economic crisis*, Commission Staff Working Paper, Brussels, 25.10.2010, SEC(2010) 1291 final; European Commission. *Fifth Report on Economic, Social and Territorial Cohesion*, Brussels, 9 November 2010, available at http://ec.europa.eu/regional_policy/sources/docoffic/official/reports/cohesion5/pdf/5cr_en.pdf (June 2011).

to avoid a repeat of the failure of the Lisbon Agenda.”³⁰ Accordingly, the March 2011 Conclusions have declared that the improving competitiveness does not lead automatically to a higher degree of convergence reinforcing social market economy.³¹

So far the package of the competitiveness measures in the Europact has shown no sign of integrative balancing to enhance economic, social and territorial cohesion as stipulated in the LT regulations. The asymmetrical decision preferring competitiveness to convergence might have been necessitated by the very high outside pressure and the urgency of the decision. But even if it is considered as the first step, some worries should be expressed about its negative consequences. It remains to be seen whether the EU will take the next step to invigorate the EU2020 with the vision of Cohesive Europe, and the new integrative balancing mechanisms will be introduced in order to upgrade the new member states as partners instead of simply imposing the rigid rules of competitiveness upon them.

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³⁰ Dhéret, Claire, *What next for EU Cohesion Policy? Going “beyond GDP” to deliver greater well-being*, EPC Policy Brief, March 2011, available at http://www.epc.eu/pub_details.php?cat_id=3&pub_id=1243&year=2011 (June 2011), 4.

³¹ See European Council. *European Council 24/25 March 2011, Conclusions*, EUCO 10/11, 4–5.

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BOSNIA AND HERZEGOVINA BETWEEN DAYTON AND BRUSSELS

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After numerous appeals for reform from the international community and the pro-reform part of the Bosnian-Herzegovinian public, in 2006 the Presidency of Bosnia and Herzegovina proposed that the Parliamentary Assembly as the constituent assembly adopt constitutional amendments in the first stage of constitutional reform. By means of these amendments, traditional state responsibilities would be transferred to the central State and the House of Representatives as the representative body of the Bosnian-Herzegovinian populace systemically empowered. At the same time, the responsibilities of the House of Peoples as the representative body of Bosniaks, Croats and Serbs as constituent peoples would be limited, the Council of Ministers as the central organ of the executive power would be established, and the responsibilities of the Presidency of Bosnia and Herzegovina would be limited. All these changes would contribute to the more efficient and stable operation of Bosnian-Herzegovinian institutions. According to the proposed amendments, all matters relating to the European Union would be within the exclusive competence of central institutions. Despite intense efforts by the international community, the House of Representatives was unable to achieve the two-thirds majority of votes required for the adoption of the proposed amendments; at the same time, key political parties rejected the "Butmir Package of Constitutional Amendments" prepared by the representatives of the USA and EU in 2009. Thus, especially following the publication of the Stabilisation and Association Agreement between the EU and Bosnia and Herzegovina in the Official Journal of the European Union at the beginning of 2011, the appeals for the adoption of constitutional amendments became increasingly topical and visible.

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I INTRODUCTION

Following a decade of experience with the Dayton Constitution as the “law *de jure*” and as “law *de facto*”, which is sometimes characterized in professional circles as a provisional constitution,² the political elites of the international community – especially on the basis of the Resolution of the Parliamentary Assembly of the Council of Europe on the strengthening of democratic institutions in Bosnia and Herzegovina,³ the Brussels “consultations” with the leaders of Bosnian and Herzegovinian parliamentary parties⁴ and the Washington declaration on the modernisation of the Dayton constitution⁵ – also reached the conclusion that it is not possible to transform Bosnia and Herzegovina into a democratic and efficient state without comprehensive constitutional reform. After numerous appeals for reform by the international as well as the pro-reform part of the Bosnian-Herzegovinian public on the tenth anniversary of the Dayton Agreement, at the beginning of 2006 the Presidency of Bosnia and Herzegovina proposed that the Parliamentary Assembly – the House of Peoples and the House of Representatives – as the constituent assembly adopt a constitutional amendment regarding the competencies of the institutions of Bosnia and Herzegovina as central State, as well as constitutional amendments regarding the Parliamentary Assembly, the Presidency of Bosnia and Herzegovina, and the Council of Ministers. The decision-making on the adoption of other amendments, especially those regarding human rights and fundamental freedoms, was postponed until the second stage of constitutional reform.⁶ Despite intense efforts by the international community for the adoption of the proposed amendments and the fact that the majority of the parliamentary parties had endorsed their adoption by means of a special agreement – following the robust intervention of the representatives of the international community in the residence of the US Ambassador by means of “elbowing”⁷ – the House of

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² Edin Šarčević, “Verfassungsgebung ‘konstitutives Volk’: Bosnien und Herzegowina zwischen Natur- und Rechtszustand,” in *Jahrbuch des Öffentlichen Rechts der Gegenwart*, ed. Peter Häberle (Tübingen: Mohr Seibek, 2002), 531.

³ See Council of Europe, Resolution 1384 (2004), *Strengthening of democratic institutions in Bosnia and Herzegovina*, 23 June 2004.

⁴ *The Guardian*. “Revealed: US plans for Bosnian constitution.” 11 November 2005; *Jutranji list*. “Lideri BiH danas na tajnom sastanku o promjeni Dayton.” 11 November 2005; *Le Monde*. “Du sičge de Sarajevo aux acords de Dayton.” 22 November 2005.

⁵ *The New York Times*. “U.S. Urges Bosniacs to Revise Constitution.” 22 November 2005.

⁶ See *Amendments to the Constitution of Bosnia and Herzegovina*, 2006. Available at www.ohr.int/ohr-dept/legal/oth-legist/doc/fbih-constitution.doc (June 2011).

⁷ The talks with parliamentary parties’ leaders were conducted by the American ambassador Douglas McElhaney, who at the press conference on the occasion of the 20th anniversary of the Dayton Agreement stated that he will support the revision of the Dayton constitution even by means of “elbowing”. See: Avdo Omeragić, “Ako BiH želi biti ozbiljna, mora objediniti institucije,” *Oslobodjenje*, 20 December 2005. Cf.: *Dnevni avaz*. “Paket ustavnih promjena ide u parlamentarnu proceduru.” 19 March 2006.

Representatives in 2006 was unable to achieve the required two-thirds majority of those present and voting for their adoption.

Among the most high-profile initiatives for the revival of work for the preparation of constitutional changes was the conclusion of the Prud Agreement towards the end of 2008, signed by the leaders of the most prominent political parties in Bosnia and Herzegovina. The Agreement established the points of departure for the preparation of amendments regarding the harmonisation of the Constitution of Bosnia and Herzegovina with the European Convention of Human Rights and Fundamental Freedoms, amendments regarding the constitutional arrangement of the Council of Ministers of Bosnia and Herzegovina, as well as amendments for the adoption of the Law on the Legal Status of State Property and the Population Census Law. The leading political parties later abandoned this proposal for the agreement due to diverging views on its contents.⁸ At the end of 2009, the representatives of the USA and EU jointly organised several consultations with the representatives of the key political parties in Bosnia and Herzegovina in Butmir near Sarajevo, at which the so-called Butmir Package of Constitutional Amendments was prepared, containing mainly the rejected proposals for constitutional changes from 2006.⁹ The proposed amendments were particularly important because the Stabilisation and Association Agreement between the EU and Bosnia and Herzegovina was concluded in 2008; Bosnia and Herzegovina also ratified it in the same year, thus legally assuming new commitments in the ensuing process of progress towards the European Union.¹⁰ However, since the Butmir Package received only the backing of the Bosnian Party of Democratic Action, this intervention by the USA and EU also failed. As the political arena continued to be distinctively polarised even after the 2010 autumn elections, at which the nationalist parties mostly just regrouped, the party oligarchies – despite intense interventions by the international community – failed to muster the political will to support the beginning of constitutional reform.

Following the publication of the Stabilisation and Association Agreement between the European Union and Bosnia and Herzegovina in the Official Journal of the European Union at the beginning of 2011, the demands of the international community and the majority of the national population for

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⁸ See *Oslobodjenje*. "Prudski sporazum prvi pozitivan korak." 22 November 2008; and *Dnevni avaz*. "Prudski sporazum glavna tema." 23 December 2008.

⁹ See *Dnevni avaz*. "James Steinberg spašava, butmirski paket." 2 December 2008; and *Oslobodjenje*. "Butmirski paket je minimum." 3 November 2008.

¹⁰ Council Regulation (EC) No 594/2008 of 16 June 2008 on certain procedures for applying the Stabilisation and Association Agreement between the European Communities and their Member States, of the one part, and Bosnia and Herzegovina, of the other part, and for applying the Interim Agreement on trade and trade-related matters between the European Community, of the one part, and Bosnia and Herzegovina, of the other part.

adopting the constitutional amendments have become all the more topical and substantial.

2 CONSTITUTIONAL RELATIONSHIP BETWEEN THE STATE INSTITUTIONS AND THE TWO ENTITIES

According to the opinion of the Council of Europe's Venice Commission that has also been adopted by the expert group on the preparation of the draft constitutional amendments as the point of departure for its work, the main issue in the first stage of the constitutional reform is the widest possible transfer of responsibilities from the Entities to Bosnia and Herzegovina as the central State ("Gesamtstaat").¹¹ Under the Dayton constitution, the institutions of Bosnia and Herzegovina have only those powers that are comprehensively listed in the constitution, mainly in the field of immigration, refugee and asylum policy (Article III.1).¹² Also established in the Constitution – more descriptively than comprehensively – are some responsibilities of the Entities, among others regarding the provision of a safe and secure environment for all persons (Article III.2.c), but the Constitution simultaneously stipulates that the Entities have "[a]ll governmental functions and powers" that are not expressly assigned in the Constitution to the institutions of Bosnia and Herzegovina (Article III.3). The constitutional provision in the favour of the Entities is (so to speak) identical to one of the Articles of Confederation and Perpetual Union between the States (Article 2), on the basis of which the United States of America were founded as a confederation – following a proposal from 1777 and its implementation in 1781; in line with Article 2, each state retained all powers and jurisdictions other than those expressly delegated to the confederation.¹³ Disregarding the foreign policy that is (despite the common foreign policy) also one of the sovereign rights of the European Union Member States, the constitutional responsibilities of the institutions of Bosnia and Herzegovina hardly exceed those of the European Community or European Union within the framework of its former first pillar. Given the limited constitutional responsibilities of the central State and the constitutional presumption in favour of the two Entities, according to which the Entities under the Constitution also retained the responsibilities in

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¹¹ Council of Europe, European Commission for Democracy through Law (Venice Commission). Opinion on the constitutional situation in Bosnia and Herzegovina and the powers of the High Representative, CDLAD (2005)004, Strasbourg, 11 March 2005, point 102.

¹² Joseph Marko, "Integration durch Recht," in *Europas Identitäten, Mythen, Konflikte, Konstruktionen*, eds. Monika Mokre, Gilbert Weiss and Rainer Bauböck (Frankfurt/New York: Campus Verlag, 2003), 163–165; see also Axel Schwarz, *Die Verfassung des Gesamtstaates*. (Berlin: Europa-Blätter, 2003), 129–130.

¹³ Robert D. Clinton, "A Brief History of the Adoption of the United States Constitution," *Iowa Law Review*, (1990), 891–893.

the military and police fields, Bosnia and Herzegovina is a *sui generis* federation with extremely limited viability ("Lebensfähigkeit").¹⁴

The architects of the Dayton Agreement balanced the constitutional provision that very restrictively stipulates the responsibilities of the central state by means of a special provision that enables Bosnia and Herzegovina to assume additional responsibilities as agreed by the Entities (Article III.5.a). On the basis of this provision, Bosnia and Herzegovina can, in agreement with the Entities, assume mainly those responsibilities provided for in Annexes 5, 6, 7 and 8, particularly the responsibilities in the field of protection of human rights as well as the rights of refugees and displaced persons, and the responsibilities necessary to preserve the sovereignty, territorial integrity, political independence, and international personality of Bosnia and Herzegovina; additional institutions may also be established as necessary to carry out such responsibilities.¹⁵

Acting upon this constitutional provision, the Parliamentary Assembly of Bosnia and Herzegovina adopted several laws under a legislative procedure that is less demanding than the constitutional revision procedure, despite the right to the so-called veto for the protection of a vital national interest. By means of these laws – following the intense intervention by the High Representative and prior institutional or tacit consent of the Entities – the Parliamentary Assembly also assumed traditional State responsibilities in the form of additional responsibilities, by means of which it fundamentally complemented the responsibilities of the institutions of Bosnia and Herzegovina comprehensively listed in the constitution.

As early as in 2000, the High Representative on the basis of the Bonn powers ("Bonner-Powers") adopted a decree on the adoption of the Law on the Court of Bosnia and Herzegovina, by means of which he partly established the foundations for a gradual establishment of the judiciary power in line with the principle of separation of powers at the central State level.¹⁶

Under these laws, Bosnia and Herzegovina as the central State, in addition to those comprehensively listed in the constitution, also has the following

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¹⁴ Wolfgang Marcus Vitzthum and Marcus Mack, "Multiethnischer Föderalismus in Bosnien-Herzegowina," in *Europäischer Föderalismus, supranationaler, subnationaler und multiethnischer Föderalismus in Europa*, ed. Von Wolfgang Graf Vitzthum. (Berlin: Duncker und Humbold, 2000), 89–95. Elisabeth Küttler, *Die Menschenrechtskammer für Bosnien-Herzegowina* (Berlin: BWV/ Berliner Wissenschafts – Verlag GmbH, 2003), 34.

¹⁵ Gearoid O'Tuathall, "La Republika Srpska est-elle européenne, La grande stratégie du Bureau du Haut-Representant pour ancrer la Bosnie-Herzégovine dans L'Espace geopolitique européen," in *L'ex Yougoslavie dix ans après Dayton*, eds. Andre-Louis Sanguin et al (Paris: L'Harmattan, 2005), 204–248. See also Opinion of the Venice Commission at footnote 10, points 22 and 23.

¹⁶ Official Gazette of Bosnia and Herzegovina, no. 29/00.

responsibilities and institutions: the defence area, organised by a special law as a single system of armed forces; the Intelligence and Security Agency as one of the sub-system institutions in the field of security; the High Judicial and Prosecutorial Council, which decides on the selection and appointment of judges and prosecutors in the country as a whole; the Office of the Prosecutor of Bosnia and Herzegovina, which is one of the fundamental state institutions in the field of justice; the Court of Bosnia and Herzegovina, which was established by the legislative decision of the High Representative and which, due to its limited competencies, is not in the rank of the Supreme Court; and a particular system of financing state institutions that is not solely linked to the Entities' revenue.

It is paradoxical that Bosnia and Herzegovina as the central State has even more traditional state responsibilities that have been assumed on the basis of the provisions on additional responsibilities by means of laws (particularly in the field of defence, security – namely by open reform of the police – and justice) than under the general constitutional provision that comprehensively lists its responsibilities.

In the future, these statutory powers, on the basis of which State institutions already function, should be transposed into the Constitution; their constitutional arrangement would contribute to a more legitimate and stable operation of these institutions. After the adoption of the above legislation, the constitutional provision on additional responsibilities should also be abrogated or at least possibilities for its use limited. The relationship between the legal order of the central state and the legal order of the Entities should also be determined, for instance, on the model of the German Basic Law (Article 31 GG) it could be stipulated that the State law shall take precedence over ("bricht") Entity law.¹⁷

In the first stage of constitutional reform, the following should also be done: change the constitutional arrangement on the creation and composition of basic state bodies, reallocate the most important responsibilities among them and at least in part reshape the decision-making procedures of these bodies.

After more than a decade of documents in which individuals and institutions alike have reached the conclusion that the constitutional provisions regarding the composition of fundamental State institutions on the basis of ethnic affiliation are impermissible (they are, *inter alia*, in conflict with the constitutional provision on non-discrimination (Article II.4)¹⁸ and the European Convention on

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¹⁷ Article 31 of the German Basic Law stipulates: "Bundesrecht bricht Landesrecht".

¹⁸ See in particular: Magdalena Pöschl, "Diskriminierung in Bosnien und Herzegowina," *Zeitschrift für öffentliches Recht*, 60 (2005), 217–235.

Human Rights and Fundamental Freedoms (Article 14)¹⁹, in line with the envisaged amendments, the House of Representatives would also include three delegates who do not belong to one of the constituent peoples; composition on the basis of ethnic affiliation would also be abolished with regard to the provision on the composition of the Presidency of Bosnia and Herzegovina, while the adoption of the decision on the amendment of the constitutional provision regarding ethnic composition of the House of Peoples would be postponed to the second stage of constitutional reform.

Two other strategic goals of the anticipated constitutional changes, alongside the transfer of responsibilities from the Entities to the central State, are (a) the systemic empowerment of the House of Representatives as the representative body of the anticipated Bosnian-Herzegovinian populace, along with simultaneous limitation of the authority of the House of Peoples as the representative body of the constituent peoples of Bosniaks, Croats, and Serbs, and (b) the establishment of the Council of Ministers as the central organ of executive power, along with simultaneous limitation of the Presidency's authority. The fulfilment of these two goals should decidedly contribute to an effective and streamlined operation of the state as a whole. Bosnia in Herzegovina could thus also fulfil the "Copenhagen criteria" and other special conditions ("political conditionality") in the process of stabilisation and association with the European Union.²⁰

In the future, the bicameral system is also to be abolished; under this system, the House of Peoples and the House of Representatives jointly adopt all decisions; this greatly hinders their operation. A special kind of unicameral system would be introduced, whereby the House of Representatives would, for the most part, decide independently, while the House of Peoples would be involved in (i) the evaluation of laws adopted by the House of Representatives and relative to vital national interest of constituent peoples, (ii) in the decision-making regarding the adoption of constitutional amendments, and (iii) in the candidacy procedure for the election of the Presidency of Bosnia and Herzegovina. After the bicameral decision-making, the new constitutional order would be similar to the Belgian Constitution (Article 195), German Basic Law (Article 79, paragraph 2 GG), Austrian Federal Constitutional Law (Article 44, paragraph 2 B-VG) and the Spanish Constitution (Article 167).²¹

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¹⁹ See in particular the Chapter entitled "The Compatibility of the Constitution of Bosnia and Herzegovina with the European Convention on Human Rights and the European Charter of Local Self-Government" in the Venice Commission Opinion under footnote 10, 20–24.

²⁰ Rudi Kocjančič, Stabilisierungs- und Assoziierungsprozess auf dem Gebiet des ehemaligen Jugoslawien. *Zeitschrift für ausländisches öffentliches Recht und Völkerrecht*, 66 (2006), 439–440.

²¹ Thomas Gro, "Zwei-Kammer-Parlamente in der Europäischen Union," *Zeitschrift für ausländisches öffentliches Recht und Völkerrecht*, 63 (2003), 41–43.

However, the constitutional provision under which the House of Representatives decides by a majority of those present and voting will be retained, provided that the dissenting votes do not include two-thirds or more of the delegates or members elected from either Entity. At the same time, an existing constitutional provision would be kept; on the basis of this provision, any of the three constituent peoples may declare decisions of the Parliamentary Assembly to be destructive of a vital interest – by a majority of, as appropriate, the Bosniak, Croat, or Serb delegates – thus preventing the adoption of such decisions.²² On the basis of the first constitutional provision, two-thirds of delegates of the House of Representatives from either Entity – considering that there are nearly only Serbs living in one Entity and nearly only Bosniaks or Croats in the other – could block the adoption of any decision in the House of Representatives (“entity veto”), while on the basis of the second constitutional provision, each of the three constituent peoples could prevent the implementation of the decisions of the Parliamentary Assembly by declaring them destructive of a vital interest of these peoples (“ethnic veto”).²³ The vital interest veto has thus been designed much wider than the right of the other House to suspensive veto in the law adoption procedure, the same right being provided by the constitutions of, for instance, Austria (Article 42 B-VG), Germany (Article 76, paragraph 2 GG), Ireland (Article 23) and Slovenia (Article 97).²⁴

The entity right to veto is discriminatory to the delegates of the House of Representatives, particularly in making it systemically difficult for them to adopt decisions, while simultaneously eroding the legitimacy of the House. It is a distinctively dysfunctional and disintegrative constitutional provision.²⁵ Even the Bishops’ Conference of Bosnia and Herzegovina advocated for its abrogation on several occasions.²⁶ The Parliamentary Assembly of the Council of Europe also called upon the political circles in Bosnia and Herzegovina to endorse the immediate elimination of the “entity veto.”²⁷

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²² Preliminary Opinion on the Draft Amendments to the Constitution of Bosnia and Herzegovina (CDL(2006) 027), Council of Europe – European Commission for Democracy Through Law (Venice Commission), Strasbourg, 7 April 2006, particularly point 36 and points 39–41.

²³ See in particular: Kasim Trnka, *Ustavno pravo* (Sarajevo: Fakultet za javno upravo, 2006), 292–293. See also: Maja Kaljanac, Faris Vehabović and Nidžara Ahmetašević, *Proces ustavnih promena u BiH* (Sarajevo: Centar za ljudska prava, 2006), 43–45.

²⁴ See Thomas Gro, “Zwei-Kammer-Parlamente in der Europäischen Union,” *Zeitschrift für ausländisches öffentliches Recht und Völkerrecht*, 63 (2003), 41. See also Schambeck, Herbert. *Reflections on the significance of the bicameral parliamentary system*. Available at <http://www.senateurope.org/eng/28062002.html> (June 2011).

²⁵ See Cerar, Miro. *Bosnia and Herzegovina at the crossroads?* International Institute IFIMES, available at www.ifimes.org (June 2011).

²⁶ See *Oslobodjenje*. “Biskupska konferencija BiH potvrdila ranije stavove.” 27 October 2007.

²⁷ Constitutional reform in Bosnia and Herzegovina, Resolution 1513 (2006), Parliamentary Assembly of the Council of Europe, 29 June 2006, point 18.

Disregarding the political philosophy in “The Clash of Civilisations”;²⁸ it needs to be emphasised that Bosnia and Herzegovina is a multi-ethnic, multi-regional, multi-cultural and, to some extent, a multi-civilisational state.²⁹ Thus Bosniaks, Croats and Serbs already *per se* represent fundamental collective entities in the country, with distinctively different identities,³⁰ while in the Preamble of the Constitution, which is by its incorporation and nature a constituent part of the Constitution, they are defined as constituent peoples.³¹ Radical restriction or even full abolition of their right to veto would seriously endanger their equality and, consequently, the political stability in the country.³² Unfortunately, in professional circles, too – even in the Venice Commission opinion on the constitutional situation in this country³³ – there often appears a somewhat Austro-marxist conception of nationalities (K. Renner, O. Bauer), according to which the Bosniaks, Croats and Serbs in Bosnia and Herzegovina would only have the right to autonomy in the areas of language, education and culture. However, it is evident that ethnocratic elites are striving to retain the Entities’ right to veto and the constitutional option of its unrestricted use for the protection of vital interest when deciding on “any issue” (Amendment II.10.a/xii), which would enable them to maintain – even after the extension of responsibilities of State institutions and the introduction of the unicameral system – strategic advantage over central State institutions, above all over the operation of the House of Representatives as the representative body of citizens.

3 CONTOURS OF THE PARLIAMENTARY SYSTEM IN BOSNIA AND HERZEGOVINA

According to the constitutional arrangement – the whole constitutional text being by both diction and structure closer to the Anglo-Saxon legal tradition

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²⁸ Samuel P. Huntington, *Kampf der Kulturen: Die Neugestaltung der Weltpolitik im 21. Jahrhundert, 6th edition* (München: Goldman, 1998), 327–334.

²⁹ Joseph Marko, “Friedenssicherung im 21. Jahrhundert: Bosnien und Herzegowina als europäische Herausforderung,” in *Völker- und Europarecht, 25. Österreichischer Völkerrechtstag*, eds. Konrad Ginther et al (Vienna: Verlag Österreich, 2001), 55–61.

³⁰ Wolfgang Marcus Vitzthum and Marcus Mack, “Multiethnischer Föderalismus in Bosnien-Herzegowina,” in *Europäischer Föderalismus, supranationaler, subnationaler und multiethnischer Föderalismus in Europa*, ed. Von Wolfgang Graf Vitzthum (Berlin: Duncker und Humbold, 2000), 93–94.

³¹ On legal personality of the constituent peoples see Kasim Trnka, “Konstitutivnost naroda i uključivanje Bosne i Hercegovine u evropske integracije,” *Pravna misao, Časopis za pravnu teoriju i misao*, 35, 7–8 (2004), 18–21.

³² On the concept of Bosnia and Herzegovina as the state of citizens and equal peoples see Mirko Pejanović, “Provođenje amandmana o konstitutivnosti naroda u Federaciji BiH i Republici Srpskoj,” *Pravna misao, Časopis za pravnu teoriju i misao*, 35, 7–8 (2004), 4–7. See also Bebler, Anton. *Ob desetletnici pariških in dejtonskih sporazumov*. International Institute IFIMES, available at www.ifimes.org (1 February 2006).

³³ See Venice Commission Opinion under footnote 10, point 33.

rather than the European continental one – in Bosnia and Herzegovina, executive power is carried out by the Presidency and the Council of Ministers, whereby the secondary role of the Council of Ministers is visible from its incorporation in the Constitution, which stipulates its legal arrangements in one of the five points in the Article on the Presidency (Article V.4).³⁴ The Presidency of Bosnia and Herzegovina consists of three Members, one Bosniak, one Croat, and one Serb, each directly elected in each Entity; they perform the function of the Chair by rotation. The Presidency nominates the Chair of the Council of Ministers, who takes office upon approval by the House of Representatives. The Chair then nominates Ministers, who likewise take office upon approval by the House of Representatives. The Constitution stipulates that the Presidency, above all, conducts the foreign policy, negotiates the conclusion and termination of international treaties and – with the consent of the Parliamentary Assembly – decides on their ratification, executes decisions of the Parliamentary Assembly, and proposes the annual budget to the Parliamentary Assembly (Article V.3). According to a generalized constitutional provision, the Council of Ministers is responsible for the implementation of policies and decisions in the areas comprehensively listed in the Constitution as well as in those areas the responsibility for which is assumed by the central State on the basis of the provision on additional responsibilities (Article III.5).³⁵ The significance that the authors of draft amendments assigned to the constitutional arrangement of the executive power is evident from the limitation of powers of the Presidency in this area, particularly from the designation of the Council of Ministers as the institution of executive authority for the State of Bosnia and Herzegovina (Amendment IV, paragraph 1). In line with these amendments, the Presidency of Bosnia and Herzegovina would comprise the President and Vice President, elected under the new regime by a majority vote of those present and voting.³⁶ The Presidency as a whole would mainly have those responsibilities held by the head of state in countries with the parliamentary system, the innovation being that its President would also nominate the candidate for the Chair of the Council of Ministers. The Presidency as a whole would also decide on issues regarding the defence area, the appointment of Constitutional Court judges and members of the Governing Board of the Central Bank – in these three cases by consensus – but it could also request the convention of the Council of Ministers and a meeting of the Parliamentary Assembly, as well as the reassessment of adopted laws.

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³⁴ See Venice Commission Opinion under footnote 10, points 37–41.

³⁵ See Venice Commission Preliminary Opinion regarding the draft amendment to the State Presidency under footnote 10, particularly point 43.

³⁶ Opinion on Different Proposals for the Election of the Presidency of Bosnia and Herzegovina (CDLAD(2006)004), European Commission for Democracy Through Law (Venice Commission), Strasbourg, 20 March 2006.

It is also necessary to change four generalized paragraphs on the Council of Ministers in the present Constitution (Article V.4) and, above all, to comprehensively supplement them with an independent amendment that would arrange more precisely the establishment and composition of the Council of Ministers in this area, so that it would be similar to the governmental arrangements in the countries with the parliamentary system, while relinquishing the legal arrangement of the Council of Ministers to the House of Representatives, particularly the vote of no confidence and the vote of confidence to the Council of Ministers, to the legislation.

According to the proposal for the amendment of the constitutional arrangement of the Council of Ministers, the House of Representatives would approve the Chair of the Council of Ministers on a proposal by the Presidency, and – in the eventual second or third ballot – also on a proposal by at least one-sixth of the delegates of the House of Representatives. When designing its contents, the drafters of the proposal modelled themselves on the example of the German Basic Law, “*Musterverfassung*”,³⁷ which stipulates that the Federal Chancellor is elected by the Parliament at the proposal of the Federal President (Article 63, paragraph 1). According to constitutional theory, the dependence of the Head of Government on the Parliament is the foundation of the parliamentary government system.³⁸ On the basis of the German Basic Law, Spain, Ireland, Hungary, Slovenia, and Bulgaria also introduced the election of the Head of Government in the Parliament.³⁹

The proposal does not define a specific majority that would be necessary when voting for the approval of the Chair of the Council of Ministers. In line with general regulation, the House of Representatives would also confirm the Chair of the Council of Ministers by a majority of those present and voting (Article IV.3.d). In all countries in which the Head of Government is elected by the Parliament – and in other countries when taking a vote of confidence or no confidence on the government – a majority vote of all members of the Parliament is required on the first ballot.

In the second stage of the constitution of the Council of Ministers, at a proposal by the Chair of the Council of Ministers, the House of Representatives would confirm the list of candidates for Ministers, but if the proposed list would not be

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³⁷ Heinz Schäffer, “Deutschlands “Grundgesetz”: Vom Verfassungsprovisorium zur Musterverfassung,” in *Die öffentliche Verwaltung*, 12 (June 1999), 485–495.

³⁸ Georg Hermes, *Grundgesetz-Kommentar* (Tübingen: Mohr Siebeck, 1998), 118.

³⁹ Wolfgang Ismayr, “Die politischen Systeme Westeuropas im Vergleich,” in *Die politischen Systeme Westeuropas im Vergleich*, ed. Wolfgang Ismayr (Opladen: Leske-Budrich, 1999), 18; Wolfgang Ismayr, “Die politischen Systeme Westeuropas im Vergleich,” in *Die politischen Systeme Osteuropas*, ed. Wolfgang Ismayr (Opladen: Leske-Budrich, 2002), 27.

confirmed by the House of Representatives, the Chair of the Council of Ministers could submit a new list; his term of office, however, would expire, if the House of Representatives would not confirm the list of candidates within thirty days. Ministers would take office upon the approval of the House of Representatives. In line with the proposed regulation, the President of the Presidency would not be involved in the appointment and approval of Ministers.

The proposal under which the House of Representatives would decide on the appointment of the government Ministers is not similar to the constitution of the government in the countries with the parliamentary government system or in the countries with the traditional parliamentary system. As evidenced by the constitutional arrangements of European countries, it is only in Slovenia that the National Assembly (Slovenian Parliament) decides on the appointment of government Ministers. In line with the Slovenian Constitution – which (on the model of its German counterpart) provides for the election of the President of the Government in the National Assembly as well as the so-called constructive vote of no confidence – Ministers are appointed by the National Assembly at the proposal of the President of the Government (Article 112).⁴⁰

Professional circles in Slovenia are of the opinion that the appointment of Ministers by the National Assembly undermines the position of the President of the Government as well as hindering the formation of the government and negatively affecting the implementation of the principle of separation of powers.⁴¹ The fundamental difference between the role of the German Federal Chancellor in establishing the government and the role of the Slovenian President of the Government is that after his election and appointment, the Federal Chancellor effectively decides on the establishment of the Federal Government, while (upon election) the Slovenian President of the Government receives only the mandate to propose candidates for Ministers, their appointment being decided by the National Assembly. In Slovenia, three governments of different political affiliations have in recent years advocated the abolition of decision-making on the appointment of Ministers in the National Assembly; in line with the latest government proposal, the Constitution would be amended so that the President of the Republic would also appoint the Ministers at the proposal by

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⁴⁰ Ivan Kristan, "Verfassungsentwicklung Sloweniens," in *Jahrbuch des öffentlichen Rechts der Gegenwart*, ed. Peter Häberle (Tübingen: J.C.B. Mohr, 1994), 82. Franc Grad, "Government," in *The Constitutional System of the Republic of Slovenia*, ed. Igor Kaučič (Ljubljana: SECLI, 2002), 135–136. See also Franc Grad, *Parlament in vlada* (Ljubljana: Uradni list Republike Slovenije, 2000), 279–280. Gregor Virant, "Vlada," in *Komentar Ustave Republike Slovenije*, ed. Lovro Šturm (Ljubljana, Fakulteta za podiplomske državne in evropske študije, 2002), 849–851.

⁴¹ Matevž Krivic, "Vlada," in *Nova ustavna ureditev Slovenije*, ed. Ivan Bele (Ljubljana: Pravna fakulteta, 1992), 195–196. See also Franc Grad, "Posebnosti parlamentarnega sistema v naši pravni ureditvi," in *VI. dnevi slovenske uprave* (Ljubljana, Portorož: Visoka upravna šola, 1999), 24–26.

the President of the Government elected by the National Assembly.

Double voting in the House of Representatives of Bosnia and Herzegovina – first on the approval of the Chair of the Council of Ministers and then on the approval of the list of candidates for Ministers – would only make the establishment and operation of the Council of Ministers more difficult due to the “Weimar-like” division of the House in questions as well as general political divisions in the country.

The working draft of the amendment on the Council of Ministers prepared by the expert group of the Presidency on the tenth anniversary of the Dayton Agreement also foresaw the legal arrangement of the vote of confidence and the vote of no confidence to the Council of Ministers. According to this proposal, the competencies of the Council of Ministers will be regulated by law (Amendment IV.7.a). As already observed by the Venice Commission, the issue of the regulation of the accountability of the Council of Ministers to the House of Representatives is of such importance – as also evidenced by the constitutional arrangements of government competencies in other countries – that at least the vote of no confidence and the vote of confidence to the Council of Ministers should already be dealt with in constitutional amendments.⁴²

What is unusual here is that regarding the anticipated confirmation of the Chair of the Council of Ministers in the House of Representatives, the writers modelled themselves on the elections of the Federal Chancellor in the German Parliament, and on the countries with the traditional parliamentary system, regarding the envisaged regulation of the vote of no confidence to the Council of Ministers. In line with the anticipated approval of the Chair of the Council of Ministers in the House of Representatives, it would be more consistent to also adopt the constructive vote of no confidence based on the German example.

According to the German Basic Law, under which the legislative regulation of Federal Government is designed as a kind of “counter-Constitution against the Weimar Constitution” (“Gegenverfassung zu Weimarer Verfassung”)⁴³, the election of the Federal Chancellor by the Parliament and the constructive vote of no confidence in the Federal Chancellor are the main pillars of the parliamentary government system designed by the Parliamentary Council so as to avoid unstable and incompetent governments in Germany following the negative

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⁴² See Preliminary Opinion of the Venice Commission regarding the draft amendment related to the Council of Ministers at footnote 10, point 73.

⁴³ Peter Häberle, *Ustavna država* (Zagreb: Politička kultura, 2002), 247.

experience with the Weimar Constitution.⁴⁴ The institute of constructive vote of no confidence was mainly adopted by the countries that introduced the election of the Head of Government in the Parliament (e.g. Spain, Hungary, Slovenia).⁴⁵ The professional public is of the opinion that a constructive vote of no confidence has a different impact on government stability in different countries.⁴⁶ As evidenced by the parliamentary practice, government stability depends mainly on the electoral and political party system; therefore, in Germany the stability of the Federal Government does not depend primarily on the vote of no confidence, but is (above all) the result of the combined electoral system and a high concentration of parliamentary parties.⁴⁷ Despite the introduction of the constructive vote of no confidence, in Slovenia, too, the issue of abandoning the proportional system, introducing the combined electoral system, and indirectly strengthening government stability by limiting the number of political parties in the Parliament is becoming increasingly pertinent.⁴⁸ In Bosnia and Herzegovina, the issue of the electoral and thus also political party system – in a substantive law sense – represents one of the core issues of constitutional reform.

4 BOSNIA AND HERZEGOVINA AND THE EUROPEAN UNION

In the present stage of stabilisation and association with the European Union, the main strategic priorities of Bosnia and Herzegovina as a member of the Council of Europe and a potential candidate country for the accession to the European Union are (i) to amend the constitutional provision regarding the elections to the House of Peoples as the second chamber of the Parliamentary Assembly (Article IV, paragraph 1) as well as the constitutional provision regarding the elections to the Presidency of Bosnia and Herzegovina (Article V, paragraph 1),

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⁴⁴ Roman Herzog, *Grundgesetz. Kommentar*. (München: Beck, 1993), Art. 63, Rn. 6. See also Klaus von Beyme. *Das politische System der Bundesrepublik Deutschland (10th Ed.)* (Wiesbaden: VS Verlag für Sozialwissenschaften GW V-Fachverlag GmbH, 2004), 261.

⁴⁵ Pedro Cruz Villalón, "Bericht Spanien," in *Das Grundgesetz im internationalen Wirkungszusammenhang der Verfassungen: 40 Jahre Grundgesetz*, ed. Ulrich Batist (Berlin: Duncker und Humbol, 1990), 102–103. See also Wolfgang Ismayr, "Die politischen Systeme Westeuropas im Vergleich," in *Die politischen Systeme Osteuropas*, ed. Wolfgang Ismayr (Opladen: Leske-Budrich, 2002), 30.

⁴⁶ Christian Starck, "Generalbericht," in *Grundgesetz und deutsche Verfassungssprechung im Spiegel ausländischer Verfassungsentwicklung: Landesberichte und Generalbericht der Tagung für Rechtsvergleichung 1989 in Würzburg*, ed. Christian Starck (Baden-Baden: Nomos Verl.-Ges., 1990), 32–33.

⁴⁷ Konrad Hesse, *Grundzüge des Verfassungsrechts der Bundesrepublik Deutschland* (Heidelberg: Müller Verlag 1995), 240. See also Klaus von Beyme. *Das politische System der Bundesrepublik Deutschland (10th Ed.)* (Wiesbaden: VS Verlag für Sozialwissenschaften GW V-Fachverlag GmbH, 2004), 90.

⁴⁸ Ciril Ribičič, "Uravnoteženost političnega zastopstva v parlamentu," in *VII. dnevi javnega prava* (Portorož: Inštitut za javno upravo, 2002), 221–222.

and (ii) to adopt the constitutional amendments necessary for the assumption and fulfilment of obligations arising from the process of its association with the European Union. In light of the imminent granting of the status of a candidate country to Bosnia and Herzegovina, a relevant issue is the adoption of the constitutional changes that are necessary for defining the constitutional basis for its decision on the accession to the European Union.

Specifically, the Parliamentary Assembly of the Council of Europe has, in collaboration with the Venice Commission, called upon Bosnia and Herzegovina on several occasions to amend the constitutional provision regarding the elections to the Presidency of Bosnia and Herzegovina, under which the Presidency consists of one Bosniak, one Croat, and one Serb (Article V, paragraph 1), and the constitutional provision that stipulates that the House of Peoples of the Parliamentary Assembly comprises only Bosniak, Croat and Serb Delegates, since these two constitutional provisions clearly discriminate against "others" who are not members of the constituent peoples (Article IV, paragraph 1).⁴⁹ The appeals are all the more pertinent and conspicuous following the judgement of the Grand Chamber of the European Court of Human Rights, which in the case of *Sejdić and Finci v. Bosnia and Herzegovina* in 2009 ruled that the constitutional provision under which "others" are ineligible to stand for election to the House of Peoples is in violation of Article 3 of Protocol No. 1 to the European Convention on Human Rights and Fundamental Freedoms (ECHR), which recognizes the right to free and fair elections, as well as Article 14 of the ECHR, which prohibits discrimination; at the same time, the constitutional provision which renders "others" ineligible for election to the Presidency is in breach of Article 1 of Protocol No. 12 to the ECHR, which introduces a general prohibition of discrimination.⁵⁰ The weight of the infringement of the rights of "others" is evident from the constitutional provision according to which the House of Peoples and the House of Representatives decide on equal footing on the adoption of laws (Article IV, paragraph 4), as well as from the constitutional provision under which the Presidency has much greater responsibilities than the Head of State in the parliamentary system (Article V, paragraph 3).⁵¹

In the case of *Sejdić and Finci v. Bosnia and Herzegovina*, the Court ruled for the first time on the direct incompatibility of the constitutional provision of one of the Member States of the Council of Europe with the ECHR, basing its jurisdiction on Bosnia and Herzegovina's membership in the Council of Europe and its ratification of the ECHR, while indirectly also referring to the second

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⁴⁹ Constitutional reform in Bosnia and Herzegovina – Council of Europe Resolution 1513/2006; Honouring of obligations and commitments by Bosnia and Herzegovina - Resolution 1626(2008).

⁵⁰ Case of *Sejdić and Finci v. Bosnia and Herzegovina* (Applications nos. 27996/06 and 34836/06).

⁵¹ Gro Nystuen, *Achieving Peace or Protecting Human Rights? Conflicts between Norms Regarding Ethnic Discrimination in the Dayton Peace Agreement* (Leiden/Boston: Martinus Nijhoff, 2005), 135.

paragraph of Article II of the Constitution of Bosnia and Herzegovina, which stipulates that the rights and freedoms set forth in the European Convention and its Protocols apply directly and that they have "priority over all other law".⁵² Upon becoming a member of the Council of Europe and the ratification of the ECHR as well as the Stabilisation and Association Agreement in 2008, Bosnia and Herzegovina committed itself to amending electoral legislation regarding members of the Bosnia and Herzegovina Presidency and House of Peoples delegates to ensure full compliance with the European Convention on Human Rights within one or two years.⁵³

The Court also agreed with the opinion of the Venice Commission, which took part as *amicus curiae* in the examination of the appeals lodged by Dervo Sejdić and Jakob Finci, that "there exist mechanisms of power-sharing which do not automatically lead to the total exclusion of representatives of the other communities"⁵⁴ as well as that it "remains legitimate to try to design electoral rules ensuring appropriate representation for various groups".⁵⁵ Yet despite critical opinions on the constitutional provision regarding the elections to the House of Peoples as well as the constitutional provision regarding the elections to the Presidency, neither the Parliamentary Assembly of the Council of Europe nor the Venice Commission put forward more tangible directions for the amendment of constitutional provisions regarding the elections to the above-mentioned state bodies.⁵⁶

In line with the opinion of the Venice Commission, it would be preferable to gradually abolish the House of Peoples, to restructure the House of Representatives into a unicameral legislative body and to move the exercise of the vital interest veto to the House of Representatives.⁵⁷ However, as is already apparent from the political and constitutional structure of Bosnia and

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⁵² On the interpretation of the expression "priority over all other law" see Christian Steiner and Nedim Ademović, *Ustav Bosne i Hercegovine, komentar. Article II/1-7* (Sarajevo: Fundacija Konrad Adenauer, 2010), 142–143. Taris Vehabović, *Odnos Ustava Bosne i Hercegovine i Evropske konvencije za zaštitu ljudskih prava i osnovnih sloboda* (Sarajevo: ACIPS, 2006), 91–92; see also Odluka Ustavnog suda Bosne i Hercegovine u Predmetu broj U 5/04, Official Gazette of Bosnia and Herzegovina No 49/06.

⁵³ Council Decision of 18 February 2008 on the principles, priorities and conditions contained in the European Partnership with Bosnia and Herzegovina and repealing Decision 2006/55/EC (2008/211/EC).

⁵⁴ Case of *Sejdić and Finci v. Bosnia and Herzegovina*, point 48 of the judgement.

⁵⁵ Council of Europe, European Commission for Democracy through Law (Venice Commission). 2005. *Opinion on the constitutional situation in Bosnia and Herzegovina and the powers of the High Representative*. Strasbourg, point 75.

⁵⁶ Sanja Bogdanović, "Perspektive ravnopravnosti ,ostalih," *Puls demokratije*, 15 July (2008), 17.

⁵⁷ Council of Europe, European Commission for Democracy through Law (Venice Commission). 2005. *Opinion on the constitutional situation in Bosnia and Herzegovina and the powers of the High Representative*. Strasbourg, points 35 and 36.

Herzegovina, which includes the constitutional peoples, along with "Others," as a special constitutional category in addition to the citizens, the abolition of the House of Peoples would already be questionable in principle.⁵⁸ Specifically, the discrimination against "Others" could be eliminated simply by electing from the Federation of Bosnia and Herzegovina to the House of Peoples – apart from five Bosniaks and five Croats – also one or two Serbs and one representative of ethnic or other minorities, and from the Republika Srpska – apart from five Serbs – also one or two Bosniaks and Croats and one or two representatives of ethnic minorities, while at the same time the House of Peoples of the Parliamentary Assembly of the Federation of Bosnia and Herzegovina and the House of Peoples of the Republika Srpska would elect delegates on the proposal by the club of constituent peoples and the club of "Others." The second option is to recognize a special voting to "Others" in the House of Representatives and ensure their proportional representation in this House as well as a special constitutional provision for the protection of their rights. In doing so, the Slovenian Constitution, which stipulates that laws, regulations, and other general legal acts that concern the exercise of the constitutionally provided rights and the position of the national communities exclusively, may not be adopted without the consent of representatives of these national communities (Article 64, paragraph 5), could be taken as a reference point.⁵⁹

The second strategic priority of Bosnia and Herzegovina in the present stage of its association with the European Union is to adopt the constitutional amendments necessary for the assumption and fulfilment of obligations arising from the process of its association with the European Union. By signing and ratifying the Stabilisation and Association Agreement with the EU in 2008, Bosnia and Herzegovina legally committed itself to approximating its legislation to that of the European Community or European Union (paragraph 13 of the Preamble in connection with Article 1, second point).⁶⁰ A crucial precondition for the fulfilment of this commitment is the allocation of responsibilities between central state and the Entities by constitutional amendments in the areas relating to the European Union. This is especially urgent in the field of the regulation of the movement of workers, the provision of services and capital movement.

According to the opinion of the Venice Commission, the State level should have exclusive competencies with regard to matters concerning the European Union.⁶¹ This Commission further states that "[t]he State shall ensure compliance with

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⁵⁸ Šahbaz Džikanović, "Platforma za novi Ustav Bosne i Hercegovine," *Bulletin for Legal Theory and Practice*, 36, 5–6 (2005), 15–16.

⁵⁹ Paragraph 5 of Article 64 of the *Constitution of the Republic of Slovenia*, Official Gazette of the Republic of Slovenia, No 33/91.

⁶⁰ Council Regulation (EC) No 594/2008.

⁶¹ See Opinion of the Venice Commission at footnote 10, point 26.

the principles, priorities, and demands set forth by the European Union in the phases before and after accession.”⁶² Ensuring “compliance with the principles, priorities, and demands” in the area of EU-related matters is, by all means, one of the exclusive competencies of the State level. However, the issues in this field are much more complex. Specifically, given its social and political structure, Bosnia and Herzegovina cannot constitute itself either as a traditional federation nor a centralised state. Certain competencies of the Entities in the area of EU-related matters would also strengthen the legitimacy and integrity of its authority. The adoption of constitutional changes in this direction was also indirectly supported by the European Parliament in its 2010 Resolution on the situation in Bosnia and Herzegovina, in which it called for the regulation of the relationship between the central State and the Entities based on the principle of subsidiarity.⁶³

Another issue needs to be considered here: the constitutional arrangement of the potential co-operation of the two Entities when considering those EU proposals that could significantly affect the competencies of the Entities or be prejudicial to their exclusive competencies.⁶⁴ The Treaty establishing the European Community already provided for the possibility that the authorised Line Minister of Federal Units could attend Council meeting on behalf of Member States (Article 203). This provision is also included in the consolidated version of the Treaty on European Union (Article 16, point 2).⁶⁵ The question is if, based on this provision, the authorised Line Ministers of the two Entities could also attend Council meetings.

In the first or second stage of constitutional reform, Bosnia and Herzegovina should also determine the constitutional basis for the decision on accession to the European Union. In this regard, it has (like other countries) two main possibilities: to adopt the abstract or generalised approach according to which it would allow the transfer of part of its sovereign rights to international organisations, thus implicitly also to the European Union, or the concrete or casuistic approach in line with which it would explicitly transfer part of its sovereign rights to the

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⁶² European Commission for Democracy Through Law (Venice Commission), *Report on the participation of political parties in elections*, CDL(2006)025 (16 March 2006).

⁶³ See *Resolution on the situation in Bosnia and Herzegovina*, point 14 of the Chapter on the constitutional reform and the reform of the judiciary.

⁶⁴ Mile Dmičić, “Bosna i Hercegovina kao državna zajednica sui generis - privremeno rešenje ili model za budućnost,” *Analiz Pravnog fakulteta u Beogradu*, 58, 1 (2010), 226–227.

⁶⁵ See Official Journal of the European Union, *Consolidated versions of the Treaty on European Union and the Functioning of the European Union*, OJ C 83, 30 March 2010. Available at <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2010:083:0013:0046:EN:PDF> (June 2011).

European Union.⁶⁶ Given the previous and anticipated role of the European Union prior to the accession of Bosnia and Herzegovina to this organisation, as well as the fact that even after its accession to the European Union, further involvement of this organisation will be required in its internal social and political consolidation as well as stabilisation, it would be logical and sensible to apply the concrete or casuistic approach when defining the constitutional basis for its decision on accession to the European Union. At the same time, Bosnia and Herzegovina should by means of constitutional amendments define the constitutional basis for legislative and procedural regulation of the relationship between the Parliamentary Assembly and the Council of Ministers. After the supplementation of the Protocol (No 2) on the Application of the Principles of Subsidiarity and Proportionality to the revised Treaty on European Union, which strengthened the role of national Parliaments in this organisation, the definition of the legal relationship between these two state bodies would be even more urgent.⁶⁷ Similarly, following the supplementation of the principle of subsidiarity in the Treaty on European Union, which in addition to Union and central levels also includes regional and local levels,⁶⁸ (Article 5, point 3), it would also be necessary to define in a particularly responsible and sensible way the legal relationship between the central State, two Entities and cantons in the execution of shared responsibilities of the European Union.

5 CONCLUSION

Despite the fact that prior to the last year's October elections, by means of special resolutions the European Parliament and the Parliamentary Assembly of the Council of Europe had forcefully called upon Bosnia and Herzegovina to adopt the appropriate constitutional changes, and despite the fact that the Stabilisation and Association Agreement between the EU and Bosnia and Herzegovina has also been published in the Official Journal of the European Union, none of the State institutions or political elites again proposed to adopt constitutional changes. At the May, 2011 session of the UN Security Council, Valentin Inzko, High Representative of the International Community in Bosnia and Herzegovina, stated that Bosnia and Herzegovina is facing its worst political crisis since the Dayton Peace Agreement. The current political situation is also very well illustrated by the title "Progress, Stagnation or Regression?" of

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⁶⁶ For more information see Rudi Kocjančič, "3. a člen kot evropski člen Ustave Republike Slovenije," in *Petnajst let uresničevanja Ustave Republike Slovenije*, ed. Igor Kaučič (Ljubljana: Pravna fakulteta, 2007), 92–96. See also Rudi Kocjančič, "Ustavni osnov za odločevanje o pristupanju Slovenije Evropskoj uniji", *Anali Pravnog fakulteta u Beogradu*, 53, 1 (2005), 114–119.

⁶⁷ Protocol (No 2) on the Application of the Principles of Subsidiarity and Proportionality, see, in particular, Articles 5 and 6.

⁶⁸ Official Journal of the European Union, *Consolidated version of the Treaty on European Union*, OJ C 83, 30 March 2010, article 5, point 3. Available at <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2010:083:0013:0046:EN:PDF> (June 2011).

the important international conference on Western Balkans that took place in Sarajevo in mid-June. In fact, the first half of 2011 was a time of political crisis, especially due to the constitutionally questionable formation of the Government of the Federation of Bosnia and Herzegovina and the fact that the House of Representatives and the House of Peoples of Bosnia and Herzegovina – due to political obstructions and blockades by monoethnic political parties – were formed a full eight months after the October elections, and the Council of Ministers nearly nine months after those elections. Political circles were also stirred by the April decision of the National Assembly of Republika Srpska on the call of a referendum in which the electoral body of this Entity would vote against the Prosecutor's Office Law and the Law on the Court of Bosnia and Herzegovina as well as in favour of the limitation of the Bonn powers of the High Representative of the International Community; however, the European Union politically prevented its execution.

In conclusion, it can be observed that Bosnia and Herzegovina will not adopt the constitutional amendments without an authoritative and intense intervention by the international community, especially the European Union.

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DELIBERATION AND ONLINE PARTICIPATION: THE CASE OF THE SLOVENIAN PORTAL "I PROPOSE TO THE GOVERNMENT"

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In November 2009, the Slovenian government implemented a new participatory tool called "Predlagam vladi" ("I propose to the government") in order to include citizens in the governmental policy process, which aimed to increase active citizen participation and connect citizens and civil society with the government. At a declarative level of the proponent (the government), the use of this e-tool promotes inclusion, openness, accessibility, and deliberative communication. Although the web portal received almost no publicity in the mass media, citizens largely grasped the new opportunity for broader access to the policy process. This study focuses mainly on the deliberative character of the governmental portal on three specific levels: structure and architecture, openness to citizens, and concrete proposals and comments. By critically evaluating deliberative communication and the role of new media in such practical projects, the authors explain how these new opportunities are limited and, by debating deliberation and public sphere, determine important obstacles that prevent such projects from being deliberately effective.

I INTRODUCTION

Democratic theory has undergone profound alterations and since the 1990s, with the so-called deliberative turn, many authors have switched their focus

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to the deliberative model of democracy. Like many other democratic models, deliberative democracy aims to increase the quality of democracy, particularly by encouraging its participatory potentials, which can provide an increase in political legitimacy.² The reflexive aspect can be considered a crucial part of the deliberative process; that is, participants not only express their views, but are also (at least ideally) prepared to transform their opinions because of informed deliberation in the public sphere. It is the public sphere that serves as a basis for political legitimacy in this normative approach to democracy; according to Habermas, this is where issues and public problems are detected. They are presented through “communicatively generated power,” and while public opinion can never rule for itself, it should be able to influence administrative power to work in specific ways.³

One of the main practical deficiencies plaguing this approach is related to the actually existing media system, which is mostly regarded as a key component connecting the public sphere and public with the political system. Media can be viewed as highly selective in choosing media topics and news content in contemporary capitalism. Structurally speaking, they are not necessarily working in the name of public or common concern, but in a very particularistic manner—for example, on narrow popularity demands or cost-efficiency logic.⁴ Therefore, it can be considered urgent to determine new ways to exert influence on the political system. The Internet has been heralded as a medium that can provide several new direct channels of influence, but the public on the Web are very fragmented and, as a result, politically less effective. Under certain conditions, however, we believe the public on the Web could possibly exhibit participatory potentials using new information and communication technologies (ICTs), which is where the “I propose to the government” (i.e. IPG, “Predlagam vladì”) e-tool could play a significant role.

In contrast to the initial warnings that technologically supported tele-voting, electronic town halls, tele-polling, and tele-referenda do not fulfill the conditions necessary for time-consuming deliberative processes and may even diminish

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² David Held, *Models of Democracy* (Cambridge, Malden: Polity Press, 2006), 231–255.

³ Jürgen Habermas, “Three normative models of democracy,” in *Democracy and difference: Contesting boundaries of the political*, ed. Seyla Benhabib (Princeton: Princeton Press, 1996). For a more detailed description, see Jürgen Habermas, *Between facts and norms: contributions to a discourse theory of law and democracy* (Cambridge, Massachusetts: Polity Press, 1996) and his latest conceptualization of the public sphere: Jürgen Habermas, “Political Communication in Media Society: Does Democracy still have an Epistemic Dimension?” in *Europe: The Faltering Project* (Cambridge, Malden: Polity Press, 2009).

⁴ See for example Robert McChesney, *The Political Economy of Media: Enduring Issues, Emerging Dilemmas* (New York: Monthly Review Press, 2008).

the quality of democratic processes in modern society,⁵ recent studies have attempted to provide the necessary theoretic foundations for e-tools that could fulfill normative expectations of deliberative democracy. From simple mechanisms of voting systems, the focus has been shifted toward the emergence of new participatory forms supported by interactive technologies.⁶ This recent shift depends on the changing circumstances in the development of ICTs. Since the early 1990s, a rapid expansion of computer-mediated communication practices has flourished, which has posed an important issue: whether the Internet can foster the deliberative type of communication between citizens and the government. As Hale, Musso, and Weare argue, the first evidence has been less encouraging—deliberative communication by electronic means may be difficult to sustain, although the Internet, at least in theory, creates the opportunity to improve communications and reconnect citizens with their representatives.⁷ Every different voice and judgment is not necessarily given an opportunity to be represented and included in deliberation in computer-mediated forums.⁸

Electronic tools like IPG might be useful in such situations. Issues that may not previously be publicly visible because of different reasons, including deficiencies of traditional media, can gain prominence when promoted through these types of e-tools, as they become widely available for discussion and evaluation by anyone interested in them. This effort could also be regarded as one of the first practical attempts to democratize the link between citizens and the Slovenian government through the use of the Web's emancipatory potentials. Previous attempts of different governments and party coalitions of various backgrounds have at best aimed at transferring the pre-existing services of public administration onto the Web, which eased administrative processes, but made little to no difference with respect to democratization of the political process. Therefore, attempts to incorporate e-participatory tools have, for various reasons, been mostly ignored before the implementation of the IPG e-tool, which makes it even more important, as it represents a novel and innovative attempt to bring citizens closer to the decision-making process. Through the assistance of this e-tool, citizens could ideally deliberate on important issues of public importance and admit their suggestions into the legislative process, which could contribute

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⁵ See Christopher F. Arterton, *Teledemocracy: Can technology protect democracy?* (Newbury Park: Sage, 1987); Jeffrey B. Abramson et al, *The Electronic Commonwealth* (Cambridge: Harvard, 1988).

⁶ See for instance Stephen Coleman and Jay Blumer, *The Internet and Democratic Citizenship: Theory, Practice, and Policy* (Cambridge: Cambridge University Press, 2009).

⁷ Matthew Hale et al, "Developing digital democracy: evidence from Californian municipal web pages," in *Digital Democracy: Discourse and Decision Making in the Information Age*, ed. Barry N. Hague and Brian D. Loader (London, New York: Routledge, 1999), 106.

⁸ Anthony G. Wilhelm, *Democracy in the Digital Age: Challenges to Political Life in Cyberspace* (London: Routledge, 2000).

toward the implementation of more effective policies, improve their legitimacy, and potentially empower citizens for an active and more informed participation.

2 DELIBERATIVE DEMOCRATIC THEORY AND NEW MEDIA

Deliberation is not a new political phenomenon. It can be traced back to Ancient Greece, where it was considered an essential part of democracy; later, it was perhaps most profoundly advocated by American pragmatist John Dewey.⁹ In addition to the legitimacy crisis of liberal institutions, which has recently led to a severe crisis of the representative model of democracy, tenets of deliberative democracy should be tracked back to the new social movements in the 1960s, which provided a serious critique of political elitism and the technocratic state. As an integral model of democracy, deliberative democracy was nevertheless not constituted before the 1990s,¹⁰ when increased interest in participatory forms of democracy were also pushed by the rise of new ICTs, especially the Internet. New technology was celebrated as the most democratic to date, instantly prompting debates of digital, electronic, and cyber-democracy¹¹—terms that became synonymous with direct political participation and with the lessening of discrepancies between citizens, civil society, and formal political institutions.¹²

Even though it became quickly obvious that politics in the virtual world were mostly a reflection of the “real world” politics,¹³ evaporating utopian dreams of significant transformations in traditional political institutions, the Internet has brought about many changes, especially outside the formal political arenas.¹⁴ In the last decade, the switch in theoretical comprehension regarding democracy has paved the way for continuous debates about prospects for deliberative

⁹ See for example John Dewey, *The Public and its Problems* (Ohio: Ohio University Press, 1989).

¹⁰ James Bohman and William Rehg, “Introduction,” in *Deliberative democracy: essays on reason and politics*, ed. James Bohman and William Rehg (London, Cambridge: The MIT Press, 1997); Jon Elster, “Introduction,” in *Deliberative Democracy*, ed. Jon Elster (Cambridge: Cambridge University Press, 1998); John Dryzek, *Deliberative Democracy and Beyond: Liberals, Critics, Contestations* (Oxford: Oxford University Press, 2002).

¹¹ Tanja Oblak, *Izzivi e-demokracije* (Ljubljana: Fakulteta za družbene vede, 2003).

¹² Barry N. Hague and Brian D. Loader (eds.), *Digital Democracy: Discourse and Decision Making in the Information Age* (London, New York: Routledge, 1999); Kenneth L. Hacker and Jan A.G.M. Van Dijk (eds.), *Digital democracy: issues of theory and practice* (London, Thousand Oaks, New Delhi: Sage, 2000); Cynthia J. Alexander and Leslie A. Pal (eds.), *Digital Democracy: Policy and Politics in Wired World* (Oxford: Oxford University Press, 1998); Kevin A. Hill and John E. Hughes, *Cyberpolitics: Citizen Activism in the Age of the Internet* (Lanham: Rowman & Littlefield Publishers, 1998).

¹³ David Resnick, “Politics on the Internet: The Normalization of Cyberspace,” in *The Politics of Cyberspace*, ed. Chris Toulouse and Timothy W. Luke (New York, London: Routledge, 1998).

¹⁴ Sara Bentivegna, “Rethinking politics in the world of ICTs,” *European Journal of Communication* 21, 3 (2006), 334–336.

democracy, especially with the rise of “virtual” or “web” public spheres, and about hindrances that could constrain these developments.

Many vast differences exist between the authors who discuss deliberative democracy; however, Elster points out that “the notion includes collective decision making with the participation of all who will be affected by the decision of their representatives: this is the democratic part. Also, all agree that it includes decision making by means of arguments offered *by* and *to* participants who are committed to the values of rationality and impartiality: this is the deliberative part.”¹⁵ According to Dryzek, “the only condition for authentic deliberation is then the requirement that communication induce reflection upon preferences in non-coercive fashion. This requirement in turn rules out domination via the exercise of power, manipulation, indoctrination, propaganda, deception, expressions of mere self-interest, threats (of the sort that characterize bargaining), and attempts to impose ideological conformity.”¹⁶

In a similar manner, Bohman and Rehg stress that “deliberative democracy refers to the idea that legitimate lawmaking issues from the public deliberation of citizens. As a normative account of legitimacy, deliberative democracy evokes ideals of rational legislation, participatory politics, and civic self-governance.”¹⁷ Deliberative democracy is therefore formed through social and intersubjective communication, not simply by aggregation, as in voting, or by negotiations and bargaining between different groups.¹⁸ This is supposed to pave the way for deeper forms of democracy or, in the words of Benjamin Barber, a path toward strong democracy, where democracy is a never-ending process of communication, not simply a given set of political institutions: “In strong democracy, politics is something done *by*, not *to*, citizens.”¹⁹ Even though there are several differences between theoretical approaches toward deliberation, they mostly narrow down when they are transferred from the level of abstract questions into concrete matters of everyday practice.²⁰

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¹⁵ Jon Elster, “Introduction,” in *Deliberative Democracy*, ed. Jon Elster (Cambridge: Cambridge University Press, 1998), 8.

¹⁶ John Dryzek, *Deliberative Democracy and Beyond: Liberals, Critics, Contestations* (Oxford: Oxford University Press, 2002), 1–2.

¹⁷ James Bohman and William Rehg, “Introduction,” in *Deliberative democracy: essays on reason and politics*, ed. James Bohman and William Rehg (London, Cambridge: The MIT Press, 1997), ix.

¹⁸ Jon Elster, “Introduction,” in *Deliberative Democracy*, ed. Jon Elster (Cambridge: Cambridge University Press, 1998), 5–6. See also Archon Fung and Erik Olin Wright, “Thinking about Empowered Participatory Governance,” in *Deepening Democracy: Institutional Innovations in Empowered Participatory Governance*, ed. Archon Fung and Erik Olin Wright (London, New York: Verso, 2003), 3.

¹⁹ Benjamin R. Barber, *Strong Democracy: Participatory Politics* (Berkeley, Los Angeles, London: University of California Press, 2003/1984), 113.

²⁰ See Archon Fung and Erik Olin Wright, “Thinking about Empowered Participatory Governance,” in *Deepening Democracy: Institutional Innovations in Empowered Participatory Governance*, ed. Archon Fung and Erik Olin Wright (London, New York: Verso, 2003).

2.1 *Deliberation as a communicative process*

Several studies concentrate on political changes in different political institutions by focusing on the realization of deliberative processes through the uses of ICTs, for example, in government, parliament, or political parties.²¹ These studies, however, generally suffer from an important weakness: lack of a clear definition of "deliberative democracy." We have to infer the meaning of the concept from their assumptions, theses, or interpretations of their findings. Thus, a reference back to the "theory of democracy" becomes especially important:

The essence of democracy itself is now widely taken to be deliberation, as opposed to voting, interest aggregation, constitutional rights or even self-government. The deliberative turn represents a renewed concern with the authenticity of democracy, which means that deliberative democracy's welcome for forms of communication is conditional.²²

The notion of deliberative democracy is essentially built around the idea "that democracy revolves around transformation rather than simply the aggregation of preferences,"²³ and it owes a considerable amount of its impetus to the political philosophies of Jürgen Habermas and John Rawls. To establish a deliberative form of democracy implies connecting the decision-making processes with a prior discussion of the arguments, consequences, and benefits. The call for more deliberation is, as argued by Bohman, "a demand for a more rational political order in which decision making at least involves the public use of reason. According to this position, the legitimacy of decisions must be determined by the critical judgment of free and equal citizens."²⁴ A wide circle of participants (the wider the better) should enter this process. Through such a discussion, their preferences can be heard, challenged, acknowledged, and also transformed.

The fact that there is a discussion of certain issues legitimizes the resulting decisions. Deliberation is a way of linking a plurality of political preferences with outcomes of political decisions; it includes discussion and transforms it into political decision-making. Conceptualization of deliberation should thus

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²¹ See for instance Richard Davis, *The Web of Politics: The Internet's Impact on the American Political System* (Oxford: Oxford University Press, 1999); Stephen Coleman, "Cutting Out the Middle Man: From Virtual Representation to Direct Deliberation," in *Digital Democracy: Discourse and Decision Making in the Information Age*, ed. Barry N. Hague and Brian D. Loader (London, New York: Routledge, 1999); Stephen Coleman et al (eds.), *Parliament in the Age of the Internet* (London: Routledge, 1999); Matthew Hale et al, "Developing digital democracy: evidence from Californian municipal web pages," in *Digital Democracy: Discourse and Decision Making in the Information Age*, ed. Barry N. Hague and Brian D. Loader (London, New York: Routledge, 1999).

²² John Dryzek, *Deliberative Democracy and Beyond: Liberals, Critics, Contestations* (Oxford: Oxford University Press, 2002), 1.

²³ Jon Elster, "Introduction," in *Deliberative Democracy*, ed. Jon Elster (Cambridge: Cambridge University Press, 1998), 1.

²⁴ James Bohman, *Public Deliberation* (London, Cambridge: The MIT Press, 2000), 2.

encompass both the process and its results. It should also include a particular kind of setting; since it is tied to publicity, free speech, reasoning, and argued claims, it is necessary to distinguish a specific type of deliberation: "Deliberation in democracies is interpersonal in a specific, political sense: it is public."²⁵ This is important because some form of discussion is always, to some extent, present in bringing about political decisions; yet if they are public, reasoned, and well thought out, they provide a better basis for democracy.

The deliberative form of democracy therefore implies the existence of special discussion practices, built on rational thinking and stimulating rational deliberation about different opinions. Public deliberation could be defined as "a dialogical process of exchanging reasons for the purpose of resolving problematic situations that cannot be settled without interpersonal coordination and cooperation."²⁶ Deliberation is understood primarily as a communication process, determined by special circumstances and specific results. According to these accounts, deliberation involves communication among different public or political actors and citizens who attempt to reach a political decision. Which opinion or position will be accepted at the end is not the result of counting voices but of long-term and thoughtful considerations in which every included opinion participates. The final decision, accepted on the basis of a rational discussion, is thus the outcome of a deliberative process.

2.2 Participatory and deliberative aspects of new media

According to Budge, the development of new electronic forms of communication brought favorable conditions for the principles of direct democracy to flower: "The phone in, the televised debate, the casting of mass votes after debate, all opened up discussions to strata of the population which would never have got a look-in at Athens."²⁷ More specific questions about whether new communication technologies, especially the Internet, could help to improve the quality and efficiency of public deliberation processes had already entered discussions of electronic democracy in the late 1990s.²⁸ Mass access enabled by these technologies, and the means of direct response offered by their use, could significantly expand the realm of participation, which is presently limited.

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²⁵ Ibid., 25.

²⁶ Ibid., 27.

²⁷ Ian Budge, "Bytes that Bite: The Internet and Deliberative Democracy," *Constellations* 4, 2 (1996), 27.

²⁸ Dilemmas about the deliberative potentials of new technologies are systematically developed in works by Stephen Coleman, "Cutting Out the Middle Man: From Virtual Representation to Direct Deliberation," in *Digital Democracy: Discourse and Decision Making in the Information Age*, ed. Barry N. Hague and Brian D. Loader (London, New York: Routledge, 1999); Wilhelm *op. cit.*; Hale, Muso and Weare *op. cit.*; and others.

Barber, in this context, claimed that interactive systems embody immense potentials for "equalizing access to information, stimulating participatory debate across regions, and encouraging polling and voting informed by information, discussion, and debate."²⁹ Strong democracy is similar to a kind of town meeting in which participation is direct, where communication is either regional or even national. The electronic enhancement of communication opens up possible solutions for the problems of scale.³⁰ Modern telecommunications technology has therefore an important, if not a decisive, role as "an instrument for democratic discourse at the regional and national level":³¹

The capabilities of the new technology can be used to strengthen civic education, guarantee equal access to information, and tie individuals and institutions into networks that will make real participatory discussion and debate possible across great distances. Thus for the first time we have an opportunity to create artificial town meetings among populations that could not otherwise communicate. There is little doubt that the electronic town meeting sacrifices intimacy, diminishes the sense of face-to-face confrontation, and increases the dangers of elite manipulation.

However, while the Internet does offer a frame for creating interactive communication, facilitating public input and even direct democracy via formal electronic voting processes, evidence suggests that the Internet will not motivate political activity. The mere possession of technology is simply not enough. Moreover, interactivity as the essential quality of these technologies is a total illusion for Davis: "Interest groups, party organisations, and legislators seek to use the web for information dissemination, but they are rarely interested in allowing their sites to become forums for the opinions of others."³² The second concern, to which different studies of the deliberative potentials of new communication technologies have given much space, refers to the nature of the communication process. By deliberative communication, Hale, Musso, and Weare mean a possibility to lower the obstacles between citizens and the governmental elite.³³ However, in order to overcome the "directory function" of communication, the use of e-mail, general comment boxes, or other electronic communication forms could also offer a link to elected officials and city staff. Nevertheless, this does not mean that the existence of e-mail, comment boxes, or electronic forms guarantees the emergence of deliberative communication, for it is just as possible that through a set of these technological mechanisms

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²⁹ Benjamin R. Barber, *Strong Democracy: Participatory Politics* (Berkeley, Los Angeles, London: University of California Press, 2003/1984), 276.

³⁰ *Ibid.*, 273

³¹ *Ibid.*, 274

³² Richard Davis, *The Web of Politics: The Internet's Impact on the American Political System* (Oxford: Oxford University Press, 1999), 178.

³³ Such communication assumes at least a link between citizens and governmental officials, which could be made through telephone or written messages by mail.

the opposite type of communication could develop.³⁴ Thus, the improvement of communication mechanisms does not unconditionally improve democracy; it first requires the *development of a process that is deliberative in nature*. This means that it requires moving beyond mass opinion and snap judgments to *thoughtful consideration* of the important value conflicts inherent in political discourse.³⁵

3 PUBLIC SPHERE AS A “HOME” FOR DELIBERATIVE COMMUNICATION

The repeatedly mentioned precondition for a proper deliberative democracy is the notion of “public sphere.” An inclusive, independent public sphere is commonly regarded as a prerequisite for legitimacy by most authors who write about deliberative democracy.³⁶ Public sphere is usually described as an autonomous domain between the state and (civil) society, where deliberation and contestation of discourses are supposed to be carried out. The public sphere serves as an intermediary for the citizens, where public opinions and influence on politics are passed through to the state through communicative power.

For the past two decades, Habermas has been regarded as one of the main references regarding questions about the public sphere. For him, the deliberative model conceives of the public sphere as a sounding board for registering problems which affect society as a whole, and at the same time as a discursive filter-bed which shifts interest-generalizing and informative contributions to relevant topics out of the unregulated processes of opinion formation, broadcast these ‘public opinions’ back onto the dispersed public of citizens, and puts them on the formal agendas of political bodies.³⁷

³⁴ This is revealed in the analysis by Cross, who found that while in some instances technology might provide information to voters, it does so in a manner that discourages collective deliberation and consensus-building. See Alexander Cross, “Teledemocracy: Canadian Political Parties Listening to their Constituents,” in *Digital Democracy*, ed. Cynthia J. Alexander and Leslie A. Pal (Oxford: Oxford University Press, 1998), 143.

³⁵ Matthew Hale et al, “Developing digital democracy: evidence from Californian municipal web pages,” in *Digital Democracy: Discourse and Decision Making in the Information Age*, ed. Barry N. Hague and Brian D. Loader (London, New York: Routledge, 1999), 103.

³⁶ See for example Seyla Benhabib, “Toward a Deliberative Model of Democratic Legitimacy,” in *Democracy and difference: Contesting boundaries of the political*, ed. Seyla Benhabib (Princeton: Princeton Press, 1996); James Bohman and William Rehg, “Introduction,” in *Deliberative democracy: essays on reason and politics*, ed. James Bohman and William Rehg (London, Cambridge: The MIT Press, 1997); Peter Dahlgren, *Media and political engagement: Citizens, Communication, and Democracy* (Cambridge, New York: Cambridge University Press, 2009), 86–87; Jürgen Habermas, “Political Communication in Media Society: Does Democracy still have an Epistemic Dimension?” in *Europe: The Faltering Project* (Cambridge, Malden: Polity Press, 2009).

³⁷ Jürgen Habermas, “Political Communication in Media Society: Does Democracy still have an Epistemic Dimension?” in *Europe: The Faltering Project* (Cambridge, Malden: Polity Press, 2009), 143.

The public sphere consists of what he defines as “subjectless forms of communication [that] constitute arenas in which more or less rational option- and will-formation can take place.”³⁸ Normatively speaking, communication in the public sphere should be rational and self-reflective. Drawing from Habermas, Dahlberg defines a set of criteria for rational communication to be fulfilled: (1) at least formally inclusive; (2) free and autonomous from the interventions of state or corporate interests, i.e., it should not be coercive; (3) able to fulfill communicative equality between all possible participants; (4) sincere as far as possible; (5) respectful and capable of empathy; (6) reasoned in the sense that arguments are framed in terms of why certain claims should be accepted; and (7) reflexive, that is, people are prepared to re-approach their own positions.³⁹ Ideally speaking, participants should undergo what is usually termed a “counterfactual experiment.” As Dryzek points out, “under communicative rationality, the only power exercised is, in Habermas’s terminology, ‘the forceless force of the better argument.’”⁴⁰

3.1 *When arguments count*

An important condition of deliberation presupposes, first, that participants take up reasoned positions upon the validity of those aspects of social life that have become problematized and, second, that participants’ own validity claims are at the same time exposed to the reciprocal rational testing of others involved in discussion.⁴¹ Even more, as Cohen explains, participants are required to state their reasons for advancing proposals, supporting them, or criticizing them. The aim of deliberation is the acceptance (or denial) of the proposal on the basis of better (or worse) arguments. Therefore, the leading role in deliberation must have the force of better argument and not the force of power or any other external coercion.⁴² Argumentation must be addressed not just to those present in discussion but to all others potentially affected by the claims under consideration. Arguments must be universal—that is, acceptable for the

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³⁸ Jürgen Habermas, “Three normative models of democracy” in *Democracy and difference: Contesting boundaries of the political*, ed. Seyla Benhabib (Princeton: Princeton Press, 1996), 27.

³⁹ Dahlberg, Lincoln, “The Habermasian Public Sphere: Taking Difference Seriously?” *Theory and Society* 34 (2005), 111–136. Dahlberg, Lincoln, “The Internet, Deliberative Democracy, and Power: Radicalizing the Public Sphere,” *International Journal of Media and Cultural Politics* 3, 1 (2007), 49.

⁴⁰ John Dryzek, *Deliberative Democracy and Beyond: Liberals, Critics, Contestations* (Oxford: Oxford University Press, 2002), 172.

⁴¹ Lincoln Dahlberg, “The Habermasian Public Sphere: A Specification of the Idealized Conditions of Democratic Communication,” *Studies in Social and Political Thought* 10 (2004), 7.

⁴² Joshua Cohen, “Deliberation and Democratic Legitimacy,” in *Deliberative democracy: essays on reason and politics*, ed. James Bohman and William Rehg (London, Cambridge: The MIT Press, 1997).

universal audience—thus absolutely not only for the present “virtual public.”⁴³

3.2 Interactivity and public deliberation

According to Habermas, the rational public sphere relies upon discursive spaces, and, in modern society, the Internet is viewed as an exemplary medium for facilitating such spaces.⁴⁴ However, according to Coleman and Blumler, the Internet will not be qualified much longer as a “new technology,” and most of the hype and speculation surrounding the Internet have focused on new opportunities for commerce, sociability, and study as well as on its more negative uses for criminality, surveillance, and offensive content. Although governmental agencies and other state-institutions are able to disseminate information and deliver services online in cheaper and more efficient ways than in the past, the key questions are still unanswered: Does the Internet in modern societies change the balance of power in communication processes? Does it serve democratic ends? Most importantly, are citizens more able to question, comment upon, challenge, and influence those who govern them than they were in the pre-digital times?⁴⁵

Interactive, digital media absolutely have the potential to improve public communication and revitalize democracy. Identification of the Internet’s potentially democratizing characteristics defines it as a medium of predominately active users that tends to encourage an active disposition to communications. The Internet makes it possible to involve large numbers of users in a full expression and exchange of experiences and opinions, while on the other hand, provides relatively inexpensive public access to large reserves of retrievable data. Participation is not limited with geographic borders and time features.⁴⁶ However, as Papacharissi warns, the democratizing potential of Internet technologies frequently rests with the individual predisposition to be politically active and with political infrastructure that is in place.⁴⁷

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⁴³ Lincoln Dahlberg, “The Habermasian Public Sphere: A Specification of the Idealized Conditions of Democratic Communication,” *Studies in Social and Political Thought* 10 (2004), 7.

⁴⁴ Lincoln Dahlberg, “Extending the Public Sphere through Cyberspace: The Case of Minnesota E-Democracy,” *First Monday* 6, 3 (2001), 168.

⁴⁵ Stephen Coleman and Jay Blumer, *The Internet and Democratic Citizenship: Theory, Practice, and Policy* (Cambridge: Cambridge University Press, 2009), 8.

⁴⁶ *Ibid.*, 12–13.

⁴⁷ Zizi Papacharissi, “Democracy Online: Civility, Politeness, and the Democratic Potential of On-Line Political Discussion Groups,” *New Media & Society* 6, 2 (2004), 268.

4 ANALYZING DELIBERATIVE POTENTIALS OF THE PARTICIPATORY E-TOOL

The Slovenian government implemented a new electronic tool called “I propose to the government” (i.e., IPG, “Predlagam vladi”) in November 2009. It runs under the patronage of the government communication office (i.e., Ukom),⁴⁸ a service that mediates information between the government, its representatives, public agencies, and different members of the public. Since this e-tool is institutionally positioned in a specific intermediary manner, it could bridge the gap between institutionalized and weak public spheres, by drawing the public closer to the political system, promoting a bottom-up inclusion through new channels of communication. The main objective of this e-tool is to include citizens in the policy process, in order to help to create governmental policies and actions. The aim was to encourage expression of opinions, suggestions, and proposals regarding political issues, which could consequently increase active citizen participation and help connect citizens and civil society with the government.⁴⁹

One of the dilemmas related to the effects of online political discussions and public opinion exchange is the power of words and their ability to impact the changes *within* a specific political system. One of the most important characteristics of this tool is the obligation of ministers and governmental offices to think about, analyze, and respond to all given proposals. The formal rules and related procedure reassure that all proposals need to be read and analyzed by proper governmental offices. An indicator of success of an individual proposal, published on this portal, is a positive response of a governmental office arguing that the proposal carries the potentials to be included in the policy process. Governmental offices give several responses to the published proposals: they can reject them, they can include them as one of the potential solutions to a problem discussed, or they can be positively accepted and incorporated within the politics.

4.1 *Methods and sample*

The extent of deliberation and argumentative discussion in the online political portal is empirically tested through a combination of two different methods. The first part of the assessment includes a detailed analysis of the portal itself, focusing on the architecture of the web portal and its potentials for citizen inclusion, rules of participation, and consequences of individual participation. The response to the question “to what extent does the portal democratize the social inclusion of participants” is provided by a secondary analysis of the portal

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⁴⁸ Web-site available at <http://www.ukom.gov.si/en/news/> (June 2011).

⁴⁹ Government’s viewpoint on the project is available at http://www.vlada.si/si/teme_in_projekti/predlagamvladisi/o_projektu (June 2011).

users and their socio-biographical structure (age, gender, education).

The second part of the analysis is focused directly on the citizens' proposals, their authorship, topics and levels, and types of argumentation. Here, the aim is to measure selected proposals, their topics and comments, and their argumentative nature. The government office of communication received altogether 235 responses of governmental offices and agencies to the given proposals within one year (November 2009–November 2010). The response was positive and proposals were accepted only in 11 cases; 31 cases were described as "potential solution" of a problem, whereas 77 responses were negative. A sample of proposals includes 60 proposals,⁵⁰ whereas the sample of comments was formulated on 30 proposals and included at the end of 266 comments.⁵¹

4.2 Results

Deliberative aspects of formal procedure and portal architecture

The formal procedure for using the IPG e-tool is plain and simple, making it suitable even for people with low computer literacy. Participants have to register by creating a user name; they can also use either their OpenID account or connect to the e-tool via their Facebook account.⁵² Even though participants need to enter their name and surname when registering, they can use nicknames when posting comments or casting votes, instead of their actual names, which increases the feeling of anonymity. However, by joining the portal, each participant accepts the published rules of the tool and therefore agrees not to rely on false or inconsistent data, not to represent him or herself as somebody else, and to use his or her own account only. The portal rules explicitly prohibit the creation of more than one account by a single user. When registering, the users also agree not to behave arrogant, exclusive, or insulting and not to publish content that would stimulate any gender, racial, or religious discrimination.

The next step that the tool provides for users is the ability to cast votes on existing propositions, to comment on proposals, or to write their own suggestions. The procedure has fixed temporal rules. Commenting on a publicly posted proposal takes place for 15 days, and voting after that takes another 14 days. During this

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⁵⁰ The sample includes 10 proposals with positive response and approximately half of all proposals from the other two groups: 35 proposals with negative response and 15 proposals with a potential solution.

⁵¹ The sample of comments was selected on half of the whole sample of the analysed proposals (30 proposals only), that is, all comments on 17 rejected proposals, on 5 accepted proposals, and on 8 proposals with a potential solution. This reduction was necessary at this point since some of the proposals can have more than 400 comments.

⁵² As participants can use nicknames when posting comments or casting votes instead of their actual names, the (sometimes detrimental) feeling of anonymity increases.

time, public deliberation on the published proposal is supposed to take place, while the author/submitter of the proposition is able to modify or supplement his proposition. Here, governmental agencies are also able to enter the deliberation process. After the voting is completed, the proposal is accepted if more than five percent of the active users have voted on it and if more than half of them have cast their vote in favor of the proposition. In this case, the suggested proposition is sent to the governmental sector or service that has jurisdiction over the discussed topic, and this sector then has to opt for or against it. The response of the government is published in the e-tool no later than 30 days after the proposition has been sent to the relevant governmental agency; after that, the users can comment on the response.

Participants in public debates

The government communication office gathered data about the portal users in an online survey that included a sample of 218 users.⁵³ In order to provide a better understanding of who is using the analyzed portal, a set of interpretations is given. It seems that the usage of the tool rises with age: those who are 35–44 years old are the most regular users, which together compound almost a quarter of all users. In addition, the results demonstrate that almost 34% of all users have a high degree of education, and another 30% have secondary school education. In the sample, only 10% of respondents had higher education; nevertheless, those with primary school are far less represented within a sample of portal users. Regarding the status, most of the users seem to be employed in the private sector or economy (20%), followed by those who are employed in the public sector. Users seem to be involved in the portal at least on a monthly basis: about a quarter of all users (23%) visit the portal several times a week or more; another half of them (47%) visit the portal several times a month. With regard to the electronic report sent to all subscribed users by e-mail every Wednesday in order to provide them with the news about the latest proposals and government responses and with the lists of proposals that have reached the highest number of comments and votes, most of the users (65%) regard it a useful and informative update about what has happened on the portal.

Deliberative aspects of proposals and discussions

For our discussion about the deliberative potentials of citizen participation in the political process through the web portal, it is more relevant to understand what are actually the topics of debates and how the debates itself are structured. Since in the context of their “success,” all proposals are divided into three groups—accepted with positive response, accepted as potential solution, or rejected—the question is what determines these differences: Is the success

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⁵³ Users were able to participate in this survey between December 2nd and 6th, 2010 (for more information, see http://www.vlada.si/fileadmin/dokumenti/si/projekti/2011/110217_predlagam.vladi.si_porocilo.pdf (June 2011)).

primarily a result of a “force of the argument”? Are rejected proposals mostly those that are weak in their argumentation, falsely prepared, and less important? Which proposals tend to be “better” in relation to the identity of their authors, topics, and intensity of the discussions? What effects on their success have the power of “public opinion”?

The structure of proposals in Table 1 demonstrates that mainly individual actors publish proposals. There was only one proposal explicitly signed by a non-governmental institution. Within the sample of 60 proposals, most of the comments were written in the group of proposals as potential solution (52%); on the other hand, the highest number of votes could be found in the rejected proposals (51%). An interesting difference between the groups is observed in the intensity of support by the voters and comments. In the accepted proposals, 57% comments support the proposal, whereas in rejected proposals, this figure is only 36%. Similarly, in relation to voting, there are more voters supporting proposals as potential solution (96%) and accepted proposals (92%) than in the group of rejected proposals (84%).

TABLE 1: THE STRUCTURE OF ACCEPTED, REJECTED, AND “POTENTIAL SOLUTION” PROPOSALS

	accepted proposals	rejected proposals	proposals as potential solution
individual actor as submitters of proposals	9 90%	35 100%	15 100%
non-government institution as submitters of proposals	1 10%	0	0
number and % of all comments to the proposals	101 8%	478 40%	622 52%
number and % of comments supporting the proposal	32 57%	55 36%	26 47%
number and % of all votes to the proposals	229 11%	1056 51%	781 38%
number and % of votes supporting the proposal	211 92%	888 84%	746 96%

In the next step, the main focus was directed to the differences in argumentative nature between the three groups of proposals. Following the theoretical framework, the deliberative potentials of the portal depend on the importance of arguments given with the proposals and respectful comments. In this context, we could assume that the accepted proposals are more intensively argumentative. The analysis at this point is related to the question of (a) the percentage of argumentative proposals in the selected groups and (b) the percentage of the given arguments within comments related to a specific

proposal.

TABLE 2: ARGUMENTATIVE NATURE OF ACCEPTED, REJECTED, AND “POTENTIAL SOLUTION” PROPOSALS

	accepted proposals (n = 10)	rejected proposals (n = 35)	proposals as potential solution (n = 15)
number and % of proposals with arguments	10 100%	34 97%	14 93%
argumentation derived from personal knowledge or status	8 80%	29 83%	11 73%
argumentation derived from insufficient current legislation	5 50%	15 43%	8 53%
argumentation derived from statistical data	3 30%	9 28%	4 27%
argumentation derived from solutions in other local communities, regions, states	2 20%	19 54%	4 27%
argumentation derived from online media	2 20%	2 6%	2 13%
argumentation derived from source with online link	2 20%	7 20%	3 20%

It appears that all 60 proposals are more or less strong in argumentation. Judging from the data presented in Table 2, the differences between the three groups of proposals are too small to argue that the rejected proposals lack the power of arguments or vice versa. However, there are some slight but interesting differences in the structure of argumentation: within the group of rejected proposals are mostly those that derived from personal experience or knowledge (83%) and those that derive from solutions in other local communities or regions (54%), followed by those that rely on insufficient current legislation (43%). Likewise, the accepted proposals are mostly those that derive from personal knowledge (80%), followed by those pointing to insufficient legislation (50%) and those that rely on statistical data (30%).

Further, the differences in argumentation were tested on the level of commentaries to the given proposals. However, here it appears that the given proposals are not too different (see Table 3).

TABLE 3: ARGUMENTATIVE NATURE OF COMMENTS IN ACCEPTED, REJECTED, AND “POTENTIAL SOLUTION” PROPOSALS

	accepted proposals (n = 56)	rejected proposals (n = 155)	proposals as potential solution (n = 55)
number and % of comments with expressed opinion about the topic	46 82%	132 85%	48 87%
comments without the argument	13 23%	33 21%	11 20%
comments with already stated argument	5 9%	15 9%	5 9%
comments with internal explanation	24 43%	60 39%	21 38%
comments with external explanation	14 25%	47 30%	18 33%

From the given data set, it is evident that the frequency of opinion expression in the form of comments is the lowest in the group of accepted proposals. Similarly, the same group has the highest number of comments with no argument (23%). All three groups have the same share of those comments that refer to or include an argument that has been already presented previously in the discussion (9%). Accepted proposals have 43% of comments with internal explanation, which means that argumentation is based on the commentator's position, experiences, values, and views, and only 25% of comments with external explanation, when argumentation uses external sources and follows facts, statistics, media articles or website, scientific article, or experts' statements. In the other two groups, the difference between the percentage of comments with internal explanation and that of comments with external explanation is minor.

Structural limitations for equal participation and deliberative communication

How the entire procedure is structurally framed is of considerable importance when proponents have to post their suggestions; if it looks simple, it may well be thought of as simple. While such criteria may decrease the number of suggestions, the final outcome could produce more concrete and precise proposals. In fact, some of the minor policy changes do not necessitate elaborated proposals, but most of them do—especially if they try to considerably alter existing policy or even propose a completely new one. The fact that the entire procedure for making suggestions, solutions, and propositions is fairly simple is not necessarily positive. Suggesting a serious solution to the government should not be as easy as posting a note or a short notice on your personal weblog or web forum. In the presented case, no difference whatsoever essentially exists. If the government expects users to send promising suggestions, the government agencies should predefine much more precisely what they expect

from users and how proponents can help them find good solutions.

If this tool is also to play an educational role in enhancing civic agency as Dahlgren argues,⁵⁴ more tutorials and video-seminars should be available on the web portal; this would help participants understand how the public policy process works and the nature of the demands for a good proposition. General opinions and introductions of experts on selected topics could be included, where parts of the formal procedure could be made more precise by demanding additional input from the proponents' sides. Moderators of the e-tool should also play a more active role in the entire procedure by helping users present a good proposal. This can be done by illustrating good cases, by suggesting where and how users can improve published proposals, or by directing posters to the existing legislature and other relevant sources. At the moment, the duty of moderators is more or less reduced to negative aspects of deliberation (ensuring that the rules are followed) and a mediatory role for the responses of the agencies. Another problem that should be solved by moderators is the final outcome, where, in most cases, nothing else happens besides the response of the governmental agencies.⁵⁵

5 CONCLUSION

The main objective of this paper was to compare the first practical outcomes of the electronic tool "I propose to the government" with certain selected aspects of normative theories of deliberative democracy. Communication technologies can provide democratic opportunities that reach beyond the level of voting machines; however, the main question is whether they provide proper conditions, channels, and tools for the kind of decision-making process expected in deliberative democracy models. Early concepts of electronic democracy give different, mostly negative, answers. The first type of critique holds that communication technology weakens political participation; the second dilemma concerns the impossibility of reaching a consensus through a technologically supported process of decision making; and the third critique questioned the possibility of a proper connection between citizens and the government.

Within the context of the analyzed tool, we can argue that Slovenian citizens are definitely interested in online political participation: the number of proposals, comments, and registered users supports this conclusion. In addition, a more

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⁵⁴ See for example Peter Dahlgren, *Media and political engagement: Citizens, Communication, and Democracy* (Cambridge, New York: Cambridge University Press, 2009).

⁵⁵ It would perhaps be worthwhile to consider a system of summaries of the most active debates, which could be useful both for the legislators and for the wider public and which could also serve as "proof" to the participants that this debate actually took place and was thoroughly read and noted by someone.

detailed reading of the given proposals and their comments demonstrate that the discursive climate is positive and thorough with a high amount of self-respect between the participants of this civil community. Some participants in their statements reflect this importance to such an extent that they distance themselves from the usual forms of discriminatory and offensive online communication, popular on many publicly known web portals in Slovenia. According to the data set, one could argue that members of IPG contribute to an active and publicly aware civic community that is simply prepared to participate and act. The government is therefore faced with an important responsibility for making additional efforts to improve the portal and also to put citizens' proposals in practice.

Although there is great potential for further development of these kinds of e-tools, which open new communicative arenas between governments and public sphere and thus promote symbiotic relations, a more serious commitment to progress in this area will depend on the political will of politicians and the political system. It is unclear, at present, whether the government really desires the effective functioning of such tools, or whether politicians are implementing them merely to climb the ranks on some world-wide e-participation indexes. In fact, any larger change would have to presuppose serious institutional and social transformation in a wider political and economic structure. We must also acknowledge that discourse needs to spread into the broader public sphere, political institutions, and governmental administration in order to be successful when issues of a wider concern arise.

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NETWORKED CITIES' RESPONSES TO GLOBAL PROBLEMS:

A TYPOLOGY

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Today's global challenges like poverty reduction, climate change and disarmament transcend national borders. The scale and impact of these problems not only trouble national governments, but also directly affect populations at the local level, especially those in urban settings. Seeing that over half of today's population resides in cities, this research aims at examining concerted attempts of cities and local governments in resolving global challenges in major issue-domains. Conceptualizing city-to-city co-operations in a networked format, the project focuses on providing a typology of an exploding number of city-networks that emerged in recent years. By displaying regular patterns of network characteristics, the project seeks to systematically comprehend the potentials and limits of engaging cities into global governance effort in complement to, or in absence of, existing state-centric governance instruments.

I INTRODUCTION

The Mayors of Hiroshima and Nagasaki lobby at the Non-Proliferation Treaty Review session at New York for nuclear abolition; the European Commission acknowledges the important role of local authorities in realizing its Climate Change objectives. The landscape of global governance had changed. With the rise of non-state and local actors on the international arena, more numerous and intense interactions between state, non-state, local and inter-state actors are identified. When addressing most imminent global concerns of the day, few would ignore potential contributions made by new international actors like multi-national corporations, the civil society, and local governments. Granted, active involvement of state actors remain highly conducive to success in any global effort. Nonetheless, considering the difficulties in reaching consensus

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and binding universal regulations among states, even traditional form of governance mechanism, namely the UN and its various affiliated agencies, gradually expanded their strategies to incorporate inputs from newly emerged international actors. We are now at the dawn of a new age of global governance. In order to understand and better respond to global problems that no longer respect territorial borders, it is essential not only to examine existing inter-governmental mechanisms in response to these global challenges, their merits, limitations, but also new form of governance mechanisms emerged in recent years that incorporate new actors on international issues.

Among numerous note-worthy new international actors, cities and local governments have been a grossly understudied unit of analysis. A lack of systematic analytical literature on cities persists despite local governments' increasingly vocal positions on international matters. This stands in a sharp contrast to the recent diversity of approaches in understanding global governance mechanism. Consider the work of John Ruggie, whose concept of embedded liberalism captures the rationale behind many social engagements of powerful multinational corporations in redressing inequality and human rights.² His examination on the United Nations Global Compact (GC) drew huge resonance, and secured him the appointment of Special Representative for Business and Human Rights, appointed by no other than former UN Secretary-General Kofi Annan who initiated the GC programme.³ A much overlooked aspect, however, is that shortly after the commencement of GC, the Global Compact Cities Programme was created to recruit cities to adhere to GC's ten principles.⁴ Consider also the vast literature on Public-Private Partnership, where cases like the Kimberley Process in solving the 'blood diamond' problem, and the WHO/UNICEF code of conduct for infant formula all gained due recognitions from both the public and academia as effective models of governance.⁵

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² See John Gerard Ruggie, "International Regimes, Transactions and Change: Embedded Liberalism in the Postwar Economic Order," *International Organization*, 36, 2 (1982), 379–415.

³ See John Gerard Ruggie, "Taking Embedded Liberalism Global: The Corporate Connection," in *Taming Globalization: Frontiers of Governance*, eds. David Held and Mathias Koenig-Archibugi (Cambridge: Polity Press, 2003), 93–129.

⁴ The UNGC Cities programme was launched in 2003. United Nations Global Compact, 'Cities', *United Nations Global Compact Cities Programme*, 1 January 2010, available at <http://www.unglobalcompact.org/HowToParticipate/cities.html> (July 2011).

⁵ For more details on the Kimberley Process, see Andrew Bone, "Conflict diamonds: the De Beers Group and the Kimberley Process," in *Business and Security: Public-Private Sector Relationships in a New Security Environment*, eds. Alyson J.K. Bailes and Isabel Formmelt (Oxford: Oxford University Press, 2004), 129–147; Clive Wright, "Tackling conflict diamonds: the Kimberley process certification scheme," *International Peacekeeping*, 11, 4 (2004), 697–708. On Infant Formula, see Kathryn Sikkink, "Codes of Conduct for Transnational Corporations: The Case of WHO/UNICEF Code," *International Organization*, 40, 4 (1986), pp. 815–840.

2 EMBEDDED NETWORKS IN GLOBAL GOVERNANCE

Cities, where over half of world's population resides, constitute a unique position in tackling international problems that is currently under-explored. Cities are no less active than private corporations in addressing global problems. The expanding research on cities in the environmental domain, although useful in showing individual city's practices in curbing climate change, made limited contributions in understanding the *scale* of cities' involvement in addressing global issues. These literature tend to depict cities' concerns for the world's environments as independent responses, while actual practices show that cities often join hands, and engage themselves to act on specific international issues in groups. In the sustainability area alone, the number of international city-networks has risen from only 7 in the 1950s to 49 networks in 2004.⁶ This research proposes to conceptualize cities' actions towards international challenges as shaped by shared conceptions of the problems, and channelled through a network structure that facilitates collective action, while maintains a level of flexibility that allows individual interpretation of common goals according to local circumstances. Although some scholars have studied in-depth a certain network or compare numerous networks in a particular issue-domain, few looked into their diverging natures of various city-networks.⁷ Furthermore, existing literature offers limited clarification to the defining features of the subject-matter. This paper thus aims at sketching a comprehensive picture of the city-network phenomenon, providing detailed definitions as well as classifications of its varying forms. A typology of different city-networks could serve as a foundation to future in-depth analysis that is currently lacking. In doing so, the research aims to provide an answer to the emergence and proliferation of city co-operations in network format, as well as to understand how these networks function in practices to contribute under the larger context of global governance.

Transnational Problems and the Emergence of New Forms of Global Governance

Prior to the investigation of city-networks under the architecture of global governance, some notions ought to be defined and clarified. Most importantly, the concept of global governance deserves some elaborations considering the seemingly 'omnipresence' of the term in current IR literature. Reviewing existing literature on global governance, the concept is tied essentially to the understanding that there are no global government with the ultimate authority

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⁶ Marco Keiner and Arley Kim, "Transnational City Networks for Sustainability," *European Planning Studies*, 15, 10 (2007), 3172.

⁷ See Michele Betsill and Harriet Bulkeley, "Transnational Networks and Global Environmental Governance: The Cities for Climate Protection Program," *International Studies Quarterly*, 48, 2 (2004), 471-493.

in regulating aspects that affect all states across the globe.⁸ Sovereign states, although possess “monopolistic use of violence,” are not generally equipped in ‘policing’ global wrongdoings that occur in other territories. This opens up the opportunity for other actors to get involved. Rosenau famously asserted that ‘global governance is conceived to include systems of rule at *all* levels of human activity— from the family to the international organization— in which the pursuit of goals through the exercise of control has transnational repercussions.’⁹ However, once we registered that sovereign states and international institutions are no longer the exclusive actors in tackling increasingly transnational issues, we face the difficulties in providing a precise definition of global governance which was encapsulated by Lawrence Finkelstein’s comment, which poignantly proclaimed that, “Global Governance’ appears to be virtually anything.”¹⁰ In one sense, a broad understanding of the term allows us to use it as a tool in conceptualizing emerging forms of collective actions in response to today’s global challenges. On the other hand, a coherent conception of the term is pre-requisite in evaluating the contributions of city-networks towards global governance in major issue-areas.

Dingwerth and Pattberg characterized governance as ‘a specific mode of social *interaction* whose logic differs from that of both markets and governments.’¹¹ Governance, thus, differs from conventional understanding of policy execution, where directives were conceived to be sent out from the central government and duly implemented by local authorities in a ‘command-and-control’ manner.¹² Meanwhile, governance implies attempts at addressing a specific issue, instead of employing a ‘laissez-faire’ attitude. Governance scholars are interested in examining ‘forms of collective regulation of social affairs.’¹³ Attempts at self-regulations that involve the civil society, public and private actors, in the absence of concrete rules set out by governments, attract the most wide-spread attentions.

Observing the above outline of governance literature, I decidedly set global

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⁸ See R.A.W. Rhodes, “The New Governance: Governing without Government,” *Political Studies*, 44, 4 (1996), 652–667; James N. Rosenau, “Change, Complexity, and Governance in a Globalizing Space,” in *Debating Governance: Authority, Steering, and Democracy*, ed. Jon Pierre (Oxford: Oxford University Press, 2000), 167–200.

⁹ James N. Rosenau, “Governance in the Twenty-first Century,” *Global Governance*, 1, 1 (1995), 13.

¹⁰ Lawrence Finkelstein, “What Is Global Governance?” *Global Governance*, 1, 3 (1995), 368.

¹¹ Klaus Dingwerth and Philipp Pattberg, “Global Governance as a Perspective on World Politics,” *Global Governance*, 12 (2006), 188.

¹² See Tanja A. Borzel and Thomas Risse, “Governance without a state: Can it work?” *Regulation & Governance*, 4 (2010), 113–114.

¹³ Klaus Dingwerth and Philipp Pattberg, “Global Governance as a Perspective on World Politics,” *Global Governance*, 12 (2006), 188.

governance in this research as problem-solving attempts in response to global challenges from state, non-state and sub-state actors. These attempts are often characterized by 'purposive act of 'steering''¹⁴, of building a recognized shared approach in understanding, and perhaps even addressing the problems at hand.

Understanding Networks across Disciplines

Concluding from the above definition, all forms of governance mechanisms entail some form of networks and networking. There can be no steering nor converging understanding of an issue without interactions. So long as governance activities requires exchanges and interactions between diverse actors, relationships, or ties, emerge. This is not a novel statement, but it is one that most failed to notice. Scholars who work on international organizations tend to neglect networks that emerged due to regular occasions of exchanges between organizational members. Network, in the literature of corporate responsibility and transnational advocacy, is the word of the day. A wide range of actors were encourage to capitalize on the network form of organization in advancing their influence and impact under the framework of global governance, all the while unaware of meanings implicit in the terms.¹⁵ In academia, many use the term network in describing cities, civil society, and the private sector's participation in global governance mechanism, but few elaborate on their conception of networks nor made any reference to the extensive network literature that was prominent in sociological studies. As a result, when one talks of networks, associations conjured could be just as vast as those arise at the mention of global governance. Here I propose to consider the sociological tradition on network analysis that grant more room of exploration of actors within network as dynamic actors. In recent years a vast literature emerged, mainly referred to as social network analysis (SNA), in the sociology discipline that investigates dynamics within networks, paying specific attention to analyzing ties between individuals. International Relations scholars have for a long time analyzed networks without referring to SNA methods nor principles. In further analyzing human rights transnational advocacy networks (TAN) in the social network analysis framework, Lake and Wong point out that pioneer study on TAN by Keck and Sikkink neglected earlier sociological works on networks. Keck and Sikkink understood network as a communicative structure through which norms and ideas are diffused, as well as a political space where social, cultural or political discourses are constructed.¹⁶ They consider networks to be 'forms of organization characterized by voluntary, reciprocal and horizontal patterns

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¹⁴ Vivien Lowndes, "Rescuing Aunt Sally: Taking Institutional Theory Seriously in Urban Politics," *Urban Studies*, 38, 11 (2001), 1961.

¹⁵ See for example, Waddel's advice to corporates on global action networks. Steve Waddel, "Global Action Networks," *The Journal of Corporate Citizenship*, 12 (2003), 27–42.

¹⁶ See Margaret E. Keck and Kathryn Sikkink, "Transnational advocacy networks in international and regional politics," *International Social Science Journal*, 51, 159 (1999), 90.

of communication and exchange.¹⁷ Since publication of Keck and Sikkink's *Activists Beyond Borders: Advocacy Networks in International Politics* in 1998, the explosion of interests in studying networks of non-governmental actors was matched by increasing amount of scholarship on social network analysis in sociology in the 2000s. Over the last decade, the two literature grew to maturity all the while largely unaware of development on network analysis from the other discipline.¹⁸ The confusion surrounding network steamed from its fundamentals that are simple yet challenging to pin down precisely as noted by Duncan Watts. 'Stripped to its bare bones, a network is nothing more than a collection of objects connected to each other in some fashion.' He notes the diverging understandings of the terms held by physicists, mathematicians, psychologists, anthropologists, etc., but acknowledges that among them the sociologists have spent more time and discovered more depth regarding the relation between networks and society.¹⁹ Sociologists, focusing on studying social relations, consider networks as representations of social structures – 'as set of *nodes* (or social system members) and sets of *ties* depicting their interconnections.'²⁰ While sociological and political scientists' conceptions of networks constitute different focus on network features, both possess understanding of the network phenomenon that complement literature from the other discipline. Synthesizing notions of networks from both the political and sociological discipline, in this project I understand networks to be *representations of connections that bring voluntary actors into multiple interactions*.

3 THE NETWORK FORMAT AND CITY-TO-CITY COLLABORATIONS

Surveying a board range of city co-operations and interactions, one would find countless establishments of self-proclaimed city-networks. Network is the dominant form of multiple cities co-operations, both in rhetorical and actual terms. It is not without reasons that cities chose to interact and co-operate in a networked manner. City-to-city interactions differ greatly from that of states. There is an implicit sense of equality among cities from all over the world, but the concept of sovereignty that governs inter-state interactions – be it in the form of intergovernmental organization like the UN or ad-hoc instance of interaction like the six-party talk, is absent among cities worldwide. Cities do not enjoy the competence to delegate some of their decision-making power to the creation

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¹⁷ Ibid., 91.

¹⁸ David A. Lake and Wendy H. Wong, "The Politics of Networks: Interests, Power, and Human Rights Norms," in *Networked Politics: Agency, Power, and Governance*, ed. Miles Kahler (Cornell: Cornell University Press, 2009), 127.

¹⁹ Duncan J. Watts, *Six degrees: The Science of a Connected Age* (London, UK: Vintage, 2003), 29.

²⁰ Barry Wellman and Stephen D. Berkowitz, *Social structures: A network approach* (Cambridge: Cambridge University Press, 1988), 4.

of an international organization of cities. They cannot make universally binding rules. At best they could enlist cities to international commitments, and penalize those who fail to meet their commitments by exclusion. Even though cities may initiate institutions that regulate their interactions, such institutions lack the legal capacity to enforce implementation of collective objectives. In other words, success of cities' collective actions is based on voluntary effort. The network structure allows cities to engage in resolving global challenges in an equal manner, without touching upon the issue of organizational hierarchy. (This does not necessarily mean that uncodified and/or implicit hierarchies do not exist.) Network also gives necessary flexibility in decision-making and membership policy crucial in city-to-city co-operations. An institutionalized intergovernmental organization passes binding directives that all members ought to obey. Without the capacity to delegate power to international authority, the network structure could only propose memoranda of understandings that guide city members' behaviours. Such gesture does not legally violate the principle of sovereignty that strictly excludes external influence into states' internal affairs. The network structure also allows different types of members to interact on equal footing. An international organization could enter into partnership with private corporations and NGOs, but it cannot grant them a vote in its decision-making bodies. In a network, a city of seven thousands habitants determines the network's future directions in similar manner as its metropolis counterpart of seven millions inhabitants, and cooperate as equals with state agencies and NGOs. The merit of network flexibility could be illustrated in the following case: the Czech Healthy City Network (HCCZ) had for years tried to recruit the city of Prague into its sustainable living initiative. The ruling party in Prague had repeatedly reject the invitation out of political considerations. They fear that the move may give ground to the Greens to pressure for concrete policy change. Instead they encourage HCCZ to enlist the efforts of Prague districts.²¹ (rough equivalent to arrondissements) If HCCZ adopts a very strict membership policy like any standard institutionalized organization would, it'd be very difficult to reach out to citizens of Prague. Its agenda could not be otherwise spread to the capital, and concrete activities could not be implemented for the most populated city. It is only with the less formalized network structure that allows HCCZ to profit from broadly inclusive membership.

4 CITY-NETWORKS: A TYPOLOGY

Having clarified the definition of networks, we still face confusion in grasping the many different kinds of networks that political scholars analyzed. The kind of networks that Keck and Sikkink examined behave and function markedly

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²¹ Interview with Czech City Official, 13 August, 2010, Prague.

different from those that were examined by Betsill and Bulkeley. Keck and Sikkink were concerned with advocacy networks that are essentially political in nature. For example, transnational human rights network that composes of diverging actors including international NGOs like Amnesty International, national human rights watchdogs, as well as individual human rights activists. These actors have limited competence in actually enforcing adherence to their shared understanding of human rights norms. Regular interactions, either virtual or in-person, between the above actors link them together in the form of network that is transnational in nature due to actors' presences despite spatial distance. The network hence connects together a substantial voice from the critical mass, yielding considering political pressure and leverage in pushing governments to comply to human rights standard.²² On the other hand, the environmental city-networks that Betsill and Bulkeley examined differ considerably from an advocacy network. The Cities for Climate Protection Program (CCP), among some other environmental city-networks, serve pre-dominantly functional purpose, at least in its early conception. Many cities initially participate in the CCP network in hope of transfer of technical knowledge. As Betsill and Bulkeley noted, the network loses some of its momentum when technical knowledge transfers concerns mostly pioneer members, leaving other members less engaged²³

The above two cases are indicative of the different characteristics of networks. In similar light, not all city-networks share the same sense of purpose and thus talking about city-networks as if they are one unifying form of city-to-city collaboration is problematic. A comprehensive typology of city-networks is crucial in understanding how cities collaborate and attempt to assert their influence on global governance as they adapt to the many natures of different global issues.

Among the many characteristics of city-networks, I note that considerable difference exist between those networks that could be classified as 'functional', versus those that are more 'political' in nature. By functional I refer to networks whose objectives focus mainly on technical problem-solving. Members to these networks agree to engage in exchanges in order to learn from technical best practices that could help in resolving/improving their local situations. Conversely, there are networks that have an advocacy component, where

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²² See Margaret E. Keck and Kathryn Sikkink, *Activists Beyond Borders: Advocacy Networks in International Politics* (Ithaca, New York: Cornell University Press, 1998). See also See Margaret E. Keck and Kathryn Sikkink, "Transnational advocacy networks in international and regional politics," *International Social Science Journal*, 51, 159 (1999).

²³ See Michele M. Betsill and Harriet Bulkeley, "Transnational Networks and Global Environmental Governance: The Cities for Climate Protection Program," *International Studies Quarterly*, 48, 2 (2004), 471-483.

members devote considerable amount of times in promoting certain causes. Objectives of these networks often are political in nature, with the prospect of bringing policy change at level higher than the local one.

The types of networks emerged are correlated with the nature of the issue-area in question. And by extension, this reflects how cities respond differently to issues that they have technical policy competence over versus those that they have not. For example, since security policy is at the core of national defence and thus vital to state sovereignty, cities usually do not have direct competence in this particular area. As a result, it would be very hard to imagine the emergence of a functional security city-network, for there is very limited practical expertise that could be shared. Networks formed under the security sphere are mostly political in nature and active in advocacy work in order to lobby international actors that have decision-making power on the matter. They have little functional role to play. One example would be the Mayor for Peace (MoP) network that brought together thousands of self-declared anti-nuclear cities. Although the wave of nuclear-free cities established in the 80s demonstrate that local governments could implement policies that indirectly limit nuclear-related activities within local jurisdiction, there remain very limited functional purpose that the MoP could serve. In the words of Teresa Otruba, local anti-nuclear legislations are more 'expressions of political sentiment' than 'force of law.'²⁴ MoP has since its inception been very active in lobbying at international forum for total nuclear abolition. Its mayoral delegation goes to New York at the Non-Proliferation Treaty Review every five years with drafted protocols prepared. Success or failure to influence states notwithstanding, membership to the MoP is in itself a political statement. It is interesting to note, however, that although many consider activism of MoP as 'cheap talk' – denouncement that cannot concretely change national security policy, MoP has reached vast membership numbered over 4,000 cities all over the globe. In an area where massive critical voice is the first step towards pressuring states' changes in attitudes, the worldwide support that MoP gathered could be very useful in the long term prospect of nuclear disarmament.

On the other hand, in the environmental domain there are numerous specific/technical issues that are considerably neutral in nature, e.g waste management, air pollution, noise control, etc. It is perfectly possible to find a ground of exchanges without having to entangle cities in the climate change debate. The Kitakyushu Initiative for a Clean Environment launched in 2000 at the Ministerial Conference on Environment and Development in Asia and the Pacific is illustrative of such functional network. Following earlier success in minimizing wastes and reducing air and water pollution in Kitakyushu city, a

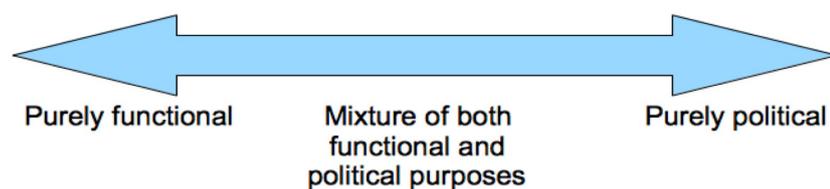
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²⁴ See Teresa A. Otruba, "Local Nuclear-Free Zone Legislation: Force of Law or Expressions of Political Sentiment?" *University of San Francisco Law Review*, 22 (1987–1988), 561–586.

series of demonstration projects, meetings and training events were organized to inform other cities in the Asia-Pacific region of the 'Kitakyushu model.' The network encourages cities to set a waste reduction targets, but imposes no standard rate of reduction. It also refrains from making explicit reference to the Climate Change process²⁵ and instead promotes exchange of know-how in relatively technical issue like waste management.²⁶

Nonetheless, we should keep in mind that not all city-networks fall neatly into the two categories. It is not unusual for cities to employ a political vision and at the same time remain ambitious in realizing concrete policies. In particular, after initial evidence of success and popularity, many environmental city-networks have become more political and engaged in heavier lobbying endeavour for policy change at the regional and global level. One example would be Energy-cities, a network formed when six city-partners in an one-off environmental project decided to expand their co-operations into something more permanent and institutionalized. After attracting close to 200 city and agency members from over 30 countries in Europe, Energy-cities became a representation of local governments at Brussels. One of their latest achievements is the successful lobbying of the European Council to officially recognize the role of cities and municipalities in addressing the challenge of climate change in Europe. On top of presenting to Brussels energy interests and preferences of European cities and towns, they also assist in securing EU funding for implementation of joint projects.²⁷

Observing the above cases, we can now conceptualize city-networks as falling into the following continuum.

FIGURE 1: CONTINUUM OF PURELY FUNCTIONAL TO PURELY POLITICAL NETWORKS



²⁵ Although majority of countries recognize climate change as a real threat, states hold different opinions in how best to address the problem. Many Asian countries are yet to set out a robust climate change package in mitigating or adapting to effects of climate change. Some countries, like China and India, consider the issue of second priority under their economic development imperatives. Making explicit reference to the climate change process, for example, by proposing setting a city carbon reduction target, could then be a sensitive matter which may hinder inclusive membership in the region.

²⁶ For further information on the network, see *Kitakyushu Initiative for a Clean Environment*, available at <http://kitakyushu.iges.or.jp/about/index.html> (July 2011).

²⁷ See *Energy-cities*, available at <http://www.energy-cities.eu> (July 2011).

The functional and political differentiation is an important demarcation for city-networks, especially in extreme cases where city-networks carry out only technical practices exchanges, or exclusively focus on raising political solidarity on a given issue. Purpose of the network shapes the approaches that network members take in response to certain global challenges. While information exchange is an indispensable component enabled by most network structures, we see that city-networks put different emphasis on network priorities depending on their differing main purposes. Mainly functional networks are more interested in attracting qualified and engaged members in order to profit from knowledge transfers, while mainly political/advocacy networks are committed to draw a large and inclusive membership in order to consolidate global pressure on a certain issue.

FIGURE 2: TYPOLOGY OF CITY-NETWORKS I: SELECTED CASES FROM FUNCTIONAL, POLITICAL OR MIXED PURPOSE NETWORKS

Types of city-networks	Examples
<p>Mainly functional in nature: Networks that pursue mainly quantifiable and observable results, with no active advocacy component, and no explicit political statements</p>	<p><i>Kitakyushu Initiative for a Clean Environment (main goal: technical exchanges on urban waste reduction); WHO Healthy Cities Network (core 5-year phase programme in Europe: where members seek to achieve objectives set out by the European office, and where cities make no explicit political claims for joining)</i></p>
<p>Mainly political in nature: Networks that pursue advocacy objectives, aim at prompting political change at national, regional or international level, active lobbying activities</p>	<p><i>Nuclear Free Local Authorities (NFLA) UK, Northern Ireland and Republic of Ireland: (main goal: to secure a nuclear-free British and Irish isles, whose objective runs in clear opposition to UK's possession of nuclear weapons and Westminster's policy to further develop nuclear energy); Mayor for Peace (main goal: to achieve total nuclear abolition through active lobbying at national, regional and international forum)</i></p>
<p>Both functional and political in nature: Networks with similar emphasis given to both functional and advocacy activities</p>	<p><i>C40 (Climate Leadership Group)(main goal: city leadership in curbing carbon emission, explicit support to the Kyoto process, vocal denouncement to U.S. Environmental policy from U.S. city members); Covenant of Mayors in Europe (main goal: direct adaptation of European Commission's climate change package at local level through promotion of renewable energy, many signatories declare commitments to the EU directives prior to relevant to nationalization of the EU law)</i></p>

Participating network actors

The other significant difference among city-networks is the kind of actors that city members collaborate with. By definitions, I refer to city-networks as networks

that composed of pre-dominantly members of cities and local governments. Some networks, however, are composed of city and municipal authorities, state agencies, NGOs, and even research institutes. Given the flexibility of a network form of collaboration, many networks employ a relatively open policy with regard to collaborating with non-city actors, especially in cases where material resources like funding are involved. For some networks, city members solely take up the responsibility of providing secretarial, technical and financial support to sustain the network, while many other networks enjoy financial sponsorship and administrative support from state agencies and international organizations. (i.e. Kitakyushu Initiative for a Clean Environment)

Preliminary findings show that there are very few networks that are exclusively ran by cities. With increasingly vocal positions that cities take on international issues, many states, international and regional organizations now accord a certain amount of recognitions to cities and municipalities' roles on major issues.(i.e. The Covenant of Mayors) They may found it beneficial to have cities' supports, and as such many are now happy to collaborate and even fund city-network activities and operations. (i.e. WHO Healthy Cities Network, UN Global Compact CITIES Programme) The Mayor for Peace is one of the very few that still fund and run the network entirely by city members.

Accepting funding and administrative support from states and international organizations do not necessarily mean that city members' autonomy is instinctively compromised. Yet having the support from states and international organizations implies that the network would have the necessary financial resources to function in a politically supportive environment, which would likely assist the network to considerable extent in achieving its objectives.

I argue that membership of participating actors in city-network plays a role in determining network success or failure. By participating actors in city-network I do not only mean those members who are officially enrolled, but also include actors who are officially affiliated with the network. For example, while official record shows that only cities could become network members under the Kitakyushu Initiative for a Clean Environment programme, the government of Japan and the United Nations Social and Economic Commission for Asia and Pacific (UNSECAP) are also nodes under the larger Kitakyushu network structure. The former is the official source of funding, while the latter direct smooth functioning of the network. I hypothesize that close ties with state agencies and international organizations would yield more effectiveness. Links with state agencies and intergovernmental organizations could provide reliable financial, technical and administrative resources, as well as granting the network more political prestige. Moreover, work with states and intergovernmental organizations means that network enjoys a more supportive environment,

whereas it is more difficult for city-networks to be effective when they are working in a less supportive atmosphere or even working against state policies and the international political environment.

5 CONCLUSION AND IMPLICATIONS FOR FUTURE RESEARCH

Capturing the explosion of city-networks emerged and increasing academic interests towards cities, this paper surveys the landscape of city-to-city collaborations in networked format in addressing major global challenges. The paper provides a detailed account of existing literature on networks and governance, incorporating essentials from both the political and sociological disciplines in comprehending networks that emerged on the global governance arena. It then moves on to analyze city-to-city co-operations that aim at resolving major global problems through steering, as well as framing a shared understanding of the issue. The paper proposes to categorize numerous city-networks in accordance to their main purposes and membership structures. Varying natures and actors of city-networks influence and shape network priorities, thus producing different forms of network dynamics that could only be more appropriately investigated after establishment a thorough typology. The paper infers that advocacy city-networks have the interest to pursue a broad and inclusive membership in order to garner transnational support to pressure state authorities. This observation is particularly relevant in areas where firm governance commitments from state actors are lacking. On the other hand, mainly functional city-networks have the interest to gather like-minded and active members for more efficient transfers of knowledge.

With regard to assessing impact of city-networks, the paper hypothesizes that collaboration between city-networks and state or inter-governmental agencies could not only boost legitimacy but also helps to acquire material supports in performing network functions. In light of this, examination of collaborating actors with city-networks could also play an important part in further analyzing the recent multiplying activism of cities in a networked format.

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