

Understanding Constraints

An Analysis of the Determinants of Success and Failure
in the East European Reform Process

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When the European Commission in 1997 gave their first opinion on the progression towards membership for the ten applicant countries from the former Soviet block, no one was surprised that Estonia, Poland, the Czech Republic, Hungary and Slovenia were assessed as being prepared to start membership negotiations, while the other five (Latvia, Lithuania, Slovakia, Romania and Bulgaria) were put on hold until further reforms had been undertaken. It was obvious to everyone that these countries had come a lot further in the reform process than the others had. Less obvious is the reason why and in short, my dissertation aims at answering the simple question *why some of the applicant countries have been quite successful in their reform efforts to adapt to the EU-membership criteria¹, while others have been less so*, despite the fact that they all share the same overarching goal and are fully aware of the preconditions for fulfilling that goal.

This observation in turn poses the question to what extent the governments or the executives in the applicant countries really have the necessary capacity to carry out and implement their reform agendas. A reform-committed government that still fails to get the intended pieces of legislation through the legislative or implementation systems, must, logically, be hampered by some kind of constraints within (or perhaps outside) the polity. From a democratic point of view this is quite problematic to say the least and it should therefore be of great importance to understand how constraints determine the outcome of the reform process in order to make similar processes more efficient in the future. From a theoretical point of view the study aims at developing theories on efficient governance and the mechanisms behind failure and success more generally.

¹ The overarching conditions were proclaimed at the Copenhagen summit in 1993. In this study I will measure the outcome of the reform process in terms of adapted legislation and the progress towards 'closing chapters'.

The not too brave assumption is that structural constraints exist in all societies, and that those constraints restrict the political actors' possibility to achieve their intended goals. This is clearly the case in the East European reform process discussed above and therefore a logical point of departure in trying to explain different outcomes in the reform process.

Although there has been a virtual explosion of research dealing with different aspects of the East European transition, little attention has been paid to the systematic study of different types of constraints in different contexts, in order to determine under what condition they activate or interfere in the policy process, and under what conditions they tend to have positive and negative effects on the reform process. Focus has mainly been on an aggregate level, lumping together all aspects of the reform process in a country and often with a quantitative approach. In short, what is missing are more detailed comparative analyses of the components of the reform process, i.e. the policy processes in different policy areas. By shifting the level of analysis to a more detailed one, closer to the policy process, I think that this study will complement earlier findings in this field. Moreover, attempts to integrate political and economic aspects of the East European transition are still in its infancy. As it could be argued that the two processes are closely related and dependent on each other, further research in the political-economy strand will be much needed.

Consciously or not, almost every approach to the East European transition pays some attention to structural impediments, constraining the political actors' room for manoeuvre, but it gives, in my opinion, far too general answers to the question on how constraints or veto-points² effect the possibilities for the East European governments to reform successfully. Thus the aim of this dissertation is to put the contexts in which the constraints and veto-points work in focus, thereby trying to find out whether the same type of constraints have similar effects

² Following Immergut (1992), a veto-point is a kind of legislative check point, where some kind of clearance is needed for the survival of a specific piece of legislation, e.g. a presidential veto.

generally or if the effects of constraints are determined by other contextual factors, such as the reform ambition of the government.

Method and design

To be successful, the applicant states must carry through and implement a huge amount of new legislation and failure then logically means that something has gone wrong in this process, i.e. some type of constraint (formal or informal) has stopped necessary pieces of legislation in one way or another. Thus, trying to explain failure to adapt legislation to EU standards must start in the policy process by answering the questions where necessary pieces of legislation are derailed, changed, delayed etc. and why, i.e. what type of constraint that determines the outcome. My intention is to follow a couple of necessary pieces of legislation from initiation to implementation, in different countries and policy areas, trying to answer the where and why questions by using a policy tracing method.

To help structure the analysis the starting point will be a matrix with the outcome for the applicant country on each of the reform areas specified by the EU. This will give a rough idea whether the difficulties mainly lie with the states or with different policy areas. A most similar systems design method is used, as the applicant countries in many respects are similar, but differ on the dependent variable, i.e. the reform outcome. If the same type of constraints are present in the successful cases and are different from the constraints present in the less successful ones, one can assume that the constraints found determine the outcome of the reform process. In the case selection phase I will, as far as possible, pick the cases with maximum variation in outcome, i.e. the most vs. the least successful. To some limited extent there would also be a possibility to use a most different systems design, e.g. to compare similar outcomes in the most dissimilar countries. What cases to be included in the study will be dependent on how the matrix turns out.

Concerning the time period, it seems logical to have 1997, the year when EU gave their first structured opinion on the reform progress, as a starting point. In the Commission's annual progress reports, opinion is given on both the progress in each policy area since the previous report, and also how far each applicant country has come in fulfilling the membership criteria in terms of adopted legislation. The prior type of information is important, because it makes it possible to control for the initial condition, meaning that even an overall laggard country could be categorised as high performing during different time periods. No end-point has yet been decided.

To determine to what extent the political actors have the capacity to influence the reform process, programs of the political parties and governmental declarations will be studied in order to match the intentions with the actual output. If intentions and output match each other well, it indicates that structures do not matter that much after all, while finding a wide gap indicates the opposite. If it turns out that a government is hostile to reforms for ideological reasons, then the failure does not seem that puzzling.

In order to structure the analysis in a systematic way, the categorisation of explaining factors will follow in a hierarchical way with possibilities to generalise at different levels of detail. On the most general level the factors will be categorised as being either actor-oriented or related to structural constraints. I presume to find few cases of outright actor-oriented character and this category will thus not be further subdivided. Structural constraints or veto-points on the other hand were presumed to be the determining factors explaining reform outcome and is due to their great variation subject to a more detailed consideration.

Accordingly the structural category will be divided into a hierarchy of sub-categories, with the division between formal and informal structures being the second level. The former category relates to formal rules, laws, procedures etc, codified in one way or another, while

the latter relates to ideas, norms, competence etc. The point is to test and if necessary develop the veto-point theory by adding and putting the informal aspects of the concept in focus.³

The next level is more detailed taking different aspects of the political and implementation systems (institutions, that is) into account as sub-categories to both the formal and informal veto-points. The point is that every single case could be classified into different levels of categories, enabling comparisons at different levels of detail. As well as a ladder of detail the analytic framework will also be mirrored as a ladder of generalisation, i.e. the more detail the less possibility to generalise. Each case will on the most detailed level be alone in its category, making all generalisations impossible. Moving up the ladder an increasing amount of cases will be placed in the same category, though at a less detailed level. Depending on the level or step on the ladder where general conclusions can be drawn determines how unique the outcome of each case is. If the generalisations are fruitful only high up on the ladder, it indicates that the different outcomes are determined by many unique factors. Although it would be an overwhelming task to examine all relevant cases in order to draw generally valid conclusions about the determinants of all types of major reform around the world, the aim of the framework nevertheless is to be applicable to all types of reform contexts. The question is if a pattern will emerge at all or if the reasons for success or failure are unique, and totally dependent on contingent circumstances. That would be an interesting result as well.

The most important pieces of information will probably come from secondary literature dealing empirically with specific aspects of the reform process. Moreover, the media coverage is quite good in many respects and will be used, even though it might lack in details. International organisations, e.g. EU, EBRD, environmental organisations etc. evaluate from time to time the progression in the reform process and this type of data will also be used. Some official data might also be obtained, e.g. draft laws, parliamentary and committee

³ In Immergut, (1992), veto-points are only regarded as formal.

debates, opinions from interest groups, voting results, speeches, interviews and proclamations of intention on behalf of the government etc. In addition it will most likely be necessary to interview some actors in the policy processes, foreign as well as local.

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