The Leverage of the OSCE and EU on Romanian and Estonian Minority Policies

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After the end of the Second World War, the term Eastern Europe rose to importance as it defined the line between the capitalist West and the communist East.When the Soviet Union collapsed, the term Eastern Europe did not so much signify the difference between East and West, but more the difference between European non-member and member states of the European Union.Eastern Europe has been the focal point of European Union leverage after the breakup of the Soviet Union. Multiple reasons for this EU policy can be discerned, but not all can be explained here. However, it is clear that the EU sought to stabilize their eastern border as well as to open a new market for their products. In return, the Eastern European countries sought economic aid and entry into the EU. The impact of the Conference for Security and Cooperation in Europe (CSCE) and later the Organization for Security and Cooperation in Europe (OSCE) on the domestic politics of Eastern European countries has been much debated. However, the OSCE has played an important role in especially minority protection.This article deals with the subject of the article *Does domestic politics influence the effectiveness of external actors?* written by Judith Kelley, an assistant professor of Political Science atDukeUniversity specialized in policies and leverage of the European Union. She concludes that the effectiveness of external actors on domestic minority policies depends in some cases on domestic situation, but in the majority of cases on the type of pressure used by an external actor. For instance, the conditionality of membership is very effective if the target state thinks membership is within its grasp. Interestingly enough the OSCE has mainly used relatively ineffective persuasion, while the EU could use conditionality.The analysis is in this article is historical, albeit with the use of instruments from the political sciences to provide the basis of analysis. The article is not so much aimed at how history is used in explaining international leverage on domestic minority politics or even how it should be used, but more on how it could be used to explain this important and interesting phenomenon.The first aim of my article is use history to explain the differences between the OSCE and EU in their relation to Eastern Europe; why the OSCE relies on persuasion and the EU can use conditionality. The article provides a short historical institutionalist analysis of the makeup of the organizations to explain the relative power and clarity of the OSCE and the EU towards minority issues inEastern Europe. The second aim of the article is

use history to explain the effects of applied leverage on domestic politics on minority rights. This article will focus mainly onRomania andEstonia, since these are accessible examples of countries where OSCE and EU leverage have had a definite impact. Firstly, an analysis of the institutions at the point of creation of the state will provide a limited, but powerful, explanation of receptiveness of domestic politics to external actors. Secondly, the more expansive historical contextual analysis, as forwarded by Kelley will be forwarded and even slightly extended.Finally, the conclusion will assess both approaches and conclude on the necessary historical dimension for successful interpretation of international leverage on minority issues. The effects of EU and OSCE leverage will be taken as given, although the assessment of their effectiveness will be touched upon and explained in the third and fifth chapter. There is general consensus that the EU has exerted great influence over Estonia in terms of its minority policies – since they had to be in line with the acquis communautaire if Estonia were to join (although major alignment with the west already took place before EU demands, partly due to OSCE pressure). Although during most of the 1990sRomania was largely unaffected by EU considerations, an enormous increase in EU influence can be seen in recent years, anticipating the membership of the EU. The case for the OSCE is less clear cut. As Kelley has argued, persuasion is a poor tool – but the OSCE has often worked in concert with other international and national organizations, such as the EU, and thereby enhanced their effectiveness. It is often argued that the OSCE had a big presence inEstonia, but this presence should always be seen in relation to political will to reform and realignment towards the west as Ilves, a former Estonian foreign minister, argues (2002). He argues that taken on its own the OSCE is not sufficient. As Kemp says, support of the EU and the threat of a policy hampering negotiations about EU membership was critical (2001). InRomania, the influence of the OSCE has been marginal, with the exception of the monitoring and catalyst function of the High Commissioner on National Minorities (Kemp, 2001).

2. A Short Theoretical Overview: Historical Institutionalism and Contextual Analysis

Historical Institutionalism

As any theory, Institutionalism is a simplifying framework to interpret the world. It is the study of how political institutions influence future decision making. Not only the “formal constitutions and organizational structures”, but also the political culture are understood to fall under the term political institutions (Marsh and Stoker, 2002). Therefore an institution is in fact a “stable, recurring pattern of behavior” (Marsh and Stoker, 2002). Historical institutionalism looks at how choices made in history (whether they are conscious or not) about governmental design influence future decisions made by individuals. These choices take place at the foundation of the state/organization as well as during their development. The question of interest is how the organizational makeup of an international organization or state influences future policy and future policy possibilities (therefore an institutionalist explanation is

path dependent). This article will apply this historical analysis of institutions to explain the effect of the OSCE and the EU on the domestic politics of Romania and Estonia, by first explaining the differences in clarity and power between the OSCE and EU and afterwards explaining the receptiveness of domestic politics in Romania and Estonia, based on three variables forwarded by Vachudova (opposition to communism, quality of market reforms and use of ethnic policies in the settling years of the domestic institutions). This approach is more limited than the contextual approach, but therefore also more focused – part of the aim of this article is to show that this limited approach can provide the insight necessary to explain the receptiveness to external leverage.

Contextual Analysis

A contextual analysis of the problem of external leverage on minority issues, as also proposed by Kelley, will be applied on the domestic situations ofRomaniaandEstonia, both as a secondary explanation and a counterpart to the institutional approach. As Kelley notes, contextual analysis examines "the precise circumstances at the decision making level for each policy at a given time" (2003). It is clear that even a contextual analysis cannot possibly address every single issue and every single circumstance and therefore necessarily a selection of topics (and history) must be made. I will use the same criteria as Kelley, for simplification: authoritarian-style leadership, ethnic representation in government or parliament and domestic opposition to international demands – extended with a short analysis of the Estonia-Russian and Romanian-Hungarian relationships.

3. An Institutional Approach to OSCE and EU Power and Clarity

In *Does Domestic Politics Influence the Effectiveness of External Actors?*

Kelley points out that the OSCE and EU have developed very different mechanisms of leverage on domestic politics. The OSCE relied mainly on persuasion, whereas the EU could use membership conditionality. The decisions within the CSCE/OSCE are often rather vague, leaving great room for interpretation. This is not necessarily a bad thing, for, as Bloed aptly notes on the vagueness surrounding the mandate of the High Commissioner for National Minorities, it "also allows for a great flexibility" (1993). On the other hand, Ilves argues forcefully that ambiguity and vagueness in mandate creates unnecessary tensions when a member state believes the OSCE has overstepped its mandate (2002). Although the transformation in 1994 of a council to an organization empowered the OSCE by moving from an instrument of the détente of the Cold War to the establishment of missions in the target countries, many commentators still argue that the OSCE's criticisms have had little effect, even in Estonia (Gelazis, 2003).The European Union on the other hand, has been strong in its conditionality. Although non-observance was not always

punished, the requirements for entry into the EU have always been "massive, […] non-negotiable […] and uniformly applied" (Vachudova, 2001). No negotiation about the Copenhagen Criteria and the acquis communautaire were possible – the EU only negotiated on the timescale of implementation. Furthermore, the EU naturally had great economic attraction.These differences, 'weakness' vs. 'power' and vagueness vs. precision can be explained by digging deep into history – into the creation and nature of the international organizations. Therefore this part will examine the historical background of creation and state membership.

Organization for Security and Cooperation in Europe

The CSCE was, as it name implies, established in 1973 as a platform for discussion about security and cooperation in divided Europe. It was a creation of the détente between the West and the Soviet Union. At times, it was the only platform for dialogue between the 'West' and the 'East' (http://www.norway-osce.org/theosce/oscehistory.htm). In 1975, after extensive negotiations, the Helsinki Final Act was signed, consisting of three baskets: on security, economic cooperation and the inviolability of frontiers & human rights. This third basket's emphasis on human rights, such as freedom of movement and economic freedom, was also the focal point of Western policy. After the end of the Cold War, the activities in this basket expanded enormously, as the CSCE and later OSCE became involved with the democratization process and realignment to the West in general – and in many cases to the EU in particular – of the former socialist countries. The CSCE/OSCE therefore "serve[d] as a standard for judging democratic and human rights performance" (Acimovic, 1997).By 1992, 51 states from Western and Eastern Europe, Central Asia and North America (including the United States) had joined the OSCE and the Czech Republic followed as 52nd member in 1993. This fact not only meant that membership could not be used as a carrot for Eastern European states to reform their minority situations, but also that – since the process was strictly intergovernmental and therefore based on consensus– it was hard to reach a definite and clear conclusion on a subject (which could account for the vagueness mentioned above). Further, the composition of the OSCE also played a major role in the problems to formulate clear resolutions, since the organization consisted of both Western and Eastern states with often opposite interests and views. In fact even the 'West' was not unified, as the European Community's common position often differed substantially from the position adopted by the United States (George and Bach, 2001). Some commentators take budget as a sign of aims and commitment. If this view is taken on the OSCE, then it is clear that the aim of the organization was also less grand than that of the EU with a budget of a 'mere' 172 million euros in 2004 (http://www.osce.org/about/13117.html).

European Union

Created in 1958, the European Economic Community (EC) was a product of the Second World War and created at the backdrop of the Cold War – with theUnited Statespressing for European integration to strengthenWestern Europeagainst the Soviet Bloc. Economic integration was not only important for the economic resurrection ofEuropefrom the ashes of the Second World War, but it was also believed to prevent future wars (George and Bach, 2001). In 1993 the EC became the European Union.While the OSCE had a large membership, EC/EU membership was limited to 12 members until 1995 – in 1995 Austria, Finland and Sweden joined to make the grand total of 15. Although member states had contrasting economic, integration and enlargement standpoints, there was a general consensus that if the Union was to enlarge it would do so with new states that were economically capable and respecting human as well as minority rights. Although the EC/EU lacked "even basic references to ethnic minorities until 1992", the human rights dimension had been present before and was clearly pressed by the Scandinavian member states (Kelley, 2003). The EU was able to formulate and enforce clear requirements for membership both because of its small and relatively cohesive – on minority issues – membership and a degree of supranationality. The commission, which is a supranational organ of the EU, is able to "act autonomously to provide policy leadership to the EU" (George and Bach, 2001). In the case of minorities/enlargement it was the independent enforcer of the process, checking on progress towards the Copenhagen Criteria and the adoption of the acquis. With its extensive economic as well as political cooperation and integration, the aims of the EU are many and great, reflected in last year's EU budget of an incredible 86.4 billion euro.

4. An Institutional Approach to Domestic Receptiveness to OSCE and EU Leverage

Vachudova convincingly argues in her EUI working paper *The Leverage of International Institutions on Democratizing States: Eastern Europe and the European Union* that the effect of leverage of international organizations depends for a great deal on the circumstances in which the new states were formed after the dissolution of the Soviet Union. Therefore this analysis will deal mainly with the first few years of transition. She identifies two types of states: 'liberal pattern states' and 'nationalist pattern states', based on the presence or absence of three factors at the time of constitution (Romania is labeled a nationalist pattern state and for the purpose of this research Estonia will be labeled a liberal pattern state). These three factors are (1) strong opposition to communism, (2) quality of marketing reforms and (3) use of ethnically divisive domestic policies. As she notes, "these variables […] simplify many historical and institutional factors" (Vachudova, 2001). This chapter will 'de-simplify' these variables for the minority policies of Romania and Estonia.*Estonia*During the entire occupation by theUSSR the majority of the Estonian population was strongly opposing communism, although they never turned to violence (Pettai, 2003). They felt a cultural and historical right of belonging to the West, which explains the determination with which the Estonians reformed in the 1990s (Tiilikainen, 2003). This right can be elucidated by the

history ofEstonia, which has been intermingled with German, Danish and Swedish history – each occupying the country at one point. Reval is still the German name for the capitalTallinn, as it was called when the city was part of theHanseatic League and the Teutonic order held power.Russia conqueredEstonia in 1710, but in 1918 the Estonians fought and won a war of independence againstRussia. From 1944 onwardsEstonia was again under Russian dominion, as a full province of theUSSR. The Estonian population has always considered this annexation by theUSSR an illegal act, as was also recognized by international law. Full independence became an issue already in 1989 and in 1990 independence was declared. Regarding this independence, Toivo Klaar, an Estonian expert, even claimed that "the restoration of Estonian Independence was never seen as a goal in itself [but an] important step on the path from being a colony of the USSR to becoming an equal partner in an integrated Europe" (Tiilikainen, 2003).Estonia has shown remarkable speed in its reforms from communism to a free market economy. Partly, this can be explained by the strong opposition to communism and the Western cultural link (in for instance the participation in theHanseatic League). Although the limits placed on such reforms stem largely from communism, such as a lack of civil service tradition and management, I belief that the explanation for progress in reforms must be based on an analysis of the situation at the moment of independence, as Vachudova argues. The first government (a right of centre coalition) aimed at privatization, free trade and alignment with the West. The political elite could even use the desired end-goal 'EU' to justify harsh reforms. There have indeed been ethnically divisive policies and laws in post communistEstonia. The main minority in the country is Russian (30% of the population) – immigrated during the Soviet period. In 1992 the Estonian parliament instated a citizenship law which in effect restricted many Russian inhabitants in obtaining citizenship automatically, for the law only applied to immigrants of the Soviet era "who could prove that they had supported […] legal continuity" (i.e. the fact that Estonia was illegally occupied by the USSR) (Gelazis, 2003). Furthermore, only a marginal number of applicants were naturalized because of language requirements. It has to be noted, though, that these policies were more inspired by strong reservations on citizenship issues than by xenophobia.

Romania

In the case ofRomania, the revolution against Ceausescu's communist regime was fierce and violent. However, there was a lack of genuine and coherent opposition to communism – in fact the revolution was partly executed by reformist communists. The expansion of political participation after the overthrow of Ceausescu was not accompanied by political competition and therefore these former communists could seize power, as the National Salvation Front (Weiner, 1997). The fact thatRomaniahad no previous experience with democracy nor shared western values may also have contributed to the weak opposition and general endorsement of communism. Even in 1996 the opposition (the 'Democratic Convention of Romania') was still very incoherent, consisting of 18 political

parties and organizations. Furthermore, there was also a genuine fear of especially economical reforms – giving many of the well educated an incentive to condone communism. During Ceausescu's regime a new class of professionals was formed, meeting the demands of an industrializing country. After the revolution, this class, consisting of managers and technical professionals, was afraid of unemployment and loss of social power (Veiga, 1997). In contrast withEstonia,Romaniareformed slowly. The first few years after the revolution were marked by "slow privatization and insignificant restructuring of big industry" and financial reforms, in the form of reducing inflation, only took off in a second attempt in 1993 (Daianu, 1997). Additionally, there was serious mismanagement of foreign reserves, price controls and exchange rate – which was highly overvalued. Ceausescu's 'shock-therapy' of trying to reduceRomania's external debts of over 10 billion in the 1980s placed serious limits on early reforms. However, it has to be noted that there were no "real attempts to stabilize the economy before November 1990 [almost a year after the revolution]" (Daianu, 1997).Romaniahas often been criticized by the OSCE as well as the EU on its ethnic policies. Current dayRomaniahas a large number of minorities. Hungarians living in Transylvania (6.6% of the total population ofRomania) are of greatest interest, since they have been source of the greatest debate. A few factors can explain the ethnic policies of first Romanian governments. Firstly, in concordance with a lack of political competition, civil society in communistRomaniawas non-existent. Society was largely defined on ethnic basis. Weiner makes a valid point, namely that because of a lacking civic tradition, policies such as citizenship "would be defined along ethnic […] lines" (1997). Secondly, ethnic thought was not always mainstream in Romania, but the extreme ethnic nationalist parties such as the 'Party of Romanian National Unity' of Gheorghe Funar were necessary to form a government coalition – on a side note, Funar was extremely critical about the European Union, which might explain the lack of a 'carrot' in the case of Romania. Thirdly, the population "had been indoctrinated on nationalist (as well as communist) lines by the state media and education system", thereby potentially enhancing ethnic and nationalist sentiments (Gallagher, 1997). Fourthly, the extremist movements were often supported (mainly with information) or in fact even controlled by the still powerful secret service (Veiga, 1997).

5. A Contextual Approach to Domestic Receptiveness to OSCE and EU Leverage

The first part of this chapter deals with the relationships between Estoniaand Russiaas well as Romaniaand Hungary. Although important, they are not discussed by Kelley. The second part of this chapter forwards with Judith Kelley's three variables (1) authoritarian style leadership, (2) strong domestic opposition to leverage and (3) ethnic representation in government or parliament. Finally, since Kelley stresses the importance of the effects of international leverage, the effectiveness of the OSCE High Commissioner on National Minorities and the EU will be discussed. The relationship between Estoniahas been stable but fragile during the 1990s. Based on the history of invasion and oppression by Russia, there is still a genuine fear of a renewed Russian occupation amongst Estonians.

When I talked to an Estonian expert of their diplomatic academy, he argued that the people of Estoniathought accession to NATO for national defense as important as EU membership. On other issues, there has been less hostility during the Gorbachev and Yeltsin periods, possibly because of the policy by both countries of cooperation with the West – although the Russian government also sought to compete with the West (Breslauer, 2003). Still, minority issues evoked such statements during CSCE meetings by the Russian foreign minister as that Estonia was "pursuing ethnic cleansing with kid gloves" (Ilves, 2002).The relationship between Romania and Hungary has been tense throughout history. Hungarian maltreatment of Romanians in Transylvania especially in the 19th century, Hungarian repression of Romania during the Second World War and hostile propaganda during the communist era have given Hungary the status of traditional foe of Romania. Relations became stressed in 1988 whenHungary abandoned its policy of not raising the issue of treatment of co-nationals in foreign countries – resulting in a mass demonstration against the Romanian embassy inBudapest (Gallagher, 1995). However, in a reconciliation attempt in 1989,Hungary was the first country to recognize the new Romanian government, thereby helping to legitimize it. After the outbreak of ethnic violence in Tirgu Mureş in 1990 the interstate relationship again deteriorated. In view of EU membership,Romania has had to ameliorate its relationship toHungary, to prevent exclusion or isolation. Kelley concludes that the decisions of the authoritarian-style leader are crucial factors in effectiveness of international leverage. These decisions are firstly influenced by domestic preferences (the need to uphold/form a coalition; upcoming national elections). Secondly, perception of the consequences is very important. A leader will be more willing to take a decision if he thinks he can get away with it. The attraction of EU membership is very important here for Kelley, since positive perception of the chance to enter the EU on short term basis greatly enhances cooperation. Thirdly, the support of a key figure, such as the president, can greatly enhance receptiveness and therefore power of the leverage. InEstonia, such authoritarian-style leadership never took place. InRomania on the other hand, Iliescu was criticized by international organizations for his "governing practices" (Kelley, 2003). Kelley argues that in particular cases, Iliescu only gave in to OSCE and EU demands to improve his domestic popularity "when EU membership was becoming an election issue" (2003).Subsequently, Kelley argues that representation of ethnic minorities in parliament or government is not necessarily a guarantee of receptiveness. In the case ofEstonia, there has been representation of minorities in the parliament from the start, but these minorities simply lack the power to make important changes. Only when empowered by linking minority issues to demands for EU membership, minorities in parliament can significantly influence policies. InRomania, the Hungarian minority has even been represented in government, but as inEstonia, lacks the power to operate on its own. She concludes that representatives of a minority group need international support.Lastly, when examining powerful opposition from domestic parties to OSCE/EU leverage, Kelley comes to the conclusion that this factor does play an important role. She finds that, in the case of strong opposition, international leverage finds a positive response only when minority issues are explicitly tied to membership of the EU. This can be clearly seen in the hard-fought issue of stateless

children inEstonia. The High Commissioner raised the issue already in 1993, but measures were only taken in1998 when it became clear that the issue would obstructEstonia's bid for EU membership.Romania shows a similar pattern, when a new positive language and education law were passed in face of a serious bid for EU membership (Kemp, 2001).

As Kemp makes clear in his book on the OSCE High Commissioner on National Minorities, Max van der Stoel, quiet diplomacy has been very successful in Estonia. Most of van der Stoel's recommendations were eventually adopted, but from 1994 onwards the Estonians had the feeling that they were being singled out as the bar of international standards was raised every time it was met. 'Van der Stoel fatigue' and 'Estonia bashing' became frequently used terms (Kemp, 2001). It is difficult to assess the role of the High Commissioner in the protection of national minorities in Estonia, since Estonian policies had to be in line with Van der Stoel's recommendations for EU membership anyhow. It is safe to say however that the constant pressure of the High Commissioner was instrumental in minority protection.

Although the High Commissioner has been less involved in Romania, he did have a significant effect on minority language and education rights. During the 1994 crisis concerning a new law on education van der Stoel was instrumental in persuading the Hungarian minority not to engage on a civil disobedience campaign, while at the same time asking the government to make amendments to the law. Furthermore, van der Stoel had the effect of a catalyst in the negotiations on the 'Treaty on Friendship and Cooperation' between Romania and Hungary, as acknowledged by both states. Lastly, as van der Stoel himself states in an interview for the Helsinki Monitor with Homan (who by a strange coincidence I interviewed myself a long time ago) "timing of one's involvement is crucial" (2002). This can be seen clearly in the case of a law concerning tertiary education in minority languages in 1999, which was passed a day after van der Stoel arrived in Romania.

The effectiveness of the leverage by the EU is well summarized by Vachudova in her principles of passive and active leverage in combination with Kelley's argument that assessment of EU membership by Estonia and Romania was important. For both countries, EU leverage on minority rights was minimal during the first five years of passive attraction in which the mere attraction to the EU was not accompanied with clear accession criteria (Vachudova, 2001). The active leverage displayed from 1994 onwards had significant effects on the policies on minorities when Estonia and Romania felt accession was beneficial and attainable, because of the aforementioned non-negotiability of the Copenhagen Criteria.

6. Conclusions

An institutional analysis provides useful insight in, and explanation of, the factors that play a role in determining receptiveness to international leverage. It is clear that in the cases ofEstoniaandRomaniaopposition to communism, market reforms and ethnic policies have played a role in the country's development and therefore also the receptiveness to OSCE and EU leverage. InEstoniastrong opposition to communism and quick and effective market reforms are symptoms of (and have contributed to) a Western orientation and hence greater receptiveness to the OSCE and the EU. Although ethnic policies have been carried out inEstonia, these policies were based on a principle of restricting citizenship in general rather than xenophobia or strong nationalism in general. InRomaniathere was never a strong opposition to communism, market reforms took of slowly and ethnically divisive policies were implemented – which has contributed toRomania's slow progress in their path to accession. This paper has shown that the presence or absence of the three variables depends on, and can be explained by, the history of the country and its relation to its minorities. Although it could be argued that a few factors taken from just one point in history is insufficient to explain such a complex phenomenon, this article has tried to show that this period was critical in the development of countries into either liberal or nationalist patterns – and therefore these limited factors can indeed explain receptiveness.Kelley's contextual analysis, even in a slightly extended version, lacks explanatory power on domestic politics. By contextualizing every decision, she arrives at the conclusion that not so much domestic politics but international leverage (in combination with EU accession aspirations) determines receptiveness. Only strong domestic opposition to the leverage plays a significant role in all cases, but it is trumped by EU membership aspirations. This conclusion does not carry much weight for assessing the receptiveness from the vantage point of domestic policies – it only carries weight for assessing the external factors. Exactly by contextualizing the decisions, she misses the historical dimension of the issue. She only uses to a certain extent random points in history, which may or may not be representative of the country and definitely do not provide much predictive power for the future. In my opinion, it would have been better to incorporate the structural approach (for instance a historical institutionalist approach) which she denies in her article – since it is important to look contextual factors in a structural framework to provide an accurate explanation of domestic receptiveness to international leverage on minority issues.As for the future, the institutional analysis of the OSCE and the EU has shed some light on the strengths but above all the weaknesses of the organizations. Although membership has been a successful carrot to alter minority policies inEstoniaandRomania(and EasternEuropein general) it is unlikely that this carrot will be used in the future, because of limits on enlargement. However, the EU's economic power still carries some weight in for instance trade agreements, which can be used to improve minority situations in and beyondEurope.

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