Changing Faces of Europeanization:
Influence of the EU on Corruption in Slovakia Before and After the Accession
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Abstract:
The paper looks at the changing impact of the European Union on corruption before and after the accession, using a case study of Slovakia. It examines whether the pre-accession improvement and later decline in this areas can be attributed to the waxing and waning EU influence. It disaggregates the influence into several channels and shows that the channels work in multiple directions and that their weight and effectiveness have changed dramatically during the period. Before 1999, the EU influence was very close to zero. Between 1999 and 2004, the EU had a strong, positive influence on corruption, with the most positive influence related to exclusion of corruption-prone parties from the government. The post-accession impact is much more ambiguous primarily due to the negative effect of the Structural Funds.

Keywords
EU influence, accession, Slovakia, corruption, Europeanization

Introduction

The process of the EU enlargement to the East has always contained an element of fear of “the other”. The different developmental path that the countries of Central and Eastern Europe were forced to take between late 1940s and the end of 1980s resulted in fundamental differences in their institutional framework vis-à-vis the West and an

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understandable scepticism about their ability and willingness to fully absorb and implement EU institutional requirements. This fear resulted in an accession process of unprecedented length and intrusiveness, with the Union using the general Copenhagen accession criteria to push institutional prescriptions even in areas such as civil service or corruption control, where there was no (or not much) acquis to rely on. (Grabbe, 2003)

The actual accession of the 10 post-communist countries in 2004 and 2007 brought worries about potential backsliding once the membership was assured. Post-accession research resulted in mixed signals. While the new members continued to be assiduous in transposing EU legislation, their lacklustre performance on implementation of EU legislation led to conceptualization of a new model of compliance called the “world of dead letters”. (Falkner and Treib, 2008) Additionally, there seemed to be an actual backsliding in areas without an explicit European legal framework, such as the civil service reform. (Meyer-Sahling, 2009) On the other hand, the role of other potentially important channels of EU influence, namely the Structural Funds, remained largely unexamined.

This paper presents a holistic view of the EU influence in one area, comprising all major policy instruments and comparing the situation prior and after the accession. Such an approach should allow us to answer the following questions: Was the accession really associated with a measurable change in the size of EU influence and in the structure and shape of the channels through which the power is wielded? Did individual instruments of EU influence differ in this respect or did their impact (or lack thereof) develop similarly over time?

In order to conduct in-depth research of these issues, we chose one topic and one country to study. The topic of corruption was chosen since it represents a key concern with regard to new member states and since, due to the limited formal acquis, it is an excellent candidate for reversal (or at least some backsliding) in the aftermath of accession. It has also been a key element in the most serious attempt by the Union at post-accession conditionality – the so-called Cooperation and Verification Mechanism with Bulgaria and Romania.

Table 1 shows developments in corruption perception for the new EU member states prior to and after the accession. The data used are the Corruption Perception Index (CPI), a meta-index compiled from a variety of other sources that measure perceptions of corruption in a given country. While the CPI has its limits (having to do with the fact that it is based on perception rather than reality of corruption), it is broadly based, robust and the only available source of corruption data on an annual basis for all new member states over the relevant period. Warner (2002) documents why a comparative
attempt to measure corruption levels in individual EU countries through objective measures – ranging from reports of EU-level institutions to national prosecutions or discoveries of irregularities in utilization of EU funding - is largely futile. Lambsdorff (1998), Lancaster and Montinola (1997) and Lancaster and Montinola (2001) make a convincing argument why CPI is successful in overcoming most of the problems related to perception-based indices.

CPI for a given year relies on surveys conducted over the previous 2-3 years. Therefore, we chose 2006 CPI as the best approximation of 2004 accession data. We chose 1999 because it is the first year when data are available for all countries and also the years 1997-1998 are the period when accession negotiations started in earnest with the first group of postcommunist states. The 2010 CPI is the latest one available, reflecting situation between 2008 and 2010.

(Table 1)

We can indeed see broadly based improvement in the pre-accession period, with 8 out of 10 accession countries seeing improvement of the score. We can also observe some backsliding in the post-accession period, with only 3 out of 10 countries registering improvements and 6 out of 10 experiencing worsening of the score. Only Poland saw a major improvement after the accession.

We chose Slovakia as a country to study because the indicators of backsliding on corruption, once the EU membership was achieved, are very strong. Slovakia’s performance on CPI improved from 3.7 in 1999 to 4.7 in 2006 and then back to 4.3 in 2010. Other measures of corruption (e.g. the World Economic Forum data) also paint a similar picture of reversal following the accession.

Based on in-depth examination of the Slovak case, we conclude that the accession was associated with a shift in the shape and particularly channels of EU influence, but it did not necessarily make the EU less relevant with regard to corruption. Influence wielded using the accession conditionality and focusing primarily on formal policies and composition of the government was replaced with the post-accession impact of Structural Funds and direct EU powers over areas such as public procurement, state aid and competition policy. The other interesting finding is that the EU channels of influence that are emphasized in the literature – formal anticorruption policies and capacities – were probably not the most important ones overall.

We start with the view from the literature on the EU influence on domestic institutions in general and specifically in the area of corruption prior to and following the accession.
After discussing the methodology, the paper presents its findings on the five potential forms of EU influence on Slovak corruption. The article concludes with synthesis of findings and their potential wider application.

**EU influence on corruption and domestic institutions before and after the accession: the view from the literature**

In this section, we first provide a brief conceptualization of corruption for the purposes of the paper, then look at what the literature has to say about the process of Europeanization during the EU accession and in its aftermath, focusing on the area of corruption in the new member states. We pay particular attention to how the EU conceptualized fighting corruption in its prescriptions for the candidate countries and whether the issue of backsliding has emerged after the accession, both in general and specifically with regard to corruption.

There is no universally accepted definition of corruption as it is a phenomenon that has varying shape depending on time and place. Miller (2006) implies that is like pornography – difficult to define, but easy to recognize. In practical policy-making, two approaches prevail.

One looks at corruption in terms of legality. The problem is that such definition is endogenous since policy-makers (and the law enforcement as well as the judiciary) in a given country determine what is illegal.

The other approach is to emphasize distinctions between public and private roles of an individual and define corruption as abuse of the public office for a private gain. Another way of formulating this view is to say that corruption occurs when an official acts in private rather than public interest. This approach can also be reconciled with the economic perspective based on principal – agent theory, where corruption acts are generally unobservable actions of agents (officials) that contradict interests of the principal (the electorate) in order to provide gains for the agents. (Becker and Stigler 1974) As Rose-Ackermann (1999) points out, however, these definitions presuppose a clear distinction between public and private roles of a given person. This condition is not fulfilled in many countries, but presents a limited problem in the new member states where the distinction between public and private roles is relatively well established (when one considers all developing and transition countries).

The term ‘Europeanization’ has many definitions and levels of application and can be rather nebulous, not to mention highly contested (see Mény et al., 1996 for a discussion; also Radaelli, 2000). In this paper, we are concerned with what Olsen (2002) identified
as one of the five faces of Europeanization - the process of changes affecting domestic situation in those countries that are EU members. The focus is on how the European Union “hits” the member states (Trondal 2007), both prior to and during the membership.

Europeanization influences the member states through both coercive and non-coercive instruments. Knill and Lehmkuhl (1999) recognize three mechanisms of such Europeanization (see also Schmidt 2001 for a similar conceptualization). The first one is prescriptive, where specific institutional requirements are prescribed. The second one alters domestic opportunity structures. The third one modifies beliefs and expectations of domestic actors.

Schimmelfennig and Sedelmeier (2004; 2005) use a similar, albeit distinct conceptual framework from Knill and Lehmkuhl (1999) to explain Europeanization in the area of rule transfer to the Central and Eastern European candidate countries prior to their accession. They conclude that “external incentives model of governance” is the best explanation for rule transfer to these countries as opposed to two alternative explanations - social learning and lesson-drawing models. The external incentives model, unlike the other two, is coercive in the sense that the reward of EU membership is conditional on the rule transfer. They also conclude that the conditionality generally worked strongly with regard to the so-called *acquis* conditionality (Schimmelfennig and Sedelmeier 2004, p. 672).

In practical terms, this conditionality works through a formalized enlargement pathway. As a part of this pathway, developed in 1990s, the EU not only conceptualized accession stages based on membership conditionality, but also hardened the conditions for joining. The membership path for the post-communist states has thus been relatively onerous compared to the past. (Grabbe, 2003) Indeed, the EU has redefined, elaborated, widened and detailed the criteria of what constitutes meeting the accession conditions and added specific requirements for individual countries.

Specifically with regard to corruption, the Copenhagen mandate enabled the European Commission (EC) to push the candidate countries to adopt various anti-corruption policies. Despite the somewhat vague conceptualization of the Copenhagen accession criteria, the Commission developed detailed prescriptions, which it enforced during the accession process. (OSI, 2002) The anti-corruption measures are defined within the chapter of Justice and Home Affairs and are the so-called “soft” anti-corruption *acquis*. They concerned, for example, harmonization of definitions of corruption within the Penal Code and making foreign bribery a penal offence. The “soft” anti-corruption *acquis* also includes a number of international agreements, for example, Council of

Other chapters of the *acquis* contain a number of legal requirements relevant for corruption control in areas such as public procurement (candidate countries had to adopt procurement directives), requirements concerning judicial reform (Commission pushed for judicial independence and overall reform of the judiciary), financial control and audit (Commission asked for changes in the system of financial control to provide some assurance for the use of European funds) and civil service reform.

Corruption in EU candidate countries has been one of the European Union big concerns since its initial 1997 assessment in the “Agenda 2000” report on CEE countries’ application for membership (OSI, 2002). Commission regularly released its Regular Reports concerning each candidate’s progress towards accession including assessment of corruption. Regular Reports constituted one of the basic tools for Commission when challenging corruption practices in candidate countries and when asking for improvements. When developing Regular Reports, the Commission used a checklist on monitoring corruption that focused on not only on the existence and implementation of anti-corruption policy, but also on institutional arrangements for implementation and division of tasks among institutions; codes of conduct and training programs for public servants; cases of corruption in government and public administration and how the authorities react to these cases; and ratification and implementation of the relevant international conventions. (OSI, 2002) However, as we will show in this research, this was used as an ex post evaluation tool of progress without clear ex ante signals on the need to pass specific measures (with very few exceptions).

The pre-accession Europeanization can result in divergence between formal and informal rule transfer and between short-term achievement and long-term sustainability. (Milanese, 2001). Following accession, the former pre-accession relationship that relied on coercive instruments and enhanced the superiority of the EU is being supplemented by new forms, and the one-way reception of EU laws and policies is being replaced by softer forms of integration (Bulmer and Burch, 2000; Dyson and Goetz, 2003).

Empirical studies of post-accession behaviour have not demonstrated major problems or regressive change of behaviour in transposing legislation (e.g. Dimitrova and Toshkov, 2009; Sedelmeier, 2009; Trauner, 2009). On the contrary, the new member states have remained among the most assiduous compliers with EU requirements in regard to
legislation – even those countries considered to be most problematic members overall by the Commission – e.g. Bulgaria or Romania. (Gateva, 2010; Trauner, 2009).

However, two problems have arisen. First of all, analyses of the civil service reform in postcommunist new member states showed that there is measurable institutional backsliding in this area, a pars pro toto example of what can happen to pre-accession requirements imposed without a clear reference to the legally binding acquis. (Meyer-Sahling, 2009). This is highly relevant for our research since the anticorruption acquis is also largely of this “soft” nature. Secondly, even when there is a requirement to transpose legislation, this can be ineffective if there is no or insufficient enforcement. Falkner and Treib (2008) talk about a specific model of compliance in new member states with regard to working time and equal treatment, which they call “world of dead letters” and, in their view, includes, in addition to all 4 new member states they studied, also Ireland and Italy.

To partially compensate for these weaknesses, the EU has been negotiating more extensive asymmetric powers vis-à-vis the new entrants for the second wave (Bulgarian and Romanian) accession in 2007. These powers, embodied primarily in the so-called Cooperation and Verification Mechanism, included both enhanced powers of the Commission with regard to the European funding provided to the member states as well as the more extreme and temporary power to suspend recognition of judicial decisions by the new member states AFTER the accession if their judicial system is deemed to be unsatisfactory (Gateva, 2010). More recently and informally, several large member states including France and Germany have been making entry into the Schengen zone conditional in improvements in the area of corruption.

Gray (2009) notes that EU also has had an impact on financing costs for national governments, with impending and actual EU membership associated with substantial drops in perceived credit risk. Her quantitative analysis shows that a large part of this effect is related to “seal of approval” phenomenon, whereby the Union endorses a pre-existing policy mix. She speculates that removal of the “seal of approval” through explicit negative messages could serve as a disciplining device for the members. There is some anecdotal evidence to support the point (e.g. Hungary in the second half of 2010s), but insufficient for any conclusiveness as the global crisis made the EU institutions extremely reluctant to further disadvantage the most fragile members.

The literature shows that while the worries about backsliding are not unfounded, the real picture is more complex. The new members continue to perform well on transposition, but badly on implementation and also in areas without an explicit European legal framework. The existing research devotes much less attention to the role
of other potentially important channels of EU influence, namely the Structural Funds and the direct EU powers, for example, in the area of competition policy. Therefore, the paper can add value by presenting a holistic view of the EU influence in one area.

Methodology

The paper is a case study as defined by Gerring (2004) - ‘an intensive study of a single unit with an aim to generalize across a larger set of units’ (Gerring, 2004, p. 341). As noted by Yin (2003), case studies are appropriate instruments for social science research when the phenomenon being studied is highly complex and ‘when “how” or “why” questions are being posed, when the investigator has little control over events, and when the focus is on a contemporary phenomenon with some real-life context’ (Yin, 2003, p. 1). In such a context, Gerring (2004) and Van Evera (1997) emphasise the complementarity of single-unit and cross-unit research designs rather than superiority of one or another.

Single country design was chosen to allow a holistic view of the EU influence in one area, comprising all major policy instruments and comparing the situation prior and after the accession. The paper maps five channels through which the Union and its institutions might have influenced the situation:

- Political/democratic conditionality: composition of the government
- Policy conditionality: anticorruption policy
- Anticorruption technical assistance
- Structural Funds and other EU funding
- Direct EU intervention related to competition in the single market (state aid, procurement)

We have chosen the five areas based on research published on corruption in Slovakia and other Central Eastern European countries (e.g. Beblavý, 2009; Grødeland, 2007; Kollár et al., 2006; Mesežníkov and Kollár, 2003; OSI, 2002; Sičáková-Beblavá et al., 2011; TIS, 2007). Other potential candidate channels - for example, the role of OLAF (the Commission’s anticorruption body) or the effects of EU-funded research and advocacy – can either be subsumed into one of the five areas or have not been identified as relevant in any of the periods we examine.

For each of the researched potential channels described above, we present an analysis of the developments in the four stages of the accession calendar:

- Pre-negotiation (before 1999)
- Pre-accession (1999-2004)
Immediate post-accession (2004-2006)
Later post-accession (2006-)

This division is a slight adaptation of the stage-structured conditionality model, (Gateva, 2010) taking into account the Slovak electoral cycle. In the pre-accession phase, the Mečiar’s government (1994-1998) and its anti-democratic actions excluded Slovakia from the accession negotiations. Only 1 year after Mečiar’s removal (1999), Slovakia officially started the accession talks under the government of Mikuláš Dzurinda and, in 2004, became a member. In the post-accession period, the years 2006-7 were associated with two major changes. First of all, the Dzurinda’s government was replaced by a new government of Robert Fico after 8 years. Additionally, the year 2006 was the last year of the 2000-2006 financial perspective, where Slovakia received only limited funding from the Structural Funds. The new, 2007-2013 period, brought a huge increase in the level of aid.

The paper rates all the five channels, rating their positive (+ to +++), negative (- to ---) or neutral / irrelevant (0) contribution to the corruption in Slovakia. It then aggregates the ratings to form a comprehensive picture of the EU influence and demonstrates how it has changed after the accession. To alleviate the problem of weighting all areas equally, we present a differentiated number of positive or negative signs depending on our assessment of the importance of a given area for corruption developments in Slovakia. It should be noted that the value added of the paper is not primarily in the quantitative ratings, as they are only a useful abbreviation of the narrative analysis presented in the following text.

Ratings are based primarily on analysis of existing research, using in particular a limited number of in-depth studies of the corruption developments and anticorruption reforms in Slovakia (e.g. Beblavý 2009, Beblavý and Mesežníkov 2009, Kollár et al. 2006, Mesežníkov and Kollár 2003). This is complemented by use of the European Commission’s Regular Reports on the Slovakia’s Progress Towards Accession from 1999 to 2003 as the principal instrument utilized by the EU to assess the candidate country progress in a given year. However, there are important gaps in existing research, which are filled through a limited number of personal interviews and also use of newspaper accounts where appropriate.

Evaluation of potential channels of EU influence on corruption in Slovakia

Political conditionality: composition of the government

During the 1994 – 1998 period, Slovakia was ruled by a government coalition
dominated by the Movement for Democratic Slovakia of the Prime Minister Vladimír Mečiar, together with the xenophobic Slovak National Party of Ján Slota and the ultra-leftist Association of Slovak Workers of Ján Lupták. As a result of the government policy, Slovakia became excluded from further integration into the key Western “clubs” – the European Union, NATO or OECD. This negative development was not caused by corruption per se, but rather by the overall concern about the state of democracy and rule of law. (European Commission 1999, p. 11) Slovakia thus became a regional integration laggard, on par with, for example, Croatia.

The EU thus imposed a double political conditionality on Slovakia. At first, it tried to condition accession on the Mečiar’s government change of behaviour. In this respect, it was a ‘clear-cut instance of failed response to democratic conditionality’ (Pridham, 2002), since the government refused to modify its behaviour. As a result, the European Union effectively imposed political conditionality, whereby further integration was conditional on the exclusion of Vladimír Mečiar and his party from the government. (Schimmelfennig and Sedelmeier, 2004; Schimmelfennig and Engert et al., 2003). This had an important influence on both electoral results and coalition composition in Slovakia. Haughton and Fisher (2008) explain the link between government policies, the EU conditionality and electoral results in Croatia and Slovakia: “Where appeals to the nation were combined with illiberalism and were received unfavourably by strategically important international clubs, public support for such parties declined.” (Fisher and Haughton, 2008)

Of course, such conditionality could not be and was not legally binding (unlike the acquis), yet, the conditionality was made quite explicit in political communication (Pridham, 2002). As a result, Mečiar and his party remained in the opposition during the subsequent 1998-2006 period (as did the Slovak National Party, while the Association of Slovak Workers disappeared from the political scene). The effectiveness of this conditionality can be seen both in its effect prior to the accession and its disappearance afterwards. In 1998, a complicated coalition of both left and right was assembled to exclude Vladimír Mečiar from the government, while in 2002, there was a readiness to continue this coalition with a new left-wing party SMER rather than contemplate a government with Mečiar (in the end, this was not necessary thanks to an unexpectedly good showing of the centre-right parties).

After the accession - in 2006 - both major parties (SDKÚ-DS for the centre-right and SMER-SD for the centre-left), publicly endorsed coalition with Vladimír Mečiar, and consequently, SMER-SD successfully formed a coalition government with parties of both Mečiar and Slota. In other words, no mainstream party recognized or accepted Mečiar and Slota as coalition partners prior to accession, but both SDKÚ-DS and
SMER-SD found them acceptable afterwards. This shift in the politics is a strong indication of the effectiveness of the political conditionality vis-à-vis government composition.

Since the Movement for Democratic Slovakia and the Slovak National Party and their leaders were most prone to political clientelism and corruption from major political parties, their presence in the government or exclusion from it had a significant influence on the level of corruption in Slovakia. While the thorough evidence for this claim is too extensive to be presented here, the following anecdotal evidence can be given:

- at the end of the Mečiar government, the gap between outsiders’ perception of corruption in Slovakia and in the rest of the Central Europe according to Transparency International was highest in history (3.7 in Slovakia vs 4.6 for the other 3 Central European countries).
- In 2009, the interviews with 20 members of the political and economic elites showed that there is a dominant view among them that the corruption in this period was higher than subsequently (Beblavý and Mesežníkov, 2009).
- in the Fico government (2006-2010), there were 2 corruption scandals leading to a minister’s resignation in case of Mečiar’s Movement for Democratic Slovakia and 5 cases for Slota’s Slovak National Party, but only 1 case for the dominant SMER-SD. This is despite the fact that the two smaller parties together held only 5 out of 16 ministerial seats.
- from the leaders of 6 major political parties in Slovakia, Mr Mečiar and Mr Slota are the only ones living life that is obviously beyond their means and, in a recent poll, they were considered to be the richest politicians by a wide margin (Stojanovičová, 2010)

Therefore, regardless of domestic dynamics, the EU accession had an important positive effect on the corruption developments in Slovakia by temporarily excluding these two individuals and their parties from the government. From this point of view, the political conditionality regarding the composition of the government can be seen as a positive, yet unsustainable channel of influence.

Policy conditionality – anticorruption policy

During the Mečiar government (1994-1998), the EU conditionality with regard to specific anticorruption policies was ineffective due to reasons described above. This changed after the change of government in 1998 and the subsequent opening of accession negotiations in 1999. The anti-corruption measures were defined in the chapter on Justice and Home Affairs and are described in the section II of this paper above. All the requirements were fulfilled by Slovakia prior to the accession.
Therefore, the policy conditionality clearly worked in getting Slovakia to adopt the required legislation and policies. However, it is difficult to argue that these measures had a major impact on the state of Slovak corruption. An evaluation of 12 major anticorruption reforms in Slovakia during the 1998-2006 period identified only one of the 12 reforms as linked to accession conditionality (changes in the financial control and audit at the central and local government level) and this reform was rated as having “low” impact (Beblavý, 2009). Some of these other measures were also mentioned by the Regular Reports, but always in an ex post fashion rather than as ex ante requirements. (European Commission, 1999, 2000, 2001, 2002, 2003)

The slew of anticorruption programs and reforms introduced by the two Dzurinda governments was tightly linked to its domestic policy agenda. (Beblavý, 2009) In June 2000, as a result of early corruption scandals of the new government that resulted in public outcry, the first Dzurinda government approved and established a National Program for the Fight against Corruption, developed by the Office of the Deputy Prime Minister of Economic Policy, Ivan Mikloš, who also became responsible for the anticorruption agenda. The National Anticorruption Program endorsed reduction in discretion and increase in transparency, but it also sought to improve the functioning of the judiciary and prosecution, combat conflict of interest at all levels of government, and change the norms of behaviour through education and public information campaigns (Government of Slovakia 2000). After the 2002 election, the Dzurinda government continued in its second version. The anticorruption agenda, however, was shifted to another minister – Daniel Lipšic who served (between 2002 and 2006) as the Deputy Prime Minister for Legislation and the Minister of Justice. In May 2003, the government adopted Lipšic’s proposal of a more technical document on specific legal measures to implement the Government anticorruption objectives (Mesežnikov and Kollár, 2003, p. 644).

The anticorruption strategy of both Dzurinda governments combined specific sectoral reforms (e.g. bank privatization) with horizontal policies (e.g. freedom-of-information legislation). Both types of policy change took place within the overall environment of rapid reforms on all fronts in Slovakia since 1998. This changing political environment was caused by many activities, but the EU accession and fiscal pressures were among the most relevant. The rapid policy change contributed to the overall feeling that when change is possible in so many areas, it should be also possible to do something about corruption. More importantly, deep structural reforms of the key elements of the public sector made it possible to remove or diminish, at low political cost, some of the structural underpinnings of corruption.
Therefore, one can argue that the pressure exerted by the Commission with regard to explicit anticorruption policies was a minor element of the anticorruption reforms undertaken in Slovakia in the pre-accession period though the general emphasis placed on the issue by the Regular Reports made an imperative “to do something” stronger.

After the accession, implementation of requirements following from the “soft acquis” slowed down or even stopped in some cases, but did not reverse itself. Sičáková-Beblavá et al. (2011) show that for the approval and ratification of the Council of Europe’s anti-corruption conventions, the EU political conditionality was crucial. However, once Slovakia became a member, the urgency of implementation receded. Specifically, in April 1999, the Slovak Republic became one of the founding members of the Group of States of against Corruption (GRECO), the Council of Europe’s anti-corruption monitoring body. GRECO’s objective is to monitor its members’ compliance with Council of Europe anti-corruption standards.

As of January 2011, Slovakia has completed three GRECO evaluation rounds. In the first round, GRECO concluded in 2003 that 15 out of 19 recommendations had been implemented. During this period, the European Commission closely monitored the implementation of GRECO recommendations. To fulfil the first round of GRECO recommendations did not require any significant changes in legislation, and many of its recommendations were defined in more general terms - such as to create institution for fighting corruption. In the second evaluation round in 2006, Slovakia fully implemented only 8 out of 17 GRECO recommendations. In the third evaluation round in 2010, the result was that Slovakia fully implemented only 1 out of 16 GRECO recommendations. This can be attributed, in addition to the loss of EU conditionality, also to the progressively more “difficult” nature of the recommendations, with domestic compliance costs increasing (ibid.).

Therefore, with regard to the effect of EU conditionality concerning anticorruption policy in Slovakia, we can conclude that:
- EU was successful in imposing its policy preferences in anticorruption policy prior to the accession and less so after the accession
- the EU requirements and subsequent rule transfer were only one element among many that impacted on corruption in Slovakia during the period

**Anticorruption technical assistance**

Technical assistance for anticorruption reforms is another potential way through which the Union can influence anticorruption policies and their implementation and,
ultimately, the state of corruption in a country. The impact increases with the number of reforms thus supported and their individual importance.

Until 1999, EU-funded projects in Slovakia were neither directly oriented on structural reforms in this area, nor did they result in any anti-corruption regulations. (Muška, 2009) Therefore we cannot speak about the EU influence in the form of policy transfer and learning in decreasing corruption in this period.

In the pre-accession period (1999-2004), several structural reforms were conducted with the policy transfer and technical assistance provided by EU. In 2001, the Commission provided a grant from the PHARE scheme to support fight against corruption in Slovakia. The project funded technical assistance to change civil service legislation, as well as an experienced Spanish prosecutor to work as the long-term expert on creation of Special Court and Special Prosecutor Office, which were set up to deal with corruption investigation and trials (Kollár, Mesežník and Bútora, 2006, p. 672). The other example is conducting trainings for investigative journalists or assistance in assessment and further development of data collection and processing among law enforcement agencies (Phare, 2001).

After joining the EU, the government continued to implement anticorruption projects programmed or started earlier, but in the 2006 to 2010 period, it did not initiate new major projects of technical assistance in the anticorruption policy (Kálavský, 2009). The only exception is a project from the EU Transition Facility, which was implemented between 2006 and 2008; however even this project was an explicit part of a funding modality related to Slovakia’s accession rather than to its regular membership. This project focused on the training of repressive institutions such as police, prosecution, and courts. In this period, there were no projects financed by the EU, which would primarily focus on policy transfer to conduct structural reforms to decrease corruption. Therefore, policy transfer and training is not significantly present in the period 2006 to 2010.

As already mentioned, assessment of the role of external actors in Slovak anticorruption efforts concluded that foreign technical assistance played an important role in six out of twelve anticorruption reforms studied, but that the European Union played a role only in one of them, which was assessed to have “low” impact (Beblavý, 2009).

Therefore, the EU technical assistance played a mildly positive role in the 1999-2004 period, but was largely irrelevant before and after.

EU financial assistance
When looking at the role of the EU financial assistance in Slovak corruption, we look at the Structural Funds and pre-accession funds of a similar type. We proceed from a description of changes in the form and volume of aid over time to an analysis of their likely influence on the issue of corruption. The existing literature does not have much to say about the impact of EU aid on corruption, considering corruption to be constant and then assessing how high corruption influences effectiveness of EU programs in generating economic growth (Beugelsdijk and Eijffinger, 2003; Ederveen et al., 2002; Royo, 2007). We argue that a combination of large scale of the aid and some of its structural features make it likely that it leads to actual increase in the corruption.

Before 1999, the volume of the EU aid flowing into Slovakia was minuscule and generally limited to PHARE. The decision-making system concerning allocation of the EU contracts to Slovak entities was directly managed by the Commission and the local Commission staff. In the run-up to the EU accession, the flows began to be scaled up and deliberately mimic the Structural Funds and other programs for member states in order to prepare Slovakia for the membership. Two programs – SAPARD and ISPA – were particularly prominent, designed to prepare for, respectively, the Common Agricultural Policy and the Cohesion Fund, which also meant that their administration was shifted to domestic agencies accredited by the EU. The gradual increase in domestic control coincided with a scandal where accusations of impropriety were made, by his ex-wife, against the senior civil servant responsible for aid coordination. Even though the accusations could not be substantiated, EU audit uncovered structural weaknesses. (European Commission 2001, p. 15) The scandal led to temporary suspension of EU aid and dismissal of Deputy Prime Minister for EU Affairs, Pavol Hamžík, from the government in 2001 (Zsilleová, 2001). On the other hand, it should be noted that, from a macroeconomic afiscal point of view, the flows were still quite low.

The accession brought two dramatic changes. The first one concerned the decision-making process. As a member of the Union, Slovakia began to receive Structural Funds, thus bearing primary responsibility for programming, project selection and project management. The European Commission and other EU institutions retain powers of oversight, but these powers are significantly more limited compared to the pre-accession period. Therefore, the accession increased the ability of various Slovak public institutions (particularly managing authorities) to use and abuse the funds.

Even more importantly, the volume of the aid scaled up dramatically – in two stages. In the 2004-2006 period (which effectively ran until 2008), the volume was increased to an annual flow of about 400-500 million Euro. In the 2007-2013 period, this jumped again to 1.5-2 billion Euro annually (TIS, 2007).
The challenges were compounded by the Slovak political and policy strategy vis-à-vis the Structural Funds. Due to a combination of fiscal pressures and negative experience, Central and Eastern European countries had, prior to the EU membership, gradually reduced the amount of subsidies overall and, more importantly, dramatically reduced the share of subsidies that is allocated in a discretionary rather than based on formulas and other rules-based approaches (TIS, 2006). Structural Funds dramatically reversed this trend. In both the 2004-2006 and the 2007-2013 period, high percentage of the allocation of funding was vulnerable to corruption, with vulnerability defined on the basis of three criteria: political discretion in allocation of projects, imbalances between supply and demand, high level of private sector involvement either through state aid or procurement (ibid.).

(Table 2)

As a result, the Structural Funds progressively became a symbol of corruption in distribution of government subsidies, with Slovakia having the dubious distinction of having a front-page article in the New York Times on the topic (Castle, 2010).

Table 2 shows that, in the 1998-2004 period, only 1 minister was dismissed for corruption / abuse of power related to EU funding (Mr Hamžík as mentioned above) – out of 5 ministers who had to leave for reasons related to corruption or abuse of power. In the Dzurinda II government, 2 ministers had to resign between 2004 and 2006 because of allegations of impropriety and both of these were linked to EU funding. In the Fico government, the “Structural Funds factor” concerned 3 ministers out of 8 ministers who had to resign between 2006 and 2010 for impropriety (though it should be noted that additional 3 ministers out of the same group of 8 were dismissed because of an emissions trading scandal also resulting from EU policies). This shows that the growth of importance of EU aid was reflected in their growing role in senior political corruption scandals. Also, as Šipoš and Kurian (2011) show in their analysis, the scandals leading to ministerial resignation were generally more serious during the Fico government that they had been during the Dzurinda governments, so they cannot be attributed to increasing sensitivity.

Therefore, we see a growing negative impact of EU funding on the state of corruption in Slovakia, increasing both with decentralization to domestic authorities and with rapidly expanding volume of aid.

*Direct EU intervention related to competition in the single market (state aid, procurement)*
In the EU policy and legislation, issues of state aid, procurement and competition are closely intertwined and linked to one of the key objectives of the Union – to ensure a smooth functioning of the single European market (Article 26 TFEU, Article 3 TEU). The EU legislation subjects all state aid to scrutiny by the Commission unless it fits into one of the so-called block exemptions agreed to by the Commission and the member states. The Union also has extensive procedural legislation on major procurement actions to ensure that there is an open competition without discrimination of suppliers from other member states. Additionally, both the Commission and the member states have an obligation to prosecute cases of anticompetitive behaviour by businesses and the power to approve or forbid mergers (Regulation No 139/2004) depending on their impact on competition in local, national and European markets. The European-level policy in this area is promulgated through direct legal instruments – regulations, which are directly enforceable and applicable in each member state. As we shall see, this transfer of executive power to Brussels was significant in a country such as Slovakia with weaker domestic institutions (unlike, for example, in Sweden, where Lennerfors, 2007 also identifies impacts of the EU procurement legislation on corruption, but deals exclusively with domestic enforcement).

As Bedirhanoglu (2007) notes, the neoliberal discourse generally associates corruption with rent-seeking, and it links anticorruption with higher levels of competition. Specifically in the EU context, the competition, procurement and state aid powers are important both in obvious and subtler ways. They introduce significant limits to discretion of public authorities in a member state by obliging them to follow certain procedures (procurement) or even request approval by the Commission for certain actions (state aid). These powers have enabled the EU, and particularly the Commission, to shape domestic policies of the member states in far-reaching ways (Paroulková and Zemanovičová, 2009). Examples of the EU power include:

- if the Commission believes a member state did not respect the procurement legislation in a specific case, it can sue the member state in the European Court of Justice
- increasing the transparency of relationships between public authorities and real estate developers by mandating sale/transfer of land and real estate at market prices (sales for lower prices are considered state aid)
- limits on the ability of governments to provide subsidies for public transport on a discretionary basis
- constraints on ability of for-profit bodies including state-owned ones to be recipients of Structural Fund (or more precisely, constraints on conditions under which they can receive them)
Importance of these rules has also increased in interaction with Structural Funds. The primacy of public procurement in corruption in the new member states had been true long before then (see Bohatá, 1997 for the case of the Czech Republic), but it has grown in 2000s (Grodeland, 2007).

In the pre-negotiations stage, Slovakia established a competition authority (1990), modelled on what was perceived as the European best practice, with the EC involvement in an advisory capacity and largely based on bilateral links with national authorities in the existing member states. In 1992, Slovakia approved procurement legislation, but only with a limited scope and not related to EU requirements. The association agreement in 1997 brought a more rigorous definition of anticompetitive practices based on the EU legislation and brought state aid rules into the picture. However, the legislation continued to be implemented by domestic institutions and the Association Agreement was not really enforced due to political reasons.

In the pre-accession stage, between 1999 and 2004, formal transposition of competition, procurement and state aid *acquis* into the domestic law occurred. In 1999, the State Aid Authority and the Public Procurement Authority (PPA) were established, though the enforcement was still weak and, in both regards, this can be seen as a learning period.

In the immediate post-accession stage, the fact of the membership means demise of domestic state aid institutions, with all powers being transferred to the Commission (State Aid Authority abolished). On the other hand, the roles and powers of the Public Procurement Authority expanded even though the Commission also gained authority to monitor major procurement and, if necessary, initiate court cases against Slovakia. The national competition authority continued to deal with national and local issues, but the Commission could pre-empt cases of multinational nature or even cases of national nature where the national authority was unable to make headway.

This description also applies to the later post-accession stages, though the growing influx of Structural Funds made such powers more relevant and intrusive. The importance of European intervention in the post-accession stage can be illustrated by three major cases experienced in Slovakia in the 2006-2010 period. These were:

- tender to supply toll system for commercial vehicles (value: EUR 600-800 million)
- consulting services in management of Structural Funds (value: EUR 120 million), funded from Structural Funds
- grants to the so-called pilot social enterprises (value: 8 grants worth EUR 26 million), funded from Structural Funds
These cases have been dogged by allegations of clientelism and corruption and also by related allegations of infringements of the EU and domestic law on public procurement and/or state aid. Domestic regulatory institutions (PPA, Ministry of Finance, Antimonopoly Office) proved to be ineffective – either refusing to become involved or unable to establish any illegality (Grodeland, 2007 found a strong influence of informal networks in CEE countries in influencing public procurement outcomes.)

The European Commission however declared that all three cases were in contravention of EU law – of public procurement law in the first two instances, and of the state aid law in the third case. In cases where the costs were being reimbursed from the Structural Funds (the second and third case), this resulted in the projects’ cancellation by domestic authorities at a stage, where approximately 20-30% of the expenditures were already pre-financed by national budget, but saving the rest. The first and largest case concerning the toll system for commercial vehicles remains under negotiation between the Slovak government and the Commission.

Therefore, we conclude that the EU intervention in this area has had a major impact after the accession of Slovakia in 2004, with relevance increasing in the late post-accession stage, since the burgeoning inflow of Structural Funds increases the importance of the mechanisms concerning procurement, state aid and competition both for Slovakia and for the Commission.

**Synthesis and conclusions**

In previous sections, we analyzed influence of five potential channels through which the European Union could have had an impact on corruption in Slovakia. The results are aggregated in Table 2, which summarizes contribution of each channel to the overall state of corruption.

(charted 3)

Before 1999, the influence of the Union on Slovak corruption was very close to zero since the Slovak government refused to change its policies under EU pressure and there were no direct interventions possible. This changed significantly in the pre-accession period between 1999 – 2004, when the EU was able to deploy a wide range of instruments strengthening its influence. The political conditionality of accession meant both the exclusion of the parties most prone towards corruption from the government and the pressure to introduce and implement a formal anticorruption policy. The reforms were also supported by technical assistance and the transfer of EU rules concerning competition, state aid and procurement into the Slovak legislation including
creation and strengthening of national regulators. At the same time, EU influence was limited in areas where structural reforms were most effective in reducing corruption and thus the overall effect of policy conditionality and technical assistance were minor. The increasing flows of pre-accession aid and their gradual decentralization to domestic authorities, on the other hand, meant an increased risk of corruption. Overall, we can conclude that prior to 2004, the EU had a strong, positive influence on corruption, with the most positive influence related to exclusion of corruption-prone parties from the government.

The accession, however, changed the situation significantly. The conditionality was lost in both government composition and policy area, manifesting itself in increasing acceptability of Vladimír Mečiar and Ján Slota as government partners and also in reduced emphasis on anticorruption policy for all mainstream parties. The anticorruption technical assistance, which was part of the pre-accession funding, was also gradually wound down. The sharply increasing aid flows began to dominate the EU influence on the corruption in Slovakia, with a major negative influence due to their discretionary nature and decentralization of management to national government authorities. On the other hand, accession meant that the European Commission and the European Court of Justice finally had a possibility to also intervene directly in the areas of competition, state aid and procurement, strengthening the impact of the EU rules. Nonetheless, the overall assessment is that while before the accession the EU had undoubtedly positive influence in the field of corruption, its post-accession impact is much more ambiguous due primarily to the effect of the Structural Funds.

Therefore, the EU membership was associated with noticeable changes in the size of EU influence on corruption in Slovakia and with even more substantial modifications in the composition of the channels through which it was exercised.

Looking at the results from a broader perspective, the paper showed that the EU influence on such an important issue as corruption in a candidate or member state can be significant, both in positive and negative terms. However, it also showed that to assess the influence correctly, we need a more holistic view of policy instruments and channels of influence rather than looking just at the acquis and its implementation. The conclusion in case of Slovakia and corruption is that other channels dominated the impact of the policy conditionality and technical assistance. Consequently, the influence of the Union can in certain cases benefit from analysis, which does NOT conceptualize the influence as a two-player game concerned solely with legislation and its implementation, but recognizes the multiplicity of actors on both sides and particularly the multiplicity of channels.
Lastly, the paper points out that the concept of post-accession backsliding might also not do justice to reality, since the accession brought strengthening of EU influence compared to the pre-accession period in terms of direct enforceability of some of the EU rules. The role of Structural Funds remains underresearched in this respect.
Table 1: Corruption Perception Index: pre-accession and post-accession developments

<table>
<thead>
<tr>
<th>Country</th>
<th>CPI 1999</th>
<th>CPI 2006</th>
<th>CPI 2010</th>
<th>06 vs 99</th>
<th>10 vs 06</th>
</tr>
</thead>
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<tr>
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<td>6.7</td>
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<td>6.4</td>
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<td>0</td>
</tr>
<tr>
<td>Poland</td>
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<td>3.7</td>
<td>5.3</td>
<td>-0.5</td>
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<td>4.8</td>
<td>5</td>
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<td>0.2</td>
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<tr>
<td>Hungary</td>
<td>5.2</td>
<td>5.2</td>
<td>4.7</td>
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<td>-0.5</td>
</tr>
<tr>
<td>Czech Republic</td>
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<td>4.8</td>
<td>4.6</td>
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<tr>
<td>Slovakia</td>
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<td>4.3</td>
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<td>4.81</td>
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Source: Transparency International

Table 2: Role of EU funding in ministerial dismissals for corruption / abuse of power

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<thead>
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<th>Dismissal for corruption / abuse of power</th>
<th>Dismissal for corruption / abuse of power related to EU funding</th>
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<td>2004-2006</td>
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<tr>
<td>2006-2010</td>
<td>8</td>
<td>3</td>
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Source: authors

Table 3: Typology of EU influence on corruption in Slovakia

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Policy conditionality: anticorruption policy

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<td>Anticorruption</td>
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<tr>
<td>EU direct intervention</td>
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<td>++</td>
<td>+++</td>
</tr>
<tr>
<td>related to competition</td>
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<tr>
<td>policy</td>
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**Summary**

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<th>++ / --</th>
<th>+++ / ---</th>
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</table>

*Source: authors*

**References**


