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# POLITICS in Central Europe

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# ESSAYS

# Equality implies proportionality: Assessing the (dis)proportionality of constituencies created for the 2022 Slovak regional elections

JAKUB BARDOVIČ AND JAROSLAV MIHÁLIK



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**Abstract:** *In a democratic environment, political equality implies proportionality. Achieving this in an electoral setting can be complicated and unrealistic. The aim of this article is to investigate the logic, approach and method of creating constituencies in the elections for Slovak self-governing regions in 2022. We track the key attributes related to proportionality: the legislation, the actual creation of constituencies, the mechanisms used for the redistribution of mandates and the achievement of proportionality in individual constituencies within particular regions. Our results indicate considerable disproportionality within the constituencies of particular self-governing regions, which is mainly caused by the lack of effective legislation, the different approaches of authorities in creating constituencies and the absence of limits to the violation of electoral and thus political equality.*

**Key words:** *(dis)proportionality, malapportionment, regional elections, Slovakia, electoral equality*

## I. Introduction

Electoral equality refers to the principle that each individual's vote should have an equal weight in the outcome of an election. This means every eligible voter, regardless of race, gender, socioeconomic status or any other characteristic, should have an equal opportunity to participate in the electoral process and should have their voice heard through the ballot box. Similarly, electoral equality is a fundamental component of democracy, as it ensures every citizen's right

to vote is protected and that the outcome of elections should ideally accurately reflect the will of the people. Without electoral equality, certain groups or individuals may be systematically excluded from the political process, leading to a lack of representation and accountability in government (Dahl 1998). Efforts to promote electoral equality often focus on measures such as ensuring fair and accessible voting procedures, combating voter suppression tactics, promoting voter education and engagement and working to eliminate barriers that prevent certain groups from participating in the political process (Mair 2013; Dubrow 2014).

The research on elections and electoral systems, which belongs to the core of political science, has been fairly extensive and robust over recent decades. However, systematic research on electoral imperfections and distortions is underdeveloped, thus creating a void in electoral studies. As suggested by Dančišin (2005), this indicates that electoral mechanisms are always characterised by their imperfections. At the legislative level, therefore, we should logically aim at least to minimise such imperfections, in so far as current knowledge permits.

Despite the fact that there is a large amount of academic literature dedicated to electoral studies in Central Eastern Europe, there is a significant lack of interest in examining the electoral systems and their disparities and imperfections related to particular electoral settings at individual levels of the state. Such research is rather underdeveloped in Slovakia, compared for example to the Czech Republic. The literature review is even narrower if we focus our academic attention beyond the national parliament (National Council of the Slovak Republic), and look at the elections to local self-governing institutions. The most significant works in this area are by Dančišin (2018; 2019) and Bardovič (2023), and the brevity of this list confirms the significant gap and lack of data in this particular research area. Our empirical research has the ambition to build on previously published material to support our main arguments about the malapportionment practice and electoral discrepancies at the regional level in Slovakia.

## **II. Measuring (dis)proportionality in the electoral systems: A literature review**

One of the important criteria for assessing electoral systems is their proportionality. This phenomenon is well covered in the academic literature, and its importance is emphasised by several authors. The title of our paper, inspired by McGann (2006: 35), suggests that equality implies proportionality, which is, in Lijphart's (1984) words, synonymous to political justice. Similarly, Dahl (1998) emphasises that democracy should guarantee equality to all individuals: in other words, the government should give equal consideration to the good and interests of every person (Lawrence 2014). However, Mair (2013) questions formal political equality and argues that democratic principles are not guaran-

ted or sufficient in a society. Horowitz (2006) included the proportionality of the distribution of mandates with respect to the number of votes among the six goals of electoral systems. These can also be understood in some ways to be criteria enabling us to evaluate an electoral system. In addition to proportionality, Horowitz includes accountability to voters, the formation of lasting governments, the Condorcet winner, inter-ethnic and religious reconciliation and minority representation (Horowitz, 2006). Taagepera and Grofman confirm the importance of proportionality when they state that ‘disproportionality is key to considerations of electoral justice’ (Taagepera – Grofman 2003: 660). When looking at changes to elections rules, Taagepera (1973) used the size of constituency and the quantitative aspects of changes to test the seat-vote equality.

In the academic literature devoted to the issue of proportionality and disproportionality, we find that some works bring their own definitions of these terms (Loosemore – Hanby 1971; Lijphart 1985; Lebeda 2008) while others examine and reflect on previously formulated definitions (Dančičin 2013). There are also studies focused on the differences between specific electoral settings, or on mathematical formulas from the point of view of selected indices (definitions) of proportionality (Bedock 2017; Lundell 2012; Lebeda 2006). Other works simultaneously research existing definitions of proportionality and mathematical formulas and at the same time bring their own understanding of this phenomenon (Lebeda 2008; Lijphart 1985). The Czech academic environment concludes that measuring electoral proportionality is still a challenge for researchers, although they propose their own tools for how to measure it (Jarabinský – Líbal – Oreský 2022; Charvát 2010; Lebeda 2006). In general, political scientists recognise two approaches to measuring proportionality. First, they look at Hare’s quota and the largest remainder method which, using distortion indices, comes out as a proportional one (Jarabinský – Líbal – Oreský 2022; Lebeda 2006). Then there is another approach which measures the number of votes per mandate, which corresponds to the D’Hondt method (Jarabinský – Líbal – Oreský 2022; Lebeda 2006).

Given the differences in the varying approaches of political scientists, we believe that currently there is no uniform definition of how to determine proportionality or disproportionality. Evidence of this fact is the existence of several indices. Nevertheless, there is an agreement on the basic indicator that a proportional result should bring a party with a certain share of votes the same share of mandates (Brighouse – Fleurbaey 2010). In mathematical terms, the ideal and thus the desired proportionality could be stated as follows: for each political party  $h_i = m_i$  should apply, where  $h_i$  represents the share of votes obtained by a specific political party  $i$  and  $m_i$  the share of its obtained mandates. Pennisi (1998) also expresses this logic as follows:  $m_i / M = h_i / H$  or  $m_i / h_i = M / H$ . In this case, however, we do not work with shares, but with absolute numbers, so for a specific political party  $i$  we have mandates obtained  $m_i$ , votes

received  $h_i$  and subsequently in the elections,  $H$  votes were cast and  $M$  mandates were allocated.

Proportionality research itself is important, not least because no single electoral system is perfect. Therefore, following Lijphart's (1985) argument, even if there is a very small group of cases (i.e. these are very exceptional situations) when some electoral technique will bring about completely proportional results, it is impossible to expect completely accurate proportional results from any electoral system. Lijphart even adds: 'all electoral systems achieve significantly less proportionality than is mathematically possible' (Lijphart 1985: 10). In connection to the measurement of (dis)proportionality, Gallagher (1991) argues about the existence of two large categories. In both of these, we work with the votes of the party and the mandates it has won, but in the first category the absolute difference between them is monitored, and in the second category it is the share. In the second attempt at categorisation, we find approaches working both with a picture of the election results with regard to a particular political party, or an average political party, or a certain partial rendering of the situation.

One of the most frequently used methods for the evaluation of (dis)proportionality is the Loosemore-Hanby index (Lebeda 2008; Lijphart 1990; Loosemore-Hanby 1971). Authors refer to it as the distortion index ( $D$ ). The logic of this index is it calculates the difference between the share of votes and the share of mandates for each party. These differences are then added up in absolute values and divided in half. Loosemore and Hanby (1971) interpret the given index as having a value of 0 to 1, but we also encounter an approach (Lebeda 2008) where it ranges from 0 to 100. This difference depends on the form in which the percentages enter the calculation itself. The mathematical expression can thus be as follows:  $D = \frac{1}{2} \sum |h_i - m_i|$ , where  $h_i$  represents the share of votes of a specific party expressed in percentages and  $m_i$  its share of mandates. However, we can also see the interpretation in the following form:  $D = \frac{1}{2} \sum |h_i / H - m_i / M|$ , where the respective values do not express the share but the total number of party votes ( $h_i$ ), votes cast ( $H$ ), party mandates ( $m_i$ ) and allocated mandates ( $M$ ) (Pennisi 1998). Nevertheless, within both approaches, 0 means absolute proportionality, and any value different from this represents a degree of distortion, or deviation from the desired proportionality.

Like any index, this one has its limits. Lebeda (2008) summarised them in two points. First, he notes its inability to depict the real situation in some circumstances, as it does not provide complete information. Second, it tends to favour Hare's quota and also the largest remainder method. In addition, an excessive sensitivity to the number of political parties that are included in its calculation is considered a limitation (cf. Lijphart 1985). An almost identical approach was chosen by the authors Mackie and Rose (1991), who determined proportionality in the states monitored first by calculating the difference between the share of mandates and the share of votes. The resulting absolute values

for all political parties were calculated and then divided by two. As a last step, this value was subtracted from the number 100. The authors do not explicitly state that absolute values should be used here, but we encounter this when presenting the mathematical formula of this index. It means that it is possible to express it as  $RM = 100 - \frac{1}{2} (\sum^n |m_i - h_i|)$  (cf. Lebeda 2008). The subsequent interpretation is in a certain respect different from the Loosemore-Hanby index, despite the fact that the value ranges from 0 to 100. As Lebeda (2008) further states, in this case it is calculated to what extent the results of the election are proportional; in other words, the desired state is to approach the upper limit of this index as nearly as possible.

At first sight, a similar procedure to that used in the Loosemore-Hanby index is also found in the index associated with Rae (1967). In his case, however, the total sum of differences resolving the share of votes and the share of mandates is divided by the total number of political parties included in this calculation. It is worth noting that, according to the author's proposal, not all political parties that participated in the elections should be taken into account here, but only those who gained at least 0.5% of the votes. The logic of dividing by the number of political parties suggests that the resulting value will actually be an average. It does not give a picture for all political parties, but tells us more about the average disproportionality with respect to the political parties taken into account (cf. Gallagher 1991; Lijphart 1985). Lebeda (2008) mentions the problematic nature of the upper limit in connection with this index. While the lower limit is completely clear, at level 0 – it means the desired proportionality, the upper limit is not explicitly defined, as it has a dynamic form. It is determined through the  $200 / n$  procedure, which means that the number of political parties ( $n$ ) affects its score. Among other problems, this index is sensitive with small political parties (cf. Lijphart 1985; 1990). Overall, however, all these three indices have a problem when they are supposed to capture possible changes within over-represented or under-represented political parties (Pennisi 1998).

An alternative to measuring proportionality is, for example, the two-major-party index introduced by Lijphart (1985). He assumed that the inclusion of only the two strongest political parties could create a sufficient image to capture proportionality. Its essence is thus based on the calculation of the difference between the share of votes and the share of mandates for each of the two strongest political parties. The sought index is then the average of these two values. Mathematically, it can be expressed as  $AL = [ |h_{i1} - m_{i1}| + |h_{i2} - m_{i2}| ] / 2$ . Looking at the logic of this index and some party systems and election results in the given states (including Slovakia) we can see that this approach has limitations because it fails to capture several attributes associated with the proportionality of the electoral system (Lebeda 2008).

Another possible way of measuring proportionality is through an index known as the Least Squares Index. Some authors (e.g. Pennisi 1998) consider

it a compromise between the Loosemore-Hanby index and the Rae index. In essence it also works with the share of votes and the share of mandates, which are subtracted from each other, while this value is multiplied by the square. This procedure is done for each political party and then the values are added up. This partial result is then divided by two and then squared in the end (cf. Gallagher 1991).

We also find several attempts at compromises with already existing indices. Lijphart (1985) presented, for example, a modified Loosemore-Hanby index, where number two as a divisor should be replaced by the value presented by the authors Laakso and Taagepera (1979), and is referred to as the effective number of parties –  $N_2 = 1 / (\sum_{i=1}^n p_i^2)$ , where  $p_i$  represents the share of votes or mandates of political party  $i$ . All parties that won mandates or votes are included in the total (Laakso-Taagepera, 1979). In the same way, the authors suggested adjusting Rae's index so that not only should parties with less than 0.5% support be eliminated, but also all parties with up to 5%.

A specific view on proportionality is given by the so-called advantage ratio (A) which is also known as an index of representation (Lebeda 2011). A similar logic and explanation can be found in Šedo (2007), who, however, refers to it as the deformation index and combines it with the abbreviation I. This approach is aimed at monitoring specific political parties, so it does not monitor the influence of the electoral system on the party system as such. As Taagepera and Laakso (1980) point out, the sought value A is the result of dividing the share of mandates of a particular political party by the share of its votes. Mathematically, it can be expressed as follows:  $A = S_i / V_i$ . From our point of view, the advantage of this procedure is the focus on specific political parties and that when it is applied we obtain an overview of each of them. Taagepera and Laakso (1980) concur that we can observe whether the observed distortion in representation changes by changing the size of the political party (with respect to votes).

The procedures mentioned are far from covering all possible definitions of proportionality and disproportionality. Other summaries are offered by the authors already mentioned (e.g. Lebeda 2008; Dančišin 2013). In addition, other experts offer attempts to grasp this phenomenon more precisely. For example, some authors (Martínez-Panero et al. 2019; Arredondo et al. 2020) note that the electoral system cannot produce absolutely proportional results. They distinguish between forced and unforced disproportionality. And it is the latter they are trying to capture within the indices they propose.

Moreover, proportionality research is not narrowly limited to the indices themselves. We can find other works that used them to monitor various other phenomena, or the influence of selected variables on the results. For example, there are works that note the important influence on proportionality not only of the electoral formula, but also the size of electoral districts, and Lijphart (1990) follows Rae (1967) in an attempt to update his findings and methodology used.

Looking at the Slovak case, Dančičin (2005; 2013; 2019) produced an important summary of possible criteria for evaluating electoral systems. While in his first publication from 2005, he discussed in particular the unanimity criterion, the Condorcet criterion, the monotonicity criterion, the criterion of independence from irrelevant alternatives, the consistency criterion and the criterion of symmetrical reversal of preferences (Dančičin 2005), in his 2013 publication he had already become more specific as he focused on proportional electoral systems. In addition to the issue of proportionality, which we deal with above, here we find an elaboration of the monotonicity criterion, with an orientation towards mandates (criterion of monotony of mandates) and votes (criterion of monotony of votes). In addition, the criterion of compliance with the electoral quota and also the criterion of exactness, anonymity, equality, homogeneity, consistency and superadditivity are addressed here. In the 2019 publication he again makes a specific point, which in this case is linked to the existence of constituencies and their formation. This includes, as key criteria related to the possible elimination of malapportionment, the criterion of equinumerosity of mandates in individual constituencies, the criterion of compactness and the criterion of continuity (Dančičin 2019).

Another important phenomenon is relevant when discussing the proportionality of constituencies within an electoral system: malapportionment. It is a construct that tells how much deviation exists or does not exist between individual constituencies in an area of comparable size (Samuels – Snyder 2001). One of the definitions says that ‘ideally formed constituencies have the number of inhabitants per member of parliament equal to the average number of inhabitants per mandate’ (Dančičin 2019: 27). Any deviation can then be understood as the presence of malapportionment in the electoral system. Other authors argue (Ong – Kasuya – Mori 2017: 1) that it is a ‘mismatch between the proportion of population in a constituency and its proportion of seats’.

When discussing the formation of constituencies, especially if they are not to be single-member constituencies, the question of determining the mechanism for achieving proportionality and thus equality plays an important role. Academic literature has shown a relatively extensive number of ways in which it is possible to distribute mandates between individual parts of the territory. The distortion (deformation) index is based on mathematical calculations that take into account the number of voters in a district and the percentage of votes for each political party, as well as the location of district boundaries. A high value of the distortion index indicates that the constituency was designed to give an undue advantage to one political party or group of voters at the expense of others. Constituencies are often divided by law, but they can also be customised by political parties or their supporters to gain an advantage in upcoming elections. The distortion index is a tool for tracking and assessing the extent to

which constituencies are subject to malapportionment, and it can help create fairer and more balanced constituencies.

The distortion index can be achieved in a variety of ways, including changing electoral district boundaries to include or exclude certain voter groups, and dividing areas with large numbers of electoral votes to create districts with a majority of votes for a political party or candidate. This process has a negative impact on democracy, as the distortion of constituencies can mean that the voice of a certain group of voters is not fairly represented. In some cases, this behaviour may become illegal or unconstitutional, and it is important that this practice be highly scrutinised and regulated to ensure the fairness and equality of electoral system.

### **III. Legal regulation in Slovakia: Steps or traps towards constituency proportionality?**

In addition to the Constitution of the Slovak Republic itself (Act 460/1992 Coll.), the laws defining the rules for elections to the bodies of self-governing regions are mainly Act 180/2014 Coll. on the conditions for exercising the right to vote and also Act 302/2001 Coll. on the self-government of higher territorial units (Act on Self-governing Regions). Pursuant to Act 180/2014 Coll. for the allocation of seats in self-governing regional councils, a mechanism based on the election of specific persons and not candidate lists is used. This means that it is a highly personalised electoral system, where the winner or winners in an electoral district are the candidates who receive the highest number of votes, taking into account the number of mandates for the given territory. The important variables of this electoral system are linked to constituencies.

The most important adjustments regulating the creation of constituencies can be found in Act 180/2014 Coll. § 134 (1): ‘For the elections of council members, single-mandate constituencies or multi-mandate constituencies are established in each self-governing region, in which council members are elected in proportion to the number of residents of the self-governing region.’ This general definition is supplemented in other points only by fairly brief requirements for the publication of information about the electoral districts themselves, the number of deputies elected within them, the seats of the district electoral commissions, and the list of municipalities falling into the respective electoral districts (Act 180/2014 Coll.).

These rather vague rules are supplemented by the second of the laws mentioned above (Act 302/2001 Coll.). However, this law directs attention to the actual size of the council in relation to the number of inhabitants and not to the constituencies themselves. Therefore we should consider the given range for the number of inhabitants who should vote for each deputy’s mandate – 12,000 to 15,000 inhabitants – as a rough framework for looking at the constituencies

themselves. The legislation lacks a clear regulation for determining proportionality. At the same time, there is no obligation to publish the starting values for determining the proportionality itself, i.e. the number of inhabitants per region and individual constituencies.

The legislation also does not specify on which day the number of inhabitants should be determined and which institution should be the source of this information. Last but not least, the law lacks definite rules regarding the size of constituencies or their borders. In the case of the actual size of constituencies, the law only defines the minimum size (a single-mandate constituency), but the maximum size is not laid down. Likewise, there are no requirements for the size of individual constituencies, so that a self-governing region can create single-mandate constituencies for the election of its council, but also constituencies with 13 mandates or even more.

Some self-governing regions are aware of several of the shortcomings mentioned. For example, the council of the Bratislava Self-governing Region issued an explanatory report on its proposal for determining its electoral districts and the number of deputies elected in them (Council of Bratislava Self-Governing Region 2022) which reflected on the fact that they are not bound by any legislation that would determine the source of information about number of inhabitants.

For these reasons, the legal regulation of the electoral rules, especially in the area of constituency creation, is inadequate for avoiding disproportionality. On the contrary, there may be a crucial discrepancy between the allocation of seats and the share of population, which means that malapportionment may occur within a given constituency.

#### **IV. Data and methods**

The aim of this article is to investigate the logic, approach and method used for creating constituencies within self-governing regions in Slovakia in the 2022 regional elections. We seek to investigate the key attributes for achieving proportionality in the legislation and the real constituency proportionality created prior to the elections. Second, the aim is to identify the mechanisms actually used for the distribution of mandates between individual constituencies and the achievement of proportionality on the part of individual regions with regard to the procedures used.

The article therefore seeks to answer three research questions:

1. What is the approach of self-governing regions to publishing information on the mechanism for creating electoral districts?
2. What methods do self-governing regions use when determining the size of constituencies (and thus the distribution of mandates) with regard to the number of inhabitants?

3. Does the resulting distribution of mandates between individual constituencies bring proportional results and enable the achievement of voting equality?

To achieve the article's goal and provide answers to the research questions, the official documents of the individual self-governing regions (resolutions, legal regulations and minutes of council meetings) and data from the Statistical Office of the Slovak Republic serve as data sources. The basic set consists of all eight self-governing regions.

In an attempt to identify the approach of individual municipalities in creating electoral constituencies, the following indicators have been monitored in the official documents of local governments:

- the number of inhabitants in the region and the number of inhabitants belonging to individual electoral districts;
- the source for determining the number of inhabitants;
- the date on which the number of inhabitants is based;
- the mechanism for determining the size of constituencies.

These indicators enable us to identify the extent to which the local governments communicate openly with the public about key factors related to the creation of constituencies. Subsequently, on the basis of the data obtained, we identify the mechanisms used in individual self-governing regions for distributing mandates between individual constituencies.

However, due to the legislative vagueness of the rules for the creation of constituencies (e.g. their number, in essence also size or territorial limits), monitoring only the attributes mentioned above will not provide a sufficient picture for capturing whether the desired proportionality is achieved when creating constituencies. To put it simply, this phenomenon is also conditioned by other factors that shape it (e.g. size, number, territory).

This is also why the final size of constituencies in the case of self-governing regions is confronted with a deformation index. This is linked to reference values of the number of inhabitants belonging to individual constituencies, while we operate with the share of the population and mandates and thus make it possible to identify the deviation from the desired state for each constituency separately.

In addition, we monitor other important indicators:

- the number of inhabitants who are represented by one mandate within the district;
- the difference from the determined value (calculated Q or artificially determined Q) in real numbers and in percentages.

By doing this, it is possible to identify discrepancies which may indicate the need for a more fundamental regulation of the rules for the creation of constituencies due to the potential scope for violating the equality of electoral rights. In the case of the number of inhabitants voting for one mandate within one electoral district, we consider as a reference value the range of 12,000–15,000

inhabitants, which is not defined in the legislation (Act No. 302/2001 Coll.) as a condition for individual electoral districts, but only for the entire territory of the region when determining the number of deputies in the council. This may play a significant role in researching proportionality.

## V. Results

Before we move on to the main objectives of this article, we examine the development of the number of constituencies in individual self-governing regions from the first elections in 2001 to the latest elections in 2022. There are three indicators monitored: the number of elected deputies, the number of constituencies and the number of single-mandate constituencies. As can be seen, most of the self-governing regions did not make significant adjustments over this period and even in the three cases marked as bold in Table 1, it can be concluded that no changes were made in the areas monitored. However, there is one notable exception in the list of eight self-governing regions, which is the Bratislava Self-governing Region. The latter adjusted the numbers in all three monitored indicators. This was most pronounced in the number of constituencies (from the original 8 to a total of 24) and also in the number of single-mandate constituencies (from the original 0, to 13 in the previous elections, and with a slight reduction to 10 in the elections of 2022). As we will see below, this significant fragmentation of the territory has certain consequences.

**Table 1: Development of constituencies formed for elections to councils of self-governing regions**

| Region (SGR)    | Number of elected deputies |      |      |      |      |      | Number of constituencies |      |      |      |      |      | Number of single-mandate constituencies |      |      |      |      |      |
|-----------------|----------------------------|------|------|------|------|------|--------------------------|------|------|------|------|------|---|------|------|------|------|------|
|                 | 2001                       | 2005 | 2009 | 2013 | 2017 | 2022 | 2001                     | 2005 | 2009 | 2013 | 2017 | 2022 | 2001                                    | 2005 | 2009 | 2013 | 2017 | 2022 |
| Bratislava      | 46                         | 50   | 44   | 44   | 50   | 53   | 8                        | 8    | 18   | 18   | 24   | 24   | 0                                       | 0    | 8    | 8    | 13   | 10   |
| Trnava          | 40                         | 40   | 40   | 40   | 40   | 40   | 7                        | 7    | 7    | 7    | 7    | 7    | 0                                       | 0    | 0    | 0    | 0    | 0    |
| Trenčín         | 45                         | 45   | 45   | 45   | 47   | 44   | 9                        | 9    | 9    | 9    | 9    | 9    | 0                                       | 0    | 0    | 0    | 0    | 0    |
| Nitra           | 52                         | 52   | 54   | 54   | 54   | 54   | 7                        | 7    | 8    | 8    | 8    | 8    | 0                                       | 0    | 0    | 0    | 0    | 0    |
| Žilina          | 52                         | 57   | 57   | 57   | 57   | 57   | 11                       | 11   | 11   | 11   | 11   | 11   | 1                                       | 1    | 1    | 1    | 1    | 1    |
| Banská Bystrica | 49                         | 49   | 49   | 49   | 49   | 49   | 13                       | 13   | 13   | 13   | 13   | 13   | 1                                       | 1    | 1    | 1    | 1    | 1    |
| Prešov          | 60                         | 62   | 62   | 62   | 62   | 65   | 13                       | 13   | 13   | 13   | 13   | 13   | 1                                       | 1    | 1    | 1    | 1    | 1    |
| Košice          | 57                         | 57   | 57   | 57   | 57   | 57   | 11                       | 11   | 11   | 11   | 11   | 11   | 0                                       | 0    | 0    | 0    | 0    | 0    |

Source: Authors, based on The Statistical Office of the Slovak Republic

The following table captures how individual self-governing regions approach the publication of information on the creation of constituencies. This means how openly they inform the public about important attributes related to the essential principles of free and democratic elections, which in their essence condition compliance with the equality of votes declared by the constitution. At the same time, it captures the significant space offered to self-governments by the current lack of regulation regarding the formation of constituencies in the Electoral Act, which is the competence of the individual councils of the self-governing regions. In direct connection with the published information, we identify what mechanism is used by individual self-governing regions for the distribution of mandates between individual constituencies.

As we can see, the Nitra and Banská Bystrica self-governing regions publish only a minimum of information relating to the formation of constituencies. The Banská Bystrica region does not, in its official documents, list reference values for forming the size of the constituencies, i.e. the number of inhabitants, or the source for determining the number of inhabitants, or the date on which the size of the constituencies was determined or, last but not least, the mechanism for calculating proportionality. It is followed by the Košice Self-governing Region, which has at least published data on the number of inhabitants belonging to electoral districts, even if it has not yet published a specific mechanism for calculating the mandates for individual electoral districts. The Trnava Self-governing Region has a specific stance in monitoring the number of inhabitants, and, unlike the other regions, did not publish data on the number of inhabitants belonging to the electoral district, but only the total number of inhabitants for the entire territory of the region. In total, we can identify seven self-governing regions that indicated the date on which they determined the number of inhabitants. Three approaches can be identified in this area. In the first approach, the size is determined as of 31 December 2021 (four self-governing regions), in the second approach as of 28 February 2022 (one self-governing region) and in the third approach as of 31 March 2022 (two self-governing regions).

The last of the monitored indicators in the following table, which (similarly to the previous ones listed in this table) does not have to be published according to current legislation, is the mechanism for determining the size of individual constituencies – i.e. the definition of proportionality or the mathematical formula. In total, five self-governing regions stated this in some form in their official materials, and we can identify two approaches. In the first approach, municipalities determine size based on calculations. Even if it is not explicitly mentioned or named in official materials, they use what in political science literature is known as Hare's quota, in combination with the method of the largest remainder (three self-governing regions). The second approach was chosen by those municipalities where the quota is defined artificially: 13,000 inhabitants

per mandate in the Prešov Self-governing Region and 12,000 inhabitants per mandate in the Trenčín Self-governing Region.

The absence of a definition of proportionality in the legislation creates conditions where individual municipalities can adopt different approaches to determining what it means. This ultimately gives scope for targeting a mechanism that can favour or disadvantage selected areas of the region. Moreover, as we will see below, it creates an opportunity for potentially distorting the results in a way that could not be achieved by any established mechanism for determining proportionality.

**Table 2: Publication of information on creating constituencies for the 2022 elections by self-governing regions (SGR)**

| Region (SGR)    | Number of inhabitants listed | Explicit indication of the source (number of population) | Population as of date | Listed conversions for size determination   |
|-----------------|------------------------------|--|-----------------------|---|
| Bratislava      | yes – constituency included  | Statistical Office of the Slovak Republic                | 31.12.2021            | yes; unnamed but listed calculations corresponding to Hare’s quota and largest remainder    |
| Trnava          | yes – only total number      | Statistical Office of the Slovak Republic                | 31.12.2021            | no; not listed but the value of one mandate determined by Hare’s quota is explicitly stated |
| Trenčín         | yes – constituency included  | Statistical Office of the Slovak Republic                | 31.12.2021            | yes; Q not calculated but fixed at 12,000   |
| Žilina          | yes – constituency included  |  | 31.3.2022             | yes; Q not calculated but corresponds to Hare’s quota and largest remainder                 |
| Nitra           | Not listed                   | Statistical Office of the Slovak Republic                | 31.12.2021            | no  |
| Banská Bystrica | Not listed                   |  | Not listed            | no  |
| Prešov          | yes – constituency included  |  | 28.2.2022             | yes, fixed value of 13,000 per mandate + the largest remainder                              |
| Košice          | yes – constituency included  |  | 31.3.2022             | no  |

Sources: Authors, based on official documents of self-governing regions

We start with one of the more problematic self-governing regions in the field of electoral district formation, namely the Bratislava Self-governing Region. It proposed up to 24 constituencies for filling seats in the representative body, ten of which are single-mandate. Even the openness of this region in revealing their calculations for determining the size of constituencies was not helpful in preventing disproportionate results. There are significant differences in the number of inhabitants per mandate. The lowest value is achieved by Electoral District No. 21 (10,066), while Electoral District No. 22 has the highest value (19,097). The difference between these two constituencies is thus 9,031, representing 89.7% of the population voting for one mandate in Electoral District

**Table 3: Bratislava Self-Governing Region and constituencies in the 2022 elections**

| Constituency | Inhabitants  | Mandates | Inhabitants / mandate | Difference          | Difference % | Inhabitants share | Mandates share | Distortion index |
|--------------|--------------|----------|-----------------------|---------------------|--------------|-------------------|----------------|------------------|
| 1            | 46,432       | 3        | 15,477                | 1 822               | 113          | 6.42              | 5.66           | 0.88             |
| 2            | 80,951       | 6        | 13,492                | - 163               | 99           | 11.19             | 11.32          | 1.01             |
| 3            | 20,559       | 2        | 10,280                | - 3 376             | 75           | 2.84              | 3.77           | 1.33             |
| 4            | 23,491       | 2        | 11,746                | - 1 910             | 86           | 3.25              | 3.77           | 1.16             |
| 5            | 44,638       | 3        | 14 879                | 1 224               | 109          | 6.17              | 5.66           | 0.92             |
| 6            | 32,056       | 2        | 16,028                | 2,373               | 117          | 4.43              | 3.77           | 0.85             |
| 7            | 35,420       | 3        | 11,807                | - 1,848             | 86           | 4.89              | 5.66           | 1.16             |
| 8            | 19,069       | 1        | 19,069                | 5,414               | 140          | 2.63              | 1.89           | 0.72             |
| 9            | 36,024       | 3        | 12,008                | - 1,647             | 88           | 4.98              | 5.66           | 1.14             |
| 10           | 14,641       | 1        | 14,641                | 986                 | 107          | 2.02              | 1.89           | 0.93             |
| 11           | 122,296      | 9        | 13,588                | - 67                | 100          | 16.90             | 16.98          | 1.00             |
| 12           | 23,756       | 2        | 11,878                | - 1,777             | 87           | 3.28              | 3.77           | 1.15             |
| 13           | 13,035       | 1        | 13,035                | - 620               | 95           | 1.80              | 1.89           | 1.05             |
| 14           | 12,271       | 1        | 12,271                | - 1,384             | 90           | 1.70              | 1.89           | 1.11             |
| 15           | 13,930       | 1        | 13,930                | 275                 | 102          | 1.92              | 1.89           | 0.98             |
| 16           | 15,817       | 1        | 15,817                | 2,162               | 116          | 2.19              | 1.89           | 0.86             |
| 17           | 24,838       | 2        | 12,419                | - 1,236             | 91           | 3.43              | 3.77           | 1.10             |
| 18           | 16,539       | 1        | 16,539                | 2,884               | 121          | 2.29              | 1.89           | 0.83             |
| 19           | 16,122       | 1        | 16,122                | 2,467               | 118          | 2.23              | 1.89           | 0.85             |
| 20           | 13,643       | 1        | 13,643                | - 12                | 100          | 1.89              | 1.89           | 1.00             |
| 21           | 20,131       | 2        | 10,066                | - 3,590             | 74           | 2.78              | 3.77           | 1.36             |
| 22           | 19,097       | 1        | 19,097                | 5,442               | 140          | 2.64              | 1.89           | 0.72             |
| 23           | 25,565       | 2        | 12,783                | - 873               | 94           | 3.53              | 3.77           | 1.07             |
| 24           | 33,393       | 2        | 16,697                | 3,042               | 122          | 4.61              | 3.77           | 0.82             |
| Total        | 723,714      | 53       | <b>13,655 →</b>       | <b>Calculated Q</b> | 100          | 100               | 100            |                  |
|              | Hare's quota |          | 13,655                |                     |              |                   |                |                  |

Source: Authors, based on The Statistical Office of the Slovak Republic

No. 21. The first of these constituencies is thus significantly overrepresented while the second is significantly underrepresented. The consequence of this is that while in the first case the voter has the vote power of 1/10,066, in the second case it is only 1/19,097. This raises a fundamental question about equal voting rights. This is all the more important because looking at Table 3, we see that 13 electoral districts do not fit into the legislatively-defined interval (12,000–15,000) for determining the number of inhabitants per member of the council. The existence of distortion is underlined by the deformation index, which ranges from 1.36 to 0.72.

The second of the regions shows several interesting situations. That is also why it is represented by means of two tables (Table 4 and Table 5). The first captures the original proposal submitted to the council, which operated with an artificially defined quota. We see that even here there are several problematic constituencies: six of the total number of 13 did not fit into the interval of 12,000–15,000 inhabitants for one mandate. This indicator is valid only for the territory of the entire region, but not necessarily within individual constituencies. The electoral district with the smallest number of inhabitants per one mandate is at the level of 9,860 (No. 11), while the electoral district with the highest number of inhabitants per mandate has 15,686. The difference between them is thus 5,826 inhabitants, which represents 59.1% of the population belong-

**Table 4: Prešov Self-governing Region and constituencies in the 2022 elections (according to the original proposal)**

| Constituency | Inhabitants  | Mandates | Inhabitants / mandate | Difference                       | Difference % | Inhabitants share | Mandates share | Distortion index |
|--------------|--------------|----------|-----------------------|----------------------------------|--------------|-------------------|----------------|------------------|
| 1            | 75,740       | 6        | 12,623                | - 377                            | 97           | 9.38              | 9.38           | 1.00             |
| 2            | 59,435       | 5        | 11,887                | - 1 113                          | 91           | 7.36              | 7.81           | 1.06             |
| 3            | 74,290       | 6        | 12,382                | - 618                            | 95           | 9.20              | 9.38           | 1.02             |
| 4            | 33,088       | 3        | 11,029                | - 1 971                          | 85           | 4.10              | 4.69           | 1.14             |
| 5            | 10,847       | 1        | 10,847                | - 2 153                          | 83           | 134               | 1.56           | 1.16             |
| 6            | 102,409      | 8        | 12,801                | - 199                            | 98           | 12.68             | 12.50          | 0.99             |
| 7            | 173,334      | 13       | 13,333                | 333                              | 103          | 21.46             | 20.31          | 0.95             |
| 8            | 60,639       | 5        | 12,128                | - 872                            | 93           | 7.51              | 7.81           | 1.04             |
| 9            | 34,596       | 3        | 11,532                | - 1 468                          | 89           | 4.28              | 4.69           | 1.09             |
| 10           | 52,854       | 4        | 13,214                | 214                              | 102          | 6.55              | 6.25           | 0.95             |
| 11           | 19,719       | 2        | 9,860                 | - 3 141                          | 76           | 2.44              | 3.13           | 1.28             |
| 12           | 31,371       | 2        | 15,686                | 2 686                            | 121          | 3.88              | 3.13           | 0.80             |
| 13           | 79,204       | 6        | 13,201                | 201                              | 102          | 9.81              | 9.38           | 0.96             |
| Total        | 807,526      | 64       | <b>13,000 →</b>       | <b>artificially determined Q</b> | 100          | 100               | 100            |                  |
|              | Hare's quota |          | 12,618                |                                  |              |                   |                |                  |

Source: Authors, based on The Statistical Office of the Slovak Republic

ing to one mandate in the No. 11 district. The existence of a considerable level of distortion in the distribution of mandates is also reflected in the distortion index, which ranges from 0.8 to 1.28.

However, the Prešov region is also interesting because the original proposal submitted to the council was modified by the deputies. Table 5 captures its final form.

The need to make the legislation more specific can be illustrated by the discussions that took place on this point within the council of the Prešov Self-governing Region. Individual deputies argued, for example, over the number of municipalities within a specific electoral district or even the number of roads in it. At the same time, they often neglected the key reference element for determining the number of mandates, namely the number of inhabitants. As a result, the number of mandates allocated for Electoral District No. 12 was changed. This step was taken without any particular mathematical mechanism. The total number of members of the council was simply increased by one mandate (from the originally planned 64 to 65) in that particular electoral district. However, we should also mention that the difference between the electoral district with the lowest number of inhabitants for one mandate (No. 11) and the highest number of inhabitants for one mandate (No. 7), namely 3,473 inhabitants, was narrowed, representing 35.22% of No. 11's inhabitants.

**Table 5: Prešov Self-governing Region and constituencies in the 2022 elections (on the basis of the final resolution)**

| Constituency | Inhabitants  | Mandates | Inhabitants / mandate | Difference                       | Difference % | Inhabitants share | Mandates share | Distortion index |
|--------------|--------------|----------|-----------------------|----------------------------------|--------------|-------------------|----------------|------------------|
| 1            | 75,740       | 6        | 12,623                | - 377                            | 97           | 9.38              | 9.23           | 0.98             |
| 2            | 59,435       | 5        | 11,887                | - 1 113                          | 91           | 7.36              | 7.69           | 1.05             |
| 3            | 74,290       | 6        | 12,382                | - 618                            | 95           | 9.20              | 9.23           | 1.00             |
| 4            | 33,088       | 3        | 11,029                | - 1,971                          | 85           | 4.10              | 4.62           | 1.13             |
| 5            | 10,847       | 1        | 10,847                | - 2,153                          | 83           | 1.34              | 1.54           | 1.15             |
| 6            | 102,409      | 8        | 12,801                | - 199                            | 98           | 12.68             | 12.31          | 0.97             |
| 7            | 173,334      | 13       | 13,333                | 333                              | 103          | 21.46             | 20.00          | 0.93             |
| 8            | 60,639       | 5        | 12,128                | - 872                            | 93           | 7.51              | 7.69           | 1.02             |
| 9            | 34,596       | 3        | 11,532                | - 1,468                          | 89           | 4.28              | 4.62           | 1.08             |
| 10           | 52,854       | 4        | 13,214                | 214                              | 102          | 6.55              | 6.15           | 0.94             |
| 11           | 19,719       | 2        | 9,860                 | - 3,141                          | 76           | 2.44              | 3.08           | 1.26             |
| 12           | 31,371       | 3        | 10,457                | - 2,543                          | 80           | 3.88              | 4.62           | 1.19             |
| 13           | 79,204       | 6        | 13,201                | 201                              | 102          | 9.81              | 9.23           | 0.94             |
| Total        | 807,526      | 65       | <b>13,000 →</b>       | <b>artificially determined Q</b> | 100          | 100               | 100            |                  |
|              | Hare's quota |          | 12,423                |                                  |              |                   |                |                  |

Source: Authors, based on The Statistical Office of the Slovak Republic

The Žilina Self-governing Region took the route of calculating the quota. However, even that was not enough to avoid several deviations from the desired state. In this case, the majority of constituencies fall outside the 12,000–15,000 range determined for the territory of the region as such. The difference between the largest number of inhabitants (No. 9) and the smallest number of inhabitants (No. 1) having one mandate within the electoral district is in this region 5,448 inhabitants, which represents 52.44% of the inhabitants per mandate in No. 1 Electoral District. The deformation index varies from 0.76 to 1.16.

**Table 6: Žilina self-governing region and constituencies in the 2022 elections**

| Constituency | Inhabitants  | Mandates | Inhabitants / mandate | Difference                           | Difference % | Inhabitants share | Mandates share | Distortion index |
|--------------|--------------|----------|-----------------------|--------------------------------------|--------------|-------------------|----------------|------------------|
| 1            | 31,168       | 3        | 10,389                | - 1,697                              | 86           | 4.52              | 5.26           | 1.16             |
| 2            | 87,805       | 7        | 12,544                | 458                                  | 104          | 12.75             | 12.28          | 0.96             |
| 3            | 38,904       | 3        | 12,968                | 882                                  | 107          | 5.65              | 5.26           | 0.93             |
| 4            | 32,602       | 3        | 10,867                | - 1,219                              | 90           | 4.73              | 5.26           | 1.11             |
| 5            | 71,651       | 6        | 11,942                | - 144                                | 99           | 10.40             | 10.53          | 1.01             |
| 6            | 93,675       | 8        | 11,709                | - 377                                | 97           | 13.60             | 14.04          | 1.03             |
| 7            | 63,581       | 5        | 12,716                | 630                                  | 105          | 9.23              | 8.77           | 0.95             |
| 8            | 56,961       | 5        | 11,392                | - 694                                | 94           | 8.27              | 8.77           | 1.06             |
| 9            | 15,837       | 1        | 15,837                | 3,751                                | 131          | 2.30              | 1.75           | 0.76             |
| 10           | 35,803       | 3        | 11,934                | - 152                                | 99           | 5.20              | 5.26           | 1.01             |
| 11           | 160,914      | 13       | 12,378                | 292                                  | 102          | 23.36             | 22.81          | 0.98             |
| Total        | 688,901      | 57       | <b>12,086 →</b>       | <b>undetermined but Q calculated</b> | 100          | 100               | 100            |                  |
|              | Hare's quota |          | 12,086                |                                      |              |                   |                |                  |

Source: Authors, based on The Statistical Office of the Slovak Republic

The Trenčín Self-governing Region is currently an exception. It set a relatively low artificial quota of 12,000 inhabitants for one mandate, which appears to have caused the fewest problems. All constituencies exceed the set value of 12,000 in terms of the number of inhabitants per one mandate, but at the same time they do not exceed the value of 15,000. Nevertheless, we also have slightly overrepresented but also slightly underrepresented constituencies in this region. However, it is not as pronounced an issue as in some other regions. The difference between the lowest number of inhabitants with one mandate (No. 1) and the highest number with one mandate (No. 5) is 2,699, which represents 22.44% of the inhabitants per mandate in No. 1.

**Table 7: Trenčín Self-governing Region and constituencies in the 2022 elections**

| Constituency | Inhabitants  | Mandates | Inhabitants / mandate | Difference                       | Difference % | Inhabitants share | Mandates share | Distortion index |
|--------------|--------------|----------|-----------------------|----------------------------------|--------------|-------------------|----------------|------------------|
| 1            | 36,081       | 3        | 12,027                | 27                               | 100          | 6.29              | 6.82           | 1.08             |
| 2            | 57,511       | 4        | 14,378                | 2,378                            | 120          | 10.02             | 9.09           | 0.91             |
| 3            | 25,363       | 2        | 12,682                | 682                              | 106          | 4.42              | 4.55           | 1.03             |
| 4            | 61,512       | 5        | 12,302                | 302                              | 103          | 10.72             | 11.36          | 1.06             |
| 5            | 44,179       | 3        | 14,726                | 2,726                            | 123          | 7.70              | 6.82           | 0.89             |
| 6            | 61,211       | 5        | 12,242                | 242                              | 102          | 10.67             | 11.36          | 1.07             |
| 7            | 130,616      | 10       | 13,062                | 1,062                            | 109          | 22.77             | 22.73          | 1.00             |
| 8            | 44,133       | 3        | 14,711                | 2,711                            | 123          | 7.69              | 6.82           | 0.89             |
| 9            | 113,093      | 9        | 12,566                | 566                              | 105          | 19.71             | 20.45          | 1.04             |
| Total        | 573,699      | 44       | <b>12,000 →</b>       | <b>artificially determined Q</b> | 100          | 100               | 100            |                  |
|              | Hare's quota |          | 13,039                |                                  |              |                   |                |                  |

Source: Authors, based on The Statistical Office of the Slovak Republic

The last of the self-governing regions examined is the Košice Self-governing Region. As mentioned earlier, it did not publish the specific mechanism used for allocating mandates to individual constituencies. For this reason, the most frequently used mechanism in Slovak regions, the classic Hare's quota in combination with the largest remainder method, has only been applied for illustrative purposes. However, it was still possible to capture the key values. In this case, there are only two constituencies in the range of 12,000–15,000 inhabitants per mandate. In the case of the constituencies with the smallest number of inhabitants per mandate, it is 11,185 inhabitants (No. 9), while in the case of the one with the highest number, it is 15,822 inhabitants per mandate (No. 6). The difference between these two constituencies is 4,647 inhabitants, which represents 41.83% of the inhabitants per mandate in No. 9 district.

## VI. Conclusion

Our findings and data from the 2022 regional elections in Slovakia align with the findings of previous works (Dančišin 2018, 2019; Bardovič 2023) dealing with election regulations and the (dis)proportionality of election results in Slovakia. Dančišin (2019) examined violations of equality in elections and found them present both in self-governing regions and at the municipal level. As confirmed by Bardovič (2023), there are also clear indications of this problem and the presence of disproportionality in the 2017 elections to the self-governing regions. He researched the question of input values for determining the size

**Table 8: Košice Self-governing Region and constituencies in the 2022 elections**

| Constituency | Inhabitants  | Mandates | Inhabitants / mandate | Difference          | Difference % | Inhabitants share | Mandates share | Distortion index |
|--------------|--------------|----------|-----------------------|---------------------|--------------|-------------------|----------------|------------------|
| 1            | 63,917       | 5        | 12,783                | - 896               | 93           | 8.20              | 8.77           | 1.07             |
| 2            | 78,916       | 6        | 13,153                | - 526               | 96           | 10.12             | 10.53          | 1.04             |
| 3            | 27,884       | 2        | 13,942                | 263                 | 102          | 3.58              | 3.51           | 0.98             |
| 4            | 56,457       | 4        | 14,114                | 435                 | 103          | 7.24              | 7.02           | 0.97             |
| 5            | 129,464      | 9        | 14,385                | 706                 | 105          | 16.60             | 15.79          | 0.95             |
| 6            | 31,644       | 2        | 15,822                | 2,143               | 116          | 4.06              | 3.51           | 0.86             |
| 7            | 108,383      | 8        | 13,548                | - 131               | 99           | 13.90             | 14.04          | 1.01             |
| 8            | 58,867       | 4        | 14,717                | 1,038               | 108          | 7.55              | 7.02           | 0.93             |
| 9            | 22,350       | 2        | 11,175                | - 2,504             | 82           | 2.87              | 3.51           | 1.22             |
| 10           | 98,614       | 7        | 14,088                | 409                 | 103          | 12.65             | 12.28          | 0.97             |
| 11           | 103,187      | 8        | 12,898                | - 781               | 94           | 13.23             | 14.04          | 1.06             |
| Total        | 779,683      | 57       | <b>13,679 →</b>       | <b>undetermined</b> | 100          | 100               | 100            |                  |
|              | Hare's quota |          | 13,679                |                     |              |                   |                |                  |

Source: Authors, based on The Statistical Office of the Slovak Republic

of electoral districts in the form of the number of inhabitants compared to the number of eligible voters.

Our results show, with regard to the first research question, that several self-governing regions do not approach the publication of information about the formation of electoral districts in a completely transparent manner. This makes it impossible to properly check the chosen procedure on the basis of officially published documents. We can therefore conclude that there are three groups of self-governing regions. The first group publishes all the necessary information related to the formation of constituencies with regard to their size. The second group publishes only partial information, and the last group only offers the information defined by law, which is not sufficient to identify the chosen procedures for forming constituencies, given the vague legislation in this context.

Answering the second research question, the data show that there is a relatively heterogeneous approach by individual self-governing regions. In addition to those that do not disclose the mechanism for calculating the number of inhabitants for the assigned mandates at all, it is possible to identify two specific ways of operating. With the first, self-governing regions calculate a quota based on the number of inhabitants and the specified number of council mandates, which, even if it is not directly defined based on the logic of procedures or values, represents the basic quota, and thus Hare's quota in combination with the largest remainder method. In other cases, the councils of self-governing regions

determine the quota artificially. At the same time, it aligns within the interval defined in Act no. 302/2001 Coll.

Subsequent findings related to the third research question also show differences between individual self-governing regions. Answering this question produces data showing potentially the most serious problems related to the formation of constituencies. It is most pronounced in the case of the Bratislava Self-governing Region, where a clear disproportion is visible in the formation of electoral districts. In the largest single-mandate electoral district, the number of inhabitants with one mandate is 1.9 times greater than the number of inhabitants with one mandate in the smallest single-mandate electoral district. Basically, it can be concluded that in the same elections for the same council, one group has about half the vote weight of another group in another electoral district. This clearly opens the question of whether the constitutionally defined equality of the right to vote is met, or whether it is violated. However, the solution to this problem would require more complex interventions in the legislation due to the fact that the problem does not lie only in the mechanism intended for the distribution of mandates between individual constituencies, but already begins when drawing borders and creating them.

Our findings have confirmed the dangers stemming from the vagueness of the current legislation and also the fact that a comprehensive amendment of the law in this area is necessary so that the local councils are not left with an almost free hand when creating constituencies. What we would expect are established limits in order to avoid any major violation of the basic principle of democratic elections, which is equality.

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# The Russo-European Gas Trade and the Position of Southeast Europe between the Great Actors: Neo-imperialism, Conflict–Cooperation Perpetuum, and Soft Balancing

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**Abstract:** *The article analyses the Russian neo-imperialist strategy in the gas trade in Southeast Europe (SEE) and the reactions of the EU and the region's countries to this. The first argument in the article is that the existence of favourable political, social and economic preconditions is necessary for the application of a neo-imperialist strategy. The second argument is that an individual country's geographical position determines Russian interest in building transit pipelines on its territory. Because the gas trade exists in the framework of the conflict-cooperation perpetuum between the interested parties, the third argument is that this provokes a reaction from the EU and the affected countries in the form of soft balancing. This approach is intended to curb Russia's power, but not to completely break a gas trade with this country. As the EU has been making efforts to counteract Russian geo-economic power by promoting diversification of the gas supply and funding new gas infrastructure projects, Russian influence in the region has been decreasing in recent years.*

**Keywords:** *neo-imperialist strategy, conflict-cooperation perpetuum, soft balancing, Southeast Europe, Russia, European Union*

## I. Introduction

The dissolution of the Soviet Union in 1991 marked the beginning of a painful transition in Russia. The country experienced a sharp decline in economic activities, and exports of natural resources were some of the few commodities

that saved the Russian economy in the 1990s from a complete collapse. At the beginning of the 21<sup>st</sup> century, increasing oil and gas prices in the world markets became crucial for Russian economic development and the Russian authorities tried to pursue two goals simultaneously. On the one hand, they wanted to generate as much revenue as possible, and, on the other hand, to use oil and gas exports to increase Russia's influence in international relations. Geo-economics became a suitable approach for this policy and the Kremlin has applied various geo-economic strategies in foreign trade, particularly in the gas trade. One of them is neo-imperialism which Russia attempted to apply in Southeast Europe (SEE). Russia's strategy was to acquire ownership of significant parts of the region's energy sector and to use it to expand its political and economic influence. It would then use it for constructing and controlling gas pipelines which would be directed towards the more profitable Central and Western European markets. Russia has applied geo-economics towards other European countries as well and Brussels began to consider it as a threat to European energy security. Therefore, it started to adopt countermeasures to be applied both in the EU and some non-member states, including SEE.

This article aims to contribute to the existing analyses of the EU-Russia relations in the field of gas trade and the position of the selected SEE countries in this. The first argument in the article is that the existence of favourable political, social and economic preconditions is necessary for the application of a neo-imperialist strategy. The second argument is that an individual country's geographical position determines Russian interest in building transit pipelines on its territory. Because the gas trade exists in the framework of the conflict-cooperation perpetuum between the interested parties, the third argument is that this provokes a reaction from the EU and the affected countries in the form of soft balancing. This approach is intended to curb Russia's power, but not to completely break a gas trade with this country. The SEE countries which are emphasised in this article are Bulgaria, Croatia and Serbia. The selection of Bulgaria and Serbia is primarily based on two criteria: their geographical location which makes them suitable for the construction of the new Russia-backed transit pipelines; and the existence of the favourable political, social and economic preconditions for Russia's application of a neo-imperialist strategy. Croatia is analysed as a case in which those criteria do not exist or are not salient and demonstrates what opportunities Russia has to expand its influence and infrastructure in such a country. The SEE countries which do not consume gas, whose consumption is very low or which are not interested in Russian gas are not analysed. Moreover, Greece and Romania are excluded from the analysis because their territories are outside the Russian transit pipeline plans despite the Kremlin's occasional attempts to use Greece for this as well. They failed and Greece came to a position similar to that of Croatia. For soft balancing, the focus is on the EU as a main soft balancing actor while the author acknowledges that

some other actors, most prominently the US, also occasionally balance against Russia in SEE.

After the Introduction, the following sections contain a conceptual framework, an analysis of the Russian neo-imperialist attempts in SEE, the Russian gas pipeline projects in SEE and the EU's response to this. The conclusions will be presented in the last chapter.

## **II. Conceptual framework: Neo-imperialism, conflict-cooperation perpetuum and soft balancing**

The potential of a country to use energy for its foreign policy goals depends on a combination of national and international factors. The starting point for this is the country's national and state powers in the energy sector: the former consists of energy resources and infrastructure and the latter is the possibility of the government to use national power for its own goals (Česnakas 2016: 16; Zakaria 1998: 9). The state power is thus related to the government's control of energy companies and other resources which the government can use for the implementation of its foreign policy. Nevertheless, extensive national and state powers in the energy sector do not mean that the exporting country can achieve a strong or dominant international position in energy trade on its own. Esakova (2012: 68) claims 'that for a country to be regarded as a hegemony within energy issue area, the following basic prerequisites should be in place: (i) access to crucial energy resources, (ii) availability of sufficient financial resources and (iii) technological know-how in order to be able to develop the energy resources, as well as (iv) large and diversified export markets for energy exports'. Only the first prerequisite could be considered entirely national, while the following two could be national and international, and the last one is explicitly international.

Using energy as a foreign policy tool also depends on the diversification of the international energy supply, other countries' import demands, their interest in trading with the energy-export country and the countermeasures against the exporter's dominance in the energy sector. If importing countries have alternatives and are not compelled to buy energy from the particular exporter, the latter's power diminishes. Therefore, the export country must align its exports and foreign policy to the reality in which the pendulum of power is not always on its side. The consequence of this is that the power of an energy export country must be extended beyond its territory to achieve the status of energy power. In the case of gas trade, infrastructure is necessary for gas transport from production fields to consumers and that makes the transit country's territory the constituent part of the gas trade policy of the export country. Because the physical occupation of a foreign country's territory is less likely in contemporary times, this opens the way for geo-economics which 'proceeds from the assumption that power and security are not simply coupled to the physical control of territory, as in

classical geopolitical analysis, but also to commanding and manipulating the economic ties that bind states together' (Scholvin – Wigell 2018: 4). The exporting country thus must cooperate with, sway or compel transit countries to its interests if it wants to secure a position as a big energy player (Česnakas 2016).

There are various strategies which governments use to achieve geo-economic goals. Wigell (2016: 141) introduces four strategies – neo-mercantilism, neo-imperialism, hegemony and liberal institutionalism – which differ in the use of the strategic frame and economic power. Neo-mercantilism is 'not foremost deployed to pursue some immediate geopolitical project but to pursue economic power objectives as such' (Wigell 2016: 143). Ziegler and Menon (2014: 19) argue that 'neomercantilist states seek to control the "commanding heights" of the economy, the largest and most strategic sectors, through wholly state-owned firms or ones that in effect act as agents of the state and are supported by it in various ways'. For neo-imperialism, Wigell (2016: 146) claims that 'economic force, coercion, imposition, and bribery' are its possible tactics and policies. Both neo-mercantilism and neo-imperialism have a competitive strategic frame 'in which one side's gain is another's relative loss' but in the former strategy economic power is a goal and, in the latter, it is a means (Wigell 2016: 141).

Due to the great importance of energy for the functioning of national economies, energy trade is often associated with energy security. The International Energy Agency (2003) defines energy security as 'the uninterrupted availability of energy sources at an affordable price'. There are also other issues related to this security and that opens space for the creation of other definitions. Ang, Choong and Ng (2015: 1081–1083) recognise seven major themes in them: energy availability, infrastructure, energy prices, societal effects, environment, governance and energy efficiency. These themes can be exclusively economic, but they can also obtain geo-economic characteristics if the energy exporting country applies geo-economic strategies for their realisation, particularly those with a competitive frame or/and economic power as a means. That can provoke defensive reactions from the affected parties (countries and international organisations) who will see energy as the exporter's weapon and threat and will try to apply countermeasures. According to the balance-of-threat theory, threat in international relations 'is driven by a combination of three key variables: aggregate capabilities (that is, its overall military and economic potential), geography, and perceptions of aggressive intentions' (Wohlforth 2008: 141–142). The affected sides thus cannot avoid political and economic conflicts with the energy power if they see it as a threat, but sometimes they also cannot or do not want to break cooperation. In this case, there is a conflict-cooperation perpetuum between competing sides. This concept is introduced by Andrei (2022: 61) who defines it as a situation in which 'actors may perceive themselves simultaneously as security threats and reliable partners, and... political conflict and economic cooperation may coexist'.

The targeted parties in this situation aim to annul a zero-sum game in which the energy exporter is the only winner, but the problem is how to do it. Hard balancing is hardly acceptable here because it assumes the use of weapons and formal alliances (Paul 2018) which is not likely in conflict-cooperation perpetuum. Therefore, approaches that use non-military means – soft balancing, binding or appeasement – are more acceptable. Paul (2018: 20) defines soft balancing as ‘restraining the power or aggressive policies of a state through international institutions, concerted diplomacy via limited, informal ententes, and economic sanctions in order to make its aggressive actions less legitimate in the eyes of the world and hence its strategic goals more difficult to obtain’. The same author (2005: 59) adds that soft balancing is a possible behaviour when ‘(1) the hegemon’s power position and military behavior are of growing concern but do not yet pose a serious challenge to the sovereignty of second-tier powers; (2) the dominant state is a major source of public goods in both the economic and security areas that cannot simply be replaced; and (3) the dominant state cannot easily retaliate either because the balancing efforts of others are not overt or because they do not directly challenge its power position with military means’. The other approach, binding, ‘is often used by friendly states in alliances or institutional settings to make all of the members abide by institutional norms’ (Paul, 2018: 38). It is questionable if institutional norms are a sufficient mechanism to stop the energy power’s neo-imperialist strategy. Finally, ‘appeasement is making concessions to an opponent in the hope that its aggression will end, sparing the appeaser a costly conflict’ (Paul, 2018: 38). A problem with this approach is that targeted parties try to decrease the influence of the energy power and not to offer more concessions to it. Soft balancing therefore could be the best approach because it offers multiple tools to targeted parties to decrease the influence of a neo-mercantilist or neo-imperialist gas supplier and at the same time preserve trade with it.

### **III. The Kremlin’s neo-imperialism in Southeast Europe**

Russia was the most significant gas exporter in Europe until 2022. Since the start of the war in Ukraine, its role has been diminishing, but it is still unknown whether it will cease to be the major European gas supplier in the future. This uncertainty is a problem not only for Europe but also for Russia in which energy has played an essential role in the economic development and legitimacy of the regime. That role is confirmed by energy strategies adopted under Putin’s leadership. The 2003 Strategy determines that ‘the State energy policy must be directed on the change from the role of supplier of raw resources to the role of substantive member of the world energy market’ (Ministry of Energy of the Russian Federation 2003: 12). The 2009 strategy states that the ‘energy security is one of the most important components of the national security’ (Government of the Rus-

sian Federation 2009: 28) and the latest energy strategy, adopted in June 2020, declares that 'the purpose of the development of the energy sector in the Russian Federation is, on the one hand, to maximise assistance to the socio-economic development of the country, and on the other hand, to strengthen and maintain the position of the Russian Federation in the global energy sector, at least for the period until 2035' (Government of the Russian Federation 2020: 4).<sup>1</sup> The gas exports in those strategies have been driven by both approaches to energy security – market-driven and geopolitical (Dudau – Nedelcu 2016: 545) and to achieve its goals, the Kremlin has intended to construct new gas pipelines in Europe, conclude new gas contracts and build up Russian influence in selected countries. As much as 40.2% of the total gas imported to the EU in 2016 came from Russia (Eurostat 2019) which made a basis for the realisation of the Kremlin's plans.

The Kremlin has used two major means to achieve proclaimed goals: the 'carrot and stick' approach to bring Russian energy oligarchs under its control, and geo-economics or 'a geostrategic use of economic power' (Wigell 2016: 137). Because of the country's economic development needs, the Russian authorities have primarily applied a neo-mercantilist strategy, in which economic power is a goal. The exports of natural resources could expand state revenues and could not be easily sacrificed for other foreign policy goals. In the gas sector, the main Russian gas company is Gazprom. The Kremlin has controlled it with more than 50% of shares since 2005, most members of the board of directors are pro-Kremlin politicians (Kreyndel 2015: 55), the government officials negotiate abroad on the side of Gazprom (Kreyndel 2015: 52) and advocate its interest. This gives the impression that Gazprom has been the Kremlin's agent in the gas geo-economics. On the other hand, although the company can be seen as an 'extended arm of the state', some authors believe that it may have a certain degree of autonomy over the authorities (Balmaceda, 2012: 143). Whatever the exact role of Gazprom in Russia's foreign policy, its monopoly position in gas exports via pipelines allows the authorities to manage the gas industry and trade as they wish (Rosner 2006: 14).

Neo-mercantilism is not the only geo-economic strategy which Russia uses. In Central Asia, for instance, the Kremlin combines neo-mercantilism with a neo-imperialist strategy (Boban – Petrović 2021). It is possible because Central Asia is a post-Soviet region where Russia applies its concept of post-Soviet (limited) sovereignty (Deyermond 2016), enjoys political influence, has multiple economic interests and has sufficient opportunities to demonstrate its power occasionally. Because of this, the Kremlin can use economic power both as an economic goal and a means, i.e. to make a profit in trade with the region and as a political leverage against the region's countries if their foreign policy is not aligned with the Kremlin's wishes. Unlike in Central Asia, Russia cannot apply

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1 Translated from Russian by the author.

such a strategy over any region in Europe, but there are some countries which are suitable for its application, particularly in SEE. The Kremlin can put more pressure on them because of their relatively small political weight at the international level, territorial proximity to Russia and the existence of favourable political, economic and social preconditions for expanding Russia's influence. The question is which strategy the Kremlin applies to them. Unlike highly profitable gas exports to Western Europe, SEE has been significant neither for gas consumption nor trade. No gas hub is located there, and Germany alone imported four times more gas in 2019 than the whole of SEE (Table 1; Gazprom 2020).

**Table 1: Gazprom Group's gas sales in Southeast Europe 2002–2020 in bcm per year.**

| Country/Year        | 02   | 03   | 04   | 05   | 06   | 07   | 08   | 09   | 10   | 11   |
|---------------------|------|------|------|------|------|------|------|------|------|------|
| <b>BiH</b>          | 0.2  | 0.2  | 0.3  | 0.4  | 0.4  | 0.3  | 0.3  | 0.2  | 0.2  | 0.3  |
| <b>Bulgaria</b>     | 2.8  | 2.9  | 3.0  | 2.6  | 2.7  | 2.8  | 2.9  | 2.2  | 2.3  | 2.5  |
| <b>Croatia</b>      | 1.2  | 0.6  | 0.4  | 1.2  | 1.1  | 1.1  | 1.2  | 1.1  | 1.1  | -    |
| <b>Greece</b>       | 1.6  | 1.9  | 2.2  | 2.4  | 2.7  | 3.1  | 2.8  | 2.1  | 2.1  | 2.9  |
| <b>N. Macedonia</b> | 0.1  | 0.1  | 0.1  | 0.1  | 0.1  | 0.1  | 0.1  | 0.1  | 0.1  | 0.1  |
| <b>Romania</b>      | 3.5  | 5.1  | 4.1  | 5.0  | 5.5  | 4.5  | 4.2  | 2.5  | 2.6  | 3.2  |
| <b>Serbia*</b>      |      |      |      |      | 2.1  | 2.1  | 2.2  | 1.7  | 2.1  | 2.1  |
| <b>Slovenia</b>     | 0.6  | 0.7  | 0.2  | 0.7  | 0.7  | 0.6  | 0.6  | 0.5  | 0.5  | 0.5  |
| <b>Yugoslavia**</b> | 1.7  | 1.9  | 2.3  | 2.0  |      |      |      |      |      |      |
| <b>Total</b>        | 11.7 | 13.4 | 12.6 | 14.4 | 15.3 | 14.6 | 14.3 | 10.4 | 11.0 | 11.6 |

| Country/Year        | 12   | 13  | 14  | 15  | 16   | 17   | 18   | 19   | 20   | Total |
|---------------------|------|-----|-----|-----|------|------|------|------|------|-------|
| <b>BiH</b>          | 0.3  | 0.2 | 0.2 | 0.2 | 0.2  | 0.2  | 0.2  | 0.2  | 0.2  | 4.7   |
| <b>Bulgaria</b>     | 2.5  | 2.9 | 2.8 | 3.1 | 3.2  | 3.3  | 3.2  | 2.4  | 2.3  | 52.4  |
| <b>Croatia</b>      | 0.0  | 0.2 | 0.6 | 0.6 | 0.8  | 2.8  | 2.8  | 2.8  | 1.8  | 21.4  |
| <b>Greece</b>       | 2.5  | 2.6 | 1.7 | 2.0 | 2.7  | 2.9  | 3.3  | 2.5  | 3.1  | 47.1  |
| <b>N. Macedonia</b> | 0.1  | 0.0 | 0.1 | 0.1 | 0.2  | 0.3  | 0.2  | 0.2  | 0.3  | 2.5   |
| <b>Romania</b>      | 2.5  | 1.4 | 0.5 | 0.3 | 1.7  | 1.4  | 1.5  | 1.1  | 1.0  | 51.6  |
| <b>Serbia*</b>      | 1.9  | 2.0 | 1.5 | 1.9 | 1.9  | 2.2  | 2.2  | 2.2  | 1.4  | 29.5  |
| <b>Slovenia</b>     | 0.5  | 0.5 | 0.4 | 0.5 | 0.5  | 0.6  | 0.5  | 0.3  | 0.4  | 9.8   |
| <b>Yugoslavia**</b> |      |     |     |     |      |      |      |      |      | 7.9   |
| <b>Total</b>        | 10.3 | 9.8 | 7.8 | 8.7 | 11.2 | 13.7 | 13.9 | 11.7 | 10.5 | 226.9 |

\*Serbia in Gazprom Annual Reports includes Kosovo.

\*\* Yugoslavia (renamed Serbia and Montenegro in 2003) was a state which existed until 2006.

Sources: Gazprom 2003; Gazprom 2004; Gazprom 2005; Gazprom 2006; Gazprom 2007; Gazprom 2012; Gazprom 2017; Gazprom 2020; Gazprom 2021.

The region instead has another importance for the Kremlin. The 2013 Concept of the Foreign Policy of the Russian Federation states in Par. 66 that 'the Balkan region is of great strategic importance to Russia, including its role as a major transportation and infrastructure hub used for supplying gas and oil to European countries' (Ministry of Foreign Affairs of the Russian Federation 2013). That implies that SEE is important to Russia only as a transit territory for its gas exports to much more lucrative European markets. The author of this article argues that Russia uses its economic power here more as a means to secure its transit infrastructure and influence for other geo-political and geo-economic goals, particularly to the expansion of the Kremlin's neo-mercantilist strategy in the rest of Europe than as a goal to earn revenues in their gas markets.

The control of the energy sector in SEE by the purchase of the existing companies was an easier task than the construction of new infrastructure. To get physical contact with SEE and use it as a transit region for gas exports, the Kremlin primarily needed strong relations with Turkey, Bulgaria and Serbia. From there, The Kremlin tried to find partners in SEE and ECE to connect their pipelines with Bulgarian and Serbian grids. More distant countries like Croatia and Slovenia played smaller roles and Albania's geographical position and its declaration that it did not need Russian gas caused it to play no role at all (Halili 2022). On the other hand, the level of influence Russia could extend in the region's countries depends on the relations of those countries with the EU and their historical and contemporary political, social and economic bonds with Russia. The EU members in the region have been protected by the EU's regulations and political power, while the non-members have been only partially protected. Moreover, the first group is politically and economically more stable, while the second group has major political and economic problems and a particularly weak rule of law. Such a weakness enables the involvement of political elites in corruption, and they are less accountable to the public for their actions. Finally, historical and contemporary bonds in some of the SEE countries are the strongest in Europe outside of Russia's 'near abroad'. The author assumes that Russia had more opportunities to use elements of neo-imperialist tactics and policies toward these countries than to others.

Pipelines are the most important infrastructure for the gas trade between Russia and the rest of the continent. Since the Soviet era, the main pipelines from gas fields in Russia to Europe have passed over the Belarussian and Ukrainian territories. Over 140bcm per year of Russian gas was transported through Ukraine in the 1990s (Energy Community 2023) and any disruption of this transport could have greatly damaged the Russian profit and image as a reliable gas supplier. The gas crises of 2006 and 2009 caused by the Russian-Ukrainian conflict significantly affected European countries as one-half of Russian gas exports to Europe (at least until 2016) passed through Ukrainian gas networks (Siddi 2017: 107). That made Russia feel vulnerable and motivated it to try to

achieve control over Belarus and Ukraine, but also to diversify its transport system by constructing new pipelines which would bypass them from the North and South. The northern route would go from Russia's Baltic terminals to Germany and the southern one from Russia's Black Sea terminals toward Turkey and the SEE countries.

The realisation of the northern route with the Nord Stream and Nord Stream 2 pipelines was a relatively easy endeavour because Russia cooperated with Germany in their construction. Opposition from some East-Central European (ECE) and Baltic countries (Tekin – Williams 2011: 93), Brussels's suspicions and American sanctions against Nord Stream 2 could not stop Berlin and Moscow from constructing those pipelines (Fischer 2016: 2). The first line of Nord Stream started operating in 2011 and the second in 2012, both with a capacity of 150 mcm/d (Olanrewaju et al. 2015: 11) or 55 bcm per year. Until the construction of the Nord Stream, about 80% of the Russian gas exports to Europe passed through Ukraine (Ratner et al. 2013: 12) and the figure significantly decreased after that.

The realisation of the southern route was more complex. The Kremlin's neo-imperialism in some of the SEE countries was covert and its policymakers and propagandists frequently declared elements of liberal institutionalism in Russia's economic relations with the region. The statements that countries could make economic profit from Russian-backed gas projects were coming from various Russian and Gazprom officials, but, in reality, the Kremlin tried to apply a neo-imperialist strategy whose tactics are 'economic force, coercion, imposition, and bribery' (Wigell 2016: 146). The strategy was based 'on initiatives designed to generate goodwill and create economic incentives at an elite level' in SEE (Clark – Foxall 2014: 7), pressure on governments and interference in internal relations of some of the region's countries (Stronski – Himes 2019: 1). Almost all of the gas consumed by Bosnia and Herzegovina, North Macedonia and Serbia was Russian gas (Asenov 2018: 233–234) and Gazprom tried to strengthen its position 'by striking inflexible long-term gas supply agreements; promoting large-scale, expensive gas pipelines; installing domestic gas intermediaries with strong political connections; and blocking attempts at liberalization of the market' (Hake – Radzyner 2019: 8). For Russia there was also a danger of it losing a dominant position in the region after the start of imports of shale gas from the US and Canada (Blank – Kim 2016: 22).

#### **IV. Russia's gas pipeline projects in SEE**

Russia considered the construction of three transit pipelines in the southern route: South Stream, TurkStream and Balkan Stream. It planned to build the South Stream under the Black Sea from the Russian coast to Bulgaria and Serbia, Hungary and Slovenia with connecting routes to Austria and Croatia,

and another direction that would go via Greece to Italy (Ratner et al., 2013: 16; Vavilov – Kovalishina – Trofimov 2015: 185). The pipelines' capacity was to be 63 billion cubic meters per year (Goldthau 2016: 18). Gazprom would be the project's main financier, but it would also include Italian ENI and some other companies from the West (Vavilov – Kovalishina – Trofimov 2015: 186–187).<sup>2</sup> After the failure of the South Stream (see below), Turkey gained significance for the realisation of the next Russian project – TurkStream or Turkish Stream. The country's importance to Russia comes from the fact that any pipeline built on the territory of a non-EU member state up to the border with a member state – in this case Greece or Bulgaria – would, as Siddi (2017: 112) notes, avoid the restrictions from the Third Energy Package (they will be explained in the following section). But due to Turkey's size and political weight in international relations, Russia could not deal with it from a position of power. In December 2014, Gazprom and its Turkish equivalent, Botas, signed a memorandum of understanding about the construction of the Turkstream (Gazprom 2016). Two years later the Russian and Turkish governments signed an agreement which stipulated that an over 900 km long pipeline would cover 660 km of the failed South Stream project (Gazprom 2016) and would extend from the Russian Black Sea port of Anapa to the Turkish Black Sea port of Kiyikoy with a projected transport capacity of 31.5 bcm of gas per year (Turkstream 2019). Connected to the existing pipeline at nearby Luleburgaz, Russian gas would be transported further to Turkey and Europe through two branches of equal capacity, one for each market (Gazprom 2018). The pipeline started to operate in 2020 supplying the SEE countries (Elliott 2021b).

The TurkStream is now the only Russian pipeline in SEE, but it opened the possibility of the construction of new pipelines. The first extension of TurkStream became the Balkan Stream in Bulgaria which runs from the Turkish to the Serbian border and has a capacity of approximately 15 bcm (Reuters 2020). The construction began in 2019 and was finished in 2020 (Globuc 2019). Gazprom was not an investor or owner of Balkan Stream, but it was the Bulgarian company Balkantransgaz (Gotev 2020a). Nevertheless, Gazprom reserved almost all its capacities until 2039 (Gotev 2020a). Bulgaria imported only 2.4 bcm of Russian gas in 2019 (Table 1) and Balkan Stream was primarily intended for the markets in SEE and ECE. Before the opening of TurkStream and Balkan Stream, Russian gas for Serbia and Bulgaria was coming through Ukraine and Romania via the Trans-Balkan Pipeline, but after that, all Russian gas for Bulgaria, North Macedonia and Greece (Elliott 2021b) and almost all Russian gas for Serbia (Argusmedia 2021) was coming via those two pipelines. The next step was the start of export to Hungary via TurkStream which was

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2 Kropatcheva (2012: 32) claims that 'Russia wants to become economically stronger vis-à-vis the West, but it realizes that it can only achieve this goal with Western help.'

agreed upon between the Hungarian foreign minister and Gazprom in July 2017 (Dunai 2017).

Construction of the Balkan Stream was possible because of the Russian soft power and influence in Bulgaria. They are not new phenomena, but in the energy sector, they became particularly accentuated in the 21<sup>st</sup> century. There have been social, political and economic preconditions for their realisation. The history of close Russo-Bulgarian relations goes back to the 19<sup>th</sup> century and the revival of the Bulgarian state under Russian patronage which has contributed to the positive perception of Russia among Bulgarians even today. Some political parties, like the Bulgarian Socialist Party (Bechev 2017: 105), Revival and United Social Democracy (Bedrov – Dimitrova 2022) have been seen as pro-Russian players in Bulgarian politics. Despite being an EU member, the Russian ambassador to Bulgaria called the country a Trojan Horse in the EU (Pomerantsev 2015: 40) and German intelligence warned in the past that a significant part of the Bulgarian economy was under Russian control and expressed concerns about ties the Bulgarian ruling elite maintains with Moscow (Pomerantsev 2015: 40). An economic precondition of the Russian neo-imperialism in Bulgaria is the tightening of economic ties between the two countries over the years. Russia and Bulgaria signed agreements related to nuclear power, oil and gas in 2008 making the latter more dependent on Russian energy (Bechev 2017: 100). Eventually, some of them failed, but Russian gas comprised 81.4% of all imported gas to this country in 2019 in terms of GWh (Bulgartransgaz 2020: 14).

Serbia is the other country on the Russian gas road and the place for applying a neo-imperialist strategy. Political and social preconditions of this strategy are similar, although not the same, to those in Bulgaria. There have been historical and cultural bonds and above all the myths about 'Mother Russia', many political parties in Serbia are pro-Russian and a significant part of the population is pro-Russian. The two countries have publicly declared their close and friendly relations and developed 'military and intelligence cooperation' in contemporary times (Bieri 2015: 2). Nonetheless, those relations are not between two equal sides. Belgrade's major foreign policy problem is the status of Kosovo; Russia is the only great power supporting Serbia's position. Belgrade also struggles with the accession process to the EU, and no date has been set for Serbia to join this organisation. Like any other prospective EU candidate country, Serbia must fulfil Copenhagen criteria and transform its political system into a liberal democracy. Still, the regime of President Vučić, reluctant to strengthen the rule of law and to allow media freedoms in the country, is more similar to Putin's Russia than to an EU-member state. That makes Serbia the only SEE state which needs Russia's political support in international relations.

The economic precondition of the Russian neo-imperialist strategy in Serbia emerged during the 2000s. While Serbia does not possess economic power for investments in Russia, Russian companies have invested in the Serbian economy

and bought crucial companies in the energy sector. As a result, Serbia has the biggest number of Gazprom operations and marketing projects among all countries in the world (not including Russia) (Gazprom 2020: 96–98). Gazprom had already obtained the rights to build a gas pipeline in Serbia in 1996 (Kovacevic 2017), but the first major Russian acquisition in the country's energy sector happened in the 2000s. The most controversial was the sale of the oil and gas company NIS. The two countries signed in January 2008 an agreement over selling 51% of shares of NIS to Gazprom Neft and construction of the branch of South Stream in Serbia (Shchedrov 2008; Bechev 2017: 64). The sale was concluded in December 2008 when the Serbian government got 400 million Euros for the agreed stake, well beyond the company's estimated value of 2 billion Euros (BBC 2008; Szpala 2014: 2). Other acquisitions include Gazprom's stakes in Serbia's only UFSF Banatski Dvor and Serbia's only two oil refineries in Novi Sad and Pančevo, and Gazprom's investment in the combined heat and power plant in Pančevo (Gazprom 2020: 78). The Russian side promised that Serbia would become part of the South Stream and Serbia gave Russia 51% of stakes in the joint-stock company that would manage this pipeline in Serbia, instead of the fifty-fifty deal like in other countries (Bechev 2017: 65–66). This became a problem for Serbia's energy independence because NIS is the sole producer of gas in this country (Bowden 2019: 9) and the production thus came under Russian control (Marković 2017: 19). Finally, the Russian share of the gas imported to Serbia in 2019 was among the biggest in SEE – 89% (Statista 2023).

Russia continued to strengthen its position in this country with the opening of the new connection between the Bulgarian section of the Balkan Stream and Serbia's gas network in January 2021 (Gurkov 2021). This link also connects Bulgaria and Serbia with Hungary. Unlike the construction of the Bulgarian section of the Balkan Stream which was financed by Bulgartransgaz, Serbia's section is financed and built by Gastrans, a company in which Gazprom has 51% of stakes and the Serbian company Srbijagas has the rest (Elliott 2021b). The Energy Agency of the Republic of Serbia approved for '88% of the capacity to be reserved for the exclusive use of Gazprom and/or Srbijagas' (Bowden 2019: 14). Like in the case of Bulgaria, the Serbian grid is more important to Gazprom for gas exports to ECE than to this country. For instance, Hungary in July 2017 signed an agreement with Gazprom about the extension of TurkStream from Serbia to Hungary with a projected annual gas import of 8 bcm (Zivanovic 2017). Then in 2021, Hungary signed a 15-year contract with Russia to import 4.5 bcm of gas per year via Bulgaria and Serbia (Reuters 2022). Despite the cessation of gas export to Bulgaria in 2022, Russia proceeded and even increased gas exports to Hungary using TurkStream and Balkan Stream (Oltermann 2022).

In Croatia, there was a lack of the kind of ties that Russia maintained with Bulgaria and Serbia. Croatia and Russia do not share historical ties, they are geographically distant, and the pro-Western policies of Croatian governments,

together with the lack of Russia's soft power, have made Croatia relatively disengaged from the Russian gas projects. The Russian share of the gas imported to Croatia in 2019 was only 16% (Statista 2023). Nevertheless, despite the lack of favourable political and social preconditions for Russia's neo-imperialism, the Kremlin attempted to build at least economic preconditions in Croatia to expand its influence and to become a significant gas player in the Croatian gas market.

Russia's interest in investments in the Croatian energy sector emerged in the early 2000s. The Russian company Rosneft was one of the bidders for the purchase of shares in the most prominent Croatian oil and gas company INA in 2003 (Poussenkova 2012: 200). Poussenkova (2012: 201) claims that Rosneft was interested in INA's 38% stake in the Croatian oil pipeline company Janaf, but eventually the stake in INA was sold to MOL, and Rosneft never entered into its ownership structure. Croatia, on the other hand, was interested in the South Stream and in 2010 an Interstate Agreement was signed between the two countries on cooperation in the construction and use of gas pipelines on Croatian territory (Plinacro Zagreb 2014: 53). The new Croatian government in 2011 enhanced cooperation and included some other energy projects, like Gazprom's offer to invest in the joint-owned gas-fired power stations (Clark – Foxall 2014: 8). The companies Rosneft and Gazprom Neft were also interested in offshore exploration licences in the Adriatic Sea (Bechev 2016: 78), but none of these plans were realised.

The imports of Soviet gas to Croatia started much earlier. The first contract was concluded in 1976 (Högselius 2013: 171) and imports began two years later (Plinacro Zagreb 2014: 17). It lasted until 2011 when Croatian companies Prirodni plin and INA signed a three-year contract (Poslovni dnevnik 2010) with the Italian company ENI which 'offered a lower price and more flexible contract arrangements' than Gazprom (Vavilov – Trofimov 2015: 174). The return to long-term arrangements with Gazprom happened after only a few years and was done by the private company Prvo plinarsko društvo (PPD) in which the government has no stakes. By 2015, this company was 'controlling more than a third of the total gas supply market in the Republic of Croatia' (Bajo – Primorac – Jurinec 2016: 7).<sup>3</sup> The PPD is in the Croatian public perceived as a 'Russian player', but there is still no clear evidence for this (Bačelić – Kalafatić 2022). Its influence has been growing after signing a ten-year contract with Gazprom in September 2017 to purchase 1 bcm of gas per year (Večernji list 2017). This is an insignificant amount for the Russian side because Gazprom exported 192.2 bcm of gas that year (Gazprom 2019), making annual exports to Croatia a little more than half percent of the company's total annual exports. With this contract, Croatia, on the other hand, satisfied a significant part of the domestic gas consumption and the indirect effects of these imports can also be seen in the operations of

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3 Translated to English by the author.

some large Croatian companies. The PPD bought a majority stake in Petrokemija d.d. through its own and INA's company Terra mineralna gnojiva from Kutina, which consumes natural gas in the production of fertilisers (Vidov 2018), and PPD thus became both an importer and consumer of Russian gas.

In recent years, Croatian authorities have tried to diversify gas imports and the most ambitious plan became Croatia's first LNG terminal on Krk Island. Former Russian ambassador to Croatia Anvar Azimov claimed that the construction of the LNG terminal in Croatia resulted from American pressure on Europe to buy American gas, even though it was more expensive than Russian (Azimov 2018). However, in January 2019, Azimov stated that Russia did not oppose the decision of the Croatian government to build this terminal (Večernji list 2019). Russia's initial criticism against the terminal could be better understood considering Gazprom's broader European plans to build new pipelines to Europe. All of Gazprom's plans, whether realised, failed or in the implementation phase, show that the Russian gas network to Europe will be overcapacitated, and thus unprofitable for a while (Vavilov – Kovalishina – Trofimov 2015). One of the reasons why Russia insisted so much on construction is, according to Vavilov, Kovalishina and Trofimov (2015: 191–192), a 'preemptive move' by which Gazprom tries to prevent the competition from building gas pipelines and supplying Europe with gas from its production or at least from its supply routes. Given that Russia has failed to build the South Stream or any other alternative route that would tie Croatia more tightly to Russian gas, the LNG terminal on Krk became a severe threat to the Russian ambitions in this country and possibly in the parts of the SEE and ECE regions. This also demonstrates that building economic preconditions for Russian influence in Croatia failed.

## **V. Balancing against Russian neo-imperialist attempts in SEE**

The Kremlin's plans to use the SEE countries to strengthen Russia's position as the main gas exporter in Europe triggered various reactions from the EU, the region's countries and the US. Nevertheless, this was not the first time that some actors reacted because the clashes of interests, investments and soft power between the West and Russia have lasted for decades and have been happening on a conflict-cooperation perpetuum. Russia was simultaneously seen as a security threat, but also as a partner reliable enough to start new gas projects with. Therefore, acknowledging the need for Russian gas, it was important for the EU to prevent the break of all energy connections with Russia and to retain some cooperation. The EU has tried to balance Russian power in the energy sector using both internal and external soft balancing and all three means of soft balancing mentioned above – international institutions, concerted diplomacy and economic sanctions – but also funding projects alternative to Russia's.

A part of the EU's soft balancing was the creation of an organisation with objectives 'to create an integrated pan-European energy market' and 'to extend the EU internal energy market rules and principles to countries in South East Europe, the Black Sea region and beyond based on a legally binding framework' (Energy Community 2021b). Named the Energy Community (EC), it was founded in 2005 and consists of EU members and several non-members, including SEE countries. With the latter's inclusion, the EU wanted to bind non-EU states to its own rules (Hasanov et al. 2020: 6–7; Abbasov 2014) and to decrease the power of Russia to unilaterally create rules with the region's countries in its favour. One of the recent activities of the EC's Secretariat is the South-East European Gas Initiative launched in December 2020 'to foster closer cooperation between gas exchanges and transmission system operators central, southern and Eastern Europe' (Energy Community 2023).

The most important EU rules have become the Third Energy Package from 2009. Its main aim is to enable third-party access to the electricity and gas transmission network and thus prevent the monopoly of network owners (European Commission 2019b). The EU used the Third Energy Package to curb Russian power and in 2011 opened an investigation into Gazprom's trade with the countries in Central and Eastern Europe and the Baltic region. The reason for the inquiry was the possibility that this trade 'hindered the free flow of gas, prevented the diversification of gas supply, and imposed unfair prices on its customers by linking the price of gas to oil prices' (Stern – Yafimava 2017b: iii). The European Commission also opened an antitrust case against the company in 2015 (Bechev 2017: 220). Although Russia complained that EU regulations discriminate against Gazprom and brought the whole case to the World Trade Organization in April 2014 (Siddi 2017: 114), Gazprom had to adapt its business to European rules and find new ways to retain its market positions.

Probably the biggest obstacle Russia has faced because of the Third Energy Package was the suspension of the South Stream pipeline. The European Commission questioned the project because it allegedly violated the provisions of the Third Energy Package (Goldthau 2016: 10). The EU specifically considered that this pipeline would jeopardise the diversification of gas imports into Europe (Vavilov – Kovalishina – Trofimov 2015: 187), saw it as a competition to the Nabucco project and therefore did not consider that South Stream had exclusive commercial character (Vavilov – Kovalishina – Trofimov 2015: 187). Russia adopted a bilateral approach in an attempt to overcome this obstacle (Pomerantsev 2015: 40) and signed intergovernmental agreements with seven countries (Stern – Pirani – Yafimava 2015: 2).<sup>4</sup> Bulgaria, the country crucial for the project's realisation, signed the agreement as a result of 'pricing and

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4 Although it has allowed the construction of Nord Stream which also violates these provisions (Siddi 2017: 114).

other political pressure to acquiesce to Russian energy objectives in the region' (Maltby 2015: 815). After Bulgaria gave up on the project because of the EU's pressure (Bechev 2017: 87), President Putin cancelled it in December 2014 (Asenov 2018: 237; Siddi 2017: 112). Bechev (2017: 209) argues that the final blow actually came from the Russian annexation of Crimea in 2014, after which the possibility of compromise between Russia and the EU evaporated.

The external balancing was just part of the EU's endeavour to achieve its aims in SEE. This dimension of soft balancing could be efficient only if the region's countries also started internal balancing. They had to find their interest to change relations with Russia and strictly follow the EU's regulations. For the minor Russian influence, Croatia already applied a part of the EU rules in 2007 (Bajo – Primorac – Jurinec 2016: 1) and introduced Directive 2009/73/EC into its legislation which further liberalises the gas market (Bajo – Primorac – Jurinec 2016: 3). This was before Croatia became an EU member in 2013, but Bulgaria had problems with the application and realisation of the EU rules even though it was an EU member. 'Bulgarian energy security policy was largely divergent from that of the EU until 2009' (Maltby 2015: 813) and Bulgaria's administrative capacity for energy policy creation and implementation was still weak in the years after that (Maltby 2015: 810). The European Commission complained in March 2015 that Bulgaria 'lacks the political will to build interconnectors with its neighbours and decrease its dependence' (Gotev 2015a). While Bulgaria remained crucial for the Russian strategy to bypass Ukraine, it could also become a bottleneck if the arrangements between Russia and Bulgaria failed. After the 2022 invasion of Ukraine, the Kremlin decided that all payments for Russian gas had to be done in Russian roubles and when Bulgaria refused to comply, Russia stopped exporting gas to it. That was an exercise of economic force as one of the four possible neo-imperialist tactics. Still, Bulgaria did not give in to this pressure and introduced sanctions against Russia as other EU members did, which weakened the Russian influence. There were bigger problems with the EU non-member state Serbia. The EC ordered changes in the operations of gas pipelines in this country (Bowden 2019: 16) and according to the EC implementation indicators for Serbia of 1 November 2020, 'implementation of the *acquis*, however, remains at low levels and is tainted by several breaches of the fundamental principles of the Third Energy Package, such as the lack of third party access' (Energy Community 2021a). Meanwhile, Serbia got an exemption from the Third Energy Package for its section of the Balkan Stream in 2019 (Makogon 2020). In March 2023, Serbia had still not introduced sanctions against Russia facing criticism from Brussels.

Despite those problems, the failure of some Russia-backed energy projects and the changing Russian influence over the region's political actors prevented the Kremlin from achieving complete dominance over the energy sector in recent years. That initiated the rise of the SEE countries' interest in gas diversi-

fication and the EU offered financial support for the construction of a new gas infrastructure: transit pipelines, interconnectors, and LNG terminals. Some of the new projects have been funded under the instrument ‘Connecting Europe Facility’ (CEF) with energy as one of its three sectors. In the 2014–2019 period there were 26 actions in the gas priority corridor ‘North-South Gas interconnections in Central Eastern and South Eastern Europe (NSI East Gas)’ which were funded by the EU with 461.5 million Euros (European Commission 2019a: 42).

The construction of gas interconnectors between the SEE countries is the easiest way to improve their gas trade diversification. The initiative for the formation of the working group for the interconnector projects came in December 2014 and the first meeting of the ECE and SEE energy connectivity (CESEC) was held in February 2015 (Bowden 2019: 19). This high-level group ‘works to accelerate the integration of central eastern and south eastern European gas and electricity markets’ (European Commission 2023). This resulted in the realisation and planning of new interconnectors between all the SEE countries that consume gas (Table 2).

**Table 2: Interconnectors and LNG terminals in February 2023**

| Country            | Interconnectors with countries                   | LNG terminals |
|--------------------|--|---------------|
| Bosnia-Herzegovina | Serbia (only entry)                              | 0             |
| Bulgaria           | Greece, North Macedonia, Romania, Serbia, Turkey | 0             |
| Croatia            | Hungary, Slovenia                                | 1             |
| Greece             | Albania, Bulgaria, Turkey                        | 1             |
| North Macedonia    | Bulgaria   | 0             |
| Serbia             | Bosnia-Herzegovina, Bulgaria, Hungary            | 0             |

Source: Energy Community Secretariat (2022).

One of the most important among them is the new Gas Interconnector Greece-Bulgaria (IGB) from the Southern Gas Corridor to the Bulgarian gas network, funded with 84 million euros by the EU, and launched on 1 October 2022 (Directorate-General for Energy 2022). Besides contributing to the diversification of Bulgarian gas imports, its additional purpose is to be incorporated into the wider European project Vertical Gas Corridor, which would run from Greece via Bulgaria and Romania to Hungary (ICGB 2021). Another important interconnector is the PCI Gas Interconnection Bulgaria-Serbia which will run from the Bulgarian town of Novi Iskar to the Serbian town of Niš (Bulgartransgaz 2021). The EBRD funds it as a bi-directional pipeline with a projected capacity

of 1.8 bcm per year (Bulgartransgaz 2021: 4) and it is supposed to contribute to the Serbian gas import diversification. Construction started in February 2022 and the construction of the Bulgarian section started one year later (Balkan Green Energy News 2023). Serbia expects it to become part of the Southern Gas Corridor when this interconnector is finished (Spasić 2022b). Other planned interconnectors are between Serbia and Romania (Patricolo 2022), and Serbia and Croatia but at the moment of finishing this article in April 2023, their construction has not started yet. The interconnector between Croatia and Hungary was built in 2011 (Bowden 2019: 18). There is a plan for some of the SEE interconnectors to become parts of the bigger interregional bi-directional Eastwing pipeline which would run from Bulgaria via Romania and Hungary to Slovakia and which would have 'the capacity up to 20 bcm/y in its first phase, with a potential upgrade up to 40 bcm/y in the next phase' (Eastwing 2021). If it is realised, it will be a partial revival of the abandoned Nabucco pipeline, which was supposed to have a similar route, but with a terminal in Austria.

The LNG terminals are another group of projects partly funded by the EU. Russia cannot compete with this because it has had no plans for terminal construction in SEE. Croatia and Greece are two countries in this region of interest for LNG development. The Croatian Parliament adopted the Energy Development Strategy of the Republic of Croatia in October 2009 which highlights the aim of constructing an LNG terminal and diversification of gas supply (Ministry of Economy, Labour and Entrepreneurship of the Republic of Croatia 2009). After years of disputes in Croatia about its necessity, the LNG terminal on Krk island was opened in January 2021 with a capacity of 2.6 bcm per year (LNG Hrvatska 2021). The CEF grant for its construction was 101.4 million euros, the Croatian government invested 100 million euros and 32.2 million euros came from shareholders (Bowden 2019: 25). Croatian Prime Minister Plenković announced in 2022 an increase in the terminal's capacity (Government of the Republic of Croatia 2022).

Greece currently has one LNG terminal, and four planned or under construction. The neighbouring countries are interested in some of them making their construction more profitable. In January 2021, Bulgartransgaz signed an agreement with the Greek company Gastrade about participation in constructing the Alexandroupolis LNG terminal (Sampson 2021). Soon afterwards, a similar agreement was signed between Gastrade and two companies from North Macedonia about their participation in this project (Pekic 2021). Unlike pipelines which could bring gas to SEE from neighbouring countries and regions, LNG terminals provide opportunities for overseas imports. New LNG terminals could also import gas from the Russian LNG terminals but restrained from importing from Russia since 2022 gave more chances to Qatar, the US and other countries. Cynically called 'Freedom Gas', the sale of US LNG in Europe has been supported by the sanctions voted in the US Senate against Nord Stream 2 and TurkStream

(Gotev 2020b).<sup>5</sup> The LNG potential in Greece further rises with the discovery of a gas field near Egypt and the signing of the MoU between these two countries in 2021 on LNG trade (Andrei 2022: 107). Bulgaria and Turkey also signed a 13-year agreement on the transit of gas from Turkish LNG terminals to Bulgaria from 1.5 bcm per year (Spasić 2023a).

Finally, transit pipelines are important both for the energy security of SEE and the EU, but some of the new gas exporters are interested in the gas trade as well. While the EU and the SEE countries were major investors in interconnectors and LNG terminals, the new actors invested in the transit pipelines from the Caspian basin to Europe. There are also plans for other pipelines, like the ones between Greece and Egypt and between Cyprus and Italy (Andrei 2022: 107, 110), but in 2023 only Azerbaijani gas is transported to Europe via new pipelines. This Caspian country has tried to develop its energy exports independently from Russia's grid since the 1990s. The South Caucasus Pipeline from Baku to Erzurum in Turkey was commissioned in 2006 and became the first stage of the Southern Gas Corridor (SGC) project that includes two additional pipelines: the Trans-Anatolian Pipeline (TANAP) in Turkey, finished in 2019, and the Trans Adriatic Pipeline (TAP) in Greece, Albania and Italy, completed in 2020 (Table 3). Transport of Azerbaijani gas has been possible because Baku maintains cordial relations with Georgia and Turkey, particularly with the latter, the main Azerbaijani ally and the major Russian competitor for the influence in the Caucasus. The bonds between the two countries are somewhat similar to the historical, political and economic bonds of Bulgaria and Serbia with Russia, but without Turkey's hegemonic or imperialist attitudes. Azerbaijan is thus interested in cooperation with Turkey and the Southern Gas Corridor Closed Joint Stock Company from Azerbaijan holds 51% of shares in TANAP (Table 3). Turkey finds complementary interests to Azerbaijan in the Southern Gas Corridor. The Corridor makes Turkey a new important gas transmission country and increases its geopolitical importance for Russia and the EU. Moreover, the Turkish plans to become both a gas hub and gas producer and exporter in the 2020s will further endanger Russian plans for gas exports through SEE.

The importance of Azerbaijani gas has become visible in recent years. During his visit to Azerbaijan in March 2015, Bulgarian Prime Minister Borisov asked for a renewal of the Nabucco pipeline, fearing the lack of gas in his country (Gotev 2015b). Bulgaria started to import gas from Azerbaijan from the old pipeline between Greece and Bulgaria (Gurkov 2021) at the end of 2020. These new alleys of the region's diversification attempts are important since TAP's capacity is currently only 10 bcm per year and 8 bcm already goes to Italy (Gurkov 2021). The Serbian delegation visited Azerbaijan in December

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5 Officially, those sanctions were intended to help Ukraine and to prevent the rise of Russian influence in Europe, but they were rejected by German and Russian officials (Gotev, 2019).

**Table 3: Major transit pipelines in SEE**

| Pipeline        | Ownership  | Start of operation | Capacity bcm per year                           | Location                            |
|-----------------|--|--------------------|---|-------------------------------------|
| Balkan Stream   | Bulgarian section: Bulgartransgaz EAD<br>Serbian section: Gastrans           | 2020               | Bulgarian section: 15<br>Serbian section: 13.88 | Bulgaria, Serbia                    |
| Trans-Anatolian | Southern Gas Corridor (51%), BOTAS (30%), BP (12%), SOCAR Turkey Energy (7%) | 2018               | 16 (initial)                                    | Turkey                              |
| Trans Adriatic  | BP (20%), SOCAR (20%), Snam (20%), Fluxys (19%), Enagás (16%), Axpo (5%)     | 2020               | 10 (initial)                                    | Albania, Greece, Italy              |
| Trans-Balkan    | n.d.   | 1988               | 27  | Bulgaria, Moldova, Romania, Ukraine |
| TurkStream      | Gazprom, Botas   | 2020               | 31.5  | Russia, Turkey                      |

Sources: Globuc 2019; Gotev 2020a; Makogon 2020; NS Energy 2023a; NS Energy 2023b; NS Energy 2023c; Onyango 2021; Reuters 2020; Transadriatic Pipeline 2023; Turkstream 2019.

2022 and discussed imports of Azerbaijani gas after the completion of interconnectors with Bulgaria and North Macedonia (Spasić 2022b). A member of Serbia's delegation said that this country could import about one-third of its gas needs from Azerbaijan (Spasić 2022b). Despite Baku finding restrained Russo-EU relations as an opportunity to increase its production and exports to Europe (Andrei 2022: 103), it is still limited by the comparatively small capacities of the TAP and TANAP (Table 3).

## VI. Conclusion

After years of fighting for influence with the EU, in the end Russia has not managed to firmly apply a neo-imperialist strategy in SEE. Using Gazprom and other energy companies, the Kremlin almost succeeded to establish domination in some of the SEE countries without spending large sums of money. The war in Ukraine in 2022 decisively turned the pendulum to the EU side, but the concerted balancing of the EU and SEE countries had been giving results even before the war started. The analysis in this article demonstrates that territorial location and the existence of favourable political, social and economic preconditions in Bulgaria and Serbia were important for the early realisation of the Russian plans. In Croatia, where these elements do not exist, the neo-imperialist strategy was not possible. The failure of the South Stream project, Croatian membership in the EU since 2013 which included sanctions against Russia since 2014 and possible, but not documented, American influences over the Croatian energy

trade with Russia, contributed to the fact that none of the Russian plans have been realised. Eventually, the strength of the EU's soft power and soft balancing resulted in the switch to Brussels even of the Russian strongholds Bulgaria and Serbia. Seeing Russian geo-economics as a geo-political threat, the EU has tried to bind the whole SEE to its rules and offered money for alternative projects.

The decline of Russian power is hardly temporary, whenever the end of the war in Ukraine will be. One reason for this is that new EU-backed pipelines and gas facilities in SEE have improved their connections with the rest of Europe and gas sources from the Caspian basin. The other reason is that the Russian-backed construction of pipelines between Serbia, Bulgaria and Hungary turned against the Kremlin's plans. The pipelines have become a Trojan Horse for the Russian neo-imperialist strategy because they facilitated interconnections between the SEE countries and expanded the transit capacities for gas imports from non-Russian sources. Consequently, a decrease in Russian exports results in a reduction of the Russian use of economic power as an economic means. However, the EU does not yet have enough alternative gas pipelines with the same capacity as the Russian gas pipelines to replace them. A larger development of the LNG terminal could compensate for this, but the price of that gas is higher than the pipeline's gas. Hereof, the collapse of Russian geo-economic power in SEE will cost all involved parties economically. It may cost Russia more because its huge gas pipeline capacities to Europe will remain unused, and it is questionable how much time it will take to sufficiently develop its LNG potential for alternative markets in the world.

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# Opportunities and Limits of Presidential Activism: Czech presidents compared<sup>1</sup>

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**Abstract:** *This article analyses the use of powers by Czech presidents Václav Havel (1993–2003), Václav Klaus (2003–2013) and Miloš Zeman (2013–2023). The text is based on the concept of presidential activism, empirically examining mainly their interactions with governments and legislative vetoes. The results show that important incentives for presidential activism are non-cohesive coalition governments, minority governments, slim government majorities in parliament, the collapse of governments and a chaotic parliament. On the other hand, the internal cohesion of a government acts as a constraint on presidential activism. Popularly elected Zeman interpreted his powers much more widely in appointing and removing governments and ministers than Havel or Klaus, who were elected by parliament. By contrast, Zeman used his legislative powers less than his two predecessors, which was apparently influenced by their low success (with some exceptions) in this area. The president's political proximity to the government was found to only sometimes limit his agility. Czech presidents have rarely been passive. A specific factor that affected activism, albeit only to a limited extent, was the poor health of Havel and Zeman at certain moments. To reduce systemic risks in the future, it would be useful to define more precisely the rules for appointing and dismissing a government and individual ministers.*

**Key words:** *presidential activism; direct elections; governments; legislative powers; Czechia; systemic risks*

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## I. Introduction

Research on heads of state in Central and Eastern Europe has undergone dynamic development in recent decades. Most interest has been shown in presidents of the semi-presidential regimes that have sprung up in this region since 1989. The tradition of research that began with the classic work of Maurice Duverger (1980) followed by Matthew S. Shugart & John M. Carey (1992), Robert Elgie (1999) and many other authors, has thus produced rich material that allows for extensive comparative studies and in-depth analyses into the leadership of countries such as Poland, Romania and Ukraine (e.g. Taras 1997; Protsyk 2004, 2005; Elgie – Moestrup 2008; Sedelius – Mashtaler 2013; Sedelius – Åberg 2018).

Less interest has been shown in the region's democracies, such as Czechia, which developed a parliamentary regime and established its most important principle – executive dependence on the confidence of parliament (e.g. Lijphart 1992: 2; Müller – Bergman – Strøm 2003: 10–11) – and had no popularly elected president. The Czech case was included in some broader studies (e.g. Baylis 1996; Brunclík – Kubát 2019); its specific aspects have been examined (e.g. Kysela – Kühn 2007; Havlík – Hrubeš – Pecina 2014; Kopeček – Brunclík 2019); and attention was eventually paid to the personality of the internationally well-known first Czech and last Czechoslovak president, Václav Havel, often in the broader context of the democratic transition (e.g. Skalnik Leff 1996; Keane 2001; Duberstein 2006; Zantovsky 2015; Williams 2016). But a comprehensive discussion of presidential activities over three decades has remained lacking. Of these, one interesting example is provided by the use of the presidential veto of laws, where Czech presidents have been more agile than their Romanian or Polish counterparts (Köker 2017: 59).

The importance of the Czech case for the broader audience increased when the method of choosing a president transitioned from the previous indirect parliamentary process to popular (direct) election in 2012. This makes Czechia a kind of 'natural experiment', which is rare in modern democracies (exceptions include neighbouring Slovakia) and offers the opportunity of evaluating the performance of the first popularly elected president, Miloš Zeman (2013–2023), whose presidency stirred up a turbulent public debate about his exceeding presidential powers and behaving unconstitutionally. Prime ministers threatened to file complaints against the president with the Constitutional Court, and the upper chamber of parliament launched an impeachment procedure for gross violation of the constitution, but the lower chamber failed to support the move.

However, a look into the past suggests a somewhat more complicated story. Many Czechs traditionally perceived the president as a monarch who would provide good governance and solutions to burning problems, a perception derived from the tenure of Tomáš G. Masaryk, architect of Czechoslovakia and its first

president. Masaryk founded a strong presidency associated with great informal influence and a specific aura (Mlejnek 2014; Cabada 2018). A small, but telling, fact for understanding this perception is that presidents since Masaryk's time have resided at Prague Castle, the ancient seat of kings. Despite changes of political regime and historical upheavals, the importance of the president survived and was strongly revived by Havel in the short, but very intense, democratic period in the last years of Czechoslovakia. Havel as Czech president (1993–2003) and his successor Václav Klaus (2003–2013) were certainly not merely ceremonial presidents; they were involved from time to time in intra-executive conflicts with prime ministers and governments. The fertile ground for such disputes was created by the brief and often vague constitutional text that gave no precise guidance on how the president should behave. The Czech institutional set-up thus became the scene of clashes between the two branches of executive power (Brunclík 2014). As with Zeman, the excessive agility of both Havel and Klaus was repeatedly debated. Even before the introduction of the popular election and Zeman's presidency, Czech scholars discussed the extraordinary status of the head of the state and efforts to strengthen his influence (e.g. Klíma 2004; Kysela 2006; Kysela – Kühn 2007; Brunclík 2008; Pavlíček 2008).

This history allows for an interesting comparison of the performance of three Czech presidents and especially the opportunities and constraints that determined their ability to be active. The comparison raises two main questions: What created opportunities for activist behaviour by presidents and, contrariwise, what limited them? How did the activism of the directly elected president differ from his indirectly elected predecessors? Being directly elected by the people is believed to provide a president with greater legitimacy for independent behaviour than being chosen by parliament (e.g. Duverger 1980; Linz 1994; Metcalf 2000); this point will be addressed in the article. Unfortunately, the fact that there has been only one directly elected president so far precludes any forward-looking conclusions about the impact of this change. This caution is justified by the case of the fourth president, elected in 2023, Petr Pavel, who differs from his predecessors in his lack of domestic political experience.

The article applies the concept of presidential activism reflecting the strength or weakness of other political institutions and the party configuration. Changing the type of election was not accompanied by any substantial modification of presidential powers, and this makes analysis easier. The concept of presidential activism has some limits, in that it cannot perfectly reflect the cultural and historical legacy, the economic, ethnic and other specificities, or the personality of presidents (Frye 1997; Hloušek 2013). However, it is worth noting that Czechia is one of the most culturally and ethnically homogeneous countries in Europe, which has not been affected by catastrophic economic slumps; the studied period is continuous and begins after the end of the most turbulent transitional changes at the turn of the 1990s. Havel, Klaus and Zeman had similarly strong

personalities and rich political pasts, although the men were different in some respects (e.g. Havel was one of the most famous dissident figures of the Eastern Bloc, Klaus and Zeman had previously been party leaders and prime ministers). The article sets out a theoretical section on presidential activism, the research design and the powers of the Czech president in important areas, and three empirical sections on Havel, Klaus and Zeman.

## **II. Theoretical framework: Presidents, governments and presidential activism**

The position of president varies across democratic regimes. In semi-presidential regimes it is commonly assumed that the head of state plays an active role, while in parliamentary regimes the president's role is supposed to be merely symbolic and representative. However, practice shows a diversity of presidential behaviour that makes the establishment of clear and unquestionable boundaries difficult and sometimes even leads to the rejection of semi-presidentialism as a specific category (Siaroff 2003). There is simply a lack of consensus among scholars on the distinction between semi-presidential and parliamentary regimes. The most widely used definition of semi-presidential regimes today, Robert Elgie's (1999: 13), includes 'a popularly elected fixed-term president and a prime minister and cabinet who are collectively accountable to the legislature'. However, this definition is sometimes criticised because it covers too many different countries (e.g. Brunclík – Kubát 2019). Applying Elgie's definition, it would follow that since Zeman's presidency, the Czech Republic has automatically and permanently had a semi-presidential regime – a claim which most Czech political scientists and constitutional lawyers question or reject outright (for a summary of the debate, see Cabada 2018).

It is worth remembering in this context the long-debated topic of executive dualism, i.e. when presidents share executive power with prime ministers and governments. This creates a 'dual-authority structure' with the potential for tension and conflict between the two leaders of the executive branch. Analyses of this issue in the academic literature are mainly of regimes with popularly elected heads of state and semi-presidential regimes (e.g. Sartori 1994; Protsyk 2005). Yet executive dualism has also been discussed with respect to countries without a directly elected head of state, including the Czech Republic before Zeman's presidency (Brunclík 2014).

These initial theoretical remarks allow for a better understanding of the main conceptual tool of this article, presidential activism. The term is often used to describe the extensive use, or even abuse, of presidential powers, which are discussed with reference to traditional presidential democracies such as the USA, new democracies in Central Europe and autocracies such as Russia (Schlesinger 1997; Protsyk 2004; Hloušek 2013). However, the specialised literature deploys

a less normative attitude. Margit Tavits (2009: 30) defines presidential activism as the 'intense use of presidential discretionary powers', complemented by an 'informal capacity to affect politics and policy'. Philipp Köker (2017: 5), in his extensive comparative study, offers a narrower definition that includes 'the discretionary use of formal powers'. The concept is supposed to separate presidential action from ceremonial duties such as receiving foreign visitors, opening sessions of parliament and representing the state at conferences. Other authors build on these definitions; for example, Tapio Raunio and Thomas Sedelius (2020: 24) mention the 'presidents' use of their formal powers and their attempts to influence politics through informal channels'. It makes sense to stick to a broader notion that combines the formal powers of the president with informal action that is sensitive to the context and to political interaction.

Tavits states that presidents operate within constraints, determined in particular by the 'partisan constellation and the strength of other political institutions especially the parliament and the government' (Tavits 2009: 35). Together, they create the political opportunity framework for presidential activism. Concerning the partisan constellation, Tavits (2009: 36), drawing on earlier studies by Shugart and Carey (1992) and Amorim Neto and Strøm (2006), notes that incentives for presidential agility are greater in a situation of cohabitation or divided government, 'in which the president and the prime minister represent different parties or coalitions'. The term 'cohabitation', originally associated with the French semi-presidential system, is thus more broadly applied to situations of ideological or political opposition between the two crucial men or women of the executive, and therefore its use in the Czech case is rational, at least for Zeman's presidency, which was decided by direct election. It is the mutual opposition that provides ideal conditions for conflict, and hence also for the growth of presidential activism. This line of reasoning of intra-executive tension has been empirically confirmed by Protsyk (2006) and Köker (2017). By contrast, political harmony between president and government coalition limits the space for mutual disputes, as there is no reason for them to arise. For instance, Köker (2017: 246) notes that the presidents used their legislative veto power more often during cohabitation than when president-government relations were unified.

There is some difference between cohabitation and divided government. The second term has its origin in the US situation, in which the president faces opposition in Congress. As used by Tavits, however, it is really a non-cohesive coalition that includes several parties representing different political stances. The parties are not necessarily ideologically distant, but may clash politically for various reasons. In other words, the non-coherence of the governing coalition is key, creating a basis for political conflict between the governing parties, which, as with cohabitation, increases presidential agility. The president may try to split the coalition and seek 'support for his or her own policy proposals

from some of the parties in government' (Anckar 2020: 138). Non-cohesive government (as the opposite of cohesive) can be considered a more accurate term than divided government.<sup>2</sup>

It is also worth noting that in Tavits's view, supported by other authors (Amorim Neto – Strøm 2006; Baylis 1996), the potential for activism is increased by the desire of some presidents to place themselves 'above parties' or by their non-partisan status, both of which may lead to their identification with broader social disapproval of the government (Tavits 2009: 38). This phenomenon can be observed, at least rhetorically, in all three Czech presidents, and in Havel's case in non-partisan form.

Furthermore, the minority or majority status of government is important for the behaviour of the head of state. The consensus in the literature is that minority governments significantly increase presidential involvement (Protsyk 2005; Tavits 2009; Schleiter – Morgan-Jones 2009; Köker 2017). The president simply has a good opportunity to test how successful he can be. Interestingly, this tendency is evident whether the president's party is in opposition or represented in government. The opposite occurs with single-party cabinets that rely on a majority in the assembly, against which the president finds it much more difficult to assert himself, as the institutions exhibit substantial cohesiveness.

Köker's findings about legislative vetoes are interesting: he notes that the president used this tool more often when the government commanded a very small majority in parliament. But again, internal cohesiveness plays a role. The author notes that divisions between and also within government parties (i.e. non-cohesive government) often weakened the government more than its small majority in parliament. Disagreement within a coalition government decreased the voting discipline of MPs and offered the president the chance to veto successfully (Köker 2017: 230–231).

Tavits (2009: 39) sees a link between the strength of the government and parliament. As she says, 'fragmented and minority governments usually stem from weak and polarised assemblies'. Strife in split institutions opens major opportunities for the president, as mentioned in the example of the success of presidential vetoes. However, contrary to the academic consensus on the correlation between minority governments and growing activism, the situation is somewhat different here. Unlike Tavits, Köker (2017: 228) argues that a major fragmentation of parliament does not necessarily have a significant effect. The Czech experience may also be an interesting example for evaluating these divergent views.

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2 The literature on coalition governance commonly uses the terms 'connected' and 'unconnected' (minimal winning) coalition, which is based on the ideological closeness or distance of the parties in the government (Axelrod 1970). But the problem is that in Czechia some governments were created by parties ideologically close formally, which nevertheless behaved in very inconsistent ways (and vice versa: some governments were ideologically heterogeneous, yet they acted consistently).



The approximate categorisation provided in Figure 1 serves to specify the intensity of presidential activism. The operationalisation of each category adapted to Czech conditions is as follows. *Low activism* means prevailing passivity of the president, who supports government and does not complicate the changes of ministers. He rarely – in less than around 3% of legislation<sup>4</sup> – uses the power to veto laws or invoke a constitutional review, and when he does, it is over politically insignificant legislation. In sum, the president plays the role of a ‘passive team-mate’ and could be described as an ‘observer’ or, at most, a monitoring ‘notary’.<sup>5</sup>

*Medium activism* is associated with more agile behaviour; the president is a kind of ‘regulator’ who participates in the formation of the government and in the replacement of ministers. In particular, he supports or opposes a certain political option, expresses reservations about certain ministers, puts forward his own ideas about what they should do, or delays the appointment and removal process. However, he does not promote his own government. The president can be critical of the intentions of government and quantitatively challenges between 3% and 6% of legislation including some important laws.

*High activism* manifests itself when the president tries openly and directly to promote his ideas about the composition of the government, including the position of prime minister. But the head of state is ready to coordinate and agree with at least some parliamentary parties and acts as a ‘co-designer’ of the cabinet. The president challenges 6% to 9% of legislation, often involving important laws.

*Hyperactivity* is when the president installs his own government and promotes his own ideas about filling ministerial posts; such a president could be described as a ‘creator’. Unlike the previous category, the president does not take into account the views of parliamentary (or government) parties – unless it is his own party. The president has become an extremely agile blocking player, routinely using vetoes and constitutional reviews, frequently on important pieces of legislation, and this activism exceeds the 9% threshold of all new legislation.

Data on the structure of governments and the fragmentation of the crucial lower house of parliament (Chamber of Deputies) is listed in Tables 1 and 2. Parliamentary fragmentation is measured using one of the most common metrics, the effective number of political parties (Laakso – Taagepera 1979), based on the number of seats held by parliamentary parties after the elections. The rule is simple: the greater the effective number of parties, the more parliamentary fragmentation (and vice-versa). The total number of laws is based on parliamentary data and their description (Kolář et al. 2013; PSP 2023). The percentage of vetoes has been calculated by the author.

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4 The threshold is based on the long-term average of the number of vetoes that Köker (2017: 59) puts at 4.5% for the Czech case, which is in the middle of the category of medium activism.

5 The terminology is based on Kopeček and Brunclík (2019).

**Table 1: Governments and the use of presidential powers**

| President                    | Dates and prime minister   | Government (prime minister's party listed first)  | Vetoes (those successful) | Petitions to the Constitutional Court (those successful) |
|------------------------------|--|---|---------------------------|--|
| Václav Havel (1/1993–1/2003) | 7/1992–7/1996: Václav Klaus I  | Coalition right-wing majority cohesive (ODS, KDU-ČSL, ODA, KDS)                                 | 7 (3)                     | 3 (2)  |
|                              | 7/1996–1/1998: Václav Klaus II   | Coalition right-wing minority (ODS, KDU-ČSL, ODA)   | 2 (1)                     | 1 (1)  |
|                              | 1/1998–7/1998: Josef Tošovský  | Semi-technocratic presidential and minority (non-partisans, KDU-ČSL, ODA, US)                   | 3 (0)                     | 0  |
|                              | 7/1998–7/2002: Miloš Zeman   | Single-party left-wing minority (ČSSD)  | 16 (0/1*)                 | 5 (5)  |
| Václav Klaus (3/2003–3/2013) | 7/2002–8/2004: Vladimír Špidla   | Coalition rather left-wing and non-cohesive with slim majority (ČSSD, KDU-ČSL, US-DEU)          | 0                         | 0  |
|                              | 8/2004–4/2005: Stanislav Gross   |   | 9 (0)                     | 1**  |
|                              | 4/2005–8/2006: Jiří Paroubek   |   | 4 (1)                     |  |
|                              | 9/2006–1/2007: Mirek Topolánek I   | 20 (2/4*)   |                           |  |
|                              | 1/2007–5/2009: Mirek Topolánek II  | Single-party minority (ODS)   | 0                         |  |
|                              | 5/2009–6/2010: Jan Fischer   | Coalition (unclear) right-wing and minority (ODS, KDU-ČSL, SZ)                                  | 4 (1)                     |  |
|                              | 7/2010–7/2013: Petr Nečas  | Technocratic, but not presidential (formally supported by ODS, ČSSD and SZ)                     | 13 (0/3*)                 |  |
| Miloš Zeman (3/2013–3/2023)  | 7/2010–7/2013: Petr Nečas  | Coalition right-wing with declining majority and increasingly non-cohesive (ODS, TOP 09, VV***) | 13 (0)                    |  |
|                              | 7/2013–1/2014 Jiří Rusnok  | Technocratic presidential   | 1 (1)                     | 0  |
|                              | 7/2013–1/2014 Jiří Rusnok  | Technocratic presidential   | 0                         | 0  |
|                              | 1/2014–12/2017: Bohuslav Sobotka   | Coalition majority, originally cohesive later non-cohesive (ČSSD, ANO, KDU-ČSL)                 | 0                         | 0  |
|                              | 12/2017–6/2018: Andrej Babiš I.  | Single-party minority (ANO)   | 6 (0)                     | 2 (0)  |
|                              | 6/2018–12/2021: Andrej Babiš II.   | Coalition minority rather non-cohesive (ANO, ČSSD)  | 0                         | 0  |
| Since 12/2021: Petr Fiala    | Coalition majority, cohesive despite ideological differences (ODS, KDU-ČSL, TOP 09, STAN, Pirates) | 0   | 3                         | 0  |

Notes: ODS: Civic Democratic Party; ČSSD: Czech Social Democratic Party; KDU-ČSL: Christian and Democratic Union – Czechoslovak People's Party; ODA: Civic Democratic Alliance; KDS: Christian Democratic Party; US: Freedom Union; US-DEU: Freedom Union – Democratic Union; SZ: Green Party; VV: Public Affairs, STAN: Mayors and Independent; TOP 09 and ANO use abbreviations as party names. In some cases, presidents concurrently vetoed two connected laws, but these are separately counted in the table. Sources: Based on author's own calculations and Chrástilová – Mikeš 2013, Havlík 2011, Jakl 2017, Kolář et al. 2013.

\* The last number indicates absolute vetoes, i.e. a veto at a time when the Chamber of Deputies was no longer in session and could not override the president.

\*\* Parliament quickly amended the relevant law and hence the Constitutional Court did not deliberate on this case.

\*\*\* Towards the end of the term, VV was formally replaced by a new, secessionist party.

**Table 2: Fragmentation of Czech parliament**

| Parliamentary elections                   | 1992 | 1996 | 1998 | 2002 | 2006 | 2010 | 2013 | 2017 | 2021 |
|---|------|------|------|------|------|------|------|------|------|
| Number of parliamentary parties           | 9    | 6    | 5    | 5    | 5    | 5    | 7    | 9    | 7    |
| Effective number of parliamentary parties | 6.8  | 4.2  | 3.7  | 3.7  | 3    | 4.5  | 5.6  | 4.8  | 4.7  |

Source: author's own calculations based on the seats of political parties in the parliament according to Kolář et al. 2013 and the website of the Chamber of Deputies.

#### **IV. Appointment, dismissal and legislative powers of the Czech president**

The Czech constitution offers the president a lot of room for manoeuvre during the formation of the government due to its terseness. Article 62 simply notes that the president ‘appoints and recalls the prime minister and other members of the government and accepts their resignations, recalls the government and accepts its resignation’. Further, Article 68 briefly states, concerning appointments: ‘The president shall appoint the prime minister and, on the basis of the prime minister’s proposal, the other members of the government.’ The president is not obliged to appoint the leader of the largest parliamentary party, nor does the constitution specify any time period within which the president has to appoint a new prime minister and government members. The constitution simply demands that within 30 days of appointment the government is to ask parliament for confidence. Should the government fail to win this, the period within which it may continue to exercise office is nowhere specified. The constitution assumes that this would take place ‘temporarily until a new government is appointed’. In selecting the new (second) prime minister, the president again has free choice with no formal constraints and it is only if the second government appointed by him should fail that the power to appoint the (third) prime minister would pass to the speaker of the Chamber of Deputies (Šimíček 2003; Antoš 2019). This ‘third attempt’ has never occurred in practice.

Similarly, the constitution does not stipulate for the president any time period for recalling government members if they resign or if the prime minister proposes that they be removed; nor is there any established procedure for situations where the Chamber of Deputies passes a motion of no confidence in the government or it resigns. The assumption simply is that the president accepts the government’s resignation. Thus, the president enjoys a large degree of discretion in appointing and removing the cabinet and its members. Constitutional

conventions, such as have formed concerning this over time, have not been fixed (Wintr – Antoš – Kysela 2016: 157–161; Brunclík – Kubát 2019: 62–63).

Presidential powers of appointment are also concerned with other institutions (e.g. the members of the board of the Czech National Bank, the constitutional judges, etc.). The most conflictual field in relation to the government probably concerns the appointment of ambassadors because of the need for agreement between the head of state and the foreign affairs minister concerning particular people.

The second area analysed in this article is concerned with legislative powers. The president cannot initiate legislation but can veto laws (with the exception of constitutional laws). This power is relatively weak, because the president's veto can be overridden by an absolute majority of all members of the Chamber of Deputies and is therefore not as strong as in Poland, for example, where a much larger three-fifths majority is required to override the president's veto (Wintr 2015: 85–86). Situations at the end of the electoral term, when the Chamber of Deputies is no longer in session and so cannot override the president's veto, form an exception to this, making the president's veto absolute (this is in fact the equivalent of the pocket veto in the US). The president may also send a law that has been adopted by parliament to the Constitutional Court, if he or she considers it unconstitutional, and propose that the Court annul the law or its parts (Schorm 2004). In practice, this power allows the head of state to circumvent parliament and draw another veto player into the game (Tsebelis 2002).

### **4.3. *Václav Havel***

Václav Havel's international credit and massive popularity throughout his Czechoslovak presidency in 1989–1992 made him the only serious candidate for the office of Czech president. All parties of the right-centre government coalition, including the most important, Václav Klaus's Civic Democrats (ODS), as well as some of the opposition, supported his candidacy. However, there were noticeable differences, which reflected how close the various government parties were to Havel. The ODS was less enthusiastic than smaller parties and its support was tempered by earlier tensions between Havel and Klaus. But in the reality of 1993–1996, the interrelationships between the president and the prime minister were relatively peaceful. Havel focused most of his energies on improving the international reputation of the new Czech state. His engagement in the new republic's accession to NATO and the EU chimed in with government and ODS policy. Any clashes were rather indirect, and of mostly a prestigious and intellectual nature. Havel rarely commented on everyday politics, conceived his speeches largely as moral reflections and emphasised the importance of civic participation, tending to disdain political parties. Klaus, by contrast, made ref-

erences to the virtues of partisanship and to classical liberal economics (Myant 1995; *Wolchik* 1997: 185–187, Cirhan – Kopecký 2020: 96–97).

Klaus's dominance was not significantly weakened by the fact that his government was made up of four parties, or that the parliament was also highly fragmented (Table 1 and 2). Enjoying the aura of the father of a successful economic transformation and a capable manager during the process of dissolving Czechoslovakia, the prime minister dominated the government and politics and overshadowed Havel (*Kysela* 2007: 102; *Kaiser* 2014: 136–146). The level of presidential activism remained low.

Havel proceeded similarly in the legislative area, where he vetoed seven laws over a period of 3.5 years, i.e. slightly less than 3% of legislation. Vetoed acts were mostly of little political importance, with the exception of amendments to two lustration laws, which would have prevented some people linked with the communist regime from holding public office. Havel argued that a more generic regulation to protect such offices was needed (*Chrastilová – Mikeš* 2003: 139–140; *Suk* 2011: 181). The president also rarely asked the Constitutional Court to review legislation (Table 1). However, it was in this period that he first tried a procedure that would often be deployed later: once the parliament overturned his veto, he turned to the Constitutional Court (this was concerned with a politically insignificant act on authorised architects).

The 1996 elections provided Havel with a greater opportunity. The government parties hitherto lost their majority in the Chamber of Deputies. In the post-election consultations, the president played an important role as regulator of the new government formation, including by involving the leader of the opposition Social Democrats (ČSSD) Miloš Zeman in the negotiations. Zeman's party then allowed Klaus's new minority government to win the confidence of the Chamber. Several months later Havel increased his criticism of Klaus for the country's growing economic problems, and was supported in this by both small junior parties in government and by the opposition. The decline of Klaus's popularity and the breakdown of his authority in government created fertile ground for this. Thus, Havel exploited the disputes within the government to undermine the prime minister's position. Evidence of Havel's pressure includes his October 1997 response to the resignation of the foreign affairs minister of the ODS party. Havel demanded that the prime minister submit the name of a new minister acceptable to the two small government parties that very afternoon (*Kaiser* 2014: 217). The president thus contributed to Klaus's resignation a month later. In 1997, the President's poor health slightly hampered some of his actions, but it was not a major obstacle for him.

The shift into the category of medium presidential activism in 1996–1997 was obviously related to the minority and divided nature of the government (Table 1). The assumption of Tavits, that the decline of parliamentary fragmentation (Table 2) decreases activism, was not confirmed here.

After the fall of Klaus's government, Havel showed his preference for a government made up of non-political experts and appointed a technocrat and non-partisan – the governor of the central bank Josef Tošovský – as prime minister. However, to win confidence, Tošovský's government needed parliamentary backing, so he appointed as ministers a mixture of non-partisans and politicians of the government parties to date, including an ODS faction that opposed Klaus and later founded the Freedom Union. Havel was not involved in the selection of ministers and this role fell to Tošovský and his communications with party politicians. Nonetheless, the president's affiliation with the semi-technocratic government was evident and manifested in, for instance, the pressure he exerted on the opposition ČSSD to support the government. He ensured their willingness by promising, together with the prime minister, that the cabinet would only serve temporarily, until the early elections (Brunclík 2016: 16–17). Havel's 'co-designer' role in the construction of the new government can be taken as evidence of high activism.

The noticeable increase in Havel's non-legislative activism after 1996 was not so radical in the legislative area. Over the short two-year period before the early elections of 1998, the president vetoed five laws, representing about 5% of the legislation passed by parliament. (Three vetoes of laws during the period of Tošovský's episodic government must be seen in the context that they were first read in parliament when the Klaus-led government was in office.) Havel's objections to laws were most often concerned with unacceptable infringements of the principles of the rule of law due to procedural ambiguities and errors. These were not mostly crucial pieces of legislation although they were not insignificant (Chrastilová – Mikeš 2003: 141–153; Linek – Mansfeldová 2009: 57; Havlík – Hrubeš – Pecina 2014). Quantitatively and qualitatively, it can be considered medium activism.

Despite fierce debates about the president's inappropriate interventions in domestic politics, the parliament in January 1998 confirmed Havel in office for another five years. As in 1993, he lacked a broadly acceptable political competitor, and the other candidates were only from the right and left partisan extremes.

A radical change of the political playground was brought about by the early parliamentary elections in 1998, after which the so-called Opposition Agreement was created, by which Klaus's ODS pledged to tolerate a minority single-party government of Zeman's ČSSD in exchange for political concessions. This pragmatic agreement entered into by the two large parties was aimed against smaller centre-right parties, which it relegated to opposition and against Havel. The crux of the Opposition Agreement was fundamental constitutional reform that would radically curtail the president's powers, but this failed in the parliament's upper chamber (Šimíček 2003: 163). Havel described the Opposition Agreement as a restriction of political pluralism and was critical of it throughout its four-year duration; his position resonated strongly with the public (Roberts 2003).

The Opposition Agreement precluded any presidential influence over the make-up of Zeman's government. Havel semi-publicly aired his reservations about the foreign and interior ministers with respect to their earlier histories. However, Zeman stated that he would allow no personal veto by the president and Havel appointed all the ministers according to Zeman's proposal without much further ado. When replacing government members in subsequent years, the president occasionally expressed reservations, and sometimes was in no hurry to remove and appoint them; but in the end he always accepted the prime minister's proposals (e.g. Antoš 2019: 87).

However, this behaviour of Havel corresponding to medium activism displayed some characteristics of high activism. For example, with the president's appointment of ambassadors, where he disagreed with some of the proposed candidates (conversely the Foreign Affairs Ministry did not want to accept Havel's own candidates) and the result was a stalemate. In 2001, over ten Czech ambassadors were awaiting appointment by the president. Only towards the end of the Zeman government's term was this situation partially ameliorated when the Ministry of Foreign Affairs made concessions (Kaiser 2014: 250–251).

An even more interesting picture of presidential activism is offered by the legislative arena. Between 1998 and 2002, Havel vetoed 16 laws. This was about 4% of the legislation, which quantitatively corresponds to medium activism. However, the nature of the laws was significant and indicates a swing towards high activism. The president fought the Social and Civic Democrats on issues of mega-politics – 'matters of outright and utmost political significance that often define and divide whole polities' (Hirschl 2008: 94). For example, Havel opposed an attempt to limit the president's discretion in nominating members of the central bank's board, a major reform of the electoral system for the Chamber of Deputies, and an act on financing political parties. Table 1 shows that the Chamber of Deputies overrode all of the president's vetoes (with the exception of one absolute veto just before the elections, when the chamber was no longer in session), i.e. the alliance of the two large parties worked well. However, in all cases where Havel subsequently turned to the Constitutional Court – and this includes the three crucial acts mentioned – he succeeded. Again, as in the previous period, Havel suffered from a number of health problems, but this was not a fundamental handicap for him.

Havel's presidency during the Opposition Agreement era is interesting for his strained and often hostile relationship with a minority government, which, thanks to an alliance with the largest party of the opposition, limited his efforts to exercise influence on the government. However, in terms of the other appointments, where the Opposition Agreement posed no barrier, Havel successfully asserted his will and he was also active and successful in his resistance to the most important laws he disliked, thanks to his use of the Constitutional Court. The president's approach towards using his powers was determined by the weapons he was able to deploy effectively.

The last months of Havel’s presidency were linked to a new government, again led by ČSSD, but with a different prime minister – Vladimír Špidla. While campaigning for the parliamentary elections in spring 2002, Špidla distanced himself from the Opposition Agreement. After the elections, Havel welcomed the prime minister’s preference for a majority coalition government, even if it had only the minimum possible majority of one seat in the Chamber and was ideologically divided, as it included Christian Democrats and the Freedom Union as junior partners (ČTK 2002). Although, according to the theory, the existence of a divided government with a narrow majority tends to be favourable for activism, Havel’s positive attitude to this political solution prevailed. The president certainly did not behave as an opposition player as he did in the previous period and adopted an inactive position including on legislation.

In the context of radical change of presidential behaviour, it is interesting to note that parliamentary fragmentation after the 2002 and 1998 elections (Table 2) was the same. This indicates that this factor was of little importance. Table 3 provides a summary of Havel’s activism.

**Table 3: Activism of Václav Havel**

| Period                                  | 1993–1996 | 1996–1998  | 1998–2002      | 2002–2003 |
|---|-----------|--|----------------|-----------|
| Activism in appointments and dismissals | Low       | Medium with a swing to high at the end of the period | Medium to high | Low       |
| Activism in legislation                 | Low       | Medium   | Medium to high | Low       |

## 4.2. Václav Klaus

The second president, Václav Klaus, had a much more complicated election than his predecessor due to substantial competition and strong resistance to him personally. Klaus only succeeded in the third re-run of the presidential elections (the first two attempts to elect a president failed). Beyond ODS, Klaus was ultimately supported by some of the government’s deputies and senators including certain Social Democrats and even some Communists. Klaus’s efforts to convince the electors before he was voted in were, therefore, understandably accompanied by his emphasising the limited role of the president; such a role, he said, could only be strengthened ‘at complicated or fatal moments’ (Klaus 2003). Klaus repeatedly adhered to this promise mainly in the first years while resolving government crises, when he avoided clearly preferring the ODS.

Klaus’s approach was first on display in summer 2004, when ČSSD Prime Minister Špidla resigned after his party failed in European elections. Klaus responded by showing a willingness to allow the government coalition to continue

and ignored the ODS idea to call an early election. However, after consulting with party politicians, off the record, the head of state rejected the option of a minority Social Democratic government supported by the Communists, which enjoyed strong support in both left-wing parties. Klaus's negative position was influenced by the legacy of the former communist regime, on which the Communists looked back nostalgically (thus creating a strong public response). For that reason, the Social Democratic prime ministerial candidate, Stanislav Gross, together with other coalition politicians, had to meet an unusual condition before their appointment: to bring the president at least 101 signatures of non-Communist deputies. Though the existing government coalition of three parties had only the slimmest of majorities (101 votes exactly), they were able to meet the president's request (Havlík 2011: 64; Brunclík 2008: 292).

This pattern of behaviour, which could be characterised as medium-level activism, was redeployed by Klaus during another government crisis a year later. The ministers of a smaller centre-right government party, the Christian KDU-ČSL, resigned over the prime minister's scandals. However, Klaus did not accept their resignations, explaining that the Constitution did not stipulate the time frame within which he ought to do so, and he blocked Gross's efforts to hold on to the prime minister's office through an alliance with the Communists. Ultimately, Gross resigned under pressure and Klaus did not seek to prevent the emergence of a new government based on the existing coalition pattern; it was led by another Social Democrat prime minister, Jiří Paroubek (e.g. Brunclík – Kubát 2018: 81).

Paroubek got into a series of arguments with Klaus, not least due to the president's intense Euroscepticism. There was also confrontation over ministerial nominations, when in autumn 2005 Klaus refused to appoint the new health minister until the candidate resigned his leadership of a professional medical organisation. The dispute was resolved several weeks later when the candidate resigned from the medical body and Klaus appointed him (Kopeček 2022: 367).

While in his relations with governments, Klaus felt somewhat restricted because of the way he had been elected and stayed within the boundaries of medium activism, the same was not true for his vetoing agility. The president's hostile relationship with three ČSSD-led (and non-cohesive) governments was accompanied by 33 vetoes of laws (Table 1) representing about 7% of legislation. This corresponds to high activism, even when considering the importance of the laws, although clear cases of mega-politics were absent. Klaus, the economic liberal, most often explained his vetoes by what he saw as the excessive role of the state, but he dedicated his longest commentary to the Civil Partnership Act. This law probably became the most visible manifestation of the cultural struggle in the Czech Republic and Klaus justified his veto on conservative grounds (Klaus 2006).

Klaus used his veto power most often during the Paroubek government, 20 times in about a year, which represented 10% (!) of legislation and a swing towards presidential hyperactivism. The growth of the presidential veto during Paroubek's term was linked to the close parliamentary collaboration between the government Social Democrats and the opposition Communists in promoting a leftist economic agenda.

The president was apparently encouraged by the split of the ruling coalition and, at least in the early years, he also tried to exploit its narrow majority in parliament. However, the Chamber of Deputies overrode most of Klaus's vetoes, the only major exceptions being a few absolute vetoes at the time of the 2006 parliamentary elections when the Chamber was no longer working (Table 1).

Unlike Havel, Klaus did not use reviews by the Constitutional Court, which he pejoratively described as 'the third chamber of parliament', and he generally viewed the judiciary with disdain (Pospíšil 2013). Characteristically, the only petition Klaus sent to the Constitutional Court throughout his presidency was not in response to an act freshly adopted by parliament, but in consequence of his dispute with the president of the Supreme Court concerning the number of its vice presidents.

The June 2006 parliamentary elections created a new situation. The winner was ODS – close to Klaus – but it had a problem negotiating a majority government, because the Social Democrats and Communists together won exactly half the number of seats in the Chamber. The president first attempted to resolve the stalemate by appointing ODS leader Mirek Topolánek as prime minister, but his minority single-party government failed to win confidence in parliament. During a political crisis that lasted many months, Klaus pushed ODS and the Social Democrats towards an agreement on a majority government completed by the Christian Democrats, but this collapsed due to resistance in ODS. Topolánek therefore opted for a government by ODS and two smaller parties – the Christian Democrats and the Greens – reliant on two former Social Democratic MPs who promised to tolerate the government, thus ensuring its slim majority. Klaus described this solution as political corruption, and expressed his major ideological objections to the alliance between the ODS and the Greens, as well as to the foreign affairs minister nominated by the Greens.

Yet Klaus merely delayed the appointment of Topolánek's government by several weeks and he appointed it exactly as the prime minister had proposed. Thus, in fact, the president's opposition to the government felt like little more than a strong gesture; it did not present a departure from Klaus's medium activism to date. The president's actions (he would be aided by the government's minority status) were clearly restricted by his February 2008 re-election bid, for which the support of ODS was indispensable. Until re-election, Klaus occasionally showed his objections to the make-up of Topolánek's government and its policies. After re-election, Klaus lost the motivation to maintain good

relations with ODS, and after its failure in regional elections, spoke of ‘historically the greatest defeat of any political party’ in Czechia and blamed the prime minister in particular (Klaus 2008). This rhetorical hardening, however, still did not mark a fundamental shift from medium presidential activism.

A similar, slight shift took place in the legislative area and all four of Klaus’s vetoes came after his re-election. These vetoes, such as of a law preventing cruelty to animals, were more or less connected with the agenda of the Greens, who, along with the Social Democrats, supported a counter-candidate to Klaus in the 2008 presidential election. Overall, the president vetoed about 2% of the legislation during the two Topolánek governments and did not cross the threshold between low and medium activism.

Klaus’s opposition to Topolánek’s government was on full display during the government crisis in spring 2009. The government collapsed following a vote of no confidence in the Chamber of Deputies, when the Social Democrats, Communists and defectors from ODS and the Greens opposed it. Klaus then rejected Topolánek’s idea of his government remaining in power for a few more months until the Czech EU presidency ran out, even though a part of the opposition was in favour. Likewise, the president declined to entrust Topolánek with forming a new government. This situation pushed ODS, ČSSD and the Greens to reach a quick agreement on a new technocratic government led by the head of the Statistical Office, Jan Fischer, which Klaus accepted. Therefore, as in 1998, a technocratic government was created, and this time it was actually made up exclusively of non-partisans – yet it was not initiated by the president, but by political parties, which proposed their nominees (Brunclík 2016: 18). The formation of a technocratic government was not something exacted by the president; it was linked to parties’ efforts before early elections to avoid responsibility for a deteriorating economic situation and recent government scandals. Overall, Klaus’s behaviour during the spring 2009 government crisis was one of medium-level activism, as it had been in the past.

The duration of Fischer’s government was unexpectedly extended when the Constitutional Court cancelled an early election that had already been called (Balík 2010). During the single year this government was in office, Klaus vetoed 13 laws, which was his highest percentage (14% of legislation) for any single government. However, the president mostly vetoed laws that were initiated not by Fischer’s government but by various groups of deputies. The government did not enjoy solid parliamentary backing and some of the vetoed laws were approved despite its resistance. The Chamber, historically the least fragmented at the beginning of the parliamentary term (Table 2), had become completely chaotic in 2009–2010 as a result of the split of most parliamentary parties and the breakdown of party discipline. The president’s vetoing hyperactivism was therefore not primarily a conflict with the government, but with an extremely fragmented parliament.

Klaus's justifications for his vetoes were not dramatically different from those in the past; most often he noted that the laws contained sections that were economically (or otherwise) nonsensical, deforming the market economy and clear rules (Kolář e al. 2013: 300). The right-wing president evidently sought to act as the role of a legislative brake. Yet as in the past, he had little success.

Shortly before the 2010 parliamentary elections, there was a change in leader for the Civic Democrats, when Topolánek quit after one of many scandals and Petr Nečas, who was much closer to Klaus, became the new chair. After the parliamentary elections, this closeness facilitated the formation of an ODS government with the centre-right TOP 09 and a centrist, populist formation, Public Affairs (VV). Klaus entrusted the business of negotiating the government to Nečas, even though the Social Democrats were the formal winners of the elections. The president was able to bolster his decision, which broke with the informal custom to date of allowing the winner of an election to try to form a government, thanks to a quick coalition agreement between ODS, TOP 09 and VV and the fact that the Social Democrats and the Communists had a minority of seats in the Chamber.

This approach, supporting a particular government option, remained within the category of medium presidential activism. In the following years, Klaus did not deviate from this category and entered into conflicts within divided government, acting as a 'regulator'. Surprisingly, the interventions sometimes helped the VV, whose leader developed a good relationship with Klaus for a time. This was most conspicuous during the spring 2011 government crisis, when the prime minister decided to push VV out of the government over concerns about that party's connection with a private security agency, and proposed the removal of most of its ministers. During this crisis, Klaus dampened the excited emotions and contributed to a compromise among the government parties and only partial ministerial changes (Havlík – Hloušek 2014). However, Klaus's efforts to maintain Nečas's government cohesion was short-lived; in spring 2012 there was a rift in VV, and its leader and some deputies went into opposition.

Klaus's involvement in the legislative sphere (13 vetoes, 5% of laws) from 2010 to 2013 also corresponds to medium activism. Some of these laws were very important – for example, a pension reform, which Klaus vetoed with the argument of the lack of a broader political consensus. However, the trend is particularly interesting. Klaus's legislative activism increased when the originally substantial majority commanded by Nečas's government in the Chamber shrank following the VV rift and the government became dependent on a few deputies whose positions were uncertain. Until this shrinkage of the majority, the president had only vetoed three laws; but in the following (and last) year of his presidency, he blocked another ten. Nečas's government often found it difficult to muster the votes to override presidential vetoes. The president's behaviour contradicted the assumption of the theory that the president would be passive vis-à-vis a politi-

cally close prime minister, but fully confirmed another premise, namely that if the government has a slim majority in the Chamber, the president will be more eager to veto laws. Table 4 summarises Klaus's activism during his terms in office.

**Table 4: Activism of Václav Klaus**

| Period                                  | 2003–2006  | 2006–2010  | 2010–2013 |
|---|--|--|-----------|
| Activism in appointments and dismissals | Medium   | Medium   | Medium    |
| Activism in legislation                 | High with a swing to hyper-activism at the end of the period | Low with a swing to hyperactivism at the end of the period | Medium    |

### 4.3 Miloš Zeman

Unlike his two predecessors, Miloš Zeman at his election as president in January 2013 was not dependent on support from parliamentary parties. This was due to the transition from a parliamentary to a popular election, where his (extra-parliamentary) party, bearing his name, was sufficient to serve as an organisational base for the campaign. The ČSSD, which Zeman once led, was divided about him. This was connected with the (indirect) presidential election ten years before, when some of his social-democratic colleagues opposed Zeman and he failed. At the time of the 2013 presidential election, some Social Democrats – including their leader Bohuslav Sobotka – feared Zeman's revenge, but other politicians in the party advocated for him.

Zeman aimed his presidential election campaign and the first months of his presidency against Nečas's government, emphasising its inability to deal with the economic recession, and this created a hostile cohabitation. Its most conspicuous moment was when Zeman completely blocked the appointments of new ambassadors after the Ministry of Foreign Affairs refused to nominate two of his supporters in the presidential race (Šedo – Vérteši 2018: 37). The Zeman-Nečas cohabitation only lasted for about four months, because in summer 2013 the prime minister resigned following an enormous scandal.

Even that signal of high presidential activism subsequently moved up a level because Zeman played the central role in forming the new government. He rejected the request of the former government coalition that they be given a chance to create the new administration, interpreted the relevant article of the Constitution as giving him 'the right to appoint anyone as prime minister' and argued that the government 'did not have to have a political mandate', because a cabinet of experts was needed to govern the country (Právo 2013a; Právo 2013b). The president chose as prime minister a minister in his earlier government, Jiří Rusnok, who, though formally non-partisan, was associated with

the president's party. Zeman proceeded autonomously and without agreement with the former government coalition or the parliamentary opposition, thus using much greater constitutional discretion than Havel had with his Tošovský-led semi-technocratic government of 1998. What emerged was a presidential, technocratic cabinet. Like Prime Minister Rusnok, some ministers were close to the president and some had stood on behalf of Zeman's party in the autumn 2013 early elections (Hloušek 2014: 109–110; Brunclík 2016: 19–20).

Zeman thus embarked on a path of hyperactivism, which relied on underlining his popular legitimacy granted to him by popular elections. (He repeated this argument later in other disputed situations.) The Chamber of Deputies was much more fragmented than at the beginning of the term (including many formally independent MPs), and unable to function as a strong counterweight to the president. However, despite the president's intense efforts at persuasion, Rusnok's government failed to win parliamentary confidence. By voting to dissolve itself, the Chamber limited the duration of Rusnok's government, although Zeman left this cabinet in office for a full three months after the early elections (Hloušek 2014: 113–114; Hanley – Vachudova 2018: 281).

The 2013 early elections restricted the president's leeway for activism. Zeman's own party failed in the elections and, after the vote, a group of Social Democrats associated with the president, who secretly discussed the deposition of the party leader (Sobotka) with him, were publicly compromised. The president delayed the appointment of Sobotka's new government, and objected to some proposed ministers (some of the reasons were quaint; for example, one nominee was found deficient by Zeman because he had not published enough). Yet the obstructions by the head of state that lacked support in parliament were unable to overturn a solid agreement on government entered into by three parliamentary parties that commanded a substantial majority in the Chamber: the Social Democrats, ANO (meaning YES in Czech), a new party created by the businessman, Andrej Babiš and the junior Christian Democrats. Ultimately, the president appointed the government as Prime Minister Sobotka had proposed it.

The counterweight of the strong majority coalition thus pushed the hyperactivist Zeman back to the limits of what can be identified as medium activism. This enforced decline in activism contrasts with the relatively high fragmentation of parliament after the 2013 elections (Table 2), making it clear that this factor was not of greater significance.

After Sobotka's government was appointed, its relations with the president improved. For the first time in his presidency, Zeman became less activist. However, a change took place at the end of 2015 when the prime minister criticised the president, who, in an effort to boost his flagging popularity, took the lead in an anti-refugee campaign during migration crises. The fierce mutual confrontation lasted until the 2017 parliamentary elections and was enlivened by many presidential witticisms, such as when, during one of his tours of the country,

he answered a question from the audience as to how to get rid of the prime minister. 'Other than in the democratic way, there is also a non-democratic way, the Kalashnikov automatic rifle', he said (Aktualne 2016).

During this period, Zeman became closer to the deputy prime minister and ANO leader Babiš, who fought Sobotka's Social Democrats for the same set of voters. Zeman defended Babiš in numerous controversies, including a police investigation into misuse of a European subsidy during the construction of the Stork Nest Farm resort, which was part of the deputy prime minister's business empire. The informal pact with Babiš was crucial for Zeman's course of action during the spring 2017 government crisis, when Sobotka sought to push Babiš into opposition in a very unexpected way. Zeman suggested that he could accept the planned resignation of Sobotka without this causing the resignation of other members of the government. Sobotka therefore changed his intention and proposed to dismiss Babiš. The president delayed and only accepted Sobotka's demand when the ANO leader concluded that the prolongation of the government crisis was damaging to him (Šedo – Věřeši 2018: 16–17; Cabada 2018: 66). Overall, the situation showed the president's involvement in conflicts within a divided government and a medium-level of activism.

The disputes in Sobotka's government were correlated with the president's legislative steps when most of his vetoes occurred during a period of intense government disputes in 2016–2017. The most discussed of the president's vetoes was concerned with a conflict of interest act, dubbed Lex Babiš, which directly concerned the deputy prime minister, as it restricted the members of government with regards to their own companies bidding for public contracts. When the parliament rejected the president's veto of Lex Babiš, Zeman turned to the Constitutional Court – this was exceptional, as otherwise, he virtually ignored the institution – as Klaus had (Table 1). Zeman used six vetoes (less than 2% of laws), more sparsely than Klaus or Havel typically did. In that respect, it was low activism.

Zeman's preferment of Babiš had a fundamental impact on politics after the autumn 2017 parliamentary elections. Babiš's ANO was the formal winner of the contest, but no mainstream party would govern with him because of the controversies, including his prosecution that had arisen around him in the meantime. The president, however, insisted on Babiš as prime minister and would not allow any other candidate, even when Babiš's first single-party minority government failed to win the Chamber's confidence in January 2018. This was a *quid pro quo* for Babiš's assistance with Zeman's re-election at the time, when ANO fielded no presidential candidate of its own and supported Zeman.

Zeman's push for Babiš, despite his political isolation, was helped by the composition of the Chamber of Deputies, where, with the exception of the dominant ANO, numerous small parties were often politically distant from each other (Table 2). The parties were effectively fewer than in the previous elections, but this reduction of parliamentary fragmentation was not essential. There was no

strong and cohesive counterweight to a president who was aligned with the largest party. After Babiš had ruled for six months without confidence, ČSSD, despite strong resistance within the party, agreed to form a coalition government with ANO, which would be supported in parliament by the opposition Communists. The situation with regard to the intensity of Zeman's interference corresponds most closely to high activism, even though ANO was not the presidential party.

This evaluation confirms the president's behaviour in personnel ministerial appointments to this minority and divided government. Zeman's discretionary interventions mainly targeted ČSSD; this was fuelled by his earlier aversion to this party. Even before the appointment of Babiš's coalition government in summer 2018, Zeman objected to the foreign affairs ministerial candidate, who had opposed him recently during the presidential election, and enforced his removal from the list of ministers. A year later, Zeman blocked for a considerable time the removal of a Social Democrat minister of culture, then refused to appoint his designated successor (arguing he was insufficiently educated) and forced the prime minister and the Social Democratic leadership to propose an alternative candidate. The dependency of the prime minister and the government on the president was also manifest, though less conspicuously, during the selection or removal of some other ministers, where their relations with the president were taken into consideration (Kopeček 2022: 431–432). Contrasting with the high level of activism in relation to Babiš's government was a complete passivity in the legislative sphere and the president did not veto any laws (Table 1).

The day after the parliamentary elections in late 2021, the president was out of politics as he was rushed to an intensive care unit. Babiš lost a key ally, and the opposition parties formed a government which was ideologically diverse; but it cooperated until the end of Zeman's presidency. Before the appointment of ministers, the president's health improved somewhat and he attempted – as he had with Babiš's previous government – to have a Pirate Party foreign affairs ministerial candidate replaced, referring to his insufficient education and mutual differences of opinion. The new prime minister Petr Fiala (ODS) refused to replace the candidate. Under the threat of having action brought against him at the Constitutional Court for overstepping his powers, the president yielded and appointed the government without any change.

The cohabitation of Fiala's government with the outgoing president continued to be conflicting and, for example, shortly before he left office, Zeman refused to appoint a new environment minister, thus delaying the appointment process (the government decided to wait for a new president). However, as after the 2013 elections (the early days of Sobotka's government), Zeman was again pushed back to the limits of medium activism. It became clear that the unified and strong parliamentary support of Fiala's government put a brake on the president's attempt to restore for himself the key political role, but that did not mean his complete passivity.

A notable side effect was Zeman’s revived interest in legislative matters, when he vetoed three laws of the Fiala government, including an amendment to the state budget law. As a proportion of all legislation, Zeman slightly exceeded the 3% veto threshold, thus abandoning his previous legislative passivity. Table 5 offers a summary of Zeman’s activism.

**Table 5: Activism of Miloš Zeman**

| Period                                  | 2013                  | 2014–2017                          | 2017–2021 | 2021–2023 |
|---|-----------------------|------------------------------------|-----------|-----------|
| Activism in appointments and dismissals | High to hyperactivism | Oscillation between medium and low | High      | Medium    |
| Activism in legislation                 | Low                   | Low                                | Low       | Medium    |

## V. Discussion and conclusions

The Czech experience shows that the perfect opportunity for presidential activism is offered by a combination of non-cohesive governments and their minority status. This is confirmed, for example, by President Havel and Prime Minister Klaus’s second government (1996–1997), President Zeman and Sobotka’s government towards the end of his term in 2016–2017, and most strikingly, by the same president and Babiš’s second government (2018–2021). Activism is also stimulated by the hostile relationship of an opposition-leaning president with a politically distant government. This is best documented during the time of the Opposition Agreement (1998–2002), or cohabitation, as shown by Zeman with Fiala’s government at the end of his presidency. These findings are consistent with theoretical expectations about presidential activism.

Sometimes, to a certain extent, a president in such a situation may be hampered by the need to take into account his re-election bid. This was evident with President Klaus and his relationship with the minority Topolánek-led government (2007–2009). However, as shown by Zeman’s behaviour before his 2018 re-election, the effort to win the support of the largest party, Babiš’s ANO, increased presidential activism. Thus, re-election considerations can both increase and decrease activism, depending on the political context.

Furthermore, a large window of opportunity for presidential agility was offered by the absence or collapse of a coalition majority, typically as a result of a political crisis. This is best illustrated by Zeman’s installation of his own presidential technocratic government in 2013, Klaus’s ‘veto offensive’ in 2009–2010 and, in a somewhat weaker form, Havel’s involvement in the creation of a semi-technocratic government in 1998. The first and second examples were especially characterised by chaos and extreme parliamentary fragmentation at the end of a term, which facilitated or encouraged the president’s activism.

However, the practice has repeatedly shown that high parliamentary fragmentation alone does not automatically support the growth of presidential activism if there is a majority cohesive government (albeit with several coalition parties). This is evidenced by Klaus's government in 1993–1996 or slightly less distinctly by Sobotka's government in its first years after 2014. This can be taken as a contribution to the theoretical debate outlined in the introduction between the different views of Tavits and Köker, where the latter questions the essential importance of parliamentary fragmentation, which the Czech case confirms.

The Czech example supports the theoretical assumption that the internal cohesion of the government acts as an apparent constraint on activism, especially when combined with a majority government. Cohesion effectively decreases activism, even if it does not eliminate it completely, despite any presidential dislike of the government arrangements. This is vividly illustrated by, for instance, the beginning of Sobotka's government in 2014 and Fiala's government in 2021, when President Zeman delayed their formation and questioned ministers, but did not dare to block them. Some limits on the president's expansiveness, thanks to the relative cohesion of the government and the ability to ensure external support in parliament, were manifest even during the creation of minority governments (of the Social Democrats in 1998 and Topolánek's second government at the turn of 2007). A specific factor in Havel's and Zeman's cases was their poor health. However, it did not act as a major constraint for either of these presidents, although a certain limitation of their agility was noticeable at some moments.

Three decades of Czech experience also show that low activism – i.e. the de facto prevailing passivity of the head of state – is rather exceptional. In line with theory, this is helped by the close relationship between the prime minister and the government on the one hand, and the president on the other, as was the case with President Havel and the government in 1993–1996 and, with some reservations (due to its episodic nature), the government after the elections in 2002. Other examples illustrate that even a seemingly close-to-government president can behave actively. The directly elected Zeman, although close to Babiš's 2018–2021 coalition government, was strongly activist (except in the legislative sphere). Another case, albeit with less activist speed, was Klaus's role of 'regulator' of the Nečas government.

There is a clear correlation between the loss of some backing in parliament of Nečas's government and President Klaus's appetite for confounding its legislative designs. Klaus had sought to exploit a similar legislative opportunity afforded by a government's slim majority before, during much more conflictual cohabitations with Social Democratic prime ministers (2003–2006). The theoretical expectations concerned with growing activism in a situation of a slim parliamentary majority are thus fully borne out by the Czech experience.

The transition to popular elections had a specific impact, as it manifested itself differently in the areas of government appointments and dismissals on the

one hand and legislation on the other. Havel and Klaus felt relatively free in their attempts to obstruct legislation; however, they entered less than Zeman into the heart of the political regime. For both, their indirect election by parliament placed a certain internal limitation on their actions, and put a brake on excessive discretion during the discharge of their presidential powers vis-à-vis the governmental focal point of the parliamentary regime. They simply saw that there were some boundaries set by the parliamentary parties. Havel's most radical activist step – the installation of the presidential semi-technocratic government of 1998 – still respected his obligation to agree about the government with at least some of the parliamentary parties. Klaus had to deal with many more governmental crises than Havel, but his role as a 'regulator' in this area remained unchanged.

Popularly-elected Zeman was much less active throughout his presidency than both his predecessors in the matter of laws. There are multiple factors, one of which is that Zeman learned lessons from his predecessors, who were not particularly successful in their legislative activities (with the exceptions of the absolute vetoes at the end of the term of the Chamber of Deputies and Havel's use of the Constitutional Court). Another factor, probably still more important, was that Zeman concentrated his efforts on directly influencing governments, which seemed to offer him much better prospects, and this was a more attractive strategy than the not very promising legislative vetoes. This was accompanied by his attempt at a breakthrough into the political regime when he installed and sustained Rusnok's technocratic government without the agreement of parliamentary parties. Later, Zeman followed this up by promoting Babiš as prime minister and then co-determining the character of Babiš's government, including choosing some of the ministers. Here Zeman conspicuously overstepped the boundaries laid out by Havel and Klaus and his popular election played a role in this.

The new mode of presidential election thus has increased the systemic risks of destabilising Czech democracy. Of course, Zeman's border-crossing may not be repeated by the second popularly elected president, Petr Pavel. However, the risk remains that a future president will try to usurp more powers by claiming the legitimacy of direct election. Therefore, it would be beneficial to clarify the constitutional procedure and rules for the appointment and removal of governments, as well as individual members of the government, including setting time limits for the president's actions.

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# Cabinet formation under semi-presidentialism: European countries in comparison

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**Abstract:** *The article demonstrates that the rules and practices of cabinet formation and investitures should be taken into account to better grasp the variety of semi-presidentialism in Europe. This is extremely important, since semi-presidentialism as a constitutional system of government (primarily according to a minimalist approach to the definition) is the most common form of inter-institutional and political relations in European countries. The former is most often understood as a constitutional design of inter-institutional relations with a president popularly elected for a fixed term, as well as with a cabinet headed by a prime minister who are collectively responsible to parliament. Thus, not only presidents and parliaments, but cabinets too play a crucial role in the constitutional and political practice of semi-presidentialism, since the latter are collectively responsible to parliaments (or simultaneously to presidents), but are characterised by distinctive parameters of formation. The assumption and hypothesis are that options of cabinet formation and inter-institutional relations in this regard can structure European semi-presidentialism, even without affecting the definition of this constitutional design, but probably depending on the roles and powers of presidents and parliaments in cabinet formation, as well as types of semi-presidentialism regarding the consideration of who can dismiss the cabinet. Based on comparison and systematisation of the cases of European semi-presidentialism, it is justified that cabinet formation (including within various types and consequences of parliamentary votes of investiture in cabinets, as well as their absence) is typically focused on a junction of relations between presidents and parliaments, and are likely to serve as a classification indicator of semi-presidentialism. This is important for constitutional engineering, since detailing the optionality of semi-presidentialism as a constitutional design and system of government, particularly regarding cabinet formation, should extend the horizons, as well as systematise the idea of the options and effects of various institutional designs (in addition to presidentialism and parliamentarism) and political regimes (including democratic, autocratic and hybrid).*

**Keywords:** *constitutional system of government, semi-presidentialism, cabinet formation, vote of investiture, parliament, president.*

## I. Introduction

Semi-presidentialism as a constitutional system of government is a republican design of inter-institutional relations where the role, status and types of cabinets headed by prime ministers are very important, if not decisive ones in outlining constitutional and political processes. This is especially clear from the most used and cited definition of semi-presidentialism as a constitutional system of government with a president popularly elected for a fixed term (even regardless of the strength of one's powers), as well as with a cabinet headed by a prime minister who are necessarily collectively responsible at least to parliament (or its lower/both chambers in the conditions of bicameralism). Even given that all the definitions of semi-presidentialism available in political science and constitutional law are currently divided into maximalist or relational ones (as by Duverger (1980, 1986: 8) and his followers (Canas 1982: 98; Noguiera Alcala 1986; Shugart – Carey 1992: 23; Bahro – Vesper 1995; Sartori 1995; Steffani 1995; Ceccanti – Massari – Pasquino 1996; Pasquino 1997: 129; Pegoraro – Rinella 1997; Bahro – Bayerlein – Vesper 1998; Siaroff 2003; Canas 2004; Pasquino 2005; Magni-Berton 2013: 224; Laurent 2016)), as well as into minimalist or dispositional ones (as by Elgie (1999b, 2004, 2005, 2007, 2009, 2011, 2016) and/or his supporters (Shugart 2005; Skach 2005; Amorim Neto – Strøm 2006; Müller 2006; Boban 2007; Cheibub – Chernykh 2009; Schleiter – Morgan-Jones 2009a: 875, 2010; Cheibub – Elkins – Ginsburg 2014; Lytvyn 2018; Anckar – Fredriksson 2019; Feijó 2020: 2–5; Lytvyn – Romanyuk – Osadchuk 2020; Raunio – Sedelius 2020: 3–6; Ganghof 2021: 1–2; Tsai 2021: VII–VIII; Amorim Neto: 123–124; Anckar 2022)). Since these definitions mostly differ respectively in presence or absence of the emphasis on relative indicators of constitutional design of inter-institutional relations under semi-presidentialism, in particular the powers of presidents and prime ministers, as well as the peculiarities of cabinet formation, functioning and responsibility. In addition, the importance and necessity for research focus on cabinets and their formation under semi-presidentialism (even regardless of the approach to determine the latter) is obvious given various essences, manners of popular election and powers of presidents and parliaments, as well as variety and structure of legitimacy and interaction or confrontation between presidents and prime ministers within the executive dualism as an essential characteristic of semi-presidentialism.

Nevertheless, the definition of semi-presidentialism as a constitutional type of inter-institutional relations (regardless of definitional approach (Brunclík –

Kubát 2016, 2018; Lytvyn 2018; Anckar – Fredriksson 2019; Boyron 2020), but basically using a minimalist or dispositional one in this study as the most modern and cited in contemporary political science and constitutional law) does not stipulate any specifics of cabinet formation, but rather the method of election and/or powers of presidents, as well as a mandatory requirement for collective responsibility of prime ministers and cabinets to parliaments or both to parliaments and presidents. Although purely intuitively and if the phenomenon of cabinet responsibility is understood in a broad sense, in particular as ‘ex ante’ (or anticipatory) and ‘ex post’ (or resultant) procedures within the constitutionalised inter-institutional relations, then it is obvious that relations between presidents and parliaments under semi-presidentialism do also or primarily take place in the context of formation, functioning and political positioning of prime ministers and their cabinets, especially if the latter oppose presidents within the executive dualism.

In addition, it is important in terms of actual perception, as well as constitutional (institutional) and political (behavioural) classifications of semi-presidentialism. This is because the options of formation and types of cabinets, as well as peculiarities of their functioning and responsibility affect various types of semi-presidentialism. Therefore, the issues of cabinet formation are relevant under semi-presidentialism as a constitutional design at least in applied and comparative contexts, if not definitively. The reason is that constitutional semi-presidentialism (without taking into account formal and actual powers of presidents and parliaments) is definitely characterised by the fact that this institutional design with various possible political practices is marked by the actual ability of presidents and/or parliaments to influence negotiations on cabinet formation and performance, as well as by the obligatory collective responsibility of cabinets and their prime ministers at least to parliaments. In other words, semi-presidentialism is constitutionally determined by the ability of the head of state and/or the legislature to influence the course of cabinet formation and functioning as the highest executive body, partially revealing the executive dualism between president and prime minister/cabinet (Duverger 1980; Sartori 1997; Elgie 2004; Shugart 2005; Amorim Neto – Strøm 2006; Schleiter – Morgan-Jones 2009b). Thus, if a president can select, nominate, remove or retain members of cabinet (even with participation of parliament), then the head of state is the central actor in the negotiation process on cabinet formation (Magni-Berton 2013: 224). Otherwise, the situation is completely different and the logic of semi-presidentialism is distinctive, since the decisive role in cabinet formation is played not by presidents (although they do so constitutionally), but by parliaments.

Consequently, it is important to take into account not only definitional parameters of popular elections of presidents (as well as parliaments) and the collective responsibility of prime ministers heading cabinets at least to

parliaments (required both by maximalist and minimalist definitions of semi-presidentialism (Brunčík – Kubát 2016)), but also peculiarities of cabinet formation, types and functioning when theorising and operationalising semi-presidentialism, mainly in European countries (in the broadest geographical and neutral sense of this part of the world). The article focuses exactly on these issues, particularly on revealing, comparison and systematisation of the options, rules and consequences of cabinet formation under constitutional semi-presidentialism, both theoretically and on the example of European countries, although within the framework of the minimalist (as by Elgie (1999b; 2004; 2007; 2016)) definition of semi-presidentialism as the broadest, most cited and most modern one. The minimalist definition of semi-presidentialism is chosen for its conceptual non-relationality and less subjectivity than the maximalist or Duvergerian one (which additionally appeals to the consideration of powers of political institutions that obviously vary in all systems of government, not just in semi-presidentialism). Instead, the chosen definitive approach is characterised by its formalisation simplicity, dispositionalism, greater objectivity and mainly constitutional, legal and institutional (but not only political) determinism. In addition, semi-presidentialism is better classified within the framework of a minimalist rather than a maximalist view. Therefore, the emphasis is placed on the definition of semi-presidentialism mainly as a type of constitutional and political (but not only political) design. Such a logic suits the research strategy of the article precisely in the context of a comparative analysis of cabinet formation under European constitutional semi-presidentialism. In other words, the study aims to demonstrate that the rules, options and practices of cabinet formation should be taken into account to better grasp the variety and classification of constitutional (which is verified on the basis of indicators that are checked in constitutions) semi-presidentialism in Europe. Accordingly, the article initially focuses on historiographical and theoretical contexts of cabinet formation as possible attributes of structuring and classification of semi-presidentialism as a constitutional design. Thereafter, the research deals with options and effects of cabinet formation under European semi-presidentialism in comparison, particularly in the time period from the beginning of the application of this system of inter-institutional relations in certain countries (according to the minimalist approach verified and confirmed in the texts of national constitutions) and as of the end of 2022 (i.e. in current and even historical cases of European constitutional semi-presidentialism).

Consequently, there are some aims of the study, in particular: to extend, complement and fill with content the essence and classification of semi-presidentialism as a constitutional system of government, in particular due to certain formal trends of ‘president–cabinet/prime minister–parliament’ relations, as well as mainly options and consequences of cabinet formation; to introduce new and compare the available information regarding semi-presidentialism

as a constitutional design in those countries, which are (typically) not included into the research focused on European democratic countries. This is because semi-presidentialism as a constitutional type can occur not only in democratic countries (as a subtype of a democratic political regime), but also in countries with autocratic or hybrid political regimes, because the former only constitutionalises the positions of a president popularly elected for a fixed term, as well as a cabinet headed by a prime minister and collectively responsible to parliament. Therefore, the definition (in contrast to operationalisation) of constitutional semi-presidentialism does not depend on how democratic and 'real' the elections (of presidents and parliaments) and inter-institutional relations are. Accordingly, structuring the variety of semi-presidentialism as a constitutional type, in particular regarding cabinet formation, should extend the horizons and systematise the idea of options and possible consequences of constitutional engineering in the world. Since when constitutionalists and politicians choose semi-presidentialism (or another system of government) they do not reliably know (though predict) its real consequences and the future vector of political regimes towards democracy or autocracy. However, constitutional engineering itself definitely determines or can determine the patterns of the real political process, as well as the prospects for democratisation or the risks of autocratisation.

Given this, the article focuses mainly on the constitutional understanding of semi-presidentialism as a specifically formalised institutional design and only one of the prerequisites of the real political process. It is this constitutionally determined conceptualisation of semi-presidentialism that made it possible to cover a wide and long-term sample of European countries whose political regimes are (or were) democratic, hybrid or autocratic ones. One may consider this to be a disregard for the existing methodological guidelines on how to avoid conceptual stretching in comparisons (Sartori 1970, 1991; Collier – Mahon 1993; Collier – Levitsky 1997). However, this is not entirely true, because the article addresses the variety of mainly constitutional prerequisites and attributes of semi-presidentialism as a 'basket' that includes both democracies and non-democracies (current and in the past). This is important because nothing was known about whether the political regimes of countries that once constitutionalised semi-presidentialism would become more or less presidentialised, parliamentarised or balanced, as well as generally democratic (democratised) or autocratic (autocratised) ones as a result of choosing such an institutional design. In turn, these were precisely some constitutional regulations (which allows for singling out formal options of semi-presidentialism), including as regards the specifics of cabinet formation, that influenced only over time the fact that countries became or did not become democracies. That is why the widest possible coverage of these formalised prerequisites of semi-presidentialism from the point of view of real political consequences in the future (which is

actually the subject of constitutional engineering) can be fruitful for the academic community – in particular, in finding an answer to the question of what is appropriate or inappropriate to constitutionalise on the way to choosing and consolidating democracy.

## **II. Cabinet formation in structuring and classification of semi-presidentialism: Theoretical context**

Semi-presidentialism has been for a long time and remains the research issue which has gone through several ‘waves’ of its development (Elgie 2016). Initially (within the ‘first wave’), the emphasis was put on separation, understanding and definition of semi-presidentialism as a political or constitutional system of government and inter-institutional relations, later (within the ‘second wave’) – on its variable classification in different countries and parts of the world, and now (within the ‘third wave’) scholars identify, analyse and compare a full range of constitutional/institutional and political features and effects of semi-presidentialism (including extending the first two ‘waves’). It was during the ‘third wave’ of semi-presidential studies that researchers have begun to address the issues of relationship between presidential and parliamentary powers on one hand, and the peculiarities of cabinet formation and responsibility on the other hand, while gradually improving the definition of semi-presidentialism.

This logic is important given that modern and the most cited (especially in political science and comparative law) definitions of semi-presidentialism, which are used as basic ones in this article, are minimalist or dispositional ones, because they are mostly institutionally or constitutionally oriented. Although empirical content and classification of semi-presidentialism can be both institutional or constitutional, as well as political or behavioural. In other words, the constitutional or institutional meaning of semi-presidentialism can be different and changeable in real politics, since the political practice of constitutional semi-presidentialism can be parliamentary or presidential, as well as even a balanced one. There are many examples of each of the options in different countries, which are constitutionally characterised as semi-presidential ones (Elgie 1999b, 2007). Nevertheless, this in no way affects the definition of semi-presidentialism (as a system of government with a president popularly elected for a fixed term, as well as with a cabinet headed by a prime minister who are collectively responsible at least to parliament), which should be constitutional and dispositive (Elgie 2004). In addition, such a constitutional definition of semi-presidentialism is convenient for comparing the options and consequences of cabinet formation, which are also regulated mostly constitutionally. Finally, the main thing is that different lines of filling and classification of semi-presidentialism do not break minimalist definitive logics of the origin and survival of political institutions (including cabinets) within the executive dualism (see table 1).

**Table 1: Minimalist definitive logics of the origin and survival of political institutions within the executive dualism under semi-presidentialism**

| Minimalist indicators of definition and institutions of semi-presidentialism | President                             | Prime minister / Cabinet   |
|--|---------------------------------------|--|
| Mandatory logic of the origin (formation) of institutions                    | Popular (direct or indirect) election | Parliamentary vote of investiture or tacit/silent consent of the legislature |
| Mandatory logic of the survival (responsibility) of institutions             | Time-limited and fixed mandate        | Parliamentary vote of confidence and/or no confidence                        |

Based on modification of the existing ideas and elaborations (Müller 2006).

The constitutional specificity of semi-presidentialism is that voters popularly elect two ‘agents’ whom they delegate with rights and opportunities to act on their behalf, in particular the head of state and parliament. That is why semi-presidentialism (as well as presidentialism) is constitutionally determined by dual legitimacy of the origin of main ‘agents’. This is complemented by the fact that these ‘agents’ are mutually able to structure and put in order cabinet formation, functioning and even responsibility, as a result semi-presidentialism has an attribute of the executive dualism. Simultaneously, semi-presidentialism ambiguously outlines subordination of cabinets to presidents and parliaments, since cabinet survival may depend, on one hand, on a lack of confidence or no confidence of the legislature, as well as, on the other hand, on a popular presidential election as a channel for voters to influence governance. This is especially relevant given that presidents under semi-presidentialism are usually constitutionally endowed with at least one of the following powers – to form a cabinet, dismiss a cabinet or act in the legislative area. Accordingly, a president under constitutional semi-presidentialism, at least given to its minimalist definition (Elgie 1999b: 13, 2007: 2–6), does not necessarily promote cabinet functioning (like in parliamentarism), as well as a cabinet does not necessarily promote and disseminate the legitimised set of presidential goals (like in presidentialism sometimes) (Schleiter – Morgan-Jones 2009c).

At the same time, semi-presidentialism is various in terms of the logics of delegation of powers (authority) and responsibility, as well as according to the scope of powers of various ‘principals’ and ‘agents’ (Frye 1997; Metcalf 2000; Siaroff 2003; Schleiter – Morgan-Jones 2009a). In particular, in the context of cabinet formation, constitutional semi-presidentialism is divided into the types where: a president may disagree with a prime minister’s candidacy or cabinet option; a president can nominate a candidate for prime minister or cabinet option and expect the consent/investiture of parliament; a president can nominate a prime minister and cabinet without the consent/investiture of parliament. Thus, the balance of inter-institutional (‘principal-agent’) relations

under semi-presidentialism can change from the prevalence of the legislatures to the prevalence of presidents or to their balance regarding cabinet formation. Even so, the 'core' of the 'chain' of delegation of powers and responsibility constitutionally attributed to semi-presidentialism remains stable. At the same time, it does not matter whether a cabinet formed in this way and headed by a prime minister is positioned as pro-presidential (in the same 'team' with a president) or anti-presidential (in opposition to the 'team' of a president). Since the main determinants of constitutional semi-presidentialism are still institutional and procedural attributes of its definition, categorisation and systematisation as having a dual nature of the executive, rather than the presence or absence and the volume of powers of the president and parliament to form and resign a cabinet. This means that the dual nature of the origin and exercise of the executive, rather than the dual nature of responsibility of the executive is a systemic and permanent feature of constitutional semi-presidentialism. The fact, as mentioned above, is that a cabinet headed by a prime minister under semi-presidentialism is collectively responsible (can be resigned) necessarily to the legislature or the legislature and president. However, the political responsibility of a cabinet and its prime minister under semi-presidentialism is traditionally more extended towards parliament. Since it is the legislature (if it participates in cabinet formation) that must express its consent (the vote of investiture) on cabinet formation (appointment of prime minister, approval of composition and/or programme of cabinet), as well as is constitutionally authorised to check the results of cabinet activities, embodied in the possibility of a cabinet's early resignation (the vote of no confidence).

Considering the definition and constitutional attribution of semi-presidentialism, it is important to take into account the peculiarities of cabinet formation and responsibility. The fact is that the options of formation and termination of cabinets under semi-presidentialism are largely derived from the influence and powers of the heads of state (Kang 2008, 2009). On the other hand, the parameters of cabinet formation and responsibility definitively and necessarily depend on the legislatures, thus specifically determining the analysed constitutional design. The reason is that voters formally (but not always actually) have two channels and mechanisms of control over the cabinet and the executive: the first or initial one – through parliament and the second or alternative one – through a president. As a result, the influence of parliaments and presidents on cabinet formation (but especially responsibility) under semi-presidentialism is important normatively and practically. It can reveal institutional and political attributes of a particular type of constitutional design, which are especially valuable taking into account party determination and composition of presidents, parliaments and cabinets. At the same time, as Schleiter and Morgan-Jones (2005), as well as Amorim Neto and Strøm (2006), point out, the nature of cabinets under semi-presidentialism is or may be con-

flictual, bilateral or dualistic, in particular based on contradictions between the mandates of president and the legislature. Thus, the nature of cabinets under semi-presidentialism can lead to exceptional consequences, in particular to involvement of non-party ministers into party cabinets or to formation of non-party cabinets (Almeida – Cho 2003). This means that cabinet formation and responsibility are dynamic under semi-presidentialism and are based on interaction between presidents and parliaments (parliamentary parties), as well as on the results of their elections (Kang 2008). The latter are capable of causing and intensifying conflicts within the executive and constitutional ambiguity of semi-presidentialism.

This is constitutionally given to the fact that semi-presidentialism is characterised by participation of a president and parliament in an election/formation and/or responsibility of a cabinet. As a result, their decisions to appoint a cabinet can be modelled as a ‘two-way game’ over arrangements on this (Protzyk 2005: 724). For example, when a hypothetical prime minister (or cabinet formateur) focuses on an unstable majority in the legislature, and a president realises that he or she has no support for a majority in the legislature, then there is a situation when the only way out is to form a type of ‘mixed’ or non-party cabinet. Accordingly, a political compromise is ensured by nominating some ministers from the presidential/pro-presidential party and some ministers from the party of a hypothetical prime minister (cabinet formateur) or altogether from outside parties in the legislature. Such a form of distribution of cabinet portfolios determines the basis for a president and prime minister, having loyal or apolitical representatives among ministers, to treat them as their ‘own’ sphere of influence on each other and on the decisions and actions of each of them. Such a conflict over cabinet formation under semi-presidentialism is compounded by the fact that a president and prime minister (along with ministers) can be mutually oppositional figures not only if they belong to different parties, but also if they belong to the same party. Moreover, the clarification of the role of president in cabinet formation can be outlined by the clientelist structure of the party system (characterised by private distribution among members of the ruling group), as well as by structuring of the party system in general (including by its fractionalisation, polarisation, dimensionality, etc.). For example, the more a president’s party distances itself from the ideological centre of inter-party competition, the more likely its representative will be a prime minister, and vice versa (Mitchell – Nyblade 2008; Kang 2009).

In general, as Schleiter and Morgan-Jones (2005) point out, there are at least two basic approaches to systematising the influence of presidents on cabinet formation under semi-presidentialism. The first approach, represented by Amorim Neto and Strøm (2006), models cabinet formation in semi-presidential countries as a result of bargaining and negotiations between president and prime minister (including a hypothetical one), taking into account the strength

of a president's powers, a prime minister's electoral prospects and values for each of them to consider non-party cabinet appointments. Instead, the second approach, proposed by Almeida and Cho (2003), calls for negotiations between a president and parliamentary parties, taking into account presidential authority to nominate a prime minister, the number of seats controlled by a minimum winning coalition in parliament, as well as a president's preferences to involve non-party cabinet ministers. These approaches are synthesised by the idea that increasing *de jure* and *de facto* powers of presidents intensifies their influence on cabinet formation under semi-presidentialism (Amorim Neto 2003; Morgan-Jones – Schleiter 2004; Protsyk 2005: 724). At the same time, these approaches do not exclude the possibility that presidents may be dominant in relation to some cabinets and their formation, and the legislatures in relation to other cabinets. As a result, there may be both president-oriented and parliament-oriented cabinets under semi-presidentialism (Nousiainen 1988; Pasquino 1997; Sartori 1997; Protsyk 2005: 724; Schleiter – Morgan-Jones 2005, 2009c, 2010; Shugart 2005), which vary according to the number of party and non-party ministers (Almeida – Cho 2003; Amorim Neto – Strøm 2006).

On the other hand, this does not mean that even president-oriented cabinets under semi-presidentialism are not completely independent of parliaments, but instead that parliament-oriented cabinets are not completely independent of presidents. The fact is that potentially divergent electoral mandates of a president and parliament can bring about significant inter-institutional tensions over cabinet formation and even 'break the chain' of delegating powers from popular representation (president and parliament) to a cabinet. Thus, semi-presidentialism can pose serious risks to 'agency', as a result of which cabinets may make it difficult to ensure effective voter representation (Raunio – Wiberg 2003: 321; Strøm 2003; Schleiter – Morgan-Jones 2005). In contrast, constitutional semi-presidentialism, especially in difficult political contexts and conditions, is flexible in creating a wide range of governance decisions, even if they are made by president-oriented or parliament-oriented cabinets (Amorim Neto 2003: 554; Thiebault 2003). This reasons the ability of both presidents and parliaments to institutionally or politically affect cabinet formation, functioning and responsibility under semi-presidentialism (Schleiter – Morgan-Jones 2005). Thus, the president with the parliamentary support of the ruling/cabinet party or coalition can significantly influence cabinet formation and functioning, but instead cannot do so in the absence of parliamentary support (although not in all cases of semi-presidentialism).

However, semi-presidentialism as a constitutional design can be characterised by formation of non-party cabinets, which are often positioned as a president-oriented one, since their parliamentary support is clientelist or patrimonial, if not a situational one (Leston-Bandeira 1998; Paloheimo 2003: 223). Due to the nature of presidential power legitimacy under semi-presidentialism, it is

especially true when popularly elected presidents are apolitical ones. While trying to go beyond party politics, such presidents often seek to construct their cabinets based on the principles of horizontal party proportionality or vertical non-partisanship (Amorim Neto – Strøm 2006). Accordingly, the order of presidential preferences regarding the profile of cabinets (party or non-party ones) depends on the ratio of political preferences of presidents, as well as their parties or parties associated and non-associated with them (Almeida – Cho 2003). Thus, cabinet formation under semi-presidentialism is the ‘game’, the ‘players’ of which are parties in parliament (as in parliamentarism), as well as a president (as in presidentialism). On one hand, this is the prerequisite for coalition cabinets’ formation (Saalfeld 2008; Bergman – Ersson – Hellström 2015). On the other hand, a president under semi-presidentialism may prefer to involve non-party ministers into the cabinet, for which there are at least two reasons: the desire of a president to increase the effectiveness of national policy, which corresponds to one’s electoral mandate and legitimacy; a president’s sense of less controversy and problems in delegating powers based on the roles of non-party ministers rather than the representatives of the presidential and other parties (Almeida – Cho 2003). Instead, parliamentary parties under semi-presidentialism are more interested in delegating the executive powers to party ministers and party cabinets, explaining this by the nature of the ‘chain’ of delegating powers and responsibilities as a principle of popular representation.

Combining two approaches to understanding the influence of presidents on cabinet formation under constitutional semi-presidentialism, Schleiter and Morgan-Jones (2005; 2010) note that the ability of presidents to bargain for the desired structure and composition of cabinets varies depending on a full range of cabinet-oriented (related to cabinets’ formation and resignation), parliament-oriented (related to activities of parliaments) and legislative-oriented powers of presidents. For example, a president’s knowledge of one’s powers to dismiss a cabinet and/or dissolve a parliament can help the former to choose when to negotiate with the legislature on formation of a new cabinet. By analogy, the president with significant legislative powers (including veto and legislative initiative or the power to issue decrees with the force of law) may be in a more promising position to negotiate his or her influence on cabinet formation, since the former has significant leverage to influence a cabinet’s legislative success and efficiency. This stipulates that the disregard for the president’s role in cabinet formation, even a constitutionally and politically weak one, can be a serious mistake in trying to understand this process.

The peculiarities of division and distribution of mandates, as well as the ways a president and parliament are popularly elected under semi-presidentialism play a complementary role in this context. This is evident given the variability of governing powers of the legislature, which (by the definition of constitutional semi-presidentialism) can dismiss a cabinet, and therefore indicate its

rejection of any hypothetical cabinet, significantly influencing the negotiating behaviour of president and parliament (Bergman 1993b; Huber 1996). This is especially clear when a well-structured, slightly fractionalised and polarised legislature may form a parliamentary majority, which is not inferior to a president in cabinet formation, while guaranteeing support for a hypothetical cabinet, and therefore is a counter-weight to president-oriented cabinet formation. The founding conditions and historical traditions of inter-institutional relations, as well as the experience of previously formed cabinets are also important for cabinet formation under semi-presidentialism.

Thus, there is a correlation between the context, when a country chooses and constitutionalises semi-presidentialism, and the patterns of leadership, which are formed immediately after such an institutional choice (Elgie 1999a: 286–287). Accordingly, a synthetic conclusion that outlines the political nature of cabinet formation under semi-presidentialism, as well as the influence of various political institutions on this process, is the position that a cabinet is a consequence of bargaining and the negotiation process. The latter reflects not only the influence of a president's powers, but also the level of cohesion in the legislature, fractionalisation and polarisation of party system, electoral preferences and historical experience (Elgie 1999b: 13). Moreover, the conclusion is understanding a prime minister under constitutional semi-presidentialism exclusively as an 'agent' of party/coalition, president and parliament (Schleiter – Morgan-Jones), as well as part of the process of cabinet formation in general, but not as a person, whose 'prime ministerial potential' is known in advance. That is why the information on division and distribution of powers between president and parliament and their behaviours under semi-presidentialism is used to generate theoretical expectations about 'location' of a cabinet and its prime minister within a continuum of 'ideal' positions of president and parliament (Protsyk 2005).

The specifics of cabinet formation under semi-presidentialism are supplemented by consideration of the factor of who can dismiss a cabinet – either only parliament as in premier-presidentialism or both parliament and president as in president-parliamentarism (as types of semi-presidentialism). When the right to terminate a cabinet belongs only to the legislature, then a president is faced with an inter-institutional choice: to appoint a prime minister who reflects the preferences of the legislature or to nominate a close candidate for prime minister and be prepared that the legislature will be able to dismiss one at any time and change the president-oriented cabinet. Different strategies emerge when a president and parliament can unilaterally dismiss a prime minister and cabinet, since: a) when a president has the right to dismiss a cabinet, this gives the head of state an advantage in cabinet formation; b) ensuring selection of a more parliament-acceptable prime minister and cabinet does not necessarily guarantee long tenure/duration of the latter, because parliamentary loyalty

to them may be jeopardised by the need to live up to the expectations of the president (Protsyk 2005: 726–727). These situations, regardless of the scenario of cabinet formation, are complicated by the threat of permanent revision and redistribution of powers of prime ministers and presidents, especially when a country has only recently become a semi-presidential one (Elgie 1999a; 1999b).

Contributing to classification of semi-presidentialism, Protsyk (2005: 742) argues that cabinet formation is more predictable in premier-presidential than in president-parliamentary semi-presidential systems, since the former are characterised by the fact that a prime minister's selection more consistently reflects the benefits of a parliamentary majority. A similar conclusion is reached by Amorim Neto and Strøm (2006), as well as by Schleiter and Morgan-Jones (2010), who note that variety of constitutional powers of presidents and parliaments affects the results of cabinet formation under semi-presidentialism. In addition, the greater the power of presidents, the more control they have over cabinet formation, composition and resignation. Correspondingly, the higher the fractionalisation of parties and groups in the legislatures, the more the president controls the results of cabinet formation. Although if cabinet formation begins immediately after parliamentary election, then the influence of the head of state is significantly limited. Likewise, Sedelius and Ekman (2010) note that intra-executive conflict over cabinet formation is an extremely destabilising one under president-parliamentarism, but not premier-presidentialism. Instead, Schleiter and Morgan-Jones (2010) argue that the link between the type of semi-presidentialism and cabinet formation or mainly cabinet survival is an insignificant one. Although if a president has the right to dissolve parliament, then the likelihood of cabinet/ministers reshuffles between elections increases. At the same time, the scholars compare the effects of cabinet formation under semi-presidentialism and parliamentarism (presidentialism is irrelevant here) and conclude that the share of non-party ministers is higher under semi-presidentialism than parliamentarism (Schleiter – Morgan-Jones 2009c). In addition, Cheibub and Chernykh (2009) argue that variability in cabinet formation and stability under semi-presidentialism and parliamentarism depends more on electoral system than on how (popularly or unpopularity) a president is elected and what one's powers are.

Thus, it is proposed to consider and systematise these and other theoretical assumptions on cabinet formation as a factor of structuring and probable classification of semi-presidentialism based on the elucidation of empirical options and consequences of cabinet formation under constitutional semi-presidentialism in European countries. At the same time, the main hypothesis, which is verified in the study, states that options of cabinet formation can structure semi-presidentialism, even without affecting the definition of this constitutional design, but probably depending on the roles and powers of presidents and parliaments in cabinet formation, as well as types of semi-presidentialism

regarding the consideration of who can dismiss a cabinet. That is why the next part of the article is focused on the parameters and effects of cabinet formation in the context of European constitutional semi-presidentialism (mainly cross-comparatively), particularly in the timeline from the constitutional choice and the 'beginning' of semi-presidentialism in certain countries and as of the end of 2022 (mainly currently, but also historically). The up-to-date European countries with semi-presidential constitutions that will be included in comparative research are Austria (since 1945), Azerbaijan (since 1995), Belarus (since 1996), Bosnia and Herzegovina (since 1995), Bulgaria (since 1991), Croatia (since 1991), Czechia (since 2012), Finland (since 1919), France (since 1962), Georgia (since 2004), Iceland (since 1944), Ireland (since 1937), Lithuania (since 1992), Macedonia (since 1991), Moldova (since 2016), Montenegro (since 2006), Poland (since 1990), Portugal (since 1976), Romania (since 1991), Russia (since 1993), Serbia (since 2006), Slovakia (since 1999), Slovenia (since 1991) and Ukraine (since 1996). In addition, the article focuses on historical or interrupted cases of European constitutional semi-presidentialism, particularly in Armenia (1995–2018), Austria (1929–1934), Moldova (1994–2001), Turkey (2007–2018), the Weimar Republic in Germany (1919–1933) and Yugoslavia (2000–2003). These are the countries with different (democratic, hybrid and autocratic) political regimes, and their placement into the same 'basket' of constitutional semi-presidentialism was justified in the Introduction.

### **III. Options and parameters of cabinet formation under semi-presidentialism in European countries: Cross-country and regional comparison**

Along with outlined and theorised determinants or features of cabinet formation in semi-presidential countries, it is important to take into account institutional/constitutional and political/behavioural rules and factors, which can structure and typify semi-presidentialism based on various roles of the institutions of president and parliament in cabinet formation. This is especially important in the example of European countries, since this part of the world (in its broadest and neutral sense) is the most represented by up-to-date and historical cases of semi-presidentialism as a constitutional type (see the end of the previous section). However, European semi-presidentialism, which is constitutionalised in democratic, hybrid and autocratic political regimes, is characterised by different options, procedures, parameters, as well as institutional and political conditions of cabinet formation. This is manifested by the fact that various options and procedures for cabinet formation in semi-presidential systems (in contrast to presidential and parliamentary systems), as well as different roles of presidents (in particular, in the continuum from 'observer' to 'creator') and parliaments in this regard, can be structured by considering exclusively formal

or constitutional provisions, as well as additionally constitutional practices and political traditions in a particular semi-presidential country (Kopeček – Brunclík 2019: 109, 110–115).

On one hand, constitutions may formally regulate (as in almost all current and historical cases of European semi-presidentialism) or not regulate (as currently in Austria, France, Iceland and historically in Austria, Finland, the Weimar Republic) the participation of parliament (through the so-called parliamentary vote of investiture) in confirming the candidacy of prime minister and cabinet proposed/nominated by a president. However, this is by no means a definitive characteristic of semi-presidentialism, as the latter necessarily (in all semi-presidential countries) requires collective responsibility (the possibility of resignation) of a cabinet to parliament (through the so-called vote of no confidence), which in turn limits the powers of the head of state (even in the case of appointing ‘his’ or ‘her’ prime minister and cabinet). On the other hand, constitutional practice, political tradition and even the type of political regime (but less frequently constitutional provisions) of a particular semi-presidential country influence the extent to which the parliament is more (as traditionally in Azerbaijan, Belarus and Russia, as well as historically in Armenia, Georgia, Ukraine and so on) or less (as in Austria, Bulgaria, Croatia, Czechia, Iceland, Poland, Portugal, Romania, Slovakia, etc.) loyal to the presidential candidacy for prime minister or cabinet, especially if the head of state does not enjoy the support of a stable majority in the legislature. Sometimes (as in Azerbaijan, Belarus, France, Russia, Ukraine, etc.), this is a result of institutionalised practices and logics of cabinet formation, as well as the significant role of presidents in this process. Other times (once again in Azerbaijan, Belarus, Russia, as well as currently in Bulgaria, Croatia and historically in Armenia, Georgia), it stems from the parliament’s fear of being dissolved in the event of failure to form/approve a cabinet proposed by a president, as well as from the president’s ‘final say’ in favour of (interim) cabinet formation (such conclusions were made based on table 2).

Accordingly, the intersection of constitutional provisions, constitutional practices and political traditions allows for the identification of at least two conditional groups of countries. The first group includes countries (Azerbaijan, Belarus and Russia, as well as historically Armenia, Georgia, Ukraine, the Weimar Republic, etc.), where presidents can formally nominate prime ministers and form cabinets independently or traditionally without political coercion from parliaments, which are at risk of being dissolved in the case of disagreement. This is because the ‘sole’ or ‘final’ authority regarding cabinet formation lies with the president, and the parliament shows a loyal and institutionalised attitude towards such a state of affairs. The second group of countries (for example, Austria, Bulgaria, Croatia, Czechia, Finland, France, Iceland, Ireland, Lithuania, Macedonia, Moldova, Montenegro, Poland, Portugal, Romania, Slovakia, Slove-

nia, etc.) includes those where presidents formally (during cabinet formations or due to the fear of cabinet resignations caused by parliaments) and primarily actually should take into account the positions of parliaments regarding prime ministers and cabinets. In other words, it refers to countries where parliaments have a greater formal and informal role in prime ministers' and cabinets' confirmation (and resignation), even despite the fear of being dissolved, while presidents mainly play a formal role in this process. Similarly, presidents are empowered to dismiss cabinets in some semi-presidential countries of Europe (the cases of president-parliamentarism are currently represented by Azerbaijan, Belarus and Russia, as well as earlier were represented by Armenia, Croatia, Georgia, Portugal, Ukraine and the Weimar Republic), but cannot do so in other countries (the cases of premier-presidentialism are or were represented by all other semi-presidential countries in Europe).

Accordingly, it is argued that constitutional powers of presidents under semi-presidentialism are strong predictors of their influence on cabinet formation and composition, and therefore the former can eliminate the assumption about irrelevance of their allocation based on actual powers and the behaviour of presidents (Amorim Neto 2003). By analogy, almost all European semi-presidential constitutions regulate the right of parliaments to approve or reject president-nominated prime ministers and/or cabinets, thus ending cabinet formation. In turn, the parliament of each semi-presidential country is obligatorily authorised for early termination/resignation of a cabinet. In addition, almost all cases of semi-presidentialism in Europe regulate the possibility or even requirement of presidents to dissolve parliaments alongside their inability to confirm and complete cabinet formation.

Thus, the procedures of cabinet formation under European semi-presidentialism outlined above are highly variable. This confirms the notions by Amorim Neto and Strøm (2006), as well as by Almeida and Cho (2003) that cabinet formation under semi-presidentialism is a manifestation and consequence of institutionally structured bargaining and negotiations, which take place given to certain schemes and rules. Their average logics and sequences are as follows: president initiates cabinet formation and appoints or nominates prime minister/formateur<sup>1</sup> who receives the mandate to conduct (independently

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1 The position or role of a formateur in the case of European semi-presidentialism refers exclusively to an individual who is formally appointed by a president to lead, conduct and finalise negotiations regarding a (coalition) cabinet formation. Therefore, the formateur traditionally assumes the position of prime minister after the success of this process and cabinet formation. Thus, the role of the formateur is typically not defined as an informal one, but is equated to a formal candidate for the position of prime minister in European semi-presidential countries. On the other hand, the formateur may even play an informal role in the cabinet formation process in several parliamentary monarchies and republics in Europe. Additionally, the experience of certain European countries provides sufficient grounds to distinguish between formal and informal roles of the so-called informateur, who typically informs (including the formateur or officials responsible for appointing the formateur) about the prospects for cabinet formation, but does not assume the position of prime minister in the future (although they often hold

or with other institutions) negotiations on composition and programme of a cabinet; parliament formally approves/supports some or all the actions listed above or the consent of parliament is optional in this regard (it depends on constitutional regulations); a cabinet formed in this way may be dismissed by parliament (or both by parliament and president). Instead, non-formation of a cabinet (with various clarifications and reasons) is the basis for the dissolution and early election of parliament, on the average.

On one hand, this argues that a president's powers to form a cabinet are positive ones, since it is the head of state who selects and nominates a prime minister or cabinet formateur (with or without taking into account party/inter-party structuring of parliament). Instead, parliament's powers to form a cabinet are negative ones, since the legislature either agrees or rejects a president's alternative of cabinet. In turn, only parliament is obliged to terminate powers of cabinet and its prime minister in all cases of (European) semi-presidentialism, that summarises the bilateral nature of bargaining/negotiations and conflict of interest over cabinet formation and responsibility within the executive dualism. Thus, a cabinet's positioning under semi-presidentialism is its disposition within the continuum between the rights to nominate/appoint a prime minister and dismiss a cabinet or its prime minister (Protsyk 2005). On the other hand, these averaged logics of cabinet formation under semi-presidentialism does not mean that this constitutional system of government is an unambiguous one. The reason is that procedural stages and patterns of cabinet formation differ significantly, thus generating various manifestations and even types (at least depending on the formal and/or actual powers and relative primacy of presidents compared to parliaments (or vice versa) regarding cabinet formation, as mentioned above) of European semi-presidentialism.

It should be noted that the presence or absence and therefore options of parliamentary votes of investiture in new/hypothetical cabinets, their prime ministers, compositions and/or programmes (i.e. requirements or procedures for confirming presidential nominations of cabinets and prime ministers by parliaments) are different under semi-presidentialism. Firstly, all cases of European semi-presidentialism should be divided at least into two groups of situations, particularly when: a) a cabinet should be endowed with the support of the legislature until its majority objects (through the vote of no confidence) to a cabinet; b) parliamentary confidence in a cabinet is maintained only when a majority in the legislature expresses its support for a cabinet based on parliamentary votes for various initiatives proposed by a cabinet (Louwerse 2014: 1–2). In other words, the first group of situations is determined by the fact that a cabinet should avoid having an active majority in parliament that op-

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a ministerial position). However, such informal practices and positions/roles are not characteristic of semi-presidential systems in Europe, where the position of formateur typically plays a formal role.

poses the cabinet in order to be formed and function, and the second group of situations is characterised by the fact that a cabinet should receive direct and unambiguous support of a majority in the legislature, which allows a cabinet to take up its functions. According to Cheibub, Martin and Rasch (2013, 2021), the absence of a majority against a cabinet under semi-presidentialism is an institutionally weaker situation, and therefore it strengthens a president's powers to form a cabinet rather than having a parliamentary majority for a cabinet. In addition, it is easier to avoid the situations when a cabinet is opposed by a parliamentary majority than the situations when a cabinet must receive support of a parliamentary majority. The first situations are often called 'negative rules for cabinet formation' (or even negative parliamentarism), and the second situations – 'positive rules for cabinet formation' (or positive parliamentarism; however, the term 'parliamentarism' does not refer to a parliamentary system of government here) (Bergman 1993b; Russo – Verzichelli 2014). The distinction between positive and negative rules for cabinet formation is about the way parliamentary votes of investiture are implemented for new cabinets, their prime ministers, compositions and/or programmes. The demand for a parliamentary vote of investiture in a new cabinet is a type of 'barrier' that expected a cabinet and, consequently, the person nominating it to overcome before being confirmed by the legislature and beginning to perform its duties. A parliamentary vote of investiture in a new cabinet can be implemented (or not implemented) in different ways and at different stages of negotiations on cabinet formation, and therefore can be characterised by varying degrees of rigors and difficulties (for details on European semi-presidentialism see table 2).

For example, cabinet formation by means of positive rules directly depends on a positive (supported by qualified, absolute or simple majority in the legislature) vote of investiture in a new cabinet by parliament or its leading chamber. Given this, a cabinet starts its work only after it (its prime minister, composition and/or programme) is given the investiture vote by a qualified, absolute or simple majority (depending on a specific case) of MPs in the legislature. Accordingly, a cabinet is considered a valid and functioning one as long as it enjoys the confidence of the legislature or until it is given a parliamentary vote of no confidence. Therefore, the investiture in a cabinet in this case is a permanent one and is provided both at the stage of its initiation/formation, as well as during its functioning.

In turn, cabinet formation by means of negative rules does not directly depend on a positive vote of investiture in a new cabinet by parliament (its leading chamber) or it depends only on a negative vote of investiture in a new cabinet by the legislature. Thus, a negative vote of investiture in a cabinet means that an absolute majority of MPs in the legislature should not vote against a prime minister, composition and/or programme of a cabinet in order for the latter to be formed and start its functioning (Rasch – Martin – Cheibub 2015). In other

words, a president's PM candidates can be considered nominated and thus cabinets can be formed even without the visible and explicit support of a majority of MPs in the legislature. Therefore, a cabinet under negative formation rules starts functioning immediately after it or its prime minister is nominated or appointed without available support (the vote of investiture) of the legislature or provided that a majority of MPs in the legislature do not vote against a cabinet or its prime minister. Consequently, a cabinet is considered a valid and functioning one until it is given a positive vote of no confidence or until it is denied in 'silent' or 'negative' confidence. This actually means that negative rules for cabinet formation are scenarios based on constant 'silent' confidence of the legislatures (when the latter do not express the vote of no confidence in cabinets) or on constant negative investiture in cabinets (which is not opposed by an absolute majority of MPs) (Russo – Verzichelli 2014).

The performed analysis demonstrates that various investiture rules for cabinet formation under semi-presidentialism in Europe show that parliament is less important in determining the type and composition of a cabinet in those countries where there are negative rules for cabinet formation. However, this does not necessarily indicate weakness of presidents regarding cabinet formation in those semi-presidential countries, where positive rules for cabinet formation are applied. Especially if the latter (in the case of ineffective votes of investiture in cabinets) still enable cabinet formation even without the confidence of the legislatures. On the other hand, the powers of the legislatures within negative rules for cabinet formation under semi-presidentialism increase during functioning of the latter. The reason is that refusal of parliaments to 'silently' 'trust' cabinets or failure to secure negative confidence in cabinets by the legislatures (on any issue of cabinet competence) is a direct motive for cabinet resignation. In turn, this is complicated by the use of positive rules for cabinets' formation, since their resignation is accustomed to positive parliamentary votes of no confidence (Bergman 1993a).

In total, this proves that cabinets must constantly and actively depend on the support of a majority in the legislatures in European semi-presidential countries, which enjoy positive rules for cabinet formation. According to table 2, these are almost all semi-presidential countries in Europe, with the exception of Austria (in 1929–1934 and since 1945), Finland (in 1919–1999), France (since 1962), Iceland (since 1944), Portugal (since 1976) and the Weimar Republic (in 1919–1933). Instead, a majority in the legislatures should not constantly and actively act against cabinets in the European semi-presidential countries, which apply negative rules for cabinet formation. In other words, cabinets and their nominees must feel constant support and loyalty from the legislatures in those semi-presidential countries where positive rules for cabinet formation are used. In contrast, this is not typical for countries which use negative rules for cabinet formation, since cabinets/their nominees enjoy the 'silent' confidence

**Table 2: The options of parliamentary votes of investiture in new cabinets in up-to-date and historical cases of European semi-presidentialism (as of December 2022)**

| Semi-presidential country: constitutional context (approbation period) | Participation of parliament in the vote of investiture in cabinet | Permissible simultaneous number of formateurs or cabinet alternatives during the vote of investiture | Actors entitled to nominate prime ministers, formateurs or cabinet alternatives |
|--|---|--|---|
| <b>POSITIVE RULES FOR CABINET FORMATION OR RECEIVING...</b>            |   |  |   |
| Armenia (1995–2005)  | Yes   | 1  | President   |
| Armenia (2005–2018)  | Yes   | 1  | President   |
| Azerbaijan (since 1995)  | Yes   | 1  | President   |
| Belarus (since 1996)   | Yes   | 1  | President   |
| Bosnia and Herzegovina (since 1995)                                    | Yes   | 1  | President   |
| Bulgaria (since 1991)  | Yes   | 1  | President +<br>The largest faction  |
| Croatia (1991–2000)  | Yes   | 1  | President   |
| Croatia (since 2000)   | Yes   | 1  | President + Speaker of parliament   |
| Czechia (since 2012)   | Yes   | 1  | President + Speaker of parliament   |
| Finland (since 1999)   | Yes   | 1/>1   | Speaker of parliament +<br>Parliamentary factions<br>+ President                |
| Georgia (2004–2013)  | Yes   | 1  | President + Parliamentary factions  |
| Georgia (since 2013)   | Yes   | 1  | President +<br>The largest faction  |
| Ireland (since 1937)   | Yes   | 1  | President + Parliamentary factions  |
| Lithuania (since 1992)   | Yes   | 1  | President + Parliament  |
| Macedonia (since 1991)   | Yes   | 1  | President +<br>The largest faction  |

|   | The number of attempts or days to obtain parliamentary vote of investiture in cabinet | Type of parliamentary vote of investiture in cabinet | Decision rule on parliamentary vote of investiture in cabinet | The consequence of the failure of the last attempt of parliamentary vote of investiture in cabinet |
|---|---|--|---|--|
| <b>... PARLIAMENTARY VOTES OF INVESTITURE BY CABINETS</b> |   |  |   |  |
|   | 2 attempts  | Ex post  | Absolute majority   | Interim cabinet formation + Dissolution of parliament  |
|   | 2 attempts  | Ex post  | Absolute majority   | Interim cabinet formation + Dissolution of parliament  |
|   | 3 attempts  | Ex ante  | Absolute majority   | Cabinet formation  |
|   | 2 attempts  | Ex ante  | Absolute majority (Lower chamber only)                        | Interim cabinet formation + Dissolution of parliament  |
|   | Not provided  | Ex ante + Ex post                                    | Simple majority / Negative majority                           | Not provided   |
|   | 3 attempts  | Ex ante + Ex post                                    | Simple majority   | Interim cabinet formation + Dissolution of parliament  |
|   | 15 days   | Ex post  | Absolute majority (Lower chamber only)                        | New attempt of the vote of investiture in cabinet  |
|   | 60 days   | Ex post  | Absolute majority   | Interim cabinet formation + Dissolution of parliament  |
|   | 3 attempts  | Ex post  | Simple majority (Lower chamber only)                          | Dissolution of parliament  |
|   | 3 attempts  | Ex ante (Partially Ex post)                          | Simple majority   | The vote of investiture in cabinet is always successful  |
|   | 3 attempts  | Ex post  | Absolute majority   | Cabinet formation + Dissolution of parliament  |
|   | 3 attempts  | Ex post  | Absolute majority   | Dissolution of parliament + Previous cabinet functioning   |
|   | Not provided  | Ex ante + Ex post                                    | Simple majority (Lower chamber only)                          | New attempt of the vote of investiture in cabinet  |
|   | 30/60 days  | Ex post  | Simple majority   | Dissolution of parliament  |
|   | Not provided  | Ex post  | Absolute majority   | Not provided   |

| Semi-presidential country:<br>constitutional context<br>(approbation period) | Participation of<br>parliament in<br>the vote of investiture in cabinet | Permissible simultaneous number of<br>formateurs or cabinet<br>alternatives during<br>the vote<br>of investiture | Actors entitled to<br>nominate prime<br>ministers, formateurs<br>or cabinet alternatives |
|--|---|--|--|
| <b>POSITIVE RULES FOR CABINET FORMATION OR RECEIVING...</b>                  |   |  |  |
| Moldova (1994–2001)  | Yes   | 1  | President + Parliamentary factions   |
| Moldova (since 2016)   | Yes   | 1  | President + Parliamentary factions   |
| Montenegro (2006–2007)   | Yes   | 1  | President  |
| Montenegro (since 2007)  | Yes   | 1  | President  |
| Poland (1990–1992)   | Yes   | 1  | President + Parliament   |
| Poland (1992–1997)   | Yes   | 1  | President, Parliament  |
| Poland (since 1997)  | Yes   | 1  | President, Parliament, 10% of MPs  |
| Romania (since 1991)   | Yes   | 1  | President  |
| Russia (since 1993)  | Yes   | 1  | President  |
| Serbia (since 2006)  | Yes   | 1  | President + Parliamentary factions   |
| Slovakia (since 1999)  | Yes   | 1  | President  |
| Slovenia (since 1991)  | Yes   | 1/>1   | President + Parliamentary factions, 10 MPS   |
| Ukraine (1996–2006)  | Yes   | 1  | President  |
| Ukraine (2006–2010)  | Yes   | 1  | President + Parliamentary majority   |
| Ukraine (2010–2014)  | Yes   | 1  | President  |
| Ukraine (since 2014)   | Yes   | 1  | President + Parliamentary majority   |

|   | <b>The number of attempts or days to obtain parliamentary vote of investiture in cabinet</b> | <b>Type of parliamentary vote of investiture in cabinet</b> | <b>Decision rule on parliamentary vote of investiture in cabinet</b> | <b>The consequence of the failure of the last attempt of parliamentary vote of investiture in cabinet</b> |
|---|--|---|--|---|
| <b>... PARLIAMENTARY VOTES OF INVESTITURE BY CABINETS</b> |  |   |  |   |
|   | 3 attempts (45 days)   | Ex post   | Absolute majority  | Dissolution of parliament   |
|   | 3 attempts (45 days)   | Ex post   | Absolute majority  | Dissolution of parliament   |
|   | 90 days  | Ex post   | Absolute majority  | Dissolution of parliament   |
|   | 90 days  | Ex post   | Absolute majority  | Dissolution of parliament   |
|   | Not provided   | Ex ante   | Absolute majority  | Not provided  |
|   | 4 attempts   | Ex post   | Absolute majority / Simple majority (Lower chamber only)             | Dissolution of parliament or Interim cabinet formation  |
|   | 3 attempts   | Ex post   | Simple majority (Lower chamber only)                                 | Dissolution of parliament   |
|   | 2 attempts   | Ex post   | Simple majority (Two chambers both)                                  | Dissolution of parliament   |
|   | 3 attempts   | Ex ante   | Absolute majority (Lower chamber only)                               | Cabinet formation + Dissolution of parliament   |
|   | Not provided   | Ex post   | Absolute majority  | Dissolution of parliament   |
|   | 3 attempts   | Ex post   | Simple majority  | Dissolution of parliament   |
|   | 3 attempts   | Ex ante   | Absolute majority / Simple majority (Lower chamber only)             | Dissolution of parliament or additional attempt to obtain the vote of investiture in cabinet              |
|   | Not provided   | Ex ante   | Absolute majority  | New attempt of the vote of investiture in cabinet   |
|   | 30/60 days   | Ex ante + Ex post   | Absolute majority  | Dissolution of parliament   |
|   | Not provided   | Ex ante   | Absolute majority  | New attempt of the vote of investiture in cabinet   |
|   | 30/60 days   | Ex ante + Ex post   | Absolute majority  | Dissolution of parliament   |

| Semi-presidential country:<br>constitutional context<br>(approbation period) | Participation of<br>parliament in<br>the vote of investiture in cabinet | Permissible simultaneous number of<br>formateurs or cabinet<br>alternatives during<br>the vote<br>of investiture | Actors entitled to<br>nominate prime<br>ministers, formateurs<br>or cabinet alternatives |
|--|---|--|--|
| <b>POSITIVE RULES FOR CABINET FORMATION OR RECEIVING...</b>                  |   |  |  |
| Yugoslavia (2000–2003)   | Yes   | 1  | President + Parliamentary factions   |
| <b>NEGATIVE RULES FOR CABINET FORMATION OR RECEIVING...</b>                  |   |  |  |
| Austria (1929–1934)  | No  | –  | President  |
| Austria (since 1945)   | No  | –  | President  |
| Finland (1919–1999)  | No  | –  | President  |
| France (since 1962)  | No  | –  | President  |
| Iceland (since 1944)   | No  | –  | President  |
| Portugal (1976–1982)   | Yes   | 1  | President  |
| Portugal (since 1982)  | Yes   | 1  | President + Parliamentary factions   |
| The Weimar Republic (1919–1933)  | No  | –  | President  |
| Turkey (2007–2018)   | Yes   | 1  | President  |

Democracies are marked in white, hybrid political regimes in light grey and autocracies in dark grey. The estimation of political regimes is carried out based on averaging data from various comparative projects (as of 2022 or the last year of the semi-presidentialism's operationalisation). For details see national constitutions and the sources (Cheibub – Martin – Rasch 2013, 2021; Sieberer 2015; Armingeon – Engler – Leemann 2022; Elkins – Ginsburg 2022).

of parliaments, as a result the latter must prove they no longer tolerate a cabinet (Bergman 1993b: 57; Lytvyn 2021).

Secondly, clarifying the actors who have the right to nominate prime ministers or alternatives to compositions and programmes of new cabinets is extremely important in cabinet formation under semi-presidentialism, particularly within the distinction between the powers of presidents and parliaments over cabinet formation. Constitutions of almost all European semi-presidential countries vest such powers in presidents (sometimes with participation or consultation of other institutions), but with the exception of Croatia (since 2000) and Finland (since 1999), where both the speaker of parliament and the president (given the positioning of parliamentary parties in the second case) are authorised to nominate prime ministers. A similar option existed in Poland

|   | The number of attempts or days to obtain parliamentary vote of investiture in cabinet | Type of parliamentary vote of investiture in cabinet | Decision rule on parliamentary vote of investiture in cabinet | The consequence of the failure of the last attempt of parliamentary vote of investiture in cabinet |
|---|---|--|---|--|
| <b>... PARLIAMENTARY VOTES OF INVESTITURE BY CABINETS</b> |   |  |   |  |
|   | Not provided  | Ex ante<br>(Partially Ex post)                       | Absolute majority<br>(Two chambers both)                      | New attempt of the vote of investiture in cabinet  |
| <b>... PARLIAMENTARY VOTES OF INVESTITURE BY CABINETS</b> |   |  |   |  |
|   | -   | -  | -   | -  |
|   | -   | -  | -   | -  |
|   | -   | -  | -   | -  |
|   | -   | -  | -   | -  |
|   | -   | -  | -   | -  |
|   | 3 attempts  | Ex post  | Negative majority   | Dissolution of parliament  |
|   | Not provided  | Ex post  | Negative majority   | New attempt of the vote of investiture in cabinet  |
|   | -   | -  | -   | -  |
|   | Not provided  | Ex post  | Negative majority   | Dissolution of parliament or Interim cabinet formation   |

in 1990–1992, where candidates for prime ministers were nominated by the legislature along with president, as well as in Poland in 1992–1997, when the candidacy of a prime minister could be initially (in the first and third attempts to nominate the prime minister) offered by the president and later (after its no support, i.e. in the third and fourth attempts) by parliament, yet according to different decision rules within the same sequence. Finally, a specific case is presented by Czechia (since 2012), where a president nominates the candidacy of a prime minister during the first two attempts to form a cabinet, but instead it is the president from the submission of the speaker of the lower chamber of parliament after the failure of these two attempts (in the third attempt). However, the president’s participation in the nomination of the head or formateur of cabinet is not entirely a unilateral and standardised one, since up-to-date

and historical cases of European constitutional semi-presidentialism (except Poland in 1990–1992 and 1992–1997, Croatia since 2000, Czechia since 2012 and Finland since 1999) should be divided into the following groups, where: a) presidents nominate prime ministers or cabinet formateurs themselves (Armenia in 1995–2018, Austria in 1929–1934 and since 1945, Azerbaijan since 1995, Belarus since 1996, Bosnia and Herzegovina since 1995, Croatia in 1991–2000, Finland in 1919–1999, France since 1962, Iceland since 1944, Montenegro since 2006, Portugal in 1976–1982, Romania since 1991, Russia since 1993, Slovakia since 1999, Turkey in 2007–2018, Ukraine in 1996–2006 and 2010–2014 and the Weimar Republic in 1919–1933); b) presidents nominate prime ministers or cabinet formateurs with the consent/submission of parliaments, the largest/different parliamentary groups and factions, parliamentary coalitions, etc. (Bulgaria since 1991, Georgia since 2004, Ireland since 1937, Lithuania since 1992, Macedonia since 1991, Moldova in 1994–2001 and since 2016, Poland since 1997, Portugal since 1982, Serbia since 2006, Slovenia since 1991, Ukraine in 2006–2010 and since 2014, Yugoslavia in 2000–2003) (see table 2 for details).

Thirdly, it is important to consider ‘what’ and ‘when’ is a subject of parliamentary vote of investiture in a new cabinet, in particular a candidacy of prime minister, composition of cabinet, programme of cabinet, as well as their compatibility or incompatibility with each other. The votes of investiture in new cabinets or the investiture rules for cabinet formation can be both ‘ex ante’ (anticipatory) and ‘ex post’ (resultant) ones (Lupia 2003; Strøm 2003; Cheibub – Martin – Rasch 2013, 2021). The first ones come when parliament ‘elects’/confirms the nomination of a prime minister by a president and/or other actors, but the negotiation process for structuring a cabinet political platform and allocating ministerial portfolios takes place afterwards (after cabinet/formateur receives the investiture). Instead, the second ones occur when parliament verifies the composition and/or programme of a new cabinet for the status quo and its support, regardless of whether parliament checks the investiture in a nominee for prime minister. As for European constitutional semi-presidentialism, then its distinction of ‘ex ante’ and ‘ex post’ votes of investiture in cabinets is as follows: the first ones were or have been used in Azerbaijan since 1995, Belarus since 1996, Poland in 1990–1992, Russia since 1993, Slovenia since 1991, Ukraine in 1996–2006 and 2010–2014; the second ones were habitual or have been used in Armenia in 1995–2018, Croatia since 1991, Czechia since 2012, Georgia since 2004, Lithuania since 1992, Macedonia since 1991, Moldova in 1994–2001 and since 2016, Montenegro since 2006, Poland since 1992, Portugal since 1976, Romania since 1991, Serbia since 2006, Slovakia since 1999 and Turkey in 2007–2018. At the same time, there are the situations of combining or a sequence of two types of the votes of investiture in cabinets among some cases of European semi-presidentialism. For example, Finland since 1999 (as well as Yugoslavia

in 2000–2003) mainly uses ‘ex ante’ votes of investiture in new cabinets, but partially with the elements of ‘ex post’ votes of investiture, since the compositions and programmes of cabinets are discussed, although not voted on before the investiture (‘elections’ or approvals) in prime ministers. Instead, ‘ex ante’ and ‘ex post’ votes of investiture in new cabinets have been or were combined in Bosnia and Herzegovina since 1995, Bulgaria since 1991, Ireland since 1937, Ukraine in 2006–2010 and since 2014, because it is/was constitutionalised that parliament initially confirms candidacies for prime ministers, followed by confirmation of cabinets compositions and/or programmes. Finally, there are no votes of investiture in new cabinets in Austria (since 1945), France (since 1962) and Iceland (since 1944), as well as historically in Austria (1929–1934), Finland (1919–1999) and the Weimar Republic (1919–1933).

Fourthly, the principles of cabinet formation under European semi-presidentialism differ due to decision and procedural rules for obtaining the votes of investiture in cabinets by the legislatures, in particular by a qualified, absolute, relative or negative majority of MPs. The first three rules (qualified, absolute and relative majority systems) outline positive votes of investiture or positive rules for cabinet formation, meanwhile the fourth rule (negative majority system) and the absence of the investiture in cabinets by the legislatures apply to negative votes of investiture or negative rules for cabinet formation. Since there are no cases where qualified majority systems are provided for receiving the votes of investiture in cabinets among European semi-presidential countries (see table 3), then absolute majority rule (that requires support from more than 50 percent of the total number of MPs) is the strictest decision rule for cabinet formation. It is currently used or were used in semi-presidential countries such as Armenia in 1995–2018, Azerbaijan since 1995, Belarus since 1996, Croatia since 1991, Georgia since 2004, Macedonia since 1991, Moldova in 1994–2001 and since 2016, Montenegro since 2006, Poland in 1990–1992, Russia since 1993, Serbia since 2006, Ukraine since 1996 and Yugoslavia in 2000–2003. A less strict one is simple majority rule (which requires support from more than 50 percent of the MPs present in the legislature or participating in voting), which has been used in Bulgaria since 1991, Czechia since 2012, Finland since 1999, Ireland since 1937, Lithuania since 1992, Poland since 1997, Romania since 1991 and Slovakia since 1999. In particular, such a separate subtype as plurality rule (when the investiture in a cabinet is a support of a certain alternative of cabinet by a relative higher number of MPs than for any other alternative) has been used in Finland since 1999. A candidate for the position of prime minister in this country should receive a majority of votes of the MPs present in parliament initially (during the first and second attempts to form a cabinet). If this is not the case, the prime minister is the candidate who receives the most votes (over all other candidates) of the MPs present, which means that the cabinet in Finland is always formed. Finally, the least strict one

**Table 3: Decision rules on parliamentary votes of investiture in new cabinets in up-to-date and historical cases of European semi-presidentialism (as of December 2022)**

| Decision rule on parliamentary vote of investiture in cabinet | Mathematical form of the decision rule on parliamentary vote of investiture in cabinet | Type of rule of cabinet formation | Examples among up-to-date and historical cases of European semi-presidentialism   |
|---|--|-----------------------------------|---|
| 1. Absolute majority rule                                     | $Y > (N + A)$  | Positive                          | Azerbaijan (since 1995), Belarus (since 1996), Armenia (1995–2005), Armenia (2005–2018), Croatia (1991–2000), Croatia (since 2000), Georgia (2004–2013), Georgia (since 2013), Macedonia (since 1991), Moldova (1994–2001), Moldova (since 2016), Montenegro (2006–2007), Montenegro (since 2007), Poland (1990–1992), Poland (1992–1997, the first and second attempts to form cabinet), Russia (since 1993), Serbia (since 2006), Slovenia (since 1991, the first and second attempts to form cabinet), Ukraine (1996–2006), Ukraine (2006–2010), Ukraine (2010–2014), Ukraine (since 2014), Yugoslavia (2000–2003) |
| 2. Simple majority rule                                       | $Y > N$  | Positive                          | Bosnia and Herzegovina (since 1995, the first attempt to form cabinet), Bulgaria (since 1991), Czechia (since 2012), Finland (since 1999, the first and second attempts to form cabinet), Ireland (since 1937), Lithuania (since 1992), Poland (1992–1997, the third and fourth attempts to form cabinet), Poland (since 1997), Romania (since 1991), Slovakia (since 1999), Slovenia (since 1991, the third/last attempt to form cabinet)  |
| 2.1. Plurality rule   | $Y_i > Y_n$ for each $n$   | Positive                          | Finland (since 1999, the third/last attempt to form cabinet)  |
| 3. Negative majority rule                                     | $(Y + A) > N$  | Negative                          | Bosnia and Herzegovina (since 1995, the second attempt to form cabinet), Portugal (1976–1982), Portugal (since 1982), Turkey (2007–2018)  |
| 4. Non-existence of the vote of investiture in cabinet        | -  | Negative                          | Austria (1929–1934), Austria (since 1945), Finland (1919–1999), France (since 1962), Iceland (since 1944), the Weimar Republic (1919–1933)  |

Table 3 is partly based on Louwerse 2014. Legend:  $Y$  – voices for the support of the investiture vote in cabinet;  $Y_n$  – voices for the support of the investiture vote in alternative cabinet  $n$ ;  $N$  – voices against the investiture vote in cabinet;  $A$  – absent MPs and/or voices of those MPs who abstained from the voting for the investiture in cabinet.

is negative majority rule, which requires parliamentary support at the level when an alternative of prime minister or a cabinet should not be opposed by an absolute majority of MPs from the composition of parliament (Louwerse 2014: 3; Rasch 2014; Rasch – Martin – Cheibub 2015). This rule has been used in Portugal since 1976 and was used in Turkey in 2007–2018.

At the same time, special attention is paid to clarifying the decision rules on parliamentary votes of investiture in new cabinets in European semi-presidential countries such as Bosnia and Herzegovina since 1995, Poland in 1992–1997 and Slovenia since 1991. In Bosnia and Herzegovina, the vote of investiture in a new cabinet must be approved by a relative majority of the MPs of the lower chamber of parliament present, however, not by less than 1/3 of the MPs from each ethnic group (taking into account multi-ethnic population and a specific electoral system). If this is not possible, then the vote of investiture in a cabinet must be approved within negative majority rule, i.e. by a majority of the MPs present, provided that the MPs who vote against the cabinet do not make up 2/3 or more of all the members of each ethnic group in the legislature. In turn, the specificity of Poland in 1992–1997 was the design when absolute majority rule was applied initially (during the first and second attempts to form a cabinet within the nomination of candidates for prime ministers initially by president and then by the legislature), but in the case of failure, the rule shifted to relative majority (during the third and fourth attempts to form a cabinet according to the same sequence of nominations of prime ministers' candidates). Finally, the first and second attempts to form a cabinet in Slovenia require the support of an absolute majority of MPs in the lower chamber of parliament, and the third attempt requires the support of a relative majority of MPs in the legislature.

Thus, it is worth concluding that reducing the complexity of decision rules on the votes of investiture in new cabinets and their impact on inter-institutional relations under European semi-presidentialism are bimodal ones. On one hand, this means increasing the influence of presidents on cabinet formation. On the other hand, this reflects the simplification of cabinet formation by prime ministers who are opposed to presidents. This is especially true when the votes of investiture in cabinets require support of two chambers of parliaments under bicameralism (as presently in Romania and historically in Yugoslavia), because such institutional rule strengthens parliaments, as well as prime ministers and their cabinets. However, such an institutional design is extremely rare, since only the lower chambers of bicameral parliaments are almost always involved in the votes of investiture in new cabinets.

Fifthly, clarifying unsuccessful parliamentary votes of investiture in cabinets is also important in determining the rules for cabinet formation under European semi-presidentialism. In one group of countries (Czechia since 2012, Lithuania since 1992, Moldova in 1994–2001 and since 2016, Montenegro since 2006, Poland since 1997, Portugal in 1976–1982, Romania since 1991, Serbia since

2006, Slovakia since 1999, Slovenia since 1991, Ukraine in 2006–2010 and since 2014), they are or were the basis for the dissolution of the legislatures and early parliamentary elections. A similar situation is common for Georgia since 2013, since an unsuccessful vote of investiture in a cabinet leads to the dissolution of parliament and authorisation of the previous cabinet. Instead, in another group of countries (Armenia in 1995–2018, Belarus since 1996, Bulgaria since 1991, Croatia since 2000, Georgia in 2004–2013, Russia since 1993), unsuccessful votes of investiture in cabinets still lead or previously led to formation of permanent or interim cabinets, dissolution of the legislatures and their early elections. In contrast, the choice between dissolution and early elections of parliaments or interim cabinets' formation was previously common in Poland (1992–1997) and Turkey (2007–2018). In Azerbaijan, a new cabinet proposed by a president is considered formed even after failure of the vote of investiture, however, without dissolution of parliament. In turn, the votes of investiture in cabinets finally (in their last attempts) are always successful only in Finland, since they always end with cabinet formation. A similar consequence of the failure of the last attempt of the investiture in a cabinet manifest itself in a new cycle of the vote of investiture, like in European semi-presidential countries such as Croatia in 1991–2000, Ireland since 1937, Portugal since 1982, Ukraine in 1996–2006 and 2010–2014, Yugoslavia in 2000–2003, as well as actually (without constitutional regulations) in Bosnia and Herzegovina since 1995, Macedonia since 1991 and Poland in 1990–1992. This mostly means that all necessary conditions are created for compulsory cabinet formation, regardless of the number of the investiture attempts and without the threat of parliaments' dissolution.

In summarising the outlined cross-country and regional comparisons, it is necessary to state that the options and parameters of cabinet formation under semi-presidentialism in European countries are quite heterogeneous. Accordingly, the next section of the article focuses on systematising the differences in options and parameters of cabinet formation within the framework of European semi-presidentialism, but mainly with the aim of identifying and structuring their effects and outcomes. Additionally, its purpose is to verify whether these differences can indeed serve as analytical patterns and criteria for classification of semi-presidentialism, including within its division into president-parliamentarism and premier-presidentialism, as well as within democratic, hybrid and autocratic political regimes.

#### **IV. Effects and outcomes of cabinet formation under European semi-presidentialism: Analytical patterns**

One could argue that the cabinet formation process in semi-presidential countries, at least within the framework of a minimalist approach primarily used in the article, is not central to the understanding of semi-presidentialism as such,

since there are no principal differences from cabinet formation process under parliamentarism. In other words, most researchers believe that the options and parameters of cabinet formation in semi-presidentialism and parliamentarism are mostly more similar than different, including in terms of delineating several variations of formal and actual/informal powers of the heads of state and parliaments in this process. Therefore, deriving, justifying and verifying a truly new classification logic of semi-presidentialism based on the unique specificity and regulations of cabinet formation, which would be a highly focused and cohesive one, is quite challenging. Accordingly, semi-presidentialism (as well as parliamentarism) in terms of cabinet formation can be structured based on well-known differences, such as the particular competencies of the head of state and parliament, negative or positive rules for cabinet formation or absolute, relative or negative majority rules for parliamentary votes of investiture, etc.

Nevertheless, semi-presidentialism differs from parliamentarism in the popular election of a president, as well as in the significantly greater formal and/or actual powers of the head of state within the executive. This undoubtedly influences the president's interest in participating in cabinet formation, particularly with the aim of having a real role in the executive dualism. Given this background, it is indeed appropriate to identify conditional types of semi-presidentialism, at least depending on the formal and/or actual powers, as well as relative primacy of presidents compared to parliaments (or vice versa) regarding cabinet formation. Specifically, the previous section of the article revealed that presidents (and parliaments) can have relatively strong/stronger or weak/weaker formal and/or actual roles in cabinet formation. Thus, it is empirically important in this context to separate, correlate and systematise the political effects and outcomes of the constitutionalised procedures and options of cabinet formation (primarily the investiture votes) under European semi-presidentialism, particularly in relation to its types (president-parliamentarism and premier-presidentialism) and types of political regimes (democratic, hybrid and autocratic). This allows for the identification of certain more systematic and additional analytical patterns that relate to the existing and common classifications of semi-presidentialism within the attempt to taxonomy semi-presidentialism based on comparing the formal and/or actual roles of presidents and parliaments regarding various parameters of cabinet formation in different types of political regimes.

On one hand, there is a partial correlation between the types of semi-presidentialism, particularly based on the subject of collective responsibility (the possibility of early resignation) of cabinets solely to parliaments (premier-presidentialism) or both to parliaments and presidents (president-parliamentarism), and the relative strength of presidents and parliaments in the process of cabinet formation. Relatively strong or stronger formal (and actual) powers of presidents regarding cabinet formation are predominantly

determined and occur in the overwhelming majority of the cases of president-parliamentarism, although they are additionally intensified, when parliamentary investiture procedures for cabinets are nominally absent. Nevertheless, strong or stronger roles of presidents in cabinet formation statistically occur almost equally frequently, whether parliamentary votes of investiture are present or absent. Instead, relatively weak or weaker formal (and actual) powers of presidents in cabinet formation are statistically almost always associated with and occur in the cases of premier-presidentialism and even in some cases of president-parliamentarism. Furthermore, the weakening of presidents' roles in this context typically occurs due to nominal regulation of parliamentary votes of investiture in cabinets. In summary, this means that formal and actual strengthening of presidents (and weakening of parliaments) regarding cabinet formation is facilitated by president-parliamentary option of semi-presidentialism, as well as by the scenarios when parliamentary votes of investiture in cabinets are absent (at least compared to premier-presidential option and situations when votes of investiture are present).

In addition (to the aforementioned patterns), presidents strengthen their positions while parliaments weaken their influence in cabinet formation depending on: 1) which actors are entitled to nominate prime ministers, formateurs or cabinet alternatives (if it is only presidents, it often strengthens the heads of state, whereas if it is presidents along with parliamentary factions and speakers, it almost always strengthens the legislatures); 2) which are the consequences of the last failed attempt of a parliamentary vote of investiture in a cabinet (if the consequence is the nominal dissolution of parliament and/or the formation of an (interim) cabinet by president, it often strengthens the head of state; however, if there are other consequences, even the exceptional dissolution of parliament, it more frequently strengthens the legislature, surprisingly). Instead, factors such as the following do not have a direct impact on strengthening presidents in the context of cabinet formation (although they may have an influence on strengthening parliaments): 1) the permissible simultaneous number of formateurs or cabinet alternatives, more than 1; 2) the number of attempts or days to obtain a parliamentary vote of investiture in a cabinet or to form a cabinet in general; 3) the type of parliamentary vote of investiture in a cabinet (although the ex post options of parliamentary votes of investiture more frequently and likely strengthen the role of parliaments in cabinet formation); 4) the decision rule on a parliamentary vote of investiture in a cabinet (it is interesting that the strengthening of presidents in cabinet formation statistically occurs more frequently within an absolute majority system rather than a relative majority system, which contributes to nominal and actual strengthening of parliaments); 5) positive or negative rules for cabinet formation (which is broader than the mere presence or absence of parliamentary votes of investiture in cabinets). Overall, even though president-parliamentarism compared to premier-presidentialism does not always nominally strengthen

presidents in cabinet formation, the former tends to do so actually with greater probability. This is particularly evident considering the nominal feature that president-parliamentarism entails dual collective responsibility of cabinets to both presidents and parliaments, rather than solely to parliaments as in the case of premier-presidentialism.

On the other hand, the type of political regime (as of 2022 or the last year of operationalisation of constitutional semi-presidentialism, particularly as one of its consequences; see table 2 for details) indirectly affects the complexity or ease of cabinet formation in terms of a president's and parliament's political roles, and vice versa. The rules for cabinet formation (the votes of investiture) are, on average, procedurally more beneficial to presidents in autocratic and hybrid regimes, but to parliaments in democracies. This is manifested in indicators and components of the investitures in cabinets such as: 1) the actors entitled to nominate prime minister or cabinet alternatives (solely presidents in autocratic and half of hybrid regimes or presidents and members (leadership or parties) of parliaments in half of hybrid and almost all democratic regimes); 2) the number of attempts to obtain the investiture (on average, less in autocratic and half of hybrid regimes, but more in half of hybrid and most of democratic regimes); 3) the type of the investiture vote (mainly 'ex ante' (only regarding prime minister) in more autocratic regimes, but 'ex post' or both 'ex ante' and 'ex post' (regarding cabinet composition and even programme) in more democratic regimes); 4) the decision rule on the investiture vote (mainly absolute majority rule in autocratic and hybrid regimes, but relative majority rule in democracies); 5) the consequence of the investiture vote failure (still cabinet formation (even in parallel with parliament's dissolution) in more autocratic countries, but cabinet non-formation (often in parallel with parliament's dissolution) in more democratic countries). The exceptions are semi-presidential countries where presidents can form cabinets without the investiture votes or under negative investiture votes, which most often happens in non-autocratic (primarily more democratic) regimes where there is a proper political culture. In other words, negative rules for cabinet formation are currently inherent only to democratic countries, but have never determined autocratic cases of constitutional semi-presidentialism in Europe. Instead, positive rules for cabinet formation occur in semi-presidential countries with all possible types of political regimes.

In addition to this, an inverse relationship is also observed, since the simplification of the rules for cabinet formation (according to the investitures' indicators listed above) in favour of presidents contributes to the autocratisation, but in favour of parliaments (with the exception of rules without the investiture votes) – to the democratisation of constitutional semi-presidentialism, on average. The revealed correlation is strengthened by the distinction of semi-presidentialism into president-parliamentary and premier-presidential options. Thus, the up-to-date cases of president-parliamentarism (where a cabinet can

be dismissed not only by parliament, but by a president) definitely strengthen presidents in cabinet formation, but also increase the risk and level of autocracy of constitutional semi-presidentialism. In contrast, no up-to-date case of premier-presidentialism in Europe is autocratic, since this institutional design additionally contributes to the strengthening of parliaments in cabinet formation. Accordingly, the constitutional choice of semi-presidentialism and options of cabinet formation can influence the future type of political regime in a certain country, and therefore must be taken into account by scholars, politicians and constitutional engineers.

## V. Conclusion

Cabinet formation is certainly an attribute of semi-presidentialism, including in European countries, since the former is typically focused on the junction of relations between presidents and parliaments, as well as results of their elections. Even though cabinet formation is not traditionally seen as part of the existing definitions of semi-presidentialism. Nevertheless, constitutional rules and real practices, which structure and categorise European semi-presidentialism based on distinctive roles of presidents and parliaments, as well as options of parliamentary votes of investiture, are important in cabinet formation. This is especially relevant considering that the abilities of parliaments to approve or reject candidacies for prime ministers or alternatives of cabinets nominated by presidents are almost absolute, although very different under European semi-presidentialism (though with exceptions). The same applies to the almost ubiquitous abilities of presidents to dissolve parliaments when the latter are incapable of supporting cabinet formation, as well as the completely absolute abilities of parliaments to terminate prime ministers or cabinets under semi-presidentialism in Europe, regardless of its type (president-parliamentarism and premier-presidentialism) and type of political regime (democratic, hybrid or autocratic) within it. At the same time, the article systematises that European constitutional semi-presidentialism is characterised by various options of cabinet formation and investitures, in particular by different rules (positive or negative) and types ('ex ante', 'ex post' or both) of cabinet formation and the investiture votes, actors (solely presidents or presidents and parliaments) entitled to nominate prime minister or cabinet alternatives, as well as by different decision rules (by absolute, simple or negative majority), duration and number of attempts to obtain the investiture.

Nevertheless, deriving, justifying and verifying a new classification logic for semi-presidentialism based on cabinet formation is challenging due to its unique specificity and regulations. However, it is important to identify conditional types and patterns of semi-presidentialism based on formal and/or actual powers of presidents and parliaments in cabinet formation, as well as

their relative primacy. The comparative analysis allows for the identification of systematic patterns and additional insights into the constitutional and political effects and outcomes of cabinet formation procedures in different types of political regimes under different types of European semi-presidentialism. In other words, the options and rules for cabinet formation have different political effects under European semi-presidentialism, particularly in relation to its types (president-parliamentarism and premier-presidentialism) and types of political regimes (democratic, hybrid or autocratic). On one hand, the type of semi-presidentialism, as well as presence or absence of parliamentary votes of investiture play a significant role in determining the relative strength of presidents and parliaments in cabinet formation. President-parliamentarism, where cabinets are collectively responsible to both presidents and parliaments, tends to strengthen presidents in practice. Conversely, premier-presidentialism, where cabinets are solely responsible to parliaments, typically results in weaker presidential influence. Factors such as the nomination process for prime ministers and the consequences of failed parliamentary votes of investiture also contribute to the balance of power between presidents and parliaments. On the other hand, the type of political regime also affects the complexity of cabinet formation and vice versa, with autocratic (and partly hybrid) regimes favouring presidents, but democratic (and partly hybrid) regimes favouring parliaments. Additionally, the simplification of rules in favour of presidents contributes to autocratisation, while rules in favour of parliaments tend to promote democratisation, but with the distinction between president-parliamentary and premier-presidential options of semi-presidentialism.

Therefore, the patterns of cabinet formation under semi-presidentialism are inevitably constructed based on the patterns of cabinet responsibility, and this should be duly considered in constitutional engineering. Additionally, understanding these patterns highlights the importance of considering the constitutional choice of semi-presidentialism and cabinet formation options in shaping the future political regime of a country. However, it should be noted that cabinet formation does not directly determine the type of semi-presidentialism, although it does significantly structure and refine the types of semi-presidentialism based on the options and parameters of cabinet responsibility.

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# The Impact of Electoral Gender Quotas on Women's Political Participation in Bosnia and Herzegovina

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**Abstract:** *Although representing half of the world population, women remain largely excluded from political power and government structures. Various strategies have been introduced to increase women's political representation, including electoral gender quotas. This paper explores the impact of electoral gender quotas on women's quantitative participation in politics of Bosnia and Herzegovina, analysing quota impact in combination with other related factors, such as the quota design, implementation and broader political context. A diversity of techniques has been used to collect a combination of quantitative and qualitative data, including academic resources collection and analysis, desk research, statistical data analysis and online questionnaire. The paper argues that electoral gender quotas have generally had a positive impact on getting women elected in BiH, though their efficacy depends on their formulation and other aspects of electoral law. Still, quantitative representation of women is not sufficient to facilitate their agency in politics. Social attitudes also continue to affect the electoral success of women once they secure a spot on the candidate list. Therefore, quotas must be implemented within a broader democratic, accountable and gender-sensitive political context to deliver qualitative representation of women in politics. Finally, the paper offers concrete recommendations to promote women's political participation in BiH.*

**Keywords:** *women's political participation, gender equality, electoral gender quotas, Bosnia and Herzegovina, democracy, political culture*

## I. Introduction

According to the World Bank data for 2022, women represent almost half of the world's population. Therefore, the participation of women in social and political processes, in the context of human rights, should be at least approximate.<sup>1</sup> Although female contribution to the development of society is significant, both from the productive and reproductive aspects, throughout history women have been largely excluded from power and government structures (Connell 1987). Various social, structural and functional factors and circumstances influenced such a state of affairs, including the fact that some of the earliest and most prominent political thinkers and philosophers, such as Plato, Aristotle, Hobbes and Hegel, believed that women were intended exclusively for roles in the household, the roles of mothers, wives and housewives, and that they have no place in politics. This patriarchal relationship and the division of society into the private, non-political sphere, reserved for women, and the public, political sphere, reserved for men, persisted until the 19<sup>th</sup> century and the emergence of liberal political philosophy (Phillips 1998; Rai 2000).

Women's participation in political processes varies from country to country. The trend of increased participation of women in politics is more pronounced in developed democratic countries compared to less developed ones. However, women's overall participation in political decision-making processes is far below satisfactory (Clayton 2021). According to UN data from January of this year, women hold positions of heads of state in only 17 countries, and in 19 they hold positions of head of government. Based on the same data, women occupy 22.8% of ministerial positions worldwide, and in only 13 countries the number of women holding ministerial positions is 50% or more. The percentage of women parliamentarians is 26.5, and in only six countries is the number of women parliamentarians higher than 50%: Rwanda 61%, Cuba 53%, Nicaragua 52%, Mexico, New Zealand and the United Arab Emirates at 50% each (UN 2023).

Women's political participation is key to strong, vibrant and inclusive democracies (Hinojosa & Caul Kittilson, 2020). Yet, women remain under-represented in decision-making that affects them, their families and communities (van Heel Merdanovic 2020). Electoral gender quotas are an increasingly popular response to addressing women's under-representation in elected office, having been introduced in more than 100 countries worldwide (Dahlerup 2006). Gender quotas do aim to ensure a level playing field in politics; however, their impact – positive or negative – and their success factors are not uniformly analysed or recognised. 'Quota proponents see them primarily as a means to

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1 According to the World Bank data, the number of women in Bosnia and Herzegovina in 2021 was 50.8% out of the total population. <https://data.worldbank.org/indicator/SP.POP.TOTL.FE.ZS?locations=BA>

improve the representation of women, while their opponents emphasise the potential threat to meritocratic selection' (Besley et al. 2017: 2005).

To address inequalities, gender quotas have also been introduced across the Western Balkans, including in Bosnia and Herzegovina (BiH). However, since their introduction in Bosnia and Herzegovina in 1998, gender quotas have delivered varying degrees of success in getting women into elected office (Boric 2004). After the last 2022 elections, women's representation in the lower house of parliament of Bosnia and Herzegovina was at 16.7%; however, this figure has greatly varied since the quota introduction, from 28.6% women parliamentarians in 1998 to 7% in 2000, to 19.1% today (Inter-Parliamentary Union, April 2023). Various factors that may have contributed to the success or failure of electoral gender quotas in Bosnia and Herzegovina need to be explored, such as their enforcement or the broader political context.

## II. Literature review

While gender quotas can take various forms, this paper addresses electoral gender quotas, namely legal quotas enacted through electoral code provisions, commonly prescribing that all political parties nominate a certain percentage of women candidates on their party lists or less commonly within the broader group of single-mandate districts, depending on the electoral system. Campa and Hauser explain that the main objective of gender quotas is to reduce gender gaps in numeric representation on electoral lists and in the targeted elected offices (Campa – Hauser 2020).

Gender quotas vary in terms of their formulation. 'Legal quotas generally call for women to form between 25 per cent and 50 per cent of all parliamentary candidates nominated by political parties. In most instances, the language of these measures is gender-neutral, speaking of women and men together or making reference to the "under-represented sex"' (Norris – Krook 2011: 29). Yet, Norris and Krook further emphasise that the legal definition of quotas is not equally precise in terms of a clear articulation of the desired goals: some countries, such as France, use the vague formulation 'facilitating access', while others offer unambiguous and concrete guidelines and instructions regarding the selection and placement of female candidates. The latter situation exists in countries such as Belgium, Argentina and Costa Rica. Since these issues are clearly defined by law, they are at the same time subject to supervision and control by external bodies such as electoral commissions, as in the case of Mexico and Portugal. In addition, any non-compliance with legal provisions related to gender quotas entails appropriate sanctions (2011).

In terms of gender quota impact, political scientists such as Dahlerup and Krook argue that the presence of gender quotas as special measures can have a positive impact on women's representation and democracy overall, provided

such measures are effectively designed and enforced (Dahlerup 2006; Krook 2006). In accordance with this thinking, Camp and Hauser point out that 'Quotas increase women's representation in electoral lists, but only when they are binding and appropriately enforced (i.e. the cost for parties for not complying with the quota must be high enough)' (2020: 4). On the other hand, the same authors emphasise that when quotas are used only for the purpose of creating electoral lists with female names being deliberately and strategically placed in 'not-winning' positions and from which there is a very low probability that they will be elected, this kind of tactic using electoral quotas has the potential to seriously undermine the effect of the principle of electoral quotas on the election of women. (2020)

Quota critics, on the other hand, perceive gender quotas as undemocratic, violating voter's rights, imposing a concluded order of candidates or placing women in positions of no influence, hence not contributing to women's actual agency in politics (Tuffy 2011). Tuffy further highlights the discriminatory nature of gender quotas as they are used to discriminate against both women and men. Namely, the proposed gender quotas mean that candidates will be excluded from the voting lists solely on the basis of gender quotas, which makes such a discriminatory procedure legally mandatory (2011). Bittner argues that forced parity would result in forced representation: 'It would question voter judgment and pre-engineer a certain result. It would impair the freedom of parties to nominate their best candidates. It would install a discriminatory principle that could eventually swing back at the very group it aims to emancipate. Nor will quotas, in the immediate term, do anything to overturn the root causes of gender disparity in political representation' (Bittner 2019).

Finally, some researchers go as far as claiming that gender quotas improve the overall quality of politicians and have broader benefits to societies. Besley et al. argue that a gender quota improved the quality of politicians in Sweden, particularly men. By giving special impetus to meritocracy, gender quotas have influenced the strengthening of the competences of politicians where the representation of women has increased the most. They argue that: 'the resignation of mediocre male leaders was a key driver of this effect' (Besley et al. 2017: 2204). Similarly, Baltrunaite et al. find that a gender quota improved the average education of elected politicians in Italy (2014).

Gender quotas in Bosnia and Herzegovina were first introduced after the war in 1998 by the Provisional Election Council, as a result of an active women's campaign, requiring at least 30 percent women on every party list and prescribing that at least three women be included among the first ten candidates on electoral lists. Implemented within the framework of closed electoral lists, the quotas delivered 30 percent women MPs, namely 13 out of 42 officials elected to the House of Representatives of the BiH Parliamentary Assembly. Still, application of the quota regulation was not without difficulties, with some parties ignoring the provisions, others filling the women positions on the lists with inexperi-

enced peon women or so-called alibi women relatives, to be easily controlled or replaced (Boric 2004). In 2013 the gender quota threshold was raised to 40%.

In 2020, Article 4.19 was included in the Election Law of Bosnia and Herzegovina, originally ‘stipulating one-third representation of women... applied to all party lists’, to be implemented in the 2000 election within the framework of an open-list proportional representation system. The gender quota requirements ‘passed in Bosnia in 2000 were made more precise in 2001 to specify the positions on party lists where female candidates had to be placed: at least one woman among the first two candidates, two among the first five, and three among the first eight’ (Krook 2009: 49).

Today, Article 4. 19. (3) of the Election Code prescribes that ‘every candidate list shall include candidates of male and female gender, who are equally represented. Equal representation of the genders shall exist in case when one of the genders is represented with minimum of 40% of the total number of candidates on the list. The minority gender candidates shall be distributed on the candidates list in the following manner: at least one minority gender candidate amongst the first two candidates, two minority gender candidates amongst the first five candidates, and three minority gender candidates amongst the first eight candidates, et seq’ (International IDEA, QuotaProject, Bosnia and Herzegovina 2018).

However, to what extent electoral gender quotas have ensured women’s place and influence in the politics of Bosnia and Herzegovina is to be further explored. Without understanding the broader electoral and political context, an isolated analysis of gender quotas may deliver inaccurate conclusions and possibly ill-informed policy decisions.

### **III. Research design and methodology**

#### **3.1 Research Design**

This research paper explores the impact of electoral gender quotas on women’s quantitative participation in politics of BiH, analysing the impact of quotas in combination with other related factors, such as their actual design and implementation, and the broader political culture and context they are part of.

More specifically, the following research questions will be examined:

1. What impact do electoral gender quotas have on women’s quantitative representation in politics of Bosnia and Herzegovina?
2. Does quota formulation have a significant influence on its success?
3. What additional factors, such as the broader political culture and context, contribute to women’s political representation?
4. What conclusions and recommendations can be made about the broader quota and policy framework most conducive to advancing women to politics?

The research is based on one dependent variable, women's political representation in Bosnia and Herzegovina, and a set of independent variables, namely electoral gender quotas, quota design and enforcement, political situation and context.

Based on research objectives and research questions, the following hypotheses will be tested in the paper:

- H1:** An electoral gender quota with a higher threshold, strict placement order and effective sanctions for non-compliance has broadly contributed to higher women's political representation in Bosnia and Herzegovina.
- H2:** Women's quantitative representation has not automatically translated into women's qualitative representation in Bosnia and Herzegovina, demonstrating the limitations of the impact of electoral gender quotas.
- H3:** Progress in women's political representation is not necessarily linear in Bosnia and Herzegovina, but is rather influenced by a complex web of related factors, such as political and cultural context, ethnic tensions and the activity of women's movements.

### **3.2 Research Methodology**

The methodology was carried out in four phases, preparatory phase, literature review, data collection and drafting phase, as per the timeline below. A diversity of techniques has been used to collect a combination of *quantitative* and *qualitative* data, including academic resources collection and analysis, desk research, statistical data analysis and online questionnaire. The preparatory phase defined the research methodology, identifying the specifics of electoral quota measures introduced in Bosnia and Herzegovina since 1998, administering an online questionnaire to the wider public in BiH on their perception of the impact of the gender quota. The literature review phase collected and analysed academic resources, including books, articles and journal editorials. Collection and analysis of relevant quota legislation, practitioner's guidebooks and relevant reports has also been undertaken.

The data collection phase commenced with a quantitative analysis of women's numeric representation levels before and after introduction of electoral gender quota in BiH, and measure of change, conducted through historic and statistical data collection and analysis, using the IPU Database on Women in Parliaments. A qualitative analysis of quota impact on women's substantive representation levels was conducted through the primary data collected from a questionnaire administered online and targeting the wider public in BiH. Specific attention was paid to ensure diversity among the research objects, including questionnaire respondents and interviewees, focusing on diversity in demographic characteristics, such as gender, age, professional affiliation

and place of residence. The drafting phase summarised the findings, preparing a draft report for review, with comments and suggestions taken into account in the preparation of the final draft.

**Table 1: Research timeline**

| Research phase          | Task   |
|-------------------------|--|
| Preparatory phase       | Preparation of research methodology, including target audience for the questionnaire and individual interviews.  |
|                         | Design of data collection tools, such as the online questionnaire form and interview questions.  |
| Literature review phase | Collection and analysis of academic resources for the literature review, including books, articles, columns.   |
|                         | Collection and analysis of relevant quota legislation, practitioner’s guidebooks and reports.  |
| Data collection phase   | Quantitative analysis of women’s numeric representation levels before and after introduction of electoral gender quota, and measure of change, conducted through historic and statistical data collection, using the IPU Database on Women in Parliaments. |
|                         | Analysis of quota impact on women’s representation levels, conducted through survey results  |
| Drafting phase          | Preparation of draft paper for review  |
|                         | Finalisation of paper  |

### 3.3 Research limitations

While the present research seeks to address a multitude of aspects that affect the success of quotas, it is not without shortcomings. Two main limitations to the present methodology have been identified. The first one is that it does not look at the quantitative representation of women at the canton’s level or in the upper house of BiH’s parliament. Considering the complex federal structure of BiH, additional research would be worth exploring whether the quota, or lack thereof, has different outcomes at different levels of government. This would have contributed to a more well-rounded understanding of the political participation of women. Secondly, the qualitative or substantive representation of women in the House of Representatives has not been considered in-depth.

While this research provides an overview of the quantitative representation of women as perceived in the attitudes of the public, it does not inquire into how women exercise influence in politics, how women in parliament address issues that might affect women, and to what extent women in politics represent the interests of women as a group in society. Such an inquiry would be important for understanding whether women's quantitative representation translates into qualitative representation. At the same time, it is difficult to research qualitative representation, as it requires a strong theoretical underpinning on what is to be considered a woman's issue in societies, as well as lengthy data analysis. As such, it was not feasible to include this aspect in the current research design. Even though the qualitative aspects have not been considered in their entirety, the survey offers an insight into whether the public, namely potential voter, perceives women's representation in parliament to be symbolic or substantive, which could be a starting point for a more in-depth analysis of qualitative representation to be tackled by future research.

#### **IV. Quotas and the quantitative representation of women in Bosnia and Herzegovina**

In order to test H1, this section will provide an overview of women's quantitative representation in the lower chambers of the parliament of Bosnia and Herzegovina over time, starting with the first election in 1996 until the most recent election in 2022. The changes perceived over time in the number of women elected will be divided into three periods: 1) before the gender quota of 1998, 2) after the gender quota of 1998 and 3) after the amendment to the gender quota in 2013. This would allow for an analysis of how the political representation of women has changed before and after the quota was instituted, and how the modifications in the formulation of the quota have affected representation.

Bosnia and Herzegovina is a federal state, with 13 parliaments and a complex multi-level system of governance. The gender quota was instituted in BiH in 1998 for the first time as a result of women's advocacy for political participation, the peer impact of other countries in the region introducing gender quotas, and the heavy presence of the international community in the post-war period (Aganović et al. 2015). According to the quota, 30% of the candidates on each party list needed to be from the less-represented gender (Borić 2004). The quota today is stricter, with clear placement rules and a threshold of 40%. The following section explores to what extent the introduction of the quota, and its subsequent modifications in the formulation have affected the quantitative representation of women in BiH's House of Representatives.

## **4.1 Gender quota in 1998**

The first parliamentary election of 1996 was the only election in BiH that was conducted without a gender quota in place. Out of the 42 elected members, only one was a woman, meaning that women's representation before a gender quota was instituted was 2.4% (see Figure 1). This shows that the starting point of women's participation in politics, without a quota in place, was almost inexistent. The barriers, be they institutional or social, were addressed with the first quota of 30% instituted in 1998. Therefore, the following elections of 1998 produced a different outcome. The implementation of the quota on candidate lists, with a target of 30%, led to a significant increase in the representation of women in the House of Representatives. In fact, to date, no subsequent parliamentary election has achieved as high a percentage. The explanatory factor for the record number of women in parliament lies in the interaction between the gender quota provision and the closed ballot system. The 1998 election was the only election with a closed list system, which also applied a gender quota on candidate lists. Voters could not cast a preferential vote for a specific candidate, and so women were elected based on the previously decided candidate list order (Hogić 2021: 9).

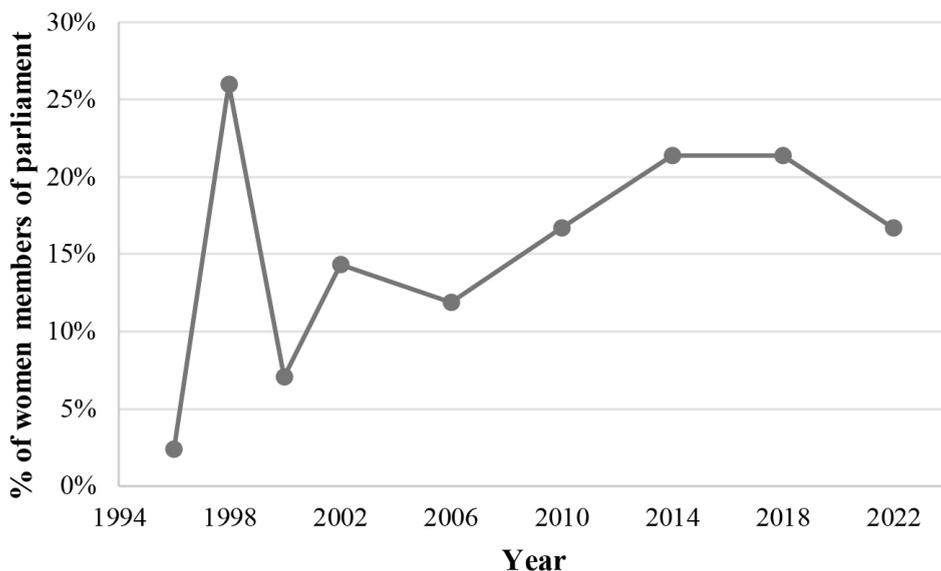
From 2000 onwards, the electoral law was modified and an open ballot system was adopted. This explains why all elections after 1998 have led to a lower quantitative representation of women. Namely, the following four elections in 2000, 2002, 2006 and 2010, which were all conducted under the electoral gender quota of 30% on candidate lists, show that the electoral representation of women was not stable. The elections of 2000 saw a significant drop, from 26% to 7.1% (see Figure 1), due to the introduction of preferential voting (Hogić 2021: 9). The following three elections in 2002, 2006 and 2010 saw some increase; however, the representation of women remained well below 20% (see Figure 1).

## **4.2 Gender quota of 2013**

In 2013, the gender quota was reformed. A higher threshold of 40% was instituted, as well as a strict placement order and effective sanctions for non-compliance. Candidate lists that did not adhere to the quota cannot be accepted by the electoral administration. The modified quota increased the quantitative representation of women in parliament. In the elections of 2014 and 2018, the representation of women was stable at 21.4%, followed by a decrease to 17% in the most recent election in 2022. This shows that undoubtedly a higher quota threshold leads to better outcomes in terms of women's representation. Still, the open ballot system remained an obstacle and even the elections with a 40% threshold could not reach the 26% of 1998. It is puzzling why such a strict gender quota has not resulted in a more significant representation of women in

BiH's House of Representatives. The continued underrepresentation of women may be explained both by the interaction between quotas and other aspects of electoral law such as the previously noted open list system, and the low district magnitude. Oftentimes, a candidate list will only get one seat per district, which goes to the carrier of the list. The leader of the list is rarely a woman, as the quota provisions do not require gender balance in this aspect.

**Figure 1: Changes in women's representation in BiH national parliament over time**



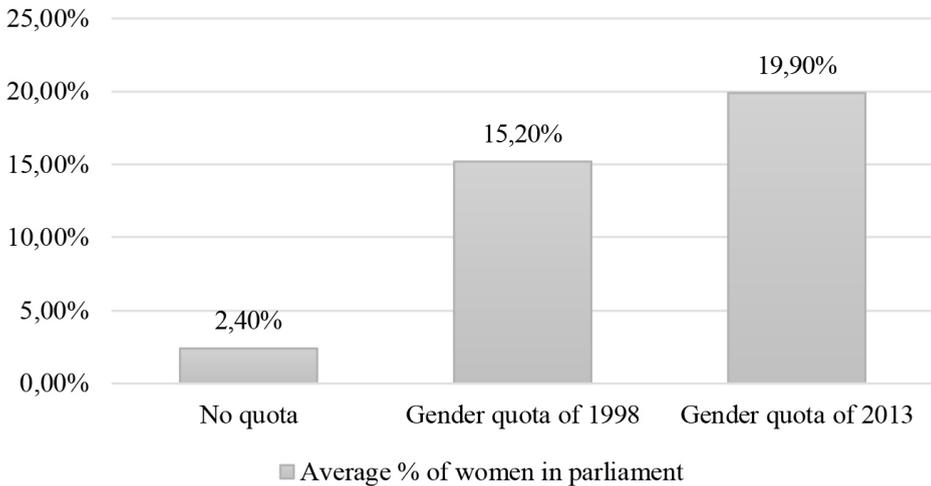
Note: data retrieved from IPU Statistical Database on Women in national Parliaments, <http://archive.ipu.org/wmn-e/classif-arc.htm> and IPU Parline Global Data on National Parliaments, [https://data.ipu.org/content/bosnia-and-herzegovina?chamber\\_id=13346](https://data.ipu.org/content/bosnia-and-herzegovina?chamber_id=13346)

## V. Statistical analysis and findings

Using a simple statistical analysis, it was found that gender quotas are strongly positively correlated with the representation of women in parliament. The increase of women in parliament between 1996 and 1998 is 23.6%, which is significant, and shows that the introduction of a gender quota did make a difference in BiH (see Figure 2). In terms of the formulation of the quota, the average representation of women under the first quota formulation of 30% and the modified quota formulation of 40% can be compared. Under the electoral quota introduced in 1998, the average representation of women was 15.2%,

taking into account the elections of 1998, 2000, 2002, 2006 and 2010. Since the introduction of a higher threshold in 2013, the average representation of women has risen to 19.9%. This means that there has been a 4.7% increase in the average overall representation of women, showing that there is a strong positive correlation between the higher threshold quota and the representation of women in the lower house of the parliament.

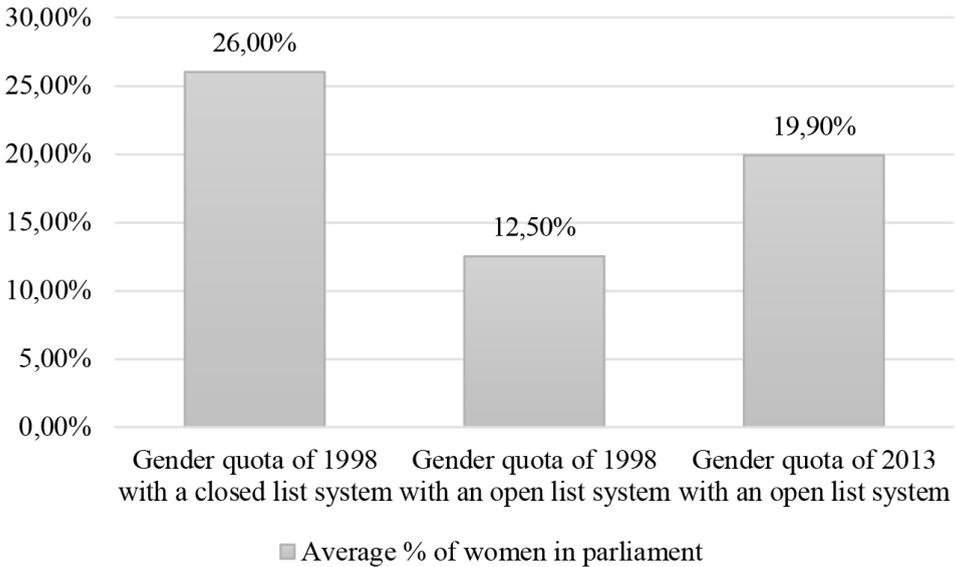
**Figure 2: Average % of women in BiH national parliament based on quota existence and formulation**



Source: Authors.

An additional finding that emerges from this analysis is that gender quotas can be impeded by other aspects of electoral law, such as ballot structure (Gavrić 2023). In the case of BiH, the representation of women was highest when the gender quota threshold was 30% and elections were conducted with a closed ballot system (see Figure 3). If we take into account the ballot structure, and look only at the elections of 2000, 2002, 2006 and 2010 where the 30% gender threshold applied but the elections used an open list ballot, then the average representation of women was 12.5%. This means that the modification of the threshold of the gender quota from 30 to 40%, when controlling for elections conducted with an open ballot system, led to an increase of 7.4% in the average representation of women (see Figure 3).

**Figure 3: Average % of women in Bosnia and Herzegovina national parliament based on quota formulation, controlling for ballot structure**



Source: Authors

In the 2000–2022 elections, despite the fact that the candidate lists met the threshold, women’s representation diminished due to preferential voting. This is a notable finding as it reveals how societal attitudes as part of a complex web of factors can impact the quota’s effectiveness. According to feminist institutionalism, open lists are disadvantageous to women’s representation, as they drive women down on the candidate lists (Schwindt-Bayer 2009). As the next section discusses, voters may believe that they are neutral in their choices of candidates and that they base their choices on competence rather than gender. Yet, the results show clearly that when preferential voting was introduced in BiH, women became less likely to get elected. Gender roles affect electoral outcomes. As will be shown in the next section, men are more likely to hold negative attitudes towards women’s participation in politics. This is reflected not only in the preferential votes of voters but also in the political campaigns and choices made by political parties. Namely, the gender quota does not stipulate that there should be a gender balance in the number of women leaders on electoral lists (Lippmann 2021). Therefore, women are rarely carriers of the list, showing that parties continue to be male-dominated and impacted by gendered attitudes. Even when they are placed in higher-priority positions, women may get less visibility in party campaigns or may be subject to biased media coverage.

Therefore, the lack of exposure they receive negatively impacts their ability to get votes in an open ballot system.

In summary, the formulation of gender quotas in BiH has an impact on women's representation in parliament. A higher quota threshold is a powerful way to increase women's participation in politics. Yet, the quota cannot be seen in isolation from other institutional and social factors. The analysis showed how closed ballot systems produce better outcomes even with lower quota thresholds. Additionally, lower district magnitude can negatively impact women's representation. Finally, the impact of societal norms and attitudes cannot be understated, especially in light of BiH's preferential voting system.

## **VI. Attitudes towards gender quotas: A survey**

To better understand the effectiveness of gender quotas in BiH, a survey examining public attitudes to electoral gender quotas was conducted. The survey consisted of 12 multiple-choice questions, and one final open-ended question, distributed to the public in Bosnia and Herzegovina in the local language. The questions varied in their nature, examining both the level of familiarity of the respondents in terms of what quotas are and the purpose they serve, as well as attitudes towards women's participation in politics and BiH's political landscape in general. The questions seek to provide a comprehensive overview of the perceptions towards quotas.

In terms of representativeness, the survey received 325 responses, of whom 64.9% were by women and 35.1% by men. The respondents varied in age, with 41.8% between 30 and 50, 37.8% under 30 and 19.7% over 50. A majority of the respondents came from Sarajevo, the capital city, and a smaller percentage from smaller cities or villages in BiH. Additionally, a variety of professional backgrounds were represented, with the biggest percentage of respondents working in public administration – 41.2%. While the survey fairly represents a variety of ages and professional backgrounds, it is worth noting that there is a gender imbalance among the respondents.

### **6.1 Familiarity with gender quotas**

The first set of questions seeks to understand the level of familiarity respondents have with gender quotas. When asked if they vote regularly in elections, 81.2% of the respondents reported that they do and only 6.7% of the respondents said they do not vote. Despite the large percentage of regular voters, only 32.9% of the respondents reported that they understand what gender quotas are and the purpose they serve (see Table 2). Out of the men that filled out the survey, only 21.9% knew the purpose of gender quotas, whereas among the women this percentage was higher at 38.8%. Some 18.2% of all respondents said they had

never heard of gender quotas (see Table 2). The remaining respondents said that they had heard of this term but were unsure of its meaning or do not understand it. Considering that voter turnout in national elections in BiH has not exceeded 55% since 2002 (Voter Turnout Database: Bosnia and Herzegovina, 2022), the respondents in this survey perhaps represent a group of the electorate that is more active than the average voter. Still, a minority of respondents reported that they understand the nature and purpose of gender quotas, which may signal that the real understanding of the phenomenon among the population is even lower than the results of the survey showcase.

**Table 2: Survey results to the question ‘Have you ever heard about electoral gender quotas in BiH?’**

| Have you ever heard about electoral gender quotas in BiH?           |     |
|---|-----|
| I heard about quotas and am very familiar with this idea.           | 33% |
| I have never heard this term before.                                | 18% |
| I have heard about quotas, but I am not sure what exactly they are. | 23% |
| I may have heard of it.   | 12% |
| Not sure.   | 14% |

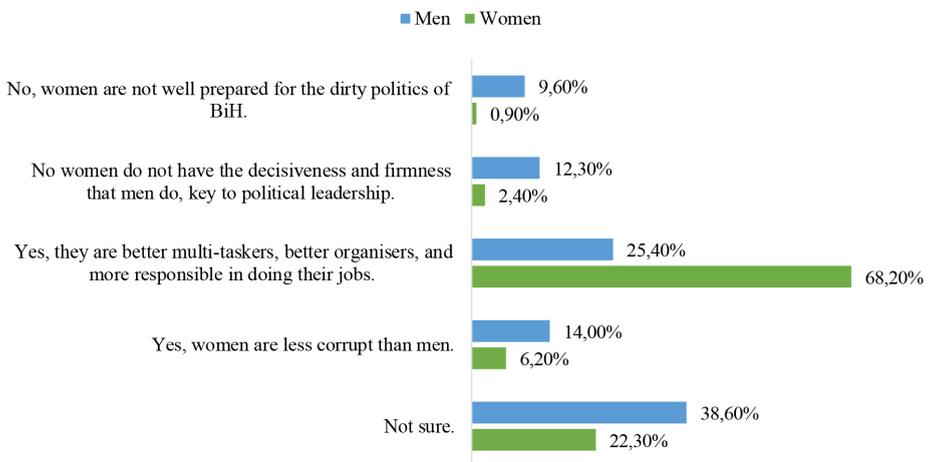
Source: Authors

## 6.2 Attitudes towards women in politics

The survey then proceeds to examine attitudes towards women in politics. When asked whether they believed women were adequately represented in politics in BiH, more than half of the respondents said they did not believe women are adequately represented because men dominate politics. Another 20% said they believed women are represented in terms of numbers, but that they have limited influence on politics in BiH. And 2.5% of respondents said that women are indeed not represented, but that is because politics does not interest them as much. Only 11.7% of the respondents believe that women are appropriately represented. In terms of representation, we can distinguish between symbolic and substantive representation, where symbolic refers to the quantitative representation of women, whereas substantive representation refers to the ability of the women who are part of politics to genuinely represent the interests of women. According to the survey responses, a significant majority of respondents, 71.4%, believe that either the symbolic or substantive representation of women in politics is lacking in BiH.

Additionally, the survey shows that a majority of respondents hold positive attitudes towards women in politics, seeing their representation as advantageous. More than half of the respondents said they believe women are better multi-taskers, organisers and more responsible in doing their jobs. And 8.9% of respondents said that they felt women are less corrupt than men (see Figure 5). A minority of respondents, 9.8%, held that women are not fit for politics, either because they lack the decisiveness needed for political leadership, or because they are not capable of dealing with the ‘dirty politics’ of BiH. Among these 9.8%, the majority of respondents were men (see Figure 5). This view was also more present among respondents who live in small towns, as opposed to the capital or a bigger city.<sup>2</sup>

**Figure 4: Responses to the question ‘In your opinion, is there any advantage to having more women in politics?’, divided by the gender of respondents.**



Source: Authors

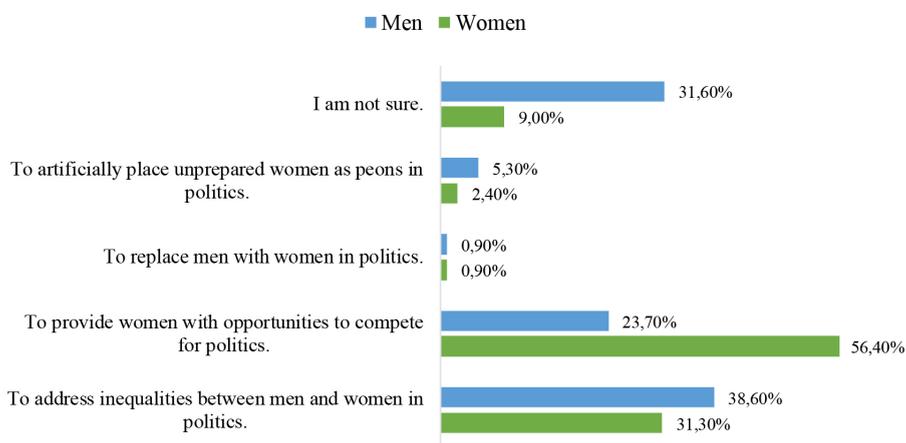
### 6.3 Support for gender quotas

In the survey, most respondents showcased an understanding of why gender quotas would be a valuable policy in a country like BiH. Most respondents saw the need for quotas as a means to address gender inequalities and provide a level playing field for men and women in politics (see Figure 5). Still, 16.9% of respondents were not sure why such a measure would be necessary. A minority

<sup>2</sup> 17.9% of respondents from small towns felt that women are not fit for politics, all of whom are men. Among the respondents from other large cities or the capital, only 8.2% of respondents felt that women are not fit for politics.

of respondents, 3.9%, said they believe that gender quotas serve to artificially place unprepared women as peons in politics, and 0.9% said that quotas serve to substitute men with women in politics (see Figure 5). What emerges out of these responses is that 4.8% of respondents believe that gender quotas exist for malicious purposes or to advance corrupt practices in politics. Among this 4.8% there is an equal number of male and female respondents; however, fewer men than women responded to the survey overall. This shows, once again, that the negative attitudes on the purposes of quotas are more diffused among men than women.

**Figure 5: Responses to the question ‘In your opinion, why would countries like BiH introduce electoral gender quotas?’, controlling for the gender of respondents**



Source: Authors

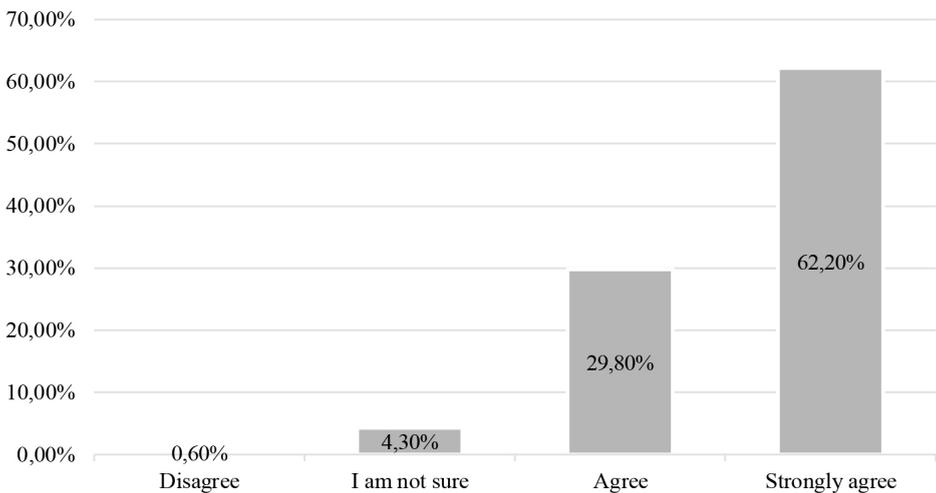
Almost 80% of respondents support or strongly support measures such as gender quotas. But 9.6% of the respondents said that they do not support the measures, either because they hold that it is an antidemocratic measure or that it discriminates against men. Out of the 31 respondents that do not support gender quotas, 27 are men and most of them work for the public administration.

The respondents were surveyed using a 5-point Likert scale on their views on five different statements. These results read together provide a valuable qualitative overview of the perceptions related to gender and politics among the public in BiH.

While most of the respondents agreed with statements such as ‘women and men are equally capable for politics in BiH’ and ‘women should be more represented in politics – it would benefit everyone’, concluding that the respondents understand and support gender quotas should be approached with

caution. Namely, the respondents were most united in their agreement with the statement that ‘capable people, regardless of whether men or women, business people, police, civil society, youth, can do much more than politicians to improve our society’ (see Figure 6). Only two out of 325 respondents did not agree with this statement. This is an important result to take into consideration because it firstly dismisses gender equality as a central priority in the bettering of society, and secondly, shows that there is little faith in politicians as agents of positive change.

**Figure 6: Likert scale responses to the statement ‘Capable people, women, men, businessmen, police, civil society, youth, can do much more than politicians to improve our society’.**



Source: Authors

Respondents seem to overwhelmingly agree with a statement that dismisses the logic behind quotas by focusing on ‘capable people, regardless of whether women or men’. This creates a contradiction between the results of this statement and previous statements, where respondents seem to agree that equal gender-based representation is an important aspect of politics that would bring about benefits. This is further shown in the responses to the last question of the survey, where respondents are given a choice of potential solutions to improve the quality of politics in BiH. Only 11.7% of respondents said that they see gender equality in politics as a solution. As opposed to that, 23.4% of respondents believed that youth representation is an important solution to the political reality in BiH. What emerges out of these results is that despite the previous results

in which respondents showed support for the equal representation of women, most do not see this as a central priority in politics.

Respondents agree that it is indeed other actors in society, who are distinct from politicians both by profession and capability, who could bring positive change in BiH. Therefore, measures such as gender quotas that regulate the gender representation of politicians are seen as less effective in bringing about change because they are still directed towards politicians. This is a fundamental point of contestation on the effectiveness of gender quotas in BiH and is further developed through the responses to the last statement: 'Quotas, or any other laws, can only have limited impact in the corrupt politics of BiH.' The majority of respondents agreed with this statement. In the last question of the survey, 50.5% of respondents said they believe the best solution to improve the quality of politics in BiH is to 'get rid of today's corrupt political elite, men or women'. This shows that the public in BiH has little faith in measures that aim to improve the representativeness of a system that they see as deeply corrupt. This sheds some light on the views of the public on the effectiveness of measures such as gender quotas, regardless of whether they find them ethically and morally agreeable.

The final section of the survey was left open for any additional comments. These are useful to add context to some of the results seen throughout the survey. Out of 36 comments, six make reference to the corruption in the system as a key issue that makes gender quotas ineffective or irrelevant in BiH.

*'It is nice that there are gender quotas, but they do not have a big effect on the reality in which we live.'*

*'Previous experiences have shown that the small number of women in politics are corrupt.'*

Some comments expressed support for gender quotas in theory but underlined their flawed implementation in practice.

*'The gender quota in Bosnia and Herzegovina was introduced only formally in order to "satisfy" the expectations of European or international organizations that seek to implement reforms, but in reality, the quota does not exist.'*

Seven out of 36 comments expressed that gender should not be important when electing politicians, but that qualifications and competence should be decisive.

*'Whatever position it is about, it is very important that people who are capable of doing it are chosen, and not look at their gender, orientation, nationality, religion, etc.'*

This comment makes a potentially relevant point about gender quotas in the context of a society plagued by other politically salient divisions, such as ethnicity and religion. The risk of gender quotas being seen as yet another affirmative action that exacerbates the differences between groups in a society is an important aspect to be analysed in the context of BiH. Another comment also made reference to BiH as a ‘divided society’, but held that gender quotas are a positive measure in this context:

*‘Any kind of measure of equality between people is a positive milestone in our divided state politics.’*

## **6.4 Findings**

The survey shows that for most respondents, quantitative representation of women is not sufficient, but importantly that it cannot be translated into qualitative representation. The effects of quotas, according to some respondents, are stifled by corruption and structural political issues. What also emerges from the survey’s questions examining attitudes, is that gendered attitudes towards women still affect their respective representation. In terms of the statistical analysis, this further shows how attitudes lead to electoral results which exclude women especially in the context of open ballot systems. These findings confirm the limited impact of electoral gender quotas on qualitative representation, as set out by H2. Equally, the findings point to the complexity surrounding women’s political representation in BiH which cannot be fully addressed by quotas. Instead, societal attitudes towards women, but also to affirmative action measures in general, interfere with the efficacy of the measure. Therefore, the substantive representation of women in BiH has to be addressed comprehensively, which includes the quota alongside a set of other efforts that address the complex dynamics at play. For that reason, this paper will conclude with a set of reflections and recommendations.

## **VII. Paying it forward: Conclusions and recommendations for improving women’s representation**

This research aimed to address women’s political participation in BiH, using a mixed-method approach to understand both the quantitative and substantive representation of women. In the quantitative section, the focus was mainly placed on women’s representation in the lower house of BiH’s parliament which has been subject to a gender quota since 1998. The qualitative section relied on a survey to examine the attitudes towards and familiarity with quotas and women’s representation in the country. What emerged from the analysis is that gender quotas are indeed an effective tool for advancing women’s numeric

representation. Over time, with some fluctuation, gender quotas have made a meaningful difference in the number of women sitting in BiH's parliament, showing that gender quotas work, but are only as effective as their formulation. Higher quota thresholds guarantee better outcomes, considering the increase in women after the 2013 modification to the quota. At the same time, gender quotas interact with other aspects of electoral law such as ballot structures. The quantitative analysis accounts for changes in representation on the basis of whether ballots are closed or open. This shows that the effectiveness of gender quotas depends on a complex set of legal, political and social circumstances.

The interaction between social attitudes towards women and the effectiveness of quotas is an important aspect which emerges out of the qualitative analysis of the survey results. Negative attitudes towards women's participation in politics are diffused to an extent, especially among male respondents. This affects the efficacy of gender quotas, which cannot change the voting patterns of voters who hold such attitudes. Similarly, for many respondents, gender should not matter when choosing who to elect. Therefore, while some respondents feel that they are neutral towards gender, the data in the quantitative section shows that this is not the case as the representation of women fell after the electoral law was modified in a way that allowed preferential voting. When voters can choose candidates specifically, they tend not to choose women, showing that choices are not gender-blind. The broader social context is related to the effective impact on quotas.

Finally, other aspects of the political landscape influence the effectiveness of quotas. Wider issues of democracy, accountability, transparency and political culture affect the perception of effectiveness. The seats occupied by women in parliament does not imply a political improvement in the eyes of many respondents, seeing, as they perceive, the political reality to be too corrupt for quotas to make a difference. Therefore, advancing women's participation in politics must go hand in hand with broader objectives of improving democratic governance in the country.

The recommendations that emerge out of these findings are as follows:

1. Increasing the thresholds for gender quotas in BiH to obtain better outcomes in women's quantitative representation.
2. Awareness raising on quotas, and the importance of women's representation among political parties in order to ensure that parties themselves advance women's participation, quantitatively and qualitatively.
3. Continuing efforts to improve attitudes surrounding women's participation in politics and gender roles in BiH.
4. Addressing wider issues of democracy, accountability, transparency and political culture hand-in-hand with promoting women's participation in politics.

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# Illiberal Neo-Intergovernmentalism: Poland's Conservative Idea for the European Union?

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**Abstract:** *The aim of this article is to propose the term 'illiberal neo-intergovernmentalism' (IN) to describe and explain Poland's EU concept promoted by the government and some scholars after 2015. The methodology, based on decision, factor and comparative analyses, is of qualitative nature. The main idea is the assumption that Polish vision can be treated as a concept contributing to theory building. The research question relates to the positioning of the Polish concept against the background of other approaches: due to its significant distance from the functionalist trend, a connection with the intergovernmentalist theories is assumed. Two hypotheses are presented, and their verification shows that the main weakness of the Polish concept is the lack of paradigmatic rooting. The 'Eurorealist' illiberal neo-intergovernmentalism has not been created as a result of the evolutionary development of well-founded views typical of the intergovernmental trend and seems to disregard all previous theoretical achievements. Referring to realism alone, without defining the continuity of thought, is not enough to recognise the concept as a realist one. Therefore, this vision does not have explanatory values, while its normative character is the result of the adoption of Eurosceptic and ultraconservative ideology.*

**Keywords:** *Integration Theory, Intergovernmentalism, Eurorealism, Illiberal Democracy, Poland*

## I. Introduction

The theory of European integration – partly rooted in international relations – is one of the most ambiguous areas of contemporary debate in political, legal, economic and historical sciences. The multiplicity of visions, concepts, approaches and finally theories indicate that their representatives are oriented toward various research subjects. According to the well-known view of Legro and Moravcsik (1999: 11) ‘debates among realists, liberals, epistemic theorists, and institutionalists have traditionally centred around the scope, power, and interrelationship of variation in material capabilities (realism), national preferences (liberalism), beliefs (epistemic theory), and international institutions (institutionalism) on state behaviour.’

Typically for social sciences, there is a fundamental contradiction between the goals of theory building: while some approaches are explanatory or empirical, others are aimed at changing reality. Until recently, the normative approaches were dominated by federalist thinking about the European Union, leaving today’s politics to the intergovernmentalist trend, although criticised and considered old-fashioned (cf. Moravcsik 2018: 1658–1668). At the same time, most representatives of the theory of European integration have taken ideological convergence around liberal values in the EU for granted. However, this convergence has been reversed in recent years: first in Hungary and later in Poland (Meunier – Vachudova 2018: 1639).

Poland’s policy towards the EU, created by cabinets composed of the conservative Law and Justice party (PiS), has been subject to in-depth research. This policy underwent a major change, also in conceptual terms: while in the pre-PiS period, the academic discussion in Poland was limited to the analysis of specific tactical problems, the debate took on a strategic character after the change of power. Polish researchers, especially those ideologically connected with the new authorities,<sup>1</sup> joined the all-European debate, adding some new elements related primarily to illiberal democracy. They call the Polish European doctrine a ‘Eurorealism’. In their view (Paruch 2021: 323) it results from two premises: political and cognitive realism (determining thinking about international organisations), as well as from a system of values in which the primary one is the independence, sovereignty and integrity of the state.

The aim of this article is to propose a new scientific term for Poland’s concept of European integration. The basic idea is the assumption that this vision can be treated as a contribution to theory building. Within this framework, not so much a definition of political practice is presented, but rather theoretical views justifying its activities. The main research question relates to the positioning

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1 The leading representatives of this thought include Waldemar Paruch († 2022) – author of a broad study on PiS’s foreign policy; Krzysztof Szczerski – author of a broad study on the normative aspects of Poland’s EU policy; Tomasz G. Grosse – author of many studies on EU axiology, structure and functioning.

of the Polish concept against the background of other approaches: due to its significant distance from the broadly understood functionalist trend, a connection with intergovernmentalism is assumed. Hence, the theoretical background of the analysis is the 'classical', the liberal and the new intergovernmentalism. After identifying the most important elements of these three approaches, two hypotheses are discussed to present the preliminary assessment of the Polish concept. Earlier, however, using the definitions accepted by the intergovernmentalists, the intellectual foundations of the Polish vision are characterised.

The conclusions presented are of a qualitative nature, as is the general methodology based on decision, factor and comparative analysis. The author's ambition is not to enter into metatheoretical disputes: therefore, the terms 'theory', 'approach', 'concept' or 'vision' are used interchangeably here. Similarly, the subject of the following analysis is not the search for similarities and differences between Poland and Hungary – this is the topic of many other works (cf. Tosiek 2019).

## II. Theoretical Background

Characterising the intergovernmentalist trend in the theory of European integration is seemingly not a complicated task, because it does not include too many propositions. However, it is also not easy, since the paradigmatic positioning of the entire trend is disputed. A general review of the main assumptions of the leading intergovernmentalist approaches to European integration includes Hoffmann's 'classical' thought, Moravcsik's liberal intergovernmentalism (LI) and the new intergovernmentalism (NI). The purpose of this review is not to make a detailed presentation but to find a place for a new normative approach resulting from the political practice of Poland after 2015 and some theoretical proposals connected with this practice. Since most of them refer to the realistic paradigm of international relations, the review should begin with a short reference to it.

The realist theory of international relations is based on three core assumptions (de Buck – Hosli 2020: 6). The first of them characterises states as the core players in international relations, making realism a state-centric approach. The second assumption argues that all states seek to survive and aim to increase their power, while the third is that states are rational actors that strategically calculate the costs and benefits of their moves. One of the fathers of modern realism, Morgenthau (quoted in Lomia, 2020: 595–596), presented six main principles: politics is governed by objective laws, which makes international relations theory a rational one; politics is an autonomous sphere, independent of economics and personal morality; international politics is focused on national interests reflecting the political and cultural context; political ethics is different from the universal moral principles; particular nations cannot impose

their national aspirations on other nations; pessimistic knowledge of human nature is at the centre of international politics. Later, in (defensive or offensive) neorealist or neoclassical versions those old elements have been developed, and some new ones have been added. De Buck and Hosli (2020: 7), quoting Waltz and Mearsheimer, underline that the most important realist assumption is that the international system is anarchic, which does not mean, anyway, that it is chaotic. The next assumption argues that the intentions of other states are always uncertain: this ‘mutual mistrust’ makes cooperation immensely difficult.

Legro and Moravcsik (1999: 12–18) claim that realism proposes the existence of a set of ‘conflict groups’, each organised as a unitary political actor that rationally pursues distinctive goals within an anarchic setting. Each unit is able to undertake unitary action: interstate politics is thus a perpetual bargaining over the redistribution of resources. Another element is the ability of states to coerce or bribe their counterparts. It follows that ‘the strong do what they can and the weak suffer what they must’. These assumptions did not fully correspond to the reality of integrating Europe, which prevented realists from presenting their own theory of integration. Anyway, regional integration is perceived here as an attempt to counterbalance the power of a large state or coalition of states. For example, cooperation between the states of the European Communities was initially described by realism as unlikely, and later as an attempt to increase Europe’s power in the global system (de Buck – Hosli 2020: 11).

In European studies, it is the intergovernmentalism identified with Hoffmann that has been perceived as an idea based on realism. According to traditional views (Hoffmann 1966: 867–868) there are three factors that help to analyse the interaction between the state and the international system. They are: national consciousness, national situation (social structure, political system, geography, formal obligations), and nationalism understood as the way allowing political leaders to interpret the suggestions of the national situation. Having said that, Hoffmann underlined Europe’s asymmetries, stating that transforming the national consciousness of Germany into the European one had not succeeded, being a habit rather than ‘something deep’ (ibid.: 890–891).

In this view, states are still important because of internal circumstances and outside legacies. At the same time, they are not focused on ‘community building’, having diverse domestic determinants based on geo-historical situations (ibid.: 863–864). As noticed by Verdun (2020: 4–6), quoting Hoffmann, the reason for this situation is two factors. Firstly, every state is bound to the ‘legitimacy of self-determination’, being the ‘universal actor’ in the international system. Secondly, many states, which was true after World War II and is still true in the case of the Eastern enlargement, are ‘new’ ones, at least in terms of their sovereignty. With this in mind, the EU is to be perceived as an international regime: Hoffmann argued that to develop a theory the focus must be directed on the units (states), on their domestic underpinnings, on the impact of the

external environment on the various actors, and on the relationship between the states and the Community bodies (*ibid.*). In Reichwein's view (2021: 90), Hoffmann argued that it was the logic of diversity and the effects of national differences that best characterised the integration process. This led to a 'permanent confrontation' and to a 'logic of competition', which both made the European Communities located in a 'dialectic of fragmentation and unity'.

The development of the above concept was the liberal intergovernmentalism invented by Moravcsik (1998). The analytical structure of this approach is based on the identification of three stages of a rational state's behaviour in international relations (Hadzabova 2006: 19). The first is the formation of national preferences, in which five factors play a major role: the competition of domestic political forces; the determination of major social groups; national practices of political representation; analysis of preferences of government's representatives; economic and geopolitical conditions constituting the background of preferences. The second stage is the progress of interstate negotiations with seven specific factors: the reasons for the motivation of cooperation; the relative intensity of governments' preferences; comparing the intensity of preferences of the negotiating states; the tendency to make concessions and compromises; the threat of veto; the possibility of forming coalitions; connections between problems and package deals. The third stage consists of choosing an institutional solution. It is conditioned by two factors: identifying the incentives for states to 'pool' or delegate sovereignty, and the argumentation for or against the use of unanimity or qualified majority in an intergovernmental institution or transfer of a decision to a supranational institution (*ibid.*; cf. Tosiek 2018: 17–66).

It should, therefore, be noted that as a theory rooted in the liberal paradigm, LI departed from treating the interior of states as an element that is not worth analysing. Moreover, it put the formation of state preferences at its starting point. Shaping state's preferences, according to the updated approach of Moravcsik (2018: 1650–1652), covers a wide range of phenomena, including non-economic issues, public opinion, partisan policy, the role of smaller states, informal and evolutionary processes, and unintended consequences. It was initially believed that the economy was the primary factor shaping preferences, but later it was emphasised that other factors must also be taken into account.

Moravcsik (2008: 159–160) departs from the traditional understanding of interstate negotiations. Recognising the asymmetry of states as the basic factor in negotiations, he emphasises that the nature of the relationship here is based on interdependencies, which may vary from one issue negotiated to another. As a result, not only large states have influence, and the power is not directly related to size (Moravcsik 2018: 1654). Similarly, the institutional choice made by states is not solely based on the balance of power. Rather, institutions are created to compel governments to have credible attachments to decisions on

the extension, implementation or imposition of common solutions. This happens in conditions of uncertainty, issue connections and non-zero-sum games. Institutionalisation of international relations under such conditions leads to the creation of institutional support for 'diffuse reciprocity' (Moravcsik 2008: 167–168). The institutions should be perceived as (international) regimes (Moravcsik 2018: 1655).

Smeets and Zaun (2021: 856) argue that Moravcsik started from traditional intergovernmentalist assumptions but then responded to the challenges of reality by putting forward an updated version. He took into account the EU crises at the beginning of the 21<sup>st</sup> century that showed that there were processes that did not touch directly upon the economy: while downplaying the role of sectoral interests, the EU responses to crises were primarily determined by domestically determined interests and interdependence, with little autonomous role for institutional actors. This resulted in the lowest 'common denominator steps' to deal with 'functional challenges' posed by the crises (*ibid.*).

A more recent concept that has gained considerable popularity is the new intergovernmentalism proposed by Bickerton, Hodson and Puetter (2015a; 2015b). They believe that the entry into force of the (Maastricht) Treaty on the European Union was the beginning of the current stage of European integration. In their view, the general 'constitutional framework' of the Union remained unchanged, but integration was significantly intensified through the coordination of member states' policies, mainly at the level of the European Council. At the same time, the transfer of competencies to traditional supranational institutions, that is, the Commission and the European Parliament, was avoided, and it was decided to transfer them to '*de novo* bodies' (e.g. agencies, the European Central Bank or the European External Action Service). As a consequence, intergovernmental decision-making based on deliberation and consensus is today the dominant way to proceed. Problems in domestic preference formation have become important inputs into the European integration process, while the differences between high and low politics have become blurred. Europe entered the stage of 'disequilibrium', and policy-making has been developing informally (Bickerton – Hodson – Puetter 2015a: 705–717).

As stated by Hodson and Puetter (2019: 1157–1158), disequilibrium is the tendency of the EU to create political outcomes that polarise politics in a way that calls into question the future of the Union. This trend evolves into systemic risk, including the erosion of the EU normative political and legal order, being a danger to the territorial integrity of the Union and its main policy areas. This disequilibrium is presumed to result from the dysfunctional performance of integrationist and consensus-seeking elites, as well as (lack of) trust in the EU and national political systems. Fabbrini and Puetter (2016: 493) argue that after Maastricht, and above all after Lisbon, the institutional dynamics of the EU developed alongside the pre-existing institutional architecture. This

raised questions about how to understand the respective roles of old and new institutional actors – especially the European Council, which is *de facto* at the centre of decision-making processes. Beroš and Beroš (2019: 700) believe that ‘*de novo* bodies’ are the essential NI element since they have the power to bind member states to mutually agreed goals, being able to isolate European politics from the electoral cycle.

It seems that NI is a theoretical response to crises: decision-making by heads of states or governments is connected here with the growing role of active citizens in the domestic process of preference aggregation (Schimmelfennig 2015: 727). At the same time, the sub-types appear within this trend, including ‘deliberative intergovernmentalism’ and ‘intergovernmental union’: the first introduces constructivist elements of consensus and deliberation, and the second refers to dominance, hierarchy and centralisation (Smeets – Zaun 2021: 855, quoting Fabbrini and Puetter).

This general overview leads to the conclusion that traditional intergovernmentalism was initially close to the realist tradition: nation-states were considered the principal and unitary actors (Verdun 2020: 4). The later varieties did not depart from this assumption, but the goals and behaviour of states started to be perceived in a different way – liberalism or (elements of) constructivism became the basis of the argument. The following part of this article analyses the current Polish integration concept using three relatively uncontroversial intergovernmentalist categories proposed by Moravcsik: preferences, negotiations and institutions. This conceptual structure offers methodological tools appropriate for step-by-step theory building. In this respect, two hypotheses should be put forward. Firstly, the vision of European integration adopted by the Polish authorities after 2015, and justified by a group of influential researchers, should create a concept that develops earlier approaches characteristic of the intergovernmental trend (H1). This would result from the premise of the evolutionary development of the theory. Secondly, however, the vision presented by Poland may disregard the current intergovernmental theoretical achievements (H2). The basis for this assumption would be the premise of the ‘revolutionary’ nature of the Polish proposal and its connections with other schools of thought.

### III. Preferences: Ideology

Typically, states’ preferences should be formed in a national democratic process, while Poland now is in the stage of democratic backsliding. Drinóczi and Bień-Kacała (2019: 1141–1142) distinguish four conditions for this phenomenon. Firstly, democracy was not a consolidated phenomenon here, because Poland was only subject to the third wave of democratisation at the turn of the 1980s. Secondly, the course of the transformation was linked to political and economic crises that led to the strengthening of the political majority that gained power

in 2015. Thirdly, the political processes in Poland are characterised by a lack of 'political restraint', and, therefore, they have the symptoms of a competitive political system. Fourthly, Polish people are either unable or unwilling to create a civil society, which is the result of social culture rooted in the communist system.

In this situation, when the state departs from the principles rooted in liberal democracy and a pluralistic society, the way of domestic aggregation of preferences is at stake (Meunier – Vachudova 2018: 1639). PiS does not agree with the statement that the ideologies have been liquidated in contemporary political practice. Poland's position in the EU, due to the choice of the 'Eurorealist' orientation, has, like the attitude towards the North Atlantic Alliance, a deeply ideological character (Paruch 2021: 325–337). At the same time, the point of reference in the perception of the international system is the 'national interest' (Sanecka–Tyczyńska 2021: 117–118).

There are many practical examples of behaviour of Polish authorities resulting from such a perception of reality. Firstly, the ideological approach to Poland's European policy manifests itself in pushing for the spill-back of integration processes. Secondly, there is a clear proximity to American conservatism, which was visible in supporting the presidency of Donald Trump and initial difficulties in accepting Joe Biden's victory (the situation changed only after the outbreak of war in Ukraine in 2022). Thirdly, the ruling party in Poland maintains close relations with far-right and Eurosceptic parties from Western Europe (French *Rassemblement National*, Italian *Fratelli d'Italia* and *Lega* and Spanish *Vox*).

In this line, the ideologisation of politics is not perceived as a phenomenon specific to Poland. Only its vector can be different because, as Grosse claims (2022a: 5), in the current axiological attitude of Western societies – as part of the next phase of 'European universalism' – liberal and left-wing values, including those referring to the Marxist legacy, prevail. According to the same author (2022b: 71), beliefs about the possibility of eliminating nationalism should be regarded as utopian, since it is still permanently present also in the largest EU member states.

PiS represents a specific type of conservatism rooted in particularistic national history. Hence, Poland's foreign policy is to be built on the foundation of moral reasons, which include, on the one hand, the human and material losses suffered as a result of the aggression of totalitarian states in the 20<sup>th</sup> century, and on the other hand, the Polish contribution to the liberation of European nations from communism (Sanecka–Tyczyńska 2021: 122). In the analysis based on a historical review presented by Drinóczi and Bień-Kacała (2019: 1144), Poles are described as a traumatised nation suffering the loss of statehood and independence many times over the last 300 years. The nation has a controversial attitude to freedom, which is largely based on a strong Catholic faith, which results in a lack of pluralism. Another strong feature is parochial-

ism and folk social structure, both combined with a feeling of messianism often turning into megalomania.

The practice of governments' political cooperation with the dominant Catholic Church has been a constant feature of the ruling parties for many years of transformation. However, this phenomenon adopted extreme variants only after 2015. They are reflected, firstly, in the unambiguous support of the clergy for the policy of the ruling party. This is manifested, for example, in political agitation during church services or making Churches' premises available for election campaigns. Secondly, the leading representatives of the ruling party participate in religious ceremonies collectively, with particular emphasis on those conducted by the religious-nationalist *Radio Maryja*. Thirdly, there is a clear preference for the Catholic religion in programmes in primary and secondary education, and fourthly, the Church's various activities are heavily subsidised by the state budget.

Religion can be a vital source of illiberal agendas due to the 'theologically political' ideas of power, hierarchy and inequality (Hidalgo 2019: 10). In Western societies, the opposition between the democratic idea of power (based on the rule of law and the majority) and religion (with its claim to absolute truth) either forces democracy to renounce any religious authority or gives democracy the opportunity to compensate for its shortcomings with the help of religion – for example, social atomism, disintegration, lack of social capital and civic engagement. However, a different phenomenon seems to be taking place in Poland: a sub-type of illiberal democracy is created, supported by populists in order to compensate for the obvious deficiencies in the legitimacy of their power. Based on this, illiberal positions can be treated as synonymous with the need for a common identity and as resistance against the negative elements of liberal democracy (ibid.: 12–13).

The current trend is rooted in recent history. According to Auer (2022: 148–162), the EU states of Central Europe have never met the 'Copenhagen criteria', and their policy before 2010, when new tendencies appeared in Hungary, can be called 'undemocratic liberalism' – that is, a system of government in which many decisions are made outside the democratic mechanism and without reference to the will of the people. The phenomenon of the 'tyranny of legalism' prevails here. In contrast, 'illiberal democracy' is less concerned with minority rights and individual liberties, but better reflects the will of the people (ibid.). As a result, legalism is rejected in today's Poland, and authorities – using informal tools of breaching and disregarding constitutional provisions – are transforming the courts into the servants of the ruling party (Drinóczi – Bień-Kacała 2019: 1146).

The departure from the rules of liberal democracy is visible not only in the continuous reforms of the judiciary system but also in the functioning of the Polish parliament. In 2015–2019, when PiS dominated both houses of the parliament, the full legislative procedure (from submitting a draft up to publication

of the act in the official journal) could have been carried out in several days without a real debate. This is also reflected in the exclusion of the opposition from parliamentary debates by shortening the speaking time or using urgent procedures. These phenomena have a direct impact on the political position of the state in the EU: the first ever initiated procedure for violating EU values under Art. 7 TEU was used against Poland, while the reforms of the judiciary became the basis for many CJEU's judgments and legal disputes with the Polish Constitutional Tribunal. Violation of the rule of law is also the reason for the blocking of funds attributed to Poland under the 'Next Generation EU' programmes.

It is worth reminding that the concept of 'illiberal democracy' was introduced in the 1990s by Zakaria as a description of 'political communities that have more or less functioning electoral systems and working democratic reforms but evince a serious lack of core liberal institutions, such as individual rights, constitutionalism, checks and balances, and the rule of law, at the same time' (quoted in Hidalgo 2019: 5). The majority of scholars use the term 'illiberal backsliding', which, however, misrepresents the de-democratisation process because it implies that democracies return to something that existed in the past: it is better to focus on 'autocratization', as this indicates the emergence of hybrid regimes (Lorenz and Anders 2021: 332). Drinóczi and Bień-Kacała (2019: 1140–1149) propose the category of 'illiberal constitutionalism': they define it as a particular phase in the process of democratic decline or departure from liberal constitutionalism towards an authoritarian regime. In their view, illiberal constitutionalism is not the opposite of liberal constitutionalism, but a situation in which power relativises the rule of law, democracy and human rights in politically sensitive cases. It constitutionalises populist nationalism, uses identity politics, creates a new patrimonialism and clientelism, and supports state-controlled corruption.

The same authors (2019: 1142–1143), referring to the literature review, highlight the most important characteristics of voters supporting Polish political changes in recent years, pointing out that the current policy can only be treated as a consequence, not the root, of building an illiberal state. Changes in Poland enjoy relatively strong support from a large part of society. In this line, Jan-Werner Mueller (quoted in Auer 2022: 162–169) draws attention to the anti-elitism of illiberal democracy: 'the elites were in favour of constrained democracy', that is, a system protecting people against their inferior instincts, and, therefore, strong constitutional courts have been created and the rule of law respected.

Polish attitudes to democracy and the rule of law are part of a broader phenomenon, but at the same time, they have their own specificity. Yet, the determinants of Euroscepticism reveal patterns assigned to a given state, and not necessarily for the entire region (Lorenz – Anders 2021: 326–328). According

to many studies, people in Central Europe are no more, or rather less, Euro-sceptic than people in Western member states. This is also true of Poland, where support for European integration has always been strong. Sedelmeier (2023: 21) – referring to the results of quantitative and qualitative research – proves that Western member states are also not immune to backsliding, and it would be wrong to use the notion of an East-West democracy divide. Some Eastern members, like Estonia, stand out for having attained a level of democracy that is better than most Western European states. Still, Hungary and Poland are examples of entities where democracy is under the most serious threat.

Despite the liberal experience after 1989, a significant part of Polish society is characterised by a lack of respect for others, impaired self-confidence, a sense of being a victim associated with a sense of inferiority, the need for a strong leader, prioritising the values of conservatism and hierarchy, as well as an aversion to the values of a liberal constitutional democracy or an open society (Drinóczi – Bień-Kacała 2019: 1166). In the context of transforming this situation into the preferences of states constituting the basis for negotiations within the EU institutional system, it is worth recalling the view of Meunier and Vachudova (2018: 1640–1641) that illiberal governments will have ‘not just different preference intensities but conflicts of interest with liberal governments’. The most immediate consequence may be disagreement over outcomes and strategies in policies governed by unanimity, and a shift in preferences by one illiberal government can have a disproportionate impact on the whole EU decision-making process.

#### **IV. Negotiations: Bargaining**

The starting point for the analysis of the negotiating power of member states may be Auer’s opinion (2022: 136–141) that Europe is currently characterised by ‘liberal nationalism’, which is incompatible with the creation of a centre that abolishes all practices inconsistent with its principles. Hidalgo (2019: 16) adds that the idea of nationalism in Western Europe apparently diverges from the religious belongings in Central Europe since the Western concept of ‘nation’ as well as the ideology of ‘nationalism’ is not connected with religious identities.

According to this way of thinking, some peripheral EU states have clearly disagreed with the expansion of universalism with its institutional basis in the EU, being to a large extent the promotion of geopolitical interests of the largest Western European states. This led to the ‘excluding constraint’, as integration began to be increasingly aimed at excluding some forces from legitimised politics, limiting the scope of discussion about the future of the EU to the directions and values preferred by the political mainstream (Grosse 2022a: 5–14). Similarly, the basic systemic feature of the Union is the hierarchy between the member states, and the method used by the largest states to regain political influence on

integration processes is to limit the role of technocratic institutions and narrow the circle of states participating in decision-making (Grosse 2012: 125). The use of the 'old' Community method is only virtual because in reality decisions are made in an intergovernmental way. This feature was additionally strengthened by the changes introduced in the Treaty of Lisbon, which intensified informal cooperation between the largest states. The period of crisis thus highlighted the existence of a 'directorship' or 'concert of powers' (Grosse 2015: 111–113).

The EU is called an 'asymmetric quasi-federation' (Grosse 2013: 17–19) or an 'asymmetric confederation' (Grosse 2015: 120–126). Its main feature is the unequal distribution of power between the largest (and economically strong) states and the smaller (and weaker) ones. A characteristic of the EU is an inter-state hierarchy associated with the distribution of costs and benefits of integration, which in turn may result in the emergence of a neo-colonial system (Beck, quoted in Grosse, 2015: 120). This situation is complemented by the processes of segmentation, that is, striving to differentiate integration. This arrangement is referred to as an 'empire' in which one state exercises political control over others. It is characterised by the differentiation of rights of member states, as well as the lack of democracy (Czaputowicz 2017: 51–59).

Paruch (2021: 325) claims that European integration has neither changed the anarchic (or polyarchic) substance of international relations nor has it abolished the rivalry inherent in the international environment. The European system should be perceived in a realist way, that is, with the use of such categories as stratification, advantage, alliance, centre-periphery relations and clientelism – all the concepts 'which European politics does not tolerate, because they are not appropriate for post-politics' (ibid.: 341, quoting Szczerski). Representatives of realism – as stated by Reichwein (2021: 81–82) – regard Europe as an internally asymmetric continent dominated by selfish and opportunistic actors. This leads to a constant security dilemma, sometimes in the form of counterbalancing of EU member states against Germany's attempts to set the EU agenda.

According to Paruch (2019: 82–83), the realistic policy model is based on three pillars: limited trust in other political entities; dialogue and compromise as means aimed at achieving one's own goals and interests; and referring to power, pride and firmness. Neither the global order nor the continental order is constituted on the basis of the norms of international law, being instead derived from the balance of power between individual states. If a state wants to win, it needs to increase its political potential, especially in terms of comparison with its neighbours. Due to its status as a pivotal medium state, Poland should choose a band-wagoning policy, but the core of this model is the United States of America, and not any European power (Paruch 2021: 350–352).

In this view, the main challenge for Polish geopolitics is the strong position of Germany and its cooperation with France. And although for Poland, including PiS, the accession to the European Union was a historical necessity, it can also

be seen as historical fatalism. The only alternative is remaining in the sphere of Russian influence (*ibid.*: 339–340). Having this in mind, the threat here is the formation of a European centre in the form of a concert of Western European powers (Carolingian Europe) and the Central European and Southern European peripheries, as well as the start of a dialogue by European powers with Russia on the delimitation of spheres of influence. This can permanently transform Central Europe into the EU's periphery with Russia's interests guaranteed (*ibid.*: 342).

The political hostility towards Germany is manifested in the general resentment that characterises the PiS government. Constant references to the period of World War II, repeated demands for war reparations and strong anti-German propaganda in the government-controlled media find some resonance in part of Polish society. Opposition parties, mainly Civic Platform (PO), are presented as entities pursuing a pro-German – that is, anti-Polish, policy. A kind of obsession on the part of PiS is closely related to the need for the creation of a Central European counterbalance to Germany.

Germany has 'a power combining political stability, economic strength, and other capabilities with historical legacy, moral responsibility, and coercive diplomacy in order to deal with new challenges and crises', while France plays a similar role because both states share the same security concerns and support the integration process serving their individual interests (Reichwein 2021: 90–93). It is in this context that the sense of Poland's Three Seas Initiative should be seen: the key here is the striving for more symmetrical relations between Germany and the states of Central Europe (Grosse 2020: 153). This is also related to the concept of polycentrism, according to which the European Union should be an organisation consisting of many autonomous sub-centres of integration, 'decentralized regional communities', which independently shape the model of their operation. In this system, Poland should serve as a separate centre for its own integration model (Szczerski 2017: 235–239).

In Paruch's view (2021: 367–369), Central Europe is a permanent geopolitical entity, existing regardless of its international status, while the European Union is a historical entity, a temporary one. Therefore, Poland treats Central Europe, on the one hand, as a resource in the policy of strengthening Poland's international position, and on the other, as a factor in leveraging Poland's position in international relations (*ibid.*; cf. Zheltovskyy 2022: 668). It is, after all, a component of a broader view of the quality of contemporary international relations and their perception as a system based on a dichotomy understood as the existence of two mutually exclusive 'international orientations' (Sanecka-Tyczyńska 2021: 117–121). On the one hand, there is a 'safe world' composed of nation-states, dominated by the United States of America, and on the other – a 'world of international chaos' and 'regional domination' referred to as globalism, in which the sovereignty of states is limited. In such a perception, the desired status for Poland would be the one of Turkey considered a 'serious' state (*ibid.*).

Practically, the PiS government emphasises the role of the Visegrad Group (V4) and, in the context of transatlantic cooperation, the ‘Bucharest Nine’ as important tools for achieving Poland’s goals in international politics. However, the effectiveness of these instruments is limited, because – firstly – on many occasions, the states of the region have interests distinct from Polish ones (as indicated by Hungary’s perception of the Russian-Ukrainian war), and secondly, most Central European states view Germany, and not Poland, as the main political partner.

## V. Institutions: Balance of Power

In the traditional view presented by Hoffmann (1966: 904–911) ‘the integration to succeed must meet the following factors: the units must be political communities in a formal sense; the leaders of integration inside states must be strong; the units must be similar subjectively; nation-state must be a basic unit; states are transformed; the international system must offer incentives to create the entity beyond the state’. In Poland’s conservative view, European institutions are treated as a platform on which states play a political game, competing to satisfy their selfish claims (Paruch 2021: 343). At the same time, strengthening states in the context of who has the final say (EU or the state) needs a political solution, since it cannot be resolved in solely legal terms (Auer 2022: 181).

Thus, the Polish authorities perceive the Union as an international organisation of sovereign member states that have concluded a contract with each other in the form of treaties, defining both its political system and the competencies of individual EU bodies, with all respect to states’ sovereignty (Paruch 2021: 357). There are seven foundations on which PiS wants to base relations between member states: the multitude of regional centres; equality of states instead of their hierarchy; deregulation carried out by EU institutions instead of bans and orders; solidarity between states, taking into account the capabilities of the weakest ones; openness to accepting new members; democracy organised and effectively practiced in member states; return to the Greek-Roman-Christian civilisational identity (*ibid.*: 387).

In one of the most famous formulations (Szczerki 2017), today’s Union should be ‘reconstituted’. Apart from the geopolitical dimension, this has three contexts (*cf.* Tosiek 2017: 48). In terms of axiology, two alternative options are assumed, of which (the preferred) one is ‘returning of the Union to Christian traditions’. The second one, also acceptable, consists of ‘axiological neutrality’ meaning a lack of interest on the part of the EU institutions in the functioning of the member states in the sphere of values (Szczerki 2017: 230–239). In terms of economic conditions, the basic assumption is to depart from the ‘neo-colonial model of development’ of states. In a more general context, the aim is to deregulate the economy, although such liberalisation would go hand

in hand with maintaining cohesion policy and upholding the principle of equalising the levels of economic development of all EU states (*ibid.*: 230). In terms of the decision-making system, the main assumption is the principle of the EU's 'intergovernmental democracy' based on four pillars: unanimity as the main method of decision-making; strengthening the role of national parliaments in scrutinising supranational institutions; the abolition of the right of EU institutions to interfere in the domestic law of states outside the areas of exclusive EU competence; and strict enforcement of the subsidiarity principle (*ibid.*: 155–156, 235–236; Musiałek 2016: 146–147).

A more detailed vision of the reform of the EU decision-making system is presented by Romanowski (2022: 27–31). Here, the guideline governing relations within the EU should be the principle of conferral with the simultaneous presumption of competencies on the part of the member states. A 'Competence Tribunal' should be established, which would be the 'legal arm of the European Council' to guard the institutional balance. It would be appropriate to propose a change in the method of appointing judges to the Court of Justice of the EU, making it more democratic. The 'axiological and ideological peregrination of the EU institutions' should be clearly limited. Serious institutional reform would also be required by the European Parliament: it would cover both the selection and the status of MEPs, as well as the powers of this institution. National contingents of deputies should be marked more strongly than at present, and deputies' factions should include states or groups of states. 'Factional voting' should be questioned and every MEP should have the sole right to vote. The unanimity method should be reintroduced and used to a greater extent in the European Council, while the multiple interpretations of the 'principle of national identity' should be allowed (*ibid.*).

Also, the double majority system currently in force in the Council is subject to far-reaching criticism. According to Kleinowski and Czaputowicz (2018: 176–189), a voting system in which the size of the population is reflected proportionally constitutes a situation worse than that of traditional federal states. The system favours entities with the largest populations (especially Germany) and the six states with the lowest populations, at the expense of the others. The desired solution should be based on a compromise between the equality of states and the equality of citizens. Still, 'the system introduced in the Treaty of Lisbon breaks with the idea of voting principles advantageous for less populous states, which have existed in the EU for half a century' (*ibid.*).

A very broad catalogue of changes is proposed by Grosse (2022c: 46–53). Referring to a literature review, including the purported Scharpf's opinions, he selects proposals for reforms of EU decision-making procedures that are functional for the Polish vision. They indicate the need to limit the scope of matters voted by a majority in the Council in favour of unanimity, proposing the possibility of excluding a member state from a specific EU norm as a result

of a resolution of the national parliament. Further, it is worth thinking about a procedure in which the approval of four groups of states representing Western, Southern, Northern and Central Europe would be required to adopt a legal act. It would also be possible to introduce a rule according to which the judgments of the Court of Justice of the EU were to be approved by the member states in a majority vote. The possibility that those judgments could be reviewed by constitutional courts should also be considered. Another proposal is the introduction of an institution that would monitor the observance of treaty powers entrusted by member states to EU institutions. The purpose of these changes is to reject the principle of the supremacy of European law and the EU's jurisprudence over national constitutions. The thresholds of the votes required for national parliaments to submit their legal objections should be significantly lowered, and the opinions of national parliaments should be addressed directly to the Council of the EU, that is, bypassing the European Commission (ibid.).

The Polish government promotes its own EU concept also practically, although the effectiveness of its activities in this respect is limited. Firstly, Poland abandoned the idea of proposing treaty changes, limiting itself to programmatic speeches of prime ministers during debates devoted to the future of the EU in the European Parliament. Secondly, the Conference on the Future of Europe was almost completely ignored in Poland: PiS representatives ostentatiously presented negative opinions on the very concept of this form of deliberation, while the government joined the initiatives aimed at avoiding the implementation of the conference results.

The very concept used by Polish authorities, 'Eurorealism', was originally invented to describe the attitudes to the EU as something in between Euroenthusiasm and Euroskepticism. In fact, however, the term has not been scientifically accepted, because in practice it was a disguise for soft or openly Eurosceptic views (Steven – Szczerbiak 2022: 8–10). In Paruch's opinion (2021: 331), 'Eurorealism' is based on the general acceptance of integration, but with significant reservations regarding some of its forms and manifestations creating a non-state public space. Excluded is the transfer of important competencies to EU institutions as well as the building of a European federation based on the European *demos*, while the creation of a 'supra-state' is a main threat. In addition, the element of Polish 'Eurorealism' is the consent to flexible forms of integration and accepting the 'minimum legal harmonization and legal coercion in the participation of all states in subsequent aspects of integration' (Grosse 2022c: 34). However, such an attitude can create the 'other democratic deficit' of the Union, rooted in varieties of definitions of democracy and the rule of law (Raube – Costa Reis 2021: 642, quoting Kelemen).

## VI. Towards a New Theory?

The behavioural pattern adopted by Poland in the EU institutional system has not been a stable and consistent one since the accession (see Table 1). Four phases can be distinguished here (cf. Karolewski – Mehlhausen 2017: 55–56). In the first of them, shortly after the accession, the left-wing and post-communist government of Poland showed a mild approach to the cooperation and competition of states in the EU decision-making processes, which was largely caused by the status of a ‘newcomer’ and the need to be subjected to socialisation. After PiS took power in 2005, the attitude became more pragmatic, and the Polish authorities were often guided by scepticism towards strategic decisions taken at the EU level, which was reflected in the relatively difficult acceptance of the Treaty of Lisbon. Pragmatism also remained a feature of Poland’s European policy in the years 2007–2015, that is, the governments of the Civic Platform (PO) and Polish Peoples’ Party (PSL); however, Poland began to play an increasingly important role, which was reflected both in substantive matters (e.g. the Eastern Partnership concept) and personal policy (e.g. Donald Tusk as the President of the European Council). According to PO politicians that dominated the cabinets at that time, the main goal of Poland’s EU membership was economic and social development, as well as significant civilisational changes bringing Polish society closer to the Western European model. In strategic terms, the main task was, therefore, to weaken the influence of Poland’s peripheral location on its position in Europe. This meant remaining in the EU mainstream, as exemplified by the initial declaration of the adoption of the single currency (made in 2008) and the consent to participate in the distribution of refugee quotas in 2015 (then cancelled by the PiS government).

However, some significant similarities in EU policies of PiS and PO-PSL governments also occurred (Czachór *et al.* 2019: 49–51). Each of the governments declared a strong attachment to the national interest, although they emphasised it in a different way in practice. It seems that, with the exception of 2005–2007, integration with Western Europe was perceived as a fundamental and unquestionable priority of Poland’s policy, and only during the first PiS government did alternative options begin to be considered. In terms of the effects, the policies of all governments were actually similar. The differences concerned the style of policy, while a more assertive one did not bring more favourable results than a policy aimed at seeking elements that coincided with the interests of other states. The situation changed in 2015, when PiS took power again, which initiated a period of undermining EU decision-making procedures, and assertiveness was replaced by contestation.

**Table 1: Phases of Poland's EU policy (behavioural patterns)**

| Phase     | Pattern                 |
|-----------|-------------------------|
| 2004–2005 | Learning                |
| 2005–2007 | Sceptical pragmatism    |
| 2007–2015 | Enthusiastic pragmatism |
| 2015–     | Contestation            |

Source: Author's own analysis.

Also, the EU vision preferred by Poland was subject to fluctuations. Karolewski and Mehlhausen (2017: 58–63), referring to Münch's concept, distinguished three ideal types of 'images of Europe' adopted by political practitioners. The first of them is the federation model, where the nation-state is perceived as the most important political level, which, however, is 'successively transcended' towards a European federal state. The second one is the model of cooperation, in which states are also the main actors of integration in the long-term perspective, and the unanimity rule applies in sensitive policy areas. The third is the model of autonomy expressed in a critical perception of the European Union that is controlled by large states and has a 'neo-hegemonic' character. According to those authors (see Table 2), the acceptance of the federation model can be attributed to the period just after the accession and to left-liberal parties, although even at that time there were many references to the cooperation model. Some features of the federal model were also manifested by the cabinets of Donald Tusk, although, in general, their activities were closer to the cooperation model. It seems that also during the first rule of PiS, the model of cooperation dominated, which was definitely abandoned in favour of autonomy after 2015 (cf. Czachór *et al.* 2019: 46–47).

**Table 2: Phases of Poland's EU policy (EU vision)**

| Phase     | Vision                 |
|-----------|------------------------|
| 2004–2005 | Federalism             |
| 2005–2007 | Cooperation            |
| 2007–2015 | Federalism/Cooperation |
| 2015–     | Autonomy               |

Source: Karolewski – Mehlhausen 2017 (based on Münch's concept).

Undoubtedly, the period after 2015 is a qualitative change in Poland's EU policy, both in respect of the behavioural model and the preferred vision of integration. The comprehensive causes and effects of this change are the topics of the extensive literature on illiberal democracy, democratic backsliding, or rule of law non-compliance (Sadurski 2019), where Poland is sometimes attributed to 'regressiveness' or 'Eurohostility' (Ruszkowski 2022). Sticking to the analytical framework suggested by liberal intergovernmentalism and referring to the above short elaboration, it can be concluded that in terms of state's preferences, Poland's current policy is built on the basis of ideology connected with history and religion; in terms of negotiations it emphasises bargains based on asymmetry and relative power; in terms of institutions the inner EU balance of power created by intergovernmental cooperation and unanimity plays a fundamental role. It can, therefore, be stated that political practice combined with the reflection of some intellectuals resulted in the emergence of a new normative concept of integration, which can be called 'illiberal neo-intergovernmentalism' (IN).

The very term 'neo-intergovernmentalism' has not been widely used in European studies so far, and the name itself can cause confusion. Some authors apply this name to the new intergovernmentalism (Beetz – Rossi 2015: 10) or to all intergovernmentalist concepts created after Hoffmann (Merlingen 1997: 23). However, there are also preliminary proposals that treat neo-intergovernmentalism as a separate model. One of them has been proposed by Mather (2005: 36–39): there the concept combines the main premise of multilevel governance, that is, the dispersion of power at subnational, national and supranational levels, with the assumption that the governments of the member states are the main political EU actors. Still, the state's policies can be effectively conditioned by path dependencies created by formal or informal factors, including regionalisms. Another type of neo-intergovernmentalism has been suggested by Savatic (2021:10–12, 46–50): starting from a specific conjunction of neo-functionalism and liberal intergovernmentalism, he believes that the new name should be used in the context of the way in which states can use exclusion as a tool to protect their interests that are not based on material or empirical realities. Convergence within the EU depends on, firstly, the perception that diverging national policies can cause negative cross-border externalities and, secondly, the threat of being excluded from the benefits of integration along with the associated costs. During the negotiations, some states may demand the adjustment of other states' policies in order to limit the risk of externalities. Such a situation may result in the exclusion of some partners from integration if policy convergence is not at a sufficiently high level. In fact, it seems that neo-intergovernmentalism understood in this way is an approach that indicates that states can treat the participation in integration flexibly (*ibid.*).

The name 'illiberal neo-intergovernmentalism' proposed here is not used by the creators of this concept, but it seems to properly reflect two main features

of Poland's EU vision. First of all, the prefix 'neo' does not indicate modernity, but rather a kind of 'retrograde novelty', typical of thought built on earlier similar views. Secondly, building *à rebours* on the basis of Moravcsik's theory, the adjective 'illiberal' must be added to the name. After all, it is the ideology that builds the substance of the new approach, distinguishing it from other modern intergovernmentalist theories, that is, LI and NI.

However, there are more differences described in a simplified form in Table 3. Firstly, while LI is primarily aimed at explaining integration processes, and NI is based on the latest post-Maastricht historical experience, IN is an ideological concept of a normative nature. It does not explain and does not draw on the features of the EU as it is, but proposes to transform reality into 'neo-reality'. Secondly, despite the fact that Moravcsik's idea is sometimes called a 'liberal intergovernmentalist variant of neo-realism' (Larsson – Maurer 2000: 79–81), LI is undoubtedly based on the liberal paradigm. It assumes the inherently democratic character of all member states, reflected in the way of shaping states' preferences and, indirectly, in the features of the EU institutional system (Moravcsik 2002). The creators of NI most likely added to their concept some constructivist elements originating from researchers of deliberative processes. In contrast, although its roots in this paradigm have not yet been properly explained by its creators, IN is close to realism, rather in the classical sense. It could be called a nationalist approach, which makes any paradigmatic connection even more difficult. Thirdly, elements of realism are perhaps most evident in the context of IN's preferred relations between member states. According to this concept, the European Union should be an entity consisting of polycentric regional communities with their leaders. Due to the negative attitude towards the hegemony of one state, such regional powers should be called 'sub-hegemons', with Poland as one of them. Fourthly, while Moravcsik's three-element analytical structure seems to be well suited not only to LI but also to NI, in the case of IN it should be reconstructed in a realist direction. Preferences should be explicitly called 'interests', and institutions should be perceived as 'regimes'. Also, the basis of preferences – in LI related to the economy and in NI to mass politics – is different in the case of IN, as it is almost exclusively related to ideology. The only method of negotiation here is bargaining, and the resulting regimes are built on the principle of balance of power, instead of inter-state reciprocity (substantively) or consensus (procedurally). Fifthly, in LI many modes of decision-making are accepted because they are issue-specific, and in NI the method identified with the post-Maastricht era is the deliberative consensus. In turn, the promoters of IN emphasise that not only in strategic decisions but also in day-to-day politics, unanimity should be the dominant method, assuming the right of each state to exercise the right of veto.

**Table 3: Comparison of modern intergovernmentalisms vs. illiberal neo-intergovernmentalism**

|                                       | LI   | NI   | IN   |
|---------------------------------------|--|--|--|
| <b>Theoretical model</b>              | Explanatory  | Empirical  | Normative  |
| <b>Paradigmatic adherence</b>         | Liberalism   | Liberalism<br>Constructivism   | Realism (?)  |
| <b>Nature of interstate relations</b> | Issue-specific asymmetric interdependence  | Deliberative member statism  | Sub-hegemonic polycentrism   |
| <b>Analytical framework</b>           | Preferences – based on economy<br><br>Negotiations – based on bargaining/ arguing<br><br>Institutions – based on reciprocity | Preferences – based on popular views<br><br>Negotiations – based on arguing<br><br>Institutions – based on consensus | Interests – based on ideology<br><br>Negotiations – based on bargaining<br><br>Regimes – based on the balance of power |
| <b>Decision-making method</b>         | Unanimity/QMV/ Consensus   | Consensus  | Unanimity  |

Source: Author’s own analysis based on works of Moravcsik, Bickerton, Hodson, and Puetter quoted in the article.

IN is not a theoretical proposition that would testify to the continuity of intergovernmentalist thinking about the EU. It is completely different from LI and NI, and at the same time quite distant from Hoffmann’s traditional concept. For him, nationalism was a way of perceiving international reality without ideological connotations, while national interests were not given but resulted from the interplay of various factors, including political leadership, a broader context of national experience, traditions, institutions, norms and randomness (Patel 2022). The relations between the Community and the states were, in his view, not a zero-sum game. The Community helped preserve nation-states (Hoffmann 1982: 21), and, therefore, they survived in a transformed form (Hoffmann 1966: 889). At the same time, IN does not seem to be fully in line with realism: referring to this kind of thought alone, without recalling its version and defining the continuity, is not enough to recognise the concept as a realist one.

## VII. Conclusion

In order to define the current Polish concept of European integration the name ‘illiberal neo-intergovernmentalism’ has been proposed in this article. This IN vision contributes to theory building, although its substantive quality is not

very high. The main weakness is the lack of unambiguous paradigmatic rooting. It can be said – contrary to the first hypothesis examined here – that the Polish vision has not been created as a result of the evolutionary development of well-founded intergovernmentalist views. The concept presented by Poland seems to disregard the previous theoretical achievements (not only that of intergovernmentalist but any), which makes the second hypothesis strengthened but still not positively verified. In its essence, IN exemplifies a kind of ‘regressive progression’. It results from an ‘ultra-realistic’ adaptation based on misperception, containing postulates of adjusting the EU to a situation that has never existed and still does not occur (cf. Pietraś 1998: 59–60). Therefore, this vision does not have explanatory values, while its normative character is the effect of the adoption of Eurosceptic and ultra-conservative ideology, disguised as ‘Eurorealism’.

According to Raube and Costa Reis (2021: 628), the EU as an ‘order’ is currently being challenged by the crisis of democracy and the rule of law in its member states in three different ways. Firstly, the EU is facing an identity crisis because it is changing from within towards values contrary to its principles. Secondly, the EU is facing a compliance and implementation crisis as violations of the rule of law could be seen as undermining the effectiveness of EU secondary law and the direct effect. Thirdly, a crisis of perception may also occur, which weakens the perception of the Union as a community of values. As a new way of thinking about integration, IN may therefore have far-reaching consequences for political practice.

At the same time, IN proposes a new direction for further research oriented on placing this concept within the differentiated integration theory. The vision promoted by Poland essentially suggests a ‘unilateral self-differentiation’ (Ruszkowski 2022: 37), itself being a ‘hybrid differentiation concept’ (Tosiek 2017: 52). The implementation of IN could result in ‘multispeed Europe’ or ‘Europe of (poly)centric circles’. In the long run, this might lead to the disintegration and acceptance of the ‘Europe *à la carte*’ model.

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# International energy trade: The EU's position and energy security<sup>1</sup>

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**Abstract:** *Increasing energy consumption and ensuring the supply of energy resources in sufficient quantities and changes in the energy mix of individual countries and regions are a pressing issue today. Besides their economic dimension, energy and energy policy also carry geopolitical and security importance. The ecological and social aspect is increasingly important; issues related to the availability of resources, stability of supply, efficiency and fuel prices are becoming more common and pressing. This study has expanded on the subject of energy dependence to include the concept of interdependence. It has also delved into international trade, incorporating this plane to provide a broad international dimension and emphasise the need to strengthen the energy security of individual states. The aim of this article is to show the gravity of the EU's unilateral Russian-dominated import focus and the possibility of reshaping the pattern of energy imports into the EU. The analysis of energy trade has drawn on an interpretation of the outputs of available data, with the caveat that the war in Ukraine has limited momentum in this area. The results of the subject explored here are presented in the form of a discourse on opportunities to redirect trade and strengthen the EU's energy security. The European Union, as a primary-energy import region, must revisit the territorial structure of its primary-energy imports, diversify its suppliers, change the energy mix and interconnect energy infrastructure by deploying new technologies.*

**Keywords:** *Energy, Energy Security, Interdependence, Energy Mix, International Trade, Import Dependency*

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## I. Introduction

The world economy has been plagued by numerous upheavals in recent decades. The main driver of change is global trends that affect all regions and have often been and are underestimated. Current factors include the ever-increasing global consumption of primary energy and the associated efforts to ensure a sufficient supply of energy resources and changes to the energy mixes of individual states and regions. Apart from the economic dimension, energy and energy policy also carry fundamental geopolitical and security importance. The ecological and social aspect is becoming more important; issues related to the availability of resources, stability of supply, efficiency and fuel prices are becoming more common and acute (Bauerová – Hlaváčková – Vošta 2018: 55).

Energy has historically been the driving force behind the growth of the European economy. The main pillar of economic development has always been high energy consumption. The EU is now dependent on foreign energy supplies because demand for primary energy resources significantly exceeds their production, and the EU does not have significant long-term fossil fuel reserves. It is therefore logical that energy security has become a key issue of EU economic policy. The external dimension of European energy policy is linked to the interpretation of energy security, a key phenomenon of EU economic policy.

As one of the largest energy consumers in the world, the European Union region has an energy mix that depends mainly on oil and gas, i.e. resources of which the extraction and proven reserves are minimal in the EU. The EU imports more than half its primary energy, and that import dependency continues to grow. The EU's energy security is thus very unstable; the undiversified import structure, with its dominant focus on Russia, has progressed from a risk to a critical problem. The above-mentioned aspects of the energy situation require a decisive approach to change and a more coordinated EU energy policy. National energy markets' inability to liberalise or transform their energy mixes, plus shortcomings in the implementation of investment projects in individual countries that would facilitate the diversification of risks stemming from high energy intensity, have led to the push for a common energy doctrine (Baláž – Margan – Ružeková – Zábojník 2011: 19). However, with the energy crisis beginning to escalate as a result of Russia's aggression against Ukraine, the European Union faces truly fundamental issues in the field of energy security and related energy dependence, and these require urgent solutions.

The increasingly topical issue of securing energy resources is one of the most important areas of national security and determines the nature and intensity of interdependence between states. Energy security should be based on two basic pillars. The first pillar is a stable and secure energy supply and the second pillar is a diversified structure of energy suppliers. States should be prepared to eliminate all risks that may arise. These may include depletion and disruption of the

energy supply, political instability, speculator activities, price instability, actions disrupting energy infrastructure and natural externalities (Ivančík – Kelemen 2013). One fundamental risk is undoubtedly the strong orientation of countries towards the import of energy resources; another risk dimension is the lack of diversification of resource importers or even a unilateral focus on one import region. Further factors that may trigger an energy crisis are the energy infrastructure security threat, insufficient diversification of non-energy mixes and the poor diversification of transport routes (Baláž – Zábojník – Ružeková – Svobodová 2009: 77). Energy security disruption constitutes a typical asymmetric effect. The key issue here is the position of the state in which it is located, and whether the state is an importer or an exporter of energy resources.

## **II. Theoretical framework**

The concept of the article is grounded in a theoretical analysis of the phenomenon of international cooperation and interdependence, including international trade. Energy trade is of high importance and is placed in the context of an international perspective. The text is theoretically framed by the concept of interdependence in order to place trading in energy feedstock in an international context. The basic theoretical strands are the phenomenon of mutual cooperation and mutual economic interdependence. Realist theories regard states as exclusive players in international relations, not admitting the influence of non-state players. The state plays a vital role as the enforcer of its own existence and security for the population. A common feature of the liberal line in theories of international relations is that states are not the only entity operating in the international environment, in that this is also influenced by international organisations, multinational corporations and non-governmental organisations (Drulák 2012: 147–150). According to Dunne, liberalism in international relations is represented by three streams: institutionalism, democratic realism and economic realism. It is economic realism, which deals with international trade and economic exchange as a factor mitigating the risk of international conflict, that is associated with interdependence (Dunne – Kurki – Smith 2021: 93–98). A fundamental attribute of the liberal concept of interdependence is that interconnected states are not in conflict with each other, as this would harm both players. In this context, an attacking state would have to consider the risks associated with a disruption of their interconnectedness.

The energy sector, essential for the functioning of any state, has gradually become fully interconnected with the concept of interdependence. A basic characteristic of the territorial structure of extraction and reserves of energy resources and their consumption is their unevenness. International energy trade has thus become part of international cooperation and interdependence. For the above reasons, the imported-energy dependence, for example, of EU states is

completely logical, especially in terms of high consumption, minimal primary energy production and the inappropriate energy mix. On the other hand, in the case of exporting countries, primary energy is a determinant of economic growth and forms an essential part of state revenues. Another important factor in international energy trade is energy infrastructure, which further deepens mutual ties between states, but these very close dependencies may be exploited as a political tool (Farrell – Newman: 2019).

In the context of the international dimension, energy trade and the above-mentioned interdependence, a fundamental issue for individual states is the level of energy security, which ensures stable and continuous access to energy resources under conditions of timely and sustainable availability. Although this is one of the most important objectives of state policies, in retrospect it is notable that some states are ahead of others in tackling their reduction of energy security. Energy security needs to be extended to include energy resilience, which would enable states to react quickly to unexpected fluctuations in supply for any reason. It is necessary to arrange short-term energy security that ensures a prompt reaction, but also long-term protection, which can be achieved primarily by the timely purchase of resources from foreign entities.

The discussion on energy security has been going on for decades. Numerous modifications have been made to this concept term and a number of definitions of energy security have evolved from the 1970s to the present. At first, the development of definitions focused on the physical availability of energy resources; later, the emphasis was placed on affordability and other aspects, including political and strategic ones, were included in the definition. The International Energy Agency defines energy security as access to a sufficient amount of energy at an affordable price with respect to the environment. The development of the definition can be traced back to the 1973 oil shock, a typical example of the asymmetry of interdependence in the field of non-military political weaponry in the international environment. Yergin defined energy security as the availability of sufficient energy and energy resources at affordable prices (Yergin 2012: 512). Ivančík, for instance, defined energy security as access to an adequate amount of energy resources in an adequate form and at an adequate price (Ivančík 2012). The European Commission defined energy security in the Green Paper of 2006 as the availability of energy products on the market at affordable prices for all consumers, respecting the environment and moving towards sustainable development. The United Nations emphasises not only affordability and reliability, but also the sustainability of energy resources (United Nations 2015). However, energy security can also be understood in a broader context as the interdependence of all players – producers, importers, exporters, transit elements, national and international entities – with mutual cooperation and risk minimisation being a priority (Terem 2011).

As mentioned above, the disparity in the understanding of energy security by countries – importers and exporters of energy feedstock – is crucial. A specific dimension is added by transit countries, which can also play a key role. Here we can see the intersection of exporters, importers and transit countries, where the importance of interdependence is different for each participant in energy trade. Therefore, differences in the definition of energy security by country of origin can also be found in the understanding of the concept of energy security. However, with some generalisation, it can be stated that the main factors that appear in the definitions and that are essential to maintaining energy security are: the provision and security of supply, especially primary-energy resources and electricity, continuity and regularity of supply, sufficient supply, affordable supply prices and sustainable production and transport (Ivančík – Kelemen 2013). The four basic attributes according to Yergin offer an even broader context for understanding energy security. The first attribute is the diversification of energy feedstock supplies; diversification of suppliers, alongside the diversification of supplies, is emphasised here. The diversification of transport, including infrastructure, seems to be crucial. Another key factor is the elasticity of energy flows; it is crucial to be able to react quickly to shocks caused by supply disruptions with adequate capacity in production, reserves and transport. The third attribute is the existence of a global market, and its stability in relation to the security of its participants. The last important aspect is reliable information enabling the proper functioning of the market, changing responses and procedures (Yergin 2006).

In the context of energy security, it is also necessary to note the importance of the composition of each country's energy mix. First of all, this concerns a suitable mix in terms of the share of individual primary-energy resources in energy consumption. Primary resources are converted into specific energy carriers. Energy security includes the capacity of the energy infrastructure. Here, it is necessary to take into account the corresponding processing capacity when changing the energy mix (Pascual – Elkind 2010: 141).

### **III. The EU's energy mix and energy trade**

This study works with data provided by Eurostat, the statistical office of the European Union, available for 2020; available data from 2021 to the third quarter of 2022 are also considered. Due to the unavailability of data, it was not possible to provide the most up-to-date view of the current, very dramatic changes that will be the subject of future research. However, it can be assumed that after a thirty-year increase in import dependency in energy resources, the EU has reached a milestone that will bring about fundamental changes in the energy mix of countries, as well as in the territorial structure of energy suppliers. The long-term upward trend was also confirmed by the increase in

import dependency in the last decade, from 54% to 60% in 2019. The EU can be described as a net importer of energy feedstock. This situation is informed by several factors which, in combination, have a very negative effect. The EU is a high-consuming region; due to the uneven distribution of energy resources in the world, Europe is very under-equipped and its policy focus aimed at reducing the use of non-renewable energy sources in particular (Costantini – Morando – Olk – Tausch 2022) also plays an important role. In the context of the current war in Ukraine and the changing EU-Russia relations, a change in the energy mix can also be expected, including a certain return to traditional resources, as well as shifts in timing related to a number of programmes connected to the use of renewable energy sources. At present, energy security in the European Union, and certain Member States in particular, are under serious threat. These are mainly countries whose energy mix consists of two basic resources, oil and natural gas, and where the level of energy security is low and is further threatened by the fact that these are countries with a historically significant reliance on imports from Russia.

Significant internal differentiation also plays a crucial role in addressing the EU's energy security. It has had a strong impact on energy in the context of political developments and perceptions of contemporary Russia. An essential feature of the internal differentiation in the energy sector in the EU lies in the differences in the energy mix of individual countries. These have been guided by many factors, especially the structure and focus of economies, the energy intensity of economies and, historically, the potential for and focus on the consumption of various energy resources. It should be noted that the perception of the EU as a single unit, but with great internal diversity in energy, has always limited the ability of EU institutions to effectively address this issue, particularly in the field of imports of Russian feedstock (Szulecki 2016: 562). The key issue, given its quantity and dependence on Russia, is to ensure sufficient quantities of natural gas. A June 2022 IMF Working Paper analyses the possible consequences of interruptions in the supply of natural gas from Russia in individual countries. The IMF identified the Czech Republic, Slovakia and Hungary as the countries most at risk from gas shortages and high prices as they were highly dependent on Russian gas imports and did not have alternative supply routes. However, in the current situation, the IMF forecasts have not fully come to pass. Other highly dependent countries, according to the IMF document, were Germany, Austria and Italy. These countries have relatively good infrastructure connections with neighbouring countries and are likely to be able to absorb shortages or the complete disconnection of gas supplies from Russia. Italy, which is also heavily dependent, is able to cover Russian gas supply shortages thanks to new contracts with alternative suppliers (IMF 2022).

The EU covered 42.5% of its gross annual consumption from national production, with 57.5% of energy resources having to be imported in 2020. The EU's energy consumption consisted mainly of oil (34.5%) and natural gas (23.7%), while RES accounted for 17.4% of consumption in 2020. Resources such as nuclear fuel and coal were of less significance, accounting for 12.7% and 11.5% of primary-energy consumption, respectively (Eurostat 2022). The composition of the energy mix differs significantly from one EU state to another. Traditional solid fossil fuels account for a significant share of the energy mix in Estonia (53%), Poland (41%) and the Czech Republic (31%). Nuclear fuel makes up the largest part of the energy mix in France (41%), while other countries such as Sweden, Slovakia, Slovenia and Bulgaria have shares of between 23% and 25%. Italy is the most dependent on natural gas, which accounts for 45.5% of gross energy consumption. The Netherlands also has a high share (38%), and Hungary has a 34% share. Small economies such as Cyprus, Malta and Luxembourg use oil most in their energy mix. Oil accounts for 87% of gross energy consumption in Cyprus, 86% in Malta and 60% in Luxembourg. Countries with favourable physical and geographical conditions are particularly successful in the use of renewable energy sources. These are mainly the Alpine region states and countries in the north of the EU. Renewable energy accounts for 48% of the energy mix in Sweden, 40% in Latvia, 38% in Denmark, 37% in Finland and 32% in Austria (Eurostat 2023).

The dependence on energy imports from abroad is high. There are also economic and political risks that affect the situation in the supply regions and on the feedstock routes to the EU. The degree of dependence shows the extent to which the economy relies on imports to meet its energy needs. It is measured by the share of net imports in gross inland energy consumption (i.e. the sum of energy produced and net imports). As mentioned above, more than half of the EU's inland consumption was covered by primary-energy imports; the indicator of overall energy dependence exceeded 57% in 2020, which means that more than half of the EU's energy needs were covered by net imports. This rate was lower compared to 2019 (over 60%), when the highest level of energy dependence on imports so far was achieved in the context of the economic crisis associated with the effects of COVID-19.

The highest import dependency was reported for oil, where the indicator approached 100% (96.2%). Import dependency on natural gas increased dramatically to 83.6%. The lowest import dependency among fossil sources was reported for coal (35.8%). The basic trend in the development of energy dependence is its growing rate, which has increased by 15 percentage points since the 1990s. Despite the long-term growing trend of primary-energy imports into the EU, import dependency decreased in a number of EU states between 2000 and 2020 (e.g. Estonia, Latvia, Sweden, Finland, Bulgaria, Romania, Slovakia and France); (Eurostat 2022).

**Table 1: EU's energy dependency rate from 2000 to 2021 (%)**

| <i>Import dependency</i> | <i>2000</i> | <i>2019</i> | <i>2020</i> | <i>2021</i> |
|--------------------------|-------------|-------------|-------------|-------------|
| Total                    | 56.3        | 60.5        | 57.5        | 55.5        |
| Oil                      | 92.8        | 96.8        | 96.0        | 95.2        |
| Gas                      | 65.7        | 89.7        | 83.6        | 83.4        |
| Coal                     | 29.8        | 43.2        | 35.8        | 37.5        |

Source: Eurostat 2023b.

All EU countries were net importers of primary energy in 2020. Malta, Cyprus and Luxembourg are the most import-dependent small EU countries without their own traditional resources. Despite strong growth since 2000 (22.7%), the Czech Republic's energy dependency rate remains at one of the lowest levels in the EU, reaching 38.9% in 2020. But it reached 100.2% in the case of oil. The countries with the lowest levels of energy dependence in 2020 were Estonia, Romania, Sweden, Bulgaria, the Czech Republic and Finland. Outside the EU, Norway is completely independent, with the indicator as much as -623.1%, Iceland also has a very low dependency rate (12%); (Eurostat 2022).

In the context of the current disruption of trade relations between the EU and Russia, changes can be observed in the EU's import dependency in terms of the total amount and value, and from the perspective of the changing structure of imports of individual energy resources and the fundamental departure from Russia as the largest supplier of energy resources to the EU. The effects on trade in energy products were expected after the imposition of economic sanctions, which directly and indirectly affected trade in oil and natural gas. The impact of several packages of sanctions was evident in the first three quarters of 2022. Due to the rapid increase in the prices of these commodities, there was also a significant increase in the value of imports. The value of imports increased by 18% in the second quarter of 2022; the average monthly value for 2021 increased to 166%. In this context, the value shares of individual energy resources also changed; the share of oil imports in total energy imports into the EU increased from 9.1% in 2021 to 11.3% in the third quarter of 2022. The increase in the share of natural gas was even stronger, climbing from 5.1% in 2021 to 13.2% in the third quarter of 2022. Contrary to their value, the composition of imported energy resources did not change significantly from 2021 to the first three quarters of 2022. Oil (56%) was imported in the largest volumes, followed by conventional natural gas (24%), coal (12%) and LNG (7%). Evaluating the amount of imported resources, the share in the case of oil decreased and there was an increase in the remaining three fuels. If we measure the value of imported energy

resources, the share of oil decreased by 11%, but price fluctuations caused an increase in the share of natural gas by 9.2 percentage points (Eurostat 2023a).

It is not just in the commodity and territorial structure that energy trade has seen changes; the total value of imported energy has also changed in terms of imported quantities and price developments. The rising prices of feedstock imported into the EU, rather than changes in the amount of imported energy resources, were mainly reflected in the total value of imported energy. In the context of the war in Ukraine and the development of mutual trade relations between the EU and Russia, there are significant changes in the territorial supply structure of oil and gas to the European Union in the most recent period of 2021 and 2022.

In this respect, Russia's position was significantly weakened in the short term. Russia was the largest supplier of oil and petroleum products to the EU in 2021, accounting for 24.8% of EU imports. The other largest oil importers to the EU were Norway (9.4%), the USA (8.9%), Libya (8.2%) and Kazakhstan (8%). However, the share of Russian imports to the EU was 14.4% in the third quarter of 2022, though Russia remained the largest importer of oil to the EU. Compared to 2021, this was a decrease of 10.5%. The USA (+3.0%), Norway (+1.1%), Saudi Arabia (+4%) and Iraq (+0.9%) increased their shares (Eurostat 2023a).

**Table 2: EU's oil suppliers in 2021 and Q1-3 2022 (%)**

| <i>supplier</i> | <i>2021 value</i> | <i>2021 quantity</i> | <i>supplier</i> | <i>Q3 2022 value</i> | <i>Q32022 quantity</i> |
|-----------------|-------------------|----------------------|-----------------|----------------------|------------------------|
| Russia          | 24.8              | 25.8                 | Russia          | 14.4                 | 18.3                   |
| Norway          | 9.4               | 9.0                  | USA             | 11.9                 | 10.8                   |
| USA             | 8.9               | 8.4                  | Norway          | 10.4                 | 9.9                    |
| Libya           | 8.2               | 8.0                  | Saudi Arabia    | 9.1                  | 8.7                    |
| Kazakhstan      | 8.0               | 7.9                  | Iraq            | 7.6                  | 8.5                    |
| Nigeria         | 7.2               | 7.0                  | Kazakhstan      | 6.8                  | 6.5                    |
| Iraq            | 6.6               | 7.2                  | Libya           | 5.4                  | 5.1                    |
| UK              | 5.2               | 5.2                  | Nigeria         | 5.4                  | 4.8                    |
| Saudi Arabia    | 5.1               | 5.3                  | UK              | 5.0                  | 4.7                    |
| Azerbaijan      | 4.7               | 4.5                  | Azerbaijan      | 4.6                  | 4.0                    |

Source: Eurostat 2023b.

**Table 3: EU's natural gas suppliers in 2021 and Q1–3 2022 (%)**

| <i>supplier</i> | <i>2021 value</i> | <i>2021 quantity</i> | <i>supplier</i> | <i>Q3 2022 value</i> | <i>Q3 2022 quantity</i> |
|-----------------|-------------------|----------------------|-----------------|----------------------|-------------------------|
| Russia          | 39.3              | 43.9                 | Norway          | 30.8                 | 25.4                    |
| Norway          | 24.2              | 18.6                 | USA             | 15.2                 | 14.8                    |
| Algeria         | 8.2               | 12.2                 | Russia          | 15.0                 | 15.3                    |
| USA             | 7.1               | 5.8                  | UK              | 12.3                 | 15.7                    |
| UK              | 6.2               | 5.7                  | Qatar           | 7.2                  | 6.1                     |
| Qatar           | 4.9               | 4.6                  | Algeria         | 6.7                  | 10.8                    |
| Azerbaijan      | 3.6               | 2.6                  | Azerbaijan      | 5.3                  | 3.8                     |
| Nigeria         | 2.2               | 3.2                  | Angola          | 1.8                  | 1.6                     |
| Libya           | 1.3               | 1.0                  | Nigeria         | 1.2                  | 2.6                     |
| Other           | 3.0               | 2.3                  | Other           | 4.5                  | 4.0                     |

Source: Eurostat 2023b.

After the Russian invasion of Ukraine and in view of EU sanctions, the supply of natural gas from Russia has been steadily decreasing. From the largest supplier of natural gas to the EU in 2021, Russia ranked third after Norway and the USA in the third quarter of 2022. The USA accounted for more than 39% of EU gas imports in 2021, followed by Norway with 24% and Algeria with 8%. Compared to 2021, Russia's share decreased by 24.3 percentage points to 15.0% in the third quarter of 2022. The shares of Norway (+6.6%) and the USA (+8.2%) increased significantly.

In the period under review, from 2021 to the third quarter of 2022, the negative development of oil prices led to an increase in the value of imports into the EU from both Russia (+ €0.6 billion) and other external suppliers (+ € 11 billion). The significant increase in the value of importing countries outside Russia was also due to the increase in imported quantities, which replaced the gradual move away from imports from Russia. Compensation for Russian imports amounted to approximately €4.5 billion. In the case of natural gas, a sharp increase in the value of imports caused by increasing prices can be observed, with a decrease in imported quantities over the period in question. The increase in the value of imported gas reached 200%, among non-European suppliers it came to as much as 297%, and for Russia it was 56%. The volume of natural gas imports decreased by 4% overall in the reporting period; the volume of Rus-

sian gas decreased by 53%, but imports from other countries recorded a 35% increase (Eurostat 2023a).

#### **IV. Discussion on the options for reorienting trade and strengthening EU's energy security**

The discussion focuses on the opportunities to strengthen energy security in the context of changes in trade dependence on Russia, which was the main supplier of energy feedstock to the EU, but its position has recently changed substantially. In this context, the differences in the role played by Russia as an import partner for individual EU countries need to be considered. The EU's energy security can be strengthened via three main approaches. Diversification of feedstock supply and a change in the territorial structure of suppliers, especially oil and natural gas, are essential. Another principle relies on a change in the energy mix in the sense of optimising energy security. The last principle is associated with intensification, greater interconnection and completion of the internal energy infrastructure of the EU. In the approach to risk management in energy security, the portfolio risk management principle can be applied. Here, investors can benefit from diversification by investing in multiple assets. In this respect, diversification entails the creation of a portfolio that includes multiple positions in different assets to reduce risk (Stringer 2008: 128). Diversification then reduces the potential risk of the portfolio, as the probability of a decrease in the value of assets is lower than holding a single asset. This principle can also be applied when securing energy supplies, with a spread of energy resources in the energy mix, and energy imported from various suppliers (Stringer 2008: 127–128). The portfolio principle allows for a shortage of a particular energy resource or energy supplier to be replaced by another. The use of a portfolio thus makes it possible to face geopolitical risks as well. The diversified structure of energy resources and suppliers reduces the impact of the failure of individual resources or suppliers, and embraces alternative options. In the case of the European Union, regional advantages can be harnessed to increase energy security, but this requires the completion of the internal energy infrastructure, i.e. the application of the third principle. A discussion on the homogeneity of energy mix within the EU is pointless; individual states have different physical and geographical conditions allowing for more or less involvement and production of renewable energy sources, and it will be possible to compensate for energy shortages in the affected areas or states thanks to the interconnection of energy infrastructure.

The diversified supply structure can be monitored from the point of view of states – as energy producers, and in terms of the diversification of supply routes and states – as suppliers of energy resources to the EU associated with risks arising not only from the transport of resources through transit countries, but

also from the supplier states themselves. Focusing on the supply of natural gas, where, even in the third quarter of 2022, Russia was the main supplier with a 30% share in imports, the clear need to diversify supplies among a wide range of suppliers can be discussed. Even a relatively broad supplier mix does not provide supply security, as political risks and geopolitical interests may be latent. One opportunity to supplement the portfolio would be to extend the supply structure to include small, seemingly insignificant suppliers who could replace large importers in the event of a supply shortage. As the land factor was, until recently, a constraint on the transport of natural gas, and most of the natural gas was supplied by pipelines, the structure of the supply infrastructure to the EU reflects this. Russia, Norway and Algeria were the main suppliers of gas to the EU in 2021, i.e. geographically close countries where gas was transported via pipelines. The great risk posed by bilateral relations with Russia turned out to run deep after the invasion of Ukraine, and gas supplies became a truly key political tool. Two alternatives can be mentioned in terms of extending the possibilities of the structure of gas supply to the EU. The first is the expansion of LNG supply infrastructure and greater interconnection with the global gas market. The second option would be to build conventional infrastructure and connect the EU with new suppliers through gas pipelines, in particular in the Caspian Sea region. The EU is now connected to LNG supplies through 27 terminals; it was able to provide 40% of the total gas demand in the EU in 2021, with 23 more terminals planned to be built by 2027 and six terminals expected to be operational in 2023 (Selei 2022: 8).

Another way to address the change in the structure of energy supply flows to the EU and the shift away from imports from Russia could entail changes in the composition of the energy mixes of each country, which reflect energy consumption, with large disparities identifiable within the EU. It is necessary to diversify energy mixes, but these processes cannot be carried out in the short term because the energy mixes of individual countries are determined by the long-term specific patterns of economies and take into account strategic and security aspects. From this point of view, greater cooperation between EU countries is necessary; the basic tool here is the European Energy Union project, which favours a stronger position of renewable energy sources in the EU energy mix and the weakening of the importance of fossil sources in the EU energy mix. The EU's ambition is to increase the share of renewable energy sources in the energy mix to 32% by 2030. This goal may be impacted by a number of factors related to the war in Ukraine, but it could accelerate the readiness of the European energy market for decarbonisation and undoubtedly accelerate the departure from dependence on energy imports from Russia. In putting these developments in the context of mutual interdependence, this EU policy appears to be a fundamental threat to Russia's energy security in terms of Russian feedstock exports, which are crucial for the Russian economy. However, differences

in approach between Member States are also evident. Some countries are trying to promote the use of renewable energy sources (Denmark, Germany), others are more restrained (Poland, Hungary); different physical and geographical conditions (mountains, water) are another important factor. These differences undermine a unanimous European approach and lead to the promotion of particular interests in national energy strategies. It is therefore clear that the issue of energy mix diversification will be complicated, and a certain split between the EU into countries with a significantly higher share of renewable energy sources in the energy mix and countries with a higher share of fossil fuels can also be expected. A question mark hangs over the use of nuclear fuel, which contributes 12.7% to the EU's energy mix, see above (Eurostat 2022), and although the Energy Union project envisaged a reduction in nuclear energy, its role is currently being reassessed, national approaches differ, and some countries clearly prefer nuclear fuel as a transition resource in the context of decarbonisation.

Another requirement if the pattern of energy resource trade flows to the EU is to change is the existence of perfect infrastructure between Member States to allow for the comprehensive interconnection of countries and sufficient capacity. The downstream network will thus be able to eliminate supply shortages and ensure a sufficient amount of energy in endangered countries. From the point of view of supply diversification, a key factor is the elimination of natural pre-conditions that allow the coastal states to import LNG. In terms of maximising safety, it is necessary to connect all states to supplies from seaside terminals, as well as new suppliers from the Caspian Sea region. It should be noted that the concepts proposed in the history of expanding the EU's internal infrastructure due to the high dependence of the EU's eastern part on imports of fuels from Russia were contrary to the concept of transforming the energy mix aimed at increasing the use of renewable energy sources. The current state of relations between the EU and Russia could be said to have opened up another debate on the future direction of European energy. It has disrupted, yet perhaps in certain respects accelerated, the transition to environmentally sustainable energy. The process of changing the energy fuel flow to the EU is a relatively complex process in the short term and is impacted by numerous other factors; the task of quickly securing a replacement supply of fossil resources has become a pivotal task.

## **V. Conclusion**

This study examined the issues of energy trade and energy security with a focus on the EU as part of the theoretical anchoring of mutual interdependence. Until recently, the EU's energy trade scheme relied on imports from Russia, where asymmetry of interdependence can be observed. The EU as a whole and the individual Member States rely heavily on foreign energy supplies as the demand for primary-energy resources significantly exceeds production and the EU does

not have significant fossil fuel reserves. The energy mix relies mainly on oil and gas, i.e. resources with minimal production and proven reserves in the EU. The EU's energy security is thus very unsatisfactory and the undiversified import structure with a dominant focus on Russia has changed from a risk to a crisis. However, with the energy crisis beginning to escalate in connection with Russia's aggression against Ukraine, the EU faces key challenges in energy security and related energy dependence requiring urgent solutions. The disruption of energy security is a typical asymmetric effect; a key issue is the position of the state in international trade, i.e. whether it is in the role of an energy resource importer or an exporter. International energy trade has thus become part of international cooperation and interdependence. The EU's import dependency on energy is very complicated for reasons such as high consumption, minimal primary-energy production and an inappropriate energy mix. The EU is a high-consuming region and the EU's policy focus on reducing the use of non-renewable energy sources also plays an important role due to the uneven distribution of energy resources in the world and the lack of resource facilities. The energy security of the EU, and in particular of certain Member States, is currently under serious threat. These are mainly countries whose energy mix consists of fossil fuels, oil and natural gas, which have a low level of energy security; these are countries historically reliant on imports from Russia. When addressing the issue of strengthening the EU's energy security, another crucial factor is the significant internal differences within the EU, which has had a major impact on the energy sector in connection with political developments and the perception of contemporary Russia. The dimension of dependence on energy imports from Russia is determined by geographical and historical factors and has influenced the concept and nature of energy security in individual states.

In the context of the current disruption of trade relations between the EU and Russia, changes can be observed in the EU's import dependency, both in terms of the total amount and value of imports, and in the changing structure of imports of individual energy resources and the fundamental shift away from Russia as the largest supplier of energy resources to the EU. The impact of the sanctions on Russia was felt in the first three quarters of 2022. Due to the rapid increase in the prices of these commodities, there was also a significant increase in the value of imports. It is not just in the commodity and territorial structure that energy trade has seen changes; the total value of imported energy has also changed in terms of imported quantities and price developments. The rising prices of feedstock rather than changes in the amount of imported energy resources were reflected in the total value of imported energy in the reporting period.

The final discussion focuses on the possibilities of strengthening energy security in the context of changes in trade dependence on Russia, which was the main supplier of energy feedstock to the EU, though its position has recently changed substantially. In this respect, it is necessary to consider the differences

in the role played by Russia as an import partner for individual EU countries. In order to strengthen the EU's energy security, three main approaches were identified when considering current conditions related to the war in Ukraine. Diversification of feedstock supply and a change in the territorial structure of suppliers, especially of oil and natural gas, are essential. Another principle relies on a change in the energy mix in the sense of optimising energy security. The final principle is associated with intensification, greater interconnection and completion of the internal energy infrastructure of the EU. However, in the context of the need for current changes, it should be noted that all solutions are time-consuming and are not fully applicable in the short term. As the current situation envisages further development of the issue examined here, further research needs to monitor changes in energy trade flows within the EU and individual Member States, as well as focus on the limits and risks associated with the further development and use of renewable energy sources and a return, in some respects, to certain traditional resources as a vehicle for transition.

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# Expert Knowledge on Environmental Peacebuilding: the social context of its diffusion in international politics and what it says about it<sup>1</sup>

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**Abstract:** *In the last two decades, environmental peacebuilding (EPBL) has become a rapidly growing field of research and practice and today, EPBL is embedded in academia, policy making, and education, as well as in practice. The goal here is to learn more about the social complexity and context of the production of expert knowledge on environmental peacebuilding (EPBL) and its diffusion in international politics in the period from 1990s to 2008. It was also discussed what the analysis of social context says about EPBL, and its diffusion. We conclude that as expert knowledge, EPBL emerged in practice, not in academia, and developed within narrow relations in a very small group of conservationists, scholars, and practitioners. Since the end of the 1990s, EPBL has spread globally, being distributed because it has been collectively enacted through relations and mediated by the intersubjective meanings and artefacts such as guidelines, projects, policies, conferences, reports, and books.*

**Key words:** *environmental peacebuilding, expert knowledge, social context, diffusion in international politics*

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## I. Introduction

Since the 1960s we have been able to observe the increasing attention to the intersection of environment, conflict, peace, and security. This nexus, once entitled “environmental security”, later became known as “environmental peacebuilding” when it became connected with thinking about building more peaceful relations through environmental cooperation, natural resource management, climate change adaptation, and disaster risk reduction. The core of environmental peacebuilding (EPBL) creates the idea that conflict and cooperation can co-exist, and that the cooperative planning, management, and use of environmental resources is able to support an increase in trust, communication, and interaction between opposite parties and thus transform the risks of conflict into opportunities for peace (Conca – Dabelko 2002; UNEP 2009a). In the last two decades, EPBL has become a rapidly growing field of research and practice. Today, EPBL is embedded in academia, policy making, and education<sup>2</sup>, as well as in practice. The increase in attention to EPBL has resulted in dozens of scientific, as well as practice-oriented papers and books<sup>3</sup>, and dozens of field projects all over the world. All this would indicate that we know a great deal about EPBL. However, this is not true. What we do know little about is the social context of the production and diffusion of EPBL as expert knowledge<sup>4</sup> in international politics. Context is that which “surrounds” a particular phenomenon. It refers to the specific setting in which social interaction takes place. But it is not only something that simply surrounds objects; social context modifies conditions and is a mediating mechanism (Pace 2008: 820; Goodin – Tilly 2006). Within broader social science, scholars take social context as their starting point, and often as the primary focus. But students of international politics do this only negligibly. However, EPBL, as with other phenomena, can hardly be understood without its relation to the setting and system of which it is part. The starting point here is that social context matters in the diffusion of expert knowledge in international politics, because the production and diffusion of expert knowledge is not automatic or spontaneous, and neither is it only a technical process based on a series of isolated events (Barth 2008; Hall 1989; Hveem – Knutsen 2012).

The goal of the present study is to learn more about the social complexity and context of the production of expert knowledge on EPBL and its diffusion in international politics. To know more about it may help us to understand

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2 For details see [www.environmentalpeacebuilding.org/education/curricula/](http://www.environmentalpeacebuilding.org/education/curricula/).

3 See list of publications on EPBL on [www.environmentalpeacebuilding.org/library/](http://www.environmentalpeacebuilding.org/library/).

4 Expert knowledge is understood here as a spatio-temporal situated phenomenon in practice which is inseparable from everyday actions within a social context (Cook – Brown 1999). It includes facts, information, professional codes and skills gained and generated through education and training, socialization, practice and research (not necessarily done in the laboratory), and through the theoretical and practical understanding of the subject.

*what knowledge has been diffused and by whom; who owned the production and diffusion process; who was included and who was excluded from it; how relations, interactions, practices and actors assembled and reassembled around EPBL; how social connections and networks emerged and worked; and where and when the knowledge penetrated academia, education, policy making and practice and became influential in the international politics.*

The present article scrutinizes the period from the beginning of the 1990s to 2008, starting at the time when EPBL emerged as an idea and ending when UNEP's program called *Environmental Cooperation for Peace* (ECP) was formally launched to produce and diffuse expert knowledge on EPBL, to analyze and suggest politics and technical advisories concerning EPBL, and to implement it (UNEP 2009b, 2015).

In the first part, the research framework and methods used are introduced; attention is paid mainly to the Social Ecological Model which is applied throughout the work. The second part traces the socio-genesis of EPBL and follows the transformation of EPBL from idea to expert knowledge. The third part collects and evaluates empirical evidence about the social context of the diffusion of EPBL. The conclusion firstly discusses what the empirical evidence indicates about the social context of diffusion of expert knowledge about EPBL, and secondly pays attention to what the analysis of social context says about EPBL, and its diffusion.

## **II. Research framework and methods**

The present article represents a contextual analysis and is inspired by studies of social context in sociology, anthropology, and health studies. Contextual analysis is premised on the idea that a consideration of context improves understanding of the phenomenon of primary interest and offers a contextualized explanation. Understanding the social context of a particular setting demands that researchers seek to understand what particular actions, words, and objects mean to people in a particular setting, and the meaning of a particular action or behavior must be understood in relation to the setting and system of which it is part (Pace 2008: 821). There are several models used for studying social context in social sciences; for this scrutiny the Social Ecological Model (SEM) was chosen (for other models see, e.g. Bandura 1997, 2002). SEM is used to explain the complex associations between social and structural factors, individual practices, and the physical environment. It is based on the idea that multiple dimensions of influence between humans and their environment exist and these multi-directional levels are interactive, co-constitutive and reinforcing. SEM enables to combine micro and macro focus, and to see objects and influences between micro and macro and spanning boundaries (Stokols 1992; McLeroy et al 2003). Thus, SEM is a meaningful framework in which to consider the social

context of the process of the diffusion, which itself “works” as the connection between knowledge, its authors, those who would like to use and apply it, and particular social systems in which knowledge is spread. It is a process consisting of global, international, transnational, domestic and inter-organizational interactions which occur between many different entities, including individuals.

SEMs differ in how many dimensions of influence they take into consideration. Here, a five-level SEM is used (Stokols – Pelletier – Fielding 1996). The levels we take into consideration are:

1. *Individual*: Individual factors are biological or behavioral characteristics; they have the capacity to influence how a person behaves. Age, education, economic status, profession, interests, and personal trajectories are some of the many attributes noted at this level. In this research, the individual level gives an account of who was producing and diffusing expert knowledge on EPBL and their individual and group characteristics. Here, attention will be paid to the education, profession, experience, and personal trajectories of EPBL entrepreneurs.

2. *Interpersonal*: The interpersonal level refers to relations and networks. As indicated by Latour (2005), nothing in the social and natural world exists separately; rather, everything is constantly generated and transformed by mutual relations between actors. Relations and structure determine actors’ roles and functions and actors give sense and durability to connections, as well as networks. Relations and networks influence behavior, enable social exchange and access to information and opportunities, and playing out social norms (Granovetter 1973). The tracing of relational linkages, their movement, and the circulation of information enable an understanding of how actors enable and mediate organized activities and how social context is generated. In SEM, relational networks are operationalized as a group of people not necessarily bound by geography who have a higher probability of being exposed to the knowledge of others, mediated through increased contact. Here, we aim to discover the relations and linkages of EPBL entrepreneurs, the characteristics of interaction between EPBL entrepreneurs and their quality, as well as between EPBL entrepreneurs and others.

3. *Organizations*: Organizations are instrumental in the development of behavior and deeds as they often set up and enforce regulations and are also able to control the material infrastructure of dissemination and channels of communication (Finnemore – Sikkink 1998). Here, we will concentrate on which organizations exercised influence over EPBL diffusion, particularly who (which organization) organized the process and how, who provided material support, and what organizational practices and rules affected EPBL diffusion.

4. *Community*: In SEM, community is defined as a group of actors who interact with each other and share common beliefs, values, and behavior. This level focuses on who is part of the community and what qualities and characteristics

the environment within the community has in which social relationships occur. Traditionally, communities occurred within bound geographic territories; however, with the development of modern communication technologies, distance has become less important. Here, attention will be paid to the characteristics and qualities of the physical environment, to social structure, and to the beliefs, values, and behavior of the community of EPBL entrepreneurs. The environment in which the community itself is situated will be also scrutinized.

5. *Policy*: Policies and laws provide the general framework for shaping human behavior and have the potential to impact large numbers of people. Policies and laws, and their institutional and financial arrangements, influence processes in the society including decisions about science and the use of scientific knowledge in politics (Jasanoff 2004). Here, we aim to think through the policy environment and the global and regional state of political affairs which surround the EPBL diffusion in international politics.

## 2.1 Data collection and analysis

Before introducing the methods used here to collect and evaluate data, it is necessary to say that there are at least two obstacles to studying expert knowledge diffusion in international politics. Since it is hard to predict what particular knowledge will spread, it is always necessary to proceed retrospectively. However, retrospective scrutiny is challenged by imperfect human memory, cognitive biases, and materials too conclusive and general, giving only impersonal information and no clear evidence of social ties and social context. Additionally, retrospective scrutiny and the global reach of an analyzed subject do not allow individual researchers “to be there” as a participant or observer. All research into past social processes and contexts have had to find ways of reconstructing the many situations, and even then, they are challenged by the risk of misunderstanding.<sup>5</sup>

Here, a pragmatic combination of methods was used. To collect data, an extensive study of documents, qualitative historical analysis (QHA), biography and interviews were used. The goal was to obtain more details on the socio-genesis of EPBL, to document the process of EPBL diffusion, to determine the *key events* and *key agents*<sup>6</sup> in the process of EPBL diffusion, and to know more about how events happened and who the agents were. The circulation of people across jobs

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5 Not only International Relations has been challenged by this problem, similar questions have been discussed within anthropology and sociology. To solve the problem, scholars (Burawoy 2000; Marcus 1995; Stepputat – Larsen 2015) suggested replacing observation and presence with so-called “polymorphous engagement”.

6 *Key agent* is somebody (be it individual or organization) who participated in the debate on EPBL for several years and did something to diffuse and implement EPBL in a political environment. *Key event* is the occurrence which unequivocally demonstrates the motion and actionability of EPBL in politics.

and their personal and institutional connections, as well as the developmental and organizational transformations of institutions were traced.

To analyze and interpret data, qualitative evaluation, prosopography, Social Network Analysis (SNA), and topology were mainly used. Because some of the most important instruments of EPBL diffusion are academic, policy, and practice-oriented publications, SNA was used to gain an understanding of the co-authorship network, particularly the relations between those identified as key persons (“nodes” in SNA terminology; more see Wasserman and Faust 1994). At an aggregate level, the network of 12 people (see below) was analyzed as a whole in order to identify important components within the community. More specifically, authors and co-authors were analyzed in terms of their centrality<sup>7</sup> in the EPBL network. Particularly, the betweenness centrality score<sup>8</sup> was measured. The bibliometric data used for SNA was based on the CVs of particular persons and data from EBSCO, JSTOR, and the EPBL Knowledge Hub. SNA was used mapping the relations of key persons between 1993–2007.

Topology was used to scrutinize the means of connections in a group of key agents and their characteristics. A pre-determined set of key agents (12 key persons plus key institutions, see below) was used to define the topological space in 2007. The data about relations and connections were collected from CVs, the web pages and documents of particular institutions, project reports, interviews and information in publications, and from newsletters, to name but a few.

The following scrutiny of social context of EPBL diffusion is divided into two parts: firstly, the genesis of EPBL and its diffusion in international politics is introduced; secondly, the social context is scrutinized through applying five-level SEM.

### **III. EPBL: from idea to expert knowledge and the evidence of its diffusion in international politics**

The idea of a security-environment nexus was born in the 1960s as a reaction to environmental damage during the Vietnam war and prospered in 1980s during debates on water wars, the rise in world population and environmental migration, and the possible impact of nuclear war (Waisová 2017). However, the idea of using environmental cooperation and transboundary conservation as a catalyst for conflict resolution and building peace first emerged at the end of the

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7 A central actor is one at the center of a number of connections, i.e. an actor with a large number of direct links with other actors.

8 The betweenness centrality score is a measure of how often a node lies on the shortest path between nodes within the network. Nodes with a high betweenness centrality often connect components of a network that would be disconnected if the node were removed. A high betweenness centrality indicates that an author is frequently identified if other authors within the co-authorship network need to be connected with one another, and they lie “between” them as an intermediary (for details see Bender et al 2015).

1980s within the International Union for the Conservation of Nature (IUCN). In 1988, J. Thorsell<sup>9</sup>, then coordinator of IUCN's Program on Protected Areas, organized a workshop on Border Parks that resulted in 1990 in the publication *Parks on the Borderline: Experience in Transfrontier Conservation*. In this, the IUCN cooperated with UNEP and identified places where internationally adjoining protected areas occurred. The wider effects of transboundary conservation began to be traced and evaluated. In academic circles, pioneering studies on the use of environmental cooperation in conflict resolution and peacebuilding appeared (Brock 1991). The next event was a call for Regional Action Plans at the IUCN World Parks Congress in 1992. In 1994, Europe responded with *Parks for Life: Action for Protected Areas in Europe*. The book suggested using environmental issues to support cross-border cooperation. At the same time, (1993) UNEP published the report *Transfrontier Reserves for Peace and Nature: A Contribution to Human Security* edited by A. Westing<sup>10</sup> and written by scholars from IUCN. The book firstly unequivocally articulated the idea of the peacebuilding potential of environmental cooperation and suggested using environmental cooperation to build trust between opposing parties. Since then, EPBL has become the meeting point between IUCN and UNEP and working relations have been established (Hamilton – Sandwith – Vasiljević nd).

The outcome of these developments was the concept of “peace parks”. Peace parks were suggested as a specific conservation management strategy for transboundary areas rich in biodiversity but under threat from violence and military conflict (Brock 1991; IUCN 1994). The concept became embedded within IUCN and UNEP and penetrated international conflict resolution. In October 1994, a peace treaty between Israel and Jordan was signed and, following its environmental appendix, the first peace park, called the Red Sea Marine Peace Park, was established in 1996.<sup>11</sup>

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9 For people mentioned throughout the text but not included in the group of key persons, short bibliographic information is mentioned in the references. James Thorsell, Canadian nature conservationist, worked for IUCN as senior advisor from the 1980s and cooperated with UNESCO. He joined as CEO of the World Commission on Protected Areas in 1983 and later headed the World Heritage Program.

10 Arthur Westing received, B.A. in Botany from Columbia, and then served in the U.S. Marine Corps during the Korean War. Later he received a master's in Forestry and PhD in Plant Physiology and Ecology at Yale. He worked as an academic at universities, for SIPRI and PRIO. He was an international environmental security consultant to various intergovernmental and non-governmental organizations. Westing is seen as “the most important pioneer on the environmental impact of war,” and should be regarded as “the father of the modern, continuous interest in the environmental effects of war” (Brauch 2013).

11 Following the Madrid conference in 1991, a series of negotiations focused on water were set up under the sponsorship of the US. During this period, the USAID and its consultants for hydropolitics (mainly A. Wolf) suggested joint water management as a solution to water scarcity and water conflicts in the Aquaba gulf (Wolf 1993). Aaron Wolf is a professor of geography at Oregon State University. He has an M.S. in water resources management and a, Ph.D. in environmental policy analysis from the University of Wisconsin, Madison. Wolf has acted as consultant to the US Government, the World Bank, and several development agents on various aspects of water resources and conflict management. He has been involved in developing strategies for resolving water aspects of the Arab-Israeli conflict.

In 1997 IUCN opened the Parks for Peace initiative, to be a tool to enhance cooperation on biodiversity conservation, conflict prevention and resolution, and suggested the Draft Code for Transboundary Protected Areas in Times of Peace and Armed Conflict (Sandwith et al 2001). At this time, the idea of EPBL resided only within IUCN and in the heads of several peace research scholars and protectionists, who were mainly motivated by a practical need to solve environmental issues in conflict-prone areas. However, from the mid-1990s, when the international community was challenged by genocide, civil war, resource conflict, several ecological problems in conflict and post-conflict zones, and by the rising quest for conflict prevention and resolution, interest in EPBL began to grow.

When the Environmental Change and Security Program (ECSP) was created in 1994, EPBL emerged within the agenda of the eminent, and historically one of the most influential think tanks worldwide, Woodrow Wilson Center. The program reflected social changes in the US and political transformation after the arrival of the Clinton administration in 1993 (see note 23) and its aim was to support the research of the environment-security nexus, environmental peacebuilding, and the greening of policymaking at home, as well as internationally (ECSP 1995). The program became the “true cradle” of the first generation of EPBL scientists; almost all the people identified here as key agents appeared on the ECSP stage at the time. The milestone was the appointment of the interdisciplinary-based professor G. Dabelko as program director in 1997. Dabelko extensively published on the peace dividend of environmental cooperation and advised several international organizations to implement EPBL in field projects (for his background and role in EPBL diffusion, see Table 1, Pictures 1 and 2).

The idea of EPBL began to transform into knowledge and appeared internationally. In 1998, G. Dabelko met S. Lonergan and R. Matthew when preparing a report for OECD. The report was named *State of the art review on environment, security, and development cooperation* and roofed by IUCN. The idea of a peace dividend of environmental cooperation in conflict-prone areas was clearly articulated through the report. Despite all three working in 1998, as well as later for different organizations (Table 1), they remained devoted to EPBL, met at various events in the following decade, and established cooperation with emerging EPBL friends (Picture 1). Apart from the WWC, EPBL appeared on the agenda of the UNEP Swiss Office, an institutional platform with international reach. The office, headed by S. Lonergan, became one of the most progressively developing UNEP bodies at the end of the 1990s, with a strong effort to penetrate the rapidly developing UN peace agenda and policy making (D. Jensen, Personal Interview, 7 February, 2020).

The period from the end of the 1990s until the emergence of ECP in 2008 was characteristic of winning new knowledge on EPBL through research and

field projects and spreading the knowledge and practice world-wide. In 1998 IUCN issued the Action Plan for the Environment and Security and cooperation with the International Institute for Sustainable Development (IISD) was established. Consequently, in 2000 M. Halle, director of IISD, initiated the establishment of the Working Group on Environment and Security within IUCN with the goal of systematically examining the links between conflict, disaster, and environmental management. IISD acted as the secretariat for the Working Group (Presentation 2012). Later that year, IUCN and IISD created the joint Task Force on Environment and Security. At the same time, the Division of Early Warning and Assessment and the Expert Advisory Group on Natural Resources and Conflict were created within the Swiss Branch of UNEP, both directed by S. Lonergan. Several persons identified here as key agents became members of the group and several others began to cooperate with it (Table 1). Lonergan (2004: 2) symbolically summarized the developments in the introduction to the report *Understanding Environment, Conflict and Cooperation* issued by WWC. He wrote that UNEP “is developing Environment and Conflict Prevention initiative to coordinate and stimulate international efforts to promote conflict prevention, peace, and cooperation through activities and policies related to environmental protection, restoration, and resources. The goal is... to facilitate cooperation on environmental issues.”

The increase in interest and in knowledge about EPBL was reflected in two books published in 2002: *Environmental Peacemaking*, edited by Conca and Dabelko, and *Conserving the Peace Resources, Livelihood and Security*, edited by R. Matthew, M. Halle and J. Switzer<sup>12</sup>. The first book was issued by WWC, the second by the IUCN-IISD Task Force on Environment and Security. Today, both are evaluated as being turning points in the diffusion of expert knowledge on EPBL (D. Jensen, Personal Interview, 7 February, 2020). However, EPBL also began to live actively in international politics, where there emerged projects such as the *Red Sea Marine Peace Park*, the *Good Water Makes Good Neighbors* project of the NGO Friends of the Earth Middle East, and *ENVSEC*, a joint project between UNDP, UNEP, NATO and OSCE created in 2003 to manage environmental problems in East Europe and Central Asia, to name but a few. EPBL also penetrated the foreign and development policies of several countries (see note 21nn).

At the beginning of the new millennium, EPBL became rooted in the UNEP, which was reflected by further institutional transformations, as well as changes in the agenda (D. Jensen, Personal Interview, 7 February, 2020). Within UNEP, the Post-Conflict Assessment Unit was established (headed between 2001 and

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12 Jason Switzer holds a graduate degree in Environmental Engineering and in Technology Policy from MIT. He was a Project Officer for IISD's Environment and Security initiative, and later worked at the World Commission on Dams and at GeoHazards International.

2004 by P. Haavisto). The Unit “conducted environmental clean-up and capacity building exercises, which went *beyond the mandate* given to the Unit by UNEP” (Brusset 2016; italics the author). The Unit also cultivated relations with several non-UN bodies, such as universities, research institutions, non-governmental organizations, and consultants interested in EPBL (UNEP 2004). The final step was the change in the name of the Unit, (from 2007 it was known as the Post-Conflict and Disaster Management Branch) and the creation of the UNEP Program on Environmental Cooperation for Peacebuilding (ECP). The program was created at a time when UNEP, based on its experience in the Balkans, won a monopoly over post-conflict environmental assessment (Maertens 2018).

ECP began to work in 2008 under the leadership of D. Jensen and with the financial support of Finland and Sweden. When D. Jensen commented on the emergence of ECP (Personal Interview, 7 February, 2020) he argued that “the main driver was the creation of the UN Peacebuilding Commission at the end of 2005. This Commission had a mandate to address the root causes of conflict and lay the foundation for sustainable peace. In this context, UNEP realized that its post-conflict assessments were not well aligned to the needs of the Commission as UNEP only spoke to environmental damage and risks rather than drivers and peacebuilding opportunities. Consequently, the discussion was brokered between UN Secretary General Kofi Annan, Director of UNEP Klaus Topfer, President of Finland Tarja Halonen and Director of the UNEP Swiss Office Pekka Haavisto, whereby UNEP would offer expertise to the UN Peacebuilding Commission on the environmental dimensions of conflict, based on its post-conflict field work, as well as evidence coming from its network of academic partners and institutions. This concept was then wrapped into ECP.”

#### **IV. The search for social context of EPBL diffusion in international politics**

As indicated above, here, the five-level Social Ecological Model will be used. For analytical purposes, levels are scrutinized separately; however, in the real world the levels are interdependent and co-constitutive, meaning they are formed in relation to and by each other.

##### **4.1 Individual**

Despite conventional IR not usually taking individuals into consideration, in studying social context and expert knowledge diffusion even globally, individuals matter (Knorr Cetina 2003, 2005). Here, rather than being interested in the bibliography of a particular individual, we are interested in a group of particular individuals (prosopography). Particularly, who these people are, why and how these individuals came together, what “predetermined” particular individuals

to be EPBL entrepreneurs, and what characteristics influenced their ability to diffuse EPBL.

For prosopography, a group of 12 persons was set up: (in alphabetical order) Carl Bruch, Alexander Carius, Ken Conca, Geoff Dabelko, Pekka Haavisto, Mark Halle, Anne Hammill, David Jensen, Stephen Loneragan, Richard Matthew, Jennifer Wallace, and Erika Weinthal. The names of these 12 people were *repeatedly* mentioned between 1993 and 2007 in publications or in discourse on EPBL as its entrepreneurs, or they alone were authors of *several* pieces on EPBL. People who engaged in related issue areas different from EPBL, such as environmental security, impacts of armed conflicts on environmental degradation, or the management of transboundary water resources were not included.

Information about individual characteristics were sought through the scrutiny of various documents, including CVs, information about authors in articles, books, speeches, and the archived webpages of different organizations. The information is summarized in Table 1.

**Table 1: Personal trajectories of key persons between 1993 and 2007**

| Person     | University degree  | Profession   | Career path  | Place of work                           |
|------------|--|--|--|---|
| C. Bruch   | Physics<br>Mathematics<br>Law  | Attorney<br>Director<br>Lecturer<br>Legal officer        | ELI<br>UNEP  | Kenya<br>US                             |
| A. Carius  | Political science<br>Law<br>Journalism                                   | Managing director<br>Consultant<br>Advisor<br>Scholar    | Ecologic Institute for International and European Environmental Policy<br>Advisor to the German Foundation for International Development<br>Lectures at universities<br>Member of the German Foreign Office's Advisory Board "Civilian Crisis Prevention"<br>Adelphi<br>UNEP EAG | Germany<br>International field missions |
| K. Conca   | Geological science<br>Energy analysis and policy<br>Energy and resources | Scholar<br>Advisor                                       | University of Maryland<br>UNEP EAG   | US                                      |
| G. Dabelko | Government and politics<br>Political science                             | Director<br>Scholar<br>Advisor<br>Editor<br>Investigator | Council on Foreign Relations<br>Foreign Policy Magazine<br>ECSP WWC<br>Lectures at universities<br>UNEP EAG<br>USAID   | US<br>International field missions      |

| Person      | University degree                   | Profession  | Career path   | Place of work  |
|-------------|-------------------------------------|---|---|--|
| P. Haavisto | None                                | Advisor<br>Investigator<br>Special representative<br>Director<br>Minister | UN<br>UNEP<br>EU<br>Minister for Environment and Development, Finland<br>Chairperson of the Finnish Greens, later of the European Green Party | Finland<br>Switzerland<br>International field missions |
| M. Halle    | History<br>Environmental sciences   | Advisor<br>Executive director   | IUCN<br>IISD<br>UNEP and UNEP EAG   | Switzerland<br>US                                      |
| A. Hammil   | Geography<br>Environmental studies  | Researcher<br>Project manager   | IISD<br>GECHS   | Canada   |
| D. Jensen   | Biology<br>Geography                | Advisor<br>Policy and research coordinator<br>Director                    | UNEP (PCDMB)  | Canada<br>Switzerland<br>International field missions  |
| S. Lonergan | Geography                           | Professor<br>Director   | GECHS<br>UNEP<br>Lectures at universities   | Kenya<br>Canada  |
| R. Matthew  | Politics                            | Senior fellow<br>Member   | GECHS<br>IUCN<br>IISD<br>UNEP EAG<br>University of California, Irvine<br>Georgetown University  | US   |
| J. Wallace  | Politics<br>Environmental diplomacy | Intern<br>Course coordinator  | UNDP<br>Geneva Centre for Security Policy   | US<br>Switzerland                                      |
| E. Weinthal | Political science                   | Professor<br>Advisor  | Duke University<br>UNEP EAG   | US   |

Resources: Official CVs on webpages of their home institutions and LinkedIn profiles

Acronyms:

ECSP: Environmental Change and Security Program, W. Wilson Center

ELI: Environmental Law Institute

GECHS: Global Environmental Change and Human Security Project

IISD: Institute for International Security and Development

IUCN: International Union for Nature Conservation

UNEP: United Nations Environmental Program

UNEP EAG: Expert Advisory Group on Natural Resources and Conflict

USAID: United States Agency for International Development

Analyzing the population of key persons, several of those scrutinized here see themselves as EPBL entrepreneurs, or they are seen playing this role by others. In Carl Bruch's CV on LinkedIn, we can read that he "has been a leader in a global effort to establish a new multidisciplinary field of environmental peacebuilding"<sup>13</sup>. In David Jensen's CV on the UNEP webpages a similar statement can be found.<sup>14</sup> How others see persons from the group can be demonstrated by the words of Erik Solheim, the Executive Director of UNEP: during the ceremony in 2018 when Conca and Dabelko were awarded the Al-Moumin Award on Environmental Peacebuilding<sup>15</sup>, he said, "No two individuals have shaped our institutional thinking on environmental peacebuilding more... We owe them a tremendous debt of gratitude for their innovative thinking and the paradigm shift they have catalyzed through their work."<sup>16</sup>

Looking at the data in the table through prosopography, several moments come to the forefront about the population of key persons: they have university degrees and have worked across professions, particularly academic, advisory, policy-making, and field research; they have an interdisciplinary background and a particularly shared attachment to environmental studies, politics and geography; in their professional career they all worked (among others) for UNEP, GECHS or IISD; and their jobs were associated with organizations located in the US, Switzerland and Canada. All these persons were highly mobile, having experience from different parts of the world and having contacts and relations with various experts worldwide. Many of them also held managerial positions, having influence on the agenda and course of the organization directed. The EPBL entrepreneurs assembled around EPBL production and diffusion gave rise to an academic-policy complex based on the cohabitation of scholars, officers, and policymakers, where the border dividing science and policymaking nearly disappeared. The complex was based on mutually useful partnerships, mutual support, and the mutual legitimization of activities and the justification of existence. The scholars were members of various field projects and advisory bodies, or worked directly in particular policy making posts, and high-level officers and policymakers penetrated into typically academic activities, such as academic lectures or editorial work. All the people in the population had international professional experience (even when of different extents), and were engaged in either the greening of politics, security or peacebuilding. These people were professionals with recognized expertise and authoritative claims to policy-relevant knowledge. They also shared a set of beliefs and tried to exercise influence by interpreting environmental-security problems and possible responses for decision makers.

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13 See [www.linkedin.com/in/carl-bruch-b516b98](http://www.linkedin.com/in/carl-bruch-b516b98).

14 See [www.unep.org/people/david-jensen](http://www.unep.org/people/david-jensen).

15 See ELI: [eli.org/news/environmental-peacebuilding-researchers-receive-prestigious-al-moumin-award](http://eli.org/news/environmental-peacebuilding-researchers-receive-prestigious-al-moumin-award)

16 See [wilsoncenter.org/article/fifth-al-moumin-award-presented-to-geoffrey-dabelko-and-ken-conca](http://wilsoncenter.org/article/fifth-al-moumin-award-presented-to-geoffrey-dabelko-and-ken-conca)

## 4.2 Interpersonal

Thinking about the social context of the EPBL diffusion in international politics needs an analysis of the relations between key persons, as well as the relations between the group and the external environment. For mapping relations within the group, SNA was used; for mapping relations in the wider space, topography was used. As Table 1 and the genesis of EPBL indicate, the interpersonal relationships emerged dominantly against the backdrop of three institutional platforms – UNEP, IISD, and GECHS, albeit another two – WWC and IUCN also mattered. While UNEP, IISD and IUCN were located in Switzerland, WWC is located in the United States and GECHS had no particular location, meeting ad hoc. Within UNEP’s Swiss office, relations were forged during meetings within field missions, workshops, joint projects including publications and advisories. Relations through IISD grew originally from institutional cooperation between IUCN and IISD, and later from joint interest in the environmental-cooperation-for-peace approach expressed by UNEP and IISD staff located in Switzerland. Important and strong interpersonal links also emerged within ECSP when directed by Dabelko; he regularly invited EPBL friends to join workshops and conferences, and to have public speeches or to publish together (e.g. A. Carius, K. Conca or R. Matthew<sup>17</sup>).

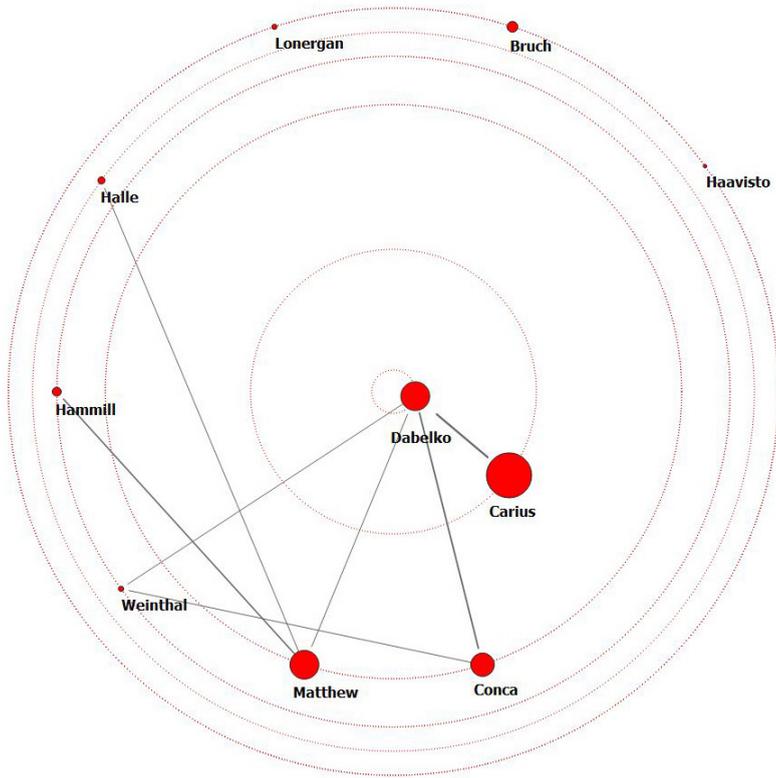
A specific environment for the emergence of new relations was provided by GECHS. This was a project operated between 1999 and 2010 with the goal to develop integrated research on global environmental change and human security. Dozens of scientists from different disciplines participated and established science-policy dialogue and published almost 30 books, over 100 reports and articles, and 9 dozen peer-reviewed papers in scientific journals (O’Brian and Barnett 2013). The project Science Committee was chaired by S. Lonergan and also included R. Matthew and A. Hammill (Table 1).

Many activities assembled around UNEP, IISD, WWC and GECHS were topped off with publications, particularly policy papers, reports, conference handbooks and academic texts. Our idea (and experience) is that to publish with somebody means to meet and communicate regularly, to trust each other, and to share a theme, a vision and an analytical framework. For detecting interpersonal relationships between key persons, an analysis of co-authorships may be a good way. The SNA of the co-authorship relations between 1993 and 2007 (Picture 1) indicates that Dabelko and Carius were at the center of the network of authors writing on EPBL; the most productive co-authorship was between Dabelko and Carius (9 joint publications) and Dabelko and Conca (4 joint publications).

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17 For detailed information see archive of the Program /fellows, events, projects, ECSP report series/ on [wilsoncenter.org/program/environmental-change-and-security-program](http://wilsoncenter.org/program/environmental-change-and-security-program)

**Picture 1: Co-authorship network of key persons, 1993–2007<sup>18</sup>**



Resources: Author's visualization based on bibliometric data from EBSCO, JSTOR and EPBL Knowledge Hub.

A network of co-authorship relations developed between key persons, even despite these individuals residing in the different parts of the world. From an analysis of the socio-genesis of EPBL, and of institutional history, we know that UNEP, IISD and GECHS were linked through various projects, publications and filed missions. In summary, the population of key persons regularly met against the backdrop of inter-organizational relations and vice versa – inter-organizational links and joint projects emerged based on the good personal relations of people from the group of key persons and on the fact that these people shared a particular vision and episteme. These people changed their links and relations to a network of working connections over time.

<sup>18</sup> The visualization is based on a radial model and includes the robustness of connections and the role of a particular person. The robustness of the line indicates how often particular people published together; the size of the node, how often the person was an editor.

### 4.3. Organizations

Organizations and institutional platforms are instrumental in the development of norms, behaviors, and deeds as they often set up and enforce regulations, provide necessary infrastructure and financial resources, and are also able to control the dissemination of knowledge and communication channels (Finnemore – Sikkink 1998). From the beginning of the 1990s, EPBL penetrated the agenda of various organizations and became so embedded within several of them that bodies, programs and projects dedicated to the production of expert knowledge on EPBL, and its diffusion were established. In the period between

**Table 2: Presence of EPBL in the agenda of selected organizations (examples)**

| Organization         | Year         | Event  | Proof   |
|----------------------|--------------|--|---|
| ELI                  | 1994         | Trilateral Peace negotiations US-Israel-Jordan   | "In the early 1990s, ELI helped secure environmental protection and facilitate cooperation around the Gulf of Aqaba through its recommendations during U.S./Israel/Jordan negotiations which led to the Gulf of Aqaba Treaty." (ELI n.d.)   |
| IISD                 | 2002<br>2010 | Task Force on Environment and Security<br>Book <i>Environment, Conflict and Peacebuilding</i>                        | Book: Matthew, Halle, Switzer 2002<br><br>"Since 2007, at the request of the UNEP, IISD has led an Expert Group that advises UN agencies on how better natural resource and environmental management contributes to more effective peacebuilding." (IISD 2010)<br>The UNEP-IISD partnership on environmental peacebuilding is confirmed by UNEP. <sup>19</sup>  |
| IUCN                 | 1997         | Parks for Peace initiative   | "Parks for Peace initiative as a tool to enhance regional co-operation for biodiversity conservation, conflict prevention, resolution and reconciliation ... Parks for Peace are transboundary protected areas that are formally dedicated to the protection and maintenance of biological diversity, and of natural and associated cultural resources, and to the promotion of peace and cooperation." (Sandwith et al 2001, p. 1–3) |
| UNEP<br>Swiss office | 2007         | Environmental Co-operation for Peace Program<br><br>Expert Advisory Group on Environment, Conflict and Peacebuilding | When the existence of ECP was announced, its goals were declared (UNEP 2009a): 1) the production and diffusion of expert knowledge on EPBL; 2) the analysis and suggestions of politics and technical advisory concerning EPBL; 3) ... the production of case studies on how natural resources had successfully supported post-conflict peacebuilding, and; 4) the implementation of EPBL.  |
| WWC                  | 1995         | Environmental Change and Security Program  | ECSP Report, No.1 (1995)  |

<sup>19</sup> See [unep.org/explore-topics/disasters-conflicts/what-we-do/recovery/partnerships](http://unep.org/explore-topics/disasters-conflicts/what-we-do/recovery/partnerships)

1993 and 2007, the EPBL agenda found standing home and strong support within (listed alphabetically) ELI, IISD, IUCN, UNEP, and WWC. Evidence may be found in various reports, documents and projects (Table 2).

The institutions listed here differ in background, organizational nature, and characteristics (projects, members, location, instruments used, authority, and competence) but between the 1990s and 2007 they assembled around EPBL and EPBL settled their agenda, and they – separately or jointly – built channels and a supportive environment for the production and diffusion of expert knowledge on EPBL. IISD and IUCN jointly established and operated a Task Force for Environment and Security, UNEP and the security program of the IISD established the Expert Group on Conflict and Peacebuilding. Before EPBL was accepted and implemented, some of these organizations – particularly UNEP – had to go through deep internal reorganization. Observers note that internal organizational transformations opening doors to EPBL were possible because people in high management positions were supportive of the process and sponsors of the changes occurred (D. Jensen, Personal Interview, 7 February, 2020, on the role of UNEP directors K. Toepfer /1998–2006/ and A. Steiner /2006–2016/, and Finland and Sweden in the process of EPBL penetration to UNEP environment). The variety of organizations (location, issue area, activity, role in international politics) helped to communicate EPBL to various audiences and to disseminate knowledge among people with different professional backgrounds.

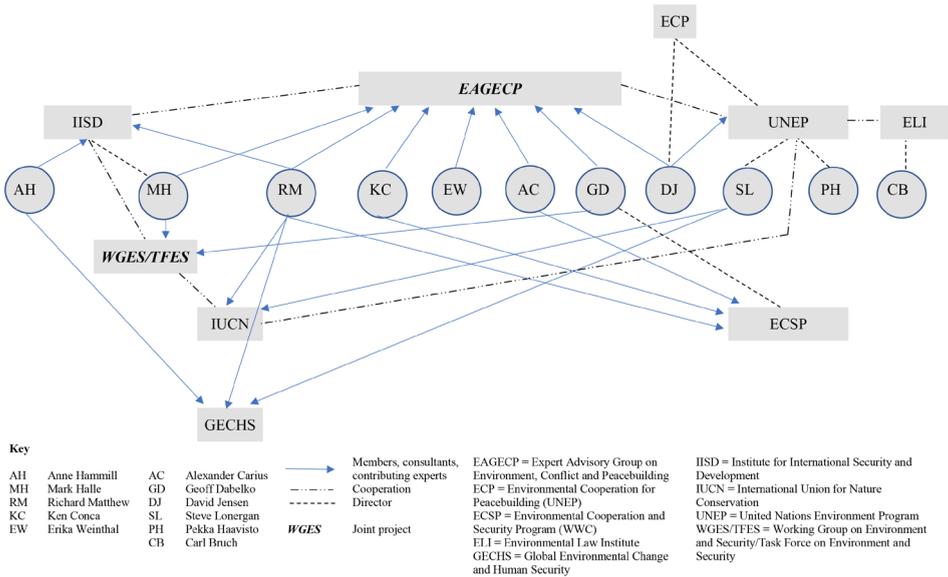
#### **4.4 Community**

Community level focuses on the relations between agents that make up the greater community and environment in which individuals and organizations exist and social relationships occur. It also includes physical environments and culture, including values and beliefs. To reconstruct the community context topology will be used and values, beliefs and the surrounding socio-political environment of the time will be investigated.

Topology enables us to visualize the architecture of connections between actors. Topology for the year 2007 (Pictures 2) shows actors, organizations and relations, and it provides evidence that relations assembled around EPBL are multi-scalar, non-hierarchic, and non-centralistic, based on interactions between individuals and institutions of various natures. Meetings of key persons within these platforms enabled the additional strengthening of mutual trust within the community and provided the process of diffusion with stronger material resources and infrastructure. In this network, individuals played a significant role. Most of the nodes are connected to more than one another node in the network with a point-to-point link. Such a network is called a “partially-connected mesh network”. Topology-based scholars (Mousa – Mohammed – Mohammed 2019; Sosinsky 2009) agree that such a network structure deals well with the

situation when one node fails, the costs of the creation and maintenance of such a network are relatively low, and the network can be easily extended. However, the speed of transfer and flexibility are lower, and transmission and flows need to be directed and protected against the possible forming of a cycle. After ECP started to work new institutions emerged and the position of several key individuals within the network changed. However, these transformations are already beyond our interest here.

**Picture 2: The topology of connections: key agents assembled around EPBL in 2007**



Resource: Based on the resources cited in the article

The idea of “community level” believes that not only relations and networks, but also values, beliefs and the frame of mind of societies and politics produce an environment and community context. However, each retrospective analysis of these phenomena is difficult because it can only use current surveys and opinion polls and registered formal expressions of values and beliefs, such as new institutions or particular events. Fortunately, a change in values has been monitored by World Values Survey<sup>20</sup> (WVS), longitudinal research of hundreds of societies making basic data available. For reflection on the surrounding socio-political environment, a study of documents, archived web pages and interviews was used.

20 For details see ([worldvaluessurvey.org/wvs.jsp](http://worldvaluessurvey.org/wvs.jsp)).

The WVS starting point is the idea that after WWII, a global transformation in values and beliefs appeared. Western societies in particular entered into a new era of socio-economic existence called “post-industrial development”. This change was conceptualized as a shift from material values to post-material values. Material values are understood as the orientation of people towards economic prosperity, material security, stable economic growth and the maintaining of social order. Post-material societies take greater account of aesthetic and human elements and quality of life, of life as such and its meaning and value. In other words, post-materialists put increasingly less emphasis on the importance of material consumption and economic security and prioritize general human objectives (Inglehart 1977). Postmodern transformations on the micro level spilled over into other levels and impacted both domestic and international politics. Voting behavior changed and new approaches to security, conflict resolution and peacebuilding developed in the 1990s, particularly human security, humanitarian intervention, Responsibility to Protect, and the greening of world politics (see below), to name but a few (Carius – Dabelko 2002; Waisová 2017).

However, the transformation did not only play out against a backdrop of changes in value preferences and political behavior, but also derived from the experience of environmental disasters and their impacts on environment and human communities, such as the Chernobyl power plant accident, the growing number of devastating floods in South-East Asia, the destruction of land by the use of millions of landmines in civil wars, and the devastating impact of violent conflicts on water resources and wildlife. Post-materialism, the growing attention to human security, to climate change and environmental degradation, and the growing need to prevent and solve climate change, loss of biodiversity, violent struggles and genocide, combined with institutional openness to such issues and with the availability of financial resources, opened the door to the implementation of environmental peacebuilding at community level.

## **4.5 Policy**

In the contextual analysis we assume that policies and laws matter because they provide the general framework for shaping human behavior and they influence the processes in a community. Here, policy environment, laws, and the global and regional state of political affairs which surround EPBL diffusion in international politics will be investigated. The 1990s were, in many respects, a revolutionary period. World politics, international trade, as well as many societies experienced deep ideological, organizational and structural transformations. One of the issues was the growing attention to environmental degradation, resource scarcity, and the debate on the global responsibility to protect biodiversity and humankind. At that time, environmental law expanded

(e.g. laws on protecting the environment during armed conflict<sup>21</sup>), policies and projects reflecting the environment-security-peace nexus were on the rise, and new institutions and instruments to green politics were arranged. These changes can be observed not only in UNEP and IUCN, but also in the politics of various countries – Germany<sup>22</sup>, Finland<sup>23</sup>, and also during the Clinton administration in the United States<sup>24</sup>, to name but a few.

For the diffusion of EPBL, probably the most important change was the new United Nations approach to conflict management. This transformation was gradual and deep; it symbolically started with *An Agenda for Peace* introduced in 1992 by B.B. Ghali when talking about the need of conflict prevention and peacebuilding and was symbolically lined by the emergence of the International Criminal Court (1998/2002), the UN Peacebuilding Commission (2005), Responsibility to Protect resolutions (2005/2007), and the greening of both UN security agenda and instruments (see e.g. *Greening the Blue Helmets 2012* project or *Greening the Blue report 2020*). This list of policies and laws that helped open the door to EPBL diffusion is not complete; however, it documents well how the world, policies, and context changed. EPBL, against the backdrop of these conditions, has penetrated into UN agenda and UN inter-agency programming mechanisms and into country programs, directly providing field-level expertise, advice, guidance materials and technical briefs, and often having normative (norm-establishing) goals.

## V. The concluding debate: What does the scrutiny of the social context of EPBL diffusion in international politics say about EPBL?

EPBL has been analyzed and discussed many times, both in policymaking and in science. Here, the aim was to explore the context of EPBL diffusion in international politics. Even when context examination alone is extremely interest-

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21 On 27 May 2016, the UN Environment Assembly adopted resolution UNEP/EA.2/Res.15, which recognized the role of healthy ecosystems and sustainably managed resources in reducing the risk of armed conflict.

22 See, for example, the German government's Action Plan for Civilian Crisis Prevention, Conflict Resolution and Post-Conflict Peace-Building adopted in May 2004. Consequently, in 2005 Germany adopted a strategy for peacebuilding which formulates guidelines for the use of development aid to better address the structural causes of conflict, including resource governance.

23 Finland covered 65% of the budget for UNEP ECP during 2006 and 2016 and 35% of the budget for ENVSEC, sponsored UNEP's post-conflict environmental assessment program for the Western Balkans, and assisted by delivering pro-EPBL personnel – e.g. P. Haavisto as director of the UNEP Post-Conflict Assessment Unit and an environment and security expert on secondment to the UN Peacebuilding Support Office (Brusset 2016; MFA Finland 2007, 2014).

24 The Clinton administration issued several statements that embrace environmental problems, such as security concerns, and created several new government offices that addressed environmental and security concerns – most notably the Global Environmental Affairs Directorate at the National Security Council, the Department of Defense Office for Environmental Security, and the Office of the Undersecretary of State for Global Affairs.

ing, this was not the only goal; here, it was rather an auxiliary procedure in the analysis of EPBL located within it. No expert knowledge – including EPBL – is socially independent, it is rather situated in social worlds. Expert knowledge and the social setting in which it emerges and diffuses are interdependent entities in the making. Here, what the analysis of social context says about EPBL, and its diffusion will be discussed.

EPBL as an idea was born within a group of a few individuals with specific cognitive maps: had an interest in environmental protection and were aware of the impact of environmental scarcity on human communities, and of violent conflicts on biodiversity and environmental degradation. All of these people worked across professions and globally, being able to bring field experience and lessons learned to high-level policy making bodies. Over time, their contribution was highly appreciated and respected, which helped EPBL spill over into other platforms. When EPBL was born at the beginning of the 1990s within IUCN, its driving force was the environmental protection of transboundary ecosystems; later, when the debate and research penetrated UNEP and IISD, it was predominantly motivated by the effort to invent new ways of conflict and resource management and peacebuilding. It was not only the movement of EPBL knowledge into other platforms, but the change in wider conditions in international politics, particularly the rise of the effort to prevent violence and reduce human suffering, which was reflected in the human security agenda. The idea of EPBL thus landed on fertile soil in many countries, as well as internationally.

The results indicate that in the process of EPBL diffusion, in less than one decade based on daily practice, mutual collaboration and trust, there emerged a network of relations and particular microstructures within a relatively *small* group of scholars, practitioners and policy makers. These people were able to seed international politics and several local communities with the idea of EPBL and generate enough expert knowledge to initiate institutional changes and changes in the agenda of several organizations. They were localized at only a few places on the planet, connected by modern communication tools, coordinating their activities, and having a global influence on environment-security-peace debate at all levels. The group was not formal and rationalized structure, and it was not based on hierarchy and formal authority. It was rather a network which was effective based on the systematic and reflexive use of systems of amplification and augmentation consisting not only of channels, but also of others, such as self-reproducing mechanisms or practices, such as fellowships, joint projects and guest lectures. Knorr Cetina (2005), when she explored the global financial market, observed an entity she called “a global microstructure”. She used the term for a small, highly specialized, professional, and effective group of individuals working for big international banks with a specific culture and structure, who were able to combine global reach with microstructural mechanisms that instantiate self-organizing principles and patterns (Knorr Cetina

2003, 2005). The population of key persons assembled around EPBL developed from a group sharing an episteme to a network with global reach based on infrastructure and institutional platforms it created for the diffusion of EPBL, based on rich relations, sharing particular experience, specific culture, values, and practices, in many respects similar to what Knorr Cetina observed on the global financial market.

One another moment should be mentioned: scholars paying attention to markets and companies (Henry – Pinch 2000; Saxenian 2008) point out that one of the main mechanisms of knowledge diffusion across the market is the regular movement of staff between firms. Such a mechanism worked in the case of EPBL diffusion as well. Individuals such as Dabelko, Carius, and Jensen were personally, as well as institutionally equipped to produce, collect, accumulate, and share knowledge on EPBL and when they “travelled” through policy-making and advisory positions (Table 1), they spread EPBL.

The scrutiny of policy context makes it clear that the increase in interest in EPBL was set at a time when world politics underwent revolutionary changes in agenda, actors, strategies, and instruments. Against the backdrop of these revolutionary changes, EPBL developed *from a positive idea*, optimistic toward humane behavior and ability of people to change their minds and close the mental gap, particularly to think about “one world”, *into a policy-making framework*, an instrument, and a pragmatic approach to resource management and conflict resolution used not only for transboundary ecosystems. In two decades, EPBL transformed from an idea into socially robust expert knowledge and practice, putting down roots in different parts of the world. The need for environmental protection, as well as for peacebuilding and conflict prevention, was widely and globally accepted; the interdependence between the state of the environment, human security, and peace was taken for granted, the environment-security-peace nexus became a public interest in many societies, and a number of local, bilateral and regional projects based on the EPBL emerged. In the new millennium, the process resulted in *the institutionalization of the production and diffusion* of EPBL expert knowledge, when new bodies, projects, and instruments were established exclusively to produce and diffuse knowledge on EPBL.

To conclude, the present study indicates that the early production of expert knowledge on EPBL has been the result of coincidence, rather than a well-prepared goal-oriented incidental organized and managed process. However, the diffusion itself has not been accidental; the actors worked based on intentions, plans, and later also based on elaborated strategies and emerging infrastructure; however, in many respects they responded to their individual beliefs and environmental values, which met with policymaking demands for new solutions. However, in the first decade of the new millennium, the context significantly changed: the production of expert knowledge on EPBL and its diffusion became an incidental and well-organized and managed process.

The production of expert knowledge on EPBL and its diffusion became policy-oriented and in the service of political and security goals. EPBL left its original link with nature conservation and environmental protection and became placed within security and conflict resolution practices. As expert knowledge, EPBL did not emerge in the laboratory or in an office, rather it emerged in practice and developed within narrow relations between scholars, conservationists, and practitioners. Since the end of the 1990s, EPBL has been distributed because it has been collectively enacted through relations and mediated by the intersubjective meanings that have been invested in artefacts such as guidelines, projects, conferences, reports, and policies to name but a few.

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