

Determinacy and Domestic Incentives: Success of International Conditionality in
Serbia

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Abstract

ISAAC PRESTON WHITE: International Initiatives in Serbia: The Importance of Determinacy and Elites' Cost-Benefit Analyses
(Under the direction of Dr. Robert Jenkins)

Instances of international organizations pursuing their political and economic interests in Serbia have proliferated since the ousting of former President Slobodan Milošević in 2001. However, the successes of international organizations in pursuing these political and economic interests have varied. This thesis examines three cases of international conditionality in Serbia since 2001: the International Monetary Fund's efforts to persuade Serbian elites to adopt austerity measures, the European Union's pursuit of its energy interests and the European Union's attempts to induce full judicial reform. The thesis posits that in order to understand the varied success of these three initiatives, one should identify both the determinacy of the policy and Serbian elites' cost-benefit analyses.

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Abbreviations

DS	Democratic Party
DSS	Democratic Party of Serbia
EAR	European Agency for Reconstruction
EU	European Union
IMF	International Monetary Fund
NIS	Naftna Industrija Srbije
SAA	Stabilisation and Association Agreement
SEEA	Serbian Energy Efficiency Agency
SME	Small and Medium-Sized Enterprises
SNS	Serbian Progressive Party
SPS	Socialist Party of Serbia
SRS	Serbian Radical Party
USAID	United States Agency for International Development
ZES	For a European Serbia

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Introduction

In late April 2009 over ten thousand Serbian workers gathered to protest in the streets of Belgrade. The Association of Independent Trade Unions and other smaller unions protested the Serbian government's decision to pursue new austerity measures negotiated with the International Monetary Fund (IMF). Among other measures, this new austerity policy would not only freeze the wages of public workers and their pensions, but also reduce the number of public sector jobs. When asked about the outcome of the meeting with the IMF and how the public would react, Labor Minister Rasim Ljajić said that he had “no optimistic message for (this) Labour Day Observance.”¹ A union leader, Ljubisav Orbović, argued that the new measures were “slow, wrong, and inefficient” and that the government had “no vision or strategy.” Furthermore, these measures did not enjoy a large majority of support within the parliament. In fact, the bill adopting these austere measures that met conditions set by the IMF only passed with 127 of 240 votes.²

The policy negotiated between the IMF and Serbian elites that caused this protest was the result of an international organization's efforts to pursue a

¹ “Serbian trade unions protest government austerity plan.” *SETimes.com*. 30 Apr. 2009. Web. 11 Feb. 2010.
<http://www.setimes.com/cocoon/setimes/xhtml/en_GB/features/setimes/newsbriefs/2009/04/30/nb-10>.

² “Serb workers protest austerity plan.” *Associated Press Worldstream*. 29 Apr. 2009. *Lexis-Nexus*. Web. 11 Feb. 2010.

particular policy in Serbia.³ Often times, a domestic actor or group of actors resists these policies because the policies are viewed as being threatening to some part of their well-being. Given Serbia's growing relationship with the West, there are an increasing number of instances in which Western initiatives that promote certain measures are meeting resistance from various domestic actors.

This paper analyzes three instances of contested international policies in Serbia and attempts to determine why the successes of international organizations attempting to promote these interests varied. The first instance I examine is the IMF's attempts to persuade the Serbian government to adopt the controversial austerity measures that caused the 2009 protests. Secondly, this paper examines the European Union's (EU) varied success in pursuing its energy interests in Serbia. Finally, this paper looks at the EU's activities aimed to galvanize judicial reform in Serbia.

To better understand why the success of these policies varied and how the Serbian government handled the interplay between international and domestic actors in these three instances of international policy promotion, one should identify both the determinacy of the policy and examine Serbian elites' cost-benefit analyses of adopting these policies. A comparison between these three issues allows us to see similarities and differences in both determinacy and

³ It is important to clarify the term "elites" when used in this analysis. In this paper, the term "elites" refers to political leadership unless otherwise indicated. This is not to say that economic elites are not important to my analysis. To the contrary, economic elites are quite important when it comes to political decisions about the economy. In most democracies, political elites must satisfy economic actors' interests to some degree in order to receive the economic elites' support and funding. Given the deals that are certainly struck behind closed doors, it is difficult to pinpoint the exact roles of economic elites. However, I am able to write about current economic elites with educated guesses formed by third party observations.

the cost-benefit analyses. The policies that the international organizations succeeded to promote seemed to be both high in determinacy and provided sufficient benefits that outweighed the costs of policy adoption.

But what was determinacy and what shaped cost-benefit analyses? The determinacy of the policy was formed by three factors: specificity, succinct communication, and coherency. The *specificity* of a policy refers to how precise a policy or interest is. Does a policy address a particular issue and present specific criteria that should be met in order to satisfy the interests of the international organization? The second factor of high determinacy is the level of *succinct communication* between the interested external actor and the internal actor. An external actor exhibits succinct communication when it clearly communicates its policies to the internal actor. This communication may be via private meetings, press releases, or publically released organization documents. Finally, *coherency* refers to consistency in policy promotion. Is an external actor's stance on an issue consistent and do the members of that external actor (should it be an IGO) adhere to the same standards that are being promoted?

In order to understand Serbian elites' cost-benefit analyses, one should first identify both the costs and the benefits in each case. The first cost relates to *coalition integrity*. Would the adoption of a policy threaten the strength or even the continuation of the governing coalition? Second, Serbian elites considered the *electoral impact* of the policy. Would adoption cause public outcry and threaten the political viability of elected politicians. Third, the *economic costs* of a policy mattered. What were the negative economic impacts of policy adoption?

Finally, Serbian elites considered any *opportunity costs*. Were there any alternative benefits from a third-party that were more attractive to Serbian elites.

The benefits in the cost-benefit analyses were three fold. First, what *new capital* would result of the policy or the adoption of the policy? This included both foreign investment and new revenue that resulted due to the policies, like in the case of revenue creation from pipelines in Serbia. Second, would there be an increased *sense of security*. The manner of sense of security varied from financial security to health security. Whether a Serbian elite cared about the well-being of the public for well-being's sake did not necessarily matter. Common sense tells us that a happy public is less likely to threaten the political lives of elites. Finally, would the policy truly provide *political solutions* to real problems? A policy that would solve inflation problems or energy security problems were more attractive than policies that did not provide real life solutions.

It should be noted that there are temporal considerations in elites' cost-benefit analyses. The costs and benefits outlined in this introduction and examined in this paper are concerned with a short-term incentive model. How do these costs and benefits impact the immediate behavior of Serbian elites? The incentive of eventual EU membership is not as potent in these cases because this is a medium to long-term incentive. However, in a long-term evaluation, the benefit of EU membership or the cost of being left behind others in the region joining the EU would both hold greater salience in elites' analyses. In the

immediate future, EU membership is not a salient incentive and therefore does not enjoy the same influence in the short-term as IMF tranches.

This manner of evaluating the adoption of international conditionality assumes that Serbian elites were “rational-bargaining” actors that were motivated by their cost-benefit analyses. That is, Serbian elites were “strategic utility-maximizers interested in the maximization of their own power and welfare.”⁴ The merits of the “rational-bargaining” model have been widely written about and serve the purposes of this paper well.⁵ One can use this model in order to better understand the interplay between the benefits of adopting a certain policy and the costs of that policy.

This implicit reliance on the rationalist-bargaining model to evaluate the importance of the cost-benefit analyses in this paper should not be viewed as an indictment of alternative models of Serbian elites’ policy adoption behavior. To the contrary, I believe that popular alternative models, in particular the “social learning model” and the “lesson-drawing model” may be used as important tools in calculating the cost of a policy. Without these two alternative models, one is less able to ascertain the costs of a particular policy.

⁴ Schimmelfennig, Frank, and Ulrich Sedelmeier. "Governance by conditionality: EU rule transfer to the candidate countries of Central and Eastern Europe." *Journal of European Public Policy* 11.4 (2004): 663. Web.

⁵ A convincing piece on the merits of the rational-bargaining model may be found at Schimmelfennig, Frank. *The EU, NATO and the Integration of Europe: Rules and Rhetoric*. Cambridge, UK: Cambridge UP, 2003. Print.

The social learning model assumes that there is a "logic of appropriateness."⁶ Actors are motivated by internalized beliefs and norms and that rule transfer is characterized by these actors belief that a policy is legitimate and therefore they should adopt the policy. I believe that this appropriateness should be considered, but as part of the cost calculation. If the IMF or EU attempted to pursue a certain policy in Serbia and this policy was not legitimate or appropriate in the opinion of domestic actors, then the costs of adopting this policy increased. Therefore, the social learning model may fit within the rational-bargaining model.

The lesson-drawing model actually had the inverse effect on the cost evaluation. This model suggests that non-EU member states adopt rules without EU incentives. Richard Rose suggests that states adopt external rules when there is "dissatisfaction with the status quo" within the domestic sphere.⁷ In these instances, the costs of adopting a policy advocated and pursued by an international actor decreased if the public believed these rules will solve domestic problems. In both instances, the rational bargaining model may utilize alternative models to calculate costs and I do so in my analysis.

This paper is divided into three sections. Each section examines the varying degree of success of the IMF and EU to promote their interests based on factoring both the determinacy of the policy and the elites' cost-benefit analysis. The first section examines a case in Serbia when there was high determinacy

⁶ Noutcheva, Gergana. "EU Conditionality, State Sovereignty and the Compliance Patterns of Balkan States."

⁷ Rose, Richard. "What is Lesson-Drawing?" *Journal of Public Policy* 11.1 (1991): 3-30. Web.

and the benefits outweighed the costs in the minds of elites. The recent IMF activity in Serbia aimed at forcing Serbian elites to adopt unpopular austerity measures was a case in point of this situation. In the second section, I examine the EU's attempts to pursue its energy interests in Serbia. It is a case in Serbia when the policy lacked determinacy but the benefits of complying with the policy still outweighed the costs in specific instances and hence there was partial compliance, particularly in the area of energy regulations. In this instance there was a greater degree of flexibility for elites to create policy and there was only partial compliance with the EU's interests. The case also presented one with an instance of cross-conditionality that undermined the EU's interests; in this case Russian interests undermined the EU's energy security. The final section examines the EU's attempt to push comprehensive judicial reform in Serbia. This was a case when the EU pursued a policy with high determinacy in Serbia, but did not do an adequate job of offering benefits that outweighed the costs of adopting the judicial policy in its entirety. Instead, Serbia only partly adopted the EU backed policies.

IMF Austerity Measures

The International Monetary Fund's activities in Serbia in the eighteen months since October 2008 present a case of international success in a situation of policy promotion. This is the policy outcome of a high determinacy international initiative that provided enough benefits to shift the cost-benefit calculation in favor for the external actor. Contrary to internal resistance, the IMF accomplished its goal to encourage Serbian elites to adopt fundamental austerity policies. Why and how they succeeded is the focus of this section.

In order to better understand how the IMF not only succeeded but also continues to succeed to promote policy in Serbia, this section begins with an examination of the determinacy of the policy. This examination is followed by a discussion of how both the costs and the benefits were determined in the Serbian elites' analysis of whether or not to adopt the IMF's austerity measures.

Determinacy

An important part of the determinacy equation is the level of clarity of the international goal expectations as well as how succinctly the international organization communicates those expectations and the degree of coherency of the policy. The IMF succeeded in accomplishing these three things. First, the IMF clearly stated its goals for the region; then it laid out a general platform of the areas of the economy it wished to be reformed and how to accomplish those goals. During negotiations with Serbia, the IMF pursued specific goals designed

to meet the expectations outlined in its platform. Finally, the IMF's message was consistent and the members of the IMF did not pursue nor communicate the desire to pursue policies contrary to those promoted by the IMF.

Succinct Communication

The IMF outlined its goals in a January 2009 statement that listed the IMF's concerns about the state of the Serbian economy. In this statement, the IMF communicated its desire to safeguard Serbia's financial security through "strengthened policies, designed to underpin an orderly rebalancing of the economy."⁸ These "strengthened policies" were meant to encourage "upfront financial restraint," address growing inflation, strengthened crisis preparedness, and ensure "reforms to boost the economy's supply side."⁹

In this statement, the IMF further specified its goals in Serbia with a policy package that outlined the policies that would address threats to Serbia's economy. According to the IMF, its policy package focused on "tightening of the fiscal stance, strengthening the inflation targeting framework, making good use of the accumulated financial sector buffers, and implementing structural policies."¹⁰ The IMF was sure to outline the most important changes they wished to see in Serbia's economy.

After signaling its general goals for the Serbian economy and its general program platform designed to address the economy's shortcomings, the IMF still

⁸ "IMF Approves €402.5 million Stand-By Arrangement for Serbia." *International Monetary Fund*. Press Release No. 09/12. 16 Jan 2009. Web. 2 Mar. 2010
<<http://www.imf.org/external/np/sec/pr/2009/pr0912.htm>>.

⁹ Ibid.

¹⁰ Ibid.

needed to negotiate the specific policies that supported its platform. These negotiations prompted the protests described in the introduction.

Specificity

The IMF's program in Serbia was quite specific. In order to receive IMF aide, Serbia needed to meet a series of objectives. These objectives ranged from establishing Serbian banking practices that would reduce non-performing loans (NPL) to reforming tax collection statutes.¹¹ Due to the specific nature of the IMF's measures, critics and protestors were able to find precise measures they opposed. The trade unions did not protest the entirety of the IMF's efforts. For instance, the workers did not protest the banking and tax reforms nor the IMF's effort to improve "the monitoring of risks and setting up comprehensive contingency plans"¹² to counter future financial instabilities. These efforts did not threaten the workers' perceived well-being.

However, there were three specific measures that threatened the workers' perceived interests, the first of which was the IMF's desires to force Serbia to freeze the wages of public workers. According to the IMF, public workers' wages required freezing in order to help balance the Serbian budget. The backlash against this measure increased due to the fact that Serbia agreed to this wage

¹¹ "Republic of Serbia—Second Review Under the Stand-By Arrangement and Requests for Waiver of End-September Performance Criterion, Modification of End-December Performance Criteria, Rephasing of Purchases, and Financing Assurances Review." *International Monetary Fund*. Report No. 10/25. 8 Dec. 2009. Web. <<http://www.bcc.imf.org/external/pubs/ft/scr/2010/cr1025.pdf>>.

¹² Ibid.

freeze during a time when increasing inflation sat at around 7 percent¹³ and continued to decrease the value of their already low pay.¹⁴

The second issue that Serbian workers protested was the freezing of pension disbursements. Leading up to Serbia's January 2009 agreement with the IMF, politicians in Serbia seriously discussed increasing the dispersal amount to pensioners to almost 70 percent of what an average Serbian worker earned.¹⁵ This increase would have occurred during a time when economists in Serbia said the world was actually reducing pensions in relation to the average salary.¹⁶ This proposed pension increase was an understandably popular policy with many Serbs and many workers were angry when the IMF required Serbia to backtrack on these pension increases. But the IMF remained firm on this issue requiring "strict income policies for containing...pension growth."¹⁷

Finally, in order for Serbia to receive aid from the IMF, Belgrade agreed to arguably the most politically controversial measure: reduction in the public workforce. Serbian Prime Minister Mirko Cvetković's government acquiesced to IMF demands to eventually cut eight thousand state jobs. In February 2010 the government projected a total of three thousand job cuts as a first step toward

¹³ "Inflacija u 2008. Godini 6,8 odsto." *B92.com*. 30. Dec. 2008. Web. 24 Feb. 2010. <http://www.b92.net/biz/vesti/srbija.php?yyy=2008&mm=12&dd=30&nav_id=337086>.

¹⁴ "Agency examines Serbia's talks with IMF on 3 billion loan, strings attached." *BBC Monitoring Europe*. 21 Mar. 2009. *Lexus-Nexus*. Web. 1 Mar. 2010.

¹⁵ "Serbian economists warn of pension increase problems." *BBC Monitoring Europe*. 7 Aug. 2008. *Lexus-Nexus*. Web. 1 Mar. 2010.

¹⁶ *Ibid.*

¹⁷ "IMF Approves €402.5 million Stand-By Arrangement for Serbia."

meeting the eventually goal of eight thousand lay-offs.¹⁸ In order to facilitate these lay-offs, Serbian Financial Minister Mladjan Dinkić announced that employees deemed redundant by his ministry would not receive a salary and ministers who did not fire redundant employees within their sectors would be penalized.¹⁹

Coherency

The IMF's measures were also high in coherency. The reason the IMF was able to promote a singular message and not worry about its members signaling contrary interests in Serbia is because there was high internal support for the measures within the IMF. These are the three reasons for this high coherency. First, policies pursued by the IMF typically enjoy high internal support given the nature of the internal decision making process. In order to pursue a goal externally, a policy must pass a vote of the IMF's board of governors with at least an 85 percent majority.²⁰ Second, the measures that the governors approve tend to be part of a larger normative belief system. The specific measures in a targeted state, in this case Serbia, follow the IMF's norms.²¹ Finally, the board of the IMF is not a collection of private actors.

¹⁸ Nenadovic, Aleksandra. "Serbia's Wage Increases Were in Breach of Agreement, IMF Says." *Bloomberg.com*. 5 Feb. 2010. Web. 9 Feb. 2010. <<http://www.bloomberg.com/apps/news?pid=20601102&sid=a5cDtoIKICIM>>.

¹⁹ "Serbia to cut 20 percent of state jobs under IMF plan." *Associated Press*. 16 Sept. 2009. Web. 20 Feb. 2010. <<http://sify.com/finance/serbia-to-cut-20-pct-of-state-jobs-under-imf-plan-news-business-jjqkfyhhih.html>>.

²⁰ "U.S. Congress Vote Marks Big Step For IMF Reform, Funding." *International Monetary Fund*. 18 June 2009. Web. 18 Feb. 2010. <<http://www.imf.org/external/pubs/ft/survey/so/2009/NEW061809A.htm>>.

²¹ The measures follow the beliefs and goals outlined in detail in the IMF's "Financial Organization and Operations of the IMF."

Instead, it is composed of government officials representing the interests of their states. Therefore, states like the United States and the United Kingdom are able to promote their interests at the IMF and do not independently pursue policies counter to the IMF's.

The high determinacy of these international policies is only half of the evaluation when analyzing why the Serbian government adopted the IMF's policies. One must also consider the Serbian elites' cost-benefit analysis of adopting the IMF's policy of reform that included these unpopular measures. If the costs outweighed the benefits of adopting these measures, then it would have been less likely that the political decision makers would have adopted the IMF's plan.

Cost-Benefit

The cost-benefit analyses of elites about whether to adopt the IMF's policies were considerations of both political and economic outcomes. Did the political costs and risks associated with the measures outweigh any the political benefits? Did the economic benefits coming from the IMF outweigh the economic costs of cutting back on spending and firing public employees?

Costs

Electoral Impact

For Serbian politicians, a considerable cost came from an unhappy voting populace that understandably objected to measures that threatened their immediate financial security. Given the already contentious nature of Serbian politics, the adoption of the IMF's policy could have cost the ruling coalition, For a

European Serbia (ZES), during the next parliamentary and presidential elections.²² A controversial policy could have led to an exodus of voters from the ranks of the ZES. And this exodus would not just create apathetic voters. To the contrary, this exodus could have created an even more critical political problem for the ZES. These newly unemployed or employed-yet-still- upset voters tended to support For a European Serbia's then political rival, the Serbian Radical Party.²³

Coalition Integrity

Besides the cost of losing voters, the Serbian leadership also had to consider the continuation of what many Serbian political observers consider a tenuous ZES governing coalition. Given the nature of the multi-party politics in Serbia, the ZES captured a plurality of votes in the 2008 parliamentary election by forming a coalition of five parties.²⁴ Then, following the ZES victory in the election, the ZES decided to ally itself with the Socialist Party of Serbia (SPS) because the ZES needed the SPS in order to enjoy a governing majority in parliament.²⁵ Because the governing coalition is composed of multiple parties

²² The timing of Serbia's adoption of the measures may have mitigated these costs in Serbian elites' minds. The Serbian legislature passed the bill that met the IMF's measures in early 2009, three years before the next parliamentary elections. It is quite possible that those legislators that voted for the bill hoped that the results of the IMF's austerity measures would be evident by the 2012 parliamentary elections.

²³ Bakić, Jovo. "Extreme-Right Ideology, Practice, and Supporters: Case Study of the Serbian Radical Party." *Journal of Contemporary European Studies* 7. 2 (August 2009): 193-207.

²⁴ "DS coalition wins, set to seek partners." *B92.com*. 11 May 2008. Web. 4 Mar. 2010. <http://www.b92.net/eng/news/politics-article.php?yyyy=2008&mm=05&dd=11&nav_id=50146>.

²⁵ Stojanovic, Dusan. "Serbian parliament OKs new coalition government." *The Seattle Times*. 7 July 2008. Web. 5 Mar. 2010. <http://seattletimes.nwsources.com/html/nationworld/2008037688_apserbiagovernment.html>.

representing varying interests, whether they be economic interests or domestic interest groups, a major controversial political decision could have led to a split in ZES.

The risk of splitting the coalition was also present because the IMF's policy threatened parties' influence within the bureaucratic structure of the Serbian government. The Serbian coalition parties divided amongst themselves the government's ministerial positions. Six different parties held at least one ministerial post and therefore enjoyed some semblance of control over that part of the bureaucratic structure.²⁶ The IMF policy clearly stated that the Serbian government would be required to cut jobs within those ministries and this measure met resistance from the ministers.²⁷ It is important to note that parties other than the coalition-leading Democratic Party held important ministries within the Serbian government. The viability of the governing coalition was threatened if the SPS, whose political leader Ivica Dačić was the Minister of the Interior,²⁸ threatened to leave the governing coalition if the Ministry of the Interior was forced to cut employees and reduce its perceived influence within the Serbian bureaucracy. And if the fact that cutting employees within ministries met resistance from members within the coalition, then recent talks of combining

²⁶ "Members of the Government." *Serbian Government*. Web. 5 Mar. 2010. <<http://www.srbija.gov.rs/vlada/sastav.php>>.

²⁷ "Serbia to cut 20 percent of state jobs under IMF plan."

²⁸ *Ibid.*

ministries and hence cutting ministerial positions could create an full blown schism within the fragile coalition.²⁹

Economic Costs

The economic costs of adopting the IMF's austerity measures were not quite as apparent. However, there is literature indicating that a state's cooperation with the IMF actually stunts long-term growth. For example, Adam Przeworski and James Raymond Vreeland argue, "(IMF) program participation lowers growth rates for as long as countries remain under a program."³⁰ Whether or not Serbian elites considered this type literature condemning the IMF is unclear. Even if Przeworski and Vreeland are correct, the economic costs of Serbia's relationship with the IMF may not be clear for the immediate future.

Opportunity Costs

The opportunity costs in this situation were low. The IMF offered Serbia the largest package of benefits, which this paper examines shortly. And given the major economic power states comprise a portion of IMF membership, there were few alternatives to the IMF. In short, adopting IMF policies would not have cost Serbia a package of similar or greater benefits from an alternate party.

Benefits

In order to potentially risk their political livelihood, Serbian elites who supported the IMF's policy would most likely need to be presented with overwhelming benefits. In this instance, the main benefits were new capital and

²⁹ "Govt. to cut number of ministries." *B92.com*. 25 Mar. 2009. Web. 5 Mar. 2010. <http://www.b92.net/eng/news/politics-article.php?yyyy=2009&mm=03&dd=25&nav_id=58066>.

³⁰ Przeworski, Adam and James Raymond Vreeland. "The effect of IMF programs on economic growth." *Journal of Development Economics* 62 (2000): 385-421.

solutions for economic problems. To lesser and less immediate degree, there was a slight benefit an increased sense of security. Furthermore, the appeal of the new capital in this instance met Schemmelfennig and Sedelmeier's three standards of aid that increase appeal: the size of the benefits, the speed with which the targeted state receives those benefits, and the credibility of the interested organization to provide those benefits. In this case, the IMF provided benefits large in size, credible, and with speed.

New Capital

The monetary rewards offered by the IMF were substantial and necessary. Initially, Serbia's agreement to adopt the IMF measures allowed Serbia to draw 402.5 million Euros in loans.³¹ This huge sum would permit Serbia a degree of security given the global market downturn at the time. In fact, due to this downturn, Serbia found itself in need of large sums of aid in order to boost its foreign currency reserve and supplement the lost foreign investment coming into Serbia that was curtailed during the financing crisis of the previous year.³² Furthermore, at the beginning of 2009, Serbia's GDP fell 3.5 percent from what it was the year before and unemployment was close to 20 percent. Inflation remained high (approximately 8 percent) and the economic crisis within the EU

³¹ "IMF Approves €402.5 million Stand-By Arrangement for Serbia."

³² "IMF, Serbia Discuss Access to Loan." *ABCNews*. 9 Feb. 2010. Web. 7 Mar. 2010. <<http://abcnews.go.com/Business/wireStory?id=9784955>>.

reduced demand for Serbian chemical and steel exports, a major source of Serbia's revenue. In fact, steel exports fell 62.7 percent from the year before.³³

The large sum of aid that the IMF offered to Serbia increased months after the initial agreement. As the market continued to struggle, the state of the Serbian economy continued to spiral downward, which forced Serbia to approach the IMF to renegotiate the amount of aid available for withdrawal in May 2009. Citing the need to fund spending cuts in a weakening economy, the Serbian government requested and received a new loan worth 3.2 billion Euros.³⁴ The IMF seemed to grant Serbia's request because it expected the Serbian economy to contract even more (by about 2 percent) in 2009 and wished to ensure that the financial pressures would not cause Serbia to abandon the new austerity policies.³⁵

As if the 3.2 billion Euro loan was not in and of itself enough to persuade Serbian authorities to pursue interests aligned with the IMF's goals, the speed with which Belgrade would receive the loans increased the likelihood of the IMF's success. The IMF agreed to allow Serbia to withdraw funds from the 3.2 billion Euro loan at intervals the IMF deemed fit. In May 2009, only two months after

³³ Woehrel, Steven. *Serbia: Current Issues and U.S. policy*. Congressional Research Service. 25 Aug. 2009. Web.

³⁴ Jolly, David. "Serbia and I.M.F on 3 Billion Loan Deal." *The New York Times*. 27 Mar. 2009. Web. 3 Mar. 2010.
<<http://query.nytimes.com/gst/fullpage.html?res=9D06E5DA143BF934A15750C0A96F9C8B63>>.

³⁵ Ibid.

the IMF-Serbian agreement, Belgrade withdrew its first tranche worth 788 million Euros.³⁶

This process of withdrawing tranches at intervals was and remains an important benefit for both Serbia and the IMF. For Serbia, the government did not have to wait an extended period of time for the aid while implementing its reforms. This made the aid more appealing because the rewards were not coming five to ten years in the future. For the IMF, this process allowed the IMF time to evaluate whether their policies were being adopted and implemented. Essentially, the tranche intervals allowed the IMF to enjoy continued bargaining power during Serbia's reforms.

The third factor that increased the appeal of the IMF's proposed aid was the high credibility of the IMF. Serbian officials knew that the IMF was able to provide Serbia with the benefits the IMF promised. When Serbia agreed to undertake the measures proposed by the IMF, Serbia's relationship with the IMF was ten years old. After a seven year hiatus in the Serbia-IMF relationship during Slobodan Milošević's presidency, Serbia agreed to cooperate with and receive funding from the IMF again in 2000.³⁷ The high credibility of the IMF eased the minds of Serbian elites that they would receive benefits from the IMF.

Increased Sense of Security

The presence of a benefit due to an increased sense of security varies dependent upon the actor. Obviously, the trade unions that protested the

³⁶ "Serbia Can Hope for up to 650 Mln Euro in IMF Support Next Month." *SEENews*. 4 Nov. 2009. Web. 3 Mar. 2010. <<http://www.imf.org/external/country/srb/rr/2009/110409.pdf>>.

³⁷ "Serbia, Republic of: Transactions with the Fund from May 01, 1984 to February 28, 2010." *International Monetary Fund*. Web. 2 Mar. 2010.

measures certainly did not find an increased sense of security in the measures because the policy froze wage increase and pension pay. Those who held NPLs also felt the impact of the measures when they were taken to court or fined.

The benefit of an increased sense of security will be more apparent if the IMF measures accomplish the IMF program's stated goals. For instance, the projected GDP growth for 2010 is expected to be 2 percent and a further 3 percent in 2011. Moreover, inflation in 2009 fell faster than expected and projections predict a similar pattern in 2010.³⁸ These are the types of economic improvements that the IMF says will create macroeconomic and financial stability and the resulting economic well-being and financial security of Serbs.

Political Solution Benefit

The political benefit of adopting the IMF's austerity measures may best be described as a calculated risk that could (hopefully?) become a reward in the future. The deteriorating economy could potentially have been politically costly if not addressed which allowed Serbian elites to take a calculated risk. Either risk political power because the economy deteriorated without working with a reputable international organization which had economic expertise or risk political power by alienating portions of the coalition by working with that international organization. In either case, a portion of the voting populace would be angered by the government's policies. The best way to appease the voting populace in the long term was to undertake major economic reforms and the best way to do

³⁸ "Republic of Serbia—Second Review Under the Stand-By Arrangement and Requests for Waiver of End-September Performance Criterion, Modification of End-December Performance Criteria, Rephasing of Purchases, and Financing Assurances Review."

that would be to work with the IMF. The calculated risk that the Serbian government took seemed to make the most sense, both politically and economically. It may be important to note that some believe that given partial breakup of SRS in 2008, the ZES was in strong enough of a position to pass these measures and whether the storm of internal dissent.³⁹

Summary

The policy outputs resulting from the IMF varied in both nature and degree of success. Serbia met all quantitative standards, including the target on the fiscal deficit (4 ¼ percent of the GDP).⁴⁰ Furthermore, the IMF was satisfied with the Serbia's progress addressing the IMF's wage and pension concerns.⁴¹ The Serbian government reiterated its concentrated efforts on cutting the public work force in the year 2010. Whether or not these goals are met remain to be seen, but the IMF were convinced enough of Serbia's austerity efforts enough to approve a €360 million disbursement in March 2010.⁴²

³⁹ "Serbia: Country outlook." *Economist Intelligence Unit*. 5 Feb. 2009. *Academic OneFile*. Web. 17 Mar. 2010.

⁴⁰ "IMF Reaches Staff-Level Agreement with Serbia on Third Review of Stand-By Arrangement." *International Monetary Fund*. 23 Feb. 2010. Web. 2 Apr. 2010. <<http://www.imf.org/external/np/sec/pr/2010/pr1057.htm>>.

⁴¹ "IMF Executive Board Completes Third Review Under Stand-By Arrangement with Serbia and Approves €360 Million Disbursement." *International Monetary Fund*. 31 Mar. 2010. Web. 2 Apr. 2010. <<http://www.imf.org/external/np/sec/pr/2010/pr10131.htm>>.

⁴² Ibid.

IMF Austerity Measures

Figure 1: *Determinacy of IMF Austerity Measures*

Determinacy Factor	Level
Succinct Communication	High
Specificity	High
Coherency	High

Figure 2: *Costs of IMF Austerity Measures*

Costs	Level
Electoral Impact	Potentially High (Trade unions protested in streets and this could cost political elites' authority after the next elections)
Coalition Integrity	High (Measures threatened political influence of ministries)
Economic Costs	Low (Possible long-term costs, but not readily apparent)
Opportunity Costs	Low (No alternate offers)

Figure 3: *Benefits of IMF Austerity Measures*

Benefits	Level
New Capital	High (Most influential benefit. IMF offered billions in aid)
Increased Sense of Security	Varied (For workers, measures seemed threatening, but long-term economic stability could increase the financial security of Serbs.)
Political Problem Solving	High (Economy at the time needed reform and solutions to serious economic problems.)

EU Energy Policy

Unlike the IMF, the EU enjoyed only partial success in promoting its overall interest with regards to energy policy in Serbia. Despite the importance of energy security to the EU, the Commission has been unable to form a unified and comprehensive policy that it can pursue successfully in states like Serbia. In fact, the EU's former ambassador to Washington, John Bruton, said "energy policy is one of the big failures of the European Union in the last fifty years."⁴³ This failure continues to hamper the EU's efforts to realize favorable policy decisions in Serbia.

In order to understand why the EU succeeded to only partially promote its energy interests in Serbia, I will first outline the instances of EU success. In these instances, a portion of the EU's energy policy had high determinacy and the benefits of adopting this portion of the EU's policy outweighed the costs. Following the analysis of successful EU energy initiatives, this section analyzes the failures of the EU to promote its energy security interests. This failure was due not only to a low determinacy energy security policy, but also due to the fact that the EU failed to present Serbian elites with the benefits necessary to persuade elites to adopt energy security policies favorable to the EU.

⁴³ Pop, Valentina. "EU's Energy Policy a 'Big Failure'." *Business Week*. 1 June 2009. Web. 26 Nov. 2009. <http://www.businessweek.com/globalbiz/content/jun2009/gb2009061_310444.htm?chan=top+news_top+news+index+-+temp_global+business>.

Determinacy

Specificity

The EU's energy policies regulating access to energy and market mechanisms were specifically outlined. The EU's *acquis* includes a chapter devoted to energy policies that outlines the energy legislation and standards that must be met before Candidate States are granted EU membership. The *acquis* chapter includes policies regarding competition and "the internal energy market (opening up of the electricity and gas markets, promotion of renewable energy sources), energy efficiency, nuclear energy and nuclear safety and radiation protection."⁴⁴ Because the EU had a very specific set of policies in regard to these issues, they were able to pursue these measures in Serbia.

Furthermore, the EU possesses highly determinate policies on such issues as ensuring the energy efficiency of buildings and the manner in which states transport fuels. The EU even pursues specific goals aimed to reduce carbon emissions within the Member States. These are policies thoroughly explained in many EU publications and enjoy a high level of specificity.⁴⁵

Succinct Communication

The EU succinctly and consistently signaled to Serbia that Brussels wished to see the adoption of these standards in the Serbian energy policy. As

⁴⁴ "How does a country join the EU." *Commission for the European Communities*. Web. 3 Oct. 2009 <http://ec.europa.eu/enlargement/enlargement_process/accesion_process/how_does_a_country_join_the_eu/negotiations_croatia_turkey/index_en.htm>.

⁴⁵ A nice overview of the EU's energy policies may be found at "COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN COUNCIL AND THE EUROPEAN PARLIAMENT: AN ENERGY POLICY FOR EUROPE." *Commission of the European Communities*. 1 Oct. 2007. Web. 3 Oct. 2009. <http://ec.europa.eu/energy/energy_policy/doc/01_energy_policy_for_europe_en.pdf>.

early as 2001 the EU pushed for its legislative energy policies in Serbia. For example, the European Agency for Reconstruction (EAR) in 2001 focused on medium and long-term investment in key sectors of energy development as a return for the Serbian willingness to seriously discuss energy reform. Among other objectives, during this time EAR focused on the development of energy laws.⁴⁶ The EU also indicated which parts of Serbia's energy sector did not meet EU standards via country progress reports, meetings between the EU and Serbian officials, and statements to the media.

As a result of EAR's efforts and other similar EU initiatives in Serbia, in 2004, after intense internal dialogue among Serbian elites, the Serbia National Assembly passed the Serbian Energy Law. This law met most EU standards. This comprehensive energy law intended to regulate the following:⁴⁷

- Energy policy objectives and the method of their implementation
- Energy market organisation and functioning
- Conditions for regular and high quality consumer energy supply and for ensuring safe, reliable and efficient energy production
- Management of energy transmission, transportation and distribution systems and the method of securing the smooth functioning and development of these systems

⁴⁶ "European Agency For Reconstruction: Serbia." *Commission of the European Communities*. Web. 18 Mar. 2010. <<http://ec.europa.eu/enlargement/archives/ear/serbia/serbia.htm>>.

⁴⁷ "Serbian Energy Law." *Serbia Government*. Web. 8 Jan. 2010. <<http://www.seea.sr.gov.yu/Downloads/ZakonOEnergeticiEngleski.pdf>>.

- The conditions for and method of carrying out energy activities, energy efficiency and environmental protection conditions in carrying out energy activities
- Monitoring of the implementation of this law

These regulations were meant to be the cornerstone of a developed policy that administered supplies management and handled growing energy demand, an EU requirement.⁴⁸ The main goal of the Energy Law was to “increase of overall sector efficiency, security of energy supply, introduction of competition and compliance with relevant stipulations of the EU’s *acquis communautaire* while following principles of sustainable development.”⁴⁹ Furthermore, these policies in the bill met the main requirements of the following documents: European Energy Charter, Directive 2003/54/EC, Directive 90/547/EEC, Decision of the European Parliament and the Council 1254/96/EC, Directive 91/296/EEC, Directive 90/377/EEC, Directive 2003/55/EC (Gas Directive).⁵⁰

The Serbian Energy Law also created multiple energy agencies, most notably the Serbian Energy Efficiency Agency (SEEA), meant to increase oversight over the energy sector. These agencies were very important in the EU’s estimation in order to ensure an efficiently functioning energy sector in

⁴⁸ “Serbia National Report: Part III. National Reporting Guidelines for CSD-14/15 Thematic Areas.” *UN Department of Economic and Social Affairs: Division for Sustainable Development*. Web. 7 Feb. 2010. <<http://www.un.org/esa/agenda21/natinfo/countr/serbia/energy.pdf>>.

⁴⁹ Ibid.

⁵⁰ Brkić, Dejan. "Serbian Gas Sector in the Spotlight of Oil and Gas Agreement with Russia." *Energy Policy* 37.5 (2009): 1925-38. Web. 13 Oct. 2009.

Serbia.⁵¹ The SEEA was tasked with making improvements in efficient use of final energy, proposing changes in legislation, preparing and implementing programs for savings, and various other programs that make more efficient use of energy.⁵² Supposedly, the idea behind this agency was to eventually reduce the dependence on foreign energy supplies. The success of the agency to reduce the dependence has remained to be seen.

Coherency

The coherency of the EU's energy policies promoting the specific energy policies outlined in this section was high, in part, due to one important factor. Every Member State is also a signatory to the Energy Charter Treaty.⁵³ Under the treaty, each country is obliged to abide by the principles that "encourage investment and trade, to ensure reliable transit, and to promote efficient energy use."⁵⁴ Therefore, in instances concerning these policy areas, Member States did not typically promote interests contrary to the Energy Charter's codes.

Cost-Benefit

The cost-benefit analysis in this case is interesting. In this case, neither the costs nor the benefits were high. In the end, in the elites' cost-benefit analyses, the benefits held a slight advantage over the costs.

⁵¹ "2006 Serbia Progress Report." *Commission of the European Communities*. 8 Nov. 2006. Web. <http://ec.europa.eu/enlargement/pdf/key_documents/2006/Nov/sr_sec_1389_en.pdf>.

⁵² "Energy Policy, Legislative Background." *Australian Energy Agency: enerCEEU*. March 2, 2009. Web. <<http://www.eva.ac.at/enercee/sr/energypolicy.htm>>.

⁵³ "Energy Charter: Faqs." *Energy Charter*. Web. 22 Feb. 2010. <<http://www.encharter.org/index.php?id=18>>.

⁵⁴ *Ibid.*

Costs

Coalition Integrity

Unlike the IMF's austerity measures, the policies that met EU standards did not threaten the coalition's integrity. At the time of energy laws adoption in 2004, the Democratic Party of Serbia's Vojislav Koštunica (DSS) led the governing coalition. These policies passed despite Koštunica's criticism of the EU and his resistance to Serbia's membership in the EU. Adoption was partly due to the lack of political divisiveness on this issue. These EU standards did not directly interfere with the potential influence or power of any ministries, nor did they negatively impact any portion of the voting populace. The costs of policy adoption were low when concerned with coalition integrity.

Electoral Impact

In this instance, the EU-backed energy conditionality to pass new energy laws met little resistance from the voting populace. In the opinion of many Serbs, the new EU-friendly energy laws were seen as a solution to rampant energy problems they experienced in Serbia almost every year. For example, the energy problems for Serbs were evident during a 2001 USAID mission in Serbia. That year the USAID funded a Heating and Energy Efficiency program to help freezing Serbs deal with energy shortages and increased energy prices that were beyond the means of the average Serb's budget.⁵⁵ These shortages and price inflation in 2001 were indicative of the general impact that unregulated and

⁵⁵ "Serbia Heating and Energy Efficiency Program." *United States Agency for International Development*. 25 June 2009. Web. 24 Feb. 2010.
<http://www.usaid.gov/locations/europe_eurasia/press/serbia_seeep_summary.html>.

unreformed energy policy had on Serbian citizens. These types of problems were why the public costs of these changes were low.

The one electoral cost came from the possible loss of support from the managers of the large Serbian energy monopoly Naftna Industrija Srbije (NIS). Because of the new 2004 energy policies, the Serbian government was obliged by the new energy measures to divide the vertically integrated monopoly and hence reduce the influence and power of the top economic managers of the firm.⁵⁶ Though this was a very unpopular policy among many energy managers, it was necessary due to years of isolation, mismanagement, and corruption under the Milošević regime. These years during Milošević's presidency left the company overstaffed, indebted, and with a poorly kept infrastructure.⁵⁷

Economic Costs

Though not completely negligible, the economic costs of adopting these energy policies were minimal. The real costs to the Serbia government were in hiring third parties to help restructure NIS into three parts and in the creation of new energy organizations, like the SEEA. However, given the SEEA's mission to increase efficiency and reduce overall energy costs, the long term benefits of the spending may have offset the immediate costs at the time in the minds of elites.

Benefits

So what were the benefits in the minds of Serbian elites? Given the fact that Serbian elites adopted these energy policies, it appears that the new capital

⁵⁶ Hofer, Stephen. "Neo-functionalism reloaded. The Energy Community of Southeast Europe." 2 Feb. 2007. Web. <http://www.hks.harvard.edu/kokkalis/GSW9/Hofer_paper.pdf>.

introduced into the Serbian energy sector, the increased sense of security among the populace, and the ability to solve inefficiency within the energy sector all outweighed the costs of adoption.

New Capital

A benefit of adoption at the time was EU investment in Serbia's energy sector. This benefit was both immediate and substantial in size. Because Serbia adopted EU policies, the EU agreed to help upgrade Serbian energy facilities. The EU renewed heating systems in five towns and helped upgrade a Belgrade power station reduce the amount of pollution it created.⁵⁸ Furthermore, the EU undertook projects like constructing a major power transmission line from Nis to Skopje in order to create a regional energy market.⁵⁹

There was also a long-term possibility of new capital introduction in Serbia. For instance, the size of the major benefit in meeting EU demands was huge, i.e. possible EU membership. But the drawback of relying solely on this benefit was that this benefit lacked speed, an important quality of an effective benefit according to Schemmelfennig and Sedelmeier. As such, it may be more appropriate to say that the incentive of adopting these measures was the right to continue negotiating with the EU on Serbia's hopeful accession path to the EU.

⁵⁸ "European Agency For Reconstruction: Serbia." *Commission of the European Communities*. August 2007. Web. 12 Mar. 2010.

⁵⁹ "European Agency for Reconstruction: The Energy Sector in Serbia." *Commission of the European Communities*. August 2007. Web. 12 Mar. 2010.

Increased Sense of Security

These policies also increased the public's sense of security. In this instance, the physical well-being of Serbs was assured. These new measures addressed rising prices and energy shortages that created a sense of social unrest among the populace, especially in the winter months. These measures took steps to control the pricing of energy. Though it should be noted that internal policies alone could not prevent spikes in energy prices due to the international nature of energy trade.⁶⁰ These new policies also increased political security of representatives in the Serbian National Assembly. Even if real life changes in the energy sector were not felt by the populace immediately, representatives could point to the policies they adopted as progress towards bettering the energy sector and therefore mitigate any political criticism concerned with the energy sector during parliamentary elections.

Political Solution Benefit

These policies solved two political problems. First, the policies addressed the energy concerns of voters. As this paper has shown, the new policies partially regulated prices voters paid for electricity and other heating sources. These policies also prompted the EU to construct new energy facilities and hence increase the dependability of the energy sector. Both upgrades assuaged the pressure coming from voters concerning energy problems.

Second, because the energy policies required the government to restructure NIS, the long-term budgetary burden of NIS reduced due to layoffs

⁶⁰ This paper will address the spikes in pricing created by Serbia energy relationship with Hungary.

and debt restructuring.⁶¹ The importance of this budget relief was due to the overall state of the Serbia economy at the time. In 2004, Serbia was highly indebted and in need of debt balancing. The need for increased revenue was accompanied by the need to reduce expenditures and the NIS restructuring would help reduce these expenditures.⁶²

But despite these legislative successes that created energy laws, the EU's overall energy goals in Serbia were only partly realized. The EU interest to which Serbia did not acquiesce was of utmost concern to Europe: energy security. The EU's inability to promote its energy security interests was due to the fact that unlike the EU's efforts to reform legislative policy on market functions and energy efficiency, the EU's energy security initiative was not determinate and did not provide Serbian elites with many benefits. This paper defines energy security for the EU as making sure that "a nation and all, or most, of its citizens and businesses have access to sufficient energy resources at reasonable prices for the foreseeable future free from serious risk of major disruption of service."⁶³

EU Failure to Promote Energy Security

The EU's failure to promote its energy security interests, i.e. insurance supply and the manner in which the EU received its energy, in Serbia was epitomized by the way Serbia privatized its energy monopoly NIS. In January

⁶¹ "European Agency For Reconstruction: Serbia."

⁶² Cvetkovic, Mirko, Alexander Pankov, and Andrej Popovic. *Privatization in Transition Economies: The Ongoing Story*. Amsterdam: Elsevier, 2008.

⁶³ Barton, Barry. *Energy Security : Managing Risk in a Dynamic Legal and Regulatory Environment*. Oxford: Oxford UP, 2004. 6. Print.

2008, the Serbian government agreed to sell fifty-one percent of NIS to Gazprom, the Russian natural gas giant.⁶⁴ As part of the deal, Gazprom agreed to invite Serbia to join its proposed South Stream Pipeline. This pipeline would transport natural gas from Bregovaya, Russia to Austria and would run through the Black Sea and Eastern Europe.⁶⁵ This pipeline countered EU interests in Serbia because many viewed South Stream as a rival of the EU's planned Nabucco pipeline⁶⁶ that would also run through Eastern Europe and reduce European dependence on Russia natural gas.⁶⁷

In this case, the policy that would be most advantageous to the EU would have been for Serbia to agree to act as a participant in the proposed Nabucco pipeline, or at least agree not to participate in South Stream. Conceived in 2002, Nabucco was the EU's first attempt to forge a common energy policy that would decrease the EU Member States' dependency on Russian natural gas. The development of the pipeline stalled as a consortium of five European members searched for a sixth partner to finance the project.

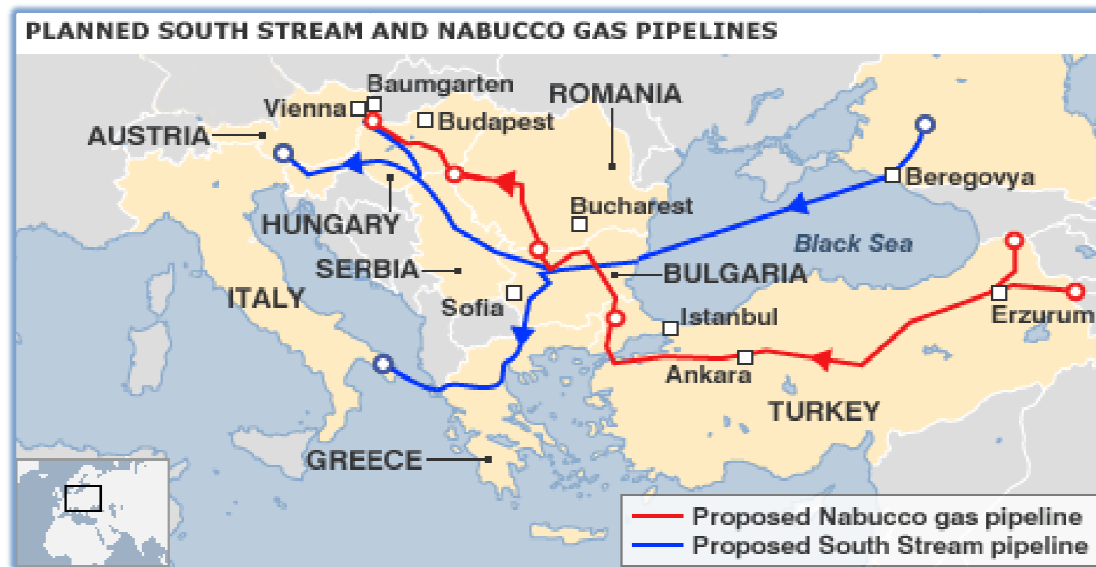
⁶⁴ Gec, Jovana and Slobodan Lekic. "Medvedev Signs Pipeline Deal in Serbia, Underscoring Old Ties." *International Herald Tribune*. Feb. 28, 2008. Web. <<http://www.ihrt.com/articles/ap/2008/02/25/news/Serbia-Russia-Pipeline.php>>.

⁶⁵ "South Stream." *Gazprom*. Web. 1 Mar. 2010. <<http://old.gazprom.ru/eng/articles/article27150.shtml>>.

⁶⁶ The EU identified the importance of Nabucco as early as 2007. That year, the Nabucco pipeline was included in the EU Trans-European Energy Network programme, and the European Council in March 2007 identified Nabucco as a priority project.

⁶⁷ Zyeno Baran. "EU Energy Security: Time to End Russian Leverage." *Washington Quarterly* 30(4) (Autumn 2007): 131-144.

Figure 4: *South Stream and Nabucco Pipelines*



Source: BBC News, "Deal to Boost EU Gas Project"

Both the policy determinacy and the subsequent cost-benefit analysis of elites explain the EU's failure and this paper examines both factors. In this instance, the determinacy of the EU's interests was low, mainly due to internal discord. Second, the benefits that would result for either adopting Nabucco or rejecting NIS and South Stream were not substantial in the elites' view. To compound problems for the EU, the conditionality costs of pro-EU policies were substantial.

Determinacy

Low Communication, Specificity, and Coherency

The low determinacy of energy security policy was partly due to the EU's inability to clearly communicate its energy security interests in Serbia and the EU's consequent inability to specifically outline how to achieve these ambiguous interests. This inability to communicate its goals was due to the lack of

coherency behind the policy created by internal discord within the EU concerning the energy security. Though EU Member States were willing to create a coherent policy on issues like efficiency and carbon emissions, the issue of energy security remained a question of state sovereignty of decision making for EU members. And in order to create a coherent energy security policy, Member States would have to relinquish their sovereignty on the sensitive issue. Most Member States rebuffed efforts to create a coherent energy security policy. Member States will not sacrifice their sovereignty in areas like energy security, which are too important to give up sovereignty.

New Capital with EU-Friendly Policy

Unlike the capital that would result from compliance with the IMF's measures, the capital resulting from a EU-friendly policy in this case would lack size, speed, and credibility. The size of the capital is difficult to calculate in this instance because the Nabucco pipeline never became a serious alternative for Serbia and there have been few discussions among academic journals and international groups about the capital benefits for Serbia that would result from the Nabucco pipeline.

This inability to calculate benefits from Nabucco may be due to the lack of immediacy and credibility of the pipeline. The construction date of Nabucco was pushed back time and again due to the lack of funding. Furthermore, the Nabucco pipeline struggled to secure the gas that would fill the pipeline.⁶⁸ The credibility of Nabucco was simply nowhere close to the credibility of South

⁶⁸ Traynor, Ian. "Europe's plan for alternative pipeline faces big problems." *The Guardian*. 7 Jan. 2009. Web. 19 Jan. 2010. <<http://www.guardian.co.uk/world/2009/jan/07/nabucco-pipeline-problems>>.

Stream. Pierre Noël, energy analyst at the European Council on Foreign Relations, said, "This is a project that does not exist except in the minds of Brussels bureaucrats. They think you can build a pipeline and then the gas will flow. It's simply not credible."⁶⁹

Increased Sense of Security and Political Problem Solving

Any claim that Nabucco would provide a higher sense of security for the Serbian public and elites or would solve political problems would be conjecture. Because Nabucco failed to develop as a viable project, discussions about how the pipeline would benefit Serbs lacked any proof. Would Serbia receive transit tariffs? Would there be new gas storage facilities built in Serbia? Both of these benefits would address both security (reliable heat) and political problems (securing energy or increasing revenue to the state via transit taxes). These questions were never addressed and therefore it is difficult to determine any increased sense of security or any solutions to political problems.

Opportunity Costs of EU-Friendly Policy

The unpersuasive benefits of the EU were further degraded by the opportunity costs, or what Schemmelfennig and Sedelmeier refer to as cross-conditionality. According to Schemmelfennig and Sedelmeier, cross-conditionality occurs when a third party offers a state an alternate set of comparable benefits at lower adjustment costs.⁷⁰ In this case, Gazprom presented Serbia with an alternate set of benefits greater in size, immediacy, and credibility. In fact, the

⁶⁹ Ibid.

⁷⁰ Zyeno Baran. "EU Energy Security: Time to End Russian Leverage."

success of Gazprom to realize its interests in Serbia is similar to the IMF's success. Gazprom had a very clear goal (to create a strong regional energy market in Eastern Europe) and aggressively pursued it.

So what were the benefits for Serbia to privatize with Gazprom and join the South Stream Pipeline? Gazprom agreed to pay €400 million for fifty-one percent share of NIS. Some critics of this deal argue that this price signaled a sweet-heart deal and Russia bought the majority of NIS for under the price evaluated by an outside firm.⁷¹ But what these critics fail to mention is that Gazprom also agreed to invest over €550 million in upgrading the natural gas and oil infrastructure in Serbia.⁷² This investment into the energy infrastructure in Serbia was significant in that it prepared Serbia to become part of the proposed Russian-backed South Stream pipeline.

Financially, the South Stream pipeline would benefit Serbia in two other significant ways: as a transit state and reducing Serbian dependence on Hungarian-routed energy. Originally, Gazprom proposed that the South Stream be built through Romania, not Serbia. But as negotiations with Romania began to breakdown, Gazprom decided to approach Serbia with a lucrative offer to be a transit state. According to many predictions, Serbia will accrue substantial wealth as a transit state by charging the European market transit tariffs on the

⁷¹ Gec, Jovana and Slobodan Lekic. "Medvedev Signs Pipeline Deal in Serbia, Underscoring Old Ties." International Herald Tribune. Feb. 28, 2008. <<http://www.iht.com/articles/ap/2008/02/25/news/Serbia-Russia-Pipeline.php>>.

⁷² Ibid.

gas and oil that flows through their infrastructure. Reported estimates put the annual income from transit tariffs at approximately \$200 million.⁷³

Second, the South Stream pipeline brought incentive in that it could potentially reduce Serbian dependency on energy flowing through MOL, the infrastructure of the Hungarian energy monopoly. In 2004, Serbia paid transit fees of US\$ 19 per thousand cubic meters (tcm) of gas flowing via MOL. This cost was quite high in comparison to energy prices of neighboring states.⁷⁴ One of the problems for Serbia was that the transit fee charged by MOL was based upon a complex formula and therefore the fee varied greatly from year to year.⁷⁵ Without a steady fee, Serbia was looking for a more diversified, less price fluctuating source of energy.

Another considerable benefit to the deal with Gazprom was the construction of a natural gas storage site in northern Serbia. As part of the agreement, Gazprom would construct an underground storage facility in Banatski

⁷³ "Serbian Deal to Give Gazprom Further Control." *The Washington Times*. Jan. 25, 2008. Web. 12 Dec. 2009. <<http://www.washingtontimes.com/news/2008/jan/25/serbian-deal-to-give-gazprom-further-control/>>.

⁷⁴ Brkić, Dejan. "Serbian Gas Sector in the Spotlight of Oil and Gas Agreement with Russia."

⁷⁵ According to "Serbian Gas Sector in the Spotlight of Oil and Gas Agreement with Russia", the formula is made of five variables, listed from most to least weighted: "the gas price in the MOL-Gazprom contract; inflation in the previous year in the SDR economies (The Special Drawing Rights economies are Japan, the United States, the United Kingdom, and the Euro zone); average gross earnings in Hungary in the sector relevant to pipeline construction; the price of cold-rolled sheet steel."

Dvor.⁷⁶ Intended to possess the capacity of ten billion cubic meters (Bcm) annually, the Banatski Dvor reserve will serve two important purposes.⁷⁷

First, this storage facility will satisfy the Serbian ambition to serve as a central hub for Russian gas distribution into Europe. This desire hinges upon whether Russia decides to extend its energy reach further into the region, a venture that is all but certain. In such a case, Serbia hopes to have an arm of South Stream break south from the storage facility. Such an occurrence would greatly increase annual transit tariffs.⁷⁸

The facility in Banatski Dvor would also alleviate the energy strain currently present in Serbia. Under its contract with Hungary, Serbia's average demand for natural gas per day was six million cubic meters (Mcm) per day. This amount was well under the agreed maximum cap of energy allotted to Serbia per day. However, the problem was not the average annual demand, but the peak daily demand. During the winter, peak daily demand exceeded the maximum ten Mcm limit. Serbia was unable to receive this much gas a day and did not have the energy reserves to supplement this extra demand, putting the Serbian government in a difficult position.⁷⁹ With limited production and no reserves, the Serbian government is required to make unpopular, yet necessary decisions, like managing consumption.

⁷⁶ Socor, Vladimir. "Gazprom Set to Pounce on Serbia as Putin Moves into the Balkans." *The Jamestown Foundation*. Jan. 9, 2008. Web. 1 Apr. 2009.
<[http://www.jamestown.org/single/?no_cache=1&tx_ttnews\[tt_news\]=33277](http://www.jamestown.org/single/?no_cache=1&tx_ttnews[tt_news]=33277)>.

⁷⁷ Ibid.

⁷⁸ Ibid.

⁷⁹ Brkić, Dejan. "Serbian Gas Sector in the Spotlight of Oil and Gas Agreement with Russia."

Also, without a reliable reserve of natural gas, Serbia felt the effects of the Ukraine-Russia spat over natural gas in January 2009. Tens of thousands Serbs woke up on Orthodox Christmas morning and found their homes without heat.⁸⁰ Citizens in a number of large cities had no heat due antiquated central heating infrastructures that were unable to switch from a natural gas to an oil heating system. In Novi Sad alone, over eighty thousand citizens were without heat during below freezing temperatures.⁸¹

Once this storage facility was built, there would be the assurance of a stable energy supply during peak consumption days. In order to meet this peak consumption demand, a yearly supply of 0.6 Bcm is required to supplement average existing gas flows into Serbia per year. Should Serbia heed European Union advice and also acquire a reserve that would last Serbia in a case of emergency for three months, an additional .54 Bcm would be required, producing an aggregate of 1.15 Bcm. This target was important because should the planned storage facility be built with the capabilities currently intended (4-6 Bcm) there would be adequate supplies to meet both domestic Serbian consumption demands and the EU required levels of reserves.⁸²

⁸⁰ Gallak, Vasilije. "Without Gas, Serbs Wake to a Freezing Orthodox Christmas." *eYugoslavia*. Jan. 7, 2009. Web. 3 Apr. 2009. < <http://eyugoslavia.com/serbia/07/without-gas-serbs-wake-to-a-freezing-orthodox-christmas-223087/>>.

⁸¹ "Serbia to Receive Hungarian Gas." *B92.com*. Jan. 8, 2009. Web. 27 Mar. 2009. <http://www.b92.net/eng/news/politics-article.php?yyyy=2009&mm=01&dd=08&nav_id=56283>.

⁸² Brkić, Dejan. "Serbian Gas Sector in the Spotlight of Oil and Gas Agreement with Russia."

Coalition Integrity Cost of the Gazprom Relationship

It would be remiss not to consider the coalition integrity costs of NIS's privatization with Gazprom and the resulting construction of the South Stream pipeline. There were some who opposed the deal, most notably Serbian Minister of Economy and Regional Development Mladjan Dinkić. Dinkić, a G-17 Plus party member, claimed the sale price was not equal to the fair price value determined by the Deloitte&Touche evaluation.⁸³ However, despite Dinkić's G17 Plus objections to the deal and opposition to the deal from the League of Vojvodina Social Democrats, there was never talk of a split in the coalition. This was an instance when a healthy legislative debate did not threaten the integrity of the ZES.⁸⁴

Electoral Impact Cost of the Gazprom Relationship

The electoral costs of the Gazprom deal were negligible. Whether it was because Serbia would receive large transit tariffs each year or the public's approval of closer ties with Russia, there were no large protests or outcries against the deal. Serbian elites did not consider the electoral response to the deal as a cost in preventing NIS's privatization with Gazprom.

⁸³ "Dinkić: Deloitte's evaluation of NIS should be taken into consideration." *SEEBiz*. 9 Oct. 2008. Web. 25 Jan. 2010. <<http://www.seebiz.eu/en/corporate/energy/dinkic-deloitte-s-evaluation-of-nis-should-be-taken-into-consideration,24734.html>>.

⁸⁴ Interestingly, the Serbian government approval the sell of NIS to Gazprom in January 2008, four months before a new governing coalition won the parliamentary elections. However, despite the change in leadership, the sell of NIS to Gazprom remained in place. This may support this paper's claim that the set of benefits from the deal were the motivating factor for privatization. Despite the differences in politics between the governing SPS in January 2008 and ZES in May 2008, the intent to privatize NIS remained in place.

Economic Costs of the Gazprom Relationship

The economic costs of Serbia's deal with Gazprom were low. It should be reiterated that Serbia's close cooperation with Russia in energy policy is not contrary to EU standards. For this reason, the NIS-Gazprom deal would not seem to hamper Serbia's efforts for EU membership. Member States were not able to effectively scold Serbia for acting in a manner similar to the rest of Europe, i.e. agreeing in a bilateral deal with a Russian owner enterprise in order to secure energy supplies. In addition to the deals signed for the South Stream pipeline, Gazprom signed deals with Eni (Italy), Gasunie (the Netherlands), BASF (Germany), E.ON Ruhrgas (Germany), and Gaz de France.⁸⁵ At worst, this deal may have further wasted away any good will that Serbia acquired towards membership to the EU that it received after capturing and turning over war criminal Radovan Karadzic in June 2008.

Critics of the deal point to the loss in initially revenue when Gazprom purchased a majority of NIS for less than the Deloitte&Touche price. This criticism stems from the fact that Gazprom purchased a fifty-one percent of NIS for a quarter of the value determined by Deloitte&Touche. However, like this paper already indicated, this loss of initially revenue was inconsequential because of the immediate direct investment in new infrastructure and storage facilities. Therefore, this loss of initially revenue should not be considered an economic cost.

⁸⁵ Zyeno Baran. "EU Energy Security: Time to End Russian Leverage."

There was an economic cost that may have occurred, however unlikely. This economic cost could arise if Serbia and Russia have a disagreement over an unforeseen issue. There are two manners in which Russia can use their monopoly over natural gas and oil in their implementation of foreign policy. Russia could impose a significant price hike when it serves their interests. For example, in 2007 Gazprom and Ukraine quarreled over alleged unpaid Ukrainian bills for natural gas. Gazprom, claiming Ukraine owed \$1.3 billion, threatened that without payment the company would be forced “to reduce gas deliveries to Ukrainian consumers.”⁸⁶ This threat came after Gazprom substantially raised energy prices the previous year. Eventually, Gazprom broke its contract with Ukraine and quadrupled Ukraine’s monthly energy bill. Some accused Russia for punishing the pro-Western Ukrainian government with this price hike.⁸⁷ Either way, the Ukrainian spat continued a recent trend in Russian relations, i.e. using natural gas for political means.

Should Serbia and Russia find themselves in a similar position, there is a historic precedent that shows that price disputes can escalate to an even higher level of tension. Such occurred as recent as January 2009, again between Russia and Ukraine. Amid accusations of Ukraine not paying its bill and siphoning off natural gas, Gazprom shut off gas supplies to Ukraine.⁸⁸ Again,

⁸⁶ “Gazprom May Cut Gas to Ukraine.” *BBC News*. Oct. 3, 2007. Web. 5 Apr. 2009. <<http://news.bbc.co.uk/2/hi/business/7024294.stm>>.

⁸⁷ Finn, Peter. “Russia Cuts Off Gas to Ukraine in Controversy Over Pricing.” *The Washington Post*. Jan. 2, 2006. Web. <<http://www.washingtonpost.com/wpdyn/content/article/2006/01/01/AR2006010100401.html>>.

⁸⁸ Kramer, Andrea. “Russia Cuts Off Gas Deliveries to Ukraine.” *The New York Times*. Jan. 1, 2009. Web. 21 Feb. 2010. <<http://www.nytimes.com/2009/01/02/world/europe/02gazprom.html>>.

while some accused Russia of punishing pro Western Ukrainian President Viktor Yushchenko,⁸⁹ what matters is Gazprom is willing to cut off natural gas to those who are almost completely dependent on it. The danger Serbia faces is that there will be some issue that causes a major rift between the two and the Serbian energy supply becomes endangered.

Summary

EU energy laws

Figure 5: *Determinacy of EU Energy Laws*

Determinacy	Level
Specificity	High
Succinct Communication	High
Coherency	High

Figure 6: *Costs of EU Energy Laws*

Costs	Level
Coalition Integrity	Low (Kostunica's government passed these laws even though he does not support EU integration.)
Electoral Impact	Low (Public supported these reforms.)
Economic Costs	Low (Only costs came from the creation of new agencies like the SEEA)
Opportunity Costs	Low

⁸⁹ Krushelnycky, Askold. "Ukraine risks wrath of Russia as Yushchenko sides with the West." *The Independent*. Aug. 20, 2008. Web. 2 Apr. 2009
 <<http://www.independent.co.uk/news/world/europe/ukraine-risks-wrath-of-russia-as-yushchenko-sides-with-the-west-902906.html>>.

Figure 7: *Benefits of EU Energy Laws*

Benefits	Level
New Capital	Medium (There was some new investment in energy infrastructure.)
Sense of Security	High (Laws increased dependability of energy prices and, to a degree, supply.)
Political Problem Solving	High (Serbian laws and infrastructure were outdated and inefficient.)

EU Energy Security

Figure 8: *Determinacy of EU Energy Security*

Determinacy	Level
Specificity	Low
Succinct Communication	Low
Coherency	Very Low

Figure 9: *Costs of EU Energy Security*

Costs	Level
Opportunity Costs	Very high (This cost was enough to make the other costs seem insignificant.)

Figure 10: *Benefits of EU Energy Security*

Benefits	Level
New Capital	Low? (Lack of Nabucco development made it hard to determine what capital, if any, would come to Serbia)
Sense of Security	Low? (See new capital explanation)
Political Problem Solving	Low? (See new capital explanation)

Serbian Relationship with Gazprom

Figure 11: *Costs of Serbian Relationship with Gazprom*

Costs	Level
Coalition Integrity	Low (Though there were some dissenting views, there were no threats to the coalition integrity.)
Electoral Impact	Low (No public outcry.)
Economic Costs	Possibly High (Russia could withhold energy from Serbia)
Opportunity Costs	Low (The EU offered little alternative benefits)

Figure 12: *Benefits of Serbian Relationship of Gazprom*

Benefits	Level
New Capital	Very High (Gazprom paid for NIS, agreed to build storage facilities and upgrade energy infrastructure, agreed to include Serbia in South Stream pipeline and Serbia would receive transit tariff revenues from South Stream.)

Judicial Reform

The case of EU judicial efforts in Serbia differs from both the IMF austerity efforts and the EU's attempts to promote its energy interests. Similar to the IMF efforts, the EU's judicial policy was clear, specific, and coherent. But, unlike the IMF's initiative, the EU failed to present Serbian elites with benefits that outweighed costs of completely reforming the judiciary. This may show that a policy that is high in determinacy also needs to provide benefits that persuade elites to adopt those measures.

Determinacy

Succinct Communication

The importance of judicial reform in Serbia for the EU has been addressed repeatedly by the Union. The 2007 EU Commission's Serbian progress report stated that judicial reform was a "key priority of the European Partnership." The Commission's 2009 Serbian progress report stated that reform of the judiciary was a "key priority of the European Partnership."⁹⁰ The statement that judicial reform is a priority may also be found in various press releases and interviews. But why is judicial reform a priority?

In general, the desire of the EU and the rest of the international community was to ensure that Serbia had a functioning and independent

⁹⁰ "2009 Serbia Progress Report." *Commission of the European Communities*. 14 Oct. 2009. Web. <https://webgate.ec.europa.eu/olacrf/20091014Elarg/SR_Rapport_to_press_13_10.pdf>.

judiciary because this type of judiciary is a necessary part of a functioning democracy that “ensure(s) the Rule of Law.”⁹¹ The importance of a functioning and independent judiciary was also due to the “necessity to empower the judiciaries of candidate countries to allow them to play a role within the Community legal system and to be able to effectively apply the *acquis*.”⁹² In fact, the former European Commissioner for Enlargement Olli Rehn said, “The process of structural adjustment must continue and (Serbia) needs to follow through its commitments, particularly in the area of the judiciary and the rule of law.”⁹³

Furthermore, the EU pushed for a reformed judiciary in order to change Serbs’ perception of the judiciary. The importance of confidence in the judiciary was well articulated by Murray Gleeson, the former Chief Justice of the High Court of Australia. In a 2002 speech given during the Judicial Conference of Australia, Gleeson said, “The general acceptance of judicial decisions, by citizens and by governments, which is essential for the peace, welfare and good government of the community, rests, not upon coercion, but upon public confidence.” Without confidence in the judiciary, social acceptance of decisions cannot be guaranteed. Unless society respects the findings of a court, rule of law cannot exist. It is understandable that the EU desires an independent

⁹¹ Kochenov, Dimitry. *EU Enlargement and the Failure of Conditionality: Pre-accession Conditionality in the Fields of Democracy and the Rule of Law*. Alphen aan den Rijn, the Netherlands: Wolters Kluwer Law & Business: 2008. 227. Print.

⁹² Ibid, 228.

⁹³ “EU-Serbia Relations.” *EurActiv.com*. 22 Feb. 2010. Web.
<<http://www.euractiv.com/en/enlargement/eu-serbia-relations>>.

judiciary in Serbia in order to ensure that the EU standards which Serbian elites adopt are enforced and hopefully accepted by the populace.

The EU's communication of its goals and the connection between the EU's relationship with Serbia and reforms to the judicial system were seen as early as 2001. In that year Serbia began to receive policy suggestions, provided through the EU-FRY Consultative Task Force (CTF).⁹⁴ The purpose of CTF was to prepare Serbia for a negotiation of a Stabilisation and Association Agreement (SAA) with the European Union, a necessary part of the process in attaining EU membership. In order for negotiations to begin, several conditions had to be met, such as "principles of democracy, rule of law...and compliance with international obligations."⁹⁵

Specificity

How specific was the EU in what it wished to be reformed within the judiciary and exactly how Serbia could address those problems? The EU was quite specific in both regards. The EU has reiterated as recent as 2009 the goals for Serbia's judiciary. The EU stated that "further efforts need to be made to ensure the independence, accountability, and efficiency of the judicial system."⁹⁶ These comments also reinforced article eighty of the 2007 SAA between the EU and Serbia which stated that their partnership would "notably aim at

⁹⁴ "Serbia: EU-Serbia Relations."

⁹⁵ "EU-FRY Consultative Task Force Meets in Belgrade." *Economic Reconstruction and Development in South East Europe*. December 2, 2008 Web. <<http://www.seerecon.org/news/n20011108.htm>>.

⁹⁶ "2009 Serbia Progress Report."

strengthening the independence of the judiciary and improving its efficiency.”⁹⁷

The EU made it clear that efficiency and independence were EU priorities.

The manner to achieve these things was also addressed. In order to help Serbia achieve these goals, the EU funded the Implementation of the National Judicial Reform Strategy in the Republic of Serbia project in 2007. The purpose of the project was to ensure the judiciary is “compatible with the Council of Europe standards and practises.”⁹⁸ This project provided many services to Serbia. The Implementation of the National Judicial Reform Strategy in the Republic of Serbia project “influence(d) legislative and other reforms, provide(d) expertise in the Organisation’s fields of competence, (and) develop(ed) effective training programmes.”⁹⁹ The project also coordinated initiatives between the EU and the OSCE, UN, and other initiatives.

Coherency

The coherency of the EU’s judicial reform policies was high. Serbia was not presented with varying messages on the importance of judicial reform or how to accomplish the reforms. In fact, the EU promoted and conducted what it termed “twinning” between Serbia and Member States. The purpose of these

⁹⁷ “Stabilisation and Association Agreement.” *Serbian Government: The Ministry of Foreign Affairs*. Web. 19 Mar. 2010. <<http://www.mfa.rs/Foreinframe.htm>>.

⁹⁸ “Implementation of the National Judicial Reform Strategy in the Republic of Serbia.” *Council of Europe Reform in Belgrade*. Web. 20 Mar. 2010. <http://www.coe.org.rs/eng/tdoc_sr/coe_office_in_belgrade/projects_sr/?conid=61>.

⁹⁹ “Council of Europe in Belgrade: About Us.” *Council of Europe Reform in Belgrade*. Web. 20 Mar. 2010. <http://www.coe.org.rs/eng/tdoc_sr/coe_office_in_belgrade/?conid=34>.

initiatives was to promote “capacity building in the Ministry of Justice.”¹⁰⁰ The EU’s efforts to help Serbia reform its judiciary were not undermined by mixed signals concerning expectations and implementations.

Cost-Benefit

The determinacy of the EU’s goals and policies was high. However, the ability of the EU to provide benefits that ensured elites consider EU interests was suspect. In fact, IGOs other than the EU may have provided Serbia with the benefits that galvanized aspects of judicial reform, like increased transparency. But what were the political and economic costs and benefits in this situation?

Cost

Coalition Integrity

The costs of addressing the issues of efficiency and professionalism did not threaten the integrity of the various governing coalitions since 2003. There were steps addressing these two issues beginning with the coalition that took power following the ousting of Milošević and continuing to today’s current ZES coalition. The fact that each governing coalition passed statutes and implemented these laws since 2001 serves as proof of the lack of divisiveness of judicial professionalism and efficiency reform within the legislature.¹⁰¹

The divisiveness arose when coalitions discussed or considered laws that would strengthen the independence of the judiciary. The problem in achieving

¹⁰⁰ “SECTOR FICHE 3.2.1. TO ACTION PROGRAMME 2006 FOR SERBIA.” *Commission of the European Communities*. 2006. Web. 25 Mar. 2010.

<<http://ec.europa.eu/enlargement/archives/ear/serbia/main/documents/2006JusticeandHomeAffairs.pdf>>.

¹⁰¹ For proof of the legislative adoptions concerning the judiciary since 2001, one may read the annual Serbia Progress Reports published by the European Commission.

judicial independence in Serbia was the fact that there were Serbian elites opposed to an independent judiciary. Though the reasons may vary, in general, an independent judiciary would not ensure that political elites' interests would be realized in legal settings. According to an American Bar Association *Central European and Eurasian Law Initiative* document, "The politicization of judicial advancement is also thought to have an impact on how some judges decide cases that involve the interests of the government or political parties."¹⁰² And if not intentionally supporting the elites' interest, judges may still simply rule in a way that attempts to "avoid alienating government interests."¹⁰³

This is not to say that all elites opposed an independent judiciary. When asked what challenges face judicial reform, Dragana Boljevic, Serbia's President of the Judges' Association, said that one of the main problems is the, "...inability of the executive and legislative branches to grant and support independence of the judiciary."¹⁰⁴ Many judges understand the problem, but must wait for the legislature to grant the judiciary operating independence.

The European Union's "Serbia 2008 Progress Report" further expounded on the lack of independent judiciary in Serbia. According to the Commission's report, objective criteria had been developed for the appointment of judges. Part of these criteria was that judges must finish two years of formal training and then pass a final exam. But these criteria were moot because the law containing this

¹⁰² "Judicial Reform Index for Serbia: Volume 2." *American Bar Association*. Sept. 2005. p. 32.

¹⁰³ *Ibid*, 38.

¹⁰⁴ *Ibid*.

language had not been passed. Without proper standards coming into effect, procedures created “concerns that such re-appointment (of judges by the legislature) exercise could be affected by undue political influence and disrupt the functioning of the judiciary.”¹⁰⁵

Electoral Impact

The success of the EU in helping Serbia reform its judiciary was in part due to the fact that there were minimal costs to these initiatives from the public. Serbian elites did not have to limit their cooperation with the EU and other IGOs and NGOs due to domestic opposition. There was no fear among elites that judicial reform will alienate their political constituencies. Unlike in the case of the IMF reforms, the public never publically protested changes to the judiciary. Why was there little objection? There was mistrust of the judiciary based upon experiences of the populace. Since the removal of Milošević from power, many Serbs still experienced what they considered a corrupt judiciary or an abuse of civil rights. The experience of corrupt behavior in one part of the government often times created a mistrust of all parts of the government. For example, Transparency International’s Global Corruption Barometer 2006 reported that 13 percent of Serbs indicated that they or someone in their household had paid a bribe in the previous year.¹⁰⁶

¹⁰⁵ “Serbia 2008 Progress Report.” 12.

¹⁰⁶ “Report on the Transparency International Global Corruption Barometer 2006.” *Transparency International (TI)*. 7 Dec. 2006. Web.
<http://www.transparency.org/policy_research/surveys_indices/gcb/2006>.

Further explanation for the lack of trust held by Serbs was due to the political environment that followed the assassination of former Prime Minister Zoran Djindjić. On March 12, 2003, Prime Minister Djindjić was killed outside of his office in Belgrade by a sniper. Following the assassination, the newly appointed Prime Minister Zoran Živković, declared a state of emergency and initiated a massive police action, known as Operation Saber (or Sablja).¹⁰⁷ Not only was Operation Saber directed toward the assassination but also any institution believed to be involved in organized crime or corruption.

This operation shook the confidence in the judiciary because officials arrested not only mafia members and Serbian security services personnel (many associated with Milošević) but also judges who took bribes or exhibited impropriety from the bench. One high profile offender was Milan Sarajlic, the deputy state prosecutor.¹⁰⁸ One critic said that “Serbia did not have its own mafia, but rather in Serbia the mafia had its own state.”¹⁰⁹ If this statement was correct and the mafia controlled key members of government, then why should citizens obey the laws and authority of those figures?

The actions taken during Operation Saber had two lingering effects on public faith in the judiciary. First, the arrest of judicial figures understandably created doubt of judicial credibility in the public’s mind. Second, there were many claims of human rights abuses during the operation. During the operation,

¹⁰⁷ Ramet, Sabrina P., and Vjeran Pavlakovic. *Serbia Since 1989: Politics and Society Under Milosevic and After*. Seattle: U of Washington P, 2005. 39. Print.

¹⁰⁸ Gordy, Eric. "Serbia After Djindjic War Crimes, Organized Crime, and Trust in Public Institutions." *Problems of Post-Communism* 51.3 (May 2004): 15. *Academic Search Premier*. Web.

¹⁰⁹ Ramet, Sabrina P., and Vjeran Pavlakovic. 40.

Amnesty International voiced concerns due to the Ministry of the Interior detaining people for up to thirty days without a lawyer or approval by what Amnesty International termed a “competent” judicial body.¹¹⁰ In April 2008, amendments were added to the “Law on Organization and Jurisdiction of Government Authorities in Suppression of Organized Crime” that allowed the Ministry of the Interior to detain suspects up to sixty days without a lawyer or court authorization.¹¹¹

Economic Costs

The major economic cost of these reform policies arrived due to the need to hire new judicial personnel. For instance, understaffing that resulted in the backlog of cases caused the inefficient Serbian judiciary. While some cases concern less threatening offenses, there are important and “high-profile” organized crime cases that are not resolved due to this backlog.¹¹² One may look to the Serbian commercial courts to see the causes of this backlog. According to a USAID survey, the commercial courts receive 75,000 new enforcement cases annually and have a total of only 38 enforcement officers.¹¹³ This lack of adequate personnel was not exclusive to the commercial court

¹¹⁰ "Serbia and Montenegro: Alleged Torture During "Operation Saber." *Amnesty International*. November 31, 2008. Web. <<http://www.amnesty.org/en/library/asset/EUR70/019/2003/en/dom-EUR700192003en.html>>.

¹¹¹ *Ibid.*

¹¹² "Serbia 2008 Progress Report." *Commission of the European Communities*. 5 Nov. 2008. Web. p. 12. <http://ec.europa.eu/enlargement/pdf/press_corner/key-documents/reports_nov_2008/serbia_progress_report_en.pdf>.

¹¹³ "Towards Efficient Enforcement with Professional Enforcement Officers". *United States Agency for International Development*. 6 Dec. 2008. Web. <<http://serbiamontenegro.usaid.gov/code/navigate.php?Id=610>>.

system, but was rather indicative of the overall personnel capabilities of the Serbian judiciary.

This cost was amplified by Serbia's relationship with the IMF. Serbia needed to hire new personnel and grow its bureaucracy while trying to comply with the IMF's demands to reduce state expenditures. This explains why the Serbian ministries have not hired a sufficient number of new judges and support personnel.

Opportunity Costs

The opportunity costs in this case were low. Unlike the case of the EU's promotion of its energy security interests, Serbia was not presented with an alternative set of benefits from a third party. The only opportunity costs that may have been presented to elites would have come from Serbian economic actors who offered Serbian politicians bribes in order prevent the establishment of judicial independence. These bribes would have occurred should the independent judiciary jeopardize a pattern of court rulings that were to the advantage of those economic actors. But this type of corrupt opportunity would be hard to detect and prove, but should still be mentioned.

Benefits

New Capital

The new capital that resulted because Serbia undertook judicial reform efforts was effective in improving professionalism, inefficiencies, and transparency. In particular, this new capital was effective because it met the size, speed, and credibility criteria of Schemmelfennig and Sedelmeier. The EU

and other IGOs did not require Serbia to reform an area before aid was made available. Instead, these IGOs provided Serbia with the assistance to reform the judiciary and the benefits simultaneously. In this instance, the benefits did not necessarily come in the same manner as it did from the IMF. Instead of large financial loans, the benefits came from training and practical equipment upgrades that addressed the shortcomings of the judicial infrastructure, like computers or caseload management software. Precise examples of this capital will become clear later in this section during the discussion on the “political problem solving” benefits of judicial reform.

Sense of Security

Besides the mistrust of the general public, judicial reform also addressed a lack of sense of security for business owners in Serbia. This lack of business security was an issue at the beginning of the judicial reform process in 2001. That year, judicial reform was a priority of the new post-Milošević government. Before his assassination, Prime Minister Djindjić worked with political leaders to address this problem. Djindjić and other believed, rightly so, that the corrupt and unreformed judiciary retarded economic growth.¹¹⁴

The unreformed judiciary hampered foreign investment. A 2005 survey conducted by the Serbian Agency for Small and Medium-Sized Enterprises (SME) found that 27 percent of those asked felt as though the judiciary served as the largest problem in doing business. Among the problems indicated were lack

¹¹⁴ Cvetkovic, Mirko, Alexander Pankov, and Andrej Popovic. *Privatization in Transition Economies: The Ongoing Story*. Amsterdam: Elsevier, 2008.

of transparency, inefficiency, and absence of accountability.¹¹⁵ A continuation in this lack of confidence in the judiciary may be seen in Transparency International's 2008 report. In this report, the Serbian Corruption Perception Index number was 3.5 (83rd of 180 nations surveyed).¹¹⁶ These surveys indicate that not only do citizens not trust the judicial system, but neither do business owners, domestic or international.

Political Solution Benefit

The solutions presented by reforming the judiciary to international standards, primarily those of the EU, were the greatest benefit in this case. In general these reforms brought many current Serbian politicians, in particular members of ZES, closer to their stated goal of EU membership. As part of both the SAA and the *acquis*, judicial reform had to be addressed in Serbia. Simply put, judicial reform was and remains a part of a larger ZES strategy to join the EU. The ZES works with various IGOs to not only form policy, but also address the implementation of these policies.

So what problems did these policies address? For one, the EU worked with Serbia on laws that would begin to address the lack of a sufficient number of judges without requiring Serbia to hire new judicial officials. On May 25, 2006, the Serbian National Assembly adopted "The National Judicial Reform

¹¹⁵ Devine, Vera. "Corruption and Doing Business in Serbia." *Anti-Corruption Resource Center*. Sept. 2007. Web. 17 Mar. 2010. <<http://www.u4.no/themes/private%2Dsector/>>.

¹¹⁶ "Corruption Perception Index, 2009." *Transparency International*. Nov. 17, 2009. Web. <http://www.transparency.org/policy_research/surveys_indices/cpi/2009/cpi_2009_table>.

Strategy.”¹¹⁷ According to this strategy, the objective was to create an institute that would provide an “organized acquiring and improvement of theoretical and practical knowledge and skills necessary for the autonomous, professional and efficient administration of justice.”¹¹⁸ The resulting institution that provided this training was the Judicial Training Center. Not only did the Judicial Training Center provide professional training to lawyers, judges, and prosecutors, but also provided “thematic focused programmes” concerned with areas “such as war crimes and organised crime.”¹¹⁹

The Judicial Training Center is an institutional closely associated with the EU and UN’s efforts in Serbia that addressed inefficiencies and unprofessionalism. Due to a lack of resources, know-how, and need for a broker between various Serbian institutions participating in the Judicial Training Center, the international community was very active in with the Center. The UNDP, EU, and multiple NGOs provided the needed resources and knowledge needed to increase efficiency.¹²⁰ The Judicial Training Center also addressed the quality of professionalism among judges and lawyers. Professionalism now is “relatively high and has been further improved by training provided by the judicial

¹¹⁷ “National Judicial Reform Strategy.” Nov. 29, 2008. *Ministry of Justice: Republic of Serbia*. 29. Nov, 2008. Web. <<http://www.mpravde.sr.gov.yu/en/articles/judiciary/national-judicial-reform-strategy>>.

¹¹⁸ Ibid.

¹¹⁹ “Judicial Training Centre: Finale Report.” *United Nations. United Nations Development Programme*. 2006 Belgrade: Serbia and Montenegro. p. 10.

¹²⁰ “The Judicial Training Centre in Serbia: A Case Study.” *United Nations Development Program*. 2009. Web. 19 Mar. 2010. <<http://europeandcis.undp.org/home/show/09207ABC-F203-1EE9-BE7109AA1ED41142>>.

academy.”¹²¹ But this success should not be mistaken as representative of completed success in reforming the unprofessionalism that plagues the judiciary, a point the 2009 Serbian progress points out.¹²²

The policies also combated the lack of transparency within the judiciary that remained a concern of the EU. According to a 2006 Commission of the European Communities report, due to lack of transparency, there is a close bond between corruption and organized crime.¹²³ Positions indicated as susceptible to and already impacted by corruption were positions within the judiciary. For example, according to the Commission’s report, “40% of public officials failed to report on their assets and income, and a high number of political parties failed to submit their financial reports to the parliamentary committee for finances.”¹²⁴ Without oversight that monitors the income of high-ranking officials, like judges, these officials were ostensibly free to participate in dishonest activities and this, according to the report, has led to higher rates of corruption.

The EU and Serbia were not the only two actors to undertake efforts to address the lack of transparency in the day-to-day operations of the judicial system. The United States Agency for International Development (USAID) also introduced needed financial aid in the judiciary. USAID offered Serbian commercial courts with over 500 workstations, 300 printers, 39 servers, and developed a judicial operating system. The development of this comprehensive

¹²¹ “Serbia 2008 Progress Report.” 11.

¹²² Ibid, 11.

¹²³ Ibid, 11.

¹²⁴ Ibid, 11.

computerized case management system was intended, among other things, to increase transparency within the judicial system. This management system allowed the general public to access selected court data. "All parties will be able to view and track their cases via the internet, see the date of a hearing, the name of the judge, case number, and other essential case information, enabling them to monitor the status of their case at any time," reported Svetlana Konjević, a clerk at the court in Sremska Mitrovica.¹²⁵ This system decreased the chances of corruption by randomly assigning judges to cases and theoretically eliminating conflict of interests from the bench.

Summary

Despite the changes in professionalism, efficiency, and transparency, the European Commission states that judiciary independence is still affected by undue political influence. The source of this influence is applied via the control over the judicial budget by the legislative body and the manner in which judicial appointments and promotions are decided. Multiple international organizations, including the UN, EU, and USAID, have attempted to address this problem by issuing statements criticizing Serbia's judiciary and then offering benefits should the problem be addressed. But these benefits were not enough for Serbian elites to acquiesce their control over the judiciary.

The issue of judicial reform seems to be a good example of one of the weaknesses of the European Union and the rest of the international community

¹²⁵ "Computerized System Boosts Transparency, Confidence in Serbia's Courts." *United States Agency for International Development*. 11Dec. 2008. Web. 23 Feb. 2010. <http://www.usaid.gov/locations/europe_eurasia/press/success/2008-10-prog.html>.

when attempting to influence policy output in a targeted state. The lack of immediate and substantial tangible benefits did not motivate enough elites to change their stance on judicial independence and it is unlikely that elites will change this stance without either an overwhelming carrot or a threatening stick, e.g. threatening Serbia's EU membership based on this issue.

Summary

Judicial Reform

Figure 13: *Determinacy of Judicial Reform*

Determinacy	Level
Succinct Communication	High
Specificity	High
Coherency	High

Figure 14: *Costs of Judicial Reform*

Costs	Level
Coalition Integrity	Varied (The EU's standards of professionalism and efficiency did not threaten the interests of Serbian elites. The independent judiciary threatened the elites' interests. This type of judiciary may stray from decisions that benefited elites politically.)
Electoral Impact	Low (The public did not trust judiciary and wished to see reform.)
Economic Costs	High (It was difficult for Serbia to hire new judges when the IMF pressured them to cut expenditures and public positions.)
Opportunity Costs	Low (There were no alternative set of benefits.)

Figure 15: *Benefits of Judicial Reform*

Benefits	Level
New Capital	Medium (Though no aid packages as large as the IMF's resulted from the reform, there were upgrades of the judicial infrastructure.)
Sense of Security	Medium (There is an increasing trust of judiciary among business owners.)
Political Problem Solving	High (These policies resulted in large improvements in efficiency and professionalism.)

Conclusion

In the three cases that this paper examines, the level of determinacy played a role in how successful the international organization was at promoting its interests and policies in Serbia. The international policy initiatives in Serbia that were succinctly communicated, specific in their interests, and coherent were more likely to be successful than policies that lacked these three standards. Both the IMF's austerity measures and the EU's judicial measures met all three criteria. But the successes of international initiatives were not completely dependent upon the degree of determinacy of the policy.

It is important to recognize that though the IMF and EU both had specific goals that were clearly stated, the degree of success of these policies was also dependent upon Serbian elites' cost-benefit analyses of the proposed policies. The international organization that had a high determinacy policy goals and presented benefits that in the minds of Serbian elites outweighed the costs of adopting the particular policy was more likely to achieve its goals than an international organization that possessed a clear set of goals but failed to present Serbia with benefits that elites deemed satisfactory. This may have been the difference in success between the IMF and the EU's judicial goals. Because Serbian officials adopted and attempted to implement its measures, it is logical to believe the IMF presented Serbia with benefits that offset the costs of adopting the policy.

The EU's energy policy in Serbia presented a different case of policy promotion. This case revealed the outcome of an initiative in Serbia when the policy was not succinctly communicated, specific in its wishes, and coherent. Furthermore, the EU's energy policy goals in Serbia were not backed by benefits that assured Serbia would pursue energy policies aligned with EU interests. This was an instance that showed that if there was discord within an organization in reference to a certain policy area, the international organization was less likely to be able to exert concerted pressure on Serbian elites to adopt a certain policy. The discord undermined not only determinacy, but also the benefits. As such, Serbian elites enjoyed more flexibility in their energy policy output. Schemmelfennig and Sedelmeier point at that if the target state (in this case Serbia) learns about this discord, then "they would be tempted to manipulate it to their advantage or simply be confused."¹²⁶ The EU's failure to successfully promote its goals in Serbia leads one to believe that less determinate policy goals are less likely to achieve their aims in Serbia. The following illustrates the interplay between determinacy and cost-benefit analysis in the three cases examined in this paper.

It should be noted that this paper is not indictment of the EU's abilities to promote its interests nor should it be considered an endorsement of the manner in which the IMF promotes its values. To the contrary, the very nature of the two organizations makes it more likely that the IMF would be more successful in pursuing its goals in the short-term. The huge sum of monetary aid offered by

¹²⁶ Schimmelfennig, Frank. "Governance by conditionality: EU rule transfer to the candidate countries of Central and Eastern Europe."

the IMF for imminent use by the targeted state makes the IMF quite persuasive in the short-term. Though the goals of the IMF often include stabilizing the economy in the immediate future and laying a basis for a well-functioning economy in the long term, the actuality of these goals may be compromised in the long-term (and even in the short-term in many instances) by states that do not fulfill all the conditionality measures presented by the IMF.

The ultimate success of the EU in its use of conditionality is based on eventual EU membership. The short-term to medium-term incentive structure of complying with EU conditionality is based upon accession aid, progression concessions,¹²⁷ and the right to continue negotiating with the EU. While these incentives are not negligible, they certainly are not as appealing as billions of Euro in economic aid. However, in the long-term, the EU will enjoy more success in promoting its goals in Serbia. This is because as a Candidate State closes in on EU membership, the carrot of membership becomes more effective in galvanizing change.¹²⁸ As membership becomes a reality and gains immediacy, the EU will be able to place more salience on issues that matter to the EU and theoretically be more successful in invoking change in Serbia. This is why the IMF seemed to be more successful than the EU in promoting its goals

¹²⁷ An example of a concession would be when the European Commission invited Serbia to join the Schengen visa program and allow Serbs with biometric passports to be allowed to enter the Schengen area in Europe visa-free beginning in January 2010. Leviev-Sawyer, Clive. "EU Schengen visa decision on Serbia, Macedonia, and Montenegro welcomed." *The Sofia Echo*. 1 Dec. 2009. Web. 4 Apr. 2010. <http://sofiaecho.com/2009/12/01/823580_eu-schengen-visa-decision-on-serbia-macedonia-and-montenegro-welcomed>.

¹²⁸ Schimmelfennig, Frank, and Ulrich Sedelmeier. "Governance by conditionality: EU rule transfer to the candidate countries of Central and Eastern Europe."

in Serbia in the short-term, but should not be considered the more successful organization in promoting its interests in the long-term.

Figure 16: *Determinacy/Cost-Benefit Matrix*

	Determinate	Indeterminate
Benefits > Costs	Successful Compliance (IMF)	Partial Compliance (Energy Policy)
Costs > Benefits	Incomplete Compliance (Judicial Reform)	Likely Impasse and Minimal Conditionality

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