

# Rejoining Europe?

## The Socializing Power of European Institutions

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*Jeffrey T. Checkel*  
*University of Oslo*  
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Recent months have witnessed a heated debate between the United States and its European allies over basic foreign policy strategies. Played out largely in discussions over the war on terror, headline stories have pictured a unilateralist United States versus an institutionalist Europe. The United States relies on its own (or allied) resources to obtain foreign policy objectives; international institutions like the United Nations (UN) are considered only as an afterthought. In contrast, Europe begins with and conceptualizes its foreign policy interests through institutions—most notably, the European Union (EU).

Like all headline stories, this one oversimplifies. In fact, the past decade has seen a sustained effort by the United States and its allies to bring about enduring change in Eastern Europe and the former Soviet Union, and to do so by relying on a variety of European regional institutions. The transatlantic partners have sought to socialize these states into the liberal, democratic values of the West—respect for core human rights, civic conceptions of citizenship and nationality, and so forth.

Throughout the former Soviet region, and in Eastern/Central Europe as well, the results of such socialization efforts have been mixed. The quickest changes have come at the level of formal institutions and legal norms. Much slower and more problematic from the West's perspective have been changes in behavior and daily social practices.

Russia and Ukraine exemplify this dynamic. Each country has now incorporated core European human rights statutes—most notably, the European Convention of Human Rights—into its legal codes and law. This has given ordinary Russians and Ukrainians the right to appeal human-rights grievances to a supranational court—the European Court of Human Rights in Strasbourg, France. This opportunity has been seized with a vengeance, with the court's caseload nearly quadrupling over the past three years. Yet, daily practice lags behind these institutional and legal changes—a fact made abundantly clear by the ongoing war in Chechnya and the recent conduct of elections in Ukraine.

This mixed picture suggests important lessons for U.S. and European policymakers as they ask regional organizations to spearhead ambitious programs of domestic change in the former Communist states.

## **Policy Lessons and Implications**

The efforts of the EU, NATO, the Organization for Security and Cooperation in Europe (OSCE), and the Council of Europe (CE) highlight the key role of two different mechanisms for bringing about change toward Western values and norms. Most important has been conditionality or, better said, the straightforward use of incentives. These can be material—where domestic policy change is rewarded with increased financial assistance—or social/reputational—the opportunity to join an organization like the CE, which signifies readmission to the club of European democracies. Yet, the past decade also demonstrates that conditionality and incentives work best when used in combination with pedagogic approaches emphasizing teaching and persuasion. Thus, what practitioners of diplomacy call jawboning—literally, efforts at persuasion—play a critical role as well.

### **Lesson #1: Combined Strategies Work Best.**

To promote enduring domestic change, regional institutions need to employ a mixture of strategies, with conditionality and teaching/persuasion mechanisms working in tandem. This finding holds a cross range of issue areas and regional organizations.

In most cases, institutions have stressed different strategies in a beneficial (albeit typically uncoordinated) division of labor. Consider the case of minority rights and citizenship in Estonia and Latvia. The EU adopted an overt and clearly stated conditionality strategy, while the OSCE (through its High Commissioner for National Minorities) and the CE emphasized persuasive techniques targeted at changing minds. At key junctures, the EU issued strongly worded declarations that certain aspects of nationality/citizenship and language laws were unacceptable from the standpoint of the international community and, more to the point, incompatible with EU membership. At the same time, but at a very different level, experts from the OSCE and CE were working with national officials to rethink and rewrite the relevant laws and administrative codes. Indeed, on several occasions, Western experts actually helped rewrite the offending legislation.

The important point is that this mix of strategies reached different segments of society, with conditionality altering the cost/benefit calculations of political elites in Tallinn and Riga and teaching/persuasion changing attitudes among civil servants and civil-society activists. This minimized the so-called ownership problems that arise when conditionality is employed in isolation and thus helped build a broader domestic coalition for change. The result was dramatic improvements in minority rights and citizenship provisions in Estonia and Latvia. Moreover, continued monitoring by the three organizations (see also lesson #3) insured that the legal changes eventually had an impact on daily practice as well.

### **Lesson #2: Insist on Changes Early On**

Conditionality works best when the recipient is required to make changes prior to obtaining the reward. The record in Eastern Europe and the former USSR demonstrates that when regional organizations admit new members on the basis of promised changes in future behavior, the results are poor. The Council of Europe's strategy regarding Ukraine

is a case in point. When the CE admitted Ukraine in late 1995, it was on the basis of an explicit promise by the country's leadership to align domestic practices with European norms by late 1998. A particular concern was that Ukraine eliminate the death penalty, which unfortunately did not happen in the required three-year period. In fact, it was only after intense international criticism that Ukraine eliminated capital punishment statutes in late 2000.

### **Lesson #3: The More Monitoring the Better**

If regional organizations wish to promote far-reaching and enduring domestic change, this is more likely to happen the more robust their monitoring mechanisms. Evidence from the region indicates that effective monitoring serves three functions. First, it provides information, allowing regional institutions to develop scorecards for assessing the progress of a particular country. The EU's annual updates on its accession candidates have been a model in this regard. For the broader international community, information of this sort allows for finger pointing and shaming as the spotlight of publicity is shone on a country. Second, monitoring, especially when it engages domestic groups and constituencies in a country, helps build broader understanding and support for change, again reducing the ownership problems mentioned earlier. Finally, in-camera monitoring can provide an ideal setting for jawboning and persuasion.

In recent years, both the Council of Europe and NATO have designed and begun to implement precisely this type of multi-layered monitoring. After it was heavily criticized for failing to bring about progressive change in key countries like Ukraine, the CE developed a more robust set of monitoring procedures. Its Parliamentary Assembly has a newly constituted monitoring committee that examines and, when necessary, publicly criticizes human-rights practices in member states. Various CE treaties—for example, that on national minorities—now allow for the establishment of specialized monitoring bodies, which meet with various domestic groups when making country visits. Most recently, the Council's governing Committee of Ministers created a private, in-camera monitoring procedure. The use of these new monitoring instruments has already had one success: Ukraine's elimination of the death penalty in 2000.

NATO has developed new monitoring practices as well. In particular, its Membership Action Plan (MAP) systematically monitors the reform process in states that are candidates for membership. Within the framework of MAP, the Alliance has been able to further build on the teaching/persuasion techniques first used in the Partnerships for Peace, while at the same time, making it clear that there will be sanctions, most notably exclusion from the list of eligible candidate countries, if specific reforms are not carried out.

Monitoring, of course, is no panacea—especially when the member states who control regional organizations lack the political will to act on the latter's recommendations. During 2000-2001, for example, the Council of Europe created special monitoring procedures to assess Russian behavior in Chechnya. These included several visits to the breakaway republic by CE delegations as well as an extraordinary monitoring of Russia by the Council's Committee of Ministers. The information thus obtained demonstrated that Russia was in violation of both regional and international human-rights

norms. Unfortunately the logical next step, Russia's expulsion from the CE, was never seriously considered.

#### **Lesson #4: Persuasion/Jawboning Work Best When Contact is Sustained, High Quality and 'Context Specific'**

Recall that jawboning and persuasion are attempts to change the way domestic actors think about a particular issue. Efforts by the OSCE, NATO, the EU, and the CE indicate that such strategies work best when three conditions are obtained. First, contact must be sustained, which simply means the interactions between regional organizations and domestic actors must be more than one-off meetings. Jawboning and persuasion are more likely to work when the emphasis is on repeated dialogues, consultations, and courses over months or even years. Second, contact must be of a high quality, where interlocutors from regional organizations engage in debate and discussion with their domestic counterparts and avoid set-piece lectures. Third, regional actors must be deeply aware of the particular domestic context in which they are operating.

On the last point, both the OSCE and CE have learned the hard way that the best way to change attitudes and beliefs is to adapt Western norms to national traditions and cultures. At one level, this has simply meant that regional experts need to be knowledgeable about and show an interest in the countries they are visiting. However, much more important has been the recruitment of local experts and officials into seminars and meetings.

In Russia and Ukraine, for example, the CE and OSCE initially had little success promoting legal reform. There were many reasons for this state of affairs, but one problem was a tendency to assume that Western practices always offered the best and only answers. One often hears the (true) story related in Kyiv of how the CE, wanting to bring Western judicial expertise to Ukraine, subcontracted with a team from the American Bar Association. This group gave a series of lectures, which, unfortunately, had the exact opposite effect from the one intended. Instead of helping diffuse Western standards, Ukrainians left the meetings furious at the arrogance of their interlocutors, who insisted on one (U.S.) model for reform of judicial practice in post-Soviet states.

More recently, both organizations have made greater efforts to listen, as well as lecture. The result has been richer dialogues that focus less on Western ideals and more on how to match such standards to the Russian or Ukrainian reality. Throughout 2000 and 2001, to take one case, experts from the CE and OSCE held numerous dialogues and seminars with Russian scholars and legislators with an eye to reforming the country's Soviet-era criminal code. In these sessions, the emphasis was on brainstorming, listening and practical problem solving—for example, how to integrate Russian criminal procedures with principles embedded in the European Convention of Human Rights. Such interactions played a key role in helping Russia promulgate a vastly improved criminal code in December 2001. In a dramatic break with past practice, initial custody and pretrial detention decisions no longer rest with prosecutors, but with judges—in line with Western legal practice.

The overarching lesson, unfortunately, one that international institutions across the globe must learn again and again, is that regional organizations can best foster domestic

change when their strategies are crafted to the legacies, politics, and values of their target countries.

## **Conclusions**

The foregoing analysis suggests two broader lessons for U.S. policymakers. First, they must appreciate that, despite current concerns over the effectiveness of global institutions like the UN, there is abundant evidence that regional institutions—especially in Europe—play a key role in advancing U.S. interests.

Second, U.S. policymakers need to make European organizations work harder for them. Partly, this is a simple matter of coordinating better the organizations' activities, the need for which becomes ever more important as they develop overlapping mandates. More difficult and costly is the necessity of providing them with new resources to carry out their expanded monitoring and follow-up work. The United States can have little influence on the policies of the EU, where it has no formal standing. However, in the OSCE and NATO, where it plays a central role, or the CE, where it has observer status, the United States can and should take the lead in providing new funds for the types of activities described here. While these are not glamorous and produce few headlines in the press, they decisively advance the slow, challenging and centrally important task of changing entrenched ways of thinking and social practice throughout the region.

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The findings reported here are the product of a multiyear, collaborative endeavor, headed by the author and involving both U.S. and European scholars. Funded by the European Commission under its Fifth Framework Program, the project examined the socialization potential and practices of a variety of European institutions and did so in both former Soviet states and Eastern/Western Europe. For more information, see <<http://www.arena.uio.no/events/idnetgeneral.htm>>.