16+1 Cooperation and Chinese Investments in CEEC

Editor-in-Chief

Huang Ping, Liu Zoukui

中国社会科学出版社
CHINA SOCIAL SCIENCES PRESS

图书在版编目（CIP）数据

16+1与中国在中东欧国家的投资 = 16+1Cooperation and Chinese Investments in CEEC : 英文 / 黄平，刘作奎主编．—北京：中国社会科学出版社，2018.8
（智库丛书）
ISBN 978-7-5203-1986-7

Ⅰ. ①1… Ⅱ. ①黄… ②刘… Ⅲ. ①对外投资－直接投资－研究－中国－英文 ②外商投资－直接投资－研究－欧洲－英文 Ⅳ. ①F832.6 ②F835.048

中国版本图书馆CIP数据核字(2018)第018496号

出 版 人	赵剑英
责任编辑	喻　苗
特约编辑	郭　枭
责任校对	李　旭
责任印制	王　超
出　　版	中国社会科学出版社
社　　址	北京鼓楼西大街甲158号
邮　　编	100720
网　　址	http://www.csspw.cn
发 行 部	010-84083685
门 市 部	010-84029450
经　　销	新华书店及其他书店
印　　刷	北京君升印刷有限公司
装　　订	廊坊市广阳区广增装订厂
版　　次	2018年8月第1版
印　　次	2018年8月第1次印刷
开　　本	710×1000　1/16
印　　张	21
字　　数	344千字
定　　价	88.00元

Contents

Introduction

Part one: Overview

Part two: Law and Policy

Introduction

Chinese Investments in CEEC: Development and Trend

Huang Ping, Liu Zuokui

1. General Situation of China-CEEC Trade and Investment Cooperation

Trade between China and CEEC improves in recent years, and bilateral trade volumes continue to rise. According to the data of Ministry of Commerce of People's Republic of China, from 2010 to 2016, the import and export trade between China and 16 CEECs increased from $43.9 billion to $58.7 billion.[①] The proportion of China's bilateral trade with CEECs in its total trade volume of the EU has been increasing. Poland, the Czech Republic, Hungary and Slovakia are the top four trading partners of China among the 16 countries. For these four countries, China is also their biggest trading partner in Asia. In terms of trade structure, taking the trade between China and Hungary as an example, in the early stages of the transition, bilateral trade is dominated by light industrial products such as textiles and hats. Today, the bilateral trade structure has gradually shifted to higher technological products such as machinery, electronics and so on. In addition, high quality agricultural products of CEECs such as meat products, dairy products, wine have gradually begun to enter the Chinese market and gained popularity among consumers.

The CEECs have been focusing on the promotion of Chinese products, and China has also been actively providing opportunities for them. For example, Ningbo, Zhejiang Province has held three consecutive sessions of China-CEEC Investment and Trade Fairs since 2015; the Bank of China has held China-

① See detailed statistics on Ministry of Commence Europe Division, http://ozs.mofcom.gov.cn/article/zojmgx/date/201702/20170202520524.shtml

CEEC SME Cooperation Forums for many consecutive years; and Chinese embassies in CEECs have also actively hosted various investment and trade fairs between China and certain country. The improvement of trade between China and these countries, together with the high willingness of both sides in promoting trade, will have an impact on bilateral trade.

Table 1 2012-2016 The Growth Rate of China-CEEC Trade（Unit：%）[①]

Country/Year	2012	2013	2014	2015	2016
Poland	10.8	3.0	16.1	-0.6	3.2
Czech Republic	-12.6	8.3	16.2	0.3	0
Hungary	-12.9	4.3	7.3	-10.6	10.1
Slovakia	1.8	7.6	-5.2	-18.9	4.8
Estonia	2.5	-4.4	4.7	-13.4	-1.1
Latvia	10.0	6.7	-0.7	-20.2	2.3
Lithuania	21.0	5.3	0.1	-25.8	7.7
Romania	-14.2	6.7	17.8	-6	9.9
Bulgaria	29.4	9.8	4.4	-17.1	-8.3
Slovenia	-2.9	17.2	8.8	2.5	13.6
Croatia	-15.2	8.8	-24.5	-2.7	7.4
Bosnia and Herzegovina	-1.9	60.3	185.8	-64.1	-5.4
Montenegro	63.6	-38.8	106.1	-24.7	-10/8
Macedonia	-7.5	-24.9	-2.1	31.3	-37.6
Serbia	8.5	19.1	-17.5	2.2	8.2
Albania	11.6	15.8	1.7	-1.5	13.9

Source: Ministry of Commence Europe Division.

The volume of China-CEEC trade has experienced a satisfactory growth trend, but the growth rate is not stable enough, relatively large fluctuations are observed in

① See detailed statistics on Ministry of Commence Europe Division, http://ozs.mofcom.gov.cn/article/zojmgx/date/201702/20170202520524.shtml some countries. It shows that China-CEEC trade is susceptible to external market volatilities. The trade cooperation calls for more progress while ensuring stability.

2. General Situation of China's Investment in CEEC

In the past five years, China's investment in CEEC has been increasingly rapidly. Please see the following statistics.

Table 2 2009-2016 China's Investment in Central and Eastern Europe (Stock volume)（USD: million）

	2009	**2010**	**2011**	**2012**	**2013**	**2014**	**2015**	**2016**
Poland	12030	14031	20126	20811	25704	32935	35211	32132
Hungary	9741	46570	47535	50741	53235	55635	57111	31370
Czech Republic	4934	5233	6683	20245	20468	24269	22431	22777
Slovakia	936	982	2578	8601	8277	12779	12779	8277
Slovenia	500	500	500	500	500	500	500	2686
Romania	9334	12495	12583	16109	14513	19137	36480	39150
Bulgaria	231	1860	7256	12674	14985	17027	23597	16607
Estonia	750	750	750	350	350	350	350	350
Latvia	54	54	54	54	54	54	94	94
Lithuania	393	393	393	697	1248	1248	1248	1529
Serbia	268	484	505	647	1854	2971	4979	8268
Montenegro	32	32	32	32	32	32	32	443
Bosnia and Herzegovina	592	598	601	607	613	613	775	860
Croatia	810	813	818	863	831	1187	1182	1199
Macedonia	20	20	20	26	209	211	211	210
Albania	435	443	443	443	703	703	695	727
In Sum	41060	85258	100877	133400	143576	169651	197675	166679

Source: Ministry of Commerce of People's Republic of China, National Bureau of Statistics of China, State Administration of Foreign Exchange, eds, *2016 China Foreign Direct Investment Statistic Report*, Beijing: China Statistics Press, 2017.

According to the data above, China's investment in most countries in Central and Eastern Europe has remarkably increased, especially in the four countries of Visegrad Group, Romania, Bulgaria and Serbia. Viewing from the total number of investments, the year 2015 had great improvement when compared with 2009, growing by $1.566 billion and the growth rate reaching 79%. The investment in stock volume declined in an unobvious way in 2016 The core market of growth is mainly concentrated in the four countries of Visegrad, as well as the Balkan countries such as Romania, Bulgaria and Serbia.

First, several investment projects have landed successively, which the level and enriched content of China-CEEC cooperation, and promoted mutual understanding between the two sides. At present, China's investment in Central and Eastern Europe is mainly focused on fields including infrastructure, production capacity, machinery, energy-saving and environmental protection industry, tourism and real estate. The width and depth of investment has made great progress compared with 2012, mergers and acquisitions as well as green land investment has experienced a large increase, local employment rate has risen, local economic development has improved. (See statistics on China's investment projects in CEE countries for details)

Second, investments with feature of special aid loans, such as the south-north highway of Montenegro, the Hungarian-Serbian railway, the Serbian power station and the Stanari Power Station project in Bosnia and Herzegovina, have also enhanced the quality of cooperation between the both sides. In order to improve the quality and efficiency of the cooperation with the 16 CEECs, China issued 10 billion U.S. dollars of special loans, in which the preferential loans within it have been used up, investing in the infrastructure, water conservancy, highways and other construction of CEECs, demonstrating a clear effect.

Last, the increase in the preferential loans has enhanced China's influence in Central and Eastern Europe region. At present, neither China nor the CEEC investment data can fully reflect China's actual influence in this region. For example, China's investment statistics do not include the number of investment with aid and preferential loans. At the same time, the investment data of Chinese SMEs are not fully included in the statistical data. It makes official statistics much smaller than the real number, which somewhat underestimates China's investment influence in Central and Eastern Europe. For instance, China's investment in Montenegro in 2015 was about $7 million, while China's preferential loan to Montenegro's south-north highway was about $800 million.

3. Financial Support to the China's Investment in CEEC

Promoting the investment in CEEC is inseparable from financial support. China has launched various financing support measures under the "16+1 Cooperation" framework.

(1) The introduction of various financial tools

$10 billion special loan

At China-CEEC leader's meeting in Warsaw in April 2012, Wen Jiabao, the then Premier proposed 12 initiatives to promote China-CEEC cooperation, including $10 billion of special loan and proportional preferential loans on cooperative projects in the fields of infrastructure construction, high-tech, green economy among others. The 16 countries may submit project applications to China National Development Bank, China Import and Export Bank, ICBC, BOC, CCB and Citic Bank. The applications for preferential loan are submitted to China Import and Export Bank, of which the interest rate is 1%-3%. The destination of the investment has to be Central Eastern European Countries, and Chinese companies have to be involved and conduct the projects. Chinese corporations are required to complete 80% to 85% of the project if the ratio of Chinese funding is higher on the infrastructure project. There are no insurance premiums for the loans, and only a small amount of administrative fee applies to the recipients. The financing support will not issue to the project involve third country. The loan at most covers 85% of the whole project, with the duration of 15 years, it may be extended to 20 years depend on the situation, and sovereign guarantees is needed.

China-Central and Eastern European Investment Cooperation Fund

In April 2012, during the meeting of the 17 leaders in Warsaw, Former Premier Wen Jiabao also formally proposed to establish the China-Central and Eastern European Investment Cooperation Fund, and designated the China Import and Export Bank as the executive department of the fund. In November 2013, Premier Li Keqiang announced the formal establishment of the China-Central and Eastern European Investment Cooperation fund when he attended the second China-CEEC leader's meeting. The China-Central and Eastern European Investment Co-operation Fund (phase I) eventually closed at $435 million and started operating in early 2014. The fund is incorporated in Luxembourg in the form of a limited partnership, with domestic and international investment institutes being its limited partners, such as China Import and export bank and Hungarian import and Export bank. The fund has chosen a investment management team with long-term investment management experience and good reputation in the Central and Eastern Europe to provides consulting services for fund investment. In December 2014, Premier Li Keqiang positively commented the China-CEE Investment Cooperation Fund (phase I) and continued supporting the launch of the China-CEE Investment Cooperation Fund (phase II)" in the third China-CEEC leader's meeting. In November 2015, the fourth China-CEEC leaders' meeting held in Suzhou, China, "launching the China-CEE Investment Cooperation Fund phase two" was included in the China-CEEC Cooperation medium-term plan. In November 2017, Premier Li Keqiang announced that the second stage of the China-CEEC Investment Cooperation Fund has been set up. The fund in phase II is $1 billion and currently is operating well. The fund focuses on supporting the development in the infrastructure, telecommunications, energy, manufacturing, education and health care field of the 16 countries. The Fund adopts diversified investment models, such as equity investment, mezzanine debt or mixed financial products;

the scale of a single investment is between \$10 million to \$70 million in phase I. Until now, the fund has invested more than 10 key projects, achieved good social effect, and made contribution for China-CEEC investment cooperation as well as the Belt and Road Initiative.

China-CEE Financial Holdings Limited Company and China-CEE Fund

In November 2015, on the fourth China-CEEC leaders meeting which advocated by the Chinese Government initiated and led by ICBC, a discussion was initiated on supporting interconnection and production capacity cooperation among member countries with commercial financing model. With joint efforts of the ICBC and domestic and international partners, during the fifth China-CEEC leaders meeting in Riga in 2016 Premier Li Keqiang announced the founding of China-CEE Financial Holdings Limited Company. The China-CEE fund established by this Corporation reaches 10 billion euros, and plans to lever 50 billion euros of project credit. The China-CEE Fund adheres to the principle of "supported by government, conducted by companies, oriented by market". It targets the CEE market, extends to Europe and other regions which is in accordance with China-CEEC interests, and focuses on investment cooperation opportunities in infrastructure construction, high-tech manufacturing and mass consumption industries. In terms of fundraising, CEECs such as Poland, Czech Republic and Latvia, enterprises of Chinese or foreign capital, financial institutions and all kinds of social capital are all potential investors with whom the Fund is actively negotiating with. In addition, the Fund has accepted support from the Silk Road Fund. In investment Management, in addition to ICBC, China Life, Fosun Group, Golden Eagle International Group and other partners are introduced to participate in it. In terms of the project reserve, the Fund is tracking a group of investment projects with great social influence and good economic returns.

(2) Establishment of various financial branches in Central and Eastern Europe

Chinese financial institutions such as Bank of China, the People's Bank of China and ICBC have opened branches or affiliated agencies in many countries in Central and Eastern Europe. The Bank of China has established branches in Hungary and affiliated agencies in the Czech Republic, Poland and Serbia. The Bank of China's branch in Hungary is the first operating financial institution, as well as the first RMB clearing bank, opened in Central and Eastern Europe, providing convenience for Chinese enterprises to invest in this region. After the Bank of China (Hungary) Co., Ltd., branches were established in Czech Republic, Poland and other countries in CEEC offering export and import merchandises of all types with one-stop service, including customer credit investigation, ship situation inquiries and consultation on national risk, product trends and policy advice. More importantly, in April 2016, the Bank of China, helped Hungary issue a $1 billion dim sum bond as the sole global coordinator in Hong Kong, China. On July 26, 2017, the Bank of China again helped Hungary to issue the sovereign panda debt, which is the first fund raised specially for the Belt and Road cooperation.

(3) Actively strengthening cooperation with international financial institutions

In December 2015, the European Bank for Reconstruction and Development approved China's application to join the bank. China officially became a member, providing a broad space for China and the bank to invest and cooperate in various projects in Central and Eastern Europe, in the Eastern and Southern Mediterranean and in Central Asia. As a member of the bank, China will fulfill its membership obligations, actively participate in the bank affairs and strengthen its cooperation with the Bank and other members in the regional to share experience, jointly raise capital and aid development. At the same time, the European Bank for Reconstruction and Development (EBRD) has also been actively involved in the framework of "16+1 Cooperation".

4. A brief overview of the content of the book

This book consists of four parts.

Part one contains one paper, giving an overview of the Chinese Investments in CEECs in the recent years.

The paper is written by Ágnes Szunomár, who is the Head of Research Group on Development Economics, Institute of World Economics, Center for Economic and Regional Studies of Hungarian Academy of Sciences. It studies the dynamics of the development and expansion of Chinese multinational enterprises in CEE region. In this paper, the author argues that the boost of multinational enterprises (MNEs) is an important and controversial issue, since the non-European emerging-market MNEs (EMNEs) have became the new major firms in the global markets. China, as one of the main roles in this process, has presented different motivations, operational practice and challenges from the MNEs from developed countries (DMNEs). This development leads to a series of new questions and should be take in to consideration.

Part two includes six papers, mainly focusing on the laws, regulations and policies greatly influencing on Chinese foreign investments in CEECs.

The first paper is written by Dusan Dabovic, who is Senior Advisor of the Ministry of Agriculture, Forestry and Water Management of Serbia. It analyzes the laws of different CEECs of foreign direct investments in agriculture field in the context of 16+1 cooperation. The author firstly suggests that the CEECs shared some common features in legal framework of foreign investments. And then he points out that, though all followed the EU regulations, the laws might be different in each CEE country because of the differences in the aspects of economy, culture, geography and so on.

The author of the second paper is Dragoljub Todić, who is Professorial Fellow of the Institute of International Politics and Economics of Serbia. It takes Serbia as an example to discuss the relationships between environmental protection and investment. The author stated that the environmental regulations and foreign investment strongly influences on each other in several different aspects. The author gave a general overview to the Serbia environmental regulations influencing investments. The fundamental basis of Serbia environmental laws is the EU laws, since Serbia is a candidate country for membership in the EU, ought to harmonise its national legal framework with EU regulations. Another influencing factor is that implementation of these laws is not easy, and may not successfully affect on the investments.

The third paper is composed by Grzegorz Stec, Associate Researcher at the European Institute for Asian Studies, Peking University. It studies the obstacles of Chinese direct investments in CEE, focusing on legal, political and security fields, with considering of the case of Poland. The author suggests that Chinese rapidly increasing investments made some countries, especially the members of EU, worrying about its influence on security. To go further, he assumed that Chinese investments might encounter with more and more challenges in investing EU member countries in CEE region. This research is aimed to estimate these challenges and give some practical suggestions to deal with them. He stated that the core problem of Sino-Polish relations is cognitive gap. To solve the problem, it is necessary to develop the human capital infrastructure, in order to make China-Poland cooperation more efficient and effective.

The fourth paper is from Liu Kai, Faculty of Economics, Law and Governance of the Utrecht University, the Netherlands. The paper analyzes how the labor law of EU hindered the investments of Chinese companies in the infrastructure construction field. Firstly, the author generally overviews the EU labor law framework, and proposes that although Chinese infrastructure investments keeps on increasing, the researches concerning the obstacles to them in the labor laws are still limited. Then, the author points out some particular aspects in the legal framework, and analyzes their negative effects on infrastructure investments. Finally, the author gave some possible advices on resolving those problems.

The fifth paper is written by Viktor Lorincz, who is junior research fellow of Hungarian Academy of Sciences, and Andras Jakab, who is the Director of Institute for Legal Studies of Hungarian Academy of Sciences.The paper comes up with several international indices, in order to predict if the laws would hinder the investments in CEE. The author introduced his methodology, including the concept, scope of application and data basis, with considering of the advantages and challenges of using indices to measure the performances of legal system. By using several main international indices, including the local indices, credit rating and legal indices, using Hungary as an example, the author illustrates the complexity and methodological challenges of measuring EU legal systems.

The sixth paper is written by Katarzyna Golik, who is from the Polish Academy of Sciences. This paper aims at explaining the changes of legal environment for China to invest in Poland from three perspectives: China, Poland and Europe Union. China has introduced several new regulations ofthe financial markets recently. And for Poland, the new policy may subordinate the independent judiciary to the executive power, which will bring about more uncertainty of investments in Poland. In addition, some standards of Europe Union are also negatively influencing on Chinese investments in CEEC. To conclude, Chinese investments in Poland will face more legal risks.

Part three contains three papers, concerning about the factors that impact on Chinese investments in CEE region, and also the achievements of Chinese investment and its impacts on the CEECs vice versa.

The first paper is written by Liao Jia, Pan Chunyang, and Shang Yuhong. Liao Jia is Associate professor of School of International Business of Shanghai University of International Business and Economics, Pan Chunyang is Lecturer of School of Business of East China University of Science and Technology, and Shang Yuhong is Professor of School of International Business of Shanghai University of International Business and Economics. It puts forward an investment facilitation indicator to measure the level of investment facilitation of the Belt and Road countries, the factors of infrastructure, institution, finance, technology and ease of doing business are taken into consideration. By using the indicator, the author demonstrates that the investment facilitation could impact on China's outward FDI, and proves a positive correlation between host countries' investment facilitation level and China's outward FDI to the Belt and Road countries. In addition, the author suggests that the impact also depends on the policies in different regions or countries.

The second paper written is by Duško Dimitrijević, Professorial Fellow and former Director of the Institute of International Politics and Economics of Serbia. The paper overviews the achievements and challenges of China's investment in Serbia, and explains its influences on the China-Serbia relationship and the development of New Silk Road Initiative. The author briefly introduces the history of Serbia economy since the last two decades, and states that the foreign direct investment is the most important affecting factor. In the field of foreign investment, China is one of the major partners of Serbia, especially under the New Silk Road Initiative. In other words, China has made much effort in the foreign investments in CEECs, and built close economic relations with Serbia. Chinese investments have achieved great progress; while still have some comparative disadvantages.

The third paper is composed by Shang Yuhong and Yang Chencheng, both of whom comes from Shanghai University of International Business and Economics. It illustrates the positive influences of Chinese immigration networks to China's outward investments, which includes two aspects of the total investment scale and industry selection. The author concludes that the Chinese immigration network can appeal more Chinese investment enterprises to the EU countries, and improve their investment level both in long-term and short-term. Then, the author says that the Chinese immigration network in Europe promoted the direct investment of Chinese enterprises to untraditional industries, especially service industry, more than traditional ones, such as catering, wholesales, retails, manufacturing, etc.

Part four contains various local voices of CEECs, reflects their perspectives on the issue of Chinese investments in the context of 16+1 Cooperation.

The first paper is written by Ivica Bakota, Professor of Capital Normal University of China. The paper reviews the history of the development of foreign direct investment (FDI) in the Western Balkans region, and illustrates the influencing factors of this change. The author states that the Western Balkans region has long been least capable of attracting foreign investments in Europe for the political and security reasons; along with the change of Western Balkans investment patterns, it increasingly attracts Chinese investments in recent years. Furthermore, the author thinks that this change influenced on the Western Balkans FDI model in return, made it become more welcome towards state-proxy investments.

The author of the second paper is Peter Goreczky, Senior Analyst of Institute for Foreign Affairs and Trade.It focuses on Chinese investments in Hungary, including an introduction of Hungary's investment environment and Chinese strategy of investments. The author emphasizes that a series of political and economic changes of Hungary led to a shift of the economic relations with China, and created a good base for attracting Chinese investments in Hungary. And for China, the Belt and Road Initiative encouraged many Chinese companies to invest in Hungary. Meanwhile, the author predicts that Chinese investments in Hungary may encounter with some challenges in the future, and he assesses the possible risks and difficulties.

The third paper is written by Andreea Leonte,who is from the Romanian Institute for the Study of the Asia-Pacific. This paper discusses the case of Romania in the context of the 16+1 Cooperation. The author overviews the historical advantages and political disadvantages of Chinese investments in Romania, and argues that private outbound investments are more possible to success in Romania, rather than state investments. The author suggests China to change the perspective in investing in Romania, since investing in the private sector shall be more efficient than in state-leading sectors, for the reason that negotiations between countries takes time.

Viktor Eszterhai, who is senior analyst and the Deputy Director of Research for Pallas Athene Geopolitical Foundation,wrote the fourth paper.The paper discusses the China-Hungary cooperation from the perspective of Hungarians. In the field of finance, Hungarian government brought up a strategy of "Eastern

Opening", and Hungarian Central Bank, the Magyar Nemzeti Bank, put forward "Renminbi Program" in coordination with the governmental policy. The author gives an advice that China could improve the financial cooperation between China and Hungary, for it will be an effective form of cooperation under the beneficial strategies of Hungary.

The fifth paper is written by Marsela Musabelliu,Ph.D. Candidate in World Economy, Xiamen University. It considers the relationship between geopolitical environment and investments in concerning about the Balkans region with highlights on Albanian. For historical reasons, the Balkans has long been greatly influenced by the conflicts between great powers. The author thinks that among the great powers in the 21st century, the European Union and PRC both affects on the regional cross-trade and investments and intra-regional relations of the countries in Balkans.

We would like to gratefully acknowledge the authors for their outstanding contributions to the book. We shall thank Zhao Maner and Guan Shilin, the project officers of 16+1 Think Tanks Network, graduated from the London School of Economics and Social Science, for their excellent editing and proofreading work. And special thanks should also go to Wang Yin and Yu Miao, whom are from the Chinese Social Science Press,for their support in book publishing. This book is finally edited by Liu Zuokui and Huang Ping. The 16+1 Think Tanks Network will do well in communications and cooperation between the think tanks as ever.

Part one: Overview

Driving Forces behind the International Expansion Strategies of Chinese MNEs in East Central Europe*

Ágnes Szunomár**

1. Introduction

The rise of multinational enterprises (MNEs)[①] from emerging markets is topical, important and poses a number questions and challenges that require considerable attention in the future from academia as well as business management. Outward foreign direct investment (OFDI) from non-European emerging regions is not a new phenomenon, what is new, is the magnitude that this phenomenon has achieved over the past one and a half decade. The recent takeovers of high-profile companies in developed or developing countries by non-European emerging-market MNEs[②] (EMNEs), such as Lenovo, Wanhua (China), Hindalco (India), CVRD (Brazil), Cemex (Mexico), Lukoil (Russia), as well as the greenfield or brownfield investments of emerging companies, such as Huawei, ZTE, Tata, Pepco, show a new trend where new kind of firms become major players globally. According to the *World Investment Report 2015*

---

* This chapter was written in the framework of the research project "Non-European emerging-market multinational enterprises in East Central Europe" (K-120053), supported by the National Research, Development and Innovation Office (NKFIH).

** Head of Research Group on Development Economics, Institute of World Economics, Centre for Economic and Regional Studies of the Hungarian Academy of Sciences.

① As UNCTAD uses the term "multinational enterprise" or "MNE" in its latest publications (such as *World Investment Report 2016*) we chose to use this terminology during the research. Under this term we mean business organization whose activities are located in more than two countries.

② Using "non-European emerging market multinationals" (EMNEs), we primarily refer to multinationals from the BRICS economies, plus Malaysia, South Korea, Taiwan (China), Thailand and Turkey.

investments from emerging-markets reached a record level: "developing Asia now invests abroad more than any other region. Nine of the 20 largest investor countries were from developing or transition economies" [1].

Today, the rise of EMNEs is driven by the Asian economy, mainly China, however, this process is broader, incorporates a growing number of developing economies and complemented by the growing share of emerging markets in world exports.[2] In addition, non-European EMNEs have become important players in several regions around the globe, ranging from the least developed countries of Africa through the developing markets in Latin America and Asia to the developed countries of the United States or the European Union, including East Central European (ECE) countries.[3]

Although some components of the strategy and attitude of non-European EMNEs in ECE region are in line with what can be observed for MNEs from developed countries (DMNEs), but some components—with regard to motivations, operational practice and challenges—are different.

2. Focus on China

Chinese OFDI has increased in the past decades, however, in the last decade this process accelerated significantly. In 2012, China became the world's third largest investor—up from sixth in 2011—behind the United States and Japan with an OFDI flow of USD 84 billion and it still hold its position:

① UNCTAD, "World Investment Report-Reforming International Investment Governance", United Nations, New York and Geneva, 2015, p.ix.

② Sauvant K.P., "The Rise of Emerging Market TNCs — The Issues", in Sauvant KP (ed.), *The Rise of Transnational Corporations from Emerging Market—Threat or Opportunity*? Edward Elgar Publishing: Cheltenham, 2008, pp.3-15; Nolke A., 2014, *Multinational Corporations from Emerging Markets: Sate Capitalism 3.0*, Basingstoke-New York: Palgrave Macmillan.

③ Throughout the research ECE is referred to as the five new EU member states which are members of the OECD as well, namely the Czech Republic, Hungary, Poland, the Slovak Republic and Slovenia. The Central and Eastern European (CEE) region is a broader term, comprising Albania, Bulgaria, Croatia, the Czech Republic, Hungary, Poland, Romania, the Slovak Republic, Slovenia, and the three Baltic States: Estonia, Latvia and Lithuania. Therefore, the chapter does not focus on the whole CEE region, however in some cases the examples of the ECE countries will be supplemented with some of the CEE countries.

the value of Chinese OFDI grew to USD 128 billion in 2015,[①] making Chinese MNEs the largest overseas investors among developing countries.[②] According to the estimations of Hanemann and Huotari,[③] the volume of investments has further increased in 2016 and has reached USD 200 billion , with a 40 per cent increase compared to the previous year. Several factors fuelled this shift, including the Chinese government's wish for globally competitive Chinese firms or the possibility that OFDI can contribute to the country's development through investments in natural resources exploration or other areas.[④]

Although traditionally Chinese OFDI is directed to the countries of the developing world, Chinese investments into the developed world, including Europe increased significantly in the past decade. According to the Clegg and Voss,[⑤] Chinese OFDI to the European Union (EU) increased from USD 0.4 billion in 2003 to USD 6.3 billion in 2009 with an annual growth rate of 57 per cent, which was far above the growth rate of Chinese OFDI globally. In 2016, Chinese companies invested EUR 35 billion in the EU, a 77% increase from the previous year.[⑥] While the resource-rich regions remained important for Chinese companies, they started to become more and more interested in acquiring European firms after the financial and economic crisis. The main reason for that is through these firms Chinese companies can have access to important technologies, successful brands and new distribution channels, while the value

---

① China's outward FDI net flows in 2015 reached USD 145,67 billion, according to Chinese data, that is the 2015 Statistical Bulletin of China's Outward Foreign Direct Investment.

② UNCTAD, "World Investment Report—Investor Nationality: Policy Challenges", United Nations, New York and Geneva, 2016.

③ Hanemann T., Huotari M., "Record Flows and Growing Imbalances—Chinese Investment in Europe in 2016", MERICS Papers on China, No 3, 2017, https://www.merics.org/fileadmin/user_upload/downloads/MPOC/COFDI_2017/MPOC_03_Update_COFDI_Web.pdf.

④ Sauvant, K. P., V. Z. Chen., "China's Regulatory Framework for Outward Foreign Direct Investment", *China Economic Journal*, Vol.7, No.1, 2014, pp.141-163.

⑤ Clegg J., Voss H., "Chinese Overseas Direct Investment in the European Union", Europe, China Research and Advice Network, 2012, http://www.chathamhouse.org/sites/default/files/public/Research/Asia/0912ecran_cleggvoss.pdf.

⑥ Hanemann T., Huotari M., "Record Flows and Growing Imbalances—Chinese Investment in Europe in 2016", MERICS Papers on China, No 3, 2017, https://www.merics.org/fileadmin/user_upload/downloads/MPOC/COFDI_2017/MPOC_03_Update_COFDI_Web.pdf, p.4.

of these firms has fallen, too, due to the international financial crisis.①

In line with the above, the chapter will focus on Chinese EMNEs strategies, operation and challenges in East Central Europe (ECE) by discussing its anomalies to the traditional theories as well as to other types of MNEs in the ECE region. The aims of the chapter are to better understand the rise of Chinese EMNEs in ECE and to specify their motivations. Therefore, the research will address the following questions: (1) What are the driving forces behind the international expansion strategy of Chinese EMNEs? (2) How important is the ECE region in their localization strategies? (3) What are the main factors which makes the ECE region attractive for Chinese EMNEs?

In order to assess the role and importance of OFDI from China towards ECE region, it must be evaluated within a global context, taking into account its geographical, as well as sectoral distribution. Therefore, after the theory and literature review, the next section briefly examines Chinese foreign direct investment globally, as well is in the European Union, taking into account trends, patterns and investors' potential motivations when choosing a specific destination for their placements. The following section describes the changing patterns and motivations of Chinese OFDI in ECE region, based on desk research, company interviews and observations. The final section presents the author's conclusions②.

3. Theory and Literature Review

Majority of research on motivations for FDI apply the eclectic or OLI

① Clegg J., Voss H., "Chinese Overseas Direct Investment in the European Union", Europe, China Research and Advice Network, 2012, http://www.chathamhouse.org/sites/default/files/public/Research/Asia/0912ecran_cleggvoss.pdf, pp.16—19.

② The authors will usually take into account foreign direct investment by mainland Chinese firms (where the ultimate parent company is Chinese), unless marked explicitly that due to data shortage or for other purposes they deviate from this definition. Since data in FDI recipient countries and Chinese data show significant differences, the two data sets will usually be compared to point out the potential source of discrepancies in order to get a more complex and nuanced view of the stock and flow of investments. For Chinese global outflows statistics from Chinese Ministry of Commerce (MOFCOM) and UNCTAD will be taken into account and compared.

paradigm by Dunning[①] that states that firms will venture abroad when they possess firm-specific advantages, i.e. ownership and internalization advantages, and when they can utilize location advantages to benefit from the attractions these locations are endowed with. Different types of investment motivations attract different types of FDI which Dunning[②] divided into four categories: market-seeking, resource-seeking, efficiency-seeking and asset-seeking. Localization advantages "comprise geographical and climate conditions, resource endowments, factor prices, transportation costs, as well as the degree of openness of a country and the presence of a business environment appropriate to ensure to a foreign firm a profitable activity" [③]. Much of the extant research and theoretical discussion is based on FDI outflows from developed countries for which market-seeking and efficiency-seeking FDI is most prominent.[④]

Nevertheless, traditional economic factors seem to be insufficient in explaining FDI decisions of MNEs. In the last decade international economics and business researchers acknowledged the importance of institutional factors in influencing the behaviour of MNEs.[⑤] According to North, institutions are the "rules of the game" which are "the humanly devised constraints that shape

---

① Dunning J., *Multinational Enterprises and the Global Economy*, UK: Addison-Wesley, Publishers Ltd 1992; Dunning J., "Location and the Multinational Enterprise: A Neglected Factor?", *Journal of International Business Studies*, Vol.29, No.1, 1998 pp.45-66.

② Dunning J., *Multinational Enterprises and the Global Economy*, UK: Addison-Wesley, Publishers Ltd 1992; Dunning J., Lundan S.M., "Institutions and the OLI Paradigm of the Multinational Enterprise", *Asia Pacific Journal of Management*, Vol.25, pp.2008, 573-593.

③ Resmini L, "FDI, Industry Location and Regional Development in New Member States and Candidate Countries: A Policy Perspective, Workpackage No.4, The Impact of European Integration and Enlargement on Regional Structural Change and Cohesion, EURECO, 5th Framework Programme, European Commission, 2005, p.3.

④ Buckley P.J., Clegg J., Cross A.R., Voss H., Zheng P., "The Determinants of Chinese Outward Foreign Direct Investment", *Journal of International Business Studies*, Vol.38, 2007, pp.499-518; Leitao N.C., Faustino H.C., "Portuguese Foreign Direct Investments Inflows: An Empirical Investigation", *International Research Journal of Finance and Economics*, Issue 38, 2012, pp.190-197.

⑤ Tihanyi L, Devinney TM, Pedersen T., *Institutional Theory in International Business and Management*, Emerald Group Publishing, 2012, p.481.

human interactions" [1]. Institutions serve to reduce uncertainties related with transactions and minimize transaction costs.[2] Meyer and Nguyen[3] argue that informal constraints are "much less transparent and, therefore, a source of uncertainty". As a result, Dunning and Lundan[4] extended OLI model with the institution-based location advantages which explains that institutions developed at home and host economies shape the geographical scope and organizational effectiveness of MNCs.

The rapid growth of OFDI from emerging and developing countries resulted in numerous studies trying to account for special features of emerging MNEs behaviour that is not captured within mainstream theories. For example, Mathews extended OLI paradigm with linking, leverage, learning framework (LLL) that explains rapid international expansion of companies from Asia Pacific.[5] Where linking means partnerships or joint ventures that latecomers form with foreign companies in order to minimize risks involved with internationalization as well as to acquire "resources that are otherwise not available"[6]. Latecomers when forming links with incumbents also analyse how the resources can be leveraged. They look for resources that can be easily imitated, transferred or substituted. Finally, repeated processes of linking and leveraging allow latecomers to learn and conduct international operations more effectively.[7]

Although EMNEs from various emerging countries differ in many respects but to some extent they share common characteristics. For example,

---

① North, D., *Institutions, Institutional Change and Economic Performance*, Cambridge: Cambridge University Press, 1990 p.3.

② Ibid..

③ Meyer K.E., Nguyen H.V., "Foreign Investment Strategies and Sub-national Institutions in Emerging Markets: Evidence from Vietnam", *Journal of Management Studies*, Vol.42, No.1, 2005, pp.63-93.

④ Dunning J., Lundan S.M., "Institutions and the OLI Paradigm of the Multinational Enterprise", *Asia Pacific Journal of Management*, No.25, 2008, pp.573-593.

⑤ Mathews J.A., "Dragon Multinationals: New Players in 21st Century Globalization", *Asia Pacific Journal of Management,* No.23, 2006, pp.5-27.

⑥ Ibid., p19.

⑦ Ibid., p20.

Peng reports that Chinese MNEs are characterized by three relatively unique aspects: (1) the significant role played by home country governments as an institutional force, (2) the absence of significantly superior technological and managerial resources, (3) the rapid adoption of (often high-profile) acquisitions as a primary mode of entry.① Kalotay and Sulstarova highlights that Russian MNEs' investments are also influenced by home country policies② while Barnard writes about the lack of strong firm capabilities among MNEs from South Africa and Taiwan (China)③. Ramamurti and Singh applied a different typology for internationalization strategies of Indian firms: they introduced four generic categories each of which reflects a particular type of strategy in a particular era, making differences in the companies' profiles, such as their sectoral composition.④ Gubbi et al. find that Indian MNEs are also fond of undertaking acquisitions overseas.⑤ A marked shift in corporate attitude towards global markets took place in Brazil since 2002 , too, but "multi-latinas" have emerged throughout Latin America.⑥ While some EMNEs target the global market, others rather focus on neighbouring regions. According to Gubbi and Sular,⑦ Turkish firms seem to be using the European countries to: (1) present themselves as a European Union company, (2) make use of special features

① Peng M.W., "The Global Strategy of Emerging Multinationals from China", *Global Strategy Journal*, No.2, 2012, pp.97-107.

② Kalotay K, Sulstarova A., "Modeling Russian outward FDI", *Journal of International Management,* No.16, 2010, pp.131-142.

③ Barnard H., "Overcoming the Liability of Foreignness Without Strong Firm Capabilities: The Value of Market-based Resources", *Journal of International Management,* No.16, 2009, pp.165-176.

④ Ramamurti R, Singh JV, eds, *Emerging Multi- Nationals in Emerging Markets*, Cambridge University Press: New York, 2009.

⑤ Gubbi S.R., Aulakh P.S., Ray S., Sarkar M.B., Chittoor R., 2010, "Do International Acquisitions by Emerging-economy Firms Create Shareholder Value? The Case of Indian Firms", *Journal of International Business Studies*, No.41, 2010, pp.397-418.

⑥ Casanova, L., Kassum, J., "Brazilian Emerging Multinationals: In Search of a Second Wind", INSEAD Working Paper No.2013/68/ST, 2013.

⑦ Gubbi S.R., Sular S.A., "Why Do the Turkish Firms Invest in Mainland Europe?", in Laszlo Tihanyi, Elitsa R. Banalieva, Timothy M. Devinney, Torben Pedersen, ed., *Emerging Economies and Multinational Enterprises* (Advances in *International Management*, Vol.28), Emerald Group Publishing Limited, 2015, pp.441- 470.

of these countries to expand their businesses within and to other countries, (3) make use of the favourable tax treatment policies available to foreign investors.

The change of ECE countries from centrally planned to market economy resulted in significant research on FDI flows to these transition countries. During the transition ECE went through radical economic changes which had been largely induced by foreign capital. Foreign multinationals realised significant investment projects in this region and established their own production network. Investors, mainly from EU-15 countries, were attracted by relatively low unit labour costs, market size, openness to trade, and proximity.[①] Extant literature suggests diverse institutional factors that influence inward FDI. In the case of ECE, the prospects of their economic integration with the EU increased FDI inflows while in ECE countries that lagged behind with implementation of transition policies, which postponed their EU accession, FDI inflows were discouraged.[②]

The example of extra-EU foreign investors in ECE is presented in a study by Kawai[③] who analysed motivations and locational determinants of Japanese MNEs. The author found that by 2004 Japanese investment in ECE was low when compared with European counterparts and 90% of it was located in the Czech Republic, Hungary and Poland.[④] Japanese MNEs' investment in ECE was motivated by relatively low labour and land costs, well-educated labour force necessary in manufacturing sectors and access to rich EU

① Bevan A.A., Estrin S., The "Determinants of Foreign Direct Investment into European Transition Economies", *Journal of Comparative Economics,* No.32, 2004, pp.775-787.; Clausing K.A., Dorobantu C.L., "Re-entering Europe: Does European Union Candidacy Boost Foreign Direct Investment?", *Economics of Transition*, Vol.13, No.1, 2005, pp.77-103.

② Bevan A.A., Estrin S., "The Determinants of Foreign Direct Investment into European Transition Economies", *Journal of Comparative Economics,* No.32, 2004, pp.775-787.

③ Kawai N., "The Nature of Japanese Foreign Direct Investment in Eastern Central Europe", Japan aktuell 5/2006, 2016, http://www.giga-hamburg.de/openaccess/japanaktuell/2006_5/giga_jaa_2006_5_kawai.pdf.

④ Ibid., p.6.

markets. Szunomár and McCaleb[①] found that in the case of Chinese MNEs' motives in ECE significant role is devoted to institutional factors and other less-quantifiable aspects: besides EU membership, market opportunities and qualified but cheaper labour important factors are the size and feedback of Chinese ethnic minority, investment incentives and subsidies, possibilities of acquiring visa and permanent residence permit, privatization opportunities, the quality of political relations and government's willingness to cooperate.

4. Chinese Foreign Direct Investment Globally

From the late 1970s, in hand with the "Open Door" policy reforms, the Chinese government encouraged the country's investment abroad to integrate China to the global economy, although the only entities allowed to invest abroad were state-owned enterprises (SOEs). The total investment of these first years was not significant and concentrated to the neighbouring countries, mainly to Hong Kong (China). The regulations were liberalized after 1985 and a wider range of enterprises, including private firms, was permitted to invest abroad. After Deng Xiaoping's journey to the south of China in 1991, overseas investment increased dramatically, Chinese companies established overseas divisions almost all over the world, concentrated mainly in natural resources. Nevertheless, according to UNCTADstat, Chinese OFDI averaged only USD 453 million per year between 1982 and 1989 and 2.3 billion between 1990 and 1999.

In 2000, before joining the World Trade Organization (WTO), the Chinese government initiated the "go global" policy, which was aimed at encouraging domestic companies to become globally competitive. They introduced new policies to induce firms to engage in overseas activities in specific industries, notably in trade-related activities. In 2001, this encouragement was integrated

① McCaleb, A., Szunomár, A., "Chinese Foreign Direct Investment in Central and Eastern Europe: An Institutional Perspective", In: Chinese Investment in Europe: Corporate Strategies and Labour Relations, ETUI, Brussels, 2017 pp.121-140.

and formalized within the Tenth Five Year Plan, which also echoed the importance of the go global policy.[①] This policy shift was part of the continuing reform and liberalization of the Chinese economy and also reflected Chinese government's desire to create internationally competitive and well-known companies and brands. Both the Elventh and the Twelfth Five Year Plan stressed again the importance of promoting and expanding OFDI, which became one of the main elements of China's new development strategy.

Chinese OFDI flows and stock have steadily increased after the New Millennium (see Figure 1 and Figure 2), particularly after 2008, due to the above-mentioned policy shift and the changes in global economic conditions, that is, the global economic and financial crisis. The crisis brought more overseas opportunities to Chinese companies to raise their share in the world economy as the number of ailing or financially distressed firms has increased. While OFDI from the developed world decreased in several countries because of the global financial crisis, Chinese outward investments increased even greater: between 2007 and 2011, OFDI from developed countries dropped by 32%, while China's grew by 189%.[②] As a consequence, China moved up from the sixth to the third largest investor in 2012, after the United States and Japan, and the largest among developing countries, as outflows from China continued to grow, reaching a record level of USD 84 billion in 2012. Thanks largely to this rapid increase of China's outward FDI in recent years; China also became the most promising source of FDI when analysed FDI prospects by home region.[③]

① Buckley P.J., Clegg J., Cross A.R., Voss H., Zheng P., "The Determinants of Chinese Outward Foreign Direct Investment", *Journal of International Business Studies*, Vol.38, 2007, pp.499- 518.

② He F., Wang B., "Chinese Interests in the Global Investment Regime", *China Economic Journal*, Vol.7, No.1, 2014, p.4.

③ UNCTAD, "Global Value Chains: Investment and Trade for Development", United Nations, New York and Geneva, 2013, p.21.

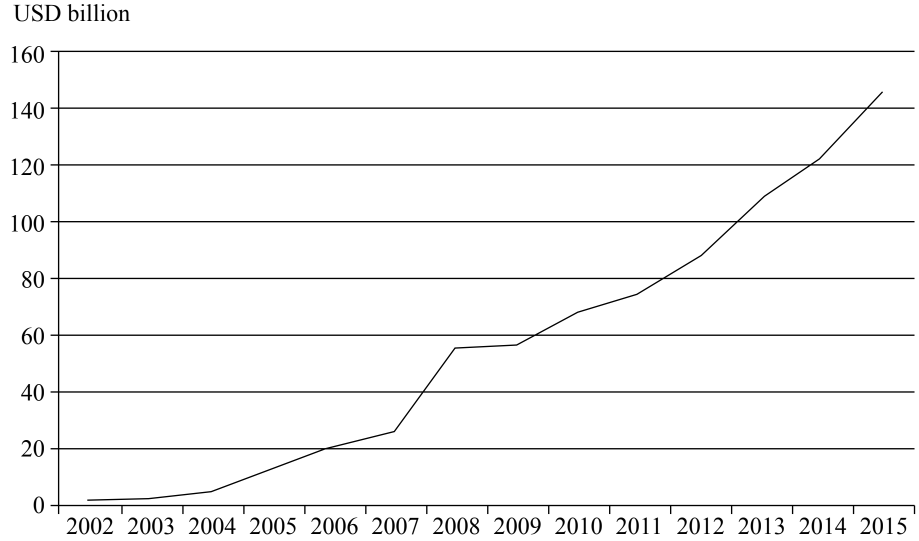


Figure 1 China's outward FDI flows, 2002-2015

Source: MOFCOM / NBS, PRC.

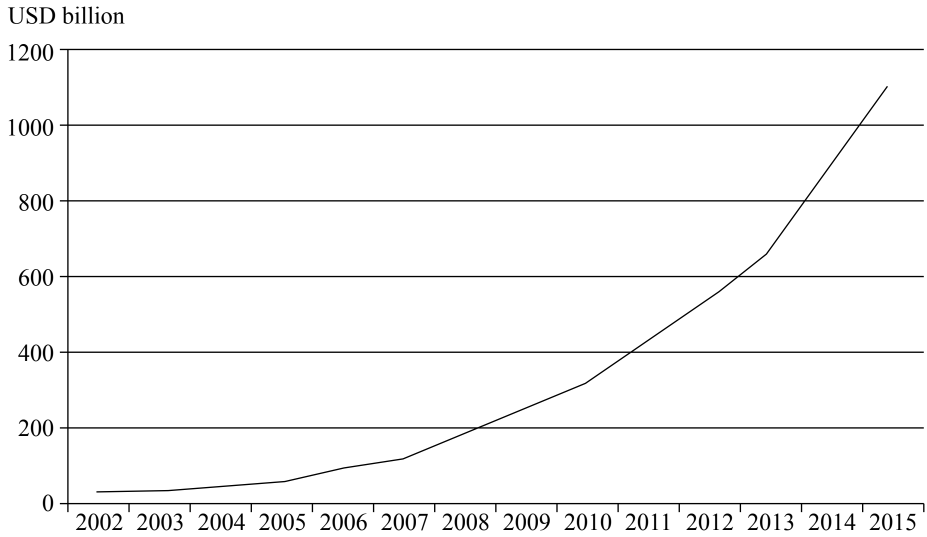


Figure 2 China's outward FDI stock, 2002-2015

Source: MOFCOM / NBS, PRC.

While more and more Chinese companies are investing overseas, Chinese OFDI raises concerns and therefore causes strengthening protectionism against it, especially in the developed world. Several experts believe that Chinese

OFDI could be greater if host countries were more hospitable. According to He and Wang,[①] there are several reasons for that: (1) state-owned enterprises (SOEs) are the dominant players in Chinese OFDI and they are often viewed as a threat for market competition as they supported by the Chinese government; (2) foreign companies often complain that Chinese companies may displace local companies from the market as they bring technology, resources and jobs away; (3) there are fears about Chinese companies' willingness to adapt to local environment, labour practices and competition. Although the above-mentioned problems indeed exist, they are overestimated as Chinese companies are willing to accommodate to the international rules of investment.

According to Scissors,[②] if it is about national security, the role of Chinese ownership status is overblown as Chinese rule of law is weak, which means that a privately-owned company has to face as much pressure and constraint as its state-owned competitor. Nevertheless, it is worth to differentiate between SOEs, which has two types: locally administered SOEs (LSOEs) and centrally administered SOEs (CSOEs). Most of the LSOEs operate in the manufacturing sector and they are facing competition from both private companies and other LSOEs, while CSOEs are smaller in number but more powerful as they operate in monopolised industries such as finance, energy or telecommunication.[③]

Although the share of private firms is growing, SOEs still account for the majority, more than two-thirds, of total Chinese outbound investments, however, the range of investors is broader, next to state-owned and private actors it includes China's sovereign wealth fund and firms with mixed ownership structure. The role of SOEs seems to be declining in the past few years, although the government will continue to emphasize their importance as they rely on the revenue, job creation and

① He F., Wang B., "Chinese Interests in the Global Investment Regime", *China Economic Journal*, Vol.7, No.1, 2014, pp.4-20.

② Scissors D., "China's Economic Reform Plan will Probably Fail", Washington: AEI, 2014, https://www.aei.org/wp-content/uploads/2014/02/-chinas-economic-reform_130747310260.pdf, p.5.

③ He F., Wang B., "Chinese Interests in the Global Investment Regime", *China Economic Journal*, Vol.7, No.1, 2014, p.6.

provision of welfare provided by the SOEs.[①]

According to the go global plan, Chinese companies should evolve into globally competitive firms, however, Chinese companies go abroad for varieties of reasons. The most frequently emphasized motivation is the need for natural resources, mainly energy and raw materials in order to secure China's further development (resource-seeking motivation). Mutatis mutandis, they also invest to expand their market or diversify internationally (market-seeking motivation). Nevertheless, services such as shipping and insurance are also significant factors for OFDI for Chinese companies if they export large volumes overseas.[②] Despite China's huge labour supply, some companies move their production to cheaper destinations (efficiency-seeking motivation). Recently, China's major companies also looking for well-known global brands or distribution channels, management skills, while another important reason for investing abroad is technology acquisition (strategic asset-seeking motivation).

Scissors[③] points out that clearer property rights, compared to the domestic conditions, are also very attractive to Chinese investors, while Morrison[④] highlights an additional factor, that is, China's accumulation of foreign exchange reserves: instead of the relatively safe but low-yielding assets such as US treasury securities, Chinese government wants to diversify and seeks for more profitable returns.

Regarding the entry mode of Chinese outward investments globally, greenfield FDI is continues to be important, but there is a trend towards more mergers and acquisition (M&A) and joint venture projects overseas. Overall, greenfield investments of Chinese companies outpace M&As in numerical terms, however, greenfield investments are smaller in value in total as these

---

① He F., Wang B., "Chinese Interests in the Global Investment Regime", *China Economic Journal*, Vol.7, No.1, 2014, p.12.

② Davies K., "China Investment Policy: An Update", OECD Working Papers on International Investment, 2013/01, OECD Publishinghttp://dx.doi.org/10.1787/5k469l1hmvbt-en, p.736.

③ Scissors D., "China's Economic Reform Plan will Probably Fail", Washington: AEI, 2014, https://www.aei.org/wp-content/uploads/2014/02/-chinas-economic-reform_130747310260.pdf.

④ Morrison W.M., "China's Economic Conditions. CRS Report for Congress", 2013, http://www.au.af.mil/au/awc/awcgate/crs/rl33534.pdf.

include the establishment of numerous trade representative offices.[1]

5. Chinese Investments in Europe

Being one of the top investors of the developing world, since 2008, Chinese investment increased substantially in developed economies as well. Although this increase is impressive by all means, according to Chinese statistics, China still accounts for only 7.6% of total FDI inflows into the EU and 4.8% to the US. However, during the examination of the actual final destination of Chinese OFDI, Wang[2] found that, as a result of round-tripping investments, developed countries receive more Chinese investments than developing economies: according to his project-level data analysis, 60% of Chinese OFDI went to developed economies like Australia, Hong Kong (China), the United States, Germany, and Canada.

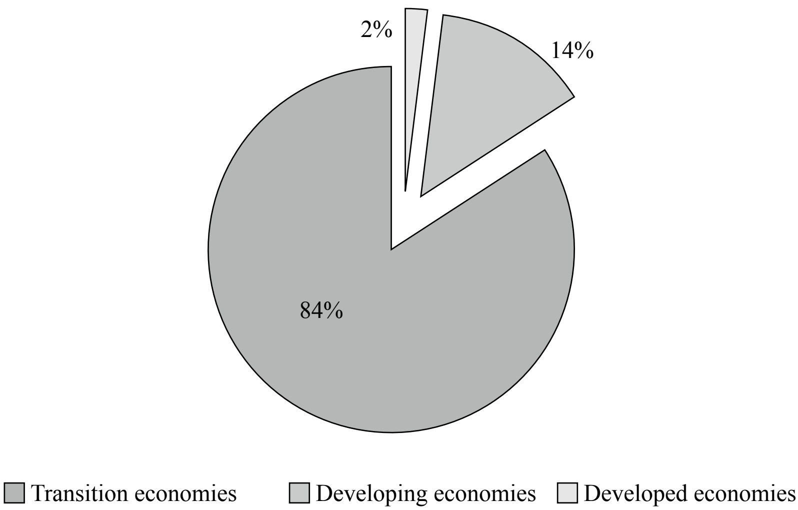


Figure 3 Structure of China's outward FDI stock in developed, developing and transition economies, by the end of 2015

Source: MOFCOM / NBS, PRC.

① According to Chinese statistics (MOFCOM / NBS, PRC), in 2015, Chinese enterprises conduced 579 outward M&As in 62 countries (regions), with an actual transaction amount of USD 54,44 billion.

② Wang B., "A Misread Official Data: The True Pattern of Chinese ODI", *International Economic Review*, No.1, 2013, pp.61-74.

As Clegg and Voss[①] note, the industry-by-country distribution of Chinese OFDI is difficult to determine from Chinese statistics. However, based on their findings, it can be stated that Chinese investments in mining industry are taking place mainly in institutionally weak and unstable countries with large amounts of natural resources and that these investments are normally carried out by SOEs. Investments in manufacturing usually take place in large markets with low factor costs, while Chinese companies seek technologies, brands, distribution channels and other strategic assets in institutionally developed and stable economies.

In developed economies, Chinese investment are less dominated by natural resource seeking or trade-related motives but more concerned with the wide range of objectives, including market-motives, efficiency-motives and strategic assets-seeking motives.[②] In the case of developed countries, Chinese SOEs usually have the majority of deal value but non-state firms make the greater share of deals.[③] In addition to greenfield investments and joint ventures, China's merger and acquisition (M&A) activity in developed countries has recently gained a momentum and continue an upward trend since more and more Chinese firms are interested in buying overseas brands to strengthen their own. However, some attempted Chinese acquisitions failed in the United States and Australia in recent years.[④]

The European Union has been the major destination for foreign direct investments in the last twenty years, with a preponderance of intra-European

---

① Clegg J., Voss H., "Chinese Overseas Direct Investment in the European Union. Europe", China Research and Advice Network, 2012, http://www.chathamhouse.org/sites/default/files/public/Research/Asia/0912ecran_cleggvoss.pdf.

② Rosen, DH., Hanemann, T., "China's Changing Outbound Foreign Direct Investment Profile: Drivers and Policy Implications", Policy Brief-Peterson Institute for International Economics, PB09-14. http://www.iie.com/publications/pb/pb09-14.pdf, 2009, p.69 and UNCTAD, World Investment Report-Reforming International Investment Governance. United Nations, New York and Geneva, 2015.

③ Rosen, DH., Hanemann, T., "China's Changing Outbound Foreign Direct Investment Profile: Drivers and Policy Implications", Policy Brief-Peterson Institute for International Economics, PB09-14. http://www.iie.com/publications/pb/pb09-14.pdf, p.71.

④ Davies K., "China Investment Policy: An Update", OECD Working Papers on International Investment, 2013/01, OECD Publishinghttp://dx.doi.org/10.1787/5k469l1hmvbt-en, 2013, p.36.

FDI, extra-European FDI representing only about one-third of the total sum. Compared to the aggregate, Chinese foreign direct investment stock in the EU remains insignificant. However, regarding the trends and dynamism of Chinese inward FDI (see Figure 4), the economic "footprint" and impact of Chinese foreign direct investment in the EU is indisputably expanding.

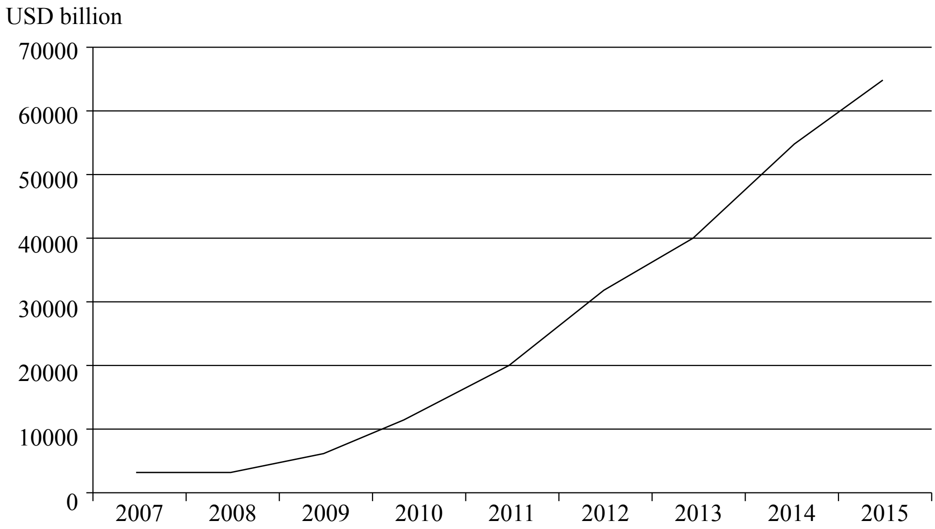


Figure 4 Chinese outward FDI stock in the EU, 2007-2017

Note: The sum of the Europe Union does not include Croatia until 2012.

Source: MOFCOM / NBS, PRC.

Hanemann points out commercial reasons behind most investments[①]: the acquisition of rich-world brands and technology to increase competitiveness, money-saving by moving higher value-added activities in countries where regulatory frameworks are more developed, or by acquiring firms cheaper due to the crisis or due to a stronger renminbi. Therefore, the crisis only accelerated

① Hanemann, T., "The EU-China Investment Relationship: From a One-way to a Two-way Street", New Europe Online, January 27. 2013, http://www.neurope.eu/kn/article/eu-china-investment-relationship-one-way-two-way-street.

the long-term Chinese strategy of going global and move up the value chain.[①]

China's strong desire for success envisions the next phase of development building on innovation and high and green technology. In line with these ideas, besides mining, manufacturing and financial services, we've seen large-scale Chinese acquisitions in the chemicals sector. BorsodChem became part of the Wanhua Industrial Group, and the automotive industry, Rover Group belongs to the Shanghai Automotive Industry Corporation, Chinese Geely Automobile Holdings owns Volvo and Chinese also have a share in what is left of the Swedish group Saab. Great Wall Motors Company has opened a new plant in Bulgaria and thus became the first Chinese automaker to assemble cars in the European Union. Romania has also been attracting Chinese greenfield investments, among them a plant by Shantuo Agricultural Machinery Equipment to produce tractors.

Table 1 Chinese outward FDI in the EU by industry, by 2015

industry	stock (USD billion)	share (%)
mining	24,18	28.9
manufacturing	16,08	19.2
financial services	15,34	18.3
leasing and business services	8	9.6
wholesale and retail	5,86	7.0
subtotal	69,46	83.0

Source: MOFCOM / NBS, PRC.

Another significant research element when taking a closer look at Chinese OFDI in Europe is the geographical distribution of investments. Chinese investment is very unevenly distributed among EU countries. The top recipients of Chinese FDI are traditionally the United Kingdom, France, Italy, Ireland and

① Parello-Plasner, J., "EU-China Investment Relations In: Institute for Security Studies, European Union: Brussels - Beijing: Changing the Game?", Report No.14, February 2013, http://www.iss.europa.eu/uploads/media/Report__14.pdf.

Germany (see Figure 5).

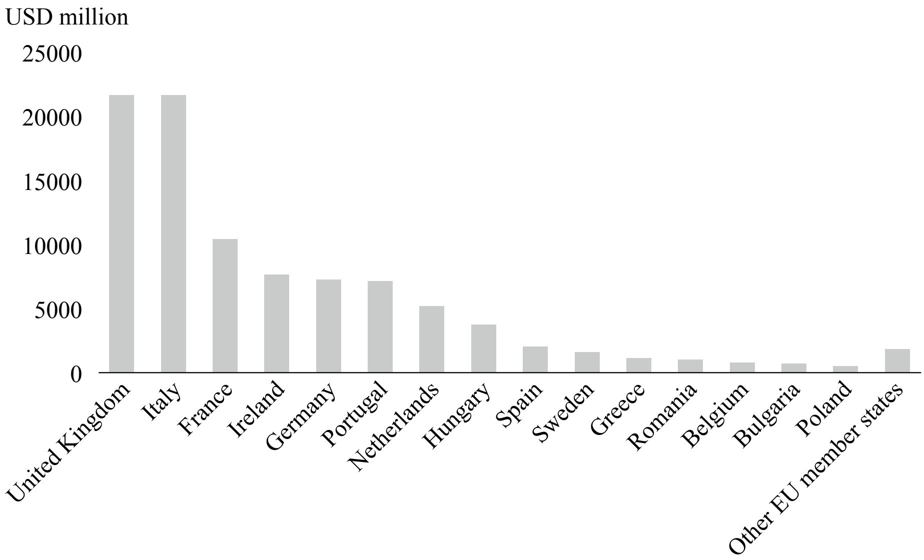


Figure 5 Chinese FDI in the EU by country, 2010-2014

Source: ESADE China-Europe database.

6. Changing Patterns and Motivations of Chinese OFDI in ECE Region

The change of ECE countries from centrally planned to market economy resulted in significant research on FDI flows to these transition countries. However, most of the studies focus on the period before 2004 which is the year of accession of the eight CEE countries—the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Slovakia and Slovenia—into the EU.[1] Investors, mainly from EU-15 countries, were attracted by relatively low unit

① Carstensen K., Toubal F., "Foreign Direct Investment in Central and Eastern European Countries: A Dynamic Panel Analysis", *Journal of Comparative Economics,* No.32, 2004, pp.3-22; Janicki, H., Wunnava, P., "Determinants of Foreign Direct Investments: Empirical Evidence from EU Accession Candidates", *Applied Economics,* Vol.36. 2004, pp.505-509; Kawai N., "The Nature of Japanese Foreign Direct Investment in Eastern Central Europe", Japan aktuell 5/2006, 2006, http://www.giga-hamburg.de/openaccess/japanaktuell/2006_5/giga_jaa_2006_5_kawai.pdf.

labor costs, market size, openness to trade, and proximity.[1]

Extant literature suggests diverse institutional factors that influence inward FDI. In the case of ECE countries, the prospects of their economic integration with the EU increased FDI inflows while in other CEE countries that lagged behind with implementation of transition policies, which postponed their EU accession, FDI inflows were discouraged.[2]

When analyzing the impact of institutional characteristic of ECE countries such as form of privatization, capital market development, state of laws and country risk, the studies show varying results. According to Bevan and Estrin, institutional aspects were not a significant factor impacting investment decisions of foreign firms. [3]Carstensen and Toubal argue that they could explain uneven distribution of FDI across CEECs.[4] Fabry and Zeghni point out that in transition countries institutional weaknesses such as poor infrastructure, lack of developed subcontractor network, and unfavorable business environment may explain FDI agglomeration more than "positive externalities".[5] Campos and Kinoshita based on a study of 19 Latin American and 25 East European countries in the period 1989-2004 found that structural reforms, especially financial reform and privatization, had strong impact on FDI inflows.[6]

The example of extra-EU foreign investors in the CEE region is presented in a study by Kawai who analyzed motivations and locational determinants of

---

① Bevan A.A., Estrin S., The "Determinants of Foreign Direct Investment into European Transition Economies", *Journal of Comparative Economics,* Vol.32, 2004, pp.775-787.; Clausing K.A., Dorobantu C.L., "Re-entering Europe: Does European Union Candidacy Boost Foreign Direct Investment?", *Economics of Transition*, Vol.13, 2005, No.1, pp.77-103.

② Bevan A.A., Estrin S., The "Determinants of Foreign Direct Investment into European Transition Economies", *Journal of Comparative Economics,* Vol.32, 2004, pp.775-787.

③ Ibid., p777.

④ Carstensen K., Toubal F., "Foreign Direct Investment in Central and Eastern European Countries: A Dynamic Panel Analysis", *Journal of Comparative Economics,* Vol.32, 2010, pp.3-22.

⑤ Fabry N., Zeghni S., "Inward FDI in the Transitional Countries of South-eastern Europe: A Quest of Institution-based Attractiveness", *Eastern Journal of European Studies,* Vol.1, No.2, 2010, p.80.

⑥ Campos N.F., Kinoshita Y., "Foreign Direct Investment and Structural Reforms: Evidence from Eastern Europe and Latin America", IMF Working Paper 08/26, 2008.

Japanese MNCs.① The author found that by 2004 Japanese investment in CEE countries was low when compared with European counterparts and 90% of it was located in three of the ECE countries, the Czech Republic, Hungary and Poland.② Japanese MNCs' outward FDI was motivated here by relatively low labor and land costs, well educated labor force necessary in manufacturing sectors and access to rich EU markets.③ Majority of Japanese FDI in CEE was directed at manufacturing sector (more than 90%), especially transport equipment and electronics. Japanese investors in CEE from manufacturing sector region preferred countries with lower corporate tax and high rate of GDP growth.

Although the countries examined here, Hungary, Poland, Slovakia, the Czech Republic and Slovenia, differ in many respects, they have some common features as well. They have been in the process of economic catching up over the last decades, their development paths are defined mainly by the global and European powers, rules and trends and FDI has a key role in restructuring of these economies. Most of the above-mentioned countries started to get more interested in Chinese relations, more properly in attracting Chinese investments and boosting trade relations, since the new millennium, however, the economic and financial crisis of 2008 drew the attention of these six countries more than ever to the potential of Chinese economic relationship.

① Kawai N., "The Nature of Japanese Foreign Direct Investment in Eastern Central Europe", Japan aktuell 5/2006, 2006, http://www.giga-hamburg.de/openaccess/japanaktuell/2006_5/giga_jaa_2006_5_kawai.pdf.

② Ibid., p.6.

③ Kawai N., "The Nature of Japanese Foreign Direct Investment in Eastern Central Europe", Japan aktuell 5/2006, 2006, http://www.giga-hamburg.de/openaccess/japanaktuell/2006_5/giga_jaa_2006_5_kawai.pdf.

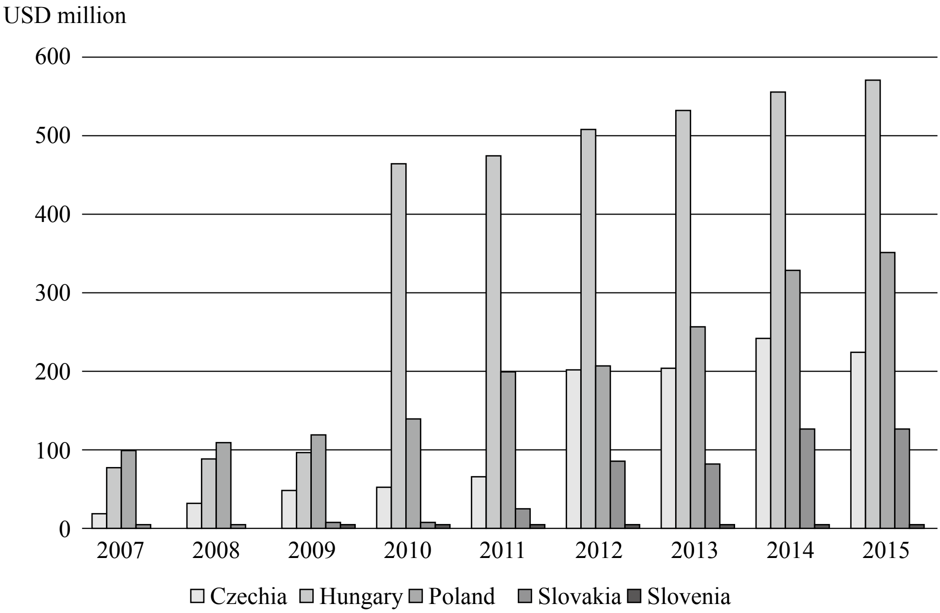


Figure 6 China's outward FDI stock in the ECE, 2007-2015

Source: MOFCOM/NBS.

The role of Chinese capital in ECE, compared with all the invested capital here, is still very small, but in the last decade this capital inflow accelerated significantly. In the case of the selected countries, with the exception of Hungary, there is a growing demand for attracting Chinese companies in the last nine to ten years. In Hungary, this process has already begun after 2003.

Chinese investors typically target secondary and tertiary sectors of the selected five countries. Initially, Chinese investment has flowed mostly into manufacturing (assembly), but over time services attracted more and more investment as well, for example in Hungary and Poland there are branches of Bank of China and Industrial and Commercial Bank of China as well as offices of some of the largest law offices in China, Yingke Law Firm (in Hungary in 2010, in Poland in 2012), Dacheng Law Offices (in Poland in 2011, in Hungary in 2012). Main Chinese investors targeting these six countries are interested primarily in telecommunication, electronics, chemical industry, transportation and energy markets. Their investments are motivated by seeking of brands, new technologies or market niches that they can fill in on European markets.

The main type of Chinese FDI in the selected countries is market-seeking investment: by entering ECE markets Chinese companies will have access not only to EU market but also to markets of CIS, Mediterranean and in interviews Chinese investors also speak about the possibility of accessing North American markets. In addition to that, there are cases of Chinese companies following their costumers to ECE countries, like in the case of Victory Technology (supplier to Philips, LG and TPV) or Dalian Talent Poland (supplier of candles to IKEA).

(1) Macroeconomic and institutional factors influencing Chinese companies when investing in ECE

When searching for possible factors which make the region a favourable investment destination for China, the quality and the cost of labour is to be considered first. A skilled labour force is available in sectors for which Chinese interest is growing, while labour costs are lower in the ECE region than the EU average. However, there are differences within the region and the selected five countries, for example, in terms of unit labour costs.

The change of institutional setting of ECE countries due to their economic integration into the EU (in 2004 and 2007) has been the most important driver that spurred Chinese OFDI in the region, especially in the manufacturing sector. Majority of Chinese firms that invested in ECE countries after their EU accession were motivated mainly by accessing the old EU-15 markets and ECE or CEE markets were of secondary importance. ECE countries' EU membership allowed Chinese investors to avoid trade barriers and the countries served as an assembly base due to the relatively low labour costs.

Chinese investment in ECE in the years 2004-2006 were dominated by firms from electronics sector, especially LCD TVs producers as their exports to the EU were restricted by quota. The examples of such investors are: TCL, Victory Technology, Digital View in Poland; Hisense in Hungary; Changhong in the Czech Republic. There are already cases of companies from renewable energy sector such as Orient Solar in Hungary and media news inform about some companies from the solar sector that consider investing in Poland. The motive of overcoming trade barriers shows similarity with Japanese investments in the region in the second half of the 1990s. Japanese MNCs established assembly plants here, but sold their products mainly in the affluent Western European markets.

Another aspect of the EU membership that is inducing Chinese investment in ECE is institutional stability (such as protection of property rights) as one of the drivers of Chinese OFDI is unstable institutional, economic and political environment of their home country.[①] It is in line with the findings of Clegg and Voss[②] who argue that Chinese OFDI in the EU shows "an institutional arbitrage strategy" as "Chinese firms invest in localities that offer clearer, more transparent and stable institutional environments. Such environments, like the EU, might lack the rapid economic growth recorded in China, but they offer greater planning and property rights security, as well as dedicated professional services that can support business development".

In their investment decisions in ECE countries, Chinese firms might also be attracted by Free Trade Agreements between the EU and third countries such as Canada, the USA (being negotiated), and the EU neighbouring country policies, as they claim that their CEECs subsidiaries are to sell products in the host, EU, Northern American or even global markets. For example, Nuctech (Poland), security scanning equipment manufacturer, sells also to Turkey; machinery producers such as Shantuo Agricultural Machinery Equipment (Romania) for which important export markets are Canada, Russia, USA; and Liugong Machinery subsidiary in Poland that targets the EU, North American and CIS markets. This driver might also explain some of the Chinese investment in Bulgaria and Romania before their EU accession, such as SVA Group in Bulgaria. However, this type of institutional factor requires further research.

---

① Morck R., Yeung B., Zhao M., Perspectives on China's Outward Foreign Direct Investment", *Journal of International Business Studies,* Vol.39, 2008, pp.337-350.

② Clegg J., Voss H., "Chinese Overseas Direct Investment in the European Union. Europe", China Research and Advice Network, 2012, http://www.chathamhouse.org/sites/default/files/public/Research/Asia/0912ecran_cleggvoss.pdf, p101.

Moreover, Chinese firms’ ECE subsidiaries may allow them to participate in public procurement. Example is Nuctech company that established its subsidiary in Poland in 2004 and initially targeted mainly Western European market. In 2011, the company stated that the old-EU market became saturated and it focused now more on ECE which benefit from the EU aid funds. However, in case of government procurement one of the conditions is “Made in the EU” and Nuctech’s Polish manufacturing plant allows it to meet this requirement.

Recently Chinese firms interested in investing in countries of the ECE region became more inquisitive about food safety standards and certificates. They would be interested in exporting agricultural products with EU safety certificates to China where food safety has been a problem.

(2) A special partner: Hungary?

Before their integration with the EU, ECE countries were mostly focused on fulfilment of the EU entry criteria and generally neglected relations with countries from other regions, except for Hungary. Only since the aftermath of the global financial crisis can we observe increased interest of the ECE (as well as other CEE) governments in attracting Chinese investors. For example, Poland started actively promoting itself with Chinese firms only at the EXPO 2010 in Shanghai.

Hungary is a country where the combination of traditional economic factors with institutional ones seems to play an important role in attracting Chinese investors. Hungary has had historically good political relations and earlier than other CEECs, since 2003, intensified bilateral relations in order to attract Chinese FDI. Hungary is the only country in the region that introduced special incentive for foreign investors from outside the EU, which is a possibility to receive a residence visa when fulfilling the requirement of a certain level of investment in Hungary. Moreover, Hungary has the largest Chinese diaspora in the region which is an acknowledged attracting factor of Chinese FDI in the extant literature, that is a relational asset constituting firm’s ownership advantage.[①] Example is Hisense's explanation of the decision to invest in Hungary that besides traditional economic factors was motivated by "good diplomatic, economic, trade and educational relations with China; big Chinese population; Chinese trade and commercial networks, associations already formed"[②].

Figure 7 China's OFDI stock in Hungary, 2000-2015

Source: MOFCOM/NBS China.

Although Hungary is not a priority target of the intensive Chinese FDI outflows of recent years, since the turn of the millennium Chinese investments show a growing trend here. Chinese investment to Hungary started to increase significantly after the country joined the EU in 2004. According to Chinese statistics, it means a really rapid, more than a hundredfold, increase from USD

① Buckley P.J., Clegg J., Cross A.R., Voss H., Zheng P., "The Determinants of Chinese Outward Foreign Direct Investment", *Journal of International Business Studies*, Vol.38, 2007, pp.499- 518.

② CIEGA (2007), "Investing in Europe: A hands-on Guide", 2007, http://www.e-pages.dk/southdenmark/2/72.

5.43 million in 2003 to USD 571.11 million in 2015 (see Figure 7). According to Chen,[①] in 2010, Hungary itself took 89 percent of the whole Chinese capital flow to the region. Although this share has been decreasing since then as other countries of the CEE region became also popular destinations for Chinese FDI, but the amount of Chinese investment in Hungary has continued to increase and it is by far the highest in the CEE region.

According to Chinese statistics, Chinese OFDI stock in Hungary was USD 571,11 million in 2015, the most recent year for which Chinese statistics were available at the time of writing this chapter. Nevertheless, this amount is far greater when taking into account cumulative Hungarian data, since a significant portion of Chinese investment is received via intermediary countries or companies, therefore, it appears elsewhere in national (Chinese and Hungarian) statistics. According to Hungarian reports, Chinese investment in Hungary by 2016 was about USD 3.5 billion. More than USD 1.5 billion from that is the investment of the Chinese chemical company Wanhua, which acquired a 96 percent stake in the Hungarian chemical company BorsodChem through its Luxemburg subsidiary in 2010 and 2011. This subsidiary also made some investment for the development of BorsodChem later. It is the largest Chinese investment in CEE so far.

In addition to the chemical industry, the investment of Chinese companies in Hungary covers industries such as manufacturing, telecommunications, trade, wholesales or retails, banking, hotels and catering, logistics, real estate and consultancy. According to Hungarian statistics, more than 5000 Chinese companies operate in Hungary, including several multinationals, but most of them are small businesses operating in the service or retail sector: restaurants, perfumeries, and so called "Chinese shops", selling bargains everything from shoes and clothes to plastic toys. According to the Hungarian Central Statistical Office, the number of Chinese-controlled foreign affiliates increased steadily

① Chen X., "Trade and Economic Cooperation between China and CEE Countries", Working Paper Series on European studies, Institute of European Studies, Chinese Academy of Social Sciences, Vol.6, No.2, 2012.

between 2008 and 2010 and then decreased slightly.

7. Conclusion

As mentioned above, while Chinese OFDI in emerging or developing countries is characterized more by resource-seeking motives, Chinese companies in the developed world are rather focusing on buying themselves into global brands or distribution channels, getting acquainted with local management skills and technology, so-called strategic assets. Regarding modes of entry, investments shifted from greenfield investments to mergers and acquisitions currently representing around two-thirds of all Chinese OFDI in value. This shift is driven by the financial crisis, however it also seems to be a new trend of Chinese FDI to the developed world, while greenfield investment remains significant in the developing world.

China's OFDI has also become more diversified in the past years: from mining and manufacturing it turned towards high technology, infrastructure and heavy industry, and lately to the tertiary sector: business services and finance but also health care, media and entertainment. Asia continues to be the largest recipient, accounting for nearly three-quarters of total Chinese OFDI, followed by the EU, Australia, the US, Russia and Japan. Numbers might be misleading though due to round-tripping (the investment is placed in offshore financial centres only to flow it back in the form of inward FDI to China to benefit from fiscal incentives designed for foreign investors). According to project-level analysis, 60 percent of Chinese ODI is aimed at developed economies like Australia, Hong Kong, the United States, Germany, and Canada.

As for Chinese OFDI to the European Union, the Eurozone crisis attracted Chinese investors due to falling prices. As mentioned, Chinese investors prefer "old European" investment destinations not only because of market size but also because of well-established, sound economic relations with these countries.

Chinese investment in ECE constitutes a relatively small share in China's total FDI in Europe and is quite a new phenomenon. Nevertheless, Chinese

FDI in the region is on the rise and expected to increase due to recent political developments between China and certain countries of the region, especially Hungary and Poland.

ECE countries might attract more FDI from China with new fiscal (such as tax exemptions) and non-fiscal incentives. However, most of the CEE governments lack a unified strategy towards Chinese investors. Hungary is one of the few exceptions where in the spring of 2012 the government launched a new economic policy with special emphasis on the so-called “Eastern opening”. This strategy puts emphasis on developing trade (and technology) relations with China and other emerging countries, too. The success of the strategy translates into an increasing amount of Chinese FDI in Hungary, which is by far the highest in the region.

The investigation of the motivations of Chinese OFDI in ECE shows that they mostly search for markets. ECE countries’ EU membership allows them to treat the region as a “back door” to the affluent EU markets. Chinese investors are attracted by the relatively low labour costs, skilled workforce, and market potential. It is characteristic that their investment pattern in terms of country location resembles that of the world total FDI in the region.

Analysing the difference in motivations before and after the global financial crisis it can be assessed that although it did not have an impact on Chinese-CEE relations from the Chinese side directly but it did have indirectly because the crisis had an effect on the whole CEE region as most of them (not only the selected ECE countries) started to search for new opportunities after the crisis in their recovery from the recession. For example, Hungary’s Eastern opening policy was initiated after (and partly as a result of) the crisis. China just took these opportunities, which can be the reason of the wider sectoral representation of Chinese firms in ECE in recent years. Another reason for this higher representation can be the diversification strategy because recently Chinese global investment strategy places great emphasis on the diversification in all respects. A good example for that is China’s 16+1 initiative which provides a joint platform for all Central and Eastern European countries and China, as well as the Belt and Road Initiative, which provides more and more connections for Chinese businesses.

Country-level institutional factors that impact location choice within ECE countries seem to be the size of Chinese ethnic population, investment incentives such as special economic zones, resident permits in exchange for given amount of investment, privatization, but also good political relations between host country and China (examples are Hungary's good relations and very high level of Chinese FDI when compared with other countries of the ECE region; as well as COVEC's problems with building part of Polish highway which resulted in some delayed deals such as Liu Gong's acquisition of HSW).

Part two: Law and Policy

Legal Framework of Foreign Investments in Central and Eastern European Countries Agriculture

Dusan Dabovic *

1. Introduction

According to one economic analysis,[1] there is a very big gap in the prices of agricultural land in the countries of the "old EU" and the countries of the "new EU" and the candidate countries for the EU. According to this analysis, the difference in the price of agricultural land between these two groups of countries will begin to equalize within the EU with the tendency that the price of agricultural land in the countries of Central and Eastern Europe (CEE) will almost completely reach the price of agricultural land in the Western Europe. Therefore, the monitoring of the agricultural land market in this part of Europe is exceptionally actual, especially the legal aspect of this market, since the regulations governing the sale of agricultural land in CEEC are very different, although they are under the influence of the EU regulations in this field.

Namely, after several decades of under-investment in the agricultural sector in developing countries there was a surge in foreign direct investment (FDI) in primary agricultural production, in the late 2000s. The reasons for this surge are diverse and complex, but the main drivers can be linked to the steep rise in commodity prices in 2007-2008 and the realization that demand for finite

* Senior adviser in the Ministry of Agriculture, Forestry and Water Management of the Republic of Serbia, Scientific Associate.

① Michael Kugelman, Susan L. Levenstain, *Global Farms Race*, Island Press, 2013, p.27.

natural resources is set to continue increasing significantly in the next decades.[①]

Except as a subject of trade, i.e. ownership right, agricultural land in the CEEC can also be the basis for investing in agricultural production. Therefore, the monitoring of legislation that allow direct support to production and rural development, is of exceptional importance for reviewed trends in this area. This particularly refers to organic farming, which is increasingly finding its market in developed countries. This type of production is particularly suitable for CEEC due to agricultural land which is not over-used by extensive production, i.e. saturated with pesticides and mineral fertilizers, as, in general, in developed countries.

2. International Legal Framework of Foreign Direct Investment (FDI) in Agriculture

The legal framework for FDI encompasses all types of legal settings—from international to domestic law, from public to private commercial law and from explicit investment-related law to trade rules. At a multilateral level the WTO addresses FDI in different agreements: (1) *The Agreement on Trade Related Aspects of Investment Measures* (TRIMs) defines general rules for investment measures in order to avoid trade restrictive and distorting effects. It focuses on measures that have a possible impact on export and import quantities and it requires an equal treatment of national and foreign investors as well. (2) *The General Agreement on Trade in Services* (GATS) integrates FDI in the concept of commercial presence. Hereby, members give individual positive lists of those sub-sectors for which market access is offered for services. (3) *The General Agreement on Tariffs and Trade* (GATT) and *The Agreement on Agriculture* (AoA) define rules that are of specific relevance in case of food shortages under GATT Art. XI, 2 a and c as well as under AoA Art. 12. The respective rules are specific to the agricultural sector as export restrictions, which are forbidden

① FAO, Trends and Impacts of Foreign Investment in Developing Country Agriculture, 2013, Rome, p.3.

for all other commodities. Trade-related provisions can affect investments in the sense that trade options influence the overall investment climate. *Bilateral Investment Treaties* (BITs) and *Regional Investment Treaties* have increased considerably in numbers and countries concerned, either covering topics not regulated by the WTO framework or obliging the signatory states to a higher level.[①]

3. Albania

Albania is ranked by the World Bank's *Doing Business 2017* at the 58th position out of 190 countries. The report states that in the previous period Albania made paying taxes easier by introducing an online system for filing and paying taxes. On the other hand, the report notes that Albania made trading across borders more difficult by introducing mandatory scanning inspections for exports and imports, which increased the time and cost for border compliance.[②]

The Albanian legal framework on foreign direct investment is defined by the Law No.7764 of 2 November 1993 "On Foreign Investment", as amended by the Law No.10316 of 16 September 2010, with validity until 2014. The 2017 amendments extended state protection for strategic investments to December 2018. In addition to this law, the Law No.55/2015 of 28 May 2015 "On strategic investments in the Republic of Albania" lays down the procedures and rules to be implemented by government bodies during the examination of strategic investments as well as the support and services provided to strategic national or foreign investors.[③]

The law defines agriculture and fisheries as one of the strategic sectors (beside energy and mining, transport, infrastructure, etc). Namely, it is stipulated that in the agriculture (establishment of the large agricultural farm

① Foreign Direct Investment (FDI) in Land in Developing Countries, GTZ, Report, Eschborn, 2009., p.16.

② The World Bank, *Doing Business 2017*, 2017, p.171, p.188.

③ WTO, *Trade Policy Review Albania*, WT/TPR/S/337, pp.26, 27.

model) and fisheries, an investment must be equal to or higher than EUR 3 million and create at least 50 new jobs for an investor/a project to receive the status "Strategic Investment/Investor, Assisted Procedure". Thereby, "Assisted Procedure" means the administrative procedure provided for in this law, under which the public administration follows, coordinates, assists, supervises and, if appropriate, represents a strategic investment during its implementation phases. If the investment is equal to or higher than EUR 50 million, the investor/project receives the status "Strategic Investment/Investor, Special Procedure", where "Special Procedure" is the administrative procedure provided for in this law under which support is provided under special rules of strategic investment with impacts on the economy, employment, industry, technology and/or regional development, with the goal to facilitate and expedite investments.[①] Also, the law foresees that the Albanian Investment Development Agency (AIDA) will be the responsible administrative structure for providing services to investors through a "unique window". AIDA performs the role of the assisting agent, and will follow all administrative procedures on their behalf from the moment an application is submitted until the strategic investments are completed.[②]

Albanian law permits private ownership and establishment of enterprises and property. Foreign investors do not require additional permission or authorization beyond that required of domestic investors. The government applies restrictions only on the purchase of real estate: agricultural land cannot be purchased by foreign individuals or foreign companies, but may be rented for up to 99 years.[③]

The European Commission graded that the Albanian preparations for the process of stabilization and association are at an early stage in agriculture, even though the level of national direct support and national investment schemes in

---

① The Draft Law on Strategic Investments in the Republic of Albania, Art. 3 par. 7-8, Art. 8 par. 3c.

② AIDA, Strategic Investments, http://aida.gov.al/pages/strategic-investments.

③ EXPORT.GOV, Albania-Openness to and Restriction on Foreign Investment, https://www.export.gov/article?id=Albania-Openness-to-Foreign-Investment; The Land Law No.7501, A rt. 3, 4.

agriculture have increased.[①] Also, it was notified that Albania had some level of preparation in food safety[②], veterinary[③] and phytosanitary policy[④], but there was no progress on preparing legislation on genetically modified organisms.[⑤]

4. Bosnia and Herzegovina

In the World Bank's ranking on ease of doing business, Bosnia and Herzegovina is at the 81st position. Recently, Bosnia and Herzegovina made starting a business easier by reducing the paid-in minimum capital requirement for limited liability companies and increasing the efficiency of the notary system. In addition, it made paying taxes easier by abolishing the tourist community fee.[⑥]

Politically, Bosnia and Herzegovina (BH) consists of two entities (Federation of Bosnia and Herzegovina, and Republika Srpska) and one district (Brcko). Investment laws of the entities are in accordance with each other, and consistent with an open and modern FDI policy regime.[⑦]

However, the entity, cantonal, and municipal levels of government each established their own laws and regulations on business operations, creating redundant and inconsistent procedures that enable corruption. It is often difficult to understand all the laws and rules that might apply to certain business activities, given overlapping jurisdictions and the lack of a central information source. It is therefore critical that foreign investors obtain local assistance and advice. Investors in the Federation may register their business as a branch in the Republika Srpska

---

① The Law No.9817 on agriculture and rural development.

② The Law No.9863 on Food.

③ The Law No.10465 dated 29.9.2011 on the veterinary service in the Republic of Albania.

④ The Law No.105/2016 on plant protection.

⑤ *Albania 2016 Report*, SWD(2016) 364 final, Brussels, 9.11.2016, pp.44-45.

⑥ The World Bank, *Doing Business 2017*, 2017, p.172, p.195.

⑦ *The Law on Foreign Investment—Federation* of Bosnia and Herzegovina, "Official Gazette of Federation BH", No.61/01, 50/03, 77/15; *The Law on Foreign Investment*—Republika Srpska, "Official Gazette of Republika Srpska", No.25/02, 24/04, 52/11.

and *vice versa*.[①]

Thereby, Bosnia and Herzegovina guarantees to foreign investors full access to land. Namely, the investment laws guarantee that foreigners have the same property rights as the Bosnia and Herzegovina nationals with respect to real estate (with exception of citizens of the Former Yugoslav Republics, which have the same rights on the basis of reciprocal treatment). Thus, foreign investors are free to lease, let and purchase land with no restriction.[②] Also, both entities adopted their laws on agriculture, food safety[③], veterinary health[④], plant protection[⑤], and other issues.

In 2016, the European Commission noted that Bosnia and Herzegovina remains moderately prepared in the area of free movement of capital. Namely, further alignment with the *acquis* is needed to provide for country-wide harmonisation and to create a single economic area. In the coming years, Bosnia and Herzegovina should in particular: (1) improve coordination in designing and implementing legal reforms in the area of foreign direct investment; (2) address the remaining shortcomings on anti-money laundering, particularly by resolutely implementing the action plan on this issue. Also, it was concluded that in the area of agriculture and rural development policy, an updated state-level harmonisation programme for agriculture, food and rural development still needs to be adopted, as well as state-level legislation on wine and on organic production.[⑥]

---

① Export.gov -Bosnia-1-Openness to, and Restriction Upon, Foreign Investment, https://www.export.gov/article?id=Bosnia-openness-to-foreign-investment.

② OECD, *Investment Policy Review—Bosnia and Herzegovina*, 2015, pp.9, p.26.

③ *The Law on Agriculture*—Federation of Bosnia and Herzegovina, "Official Gazette of Federation BH", No.88/07; *The Law on Agriculture*—Republika Srpska, "Official Gazette of Republika Srpska", No.70/06, 20/07, 86/07.

④ *The Veterinary Law*—Federation of Bosnia and Herzegovina, "Official Gazette of Federation BH", No.34/02; *The Veterinary Law*—Republika Srpska, "Official Gazette of Republika Srpska", No.75/17.

⑤ *The Law on Plant Health Protection*—Federation of Bosnia and Herzegovina, "Official Gazette of Federation BH", No.23/03; *The Law on Plant Health Protection*—Republika Srpska "Official Gazette of Republika Srpska", No.25/09.

⑥ European Commission, *Bosnia and Herzegovina 2016 Report*, SWD (2016) 365 final, Brussels, 2016, pp.42-43, p.53.

5. Bulgaria

Bulgaria is ranked 39th on ease of doing business and 142nd on trading across borders. In addition, Bulgaria increased the reliability of power supply by implementing an automatic energy management system, the Supervisory Control and Data Acquisition to monitor outages and service restoration.[①]

An EU report on Bulgaria's economic growth in 2017 states that the Bulgarian economic performance has been strengthened and fiscal consolidation has moved faster than planned. However, despite some improvements, the report notes that challenges in the business environment continue to weigh on investment.[②]

In regard to foreigners' ownership right to real estate the Bulgarian Constitution prescribes that foreigners and foreign legal entities may acquire property over land under the conditions ensuing from Bulgaria's accession to the EU, or by virtue of an international treaty that has been ratified, promulgated and entered into force for the Republic of Bulgaria, as well as through inheritance by operation of the law.[③]

In general, the regulatory environment in Bulgaria is characterized by complexity, lack of transparency, and arbitrary or weak enforcement. These factors create incentives for public corruption. Bulgarian legal system defines 38 operations that must be licensed, including registration and permit regimes. The legal system requires all regulations to be justified by defined needs (in terms of national security, environmental protection, or personal and material rights of citizens), and prohibits restrictions incidental to the stated purposes of the regulation. The system also requires the regulating authority to perform a cost-benefit analysis of any proposed regulation. This requirement, however, is

① The World Bank, *Doing Business 2017*, 2017, pp.172-196.

② *Country Report Bulgaria 2017*, SWD (2017) 68 final/3, Brussels, 2017, pp.1-3.

③ The Constitution of the Republic of Bulgaria, Art. 22, Prom. SG 56/13 Jul 1991, amend. SG 85/26 Sep 2003, SG 18/25 Feb 2005, SG 27/31 Mar 2006, SG 78/26 Sep 2006, Constitutional Court Judgment No.7/2006, SG 12/6 Feb 2007.

often ignored when Parliament reviews draft bills.[①]

Bulgaria adopted specific law on ownership and use of agricultural land. The law prescribes various rules and terms aimed to define the effective manner for the correct and sustainable use of the land (on the territory of the Republic of Bulgaria) classified as agricultural land. This law further sets the rules for the respect of the ownership (land property, both state and private land) issues; general and specific administrative principles governing over the agricultural land use and tenure; EU related rules and necessary issues; application of the adopted international treaties; offences and penalties; and other provisions regarding the agricultural land use and ownership.[②]

In 2014 anamendment to the law refers to the association agreement and the general interpretation is that citizens of the EU will have the right to purchase land. On the other hand, Art. 3.c.1 states that "The right to own agricultural land can be acquired by physical and legal entities that have resided or are established in Republic of Bulgaria for more than 5 years". In this way Bulgaria set the new requirement for acquisition of agricultural land. [③]

In addition, Bulgaria has adopted specific laws that regulate areas of food safety[④], sanitary[⑤] and phytosanitary[⑥] measures.

① Export.gov, Bulgaria—Legal regime, https://www.export.gov/article?id=Bulgaria-3-Legal-Regime.

② The Law amending the Law on ownership and use of agricultural land, Official Gazette, including some constitutional amending Decrees as listed: 17/1991; 20/1991; 74/1991; 18, 28, 46 and 105/1992; 48/1993; 64/1993; 83/1993; 80/1994; 45 and 57/1995; 59/1995; 79/1996; 103/1996; 104/1996; 15/1997; 62, 87, 98, 123 and 124/1997; 36, 59, 88 and 133/1998; 68/1999; 34 and 106/2000; 28, 47 and 99/2002; 16/2003; 36 and 38/2004; 87/2005; 17 and 30/2006; 13, 24 and 59/2007; 36 and 43/2008; 6, 10, 19, 44, 94 and 99/2009; 62/2010; 8 and 39/2011; 25 and 44/2012; and 15, 16 and 66/2013).

③ ID Law Office, Purchase of Agricultural Land in Bulgaria—Question with many Answers and Ambiguities, http://id-lawoffice.com/purchase-agricultural-land-bulgaria/.

④ *The Law on Foodstuffs*, October 15, 1999.

⑤ *The Veterinary Law*, Official Gazette 87/2005; 30, 31, 55 and 88/2006; 51 and 84/2007; 13, 36 and 100/2008; 27, 35, 74, 95 and 102/2009; 25 and 41/2010; 8 and 92/2011; 77, 82 and 97/2012; 7, 15, 66, 68, 83 and 99/2013; 98/2014; and 14/2015).

⑥ *The Law on Plant Protection*, July 25, 2014.

6. Croatia

Croatia is ranked 43rd on ease of doing business and 1st on trading across borders (with some other countries from the region).[①] In addition, Croatia recently strengthened minority investor protections by requiring detailed internal disclosure of conflicts of interest by directors.

In an EU survey, Croatia's economic growth in 2017 is projected to remain robust and broad-based in the short term, and the labour market is to improve further. In addition, modest growth prospects remain a key challenge for the economy.[②]

Concerning foreigners' ownership right to real estate the Croatian Constitution prescribes that a foreign person may exercise the right of ownership under the conditions specified by law. Moreover, it guarantees that the state shall ensure all entrepreneurs equal legal status on the market, and that free enterprise and property rights may be exceptionally restricted by law.[③]

In Croatia, *The Investment Promotion Act*[④] offers incentives to investment projects in manufacturing and processing activities, development and innovation activities, business support activities and high added value services. Namely, it provides the following incentive measures: tax incentives for microenterprises, tax advantages for small, medium and large enterprises, incentives for eligible costs of new jobs linked to the investment project, incentives for eligible costs of training linked to the investment project, additional aid for development and innovation activities, business support activities and high value-added services, incentive measures for capital costs of the investment project, incentive measures for labour intensive investment projects and investment incentives for newly established enterprises in the minimum amount equivalent to USD 14.5

① The World Bank, *Doing Business 2017*, 2017, pp.174, 202.

② *Country Report Croatia 2017*, SWD (2017) 76 final, Brussels, February 22., 2017, p.1.

③ The Constitution of the Republic of Croatia, Art. 48, 49, 50, (NN, Nos. 56/90, 135/97, 8/98 – consolidated text, 113/2000, 124/2000 – consolidated text, 28/2001, 41/2001 – consolidated text, 55/2001 – correction) and the Amendments to the Constitution of the Republic of Croatia published in NN, No.76/2010).

④ *The Investment Promotion Act*, NN, No.102/2015.

million provided that a minimum of 10 new university degree level jobs related to the investment project are created.①

In order to acquire property by means other than inheritance or as an incorporated Croatian legal entity, foreign citizens require the approval of the Ministry of Justice, on the basis of reciprocity, while the citizens of EU member states are afforded the same rights as Croatian citizens. Thereby, issues on agricultural land are regulated by *The Law on Agricultural Land* .② The Law prescribes various provisions and requirements aimed to regulate the following: maintenance and protection of agricultural land (on the territory of the Croatian Republic); agricultural land use and related administrative and technical standards and rules; change of use of agricultural land and compensation; the disposal of agricultural land owned by the Croatian Republic, (state-owned land); powers and duties of the Land Fund and of the Agricultural Land Agency; other specific administrative, inspection and penalty provisions.③

*The Law on Agriculture*④ regulates basic issues on Croatian agriculture. In addition, other basic laws regulate areas of food safety⑤, sanitary⑥ and phytosanitary⑦ measures and organic farming⑧.

7. Czech Republic

The Czech Republic is ranked 27th on ease of doing business and 1st on trading across borders (together with some of the countries from the region). In

① Export.gov, Croatia—Performance Requirements and Investment Incentives, https://www.export.gov/article?id=Croatia-Performance-Requirements-and-Investment-Incentives.

② Export.gov, Croatia—Protection of Property Rights, https://www.export.gov/article?id=Croatia-Protection-of-Property-Rights.

③ *The Law on Agricultural Land* (Official Gazette No.39/2013), http://www.fao.org/faolex/results/details/en/c/LEX-FAOC133468/.

④ *The Law on Agriculture*, NN, No.30/2015.

⑤ *The Law on Food* (Official Gazette of the Republic of Croatia 81/2013).

⑥ *The Animal Protection Act* (Official Gazette of the Republic of Croatia 135/2006).

⑦ *The Plant Health Act* (Official Gazette 75/05 and 25/09).

⑧ *The Law on Organic Farming Production and Sale of Organic Farming Produce* (Official Gazette 139/10).

addition, the Czech Republic made starting a business easier by reducing the cost and the time required to register a company in commercial courts through an online system.①

The Czech government has harmonized its laws with EU legislation and the *acquis communautaire.* This effort involved positive reforms of the judicial system, civil administration, financial markets regulation, intellectual property rights protection, and in many other areas important to investors. Non-EU nationals can purchase real property, including agricultural land without restrictions. Czech legal entities, including 100 percent foreign-owned subsidiaries, may own real estate without any limitations. The right of foreign and domestic private entities to establish and own business enterprises is guaranteed by law.②

Business environment in the Czech Republic is characterised by a heavy regulatory burden and numerous administrative barriers, which act as an impediment to both private and public-sector investment. However, Czech authorities made an effort to reduce the administrative burden on businesses, and further progress was achieved in 2016.③

In the Czech Republic, foreign direct investments are regulated by *The Civil Code*④ and *The Law on Commercial Corporations*⑤. However, despite three years of being in effect, the regulations are still unsure of its application. The main reason is that there is still hardly any case law from the upper courts on both Acts, meaning there is little guidance for how they are to be interpreted.⑥

The Czech agriculture is still in the process of transformation. The change over from large-scale production oriented towards other economies, to an

---

① The World Bank, *Doing Business 2017*, 2017, p.174, p.202.

② Export.gov, Czech Republic—Openness to, and Restriction Upon, Foreign Investment, https://www.export.gov/article?id=Czech-Republic-openness-to-foreign-investment.

③ *Country Report Czech Republic 2017*, SWD (2017) 69 final, Brussels, February 22, 2017, pp.24-25.

④ The Law No.89/2012 Coll. Civil Code.

⑤ The Law No.90/2012 Coll. on commercial companies and cooperatives.

⑥ Ivan Chalupa, Investment Environment in the Czech Republic 2017, The National Law Review, October 28, 2017, https://www.natlawreview.com/article/investment-environment-czech-republic-2017.

agriculture fulfilling mainly extra-production functions and securing the development of the countryside will continue. Namely, there are to be further major changes in the structure of production in arable areas, but in mountainous and foothill regions it is necessary to create conditions for the development of extensive forms of farming, ecological farms and the agro-tourism. Therefore, assistance is provided to agriculture in a number of different ways, i.e. there are direct support programmes, as well as financial incentives to maintain the countryside to a cultured standard and to develop functions of agriculture outside production.①

The basic regulation in the area of agriculture is *The Law on Agriculture*.② In addition, the Czech Republic adopted basic laws in the area of food safety, sanitary and phytosanitary measures.③

8. Estonia

In the recent World Bank's ranking on ease of doing business, Estonia takes very good the 12th place of 190 countries.④ In addition, the 2017 OECD economic survey noted that Estonian growth is picking up again strongly in 2017 and the level of activity has finally surpassed its pre-crisis level. However, almost 10 years after the outset of the financial crisis, poverty remains among the highest of the OECD countries.⑤

Estonia's government has not set limitations on foreign ownership, but licenses are required for foreign investors to enter the sectors of mining, energy, infrastructure, and telecommunications. As a member of the EU, the government of Estonia maintains liberal policies in order to attract investments

① FAO, Czech Republic, http://www.fao.org/ag/agp/agpc/doc/counprof/Checkrep/czech.htm.

② *The Law on Agriculture*, September 24, 1997.

③ *The Act on Foodstuffs and Tobacco Products*, No.224/2008; *The Veterinary Act*, No.166 of 1999; *The Act on Plant Pprotection*, No.326 of 2004.

④ The World Bank, *Doing Business 2017*, 2017, p.206.

⑤ Pierre Beynet, Estonia: Using Fiscal Space for a More Inclusive Growth, September 15, 2017, https://oecdecoscope.wordpress.com/2017/09/15/estonia-using-fiscal-space-for-a-more-inclusive-growth/.

and export-oriented companies. Creating favourable conditions for FDI and openness to foreign trade has been the foundation of Estonia's economic strategy. Existing requirements are not intended to restrict foreign ownership but rather to regulate it and establish clear ownership responsibilities.[①]

The Estonian legal environment favours entrepreneurship and the entrepreneurial mind-set. Thereby, foreign investors have equal rights and obligations with local entrepreneurs. It means that all foreign investors may establish a company and conduct business in Estonia in the same way as local investors.[②]

Also, Estonia provides good investment opportunities when it comes to real estate properties mainly because foreign citizens or companies have the same possibilities to purchase properties as Estonian citizens do. There are only few restrictions in this area, namely, foreign investors or citizens residing outside the EU are not allowed to buy real estate properties on four Estonian islands (Saaremaa, Hiiumaa, Vormsi and Muhu) and are not allowed to purchase over 10 hectares of forest or agricultural land plots.[③]

Estonia is a net exporter of food products, while the most important food exports including fish dairy products, meat,fish, and beverages. *The Rural Development and Agricultural Market Regulation Act* establishes state measures for the balanced development of the agricultural market, the provision of quality foodstuffs to consumers, the profitable production of agricultural products, the development of other rural economic activity, and the ensuring of a fair standard of living for population in rural areas.[④]

In area of food safety, Estonia adopted *The Food Act*. The law lays down basic rules for handling food and raw materials for food intended for marketing,

---

① Export.gov, Estonia-1-Openness to, and Restrictions Upon, Foreign Investment, https://www.export.gov/article?id=Estonia-Openness-to-Foreign-Investment.

② Invest in Estonia-1-Openness to, and Restrictions Upon, Foreign Investment, https://www.export.gov/article?id=Estonia-Openness-to-Foreign-Investment.

③ Lawyers Estonia, Purchase a Property in Estonia, http://www.lawyersestonia.com/purchase-a-property-in-estonia;Restrictions on Acquisition of Immovables Act, RT I 2003, 23, 145.

④ *The Rural Development and Agricultural Market Regulation Act*, RT I 2008, 33, 202, 1 August 2008.

the self-control by operators in the food sector and state control of food safety.[①] Phytosanitary area is regulated in general by *The Plant Protection Act* which prescribes the requirements for plant health and plant protection products to guarantee the safety of plant protection products to the health of human beings and animals and to the environment, as well as the requirements for plant protection equipment, and the bases and extent of state supervision.[②] *The Veterinary Activities Organisation Act* establishes a system of measures applied to protect animal and human health and to ensure the welfare of animals which include activities in the areas of animal health, animal product hygiene and animal protection.[③]

9. Hungary

Hungary is ranked 41st on ease of doing business and 1st on trading across borders (with some other countries from the region). Namely, Hungary recently made paying taxes less costly for small and medium-size businesses, made enforcing contracts easier and amended legislation to remove restrictions limiting the operating hours of retail shops. [④]

Hungary's high-quality infrastructure and central location are features that make it an attractive destination for investment. However, shortages of highly educated and skilled labour are negatively impacting growth in certain regions and industries. Multinational executives in manufacturing and technical fields identify labour shortages as the single largest obstacle to investment. Other obstacles include a persistent lack of transparency and predictability and reports of corruption.[⑤]

The new Hungarian Constitution stipulates that all natural resources,

① *The Food Act*, RT I 2002, 13, 81, consolidated text.
② *The Plant Protection Act*, RT I 2004, 32, 226, 1 May 2004.
③ *The Veterinary Activities Organisation Act*, RT I 1999, 58, 608; RT I 2002, 13, 79.
④ The World Bank, *Doing Business 2017*, 2017, pp.184, 212.
⑤ Export.gov, Hungary-Openness to and Restriction on Foreign Investment,https://www.export.gov/article?id=Hungary-Openness-to-Foreign-Investment.

especially agricultural land, forests and drinking water supplies, biodiversity, in particular native plant and animal species, as well as cultural assets, shall form part of the nation's common heritage, and the State and every person shall be obliged to protect, sustain and preserve them for the future generations. In addition, the Constitution prescribes that every person shall have the right to property and inheritance.[①]

The most notable legislation in force that guarantees that non-Hungarian investors will be treated in the same manner as Hungarian investors is *The Foreign Investment Act of 1988*.[②] In addition, the Act contains a repatriation guarantee under which foreign investors are free to remit profits and investment capital to their home country in the event of partial or complete termination of their enterprise.[③]

According to *The Land Law*[④] passed in 2013 and which entered force on May 1, 2014, only private Hungarian citizens or EU citizens resident in Hungary with a minimum of three years of experience working in agriculture or holding a four-year university degree in an agricultural field can purchase farmland. Eligible individuals are limited to purchasing 300 hectares. All others may only lease farmland; non-EU citizens and legal entities are not allowed to purchase agricultural land. Also, all land purchases must be approved by a local land committee and Hungarian authorities, and local farmers and young farmers must be offered a chance to purchase the land first. For those who do not fulfil the above requirements or for legal entities, the law allows the lease of farmland up to 1200 hectares for a maximum of 20 years.[⑤]

Since 1990 as the influence of the transition period, the agricultural employment in Hungary declined from about 20% to about 6%, while changing

---

① The Hungary's Constitution, Art. P, XIII.

② The Act XXIV of 1988 On the investments of Foreigners in Hungary.

③ Export.gov, Hungary-Openness to and Restriction on Foreign Investment,https://www.export.gov/article?id=Hungary-Openness-to-Foreign-Investment.

④ The Act CXXII of 2013 on the market of agricultural and forestry land.

⑤ Export.gov, Hungary — Right to Private Ownership and Establishment, https://www.export.gov/article?id=Hungary-Right-to-Private-Ownership.

economic conditions reduced farming profitability to a great extent.[①] Otherwise, organic area is increased in the period 2010-2015 for 1.7 percent.[②] The basic regulation in the area is *The Act Concerning the Hungarian Agricultural, Food and Rural Development Chamber*.[③] Other relevant regulations are on food chain[④], on animal protection[⑤] and on plant materials[⑥].

10. Latvia

According to the World Bank's ranking on ease of doing business, Latvia in 2017 deserves the 14th place of 190 countries.[⑦] In addition, a competent economic forecast survey predicts that Latvia's economic growth is projected to pick up in 2017. Namely, it is expected that stronger growth will be in the Euro area and Russia will support exports, which, along with the disbursement of EU funds, will boost investment. However, unemployment will remain high, reflecting regional and skill mismatches between workers and jobs. Also, higher energy prices will raise inflation somewhat and reduce the current account surplus. The survey concludes that Latvia's participation in global value chains is limited. On the other hand, enhancing cooperation between small and medium-sized enterprises and research institutions would boost innovation and raise competitiveness in global value chains. Therefore, providing more training for the unemployed, combined with better income support, would help Latvia

---

① FAO, Country Pasture/Forage Resource Profiles, Hungary, http://www.fao.org/ag/agp/agpc/doc/counprof/hungary/hungary.htm.

② Organic Farming Statistics, http://ec.europa.eu/eurostat/statistics-explained/index.php/Organic_farming_statistics.

③ The Act No. CXXVI of 2012 concerning the Hungarian Agricultural, Food and Rural Development Chamber.

④ The Act No. XLVI of 2008 on Food Chain and Its Control.

⑤ The Law No. XXVIII of 1998 on Animal Protection.

⑥ The Act No. LII of 2003 on the Recognition of Plant Varieties, and on the Production and Marketing of Planting Materials.

⑦ The World Bank, *Doing Business 2017*, 2017, p.219.

to ensure that the benefits of globalisation are widely shared.[①]

Latvia does not have a specific legal framework regulating foreign direct investment, but it has several principles that together represent the government' support and interest to promote the country as an investment destination. Moreover, the Latvian government adopts policy planning documents that support foreign investments in the country, e.g. Latvia has four special economic zones that offer considerable tax relief to foreign investors. Investors may also benefit from work related incentives, such as finding qualified personnel, etc.[②]

Physical and legal persons who are citizens of non-EU countries may not directly purchase certain types of agricultural, forest, and undeveloped land. Such persons may acquire ownership interest in such land through a company provided that more than 50 percent of the company is owned by: Latvian citizens and/or Latvian governmental entities; and/or physical or legal persons from countries with which Latvia signed and ratified an international agreement on the promotion and protection of investments. In addition, foreign investors can lease land without restriction for up to 99 years. Other restrictions apply (to both Latvian citizens and foreigners) regarding the acquisition of land in Latvia's protected areas.[③]

The Law on Agriculture and Rural Development determines the implementation, supervision and evaluation of policy in the sphere of agriculture and rural development in order to facilitate the sustainable development of this policy. One of the fundamental principles of the implementation of the agricultural and rural development policy is state and foreign investments, as well as investments of natural persons and legal persons which promote rational development of agricultural production, the preservation of the rural environment,

① OECD, Latvia—Economic Forecast Survey, OECD Economic Outlook, Volume 2017 issue 1 – Preliminary version, p.202.

② Lawyers Latvia, Latvian Legislation on Foreign Investment, http://www.lawyerslatvia.com/latvian-legislation-on-foreign-investments.

③ Export.gov, Openness to and Restriction on Foreign Investment, https://www.export.gov/article?id=Latvia-Openness-to-Foreign-Investment.

provide the producers of agricultural products with support of income and promote the development of rural support and structural measures.[①]

In addition, Latvia adopted basic laws which regulate food safety[②], animal health[③] and plant protection[④].

11. Lithuania

In the World Bank's ranking on conditions of doing business, Lithuania takes the 21st place.[⑤] However, it was concluded that Lithuania has attracted relatively modest FDI flows, despite its membership in the EU.[⑥]

According to *The Law on Investment*,[⑦] there is no special permit required from the authorities to invest foreign capital and there are no limitations to foreign ownership. Protection against expropriation is available, and guarantee of unrestricted transfer of invested capital and profits is provided. Also, foreign nationals have the right to open foreign currency accounts in any local bank. In addition, the investment of foreign-origin capital, movable or immovable assets, and intellectual or industrial property is considered as FDI. Foreign investors may be foreign persons or entities, persons without citizenship permanently living abroad, foreign states and international organizations. Thereby, they must set up subsidiaries, or engage in any of the following forms of business: sole trader, partnership, public private stock company, cooperative society and company.[⑧]

The Lithuanian Constitution stipulates that foreign entities may acquire

---

① FAO Lex Database, http://www.fao.org/faolex/results/details/en/c/LEX-FAOC073457/.

② *The Law on the Supervision of the Handling of Food*, February 19, 1998.

③ *The Veterinary Medicine Law*, April 26, 2001.

④ *The Plant Protection Law*, May 12, 2005.

⑤ The World Bank, *Doing Business 2017*, 2017, p.220.

⑥ UNCTAD, Investment Country profiles—Lithuania, p.1, http://unctad.org/en/Docs/diaeiamisc2011d10_en.pdf.

⑦ *The Law on Investment*, 7 July 1999 No. VIII-1312.

⑧ UNCTAD, Investment Country profiles—Lithuania, p.1, http://unctad.org/en/Docs/diaeiamisc2011d10_en.pdf. pp.1-2.

ownership of land, internal waters and forests according to a constitutional law. However, the law prescribes that foreign enterprises and other legal persons may not acquire agricultural land in Lithuania.[1]

Economic relations in agriculture are regulated by a specific law.[2] The objective of this law is to regulate the economic relations between agricultural economic entities and state institutions and agricultural market partners, to establish the basic state regulatory measures of these relations, to facilitate the implementation of agrarian policies and to sustain the balance of agricultural market. The economic relations are regulated according to the procedure established by: guaranteeing the buying up of agricultural produce according to the quotas; supplementing or selling the part of state food product reserves; supporting agricultural investments; regulating the import and export of agricultural produce and food products; controlling the quality of the produce; restricting the activities of agricultural entities which dominate on the market.[3]

In addition, basic regulations in this area are *The Law on Development of Agriculture and Rural Area*[4], *The Law on Agricultural Companies*[5], *The Law on Food*[6] and sectoral regulations (*The Law on Wine, the Law on Alcohol Controls*, and others). Issues on livestock are regulated by *The Law on the Care, Keeping and Use of Animals*[7], and *The Law on Veterinary Activities*[8], while in the phytosanitary area the main legal act is *The Law on Phytosanitary*[9].

---

① The Constitutional lawon the subjects, procedure, terms and conditionsand restrictions of the acquisition into ownershipof land plots provided for in article 47, paragraph2of the Constitution of the Republic of Lithuania, Article 7, par. 1, pt. 3, https://e-seimas.lrs.lt/portal/legalAct/en/TAD/TAIS.30977.

② *The Law on the State Regulation of Economic Relations in Agriculture*, 22 December 1994 No.I-734.

③ *Ibidem*, Art. 1, 5.

④ The Law No. IX-987 on Development of Agriculture and Rural Area.

⑤ *The Law on Agricultural Companies* (No. I-1222).

⑥ *The Law on Food* (No. VIII-1608).

⑦ *The Law on the Care, Keeping and Use of Animals* (XI-2271).

⑧ *The Law on Veterinary Activities* (No. I-2110).

⑨ *The Law on Phytosanitary* (No. VIII-1481).

12. Macedonia

Macedonia is ranked 10 in the category "Ease of doing bussiness", between 190 countries because of its openness in the field of economy.① In Macedonia, there is no single law regulating foreign investment. Rather, the legal framework applicable to foreign investors is made up of various laws, including: *The Constitution*, *Trading Company Law*, *Securities Law*, *Profit Tax Law*, *The Law on Takeovers*, and *The Law on Foreign Exchange*. The Macedonian Constitution stipulates that the Republic ensures an equal legal position to all parties in the market, except where otherwise provided by the law.② This principle covers the entire range of economic and legal forms used for business activity.③

Regarding incentives, the country has a flat tax rate of 10% for corporate and personal income tax purposes, which is currently one of the lowest in the region. Regarding forms of FDI, *The Law on Foreign Exchange Operations* defines direct investments as investments by an investor with the aim of establishing lasting economic links and/or realizing the right to manage a trade company or other legal entity in which the investor has invested. The law lists the following types of direct investments: creation of a trade company or extending the equity of trade company in full ownership of the investor, establishing branches, or the acquisition of full ownership of the existing company; participation in a new or existing trade company if the investor holds or acquires more than 10% of the participation in the equity of the trade company, i.e. more than 10% of the voting rights; long-term loan with a maturity period of five years or more, when it is a matter of a loan from the investor and it is intended for a trade company in his full ownership; long-term loan with a maturity period of five years or more, when it is a matter of a loan intended for establishing lasting economic links and if such loan has been

① The World Bank, *Doing Business 2017*, 2017, p.221.

② The Constitution of the Republic of Macedonia, Article 55, http://www.wipo.int/edocs/lexdocs/laws/en/mk/mk014en.pdf.

③ Trade Policy Review—Macedonia, WT/TPR/S/290, October 23, 2013, p.29.

granted between economically associated entities.[①]

In Macedonia, EU and OECD residents have the same rights as local residents in lease or acquisition of construction land or property, whereas non-EU and non-OECD residents regulate their property ownership under the terms of reciprocity. However, foreign residents cannot acquire agricultural land in Macedonia.[②]

Agriculture is the most important sector in Macedonia, where wine, fruits and vegetables are the most significant products.[③] In 2016, European Commission reported that Macedonia was moderately prepared for joining the EU in the area of agriculture and rural development. The *sui generis* legal act in this area is *The Law on Agriculture and Rural Development* (from 2010, with amendments from 2011, 2012, 2013).[④] Also, it was reported that Macedonia had some level of preparation in the area of food safety, veterinary and phytosanitary policy, which areas are regulated by the sectoral laws, as well as relevant by-laws.[⑤]

13. Montenegro

Montenegro is ranked 51th in the World Bank's ranking of 190 countries on ease of doing business. Recently, Montenegro made paying taxes less costly by reducing the personal income tax rate. Montenegro made paying taxes easier by providing an electronic system for filing and paying VAT. At the same time, Montenegro made paying taxes costly by increasing the health contribution rate

① Trade Policy Review—Macedonia, WT/TPR/S/290, October 23, 2013, p.29. *The Law on Foreign Exchange Operations*, Article 2, https://www.wto.org/english/thewto_e/acc_e/mkd_e/WTACCMKD20_LEG_4.pdf.

② Export.gov-Macedonia-5-Protection of Property Rights, https://www.export.gov/article?id=Macedonia-Protection-of-Property-Rights.

③ Invest Macedonia—Agriculture and Food Processing, http://www.investinmacedonia.com/industries-and-markets/agribusiness-food-processing.

④ *The Law on Agriculture and Rural Development*, https://www.ecolex.org/details/legislation/law-on-agriculture-and-rural-development-lex-faoc152330/.

⑤ *The Law on Food Safety*, http://extwprlegs1.fao.org/docs/pdf/mac150204.pdf; the Law on Veterinary Health, http://extwprlegs1.fao.org/docs/pdf/mac149555.pdf; PlantProtectionLaw, http://extwprlegs1.fao.org/docs/pdf/mac159914.pdf.

paid by employers.[①]

Since regaining its independence in 2006, Montenegro has adopted an investment framework to encourage growth, employment, and exports. However, the continuing transition has not eliminated all structural barriers, the government recognizes the need to remove impediments, ensure business-friendly policies, improve transparency and open the economy to foreign investors. Therefore, Montenegro concluded 26 bilateral investment treaties, as well as free trade agreements with EU, CEFTA, EFTA and Ukraine.[②]

In 2016, European Commission concluded that in recent years there were no significant developments on capital movements and payments in Montenegro. However, it was noted that some progress was made on payment systems. In addition, in 2015, the Montenegro government adopted the money laundering and terrorist financing national risk assessment.[③]

The main law that regulates foreign investment in Montenegro is *The Foreign Investment Law*. According to this law, foreign investors have equal treatment to the nationals, except in the protected zones and in arms industry. In addition, foreign investors may own or lease real estates, including agricultural land.[④]

Agriculture is one of the Montenegro's biggest sectors for investment.[⑤] However, Montenegro is still in the process of establishing a land parcel identification system.[⑥] In the area of agriculture the basic law is *The Law on Agriculture and Rural Development*.[⑦] The law sets the objectives of agriculture policy and provides the general framework for the development of and support to agriculture and rural areas. Also, important issues for Montenegro

① The World Bank, *Doing Business 2017*, 2017, p.180, p.226.

② Export.gov, Market Overview, Trade Agreements, https://www.export.gov/article?series=a0pt0000000PAuTAAW&type=Country_Commercial_kav.

③ Montenegro 2016 Report, SWD (2016) 360 final, Brussels, 9.11.2016, p.34.

④ *The Foreign Investment Law*, (Official Gazette, No.18/11).

⑤ US Department of State, 2015 Investment Climate Statement—Montenegro, https://www.state.gov/e/eb/rls/othr/ics/2015/241669.htm.

⑥ Montenegro 2016 Report, SWD (2016) 360 final, Brussels, 9.11.2016, p.41.

⑦ *The Law on Agriculture and Rural Development*, (Official Gazette of Montenegro, No 56/09).

are on organic farming and on quality policy. In the area of organic farming, implementing legislation on controls and registers was adopted in 2013. On quality policy, *The Law on Quality Systems* and *The Law on Geographical Indications* are being prepared.[①]

In addition, European Commission reported that Montenegro is moderately prepared for the process of stabilization and accession to EU in the area of food safety, veterinary and phytosanitary policy.[②]

14. Poland

In the World Bank's report *Doing business 2017*, Poland ranked the 1st in the category on trading across borders and the 24th in the category on ease of doing business.[③] Poland welcomes foreign investment as a source of capital, growth, and jobs, and as a vehicle for technology transfer, research and development, and integration into global supply chains (Poland concluded 58 bilateral investment agreements).[④]

The length of investment cycles in Poland appears to have shortened in recent years. Namely, after falling in 2012-2013, investment activity rebounded strongly in 2014-2015 before falling again in 2016. These ups and downs were driven by a combination of factors, including changing overall macroeconomic conditions and outlook, a changing perception of uncertainty and risks, and peaks and troughs of using EU funds. A recovery in investment is expected from 2017 onwards, but its pace still remains uncertain.[⑤]

In general, foreign companies enjoy unrestricted access to the Polish market. However, Poland limits foreign ownership of companies in selected strategic sectors, and limits acquisition of real estate, especially agricultural and

① Montenegro 2016 Report, SWD (2016) 360 final, Brussels, 9.11.2016, p.41.

② *Ibidem*.

③ The World Bank, *Doing Business 2017*, 2017, p.232.

④ Export.gov, Poland—Openness to and Restriction on Foreign Investment, https://www.export.gov/article?id=Poland-Openness-to-Foreign-Investment.

⑤ *Country Report Poland 2017*, SWD (2017) 86 final, Brussels, February 2, 2017, p.29.

forest land. Namely, two land use laws, in force as of April 2016, restricted free purchase of land by Polish and foreign investors. *The Agricultural Land Law* bans sale of Agricultural Property Agency (APA) (state-owned) farmland for five years. State-owned farm land will be available only under long-term lease for farmers who want to enlarge their farms to a maximum of 300 hectares (new and old land combined size). *The Agricultural Land Law* also imposes restrictions on sale of privately owned farm land, and gives the APA preemptive right to purchase in case of land sales by a private owner. Technology and industrial parks, business and logistic centers, transport objects, housing terrain, farmland in special economic zones, household gardens and plots up to two hectares are exempt from the ban. *The Law on Forest Land* similarly prevents Polish and foreign investors from purchasing privately-held forests and gives state-owned forestry agency preemptive right to buy privately-held forests.[①]

The Act on Agricultural System Development lays down provisions on the agricultural system development, which are implemented through improvement of territorial structure of farms, prevention against excessive concentration of agricultural properties and assuring competent qualifications of farmers.[②] Moreover, in this area Poland brought *The Act on State System of Registering Producers, Registering Agricultural Farms and Registering Applications for Subsidies*[③], *The Act on Direct Support Scheme*[④] and *The Act on Support Financed by the European Agricultural Guidance and Guarantee Fund*[⑤].

In addition, Poland adopted laws in the area of food safety[⑥] and sanitary[⑦] and phytosanitary[⑧] measures.

---

① Export.gov, Poland—Protection of Property Rights, https://www.export.gov/article?id=Poland-Protection-of-Property-Rights.

② *The Act on Agricultural System Development*, Journal of Laws, 2012 Pos. 803.

③ *The Act on State System of Registering Producers, Registering Agricultural Farms and Registering Applications for Subsidies*, Journal of Laws, 2012 Pos. 86.

④ *The Act on Direct Support Scheme*, Journal of Laws, 2008, Pos. 1051.

⑤ *The Act on Support Financed by the European Agricultural Guidance and Guarantee Fund*, July 30, 2003.

⑥ *The Act on Safety of Food and Nutrition*, Journal of Laws, 2010, Pos. 914.

⑦ *The Act on Veterinary Inspection*, Journal of Laws, 2010, Pos. 744.

⑧ *The Law on Plant Protection*, December 18, 2003.

15. Romania

Romania is ranked 36th on ease of doing business and 1st on trading across borders (with few countries from the region). However, Romania recently made starting a business more difficult by increasing the time needed to register for VAT.[①]

An EU report on Romania's economic growth in 2017 states that the Romanian economy has been on a cyclical upswing for the past two years and that it has made progress in addressing the 2016 country-specific recommendations.[②]

In regard to foreigners' ownership right to real estate the Romanian Constitution prescribes that foreign citizens and stateless persons will only acquire the right to private property of the land under the terms resulting from the accession of Romania to the European Union and other international treaties Romania is a party, on a mutual basis, under terms laid down by organic law, as well as a result of lawful inheritance.[③]

Romania's legal framework for foreign investment is encompassed within a substantial body of law largely enacted in the late 1990s. It is subject to frequent revision. Major changes to the *Civil Code*[④] were enacted in October 2011 consolidating provisions applicable to companies and contracts into a single piece of legislation, and harmonizing Romanian legislation with international practices. *The Civil Procedure Code*,[⑤] which provides detailed procedural guidance for implementing the new *Civil Code*, came into force in February 2013.[⑥]

Companies owning foreign capital may acquire land or property needed to fulfil or develop company goals. If the company is dissolved or liquidated, the

---

① The World Bank, *Doing Business 2017*, 2017, p.183, p.234.

② *Country Report Romania 2017*, SWD (2017) 88 final, Brussels, February 2 2017, p.1.

③ The Constitution of the Romania, Art. 44, Law No.429/2003.

④ The Law No.287/2009 on the Civil Code.

⑤ The Law No.134/2010.

⑥ Export.gov, Romania—Legal regime, https://www.export.gov/article?id=Romania-Legal-Regime.

land must be sold within one year of closure, and may only be sold to a buyer(s) with the legal right to purchase such assets. Investors can purchase shares in agricultural companies that lease land in the public domain from the State Land Agency.[①]

The Law on Land Resources concerns land resources in Romania and consists of 9 chapters—General provisions; Establishment of private property right to land; Provisions regarding state owned land; Legal distribution of the land; Land usage for agricultural and forestry production; Temporary or permanent land utilization for purposes other than agricultural and forestry production; Penalties and Transitional and final provisions. General provisions include definitions of agricultural and forestry land use (Art. 2). A property right is established on request by obtaining a property title. Owners of agricultural land must assure its cultivation and its soil protection (Art. 53) and must be subject to fines if they do not fulfil their obligations (Art. 54). Failure to comply with the provisions will result in penalties being imposed (Art. 89).[②]

In addition, specific laws regulate areas of food safety[③], sanitary[④] and phytosanitary[⑤] measures and organic farming[⑥].

16. Serbia

In the World Bank's ranking on "Ease of doing business", Serbia is ranked at the 47th position of 190 countries in 2017.[⑦] Moreover, Serbia has topped the

① Export.gov, Romania—Protection of Property Rights, https://www.export.gov/article?id=Romania-Protection-of-Property-Rights.

② *The Law on Land Resources*, February 20, 1991, http://www.fao.org/faolex/results/details/en/c/LEX-FAOC027729/.

③ The Law No.150 concerning food safety.

④ The Government Ordinance No.42/2004 on the organization of the sanitary-veterinary and food safety activity.

⑤ *The Plant Health Act*, Official Gazette No.75/05, 25/09.

⑥ The Order No.1.828 approving sanctions measures 10 "Agri-environment payments and climate", 11 "Organic Farming" and 13 "Payments to areas facing natural constraints provided by the National Rural Development Programme 2014-2020.

⑦ The World Bank, *Doing Business 2017*, 2017, p.236.

2016 Performance Index for greenfield FDI.[1] These are significant indicators of the Serbian government's economic reform program which focuses on ensuring economic and financial stability, halting further debt accumulation, and creating an environment for economic recovery and growth to foster employment and raise living standards.[2]

By its Constitution, Serbia stipulated that foreign persons are equaled on the market with domestic persons. Also, it guarantees that foreign natural and legal entities may obtain real estate property, in accordance with the law or international contract, and that foreigners may obtain a concession right for natural resources and goods, as well as other rights stipulated by the law.[3]

The Law on Investment[4] established a new institutional framework for subsidizing foreign and domestic investment. The notion of "investment" includes shares in Serbian companies, branch opened by a foreign company, proprietary rights on movable or immovable assets (ownership, pledge), intellectual property, right to perform an activity under the auspices of a public-private partnerships arrangement, activity pursued on the basis of an authorization issued by a public authority. An important novelty is a provision according to which, in case of expropriation of real estate, investor will be entitled not only to compensation for the seized property (at its value before the announcement of the intention to expropriate), but also to compensation for the decreased value of the business caused by expropriation. Investors can also expect to benefit from investment incentives, such as state aid, tax incentives, relief from payment of administrative fees, customs incentives and incentives related to compulsory social insurance.[5]

The European Commission in its report in 2016 concluded that Serbia is

---

① FDI Intelligence, "Serbia Ranks First in 2016 Greenfield FDI Performance Index", http://www.fdiintelligence.com/Rankings/Serbia-ranks-first-in-2016-greenfield-FDI-Performance-Index.

② The World Bank, Serbia Overview, http://www.worldbank.org/en/country/serbia/overview.

③ The Serbian Constitution, Article 84, 85, Official Journal No.98/06.

④ *The Law on Investment*, Official Journal No.98/15.

⑤ BDK Advokati, Serbia Parliament adopts the Law on Investment, http://www.bdkadvokati.com/bdknowledge/newsletter/m-a-and-corporate/778-serbian-parliament-adopts-the-law-on-investment.

moderately prepared in the area of free movement of capital for the process of stabilization and accession to EU, though it was noted that a cquisition of real estate, especially agricultural land, was restricted.[①]

However, by the new amendments on *the Law on Agricultural land*, it is prescribed that the owner of the agricultural land cannot be a foreign physical or legal person, unless it is provided in accordance with the Stabilization and Association Agreement between EU and Serbia. In this way, it is allowed that an individual or legal person from EU can be owner of agricultural land in Serbia under certain circumstances.[②]

In the report in 2016, the European Commission found that Serbia had some level of preparation in agriculture and rural development.[③] Still, the action plan for alignment with the *acquis* in agriculture and rural development and the national programmes for agriculture and rural development for the period 2016-2020 remain to be adopted.[④]

In addition, it was notified that Serbia is moderately prepared in the area of food safety, veterinary and phytosanitary policy. In the area of general food safety, Serbia has yet to define a legal approach for full transposition of the *acquis*.[⑤] On veterinary policy, annual programmes of animal health protection measures and monitoring of pharmacologically active substances for 2016 were adopted or notified to the European Commission.[⑥] In the area of phytosanitary policy a legal framework for the sustainable use of pesticides should be adopted, as should the national action plan to reduce the risks and impact of pesticide use.[⑦]

① Serbia 2016 Report, SWD (2016) 361 final, Brussels, September 11, 2016, pp.35-36.

② *The Law on Agricultural Land*, Article 1, Official Journal, No.62/06, 65/08-other, 41/09, 112/15, 80/17; See Dusan Dabovic, *Agricultural Law of Serbia*, Lambert Academics Publishing, Saarbrucken, 2017.

③ *The Law on Agriculture and Rural Development*, Official Journal, No.41/09,10/13-other, 101/16.

④ Serbia 2016 Report, SWD (2016) 361 final, Brussels, September 11 2016, p.42.

⑤ *The Law on Food Safety*, Official Journal, No.41/09.

⑥ *The Law on Veterinary*, Official Journal, No.91/05, 30/10, 93/12.

⑦ *The Law on Plant Health*, Official Journal, No.41/09; *The Law on Plant Protection Products*, Official Journal, No.41/09.

17. Slovakia

Slovak Republic is ranked 33rd on ease of doing business and 1st on trading across borders (with some other countries from the region). In addition, recently it made paying taxes less costly and easier by reducing the motor vehicle tax and the number of property tax payments.[①]

Slovakia joined EU in 2004 and the Eurozone in 2009. The country's banking sector is sound, which was reflected in the good results Slovak banks achieved in the recent ECB stress tests. Moody's recently confirmed Slovakia's stable outlook and "A2" rating for government bonds, emphasizing the country's deep economic and financial integration within Europe, and moderate government debt ratios. Therefore, Slovakia has been a regional FDI champion for several years, attractive due to a relatively low-cost yet skilled labour force, reasonable tax rates, and a favourable geographic location in the heart of Central Europe. Among the most pressing domestic issues potentially threatening the attractiveness of the Slovak market are the recent increase in corporate taxes, increasing labour costs, changes to the Labour Code that reduced labour flexibility, as well as ongoing corruption issues and an inadequate judiciary.[②]

Slovakia scores significantly worse than the EU average in a number of areas relating to the responsiveness of the administration to the needs of small and medium-sized enterprises. In particular, these are the time needed to start a business, the complexity of administrative procedures, and the burden of government regulations.[③]

In 2014, a new Slovakian regulation[④] entered into force that abolished the restrictions that were aimed at preventing the acquisition of agricultural land

---

① The World Bank, *Doing Business 2017*, 2017, p.184, p.238.

② US Department of State, 2015 Investment Climate Statement—Slovakia, https://www.state.gov/e/eb/rls/othr/ics/2015/241740.htm.

③ European Commission, Country Report Slovakia 2017, SWD (2017) 90 final/2, Brussels, February 2, 2017, p.27.

④ Act No.140/2014 Coll on the Acquisition of Ownership of Agricultural Land and on Amendments and Supplements to Certain Acts as amended.

and forests by foreigners. However, the regulation introduced a new set of rules for acquiring agricultural land that apply to any purchaser, regardless of their residency or corporate seat. Namely, the owner of the agricultural land may, without further restrictions, transfer the agricultural land only to: a buyer who has been active in the food business or exercises agricultural activity in the municipality where the agricultural land is situated for at least three years prior to the transfer; the existing co-owner of the agricultural land; or persons related to the owner, in the event that the owner is a natural person.[①]

Slovakian agriculture from 2000 has been modernised and the importance of industry and services within the economy has increased, therefore, agriculture has become much less important as a source of jobs. Consequently, increasing emphasis is placed on the role of farmers which can play in rural development, including forestry, biodiversity and the diversification of the rural economy, in order to create alternative jobs and provide environmental protection in rural areas.[②] The main regulations on agriculture are laws on organization of the market,[③] and on support of agriculture and rural development.[④] Also, Slovakia adopted basic laws on food safety[⑤], veterinary[⑥] and phytosanitary measures[⑦].

18. Slovenia

Slovenia is ranked 30th on ease of doing business and 1st on trading across borders (with some other countries from the region).[⑧] In addition, the Slovenian economy continued to experience solid growth in 2016, and at the same time,

① Schonherr, "Slovakia: New Rules for Acquisition of Agricultural Land", https://www.schoenherr.eu/publications/publications-detail/slovakia-new-rules-for-acquisition-of-agricultural-land/.

② Eurostat, Agricultural Census in Slovakia, http://ec.europa.eu/eurostat/statistics-explained/index.php/Agricultural_census_in_Slovakia.

③ *The Act on the Organization of the Market in Selected Agricultural Products*, No.491 of 2001.

④ *The Act on Support to Agriculture and Rural Development*, No.274 of 2006.

⑤ *The Act on Foodstuffs*, No.152 of 1995.

⑥ *The Act on Veterinary Requirements*, No.39 of 2007.

⑦ *The Act on Plant Protection*, No.405 of 2011.

⑧ The World Bank, *Doing Business 2017*, 2017, p.238.

foreign direct investment in Slovenia has grown markedly in the last two years, partly supported by privatisation.①

Concerning foreigners' ownership right to real estate the Slovenian Constitution guarantees that "aliens may acquire ownership rights to real estate under conditions provided by law or if so provided by a treaty ratified by the National Assembly, under the condition of reciprocity".②

In addition, foreign companies conducting business in Slovenia have the same rights, obligations, and responsibilities as domestic companies by *The Companies Act*③ and *The Foreign Exchange Act*④. While generally welcoming Greenfield investments, Slovenia presents a number of informal barriers that challenge foreign investors. According to a survey the most significant disincentives to FDI are high taxes, high labour costs, lack of payment discipline, an inefficient judicial system, difficulties in firing employees, and bureaucracy.⑤

The Act on Agricultural Land regulates the use of agricultural land, their protection, marketing and leasing, agricultural operations and common pastures. Provisions of this Act apply to forests, unless otherwise provided by law. For these provisions agricultural land means land that is suitable for agricultural production, other than building land and water and land for other purposes. The agricultural land includes all land abandoned, not designated as forest under *The Forest Act*. Agricultural land, on the basis of their natural characteristics, location, shape and size of the parcel, is divided into: the best agricultural land which is most suitable for agricultural production; other agricultural lands which are less suitable for agricultural production.⑥

---

① Country Report Slovenia 2017, SWD (2017) 89 final, Brussels, February 22, 2017, pp.1-2.

② The Slovenian Constitution, Art. 68, Official Gazette of the Republic of Slovenia, No.33/91-I, 42/97, 66/2000, 24/03, 69/04, 68/06, and 47/13.

③ *The Companies Act*, Official Gazette of the Republic of Slovenia, Nos. 42/06 and 60/06 – amend.

④ *The Foreign Exchange Act*, Official Gazette of the Republic of Slovenia,No.16/2008 of 15 February 2008.

⑤ Export.gov, Slovenia—Openness to & Restriction on Foreign Investment, https://www.export.gov/article?id=Slovenia-Openness-to-and-Restriction-on-Foreign-Investment.

⑥ *The Act on Agricultural Land*, No.59/1996.

In the Republic of Slovenia, a person becomes the owner of a real estate, including agricultural land, or holder of any other right in real estate on the basis of a legal transaction only after being registered in the land register first. To register the ownership right or any other right in the land register you must obtain a valid land register permission ("registration clause"), issued by the owner of the real estate or the other right. His/her signature must be notarised (unless the registration clause is included in the contract concluded in the form of a notarial deed).[①]

The Agriculture Act[②] sets out the objectives of agricultural policy and regulates provisions governing planning agricultural and rural development, agricultural policy measures, the safety of food of plant origin in primary production, food quality at all stages of production, processing and transport, and consumer protection.

In addition, specific laws regulate areas of sanitary[③], phytosanitary[④] measures and organic farming[⑤].

19. Conclusion

The legal framework for investment in CEE countries agriculture is very different from country to country. Large differences in the legal frame work exists despite the fact that all these countries have harmonized their regulations with the EU regulations. Nevertheless, one can notice the tendency that the countries from the north of the region (Poland, Latvia, Estonia, Latvia) have gone further in the process of harmonization of their regulations and liberalization market. On the other hand, the countries of the south and the region (Romania, Bulgaria,

① Notaries Association, Entries into land register, http://www.notar-z.si/en/services/entries-into-land-register.

② *The Agriculture Act*, No.45/2008.

③ *The Veterinary Act*, No.33/2001.

④ *The Plant Health Act*, No.45/2001

⑤ *The Regulation on Organic Production and Processing of Aagricultural Products and Foodstuffs*, No.71/2010.

Albania) are at a disadvantage with the process of harmonizing their regulations and creating a transparent legal system on foreign investment in agriculture. In addition, other economic and political specificities can be noticed that are reflected in the issue of investments in agriculture.

Environmental Protection in Serbia: the Factor of Significance for Foreign Investment*

Dragoljub Todić **

1. Introduction

The discussion on the relationship between environmental law and investment law is conducted in the literature from the standpoint of various aspects and specific issues. It is a part of broader discussions on the impacts of the state of the environment and environmental policy on investment and vice versa.[1] It would likely be a relatively easy job to prove the justifiability of doing a detailed analysis of the relationships between various forms of investment and the state of the environment. The existing literature considers various issues. The topics relating to foreign investment in some sectors of the economy

---

* It has been carried out within the following scientific project: "Serbia in contemporary international relations: Strategic development trends and consolidation of Serbia's position in international integration processes—foreign policy, international economic, legal and security aspects" (No.179029) funded by the Ministry of Education and Science of the Republic of Serbia for the 2011-2017 period.

** Ph.D., Professorial Fellow, Institute of International Politics and Economics, Belgrade, Makedonska 25. Serbia, d.todic@diplomacy.bg.ac.rs, or dtodic@ymail.com. The paper has been carried out within the following scientific project: "Serbia in contemporary international relations: Strategic development trends and consolidation of Serbia's position in international integration processes – foreign policy, international economic, legal and security aspects" (No.179029) funded by the Ministry of Education and Science of the Republic of Serbia for the 2011-2017 priod.

① It does not particularly discuss the contents of the term "investment" or some other terms derived from it (such as "investment climate", foreign investment). Such an approach is stipulated, above all, by the objective of the paper which is focused on the existing normative framework in the environmental field.

which are significant for resolving global environmental problems or the role of some international financial institutions in this field seem to be dominant in the international literature. Some financial (or quasi financial) mechanisms also contribute to this and they have been created with the objective of stimulating certain activities for the purpose of improving the conditions in the environment or resolving specific problems.①

The legal aspects of this discussion have also different dimensions. Among other things, the conflict between the rules pertaining to environmental protection and investment or the rules of environmental protection as limiting factors for a more successful realisation of foreign investment are being often mentioned.② Dupuy and Vinuales give a comparatively clearest picture of possible relationships between environmental law and investment law. They clearly distinguish synergy effects from the situations which can be defined as a conflict between two groups of norms.③ As for the latter case, it is said that that investment protection can be possibly contrary to the norms of domestic law which prescribes certain measures of environmental protection. Speaking of the conflicts between two groups of norms, the authors distinguish two kinds of conflicts. They first mention a normative conflict and then a legitimacy conflict. The authors assert that the number of investment disputes entailing elements

① For basic outlines see, for example, *Global Trends in Renewable Energy Investment 2013*, Frankfurt School-UNEP Centre/BNEF, 2013. For some interesting contemplations see also Lohmann L., "Climate as Investment", *Development and Change*, Vol.40, No.6, 2009, pp.1063-1083.

② Investment arbitration is very often subject of different analysis. See, for example: Sullivan J., Kirsey, V., "Environmental Policies: A Shield or a Sword in Investment Arbitration?", *Journal of World Investment & Trade*, Vol.18, 2017, pp.100-130; Tienhaara, K., "Third Party Participation in Investment-Environment Disputes: Recent Developments", *RECIEL*, Vol.16, No.2, 2007, pp.230-242; Asteriti, A., "Environmental Law in Investment Arbitration: Procedural Means of Incorporation", *The Journal of World Investment & Trade*, Vol.16, 2015, pp.248-273; Beharry, L.C., Kuritzky, M.E., "Going Green: Managing the Environment through International Investment Arbitration", *Am. U. Int'l L. Rev*, Vol.30, No.3, 2015, pp.383-430. However, it seems that reference to the international environmental law in the practice of the investement arbitration tribunals is not so popular. See: Kulick, A., *Global Public Interest in International Investment Law,* Cambridge University Press, 2012, p.258.

③ Dupuy, P.M., Vinuales, E.J., *International Environmental Law*, Cambridge University Press, 2016, pp.378-390.

which differently concern the environment is considerably raising, by which the elements regarding the environment are of different nature and have different manifestation forms. The following can be taken as an example: asset seizures from investors for the reasons concerning nature protection and protected cultural localities, taking away, suspension or deprivation of work permits in case of waste treatment installations or production of certain chemical substances, then, imposing responsibilities for location pollution, prescribing of additional sanitary or health measures. The discussion on a normative conflict between the two groups of norms (the environment and investment) becomes more complicated with the emergence of a conflict between norms of domestic law (environmental law) and norms of international investment law ("legitimacy conflict"). In this way, numerous broader questions are being opened regarding the relationship between international and domestic law. A part of the literature also discusses the responsibilities of multinational companies, the scope of provisions on investment protection, interpretation of provisions on emergencies and the notion of "necessity", the significance which is attached to some environmental issues, etc.[①] Investment agreements are also analysed with the purpose of revealing what environmental provisions they contain.[②] Waelde and Kolo discuss how and where to draw a line between national regulations which are aimed at environmental protection that includes protection of human, animal or plant life and health and regulations dealing with expropriation and compensation.[③] Sands *et al*. point to the significance of two international mechanisms available to spurring of foreign direct investment. The former include investment agreements, bilateral and multilateral, striving to protect

---

① Viñuales, J.E., "Foreign Investment and the Environment in International Law: An Ambiguous Relationship", *British Yearbook of International Law*, Vol.80, No.1, 2010, p.247.

② It shows that: (1) over time, more treaties contain such language; (2) only about 8% of the sample treaties include references to environmental concerns; and (3) there are wide variations in the content of such language, both across countries and across time. Gordon, K., Pohl, J., *Environmental Concerns in International Investment Agreements: A Survey, OECD Working Papers on International Investment 2011/01*, OECD Publishing, Paris, 2011.

③ Waelde, T., & Kolo, A., "Environmental Regulation, Investment Protection and 'Regulatory Taking' in International Law", *International and Comparative Law Quarterly*, Vol.50, No.4, 2001, pp.811-848.

foreign investment against some government acts, this especially including expropriations and dishonest acts; the latter include agreements, domestic and international, striving to ensure guarantees (insurances, etc.) against acts prohibited by investment agreements. Both mechanisms are becoming more and more connected with international environmental rules. In this sense, they can affect the abilities of states to adopt some environmental measures nationally or through multilateral environmental protection agreements or to stimulate them to lower their environmental protection standards with the purpose of attracting foreign investments. As for the export credit insurance, the main questions refer to the scope to which such arrangements should be available to the projects that can be detrimental to the environment as well as to what mechanisms are available for recognising such projects in the early stage of their development.[1] Affolder points to the need to supplement existing approaches to the study of the relationship between environmental law and investment law. The author highlights the need for "complement existing approaches to environmental governance by accounting for project-specific contracts".[2]

The chapter points to the state of environmental regulations in RS which are of potential significance for investment.[3] No special criteria have been defined for the selection of environmental rules, but a general overview is presented.[4] In the similar way, the state of RS membership in the most important international environmental agreements is pointed to. Finally, the

① Sands, P., Peel, J., Fabra, A., & MacKenzie, R., "Foreign Investment", In: *Principles of International Environmental Law*, Cambridge: Cambridge University Press, 2012, pp.869-887.

② Affolder, N., "Beyond Law as Tools: Foreign Investment Projects and the Contractualisation of Environmental Protection", In: Dupuy, P.M., Vinuales, J.E., Eds., *Harnessing Foreign Investment to Promote Environmental Protection, Incentives and Safeguards*, Cambridge University Press, 2013, p.380.

③ Hence, the rules on foreign investments are not analysed here. However, it should be mentioned that Article 14 of the Law on Investments (OJ RS, 89/15) prescribes that all imported equipment except passenger motor vehicles and lottery machines should be exempted from customs and other import taxes provided that the equipment imported by the investor is in conformity with the rules regulating health and security of citizens and environmental protection. There are no other environmental provisions.

④ A detailed analysis should include much bigger number of regulations.

paper analyses the international agreements which RS has concluded in the field of foreign investment protection, taking into account the presence and way of regulating issues which are significant for the environment.

2. Domestic Environmental Regulations

(1) Harmonisation of domestic environmental regulations of RS with EU laws

In the case of RS, activities related to European integration are considered key elements of development of contemporary regulations.[①] RS has been dealing with intensive activities related to EU integration for a dozen years. The state of the environment and the cost estimation of the implementation of regulations for attaining EU environmental standards could be regarded as a general determinant.[②] By all this, one should keep in mind that it is not an easy job to consistently follow environmental changes.[③] Such a situation can be explained by several reasons among which are methodological limitations

① This fact opens several new directions of possible analysis. One of the issues is the relations to EU investment policy. See, for example: Dimopoulos, A., "The Compatibility of Future EU Investment Agreements with EU Law", *Legal Issues of Economic Integration*, Vol.39, No.4, 2012, pp.447-472; Titi, C., "International Investment Law and the European Union: Towards a New Generation of International Investment Agreements", *The European Journal of International Law*, Vol.26, No.3, pp.639-661; Ceyssens, J., "Towards a Common Foreign Investment Policy?—Foreign Investment in the European Constitution", *Legal Issues of Economic Integration*, Vol.32, No.3, 2005, pp.259-291. In addition, this issue can be (indirectly) interesting due to connections between the EU and other countries, including China. However, these issues deserve much more detailed analysis.

② For more see, for example, *Nacionalna strategija za aproksimaciju u oblasti životne sredine za Republiku Srbiju* (National Environmental Approximation Strategy for the Republic of Serbia), Beograd, 2011. There are differences in estimations, but in any case, it is roughly calculated that the full implementation of regulations which are being harmonised with EU laws will cost over EUR 10 billion in the next twenty years. The biggest funds are needed for financing the implementation of regulations in the fields of water management, waste management and control and prevention of industrial pollution.

③ Regardless to some limitations, the activities that have been carried out in the last dozen years on the part of the Agency for Environmental Protection have contributed to some improvement in the following and reporting on the state of the environment. For more on the reports on the state of environment, see the site of the Agency: http://www.sepa.gov.rs/index.php?menu=5000&id=13&akcija=showExternal.

or actually the lack of comparable and reliable data. Annual reports of the European Commission are especially important for following the state in some fields, but their contents and methodology applied are limited in a way.[1]

In a formal sense, the RS strategic orientation towards EU membership or actually its aim to become a member of this organisation has primarily to do with the conclusion of the Stabilisation and Association Agreement ("Sl. glasnik RS", br. 83/2008, hereinafter SAA).[2] Before that (October 14, 2004), the National Assembly of RS had adopted the Resolution on the EU Association.[3] The Serbian Strategy for the Association of Serbia and Montenegro to the EU was adopted in 2005, while the Communication Strategy for the Accession of Serbia to the EU was adopted in 2011.[4] Taken as a process of harmonisation of national regulations with EU laws the programme framework of "Europeanisation" is presented in detail in the National Programme for Adoption of EU Acquis (2014-2018).[5] The key years for the process of association of RS to the EU could likely be 2004, 2005, 2008 and 2013. The negotiations on the conclusion of SAA had begun in November 2005, the Agreement was signed in April 2008 and it came into force in September 2013.[6] The dynamics of "Europeanisation" can be

---

① See, for example, EC, *Serbia 2016 Report*, European Commission, Brussels, September 11, 2016 SWD(2016) 361 final, pp.75-77.

② The data on the dynamics of EU integration have been taken with some changes from the article authored by Todić, D., "Europeanisation' of Law of Republic of Serbia: Between (Un)clear Goals and (In)appropriate Indicators", *Law and Transition*, Faculty of Law, Belgrade, 2017.

③ The text of the Resolution can be found on: http://www.parlament.gov.rs/upload/documents/eu_integration/RS48-04.pdf.

④ "Strategija Srbije za pridruživanje SCG EU" (The Serbian Strategy for the Association of Serbia and Montenegro to the EU), Kancelarija za pridruživanje EU Vlade Republike Srbije, Beograd, 2005; "Strategija komunikacije o pristupanju Srbije EU" (The Communication Strategy for the Accession of Serbia to the EU), Vlada Republike Srbije, Beograd, 2011.

⑤ For more on the latest Second Revised National Programme for Adoption of EU Acquis (NPAA) which was adopted on 17 November 2016, see: http://www.mei.gov.rs/upload/documents/nacionalna_dokumenta/npaa/NPAA_2016_revizija_srp.pdf.

⑥ Yet, one should keep in mind the fact that as early as in 1996 the Commission for Harmonisation of the Legal System of the Federal Republic of Yugoslavia (FRY) with EU and Council of Europe Laws had been established as a working body of the Federal Government. See the Decision on the Establishment of the Commission for Harmonisation of the Legal System of the Federal Republic of Yugoslavia (FRY) with EU and Council of Europe Laws (OJ FRY, 45/1996).

also followed through the dynamics of adoption of regulations by the National Assembly of RS. During 2008, the National Assembly had adopted 48 laws, while in 2009, (the first year after signing of SAA) it amounted to 265. Since then up to 2015, the number of published laws was never below 130 annually, while in the period before (except in 1991 and 1992) it was more than twice as much less.[①] All environmental laws which have been adopted since 2004 passed in a way through the procedure of harmonisation with EU laws and/or the assessment procedure of harmonisation with EU regulations. However, the lack of consistent implementation of regulations was recognised in all opinions of the European Commission which have been published so far on the progress made by Serbia as well as in the analyses of various examples in practice.[②]

(2) The most important RS environmental regulations of (potential) significance for investment

It is not a simple job to establish a final list of RS environmental regulations.[③] Although one can easily identify the group of basic environmental laws (based on the jurisdiction of the bodies which deal with environmental affairs), the relationship between some of them and the laws in some other fields

① See: http://www.parlament.gov.rs/narodna-skupstina-/narodna-skupstina-u-brojkama/broj-zakona-objavljenih-u-sluzbenom-glasniku-republike-srbije.1933.html.

② For some examples, see: Isoski, Z. Radosavljević , J., Todić , D., "Upravljanje otpadom u propisima Republike Srbije i problemi operatera u primeni propisa" (Waste Management in Laws of the Republic of Serbia and Problems of Operators in Implementation of Regulations), 6th international symposium "Recycling Technologies and Sustainable Development", Soko Banja, 18-2. September 2011, 174-180; Radosavljević, J. Isoski, Z. Todić, D., "Bezbednost industrijskih postrojenja u propisima EU i problemi u sprovodenju nacionalnih propisa" (Safety of Industrial Installations in EU Laws and Problems in Implementation of National Regulations) in the proceedings, International Congress on Legal-Economic and Environmental Aspects of the Environmental Protection Management System in Chemical, Petrochemical and Oil Industry, Chymicus IV, Tara, June 11-14, 2012; Beograd: Forum Kvaliteta, Asocijacija za globalna pitanja kvaliteta, 2102, 110-118.

③ On 30 August 2017, the database of the legal-information system of RS contained totally 34 laws, 502 by-laws and 5 strategic documents in the environmental field (including soil protection, water management, air protection, fishing, nature protection, national parks and protected areas and waste management). However, the site of the authorised body did not present the Information Bulletin which contained the list of regulations it applied.

may considerably affect the accurateness of a possible analysis.[①] However, the obligations (and rights) contained in the prescribed provisions of several such laws could be considered almost unavoidable and the most frequent parts of conditions investors face (or can face). The following laws could be regarded as such: *The Law on Environmental Protection* (OJ RS, 135/2004, 36/2009 i 36/2009, 72/2009, 43/2011, 14/2016), *The Law on Strategic Environmental Impact Assessment* (OJ RS, 135/2004, br.36/2009, 88/2010), *The Law on Environmental Impact Assessment* (OJ RS, 135/2004 i br. 36/2009), *The Law on Integrated Prevention and Control of Environmental Pollution* (OJ RS, 135/2004, 24/2015), *The Law on Nature Protection* (OJ RS, 36/2009, 88/2010, 91/2010, 14/2016), *The Law on Air Protection* (OJ RS, 36/09, 10/2013), *The Law on Waste Management* (OJ RS, 36/09, 88/2010, 14/16), *The Law on Packaging and Packaging Waste* (OJ RS, 36/09), *The Law on Protection from Noise Pollution in the Environment* (OJ RS, 36/09, 88/2010), *The Water Law* (OJ RS, 30/2010, 93/2012), *The Law on Chemicals* (OJ RS, 36/09, 88/10, 92/11, 93/12), *The Law on Transport of Dangerous Goods* (OJ RS, 88/10), *The Law on Fire Protection* (OJ RS, 111/09), *The Law on Emergency Situations* (OJ RS, 111/09, 92/11 i 93/12), etc.[②] Numerous by-laws should be also added to this.[③]

---

① This refers, above all, to the regulations in the fields of energy, spatial planning and civil construction, etc. for which a separate analysis should be done. Regulations in the field of concessions, public-private partnership, expropriation should be also added to this. Some authors believe that based on experience (domestic and foreign), it is much more favourable to realised foreign investments as the concession model than to the sale of national resources (mineral resources, land, water resources, etc.). See: Šojić, M., "Strane direktne investicije i koncesije na nacionalne resurse u Republici Srbiji" (Foreign Direct Investment and Concession Rights to National Resources in the Republic of Serbia), in M. Kovačević, M. Gligorić (Eds.). *Strane direktne investcije i prvredni rast u Srbiji* (Foreign Direct Investment and Economic Growth in Serbia), Faculty of Economics, Belgrade, 2016, p.264.

② For more see: Todić, D., Isoski, Z., "Investicije i zahtevi u pogledu kvaliteta životne sredine" (Investments and requirements in terms of environmental quality) , In: Petrović, P. ed., *Possibilities and Perspectives for Foreign Direct Investments in the Republic of Serbia*, Institute of International Politics and Economics, Belgrade, 2014, pp.276-288.

③ Some elements of the systems of permits, agreements, opinions are important for investment activities are also based on numerous other environmental regulations and/or regulations which are of significance for the environmental field. The analysis is beyond the scope of this chapter.

The basic law (*The Law on Environmental Protection*) contains many provisions which could be potentially relevant for investment activities. According to the provision of Article 103 of the Law, polluter causing environmental pollution is responsible for the occurred damage under the principle of objective responsibility. Environmental impact assessment is one of the instruments of the contemporary environmental policy which includes various procedural and material requirements that are prescribed as obligations of the "project proponent".[①] The environmental impact assessment of the project is being done for the projects planned and realized in the place, including changes in technology, reconstruction, and extension of facilities or winding up of operations, which may result in major environmental pollution or which constitute the risk to human health (Article 36 of *The Law on Environmental Protection*).[②] According to the provisions of Article 59 of *The Law on Waste Management* (issuing and kinds of permits) permits should be obtained for performing one or several activities in waste management and these are as follows: permit for waste collection; permit for waste transport; permit for waste storing; permit for waste treatment, and permit for waste depositing. Depending on the type of investment the basic factor determining the position of the investor is stipulated by the conditions for obtaining the integrated permit which is "the decision of the competent authority adopted in the written form, approving the start up of the whole or of a part of installation, or the execution of the activity, the integral part of which is the documentation

① And it is defined as a "subject applying for a permit or approval for carrying out construction or reconstruction of facilities or other interventions in the nature and natural surroundings" (Article 2, point 3). At the same time, connections with investment applications are most closely established through the notion of "project" defined by the Law which includes the following: "performing of construction works, building in of utilities, installations and equipment, their reconstruction, removal and/or changes in technology, technology of work processes, raw materials, intermediates, energy products and waste; other interventions in the nature and natural surroundings including the works which include exploitation of mineral resources" (Article 2, point 4).

② Environmental impact assessment covers the projects in industry, mining, energy, traffic, tourism, agriculture, forestry, water management and communal activities, and all the projects planned on the protected natural goods and in the protected environment of non-movable culture good.

containing the set conditions which guarantee that such installation or activity is in compliance with the requirements prescribed by this Law" (Article, point 10 of *The Law on Integrated Prevention and Control of Environmental Pollution*).[①] In accordance with the Strategy, in order to ensure a uniform water regime and water management the water management plan and the corresponding technical documentation provide for issuing of water documents. Water documents are as follows: water conditions; water consent; water use permit (Art. 103 of *The Water Law*). Speaking broadly, the relevance of *The Law on Strategic Environmental Impact Assessment* results, among other things, from the fact that it regulates "the conditions, methods and procedure according to which the assessment of impact of certain plans and programmes on the environment ("strategic assessment") shall be carried out in order to provide for the environmental protection and improvement of sustainable development through integration of basic principles of environmental protection into the procedure of preparation and adoption of plans and programmes (Article 1). Planning, regulation and use of space, natural resources, protected areas and ecological network shall be implemented on the basis of spatial and urban development plans, planning and design documentation, bases and programmes for the management and use of natural resources and goods in mining, energy, transport, water management, agriculture, forestry, hunting, fisheries, tourism and other activities affecting the nature, in compliance with measures and conditions of nature protection. Nature protection conditions are issued by the competent institute for nature conservation (Articles 8 and 9 of *The Law on Nature Protection*).

3. RS Membership In International Agreements

(1) RS membership in international environmental agreements

The present status of the Republic of Serbia in international environmental

① For more details on obtaining such kind of a permit, see also other provisions of the Law, and in particular Articles 2-25.

agreements results from several factors, including the overall conditions the state faced in the 1990s as well as those under which it functions at present.① Thus, the status of a member in one part of international agreements is defined by the rules on succession of the Socialist Federal Republic of Yugoslavia, the Federal Republic of Yugoslavia and the State Union of Serbia and Montenegro, while the Republic of Serbia has ratified a part of international agreements in the last dozen years.② Considering as a whole, the status of the Republic of Serbia in international agreements and the implications of such a status can be assessed by applying different criteria. Some issues of ratification procedure can be considered separately from the issues of their implementation. In the former case, we have the problems which should be probably resolved within the context of modernisation of the administration at all levels, while the issues related to the implementation are more complex. The implementation of the most important agreements has not been regulated by national regulations in a strict way depending on what agreement is in question. In some cases, there are elements of good practice in their implementation, but in other cases, some different experiences are present. Strengthening of institutional capacities, economic preconditions and ensuring of funds necessary for the implementation of international agreements in all states in the region which are in the process of EU integration depend on foreign assistance.③

As for universal international agreements, the Republic of Serbia is a member

① The "status" most often implies only the formal membership of a state or any other subject in an international agreement. However, in essence, this notion also includes the real relationship of the state (or any other subject) to the defined obligations and rights. This requires a more detailed analysis.

② Entailing some changes this part is based on the following article: Todić , D. Vukasovi ć V., Ignjatić , M., Ćavoški, A., *Međunarodni ugovori u oblasti životne sredine u funkciji evropskih integracija i region jugoistočne Evrope* (International Environmental Agreements in the Function of European Integration and the South East European Region), Evropski pokret Srbija, Beograd: Evropski pokret u Srbiji, 2011.

③ See: United Nations, *Serbia Environmental Performance Reviews*, Third Review, New York and Geneva, 2015, p.114; United Nations, *Montenegro Environmental Performance Reviews*, Third Review, New York and Geneva, 2015, p.97; United Nations, *Bosnia and Herzegovina Environmental Performance Reviews*, Second Review, New York and Geneva, 2011, p.58.

of a significant part of them in the environmental field (MEAs). They include, for example, the following: The Basel Convention, The Convention on Biodiversity, The Ramsar Convention, CITES Convention, The Framework Convention on Climate Change, The Paris Agreement, The Convention for the Protection of Ozone Layer, etc. As for regional international agreements, the Republic of Serbia has made a significant progress in ratifying the remaining international agreements concluded within the UN Economic Commission for Europe (UNECE). Hence, Serbia is now a member of all key international agreements and they are as follows: *The Convention* on the *Protection and Use of Transboundary Watercourses* and International Lakes, *The Convention on Environmental Impact Assessment in a Transboundary Context*, *The Convention* on the *Transboundary Effects of Industrial Accidents*, *The Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters*.[①] With the exception of the agreement regulating management of common water resources, the practice of making bilateral environmental agreements between RS and the regional states is not much applied.

(2) International agreements on protection of foreign investments of which RS is a member and the environment

There are 68 international agreements on foreign investment of which RS is a member.[②] The biggest number of them (totally 54) is bilateral, or they actually include the agreements which RS has concluded with other states or those in which it has continued to be a member as a successor of former Yugoslavia. Apart from China (the Agreement between the Federal Government of the Federal Republic of Yugoslavia and the Government of the People's Republic of China on Mutual Promotion and

① For more, see: Todić, D., "Vodič kroz EU politike—Životna sredina" (A Guide through EU Policies—The Environment), *Evropski pokret u Srbiji*, Beograd, 2011, pp.371-380.

② There is a list of agreements which have been officially published and included in the database of the Legal-Information System of the Republic of Serbia and Official Journal of the Republic of Serbia, http://www.pravno-informacioni-sistem.rs/SlGlasnikPortal/reg/content/acts?areaId=535&st=true (September 20, 2017). The UNCTAD website contains texts of 54 bilateral investment treaties concluded by Serbia. See: http://investmentpolicyhub.unctad.org/Download/TreatyFile/3360 (October 10, 2017). However, a detailed analysis should also include some other agreements which regulate the fields of economic co-operation, foreign trade co-operation, etc.

Protection of Investments: OJ FRY – Int. Agreements, 4/1996) agreements have also been concluded with the following states: Qatar, Canada, Morocco, United Arab Emirates, Algeria, Indonesia, Azerbaijan, Kazakhstan, Malta, Czech Republic, Portugal, Montenegro, Denmark, Switzerland, Cyprus, Finland, Egypt, Libya, Lithuania, Slovakia, Kuwait, Iran, India, Israel, Belgium-Luxembourg Economic Union, Albania, Great Britain and Northern Ireland, Hungary, Slovenia, Spain, Nigeria, Netherlands, Bosnia and Herzegovina, USA, Croatia, Turkey, Ukraine, Ghana, People's Republic of Korea, Guinea, Zimbabwe, Poland, Macedonia, Belarus, Bulgaria, Romania, Russian Federation, Germany, and Sweden.

The Agreement on Promotion and Protection of Investments between the Republic of Serbia and Canada (OJ RS – Int. Agreements, 9/2015)[①] and the Agreement on Promotion and Protection of Investments between the Republic of Serbia and the Kingdom of Morocco (OJ RS – Int. Agreements, 12/2013)[②] contain explicit environmental provisions. In addition, the agreement with Belgium (OJ RS/Int. Agreements, 18/2004) mentions obligations two parties regarding environmental legislation,[③] and the international environmental

① "The Parties recognize that it is inappropriate to encourage investment by relaxing domestic health, safety or environmental measures. Accordingly, a Party should not waive or otherwise derogate from, or offer to waive or otherwise derogate from, those measures to encourage the establishment, acquisition, expansion or retention in its territory of an investment of an investor. If a Party considers that the other Party has offered such an encouragement, it may request consultations with the other Party and the two Parties shall consult with a view to avoiding the encouragement." (emphasis added) (Article. 15). Environmental principles are mentions in Article 16 (Corporate social responsibilities). See, also Art. 34, and Annex I.

② "Measures that have to be taken by either Contracting Party for reasons of public security, public order, public health or protection of environment shall not be deemed treatment 'less favourable' within the meaning of this Article." (emphasis added) (Art. 2, point 5).

③ Recognizing the right of each Contracting Party to establish its own levels of national environmental protection and environmental development policies and priorities, and to adopt or modify accordingly its environmental legislation, each Contracting Party shall strive to ensure that its legislation provide for high levels of environmental protection and shall strive to continue to improve this legislation (Art. 5, para. 1). In addition, the Contracting Parties recognize that it is inappropriate to encourage investment by relaxing national environmental legislation. Accordingly, each Contracting Party shall strive to ensure that it does not waive or otherwise derogate from, or offer to waive or otherwise derogate from, such legislation as an encouragement for the establishment, maintenance or expansion in its territory of an investment (para 2).

agreements.[1] In Agreement between the Republic of Finland and Serbia and Montenegro on the Promotion and Protection of Investments (OJ SCG – Int. Agreements, 10/2005) "environmental measures" are mention in preamble.[2] Similar provision can be found in Agreement with Swiss Confederation (OJ SCG – Int. Agreements, 3/2006).[3]

4. Conclusion

Although discussions on environmental protection and investments are multi-dimensional, as regards RS, this issue should be investigated primarily within the context of the process of harmonisation of national legislations with EU laws. This is for the fact that membership of RS in the EU as its strategic aim produces significant changes of the whole system of regulations in the environmental field. We can say that the hyper production of regulations is on. A large number of quite new regulations have been adopted and some new instruments have been introduced in the legal system of RS. However, it is not an easy and simple job to establish how these regulations affect investments (whether they have a limiting or stimulating effect or have no special significance). This is particularly for the fact that the implementation of regulations keeps on being a special challenge. It is estimated that in the next twenty years considerable funds will be needed for the implementation of these regulations. The discrepancy between the normative and real aspect

---

① The Contracting Parties reaffirm their commitments under the international environmental agreements, which they have accepted. They shall strive to ensure that such commitments are fully recognized and implemented by their national legislation (para 3). Apart from this, the Contracting Parties recognize that co-operation between them provides enhanced opportunities to improve environmental protection standards. Upon request by either Contacting Party, the other Contracting Party shall accept to hold expert consultations on any matter falling under the purpose of this Article (para 4).

② "Agreeing that these objectives can be achieved without relaxing health, safety and environmental measures of general application" (emphasis added) (p.6).

③ "Convinced that these objectives can be achieved without relaxing health, safety and environmental standards of general application, …" (emphasis added).

has been caused by numerous factors among which some are systemic being beyond the framework of environmental policy and regulations in the strict sense of the word. That should be kept in mind in doing a detailed analysis on this matter. RS is a member of the most important global and regional international environmental agreements. Bilateral agreements RS has concluded in the field of protection of foreign investment mostly do not contain provisions that directly concern the environment or actually the obligations of investors to carry out environmental protection measures. For these reasons, the implementation of environmental regulations and the quality of laws which are being adopted for the purpose of their harmonisation with EU regulations is becoming more important and keeps on being a special challenge for a detailed analysis. Therefore, the relationship between environmental law and international investment law should be analysed minutely.

Legal, Political, and Security Barriers for Chinese FDI in CEE: Case of Poland

Grzegorz Stec*

1. Introduction

In 2016, a flurry of Chinese investments of unprecedented volume of EUR 180 billion—40% more than a year before—was noted worldwide.[①] Due to this sudden increase, Chinese government itself reacted by imposing new regulations aimed at verifying the quality of future investments.[②] Meanwhile, major European states, Germany and France, as well as the European Commission have been voicing concerns over potential negative results of unchecked expansion of Chinese capital in Europe.

At the same time, between 2015 and 2016 the volume of Chinese FDI in Poland nearly doubled moving from EUR 462 million to EUR 936 million according to estimations of MERICS and Rhodium Group.[③] As part of this process, the Polish economy witnessed the biggest Chinese investment up to date—

* Yen Ching Schdar at Peking University, Associate Researcher at the Europedar Institute for Asian Studies.

① Rinke A., Shalal A., "Chinese Foreign Investments up 40 Percent to Record in 2016: Study", *Reuters*, 2017, http://www.reuters.com/article/us-china-inestment-europe/chinese-foreign-investments-up-40-percent-to-record-in-2016-study-idUSKBN14V28P.

② McKenzie, "New Restrictions on China Outbound Investments", *McKenzie*, 2016, http://www.reuters.com/article/us-china-investment-europe/chinese-foreign-investments-up-40-percent-to-record-in-2016-study-idUSKBN14V28P.

③ Hanemann T., Huotari M., *A New Record Year for Chinese Outbound Investment in Europe*, Rhodium Group and MERICS, 2015, https://www.merics.org/en/media-contact/press-releases/a-new-record-year-for-chinese-outbound-investment-in-europe/; Hanemann I., Huotari M., *Record Flows and Growing Imbalances Chinese Investment in Europe in 2016*, Rhodium Group and MERICS, 2016, http://rhg.com/reports/record-flows-and-growing-imbalances-chinese-investment-in-europe-in-2016.

acquisition of an innovative environmental company Novago by China Everbright International.① However, given the increasing concerns over Chinese activity on the European arena, the investment market in Poland may become more demanding due to increasing restrictions. Therefore, facilitating an informed and mature economic cooperation may be more important now than ever before. That is why understanding legal, political and security barriers in China-CEE relations can play a very important role in ensuring smooth economic cooperation.

The following chapter is based on the results of an international project: "Devil in Details: Legal, Political, and Security Barriers for Chinese FDI in Europe". The project was conducted between March and May 2017 at Yenching Academy of Peking University and involved representatives of France, Italy, Spain, Poland, Turkey and Ukraine. The primary goal was to compare the barriers faced by Chinese investors entering the respective Western/Eastern European and EU/Non-EU markets. Such issues as the economic asymmetries between China and its partners, differences in preferred models of investment (green field vs. merges and acquisitions) or differences in business culture (e.g. different concepts of contract) have been subjects of multiple studies. Therefore, within the "Devil in Details" study the emphasis was given to legal, political, and security barriers, as they tend to receive less attention in comparison to the economic and cultural ones.

The project culminated with China Invests in the World Forum,② which took place on the 8th of May 2017 at Peking University, and among others involved a panel discussion between Dr. Qi Bin (Executive Vice President at China Investment Corporation), Sara Marchetta (Vice-President European Chamber of Commerce in China), and Omar Puertas (Managing Partner of Cuatrecasas law firm in China).

This chapter captures main findings related to Poland-as a member of

① Everbright International, "Press Release-Everbright International Completes Acquisition of NOVAGO", *Everbright*, 2016, http://www.ebchinaintl.com/en/investors/press_each.php?id=p160831.

② Yenching Academy, "Yenching Scholars Organized Conference on 'China Invests in the World' ", *Yenching Academy*, 2017, http://yenchingacademy.org/news/811.html.

CEE region-established in the course of the aforementioned project and offers recommendations related to the discussed barriers.

2. Recent Dynamics within Chinese FDI in CEE

The Sino-Polish economic relations have been developing rapidly in the 21st century. The current framework of the relations is based on the Strategic Partnership signed in 2009 and the following upgrade to the level of Comprehensive Strategic Partnership, which happened during President Xi Jinping's visit to Poland in June 2016. In the multilateral frameworks, Sino-Polish relations have been developing positively. The 16+1 China-CEE Cooperation and the Belt and Road Initiative put the Sino-Polish relations in a broader context. Moreover, Poland is one of the founding members of the Asian Infrastructure Investment Bank—the only among the CEE countries. [1]

Nations	Market Size (population, mn)	Purchasing Power(Per-capita GDP,USD)
Albania	2.9	4,200
Bosnia and Herzegovina	3.9	4,300
Bulgaria	7.1	7,400
Croatia	4.2	12,100
Czech Republic	10.6	18,300
Estonia	1.3	17,600
Hungary	9.8	12,800
Latvia	2.0	14,100
Lithuania	2.9	14,900
Macedonia	2.1	5,300
Montenegro	0.6	6,600
Poland	38.0	12,300
Romania	19.8	9,500
Serbia	7.0	5,400
Slovakia	5.4	16,500
Slovenia	2.1	21,300

Figure 1 Market size of CEECs with V4 countries highlighted (2016)

Source: hkmb.hktdc.com.

① Kalìńskì, 2016

Poland is the biggest market among the CEE members of the 16+1 forming on its own 1/3 of the entire CEE market and offering at the same time granting access to the broader European common market (see Figure 1). As of 2014 Poland was one of the six CEECs that attracted 95% of Chinese investments with an estimated EUR 329.4 million of total value.① The most significant investors being: LiuGong Machinery (Huta Stalowa Wola's construction equipment department), and Tri-Ring Group Co. (acquisition of roller bearing factory in Kraśnik).

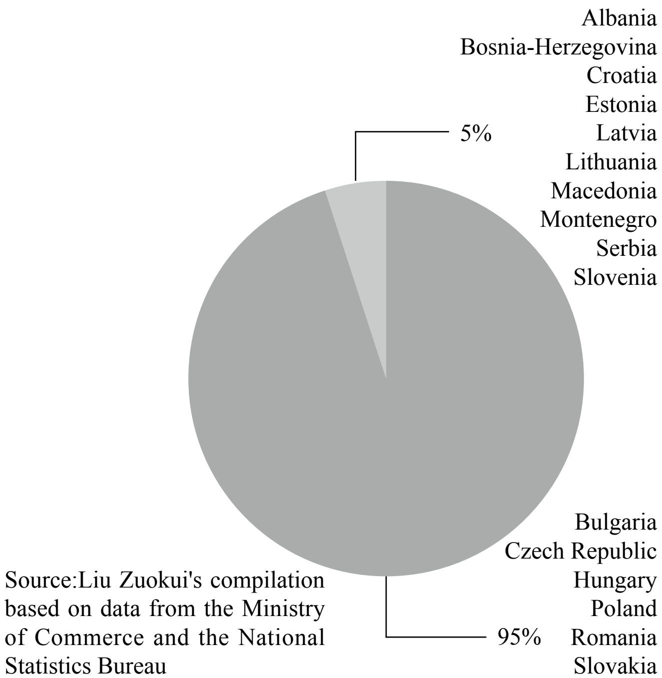


Figure 2 Division of Chinese investments in 16 CEECs by the end of 2014

Quoted from a Secondary source: Kratz A. (2016), "The Best of Both Worlds? CEE's Place in China-Europe Economic Relations", in European Council of Foreign Affairs, *China's Investment in Influence: The Future of 16+1 Cooperation*, http://www.ecfr.eu/publications/summary/chinas_investment_in_influence_the_future_of_161_cooperation7204.

① Kratz A. (2016), "The Best of Both Worlds? CEE's Place in China-Europe Economic Relations", in European Council of Foreign Affairs, *China's Investment in Influence: The Future of 16+1 Cooperation*, http://www.ecfr.eu/publications/summary/chinas_investment_in_influence_the_future_of_161_cooperation7204.

Similarly to the worldwide trend, Poland experienced a significant increase in Chinese FDI over the course of 2016. Two investments in particular impacted the impressive results in that year.

The first one was the acquisition of a Polish waste recycling company Novago by China Everbright International Limited in August 2016. The successful acquisition amounted to a EUR 123 million investment, which covered a EUR 118 million equity purchase price and 5 million land bank.[①] The acquisition took place with the support of the Ministry of Economic Development of the Republic of Poland and the local government of Mława, the town where Novago is registered. The acquisition appears to be a successful case, where a Polish innovative company had an opportunity to scale up with support of Chinese capital and achieve greater international exposure thanks to the new owner.

The second acquisition from October 2016 was an indirect investment as the China Three Gorges Corporation acquired the Portugal EDPR with its 49% of shares in wind farms in Poland worth EUR 289 million, according to estimations.[②]

Consequently, the estimated total value of Chinese investments in Poland by the end of 2016 amounted to EUR 757.6 million according to the information shared by the Economic Section of the Embassy of the Republic of Poland in Beijing. The results of the 2016 surely are impressive and to ensure further smooth cooperation, the remaining barriers for Chinese FDI have to be investigated.

3. Methodology

The research was focussed on a qualitative approach and conducted in a form of semi-structured elite interviews in order to capture the barriers that

① TVN24 , "Gigantyczne przejęcie śmieci w Mławie: 'Jesteśmy otwarci na chiński kapitał' ", *TVN24 Biznes i Świat*, 2016 http://tvn24bis.pl/z-kraju,74/china-everbright-kupila-novago-z-mlawy-najwieksza-chinska-inwestycja,672100.html.

② Enerdata , "EDPR will sell additional Portuguese wind assets to China Three Gorges", *Enerdata*, 2017 https://www.enerdata.net/publications/daily-energy-news/edpr-will-sell-additional-portuguese-wind-assets-china-three-gorges.html.

Chinese investors have to face when entering European markets. Lack of direct contact with Chinese investors active on the CEE market was a clear limitation, as the access to them is significantly restricted. That is why a proxy interview strategy[①] was applied by targeting groups, which interact with the investors over their investments in the CEE region, but at the same time would be more open to share their knowledge and participate in the research.

Public representatives and think tank experts actively participate in interstate relations of the 16+1 and their perspective can reflect the perceptions of the actors involved in the process of facilitating Chinese investments in the region. Whereas, academics researching Chinese investments in the region pursue a more theory grounded perspective, but are also actively engaged in a political and economic relations between China and CEE. Public servants of the receiving country—Poland—provide the other side of the picture granting access to a perspective of recipients, who help to facilitate Chinese FDIs.

The purposeful sample chosen for this research consisted of three think tank experts, three academics and two public servants. Despite the limited size of the sample, the results allow broader extrapolation due to the elite nature of the sample.

The face-to-face interviews were conducted in Beijing and during fieldwork in Shanghai and in Beijing in April 2017 (See Table 1). The interviews had a semi-structured form following the three-dimensional division—legal, political and security challenges—treating, however, the points described below as a stimulus for the discussion. The interviews were conducted in English, Chinese and Polish depending on the preferences of a specific interviewee.

Table 1 Interviews conducted in the course of this project

No.	Name	Affiliation	Background	Time and Place
1.	Interviewee 1	Department Director at the Chinese Academy of Social Sciences	China	April 2017 Beijing

① Cammet M., "Using Proxy Interviewing to Address Sensitive Topics", in Mosley L., ed., *Interview Research in Political Science*, New York: Cornell University Press, 2013.

(Contd.)

No.	Name	Affiliation	Background	Time and Place
2.	Interviewee 2	Professor at Shanghai University of International Business and Economics	China	April 2017 Shanghai
3.	Interviewee 3	Associate Researcher at the Central and Eastern European Center for Asian Studies	China	April 2017 Shanghai
4.	Interviewee 4	Deputy Director at Shanghai Institutes for International Studies	China	April 2017 Shanghai
5.	Interviewee 5	China Representative Office Director at Polish Investment and Trade Agency	Poland	April 2017 Shanghai
6.	Interviewee 6	Professor at Shanghai University of International Business and Economics	China	April 2017 Shanghai
7.	Interviewee 7	Representative of the Embassy of the Republic of Poland in Beijing	Poland	April 2017 Beijing

4. Findings

The research allowed to define particular aspects of political, legal and security barriers faced by Chinese investors entering Polish market, as well as understand a couple of general mechanisms behind Chinese investments.

(1) Mechanism of investments

Chinese private and public FDI's in Poland bare some significant differences in terms of the process of entering the market. Both of them do operate with the same goal—achieving economic gain, however, the political aspect of the public sector makes the entrance of the SOEs to the market considerably more dependent on the quality of political ties (see Interviewee 2, 6, and 7 of Table 1).

The private companies and investors pay attention to their individual perception of the country and its economic performance (see Interviewee 6 of Table 1) turn to the relevant authorities of the receiving country to gather information about the national market more frequently than public ones (see Interviewee 5 of Table 1). They also do not seek or expect to receive as much support from the receiving country, as the public investors, who typically enter the market after a bidding process for realisation of projects agreed high-level bilateral state visits or high-level political summits that highlights the vital role of receiving country's political elites in attracting the investments (see Interviewee of Table 1).

However, such an initial entry is still a subject of scrutinised evaluation before a decision to expand within a market. That is why, as much as it is important to acknowledge the need for a favourable approach from the government of the receiving country, it is at least equally important to help smooth the post-investment process (see Interviewee 2 of Table 1).

It is so, because politically incentivised entrance to the market by a public company is treated as a probe that allows assessing the actual administrative, cultural and legal environment of the country (see Interviewee 2 of Table 1). That means that the full assessment of the potential of the market takes place after the initial investment and is based on the post-investment experience. Depending on that a strategic decision to expand or to withdraw from a market is made.

(2) Political challenges

Political challenges for Chinese FDI in Poland are not particularly tied to the Sino-Polish relations themselves, as these remain favourable due to endeavours of both sides. Polish political elites across the political spectrum reacted positively towards the Chinese proposition of increased engagement. The government of Civic Platform, governing the country between 2007 and October 2015, coordinated the establishment of Strategic Partnership in 2009 and helped to organise the initial 16+1 China-CEE Summit in Warsaw during

Premier Wen Jiabao's visit to Poland in April 2012.[①] Also Law and Justice—political opponent of Civil Platform—running the country since October 2015 seeks positive relations with Beijing, which was translated to such major actions as upgrading the relations to the level of Comprehensive Strategic Partnership during President Xi Jinping's visit to Poland in June 2016 or attendance of the Belt and Road Forum in May 2017 by Prime Minister Beata Szydło at a time when many Western leaders turned down the invitation. However, despite these continuous positive tendencies, some political barriers remain—primarily on the EU level.

Under the doctrine of non-interference Chinese side claims not to have a particular interest in domestic politics of Poland (see Interviewee 1, 4, 6, 7 of Table 1) as long as they are not directly targeting China. Still, the cooling of relations between Visegrad Group countries (Czech Republic, Hungary, Poland, Slovakia) and the EU following the migration crisis did not go unnoticed (see Interviewee 1, 4 of Table 1), as the CEE region is primarily interesting for China in the context of the whole EU. The tensions between the V4 capitals and Brussels can have an impact on Chinese activity in the region, as the EU has long been anxious about the 16+1 being a Chinese "Trojan Horse" within the EU.[②]

China recognises this political concern and since the second 16+1 summit in Bucharest emphasises that the 16+1 framework complements the overall China-EU relations and does not seek to divide it into sections.[③] Moreover, the "Medium Tern Agenda" signed in Suzhou in 2015—a document which outlines the overall plan for China-CEE relations over the course of the following five years-emphasised synergy between 16+1, the Belt and Road Initiative, and

① Simurina J., "Short Term Policy Brief 85: China's Approach to the CEE-16", 2014, http://www.eeas.europa.eu/archives/docs/china/docs/division_ecran/ecran_is107_paper_85_chinas_approach_to_the_cee-16_jurica_simurina_en.pdf.

② Turcsányi R., "Central and Eastern Europe's Courtship with China: Trojan Horse within the EU?", *EIAS*, 2014, http://www.eias.org/publications/eu-asia-at-a-glance/26-eu-asia-at-a-glance-2014/127-eu-asia-at-a-glance-Turcsànyi-cee-china-january-2014.

③ "The Bucharest Guidelines for Cooperation between China and Central and Eastern European Countries", 2013, Ministry of Foreign Affairs of the People's Republic of China, http://www.fmprc.gov.cn/mfa-eng/wjdt_665385/2649_665393/t12224905.

China-EU relations, openly mentioning the complementary nature of 16+1 Cooperation with China-EU 2020 Strategic Agenda.①

Regardless of that, the anxiety of the EU, additionally fuelled by tensions with Hungary or Poland, can be translated to a more meticulous enforcement of regulations and investigation into the quality and circumstances of Chinese investments in the region. The EU Commission's investigation of the Hungarian side of the China led Belgrade-Budapest high-speed railway is an example of that (see Interviewee 1 of Table 1). The agreement related to the long discussed infrastructure project of EUR 1.5 billion to 2.5 billion value was signed during the Suzhou summit in 2015 and was meant to be financed by China's Exim Bank.② However, the implementation slowed down due to investigation by the EU Commission's concerns over potential conditions of China's offer and lack of transparency of the bidding process in assigning the related infrastructure contracts.③ This shows that Brussels is willing to act and has the capacity to significantly affect Chinese FDI in CEE.

Second issue related to the political barriers is the level of preparation of the political elites in Poland and their understanding of cultural and political specificity of China and vice versa. Due to a limited exposure to China-related topics as well as geographic distance and lack of intensive relations between the countries in the years preceding creation of 16+1, achieving mutual understanding between the two partners has been challenging. The infamous case of infrastructure investment by COVEC can serve as an example. In 2009 the company won the contest for construction of a section of A2 motorway by presenting an offer demanding just half of the proposed budget suggested

① "The Medium-Term Agenda for Cooperation between China and Central and Eastern European Countries", Ministry of Foreign Affairs of the People's Republic of China, 2015 http://www.fmprc.gov.cn/mfa-eng/zxxx_622805/t1318038.shtml.

② Dimitrijević D., "Chinese Investments in Serbia—A Joint Pledge for the Future of the New Silk Road", *Baltic Journal of European Studies*, Vol.7 2017.

③ Kynge J., Beesley A., Byrne A., "EU sets Collision Course with China over 'Silk Road' rail project", *Financial Times*, 2017 https://www.ft.com/content/003bad14-f52f-11e6-95ee-f14e55513608.

by the Polish authorities in the bidding process. However, due to initial underestimation of total costs, unexpected increase of the cost of materials and unfavourable approach of the other players on the Polish infrastructure market, COVEC expected to renegotiate the contract with Polish authorities, which is not possible under the jurisdiction of Polish law.[①] Eventually, the company withdrew from the project in 2011. Challenges similar to this different understanding of the concept of contract remain an important limitation.

For instance, Polish side would see Chinese offers of possible engagement or memorandums of understanding as biding, at the same time not providing China with a specific, fitting offer from their own side (see Interviewee 2, 4, 6, 7 of Table 1). This gap makes it hard for the two sides to engage meaningfully, as they come to the negotiating table with different expectations and misinterpret partners' actions. It is a significant barrier for engagement between the public Chinese investors, often tied to the political realm.

However, in this regard it is important to acknowledge that the process of achieving mutual understanding is clearly ongoing—as a result of more frequent relations based on the 16+1 framework. For instance, during the agreement signing ceremony related to acquisition of Novago by China Everbright International in August 2016, Vice Minister of Economic Development Rafał Domagalski emphasised that as the government: "We promote the projects related to high-technology transfer, which is why the investments in innovation, research and development and modern services sector enjoy support of the Polish government".[②]

It is important to find a common ground between the interests of the two partners and giving more space to high-tech and innovation investments and cooperation can be the road forward, as both countries are emphasising the

① Kanarek P., "Perspectives for Development of China-EU Relations in the Infrastructure Investment Sector: A Case Study of COVEC's Investment in Poland", *Journal of Political Risk*, 2017, http://www.jpolrisk.com/perspectives-for-development-of-china-eu-relations-in-the-infrastructure-investment-sector-a-case-study-of-covecs-investment-in-poland/#more-1431.

② Ministry of Economic Development, "China Everbright International zainwestuje w mławską firmę Novago", *Ministerstwo Rozwoju*, 2016, https://www.mr.gov.pl/strony/aktualnosci/china-everbright-international-zainwestuje-w-mlawska-firme-novago/.

importance of developing innovation-based economy.

(3) Legal challenges

In relation to legal barriers, two issues seem to be dominant—the overall understanding of the structure of Polish law as well as the labour law specifically.

The first aspect comes from a confusion of the Chinese side when it comes to the relationship between the national law and the European one (see Interviewee 4 of Table 1). This also has an impact on the aforementioned political misunderstandings, as the Chinese public investors would expect preferential treatment to be provided by the local governments in Poland as a show of their good will and willingness to set up cooperation e.g. as a reduced prices of land for Chinese projects (see Interviewee 4 of Table 1). That cannot be provided by the Polish side, due to the legal constraints of the country and of the EU, which does not allow subsidising projects and require the contracts to be assigned through competitions. For Chinese part that appears to be a lack of elasticity and motivation to make the cooperation succeed (see Interviewee 5 of Table 1), whereas on the Polish side it can be taken as an attempt to breach the rules it has to uphold.

Finally, the labour law is perceived by many Chinese investors as confusing and granting a strong position to the trade unions (see Interviewees 1, 2, 4, 6 of Table 1). This issue seems to play a role for instance in regards to the investment by Chinese LiuGong Group that in 2012 purchased the civil section of a steel company—Huta Stalowa Wola. During the acquisition the workers were promised a 4-5 years long employment warranty, however, in 2014 the company started a voluntary leave programme offering compensations, which were unsatisfying for the workers, which caused tensions between the trade union and management.[①] However, aside from the management issues, there

---

① Molga T., "Kupili, żeby zlikwidować? Największa chiń ska inwestycja w Polsce: miały być nowe technologie i rynki zbytu. A są straty", *na:Temat*, 2014, http://natemat.pl/95831,kupili-zeby-zlikwidowac-najwieksza-chinska-inwestycja-w-polsce-mialy-byc-nowe-technologie-i-rynki-zbytu-a-sa-straty-i-program-zw.

is also the economic rationale. As mentioned by one of the interviewees (see Interviewee 4 of Table 1), hiring local workers is more costly than hiring Chinese employees, who are also more eager to work overtime in comparison to their local counterparts.

It makes the investors anxious about hiring employees coming from the recipient country, therefore, limiting the scope of possible Chinese investments. Particularly ones involving hiring local employees, Additionally, this phenomena limits the interactions between Chinese investors and Polish managers or employees making the conceptual gap harder to bridge.

(4) Security challenges

None of the interviewees referred to the security dimension as posing a particularly significant challenge for Chinese investment coming to Poland as of now.

However, this can change together with the overall shift towards a more cautious approach towards Chinese investments taking place in EU. If affected by it, Polish political elites' perception of national security interests can have an impact on Chinese economic presence in Poland. According to information acquired from a representative of a major Chinese energy-sector company, such cases have already occurred. During an attempted acquisition of a coal mine in Poland, despite the fact that the mine was private, the Polish government attempted to impose restrictions and conditions to the deal allowing government an indirect control over strategic decisions within the company by emphasising the impact on the national energy-security. As a result the negotiations failed.

A more cautious approach to welcoming Chinese capital is becoming more popular across Europe. For instance, Germany already introduced new regulations allowing the government to block foreign acquisitions, which could risk losing critical technologies to foreign actors.[①] Also the recently elected President of

① Barbaglia P., Wagner R., Schuetze A., "Germany sets EU Tone with Tighter Curbs on Foreign Takeovers", *Reuters*, 2017, https://www.reuters.com/article/us-germany-m-a/germany-sets-eu-tone-with-tighter-curbs-on-foreign-takeovers-idUSKBN19W2R6.

France Emmanuel Macron has been voicing his concerns over the rapid increase in Chinese acquisitions taking place across Europe.[①] And on September 13, of 2017, the EU Commission issued a proposition of a new framework for screening FDI coming into EU. This project, although still in the political pipeline, clearly is going to receive support from major EU players and is likely to have implications as a barrier for some of the Chinese investments in Poland and CEE at large.[②] According to it, one of the obligations of the Member states are going to be obliged to inform the Commission about screening processes of FDI within annual reports. Moreover, much room has been left for interpretation of specific security challenges, as the Article 12 of the Proposal reads:

> In determining whether a foreign direct investment may affect security or public order, Member States and the Commission should be able to consider all relevant factors, including the effects on critical infrastructure, technologies, including key enabling technologies, and inputs which are essential for security or the maintenance of public order, [···]. In that regard, Member States and the Commission should also be able to take into account whether a foreign investor is controlled directly or indirectly (e.g. through significant funding, including subsidies) by the government of a third country.[③]

Given Brussels' unfavourable stance towards Chinese presence in CEE

① Hutt D., "What French President Macron's Dispute with Chinese Trade Could Mean for Asia", *Forbes*, 2017, https://www.forbes.com/sites/davidhutt/2017/08/17/what-french-president-macrons-dispute-with-chinese-trade-could-mean-for-asia/#2732ef66c66d.

② European Commission, "Proposal for a Regulation of the European Parliament and of the Council Establishing a Framework for Screening of Foreign Direct Investments into the European Union", September 13, 2017 https://ec.europa.eu/transparency/regdoc/rep/1/2017/EN/COM-2017-487-F1-EN-MAIN-PART-1.PDF.

③ European Commission (2017), "Proposal for a Regulation of the European Parliament and of the Council Establishing a Framework for Screening of Foreign Direct Investments into the European Union", September 13, 2017 https://ec.europa.eu/transparency/regdoc/rep/1/2017/EN/COM-2017-487-F1-EN-MAIN-PART-1.PDF.

since the creation of 16+1,[①] the new regulations can be used to keep Chinese investments in CEE in check. And the case of EU Commission's inquiry into the Hungarian part of the Belgrade-Budapest railway shows that the Commission will not shy away from using its prerogatives, when it deems necessary.[②] Of course, any major disruptions can be avoided by ensuring that the prospect investments do not collide with EU regulations, but that once again requires understanding of the relations between national and EU law—issue indicated by interviewees as a challenge to some of the investors.

5. Conclusions and Recommendations

This research showed that political and legal issues present some constraints for the inflow of Chinese FDI to Poland and that there is room for improvement. The security aspects do not seem to present a significant challenge for Chinese FDIs in Poland as of now, but this may be a subject of change in the upcoming years. It is so, as the discourse related to security implications of welcoming Chinese FDI is shifting in Europe moving towards a more cautious or even reserved approach.

It appears that the key factors behind the political and legal barriers are conceptual gaps between Chinese and Polish side. Those gaps have implications for the wider CEE region, particularly for the EU member states among the 16. In the Polish case, the lack of understanding of the interrelation between the country and the EU is a major problem for Chinese investors. That comes as a primary issue in all three researched dimensions, as multiple Chinese economic actors struggle with understanding the nature of the EU itself and acknowledging that CEE Member states have to strictly abide to EU's

① Turcsányi R., "Central and Eastern Europe's Courtship with China: Trojan Horse within the EU?", *EIAS*, 2014, http://www.eias.org/publications/eu-asia-at-a-glance/26-eu-asia-at-a-glance-2014/127-eu-asia-at-a-glance-Turcsànyi-cee-china-january-2014.

② Kynge J., Beesley A., Byrne A., "EU sets Collision Course with China over 'Silk Road' rail project", *Financial Times*, 2017, https://www.ft.com/content/003bad14-f52f-11e6-95ee-f14e55513608.

legal framework and are also themselves influenced by EU politics. Related to that are the misunderstandings and misinterpretations of mutual expectations and actions, e.g. as shown in the case of collision upholding of the legal framework on the Polish side while the Chinese side interprets it as lack of will to cooperate.

This conceptual gap is not based on lack of knowledge or access to information, but rather lack of in-depth understanding (see Interviewee 6 of Table 1). That means that it is imperative to improve people-to-people exchange and increase the quality of human capital engaged in the China-CEE relations. It is particularly important now, when the political and legal circumstances are bound to become more challenging. Political barriers related to the European Union and the 16+1 initiative similarly can mostly be tackled by building trust in relations with China, which can only come from extensive exposure related to increased cooperation.

That is why, it can be of benefit to Sino-Polish economic relations to make use of the political dynamics and resources offered by two frameworks-the 16+1 initiative and Belt and Road Initiative. Many of the projects conducted under their umbrella help to build the human capital infrastructure and this kind of infrastructure will play a crucial role in breaching the barriers faced by investors—be it political understanding of the two countries or proper insight into the legal frameworks of the partners. And clearly there is political will on the Chinese side to further intensify the people-to-people exchange, as during the Belt and Road Forum in May 2017 President Xi Jinping emphasised that: "We should establish a multi-tiered mechanism for cultural and people-to-people exchanges, build more cooperation platforms and open more cooperation channels".①

In relation to these findings I put forward the following recommendations: First, it is important for the relevant national institutions to focus not only on

① "Full Text of President Xi's Speech at Opening of Belt and Road Forum", *Xinhua*, May 14, 2017 http://news.xinhuanet.com/english/2017-05/14/c_136282982.htm.

attracting the investments, but also on supporting the projects at later stages. Providing this kind of assistance can significantly improve the quality of the cooperation and convince the Chinese companies within the region to intensify their presence within the market. Moreover, creating specific institution or posts within the existing institutions making use of China specialists coming from Poland can minimise the misunderstandings and limit the opportunity costs.

Second, it is important to create easily accessible materials explaining national labour law and presenting cases of successful cooperation. That could help in mitigating the reservations of the Chinese investors towards hiring locals, which is of major interest to the Polish government, which would welcome creation of new work places.

Third, especially with President Xi announcing the innovation to be the "driving force of the economy" in his work report during the 19th National Congress of the Communist Party of China[①] there is much room for focusing on this dimension of the cooperation. It resonates well with the standpoint of the Polish government and could help to bring about political will for facilitating Chinese funding for innovative companies or research and development.

Finally, media, think tanks and academia also have an important role to play as Sino-Polish cooperation has to make its way into the mainstream discourse in order to become known to the national politicians and business environment. That is particularly important, as Sino-Polish and 16+1 at large have been developing after a long period of low level engagement, "coming from nowhere".[②]

The dominant issue in terms of barriers in Sino-Polish relations remains a cognitive gap. A three dimensional model of cooperation building (see Figure 4)

---

① Xi Jinping., "Secure a Decisive Victory in Building a Moderately Prosperous Society in All Respects and Strive for the Great Success of Socialism with Chinese Characteristics for a New Era", 2017, http://www.Xinhuanet.com/english/download/Xi_Jinping's_report_at_19th_CPC_National_Congress.pdf.

② Turcsányi R., Qiaoan R., Kříž Z., "Coming From Nowhere: the Chinese Perception of the Concept of Central Europe", *Masaryk University*, 2012, http://repozytorium.uni.lodz.pl:8080/xmlui/bitstream/handle/11089/11318/11.155_171_kriz.pdf?sequence=1&isAllowed=y.

outlines the process of solving this issue and clearly emphasises the importance of developing the human capital infrastructure. According to it, cooperation is a closed, positively vicious circle. What allows any cooperation to thrive is well informed actions, which take under account not only the information related to a specific place, but also interpret these information in an appropriate context. Only such an approach can lead to a truly well-informed and effective cooperation.

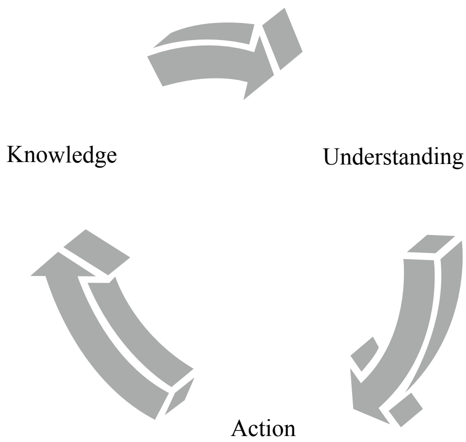


Figure 4 Three dimensional model of cooperation building

Every interaction brings about greater understanding, but a practice-based learning process requires being ready to pay high costs. Building human infrastructure may allow to cut them and move away from trial-error strategy and facilitate better, more efficient circumstances for Chinese FDI in Poland and in CEE at large.

Legal Obstacles for Chinese Companies Investing in the Infrastructure Construction in the Europe an Union: from a Labour Law Perspective*

Liu Kai**

1. Introduction

In the context of the *Budapest Guidelines* signed by the 6th China-CEE Summit—which was held in Riga, Latvia in 2016, and further implemented the 16+1 cooperation framework in an all-round manner —, China-EU cooperation is increasingly strengthened. Directives passed at the Riga summit 2016 effectively tightened Chinese-CEE cooperation in the areas of relations among citizens, financing cooperation and the green economy, the food industry, as well as infrastructure developments. Generally speaking, China is increasingly investing in Europe[③]. This reflected by the fact that Chinese investors are gearing up for more infrastructure investment in Europe as part of the efforts to expand international trade in response to President Xi Jinping's ambitious Belt

* This research cannot be finished without the support from my beloved wife Li Qing and my baby daughter Liu Zhixian (Anan).

** Faculty of Economics, Law and Governance, Utrecht University, the Netherlands, Room 1.16, No.200 at AchterSint-pieter, Utrecht City, the Netherlands Postcode: 3062 TL Email: k. liu@uu. nl

③ See Tom Mitchell, Guy "Chazan and Don Weinland. Chinese Investment In Eu Dwarfs Flow The Other Way", *Financial Times*, https://www.ft.com/content/79e3a2b2-d6f7-11e6-944b-e7eb37a6aa8e; see also Jeremy Clegg and Hinrich Voss, "Chinese Overseas Direct Investment in The European Union. Europe China Research and Advice Network", https://www.eu-china.net/upload/pdf/materialien/12-08_ECRAN_Chinese_direct_investment_in_the_EU.pdf.

and Road Initiative[①].

This research is aimed to examine the labour law system of the European Union (EU) in order to locate out the legal obstacles which exist concerning the investment by the companies from China, and at the same time to put forward possible solutions from the labour law perspective. Generally, the EU, under the Treaty on the Functioning of the European Union, article 153(1) is able to use the ordinary legislation procedure on a list of labour law fields. Meanwhile, it is also noted that labour law and employment law have though slight difference: Labour law generally applies to work environments where the employee is subject to collective bargaining and is a member of a union, while employment law generally deals with individual employment contracts in which the employee is not either a member of a union or bound by a collective bargaining agreement; yet, this difference is too slight that in this research the two terms are exchangeable.

2. The Sources of European Union Labour Law

The goal of the European Union as found in the preamble of The Treaty on Functioning of the European Union is "the constant improvements of the living and working conditions of their peoples" . EU policies in the labour law filed have sought to achieve high employment & strong social protection, to improve living & working conditions, and to protect social cohesion[②]. It protects the rights of workers across the EU. Generally speaking, the EU labour law covers areas as wide-range as: (1) conditions of employment eg working time, part-time and fixed-term work, posting of workers, discrimination, equal pay and the protection of pregnant workers; (2) informing and consulting

① See Ivana Casaburi, "Chinese investment trends in Europe2016-17 Report", China Europe Club, http://itemsweb.esade.edu/research/esadegeo/ChineseInvestmentTrendsInEurope.pdf; see also Baker McKenzie, "Chinese Investment Tripled in US in 2016, Doubled in Europe", *China Business Review*, available at: https://www.chinabusinessreview.com/chinese-investment-tripled-in-us-in-2016-doubled-in-europe/.

② European Commission, "Employment, Social Affairs and Inclusion", http://ec.europa.eu/social/main.jsp?catId=157.

workers in collective redundancy and business transfer situations; (3) protection of personal data. The EU labour law framework has a layered structure. According to Fisher et al., in the European Union, laws are divided into the first layer and the second layer legislations. The firs layer consists of the primary laws(treaties), which are the basis or foundation for European Union actions. The second layer legislation is derived from the objectives of the primary treaties, and this secondary legislation takes the form of regulations, unilateral acts, directives and decisions[①].

Specifically speaking, the first layer, namely, the primary labor laws governing the European Union member states are found in:

The Treaty on Functioning of the European Union in Articles 145-164.

European Convention on Human Rights articles 4,6, 9,10 and 11

European Social Charter 1961

Community Charter of the Fundamental Social Rights of Workers 1989

The second layer legislations consist of a group of Directives which create a range of individual rights in EU employment relationships. According to the research by Roger Blanpain, the objective of transnational regulation is to progressively raise the minimum floor in line with economic development[②]. Functionally, the laws set forth by the European Union set minimum standards for member states to follow and exceed if those countries so chose. In addition to the guidelines set forth by The Treaty on Functioning of the European Union, additional case law governs topics like equality and employment contracts. Although, as mentioned above, the focus of this research is limited to the diverse aspects as follows: wage issue, collective bargaining, working time issue, migrant worker, health and safety, for the reason that these issues in labour law are usually of high relevance to international investment[③]. From

① Clifford Fisher, Cara Putman and Alborz (Al) Hassani, "European Union Labor Law: A Comparison Between the Labor Laws of the United States and the European Union", *The Business and Management Review*, 2016.

② See Chapter 1 in Roger Blanpain, *European Labour Law*, Kluwer Law International, 2008.

③ See Saskia Sassen, *The Mobility of Labor and Capital: A Study in International Investment and Labor Flow*, Cambridge University Press, 1990.

these aspects, this research will probe into what obstacles the EU labour law will cause to the Chinese investors of infrastructure projects.

3. Minimum Wage

Minimum wage issue is highly related to the economic development of a MS in the view of the EU. Therefore, it is primarily left to the Member States to regulate. Meanwhile, at the EU level, there is even an absence of a requirement for the MS to introduce national minimum wages, although there are ongoing calls in the EU Parliament for adopting such requirement in the EU law[①]. Consequently, the situations are varying among the EU states, which is perhaps confusing for Chinese investors.

Regarding whether providing a minimum wage in the national law, different member states have different approaches. According to the Eurofound statistics, 22 out of 28 EU countries apply a generally binding statutory minimum wage. These Member States include Belgium, Bulgaria, Croatia, Czech Republic, Estonia, France, Germany, Greece, Hungary, Ireland, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain and United Kingdom[②]. For instance, the German law provides a statutory minimum wage of EUR 8.84 per hour which generally applies to all employees in all sectors of business.

By comparison, in the majority of EU Member States such as Austria, Denmark, Finland, Italy and Sweden, where there is no statutory minimum wage, the minimum wage level is de facto set in (sectoral) collective agreements[③]. These agreements can become generally binding. For example, in Finland, a

① Catherine Stupp and Cécile Barbière, "MEPs Call For EU law Requiring Minimum Wage In Every Country", EURACTIV, https://www.euractiv.com/section/social-europe-jobs/news/meps-call-for-eu-law-requiring-national-minimum-wage-in-every-country/.

② European Foundation for the Improvement of Living and Working Conditions, *Statutory minimum wages in the EU 2016*, https://www.eurofound.europa.eu/observatories/eurwork/articles/working-conditions-industrial-relations/statutory-minimum-wages-in-the-eu-2016.

③ Ibid..

public commission under the Ministry of Social Affairs and Health formally decides whether collective agreements are generally binding. Another example is Italy, where while such agreements only apply to enterprises and workers that are members of the bargaining social partners, case law adopts collectively agreed minimum wages as a reference for other employees as well, significantly incentivising their adoption by employers which are not affiliated to signatory employer organisations. In Cyprus, the level of minimum wages is set annually by the government in consultation with the social partners and is enforced by a decree of the Council of Ministers[①]. This means the level of minimum wages can be changing from year to year, at least theoretically speaking. In this regard, it brings about a labour cost uncertainty to infrastructure investors. Nevertheless, a common approach is observed from these states when they regulate the minimum wage issue. That is, social partners are actively involved in negotiating the minimum wage through collective bargaining, which is mostly in the form of the legal instrument Tripartite Councils[②]. Regarding the important role of collective bargaining, or in other words, the involvement of social partners, it will be further discussed later in this research.

4. Working Time

Working time is one of the most important areas of employment policy where the EU has intervened through legislation[③]. It is also seen as the grey area between traditional health and safety measures and the rights of employed persons[④]. In the field of working time issue, as compiled by Catherine, the legal

① European Foundation for the Improvement of Living and Working Conditions, *Statutory minimum wages in the EU 2016*, https://www.eurofound.europa.eu/observatories/eurwork/articles/working-conditions-industrial-relations/statutory-minimum-wages-in-the-eu-2016.

② Heribert Kohl and Hans-Wolfgang Platzer, "The Role of The State In Central And Eastern European Industrial Relations: The Case Of Minimum Wages", *Industrial Relations Journal*, Vol.38, No.6, 2007, pp.614-635.

③ Eurofound, *Working Time And Work-Life Balance*, https://www.eurofound.europa.eu/observatories/eurwork/about-eurwork/working-time-and-work-life-balance.

④ Catherine Barnard, *EU Employment Law*, Oxford: Oxford University Press, 2012, p.533.

instruments include a Council Recommendation of 1975 on the principle of 40-hour week and four weeks' annual paid holiday, and a Resolution of 1979 on the adaptation of working time, the Working Time Directive 93/104/EEC and the Young Workers' Directive 94/33/EC[①]. Compared the former two which focused the reduction in working time, the latter two more on the duration and organization of working time so that an improvement in the living of workers can be improved across the EU[②].

The Working Time Directiverequires EU Member States to guarantee specific rights regarding working time to all workers, such as minimum periods of rest, annual leave, maximum weekly working time and limits to night and shift work. The working time issue is in nature of relevance to the health and safety issue (see hereafter), because research showed that weekly working time of more than 50 hours could, in the long run, be harmful to health and safety, that working weeks of more than six days showed some correlation with health problems including fatigue and disturbed sleep, and that longer working hours substantially increased the probability of accidents at work[③].

Among the working time issues, the in-work break requirement shall be paid particular attention to. This requirement is laid down in the Working Time Directive. If the working day is longer than six hours every worker is entitled to an in-work rest break, the details of which, including the duration of the break and the terms on which it is taken must, by preference, be laid down by collective agreement between the two sides of industry or, failing that, by national legislation[④]. This requirement is new to the Chinese investors, because in-work rest break is not mandatory in the Chinese law. The Chinese investors, when investing infrastructure in Europe, shall pay particularly attention to this as the projects usually utilizing large amount of manual workers. Failing to

① Catherine Barnard, *EU Employment Law*, Oxford: Oxford University Press, 2012, p.534.

② Ibid..

③ These evidences are from some studies cited by the European Commission when it considered reducing working time. See Catherine Barnard, *EU Employment Law*, Oxford Oxford University Press, 2012, p.534.

④ Article 4 of Working Time Directive.

comply with the in-work requirement might lead to not only financial risks, such as fines and sanctions, but also a political risk—striking. It shall be noted that the social partners are invited to negotiate on this issue. Therefore, the working time is of relevance to the issue of the involvement of the representing bodies.

5. Migrant Worker

This is an issue for the Chinese infrastructure investors because the infrastructure projects usually employ Chinese workers brought abroad by construction companies. This is reflected in the fact that the number of Chinese workers abroad has significantly increased in the past decades. These workers are seen as migrant workers. And EU regulates the migrant worker issue at the Union level. and the migrant worker issue is not new to the Union particularly after a massive westward migration after the accession of eastern European countries, due to existing wage differences between eastern and western European countries[①]. The EU law sees the rights of free movement of persons the cornerstone of the Union[②].

According to Barnard's compilation, the EU system also empowers the migrant workers the right to family reunification. The Family Reunification Directive 2003/86 was the first and primary one among the measures put forward by EU Commission. According to it, the right to reunification is dependent on evidence of the existence of accommodation for a comparable family in the same region, sickness insurance for the family members, and stable and regular resources which are higher than or equal to the level of resources which are sufficient to maintain the sponsor and the family members. Furthermore, the Directive allows Member States to require the workers' family members to comply with integration measures, such as attending language

① Hans-Werner Sinn. EU Enlargement and The Future Of The Welfare State. CESifo Working Paper, https://www.econstor.eu/bitstream/10419/75552/1/cesifo_wp307.pdf.

② Catherine Barnard, *EU Employment Law*, Oxford Oxford University Press, 2012, p.249.

courses, in order to ensure the integration of them[①].

Again, according to Barnard's compilation, regarding the long-term residence, the Long Term Residents' Directive 2003/109 is to establish a common status of long-term resident for those migrant workers who have resided legally and continuously for five years in the territory of the MS concerned[②]. At the same time, a long-term residence permit, valid for at least five years, will be granted where the worker has adequate resources and sickness insurance. It is automatically renewable on expiry[③].

In both cases, namely, family reunification and long-term residence, due to the family members' coming to the state concerned and long-term residence of the worker, the labour cost and mobility might be increasing. These have a risk of bringing extra cost to the Chinese infrastructure investors, and therefore are of importance for them to know the system before investing.

6. Health and Safety

Health and safety is an important issue of infrastructure construction as a labor-intensive industry, as such being of relevance to the infrastructure investors. In the EU system, it is one of the issues the Union has been concerned since its inception[④]. Nowadays, the EU has established a comprehensive health and safety law framework built on the Directive 89/391[⑤]. According to it, the employers are generally obliged to ensure health and safety is managed carefully on an infrastructure construction needs. This general duty has been transposed by all Member States respectively in their national laws, though being variously described. As compiled by Catherine who gave the examples of Belgium, Italy and the UK: the duty to ensure "with the diligence of a good

① Catherine Barnard, *EU Employment Law*, Oxford Oxford University Press, 2012, pp.180-182.
② Ibid., pp.182-183.
③ Ibid., pp.183-184.
④ Catherine Barnard, *EU Employment Law*, Oxford: Oxford University Press, 2012, p.501.
⑤ See Article 5.1 of Directive 89/391.

father' that work takes place in suitable conditions for health and safety and to observe the requirements of law" (Belgium); "to take measures necessary in relation to the type of work and the state of technology to protect the physical and mental welfare for employees' and to observe the requirements of the law" (Italy); and "to ensure so far as reasonably practicable the health, safety, and welfare of all employees" (UK)[①]. Under the general duty, the employers are accorded the obligations, such as risk assessment, health and safety training providing, and combatting the dangers at source. The employee is empowered to stop work in case of imminent dangers. These are all transposed into national laws[②]. In practicing out the health and safety laws, as a matter of fact, the eastern Europe is generally performing worse than the western member states. For example, in recent years Latvia has ranked either the worst or second-worst performer in terms of workplace fatalities in Europe, at approximately six per 100,000 employees, approximately 50 percent above EU averages. As pointed out by Woolfson, this is exacerbated by weak enforcement and low financial penalties for safety law violations[③].

In addition to physical hazards, the EU system also protect workers against sexual harassment. Article 2(1)(d) of the Equality Treatment Directive defines it as the situation "where any form of unwanted verbal, non-verbal or physical conduct of a sexual nature occurs, with the purpose of violating the dignity of a person, in particular when creating an intimidating, hostile, degrading, humiliating, or offensive environment". As pointed out by Barnard, sexual harassment is a distinct concept covering situation where the behavior is sexual in nature, rather than on the ground of a person's sex[④]. The Directive requires MS to encourage employers and those responsible for access to vocational

① Catherine Barnard, *EU Employment Law*, Oxford: Oxford University Press, 2012, p.502.

② Kai Liu and Wen Liu, "The Development of EU Law in the Field of Occupational Health and Safety: A New Way of Thinking", *Management and Labour Studies*, Vol.40, No.3, 2015, pp.1-32.

③ Charles Woolfson, "Labour Standards and Migration in the New Europe: Post-Communist Legacies and Perspectives", http://www.ssoar.info/ssoar/bitstream/handle/document/22280/ssoar-eurjindrel-2007-2-woolfson-labour_standards_and_migration_in.pdf?sequence=1.

④ Catherine Barnard, *EU Employment Law*, Oxford: Oxford University Press, 2012, pp.358-359.

training to "take measures to prevent all forms of discrimination on ground of sex, in particular sexual harassment at the workplace" ①. Also, like observed in other issues, social partnerswhich are mainly in the form of the workers' representatives are also empowered to formulating detailed. At the same time, because the infrastructure.

7. Social Partners and Collective Bargaining

The social partners are the bodies representing the two sides of industry: the employers and the employees. They are essential participators in rule-formulating in many sectors in the EU system②. Collective bargaining is a fundamental principle of the EU labour law. The fundamental principle of labour law is that employees' unequal bargaining power justifies substitution of rules in property and contract with positive social rights so that people may earn a living to fully participate in a democratic society. In practice, the Union has focused particular attention on encouraging dialogue between workers/their representatives and their employers③. In this regard, the European trade unions have a key role in implementing a policy in the following sectors concerned in this research: European minimum wage, working time, and health and safety (see the above sections: 3 to 7). As concluded by Schulten et al., they can develop their own concept in the above sectors④. At the same time, as pointed out by Barnard, participation can be regarded as a generic term embracing all types of industrial democracy, ranging from information, consultation, and collective bargaining, to more extensive involvement in the employers' decision making⑤. Barnard's classification of worker's involvement is helpful to

① Article 26 of the Equality Treatment Directive.
② See Anthony B. Atkinson, The EU and Social Inclusion: Facing the challenges (2nd). Policy Press, 2009.
③ Catherine Barnard, *EU Employment Law*, Oxford: Oxford University Press, 2012, p.658.
④ Thorsten Schulten, Andreas Rieger, Beat Ringger, Hans Baumann, Michel Husson and Antoine Math, "Theses for a European Minimum Wage Policy", CLR-NEWS, http://clr-news.org/CLR-News/CLR%20News%203-2005.pdf#page=54.
⑤ Catherine Barnard, *EU Employment Law*, Oxford: Oxford University Press, 2012, p.658.

studying the roles of industrial democracy in legal studies, because it provides an exhausted list of different types of workers' participation at the industrial level.

As repeatedly pointed out before, the infrastructure construction is per se an labour-intensive activity. Consequently, the social partners participation is in nature a new phenomenon to Chinese investors in infrastructure. The impact of the participation shall be of concern to the investors. For example, resources that are devoted to the participation shall be considered when the investors make the investment plans. But, all the detailed impacts will be further discussed in the following discussion section.

8. Discussion

It is argued that the EU has established a comprehensive labour law framework. Based on the above observations, the EU labour law system might present legal obstacles to the Chinese infrastructure investors from several aspects as follows:

Firstly, as noted in section 3, the minimum wage issue is not regulated at the European Union level. Instead, it is left to Member States. Some Member States regulate this issue primarily on collective agreements. As such, it is not possible to formulate a unified legal strategy to deal with wage issue arising from China's infrastructure investment across the European Union. Instead, the effective solution might be that the investors shall study beforehand what the approach is taken in the legal system of the targeted member state that they are going to invest in. That is to say, to make different investment policies regarding minimum wage towards different Member States.

Secondly, under the working-time issue, the EU law has provided an in-work break requirement. As demonstrated before in section 4, this requirement is a new phenomenon to the Chinese investors. Violation of the requirement might lead to administrative sanctions from the labour inspections, from the legal perspective; and striking, from the industrial relation perspective. As such, the Chinese infrastructure investors shall choose contractors which are competent to carry out the obligation to providing workers in-work break, or outside services. When the investors make investment plans, they shall have apart budget for providing in-work break facilities such asbreak rooms, coffee, comfortable seating.

Thirdly, migrant worker issue has the legal impact on the infrastructure investor. As a usual practice, the infrastructure companies bring almost all the workers from China. These workers, as analyzed in section 5, are entitled to apply for family reunification and long-term resident permit after some certain years of working, if meeting the legal requirements. This needs not only the infrastructure investors be acknowledged of the workers' entitlements in this field, but also provide relating resources to assist the workers to exercise their rights. However, as a matter of fact, this will increase the cost born by the investors: on the one hand, providing resources and assistance cost money; on the other hand, particularly in case where the workers have obtained long-term resident permit, they are then free to work elsewhere, not limited to the infrastructure construction anymore. In this case, they may swift to occupation with better payment. And the infrastructure construction has to recruit new workers instead. This also increases their costs.

Fourthly, the issue involved workers representing bodies. Free collective bargaining is highly valued in Europe. The EU law system contains juridical clauses concerning how collective bargaining has to be put into practice and how it is intended to work. The involvement of worker representing bodies is also relevant to other legal issues examined in this research, as they are also empowered to negotiate on health and safety issues, work time issues, health and safety, etc. This is an obstacle to Chinese fundamental infrastructure investors, partly because, the Chinese legal system has not established such an institution in its law system; and partly because the free collective bargaining has been exposed to continuous assaults by conservative and liberal forces due to the fears of making the Chines industries uncompetitive.

A possible solution might be that Chinese companies should therefore consider implementing their own policies that afford employees collective bargaining power. At the same time, it is also noted that an open internal channel with worker representatives would go a long way to both ensuring employee satisfaction and preventing disruption. In this regard, Chinese companies shall try to understand the European labour right to engage in collective bargaining in both law and practice.

9. Final Remarks

All of the above issues are presenting potential legal obstacles arising from the labourlaw which the Chinese infrastructure investors might face when they invest in the European Union. As former statesman and reformist Xiaoping Deng said “move steadily and look before you leap”, a better solution might be as simply as “best try while best learn” .

The Use of International Indices - Measuring Legal Systems and Assessing Risk of Investment in Central and Eastern Europe

Viktor Lorincz *
Prof. Andras Jakab **

1. Introduction

While credit ratings are essentially based on economic data, other statistics are not negligible. In this paper, we present the role of legal indices in ratings and in decision on investment. First, we discuss methodological aspects while constructing legal indices, and then we present the main international indices on the example of the Visegrád 4 (V4) countries, a group of neighbour states in Central and Eastern Europe with comparable economic background, former socialist countries, now all members of the European Union. Beside Poland, Slovakia and the Czech Republic, the emphasis is put on Hungary, where, since 2006, we can observe interesting changes. Afterwards, we discuss several locally constructed indices.

We analyse the actual and future role of these indices in credit rating, and give an outlook on future directions.

* Junior research fellow, Hungarian Academy of Sciences, Centre for Social Sciences Institute for Legal Studies.

** Director, Hungarian Academy of Sciences, Centre for Social Sciences, Institute for Legal Studies.

2. Measuring Law: Methodological Issues[①]

There is a growing body of scholarship on the question of measuring the law by indices, to the extent that some write about "indicator fatigue"[②]. Mere numbers sometimes seem to be easier to understand as complex concepts and systems[③], and they are more welcomed by the press. Indices help democratic accountability and can be used in debates. Goals and policies are also frequently built on indices.[④]But simplifying complex systems is dangerous not only because it can lead to false perception and self-fulfilling prophecies.[⑤] Indices are also often used to compare countries and build rankings and scales where the exemplary countries score at the top,[⑥] and countries are often interested in

---

① For a detailed account, see Jakab, András, and Viktor Olivér Lőrincz, "International Indices as Models for the Rule of Law Scoreboard of the European Union: Methodological Issues", *Max Planck Institute for Comparative Public Law & International Law (MPIL) Research Paper* 2017, No.21, 2017, p.1-14.

② Hammergren, Linn, "Indices, Indicators and Statistics: A View from the Project Side as to Their Utility and Pitfalls", *Hague Journal on the Rule of Law*, Vol.3, No.2, 2015, p.311, https://doi.org/10.1017/S1876404511200083.

③ Saisana, Michaela, and Andrea Saltelli, "Rankings and Ratings: Instructions for Usxe", *Hague Journal on the Rule of Law*, Vol.3, No.2, 2011, pp.247-268. https://doi.org/10.1017/S1876404511200058.

④ Botero, Juan Carlos, Robert L. Nelson, and Christine Pratt, "Indices and Indicators of Justice, Governance, and the Rule of Law: An Overview", *Hague Journal on the Rule of Law*, Vol.3, No.2, 2011, pp.153, 159-60, https://doi.org/10.1017/S1876404511200010.

⑤ Ginsburg, Tom, "Pitfalls of Measuring the Rule of Law", *Hague Journal on the Rule of Law*, Vol.3, No.2, 2011, pp.270-279. https://doi.org/10.1017/S187640451120006X.

⑥ See Davis, Kevin E., Benedict Kingsbury and Sally Engle Merry, "Indicators as a Technology of Global Governance", *Law & Society Review*, Vol.46, No.1, 2012, pp.71-104. https://doi.org/10.1111/j.1540-5893.2012.00473.x; Bogdandy, Armin von and Matthias Goldmann, "The Exercise of International Public Authority through National Policy Assessment: The OECD's PISA Policy as a Paradigm for a New International Standard Instrument", *International Organizations Law Review*, Vol.34, No.1, 2008, pp.241-298. https://doi.org/10.1163/157237408X412907; Krever, Tor, "Quantifying Law: Legal Indicator Projects and the Reproduction of Neoliberal Common Sense", *Third World Quarterly*, Vol.34, No.1, 2013, pp.131-150. https://doi.org/10.1080/01436597.2012.755014; Rosga, AnnJanette, and Margaret Satterthwaie, "The Trust in Indicators: Measuring Human Rights", *Berkeley Journal of International Law*, Vol.27, No.2, 2009, p.253. https://doi.org/doi:10.15779/Z38G07R.

the index-oriented policy-making instead of focusing on specific local issues.[1] Indices are also useful for economists in order to establish a correlation between economic performance and the level of the given legal aspects quantified and measured by the indices,[2] a question which we will analyse later.

(1) Quantifying the law

Oversimplification is also dangerous because of the fact that the law is a complex system, and as we will see later, the distribution of quantitative data sometimes shows this complexity in general, and not a given aspect of the legal system.

(2) Conceptualisation and construction of indicators

The OECD Handbook on Constructing Composite Indicators[3] gives a clue concerning the methodological steps and the main rules like transparency or the grounded choice of methods.[4] Kaplan distinguishes three categories of measurable things: (1) direct observables like a mark on a questionnaire, (2) indirect observables like minutes of a corporate meeting, and (3) constructs, like IQ, prejudice or government.[5] Legal concepts usually belong to the

---

① Botero, Juan Carlos, Robert L. Nelson and Christine Pratt, "Indices and Indicators of Justice, Governance, and the Rule of Law: An Overview", *Hague Journal on the Rule of Law*, Vol.3, No.2, 2011, p.159. https://doi.org/10.1017/S1876404511200010. See also Saltelli, Andrea, "Composite Indicators between Analysis and Advocacy", *Social Indicators Research*, Vol.81, No.1, 2006, 65-77. https://doi.org/10.1007/s11205-006-0024-9.

② On the type of states according to their use of indicators, see Desrosières, Alain, Retroaction: How Indicators Feed Back onto Quantified Actors, in *The World of Indicators*, Cambridge University Press, pp.329-353. http://dx.doi.org/10.1017/CBO9781316091265.013.

③ European Commission, Organisation for Economic Co-operation and Development and Source OECD (Online service) 2008.

④ European Commission, Organisation for Economic Co-operation and Development, and Source OECD (Online service) 2008, pp.13-14.

⑤ Kaufmann, Daniel, Aart Kraay and Massimo Mastruzzi, "The Worldwide Governance Indicators: Methodology and Analytical Issues", *Hague Journal on the Rule of Law* , Vol.3, No.2, 2011, pp.220-246. https://doi.org/10.1017/S1876404511200046. Also quoted by Babbie, Earl R., *The Practice of Social Research* (13th edition), Belmont, Calif: Wadsworth Cengage Learning, 2013, pp.168-169.

latter, directly unobservable constructs.① Therefore, the first step is the conceptualization and definition of the concept. This can follow a majoritarian consensus,② although this consensus is not easy to reach.③ These indicators use to contain value judgement,④ and they also represent a certain political stand.⑤ However, legal indicators and indices⑥ should measure the de facto performance of a legal system, and not the ineffectively implemented declarative level.⑦

(3) Data Processing

As legal systems cannot be measured directly, we can use proxies (approximate data) like the opinion of experts or the public (*soft data*),

---

① Kaufmann, Daniel, Aart Kraay, and Massimo Mastruzzi,. "The Worldwide Governance Indicators: Methodology and Analytical Issues", *Hague Journal on the Rule of Law*, Vol.3, No.2, 2011, pp.220-246, https://doi.org/10.1017/S1876404511200046.

② Saisana, Michaela, and Andrea Saltelli, "Rankings and Ratings: Instructions for Use", *Hague Journal on the Rule of Law*, Vol.3, No.2, 2011, pp.247-268. https://doi.org/10.1017/S1876404511200058.

③ See Cherchye, Laurens, C. A. Knox Lovell, Wim Moesen and Tom Van Puyenbroeck, "One Market, One Number? A Composite Indicator Assessment of EU Internal Market Dynamics", *European Economic Review*, Vol.51, No.3, 2007, pp.749-779, https://doi.org/10.1016/j.euroecorev.

④ Botero, Juan Carlos, Robert L. Nelson, and Christine Pratt, "Indices and Indicators of Justice, Governance, and the Rule of Law: An Overview." *Hague Journal on the Rule of Law*, Vol.3, No.2, 2011, p.166. Referring to Saisana, Michaela, and Andrea Saltelli, "Rankings and Ratings: Instructions for Use." *Hague Journal on the Rule of Law*, Vol.3, No.2, 2011, p.248. https://doi.org/10.1017/S1876404511200058.

⑤ Urueña, René, "Indicators and the Law: A Case Study of the Rule of Law Index." In Sally Engle Merry, Kevin E. Davis and Benedict Kingsbury, eds, *The Quiet Power of Indicators: Measuring Governance, Corruption, and Rule of Law*, Cambridge: Cambridge University Press, 2015, pp.543-584. https://doi.org/10.1017/CBO9781139871532.003.

⑥ We mean by indicator a single number or feature and by index a composite indicator, on the definition see Merry, Sally Engle, Kevin E. Davis and Benedict Kingsbury, eds., *The Quiet Power of Indicators: Measuring Governance, Corruption, and the Rule of Law*, Cambridge: Cambridge University Press, 2015, pp.1-24. On the etymology and use of "indicator" see Porter, Theodore M., "The Flight of the Indicator", In Rottenburg, Richard, *The World of Indicators*, Cambridge: Cambridge University Press, 2015, pp.34-55, http://dx.doi.org/10.1017/CBO9781316091265.002.

⑦ Moldova for example overscore the United States on the Global Right to Information Rating (www.rti-rating.org) scale, which challenges the reliability of the index. Further on the conceptualization, see Rottenburg, Richard, ed., *The World of Indicators: The Making of Governmental Knowledge through Quantification*, Cambridge, Cambridge: Cambridge University Press, 2015, pp.1-33.

approximate facts (*hard data*) like the frequency of modification of the law,[①] the number of registered crime etc.[②] Expert's opinion might be subjective, especially in polarised countries.[③] In order to fix this, we can use a transparent and balanced method or involve as many experts as possible.[④] In any case, the use of experts is less expensive than extensive polls and surveys. Moreover, these are rather designed to measure the perception of or general knowledge and opinion on law[⑤].

As these indices consist of different types of data ranging from qualitative or binary variables through nominal, ordinal, interval or ratio scales to continuous variables,[⑥] we have to homogenise them. An adjustment to the size of the country is also necessary.[⑦] Handling and imputation of missing

① Sebők, Miklós, Bálint Kubik, and Csaba Molnár, "A Törvények Formális Minősége És a Formális Minőség Eltérésének Magyarázatai: Egy Empirikus Vázlat [The Formal Quality of Legislation and the Explication of Divergence: An Empirical Outline]", in Zsolt Boda and Andrea Szabó, Budapest: Napvilág, eds, *Trendek a Magyar Politikában 2. A Fidesz És a Többiek: Pártok, Mozgalmak, Politikák.*, 2017, pp.285-310.

② Parsons, Jim, "Developing Clusters of Indicators: An Alternative Approach to Measuring the Provision of Justice", *Hague Journal on the Rule of Law*, Vol.3, No.2, 2011, pp.170-185. https://doi.org/10.1017/S1876404511200022. For further examples see Fukuda-Parr, Sakiko, Terra Lawson-Remer, and Susan Randolph, *Fulfilling Social and Economic Rights*, New York: Oxford University Press, 2015, pp.59-77.

③ United Nations, Department of Peace-keeping Operations, United Nations, Office of the High Commissioner for Human Rights, Vera Institute of Justice, Altus Global Alliance, University of the Fraser Valley, and Harvard University, *United Nations Rule of Law Indicators Implementation Guide and Project Tools,* New York: United Nations, 2011, http://search.ebscohost.com/login.aspx?direct=true&scope=site&db=nlebk&db=nlabk&AN=387576.

④ Gajduschek, György, "Miben Áll, És Mérhető-E a Kormányzati Teljesítmény? [What Is It and How to Measure Government Performance?]." *Politikatudományi Szemle*, No.3, 2014, p.110.

⑤ Which is not less important, see Gajduschek, György, "Why People Obey the Law in Hungary? Thoughts over Pieces of Empirical Evidence", *MTA Law Working Papers*, No.2017/08. http://jog.tk.mta.hu/uploads/files/2017_08_Gajduschek.pdf. On the history of this kind of research in socialist Hungary see Fekete, Balázs, and István H. Szilágyi, "Knowledge and Opinion about Law (KOL) Research in Socialist Hungary", *Acta Juridica Hungarica - Hungarian Journal of Legal Studies*, Vol.58, No.3, Forthcoming.

⑥ Babbie, Earl R., *The Practice of Social Research* (13th edition), Belmont, Calif: Wadsworth Cengage Learning, 2013, pp.155-58, 180-84.

⑦ Saisana, Michaela, and Andrea Saltelli, "Rankings and Ratings: Instructions for Use", *Hague Journal on the Rule of Law*, Vol.3, No.2, 2011, p.251. https://doi.org/10.1017/S1876404511200058.

data is a further issue.① Beside robustness, the goodness of fit or detection of outliers, weighting is a very delicate question. We cannot put in the same level the question whether in a country, police can shoot arbitrarily innocent people and the duration of a procedure.② But finding an objective method of weighting is very problematic, especially when the consensus is missing.③ We do not enter here into the question of reliability testing④ and the use of complicated methods like factor analysis, but these are also an important aspect of the problem.

Speaking of the presentation, interpretation and comparison of data, the existence and direction of causality based on correlation is, of course, a central problem, especially concerning the correlation between economics and law, as we will see later.

---

① Little, Roderick J. A., and Donald B. Rubin, *Statistical Analysis with Missing Data* (2nd ed.), Hoboken, N.J: Wiley, 2002.

② On a weighted rule of law index see for example Tai, Benny Y.T., 2007, "Developing an Index of the Rule of Law: Sharing the Experience of Hong Kong", *Asian Journal of Comparative Law*, No.2, 2007, pp.1-19. https://doi.org/10.1017/S2194607800000041.

③ On the subjectivity of weighting see Saisana, Michaela, and Andrea Saltelli, "Rankings and Ratings: Instructions for Use", *Hague Journal on the Rule of Law*, Vol.3, No.2, 2011, p.254. https://doi.org/10.1017/S1876404511200058. See also United Nations, Department of Peace-keeping Operations, United Nations, Office of the High Commissioner for Human Rights, Vera Institute of Justice, Altus Global Alliance, University of the Fraser Valley, and Harvard University, *United Nations Rule of Law Indicators Implementation Guide and Project Tools,* New York: United Nations, 2011, p.5, http://search.ebscohost.com/login.aspx?direct=true&scope=site&db=nlebk&db=nlabk&AN=387576; European Commission, Organisation for Economic Co-operation and Development, and Source OECD (Online service), eds., *Handbook on Constructing Composite Indicators: Methodology and User Guide*, Paris: OECD, 2008, pp.31-33; Sharpe, Andrew, and Brandon Andrews, "An Assessment of Weighting Methodologies for Composite Indicators: The Case of the Index of Economic Well-Being", *CSLS Research Report*, No.10, 2012; An unweighted index is presented in Ahmed, Dawood I., and Moamen Gouda, "Measuring Constitutional Islamization: The Islamic Constitutions Index", *Hastings International and Comparative Law Review*, Vol.38, No.1, 2015, http://papers.ssrn.com/abstract=2523337.

④ An extensive account on validation is given by Seawright, Jason, and David Collier, "Rival Strategies of Validation Tools for Evaluating Measures of Democracy", *Comparative Political Studies*, Vol.47, No.1, 2014, pp.111-138. https://doi.org/10.1177/0010414013489098.

The main international indices and the scores of Central and Eastern Europe

In this chapter, we discuss five international indices: we briefly present the period and frequency of measurement, the number of countries involved, some methodological questions and the scores of the V4 countries.①

The **Freedom in the World** index of Freedom House evaluates the political rights and civil liberties yearly since 1972, today in 195 countries and in 15

① For a detailed comparative chart see Jakab, András, and Viktor Olivér Lőrincz, "International Indices as Models for the Rule of Law Scoreboard of the European Union: Methodological Issues." *Max Planck Institute for Comparative Public Law & International Law (MPIL) Research Paper,* No.21, 2017 pp.7-10.The description is based on the homepage of the indices and on the following litterature: Skaaning, Svend-Erik, "Measuring the Rule of Law", *Political Research Quarterly*, Vol.63, No.2, 2010, pp.449-60; Thiery, Peter, Jenniver Shering and Wolfgang Muno, "Wie Misst Man Recht? Möglichkeiten Und Grenzen Der Messung von Rechtsstaatlichkeit, Kongressbeiträge", In *Interdisziplinäre Rechtsforschung: Kongressbeiträge „Wie Wirkt Recht"*, by Josef Estermann, Bern: Stämpfli, 2009, pp.141-60; Bradley, Christopher G., "International Organizations and the Production of Indicators: The Case of Freedom House", in *The Quiet Power of Indicators,* Cambridge: Cambridge University Press, 2015, pp.27-74, http://dx.doi.org/10.1017/CBO9781139871532.002.Urueña, René, "Indicators and the Law: A Case Study of the Rule of Law Index." in Sally Engle Merry, Kevin E. Davis and Benedict Kingsbury, eds, *The Quiet Power of Indicators: Measuring Governance, Corruption, and Rule of Law*, Cambridge: Cambridge University Press, 2015, pp.75-102, https://doi.org/10.1017/CBO9781139871532.003; Restrepo Amariles, David, "The Mathematical Turn: L'indicateur Rule of Law Dans La Politique de Développement de La Banque Mondiale", in Benoit Frydman and Arnaud Van Waeyenberge, eds, *Gouverner Par Les Standards et Les Indicateurs: De Hume Au Rankings*, Bruylant: Brussels, 2014, pp.193-234; Gisselquist, Rachel M., "Evaluating Governance Indexes: Key Criteria", in *On Governance: What It Is, What It Measures and Its Policy Uses*, Robert I. Rotberg, Waterloo, ON: CIGI, 2015, pp.23-54; Nardulli, Peter F., Buddy Peyton, and Joseph Bajjalieh, "Conceptualizing and Measuring Rule of Law Constructs, 1850-2010", *Journal of Law and Courts*, Vol.1, No.1, 2013, pp.139-192, https://doi.org/10.1086/668543; Kaufmann, Daniel, Aart Kraay and Massimo Mastruzzi, "The Worldwide Governance Indicators: Methodology and Analytical Issues", *Hague Journal on the Rule of Law*, Vol.3, No.2, 2011, pp.220-246. https://doi.org/10.1017/S1876404511200046; Botero, Juan Carlos, Robert L. Nelson, and Christine Pratt, "Indices and Indicators of Justice, Governance, and the Rule of Law: An Overview", *Hague Journal on the Rule of Law*, Vol.3, No.2, 2011, pp.153-169. https://doi.org/10.1017/S1876404511200010; Albers, Pim, "How to Measure the Rule of Law: A Comparison of Three Studies", *Conference Paper Rule of Law Conference (Hague Institute for Internationalisation of Law, November)*., https://www.coe.int/t/dghl/cooperation/cepej/events/onenparle/Albers251007.pdf; Nicita, Antonio, and Simona Benedettini, "Towards the Economics of Comparative Law: The Doing Business Debate." In *Methods of Comparative Law*, edited by Pier Giuseppe Monateri. Cheltenham, UK: Edward Elgar Publishing, Inc., 2012, http://www.elgaronline.com/9781849802529.00026.xml.

disputed territories, based on expert's opinions on a scale ranging from 1 to 7. The list of experts is not public and the selection is not transparent.

The **Bertelsmann Transformation Index** of Bertelsmann Foundation measures the way of developing and transition countries toward democracy and market economy since 2006, two-yearly in 129 countries. The final index is made of a democracy and a market economy part. The measurement is based on expert's opinions on a scale from 1 to 10. Besides the numbers, the evaluation also contains two descriptive parts: a foreign and a domestic report. The list of experts is public but not transparent. This index uses hard data too on inflation and education and consists of 17 criteria with 49 questions. An expert committee also supervises and controls the data.

The **Worldwide Governance Indicators** of the World Bank consist of aggregate and individual governance indicators, measured since 1996, yearly since 2002 on 215 economies today. The six dimensions of governance are based on a rather formal conceptualisation and include voice and accountability, political stability and absence of violence, government effectiveness, regulatory quality, rule of law and control of corruption. The index is based on hundreds of indicators from 32 sources. The index is very robust but also very market-economy-oriented.

The **World Justice Project Rule of Law Index** measures the de facto rule of law (as experienced by the people) yearly since 2011 in 102 countries involving 9 factors and 47 sub-factors. The method is based on general population polls with 1000 respondents from the three largest cities of the given country, completed with qualified respondents, i.e. 25 legal professionals from each country. The experts are selected either using random sampling or from the WJP network of practitioners and academics (including the authors of the present paper). The methodology is transparent but some sub-indicators favour presidential systems.

The **Doing Business Index** of the World Bank measures the regulation of business in 189 countries since 2002 yearly, based on questionnaires and conference calls with the representatives both of the private sphere and the governmental sector. The experts are mainly lawyers because they are more involved in the execution of business-related regulation than CEOs for instance (the formers register new firms every day for instance). The survey uses hypothetical cases, but also measures hard data, like the duration of a procedure. The index uses the so-called Distance to Frontier method, i.e. the distance of the given country to the best-performing country. The conceptualization is ethnocentric and efficiency-oriented.

Concerning the **scores of the V4 countries**, there is an obvious improvement on the Freedom in the World index (Fig. 1.) since the 80's, but in the case of Hungary, there is a drop since 2010. This is obvious compared to the other Visegrád-countries, as the points of Hungary on the Political Rights scale reached the level of Slovakia in 1993. (Fig. 2.) This trend is also observable on the Civil Liberties scale, but the recent changes in Poland also have an impact on this latter index (Fig. 3.). The authors of a study in the last edition hypothesize the contagious character of the "illiberal" system set up by the Hungarian prime minister and the Fidesz party. They also underline the possible economic impact of this change[①].

The downward trend in Hungary is present in the Worldwide

① "Recent developments in Central Europe have raised the possibility that some of the most remarkable transitions from dictatorship to democracy in the 1980s and 1990s will be substantially reversed by elected populist leaders. After little more than a year in power, the right-wing Law and Justice (PiS) party has already delivered several serious blows to Poland's democratic institutions. The government passed legislation that has politicized public media, neutered the constitutional court, handed the security services sweeping powers of surveillance, and restricted the right of public protest. It has also proposed worrisome regulations on NGOs. Observers have described the PiS's actions as an accelerated and condensed version of what the ruling Fidesz party has accomplished in Hungary since 2010. Both governments have repudiated liberal values, attacked the institutions of pluralism, and sought to use the economic power of the state for partisan political ends. While the PiS has focused on providing economic benefits to its core constituents, Fidesz has manipulated laws and state contracts to enrich an affiliated business elite that can buttress its future political dominance. The system pioneered by Hungarian prime minister Viktor Orbán stands as an appealing model for elected political leaders with authoritarian leanings. A further spread of such "illiberal democracy" in Central Europe and the Balkans seems likely given the orientation of major figures in Slovakia, the Czech Republic, and Serbia, among others. While none of these leaders have moved their countries entirely outside the democratic sphere as of yet, the record in places like Venezuela and Turkey suggests that elected populists who initially limit their authoritarian impulses can graduate to political purges and prosecutions, the militarization of government, sweeping controls on journalism, and politicized wrecking of the economy." Puddington Arch, and Tyler Roylance, "Populists and Autocrats: The Dual Threat to Global Democracy", In *Freedom in the world 2017*, Washington -New York: Frecdom House, 2017, pp.6-8.

Governance Indicators too, especially concerning the sub-index “Voice and Accountability” and “Control of Corruption” (Fig. 5). On the WJP Rule of Law Index, Hungary is also the worst performer among the three Visegrád-countries (Fig. 6., Slovakia is missing from this survey). The Bertelsmann Transformation Index (Fig. 7. and 8.) also shows a radical decline in Hungary, but recent changes in Poland have no impact yet on the Bertelsmann and WJP indices. The Doing Business Index focuses mainly on indicators related to the economy and entrepreneurship, but even on this index, the underperformance and recent stagnation of Hungary are obvious (Fig. 9).

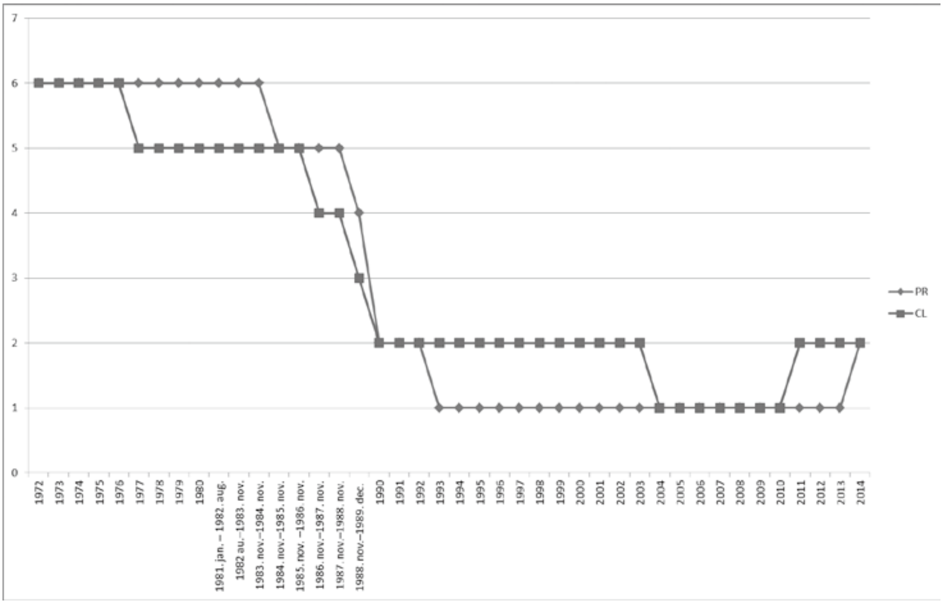


Figure 1 Freedom in the World - Hungary (0 is the best score, PR=Political Rights, CL=Civil Liberties)

Source: Freedom in the World 2017.

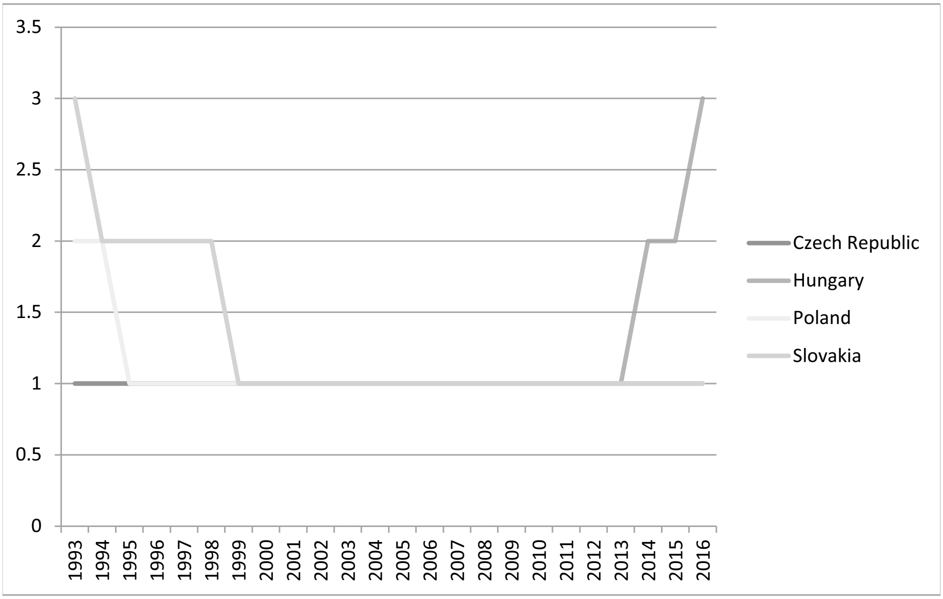


Figure 2 Freedom in the World - V4 Political rights scores (0 is the best score)

Source: Freedom in the World 2017.

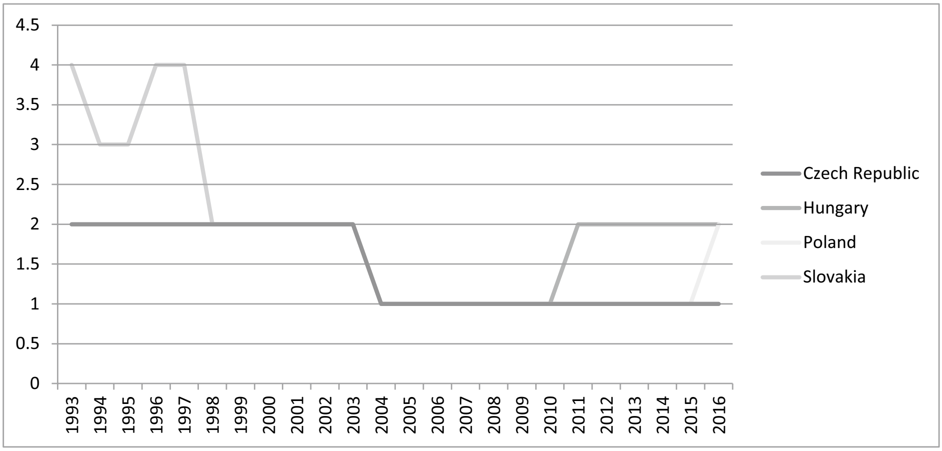
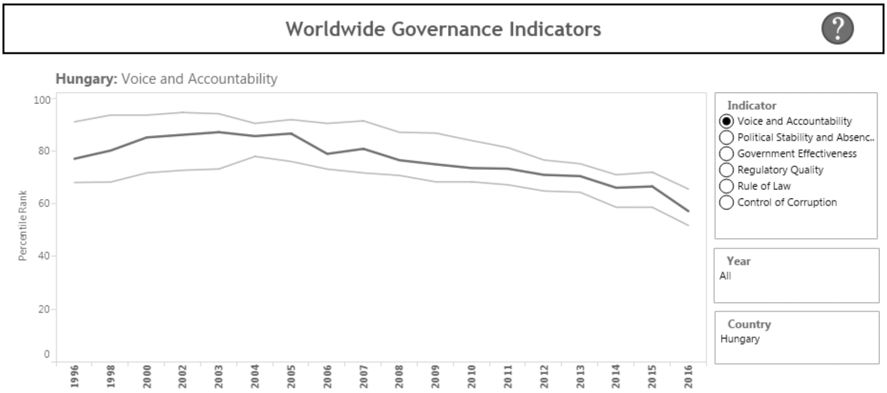


Figure 3 Freedom in the World - V4 Civil liberties score (0 is the best score)

Source: Freedom in the World 2017.



Source	1996	1998	2000	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016
Bertelsmann Transformation Index				1.00	0.93	0.93	0.92	0.92	0.91	0.91	0.81	0.81	0.81	0.77	0.77	0.73	0.73	0.68
Cingranelli Richards Human Righ..	0.94	0.94	0.88	0.88	0.88	0.88	1.00	0.88	0.88	0.75	0.75	0.88	0.88	0.88	0.88			
Economist Intelligence Unit	0.69	0.63	0.69	0.81	0.81	0.81	0.81	0.78	0.78	0.78	0.78	0.77	0.76	0.75	0.75	0.75	0.75	0.71
Freedom House	0.89	0.90	0.88	0.89	0.89	0.91	0.91	0.89	0.89	0.88	0.87	0.84	0.78	0.77	0.77	0.72	0.71	0.65
Gallup World Poll								0.45	0.43	0.41	0.36	0.52	0.50	0.41	0.40	0.37	0.37	0.35
Global Insight Business Conditio..	0.75	0.75	0.88	0.88	0.88	0.78	0.88	0.88	0.94	0.88	0.88	0.88	0.88	0.88	0.88			
Global Integrity Index										0.69	0.69	0.66	0.66	0.66				
Institute for Management and Dev..	0.24	0.53	0.52	0.34	0.50	0.35	0.41	0.38	0.35	0.26	0.21	0.21	0.20	0.14	0.22	0.25	0.20	0.26
Institutional Profiles Database								0.91	0.91	0.91	0.88	0.88	0.88	0.87	0.87	0.87	0.87	0.86
International Budget Project Ope..																0.49	0.49	0.49
Political Risk Services Internation..	0.92	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	0.96	0.96	0.96	0.96	0.96	0.96	0.96
Reporters Without Borders Press..				0.94	0.97	0.94	0.98	0.97	0.96	0.95	0.95	0.93	0.87	0.74	0.73	0.73	0.72	0.71
Varieties of Democracy Project	0.90	0.90	0.90	0.90	0.90	0.90	0.90	0.88	0.90	0.90	0.90	0.86	0.85	0.84	0.83	0.84	0.83	0.82
World Economic Forum Global C..			0.37	0.53	0.52	0.46	0.49	0.53	0.44	0.39	0.43	0.50	0.45	0.40	0.38	0.39	0.36	0.29
World Justice Project														0.62	0.60	0.55	0.53	0.53

Source: *Kaufmann D., A. Kraay, and M. Mastruzzi (2010), The Worldwide Governance Indicators: Methodology and Analytical Issues*
The Worldwide Governance Indicators are available at: www.govindicators.org
Note: *The Worldwide Governance Indicators (WGI) are a research dataset summarizing the views on the quality of governance provided by a large number of enterprise, citizen and expert survey respondents in industrial and developing countries. These data are gathered from a number of survey institutes, think tanks, non-governmental organizations, international organizations, and private sector firms. The WGI do not reflect the official views of the World Bank, its Executive Directors, or the countries they represent. The WGI are not used by the World Bank Group to allocate resources.*

Figure 4 Worldwide Governance Indicators on Hungary: Voice and Accountability

Source: Worldwide Governance Indicators.

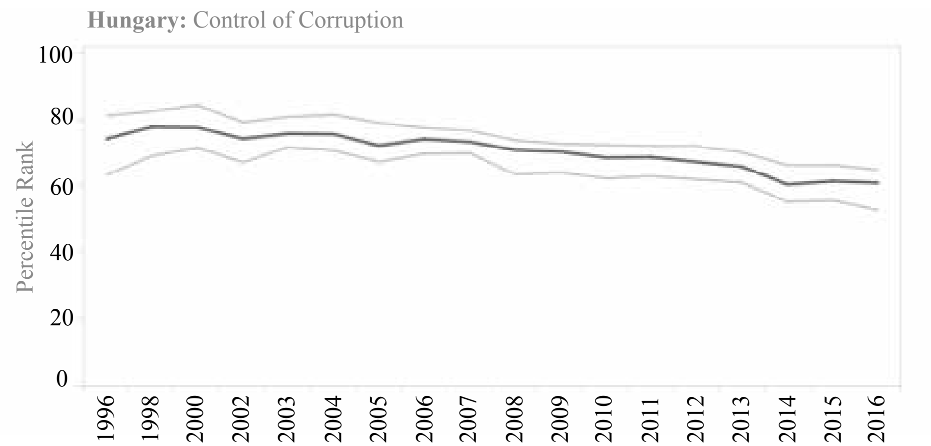


Figure 5 Worldwide Governance Indicators on Hungary: Control of Corruption

Source: Worldwide Governance Indicators.

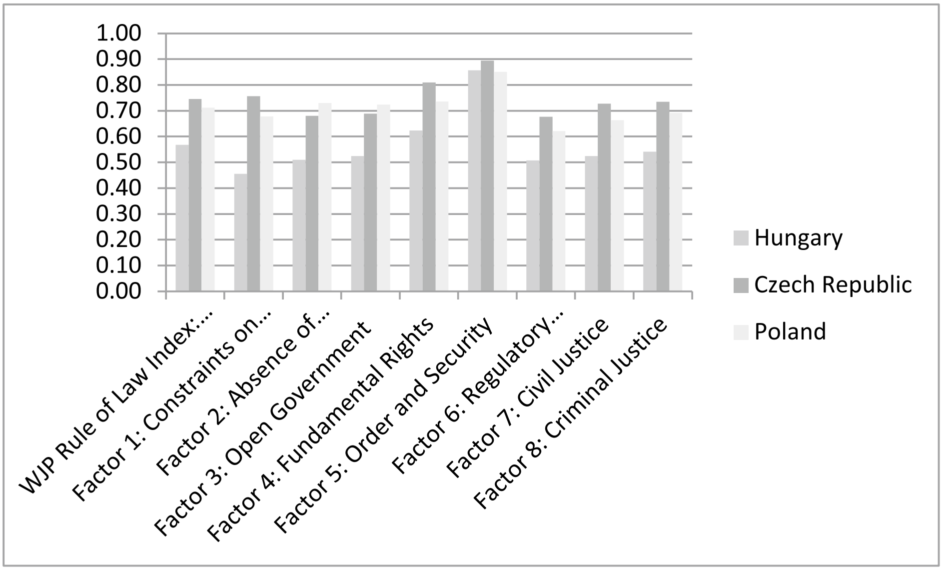


Figure 6 WJP Rule of Law Index - global score and factor (no data on Slovakia)
Source: WJP Rule of Law Index.

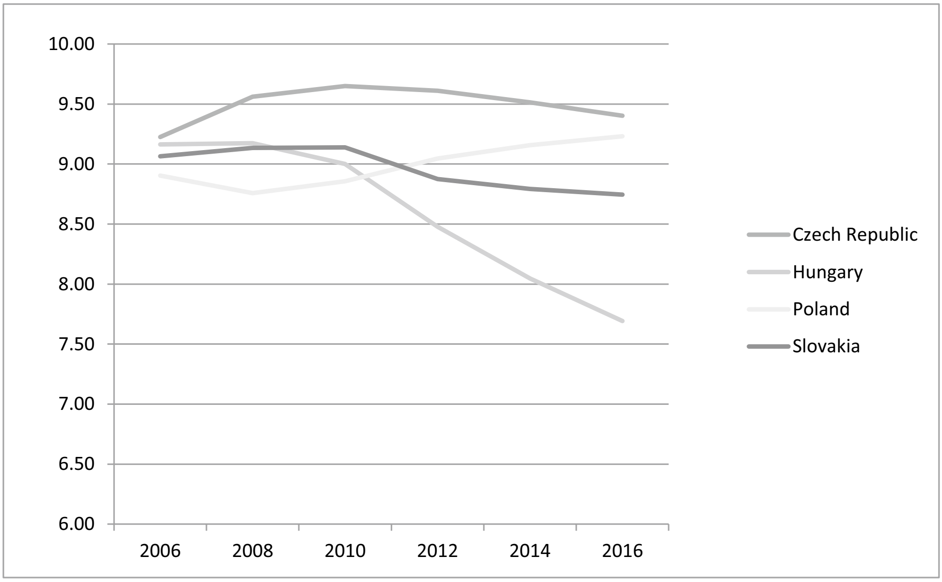


Figure 7 Bertelsmann Transformation Index (BTI) – V4 Status index
Source: BTI.

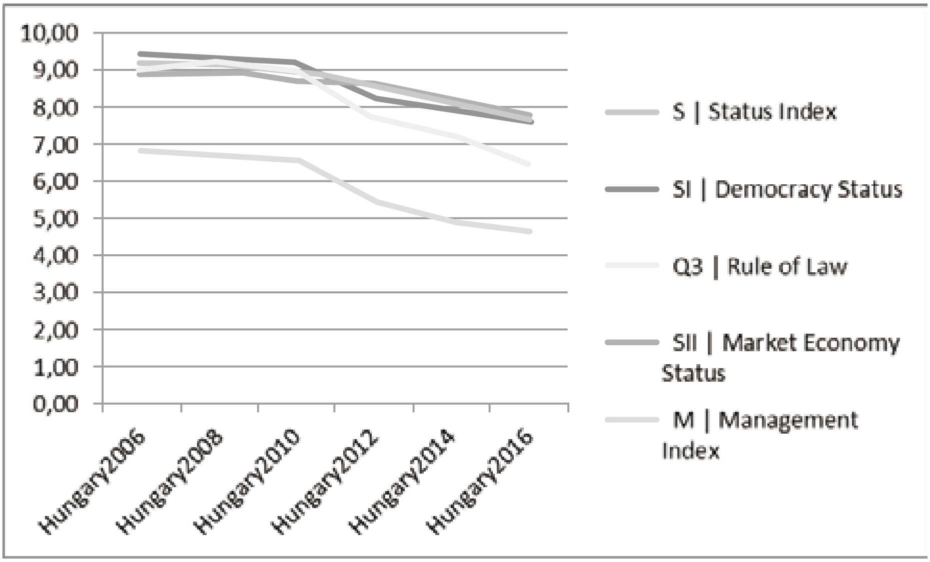


Figure 8 Bertelsmann Transformation Index on Hungary
Source: BTI.

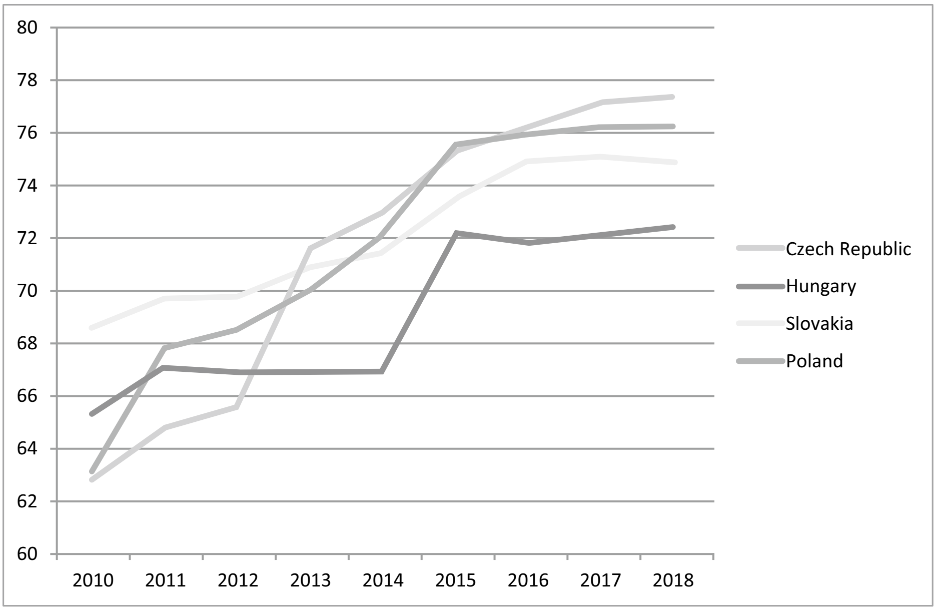


Figure 9 Doing Business Global
Source: DBI.

Local indices①

The changes since 2010, linked to the Fidesz-KDNP government in Hungary initiated the construction of several local indices. The main problem is that they are indices "with purpose":

The "Jogállamfigyelő" (Observer of the Rule of Law, Fig. 10.) index of the Eötvös Károly Közpolitikai Intézet (EKINT) and of the Heti Világgazdaság (HVG) measures three dimensions: 1. Voice on the government, 2. Transparency and accountability of the governance 3. Rule of law. The structure is close to the Freedom House indices.② The aim of the index was to observe the Rule of the law under the supermajority③ of Fidesz, and this implies several problems too: the index starts with the election of the new government; therefore, it is impossible to compare the performance to previous periods. The survey was performed monthly, and the whole index stretches to one year only, a rather short period compared to the other indices. The index shows within this phase a radical decline.

While the EKINT-HVG index is rather critical to the post-2010 development, the "Jó állam index" (Index of the Good State) of the National University of Public Service focuses on the positive message.④ Critics of this index emphasize the arbitrary construction focusing rather on political issues and neglecting major aspects of the rule of law.⑤

---

① On the Hungarian local indices see Jakab, András, and Viktor Olivér Lőrincz, "A Jogrendszerek Mérése Indexek Segítségével (Measuring Legal Systems by Indices)", in *A Magyar Jogrendszer Állapota*, edited by András Jakab and György Gajduschek, Budapest: MTA-TK, 2016, pp.883-85.

② Majtényi, László, and Máté Dániel Szabó, eds., *Az elveszejtett alkotmány [The Constitution Made Lost]*. Budapest: L'Harmattan, 2011, pp.13-62.

③ On the issues linked to the 2/3 majority of the ruling party, see for example Vincze, Attila, "Wrestling with Constitutionalism: The Supermajority and the Hungarian Constitutional Court", *ICL Journal*, Vol.8, No.1, 2014, pp.86-97. https://doi.org/10.1515/icl-2014-0105; Pozsár-Szentmiklósy, Zoltán, 2017, "Supermajority in Parliamentary Systems – A Concept of Substantive Legislative Supermajority: Lessons from Hungary", *Acta Juridica Hungarica - Hungarian Journal of Legal Studies* 58 (2):forthcoming.

④ See Tamás Kaiser, *Good State and Governance Report 2016*, Budapest: Dialóg Campus, 2017.

⑤ Gárdos-Orosz, Fruzsina, and Zoltán Szente, "A Jó Állam Jogállami Követelményei (The Rule of Law Requirements of the Good State)", in *A Jó Állam Mérhetősége*, edited by Tamás Kaiser, Budapest: NKE, 2015, pp.267-90.

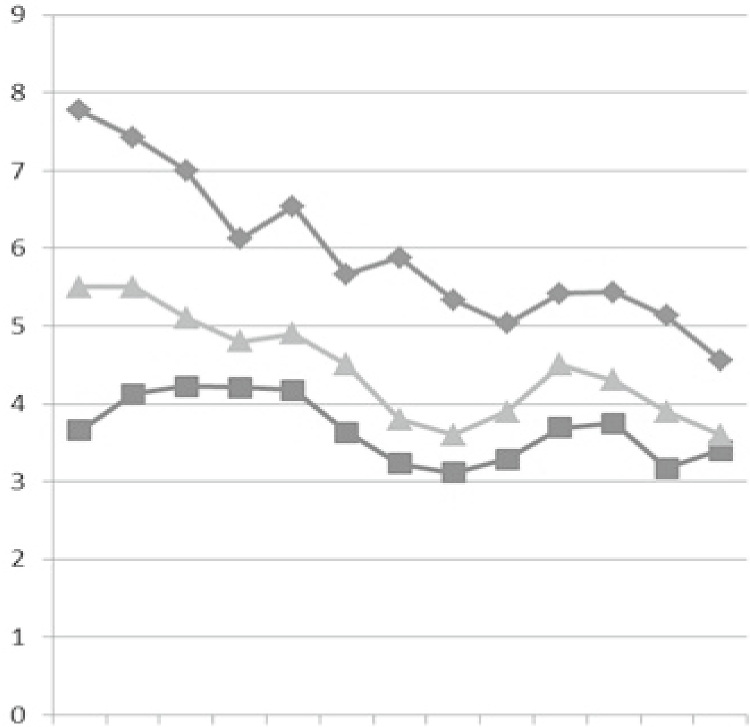


Figure 10 EKINT-HVG Index (Blue=Voice, Red=Transparency and Accountability, Green= Rule of law, measured monthly between May 2010 and April 2011)
Source: EKINT-HVG Index

3. Law and Economics, and the Impact of the Financial Crisis on the Example of Hungary

The Hungarian example shows that the relation between the legal indices and the economic performance is rather problematic. If we look at the last ten years, the socialist and liberal coalition (MSZP-SZDSZ) won the 2006 elections, but shortly after, the press leaks a speech of the then Prime Minister Ferenc Gyurcsány delivered to a closer public, in which he admits that he and other prominent of the party lied about the situation of the country. This led to a public outrage partly orchestrated by the right-wing Fidesz, with mass demonstrations and violent acts like the sack and arson of the public broadcasting service, the building of the Hungarian Television in the middle of the Capital, Budapest. In this situation, it came to the 2008 financial crisis, which impacted not only public debt but because of the private mortgages in Swiss francs or in Euro, also the debt of the citizens. One year before the elections, the Gyurcsány-government resigned, giving the floor to an "Expert Government" backed by the same parliament. In 2010, because of the disastrous events since 2006, the right-wing opposition coalition Fidesz-KDNP won this election with a 2/3 supermajority and remained in power after the 2014 elections (losing the supermajority after a by-election).

All that resulted in a spectacular contradiction in macroeconomic and legal indices. While the legal structure remained intact between 2006 and 2010, the public trust declined and macroeconomic indicators dropped to the lowest imaginable level. After the rise to power of Fidesz-KDNP and Viktor Orbán, the international situation ameliorated, it became possible to bay back the IMF credit and to finance the country from the market. Therefore, despite the steadily declining indicators on the legal system, credit rating agencies upgraded the rating of the country in a positive way. We should also add that the policy of Fidesz-KDNP impacted certain sectors of the economy (nationalisation of the private pension savings, restriction of the sale of tobacco, questionable public procurements), while others, like the great international investments (e.g. automobile industry) remained intact. There is also some effort to manipulate several statistics like the unemployment rate by the introduction of "közmunka" (public work, a low-payed obligatory occupation for the unemployed).

4. Credit Rating and Legal Indices

As the example above shows, legal indices (and the measured legal changes) have no straightforward influence on credit rating yet, or not with a great weight. Or at least, because of the lack of transparency, the role of legal indices by the credit rating agencies is not always obvious. Meanwhile, we can observe several signs of change: in 2016 Moody's referred to the doubts about the rule of law in Turkey when cutting the sovereign credit rating of the country after the attempted coup.[1] In 2017, the credit rating agency also referred to the rule of law when maintaining the rating of the Netherlands.[2] In a 2016 material on the methodology of sovereign bond ratings, the Worldwide Rule of Law Index is represented in Factor 2: Institutional Strength in the Institutional Framework and Effectiveness category (weight 75%) along with the Worldwide Government Effectiveness Index and the Worldwide Control of Corruption Index.[3] Fitch's sovereign rating methodology also incorporates several relevant indices of the World Bank, including "Voice and Accountability" or "Rule of Law".[4] Other special ratings, like the Jurisdiction Ranking Assessments of the Standard & Poor's, while focusing on specific business-related questions, also implies the legal system as a whole. [5]

An alternative rating proposal of the above-mentioned Bertelsmann Foundation is the so-called INCRA, the International Non-Profit Credit Rating

① Yackley, Ayla Jean, "UPDATE 1-Moody's Cuts Turkey's Credit Rating to 'Junk' after Coup." *Reuters*, 2016, https://www.reuters.com/article/turkey-economy-moodys/update-1-moodys-cuts-turkeys-credit-rating-to-junk-after-coup-idUSL8N1C0092.

② https://www.moodys.com/research/Moodys-affirms-the-Aaa-issuer-rating-of-the-Netherlands-maintains--PR_364233.

③ https://www.moodys.com/researchdocumentcontentpage.aspx?docid=PBC_1044859.

④ https://www.fitchratings.com/site/re/901261 According to page 10: "Governance indicators – Governance indicators seek to capture the capacity and willingness of the authorities to mobilise resources to fund debt payments and the risk that this might be disrupted by civil unrest, political instability or conflict, as well as the effectiveness of government and institutions in managing economic activity and absorbing adverse shocks. Therefore, they are also a proxy for many intangible and difficult-to-measure factors that enhance debt tolerance. The composite governance indicator is the simple average percentile rank across the six World Bank Governance Indicators: "Rule of Law"; "Control of Corruption"; "Government Effectiveness", "Voice and Accountability", "Regulatory Quality" and "Political Stability and Absence of Violence". Each of the World Bank Governance Indicators is a statistical aggregation of perceptions of various aspects of governance from a range of public- and private-sector sources. The World Bank indicators are used in the Fitch criteria because of their comprehensiveness, methodological transparency, widespread use in other cross-country studies, and completeness of coverage geographically and over time."

⑤ https://www.standardandpoors.com/ja_JP/delegate/getPDF?articleId=1816491&type=COMMENTS&subType=CRITERIA.

Agency. This contains innovative solution not only on the organisation and funding of the agency but also on the sub-indicators involved. In the category of the "Forward-Looking Indicators", in the "Political Economic and Social Stability" group, we found numerous relevant items, like "Rule of Law" and "Transparency/Accountability". The blueprint describes these indicators as long-term predictors of stability promoting future growth.①

Obviously, legal indices in credit rating are gaining importance, despite the methodological problems described above.

5. Further Issues and Directions

Legal indices influence decision on investments not only as long-term predictors. They can also provide a map of the different legal systems, and can eventually help to classify and understand the different regulations. In Central and Eastern Europe, because of historical reasons, legal systems can be very different. And the legal differences and similarities are not necessarily related to the cultural or linguistic differences. Private law in Hungary for instance is influenced by the Austrian ABGB, because of the Habsburg Monarchy. But there's also a deep influence of the German BGB, and recently, some institutions of the common law also reached the country. Romania for example is rather oriented toward the French Code civil. Because of the complexity of the cultural, linguistic and historical

① http://www.incraglobal.org/sites/default/files/documents/Blueprint_for_INCRA.pdf, "1. Rule of Law Legal Certainty: To what extent do government and administration act on the basis of, and in accordance with, legal provisions or culturally accepted norms to provide legal and practical certainty? Independent Judiciary: To what extent do independent courts control whether government and administration act in conformity with the law? Separation of Powers: To what extent is there a working separation of powers (checks and balances)? Property Rights: To what extent do government authorities ensure well-defined property rights and regulate the acquisition, benefits, use and sale of property? 2. Transparency/Accountability Corruption Prevention: To what extent are public officeholders prevented from abusing their position for private interests? Independent Media: To what extent is the media independent from government? Civil Society Participation: To what extent does the government enable the participation of civil society in the political process?"

relation, a classification based on the legal indices described above is a promising one. There are still many methodological problems to resolve (like the small number of observations as the number of countries involved is limited, the use of cluster analysis etc.), but there are already some interesting results.[①]

We only briefly refer to further aspects of this question, like the debate on the business-oriented character of the legal indices,[②] manifesting also in the preference toward quick procedures and neglecting institutional guarantees. The general discussion on the translation of law and legal texts is also an issue here. Some terms used in the questionnaires are usually the manifestation of the common law way of thinking, even if some surveys try to add further aspects to the research (examining for example not only institutional western, but also tribal justice). The relation between law and culture also ads further paths to the research, the surveys about leadership style, attitudes toward competition[③] and entrepreneurship can predict not only the success of the so-called legal transplants but also facilitate investment. Beside the down- and upgrading of a given country by the credit rating agencies in the future, scores on a scale measuring rule of law for example can provoke direct legal consequences too, sanctioning a member state by the

---

① Only to name some: Michaels, Ralf, "Comparative Law by Numbers? Legal Origins Thesis, Doing Business Reports, and the Silence of Traditional Comparative Law", *American Journal of Comparative Law*, Vol.57, No.1, 2009, pp.765-795; Cabrelli, David, and Mathias Siems, "Convergence, Legal Origins, and Transplants in Comparative Corporate Law: A Case-Based and Quantitative Analysis", *The American Journal of Comparative Law*, Vol.63, No.1, 2015, pp.109-154, http://doi. org/10.5131/AJCL.2015.0004; etc.

② Fauvarque-Cosson, Bénédicte, and Anne-Julie Kerhuel, "Is Law an Economic Contest? French Reactions to the Doing Business World Bank Reports and Economic Analysis of the Law", SSRN Scholarly Paper ID 1623446, Rochester, NY: Social Science Research Network, 2010, http://papers.ssrn.com/abstract=1623446.

③ Hungary and China belongs of course to different cultural clusters, but in some respect, Hungary also shows similarities with collectivist cultures. On the attitudes of Hungarian and Chinese children toward competition, with the presentation of previous researches see Sebestyén, Nóra, *A Versengés És a Tanulás Kulturális Beágyazottsága És Hatása a Konceptualizációra* (*Cultural Embeddedness of Competition and Learning , and the Effect of Immigration on Conceptualization*) *PhD Thesis.* Budapest: ELTE, 2015.

European Union because of the disobeying of the rule of law can be a future possibility, as we discussed in a paper earlier.[1]

6. Conclusion

Instead of summing up the previous arguments, we present here a global problem affecting the measurement of law. In our institute at the Hungarian Academy of Sciences, we conducted an empirical research on the use of the decisions of the Constitutional Court by the ordinary courts.[2] We counted the number of citations referring to the given decision of the Constitutional Court, and we came to an astonishing result represented in Fig. 11. The graph shows, that one the one hand, there is a small group of decisions which account for the majority of citations, meanwhile, there is a majority of decision which is cited only once. Surprisingly, other researchers found similar pattern in the citation structure of common law decisions.[3] What does it tell about our system? Is this small group of decision the group of landmark decisions? Is the Hungarian law related to its English counterpart? We can for example blame the case-law-like structure of the earlier Hungarian legal system. But the answer came from other field: network science. The graph represents a distribution of a scale-free network following power law. This distribution is observable in numerous cases in the Nature or in society, like in the case of the distribution of links on Facebook, computer networks, aviation networks, citations in bibliographies

① Jakab, András, and Viktor Olivér Lőrincz, "International Indices as Models for the Rule of Law Scoreboard of the European Union: Methodological Issues." *Max Planck Institute for Comparative Public Law & International Law (MPIL) Research Paper* 2017, No.21, pp.1-14.

② Ződi, Zsolt, and Viktor Olivér Lőrincz, "Az Alaptörveny És Az Alkotmánybírósági Gyakorlat Megjelenése a Rendes Bíróságok Gyakorlatában – 2012-2016 (The Fundamental Law and the Decisions of the Constitutional Court in the Practice of the Ordinary Courts)." in *Forthcoming*. Budapest.

③ Fowler, James H., Timothy R. Johnson, James F. Spriggs, Sangick Jeon and Paul J. Wahlbeck, "Network Analysis and the Law: Measuring the Legal Importance of Precedents at the U.S. Supreme Court." *Political Analysis*, Vol.15, No.3, 2007, pp.324-46, https://doi.org/10.1093/pan/mpm011.

etc.[①] In our case, this means that the citation system is the result of the functioning of a complex system that is: the law.

This empirical observation raises new methodological questions on the measurement of law, but also opens broad perspectives in the future researches.

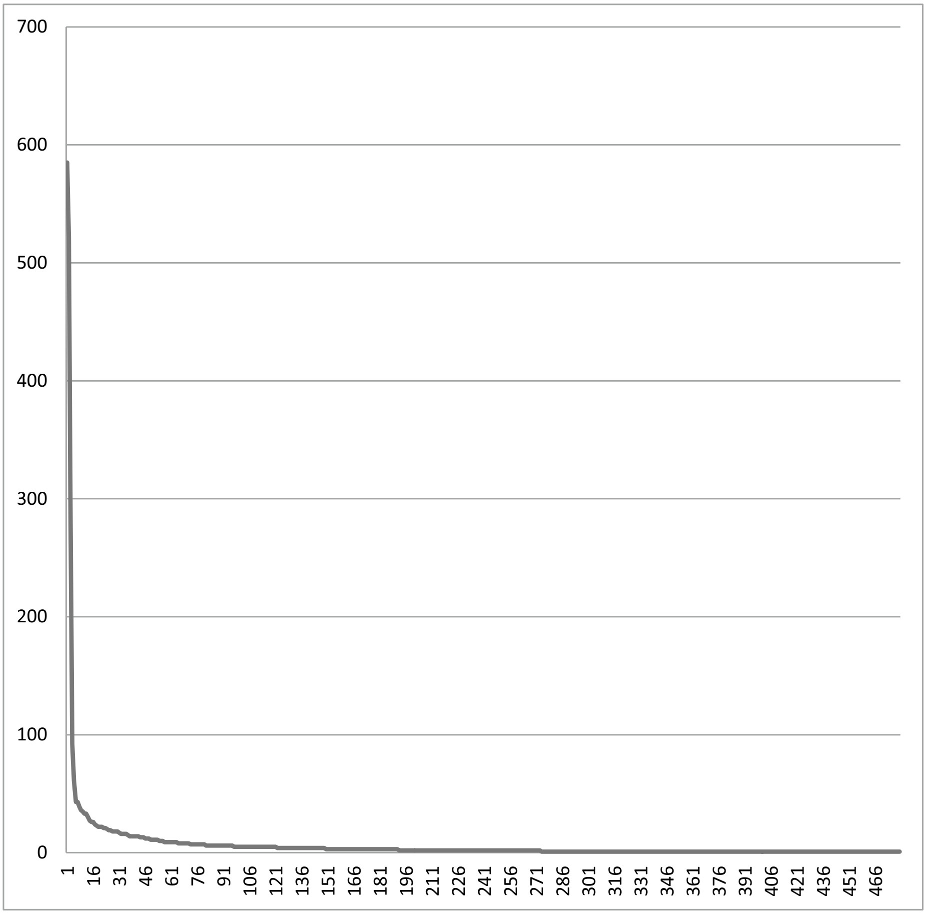


Figure 11 Number of citations/decision of the Hungarian Constitutional Court

Source: Ződi and Lőrincz 2018.

① See Barabási, Albert-László, *Linked: How Everything Is Connected to Everything Else and What It Means for Business, Science, and Everyday Life,* New York: Plume, 2003.

Recent dynamics in Legal Environment for Chinese Investments in Poland

Katarzyna Golik*

Recent months have brought various changes in legal environment for Chinese investments in Poland. Starting from the last year in China various new regulations of the capital flow were passed. They have already affected the high-profile transaction in Poland, which caught the attention of the governmental bodies in the state, as well as of the general public. There are some obstacles in the Polish state, especially with recent bills, which most likely could subordinate the independent judiciary to the executive power. For the long-term investments institutional uncertainty and risk of business profitability play an important role. On the other hand, the room for some collaboration remained, but with the question, whether it would satisfy the aroused appetites for great projects. The question is if the Chinese companies - and the PRC governmental bodies - would accept the growing risks and uncertainty of the legal instability. Another dimension discussed will be recent turns in the EU' s policies, including the negative decision regarding China' s flag project in Central Eastern Europe.

1. China – mixed signals

The global financial markets in 2016 received mixed signals about the priority of the Chinese authorities, with an increasing uncertainty of the Chinese

* The study presents the author's personal views and should not be linked to any of affiliated institutions. Polish Academy of Sciences.

authorities priorities and prospects for cooperation with the companies from the PRC. At times of financial turmoil, the state increased its activity, as it was in case of the 2016/2017 control over financial flows and yuan stabilization.

The effects of stimulating the economy

In the years 2014-2015, the People's Bank of China ran a policy of loosening monetary policy by reducing interest rates. In addition, in order to support credits, the banks reduced the reserve requirement ratio to 17,50%. This was done in the context of the weakening of the Chinese currency against the US dollar. The beginning of 2017 has so far indicated a reversal of this trend.

Among the results of the above actions on the real economy was the decline of its productivity. Supporting economic growth through monetary and fiscal instruments has also been linked to dynamics on the financial markets. These included the rise of speculative bubbles such as the real estate market, but also the lowering of interest rates and increasing the liquidity of the banking sector, which provided financing for investment projects (to a large extent state-owned enterprises). The side effect of fiscal and monetary stimulus programs was also the increase in public and private debt, estimated at 260% of GDP (against 154% in 2008). Further weakening of yuan could increase the demand for cheap foreign currency debt while maintaining speculative or unprofitable investments and businesses. Hence, the People's Bank of China raised its short-term loan rates, keeping the reference rate unchanged was aimed to reduce leverage[①].

Hybrid politics

The People's Bank of China have liberalized Chinese financial markets by opening them up to foreign investors, increasing the flexibility of the RMB exchange rate as well as the deregulating deposits, insurance and interest rates on commercial bank loans. These processes were conducive to long-term goals, including the recapitalization of the banking sector, which was affected by the

① The Economist, *China modernises its monetary policy,* August 17, 2017.

"bad debts". Other undertaken actions were about to limit the growth of public and private debt, and the restructurisation of ineffective parts of state-owned enterprises. At the same time, the Chinese authorities sent mixed signals about further liberalization in the financial sector. On the one hand, they provided a greater opening, probably from the perspective of national champion buyers of technologically advanced foreign companies. Simultaneously, the distrust of decision-makers towards the activities resulting in the flow of assets outside the borders of the state was evident. Zhou Xiaochuan, president of the central bank, announced the further liberalization of the yuan exchange rate, but also repeatedly reserved the possibility of intervening in the control and limiting movement of funds in areas deemed "sensitive"[①]. These include false invoices and some operations in Hong Kong and Macao.

For a decade, the value of the RMB has gradually strengthened, and a sudden depreciation of 13% at the beginning of 2014 has triggered the central bank's foreign currency sales. The goal was to counter panic selling in the event of investors' uncertainty about the stability of the fundamentals of the Chinese economy. Paradoxically, in spite of the country's low foreign debt and its high trade surplus, the strong interference by the Chinese authorities has threatened to undermine confidence in the state's economic condition. Counteracting the weakening of the RMB against the dollar had measurable costs in the form of a decrease in foreign reserves by about 25% in about one and a half years. This situation has illustrated the central bank's mixed approach to its own currency, allowing its value to develop through market mechanisms, but without excluding the possibility of influencing the scope of its fluctuation.

---

① Bloomberg News, *PBOC's Zhou Sees Relatively Stable Yuan Even as Fed Hikes Loom*, https://www.bloomberg.com/news/articles/2017-03-10/pboc-s-zhou-says-yuan-rate-will-be-relatively-stable-this-year; IMF, *IMFC Statement by ZHOU Xiaochuan Governor People's Bank of China,* https://www.imf.org/External/spring/2015/imfc/statement/eng/chn.pdf.

Retreat from the liberalization of financial markets

The yuan's internationalization process accelerated rapidly in 2016. The currency was included in the basket of international SDR unit. That year also has brought introducing convertibility to 7 European currencies in interbank settlements.

However, the same year the share of Chinese foreign trade settled in the RMB has fallen sharply - from 26% to 16% last year. Despite the important role of the Chinese economy, its currency remains in the eighth position in terms of popularity. Recent trends rather indicate that its importance will not change in the near future. In the period of rapid increase in trade, there was a rise in yuan settlement abroad and in Hong Kong. With the outflow of the Chinese capital, this process may be discouraged by the PRC authorities because of the country's financial stability.

In the first days of January 2017, yuan's rapid appreciation was prompted by the question whether it was the result of market mechanisms or government intervention. The second hypothesis was supported by the shortages of Chinese currency in Hong Kong, which is an important hub for the RMB transaction. With the rapid decline of the bank deposits in RMB in HKSAR, the central bank's expected response would be rather to inject currency into the banking system. However, there was no reaction from the People's Bank of China, most likely to curb speculation on changes in the value of Chinese money, resulting in liquidity problems in the financial markets. The government attempts to curb the free movement of capital have also emerged at the end of 2016 by controlling all foreign transfers worth over 5 mln USD[①]. Restrictions in this area were also introduced in the case of individuals[②]. The governmental instructions from the 18th of August 2018 were also expected to have a negative impact in

① Rödl & Partner, *Tighter Regulations On Cross-Border Capital Movements – Effects and Evaluations of the Latest Developments,* http://www.roedl.com/locations/asiapacific/china/china_tighter_regulations_on_cross_border_capital_movements.html.

② Zhong Nan and Wang Yanfei, *Investments overseas get closer look,* http://www.chinadaily.com.cn/business/2016-11/29/content_27510174.htm.

the short term on Chinese companies' foreign activity[1].

These recent regulations could potentially change the investment dynamics[2], which could undermine the narration of the capital inflow under the frameworks of OBOR[3] or 16+1. There is an example of this contradiction from the mid-2017 from Poland.

2. Poland – waiting for the investments

Chinese FDI

Sine 2012 undoubtedly the Sino-Polish political relations have reached an unquoted level. However, economic dynamics, particularly the perspectives of Chinese foreign direct investment did reach the political dynamics yet. Compared to previous years, total investment liabilities at the end of 2015 recorded a sharp increase. The inflow of FDI in the years 2013-2015 was fluctuating[4], to record a strong increase in 2016 and 2017[5]. In 2016 alone, half of the total FDI liabilities were invested, mainly due to one operation, the acquisition of the shares of the Portuguese energy consortium EDP Renováveis by China Three Gorge worth nearly 350 mln EUR. These amounts do not look impressive in the context of Hungary, where in 2016 the total FDI amounted to about 1730 mln EUR. Poland's stock liabilities towards China increased according to the National Bank of Poland data from 73.7 mln EUR in 2013 to 147.4 mln EUR in 2014 and to 198.6 mln EUR in 2015. The 2016 year was not

---

① Łukasz Sarek, *Dalsze ograniczenia dla chińskich inwestycji zagranicznych*, Biuletyn Ośrodka Badań Azji Centrum Badań nad Bezpieczeństwem Akademii Sztuki Wojennej Numer 9 | wrzesień 2017, pp.9-13.

② Chen Meiling, *Outbound M&A may decline this year*, http://www.chinadaily.com.cn/business/2017-01/13/content_27941885.htm.

③ Tom Mitchell, Gabriel Wildau, *Beijing targets' irrational' capital outflows*, Financial Times, 18.08.2017.

④ Jakub Jakóbowski, *Chińskie zagraniczne inwestycje bezpośrednie w ramach „16+1": strategia, instytucje, rezultaty*, 2015, https://www.osw.waw.pl/pl/publikacje/komentarze-osw/2015-12-03/chinskie-zagraniczne-inwestycje-bezposrednie-w-ramach-161.

⑤ Maciej Kalwasiński, *Rekord chińskich inwestycji w Polsce,* http://www.bankier.pl/wiadomosc/Rekord-chinskich-inwestycji-w-Polsce-7501220.html.

fully exposed to changes of the regulations, but for 2017 they already played some role. The increasing trend might remain, the question is rather about the scale of the rise.

A high-profile auquisition

Despite this fact, the economic relations between Poland and China noticed some minor improvements in the context of opening the Chinese market to Polish products[1]. These actions did also not face controversies similar to mergers and acquisition in other EU states, not to mention takeover of the robotic company KUKA, which most likely changed the trajectory of German policy towards Chinese investment. However in the 2017 a single transaction focused in the lens a few issues. China Security & Fire tried to acquire the second largest player on the Polish security market – Konsalnet[2]. Due to costs of the transaction and the controversies around it, it became a high-profile transaction. What grabbed the attention of public opinion was the fact, the company protected, among others, Polish military facilities. Controversial was also the fact, that China Security & Fire' s management (including Wang Lizhong) had CCP or the state' s public security connections. Another hypothesis linked the move with the expansion on Polish and the EU markets with the equipment of its own production. In March 2017 Office of Competition and Consumer Protection (UOKiK) gave permission for the acquisition. The decision of this authority was proceeded by "the announcement of the Chinese company, which seemed to be typical of the place and time: "The fifth [...] China Security & Fire' s acquisition of a foreign company, following the Belt and Road Initiative, established the basis for opening up for the global security business market and building a global empire of security services."[3]. However, the beginning of July 2017 has

① Jakub Jakóbowski, *Współpraca handlowa w ramach „16+1": sektorowy sukces eksportu żywności do Chin*, 2015, https://www.osw.waw.pl/pl/publikacje/komentarze-osw/2015-10-29/wspolpraca-handlowa-w-ramach-161-sektorowy-sukces-eksportu.

② *Jacek Pogonowski: Z chińską pomocą na nowe rynki,* http://www.rp.pl/Wywiady/303269936-Jacek-Pogonowski-Z-chinska-pomoca-na-nowe-rynki.html#ap-1.

③ http://www.yuncaijing.com/news/id_8243647.html.

brought a surprising turn, as the China Security & Fire withdrew the purchase proposal. The reason was a lack of approval by the Chinese authorities, which have been struggling to curb the outflow of capital from the PRC since 2016 and negatively assess the company's financial position[①]"[②].

The Chinese picked the fruit from the recent restrictions. Looking at from the economic perspective, blocking the transaction could have been reasonable, as the risk of bankruptcy of the Chinese firm could have affected the state and other companies' credibility for years, as it was with COVEC. Given the high profile of the acquisition, withdrawal of the transaction became a blow to the expectations of concrete Chinese involvement. The FDI from this country are still welcome, but the further declaration of special relations and tightening economic ties would rather fall on the less susceptible soil.

Legal and politics as factors

The mentioned case highlighted some of the issues present on the Chinese side. On the Polish field it can be found some other potential obstacles. Polish law has a rather bad opinion in Europe and economic regulations are no exception. Increase of legal acts passed to 1490 in the year of 2016 (compering with 1450 in 2015), accompanied with the mixed declarations on forthcoming bills, and resulted in increase of the uncertainty of entrepreneurs according to various surveys conducted in Poland[③]. The large quantity and poor quality of the bills, with the contradict regulations, interpretations, and practices are considered one, if not the main, obstacle for investors and local entrepreneurs. It was difficult to imagine more grabbing attention regulations that were to come in 2015 and 2017. Recent legal changes in Poland, with a proposal of three bills totally subordinating judiciary system to the executive, caused massive controversies in the state and abroad. In Poland hundreds of thousands,

---

① Maciej Kalwasi ń ski, *Chińczycy rezygnują z kupna Konsalnetu*, http://www.bankier.pl/wiadomosc/Chinczycy-rezygnuja-z-kupna-Konsalnetu-7530495.html (06.06.2017).

② Katarzyna Golik, *Polski model z chińską specyfiką?*, Michał Sutowski, ed., Ekonomia polityczna dobrej zmiany", Krytyka Polityczna, Warszawa 2017, pp.189.

③ Including surveys of the Central Statistical Office (GUS) and National Bank of Poland (NBP).

citizens protested on the streets, while the EU bodies showed strong concern over the bills, with even some high-ranking officials raising the perspectives of sanctions against the Polish government.

Finally, the presidential veto on the two bills blocked the quick increase of the executive over the courts. However, the president signed the third bill, on the common courts. After the integration of the governmental and juridical function by the Minister of Justice, proceeded by the conflict on the Constitutional Tribunal[①], this were clear signs for the potential investors of not only instability of law, but of the whole legal system. Without guarantees of respect for the European Tribunal of Justice on the felling of Białowieża Forrest[②], the risks and uncertainty for the foreign investors rose significantly. The issue was noticed by the S&P agency[③], which, by changing rating's perspective to negative, highlighted the negative perspectives in the mid-term and long-term.

The political factors themselves remained unpredictable, even with the declarations of top Polish officials to support Poland-China economic cooperation. In early 2017 the Military Property Agency withdrew the sale of the plot in Łódź, where the Polish-Chinese company Hatrans planned to build a logistics center, and the new tender for the following months was not announced[④]. The case remains open, especially as the official land route of the "Belt and Road" was not introduced, it may be completely different from what

① 刘作奎、［波兰］卡塔里娜·高里克，《2015 年波兰宪法危机根源、前景及对中波关系影响分析》，《欧洲研究》2016 年第 2 期，第 106-120 页。

② Which is on the UNESCO list. The wood is most likely felled for the economic purposes. Patrick Barkham, *Will no one stop Poland destroying Europe's most precious forest?*; https://www.theguardian.com/commentisfree/2016/apr/03/poland-europe-bialowieza-forest-eu (01.08.2017); Robert Jurszo, *Raport o rzezi drzew w Puszczy Białowieskiej. Pod piłami Lasów Państwowych giną nawet 100-letnie dęby*, https://oko.press/raport-o-rzezi-drzew-puszczy-bialowieskiej-pilami-lasow-panstwowych-gina-nawet-100-letnie-deby/.

③ Business Insider Polska, *Agencja S&P: zmiany w sądach mogą wpłynąć negatywnie na polską gospodarkę,* http://businessinsider.com.pl/finanse/makroekonomia/zmiany-w-sadownictwie-negatywnie-wplyna-na-polska-gospodarke/d8yrx4k.

④ GW, *Nowy jedwabny szlak ominie Łódź?*, http://www.propertynews.pl/magazyny/nowy-jedwabny-szlak-ominie-lodz,51330.html (01.08.2017).

is imagined in Poland.

Potential investor could meet more legal uncertainties. Some types of the investment include the purchase of land. With the Land and Forest Act, which prevents rotation of land ownership, it would be difficult to receive a positive decision from the proper administration entity, even when the land owner is a private person. Uncertainty comes also in the interpretation tax rules, with more repressive attitude towards the potential frauds. Specific and unstable regulations also include the new code on urban construction and a new water law, which was passed in 2016, but then changed again in the 2017. These conditions could become a barrier for the Chinese companies.

3. The European Union – maintaining standards

In the years 2015-2016 EU countries noticed a peak of the inflow of the Chinese capital, mainly in the mergers and acquisitions. The controversies on some of the purchases, particularly of KUKA robotic company and Osram, became a strong impulse for the policy makers, especially in Germany. There is a perspective of the new regulations, which would allow the member states to protect their markets and companies against the uncontrolled flow of the Chinese investment. As the changes in the EU' s top bodies come slow, another element might be worth taking into account.

The flag project on the edge

The perspectives do not look too bright also in the dimension of Poland being a part of the European Union. The year of 2017 has brought another lesson to be learned, which are the obstacles in the EU regulations. Poland plans to build a Central Airport (Centralny Port Lotniczy), as a hub for trans-European and trans-Asian flights. As a similar project in Berlin has failed, the CPL economically seems to be a challenge. From this reason, it would rather require public investment, with little chance for the EU-funds and credits. The Chinese were the creditors of the similar project in Sri Lanka, which could be a good lesson for Poland to be learned[1]. As the Polish decision-makers turned a blind eye to it, they might also miss, that at best it would possibly share the fate Belgrade-Budapest railway project.

The 16+1 Fund, created during the 2012 Warsaw summit, was a $10 bln financial mechanism, which existed only on the paper, until launching $3 bln Belgrade-Budapest railway project. With no public tender, the contract was offered to the Chinese company. In case of Serbia it was unproblematic, but not for the Hungary, this aspect from the beginning seemed problematic. In the context of rising tensions between Budapest and Brussels on the state governance, possibly also some distrust and concerns towards the Chinese presence in the sensitive region of Europe, it was more than possible that it would face obstacles from the EU's authorities. Since September 2016 the project was put under European Commission's investigation[2], which in 2017 proved that such a large-scale infrastructure project violated European regulations on financial feasibility and public procurement. The decision for a time being blocked the project.

Even before the final conclusion, both the Chinese and Hungarian governments sent some signals suggesting declining enthusiasm towards the project. The Chinese realized the hardships from the Brussels, while the Hungarians - the modest benefits from the project. Still, the result became painful for the Chinese side not only because it proved of the failure of the narration of bringing cohesion to the EU of the 16+1 format. As Belgrade-Budapest railway was perceived as "a hallmark project of Beijing's Belt and Road Initiative"[3], actually no other infrastructural project in Europe could

---

① Katarzyna Golik, *Polski model z chińską specyfiką?*, Michał Sutowski, ed.,Ekonomia polityczna dobrej zmiany", Krytyka Polityczna, Warszawa 2017, pp.200-201.

② Justin Spike, *EC launches infringement proceeding concerning Budapest-Belgrade railway project*, http://budapestbeacon.com/news-in-brief/ec-launches-infringement-proceeding-concerning-budapest-belgrade-railway-project/39281.

③ Wade Shepard, *Another Silk Road Fiasco? China's Belgrade To Budapest High-Speed Rail Line Is Probed By Brussels*, https://www.forbes.com/sites/wadeshepard/2017/02/25/another-silk-road-fiasco-chinas-belgrade-to-budapest-high-speed-rail-line-is-probed-by-brussels/#6258bccc3c00.

prove OBOR to be something more than the smart but economically empty framework.

4. Conclusions

The rise of flows of the Chinese investments in Poland is difficult to be indicative for the future. The recent events do not necessarily neglect the possible further increase the level and short-term continuation of the rising trend. However, the expectation for Poland becoming a new hub for Chinese investment, even in the Visegrad, seems to be too preliminary. It would be difficult for the mentioned trends not to influence the investment dynamics, especially in the mid-term.

For the Chinese government and the politburo, rather than maintaining the control over the stability of financial markets, prevention from the rise of speculative bubbles remained a priority. With rising domestic demand for foreign currencies, yuan's liquidity constraints will not remain indifferent to the activity of Chinese companies, including mergers and acquisitions of foreign companies.

The situation in China itself will probably affect the economic relations with of Poland. The Chinese government's policy on financial markets should be observed by China's economic partners. Despite the prospect of further release of the yuan course, it is difficult to predict what scale of instability may be acceptable to the Chinese authorities. Sudden changes and non-standard interventions on the financial market in this field carry risks for interbank and corporate settlements.

Chinese prevention from the capital outflow has had already an impact on the investment in Poland, but it did not derail their upward trajectory. The grand projects in their preliminary shape raise various concerns about the outcome. The mid-term perspectives remain positive, but without too big expectations.

Part three: Achievements and Impacts

Investment Facilitation and Its Impact: Evidence from China's OFDI to the Belt and Road Countries

Liao Jia* Pan Chunyang** Shang Yuhong***

1. Introduction

The Belt and Road Initiative is a significant development framework launched by the Chinese government with the intention of promoting economic cooperation among countries along the proposed Belt and Road (B&R) routes. The initiative has been designed to enhance the orderly free flow of economic factors and the efficient allocation of resources, which covers a broad area from South Asia, Southeast Asia, West Asia and North Africa, Central Asia and CIS countries, to Central and Eastern European countries. Under this initiative, a lot of trade and investment facilitation measures have been proposed, among which, infrastructure connectivity has been one of the most important issues, since it is the foundation of international cooperation and development. According to the Ministry of Transport of China, 356 cross-border highway and railway routes had been opened between China and 15 Belt and Road countries by the end of 2016 and direct flights now link China with 43 Belt and Road countries. Improvements in other areas are also very significant. However, whether these measures are effective in inducing investment from China to the

* Liao Jia, Associate professor, School of International Business of Shanghai University of International Business and Economics, Research center of Central and Eastern European Countries of SUIBE

** Pan Chunyang, Lecturer, School of Business of East China University of Science and Technology

*** Shang Yuhong, Professor, School of International Business of Shanghai University of International Business and Economics, Research center of Central and Eastern European Countries of SUIBE

Belt and Road Countries and to what extent, which measures are more effective are still not clear.

Previous literatures mainly focus on trade facilitation and its impact, few literatures focus on investment facilitation. This article aims to fill this gap by constructing a comprehensive framework of measuring indicators for investment facilitation to measure the impact of China's Belt and Road Initiative and give policy implications for relevant governments. This article complements the current literature in the following aspects: First, investment facilitation is defined and measured using five indicators (infrastructure, institutions efficiency, finance availability, technology availability and micro business environment), combining macro and micro factors together; second, a gravity model is used to model cross-border investment and to estimate the effect of investment facilitation on China-B&R countries investment. Third, asymmetric impact of Belt and Road Initiative on different regions explored and impacts of governmental and non-governmental factors are differentiated in order to give more specific policy implications.

The rest of this paper is structured as follows: Section Ⅱ reviews the literature. Section Ⅲ discusses data and indicators construction. Section Ⅳ presents econometric model and results. Section Ⅴ demonstrates further discussion and policy implications.

2. Literature Review

Just as trade facilitation, there is also no standard definition of investment facilitation. APEC (2008) defines investment facilitation as "actions taken by governments designed to attract foreign investment and maximize the effectiveness and efficiency of its administration through all stages of the investment cycle" [①]. While literatures on investment facilitation are very few, there are some useful explorations. Katja (2011) using a welfare analysis

① APEC Investment Facilitation Action Plan, www. apec. org.

from a host-country perspective modeled investment liberalization and firm selection process[①]. Geginat etc., shows that electricity and telecommunication connections are very important facilitating factors for investment in host countries[②]. Grosse and Trevino test the impact of institution building to FDI locations, and found support for the positive link between institutional variables and FDI flows into CEE countries[③]. Iimi estimates the effect of improving infrastructure on business costs in 26 countries in Europe and Central Asia, founding that the total benefit for the economy from eliminating the existing electricity outages ranges from 0.5 to 6 percent of GDP, while removing water suspensions could receive a gain of about 0.5 to 2 percent of GDP[④]. Among the few Chinese literatures on investment facilitation, most scholars discuss investment facilitation together with trade facilitation[⑤] and not differentiating their impacts[⑥]. Previous research mainly focus on trade and investment facilitation on APEC[⑦], and ASEAN countries.[⑧] Only recently, scholars began

---

① KejžarK. Z., "Investment liberalisation and firm selection process: A welfare analysis from a host-country perspective", *Journal of International Trade & Economic Development*, Vol.20, No.3, 2011, pp.357-377.

② Geginat C, Ramalho R., "Electricity Connections and Firm Performance in 183 Countries", *Policy Research Working Paper*, 2015.

③ Grosse R., Trevino L. J., "New Institutional Economics and FDI Location in Central and Eastern Europe", *MIR: Management International Review*, Vol.45, No.2, 2005, pp.123-145.

④ Iimi A., "Effects of Improving Infrastructure Quality on Business Costs: Evidence from Firm-level Data", *Policy Research Working Paper* 2008, PP. 1-24.

⑤ Jianping Zhang, Ziyan Fan, "The Current Status of Trade and Investment Facilitation in 'the Belt and Road' Countries and relevant measures", *Journal of Chinese Academy of Governance* No.1, 2016, pp.23-29; Xuan Li, "Progress in Chinese Trade and Investment Facilitation: Problems and Countermeasures", *Lanzhou Academic Journal* No.3, 2016, pp.171-178.

⑥ Riming Cui, Yingwan Huang, "Study on the Trade and Investment Facilitation Evaluation Index System of Countries of 'One Belt and One Road'", *Journal of International Trade*, No.9, 2016, pp.153-164.

⑦ Wilson J. S., Mann C. L., and Otsuki T., "Trade Facilitation and Economic Development: A New Approach to Measuring the Impact", *World Bank Economic Review*, Vol.17, No.3, pp.367-389; Minghui Shen, "APEC Investment Facilitation", *International Economic Cooperation*, No.4, 2003, pp.41-45; Wentao Li, 2011,"An Evaluation of the Development of APEC Trade and Investment Facilitation Cooperation and China's Strategic Choices", *Asia-Pacific Economic Review,* No.4, 2009, pp.13-17.

⑧ Shepherd, B., and J. S. Wilson, "Trade Facilitation in ASEAN Member Countries: Measuring Progress and Assessing Priorities", *Journal of Asian Economics*, Vol.20, No.4, 2009, pp.367-383.

to shift their attention to the Belt and Road Initiative countries; however, mainly addresses trade effects[①].

While empirical literature on investment facilitation is still limited, this paper applies a gravity model of unilateral FDIs from China to the Belt and Road countries, incorporating a rich set of indicators of investment facilitation in the analysis. The model also includes Bilateral Investment Treaties as an indicator for governmental policy and other standard gravity model variables, in order to determine which of these factors might have a greater effect on FDI flows to Belt and Road countries.

3. Data for Measuring Investment Facilitation and Other Variables

As investment facilitation involves a lot of fields, to define and give a conceptually distinct measure for it to meet policymaker's needs for specificity is a great challenge. Among the Belt and Road Initiative priorities, on which field should countries focus their scared resources? A single indicator, such as ease of doing business rank to proxy investment facilitation is clearly not adequate to inform policy priorities, and easy to neglect the important influential factors such as infrastructure quality, institutions efficiency, financial and technological factors; therefore, based on the new systems of regulations and ideas of evaluation, we construct our framework of measuring investment facilitation, which includes five indicators that measure five different categories of investment facilitation effort:

Infrastructure quality, designed to measure the quality of host countries' transportation infrastructure.

Institutions efficiency, designed to measure the government's regulatory efficiency, clearance, investor protection and intellectual property protection.

Finance efficiency, designed to measure the availability and quality

① Chunren Sun, etc., "One Belt One Road and the Export Growth of China to the Related Countries", *Journal of International Trade*, No.2, 2017, pp.83-96.

of financial services as well as ease of financing and access to loans in host countries.

Technology readiness, designed to measure availability of latest technologies, Internet users, capacity for innovation and availability of scientists and engineers.

Microbusiness environment, designed to measure the business environment from the perspective of small and medium-sized enterprises, which includes starting a business, dealing with construction permits, getting electricity, registering property, paying taxes, enforcing contracts and resolving insolvency.

Generating investment facilitation indicators

Each indicator is generated from data specific to each B&R countries. These indicators alone can predict policy implications by giving policy makers information on how well their economy rates relative to other B&R countries. Self-assessment against best practice and estimation results on the effect of indicators on investment flows provide useful information to policy makers about what might be most fruitful direction for reform, capacity building and negotiation. Due to the limit of empirical data, survey data were used to generate indicators. In order to reduce dependence on one survey response, survey data from World Bank's Doing Business Report and World Economic Forum's Global Competitiveness Report were used. The former one based on standardized case scenarios in the largest business city of each economy, information mainly comes from four sources: the relevant laws and regulations, doing business respondents, the governments of the economies covered and the World Bank group regional staff, while the latter one mainly comes from WEF's executive opinion survey. The infrastructure quality, institutions efficiency, finance efficiency and technology readiness are taken from Global Competitiveness Report, while ease of doing business indicator is taken from the World Bank.

With some of the data being actual values and some from surveys with different response ranges (1-7,1-100, and so on), we need to put the raw data on a comparable basis. Following Wilson et al. (2003), each B&R observation of a raw series is indexed to the average of all the B&R members' value for the raw series[①], yielding an indexed input[②]. Then the indexed inputs into the five specific investment facilitation indicators are averaged. In order to avoid subjective bias on the weight assigning to different indicators, and as there is no specific argument (theoretical or statistical) for choosing a different aggregation method—a simple average is used. Details of the sources and summary statistics on the indexed inputs and the aggregated indicators are shown in table 1 and appendix table 2.

Table 1 The Framework of Investment Facilitation Indicators

Indicator	Indexed inputs	Range	Source
Infrastructure Quality	Quality of roads	1-7	GCR
	Quality of railroad infrastructure	1-7	GCR
	Quality of port infrastructure	1-7	GCR
	Quality of air transport infrastructure	1-7	GCR
Institutions Efficiency	Intellectual property protection	1-7	GCR
	Irregular payments and bribes	1-7	GCR
	Burden of government spending	1-7	GCR
	Efficiency of legal framework in settling disputes	1-7	GCR
	Strength of investor protection	1-7	GCR
Finance Efficiency	Financial services meeting business needs	1-7	GCR
	Affordability of financial services	1-7	GCR
	Financing through local equity market	1-7	GCR
	Ease of access to loans	1-7	GCR

① Wilson J. S., Mann C. L., and Otsuki T., "Trade Facilitation and Economic Development: A New Approach to Measuring the Impact", *World Bank Economic Review*, Vol.17, No.3, 2003, pp.367-389.

② An indexed input for B&R member I should be $Y_i = \overline{X}_i / X_I$, Y_i is an indexed input, X_i indicates the raw data series. $\overline{X}_i$, indicates the average value of all the B&R countries for the raw series.

(Contd.)

Indicator	Indexed inputs	Range	Source
Technology Readiness	Availability of latest technologies	1-7	GCR
	Internet users% pop	0-100	GCR
	Capacity for innovation	1-7	GCR
	Availability of scientists and engineers	1-7	GCR
Ease of Doing Business	Starting a business	1-190	DB
	Dealing with construction permits	1-190	DB
	Getting electricity	1-190	DB
	Registering property	1-190	DB
	Paying taxes	1-190	DB
	Enforcing contracts	1-190	DB
	Resolving insolvency	1-190	DB

Source: Authors' compilation

From the indicators countries can easily see where they fall in the range from best practice to worst practice. For those countries that got a score more than 1, shows that they have investment facilitating measures above average levels. For those countries whose score is less than 1, indicates that their investment facilitation level is below the average. Knowing the range and where the countries are in the range is important for building scenarios on the benefits of investment facilitation and for considering which areas of investment facilitation needs to be improved and might be most fruitful for a country. Figure 1 shows average investment facilitation levels of B&R countries classified by regions. It is shown that averagely investment facilitation levels in west Asia, east Asia and ASEAN countries are higher than the average level of sample countries; while investment facilitation level in central Asia, south Asia and CIS countries are below the average level, with CEE countries at about the average level.

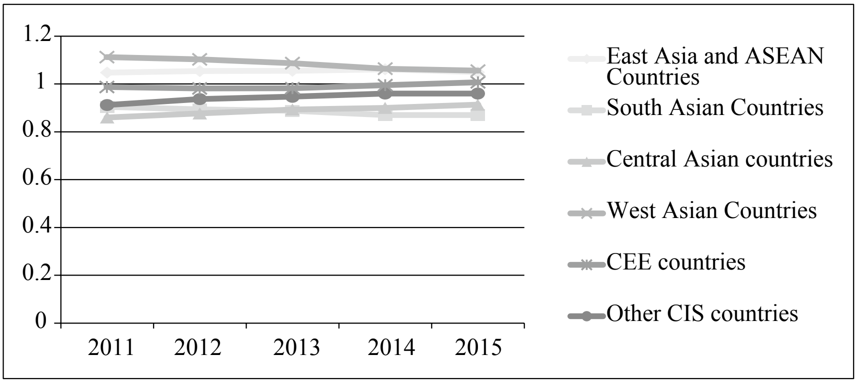


Figure 1 the Average IFI Levels of B&R Countries Classified by Regions

Source: Authors' computations based on data from indicated sources.

Apart from investment facilitation indicators, the Belt and Road Initiative policy indicators are also taken into consideration. We use Bilateral Investment Treaties and establishment of Industrial zones as proxy for governmental policy-oriented indicators, in order to assess the impact of government policy in inducing Chinese outward FDI to the Belt and Road countries. We use the data from 2008-2015 for 51 Belt and Road countries due to two reasons: (1) the availability of data; (2) to reflect the recent policy change of Belt and Road Initiative.

4. Econometric Model and Results

Since its first use by Tinbergen to explain bilateral trade flows[①], the gravity model has been commonly used in traded-related research and has evolved from an intuitive model to a theoretical model, and now it is widely used in explaining bilateral FDI flows[②] (Leibrecht and Riedl, 2014). The

① Tinbergen, J., *Sharing the World Economy: Suggestions for an International Economic Policy*, New York: Twentieth Century Fund, 1962.

② Leibrecht, M., Riedl, A., "Modeling FDI based on a spatially augmented gravity model: Evidence for Central and Eastern European Countries", *Journal of International Trade & Economic Development*, Vol.23, No.8, 2014, pp.1206-1237.

assumptions are that FDI flows are larger between large economies and the more so if the countries are close neighbors. Therefore, a basic gravity model models FDI flows as a function of the economic masses (usually measure by the country's GDPs) of and the geographical distance between the origin (i=1, ..., n^i) and destination country (j=1, ..., n^j). A typical use of gravity model is represented by equation (1):

$$lnY_{ij} = \beta_0 + \beta_1 lnGDP_i + \beta_2 lnGDP_j + \beta_3 lnD_{ij} + \beta_4 B_{ij} + \varepsilon_{ij} \qquad (1)$$

Where B_{ij} stands for the "integration" dummy (such as neighbors, RTA, former colonies, common language, etc.), B_{ij} =1 if i and j share some link, B_{ij} = 0 if not.

The model in this paper uses the key economic variables of the gravity model, such as GDP, contiguity, common language, and geographic distance between corresponding pairs of China and B&R countries, and augments the standard gravity model specification with the various indicators of investment facilitation and the policy-oriented indicators BIT and industrial zone. The data for GDP (Gross Domestic Product) come from the World Bank's *World Development Indicators* (World Bank various years), which are expressed in year 2010 dollars. The data for contiguity, common language and geographic distance are from CEPII database. In order to avoid zero or negative variables, FDI stocks are used instead of FDI flows, which are taken from the Statistical Bulletin of China's Outward Foreign Direct Investment of various years. The BIT and industrial zone between China and B&R countries data come from the Ministry of Commerce of China, and the investment facilitation indicators are from the authors' calculation.

The Gravity Model Analysis

The basic gravity equation is constructed as:

$$lnFDI_{ijt} = \beta_0 + \beta_1 lnGDP_{jt} + \beta_2 lnGDPPC_{jt} + \beta_3 lnDist_{ij} + \beta_4 lncontig_{ij} + \beta_5 lncomlang_{ij} + \beta_6 lnIFI_{jt} + \beta_7 lnBIT_{ijt} + \beta_8 lnInduzone_{ijt} + \alpha_{ij} + \varepsilon_{ijt} \quad (2)$$

Where the β terms are coefficients, *i* is the FDI origin country, here refers to China, *j* is the destination country, referring to 51 B&R countries, *t* denotes years (t=2008-2015). $Dist_{ij}$ captures the geographical distance between the capital cities of the origin country China and destination country, which represents the barrier for doing business. $contig_{ij}$ is a dummy variable, showing whether the two countries share common border, it equals to 1 if they share common border, otherwise equals to 0. $comlang_{ij}$ is a dummy variable, taking the value of one if two countries whose official language is or includes Chinese, zero otherwise. BIT_{ijt} refers to at time t whether there is a bilateral investment treaty existed between China and the B&R countries selected, if there is, take the value of 1,0 otherwise. $Induzone_{ijt}$ refers to the numbers of cooperation industrial zones between China and B&R countries that are officially recognized. IFI_{jt} is the indicator showing the investment facilitation level of host countries. α_{ij} capture the country-pair fixed effects, which are assumed to be random and normally distributed with mean 0. While this assumption allows capturing unobserved time-invariant country-pair specific effects, it requires α_{ij} being uncorrelated with the observed regressors. A Hausman test will be used to verify this condition. ε_{ijt} is the error term.

Positive signs are expected for all the variables, except for $Dist_{ij}$ and $GDPPC_{jt}$. As we assume that GDP_{jt} represents the host country's market size, the larger a country's market size, the more investment it will attract; $GDPPC_{jt}$ represents the host country's purchasing power, a higher purchasing power of residents will attract more investment, but at the same time higher GDPPC means lower rate of return to investment, which will have an negative impact on FDI inflows, thus the sign of $GDPPC_{jt}$ is ambiguous; $contig_{ij}$ and $comlang_{ij}$ shows the adjacency and language similarity between two countries, which will contribute the direct investment; IFI_{jt} shows the host country's investment facilitation level, the higher level of investment facilitation, the more direct investment it will attract; BIT_{ijt} and $Induzone_{ijt}$ are all considered investment-inducing factors; while the geographical distance $Dist_{ij}$ is considered as a barrier for doing business in another country.

In order to explore the impact of different components of investment facilitation, we use institution, infrastructure, finance and technology indicators to replace investment facilitation indicator:

$$lnFDI_{ijt} = \beta_0 + \beta_1 lnGDP_{jt} + \beta_2 lnGDPPC_{jt} + \beta_3 lnDist_{ij} + \beta_4 lncontig_{ij} + \beta_5 lncomlang_{ij} + \beta_6 lninfra_{jt} + \beta_7 lninsti_{jt} + \beta_8 lnfinan_{jt} + \beta_9 lntech_{jt} + \beta_{10} lnBIT_{ijt} + \beta_{11} lnInduzone_{itt} + \alpha_{ij} + \varepsilon_{ijt} \quad (3)$$

Regression Results

We use both fixed effects and random effects model to estimate the gravity equation to examine the effects of indicators that do not change with time. Our regression result shows that the basic gravity equation meets our expectation; the aggregate investment facilitation indicator is positively significant, which shows that by using a number of indicators to measure investment facilitation is generally successful. GDP of host country plays a positive role in attracting inward FDI from China. Distance plays a significantly negative role under the random effects model. Although the industrial zone and bilateral investment treaty are not significant, they are of the positive sign, which are conforming to our expectation. We then regress equation (3) to see the impact of each sub-category's effect. We use both fixed effects and random effects to estimate, but the Hausman test shows that the fixed effects model is preferred. We find that among the five sub-categories of investment facilitation indicator, infrastructure is positively significant, and of great magnitude. Finance is negatively significant, while this is out of our original expectation, it is not unexplainable. As China is abundant in capital, those areas that China invests may precisely those countries that are in great need of capital and financial environment not so complete. The other three sub-categories are not significant, which we will discuss later.

Table 2 Regression Results

variable	Fixed effects	Random effects	Fix effects	Random effects
Ifi	0.1718** [0.0824]	0.2279** [0.0976]		
Ln_gdp 2010	6.4640*** [0.6080]	0.4949*** [0.1723]	5.5697*** [0.5878]	0.2416 [0.1498]

(Contd.)

variable	Fixed effects	Random effects	Fix effects	Random effects
Ln_gdppc2010	-2.0390*** [0.7626]	1.1406*** [0.2680]	-2.1835*** [0.7147]	0.8442*** [0.2361]
Ln_zone	0.1705 [0.2233]	0.2444 [0.2607]	0.2038 [0.2027]	0.2653 [0.2285]
Contig	0.0000 [.]	1.2426 [0.8903]	0.0000 [.]	0.9819 [0.7479]
Comlang_off	0.0000 [.]	0.3843 [1.3931]	0.0000 [.]	1.1635 [1.1736]
dist	0.0000 [.]	-0.0007*** [0.0002]	0.0000 [.]	-0.0008*** [0.0002]
bit	0.0000 [.]	0.5965 [0.6530]	0.0000 [.]	0.8364 [0.5497]
institution			-1.5311 [0.9905]	-1.5823 [1.1299]
infrastructure			4.8078*** [0.7156]	5.8257*** [0.8149]
finance			-2.8367*** [0.7809]	-4.6794*** [0.8863]
technology			0.5451 [0.5796]	1.8462*** [0.6559]
Ease_of_ doingbusiness			0.1208 [0.4963]	-1.0383* [0.5408]
_cons	-52.7305*** [3.9120]	-10.1863*** [2.4031]	-41.9740*** [3.7859]	-4.5789** [2.0551]
No of observations	399	399	399	399
R^2	0.4319		0.5409	
F	65.3949		50.0757	
P	0.0000	0.0000	0.0000	0.0000

Note: * significant at the level of 10 percent; ** significant at the level of 5 percent; ***significant at level of 1percent. Both fixed effects and random effects model are used. A Hausman test shows that fixed effects models are preferred.

Source: Authors' computation based on survey data for investment facilitation indicators, Ministry of Commerce of China for FDI flows, BIT and industrial zones, while gdp, gdppc are from World Bank World Development Indicators and other gravity indicators are from CEPII.

Region Comparison

In order to get specific policy implications, we differentiate the impacts of different regions by grouping countries into Central and Eastern European countries, Asian countries and other Common wealth of Independent States countries (see appendix table 2), the regression results using fixed effects model are shown in table 3. We can see that infrastructure is still positively significant in CEE and Asian countries, while finance is negatively significant in CEE and CIS countries, which conform to our previous discussion. However, the impact of host country's institution on the China's OFDI is not so consistent, as in CIS countries, it is significantly positive, while in Asian countries, it is significantly negative. Although it is out of our original expectation, it is in conformity with the literature. For example, Cuervo-Cazurra[①] (2006) finds that while FDI from low corruption home countries is deterred by high cost country corruption; FDI from high home to host country corruption may actually prefer to invest in these environments. Similarly, the negative relationship between institution of host countries and China's OFDI may depend on the relative economic development of China and the host country and other contextual factors, which need to be further explored[②] (Nicholas Bailey, 2017). Technology is positively significant in CEE and CIS counties, but negatively significant in Asian countries, which may also depend on the relative economic and other contextual factors between China and the host countries.

From a policy perspective, the analysis reveals that for governments in CEE countries, priorities should be given to infrastructure and technology to attract more Chinese OFDI, while policymakers in CIS countries should focus on improving institution and technology to attract more FDIs from China. And the Asian governments should also put improving the infrastructure as its priority. However, this result should be used with caution, as our classification

① Cuervo-Cazurra A., "Who Cares about Corruption?", *Journal of International Business Studies*, Vol.37, No.6, 2006, pp.807-822.

② Nicholas Bailey, "Exploring the Relationship Between Institutional Factors and FDI Attractiveness: A Meta-analytic Review", *International Business Review*, Vol.27, No.1, 2018, pp.139-148.

of group of countries are mainly based on their geographical location, which represent the average level of each area, different countries may have different specific contextual factors that need to be further explored.

Table 3 Regression Results with Region Comparison

	CEE(1)	CIS (1)	Asia(1)
Institution	-0.3972 [1.6452]	5.5257** [2.5582]	-2.7254* [1.4137]
Infrastructure	3.5910*** [1.1340]	0.6868 [1.8786]	3.9994*** [1.1839]
Finance	-4.8487*** [1.4163]	-9.1480*** [2.0702]	0.9958 [1.1434]
Technology	2.5900* [1.4876]	3.4261** [1.6345]	-1.4472** [0.6816]
Ease-of-do~s	-0.6835 [1.2634]	1.5026 [1.0031]	-0.8461 [0.6164]
ln_gdp2010	-2.7290 [5.4414]	0.0550 [3.3516]	6.7782*** [0.5887]
ln_gdppc2010	6.4413 [5.0385]	3.6007 [3.1295]	-3.4866*** [0.7183]
ln_zone	0.5160 [0.3643]	2.0636 [1.6786]	-0.0229 [0.2439]
Contig	0.0000 [.]	0.0000 [.]	0.0000 [.]
Comlang_off	0.0000 [.]	0.0000 [.]	0.0000 [.]
dist	0.0000 [.]	0.0000 [.]	0.0000 [.]
bit	0.0000 [.]	0.0000 [.]	0.0000 [.]
_cons	-29.3763* [17.4449]	-30.9787** [13.8613]	-45.9063*** [4.1669]
N	127	48	224

(Contd.)

	CEE(1)	CIS (1)	Asia(1)
R^2	0.4426	0.7920	0.6526
F	10.2239	16.1861	43.9082
P	0.0000	0.0000	0.0000

Note: * significant at the level of 10 percent; ** significant at the level of 5 percent; ***significant at level of 1percent. According to a Hausman test, fixed effects model is used.

Source: The same as table 2.

Robustness check

We use lagged indicators to check the robustness of the investment facilitation, the result is very similar to the basic model, from table 4 we can see that investment facilitation indicator of host countries even lagged behind one year still has positive effect on China's OFDI, and the magnitude is even greater. The result supports our basic hypothesis.

Table 4 Regression Results with Lagged Variables

	Fixed effects	Random effects	Fixed effects	Random effects
L. ifi	0.1819** [0.0704]	0.2737*** [0.0818]		
L. ln_gdp2010	6.0414*** [0.6307]	0.4679*** [0.1737]	5.0458*** [0.6055]	0.2481 [0.1517]
L. ln_gdppc2010	-1.7053** [0.7951]	1.0512*** [0.2682]	-1.5938** [0.7370]	0.8360*** [0.2388]
L. ln_zone	0.0590 [0.2166]	0.0833 [0.2511]	0.0750 [0.1971]	0.0839 [0.2215]
oL. contig	0.0000 [.]	1.2389 [0.8975]	0.0000 [.]	0.9332 [0.7550]
oL. comlang~f	0.0000 [.]	0.4266 [1.4055]	0.0000 [.]	1.1383 [1.1871]

(Contd.)

	Fixed effects	Random effects	Fixed effects	Random effects
oL. Dist	0.0000 [.]	-0.0007*** [0.0002]	0.0000 [.]	-0.0008*** [0.0002]
oL. bit	0.0000 [.]	0.7221 [0.6586]	0.0000 [.]	0.8590 [0.5551]
L. institution			-1.8176* [0.9969]	-2.7369** [1.1169]
L. infrastructure			3.1399*** [0.6868]	4.0617*** [0.7790]
L. Finance			-2.6189*** [0.7899]	-3.4709*** [0.9008]
L. technology			2.4269*** [0.6808]	3.8221*** [0.7608]
L. ease_of_ doing			0.2082 [0.5603]	-0.9159 [0.6010]
_cons	-50.7061*** [4.1638]	-9.0623*** [2.4179]	-41.1634*** [4.0310]	-4.4376** [2.0764]
N	352	352	352	352
R^2	0.4300		0.5369	
F	56.0064		42.4610	
P	0.0000	0.0000	0.0000	0.0000

Note: * significant at the level of 10 percent; ** significant at the level of 5 percent; ***significant at level of 1percent. Both fixed effects and random effects model are used. AHausman test shows that fixed effects models are preferred.

Source: The same as table 3.

5. Discussion

This paper intends to identify the impact of investment facilitation on China's OFDI to the Belt and Road countries by constructing an aggregate investment facilitation indicator. Country-specific investment facilitation indicators are used to reflect pragmatic policy implications. Through our research, we have the following conclusions:

First of all, the Belt and Road countries are quite distinguished in their level of investment facilitation. On the average, sample countries in Southeast Asia and West Asia have higher investment facilitation level measured by the indicators in this research. CEE countries are at the average level, while Central Asian, South Asian and other CIS countries are below the average level.

Secondly, the gravity model shows that investment facilitation level is significantly promoting China's outward FDI, and among the five indicators, infrastructure is the most important driving factor. We also found investment facilitation has significant lagged impacts on China's OFDI.

Thirdly, through region comparison, we found institutions and technology have inconsistent impacts, which we interpret it as the result of relative economic and contextual factors that need to be further examined.

Policy Implications

By taking into consideration the impact of investment facilitation on China's OFDI, this set of indictors helps policymakers judge where their economy stands relative to their peers on each of these measures, and through quantifying the benefits of investment facilitation efforts, this multiple-indicator approach along with decomposition of the impact of the various indicators on investment may enable more targeted decision-making by policy makers. As our research shows that infrastructure is the most promoting factor of investment for the Belt and Road countries, which supports China's Belt and Road Initiative priority.

For the policymakers in relevant countries, priorities should be given to the infrastructure construction. China should strengthen the financial system construction to make Chinese MNEs to better adapt to and make use of the more standardized financial system and financial environment of some B&R countries, in order to give full play of the spillover effect of China's outward direct investment.

And for the Chinese enterprises, when they making investment decisions to different regions, not only should they take into consideration the infrastructure, but also should they analyze the host country's institution, finance, technology and ease of doing business environment. Efforts should be made in these areas through bilateral cooperation between China and the host countries.

Limitations and Future research

However, this research is subject to a number of limitations. First, the analysis only focused on the impact of investment facilitation measures of host countries on China's OFDI, without considering bilateral investment and without considering different characteristics of the origin country. Secondly, this study focuses on the relationship between investment facilitation and FDI, without considering the relationship between trade and FDI, which is closely related and maybe an important factor for policymakers. Thirdly, due to the availability of data, the sample period is only eight years, which is not very sufficient to get a strong conclusion. However, despite the above limitations, this study still offers useful insights and important policy implications. When the Belt and Road Initiative implemented for more years, future research could be more specific to examine the impact of policy indicators and explore the maybe nonlinear impact of institutions and other factors.

Appendix

Table 1　Summary of Statistics

Variable	Obs	Mean	Std. Dev.	Min	Max
institution	408	. 5489216	. 1420106	0	. 8842857
infrastructure	408	. 5433648	. 1673731	0	. 9342857
finance	408	. 5707388	. 1336459	0	. 8485714
technology	408	. 5393732	. 1521734	0	. 8857143
ease_of_do~s	408	. 6661848	. 1923022	. 1852433	1
ln_gdp2010	407	11.19606	1.538309	8.303864	14.64695
ln_gdppc2010	407	8.710972	1.180992	6.31861	11.22106
ln_zone	408	. 1445085	. 3349251	0	1.609438
contig	408	. 1764706	. 3816881	0	1
comlang_off	408	. 0392157	. 1943461	0	1
dist	408	5784	1703.403	1172.047	7722.639
bit	407	. 960688	. 3950775	0	2

Table 2　Investment Facilitation Indicators of Sample Belt and Road Countries

No.	Regions	Countries	2011	2012	2013	2014	2015
1	East Asia and ASEAN Countries	Mongolia	0.81	0.84	0.83	0.84	0.86
2		Indonesia	0.95	0.95	0.98	1	0.98
3		Malaysia	1.34	1.35	1.35	1.38	1.37
4		Philippines	0.85	0.88	0.94	0.97	0.94
5		Singapore	1.57	1.55	1.52	1.52	1.49
6		Thailand	1.14	1.12	1.13	1.12	1.08
7		Vietnam	0.88	0.87	0.87	0.9	0.92
8		Cambodia	0.84	0.87	0.82	0.76	0.75

(Contd.)

No.	Regions	Countries	2011	2012	2013	2014	2015
9	South Asian Countries	Nepal	0.79	0.8	0.79	0.8	0.77
10		India	0.96	0.95	0.96	0.90	0.94
11		Pakistan	0.90	0.88	0.87	0.86	0.86
12		Bangladesh	0.82	0.79	0.79	0.76	0.75
13		Sri Lanka	1.05	1.05	1.03	1.03	1.03
14	Central Asian Countries	Kazakhstan	0.95	1.01	1.04	1.02	1.05
15		Tajikistan	0.87	0.88	0.87	0.87	0.89
16		Kyrgyzstan	0.76	0.74	0.77	0.81	0.80
17	West Asian and North African Countries	Iran	0.82	0.83	0.81	0.82	0.86
18		Turkey	1.04	1.08	1.08	1.08	1.06
19		Jordan	1.04	1.06	1.06	1.03	1.02
20		Israel	1.21	1.16	1.13	1.12	1.13
21		Egypt	0.94	0.91	0.88	0.85	0.84
22		Saudi Arabia	1.35	1.27	1.23	1.18	1.15
23		Bahrain	1.34	1.33	1.28	1.23	1.22
24		Qatar	1.38	1.39	1.38	1.37	1.36
25		Yemen	0.73	0.72	0.7	0.68	0.64
26		Oman	1.27	1.27	1.26	1.18	1.13
27		United Arab Emirates	1.35	1.38	1.39	1.41	1.41
28		Kuwait	1.07	1.04	1.01	0.99	1
29		Lebanon	0.92	0.9	0.92	0.89	0.9

(Contd.)

No.	Regions	Countries	2011	2012	2013	2014	2015
30	CEE Countries	Albania	0.87	0.84	0.81	0.84	0.85
31		Bosnia and Herzegovina	0.75	0.8	0.83	0.8	0.75
32		Bulgaria	0.92	0.92	0.93	0.96	0.97
33		Croatia	1	0.98	0.96	0.96	0.98
34		Czech	1.08	1.07	1.04	1.07	1.1
35		Estonia	1.2	1.19	1.19	1.22	1.22
36		Latvia	1.07	1.08	1.09	1.12	1.12
37		Lithuania	1.11	1.12	1.15	1.15	1.15
38		Hungary	1.06	1.01	0.99	0.98	0.98
39		Macedonia	0.97	0.99	1.02	1.05	1.08
40		Montenegro	1	0.98	1	0.98	0.98
41		Romania	0.86	0.84	0.85	0.94	0.95
42		Poland	0.96	0.95	0.97	1.01	1.05
43		Serbia	0.80	0.81	0.80	0.81	0.84
44		Slovenia	1.11	1.09	1.06	1.02	1.05
45		Slovak	1.04	1.03	1.02	1.01	1.04
46	Other CIS countries	Russia	0.89	0.89	0.94	0.98	1.01
47		Ukraine	0.78	0.83	0.84	0.87	0.87
48		Azerbaijan	0.81	0.81	0.81	0.84	0.84
49		Armenia	1.05	1.07	1.06	1.06	1.04
50		Georgia	1.01	1.04	1.05	1.04	1.04
51		Moldova	0.93	0.98	0.98	0.97	0.96

Source: Authors' computations based on data from indicated sources. With 1 means at the average level, numbers below 1 means lower than the average level, numbers more than 1 means above the average level.

Financial Cooperation Between China and Hungary: a Hungarian Perspective

Eszterhai Viktor*

1. The Background

The early financial cooperation between Hungary and the People's Republic of China goes back to the time of the socialist brotherhood era in the 1950's. After the Chinese civil war, the Soviet Union and other socialist countries sold industrial products on credit at a low (less than 2%) interest rate to the People's Republic of China to help the reconstruction of the economy. ① However, after the Hungarian Revolution of 1956, it was China (besides the Soviet Union) that provided a loan (100 million roubles) in order to stabilize the position of the Hungarian government. ② In the 1960s the growing tension between the Soviet Union and China had frozen this fruitful but low intense cooperation. The relation of the two countries only started to normalise in the late 1970s, especially after the launch of the "reform and opening up" since by that time Hungary had already introduced some cautious market economic reforms called the "new economic mechanism" in 1968, which had become a model worth investigating for China.④ Chinese delegations examined Hungary's experience

* Viktor Eszterhai is the senior analyst and the Deputy Director of Research for Pallas Athene Geopolitical Foundation (PAGEO), established by the Central Bank of Hungary (Magyar Nemzeti Bank).

① Vámos Péter,"Az SZKP XX. kongresszusánakhatása a magyar–kínaikapcsolatokra."*Múltunk*, No.2, 2006. pp.235-256, http://epa.oszk.hu/00900/00995/00006/pdf/vamosp.pdf.

② Ibid., p.256.

④ Vámos Péter, " Kína változik. Úgy látszik, nekünk is változtatni kell.Magyar–kínaikapcsolatokaz 1980-as években", *TörténelmiSzemle*, No.52, 2010, p.106, https://tti.btk.mta.hu/images/kiadvanyok/folyoiratok/tsz/tsz2010-1/099-124_vamos.pdf.

in the financial and banking sector and several interpersonal relations were established and strengthened. The deputy governor of the Magyar Nemzeti Bank (MNB, the Central Bank of Hungary), János Fekete's connection became especially important during this period.[①] In the case of finance, the most attention was paid to Hungary's integration into the global financial institutions like the World Bank and International Monetary Fund (IMF). China's role, however, was more than just observation: when the decision on Hungary's accession to the IMF was passed, the People's Bank of China[②] provided USD 88 million, which was a criterion for the membership, as part of the Special Drawing Right (SDR) quota of USD 375 million.[③] Due to the lack of money of the MNB, the loan provided by China was necessary for the successful accession to the IMF.

2. From the 2000s to 2015: Early Steps

The transformation of the political and economic system in Hungary in 1989 resulted in a serious break in the bilateral relations: Hungary, together with other Central Eastern European (CEE) countries, was eager to follow the Western European development model, mostly characterized by drastic market reforms and the implementation of the democratic political system. This development was symbolised by the accession of the country into the European Union in 2004. As part of the transformation process, Hungary had to get fully integrated into the Western financial institutions and global system. In the beginning, the IMF and the World Bank took the leading role in the transition,

① HonváriJános – Torda Csaba,"Magyarországcsatlakozásaaz IMF-hezés a Világbankhoz", Magyar OrszágosLevéltár, *ArchiveNet*, Vol.9, No.3, 2009, http://www.archivnet.hu/gazdasag/magyarorszag_csatlakozasa_az_imfhez_es_a_vilagbankhoz__iii._resz.html.

② "Annual Reportof the Executive Board for the Financial Year Ended April 30", 1982. International Monetary Fund, No.77, 1982, http://www.imf.org/external/pubs/ft/ar/archive/pdf/ar1982.pdf.

③ János Müller – Levente Kovács," Hungary's Link to Financial Cooperation with Asia." *Financial and Economic Review*, No.16, Special Issue, 2017, pp.186-193, http://english.hitelintezetiszemle.hu/letoltes/janos-muller-levente-kovacs.pdf.

while later—after the entry into the European Union (EU)—the European Bank for Reconstruction and Development (EBRD), the European Central Bank (ECB), and the European Investment Bank (EIB) have become the key players. Furthermore, most of the commercial banks operating in Hungary have become the subsidiaries of European banking houses (KCB, ERSTE, BayerischeLandesbank, Raiffeisen Bank, Unicredit Bank).[1]

This turn in the Hungarian foreign political orientation in the 1990s disorganized the bilateral relationship with China again. However, since the beginning of the 2000s, as a result of the significantly growing importance of China in the global economy, Hungary along with the other CEE countries, has started to pay more and more attention to China.[2] An important sign of this recognition was the Hungarian Prime Minister Péter Medgyessy's official visit to China in August, 2003.[3] President Hu Jintao's visit to Hungary in June of the following year showed that this growing interest was not one-sided, and the two countries announced their commitment to establish a "friendly and cooperative partnership".[4] The improving political relations immediately affected the economic relations, too: the trade ratio started to grow constantly and several large-scale Chinese investments were launched. Such an investment was the acquisition of Hungary's largest chemical plant, BorsodChem by Wanhua Group, or the entry of Huawei which established a regional centre and played an important role in the modernization of the Hungarian telecommunication

① Botos Katalin, "The Hungarian financial sector and the EU", *South-East Europe International Relations Quarterly*, Vol.4, No.1, 2010, pp.1-2, http://www.southeast-europe.org/pdf/04/DKE_04_A_N_Botos-Katalin_Turcsanyi-Rita.pdf.

② Kong Tianping, "16+1 Cooperation Framework: Genesis, Characteristics and Prospect", *China-CEEC Think Tanks Network*, December 3, 2015, http://16plus1-thinktank.com/1/20151203/868.html.

③ "Prime Minister Medgyessy Peter of Hungary will Pay a Working Visit to China." Ministry of Foreign Affairs of the People's Republic of China, August 20, 2003, http://www.fmprc.gov.cn/ce/cedk/eng/xnyfgk/t105642.htm.

④ "President Hu Jintao Holds Talks with Hungarian President Madl Ferenc" Ministry of Foreign Affairs of the People's Republic of China, June 11, 2004. URL: http://www.fmprc.gov.cn/mfa_eng/wjb_663304/zzjg_663340/xos_664404/gjlb_664408/3175_664570/3177_664574/t134058.shtml.

network, etc.[①] The growing trade and investment activity of Chinese companies in Hungary motivated the Chinese banking sector to make itself presented in Hungary. The Bank of China decided to open a regional centre – as the first Chinese commercial financial institution in the CEE region – in Hungary in 2003 as a result of the growing Chinese investment capital flows. The entry of the Bank of China into the Hungarian market—as the only Chinese commercial bank operating within the region by the time—has sent an important message for the Hungarian political elite, namely, that the country can play an important role in China's regional finance initiative.

3. The Eastern Opening

The 2008-2009 financial crisis affected Hungary extremely harmfully as a result of several previous inner economic imbalances (like the high fiscal deficit and public debt ratio) and being unhealthily dependenton the Western-European market (approximately 80 % of total trade)[②]. The Hungarian economy's serious debt dependency and the highly liberalized financial system made it impossible to defend the shock generated by the crises and made it necessary to turn to the EU and the IMF in 2008,which provided abailout package to the amount of USD 25 billion to stabilize the financial sector.[③] TheOrbán Government, elected in 2010, has shown a clear vision to decrease the country's economic and financial dependence from the Western financial institutions. That is the reason why Hungary paid off its IMF loans

① Szunomár Ágnes, "KínaibefektetésekMagyarországon: ábrándvagysikertörténet?" *Geopolitika a 21. században*, No.3., 2013, pp.183-191, pp.186-188, http://geopolitika.uni-zsigmond.hu/uploaded/geo/Geopol%204.pdf.

② "International trade in goods", Eurostat, March 2017, http://ec.europa.eu/eurostat/statistics-explained/index.php/International_trade_in_goods.

③ "IMF Survey: IMF Agrees $15.7 Billion Loan to Bolster Hungary's Finances", International Monetary Fund Survey online, November 6, 2008, https://www.imf.org/en/News/Articles/2015/09/28/04/53/socar110608a.

in 2013, ahead of schedule.[1] At the same time, China has become a possible solution to diversify the country's financial relations. In June 2011 Wen Jiabao declared China was ready to buy Hungarian treasury bonds;[2] however, in the end the Hungarian government was able to manage the crisis without the involvement of the Chinese financial institutions.

Moreover, in 2011 the Hungarian government launched its new foreign politic strategy, the so-called "Eastern Opening", which intended to increase the country's trade with the Asian markets – firstly China – and Russia through an effective diplomatic support, in order to decrease the strong European Union dependence.[3] The strategy also included the better cooperation in financial services; however, despite this grandiose vision, only very few steps were taken, mainly as a result of the tension between the leadership of the MNB headed by György Surányiand the government.[4] In March 2013, Hungary's former Finance Minister, György Matolcsy was elected as the new governor of the MNB and openly argued that the bank's top priority is to support the work of the Hungarian government,including the Eastern Opening foreign policy strategy.[5]

The results of the new orientation were soon delivered: in September 2013, in order to support bilateral trade and investment cooperation,the People's

---

① Byrne, Andrew, "'Orbanomics' confounds critics as Hungary's economy recovers", *Financial Times*, June 9, 2015, https://www.ft.com/content/027eaf9a-05e9-11e5-b676-00144feabdc0.

② Li Xiaokun – Fu Jing:"China willing to buy Hungarian bonds", *China Daily*, June 26, 2011, http://europe.chinadaily.com.cn/china/2011-06/26/content_12778313.htm.

③ Szesztay Ádám, ed., "Külpolitikánkéskülügyiszolgálatunkmegújulása. 2010-2013", Kormany.hu, 2013. URL: http://magyaryprogram.kormany.hu/download/8/18/90000/Kulpolitikank_es_kulugyi_szolgalatunk_megujulasa_2010-2013.pdf; Dániel Péter:"The Eastern Opening – An Element of Hungary's Trade Policy." *Europe in Global Economy*, September 2015, pp.1-7, https://www.researchgate.net/publication/282217890_The_Eastern_Opening_-_An_Element_of_Hungary's_Trade_Policy.

④ "Hungarian governor slams government's economic policies", *Central Banking*, December 7, 2012, https://www.centralbanking.com/central-banking/news/2230594/hungarian-governor-slams-government-s-economic-policies.

⑤ "Hungary PM picks finance minister Matolcsy for central bank top job", *Central Banking*, March 1, 2013, https://www.centralbanking.com/central-banks/monetary-policy/2251739/hungary-pm-picks-finance-minister-matolcsy-for-central-bank-top-job.

Bank of China and the MNB signed a bilateral currency swap agreement with a notional amount of RMB 10 billion in the Bank for International Settlements (BIS) headquarters in Basel, in order to mitigate the liquidity disturbances and to stimulate foreign trade.[①] By that time, the value of the portfolio had been insignificant, as compared to some important actors in the global finance (for instance: Hong Kong with RMB 400 billion, South Korea with RMB 360 billion, Singapore with RMB 150 billion[②]); however,it was a significant step since the MNB was the first in the CEE region and of the few European banks to conclude a currency swap agreement with China. The agreement strengthened the motivation of the MNB to follow the path of further cooperation: a complex strategy, the so called "Renminbi Programme" was introduced to start a new stage in the bilateral financial relations.

The breakthrough: "Renminbi Programme" of the MNB and "Budapest Renminbi Initiative"

In February 2015, the MNB announced the launch of the "Hungarian Central Bank's Renminbi Programme": a fairly complex strategy to support the financial cooperation as a key element of the bilateral relationship between Hungary and China.[③] The programme was based on the recognition of the following international circumstances:

- The internationalisation of the Renminbi (RMB) is a high-priority objective of Chinese economic policy and it is a long-term trend of the global economy due to the growing importance of China (e.g. trade, investment,

① Palotai Dániel, "Agreement on the Establishment of a Foreign Currency Swap LineBetween the Magyar Nemzeti Bank and the People's Bank Of China", Magyar Nemzeti Bank, 2013, https://www.mnb.hu/letoltes/mnb-pbc-swap-en.PDF.

② Erhart Szilárd, "Liberalisation of the Renminbi Exchange RateRegime and ForeignCurrency-Regulations", Magyar Nemzeti Bank,*Budapest RenminbiIntitiativePapers*, No.2, 2015, pp.1-8, https://www.mnb.hu/letoltes/liberalisation-of-the-renminbi-exchange-rate-regime-and-foreign-currency-regulations.pdf.

③ "The Hungarian Central Bank's Renminbi Programme (JRP)", Magyar Nemzeti Bank, February 19, 2015, https://www.mnb.hu/en/pressroom/press-releases/press-releases-2015/the-hungarian-central-bank-s-renminbi-programme-jrp.

the role in the multinational financial institutions, etc.).

- The RMB has grown steadily in international settlements and there was a heavy discussion when the International Monetary Fund added China's Renminbi (RMB) to its Special Drawing Right (SDR) basket of currencies.①
- The internationalisation of the Renminbi supported by several central banks globally and within the EU in the belief of their growing importance in the global RMB exchange.②
- The liberalisation of China's capital account and exchange rate regime, the transformation of the Chinese savings portfolio (e.g. the reduction of the U.S. Dollar-denominated assets, make up around 60% of China's foreign currency reserves) can provide countries of the EU withfinancing opportunities.
- China's FDI has a steadily growing tendency and can be an important factor for Hungary link with the Belt and Road Initiative.③

Besides the support for the Hungarian government goals as previously mentioned, the MNB aimed to 1) expand the financing sources of Hungary; 2) make Hungary a leading partner in finance for China in the CEE region; 3) make the country a key player within the EU, too, as a bridge connecting the two economic centres of the world; 4) and finally togenerate a cross-border market activity and income for Hungary through the support of the investment possibilities. In order to achieve these goals, the "Renminbi Programme" consisted of the following five pillars:

① Erhart Szilárd:"Renminbi—A New Settlement Currency Was Born", Magyar Nemzeti Bank,*Budapest RenminbiIntitiativePapers*, No.1, pp.1-7, http://www.rmbbudapest.hu/letoltes/szilard-erhart-budapest-renminbi-initiative-papers-no1.pdf.

② Erhart Szilárd, "Liberalisation of the Renminbi Exchange RateRegime and ForeignCurrency-Regulations", Magyar Nemzeti Bank,*Budapest RenminbiIntitiativePapers*, No.2, 2015, pp.1-8, https://www.mnb.hu/letoltes/liberalisation-of-the-renminbi-exchange-rate-regime-and-foreign-currency-regulations.pdf.

③ Erhart Szilárd:"Átkelés A Folyón A KöveketÉrezve." Magyar Nemzeti Bank, March, 2015, https://www.mnb.hu/letoltes/erhart-szilard-atkeles-a-folyon-a-koveket-erezve.pdf.

- the establishment of an RMB foreign exchange reserve portfolio by the Hungarian MNB;
- the MNB set up a RMB liquidity instrument to deal with market disturbances;
- development of the RMB settlement infrastructure (clearing);
- financial stability and supervisory issues related to the use of the RMB and the cross-border activity of Chinese banks;
- the support of research and academic cooperation nationally and internationally.[①]

These actions were defined according to the actions taken by some other members of the European System of Central Banks; therefore, the MNB did not have to invent any new mechanism but selected a special combination from other countries' previously introducedmeasures.[②] Several working groups (financial market working group, real economy working group, settlement working group) were assigned in order to provide an energetic implementation of the – working group level assigned – goals.

The "Renminbi Programme" has been complemented by the "Budapest Renminbi Initiative", a new platform including the other important actors in finance in order to "create money, foreign exchange and capital market infrastructures, develop the settlement system and start negotiations about Chinese capital market licences in cooperation with the major stakeholders of renminbi settlements in the financial, corporate and government sector".[③] The Budapest Renminbi Initiative included a high-level, annually organized international conference (Budapest Renminbi Initiative Conference) where domestic and foreign decision-makers, economic and financial leaders and experts discussed the situation of China's financial role in global and regional

① "The Hungarian Central Bank's Renminbi Programme (JRP)", 2015.

② "RMB centers in Europe," Magyar Nemzeti Bank, http://hu.rmbbudapest.hu/europai-rmb-kozpontok.

③ "RMB Initiative", Magyar Nemzeti Bank, http://www.rmbbudapest.hu/rmb-initiative.

markets and Hungarian-Chinese economic and financial relations.① The importance of the conference is a direct dialogue between the scientific and decision-making spheres, who hardly ever communicate in Hungary.

4. Implementation and Results

Concerning the "Renminbi Programme", the first actualstep was soon introduced: in April 2015, the MNB announced to build a bond portfolio and a reserve portfolio denominated in Chinese RMB for economic policy and foreign currency asset diversification purposes.② In May 2005, the final decision was adopted to invest a part of the foreign exchange reserves in Chinese government securities.③ The realisation of the investments, however, took a longer time: the Chinese government bond and foreign exchange markets had to be understood more deeply. Due to the lack of comprehensive risk analysis and several challenges (e.g. legal norms, the creation of technical conditions, etc.)④, the first phase of the investment was conducted with an indirect technique in cooperation with the BIS (Bank for International Settlements, Basel). The cautious attitude can also be observed in two other statements of the official announcement: first, the investment will be just a smallpart of the foreign exchange reserves; second, it is stated that "the investment does in no way jeopardise reserve adequacy".⑤ In Basel, June 2015, the MNB signed

① Sütő Zsanett,"Report on the Budapest Renminbi Initiative Conference 2017", *Financial and Economic Review*, Vol.16, No.2, 2017, pp.195-197, http://english.hitelintezetiszemle.hu/letoltes/hitelintezeti-szemle-2017-junius-eng.pdf.

② "Magyar Nemzeti Bank Decided to Build a Bond Portfolio Denominiated In Chinese Renminbi", Magyar Nemzeti Bank, April 7, 2015, https://www.mnb.hu/en/pressroom/press-releases/press-releases-2015/magyar-nemzeti-bank-decided-to-build-a-bond-portfolio-denominiated-in-chinese-renminbi.

③ "Announcement on Renminbi reserve portfolio investment", Magyar Nemzeti Bank, June 27, 2015, https://www.mnb.hu/en/pressroom/press-releases/press-releases-2015/announcement-on-renminbi-reserve-portfolio-investment.

④ About this problem see Erhart Szilárd:"Átkelés A Folyón A KöveketÉrezve." Magyar Nemzeti Bank, March, 2015, https://www.mnb.hu/letoltes/erhart-szilard-atkeles-a-folyon-a-koveket-erezve.pdf.

⑤ "Announcement on Renminbi reserve portfolio investment," Magyar Nemzeti Bank, June 27, 2015.

the Agency Agreement with the People's Bank of China to manage MNB's Investment on China's Interbank Bond Market.① This was highly important since central banks were among the first institutions to be allowed to carry out portfolio investments in the still closed Chinese capital market. Two other important steps were taken in June 2015 with the cooperation ofthe People's Bank of China. First, the People's Bank of China agreed to extend the pilot scheme of RMB Qualified Foreign Institutional Investors (RQFII) to Hungary – with a total investment quota of RMB 50 billion – providing licence for the MNB to invest its offshore renminbi funds in the Chinese onshore securities markets. Second, the two central banks signed a Memorandum of Understanding on RMB clearing arrangement; a RMB clearing bank will be designated in Hungary by the People's Bank of China.The agreement included better coordination and cooperation on supervision, information exchange, and assessment and improvement of the system harmonization.② Later in October 2015, the People's Bank of China and the MNB officially announced that the Hungarian subsidiary of the Bank of China was given a mandate to launch its RMB clearing centre in Hungary, and the RMB clearing centre in Budapest can be used across the entire Central European region.③

In November 2015 – together with the China Hong Kong Monetary Authority and the Reserve Bank of Australia – the MNB was one of the first institutions to register with the China Foreign Exchange Trading System (CFETS) and to obtain access to the Chinese inter-bank foreign exchange market, which is a precondition for investing in China's domestic government securities market.

---

① "MNB signed the Memorandum of Understanding on RMB clearing arrangements and the Agency Agreement with People's Bank of China in Basel", Magyar Nemzeti Bank, June 27, 2015, https://www.mnb.hu/en/pressroom/press-releases/press-releases-2015/mnb-signed-the-memorandum-of-understanding-on-rmb-clearing-arrangements-and-the-agency-agreement-with-people-s-bank-of-china-in-basel.

② Ibid..

③ János Müller – Levente Kovács," Hungary's Link to Financial Cooperation with Asia." *Financial and Economic Review*, No.16, Special Issue, 2017, pp.186-193, http://english.hitelintezetiszemle.hu/letoltes/janos-muller-levente-kovacs.pdf.

In September 2016, the swap line agreement was renewed with the sameamount (RMB 10 billion).[①] In December 2016, the direct trading between RMB and HUF was launched on the onshore Chinese foreign exchange market in order to support bilateral trade and investment and facilitate the use of RMB and HUF in cross-border trade and investment settlement and could lower the currency conversion cost.[②]

In January 2017, the MNB further deepened the cooperation with the only Chinese commercial bank in Hungary, the Bank of China. The Memorandum of Understanding between the parties states that the Bank of China shall provide the RMB Clearing Account Service for the MNB. The parties agreed to assess how the MNB would carry out its RMB settlements in a more efficient way and to cooperate in order to support the role of Hungary as the Central and Eastern European RMB clearing centre. The two parties also concluded a Master Agreement that would provide an access to the Chinese financial markets on a commercial basis, through its partner, the Bank of China.[③]

The MNB through the "Budapest Renminbi Initiative" successfully facilitated other financial institutions to develop their relationship with their Chinese counterparts and become more active in the Chinese market. As part of this support, the Budapest Stock Exchange declared in April 2017 to develop

---

① "The bilateral currency swap line agreement between the People's Bank of China and the Central Bank of Hungary has been renewed", Magyar Nemzeti Bank, September 12, 2016, https://www.mnb.hu/en/pressroom/press-releases/press-releases-2016/the-bilateral-currency-swap-line-agreement-between-the-people-s-bank-of-china-and-the-central-bank-of-hungary-has-been-renewed.

② "MNB welcomes the launch of direct trading between RMB and HUF on the onshore Chinese foreign exchange market", Magyar Nemzeti Bank, December 12, 2016, https://www.mnb.hu/en/pressroom/press-releases/press-releases-2016/mnb-welcomes-the-launch-of-direct-trading-between-rmb-and-huf-on-the-onshore-chinese-foreign-exchange-market.

③ "Magyar Nemzeti Bank and Bank of China sign master agreement in respect of interbank market agency business and memorandum of understanding on renminbi clearing account service", Magyar Nemzeti Bank, January 24, 2017, https://www.mnb.hu/en/pressroom/press-releases/press-releases-2017/magyar-nemzeti-bank-and-bank-of-china-sign-master-agreement-in-respect-of-interbank-market-agency-business-and-memorandum-of-understanding-on-renminbi-clearing-account-service.

the RMB market.①

Moreover, it is worth noting that since the "Renminbi Programme" started, the interpersonal relations between the financial elite have developed to a considerable extent, including the top level (e.g. the Governor of the MNB,György Matolcsy has met Tian Guoli, Chairman of the Bank of China several times).② Bilateral discussions were held regularly and experts were invited to attend each other's conferences. A new bilateral forum, the Sino-Hungarian Financial Forum organized by the People's Bank of China and the MNB was first held in Shanghai in 2016, in order to support the better coordination of the goals.③

Finally, quite unusually, the MNB has become an important actor of the bilateral political relationship. The bank, complementary to the Hungarian government, welcomed China's growing role in the global economy but has become the active supporter of the Belt and Road Initiative in Hungary, too.④

5. Other Actors

There are some other actors in Hungary besides the Central Bank, especially the Ministry for National Economy, which has become more and more active in the bilateral financial cooperation in recent years. The first action to get great international publicity was when Hungary's Government Debt Management Agency owned by the Ministry introduced a three-year dim sum bond to the amount of RMB 1 billion (a yield of 6.25%) in 2016. In 2017, a 1 billion RMB in a three-year bond (a yield of4.85%) was sold also

① "Hungarian RMB market growing successfully: central bank official", *Xinhua*, April 6, 2017, http://news.xinhuanet.com/english/2017-04/06/c_136185336.htm.

② "Governor's visit to Beijing", Magyar Nemzeti Bank, May22, 2017, http://www.mnb.hu/en/pressroom/press-releases/press-releases-2017/governor-s-visit-to-beijing.

③ "Kínábantárgyalaz MNB delegációja", Magyar Nemzeti Bank, January15, 2016, https://www.mnb.hu/sajtoszoba/sajtokozlemenyek/2016-evi-sajtokozlemenyek/kinaban-targyal-az-mnb-delegacioja.

④ "Governor continues his programme in Shanghai", Magyar Nemzeti Bank, May29, 2017, http://www.mnb.hu/en/pressroom/press-releases/press-releases-2017/governor-continues-his-programme-in-shanghai.

in the onshore market, second in the CEE region after Poland.[1] These actions have an important political message since the Hungarian government's fiscal financing policy aims to reduce the foreign currency debt. It was also stated by the Hungarian officials that during the entry into China's bond market the yield cannot be the only measurement, but the possible impact as a possible investment facilitator has to be taken into account too.[2]Another important decision by the Ministry for National Economy was that in June 2017 Hungary joined (with shares totalling USD 100 million) the Asian Infrastructure Investment Bank (AIIB), a new multilateral development bank established by China. Together with 12 other applicants, Hungary was the second country to join the institution in the CEE region, after Poland. The message of the membership was clear: Hungary is supporting China's initiatives and tries to strengthen its regional financial role.[3]

The other relevant actor in the bilateral financial cooperation was Hungary's Export-Import Bank, which has invented into the transregional China-CEE Investment Cooperation Fund in order to provide common investment targets in the CEE region. In the first phase in 2013, funds to the amount of USD 30 million were invested, while in the second phase in 2017 this sum was raised to USD 76.5 million.[4] The Hungarian Minister of Foreign Affairs and Trade, Péter Szijjártó moreover announced a fund of EUR 200 million for the Industrial and Commercial Bank of China's promoting investment fund, the Sino-CEE Finance Holding Co Ltd., to provide financial support for industrial cooperation between China and the CEE countries.[5]

---

① Allen, Kate:"Hungary sells renminbi debt in China", *Financial Times,* July 26, 2017, https://www.ft.com/content/0201afb8-7202-11e7-93ff-99f383b09ff9.

② "Barcza: euróraváltássalolcsóbb a kínaihitel", *Világgazdaság*, July 31, 2017, https://www.vg.hu/gazdasag/barcza-gyorgy-az-eurora-valtas-olcsobba-teheti-renminbifinanszirozast-564062/.

③ "MagyarországcsatlakozottazÁzsiaiInfrastrukturálisBeruházásiBankhoz", Nemzetgazdasági Minisztérium, July 16, 2017, http://www.kormany.hu/hu/nemzetgazdasagi-miniszterium/hirek/magyarorszag-csatlakozott-az-azsiai-infrastrukturalis-beruhazasi-bankhoz.

④ Xu Jingxi, "Sino-Hungarian investment funds coming", *China Daily*, May 16, 2017, http://www.chinadaily.com.cn/kindle/2017-05/16/content_29367404.htm.

⑤ Ibid..

Finally the largest commercial bank of Hungary, the OTP Bank announced in May that the Chinese authorities approved to open a Representative Office in China, which is a necessary precondition to enter the Chinese market.①

6. Conclusion

To sum up the results concerning the financial cooperation between China and Hungary, it is obvious that there is a clear dividing line between the pre-Eastern Opening period and the aftermath, especially since the Central Bank of Hungary launched the "Renminbi Programme". In both periods the ambitions were the same: to promote the role of Budapest as a regional centre in CEE and make a bridge between the EU and China. The reason for the unsuccessful initial period was that the Hungarian elite focused on Western Europe. China was rather a future possibility than a present reality. Second, despite the optimistic visions to make Budapest the "London of the CEE", only very few real steps were taken and no comprehensive strategy was introduced.

Contrary to the post—Eastern Opening period in the financial cooperation, results were achieved relatively fast, which is true for both the other aspects of the bilateral relation and in regional comparison, since none of the countries were able to show similar outcomes.②According to the experience obtained in recent years, there are several reasons for this relative success. First, the MNB had a clear vision about what to do, which was followed step by step by the subdivisions and those who were responsible for implementing the ideas. Second, there was a real interaction between the MNB and the market about how to manage the financial cooperation (e.g."Budapest Renminbi Initiative"). The market actors accept the leading role of the Central Bank, which is building

① "OTP Bank Conference Call", J:P: Morgan, Incomm Transcript, May 12, 2017, https://www.otpbank.hu/static/portal/sw/file/OTP_transcript_1Q_2017.pdf.

② Chen Xin, Yang Chengyu,"A Quantitative Analysis on China-CEEC Economic and Trade Cooperation", Institute of European Studies Chinese Academy Of Social Sciences, Working Paper Series on European Studies, Vol.10, No.5, 2016, p.8.

the foundation for further development, also true for the non-state actors (like commercial banks). Third, the strategy chosen by the Central Bank was based on a scientific research and discussions involved not only Hungarian, but Chinese researchers and financial experts, too.

However, according to the implementation of the Renminbi Program, there are further lessons that would be interesting to investigate. First, the results of the financial cooperation were remarkable,but the implementation of the goals was not easy: several technical problems (e.g. language problems), differences in information technology systems, etc. delayed the actions. Second, the amount of money involved into the transactions between the Hungarian and Chinese side is relatively small. This phenomenon has at least two reasons. First, due to the lack of information about the Chinese market, the decision-makers wish to take no special risks. Second, the cooperation is still mainly motivated by politics rather than economic gains. The MNB implemented the Renminbi Program in order to support the foreign policy concept of the government. This is an important political capital in the wider relationship with China since the decision-makers believe it can have a multiplication effect on the further relations (e.g. like attracts more investment). Supporting the government, however, provides not just tools for the foreign politics but can have several internal political gains.

These above-mentioned lessons are important because they can give us a guideline for other spheres of the economic relation between Hungary and China. Finance is probably still the most successful field of cooperation in the bilateral economic relationship, making Hungary an important financial centre in the regional context, but not irrelevant within the EU too. To follow a similar strategy, it is necessary to fully implement the “Eastern Opening” policy.

The Balkans Geopolitical Divide Influencing Trade and Investment: Convergence and Divergence within the Beijing-Brussels Dilemma—an Albanian Perspective

Marsela Musabelliu [*]

1. Introduction

Historical background

It is never an easy task trying to encapsulate this tumultuous region and frame the true meaning of the roots of its problems since the controversies in academia and practitioners seem to be thrown in abiding contrasts, however, anytime one analyzes the Balkans, in whatever social science perspective, could never avoid the haunting "Ghosts of the Past" .

According to the standards of Western modernity the Balkans were seen as geopolitically and emotionally unstable, although this 'emotionalism'could be articulated in a more or less violent direction [①]. Indeed the region has been a dedicated battlefield for clashes of empires throughout history and violence from outside and inside has characterized these lands up to just one decade ago. While analyzing the famous Saidian thesis of Orientalism, Todorova states: "...The Balkans have been ill served by discovery and invention. Balkanism and its subject are imprisoned in a field of discourse in which 'Balkans' is paired in opposition to 'West' and 'Europe,' while 'Balkanism' is the dark other of 'western

---

* Ph.D. Candidate, Xiamen University

① Hansen, Lene, "Past as Preface: Civilizational Politics and the 'Third' Balkan War", *Journal of Peace Research*, Vol.37, No.3, 2000, pp.350-354.

civilization.' With the rediscovery of the east and orientalism as independent semantic values, the Balkans are left in Europe's thrall, anti-civilization, alter ego, the dark side within."①

Flemings argues that the simultaneous proximity and distance of the Balkans (the point of reference, geographical and cultural, being Western Europe) had the sense that they somehow constitute the "*outsider within*"②. This 'outsider'is often characterized by its backwardness as well as violence. In fact the roots go as deep as the presence the Byzantine Empire into the region. In fact for while analyzing the Balkans' past Kennan explains that in order to understand the Balkans: "...one has to examine the civilizational roots which go back to the 'penetration'of the Balkans by the Byzantine Empire. The separation from Europe meant that the Balkans missed 'three centuries of immensely significant development in the civilization of the remainder of the European continent"③.

Going further into the Balkans tumultuous past Moodie argues that the historical roots of the peninsula's tragedy date back centuries, at least to the crossing of the Dardanelles by the Ottoman Turks and their settlement in Europe④. The Turks created the millet system of government for the region (as elsewhere), which divided populations into semi-autonomous religious groups. Religion became a major element in the national identity of the people living in the Balkans. The result was that "subjects [of the Ottoman Turks] identified themselves not by place of residence but as members of communities of faith: Muslims, who, of course, had primacy; Orthodox Christians; Catholics; Jews, etc". Indeed the region has functioned as a crossroad between East and West,

① Todorova, M., "The Balkans: from discovery to invention", *Slavic Review*, Vol.53, No.2, 1994, p.482.

② Fleming, K.E., "Orientalism, the Balkans, and Balkan historiography", *The American Historical Review*, Vol.105, No.4, 2000, p.1220.

③ Kennan, George F., *The Other Balkan Wars: A 1913 Carnegie Endowment Inquiry in Retrospect*, Washington, D.C.: Carnegie Endowment for International Peace, 1993, p.13.

④ Moodie, Michael, "The Balkan Tragedy", *The Annals of the American Academy of Political and Social Science*, Vol.541, 1995 pp.101-115.

Christianity, Islam and Judaism.

During the 19th century, while all the Balkans were seized by the Ottoman Empire the major strategic assets were the straits controlling the passage from the Black Sea to the Mediterranean, and Russia and Austria were also motivated by the proximity of the region to their borders.

Along the same century Russia was the real champion of Balkan patriotism. The other incredible forces were worried about the unfavorable impacts of a forthcoming ascent in Russian impact in the Balkans and most of all, Austria and Great Britain. The first is because of the proximity of its borders, the second is because of the control of the naval straits connecting the Mediterranean. The fate of the region was manly dictated by Great Power's compromises (like the 'Concert of Europe'in 1820 and the Berlin Congress in 1878) where national disclaims of the nations of the peninsula were totally ignored or overpassed. Austria and Russia engaged in this period in an acute competition in the region, pursuing unilateral policies, supporting rival Balkan states, and trying to undermine each other's influence. In early 20th century Russian diplomats encouraged and assisted in the formation of a league of Balkan states under Russian auspices and it was the lack of a united great power front that provided the small Balkan states with much more room for maneuver, manifested in the Balkan Wars (1912-1913). Yet, the great powers convened a conference in London to decide what territorial changes they would tolerate. The London conference may be considered a last vestige of great power cooperation in conflict reduction in the Balkans, in that it made a concerted attempt to bring about a new territorial settlement in the region[①]. In 1913, the great powers concluded the Treaty of London which included an agreement on the new Balkan boundaries. In 1914, Austria and Russia finally went over the brink, dragging all the other great powers along starting World War I.

In the Late 1930s-Early 1940s there is the dominance is the German

① Crampton, R. J., "The Decline of the Concert of Europe in the Balkans, 1913-1914", *The Slavonic and East European Review*, Vol.128, No.52, 1974, pp.393-419.

hegemony in Eastern Europe and the Balkans. Germany emerged as the dominant power in the region as a result of being the only power who possessed both sufficient interests and sufficient capabilities for effective intervention there, because of the proximity of the region to its borders. Soon after World War II, the Balkans passed from German to Soviet hegemony. Indeed, the Balkans, having become part of the Soviet sphere of influence, ceased to be a powder keg of Europe, as Soviet power created an imposed "zone of peace" in the area.

The Balkans on the verge of the new Millennium

Since the fall of the Berlin wall the Balkans proceeded with its move from basically centrally-planned economies, towards an undeniable open market philosophy for all governments of the area. The region has generally outperformed many developing countries nearby, driven by trade growth, large inflows of investment and private consumption. For the purpose of this paper not all Balkan countries are analyzed; the focus is placed manly on the countries which fall under the geographic term and at the same time are part of the '16+1'cooperation mechanism such as: Albania, Bosnia and Herzegovina, Bulgaria, FYROM (Former Yugoslav Republic of Macedonia), Montenegro, Romania, Serbia and Slovenia. [①]

In the time being, when all the years of the past conflicts seem history, the Balkans is starting to step in a new incipient and more positive cycle, in which private businesses and foreign governments are eager to take part. Since the European Union regards these countries as its 'backyard'–Brussels is a firm adherent of the Balkans and proclaims to incite fast development, political order, stability for the fragile democracies of the region.

For a better processing of this wishes, European Membership is been offered to the countries of the West Area. This membership will give them full

① The initial intent was to include also Kosovo's economic performance on attraction of FDIs and trade partners; unfortunately, there are no available sources (ex. World Bank Database, IMF yearbook, MOFOCO, etc.) on real figures to evaluate. Hungary as well as Greece are definitely known as a Balkan countries, but again, for the purpose of this study and the perspective of a group with some common background, Greece will be left out.

access to the EU's rich market and economic benefits of its common policies. At the start of the millennium some Balkan countries made their first step for entering the complex mechanism of the EU by being part of the SAA, 'Stabilization and Association Agreements'. This is the first phase of the EU membership application and outlines the processes that a country needs to make to bring its legislation into line with EU standards. Informally the SAA is a stamp of approval from the EU.

In the time being the countries' state of accession is as follows: Albania was granted candidate status in June 2014; Bosnia and Herzegovina is a potential candidate country; the Former Yugoslav Republic of Macedonia applied for EU membership in March 2004 and was granted EU candidate status in December 2005; like Bosnia and Herzegovina, Kosovo is a potential candidate for EU accession. The SAA was signed on 27 October 2015 and entered into force on 1 April 2016 following its ratification by the European Parliament (consent). Montenegro applied for EU membership in December 2008, more than two years after declaring its independence (which was recognized by all Member States). The country was given candidate status in December 2010, and accession negotiations were opened in June 2012; Serbia submitted its application for EU membership in December 2009 and was granted candidate status in March 2012 after Belgrade and Pristina reached an agreement on Kosovo's regional representation, while Romania, Bulgaria, Croatia and Sloveniaare are already members of the EU. The Balkan countries have received billions of euros in financial help over the past years. The main sources of this funding are: Instrument for Pre-Accession Assistance (IPA)[①],

① The Instrument for Pre-accession Assistance (IPA) is the means by which the EU supports reforms in the 'enlargement countries' with financial and technical help. The IPA funds build up the capacities of the countries throughout the accession process, resulting in progressive, positive developments in the region. For the period 2007-2013 IPA had a budget of some € 11.5 billion; its successor, IPA II, will build on the results already achieved by dedicating € 11.7 billion for the period 2014-2020.

European Neighborhood and Partnership Instrument (ENPI)[1].

IPA concerns those countries afforded with candidate status and also those with potential candidate status. Turkey will receive the largest amount in total – almost half of the budget – followed by Croatia and Serbia.

The EU's European Neighborhood Policy means to advance peace, policy solidness, security, development, progress and flourishing business environments inside neighboring nations. The ENPI awards financial aid to the point of advancing improved collaboration and dynamic monetary coordination between the EU and its neighboring nations, and, specifically, supporting the execution of association and participation understandings, for example, the SAA, with the Balkans. For the period 2007-2013, a sum of 13 billion Euros was made accessible. Other major sources of funding to the Balkans are from the European Investment Bank, European Development Bank for Reconstruction and Development, and the World Bank. Donor activities from institutions such as the above are largely coordinated by the Infrastructure and Steering Group (ISG), which aims to support the development of Infrastructure within the Western Balkans.

For those Balkan countries with candidate status, the EU has provided significant financial assistance to help them fulfill their objectives for eventual EU accession. Regarding imports and exports, the Balkans has witnessed strong growth in over the past decade. While trade is on the up within the Balkans, it is generally unbalanced, as many of the countries import more than they export. This means that they are dependent on foreign capital to finance their trade debts, and, therefore, could face significant problems if the flow of money were to dry up due to financing problems or a change in investor risk appetite. Despite these positive trends, the region remains very diverse with respect to income, standards of education/healthcare and infrastructure.

---

① The ENPI finances actions in the various sectors, including: more equitable development; regulatory trade and reforms; the liberalization of certain sectors; justice and home affairs; energy; transport; information society; environmental sustainability; research and innovation. In addition, it can provide support to electoral observation and post-crisis missions and to disaster preparedness.

In below some indicators of these countries by comparison:

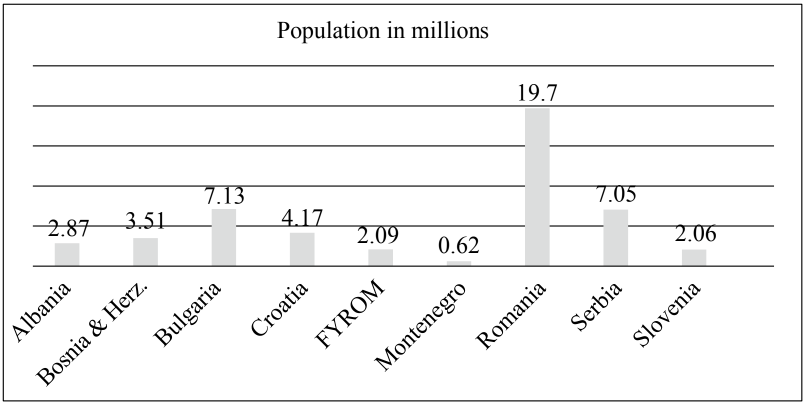


Figure 1 Population (Unit: Millions)

Source: World Bank.

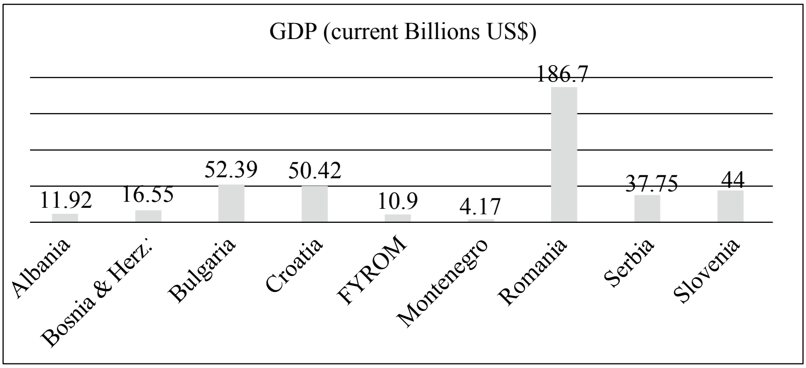


Figure 2 GDP (Unit: Billions Dollars)

Source: World Bank.

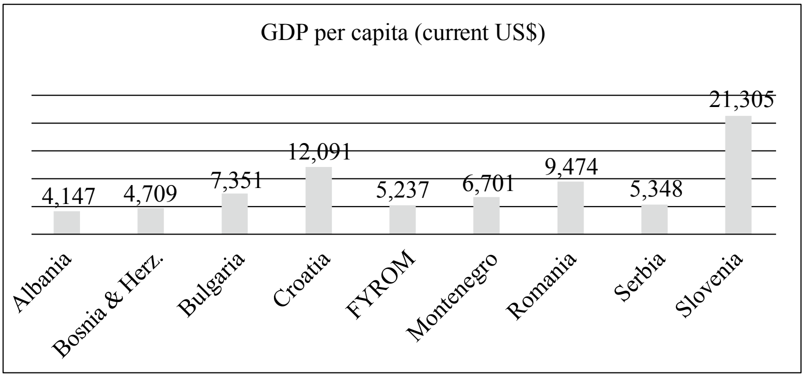


Figure 3 GDP per capita (Unit: Dollars)

Source: World Bank.

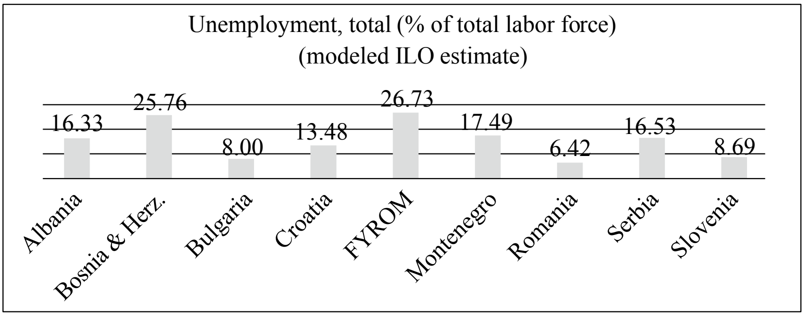


Figure 4 Unemployment Rate (%)

Source: World Bank.

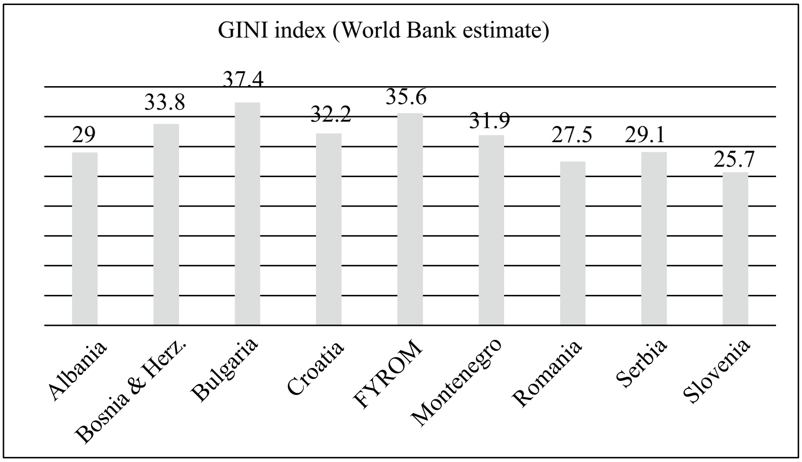


Figure 5 GINI Index

Source: World Bank.

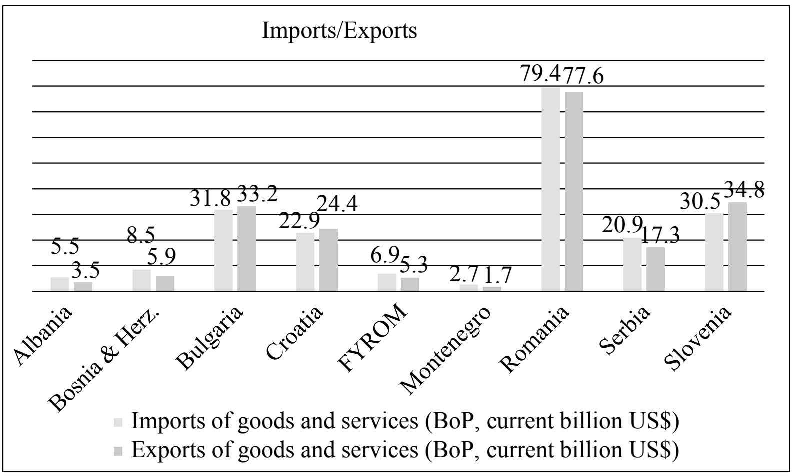


Figure 6 Imports and Emports (Unit: Billion Dollars)

Source: World Bank.

Regarding trade and exchange: in below the figures of trade exchange in the Balkan countries under analysis for year 2016.

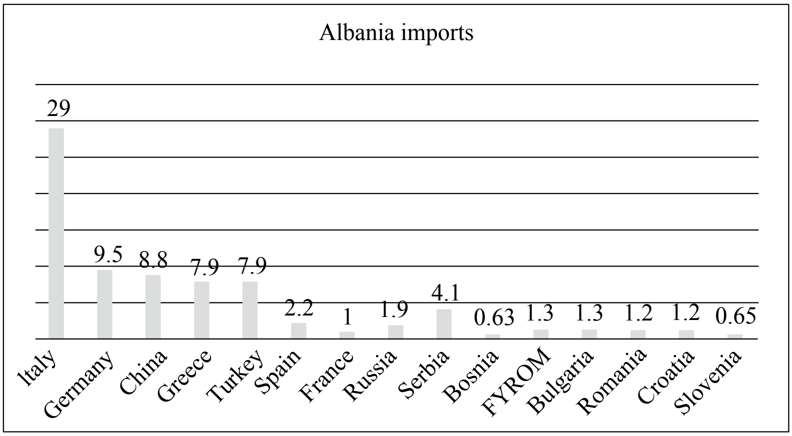


Figure 7　Albania Imports (Unit: Billion Dollars)

Source: The Observatory of Economic Complexity

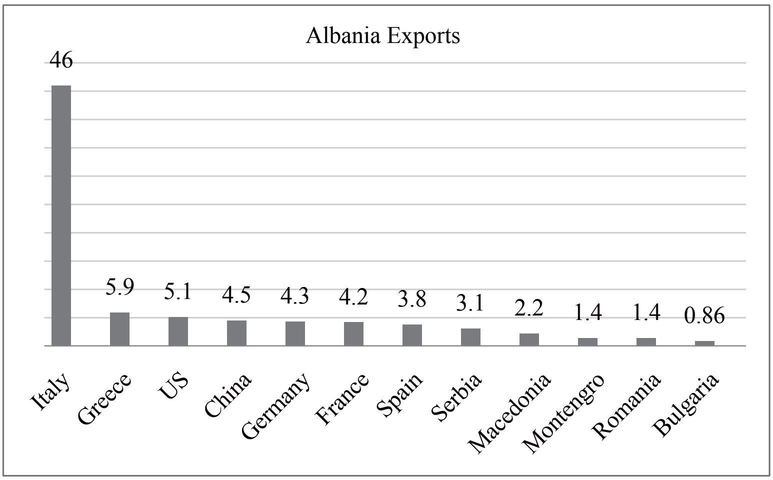


Figure 8　Albania Exports (Unit: Billion Dollars)

Source: The Observatory of Economic Complexity

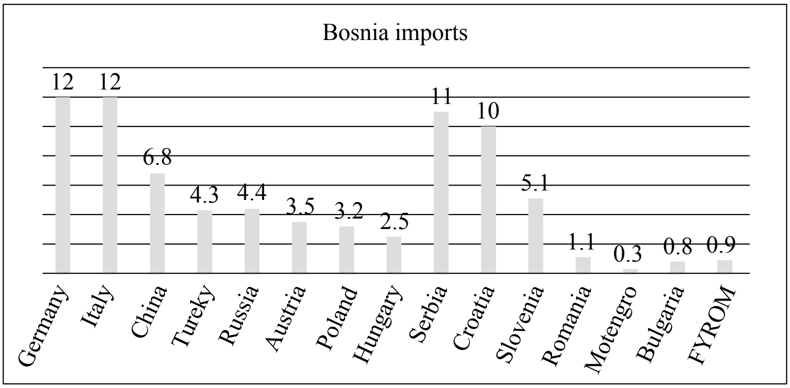


Figure 9 Bosnia imports (Unit: Billions Dollars)

Source: The Observatory of Economic Complexity

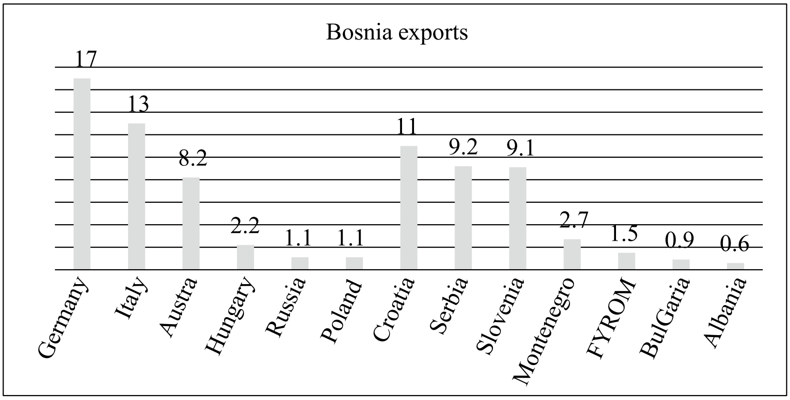


Figure 10 Bosina exports (Unit: Billions Dollars)

Source: The Observatory of Economic Complexity

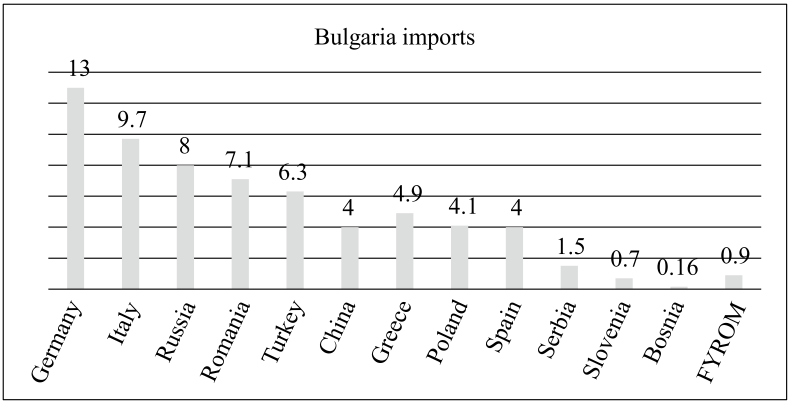


Figure 11 Bulgaria Imports (Unit: Billions Dollars)

Source: The Observatory of Economic Complexity

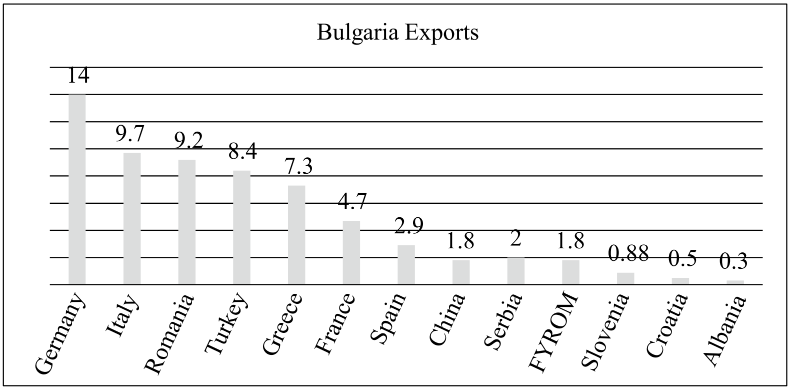


Figure 12 Bulgaria Exports (Unit: Billion Dollars)

Source: The Observatory of Economic Complexity

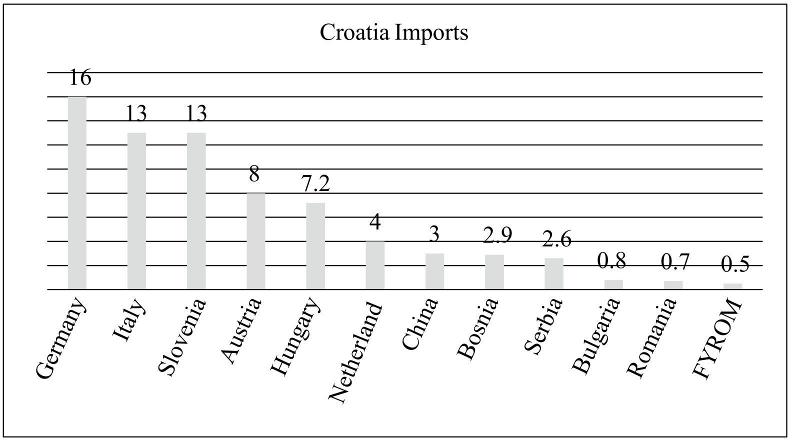


Figure 13 Croatia Imports (Unit: Billion Dollars)

Source: The Observatory of Economic Complexity

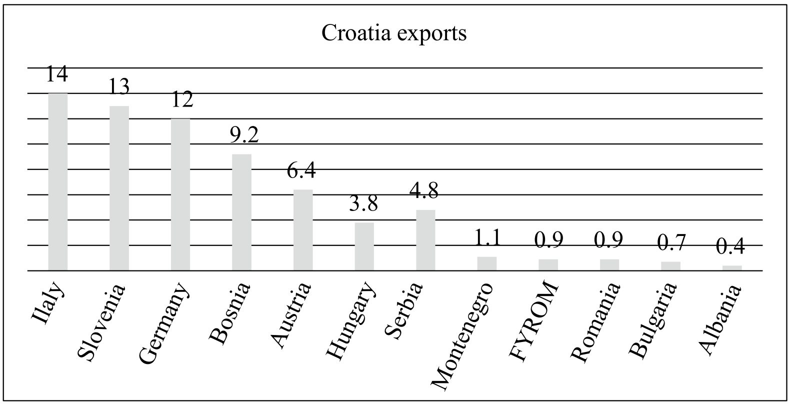


Figure 14 Croatia Exports (Unit: Billion Dollars)

Source: The Observatory of Economic Complexity

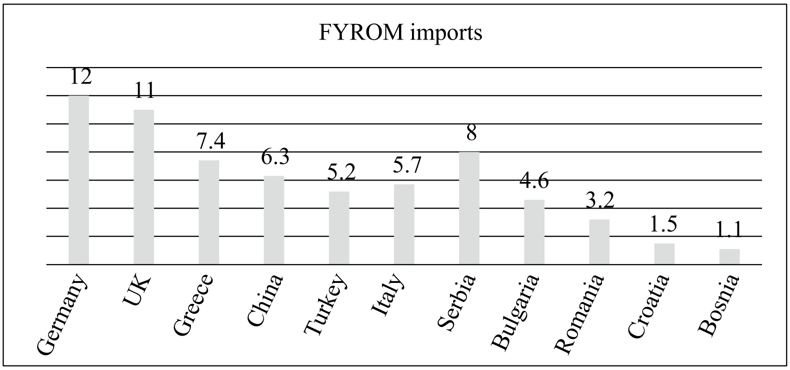


Figure 15 FYROM imports (Unit: Billion Dollars)

Source: The Observatory of Economic Complexity

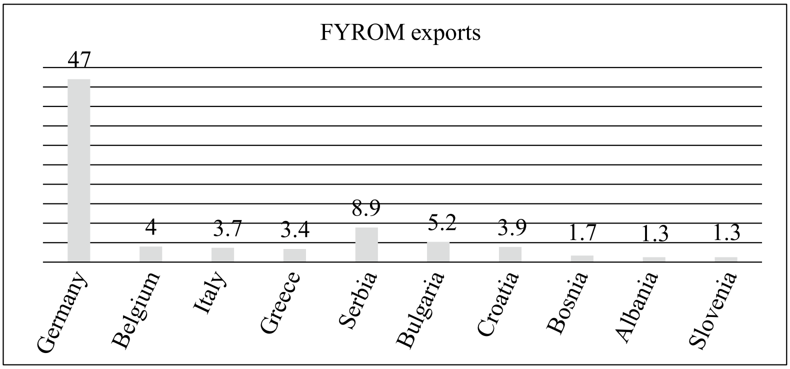


Figure 16 FYROM exports (Unit: Billion Dollars)

Source: The Observatory of Economic Complexity

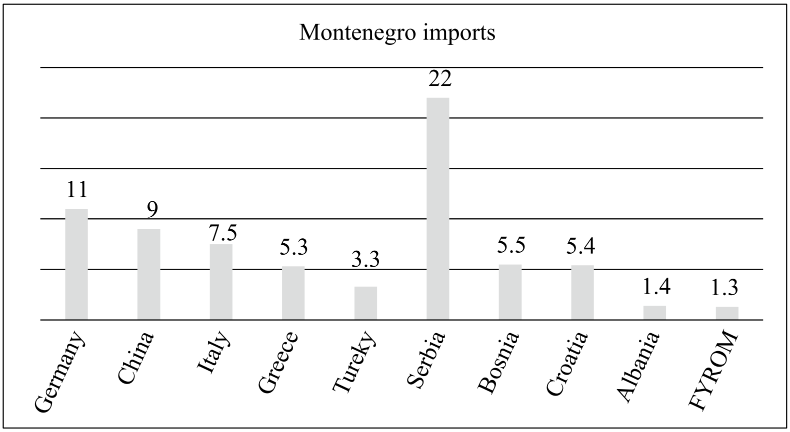


Figure 17 Montenegro imports (Unit: Billion Dollars)

Source: The Observatory of Economic Complexity

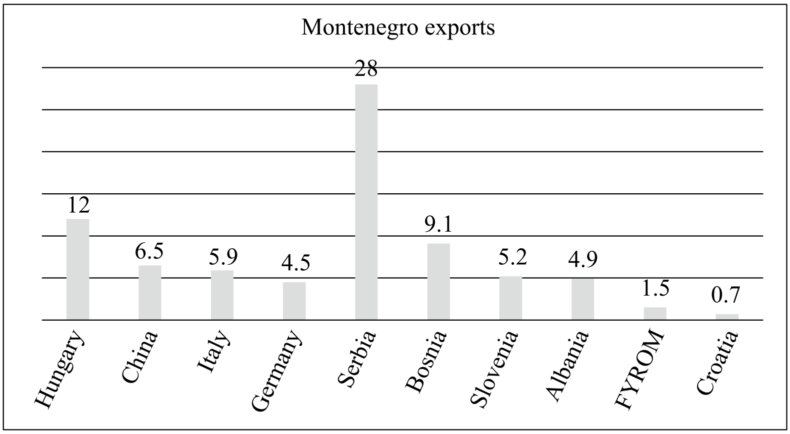


Figure 18 Montenegro exports (Unit: Billion Dollars)

Source: The Observatory of Economic Complexity

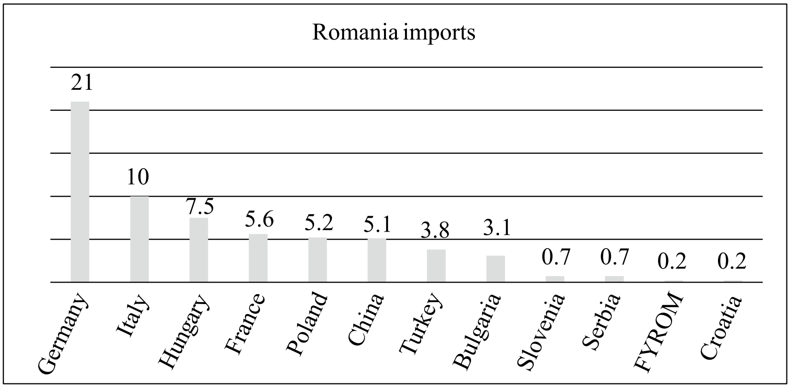


Figure 19 Romania imports (Unit: Billion Dollars)

Source: The Observatory of Economic Complexity

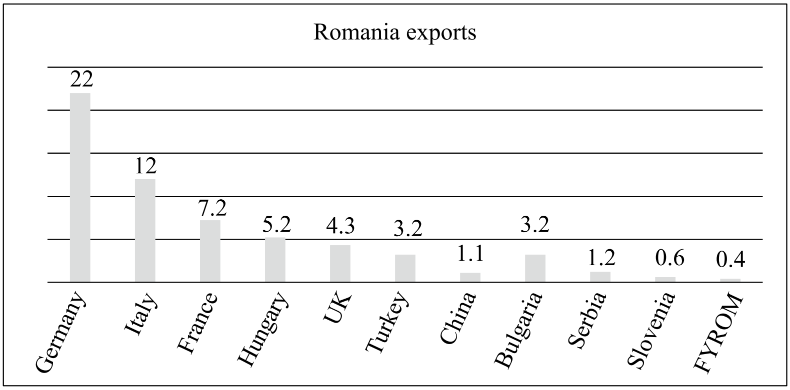


Figure 20 Romania exports (Unit: Billion Dollars)

Source: The Observatory of Economic Complexity

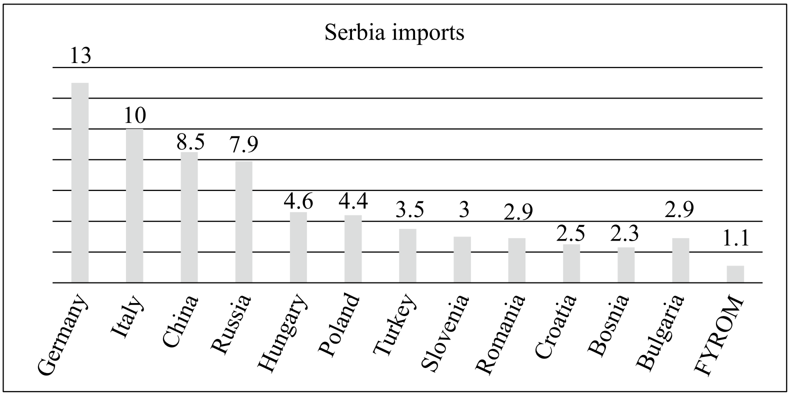


Figure 21 Serbia imports (Unit: Billion Dollars)

Source: The Observatory of Economic Complexity

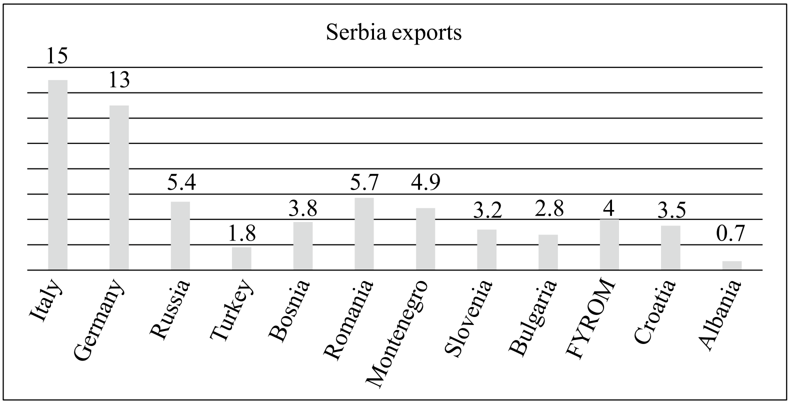


Figure 22 Serbia exports (Unit: Billion Dollars)

Source: The Observatory of Economic Complexity

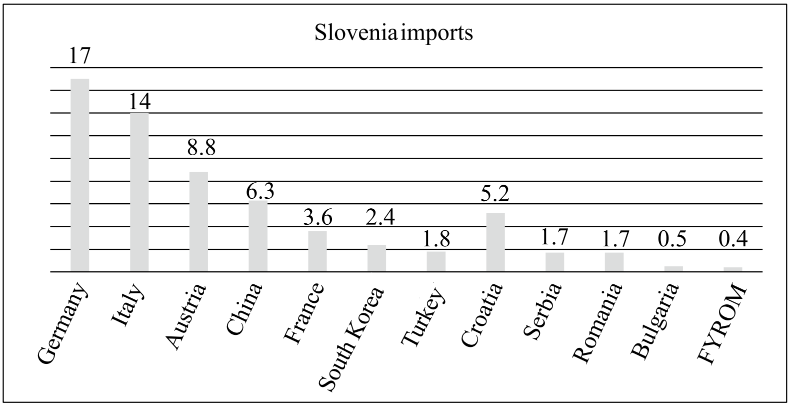


Figure 23 Slovenia imports (Unit: Billion Dollars)

Source: The Observatory of Economic Complexity

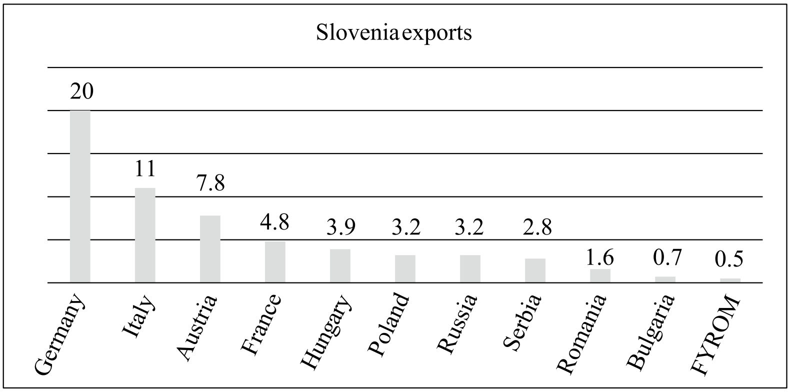


Figure 24 Slovenia exports (Unit: Billion Dollars)

Source: The Observatory of Economic Complexity

From the above we can see that the area is totally diversified in almost all the area of economic performance, and when it comes to trade the major actors are not bordering countries, but mainly large EU members, PRC or Turkey.

2. Chinese presence in the Area

China's exchange relations with Southeastern Europe at first centered on creating trade with the Balkan' s biggest markets, and after that, Beijing based investments went on with the littler ones. Peculiar here is the fact that Beijing has aimed at boosting exports and flowing investments in a time when no other country would do so: immediately after the financial crisis of 2008.

If we go back in history, the People's Republic of China did not assume a direct role in the volatile Balkan region until the late 1970s. Despite robust cooperation with Albania, mainly built upon a shared opposition to Soviet claims of world communist leadership, it was not until the summer of 1978 that Beijing articulated a coherent policy to deal with Southeastern Europe.

For a post-Mao leadership, the Balkan region had then become an important element in a broad diplomatic offensive meant to secure a foothold in the Soviet Union's sphere of influence, open up to the Third World, and forge valuable relationships with nations which could help modernize the Middle Kingdom.

In effect, China severed ties with Enver Hoxha's Albania to develop tighter economic, political, and personal bonds with Josip Broz Tito's Yugoslavia and Nicolai Ceausescu's Romania. The first step for an East European alliance between Rumania, Yugoslavia and Albania, was made by Prime Minister Zhou Enlai in 1968, in the heights of the Cold War. It was easier for the Chinese premier to put in the same alliance with Rumania and Yugoslavia, since both these countries had left the aside their orientation towards Moscow and had no conflict, past or present, with each other. Premier Zhou knew that the most hard to convince party for this possible future alliance would have been Albania. Yet, nothing substantial occurred.

Notwithstanding, the fall of the Iron Curtain and the grisly breaking down of Yugoslavia kept China from maintaining solid connections with Southeastern Europe. As the Balkan area is coming back to steadiness, the time has wanted Beijing to develop other techniques and spread its impact through expanded trade exchange. The vital land position amongst Asia and Europe, gives the area enormous potential to end up a key center point for direct exchange between the two continents.

By the time when the Soviet Union collapsed and great political changes took place in CEEC, the term "CEE countries" gradually resumed its original geographic connotation. These countries are notably diversified in economic and social situation, religion, culture as well as their foreign policies. However, they also have certain similarities: they used to be members in the socialist camp; they have gone through difficult but uncompleted systemic transformation; and they are all developing countries. After the 90s, these group of countries, each in different ways, prioritized the policy of 'turning back to Europe'in both domestic reform and foreign policy performance. They worked hard to get free from security vacuum and to adopt the Western economic and social development model with the accession to NATO and the EU as the major concern[1] (Long: 2014).

① Long, J., "Relations between China and CEE Countries: Development, Challenges and Recommendations", *China Institute of International Studies,* November 21, 2014, http://www.ciis.org.cn/english/2014-11/21/ content_7388215.htm

Firstly, their inclining toward the West approach has been corrected to a more adjusted outside arrangement, and CEE nations have given careful consideration in creating relations with other important actors like China while carefully maintaining ties with the United States and Europe. Furthermore, during an era of perpetually extending worldwide economic integration and China's fast financial development, CEE nations have joined more prominent significance to their financial and exchange joins with China. The respective exchange volume between CEE nations and China has seen a great momentum especially in the last 5 to 7 years. Institutionally everything started in April 2011, Chinese Premier Wen Jiabao paid a visit to Central and Eastern Europe and attended the first meeting between the Chinese and CEE leaders. In the fall of 2012 China established the China-CEE cooperation Secretariat and the first meeting of national coordinators were held in Beijing. By 2015 China has become the second trade partner after the EU.

3. Perceptions and Misperceptions

What's happing in the Balkans today is that there is a widespread dissatisfaction, with both foreign and domestic agendas that the political elites are putting forward, and we see the presence of some new geopolitical actors such as China, Russia and Turkey. These new actors are able to gain more and more influence because people perceive that the new system has failed them. Essentially these policies have destroyed people's livelihood, with emphasis on privatization no matter what the results are, on austerity measures at all costs, the education and health systems are shattered by unstable policies because the transformations were not based since the very beginning on the situation on the ground. The IMF and World Bank wanted to ideologically reshape the Balkans in accordance with their principals, in a certain sense this was forcing theory onto practice, and as history teaches us, it always leads to very tragic consequences. The demand of the West on the Balkans to transform in the best case or the totally change in the worst, both socially and economically in order to be accepted in the EU. On the other side Russia is trying to assert its presence with soft power means, manly by the Orthodox Church, where in Serbia, Bulgaria and Macedonia. This is curious to note because during the Cold War the religion was mainly illegalized in these countries, but after almost six decades there was revival of religious sentimentalism. Basically the new system was successful in eradicating the socialism but it was not successful in placing new set of values and beliefs. In the new system everything revolves around money and profit, there is not a spiritual or ideological compass, so in short, the new Neo Liberal system destroyed its ideological enemy, and state controlled socialism, and soon there was a vacuum of ideals and values, so the old traditional beliefs have reverted back to what they had before since the ideological concept (socialism) collapsed in front of them. This could explain not only the revival of the old, traditional religious feelings but also the rise of nationalism.

Where does PRC stand today in the region?

The Belt and Road Initiative has gained momentum manly among scholars and business environments, but before that the '16+1'initiative was already present in the area with summits and media attention. At the time being what is attracting news bulletins and public attention span are governmental investments on infrastructure, ports, airports, civil engineering and so on. The Chinese behavior in the CEEC group (through the '16+1'cooperation mechanism) should be viewed under two milestones: pragmatic and proactive approach. It's proactive because it was PRC who initiated the entire process of cooperation and pragmatic, the highlight is all on win-win cooperation and easy access to trade and investments. Besides the direct link of this cooperation with the Belt and Road Initiative (which is a foreign policy long-term plan), internal development in the PRC's establishment and institutions should not be underestimated[①](Musabelliu: 2017). But in this cooperation the Balkancountries

① Musabelliu, M., "China's Belt and Road Initiative Extension to Central and Eastern European Countries-Sixteen Nations, Five Summits, Many Challenges", *Croatian International Relations Review*, Vol.78, No.23, 2017, pp.57-76.

which are not members of the EU seem to be the week ring of the chain.

4. Conclusions—an Albanian perspective

South-Eastern European countries which are not part of the EU stand under the hat of SAA, part of a process which was initiated in Zagreb in year 2000 and was enshrined in the Thessaloniki Declaration, where the EU and the Balkan states signed the document in which for the first time these countries were promised full membership. So there are two decades of relations with EU on various levels and it was made a real commitment in Thessaloniki. Apparently at that time EU was convinced that there was no other way for the Balkans than to really prepare them, help them and believe in the commitment that joining the EU is the only solution. It has been from that day onwards the conviction of us, of ours, of our countries, of our people, governments and societies as a whole that there is no other way, either we join the EU or we go back to what everybody fears, which is not war or tensions but is lagging behind in terms of reform, in terms of advancement, peace and prosperity. To the Balkans the EU is the emblematic idea of uniting countries in purpose and in actions, it has created an area for free movement of people, capital and ideas and most important it has created an area of peace and prosperity, and this is what the Balkans are longing for!

So it's natural for all Western Balkans countries to do whatever they can to be part of that area.

So where do we stand now; after two decades of cooperation with the EU, the most we have achieved is visa liberalization and the second is the ratification of the SAA which is the legal, contractual relationship we have today with the EU. That opens the way to candidate status and candidate status opens the way from negotiations to accession. In 2009, Albania applied to be a member and it appeared that we were too quick to immediately apply and for years the commission was not convinced, by gently imposing recommendations on the country to combat corruption, have a more peaceful political running discourse and of course more reforms.

But when we look back there are two and a half decade of cooperation and we have the impression sometimes that the more we do, the more they ask and this takes a lot of patience, politically and socially, to go through a process that looks never-ending. on the other hand we have to see also inside our partner, the EU, we have a partner and we have to deal with that partner, know it. And while we see the where the EU enlargement agenda is, there is not too much expect, especially European Commission chief Jean-Claude Junker stayed true to form on the EU's enlargement prospects in his annual address of 2017 calling for a "credible enlargement perspective" for the Western Balkans while ruling out any fast track to membership.

Of the six Western Balkans countries, only Serbia and Montenegro have opened accession talks. Albania and Macedonia have been granted candidate status while Bosnia is lagging behind.

Regarding the future, it's not easy to predict where the Balkans will be ten or twenty years from now, but again, the developments in the region has historically depend from coincidence of two-dimensional dynamics, so the dynamics inside and the interferences from the outside. Historically the interferences from the outsides have been negative and we have seen throughout the centuries that these important actors have come to the region with their political agendas which only fit to their national objectives.

On the other hand, China's rise as a powerhouse in the international arena is the most important factor in what some scholars name the "Global Power Shift of the 21st Century" . Fast-pace economic growth and improvement of social welfare can be attributed to proper reform strategy, sound economic policy, opening to the outside world and active participation in the process of globalization over the last three decades. These factors, and more, make People's Republic of China a desirable partner in the economic field.

While analyzing the Chinese behavior in the region one point is the pivot: commercial exchange. Every diplomatic, political and economic approach the

PRC has towards the region is just an extension of Beijing's actual foreign policy: cooperation through mutual benefit and progress.

Last but not least, let us remind ourselves that the Belt and Road Initiative makes China the only country in the world today with a clear long term plan for the rise of global economy and Albania should be a part of that.

Private Chinese Outbound Investments Versus State Contracts in the Context of the CEE 16+1: Case of Romania

Andreea Leonte *

The Fundamentals of China-Romania relations within the CEE 16+1 framework

When China launched the "16 + 1" format in 2012, as a tool to stimulate and increase the economic and cultural exchanges within the group, Romania was among the countries invited to join. In the light of their old friendship ties cultivated during the last decade, there was a strong mutual belief that the new framework will bring about a new vigor in the Sino-Romanian bilateral relations.

When the People's Republic of China was established on 1 October 1949, Romania was the third state to recognize and support its legitimacy. After this landmark event for modern China's history, the two countries have developed a relationship of mutual support and cultural exchange. Many young Chinese have been sent to study the Romanian language in Bucharest, as well as to work on other projects throughout the country. Chinese President Jiang Zemin himself came to Romania in 1970 and worked for a year as a specialist in the mechanical field. Later on, in 1971, the Romanian president at that time, Nicolae Ceaușescu went on an official visit to China and enjoyed a very warm

* The Romanian Institute for the Study of the Asia-Pacific (RISAP).

public reception.

Following the 1989 Revolution, Romania has drifted its attention westward, seeking integration with the West. Although its policy toward China has never really changed, it may seem that the two countries have chosen to focus on nearer and more immediate concerns. Romania had made intense preparations to apply for NATO and EU membership, which it has successfully acquired in 2004 and 2007, respectively, whereas China has slowly opened up its market to the outside world and has prepared for its accession to the WTO. After many years of preparations and negotiations, China was granted WTO membership in 11 December 2001. This was seen by many as a milestone in its opening-up policy.

After a decade of spectacular economic growth that had astonished the whole world, in which it had amassed massive amounts of foreign reserves, China has decided, with the entry into the new millennium, that it was its turn to “go global” and invest abroad. If at first there were certain doubts regarding China’s proficiency as a foreign investor on the Western market, today nobody doubts any more that China has proven itself a worthy competitor, although the world didn’t always approve of its manner of conducting business.

The launch of the CEEC 16+1 platform in 2012 had prompted China to assume leadership and responsibility on a whole new level. Although the call for cooperation was expressed in a very open and inclusive fashion, everyone was expecting to see China drawing the outline of this new partnership. Without a coherent strategy from its part, no one could be sure that all the actors involved were pointing in the same direction.

Private vs. Public Chinese investments in Romania

For Romania, the CEEC platform represented a renewed chance to redefine and relaunch the bilateral economic cooperation with China, in the form of investment and trade. Romania’s prime minister at that time, Victor Ponta, welcomed his Chinese counterpart, Li Keqiang, in Bucharest in 2013, on the occasion of the CEE 16+1 second summit. The two have discussed about new methods of deepening the bilateral cooperation and have agreed that they need to further deepen cooperation in economic, trade, financial banking, infrastructure construction, energy, agriculture, alongside with science and technology, telecommunications, information technology, environmental protection, tourism and other sectors.[1] This statement was followed by the signing of several bilateral documents touching upon the implementation mechanisms that could be used to achieve these common aims. The two parties pledged to take all the necessary steps to create a better business environment in the two countries and to exploit the conditions and possibilities of cooperation offered by the development of their countries' economies.

Everyone expected and was eager to read about ambitious joint projects that would benefit both economies. The expectation didn't fall short of the reality.

At the meeting of the two heads of government, eight memoranda of understanding were signed, as follows[2]:

1. A Memorandum of Understanding between the Romanian Energy Department and the National Energy Administration of China for cooperation in the field of nuclear projects
2. Letter of intent between Nuclearelectrica Romania - China General Nuclear Power Corporation (CGN)
3. An agreement for the rehabilitation of groups3 and 4 of the thermoelectric power plant Deva,[3] Romania. The memorandum was a signal between the Hunedoara Energy Complex, Romania and China National Electric Engineering Co.
4. Cooperation agreement for the realization of the thermoelectric project in Rovinari - Oltenia Energy Complex

① See http://gov.ro/en/news/joint-declaration-by-the-government-of-romania-and-the-government-of-the-people-s-republic-of-china-on-deepening-bilateral-cooperation-in-the-new-circumstances#null.

② The official source in Romania for these data is: http://stiri.tvr.ro/guvernele-roman-i-chinez-au-parafat-mai-multe-acorduri-si-memorandumuri-de-intelegere_37569.html#view.

③ Thermoelectric Deva is a subsidiary branch with legal personality within the Romanian state owned company Termoelectrica.

5. Letter of comfort for the project Tarniţa Cheap Lăpuşteşti
6. Memoranda of Understanding on the promotion of investment co-operation and the elaboration of a feasibility study for the establishment of a joint technology park
7. Two Protocols of Agreement in the Sanitary Veterinary field between The National Sanitary Veterinary and Food Safety Authority in Romania (ANSVSA) and AQSIQ① on the export of bovine animals for breeding in R.P. Chinese and export of frozen pork in R.P. China
8. Agreement to launch a Cultural Program in the period of 2013-2016 between the two countries and the Agreement on the Establishment and Functioning of the Romanian Cultural Institute in Beijing and the Chinese Cultural Center in Bucharest
9. Memorandum of Understanding between the Ministry of Information Society of Romania and Huawei Technologies Co.Ltd
10. Agreement between Mingyang Wind Power Group and Romanian Păunescu Corporation for investments in wind power plants and export equipment

As we can see, 90% of these memoranda of understanding were between state-owned companies from the two states. Moreover, they were not binding to none of the two parties, who retained the privilege of choice regarding the terms and conditions for each joint project. It is worth noting that some of the above projects listed in these memoranda date back to the period of Communist Romania, before 1989. A good example is given by the two large energy projects mentioned above, the Tarniţa-Lăpuşteşti hydro power plant, a project worth over 1.1 billion euros, and the project for the construction of nuclear reactors 3 and 4 from the nuclear power plant in Cernavodă, estimated

① AQSIQ is the Authority for General Administration of Quality Supervision, Inspection and Quarantine of the People's Republic of China (AQSIQ). As per the information on its official webpage, AQSIQ is a ministerial, administrative organ directly under the State Council of the People's Republic of China in charge of national quality, metrology, commodity inspection, entry-exit health quarantine, entry-exit animal and plant quarantine, import-export Food safety, certification and accreditation, standardization, as well as administrative law-enforcement. For more information visit: https://www.aqsiq.net/what-is-aqsiq.htm.

at 6.4 billion euros. Both projects were initiated by the communist regime in Romania, but were not completed up to date.[①] The main reason was that these two projects needed a massive capital investment and so far the most interested and willing to undertake the projects were the Chinese investors. However, the representatives of the two governments that have been commissioned with the negotiation of the terms and conditions of the final contract have failed to reach a common denominator on the terms of collaboration, even to this day.

Another major project referred to the construction of a new 600 MW power plant in Rovinari. In a feasibility study, it was subsequently estimated that the total value of the project would amount to over 800 million euros. China's Huadian Engineering will be in control of the majority of shares: 91,06%, with an investment of EUR 254.3 million, representing 30% of the total project value, whereas CE Oltenia will retain the remaining 8.94%, of which 2% will be ceded by China's Huadian Engineering free of charge.[②] The Romanian investment is estimated to EUR 18.95 million. The remaining funding needed to achieve the project will be obtained through loans contracted from third parties (financial-banking institutions).

Its completion was scheduled for 2019, and the total lifetime of the project was estimated at 30 years, with a cost amortization period of about 12 years. 2 years after the signing of the MoU, an advisory body was established – China Huadian Engineering Romania, whose business activity consisted of providing business and management consultancy to the future Chinese – Romanian investments. Since then, no significant progress has been made, on the contrary, the two partners seem to be still in the process of negotiating the terms of their joint collaboration.

Another ambitious project in the Energy field was Romania’s Mintia-Deva thermal power plant. The project consisted of refurbishing the Unit 4 at Deva thermal power plant, and also developing the necessary facilities for the

① http://www.capital.ro/download?id=192054.

② http://www.gorj-domino.ro/chinezii-si-au-infiintat-firma-in-romania-pentru-a-construi-grupul-energetic-de-rovinari/.

operation of Units 3 and 4 of the power plant. The project, with an estimated value of 271 million USD[①], was broadly discussed during the visit conducted by the Romanian Prime Minister in China in 2014. A year after Chinese Premier Li Keqiang visited Bucharest, the two heads of government met again in Beijing and reaffirmed their mutual interest in strengthening bilateral relations and raising them to the level of a strategic partnership. The discussions also approached certain infrastructure projects, including the creation of a high-speed train on the Bucharest-Iași route, with an extension to Moldova.[②] About this last project though, not much has been echoed in practice since then.

As we can see, despite the general enthusiasm with which these projects were received at first, none of these projects in the energy sector has been successful until now. It is true that their large scale in terms of capital investment and future implications for Romania's economy and environment have caused negotiations to last longer than was initially anticipated. However, the fact that no significant progress has been made to show that these projects are still viable and achievable within a reasonable time frame has led to a decline in the initial enthusiasm. The reasons why the Romanian state did not fully agree so far on the terms and conditions for the joint realization of the projects are currently unknown due to the secret nature of the negotiations. That is why it is difficult to estimate whether and when these projects will be carried out. Even so, it is too early to conclude on the success or failure of these initiatives. It remains to be seen what will happen in the coming years, during the mandate of the current government, if the negotiations will be fruitful or will stand still.

With regard to infrastructure investments, several projects have been speculated over time. When China launched the "Belt and Road" initiative in 2013, it was seen in its incipient phase as a massive infrastructure project that

---

① http://govnet.ro/Energy/Economics/China-electric-engineering-corporation-to-refurbish-the-thermal-power-plant-at-Deva-Mintia.

② Annual Report of the Ministry of Foreign Affairs of Romania, 2014, p.30, https://www.mae.ro/sites/default/files/file/anul_2016/2016_pdf/2016.01.22_raportul_anual_al_mae_2014.pdf.

aimed to build connectivity corridors in the form of highways and maritime routes linking Asia to Europe. One of these routes would have supposedly crossed Romania from south to north, linking the capital Bucharest with Iasi, the largest city in the eastern part of the country, and continuing in the north direction to the final destination. Moscow[①] After more than 5 years since it's initiation, the BRI initiative no longer seem to follow the pattern that was initially depicted on the Eurasia's map: the Old Silk road. On the contrary, not only did BRI not limited itself to a number of countries that were once crossed by the old silk route, but It's interpretation extends now far beyond infrastructure projects. Hence the assumptions that BRI is an initiative to relaunch a new "Silk Road" proved to be very far from reality. Some infrastructure development projects that China showed interest in[②], were to build the second line of Bucharest ring road[③], the Bucharest-Danube Canal[④]; the Siret-Bărăgan Canal[⑤]; and highway and railway segments in the rest of the country. Likewise, at some point there were talk about building the Romanian segment of the Rhine-Danube Corridor, linking the Romanian port of Constanța with the city of Vienna.[⑥]

All these infrastructure projects must go through a public tender phase, according to Romania's legislation in the field and EU requirements. Unfortunately, there is even less information about these initiatives compared with the projects in the energy sector, therefore it is reasonable to assume that they are no longer up to date, at least in terms of a Romanian-Chinese collaboration.

① https://www.bloomberg.com/graphics/2017-china-belt-and-road-initiative/.

② Ghelmegeanu, G., Romanian-Chinese House, May 11, 2013, www.casarochi.ro.

③ *See more info at* Ana-Maria Smadeanu, interview with China's Ambassador in Romania, Mr. Xu Jian, published in The Diplomat – Bucharest, http://www.thediplomat.ro/natday_0905.htm.

④ Ibid..

⑤ Alina Stanciu, *Proiectul canalului Siret-Bărăgan, estimat la şase miliarde de euro, este blocat de schimbarea Guvernului*, Economica.net, http://www.economica.net/proiectul-canalului-siret-baragan--estimat-la-sase-miliarde-de-euro--este-blocat-de-schimbarea-guvernului_112604.html.

⑥ Karla Peijs, *Work Plan of the European Coordinator*, European Comission 2015, https://ec.europa.eu/transport/sites/transport/files/themes/infrastructure/news/doc/2015-05-28-coordinator-work-plans/wp_rhine-d_final.pdf.

On the other hand, there are several examples in the private sector of Chinese investments in Romania that have been successful. The most significant of these is the inauguration of the Huawei regional center and the acquisition of Rompetrol, also known as KazMunayGas International. Because none of them had to go through negotiations with the state, they have been successfully implemented within a few years. The Romanian Rompetrol was purchased by CEFC China because it was part of a Chinese-Kazakh deal, but Huawei is a true success story of the Chinese direct investment in Romania. Its success has determined Yanmin Wang, Huawei's President for the Central, Eastern and Northern European branches, to declare the following: *"We have been here for over 13 years. Our financial services centre is located in Romania and we also have a significant number of employees on the local market. Thus, we still want to expand our team in Romania and move more departments from Huawei Europe here in Romania."*

There is another type of Chinese investments in Romania, and this is the indirect investment. Based on mergers and acquisitions (M&A), Romania is a great beneficiary of the takeover of large companies by China. The two sound examples are the acquisitions of Pirelli and Smithfield. Smithfield is an American company and the largest producer of pork in the world. The company was bought in 2013 by the Chinese investor Shuanghui Group, which is also a large producer of pork in China. With this acquisition, the new owner also took over the Romanian meat producers Comtim and Agrotorvis. In 2017, Shuanghui Group also bought, via Smithfield, the meat companies Elit and Vericom, which together add up to 12,000 customers and operate 5 factories and 5 distribution centers in Romania.[1] China National Chemical bought the tire company Pirelli in 2015 and together with it the two factories that Pirelli had in Romania, one at

① For more information, see https://www.profit.ro/povesti-cu-profit/retail/tranzactie-grupul-chinez-wh-cumpara-prin-smithfield-producatorii-romani-de-mezeluri-elit-si-vericom-cu-acelasi-proprietar-intr-o-extindere-puternica-in-europa-17226023.

Slatina and the other one at Bumbeşti-Jiu.[1]

We may observe thus that the Chinese private investments integrated very well on the Romanian market and had a better impact on Romania's economy. Whereas in the future joint collaboration for some projects is not excluded, we may observe that for now, private investments seem to be way more appropriate.

① https://www.profit.ro/povesti-cu-profit/retail/tranzactie-grupul-chinez-wh-cumpara-prin-smithfield-producatorii-romani-de-mezeluri-elit-si-vericom-cu-acelasi-proprietar-intr-o-extindere-puternica-in-europa-17226023.

Achievements and Challenges for China Investments in Serbia

Duško Dimit, rijević *

1. Introduction

In the last two decades, in a time of transition and transformation of a planned economy into a free market economy, Serbia has almost lost its primary industry sector. In other words, the Serbian primary industry sector was largely "de-industrialized" although in the secondary and tertiary industry sectors maintained a certain vitality and development potential. Starting from the political changes of the year 2000, Serbia catches up with other countries in the region in the most important aspects of the transition process. In this sense, foreign direct investments have a significant impact on the Serbian economy, by improving economic structure and giving it new competitive qualities, increasing access to international markets, serving as a resource for improving the balance of payments and helping to accept modern technology, knowledge and management. It gives real hope that Serbia with the help of foreign capital will be able to re-industrialize their production and to restore and develop its industrial capacity. Serbia sees China as the most important foreign trade and financial partner in Asia and as a major partner in achieving its strategic economic objectives. Lack of financial resources needed for realization of the planned economic development goals, enables China to invest own financial resources on favourable terms using the Serbian market openness and good mutual relations permeated with mutual trust and benefits.

* Professorial Fellow and former Director of the Institute of International Politics and Economics, Belgrade, Serbia.

For the proper understanding of Sino-Serbian relations, this study gives first short explanation of Chinese "New Silk Road". Then, it includes analysis of the development of Serbian-Chinese political and economic relations (especially in the field of foreign investment). The final part of the study includes evaluation of comparative advantages and certain disadvantages for the Chinese foreign investment in the Serbian economy, which in itself has certain significance for the realization of the "New Silk Road" .

2. China's "New Silk Road"

On September 7, 2013, Chinese President Xi Jinping speaking at Nazarbayev University in Astana, the capital of Kazakhstan, called for the development of the "Silk Road Economic Belt" initiative which includes the connectivity of countries from the Pacific to the Baltic Sea. On that occasion, President Xi said that "China must expand the development of Eurasia creating an economic belt along the Silk Road". The idea of renewing the ancient "Silk Road" that was created during the Han Dynasty has received new attention and became a source of inspiration for the trade and investment ties between the China, Central and South Asia, Europe, the Middle East and Africa.[1] This was confirmed by President Xi in his speech when he emphasized the need for a new vitality of the world economy, as well as the development of friendly relations

① Professor Liu Zuokui from the Institute for European Studies of the Chinese Academy of Social Sciences points out that: "The Silk Road Economic Belt has three routes on the corridor which refers to the Siberian Continental Bridge (also known as the First Eurasian Continental Bridge), starts from Vladivostok in the eastern part of Russia and ends in Rotterdam in the Netherlands; the New Eurasian Continental Bridge (also known as the Second Eurasian Continental Bridge), begins in Lianyungang in east China's Jiangsu Province and ends in Rotterdam. It exits China *via* the Alataw Pass and runs through Central Asia into Russia, Poland, and Germany; the third is the Eurasian Continental Bridge that is now on the drawing board. This proposed route would start from Shenzhen in Guangdong Province and end in Europe via Myanmar, Bangladesh, India, Pakistan, Iran, Turkey and Bulgaria". See Liu Zuokui, "The Role of Central and Eastern Europe in the Building of Silk Road Economic Belt", *Međunarodni problemi* (*International Problems),* Vol.67, No.2-No.3, p.186.

with the countries along the route of the "New Silk Road".[①] One month later, in early October 2013, during a visit to Indonesia, President Xi announced a similar initiative of the "21st century Maritime Silk Road" which also referring to Chinese history, especially on the fact that the Chinese admiral Zheng He on his cruises in the 14th century formed a broad network of economic, trade and political ties with the countries of South Asia, Southeast Asia, and Africa taking into account the new geopolitical circumstances and economic needs of the states along the maritime routes covered by this political initiative of the Chinese president, the old idea in the new historical rug should serve the promotion of maritime trade as well as environment protection, science, technology and security cooperation along the sea routes of southern Eurasia, from the Pacific coast to East Africa, the eastern Atlantic shores and Mediterranean. [②]

The Chinese President's initiatives colloquially expressed through the phrases: Yi Dai Yi Lu (Belt and Road Initiative), were based on a long-term analysis of international relations, as well as on studies of the economic development trends of China and the international community. Hence the reanimation of the idea of the ancient "Silk Road" should not be surprising because it was created as a result of the the political paradigm of the "Chinese dream", which was still one of the leading development strategies based on the policy of "Peaceful Development", conceptually shaped China's efforts

① The "Silk Road Economic Belt" initiative promotes the next model of cooperation: "(1) strengthen policy communication, which may help 'switch on a green light' for joint economic cooperation; (2) strengthen road connections, with the idea to establish a great transport corridor from the Pacific to the Baltic Sea, and from Central Asia to the Indian Ocean, then gradually build a network of transport connections between eastern, western and southern Asia; (3) strengthen trade facilitation, with a focus on eliminating trade barriers and taking steps to reduce trade and investment expenses; (4) strengthen monetary cooperation, with special attention to currency settlements that could decrease transaction costs and lessen financial risk while increasing economic competitiveness; (5) strengthen people-to-people relation" See: "Xi Jinping put forward 4 ideas in a speech at the SCO summit", Xinhua, September 13, 2013.

② According to the recent information of the Xinhua agency, the Maritime Silk Road begins in Quanzhou (Fujian) and hits other southern Chinese ports (Fujian, Zhejiang and Guangdong) before heading to the Malacca Strait. From Kuala Lumpur, the Maritime Silk Road heads to Kolkata, crosses the rest of the Indian Ocean to Nairobi and then around the Horn of Africa into the Mediterranean—with final stops in Greece and Italy.

to consolidate the regional security and to ensure harmonious economic development of most of the world. [①]

This initiative concept came up together with the economic concept of "Open Door" which was applied in China by more than three decades and that led to the market-oriented reforms and gradual process of liberalization from which were removed the internal barriers in terms of movement of goods, labour and capital.[②] Starting from 2000, onwards, China has made significant progress in the global market. Joining the World Trade Organization and by strengthening their economic capacity, China has managed to occupy one of the leading positions in the world economy. Unfortunately today, as well as other global powers, China faces with serious economic threats which are caused by the world economic crisis and internal social tensions. These threats are manifested through the lack of the driving force and demand, constant turbulence of the financial market and continued downturn in international trade.[③] These problems were put aside exports and foreign direct investment as a leading Chinese economic development model. Given the difficult business conditions, China tries to find new export markets or preserve existing ones. This is the main reason why the "New Silk Road" has become a key development strategy that should take into account the peaceful and sustainable development not only of China, but also of all countries along the Belt and Road directions.

---

① Peaceful Development Policy assumes an open and cooperative relationship, in order to maintain "win win" situation and stable external environment that would be conducive to China rise. See Zoran Petrović Piroćanac, "The World and a Chinese Non-alignment Strategy of Governance and Development-Brief Survey", in *Global Trends and China in the Coming Decade,* "Contemporary World Multilateral Dialogue 2013, China Centre for Contemporary World Studies, China Foundation for Peace and Development, China Energy Fund Committee, 2014, p.86; Xinhua, "Central Committee's Decision on Major Issues Concerning Comprehensively Deepening Reforms", November 15 2013; Xinhua, "China Focus: China sketches out priorities of 'Belt and Road' initiatives", http://news.xinhuanet.com/english/china/2015-02/01/c_133962709.htm, November 11.2015.

② L. Hongyuan, G. Yun, S. Qifa, *China's Road*, HuangshanPublishing House, 2012, p.128.

③ Lin Yongliang, "The Global Significance of the Belt and Road Initiative", *International Understanding,* Vol.2, No.2, 2017, p.56.

Hence, it is clear why the Belt and Road Initiative sublimated for practical reasons in the initiative of the "New Silk Road" have a decisive significance for improving China's relationship especially with countries of Asia, Europe and Africa but not excluding countries from other regions of the world. As the far-reaching vision, the "New Silk Road" has been proposed with the purpose of benefiting both China and the countries along the land and maritime route. Thereby, the Belt and Road Initiative are open to all countries and international organizations (for example Shanghai Cooperation Organization, the Eurasian Economic Community, Asia-Pacific Economic Cooperation, Asia-Europe Meeting, ASEAN plus China, BRICS), while adhering to the principles of mutual respect and common interests.[①]

In line with the published Chinese projections, both of these initiatives are expected to become fully operative by 2025.[②] These initiatives should boost the revitalization of the large part of the world which covers the vast area with more than 4.4 billion people. It is expected that the total value of these initiatives surpass USD 21 trillion (almost one third of the world's GDP).[③] The network of investments that includes the Belt and Road initiatives might create the landmark infrastructure projects of the 21st century *(World Land-Bridge)*, encompassing more than 60 countries from different continent.[④] The importance of the Belt and Road initiatives is therefore huge taking into account the number of countries they could encompass, and the potential economic benefits

① Duško Dimitrijević, Nikola Jokanović, "China's 'New Silk Road' Development Strategy", *Review of International Affairs*, No.1161, 2016, pp.21-44.

② Pepe Escobar, "The 21st Century Belongs to China: Why the New Silk Road Threatens to End America's Economic Dominance", 2015, http://www.salon.com/2015/02/24/the_21st_century_belongs_to_china_why_the_new_silk_road_threatens_to_end_americas_economic_dominance_partner/.

③ Aleksandar Janković, "New Silk Road—New Growth Engine", *Review of International Affairs*, No.1161, 2016, p.6.

④ H. Zepp-LaRouche, "The New Silk Road Leads to the Future of Mankind!", In: *The New Silk Road becomes the World Land-Bridge*, EIR News Service Inc., Washington, 2015, p.2.

for all of them.[1] Hence, the Belt and Road initiatives indicate a positive climate for building a new economic international system that could bring prosperity for a large number of countries that are on the "New Silk Road", including Serbia, which, according to its specific position in international relations has a special significance for their implementation.[2]

3. Development of Political Relations Between Serbia and China

The current relations of Serbia with China are conditioned by many political, economic, legal and social factors. These factors point to the existence of a multifaceted asymmetry which is not an obstacle to the development of good and friendly relations between the two sides, whereas, in the historical and legal sense, the relations between the two countries are characterized by the continuity

① This year, China pledged a new USD 900 trillion investment in achieving the goals of the "New Silk Road". The aim of the new billion scheme is to kindle a "new era of globalization", a golden age of commerce that will benefit all. China has made a special commitment to invest additional ones USD 8 trillion for infrastructure in 68 countries. That adds up to as much as 65% of the global population and a third of global GDP. See "China's $900 billion New Silk Road-What you need to know", *World Economic Forum*, June 26, 2017, https://www.weforum.org/agenda/2017/06/china-new-silk-road-explainer/.

② It seems very interesting to note that China came out with a list of priorities within the Belt and Road initiatives in February 2015. These priorities include building transporting infrastructure, facilitating the flow of investment and trade, simplification of customs procedures, the construction of logistics centres, financial cooperation, with the expansion of cooperation between nations through intensifying exchanges in culture, education, science, etc. In March 2015, the National Development and Reform Commission announced an important strategic document titled: "Vision and Actions on Jointly Building Silk Road Economic Belt and 21st Century Maritime Silk Road". This document outlines the framework of cooperation within the Belt and Road initiatives. The same Commission adopted on October 22 2015, the "Action Plan for Harmonization of Standards along the Belt and Road (2015-2017)" which confirmed that the objectives of the previous adopted document (Vision and Actions), will be achieved in practice. See "Vision and Actions on Jointly Building Silk Road Economic Belt and 21st-Century Maritime Silk Road", National Development and Reform Commission, Ministry of Foreign Affairs and Ministry of Commerce of the People's Republic of China, Beijing, March 28, 2015, http://en.ndrc.gov.cn/newsrelease/201503/t20150330_669367.html, "Action Plan for Harmonisation of Standards Along the Belt and Road (2015-2017)", National Development and Reform Commission, October 22, 2015, http://china-trade-research.hktdc.com/business-ews/article/One-Belt-One-Road/Action-Plan-for-Harmonisation-of-Standards-Along-the-Belt-and-Road-2015-2017/obor/en/1/1X000000/1X0A443L.htm.

of the diplomatic relations established on 2 January 1955 between the Federative People's Republic of Yugoslavia and the People's Republic of China. In the international legal sense, Serbia, as the successor state of the Socialist Federative Republic of Yugoslavia, continues to treat China as one of its main partners in international relations, which is confirmed through its foreign policy course, according to which China is one of the main "pillars" of Serbia's foreign policy alongside the European Union, Russia and the United States.[1] The mere reference to the main "pillars" in Serbia's foreign policy orientation indicates that for Serbia, China represents a key player in world politics and a great power with which it should build good and friendly relations.[2] Consequently, Serbia and China established first the "strategic partnership" in August 2009 (during the visit of Serbian President Boris Tadić to China), which, also in August 2013 and then in June 2016, was expanded into the "comprehensive strategic partnership" through a joint statement by the Serbian president Tomislav Nikolč and Chinese president Xi Jinping. The Chinese-Serbian strategic partnership, which resulted from the traditional friendship between the two countries, contributed to the conclusion of a series of investment agreements and the implementation of joint projects in the Serbian energy, transport, agricultural, financial and telecommunication sectors,

---

① Isac Found, "Od četiri stuba spoljne politike do evroskih integracija-postoji li volja za strateško usmerenje spoljne politike Srbije?" (From the Four Pillars of the Foreign Policy to the European Integration—Is There a Will for the Strategic Direction of Serbia's Foreign Policy?), Belgrade, 2013, p.17.

② In public discourse, Serbia treats China as a great power despite the fact that China does not experience it so. China's political discourse, however, emphasizes that China is the largest developing country and a respectable regional power with increased global influence and soft power in international relations. The specificity of the Chinese approach is that China is a "responsible power"(fu zeren de daguo), which respects the sovereignty of other countries, as opposed to Western powers that interfere in the social systems of other countries, in their development and in their internal foreign policy. According to professor Hongjun, China's foreign policy includes five basic elements: peaceful, independent, scientifically based, cooperative and joint development. See: Yu Hongjun, "Sincere Dialogue for Conductive Cooperation", in *The Changing World and China in Development*, from: "The Contemporary World Multilateral Dialogue", China Centre for Contemporary World Studies, China Foundation for Peace and Development, Beijing, 2013, p.9.

as well as in the field of scientific and cultural exchange and cooperation.[①] The importance of establishing a strategic partnership between Serbia and China has had positive effects not only on optimizing Serbia's foreign policy position but also in strengthening its status in economic international relations. This strategic approach is also visible within the "16 + 1" cooperation mechanism established to develop and improve cooperation between the countries of Central and Eastern Europe (CEEC) and China in the implementation of the development objectives of the Chinese "New Silk Road".

4. Development of Economic Relations Between Serbia and China

Although Serbia views China as its most important strategic partner in Asia, its economic relations with China are characterized by mutual asymmetry in all economic parameters. Author lists here only as an example some public information's about this.

According to official data of the National Bank of Serbia, in the period from 2005 to 2013, the total net inflow from China amounted to EUR 20 million.[②] According to official data of the Serbian Bureau of Statistics, in the total trade exchange, China was fifth in the list (behind Italy, Germany, Russia and Bosnia and Herzegovina); while in terms of imports China occupied the fourth place (behind Italy, Germany and Russia). Export of Serbia to China in 2014 amounted to USD 14.1 million, while in 2015 it amounted to USD 20.2 million (with only 0.1% and 0.2% of total Serbia's exports). On the other hand, Serbia imported goods from China in 2014 in the amount of USD 1,561 million, while in 2015 imported goods in the amount of USD 1,540.2 million (accounting for 7.6% and 8.5% of the total import of Serbia in those years).[③]

---

① Tanjug, "Kina i Srbija-strateško partnerstvo i još 21 sporazum", (China and Serbia—A Strategic Partnership and Another 21 Agreements), June 18, 2016, http://www.tanjug.rs/full-view.aspx?item=270618&izb=252463&v=252463.

② National Bank of Serbia, *Statistics,* 2015, http://www.nbs.rs/internet/cirilica/index.html.

③ Serbian Statistical Office, 2015, http://webrzs.stat.gov.rs/WebSite/.

According to official indicators of the Serbian Chamber of Commerce, in 2016, there was an increase in bilateral trade between the two countries. Thus, imports from China amounted to USD 1,603.9 million, while exports from Serbia to China amounted to USD 25.3 million. Import coverage by export was 1.6%.[①]

However, regardless of the above indicators, this does not mean that there are no real possibilities for their further growth and development. Such a conclusion stems from the Chinese that Serbia represents as one of the key partners in the region of Southeast Europe as well as an active factor in the way of connecting with the European Union, whose common market of high purchasing power can be an ideal place for its investments and the placement of its products. In that sense, China supports Serbia's aspirations for full membership in this organization and encourages its economic transition to open markets. Good political relations with China provide Serbia with the opportunity to develop good economic relations with her in different ways and in different fields. Currently, economic cooperation, on its scale, value and structure, unfortunately makes a small part of the economic exchange with the world in both countries. [②]

This state of affairs is primarily conditioned by the Chinese economic plan whose constants are: the global geo-economic positioning, the growing expansion of exports, the acquisition of energy and mining resources for the purpose of maintaining economic growth and the significant logistical and financial support of the state structures and state banks to companies operating abroad. Given that China is emerging as a major investor worldwide, it is therefore clear that economic cooperation with China is a major economic challenge and incentive for Serbia. However, the two countries have a clear will to improve their economic relations which is best reflected through Chinese foreign direct investments (FDI) in the Serbian transport infrastructure, energy and ICT sectors.

Before reviewing concrete economic indicators related to Chinese

---

① Chamber of Commerce and Industry of Serbia, *Economy of Serbia,* 2016, http://www.pks.rs/MSaradnja.aspx?id=73&p=1&pp=2&.

② Blagoje Babić , "New Silk Road—China's New deal", in: Dimitrijević Duško, eds., *Danube and the New Silk Road*", Institute of International Politics and Economics, Belgrade, 2016, pp.62-63.

investments in the Serbian economy, one should look at the significance of these investments in international practice. According to international standards, "direct investment is a category of cross-border investment linked to a resident in an economy that has control or a significant degree of influence on management in an enterprise resident in another economy". More precisely defined, "it is determined that there is control if a direct investor owns more than 50 percent of the voting rights in the direct investment company, while there is a significant degree of influence if the direct investor owns 10 to 50 percent of the voting rights in the direct investment enterprise". [①]

For our analysis of importance are the *Inward Foreign Direct Investment,* which means the inflow of Chinese capital into domestic companies either through mergers and acquisitions, either through greenfield investments that mean completely new investments. The total inflow of Chinese capital on these bases is very significant for the economic development of Serbia.

According to official data, the amount of Chinese investments in Serbian economy reached a level of around USD 6 billion. In the continuation of the presentation, author gives concrete examples of previous successful Chinese investments and those investment projects whose realization is planned and which author thinks may be indicative of the development of the Serbian-Chinese economic relations.

(1) Chinese foreign direct investments in Serbia (IFDI)

In May 2016, Hesteel Group Company Limited (HBIS) took over the "Smederevo" steelworks for EUR 46 million with the obligation of investing in the future value of at least EUR 300 million and retention of employees.

In April 2016, Mei Ta Europe, Sino-French Company, a manufacturer of auto parts began construction of a casting factory in Barič near Belgrade. The

① IMF, *Balance of Payments and International Investment Position Manual*, Sixth Edition (BPM6), Washington, DC: International Monetary Fund, 2009, p.100.

value of the project amounts to EUR 60 million.[①]

(2) Chinese investment in transport infrastructure

China Road and Bridge Corporation (CRBC), a subsidiary company of China Communications Construction Company (CCCC), built the bridge Zemun-Borča (so called: Pupin's Bridge), which was opened to traffic in December 2014, during the Third summit mechanism "16 + 1" between the countries of Central and Eastern Europe (CEEC) and China. The bridge has a total length of 1,507 meters, with access roads length of 21.6 km. It was originally planned that the value of the project amounts to USD 260 million but during construction this amount was exceeded (in September 2014 was signed annex to the contract, with a predicted increase in the value of the project to an additional USD 70 million for expropriation and potential USD 32 million for damages requirements of contractors and subcontractors). The project is financed from the loan of Chinese Exim Bank (85%) and from the budget sources of Serbia and the City of Belgrade (15%).

In relation to Pupin's Bridge, as an example of good Chinese-Serbian cooperation, it should be mentioned that the Chinese company—CIE Holdings, made a feasibility study of construction of the port upstream from bridge over the Danube. Area specific purposes should be around 873 hectares, of which the port and economic zone accounted for a total of 562 hectares. The entire area is planned to build 1,350,000 square meters warehouse and various service facilities, as well as 870,000 square meters of traffic areas. This port would be a hub for internationally important and would enable the full multimodality freight transport directly with rail and road links. In the next period, the Chinese and Serbian sides should agree on who will be the implementer of this

① At the "Belt and Road for International Cooperation" held in May 2017 in Beijing, attended by state officials and representatives of international organizations, Prime Minister of the Republic of Serbia, Aleksandar Vućić, announced Chinese direct investments in RTB "Bor" (Mining Smelter Basin Bor), the most significant Serbian copper production company. See Tanjug, "Dve kineske kompanije zainteresovane za RTB Bor" (Two Chinese Companies Interested in RTB Bor), 2017, http://www.politika.rs/scc/clanak/383305/Dve-kineske-kompanije-zainteresovane-za-RTB-Bor.

strategically important project.

In addition to the successfully realized Pupin's bridge investment, China Road and Bridge Corporation should do the work on the construction of fast railway Belgrade-Budapest. The total length of railways is 350 km, of which the length of the route Serbian 184 km and 166 km of Hungarian. In addition to the existing track, the plan envisages the construction of another, mixed type, for passenger and cargo transport. The framework agreement on the project was signed on 24 November 2015, when Prime Minister Aleksandar Vućić attended the fourth summit of China and 16 countries of Central and Eastern Europe in Suzhou. The project should be financed by Chinese Exim Bank. However, the pace of project implementation has slowed down due to the valuation of the project (from Belgrade to Budapest) and then because of certain conditions regarding the fulfilment of EU standards. The preliminary assessment is that the value of the project could amount to EUR 1.5 billion to EUR 2 billion. After the trilateral meeting of the representatives of China, Hungary and Serbia, held in Belgrade in the first half of September 2016, the parties agreed that the signing of a commercial contract on the project of modernization and reconstruction of the Belgrade-Budapest railway will be performed at the fifth Summit of the mechanism of "16 + 1" in Riga in November 2016. Otherwise, it is worth noting that the construction of the Belgrade-Budapest is part of China's strategy of "New Silk Road", which aims to connect the port of Piraeus with the Central and Western Europe through Macedonia, Serbia and Hungary. The first phase of its implementation would be the modernization and construction of high-speed railways (speed up to 200 km/h) from Belgrade to Budapest, on the part of Corridor 10. This phase would then follow the second phase of modernization of the railway route Belgrade-Skopje-Thessaloniki-Athens-Piraeus. The same Chinese company should build a road-rail bridge over the Danube at Vinča. Estimated total value of the project is around EUR 470 million. So far no data have been provided on whether the project documentation has been prepared and whether funding modalities have been established.

China Shandong International Economic & Technical Cooperation Group (CSI) has built two sections of Corridor 11 (highway E-763 Belgrade-South

Adriatic): Obrenovac-Ub and Lajkovac-Ljig, total length of 50.23 km. Work is in progress on the construction of the remaining part of the road, with completion due by 30 July 2017. The total value of the project is USD 337.74 million. The project is financed from the loan of Chinese Exim Bank (in the amount of USD 301 million), and funds from Serbia (USD 32.74 million). The same Chinese company expressed interest in participating in the construction of the road IB-21 Novi Sad-Ruma, a total length of 34.2 km, including a tunnel through the mountain Fruška Gora.

China Communication Construction Company (CCCC) should build a section of road on Corridor 11-Surčin-Obrenovac (E763), a total length of 17.6 km, including the bridge over the Sava River. According to the construction plan, the works should start in 2017. The value of the project amounts to USD 233.69 million. The participation of the Chinese side in the project is 51%, and 49% of Serbian companies. The project should be financed from the loan of Chinese Exim Bank. The Agreement on design and construction work on the construction of the motorway on the section Surčin-Obrenovac on Corridor 11 was signed in mid-June during Chinese President Xi Jinping visiting Serbia.

Sinohydro Corporation signed with the Serbian side the Memorandum of Understanding in 2016, which envisages the participation of this company in the construction of a bypass around Belgrade. For Serbia, the project is very important because with its realization Serbia connects with Hungary, Croatia, Montenegro, and Macedonia. The bypass should be a total length of about 46 kilometres, with four lanes and two more stops. It will have four tunnels and 41 bridges. There is no data on whether the contract on the realization and financing of the project has been completed.

China Gezhouba Group Corporation (CGGC), on the basis of the Protocol signed in January 2013, has prepared a feasibility study for the construction of part of the channel "Danube-Morava-Vardar" through Serbia. The study included the project "Channel Morava", whose value is estimated at EUR 4. 5 billion. As a potential contractor in 2016 mentions the Chinese company Bonn Project.

At the Third summit mechanism "16 + 1" between the countries of Central and Eastern Europe (CEEC) and China in 2014, an agreement was signed on the establishment of air traffic between the two countries. The agreement provides for organizing joint flights between Belgrade and Beijing and Shanghai—based code share. Investing in air transport should be carried out through the Air Serbia and Air China. For now, Hainan Airlines as one of the best Chinese airline companies has managed to open the route on the line Beijing-Belgrade.

(3) Chinese investments in the energy sector

China National Machinery and Equipment Import & Export Corporation (CMEC), participate in the construction of a new Block 3 of the thermal power plant Kostolac "B" volume of 350 MW and expansion of Drmno from 9 million tons to 12 million tons per year. This Chinese project in Serbian energy sector has to be financed through the loan which was approved by the Chinese Exim Bank in the amount of USD 608.26 million with repayment period of 20 years, a grace period of 7 years and an interest rate of 2.5% per annum. The difference to the full value of the project from USD 715.6 million will finance domestic energetic company "Elektroprivreda Srbije". The project also including desulphurization and revitalization of energy units B1 and B2, and work should be completed in 2019.

China Environmental Energy Holdings (CEE) and Shenzhen Energy Group (SEC), in consortium with Serbian energetic company "Eletroprivreda Srbije" participate in the construction of Block 3 Thermal Power Plant "Nikola Tesla B" in Obrenovac and mine Radljevo. The projected installed capacity of the new energy unit is 744 MW. The total project cost is estimated at over EUR 2 billion. According to published data, the new Thermal Power Plant should become an independent producer of electricity in Serbia and in the majority Chinese-owned. But, due to the floods that hit in 2014, Obrenovac and its surroundings, the dynamics of implementation of the project is quite uncertain.

In addition of aforementioned examples it is important to note that Silk Road Fund, China Gezhouba Group (CGGC) and China Environmental Energy Holdings, a Chinese investment fund and the company signed with the Serbian side of the

Memorandum of Understanding and joint investment in renewable energy projects in Serbia in July 2016. Also, it's very important for the development of the Serbian energy sector that China Machinery Engineering Company signed with the Serbian side of the Memorandum of Understanding for the financing and construction of the power plant to generate electricity from waste in July 2016.

(4) Chinese investments in the ICT sector

Chinese multinational company Huawei Technologies and domestic company "Železnice Srbije" have signed a Memorandum of Understanding in 2011. After that they concluded the Agreement on technical cooperation in 2012. In 2013, they concluded a Framework Agreement on the modernization of the integrated system of telecommunications. Complete modernization of telecommunications system of the "Železnice Srbije" should be realised in phases. The estimated value of the whole works has amounted to circa EUR 200 million. The first phase of modernization should be completed by 2018, and the total value of the works is estimated at EUR 78 million. Planned sections of railway lines were Corridor 10 and Corridor 11, Pančevo-Vršac and Požega-Kraljevo-Lapovo. The same Chinese multinational company signed Memorandum on cooperation in the field of system with the Ministry of Internal Affairs of Serbia in 2014, during the Third summit of the mechanism of "16 + 1" in Belgrade. On this occasion the company obliged itself to donate the Laboratory of information and communication technology based on the latest 4G technologies to the Centre for Information and Communication Technologies of the Faculty of Electrical Engineering, University of Belgrade. In July 2016, Huawei Technologies has signed with Serbian company "Telekom" the Framework Agreement for the supply of equipment and materials, construction and provision of services for the implementation of the ALL IP transformation. The Agreement provides that "Telekom" should invest up to EUR 150 million in the purchase of equipment, services and works that made the Chinese partner. For this purpose, "Telekom" has signed the additional agreement with Bank of China for credit financing of the project.

5. Achievements and Challenges for the Future Development of Economic Relations

Economic Cooperation with China represents a huge opportunity for development and also good evidence of the successful conduct of foreign policy, which promotes cooperation on the global level and contributes to a “constructive meeting of East and West”. However, if Serbia wants to increase its influence and importance in international relations based on economic cooperation with China, its business with China must be based not only on past successes and achievements, but also on the potentials based on improving its real economic capacity through various types of investments in industry and infrastructure. In this sense, Serbia will have to successively involve in international production through global value chains which derive not only from the form of proprietary investments, but also from the “portfolio”. This in particular means that Serbia can be included in this chain in two ways: First, through foreign direct investment (FDI) to which the Chinese party acquires ownership rights, but also control over Serbian companies. For example: through the establishment of a brand new company (greenfield investments); through investments in the revitalization of capacities of existing one (brownfield investments); through joint ventures and, through international mergers or acquisitions (merging two equal companies from China and Serbia with the aim of establishing a new company or purchasing a Serbian company by Chinese in order to acquire property and business connections). Second, through indirect investments that represents the purchase of securities by Chinese party for the purpose of investing capital in Serbian companies, without the intention of directly influencing their business policy (non-equity investments).[①] In this ways, the Serbian economy could be included in the global value chain through Chinese investment capital, while Serbian companies could realize a pro-long-

① The terms “investments” and “property” are treated as synonyms and cover all types of interests and rights in property. Thus, unless otherwise stated, foreign investment are intended to include proprietary and portfolio investments abroad, as well as medium and long-term credits or loans for the import of equipment or services into another country. See: Georg Schwarzenberger, *Foreign Investments and International Law,* Sevens & Sons, London, 1969, p.17.

term benefit from exports of products and services that would be owned by Chinese and Chinese-Serbian companies. It is quite certain that the Serbian economy could thus be included in the global value chain through invested Chinese investment capital, while Serbian companies could realize a prosperous export benefit whose carriers were Chinese or mixed Chinese-Serbian firms. This could further lead to the expansion of mutual economic cooperation, but also to the linking of a number of countries from the CEE region to the Chinese-Serbian investment projects. That these possibilities are realistic is also the fact that Serbia has adopted appropriate economic policy measures and has provided a solid legal framework as a guarantee for Chinese foreign investment. In this regard, it is important that Serbia continuously renewed and develop its bilateral investment agreements (BIT) with China. Such good example is the case which happened during Chinese President Xi Jinping visiting Serbia in June 2016. Two sides signed a new Agreement of Economic and Technical Cooperation with twenty other agreements and other legal instruments of cooperation in different fields.[①]

① On that occasion, Serbian and Chinese sides signed the Agreement on the development of cooperation in the field of production capacity; Agreement on the promotion of cooperation in the fields of trade, tourism and telecommunications, Agreement on cooperation in the defense industry; Agreement on credit with the Bank of China which follows the framework contract for the supply of equipment and materials, construction and provision of services for the implementation of the ALL IP transformation; Framework agreement with Huawei Company for the supply of equipment and materials, construction and provision of services for the implementation of the ALL IP transformation; Memorandum of Understanding (MoU) of improving the development of the Information Silk Road connectivity for information; MoU on the establishment of the Centre for Cooperation in the field of transport and infrastructure between China and the CEEC; MoU between the Exim Bank of China and the Ministry of Finance of Serbia; MoU on joint investment in renewable energy projects in Serbia; MoU for the financing and construction of the power plant to generate electricity from waste in Serbia; MoU between the Diplomatic Academy of Serbia and the China University of Foreign Affairs and the Chinese Diplomatic Academy; MoU for the financing of research and development projects; MoU between the Serbian Ministry of Culture and Information Office of the State Council of the PR of China; The program of cooperation in the field of culture and arts for the period from 2017 to 2020; Agreement on cooperation between the Serbian Radio Television and China Radio International; MoU for the project of waste water from the City of Belgrade and China Machinery Engineering Corporation; Agreement on establishing friendly relations between the city of Kragujevac and Chinese city of Xi'an; The exchange of letters on a bilateral currency swaps arrangement between the National Bank of Serbia and the People's Bank of China. See Tanjug, "Kina i Srbija-strateško partnerstvo i još 21 sporazum" (China and Serbia—A Strategic Partnership Agreement and 21), 2016, http://www.tanjug.rs/full-view.aspx?item=270618&izb=252463&v=252463.

The need for the permanent legal security of foreign investments in Serbia caused that Serbia adopted a modern investment codes, which guarantees equal legal status of domestic and foreign investors. Regardless of the form of foreign investment (acquisition of shares in existing enterprises, the establishment of new companies, franchises, B.O.T. arrangements, concessions, etc.), Serbian Law from 2015, guarantees freedom of investment, national treatment, legal certainty and the ability to transfer profits abroad.[①] These legal guarantees with special fiscal advantages for foreign investors have improved the investment climate needed for attraction of Chinese foreign investments in Serbia. Analysis of the possible potentials of importance for the further development of economic cooperation between Serbia and China involves the examination of comparative advantages that Serbia has, and that can contribute to an increase in the structure and scope of Chinese investment.

These benefits include the following: (1) The clear foreign policy goal-joining the EU and the WTO; (2) The relative macroeconomic stability; (3) Highly qualified and relatively cheap labour force due to the progressive growth of wages in China and the lack of skilled labour, the perspective can be employed by Chinese companies; (4) Regional competitive financial risk; (5) Restructured and privatized banking sector; (6) The rapid development of capital markets; (7) Developed telecommunications infrastructure; (8) Liberalized system of tariffs and tax legislation; (9) The rapid development of the private sector; (10) The significant level of incentive fiscal, regulatory and financial measures; (11) The existence of free trade agreements with the EU, CEFTA, EFTA, CIS, Russia, Belarus, Turkey, Kazakhstan, and others; (12) The adoption of the national strategy for the promotion and development of foreign investment; (13) Harmonized (more or less) legal framework for foreign investment with European and international standards; (14) Full visa liberalization between Serbia and China.[②]

① "Law on Foreign Investments", Official Gazette of the Republic of Serbia, No.107, 2014.

② Serbia is the only country in the region of CEE that has this status on the basis of the agreement signed with China at the fifth Summit in Riga. See Xinhua, "Full Text of Riga Declaration", 2016, http://www.china-ceec.org/eng/zyxw_4/t1414325.htm.

A significant proximity of European markets and the soon-expected improvement of transport infrastructure, also can represent a comparative advantages for future Chinese investments in Serbia in particular in the field of agriculture (especially meat processing), car industry (in particular Lorries and spare parts), telecommunication, machine, chemical and textile industries.[1]

6. Conclusions

From the previous analysis it follows that Serbia has a special significance for China. Such a conclusion stems from real geopolitical circumstances that indicate that Serbia as a Balkan state is a "piedmont" between Central Europe and the Middle East. In this sense, for China, Serbia is a very important factor because it is located at the crossroads of south-eastern Europe, on important land and river routes that enable it to communicate not only in the east-west direction, but also in the north-south direction which is a prerequisite for faster economic development, as well as for integration into important regional organizations such as the European Union for whose market is interested itself. Also, in the historical, legal and political sense, China considers Serbia as successor of the Yugoslavia peaceful foreign policy. This position is very important taking into account the negative attitude of China towards the policy of force in international relations. In this respect, Serbia seeks to deepen its political ties with China, which is greatly assisted by the continuity of diplomatic relations established between Yugoslavia and China on January 2, 1955. Following the good sides of earlier inter-state practices, Serbia has continued to develop bilateral relations with China, treating China as one of its major international partners. Such orientation has been confirmed through the

---

① Večernje Novosti, "Kinezi ulažu u mesnu industriju" (The Chinese are Investing in the Meat Industry), 2015, http://www.novosti.rs/vesti/naslovna/ekonomija/aktuelno.239.html:563532-Kinezi-ulazu-u-mesnu-industriju; Blic, "Kineski ZTE: Imamo agresivan poslovni plan za Srbiju" (Chinese ZTE: We have an Aggressive Business Plan for Serbia), 2014, http://www.blic.rs/Vesti/Ekonomija/520251/Kineski-ZTE-Imamo-agresivan-poslovni-plan-za-Srbiju.

current Serbian foreign policy which is defined through basic priorities, among cooperation with China occupies a significant place. It should not therefore be surprising that the traditionally good and friendly relations between the two countries in the meantime have grown into the "comprehensive strategic partnership". Such foreign policy orientation is of great importance for the assessment of the development of economic relations between Serbia and China. Based on the subject analysis, the following conclusions were reached.

(1) Economic relations between Serbia and China in the last decade were characterized mutual asymmetry in all economic parameters. The main reason for this situation is a huge difference in economic strength, then Chinese global economic strategy that emphasizes the continuous expansion of Chinese exports and imports on the world markets.

(2) As the world's biggest trading power, China needs to strengthen economic cooperation with other countries as possible to safeguard the system of free trade worldwide.[①]

(3) In line with the Belt and Road initiative, China is trying to open up more to the world and to coordinate its efforts to integrate into the world markets.

(4) Such an initiative Chinese approach that should be accompanied by mutual trust, economic cooperation and cultural exchange can also be understood in the context of the implementation of the Chinese development strategy of the "New Silk Road" which includes objectives of previously formulated "Go Global", with which China has encouraged its companies to exploit the world markets.

(5) The Serbia's position towards China's initiative for "Opening Up" which is channelled through the "New Silk Road" development initiative and the Belt and Road is depending on the understanding of global processes in the world and geo-economic interests of China which are linked with the global

① Chi Fulin, *China's Reform in the Shadow of the Global Financial Crises*, Beijing: Foreign Language Press, 2009, p.121.

production chain.

(6) The main determinant of Chinese foreign investments in Serbia in this respect follows the "less or more" identical model presented in other countries of Central and Eastern Europe. Chinese foreign investments in practice take place within the engagement of Chinese state-owned companies and state banks, with a less participation of local companies in investment operations. These investments are generally secured by state guarantees (or guarantees of central banks of host states).①

(7) If Serbia aspires to increase its influence and importance in the international relations on the basis of economic cooperation with China, its business with China must be based on improving industrial capacity through promotion of various types of investments in different areas which could lead to the higher level of industrial competitiveness and overall economic growth.②

(8) Following this kind of economic approach, Serbia should be involved in international production chain by means of the global value chains that are derived not only from the ownership forms of foreign investment (forms of FDI), but also from the "portfolio" or "non-equity investments".③

(9) Serbian companies in this way could participate proportionally in exports through global value chains whose holders can be Chinese and mixed Chinese-Serbian or even, transnational Chinese-CEEC companies which in the future could lead to sustainable economic growth and development.

(10) Given that the macroeconomic imbalance of Serbia affects the dynamics and structure of the inflow of foreign direct investments, the structure of Serbian exports to China could be transformed in line with the structure of

① It should be noted that this Chinese model evokes a certain doubt especially in the case of countries with a strong balance of payments deficit and high external indebtedness like Serbia itself.

② Chen Xin, Yang Chengyu, "Serbian Industrial Competitiveness and China-Serbia Cooperation", in: Duško Dimitrijević (ed.), *Danube and the New Silk Road,* Institute of International Politics and Economics, Belgrade, 2016, pp.289-307; Dragan Pavlićević, "China's New Silk Road Takes Shape in Central and Eastern Europe", *China Brief,* 2015, Vol. XV, Issue 1.

③ Jelena Kozomara, "Serbia in International Production Through Global Value Chain", in Pero Petrović (ed.), *Possibilities and Perspectives for Foreign Direct Investments in the Republic of Serbia,* Institute of International Politics and Economics, Belgrade, 2014, p.109.

accumulated assets from these sources. Of course, this is only if the fund of Chinese investment inflows would be increased, which in itself would be a very good sign for strengthening the economic potentials necessary for a gradual reindustrialization of the Serbian real sector, and therefore for the promotion of the "win-win" economic cooperation which can lead to faster consolidation of Serbian-Chinese economic relations, and to more effective implementation of the objectives of the Chinese development initiative of the "New Silk Road". ①

Finally, all of the aforementioned conclusions can be reached because the relations between Serbia and China are characterized by mutual understanding and trust and that both countries are open to different forms of political, economic, social, cultural, scientific and technological cooperation.②

① Duško Dimitrijević, "Chinese Investment in Serbia-joint Pledge for the Future of the New Silk Road", *Baltic Journal of European Studies,* Vol.7, No.1(22), 2017, pp.64-83.

② Aleksandar Janković, "New Silk Road—New Growth Engine", *Review of International Affairs*, 2016, No.1161, p.16.

The Impact of Chinese Immigrants Networks on China's FDI towards EU

Shang Yuhong, Yang Chencheng*

1. Introduction

China's FDI towards EU is of far-reaching importance to China's economic development. European Union, one of the world's most developed economies, with a huge market, advanced technology and stable social environment, is an ideal destination for Chinese OFDI enterprises. As a country attaches great importance to relationship, China's economic development has also been greatly benefited from the overseas Chinese business networks, mainly through its improvement on international trade and investment situation.

Chinese started to immigrate to Europe from the early 1960 and has been growing massively after 1978. Through the time, most of them managed to make their life on small self-employed business and remained close business links within their local Chinese community. Compared to the Chinese Diasporas in South-east Asia or America, those Chinese businessmen in Europe formed their own economic characteristics. European Chinese business features a much higher concentration in restaurants, wholesales and manufacture of leather goods or clothing. Rarely are there businessmen either skillful or professional to engage in high-tech business like those American Chinese. And overall they are not wealthy as South-Asian Chinese, lacking the capital to set up big firms. The European Chinese business has long been at the edge of the local economy. So how would it influence the effect of Chinese migrant networks on China's

* Shanghai University of International Business and Economics.Email: syh@suibe.edu.cn; Aprilyoung713@163.com

FDI towards EU countries?

Currently, the literature on Chinese migrants networks mostly considered China's inward FDI and bilateral trade and less examined its effects on China's outward FDI. Few exceptions look at how the regional economic features of Chinese migrants will influence the industrial distribution of Chinese FDI enterprises. This article, therefore, intend to further discuss the effect of Chinese migrant networks on China's FDI by focusing on the FDI scale and the investment industrial distribution in EU.

There is also expanding empirical research recent years confirming the migrants networks' important role in boosting the bilateral FDI. The institution behind it is that immigrants could lower down the informal barriers. Large geographic distances as well as the social, cultural and institutional differences make it more risky and complex for foreign capital to enter into the host country. However, local migrants, carrying the knowledge about the business customs, operation practices and market opportunities and preference of both countries, maintain the business links between origin countries and destination countries. Therefore, their transnational networks are able to transfer relevant business information and opportunities more efficiently than market price. Besides, opportunism would be largely reduced as default would risk losing all the possible assistance from the Chinese migrants community[①] (Trefler, 1995; Obsfeld and Rogoff, 2000;RAUCH, 2001;Wagner et al., 2002).

It is also proved that immigrants networks foster FDI only through their skilled component and in some cases unskilled immigrants may even have negative effects. Individuals that are of better education and skills are more likely to undertake the more complex and risky cross-border practice. This

① Trefler, D., "The Case of the Missing Trade and Other Mysteries", *American Economic Review*, Vol.85, No.5, 1995, pp.1029-1046; Rauch J E, Casella A., *Networks and Markets*, Russell Sage Foundation, 2001.

holds true for both developed countries and developing countries[①] (Kugler and Rapoport, 2007; Docquier and Lodigiani, 2009;Sara Flisi, Marina Murat 2009;Masood Gheasi, Peter Nijkamp and Piet Rietveld, 2011). The significantly positive effect on the country's bilateral FDI brought by either the migrants' social or business networks would strengthen when the two countries become more geographically distant and especially culturally or institutionally quite different. For small and medium-sized domestic firms, which typically face more difficulties in investing abroad, migrants links are especially important [②](Girma and Yu, 2002; Dunlevy, 2006;Marina Murat and Barbara Pistoresi, 2008). Both organized and non-organized migrants networks could strongly affect the bilateral trade and investment, but different organization types of immigrants networks differ in their function channels. Non-organized networks influence trade and investment through both preference and information channels while the organized networks mainly through providing more information[③] (Leila Baghdadi, Angela Cheptea, 2010). Such studies combining the features of migrants networks with FDI enable us to further understand the mechanism behind.

According to the findings of this strand, Chinese immigrants should also significantly and positively affect the China's FDI towards EU. This is especially true as informal impediments become more apparent in nowadays

---

① Kugler M, Rapoport H., "International Labor and Capital Flows: Complements or Substitutes? ", *Economics Letters*, Vol.94, No.2, 2007, pp.155-162; Docquier F, Lodigiani E, Rapoport H, et al., Emigration and the Quality of Home Country Institutions", Discussion Papers (IRES - Institut de Recherches Economiques et Sociales), 2010; Murat, M., Flisi, S., "Immigrant Links, Diasporas and FDI: An Empirical Investigation on Five European Countries", Working Paper, Center for Economic Research, 2009; Peter Nijkamp, Masood Gheasi, Piet Rietveld, "Migrants and International Economic Linkages: A Meta-Overview", *Spatial Economic Analysis*, 2011, Vol.6, No.4, pp.359-376.

② Girma, S., Yu Zhihao, "The Link between Immigration and Trade: Evidence from the United Kingdom", *Weltwirtschaftliches Archiv*, Vol.138, No.1, 2002, pp.115-130; Murat, M., Pistoresi, B., Rinaldi, A., "Italian Diaspora and Foreign Direct Invesment: A Cliometric Perspective", Working Paper, Center for Economic Research, 2008, pp.225-254.

③ Baghdadi L, Cheptea A., "Migrant Associations, Trade and FDI", *Annals of Economics & Statistics*, Vol.71, No.97-98, pp.71-101, 2010.

international transactions and there are huge cultural and institutional differences between China and European countries. What's more, outward investment should be increased more in higher value-added industries that demand higher education background and skills. Therefore, it's reasonable to think that the migrants links in Europe featured their own characters have something to do with not only the enterprises' investment scale but also the FDI's industry choices in EU.

The next section is devoted to a brief overview of the Chinese immigrants in European countries, along with an analysis of their economic activities as well as business networks in Europe. Based on this part, we carry out the quantitative analysis and the empirical specification with adjusted KC model.

Conclusions we draw are that Chinese migrants networks could significantly raise the China's FDI scale towards EU both in long term and short term, and especially increase the number of Chinese enterprises investing in EU. More specifically, Chinese migrants networks foster more Chinese enterprises to invest in the service sector and mostly among those non-traditional Chinese businesses in Europe.

2. Chinese Migrant Networks, Businesses and Investments in EU

Two well-known regularities of the world economy are that global FDI tend to cluster within the group of developed economies and migration flows are mainly directed towards these countries[①]. China's investment and immigrants in EU also follow this pattern, featuing their own characteristics.

(1) Some key features of the China's FDI towards EU

First, EU is a key developed destination of China's OFDI and at the same time China plays an important role in the Asian investment towards EU.

Currently, the major of China's OFDI takes place in developing countries.

① From Immigrant Links, Diasporas and FDI.--An Empirical Investigation on Five European Countries.

While 84.2% China OFDI stock are distributed in developing countries until 2016, European Union, as the world's most popular investment destination for many years, has only received 5.1%. However, it's not hard to understand the fact in the framework of internalization investment theories. As Eclectic Theory of International Production[①] (Dunning, 1977) suggested, FDI are largely decided by the economic development of the two countries. China, being a developing country, would find it more difficult to gain the OLI advantages when directly invests in EU countries and rather turn to less developed markets.

Therefore, in order to get a clearer picture, we compare China's FDI towards EU among the developed economies, as well as the world's major economies. We find there are more than a third of China's FDI in developed economy clusters in the EU and so do in world major economic entities. Figure 1 shows that EU seconds North America as a China's investment receiver among developed economies and catches almost North America and ASEAN among major economies. A further look at China's yearly FDI outflows to EU, a strong and steady growth trend could be easily spotted despite some fluctuations in between. Here, in contrast to our first instinct from the ratio 5.1% that EU is not important in China's OFDI, we confidently believe that EU has been playing a quite important role in receiving China's investment and would be able to remain its significant status in the near future.

① Dunning, John H., ed., *Governments, Globalization, and International Business*, Oxford: Oxford University Press, 1997.

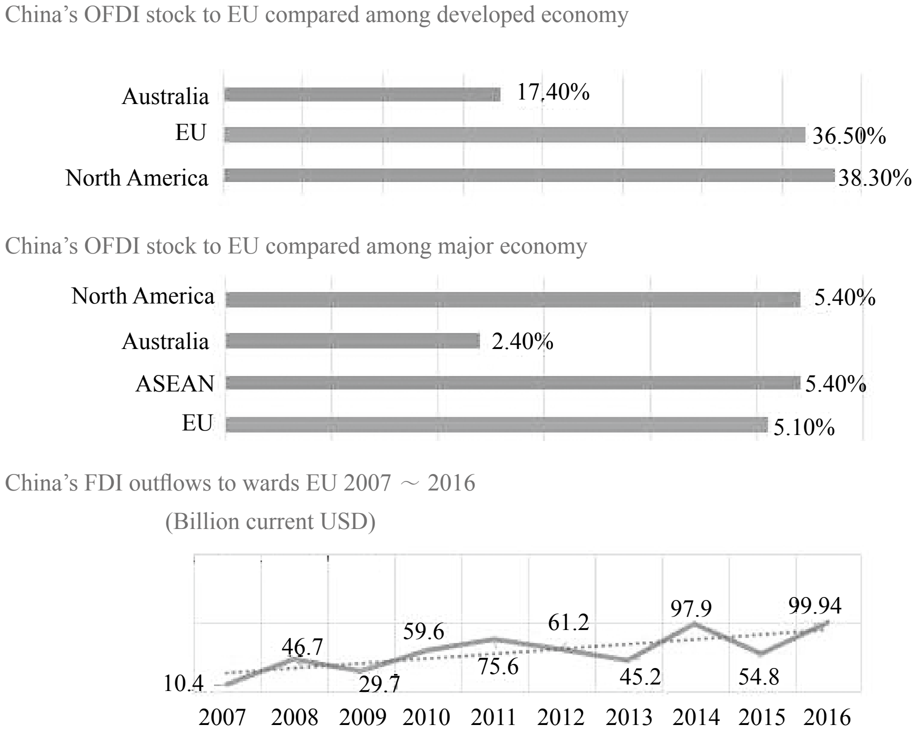


Figure 1　The status of Chinese FDI for China and EU
Source: MOFCOM, Statistics Bulletin of China's OFDI 2015

At the same time, from the EU side, China has also been one important Asian partner. Among all the Asian investment stock in EU in 2012, there are about a fifth come from China. It again gives us an illusion that China is an unimportant global investment source for EU as there are only 3% of the EU inflow FDI in 2016 comes from China. But taking the large distance, the huge social and cultural differences between Eastern and Western economy into account, we believe it's more reasonable to judge the status of China's FDI to EU against other Asian countries, especially Japan and South Korea, which both share Confucius culture and respect relationships. Figure 2 support that China accounts a considerate amount of Asian stock FDI (18%) in EU. Therefore, instead of negligible, it is actually quite influential Asian capital. But compared to Japan (38%), China's investment scale remains to be potentially improved in the future.

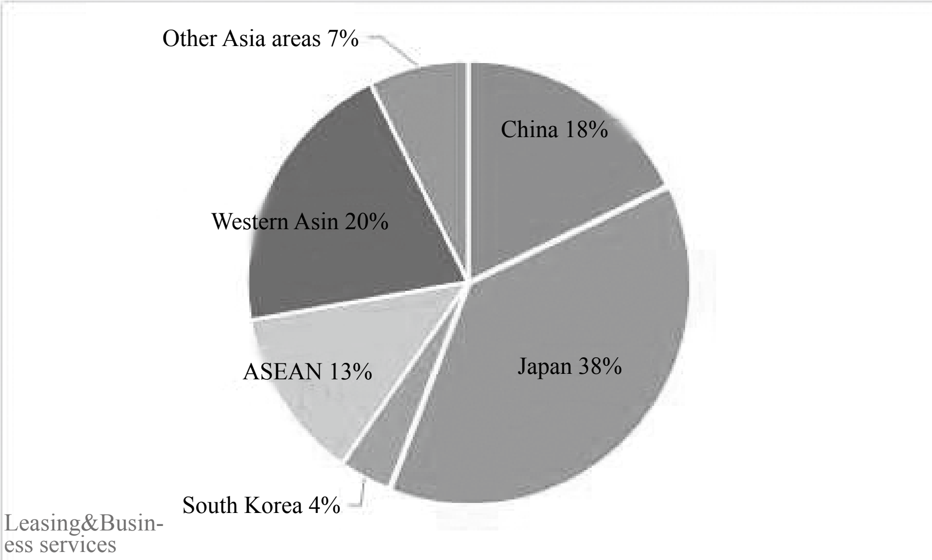


Figure 2 China's FDI to EU compared to Asian countries
Source: MOFCOM, Statistics Bulletin of China's OFDI 2016

Second, China's OFDI features *wide distribution, high concentration* in both country distribution and industry distribution.

At the end of 2016, there are more than 2700 Chinese enterprises in EU and their investment has covered all 28 members , with Holland, Britain, Luxemburg, Germany, France, Sweden holding more than 90% of the total FDI stock, as well as a rapid growth in investment in Malta, Ireland, Italy, Cyprus, Hungary[①](2016 statistical bulletin). The investment has also been expanding to more diversify economic activities recent years, but the major proportion of overseas Chinese enterprises in EU still remains in the accommodation and catering, wholesale and retail, manufacturing, leasing and business services.

Figure 3 shows the EU's TOP5 economic activities among Chinese investors, along with their most concentrated countries. The listed five

① 2016 statistical bulletin of China's FDI, MOFCOM.

industries dominate more than 80% of the total China's OFDI in EU. Modern service such as finance and leasing business, which is not China's competitive sector, accounts for about a third, while manufacture and mining each clusters about a fifth. Apparently, the industry structure of China's OFDI is highly focused. The investment in each industry also shows a high concentration in western European countires, with Netherlands, UK, German, France, Sweden and Luxembourg being the most popular destinations.

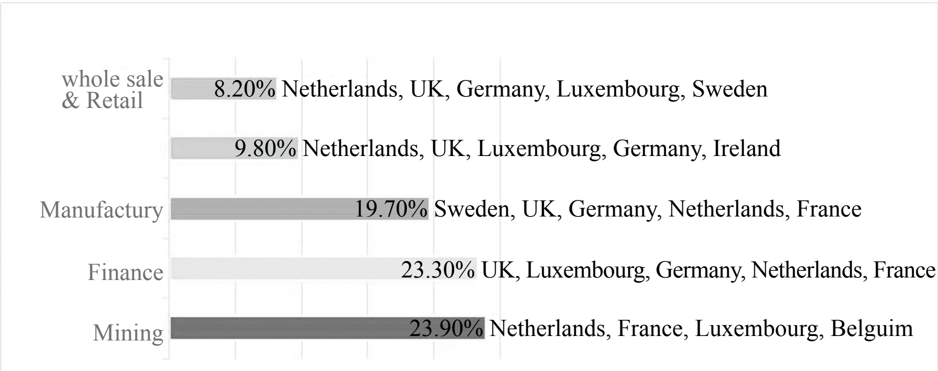


Figure 3 Stock of China' FDI towards EU by economic activities and concentrated countries
Source: MOFCOM, Statistics Bulletin of China's OFDI 2015

Third, the policy pluralism and culture diversity of European countries cause Chinese investors extra costs and risks investing in EU compared to other developed economy.

As Dunning's OLI theory indicates, the major investing barriers in front of Chinese enterprises lie in its comparative disadvantages against the developed countries. As a developing country, Chinese enterprises are overall of less advanced production technology and innovation and lack internalization operation experience, which make it hard for most Chinese companies to achieve competitive performance in the destination countries. Besides, higher labor costs and stricter workers protection in developed countries level up the foreign investment threshold. But what makes EU countries especially difficult for Chinese investors is its famous diversity. Here, we present two main aspects:

① **Largely varied economic developments and attitudes towards foreign investment**

EU has 28 different-sized members, each with different economic development and their own investment policies. It hasn't yet form an uniform approval procedure for foreign investment. For example, German, UK and Netherlands hold more welcome and apparent foreign investment policies while in Italy and France there are more restrictions.

② **Language, culture, customs and ethnic diversity**

Within the territory of EU, there are 24 official national languages. Cultures and customs vary from country to country. People of Slavic, Germanic and Anglo Saxon, Latin, Viking nation, Jews and Gypsies share different business preference and traditions. Therefore, the complex social construction makes it extremely hard for Chinese investors to operating locally. According an investigation, at least an average 108 days would be necessary for one Asian businessman to conclude the deal with a European firm while with an American firm it only costs 57 days.

Therefore, for many Chinese investors, despite EU's huge market potential, advanced technology and stable political institution, the investment environment are still considered to be full of uncertainties. As few international professional talents or supporting services are provided in the destination country, many new Chinese entrepreneurs seek help from the local Chinese immigrants. The local migrants could bridge quicker and less risky channel over the cultural and institution gap and at the same time provide market or capital assistance for the investors.

(2) A brief history of Chinese immigrants and business in Europe

Massive Chinese diaspora began to appear from the World War I and World War II. More than 140 thousand Chinese labour corps, mainly Cantonese sailors, were recruited by United Kingdom and France, but most of them went back China after contract terminated. Later, Chinese vendors from Shijiazhuang and Shandong province, with some of them hawking small Chinese made handicraft along the street, some opening Chinese restaurants and others making furniture, made their life on small private business and settled in the Western Europe. As the European economy picked up after 1930s, massive Chinese from Canton and Zhejiang province moved to Western Europe for family reunion. They were not only the immigrants' family members but also their neighbors, as well as villagers nearby. Thus, the local Chinese community gradually developed an immigration chain that brings more and more immigrants from their hometowns, most of them being closely connected, and till now it is dominated by Cantonese and people of Zhejiang province. Besides this two strands of Chinese diaspora, large population of Hongkong people also arrived in Britain during 1950s~1960s and developed a Chinese economy based on Chinese restaurants. This Chinese catering business soon expanded into neighboring countries such as Netherlands, Belgium, then to Northern countries like German and last to Southern countries like Italy. Last group of Chinese immigrants is the re-immigrants from Chinese refugees caused by Indochina political incidents. Around 120 to 150 thousands flooded in and lived a poor condition mostly in France and Holland.

Therefore, it's not hard to understand this old generation of European Chinese immigrants were closely connected to each other with such a high concentration in their distribution in European countries and origins in China. Besides this geographic concentration, the other feature is that they were mainly less educated or skilled poor Chinese before immigrated to Europe. The old generation of Chinese immigrants laid down the social and economic basics of local Chinese community and largely influenced the business and networks development of new Chinese immigrant ,which is this paper's major object.

After 1978's Reform and Opening policy in China, businessman from mainland China began to dominate the immigration flow to Europe. People from every Chinese province start to grow but Guangdong and Zhejiang people remained the mainstream as the result of that immigration chain. Fujian businessman following the globalization trend aimed to earn better life in developed countries, and join to do similar small business following Cantonese and Zhejiang people in Europe, which also grew into a big immigrants group.

Chinese immigrants remained clustering in Western Europe until some Zhejiang settlers of higher entrepreneurial sense sought more profitable markets. Part of them expanded to Northern Europe, some later went further into the Southern Europe and last even spread into the mid and eastern Europe. Except for this type, people from Northern-Eastern China and Shandong towns also crowded into Europe in the background of drastic changes in Eastern Europe and the disintegration of the Soviet Union. They are smarter businessman that timely captured the business opportunities in mid and Eastern Europe. Besides catering or manufacture, most of them started up trade companies, opened retail stores or supermarkets. Among them, there are a few accumulated considerate capital and even build large shopping malls as well as factories. However, such new immigrants are still mostly of low education and skills because before they were mainly hawking vendors, laid-off workers, or surplus rural workforce in China.

A growing international students and professional talents in recent years improved the education level of the overall European Chinese immigrants, but this diaspora are kept in a very low ratio as the EU immigrants policy are quite strict. Those who managed to stay also are centered around the most developed countries such as UK, Netherlands, France and German. This new group of people also enriched the economic activities of European Chinese, with many of them being widely engaged in law, consulting, investment, finance, tourism, education, biology, medicine, environmental protection and other fields.

Here we include a table (Table 2.1) that helps to set forth the development of Chinese immigrants and their features in Europe from a historical view.

Table 1 Development of Chinese immigrants and their features in Europe[1]

<table>
<tr><th>Time</th><th>Immigrants types and economic features</th><th>Geographic Distribution in Europe</th></tr>
<tr><td colspan="3">Old Chinese immigrants in Europe: From First world war to 1978</td></tr>
<tr><td>In World War I &II</td><td>labor corps (Cantonese sailor), vendors(Zhejiang & Shandong provinces), a few international students</td><td>Western Europe,mostly in UK, France</td></tr>
<tr><td colspan="3">Until the early1930s, there were about 40 thousands Chinese immigrants</td></tr>
<tr><td>After1930s</td><td>Family reunion (Cantonese, Zhejiang province)</td><td>Western Europe,mostly in UK, France</td></tr>
<tr><td>1950s~1960s</td><td>Chinese restaurants (New territories of HK)</td><td>UK, later into Netherlands, Belgium, German, Italy and other Northern or Southern Europe countries</td></tr>
<tr><td colspan="3">Until the mid 1960s, it slowly grew to around 60 thousands.</td></tr>
<tr><td>1970s</td><td>Around 120~150 thousands Chinese refugees from Indochina</td><td>Western Europe, mainly in France and Holland</td></tr>
<tr><td colspan="3">New immigrants to Europe: After 1978's China Reform and opening policy</td></tr>
<tr><td colspan="2">family reunion,Chinese from Guangdong, Fujian, Zhejiang provinces following the immigration tradition</td><td>Later went into Northern and southern Europe, and spread into the mid and eastern Europe at last(mostly Zhejiang people).</td></tr>
<tr><td colspan="2">Fujian immigrants flows following the globalization trend</td><td rowspan="2">Western Europe, mostly more developed countries such as UK, German, France, Italy, Netherlands, etc.</td></tr>
<tr><td colspan="2">international students(mainly children from wealthy families but less intellectual themselves) from big capital cities such as Beijing, shanghai and Guangzhou,etc.</td></tr>
<tr><td colspan="2">Open trade companies, build factories, as well as vendors and labor workers(laid-off workers, surplus rural workforce from towns of Northern-Eastern China and Shandong province)</td><td>First in mid and eastern Europe, later some of good wealth condition went to more developed Europe countries</td></tr>
</table>

[1] The listed historical facts in the table are mainly according to *Immigration Policies of EU and New Immigrants from Chinese Mainland* by Fu Yiqiang, 2006, combined with other reference to papers on *Overseas Chinese History Studies*.

(Contd.)

Until 2007, there are about 2150 thousands Chinese in Europe, around 1700 thousands(more than80%) are new immigrants[①]. Until 2013, there are about 2550 thousands Chinese immigrants in Europe, immigrants from mainland China ranks the first, followed by Hongkong, and Indochina. Among the mainland Chinese, people of Zhejiang province, Guangdong province,Fujian province and East-North China are the main part, of which Zhejiang people 650 thousands and Guangdong people 500thousands[②].

Till 2015, new Chinese immigrants combined with old generation are still highly concentrated in those relatively developed EU countries(see Figure 4) and thus remain connected as the *immigration chain* still dominates the immigration formation. At the same time, we can conclude that Chinese immigrants including those new immigrants after 1978 are still non-elite people, either with less fortune or poor skilled, and live on business that contribute little to the local economy.

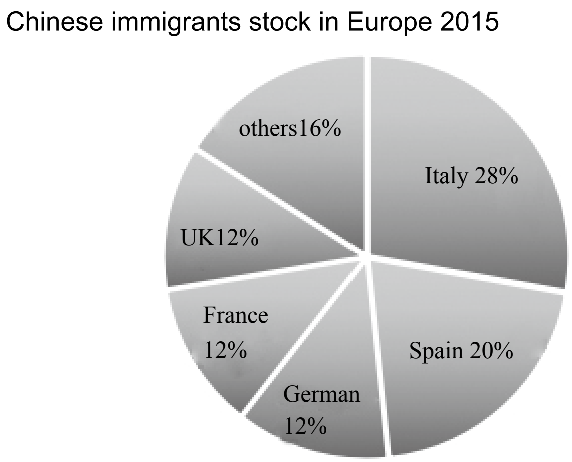


Figure 4 Distribution of Chinese diaspora in Europe 2015 (stock)
Source: Eurostat, OECD databases[③]

① The data comes from *An analysis of the European Chinese Society: population, economy, status and differentiation* by Li Minghuan, 2009.

② The data comes from CCG's *Report on the development of World Chinese businessmen*, 2017.

③ Data are based on the Chinese immigrants in host countries published on the Eurostat and OECD dadabases, we take Chinese in all collected European countries into account and caculate the ratio on that base.

(3) Characteristics of Chinese immigrants and business in Europe

In order to see it more clearly, we include a comparison between the Chinese immigrants in different regions of the world① so we could further conclude their economic features and business activities.

Overall, Southeast Asia has the longest history and biggest population of Chinese immigrants, America ranks middle and Europe's is youngest and smallest among the three. They are all features high concentration both in terms of origins and destinations, which again s a result of China's culture of respecting relationship. We notice there are mainly two prominent economic characters among the three regions.

First, Chinese in Southeast Asia tend to be wealthy enterprenuers and in charge of large conglomerates. It covers finance, agriculture, real estate, as well as entertainment. Most importantly, the local Chinese business is so influential that it almost dominates the local economy. According to Asia Weekly's Top 1000 list of Global Chinese Enterprises, 2011, there are 11 Enterprises from East-south Asia, none from the America and Europe.

Second, American Chinese firms tend to exert important influence on high technology industries and there are a high proportion of well-educated and professional skilled talents among American Chinese immigrants. According to CCG 2017, Chinese business in USA concentrated in California and New York, which has 2053 thousands in California and 1056 thousands in New York, accounting for 38.8% and 20.2% respectively of the total American Chinese firms. At the same time, among the global 50,000,000 Chinese Diasporas,there are 4000,000 skilled professionals(8%), with about 2400 thousands in America and 800 thousands in Europe.

Therefore, compared to Southeast Asia and America, European Chinese immigrants are less educated and skilled group and their business is of smaller influence and lower value-added.

① We exclude Australia and Oceania Chinese and Africa Chinese because both regions are features more single economic structure and their Chinese immigrants shares less historical development identity, which are of less comparability in our research.

Table 2 Comparison of overseas Chinese migrants in different regions[①]

	East-south Asia	America	Europe
History	Longest More than 200 years	Medium Around 130 years	Medium Around 100 years
Scale	Largest About 43,600,00 (2014)	Medium About 6,120,000(2015)	Small About 2,550,000 (2013)
Education& fortune status	Quite wealthy, mixed educational background	High proportion of professional and technical personnel, mixed fortune situation but overall wealthy	Low education level, less skilled and wealthy overall
Origins distribution	Highly concentrated, Mainly from Guang dong, Fujian and Hainan.	Less concentrated, Most from mainland China and no provinces apparently dominate	Highly concentrated, Mainly from Zhe jiang, Guangdong and Fujian provi-nces.
Business	Big conglomerates along with small business	High tech enterprises along with low value-added business	Small-sized and low value-added business
First three Economic Activities rankings	Multiple enterprises Real estate investm-ent Food& beverage	Catering Professional and technical services retail&trade	Catering Leather&clothing 3.Trade,Retail& Wholesales

(4) Possible interactions between CMN and FDI industry distribution

From the history and business comparison of Chinese immigrants in Europe presented above, we can conclude that earlier immigrants from Guangdong, Fujian and Zhejiang province lay the basic demographic structure of Chinese

① The facts listed are partly collected from The History Museum of overseas Chinese in Beijing, and refer to the *Overseas Chinese blue book 2014*, also combined some materials from the websites.

community in Europe and later new Chinese settlers immigrated after 1978 mainly brought it two changes :

One is that the mainstream of Chinese origins in the local community was changed. People from mainland China instead of Southeast Asian and Hongkong Chinese becomes the dominating population. Among them, Zhejiang, Guangdong and Fujian people are still the main groups.

The other is that the overall educational level and economic status were improved largely. Their occupations become more diversified, with some of them are engaged in professional rather than labor intensive work. Some Chinese firms with larger scale and profitable business model also emerged, increasing the Chinese economic influence on the local market.

But despite these changes, large proportion of the new immigrants till now are still those traditional type that comes from similar origins in the reason of *Family Reunion*. They don't have high education or sufficient capital. With a small proportion of the new settlers from other parts of China and those of better education background or professional skills, it hasn't yet changed the general economic features of the old Chinese generation's networks.

Zhejiang, Guangdong and Fujian people are still the main groups, which lead to the fact that the European Chinese diaspora remains close links especially in business activities. In this, we consider the immigrants population could highly represent the immigrant networks as a result of the closely connected immigrants brought by that 'family reunion' immigration chain.

Immigrants overall with low education level, skills and less capital, as well as little social influence, limit themselves to certain business like catering, leather or clothing processing, and import and export trade. These four activities maintain the pillar industries of European Chinese merchants. Therefore, we would like to especially define *catering&accomodation, manufacture* and *wholesales&retail* as three traditional European Chinese business.

Follow our analysis above, we also suggest the European Chinese businesses could influence the China's FDI in EU industry distribution and they would possibly function in two ways:

Cooperative effect. This indicates that the network pushes more targeted information and better market opportunities to the Chinese investor, and therefore, acts as one cooperating force that boosts its counterpart business investment. Because Chinese immigrants are more likely to get better knowlegde of the possible opportunities and risks in the local industry that they have engaged for long, their experience or information of the local business operation in that industry would be more practically applied to the investment process in the same or similar industries. As a combination of the local Chinese business that provides products and service mainly for the Chinese immigrants market, the Chinese investment in the same industry could expand into the local market with its better performance and capital resource. This cooperation effect, thus, will bring more investment towards some traditional European Chinese business than the others.

Competitive effect. It refers to that the local migrants consider the investment within their businss area a competitor and the investment boost is mainly from FDI in combined industries, which is helped though the migrants' better knowdege of the common and macroscopical environment such as local culture and policies, as well as possible fund assistance. There is furious competition among the local Chinese businessman because their highly concentrated economic activities are usually low-value added and could be easily substituted, most of the old markets in traditional Chinese business have now been nearly saturated. It led many Chinese businessmen to moving to new markets such as mid or Eastern Europe under this pressure when the immigrants population grows bigger. Therefore, the local Chinese networks may hold a more welcome attitude towards Chinese investment in industries combined to their current business. Therefore, the networks would bring more increased investment in non-traditional Chinese business in Europe.

In conclusion, by comparing whether the traditional European Chinese business or the non-traditional one will be boosted in a larger scale, we could get to know if the EU Chinese networks shows a stronger cooperation effect or the competitive effect accounts more.

3. The Empirical Specification

(1) Models FDI with Chinese migrant networks

We would first start our model with a literature on Knowledge-Capital theory, based on which we adjust our empirical analysis model, and build the model with Chinese migrant networks for our application.

3.1.1 Knowledge-Capital Model

As most horizontal FDI tends to take place between similar countries while vertical FDI is exactly opposite① (Barba Navaretti and Venables, 2004), the application of classic trade gravity model in international capital movements fails to explain the both in the same framework. Knowledge-Capital theory, augmented from the FDI gravity model, however, brings 'vertical' and 'horizontal' FDI together and the model is applicable for both developed and developing countries② (Markusen, 1996; Carr, 2001; Markusen and Maskus, 2002; Gao, 2003; Bergstrand, Egger, 2007; Sara Flisi, Marina Murat, 2009).

It says that firms investing 'horizontally' hold market proximity motivations originated from similar culture and market preferences③ (Horstmann&Markusen, 1992) while 'vertical' investments aim at exploiting relevant factor endowment differences such as labor or natural resource④

① Navaretti, G., Venables, A., *Multinational Firms in the World Economy*, Princeton, N.J.; Oxford : Princeton University Press, 2004.

② Markusen, J., Venables, A., "Interacting Factor Endowments and Trade Costs: A Multi-Country, Multi-Good Approach to Trade Theory", *Journal of International Economics*, Vol.73, No.2, 1996, pp.333-354; Markusen, J., Maskus, K., "A Unified Approach to Intra-Industry Trade and Foreign Direct Investment", in P.J. Lloyd and Hyun-Hoon Lee eds., *Frontiers of Research in Intra-Industry Trade*, Basingstoke, Hampshire ; New York : Palgrave Macmillan UK, 2002; Gao, T., "Ethnic Chinese Networks and International Investment: Evidence from Inward FDI in China", *Journal of Asian Economics*, Vol.14, No.4, 2003, pp.611-629; Bergstrand, J., Egger, P., " A Knowledge-and-physical-capital Model of International Trade Flows, Foreign Direct Investment, and Multinational Enterprises", *Journal of International Economics*, Vol.73, No.2, 2017, pp.278-308; Murat, M., Flisi, S., "Immigrant Links, Diasporas and FDI: An Empirical Investigation on Five European Countries", Working Paper, Center for Economic Research, 2009.

③ Horstmann, I., Markusen, J., "Licensing versus Direct Investment: A Model of Internalization by the Multinational Enterprise", *Canadian Journal of Economics*, Vol.20, No.3, 1987, pp.464-481.

④ Helpman, E., "Multinational Corporations and Trade Structure", *Review of Economic Studies*, Vol.52, No.3, 1985, pp.443-457.

(Helpman&Grugman，1985). HFDI serves as a a substitution for international trade mostly with the purpose of seeking potential markets or avoiding trade barriers, while VFDI functions the trade complementation. Therefore, the KC model includes the sum of the GDP of the two countries as an indicator of the size of the economies(GDPsum), the square of difference of GDPs (GDPdiff) as a measure of similarity, difference in per capita GDP (PGDPdiff) as a proxy of differences in relative factor endowments, the great circle distance between capital cities of the countries of origin and destination of the FDI (DIST) to mainly capture all the measurable and invisible transaction costs, as follows.

$$OFDI = f(sumGDP, pgdpdiff, gdpdiff, DIST)$$

KC model with Chinese migrant networks

Based on KC model, we add the population of host country's Chinese immigrants (ChImmr) as an evaluation of Chinese immigrants networks following Javorcik et al.(2006)①. We then adopt linear regression model with the major variates taking the logarithm form.

Thus, the specification of our first model is:

$$\ln OFDI_{it} = \alpha_{it} + \beta_0 \ln ChImmr_{it} + \beta_1 \ln GDPsum_{it} + \beta_2 DIST_{it} + \beta_3 \ln PGDPdiff_{it} + \beta_4 \ln GDPdiff_{it} + e_{it} \quad \text{Model (1)}$$

In the above formula, i represents different host countries (regions), trepresents the year, and α_{it} is the constant term, $\beta_1, \beta_2, \beta_3, \beta_4$ are the regression coefficients of the corresponding explanatory variables, and ε_{it} is the random error term.

The first model allows us to not only specify the networks effect on investment but also to tell whether VFDI or HFDI dominate in China's FDI towards EU.

We make our second adjustment by replacing GDPdiff, which are supposed to accounts for difference in factor endowments, with labor resource(Labor),

---

① Javorcik, B., Oezden, C., Spatareanu, M., "Migrant networks and Foreign Direct Investment", *Journal of Development Economics*, Vol.94, No.2, 2011, pp.151-290.

natural resource(Nature) and technology level(Tech) on the basis of our second chapter. The three variables are represented respectively by the percentage of the country's *Labor force with basic education, the percentage of Natural rents of GDP, the percentage of Research and development expense of total general government expenditure.*

Thus, the specification of our second model is:

$$\ln OFDI_{it} = \alpha_{it} + \beta_0 \ln ChImmr_{it} + \beta_1 \ln GDPsum_{it} + \beta_2 DIST_{it} + \beta_3 \ln PGDPdiff_{it} + \beta_6 Labor_{it} + \beta_7 Nature_{it} + \beta_8 Tech_{it} + e_{it} \quad \text{Model (2)}$$

We consider the second adjustment could help avoid the evaluation measurement overlaps of the two variables--sum of GDP and difference of GDP. By changing the *GDPdiff* to *Labor, Nature, Tech*, the factor endowments could be more fully described. Just as the second chapter along with other previous studies indicates, technology and natural resources affect mostly China's VFDI to Europe while market potential, trade relationship, distance and labor productivity influence both the horizontal and vertical investment for China and EU. Other factors such as exchange rate, offshore financial attributes, corporate tax rate and political system also play a role[①] (Su Sheng, 2014; Shi Xianzhi, 2013; Buckley et al., 2007; Cheung & Qian, 2008; Hurst, 2011; Kolstad & Wiig,2012). At the same time, EU as a developed economy features higher quality of labor force and advanced technology level, while Chinese investors are considered a natural resource hunter. Therefore, we believe the three factors--Labor force, natural resource and technology could be the most representative factor differences that affecting the FDI between China and EU.

To ensure our results,we would compare the results from this two models.

Following the basic hypothesis of the KC model, we expect the lnChImmr, lnGDPSum and Nature to show a positive coefficient. Because a more prosperous economy with a bigger population of Chinese diaspora and more attracting nature resource tend to boost the country's international investment

① Cheung Yin-Wong, Chinnm, M., Qian Xingwang, "Are Chinese trade flows different?", *Journal of International Money & Finance*, Vol.31, No.8, 2012, pp.2127-2146; Kolstad, I., Wiig, A., "What determines Chinese outward FDI?", *Journal of World Business*, Vol.47, No.1, 2012, pp.26-34.

transactions according to real life observations and experience. But we now are not sure about the others. Distance could also represent part of factor differences which would improve VFDI and the higher quality of abor force in EU would also add the operational costs of Chinese enterprises. Technology might indicate more competitive pressure than attractiveness to Chinese firms.

Regression process

Our regression process is divided into two parts:

First , we look at the relationship between Chinese migrant networks and the overall scale of China's FDI to EU.

By using three indexes that all represent the OFDI scale-stock of China's OFDI to EU, annual FDI flows to EU and the number of Chinese controlled enterprises in EU members, as our three independent. We are trying to specify the networks affecting differences among the long term, short term effects,as well as the effect in terms of enterprises number. For each independent, we run both models with FE and RE regression. We test the Hausman P value for each independent and model, then refer to the results according to the test results.

In the second part, we apply two classification of industry and move to explore the relationship between Chinese migrant networks and the industry distribution of China's FDI to EU.

One grouping method is spliting Chinese enterprises investing in EU into investment in the 2^{nd} sector-industry and the 3^{rd} sector-Service. As we analysed before, immigrants networks are supposed to influence through its skilled components and therefore should boost service sector, which is overall higher value-added and skills required, more than industry sector.

The other method is that we divide the Chinese enterprises into traditional European Chinese business and non-traditional European Chinese business. From what we mentioned in the chapter two, the former type refer to manufacture, catering, wholesales, and the latter one means the rest business-Heavy industry, construction, transportation, warehousing and postal services, finance, real estate, and other services. This approach enable us to understand whether the cooperation effect or the competitive effect of European Chinese migrants networks would affect more Chinese investment towards EU countries.

In addition, for every sub-sector, we use China's counterpart industry's total product value and the host country's GDP to replace the Varible GDPsum so we could get more exact results on specific group. Like the first part regression ,we would run each independent with both models and test the Hausman P value to decide whether to refer to FE results and RE results.

Endogenous issues

The endogenous issues for our study could be possibly from the reverse causality between immigrants and investment, which refers to that growing China investment would bring about more Chinese immigrants and the immigrants grow as a result rather than a cause of the investment.

We double check the issue through further investigation into the investment immigration policy of all the 28 EU countries. Most of the EU countries regulate that investor Immigrants are officially registered after 5 years, only a few of them allow a shorter 2 years. Hungary and Bulgaria allows legally investor Immigrants after 8 months. Therefore, we are happy to exclude this endogeneity as it's impossible for the immigrants growth being brought by the increased Chinese investment that takes place in the same year. Even we use the stock of immigrants, it would only possible be influenced by the investment happened at least two years before the immigration, which would be of little influence.

Thus, we are safe from endogenous issues in our model and confident to adopt the immigrants number and the contemporaneous investment together due to the strict immigration policy in EU.

(2) Data

Considering the data availability, we apply a panel data covering a ten years time span of 2005-2015 in 20 EU countries to our analysis of how Chinese migrants networks shows differences in its impacts on long term, shor term FDI and the number of Enterprises investing to the host country. And a panel data covering a ten years time span of 2005-2014 in 20 EU countries for specifying how the networks show differences in affecting the industries Chinese enterprises invest in.

Seven countries-Ireland, Malta, Cyprus, Latvia, Lithuania, Romania, Bulgaria, are excluded from our sample for either with almost no statistics or severe lack of data. At the same time, the Chinese immigration and China' FDI in this 7 countries are much less important compared to the rest other EU members. We believe it won't cause any significant bias in our results. For some countries lack of 2 or 3 numbers of Chinese immigrants, we replace the missing value with the average value in its nearest 4 years. As to our industry classification, we matched each sub-sector to their parent category one by one according to the definition from China's NBS.

In addition, we make a little adjustment to the calculation of variable-DIST by using the geographic distance divided by the countries' index of logistical convenience. It would improve the accuracy of DIST in panel data as it would vary from year to year and not be ommited.

Our data is mainly from official statistic bureau, such as Eurostat, OECD database, UN databases, world bank databases and China's NBS. Details are listed as diagram. For data description, see the appendix.

Table 3 Data sources

Variable name	Data sources	Unit
OFDI	MOFCOM	Current USD
OFDINum	Eurostat	1
ChImmr	Eurostat, OECD,UN database	1
GDP,GNI	World Bank database	Current USD
labor,Nature,Tech	OECD database	1
DIST	Geographic distance from Cepii website, Index of logistical convenience from World Development Indicators	1
ProValue	China NSB	Current USD

(3) Regression results

Result of overall FDI and Chinese Immigrants networks

Table 4 shows the regresion results of the three indepents representing the overall FDI scale.

Results of the model 1 and 2 show most similar trends in their shared variables. In all specifications, GDPsum, DIST and ChImmr are significant on a level of 1%, while compared to the coefficient of GDPsum and DIST, ChImmr has a relatively much smaller value. It indicates that the economic scale of the two countries and the distance in between are the first two decisive factors that affect the level of China's FDI in EU, but Chinese migrant network could also be very important though it may have less influence.

More importantly, as expected, the migration variable always has a positive and highly significant impact on FDI, with a higher value for shorterm than longterm. Besides, a 1% increase in the stock of the Chinese immigrants would bring about 37-46 Chinese enterprises to invest in the destination country. This clearly shows the social and business networks of European Chinese could largely improve the China's FDI to EU.

The combined GDP are all positive but the DIST's differs in the three indepents. The coefficients of FDI stock and flow are positive and that of the number of FDI firms are negative, which means that when the distance becomes bigger, the volume of China's FDI to EU will grow but the investing companies will reduce. This might reveal that the distance increases the FDI from China mostly through increasing the amount of investment carried by one individual company not through increasing the number of investing companies.

Nature has a significant positive coefficient for the FDI stock and flow. As expected, abundant natural resources of the host country can attract more Chinese investment, which again confirms that "natural resource seeking" is one major motivation of Chinese foreign direct investment. But it doesn't affect the number of investing companies significantly. This might result from the fact that natural resource seeking enterprises are often Chinese SOEs, which are rich in capital but of less dealers, and they usually carry out huge single investment.

But Labor always shows a negative number. What might possibly behind this is that Chinese OFDI companies in Europe distribute less in advanced industries and they are not competitive in EU markets, therefore, higher ratio of quality labor only brings more competitive pressure rather than lowering down cost. Tech's coeffients are not significant in all regressions, thus, we infer "technology seeking" might not be the current FDI purpose of Chinese firms.

From the coefficients of lnGDPdiff and lnPGDPdiff, we know that the longterm FDI to EU follows mostly the horizontal model while the shorterm FDI follow mostly the vertical model. With a postive and siginficant coefficient of lnPGDPdiff, it indicates that most of the investing firms, but not entirely, also invest vertically.

Table 4 Regression of Chinese migrants networks on China's overall FDI to EU

	Model 1			**Model 2**		
	lnOFDI Stock	**lnOFDI Flow**	**Num Firms**	**lnOFDIStock**	**lnOFDI Flow**	**Num Firms**
lnChImmr	0.369***	0.602***	37.62***	0.560***	0.790***	46.66***
	(4.64)	(4.21)	(4.71)	(5.50)	(7.30)	(5.11)
lnGDPsum	4.081***	3.104***	118.6***	3.796***	2.997***	91.59***
	(23.91)	(6.59)	(4.34)	(25.20)	(9.37)	(13.55)
DIST	5.587**	4.129	-456.6***	7.030***	5.912*	-499.9**
	(2.32)	(1.14)	(-4.63)	(3.18)	(1.68)	(-2.13)
lnGDPdiff	-0.276***	-0.131	-26.03			
	(-4.61)	(-0.65)	(-1.31)			
lnPGDPdiff	0.302	0.603**	-35.21**	0.524***	0.877***	-21.29*
	(1.63)	(2.33)	(-2.80)	(3.55)	(3.67)	(-1.95)
Labor				-3.448***	-4.774***	-219.0***
				(-3.84)	(-3.98)	(-3.42)
Nature				146.3***	172.3***	2394.7
				(4.16)	(4.46)	(0.81)
Tech				-25.28	0.497	-2224.9
				(-1.19)	(0.01)	(-1.01)
_cons	-112.0***	-94.27***	-2458.6***	-115.2***	-99.02***	-2529.3***
	(-21.90)	(-11.94)	(-7.46)	(-22.81)	(-10.48)	(-8.13)
N	210	201	193	213	204	196

t statistics in parentheses

* p < 0.1, ** p < 0.05, *** p < 0.01

Source: The author computed.

Result of industry-selected FDI and Chinese Immigrants networks

Group regression on service industry and Industry

Table 5 is the group regression result by industry and service. As before, ChImmr shows a positive coefficient for both industrial and service investment. The value of service is almost three times of industry, which indicates the Chinese migrants networks can boost more Chinese enterprises to invest in the service sector than the industry.

A further look to other variables, we found the GDP of the host country affect insignificantly on its received China's FDI. Instead, the product value of the China's counterpart industry plays a part on the FDI level as the GDPsum does in last regression. DIST will significantly bring down the Chinese FDI enterprises in EU's service sector but won't affect that in the industry part. Labor again has negative significance, especially for service firms. What's more, the coefficients of lnGDP and lnPGDP for service investment are both negative, which reveals that Chinese enterprises directly invest in EU's service sector are mainly horizontal.

Table 5 Group regression by service and industry

	Model 1		Model 2	
	Industry	Service	Industry	Service
lnChImmr	5.217***	15.59***	5.786***	21.28***
	(3.76)	(5.03)	(3.60)	(5.97)
lnGNI	0.270	-2.063	-0.0940	-2.635
	(0.58)	(-0.66)	(-0.20)	(-0.78)
lnProvalue	19.71***	62.71***	18.65***	28.90***
	(3.35)	(3.45)	(7.68)	(4.99)
DIST	-3.045	-209.0***	4.277	-244.5**
	(-0.23)	(-4.87)	(0.19)	(-2.17)
lnGDPdiff	-0.549	-25.19**		
	(-0.25)	(-1.96)		
lnPGDPdiff	-0.471	-16.48**	0.536	-10.11*
	(-0.70)	(-2.49)	(1.08)	(-1.71)
Labor			-33.11***	-91.26***

(Contd.)

	Model 1		**Model 2**	
	Industry	**Service**	**Industry**	**Service**
			(-2.85)	(-2.96)
Nature			371.9	922.9
			(1.58)	(0.74)
Tech			454.2	-1367.4
			(1.15)	(-1.43)
_cons	-259.0***	172.4	-266.2***	-194.5*
	(-6.91)	(0.87)	(-5.87)	(-1.80)
N	193	193	196	196

t statistics in parentheses

* $p < 0.1$, ** $p < 0.05$, *** $p < 0.01$

Group regression on traditional European Chinese business and nontraditional European Chinese business

As it is defined in the chapter 2, traditional European Chinese business refers to Wholesale and retail, accommodation and catering, Manufacture, while nontraditional European Chinese business includes Heavy industry, construction, transportation, warehousing and postal services, finance, real estate, and other services. The results are listed in table 6.

The coefficients of ChImmr all have positive coefficients and the traditional European Chinese business have a lower value than the nontradtional one. In the model 1, the value almost doubles in nontraditional business and in model2 it also nearly 1.5 times of that in traditional business.

The coefficients of lnGDPdiff and lnPGDPdiff shows the horizontal model is still the main kind for Chinese investors in the EU's service sector. Other variables show similar features as the above group regression and thus we avoid repeating.

Table 6 Group regression by Traditional and Nontraditional European Chinese business

	Model 1		Model 2	
	Traditional	**Nontraditional**	**Traditional**	**Nontraditional**
lnChImmr	15.00^{***}	30.25^{***}	20.00^{***}	35.09^{***}
	(5.30)	(6.46)	(5.78)	(5.89)
lnGNI	-0.723	-0.519	-1.591	-3.639
	(-0.36)	(-0.10)	(-0.62)	(-0.72)
lnProTra	41.45^{***}	84.43^{**}	19.44^{***}	72.11^{***}
	(3.32)	(2.54)	(4.07)	(5.59)
DIST	-142.1^{***}	-310.7^{***}	-205.4^{**}	-316.8^{**}
	(-3.86)	(-5.32)	(-1.99)	(-2.41)
lnGDPdiff	-19.28^{*}	-11.44		
	(-1.71)	(-0.82)		
lnPGDPdiff	-19.20^{***}	-18.06^{**}	-13.47^{***}	-7.707^{**}
	(-3.63)	(-2.17)	(-2.69)	(-1.04)
Labor			-111.6^{***}	-143.1^{***}
			(-3.80)	(-3.34)
Nature			40.22	2235.1
			(0.04)	(1.14)
Tech			-700.2	-1000.9
			(-0.76)	(-0.70)
_cons	185.2	-693.4^{***}	-98.19	-869.8^{***}
	(0.90)	(-3.09)	(-0.96)	(-4.07)
N	193	193	196	196

t statistics in parentheses

* $p < 0.1$, ** $p < 0.05$, *** $p < 0.01$

key findings

We list the coefficient of Chinese migrants networks in different independents applying both Model 1 and 2. Key findings are mainly three:

1. All the coefficients of ChImmr are positive and significant but the number is relatively small compared to GDPsum and DIST. The value of its coefficient for FDI flow is nearly two times of that for the FDI stock, and for the number of investing firms is even bigger.

2. The effect of Overseas Chinese networks on China's Investment towards EU in Service is almost two times more than that in Industry. But overall, the total number of firms in all industries has the biggest coefficient of Chinese migrants networks. This indicates that the networks' positive effect on FDI could go beyond specific industries, which is similar to an effect of social capital spillover.

3. Overseas Chinese networks affect China's Investment towards EU more on non-traditional Chinese business in EU than traditional ones.

Table 7　Comparison of all the regression for Chinese immigrants networks

Coefficient	**Model 1**			**Model 2**		
	Stock	**Flow**	**Num**	**Stock**	**Flow**	**Num**
ChImmr	0.369^{***}	0.602^{***}	37.62^{***}	0.56^{***}	0.79^{***}	46.66^{***}
	(4.64)	(4.21)	(4.71)	(5.50)	(7.30)	(5.11)
	Industry	**Service**	**Total**	**Industry**	**Service**	**Total**
ChImmr	5.217^{***}	15.59^{***}	37.62^{***}	5.786^{***}	21.28^{***}	46.66^{***}
	(3.76)	(5.03)	(4.71)	(3.60)	(5.97)	(5.11)
	Tradition	**Nontradition**	**Total**	**Tradition**	**Nontradition**	**Total**
ChImmr	15.00^{***}	30.25^{***}	37.62^{***}	20.00^{***}	35.09^{***}	46.66^{***}
	(5.30)	(6.46)	(4.71)	(5.78)	(5.89)	(5.11)

4. Conclusions

Our first conclusion is that overseas Chinese networks may not be a decisive factor but it is an important factor that significantly improves China's investment towards EU both in long term and short term,as well as in almost all the industries. The short term investment is more sensitive to it than the long term. At the same time, the number of Chinese enterprises invested in the EU will even increase by 37 to 46 with 1% of bigger Chinese population in the destination country in EU.

Second, higher population of Chinese in the destination country brings more Chinese enterprises to invest in the Service sector than the Industry sector.

This may be the result of the previous view that Chinese migrants networks improve FDI mostly through its skilled component, thus higher value-added sectors could benefit more from the business links. And the networks' positive effect on FDI could go beyond specific industries, which is similar to an effect of social capital spillover.

Third, higher population of Chinese in the destination country brings more Chinese enterprises to invest in Non-traditional Chinese business than Traditional Chinese bussiness-Manufacture, Catering, Wholesales&retail. This indicates Chinese immigrants networks in the destination countries tend to show more competitive effect rather than cooperative effect in improving Chinese firms investment.

Part four: Local Concerns

Vocalizing Local Concerns: FDI in the Western Balkans and Chinese Investment

Ivica Bakota*

1. Introduction

Among European regions, Western Balkans has consistently ranked at the bottom in terms of the amount of FDI it attracts. Moreover, the structure of its FDI inflow has been consistently tied with political and security factors diminishing the importance of government policies and endogenous agency in promoting FDI growth. During European debt crisis, direct investment into Western Balkans registered sharp decline and since then asymmetrically slow growth of Western European generated FDI, triggering the governments to set up policies aiming at diversification of FDI stock and external financing. The internationalization of FDI brought the changes in the structure of inward FDI and gave the new impetus in pursuing new growth models. Parallel with the changes in Western Balkans investment patterns, Chinese investment in the region has been steadily increasing over the last four years and influenced Western Balkans to become more receptive for state-proxy investments, but at the same time raised the objections regarding the nature of Chinese state-proxy investment and its impact on sustainable FDI growth models in the Western Balkans.

In order to show the effects of the changing patterns of FDI in the Western Balkans, this chapter is divided into three sections. The first section lays out how exogenous factors over-determined inward FDI in the Western Balkans. The second section examines typical problems non-Western FDI creates in "Euro-dependent" structure of FDI. Following this, the third section focuses

* lvica Bakota, researcher of the Capital Normal University, Beijing, China.

on the Chinese state-proxy investment its influence on Western Balkans FDI patterns, showing how it raises concerns regarding the selective involvement of Chinese state-proxy actors with sub-state actors in the Western Balkans, feasibility of Chinese development model in the Western Balkans and questions "real" intentions Chinese investors in the region.

2. "The Balkan Effect" and (Geo)political Determinants to Inward FDI in the Western Balkans (WB)

In a data released by UNCTAD comparing the ratio of a country's share of global inward foreign direct investment (FDI) to its share of global GDP (inward FDI performance index) from 2011 six countries of the WB ranked among the countries with "high potentials".[①] A gravity model of inward FDI to CEE transition economies during 1990-2011, conducted by Estrin and Uvalic finds that in spite of taking into account the size of their economies, distance to source economies, institutional quality and "EU accession announcement factor", WB comparatively "receive less FDI than other transition countries".[②] Separate study by Kekic analyses the trends in FDI in the WB during the 2000s concluding that "minimal" factors coming from parallel political trends of social pluralism, restoration of peace and basic security are predominant factors for the "surge" of inward FDI in WB in early 2000s, while "endogenous" factors, i.e. governmental policies or set of reforms promoting FDI have no substantial effects on the general trend of FDI growth.[③] Moreover, pro-investment policies induced by governments of the WB following the European debt crisis had only partial effects since the WB continued to register relative slow pace of FDI

① Inward FDI Potential Index, UNCTAD Communications and Information Unit, FDI/TNC database, http://www.unctad.org/fdistatistics.

② Uvalic M. Estrin S., "How are Foreign Direct Investments in the Balkans Different?", Timothy Besley, ed., *Contemporary Issues in Development Economics*, Palgrave Macmillan, 2016, pp.178-192.

③ Kekic, Laza, "Foreign Direct Investment in the Balkans: Recent Trends and Prospects", *Journal of Southeast European and Black Sea Studies*, 2005, p.5.

growth and had the most sluggish FDI growth among European regions. ①

These findings suggest that WBs' countries (WB 6) and Croatia (WB 6+1) had the structural capacity to attract significantly more inward FDI than the amount actually flowing into its economy, yet several exogenous factors were hindering its ability to reach full capacity, thus making the WB region's FDI performance index continuously being characterized as "not yet fulfilling the potentials" by European standards. It seemed, according to some accounts,② despite expectations comparatively lower FDI growth was a result of the "bad image" the word Balkans retained among the investors from source economies in the Western Europe. Thus, the myth of the "Balkans effect" conjured political and economic instability rather than opportunity and wassince considered as a plausible approximation for the missing argument in systematically lower yields of inward FDI.

In order to understand this myth, it is important to consider why FDI in WB continued to asymmetrically rely on exogenous factors even after it resumed relatively stable political and economic climate. There has been abundant literature about the influence of FDI on the growth of transitional and post-transitional economies in CEE. Several studies listed the top factors historically contributing FDI in CEE as—most importantly—size of the economy, distance from the source economy and institutional quality, but also more detailed analysis found labour cost, customer demands, stability of tax rates, flexibility of distribution channels, competitive business practices, etc. to be important factors to determine competitive advantages of each of the CEE economies in

---

① Kekic, Laza, "Foreign Direct Investment in the Balkans: Recent Trends and Prospects", *Journal of Southeast European and Black Sea Studies*, Vol.5, 2005, pp.183-185.

② Cviic Christopher and Peter Sanfey, *In Search of the Balkan Recovery: The Political and Economic Reemergence of South-Eastern Europe*, Columbia University Press, New York, 2010.

comparative outlook.①

To address the importance of WBs' persistent exogenous factors purporting low inward FDI much of the scholarship departed economic argumentation and employed political determinantsfor asymmetrically low FDI growth in the WB. Besides crude (geo) economic factors usually exemplified by small market size, scarce natural resources and geographic distance to resource economies, main political factors detrimental to the WB FDI growth were unstable investment climate, resilient political factors and accumulated transitional problems. On the other hand, economic growth models espoused by successive governments were both too inconsistent and volatile in the long run or not very successful in defying macroeconomic and geopolitical determinants. Macedonia, for example, after the 2008 crisis introduced a wide set of progressive pro-investment policies (creation of free trade zones, tax exemptions, speeding up the business registration process, investment promotion, etc.) the results of which were not up to the expectations in terms of diminishing unemployment. Montenegro, on the other hand, due to attractive real-estate market and relative size of population continued to receive two times higher FDI per inhabitant than the rest WB, while the policies set up in 2012 to regulate taxation on the investment relatively decreased inward FDI it haven't changed significantly Montenegrin FDI in comparative outlook. Accordingly, there is a consensus among the scholarship that pro-investment policies espoused by other WB governments were conducive for FDI growth, but generally insignificant for the general pattern of inward FDI in the WB.

① Bartlett William, *Europe's Troubled Region: Economic Development, Institutional Reform and Social Welfare in the Western Balkans,* London and New York: Routledge 2008; Estrin Saul, Xavier Richet and Josef Brada, eds, *Foreign Direct Investment in Central Eastern Europe: Case Studies of Firms in Transition,* Armonk and London: M. E. Sharpe 2000; Hunya Gabor, "Diverging Patterns of FDI Recovery" , in WIIW Database on 2011 Foreign Direct Investment in Central, East and Southeast Europe, Vienna: The Vienna Institute for International Economic Studies 2011; Hunya Gabor, "Short-lived Recovery", in WIIW Database on 2012 Foreign Direct Investment in Central, East and Southeast Europe, Vienna: The Vienna Institute for International Economic Studies 2012; Kalotay Kalman, "Patterns of Inward FDI in Economies in Transition", *Eastern Journal of European Studies*, Vol.1, No.2, 2012.

In regards to the first period of the transition, politically overdetermined inward FDI patternseemed very obvious. The main inhibiting factors of FDI in WB boiled down to the internal instability, ethnic conflict leading to several wars, disintegration of Yugoslavia and socialist market economy. Croatia, Bosnia and Herzegovina, Federal Republic of Yugoslavia (Serbia, Montenegro and Kosovo) had been directly involved in violent conflict. Macedonia suffered embargo imposed by Greece soon after the independence while Albania had a frequent turmoils after the long period of deep economic isolationism. Only Slovenia had a “fresh start”, facilitating its endogenous efforts to set off the reforms and catching up with other CEE transitional countries, and virtually “leaving” WB economic area *ante statunascendi*. As a result, while the global FDI inflows were increasing at annual rates between 15% and 30% during the early 1990s, inward FDI stock in the WB in 1996 averaged only 5.7% of total inward FDI stock in all CEE countries.[①]

However, from 2000, following political stabilization, strong democratic upturns in all countries and, above all, signing several stabilization agreements with the EU and pledged commitment for EU integration, WB began to catch up and even experienced its own mini-FDI boom. By 2010, inward FDI stock in Croatia increased tenfold in value from USD 2.7 billion in 2001 to USD 34 billion in 2010, while other countries registered even greater increases—in Albania 17 times, Serbia even 20 times.[②] It appeared that WB was beginning to realize some of its potential and became a more attractive destination for foreign investors, especially those arriving from “core EU” economies (Germany, Austria, Italy, Netherlands). The process of EU integration starting from 2000s led to the entrenchment of European normative leverage on the growth model espoused by each country. In particular, the WB countries liberalized the trade and financial ties with the Western Europe and long-term dependency

① Details on the share of the each WB country, see Uvalic M. Estrin S., “How are Foreign Direct Investments in the Balkans Different?” Timothy Besley, ed., *Contemporary Issues in Development Economics*, Palgrave Macmillan, 2016, pp.178-192.

② UNCTAD data from *World Investment Report*, 2011.

on European capital became institutionalized as a norm during this period. European normative leverage in the region served a dual role in improving macroeconomic stabilization, stable and relatively strong GDP growth, trade liberalization with the EU as well as increasing "West-East" vertical investment and creating trade dependency of the WB. In addition, according to Kalotay, in this period, lower national savings and investment in the WB made its inward FDI playing a much more important role in the overall growth than in the rest CEE and FDI as a percentage in national GDP on average was around 10% higher in the WB than in the rest of CEE.[①]

Among the top five investors in the seven WB+1 countries we find Austria, the Netherlands and Germany, while "peripheral EU" economies Italy, Greece and Cyprus had major investments in two or three WB countries.[②] Inward FDI in terms of economic activity was typically service sector based and market-seeking entailing variety of "West-East" vertical investment pattern with predominant investments in banking sector (financial services), telecommunications, but with significantly less amount of FDI in manufacturing (automobile industry, drugs & pharmaceuticals, energy). Only Bosnia and Herzegovina and Macedonia attracted considerable (more than 30%) of FDI in manufacturing.[③]

The WB countries enjoyed economic success in the post-Dayton period up until 2008. European debt crisis abruptly delinked European "normative economic leverage", the WB countries have not yet joined the EU but were already deeply dependent on the EU's financial and capital market. Overly exposed and dependent WB markets and virtually left WB governments to exert "autarchic" models in fighting budget deficits, elephantiasic public consumption and recidivist unemployment, unfinished privatizations, low performing

① Kalotay Kalman, "Patterns of Inward FDI in Economies in Transition", *Eastern Journal of European Studies*, Vol.1, No.2, 2010.

② Vienna Institute for International Economic Studies WIIW, WIIW Database on *2012 Foreign Direct Investment in Central, East and Southeast Europe*, Vienna: Wiener Institut fur Internationale Wirtschaftsvergleiche, 2012.

③ UNCTAD data from *World Investment Report*, 2011.

investments, etc. Needless to say, inward FDI in WB countries again registered significant drop from pre-crisis period. In Croatia, FDI registered sharp decline immediately after 2008, reaching lowest annual amount USD 1.5 billion in 2011, with very low FDI growth rate in 2011–2015 period. In comparative perspective with the whole SEE region, Romania continued to have the biggest share of inward FDI stock, while Bulgaria overtook Croatia becoming the second destination for inward FDI in the SEE region. In 2010, the total amount of FDI stock in the WB+1 region barely exceeded total inward FDI stock of Romania (USD 72 billion).[①] Serbia, the other regional country with significant FDI inflows, has registered a fall in FDI inflows in 2006, but resumed stable growth in 2011 with USD 2.71 billion annual inflow. Albania, Bosnia and Herzegovina, Macedonia, and Montenegro, four small economies—with annual FDI inflows under USD 2 billion—had segmented FDI drops even before European debt crisis, which were further exacerbated in 2007–2008 period. Due to rather unintegrated market and low level of exposure to European financial markets only Albania haven't registered sharp decline in inward FDI.[②] All of this lasted until the basic confidence was restored in Western financial markets and incited a slow return of FDI in WB countries.

The reality is that inhibiting factors for inward FDI in WB were also augmented by undiversified FDI growth model, and one of the first imperatives for the WB countries was to breakdown the over-reliance on the Western European based FDI and attract more internationalized FDI. However, in the crisis, high geopolitical determinant of the inward FDI became stark, increased the volatility of the FDI inflows and, more importantly, incited a more tumultuous political environment to attract non-Western FDI. It seemed that in order to attract non-Western FDI the WB had to "return to geopolitics" and that geopolitical determinants are to resume dominant role in the economic development. "The Balkans effect" thus became an index of resilient (geo)

---

① UNCTAD data from *World Investment Report*, 2011.

② Ibid..

political factor within the endogenous indicators calculating the investment patterns.

3. General Problems with Non-Western Investment in the Western Balkans (WB)

It was only after the decline of FDI originating from the "core EU" countries coupled with the above problems that the WB countries became more receptive for internationalized share of inward FDI stock. Internationalization of FDI stock obviously could not in short run substitute decisive drop in inward FDI from traditional source economies that followed European debt crisis, but it pre-emptied more austere measures to maintain net solvency and made structural changes in the investment patterns. The full result of this policy change is yet to be seen in forthcoming period, however, the predominance of the WB dependence on the EU market remained in place and the share of internationalized FDI remained the variable depending on the changes in Western FDI patterns. In general, after European debt crisis, internationalized FDI ideally should have addressed the flaws of the Western FDI. Therefore, there were prevalent opinions that internationalized FDI should firstly be reflected in the decrease of the unemployment and the size of the informal economy. In addition, after the reticent European normative leverage over FDI growth, the internationalized FDI was imagined to give more bargain power to the local governments vis-à-vis non-Western investors in order to finish controversial privatizations of SOEs,[①] decrease the imperative for market deregulation,[②] and break up the predominance of rent-seeking or market-seeking patterns[③] in the existing investment. However, as it was mostly

① Bartlett William, *Europe's Troubled Region: Economic Development, Institutional Reform and Social Welfare in the Western Balkans,* London and New York: Routledge, 2008.

② Critique of the market regulation and the state interventionism vis-à-vis FDI, see Madzar, Ljubomir, Posast drzavnog intervencionizma, Ekonomske ideje I praksa, Beograd, 2015, pp.15-57.

③ Rent-seeking Patterns and the Development Model, see Horvat, Branko Kakvu drzavu trebamo, Prometej, Zagreb, 2002.

politically orchestrated non-Western FDI firstly adapted to a long-term political clientelism that characterized WB's corporative management and impenetrable distribution channels they enjoyed with political elites, while for the expected benefits from non-Western FDI so far can only be said to have segmented and mixed success.

The internationalization of FDI started with Russian capital entering the region "through the big door". Gazprom's purchase of major share of Serbian state-owned oil company NIS in 2008 was one of early examples of politically motivated FDI. The timing of the purchase was also very significant, coinciding with Kosovo's unilateral declaration of independence and forging of "the four pillars" in Serbian foreign policy. In spite of "typically" not very transparent tender procedures, this major entry of Russian capital was hoped to bring along South Stream pipeline project and increase Serbian energy security. In subsequent years, Russian capital entered the WB through power sector investment becoming importantin energy sector of individual countries like Serbia and Republika Srpska. Russian banks also entered the WB, serving mostly as a payment conduit for Russian enterprise and trade. In Serbia, Russian Sberbank holds 3.62% share of total assets, while in Croatia holds 2.5%.① Despite the fact that the Russian capital is not as significant to play major role in the regional banking industry, due to the tensions between the EU and Russia there is a growing concern that almost every Russian investment project is strategically underpinned by Kremlin's geopolitical calculations. The tension has been exacerbated with the vacuum left after European normative leverage loosen its clout over the WB and gave way in to Russian propaganda activities and strengthening the ties with local politicians, private corporations and civic groups. Nevertheless, Russian influence in the WB became controversial only after the EU resumed its agenda in the region and recognized that the WB continues to be "soft belt" for the Russian influence in the Europe.

① Regional Economic Growth Project Western Balkans & Eastern Europe: Regional Iinstability and Resilience to External Shocks, USAID report, 2017.

First, the EU is not as concerned with the total volume of the Russian FDI as it is with the strategic acquisitions of the local SOEs by Russian state-proxy actors. Second, the WB region is comparatively more dependent on Russian gas, therefore, more prone to Russian FDI incursions into energy sector. Third, Russian relations with Serbia are *conditio sine qua non* for Serbia's Kosovo policy but also a great mortgage for its FP towards the EU. It empowers Russia not only to side with Serbia-proxy actors but also with the Serb-proxy actors in the region to conduct its strategic investment.

Since the late 2000s, Turkey also stepped up in boosting the economic cooperation with the WB countries, during Erdogan's second PM term becoming one of the top trade partner and investor in Kosovo (USD 390 million) and Albania (USD 1.6 billion). Major Turkish banks (Halk Bank, Ziraat bank, Economy bank) have stepped in the WB's financial market and opened branches in four countries and entered regional construction sector (Pristina-Merdare highway, Pristina Airport, Skopje Airport) and textile industry.[①] The main geopolitical concern to the Turkish investments stem from its high collinearity with ethno-geographic determinants, i.e. high presence of the inward FDI in the regions with major Muslim population. The investments from the Gulf States, on the other hand, are more diversified in terms of the ethno-geographic varieties of the host economy, yet far from being blind on them. The UAE signed the EUR 340 million worth urban developing project "Belgrade Waterfront" with Serbia and has made several investments in the real estate sector in Montenegro (Porto Montenegro), B&H (Ilidza resort), in aviation (Air Serbia), agriculture and military technology. However, the Gulf States (Saudi Arabia, Kuwait, Qatar) continue to finance humanitarian, education and culture projects helping exclusively Muslim communities, hence maintaining somehow incoherent two-tier FDI policy, one employing purely economic rationale to diversify its oil based economies, another, ideological and highly controversial related to the spread of the ultra-conservative Islamic

① Alida Vracic Turkey's Role in the Western Balkans, SWP Research Paper, 2016.

doctrine in the region.

Although total non-Western investment is insignificant in the whole picture, as recently stated by several EU affiliated institutions,[1] it is the ubiquity of politically motivated strategic investment that concerns the most. Moreover, as suggested by recent surveys,[2] the majority of population perceive the non-Western investment in the region as disproportionately higher and more significant, while on the other, it is seen as healthy counterbalance to the FDI arriving from the European countries.

The entry of these three types of non-Western FDI into region is also sustained by some resilient factors in regional economic development, yet mainly triggered by the "external drivers of fragility".[3] In brief, it usually includes three important facts. First, the WB seemed to stuck in the EU's enlargement limbo with no accession date on the sight. More the EU accession promise lingers in distance, more the resilient factors come to a fore. Hence, the rise of populist parties (Croatia, Kosovo) and authoritarian leaders (Vucic in Serbia, Gruevski in Macedonia) more prone to circumvent commitments for continuing reform and more apt for maintaining "stabilocracy"[4] with predominant political determinants in the economic growth models. Second, the WB remains structurally underdeveloped, its transition is deeply flawed and there is no yet clear path how to bridge the development gap with the average EU country, or even how to attain GDP level from pre-transition period, these facts are all frustrating but also inducive to unsustainable economic models, frequent and radical changes of the economic policies and lack of consensus regarding the country's growth model. Third, in an economy with predominant (geo)political determinant, the WB business elites are also driven into complacency to overestimate geopolitical factors in regional economic

---

① Data from the EBRD, 2016.

② Regional Cooperation Council Secretariat, "Balkan Barometer, Public Opinion Survey", Analytical Report, Sarajevo, 2016.

③ Joint Communique Regarding the Enlargement of the Western Balkans, EUES, July 2017.

④ Beiber, F. et al., "The Crisis of Democracy in the Western Balkans: Authoritarianism and EU Stabilitocracy", BiEPAG, Policy Paper, 2017.

development, re-duplicating "the Greek syndrome" and decreasing the motivation for its own investment incentives. In these circumstances, not only is diminished the likelihood of pure private investors leading the internationalized FDI growth, but the expectations of the politically motivated investment from state-proxy actors is usually overvalued.

Even if we concur that the local governments are employing balancing attitude towards non-Western investment and tend to diversify its dependence on the European investors, above mentioned factors coupled with long-standing endogenous problems generated by the corruption, porous enforcement of rule of law and property right protection, red tape and unfinished reform process create political conditions where the inward investment mainly boils down on sub-state actors, e.g. political parties or political leaders introducing foreign investors with its clientelist networks, while government itself is weak to set up consistent investment policy surpassing its term in office. In these circumstances, non-Western investment dwells on the marginal side of the regional development processes, its activity had to work its way through "soft underbelly" of the particular state, recognizing and establishing the contacts with the key business actors able to "intermediate" their interests to local political elite. For some of the political elites in the WB, non-Western investment in the region has emerged as the paramount requirement fora political quid pro quo.

The perception in localacademic circles and media, on the other hand, display highly polarised discourse regarding the non-Western origin of the FDI. The most of the academic institutions and affiliated think tanks are espousing strong one-sided arguments either criticising the "financial colonialism" of source economies or "anti-liberal" host economies. The first emphasizes debt dependency of particular WB country or high loan exposure to Western market leading to high interest rates and currency appreciation[①] which blocks

① Critique of the market regulation and the state interventionism vis-à-vis FDI, see Madzar, Ljubomir, Posast drzavnog intervencionizma, Ekonomske ideje I praksa, Beograd 2015, pp.15-57.

significant growth of inward FDI, therefore, advocating diversified approach to inward FDI and loan creditors. The second attacks trade protectionism, low level of regional economic integration, insufficient score on *Doing Business 2017* and state sponsored investments. Either way, there exist a stark cleavage in contemplating diversified (more internationalized) inward FDI growth, "anti-colonialists" seem to favour regulated and diversified FDI with state interventionism nostalgic of the Yugoslav "non-aligned" policy, "liberals" insist on furthering pro-business reforms to create favourable conditions for private investors regardless the origins. In addition, polarized perception can be traced in a tendency to see European generated FDI as less attached to a state-proxy actors and more accustomed to liberalized (deregulated) market, Western investors as decentred cluster of civilian power working along the invisible hand of the market, while non-Western FDI as realized through state-proxy companies strategically concentrated around the most vital sectors of the local economies, thus nourishing the speculations of imminent clash between the non-Western state interests and European civilian interests.

Management at major SOEs, business elite, middle-size entrepreneurs are obviously more familiar with Western business relationships, as opposed to the adventures with non-Western business partnerships. Early liberalization of trade and institutionalization of "non-sovereign" monetary policy[①] place the origins of WB's trade and investment dependence on the Western Europe in the post-war period. However, in crisis period, as the investment structure became more internationalized depending on the sector, companies sought the state sponsored actions to attract higher horizontal investment. In addition to subsidies to SOEs, foreign investors are also given special tax exemptions and preferential treatments. According to some authors, it was during the time of FDI diversification that host companies began to expect politically determined conditions as terms of non-Western investment. While this is a rather new

① Medic D., Zasto su monetaristicka teorija I politika neprimjerene za poticaj ekonomskog rasta u Hrvatskoj, Racunovodstvo I financije br, Vol. IX, 2001, pp.75-82.

phenomenon, the key aspect of this development was the higher share of asymmetrical relations between the source companies and host companies. Non-Western investment as mostly realized through state-proxy companies tends to be less horizontal and less market-seeking, therefore, less oriented on the cooperation with either subsidiary or competitive companies in host economies. More importantly, source companies are usually represented by a huge MNEs, large SOE corporationsand wealth funds that are too big for mostly middle sized SOEs and small-to-middle size enterprises of the WB. With the government as a main actor in bargaining inward FDI conditions, host companies could afford to only rely on the clientelist relations with the government and are usually rewarded with subcontracts or rents based on their loyalty to the government. With such benefits for both management of SOEs and private enterprises, there was little incentive for direct bargaining and autonomous actions to attract investment. These benefits showed not only the deep complacency of host companies to state sponsored non-Western investment, but also how this complacency served to buffer the free market competition with the source economy providers or less loyal local subcontractors.

4. Some Problems of the Chinese Investment in the Western Balkans

China's trade relations with the WB initially focused on the region's largest markets and more closely integrated with the European Union. After a while it soon spread out throughout the WB region becoming one of the top five trade partners of the each country.[①] During European debt crisis, China started to unveil WB's untapped investment potential. Indeed, in only four years after the first capital investment project in the region, China has already made remarkable record by starting and completing several infrastructure projects across and invested into some key industries in the region.

① Liu Zuokui, "The One Belt One Road Initiative in the Context of the 16+1 Cooperation", *Contemporary World and Socialism*, No.3, 2016.

However, Chinese economic presence in the WB measured in terms of direct FDI and trade balance per capita is still relatively insignificant and far lower of the Chinese investment in the rest of the CEE. To make a brief account on Chinese investment in the WB, we can start with Serbia as Chinese biggest trading and investment partner in the region. Already in 2011, Chinese Environmental Holdings made an offer for Sector 3 of TTP Tesla worth EUR 2 billion. From 2012, Chinese companies were engaged in several construction projects, such as Corridor X: Morava highway (estimated value of Chinese Road and Bridge Corporation is EUR 642 million), Corridor XI: Surcin-Obrenovac (51% Power Construction Corporation, EUR 280 million), Obrenovac-Ljig sectionof Belgrade-South Adriatic Highway (Shandong Hi-Speed Group, EUR 301 million), Zemun-Borca Bridge (CRBC, EUR 170 million), restructuring of Belgrade-Budapest railway line (CCCC, EUR 319 million). In terms of FDI, Chinese main investments is the acquisition of Serbia Steel Mill Smederevo by Hesteel Group for EUR 46 million in 2016.[①] Bosnia and Herzegovina received significant amount of the investment in the energy sector. In 2016, Dong Fang Electric Corporation through Chinese Investment Bank engaged in TPP Stanari (EUR 550 million) and TPP Banovici (EUR 450 million). Gezhouba Group signed an agreement of funding a new unit in TPP Tuzla worth EUR 722 million and China Africa I&D Group signed agreement with the Republic of Srpska for constructing a new unit in TPP Gacko. In Croatia CNBM company entered in concession of the new bulk of cargo terminal in the Port of Ploce worth EUR 30 million. In Macedonia Chinese companies built Ohrid-Kicevo highway (EUR 375 million) the first hydro power plant outside of China (Kozjak, EUR 172 million) and there are ongoing negotiations to build several HPP worth EUR 1.2 billion. Montenegro has a one big construction project with Chinese CRBC worth EUR 800 million (Bar-Boljare highway) and made MoU with Chinese CPCG for construction of Albania-Montenegro highway (estimated cost EUR 1.72 billion).

---

① Plevnik J., "China's Presence in SEE", Geoeconomic Forum, 2017.

Cooperation between China and the WB, soon after China intensified its foreign policy initiatives (16+1, and Belt and Road) in the region, has gain some headlines in local media and depicted as one of the main shareholders of non-Western investment in the region. Moreover, since it is most commonly channeled through a state-proxy actors it attached critical evaluations and controversies regarding the geopolitical underpinnings of the investments. These interpretations usually present the arguments that can be summed up in two Latin phrases widely popularized in media discourse. First is the strategy of *divide et impera*, which depending on the subject concerned, portrays Chinese influence as breaking up "EU integration consensus" of the WB countries, diverting regional cooperation frameworks or undermining the capacity for the structural development of the regional economies. Second is the *quid pro quo* argument which interprets Chinese investment as directly related with Beijing's strategy to obtain direct political support for its own diplomatic initiatives on international fora or within the EU. Depending on the context, the first is usually interpreted in a more conspiring terms as a comprehensive strategy and second as seeking political favor with the motive ulterior to the WB region. Hence, in the light of the common objections to politically directed investment led by state-proxy actors in the WB, there are several common arguments regarding Chinese investment in the WB. These arguments criticize selective involvement of Chinese state-proxy actors with sub-state actors in the WB, feasibility of Chinese development model in the WB and questions "real" intentions Chinese investors in the region.

(1) Politically selective investment

In the first four years, after the launch of Chinese foreign policy initiatives, most of the WB countries haven't met the potentials in attracting Chinese investment. In fact, Chinese economic presence in the WB region measured in terms of direct FDI and trade balance per capita has been very asymmetrical. As it can be seen from above, Serbia is clearly outperforming other countries in the region, Montenegro, Bosnia and Herzegovina and Macedonia have only recently started to receive Chinese investment, mainly in infrastructure and energy sector, while for Croatia can be said that initial enthusiasm for cooperation diminished into certain fatigue and created "cooperation vacuum"① between expected and achieved level of cooperation. Despite the fact that there are no evidence supporting the claims on Chinese *divide etimpera* strategy, the balance sheet of Chinese investment in the region is alarmingly similar to the Russian Serb-proxy investment. Therefore, there are critical evaluations in the WB emphasizing political selectivity of Chinese investment or even claiming that China with the current investment trajectory and due to high geopolitical determinant of non-Western FDI in the WB in the long run might side with Serbia in regional balance of power and accept Serbia-proxy approaches. The present relations with Serbia-proxy actors that are already in place in the Republic of Srpska could give some hints on this possible trajectory, if we bear in mind that Sarajevo looks suspiciously on any foreign policy activity of the Republic of Srpska, especially those that come via Belgrade and bypass Sarajevo. Even to the extent, China might also bear pro-Serbian mortgage should there be upheavals and spillovers of destabilizing factors in Kosovo regarding the sovereignty issue.

(2) Responsible shareholder or just another free-rider?

Besides insufficient transport infrastructure, the WB chronically lack capital investment in the production and energy sector. The region is not abundant with energy resources, energy supply and capacities are low and energy cost is comparably high. To make sustainable investment in the energy sector one should first (re)build the infrastructure that is necessary for transfer of energy and create supply network which, in order to be profitable, should in most cases go beyond national boundaries. On the other hand, most of the region's pre-war industries are now defunct or disintegrated from the regional market, while only few new (mostly) service-based companies are being present in more than

① Cooperation vacuum (Hezuo Zhenkong), details see Long Jing, "Opportunities and Challenges of the Belt and Road Initiative in Central and Eastern Europe", *International Review*, No.3, 2016.

one country in the region. However, due to the fact that the WB has been highly disintegrated and its political elitesacquired very conflicting strategies towards the processes of political, social and economic re-integration, Chinese pledge to re-build economic cooperation with Eurasian area and to boost trade between the WB countries and the countries along the Silk Route has been received with suspicion at best. Despite encompassing commitment to promote joint infrastructure projects, so far there was only the project of modernization of the Belgrade-Budapest railway that succeeded in doing so. “Bar-Boljare” highway and “Preljina-Ljig” highway section are all parts of continuous Corridor X, yet Montenegrin and Serbian side have made no efforts to coordinate the implementation of these infrastructure projects. The main objection is whether China can be perceived as an responsible shareholder of the comprehensive economic development of the WB or is it acting in a manner that can be described as “free-rider bilateralism” where the regional players found the cost of Chinese driven regional integration as an cheaper substitute for the lack of the European oversight and support.

(3) Involvement with regime actors

As it was pointed out by Zhang Lihua, Chinese investors and contractors face considerable obstacle when certain project or acquisition is pending the approval that comes after complex negotiations with different political actors.[①] The most of the WB countries have coalitional governments and the success in the realization of the particular project depends on highly conflicting actors within the government or parliament while due to geopolitical determinant the political cost for obtaining the consensus is significantly higher than in the rest of the CEE. Additional problem is the fact that in order to obtain political leverage to push some project or acquisition, Chinese investors have to establish the contacts with the local political elite able to “intermediate” their interests tothe key business actors. For some of the political elites in

① Zhang Lihua, The characteaistics, problems and solutions of Chinese enterprises’ Contracting projects in CEEC, China—CEEC Think Tanks Network, July 2017.

the WB, Chinese investment in the region has emerged as lucrative business opportunity, the extent of which is not very well shared with the public and remains mostly non-transparent regarding the approval and the conditions of the implementation. In such circumstances, Chinese investors and contractors are willy-nilly dragged into siding with incumbent political party/ies, pay higher cost to obtain comprehensive understanding on local political cleavages and run the higher opportunity risk in case of regime change or government transfer. Hence, to make some examples, despite very close political relations with Serbia, China should expect relatively more uncertain trajectory in bilateral relations should the ruling SNS lose the elections. Also, some Chinese companies already came into media focus due to the controversial involvement with the incumbent government, i.e. Macedonian "Tapping affair" in 2012; or the hiccups in the project implementation that was not very well communicated with the public, i.e. delay in the completion of Podgorica-Matesevo section of Bar-Boljare highway (Montenegro), Ljig-Preljina section of Belgrade-South Adriatic highway (Serbia).

(4) Long-term regional development minded actor?

The Chinese state-proxy investment and financial assistance through the competitive loan policy suited to the developing countries with difficulties in obtaining the loans on international market came as a rescue for the WB countries during the crisis. The most of the Chinese infrastructure projects in the region are financed by Chinese state banks, such as Exim Bank and the China Development Bank (CDB), which have covered for more than 90% of the projects' value.[①] These loans are mediated by the government's actors and tailored preferential terms in regard to the repayment period (2.5%–3.0% annual rate, long grace period and the repayment between 20 and 25 years). The problem associated with Chinese state-proxy loans is threefold and criticized from the liberal camp as either conducive to state interventionism

① Plevnik J., "China's Presence in SEE", Geoeconomic Forum, 2017.

and reducing the capacity for free market reforms, local clientelism or diminishing the sustainable growth. First, the loan implementation includes a substantial part of the projects to be given to Chinese contractors and suppliers and to have a backing of "sovereign guarantor" for repayment. Therefore, according to some accounts, they are considered as "window of opportunity" for Chinese overgrown construction sector, but also as designed for those countries that either face difficulties obtaining the loans on a "free financial market", are not comfortable with normative conditions of IMF and World Bank, or have no access to European structural funds. Second, the loan conditions makes difficult for local companies to benefit from subcontracting, and due to not very transparent procedures local beneficiaries usually are the companies with connections with the political elite. Third, since the WB region is "investment thirsty" for various infrastructure projects but virtually every can overstretch the debt line of WB economies, there is a more serious discussion on which project should be given priority over the feasibility of the projects itself. In Montenegro, for instance, there was no national or political consensus should the country's first highway be along Corridor X or should "Adriatic-Ionian highway" be built first, especially because the loan overburdened Montenegrin small economy increasing its debt-to-GDP ratio by 23% and the calculated return on investment from the former is longer than the latter.[1] Or, in Serbian case, the modernization of Belgrade-Budapest railway has been the investment with the return pending on the completion of the entire section connecting Thessaloniki (Greece).

In concluding remarks, it would be gratifying to report that non-Western state-proxy investment in the WB created the platform for diversified structure of inward FDI, or brought the fresh opportunity to decrease high dependence on the Western FDI. It might also be significant step forward if the countries in the region would give some considerations to a common multilateral approach in attracting internationalized FDI. Unfortunately, neither has yet come true

① Jakubowski J., "Beijing's Mistaken Offer", Policy Paper, OSW, 2017.

yet. It has been increasingly apparent that the WB is the region that is the most "comfortable" with politically motivated investment and that the WB economies have not developed capacities to defy geopolitical determinant to attract FDI. In the post-crisis period, much of the non-Western FDI remained politically controversial, raised critiques from liberal camp and with some exceptions hasn't much contributed to the local economies. If for Chinese investment can be said that dwells on the fine line between the "typical" non-Western political investment and pro-development investment, as state-proxy and politically dependentit is bound to attract the suspicions which in local media and public opinion are usually ascribed to non-Western investors.

Chinese FDI in Hungary — Experiences and Challenges

Peter Goreczky*

1. Introduction

In the wake of political and economic changes of the 1990s, Hungary, similarly to other Central and Eastern European countries, did not consider Chinese relations as a field of priority in external economic policy. The recovery of bilateral relations commenced with the visit of the Hungarian Premier in Beijing in 2003. The global financial crisis of 2008 stimulated further changes as it had a serious effect on the European Union's economies. Crisis management strategies implemented by Brussels and the member states did not function and economic growth of Western countries fell back permanently. The crisis had negatively affected China as well, nevertheless, its economy continued to grow at a rate still significantly higher compared to the EU average. As a consequence, the economic relations with China became more appreciated from the perspective of Hungary and other Central European states. In the spirit of reviving economic ties, the first China—Central and Eastern Europe Business Forum was held in Budapest in July 2011. As for China's flagship external economic project, Hungary has been a keen supporter of the Belt and Road Initiative from the first day. In Central and Eastern Europe, the Hungarian government was the first to sign a memorandum of understanding in June 2015 declaring to support the implementation of the initiative with all efforts. Altogether, the remarkable improvement in political relations created a perfect base for attracting more Chinese companies as investors into the country.

* Senior analyst, Institute for Foreign Affairs and Trade.

Nevertheless, the share of Chinese capital in total FDI stock in Hungary and the Central and Eastern European region is still relatively small. However, a growing demand for attracting Chinese investors could be perceived nowadays throughout the region. In case of Hungary, Chinese multinational companies saved or created jobs in a period when it had been declared as a strategic goal by the government to increase drastically the level of employment and to become the manufacturing centre of the region.

The chapter aims to analyse the characteristics of Chinese foreign direct investments in Hungary. Following the brief overview of the Hungarian investment environment, the main part of the paper describes the investment activity of major Chinese companies in Hungary, including the largest Chinese FDI project in the whole region, and evaluates future challenges, risks and difficulties.

It is important to note that the chapter focuses exclusively on FDI related investments, infrastructure related projects are not subject to the analysis.

2. Hungary as an Investment Location

A favourable geographic position in the heart of the continent is one of Hungary's main attractions concerning the foreign direct investment projects. Being one of the major transport junctions in Central and Eastern Europe, the country is an ideal location for regional distribution centres. Being traditionally a bridge between East and West, the country aims to be the gateway to the European Union for companies from Eastern countries. Its geographic location makes the country a favourable base for accessing the growing markets of the region.

The fact that Hungary has one of the highest road densities in Europe is also a significant competitive advantage. The country has an extensive railway network, which is also a strong argument for the potential investors in logistics. Scheduled block trains run to Europe's main seaports. Záhony, the Hungarian border city plays a significant role in the East-West rail transport: this is where the European standard gauge railway network meets the eastern broad gauge system.

The well-qualified and cost-effective labour pool is also a factor that increases Hungary's international competitiveness. Wage differences are still remarkable compared to Western European countries. A new labour code was introduced in 2012 in order to create a legislation that reflects the latest trends on the labour market.

The principles of the Hungarian taxation system are similar to those in Western Europe. A single-rate personal income has been applied since 2013, being 15% currently. The Hungarian system of corporate taxation has become highly competitive through a tax rate of 9%, which is the lowest in the European Union. In line with the EU legislation, Hungary offers a wide range of tax allowances and cash incentives for companies implementing FDI projects in the country.

Protections for property and investment is distinctly developed in Hungary. *The Foreign Investment Act of 1988* grants full protection to the investments and businesses of non-Hungarian resident investors and guarantees that non-Hungarian investors will be treated in the same manner as Hungarians.

Besides all these general characteristics, there are also some specific elements that boost the attractiveness of Hungary from the perspective of Chinese investors. The largest Chinese population within Central and Eastern Europe lives in Hungary, which is undoubtedly a notable advantage when developing political, economic and cultural relations with China. According to the latest data of 2017 from Hungarian Gentral Statistical Office, there are 19,111 Chinese citizens living in Hungary, representing 12.6% of the total number of foreign citizens in the country. Having a good command of Hungarian and Chinese language skills, they provide a potential labour pool for mainland Chinese companies investing in Hungary. Availability of international or bilingual schools is generally an important "soft factor" in selecting the investment location. The foundation of the Chinese-Hungarian Bilingual Elementary School (2004) in Budapest represented an essential milestone of the bilateral relations. The school can arise the interest for Chinese investors as it provides quality education for expat children. Finally, the opening of the first regional branch of the Bank of China in Budapest was clearly a result attributed to Hungary's attractiveness and it has always been the symbol of Sino-Hungarian cooperation. Through a spill over effect, the presence of Bank of China has a positive influence on Chinese companies' decision-making when evaluating Hungary as an investment location.

Declared by Chinese Ambassador Tuan Chie-lung at the opening ceremony of BYD's production plant in Hungary, Chinese companies have invested so far USD 4.1 billion in the country and created 7,400 jobs altogether.[①] With this accumulated investment value Hungary has far the highest stock of Chinese FDI in the region.

3. Wanhua Acquisition—The Flagship of Chinese Investments

The Wanhua Chemical Group, established in 1998 is the largest polyurethane raw material (MDI) producer in the world. From the very beginning, the company was determined to compete with US-based and German multinationals like BASF or Huntsman. Today, the company employs a staff of more than 10,000 in 23 locations worldwide and achieved a revenue of USD 6 billion in 2016.

Prior to the global financial crisis of 2008, Wanhua had already been evaluating the possibility of establishing a new manufacturing base in Europe through a greenfield investment. The original plan was to construct a chemical facility in the Netherlands, however, as a consequence of the global economic downturn the company shifted its strategic focus from organic growth to mergers and acquisitions. Leading Hungarian chemical company, BorsodChem with production sites in Hungary, Poland and the Czech Republic appeared to be an ideal target for acquisition. The company had been struggling with severe

① Kormany.hu, "BYD Opens Electric Bus Factory in Komárom", 2017, http://www.kormany.hu/en/ministry-of-foreign-affairs-and-trade/news/byd-opens-electric-bus-factory-in-komarom.

financial problems; therefore, the management was open to an agreement that would secure the future operations for one of Hungary's largest employers. In 2011 Wanhua acquired through a USD 1.6 billion deal a 96% stake in the Hungarian regional multinational, creating the third largest isocyanate producing company in the world and it was the largest Chinese investment in Europe in that year. Backed by a syndicate led by Bank of China, Wanhua highlighted that the deal could serve as a "beacon" for further Chinese investment in the region.[1]

Basically, there were two main reasons behind the Chinese company's decision. Firstly, that by the acquisition Wanhua gained possession over an adequate manufacturing capacity in one of its key markets—Europe. Secondly, Wanhua could also gain access to BorsodChem's sales network in the European Union which sweetened the deal further from the Chinese company's perspective. The opportunity for acquiring manufacturing capacity and distribution channels at the same time proved to be the winning combination. Prior to the final decision, Wanhua had evaluated other candidate locations in the region as well, however, the comparative advantages and the investor friendly business climate of the country resulted in a decision in favour of the Hungarian company.

In the official announcement, Wanhua declared that the deal would turn the two corporations from regional players into one global company.[2] BorsodChem was designated to be responsible for all European operations of the Chinese company. The management of BorsodChem declared that through the acquisition it gained access to Asian markets and came by the opportunity to strengthen business ties with customers of Wanhua in Europe.[3]

① Bryant, Chris, "Wanhua takes Full Control of BorsodChem", *Financial Times*, 2017, https://www.ft.com/content/1aadca66-2e2e-11e0-8733-00144feabdc0.

② Ying, Wang, "Wanhua Industrial turns Gaze to Europe", *China Daily USA*, 2011, http://usa.chinadaily.com.cn/epaper/2011-02/11/content_11984445.htm.

③ Borsodchem-group.com, "Wanhua Acquires Full Control of BorsodChem", 2011, Available from http://www.borsodchem-group.com/News--media/News/Wanhua-acquires-full-control-of-BorsodChem.aspx?lang=en-GB.

Realizing the supportive environment on all levels, in 2013, Wanhua decided to launch the Sino-Hungarian Industrial Park project. The initiative targets the attraction of further Chinese companies into the industrial park in Northeast Hungary where BorsodChem operates. As a sign of commitment, the Hungarian government and BorsodChem signed a strategic partnership agreement in Beijing in 2014. In the document, the chemical company declared its intention to seek opportunities for expansion and creating further jobs while the owner, Wanhua proclaimed to use its resources and influence to attract further Chinese investors. At an operative level the Hungarian government provided support for Wanhua through the consultancy services of the Hungarian Investment Promotion Agency (HIPA). Being dedicated to assist foreign investors in Hungary, HIPA created an excellent cooperation with the company's local management, and provided high quality support in negotiations on incentives and operative issues like setting up meetings with state secretaries, communication with relevant authorities or municipalities and finding adequate suppliers.

Between 2011 and 2016, Wanhua spent an additional EUR 400 million on cash flow supplement and capacity expansion in its Hungarian subsidiary. Production capacity of BorsodChem was doubled by transferring technology from China to the Hungarian site. As a result, in 2014 the company generated profit for the first time following the acquisition. The year of 2016 was also an important milestone in the company's transformation process as the company completed the most successful business year in its history with a consolidated sales revenue of EUR 1.2 billion. The company has clearly become a healthy cash generator with an EBIDTA exceeding EUR 250 million, representing a 50% increase compared to the previous year.[①]

As a sign of commitment, it is the clear intention of Wanhua to locate more investments in its Hungarian subsidiary in the future as well. Europe is still

① Napi.hu, "Ilyenéve volt a Borsod Chemnek—változások a vezetésben", 2017, http://www.napi.hu/magyar_vallalatok/ilyen_eve_volt_a_borsodchemnek_valtozasok_a_vezetesben.627091.html.

expected to be a key market for the chemical company; therefore, the continuous expansion of manufacturing capacity in Hungary will remain high on the agenda. The latest investment project launched by BorsodChem in 2016 targets the establishment of a new chloride facility in a value of EUR 114 million.[①]

It is important to highlight that the presence of Wanhua in Hungary is entirely in line with the external economic strategies of both countries. From the Chinese side, the Belt and Road Initiative of President Xi Jinping provides a strong base for Wanhua to expand its operations further in Hungary, while the "Opening to the East" policy, launched by the Hungarian Premier Viktor Orbán created a climate where Chinese investments became most welcome.

All in all, Wanhua considers the cultural fusion to be the most significant achievement of recent years as the unity of Chinese leaders and the 2,700 local colleagues is a key to the successful operation of BorsodChem.

Wanhua has also realised the synergies of cooperating with other Chinese investor companies in Hungary. Huawei, a leading ICT company with a well-established presence in the country is a perfect partner in terms of expertise for Wanhua. In July 2016, Huawei Technologies and Wanhua-BorsodChem concluded a strategic agreement on raising the level of technology of the Hungarian production to the highest possible degree. According to the agreement,Wanhua establishes its regional info-communications centre in Hungary. Cooperation between the two Chinese companies will also introduce a state-of-the-art production technology based on big-data, cloud-based technology and communication between machines. The agreement is expected to serve the joint achievement in their business development goals and also means that Wanhua and Huawei reinforce their commitment to social involvement and training professionals in Hungary.[②]

① Origo.hu, "Nem állnak le—óriás beruházással nyomul a BorsodChem", 2016, http://www.origo.hu/gazdasag/20161004-nagyon-kemeny-verseny-folyik-vilagszinten-a-vegyipari-oriasok-kozott-es-ebben-ott-van-a-borsodchem.html.

② Braun Gábor, "Strategic Cooperation Between Huawei and Wanhua in Hungary", *Central European Financial Observer*, 2016, https://financialobserver.eu/recent-news/strategic-cooperation-between-huawei-and-wanhua-in-hungary/.

4. Other Major Chinese Companies in Hungary

It is definitely worth taking alook on the activities of other major Chinese investor companies in Hungary as there are similarities and differences as well when compared to the presence of Wanhua.

The Hungarian subsidiary of Wescast Industries, established in 1999 manufactures machine tools in its production facility located in Northwest Hungary. In 2013, Chinese Bohong Group acquired Canadian Wescast Industries and gained possession over the Hungarian manufacturing site as well. Bohong Group is a company of diversified profile with main activities being focused on the production of automotive parts. Following the acquisition, the new Chinese owner confirmed the strategic development plans of the Hungarian subsidiary while the local management continued to be in charge of operative daily issues. The company employs more than 2,000 people in Hungary. When signing a strategic cooperation agreement with the Hungarian government in May 2017, it was announced that the company implemented an investment project of HUF 9 billion (ca. EUR 30 million), representing the largest Chinese investment ever in the Hungarian automotive industry.

Yanfeng Global Automotive Interiors is a leading Tier 1 supplier of cockpits, instrument panels, door panels, floor consoles and overhead consoles for the automotive industry. The Shanghai based company employs more than 33,000 people worldwide. Besides the regional headquarters in Germany, the company is present in Hungary, the Czech Republic, Italy, Slovakia and Spain within Europe. The company acquired its two Hungarian manufacturing sites from the US-based company Johnson Controls. Located in the same municipality the two production sites manufactures consoles, door panels and engine parts. The company employs a staff of ca. 1,600 in Hungary.

On 5 April 2017, Chinese company BYD announced the opening of its first European production plant located in Hungary. According to the official announcement, the factory will manufacture four hundred electric buses per year and will employ a staff of 300 people.① The company is traditionally engaged in the manufacturing of rechargeable batteries, while in Europe the production and sales of electric buses are in the focus of its business.

A key element of BYD's strategy is to meet local demands through a local presence. Therefore, the main motivation behind the decision on establishing the new manufacturing plant is to respond to the increasing demand on the European market. However, at the opening ceremony it was announced that in addition to the Hungarian one BYD was planning to establish several other production plants in Europe. As a sign of aspiration, less than two weeks before the ceremony the company reported the acquisition of an eighty thousand square metre site for another bus manufacturing plant to the north of Paris.

In case of the EUR 20 million investment project the answer for the ultimate question, "Why Hungary?", was given by Isbrand Ho, Managing Director of BYD Europe. At the opening ceremony Mr. Ho explained that BYD chose Hungary as a site for its new factory because of its central location, its long tradition of engineering excellence and strong heritage of bus making in the immediate area. He also confirmed that the Hungarian government was trying to re-establish this industry and the company was proud to be at the forefront of this movement.②

Besides the officially declared motivation, the fact that in Hungary BYD had already possessed a facility being suitable for manufacturing was undoubtedly a strong argument as well. Actually, the company has already been present in Hungary since 2005. Located in the neighbourhood of Nokia Plant, the company manufactured mobile phone parts for the Finnish IT company. Following the closure of the Nokia plant in 2008, BYD also dismantled its production unit, however, it retained its facilities. In the

① Leung, Bo, "BYD Opens Electric Bus Plant in Hungary", *China Daily*, 2017, http://www.chinadaily.com.cn/business/motoring/2017-04/06/content_28812640.htm.

② Hipa.hu, "BYD Opened Its First European Electric Bus Factory in Komárom", 2017, https://hipa.hu/byd-opened-its-first-european-electric-bus-factory-in-komarom.

framework of the investment project BYD plans to re-launch production in the existing facilities.

Although, the company cannot be enumerated among the largest employers in Hungary, Huawei Technologies is still an emblematic Chinese investor in Hungary. The local subsidiary, established in 2005 is engaged in the wholesale of telecommunication equipment. The significance of Huawei's presence is mostly due to the fact that the company operates its European logistics centre in Hungary, in the proximity of Budapest. As a sign of intention to contribute to the future of telecommunication in Hungary, the company has signed a memorandum of understanding with the Széchenyi István University on a long-term educational and research cooperation. As described in the previous chapter, the company concluded a strategic cooperation agreement with Wanhua, which is a bright example of synergies between the activities of two major Chinese investors in Hungary.

5. Homework for the Future: Challenges and Risks

Attracting FDI projects and creating jobs were the top priorities of the Hungarian external economic strategy in the last couple of years. Decision-makers have made efforts on improving the investment environment in order to attract foreign companies' manufacturing activities. Potential Chinese investors received an intensified attention in line with the "Opening to the East" policy declared by the Hungarian government. However, these investment promotion efforts resulted in an increased number of successful projects and a drastic drop in the unemployment rate, as a consequence.[①] Naturally, substantial disparities can still be observed when comparing the more developed Western regions and the Budapest metropolitan area to the north-eastern and southern parts of the country. Nevertheless, the availability of skilled labour force in general is

① According to the data from Hungarian Central Statistical Office, May-July 2017, an unemployment rate of 4.2% was recorded in Hungary.

already an issue and is going to be the key challenge for any foreign investor, including Chinese companies. Realising the labour market trends the Hungarian government has already introduced measures to stimulate labour mobility, yet the effectiveness of these actions remains to be seen. Meanwhile, manufacturing companies are reporting the continuous expansion of their catchment areas, extending to neighbouring countries in some cases. Nevertheless, it is important to note that not only Hungary but other countries in the region are reporting historic low unemployment rates as well. In order to address this challenge, Chinese investor companies—corporates with well-established presence in Hungary and newcomers as well—have to cooperate closely with the local vocational training schools, universities and the government itself.

Today, it is an evidence that competition for foreign direct investments in Central and Eastern Europe is stronger than ever and this is particularly true in case of Chinese companies. As the "16+1" cooperation proceeds, Chinese investors are in the focus of investment promotion efforts of several countries in the region. Hungary still has the highest stock of Chinese FDI in the region, nevertheless, there is a number of candidates for being the "Gateway to Europe" and the assigned regional hub for Chinese companies. Playing in the same league, countries like Serbia, Romania or Bulgaria are characterised by lower average wage levels compared to Hungary, making these countries more attractive for manufacturing projects.

When it comes to making a decision on investment location the availability of incentives is always a crucial issue. Being a member state of the European Union, Hungary can offer cash subsidy and tax allowances for FDI projects in line with the EU legislation. In certain cases, this results in the lack of flexibility regarding the incentive package that can be offered by the government. Non-EU countries evidently have a comparative advantage in that terms. States in the Western Balkans are actively engaged in the "16+1" cooperation with China and are focusing significant efforts on attracting Chinese investment to their territory. Superior flexibility in offering incentives combined with lower average wage levels and higher unemployment rates make these countries strong competitors from Hungary's perspective.

In general, discovering the most effective way of promoting Hungary as an investment location to Chinese companies is a great challenge itself. Numerous difficulties resulted from the lack of information and experience have emerged in previous promotional attempts in the past. Traditionally, Hungary's major partners regarding external economic relations are European countries; building investment relations proactively with China can be still considered as a relatively new issue. In this aspect, mergers and acquisitions fall into a different category as the success of such deals is generally not influenced by the local governments' investment promotion efforts. Lack of information also concerns adequate knowledge on major Chinese companies of the relevant economic sectors. National investment promotion agencies traditionally focus on selected industries. Therefore, information on the key players of a given sector is crucial when identifying the target companies. Due to the size of the country, the rapid development and huge number of its enterprises, in case of China it is still very difficult to identify those companies which could be deeply interested in Hungary as an investment location. The same applies to identifying the relevant exhibitions and business events in China where the Hungarian investment environment could be effectively introduced. All these difficulties hinder the preparation and successful implementation of tailor-made and targeted investment promotion actions like roadshows, workshops or business seminars.

Language problems and barriers in understanding the partner's expectations and motivations can also inhibit successful negotiations on investment projects. This may lead to mutual frustration imposing a risk on the expansion of Chinese companies' investment activity in Hungary. In contrast to Western companies, in many cases Chinese partners are in early stages of business planning when arriving to Hungary to contact relevant governmental bodies. The lack of matured investment plans is a major obstacle to successful cooperation and makes it difficult for the Hungarian partners to provide effective assistance. As mentioned before, the political level strongly supports the enhancement of Chinese investments in the country. Nevertheless, there is no official strategy at present from Hungary's side on the development of investment relations with China. In general, it is a key target declared by the governing politicians that Hungary should develop to be an ideal location for research and development activities and to be able to offer the most attractive and favourable investment environment in Europe. This assumes that companies should consider Hungary not exclusively as a location for manufacturing but also as a place for innovation. That means a transition from "Made in Hungary" to "Invented in Hungary". In order to achieve these goals the country should capture investment projects of higher added value. More specifically, this means knowledge-intensive industries, advanced technology manufacturing, shared service centres of complex activities, and research and development centres. The attraction of such projects could boost Hungary's catch up to countries of high income. The question is whether Chinese market-seeking investment projects can fit into this vision and serve the attainment of this strategic goal. The enhanced cooperation with local universities and research institutes could stimulate Chinese companies to locate activities of higher added value to Hungary.

Risks may arise from the Chinese side as well. In 2016, Chinese companies invested EUR 35 billion in the European Union countries, representing a 77% increase compared to the previous year. The pattern of Chinese FDI in 2016 shows that investors were seeking opportunities to upgrade technology and to gain access to brands and other strategic assets. These goals resulted directly in a shift back to the most developed Western European economies as in 2016 Chinese investors re-focused on countries like Germany, UK and France. Despite the "16+1" cooperation, the Central and Eastern European countries were lagging behind in terms of attracting Chinese FDI.[①] There is a risk that this trend is going to prevail in the near future resulting in a perception from Chinese investors that Central and Eastern Europe is the assigned place for infrastructure investments while added value seeking projects should be implemented exclusively in Western Europe.

Last year's record flow of Chinese investment into the European Union may

① Hanemann, Thilo and Huotari, Mikko, "Record Flows and Growing Imbalances", MERICS papers on China, 2017, https://www.merics.org/fileadmin/user_upload/downloads/MPOC/COFDI_2017/MPOC_03_Update_COFDI_Web.pdf.

generate further risk for future projects. There are signs already that growing concerns about capital outflows force Chinese regulators to tighten the review of outbound investments. So far, restrictions have concerned only industries that are irrelevant from the perspective of Hungary's FDI attraction,[①] however, uncertainty may have an effect on outbound FDI from China in general.

6. Conclusions

When summarizing the characteristics of the presence of major Chinese investors in Hungary, the first that strikes is the dominance of acquisitions. However, Chinese companies typically do not operate with greenfield investments when entering the European markets, and Hungary is not an exception to this investor's attitude. In case of the acquisition of BorsodChem, Wanhua had been searching for the best form and location of a European investment for years and managed to identify a target company that ticked all the boxes: adequate manufacturing capacity, access to European markets, established sales network and willingness for the deal due to financial problems. Ever since positive financial results and continuous expansion projects proved that both companies have made the right decision. In contrast, Bohong Group and Yanfengdid not carry out a long location search process like Wanhua, rather they acquired Hungarian manufacturing capacities through company mergers and transformation. In case of BYD, the possession of an existing but not utilized production facility was the special argument for voting for Hungary. As Huawei operates a regional distribution centre, the main motivations behind its Hungarian presence are evidently the favourable geographic location and the connection to the European transportation network.

It is also an interesting feature that the regional role of the Hungarian manufacturing sites of these companies vary industry by industry. Wanhua

① Bloomberg, "China Codifies Crackdown on 'Irrational' Outbound Investment", 2017, https://www.bloomberg.com/news/articles/2017-08-18/china-further-limits-overseas-investment-in-push-to-reduce-risk.

selected Hungary as the location for its manufacturing activity for whole Europe because in the chemical industry companies do not have to tailor their products to each market. The case of BYD is completely different as the company produces electric buses not isocyanate and intends to meet local demands through a local presence. Therefore, besides the Hungarian site the company plans to establish a number of further manufacturing units in Europe. Yanfeng being an automotive interior parts producer considers the proximity to customers important; therefore, the company also operates several other European sites outside Hungary. The situation for Huawei, which is engaged in logistics in Hungary is different, since the company can easily supply the continent from the distribution centre located close to Budapest.

In case of all of these companies the strong support from the Hungarian government created a solid base for the operation and further expansions. As a sign of commitment the government has signed strategic partnership agreements with six Chinese companies operating in Hungaryso far. At the same time the presence of Bank of China's regional branch also contributes to the stable environment for these companies. The BorsodChem deal, when Wanhua was financially supported by the Bank of China, is a good example of this.

As for the future, the reference of these companies gives reason for optimism. However, the manifold challenges and risks may concern the increasing number of external competitors. The intensified shortage of skilled labour is definitely the number one challenge that has to be addressed in order to attract further Chinese investments. Exploring new industries and activities as potential fields of investment can be a good initiative. The establishment of the China-CEEC Traditional Chinese Medicine Centre in Budapest cannot be considered a large scale FDI project but still it is an interesting initiative. In July 2017, Chinese Vice-Premier Liu Yandong attended the ground-breaking ceremony for the new building of the Semmelweis University's Faculty of

Health Sciences in the capital.[①] Moving up the global value chain is given a high priority in the economic policy of both countries.

Extended cooperation in research and development and the launch of related FDI projects can be a way of developing investment relations of mutual benefits in the future.

① Xiaoxun, Lei, "Vice-premier at Groundbreaking for TCM Center in Hungary", *China Daily*, 2017, http://www.chinadaily.com.cn/kindle/2017-06/20/content_29813489.htm.

Private Chinese Outbound Investments versus State Contracts in the context of the CEE 16+1 : Case of Romania

Andreea Leonte*

Romania has long been at the top of the list of favorite destinations for Chinese outbound investment. In one of China's earliest Outbound Foreign Investment Catalogs of 2004, which indicated the most attractive countries and sectors for Chinese capital outflows, Romania ranked first, on par with Germany and closely followed by Poland, Czech Republic and Hungary. Against this background of very promising odds, Romania did not take advantage of the momentum and has failed to come up with a coherent strategy to match up China's enthusiasm and readiness for increasing mutual economic cooperation. Instead, it had focused all its attention on acquiring NATO and EU membership. Another auspicious moment was that of 2013, when a Chinese delegation of high officials and businessmen came to Romania to discuss about and create new opportunities for economic cooperation.

Up to this point however, a significant Chinese presence on the Romanian market has not yet been established. Some of the oldest and most discussed projects in bilateral meetings were either projects of infrastructure development (e.g. building a high-speed rail line, connecting major cities through a highway network, etc) or projects relating to energy production, such as upgrading, building or extending existing power plants. Among them can be mentioned the Cernavodă Nuclear Power Plant project consisting of building reactors 3 and

* The Romanian Institute for the Study of the Asia-Pacific (RISAP).

4 and the initiative to build a hydroelectric power plants in Tarniţa-Lăpuşeşti, or the Rovinari coal-fired power plant. All these ambitious projects inherently included contracts with the state, whose negotiation proved to be extremely cumbersome, spanning over many years. As a result, none of these initiatives was finalized. On the other hand, there are several successful examples of private Chinese investment in Romania, such as the acquisition of Rompetrol by CEFC China Company Limited. Another high caliber investor was the Huawei regional center, which is said to have reached now close to 1000 employees.

Thus, it appears that private investments have had better odds of being successful in Romania, rather than private-to-state and state-to-state businesses. This fact is of high importance and it may imply the need for a change of perspective from China's standpoint when it comes to planning new investments in Romania, as well as in other CEE countries.

This paper will start by providing a brief overview on the fundamentals of China-Romania relations within the CEE 16+1 framework and will analyze the advantages of investing in the private sector, rather than in sectors or projects where the state is the leading actor.

Keywords: China-Romania relations, Chinese investments in Romania, the 16+1 format, state to state investments, private Chinese investments

The Fundamentals of China-Romania relations within the CEE 16+1 framework

When China launched the "16 + 1" format in 2012, as a tool to stimulate and increase the economic and cultural exchanges within the group, Romania was among the countries invited to join. In the light of their old friendship ties cultivated during the last decade, there was a strong mutual belief that the new framework will bring about a new vigor in the Sino-Romanian bilateral relations.

When the People's Republic of China was established on 1 October 1949, Romania was the third state to recognize and support its legitimacy. After this landmark event for modern China's history, the two countries have developed a relationship of mutual support and cultural exchange. Many young Chinese have been sent to study the Romanian language in Bucharest, as well as to work on other projects throughout the country. The Chinese president at that time Jiang Zemin himself came to Romania in 1970 and worked for a year as a specialist in the mechanical field. Later on, in 1971, the Romanian president at that time, Nicolae Ceaușescu went on an official visit to China and enjoyed a very warm public reception.

Following the 1989 Revolution, Romania has drifted its attention westward, seeking integration with the West. Although its policy toward China has never really changed, it may seem that the two countries have chosen to focus on nearer and more immediate concerns. Romania had made intense preparations to apply for NATO and EU membership, which it has successfully acquired in 2004 and 2007, respectively, whereas China has slowly opened up its market to the outside world and has prepared for its accession to the WTO. After many years of preparations and negotiations, China was granted WTO membership on 11 December 2001. This was seen by many as a milestone in its opening-up policy.

After a decade of spectacular economic growth that had astonished the whole world, in which it had amassed massive amounts of foreign reserves, China has decided, with the entry into the new millennium, that it was its turn to "go global" and invest abroad. If at first there were certain doubts regarding China's proficiency as a foreign investor on the Western market, today nobody doubts any more that China has proven itself a worthy competitor, although the world didn't always approve of its manner of conducting business.

The launch of the CEEC 16+1 platform in 2012 had prompted China to assume leadership and responsibility on a whole new level. Although the call for cooperation was expressed in a very open and inclusive fashion, everyone was expecting to see China drawing the outline of this new partnership. Without a coherent strategy from its part, no one could be sure that all the actors involved were pointing in the same direction.

Private vs. Public Chinese investments in Romania

For Romania, the CEEC platform represented a renewed chance to redefine and relaunch the bilateral economic cooperation with China, in the form of investment and trade. The Romania’s prime minister at that time, Victor Ponta, welcomed his Chinese counterpart, Li Keqiang, in Bucharest in 2013, on the occasion of the CEE 16+1 second summit. The two have discussed about new methods of deepening the bilateral cooperation and have agreed that they need to further deepen cooperation in economic, trade, financial banking, infrastructure construction, energy, agriculture, alongside with science and technology, telecommunications, information technology, environmental protection, tourism and other sectors.[①] This statement was followed by the signing of several bilateral documents touching upon the implementation mechanisms that could be used to achieve these common aims. The two parties pledged to take all the necessary steps to create a better business environment in the two countries and to exploit the conditions and possibilities of cooperation offered by the development of their countries' economies.

Everyone expected and was eager to read about ambitious joint projects that would benefit both economies. The expectation didn’t fall short of the reality.

At the meeting of the two heads of government, eight memoranda of understanding were signed, as follows[②]:

1. A Memorandum of Understanding between the Romanian Energy Department and the National Energy Administration of

① See http://gov.ro/en/news/joint-declaration-by-the-government-of-romania-and-the-government-of-the-people-s-republic-of-china-on-deepening-bilateral-cooperation-in-the-new-circumstances#null.

② The official source in Romania for these data is: http://stiri.tvr.ro/guvernele-roman-i-chinez-au-parafat-mai-multe-acorduri-si-memorandumuri-de-intelegere_37569.html#view.

China for cooperation in the field of nuclear projects.
2. Letter of intent between Nuclearelectrica Romania - China General Nuclear Power Corporation (CGN)
3. An agreement for the rehabilitation of groups3 and 4 of the thermoelectric power plant Deva,[①] Romania. The memorandum was a signal between the Hunedoara Energy Complex, Romania and China National Electric Engineering Co.,
4. Cooperation agreement for the realization of the thermoelectric project in Rovinari - Oltenia Energy Complex.
5. Letter of comfort for the project Tarniţa Cheap Lăpuşteşti.
6. Memoranda of Understanding on the promotion of investment co-operation and the elaboration of a feasibility study for the establishment of a joint technology park.
7. Two Protocols of Agreement in the Sanitary Veterinary field between The National Sanitary Veterinary and Food Safety Authority in Romania (ANSVSA) and AQSIQ[②] on the export of bovine animals for breeding in R.P. Chinese and export of frozen pork in R.P. China.
8. Agreement to launch a Cultural Program in the period of 2013-2016 between the two countries and the Agreement on the Establishment and Functioning of the Romanian Cultural Institute in Beijing and the Chinese Cultural Center in Bucharest.
9. Memorandum of Understanding between the Ministry of Information Society of Romania and Huawei Technologies Co.Ltd
10. Agreement between Mingyang Wind Power Group and Romanian Păunescu Corporation for investments in wind power plants and export equipment.

① Thermoelectric Deva is a subsidiary branch with legal personality within the Romanian state owned company Termoelectrica.

② AQSIQ is the Authority for General Administration of Quality Supervision, Inspection and Quarantine of the People's Republic of China (AQSIQ). As per the information on its official webpage, AQSIQ is a ministerial, administrative organ directly under the State Council of the People's Republic of China in charge of national quality, metrology, commodity inspection, entry-exit health quarantine, entry-exit animal and plant quarantine, import-export Food safety, certification and accreditation, standardization, as well as administrative law-enforcement. For more information visit: https://www.aqsiq.net/what-is-aqsiq.htm.

As we can see, 90% of these memoranda of understanding were between state-owned companies from the two states. Moreover, they were not binding to none of the two parties, who retained the privilege of choice regarding the terms and conditions for each joint project.

It is worth noting that some of the above projects listed in these memoranda date back to the period of Communist Romania, before 1989. A good example is given by the two large energy projects mentioned above, the Tarniţa-Lăpuşteşti hydro power plant, a project worth over 1.1 billion euros, and the project for the construction of nuclear reactors 3 and 4 from the nuclear power plant in Cernavodă, estimated at 6.4 billion euros. Both projects were initiated by the communist regime in Romania, but were not completed up to date.[1] The main reason was that these two projects needed a massive capital investment and so far the most interested and willing to undertake the projects were the Chinese investors. However, the representatives of the two governments that have been commissioned with the negotiation of the terms and conditions of the final contract have failed to reach a common denominator on the terms of collaboration, even to this day.

Another major project referred to the construction of a new 600 MW power plant in Rovinari. In a feasibility study, it was subsequently estimated that the total value of the project would amount to over 800 million euros. China's Huadian Engineering will be in control of the majority of shares: 91,06%, with an investment of EUR 254.3 million, representing 30% of the total project value, whereas CE Oltenia will retain the remaining 8.94%, of which 2% will be ceded by China's Huadian Engineering free of charge.[2] The Romanian investment is estimated to EUR 18.95 million. The remaining funding needed to achieve the project will be obtained through loans contracted from third parties (financial-banking institutions).

Its completion was scheduled for 2019, and the total lifetime of the project

① http://www.capital.ro/download?id=192054.

② http://www.gorj-domino.ro/chinezii-si-au-infiintat-firma-in-romania-pentru-a-construi-grupul-energetic-de-rovinari/.

was estimated at 30 years, with a cost amortization period of about 12 years. 2 years after the signing of the MoU, an advisory body was established – China Huadian Engineering Romania, whose business activity consisted of providing business and management consultancy to the future Chinese – Romanian investments. Since then, no significant progress has been made, on the contrary, the two partners seem to be still in the process of negotiating the terms of their joint collaboration.

Another ambitious project in the Energy field was Romania's Mintia-Deva thermal power plant. The project consisted of refurbishing the Unit 4 at Deva thermal power plant, and also developing the necessary facilities for the operation of Units 3 and 4 of the power plant. The project, with an estimated value of 271 million USD[1], was broadly discussed during the visit conducted by the Romanian Prime Minister in China in 2014. A year after Chinese Premier Li Keqiang visited Bucharest, the two heads of government met again in Beijing and reaffirmed their mutual interest in strengthening bilateral relations and raising them to the level of a strategic partnership. The discussions also approached certain infrastructure projects, including the creation of a high-speed train on the Bucharest-Iași route, with an extension to Moldova.[2] About this last project though, not much has been echoed in practice since then.

As we can see, despite the general enthusiasm with which these projects were received at first, none of these projects in the energy sector has been successful until now. It is true that their large scale in terms of capital investment and future implications for Romania's economy and environment have caused negotiations to last longer than was initially anticipated. However, the fact that no significant progress has been made to show that these projects are still viable and achievable within a reasonable time frame has led to a decline in the initial enthusiasm. The reasons why the Romanian state did not

① http://govnet.ro/Energy/Economics/China-electric-engineering-corporation-to-refurbish-the-thermal-power-plant-at-Deva-Mintia.

② Annual Report of the Ministry of Foreign Affairs of Romania, 2014, p.30, https://www.mae.ro/sites/default/files/file/anul_2016/2016_pdf/2016.01.22_raportul_anual_al_mae_2014.pdf.

fully agree so far on the terms and conditions for the joint realization of the projects are currently unknown due to the secret nature of the negotiations. That is why it is difficult to estimate whether and when these projects will be carried out. Even so, it is too early to conclude on the success or failure of these initiatives. It remains to be seen what will happen in the coming years, during the mandate of the current government, if the negotiations will be fruitful or will stand still.

With regard to infrastructure investments, several projects have been speculated over time. When China launched the Belt and Road Initiative in 2013, it was seen in its incipient phase as a massive infrastructure project that aimed to build connectivity corridors in the form of highways and maritime routes linking Asia to Europe. One of these routes would have supposedly crossed Romania from south to north, linking the capital Bucharest with Iasi, the largest city in the eastern part of the country, and continuing in the north direction to the final destination. Moscow[①] After more than 5 years since it's initiation, the Belt and Road Initiative no longer seem to follow the pattern that was initially depicted on the Eurasia's map: the Old Silk Road. On the contrary, not only did BRI not limited itself to a number of countries that were once crossed by the old silk route, but It's interpretation extends now far beyond infrastructure projects. Hence the assumptions that BRI is an initiative to relaunch a new "Silk Road" proved to be very far from reality. Some infrastructure development projects that China showed interest in[②], were to build the second line of Bucharest ring road[③], the Bucharest-Danube Canal[④];

① https://www.bloomberg.com/graphics/2017-china-belt-and-road-initiative/.

② Ghelmegeanu, G., Romanian-Chinese House, November, 5, 2013, www.casarochi.ro.

③ See more info at : Ana-Maria Smadeanu, interview with China's Ambassador in Romania, Mr. Xu Jian, published in The Diplomat – Bucharest, available at: http://www.thediplomat.ro/natday_0905.htm.

④ Ibidem.

the Siret-Bărăgan Canal[①]; and highway and railway segments in the rest of the country. Likewise, at some point there were talk about building the Romanian segment of the Rhine-Danube Corridor, linking the Romanian port of Constanța with the city of Vienna.[②]

All these infrastructure projects must go through a public tender phase, according to Romania's legislation in the field and EU requirements. Unfortunately, there is even less information about these initiatives compared with the projects in the energy sector, therefore it is reasonable to assume that they are no longer up to date, at least in terms of a Romanian-Chinese collaboration.

On the other hand, there are several examples in the private sector of Chinese investments in Romania that have been successful. The most significant of these is the inauguration of the Huawei regional center and the acquisition of Rompetrol, also known as KazMunayGas International. Because none of them had to go through negotiations with the state, they have been successfully implemented within a few years. The Romanian Rompetrol was purchased by CEFC China because it was part of a Chinese-Kazakh deal, but Huawei is a true success story of the Chinese direct investment in Romania. Its success has determined Yanmin Wang, Huawei's President for the Central, Eastern and Northern European branches, to declare the following: *"We have been here for over 13 years. Our financial services centre is located in Romania and we also have a significant number of employees on the local market. Thus, we still want to expand our team in Romania and move more departments from Huawei Europe here in Romania."*

There is another type of Chinese investments in Romania, and this is the

① Alina Stanciu, *Proiectul canalului Siret-Bărăgan, estimat la şase miliarde de euro, este blocat de schimbarea Guvernului,* Economica.net, available at : http://www.economica.net/proiectul-canalului-siret-baragan--estimat-la-sase-miliarde-de-euro--este-blocat-de-schimbarea-guvernului_112604.html.

② Karla Peijs, *Work Plan of the European Coordinator,* European Comission 2015, available at: https://ec.europa.eu/transport/sites/transport/files/themes/infrastructure/news/doc/2015-05-28-coordinator-work-plans/wp_rhine-d_final.pdf.

indirect investment. Based on mergers and acquisitions (M&A), Romania is a great beneficiary of the takeover of large companies by China. The two sound examples are the acquisitions of Pirelli and Smithfield. Smithfield is an American company and the largest producer of pork in the world. The company was bought in 2013 by the Chinese investor Shuanghui Group, which is also a large producer of pork in China. With this acquisition, the new owner also took over the Romanian meat producers Comtim and Agrotorvis. In 2017, Shuanghui Group also bought, via Smithfield, the meat companies Elit and Vericom, which together add up to 12,000 customers and operate 5 factories and 5 distribution centers in Romania.[①] China National Chemical bought the tire company Pirelli in 2015 and together with it the two factories that Pirelli had in Romania, one at Slatina and the other one at Bumbeşti-Jiu.[②]

We may observe thus that the Chinese private investments integrated very well on the Romanian market and had a better impact on Romania's economy. Whereas in the future joint collaboration for some projects is not excluded, we may observe that for now, private investments seem to be way more appropriate.

① https://www.profit.ro/povesti-cu-profit/retail/tranzactie-grupul-chinez-wh-cumpara-prin-smithfield-producatorii-romani-de-mezeluri-elit-si-vericom-cu-acelasi-proprietar-intr-o-extindere-puternica-in-europa-17226023.

② https://www.profit.ro/povesti-cu-profit/retail/tranzactie-grupul-chinez-wh-cumpara-prin-smithfield-producatorii-romani-de-mezeluri-elit-si-vericom-cu-acelasi-proprietar-intr-o-extindere-puternica-in-europa-17226023.