

More Rights, Less Power: Labor Standards and Labor Markets in East European Post-communist States

Linda J. Cook

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Abstract This paper examines changes in labor markets and labor rights for 13 post-communist states of East Central Europe and the Former Soviet Union. It focuses on the simultaneous pressures to increase the flexibility of labor markets and improve labor standards in the years since the collapse of communism. Comparative measures and patterns of both de jure and de facto standards and flexibility are presented, and the roles of key institutional promoters of change are analyzed. I find that a combination of democratic regime type and European Union accession has pulled East European states toward the strengthening of collective labor rights. The effect is strongest on the states that joined the EU in 2004, weaker for those joining in 2007, while the three post-Soviet, non-accession states remain significantly more labor-repressive. Labor market flexibilization has been a more uniform trend in the post-communist region. In the context of this project's inter-regional comparisons, contemporary Eastern Europe has the strongest labor rights. At the same time, the decline of trade unions and limits of collective bargaining in most post-communist states undermine the effectiveness of transposed EU legislation and bargaining institutions in empowering labor. As shown by the exceptional case of Slovenia, strong unions are necessary to fully enforce rights.

Keywords Labor standards · Flexibility · Labor reform · Eastern Europe

Introduction

Conditions for organized labor in Eastern Europe have changed dramatically since the collapse of communism. Throughout most of the region, workers, formerly compelled to join monopolistic, state-controlled unions, have gained rights to organize independently, bargain collectively, and strike. Unions have diversified, and

L. J. Cook (✉)
Department of Political Science, Brown University, Providence, RI 02912, USA
e-mail: Linda_Cook@brown.edu

the European Union has introduced tripartite bargaining structures in new member states. While labor rights have improved, however, unions' power has withered during the post-communist market transition. Membership has declined precipitously. Unions are virtually absent in the dynamic sectors of the region's new private economies, and, with few exceptions, they have little influence. Since 2000, the World Bank has repeatedly designated Eastern Europe as a leader in the introduction of flexibilizing labor market reforms. While not all post-communist states have followed the same development path, the dominant pattern in labor relations is one of increasing rights that fail to translate into growing power.

This paper looks at labor markets and labor rights in the post-communist states of East Central Europe and the Former Soviet Union. It focuses on the simultaneous pressures for improved labor standards and increased flexibility of labor markets since the end of communism. Some 13 states are selected for comparison. Seven are in Central and Southeastern Europe (Poland, Hungary, the Czech and Slovak Republics, Slovenia, Romania, and Bulgaria), and six are post-Soviet (the three Baltic states of Estonia, Latvia, Lithuania, and the Russian Federation, Ukraine, and Belarus).¹ Until 1989, all featured state-dominated economies and monopolistic governing Communist Parties. Over the past 20 years, they have diversified by type of political regime and extent of market transformation: eight met the European Union's (EU) full economic and political criteria for membership in 2004; two joined in 2007; and three remain outside the EU and retain more restricted markets and more authoritarian political regimes. The paper maps empirical trends in the development of labor standards and labor market flexibility, finding that both have increased over time in the region. It then focuses on the international and regional institutions that have been most prominent in attempting to influence change. In addition to the EU, these include the International Labor Organization (ILO), the World Bank (WB), the International Monetary Fund (IMF), and in some cases multinational corporations (MNCs).

Flexibility refers to the elimination or moderation of legal, political, and social restrictions on hiring and firing of workers, contracts, mobility, pay scales, and task assignments. Since 1990, all 13 states have passed legislation that makes rigid communist era labor markets more flexible. Indeed, the World Bank's *Doing Business* reports point to the post-communist states as reform leaders. At the same time, Communist era legacies have combined with rapid reform to place these states close to world averages for labor market flexibility, with limited intra-regional differentiation (see Stallings, this volume).

The major international institutional promoters of labor market liberalization in the region have been the World Bank and IMF, along with the Organization of Economic Cooperation and Development (OECD) at the regional level. I argue that these international actors have exercised influence by setting agendas for flexibility of labor markets, but have not directly imposed changes on governments. Rather, domestic business interests and liberal political elites seeking to solve economic problems, especially chronic unemployment, have served as the key agents of change toward greater de jure flexibility. It is important to note that real (de facto)

¹ I use the term "East Central Europe" to refer to the former group of seven countries and "Eastern Europe" for all 13 countries.

flexibility in the region significantly exceeds *de jure* because of weak rule of law and the presence of large informal sectors.

Most of the states in Eastern Europe have raised labor standards during the same period by extending collective labor rights that allow workers to form independent unions, bargain collectively, and strike. All 13 states have ratified the conventions of the ILO Core Labor Standards (CLS), and extensive legislative reform in the post-communist period has produced a high overall ranking for the region on *de jure* labor standards. I argue that the ILO has exercised limited, largely normative influence on regional labor standards. More controversially, I find that the EU has had substantial influence on new member states by specifying changes and monitoring progress in a comprehensive accession process that explicitly included labor standards and institutions. Accession requirements regarding democracy and rule of law have also served to shore up labor rights. The greatest improvements on average have occurred in the early-accession states. In late accession states, progress has been somewhat more limited, and in the non-accession states, labor standards remain quite weak. In all cases, *de facto* standards are weaker than *de jure* because of failed enforcement of labor legislation, but the disparities are significantly greater in the non-democracies.² At the same time, the decline of trade unions and limits of collective bargaining in most post-communist states undermine the effectiveness of transposed EU legislation and bargaining institutions in empowering labor (Crowley and Ost 2001; Keune 2009; Ost 2009).

The first section of the paper presents key background information on the conditions of labor, politics, and economies in the 13 cases. The second section looks at comparative measures and patterns of *de jure* and *de facto* labor standards and labor market flexibility. The third section identifies the key institutional promoters of change and analyzes their roles. The conclusion assesses the relationship between flexibility and labor standards in the post-communist region.

Background: The Status Quo Ante and Major Effects of Transition

While they vary substantially in income levels, population, and current political status (see Table 1), most of these states shared broadly similar communist economic and political systems in the post-WWII decades. Their economies functioned in a largely autarchic environment, with state subsidies protecting enterprises from international and domestic competition and profitability pressures.³ The collapse of communism, beginning in 1989, brought major transformations to these states. Most underwent substantial declines in GDP, privatized their economies, and integrated into international markets. This liberalizing economic transition coincided with a political one. Initially, all of the states moved toward democracy. In most of the cases considered here (i.e., the East Central European states and the post-Soviet Baltic States of Latvia, Lithuania, and Estonia), democratic systems were consolidated and

² Violations of core labor standards, especially gender discrimination and human trafficking, remain problematic throughout the region.

³ Some variation did emerge among communist states from the 1970s, with Poland and Hungary in particular beginning to develop more market-oriented features.

the process of accession to the European Union begun by the mid- to late 1990s. The other three post-Soviet states, the Russian Federation, Ukraine, and Belarus, slid back toward authoritarianism. For purposes of analysis, Table 1 divides them into three groups: early accession, late accession, and non-accession. Most post-communist states established relations with international and regional institutions, particularly the IMF, the World Bank, the OECD, and the ILO.

Most communist states had virtually full employment and historically high levels of labor force participation, with women heavily integrated from the 1970s and youth assigned to jobs as they completed schooling. At the same time, labor was used inefficiently, real wages were kept low and compressed, and health and safety and environmental conditions remained poor by international standards. Workers were denied rights to organize or bargain independently. Membership in officially sponsored unions was mandatory, and managements used systematic manipulation of benefits, assignments, and prerogatives to control and segment labor (Crowley 1997). Attempts to organize or advocate for workers' interests outside these official structures were suppressed. Strikes, rare except in Poland, were typically met with state violence, loss of life, arrest, and prosecution of leaders—although often also with concessions to strikers' substantive demands (Cook 1993).

In East Central Europe and the Baltic states, communist union monopolies were broken during the transition, famously by the independent Solidarity union that

Table 1 Economic and political summary data in Eastern Europe

Category/country	GNI per capita PPP, 2007	Population mn, 2007	Trade union density		EU accession	Political rights 2008
			1995	2002		
Early accession						
Czech Republic	22,160	10.3	46.3	25.1	May 2004	1
Estonia	18,330	1.3	31.6	16.6	May 2004	1
Hungary	17,470	10.1	63.4	19.9	May 2004	1
Latvia	16,770	2.3	NA	20.0	May 2004	2
Lithuania	17,090	3.4	NA	16.0	May 2004	1
Poland	15,600	38.1	32.9	14.7	May 2004	1
Slovak Republic	19,220	5.4	57.3	35.4	May 2004	1
Slovenia	26,230	2.0	NA	41.0	May 2004	1
Late accession						
Bulgaria	10,790	7.7	51.4	NA	January 2007	1
Romania	12,350	21.6	40.7	NA	January 2007	2
Non-accession						
Ukraine	6,830	46.5	NA	50.0	Non-member	3
Russian Fed.	14,330	142.1	74.8	NA	Non-member	6
Belarus	10,790	9.7	96.1	NA	Non-member	7

Sources: World Development Indicators (for GNI and population); Visser (2004) and ILO www.ilo.org/public/english/dialogue/ifpdial/publ/wlr97/annex/tab12.htm (for union density; union membership as a percentage of non-agricultural labor force); Kubicek (2004) for Ukraine; Freedom House www.freedomhouse.org/template.cfm?page=363&year=2008 (for political rights; 1=most free, 7=least free)

emerged in Poland in 1981, then by the proliferation of unions and federations in other states. By the mid-1990s, most accession states had multiple competing trade union federations. At the same time that labor gained independent organizing rights, however, economic transition brought competitive labor markets, growing inequality, and high levels of unemployment that persisted after economic recoveries (Barr 2005). Obsolete communist era industries collapsed, real wages declined by more than a third on average, and large informal labor markets emerged. In Russia, Belarus, and Ukraine where democratization faltered, communist successor unions were officially favored and remained dominant throughout the harsh period of recession.

The collapse and subsequent neoliberal restructuring policies that hurt workers' living standards also weakened unions. Trade unions throughout the post-communist space bled membership during the 1990s. Average union density in the region fell from nearly the entire labor force in the communist period to 58% in 1993–1995 and 25% by 2002 (Bohle and Greskovits 2006: 5). In the rapidly growing new private sector of small- and medium-sized businesses, workers remained almost entirely unorganized while large unions survived mainly in public sectors. With the notable exception of Slovenia, labor's influence declined throughout the region (Crowley and Ost 2001; Dimitrova and Vilroks 2005). Overall, communism's collapse was followed by "over a decade in which both workers and organized trade unions [were] humbled and marginalized" (Ost 2009: 13). Nor did renewed growth lead to much improvement in organized labor's condition. While Russia did see some revival of labor activism by 2007 and Ost saw potential for a limited rejuvenation of unions in East Central Europe, for the most part, "the recovery phase of neoliberal restructuring has *not* led to the recovery of unions and negotiated industrial relations" (Bohle and Greskovits 2006: 22, emphasis in original).

Slovenia was something of an exception to this overall characterization. As part of the former Yugoslav state, it had experienced a less repressive communist regime with a decentralized economy and workers' self-management in industry. The wealthiest of the 13 states, Slovenia began the transition with relatively favorable economic conditions, a uniquely strong labor movement based on the legacy of self-management, and moderate pro-market political leadership. Union membership declined but, at over 40% of the labor force in 2002, remained substantially larger than in the other cases (see Table 1). Organized labor was a strong player in industrial relations and in politics (Stanojevic 2005).

Measuring Labor Standards and Flexibility

We have developed two indices to measure *de jure* and *de facto* labor standards and flexibility (see Stallings, this volume). The first measures collective labor rights, including freedom of association, collective bargaining, and the right to strike. The second measures labor market flexibility, *i.e.*, the ease with which employers can hire, fire, adjust working hours, and so on.

Table 2 and Fig. 1 provide indices of post-communist states' *de jure* and *de facto* collective labor standards related to freedom of association, rights to organize, bargain collectively, and strike. The overall high ranking of post-communist states on *de jure* rights reflects extensive legislative reform in recent years. The highest scores are for

Table 2 De jure and de facto labor standards and flexibility scores in Eastern Europe (2006)

Category/ country	De jure labor standards	De facto labor standards	De jure flexibility	De facto flexibility
Early accession				
Czech Republic	82.9	71.4	60.4	64.1
Estonia	90.0	78.1	41.7	48.9
Hungary	90.7	78.0	53.7	58.8
Latvia	88.6	80.1	46.7	54.2
Lithuania	77.9	72.2	47.8	55.3
Poland	78.6	68.9	61.9	66.3
Slovakia	95.0	83.9	58.9	63.6
Slovenia	100.0	92.7	41.1	49.1
Late accession				
Romania	87.1	70.7	63.1	68.0
Bulgaria	80.7	68.0	57.9	64.2
Non-accession				
Russian Fed.	68.6	46.4	54.2	63.8
Ukraine	76.4	61.5	50.9	61.3
Belarus	77.9	50.3	60.9	68.4
Regional average	84.2	70.9	53.8	60.5
World average	72.5	55.2	51.7	60.6

Calculated according to methods described in text and appendix of Stallings (this volume); world average is the average of the four regions analyzed in this project

early EU accession states: Slovenia (100), the Slovak Republic (95), and Hungary and Estonia (90). The three non-accession states—Belarus (78), Ukraine (76), and Russia (69)—sit at the bottom of the group but still fall in a middle range. The most significant differences are on freedom of association. The EU accession states eliminated most communist era restrictions on union formation and membership, while Belarus, Ukraine, and Russia maintain significant restrictions. Most post-communist states retain some limits on collective bargaining, and all except Slovenia restrict the right to strike. Differences in de jure rights to freedom of association correlate with accession/non-accession status and regime type. There are no clear distinctions on the right to collective bargaining, and overall, the de jure collective rights rankings fall on a continuum. The prior restrictions on freedom of association, however, effectively undermine collective bargaining and strike rights in the three non-accession states. In comparison with the other regions studied here, Eastern Europe has both the highest inter-regional average on labor standards and the broadest intra-regional variation.

The index of de facto labor standards, combining reports of violations of de jure rights with indicators for rule of law, shows deficiencies in enforcement for all cases, relatively greater deficiencies in the late-accession states, and sharp disparities between the accession and non-accession states (see Table 2). Harassment and intimidation of trade unionists, and violations of collective bargaining rights, have

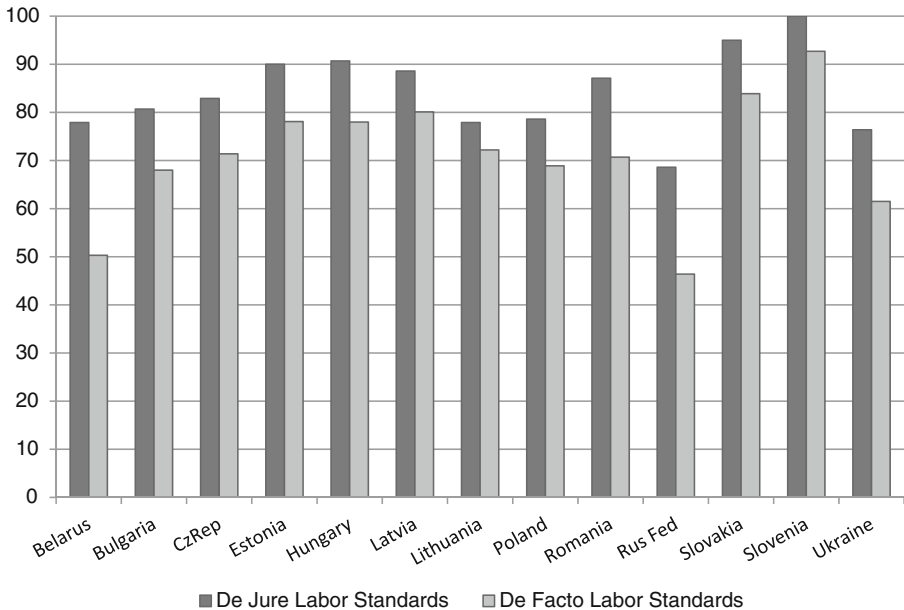


Fig. 1 De jure and de facto labor standards in Eastern Europe (based on Table 2)

been reported in all post-communist states. At the same time, the de facto situation is much worse in Russia, Belarus, and Ukraine, as indicated by the considerably larger disparities between de jure labor standards and de facto labor standards in these three states. The most serious violations are found in Belarus where national and international unions allege systematic government interference and detention of unionists.⁴ The Russian and Ukrainian governments are less heavy-handed, and conditions have improved somewhat in Ukraine since the 2004 Orange Revolution.

With the exceptions of Russia and Belarus, variation found in labor standards for the three groups of states—early accession, late accession, and non-accession—correlate roughly with per capita income. The highest income states, Slovenia and the Czech Republic, enjoy the highest labor standards, while Poland, the poorest early-accession state, and poorer, later accession Bulgaria and Romania stand considerably below. The non-democracies are anomalous here, though. Belarus and especially Russia combine comparatively high incomes with the lowest labor standards, while the poorer but more democratic Ukraine has better de facto labor standards, suggesting that some combination of income and politics matter.

Since the early 1990s, the post-communist states overall have shown a strong trend toward increasing labor market flexibility. Communist era labor markets were extremely rigid, with administrative assignment and life-long job security the norm. The firing of workers was restricted and in some cases prohibited. Pro-natalist protections covered women, special policies applied to youth and the disabled, and it was very difficult to dismiss workers either for cause or for economic reasons. Uniform job classifications and wage scales were set at the national level.

⁴ webfusion.ilo.org/public/db/standards/normes/libsynd/index.cfm?hdroff=1.

The transition toward market economies brought strong pressures for more flexible labor markets, and all 13 states have made significant strides in this direction. As Table 2 and Fig. 2 show, by 2006, they stood close to world averages in both de jure and de facto flexibility. According to an authoritative study published by the ILO in 2003, “The opening up of the national economies of transition countries to global competition...forced domestic enterprises to adjust their outputs (including labor) to market demand...National authorities responded by amending labor legislation...reducing high employment protection in existing jobs inherited from the previous regime” (Cazes and Nesporova 2003:vi, 2). The World Bank’s annual *Doing Business* reports point to the post-communist region as a leader in labor market reform, especially after 2000. While post-communist states were strongly represented among the most rigid at the beginning of the surveys, between 2002 and 2007, 15 states in the region legislated more flexible labor laws or codes (World Bank 2007). Sweeping changes in the Slovak Republic made it the top reformer in the world in 2003, and according to the 2005 report, all five of the middle-income countries that introduced more flexible employment regulations were post-communist. The 2007, 2008, and 2009 reports all pointed to Eastern Europe and Central Asia as the regions that simplified labor regulations most (World Bank 2005: 26, 2007: 19, 2008, 2009).

De facto flexibility proves significantly greater than de jure because of weak enforcement of labor legislation and large informal labor markets through most of the region. The intra-regional variation shown here is much narrower than variation for labor standards, and there are no clear patterns among early- and late-accession and non-accession states. The one evident pattern is the consistently larger disparities between de jure and de facto flexibility in Russia, Belarus, and Ukraine, reflecting the weaker rule of law there than in the more democratic post-communist states. Nonetheless, these differences are not great.

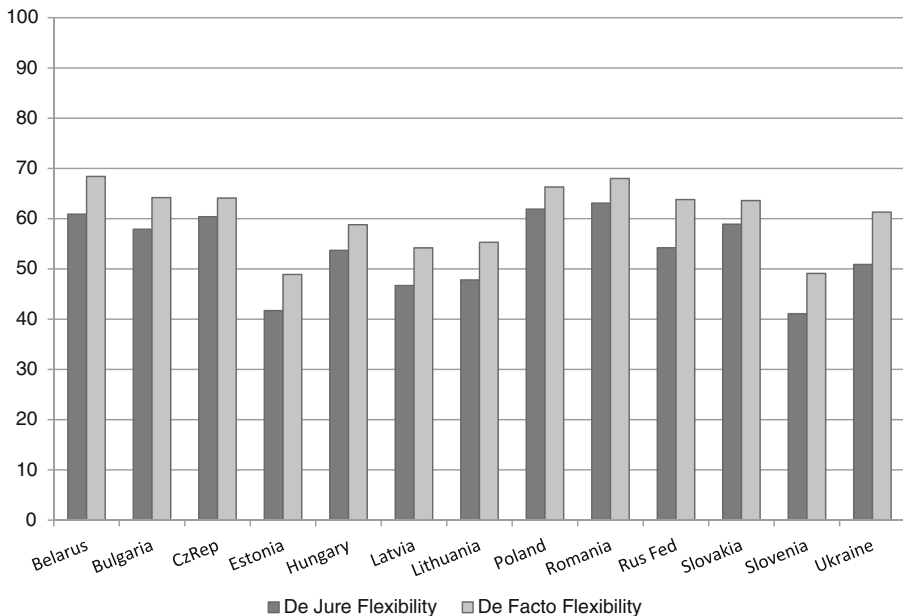


Fig. 2 De jure and de facto labor flexibility (based on Table 2)

Compliance with Core Labor Standards: Principal Institutions and Outcomes

ILO and Norm Setting

This section of the paper concentrates on the ILO's four CLS (see Table 3). Restrictions on rights to unionize, bargain collectively, and strike during the communist period were discussed above. As to the remaining core standards, there appears to have been little or no child labor in the 13 industrialized communist states considered here; formal schooling of children in primary and secondary grades was nearly universal. Gender and age discrimination were comparatively limited, though legislation blocked women from some types of employment and they were concentrated in lower wage and public sector jobs. In terms of ethnic discrimination, the Soviet system included both extensive use of ethnically based job assignment (a kind of affirmative action) for titular republic nationalities and selected state-sponsored discrimination, for example, against Jews and other groups in education and professional placements during some periods. Discrimination against Roma was common in East Central Europe, though Roma men were integrated into labor forces in low-skilled manual jobs. Forced labor appears to have been eliminated outside the prison system after WWII, though that system included political prisoners whose treatment might well be regarded as a violation of ILO standards.

As Table 3 shows, each of the states under consideration here has ratified all eight CLS conventions. While some conventions were approved during the communist period, many went before national legislatures after 1989, during the formation of new economic and political systems. Ratification was often followed by implementing legislation that addressed nationally contentious issues, such as the rights of trade unions to organize and engage in collective bargaining; employment

Table 3 ILO core standards: ratifications by country and year in Eastern Europe

Country	Freedom of assoc, collective bargaining		Abolition of forced labor		Equality in the workplace		Abolition of child labor	
	#87	#98	#29	#105	#100	#111	#138	#182
Belarus	1956	1956	1956	1995	1956	1961	1979	2000
Bulgaria	1959	1959	1932	1999	1995	1960	1980	2000
Czech Rep.	1993	1993	1993	1996	1993	1993	2007	2001
Estonia	1994	1994	1996	1996	1996	2005	2007	2001
Hungary	1957	1957	1956	1994	1956	1961	1998	2000
Latvia	1992	1992	2006	1992	1992	1992	2006	2006
Lithuania	1994	1994	1994	1994	1994	1994	1998	2003
Poland	1957	1957	1958	1958	1954	1961	1978	2002
Romania	1957	1958	1957	1998	1957	1973	1975	2000
Russian Fed.	1956	1956	1956	1999	1956	1961	1979	2003
Slovakia	1993	1993	1993	1997	1993	1993	1997	1999
Slovenia	1992	1992	1992	1997	1992	1992	1992	2001

Source: www.ilo.org/ilolex/cgi-lex

discrimination against women and minorities (Russians in the Baltics, Hungarians in the Slovak Republic, Roma throughout East Central Europe); and human trafficking and sexual exploitation of women and children, which emerged as serious problems during the transition.

During the post-communist period, ten of the 13 states, including several that have well-known problems with human trafficking (Bulgaria, Romania, and Russia) ratified ILO conventions on forced labor and child labor and/or passed implementing legislation. Ten states introduced laws that prohibit employment discrimination based on gender and race. In most, “Major legal obstacles to freedom of association and collective bargaining were eliminated over the course of the 1990s” (Dimitrova and Vilroix 2005: 40).⁵ While passage of legislation certainly does not guarantee its efficacy, a case can be made that these ILO Conventions have exercised normative influence. They define international labor standards and provide a resource for domestic political actors who seek to secure labor rights, promote ethnic and gender equality, and focus attention on the underworld of human trafficking abuses. ILO officials argue that the greater transparency and attention brought to abuses by the Organization’s supervising and publicizing (naming and shaming) functions have led to increased compliance with labor standards generally (Elliott and Freeman 2003: 97). The EU has been a parallel and (I will argue) more potent influence here, but the ILO has spread these norms and influenced legislative agendas well to the East of the accession states.

Ironically, among the accession states, Poland has relatively weak labor standards. Its laws place significant restrictions on labor organizing, prohibiting the large self-employed work force from forming or joining unions. Procedures for calling strikes are overly burdensome by ILO standards, and strikes are prohibited in services that fail to meet the ILO definition of essential, and civil servants’ rights to participate are restricted. Workers can engage in collective bargaining, but Poland’s 2002 revised Labor Code allows for suspension of collective agreements and other regulations (except those covered by the Labor Code) for up to 3 years with unions’ approval in enterprises that face extreme financial difficulty (EIRO 2002c).

In most of the other accession states, rights to form unions are qualified by administrative or legal hurdles such as onerous registration and reporting procedures or requirements for membership numbers that exceed ILO standards. In several cases, public sector strikes are restricted, and governments’ definitions of essential services exceed the ILO definitions. In Bulgaria, one of the more restrictive states, there is a blanket prohibition against collective bargaining and strikes by public servants. A ban on public sector strikes in Estonia covers all state and municipal employees, while bans in the Czech and Slovak Republics and Lithuania apply to services that exceed the ILO definition of essential. In Romania, civil servants have the right to bargain over everything except salaries, which are set by the government.

It is important to note that many of these rights result from recent legislative and Labor Code reforms and that labor legislation remains in flux throughout the region. While a majority of recent or proposed changes strengthen collective rights, some changes further restrict them. Hungary passed Labor Code amendments and legislation favoring unions in 2005 and 2006. The 2007 Czech Labor Code eased

⁵ For this legislation, see www.ilo.org/dyn/natlex/browse/country.

restrictions on strikes and expanded collective bargaining rights, and amendments to Lithuania's Labor Code in 2008 eased strike rules. By contrast, rules enacted in Estonia in 2004 made the formation of new unions more cumbersome. In 2008, the Czech Constitutional Court repealed some pro-union provisions of the 2007 Code, while Labor Code revisions under consideration in Poland would introduce the right to lock out. In short, *de jure* rights in this region are something of a moving target, though the overall direction of change is toward strengthening.

As mentioned earlier, there is a large disparity between *de jure* and *de facto* labor standards. The most common violations of standards in the accession states involve discrimination against union organizers and harassment of union members by managers, especially in new private enterprises. Although there are occasional problems with registration procedures, the states' faults *vis-à-vis* unions are generally acts of omission rather than commission. Labor laws are often weakly enforced or ignored, labor inspectorates remain deficient, and courts' effectiveness in redressing unions' grievances is quite mixed. Violence and physical intimidation are relatively rare in these states, but threats to workers' jobs and administrative reprisals against activists detract from collective rights. Collective bargaining is especially problematic. Coverage of collective bargaining agreements in the region is low, below 40% on average, bargaining is predominantly decentralized, usually to the company level (versus the sectoral and intersectoral bargaining that dominate in Western Europe), and the recent growth of temporary, contract, and migrant labor depresses it further. Both managements and governments often refuse to negotiate or ignore collective agreements (Dimitrova and Vilroks 2005: 42ff; Bohle and Greskovits 2006; Gans-Morse and Orenstein 2007; Ost 2009). These problems are somewhat more severe in the late-accession states, Bulgaria and Romania.

The situation is qualitatively different in the non-EU accession states which have by far the region's weakest *de jure* labor standards and very large disparities between *de jure* and *de facto*. Belarus' 2000 Trade Union Law provides for compulsory registration of unions through complicated procedures, very high minimum membership numbers, and easy dissolution. The government imposes stringent conditions on unions' receipt of foreign assistance, and unionists may be prosecuted for providing "discrediting" information to international organizations, including the ILO. Unions have been subject to systematic interference by the state and periodic harsh repression. The pro-government Federation of Trade Unions of Belarus (FPB), the *de facto* official union, is blatantly favored and privileged, and the authoritarian president, Lukashenko, has called for an end to trade union pluralism. The ILO characterizes Belarus as "one of the long-standing notorious cases...of worst-offending countries in terms of anti-union violence and repression" (ITUC 2008: foreword). In 2004, the ILO subjected Belarus to a Commission of Inquiry, its strongest enforcement mechanism.⁶

The Russian Federation retains legal restrictions on trade unions, collective bargaining, and rights to strike. Several categories of workers are prohibited from striking, and there exist multiple bureaucratic obstacles to virtually all strikes. The communist successor Federation of Independent Trade Unions (FNPR) remains dependent on the government for retention of its property and organizational dominance

⁶ Table 1 shows Belarus to have stronger *de facto* labor standards than Russia, but the empirical realities in the two states argue the reverse.

and in the Putin period has become a quasi-official union (Cook 2007a). Anti-union activity, especially against the smaller independents, remains widespread. Post-communist legislative changes, including both the 2002 Labor Code and amendments in 2006, weakened unions' rights and further complicated organizing efforts.

Ukraine has undergone an uncertain re-democratization since 2004. The Orange Revolution brought some improvement in the status of smaller unions not affiliated with the Federation of Trade Unions of Ukraine (FPU), raising *de facto* collective rights well above the Russian and Belarussian levels. The government has worked with the ILO to amend its labor code, removing some barriers to unions' rights. Still, restrictive legislation on trade unions' registration and some strike prohibitions remain in place. The government has made efforts to resolve complaints before the ILO Committee on Freedom of Association, but problems of anti-union harassment and a lack of good faith collective bargaining by managers continue (Kubicek 2004).

Violations of the ILO Conventions against forced labor, discrimination, and child labor, which are not included in the labor standards index, are also common in the region. The ILO reports trafficking for both sexual and labor exploitation, with the numbers trafficked from the Former Soviet Union growing from 2002 to 2006 (ILO 2009). Reports on employment of prison labor for outside private work have been made for the Czech Republic, Bulgaria, Estonia, and Hungary.⁷ A range of post-communist governments have been charged with both gender and ethnic discrimination. The International Confederation of Free Trade Unions found large gender-based wage differentials in the Slovak Republic, Slovenia, and the Russian Federation. Discrimination against Roma is reported by one of the ILO supervisory bodies, the Committee of Experts on the Application of Conventions and Recommendations (CEACR), as prevalent throughout East Central Europe, and there are complaints of discrimination against the disabled.

Contravention of child labor conventions is reported throughout the region. CEACR reports that labor inspections have found underage children employed in Bulgaria, Poland, and Slovenia (on family farms). In the Russian Federation, some clauses in labor legislation contravene sections of the Minimum Age Convention.⁸ CEACR reported that in Ukraine, children under the age of 15 work in the informal sector where labor protections are non-existent and that children as young as ten are used for prostitution and pornography. In Poland in 2002, at least 1.5% of inspected enterprises employed children. In sum, ILO monitoring provides evidence of violations of core labor standards throughout the post-communist region. This monitoring is not systematic and does not provide measures of the extent of violations or allow comparisons across cases. It does indicate that labor rights are qualified everywhere, that gender discrimination remains common, and that some types of ethnic discrimination and forced and child labor are present even in the most advanced post-communist states.

EU Accession, Labor Standards, and Labor Markets

For the ten accession states under consideration here, the EU has been the most influential international promoter of labor standards. Countries that apply for EU

⁷ webfusion.ilo.org/public/db/standards/normes/appl/index.cfm?lang-ENG.

⁸ *Ibid.*

membership are required to meet the Copenhagen Criteria. The most important criteria for present purposes are in Chapter 13 of the EU rules (the *acquis*), which deals with employment and social policies, including labor laws and institutions. While candidate states are not legally required to implement these measures, in practice, movement toward accession requires progress in meeting the criteria, and the EU's right to grant, delay, or deny membership has constituted a potentially powerful means of influence. More than 60% of the accession states' trade, on average, is with EU countries, and there was a strong consensus at least among economic and political elites that membership was highly desirable and would bring multiple benefits, while the costs of exclusion would be incalculably high. Accession also involves political requirements that the candidate country's institutions guarantee democracy, rule of law, human rights, and respect for and protection of minorities.

The conditions of the *acquis* on labor rights cover or exceed the ILO core standards, and they prescribe the establishment of specific implementing and monitoring institutions. EU directives require that workers' freedom of association and organizing rights be protected, and they prohibit discrimination on the basis of gender, ethnicity, and so on. Candidate states must create tripartite and bipartite institutions to encourage dialogue among the social partners, labor, business, and government. As part of the accession process, EU committees evaluated the compliance (or alignment) of each candidate state with *acquis* criteria, designating areas that were deficient. Accession states had to provide annual reports on their progress toward meeting the Copenhagen Criteria. The EU then produced a final pre-accession report that qualified the country for membership.

Table 4 provides a summary of the evaluations of conditions in four key areas: freedom of association and rights to organize; equality and non-discrimination; health and safety at work; and tripartite institutions for social dialogue. The table shows the initial 1997 *Opinion Report* assessment for the ten states, specifying conditions in these four areas when the accession process began, and the 2003 *Regular Reports*, showing the last evaluations at the point of accession for all except Romania and Bulgaria, which joined in 2007. A comparison of conditions in the two sets of reports provides a measure of the EU's self-reported influence on labor legislation, institutions, and conditions during the period of its greatest leverage.

Table 4 shows that the EU reports large effects on labor legislation and practice in the areas of equality and non-discrimination as well as significant effects on the establishment of institutions for social dialogue. It also shows that the EU admitted most of these states despite significant recognized weaknesses in labor institutions, which are crucial to the bargaining power of trade unions.

In the area of equality, the 1997 *Opinion Report* recognized that gender discrimination in employment and pay was present in nearly all countries. Interim reports pressed individual countries on discrimination, and by 2003, nearly all had transposed legislation.⁹ In the area of trade union rights and bargaining, the EU found that all states except Romania and Lithuania guaranteed and respected in practice freedom of association and rights to organize, while deficiencies remained in institutions for social dialogue. By 2003, the administrative framework for social dialogue was in

⁹ "Transposed" is the term used by the EU to mean adopted. The exceptions were Estonia, which had not transposed legislation, and Latvia, which had deficiencies in practice, suggesting that the Union had not equally influenced countries with serious Russian minority problems and was accepting them anyway.

Table 4 EU assessments of labor standards in East European Accession States, 1997 and 2003

Country	1997 Freedom of association, right to organize	1997 Equality and non-discrimination	1997 Institutions for social dialogue	2003 Freedom of association, right to organize	2003 Equality and non-discrimination	2003 Institutions for social dialogue
Romania	Freedom of association guaranteed; public sector workers denied union rights; organizing guarantees limited	Discrimination against Roma prevalent	Social dialogue developing; needs strengthening	All human rights conventions and protects fundamental freedoms ratified	Law on Protection against Discrimination passed 2003; progress made	Labor Code amended, social dialogue improved
Bulgaria	Both protected and observed in practice	Law protects equal opportunity between men and women; situation of women has deteriorated	Culture of social dialogue still embryonic	Legislative alignment on citizens' rights completed	Has transposed almost all legislation in this area; in line with <i>acquis</i>	Effective tripartite dialogue established
Czech Republic	Both rights guaranteed, protected, respected in practice	Law guarantees equality between men and women: Roma still discriminated against	Social dialogue not yet established	Legislative alignment on citizens' rights completed	Not yet transposed legislation to align with the EU; plans in place	Tripartite social dialogue body in place
Estonia	Both guaranteed and respected in practice	Law guarantees equality between the sexes, although not always practiced	Social dialogue developing well	Legislative alignment on citizens' rights completed with few exceptions	Has adopted all necessary legislation; is in line with the <i>acquis</i>	Tripartite bodies exist; social dialogue has improved substantially
Hungary	Both rights guaranteed and exist in practice	Discrimination, violence against the Roma prevalent	Tripartite social dialogue working relatively well	Legislative alignment on citizens' rights completed with few exceptions	Transposed <i>acquis</i> in this area; some minor improvements needed	Improvements still needed in administrative capacity of institutions

Latvia	Both guaranteed and observed in practice	Legislation covers equal opportunity between men and women; inequalities in pay still exist	Tripartite social dialogue seems to be working well	On citizens' rights, legislative alignment completed.	Legislative transition completed and is generally in line with <i>acquis</i>	Institutional and administrative framework in place; administrative capacity needed
Lithuania	Both rights guaranteed; procedures for exercising right to strike complex	Legislation covers this area, although not always respected in practice	Tripartite social dialogue working well	Legislative alignment completed on citizens' rights; implementation still needed	Legislative transition completed; is generally in line with the <i>acquis</i>	Administrative and institutional framework in place; improved functioning needed
Poland	Guaranteed and protected in practice	Law protects equality between men and women, inequality in pay exists in practice	Tripartite institutions exist	Both rights protected; laws make establishing parties difficult	New Labor Code improves compliance with EU standards	New Labor Code strengthens social dialogue
Slovakia	Guaranteed and respected in practice	Law protects equality of men and women	Reform of social dialogue has slowed down since 1993	Legislative alignment on citizens' rights generally completed	Has transposed all necessary legislation.	Administrative framework in place; system still needs improvement
Slovenia	Both rights protected and observed in practice	Legislation covers EU provision on equal treatment of men and women	Tripartite social dialogue works; needs development	Legislative alignment on citizens' rights generally completed	Has transposed all legislation; is in line with <i>acquis</i>	Administrative framework in Place; social dialogue well advanced

Source: Compiled from European Union 1997 EU Opinion Reports of New EU Member States (<http://europa.eu.int/comm/enlargement/candidate.htm>); 2003 EU Regular Reports for each country in the table above. http://europa.eu.int/comm/enlargement/report_2003/index.htm

place in all cases, although social dialogue was characterized as “effective” or “advanced” only in Slovenia and the Czech Republic.

While the EU’s claims of influence on labor legislation, institutional structures, and formal policies (i.e., on *de jure* labor standards) in the accession states are generally accepted, much greater controversy exists about the impact on implementation and practice, or *de facto* standards. Much of the literature reflects disappointment with the limits of “Europeanization” of labor and industrial relations in the accession states and with the weakness and ineffectiveness of transposed institutions (see, for example, Ost 2000; Sissinich, 2002; Pollert 2005; Keune 2009). Here, it is important to keep in mind that we are comparing labor rights and standards in EU accession states with those in post-Soviet states that remain outside the EU and states in Latin America, Asia, and the Middle East—not with Europe’s older industrial democracies. The East European accession states, all of which were labor-repressive with regard to collective rights before 1989, now have the strongest collective labor standards both *de jure* and *de facto* among the four regions included in this study. Significant new rights to labor organizing and collective action have been extended in every case.

At the same time, variations among accession states on labor standards, as well as disparities in every case between *de jure* and *de facto* standards, raise questions for this analysis. Why, for example, are the differences so great in both *de jure* and *de facto* standards between the early-accession states of Poland and Slovenia? And why is the EU more effective in promoting *de jure* than *de facto* standards?

In both cases, the answer comes down to the domestic power of labor unions in post-communist states. Here, Poland and Slovenia differ sharply. Both states entered the transition with strong, mobilized labor movements. Poland’s Solidarity union fragmented early, however, confronted a center-right government and failed to block radical shock therapy reforms that uncut labor’s power. Post-Solidarity unions lost major policy battles while membership plummeted, weakening bargaining power (Crowley and Ost 2001). In Slovenia, by contrast, unions consolidated at the beginning of transition, worked with center-left governments to craft a more gradual transition strategy in the 1990s, and retained a much greater share of the labor force. Large mass membership empowered Slovenian unions to bargain effectively through new tripartite institutions for implementation of rights (Stanojevic 2005). The comparative strength of domestic unions in these two cases accounts for the disparity in rights.

Why has the EU not been more effective in enforcing the *de jure* labor standards that it imposed on accession states? The case of Slovenia again suggests that full enforcement of labor rights requires a large mobilized domestic labor movement, like those that negotiated such rights historically in Western Europe. By contrast, when legislative protections and bargaining institutions are handed down from above to relatively weak labor movements that could not have negotiated these rights on their own—as happened in other accession states—unions lack the political power to enforce them fully. In the absence of strong domestic forces committed to implementation, the EU has neither the instruments nor the will to push for full enforcement once states have joined.

Finally, one could object that EU accession should be considered an endogenous rather than exogenous variable, i.e., that some East European states were invited to

join the EU because they were more developed and came closer to European standards for democracy and rule of law. The disparities among the three sets of cases, in other words, could be seen as pre-conditions rather than products of their accession status. The sequence and processes of change in regional labor standards provide evidence that the EU has in fact been a largely exogenous factor. With the exception of Slovenia, all of these states were strongly labor-repressive under communism. While independent unions emerged during transition, most did not establish much political influence. Rather, through accession conditionality, the EU imposed protective labor legislation and bargaining institutions that domestic labor movements lacked the power to demand, and it provided external incentives for their political elites to consolidate democracy and the rule of law. This was the key mechanism that raised labor standards in the region.

Some analysts argue that the EU effectively promotes the very economic liberalization and labor flexibility that undermine labor's rights and power by virtue of the priority the Union assigns to markets and competitiveness in the accession process. According to Bohle and Greskovits, for example, "Since the mid-1980s European integration follows a liberal path...social democratic policies are constrained by the conditionality of the EU, which took over as the main driving force of neoliberal restructuring from the IMF and WB" (2006: 12ff). While the employment strategies adopted at the 1997 Luxembourg and 1998 Amsterdam EU summits are more state-interventionist than those of the IFIs, it is true that the EU endorses labor market flexibility as part of those strategies and imposes competitive pressures and fiscal restraint on its members. In fact, EU pressures on labor are somewhat contradictory, favoring both expanded rights and increased flexibility.

Nevertheless, the EU has promoted labor standards during an economic transition that has been, overall, inimical to labor's influence and interests. Even critical studies recognize it as a defensive and countervailing power that has limited liberalization in Eastern Europe (see, for example, Iankova 2002: 222; Pollert 2005: 227). The EU insists that workers' rights be recognized by governments, that collective bargaining institutions be established, and "treats unions as an essential actor" in the region's politics (Ost 2009: 21). Even these arguably limited measures raise labor standards above those found in non-EU post-communist states and the other regions covered in this project.

Multinational Corporations and Labor Standards in Russia, Ukraine, and Belarus

The third set of international institutions considered here are MNCs.¹⁰ I consider these only for the three non-accession states as the EU has dominated economic transformation in the ten accession states. All three have hybrid political regimes, with differing mixes of elections and truncated democratic institutions and rights. All score poorly on rule-of-law and transparency measures. All restrict trade unions' rights, and Belarus engages in outright repression. Human trafficking (including children) and age and gender discrimination in employment are well documented for Russia and Ukraine (Tyuryukanova 2005). I looked at all identifiable MNCs with 500+

¹⁰ This section of the paper draws on research compiled by Yuri Zhukov, currently a PhD candidate in the Government Department of Harvard University.

employees, asking whether each subscribed to voluntary labor codes or labor standards and, if so, what kinds of verification procedures they employed. Table 5 shows the results for 2004, including the labor standards to which each company subscribed and whether these are in accordance with a unilateral company code of conduct, local and national laws, or international conventions.¹¹

In Russia, the main multinationals were in the food, oil and gas, and automotive industries. The food sector had the highest share of foreign investors and accounted for the largest foreign-owned companies. McDonalds employed over 15,000 workers, and three other MNCs each employed between 5,000 and 12,000. Kraft Food owned and operated the largest employer in Vladimir Region.¹² Investors in energy, mainly British Petroleum and Chevron-Texaco, also employed thousands of workers, often in temporary jobs (i.e., construction, maintenance) filled through contractors.¹³ Investors in the automotive sector have more modest operations, typically employing several hundred workers.¹⁴ Overall, outside of the energy sector, foreign investment remained very limited.

As Table 5 shows, some companies have chosen to comply with international conventions concerning one or more, although never all, of their labor standards. Child labor is most commonly governed by such agreements—ILO Convention 182 in the cases of Mars and Kraft Foods, Global Sullivan Principles in the case of Chevron-Texaco¹⁵ (in any case, worldwide child labor is not common in these industries). All companies included in the study had at least some provisions for labor standards in their codes of conduct or similar voluntary internal documents. All had provisions for workplace safety and health standards, including those in mining where dangerous conditions are common. A majority prohibited discrimination and harassment in the workplace. Provisions for freedom of association, collective bargaining rights, wages, benefits, and work hours were generally absent from company codes of conduct. About one third of the provisions called for compliance with local or national laws, which are generally weakly enforced.

The overwhelming majority of companies studied favored internal rather than independent verification mechanisms. Ford Motor Company was the only one relying on independent third parties for verification; all others relied on internal audits or “compliance committees.”¹⁶ Most companies offered more explicit mechanisms for complaints, such as confidential help hotlines, especially regarding incidents of workplace harassment or discrimination. None of the companies mentioned the terms of their cooperation with law enforcement, in the case of standards governed by local or national legislation. Considering the ineffectiveness of current national labor code enforcement in Russia, in-company dispute resolution mechanisms may be preferable, although independent verification mechanisms would be best.¹⁷

¹¹ No MNCs in the region were approved by the Fair Labor Association whose participants are mostly textile manufacturers; on corporate codes of conduct, see Elliott and Freeman 2003.

¹² www.mcdonalds.ru; www.kraftfoods.ru.

¹³ Chevron-Texaco, “Worldwide Operations,” available at www.chevrontexaco.com/operations.

¹⁴ For example, Ford Motor Company, “Ford in Russia,” www.ford.ru.

¹⁵ Sullivan Principles also govern freedom of association, workplace safety, and equal opportunity; see Compa and Lyle (2003:206).

¹⁶ Ford at www.ford.ru.

¹⁷ This is the conclusion of Yuri Zhukov, “Research Memorandum: Multinational Corporations Active in Russia and Labor Standards” (unpublished).

Table 5 Codes of conduct for MNCs with 500+ employees in Russia, Ukraine, and Belarus

Country/company	Child and forced labor	Discrimination	Work place safety	Freedom of association	Wages and benefits	Physical abuse of labor	Work hours
Russia							
BBH		✓	✓				
British Petroleum	✓	✓	✓	×	×		
Caterpillar		×	✓	✓			
Coca Cola	✓		×	×	×	✓	
Chevron-Texaco	•	×	•	•		×	
Ford	✓	✓	×		×	✓	×
Kraft Foods	•	✓	✓			•	
Mars, Inc.	•	✓	✓			•	
McDonalds	×	×	×		✓		
Nestle	✓	✓	✓	✓	✓		
Sun Interbrew			✓				
Yum! Brands		✓	✓				
Ukraine							
BBH		✓	✓				
Billa	N/A	N/A	•	N/A	N/A	N/A	N/A
Coca Cola	✓		×	×	×	✓	
McDonalds	×	×	×		✓		
Metro Group	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Radisson SAS	✓	✓					
Spar	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Sun Interbrew			✓				
Belarus							
Coca Cola	✓		×	×	×	✓	
McDonalds	×	×	×		✓		
RECIF	N/A	N/A	N/A	N/A	N/A	N/A	N/A

Source: Based on review of company documents

✓ In accordance with unilateral company code of conduct

×

• In accordance with international conventions

N/A not available

Patterns were similar in Ukraine and in the much smaller sample for Belarus. Privatization and foreign investment proceeded more slowly than in Eastern Europe and even Russia, mainly because of corruption, legal restrictions, non-transparency, and lack of legal infrastructure. In both states, MNCs are largely confined to food processing and retail trade. In Ukraine McDonalds, Coca Cola, and European supermarket chains are the leaders; the planned large-scale expansion of Wal-Mart is likely to make it the primary employer in communities where it operates.¹⁸ As

¹⁸ Yuri Zhukov, “Research Memoranda on Ukraine” (unpublished, n. 24).

Table 5 shows, the standards most likely to be observed are those regarding forced and child labor and workplace safety. Several companies subscribe to unilateral standards on equal opportunity. None has a provision in its code of conduct regarding the rights of workers to join unions. Internal company audit is the compliance mechanism of choice in most cases. There is little foreign investment in Belarus due to the poor investment and political climate. Only three MNCs employing 500+ workers were identified, which is too small a sample to be meaningful.

In sum, MNCs have played a modest role in importing labor standards into these three post-Soviet states. The most common standards, on forced and child labor, would be expected to have little effect since these are rarely reported outside the realm of organized crime and human trafficking. Significantly, MNC codes make no contribution to observance of union organizing and collective bargaining rights. At best, they promise compliance with local and national laws, which are abused by all three governments. In Belarus, the most repressive of the three, foreign investment remains so limited that its overall effect on labor standards must be judged as marginal at best. With very few exceptions, monitoring of compliance is internal to the companies and not independently verifiable.

Increasing Flexibility of Labor Markets

As noted above, labor markets throughout the post-communist region have become more flexible over the past 20 years. The most common changes simplified hiring and reduced the requirements for terminating workers.¹⁹ Legislative or labor code revisions in the Czech Republic, Hungary, Poland, Slovenia, Romania, and the Russian Federation extended the use of fixed-term contracts. Hungary and Poland increased the flexibility of working hours, while reforms in several states limited the administrative obstacles to dismissals. The Baltic states, Estonia, Latvia, and Lithuania, reduced regulations on hiring and liberalized procedures for dismissal, wage setting, and severance pay, producing what the OECD characterized as “a considerable degree of labor market flexibility” (OECD 2003: 53). The Slovak Republic carried out the most comprehensive reform, liberalizing the use of term contracts, overtime, procedures for dismissal, and employers’ responsibilities to dismissed workers in its new 2003 Labor Code (World Bank 2005: 27).

These reforms were contested within post-communist polities, and change has not been linear. Trade unions, while recognizing that inherited rules were too rigid, often took issue with liberalizing proposals that they saw as inimical to workers’ interests and unions’ organizing potential. In several cases, states moved back toward more protective legislation after an initial period of reform, then liberalized further under pressure from employers’ associations. In both Poland and Hungary, measures that increased flexibility were subsequently curtailed (EIRO 2002d; Cazes and Nesporova 2003: 38). Romania passed more restrictive regulations in 2003, then

¹⁹ Earlier legislative reforms in most post-communist states had provided for individual and mass dismissals in order to allow enterprises to downsize and restructure as they adapted to market pressures. On these changes, see Wolfson and Beck (2002–2003) and additional sources cited there.

liberalized to become one of the World Bank's designated top reformers in 2005 (World Bank 2005: 20). The Slovak Republic's sweeping 2003 reforms were preceded by legislation in 2001 that made it more difficult to fire workers. In 2004, open conflict between trade unions and the Bulgarian government over World Bank-supported proposals for increased flexibility ended in partial reform (Dimitrova and Vilroxx 2005: 34). Overall, the post-Soviet states reformed regulations somewhat less than the East Central Europeans.

Measures of employment legislation and regulations provide only a partial picture of labor markets in transition states. Sources on the subject invariably point to weak enforcement of labor legislation and large informal labor markets. According to a study of the Baltic states, for example, "effective flexibility is increased by problems of enforcement: there is much evidence of violations of statutory regulations at enterprise level" (OECD 2003; Eamets and Masso 2005: 71). A report on Poland points to the "considerable possibilities of circumventing the law, especially given the toothless nature of monitoring by the State Labor Inspectorate" (EIRO 2002a; OECD 2003: 40). Problems with enforcement weaken protection and increase de facto flexibility across the cases, but their effects are uneven because of variations in the rule of law. The late-accession states are slightly more flexible de facto than the non-accession, while the strongest effects are in non-accession Ukraine and the Russian Federation, though the disparities shown here are not great.

As explained in Anner and Caraway (this volume), the major IFIs, the World Bank and IMF, promote labor market flexibility through both loan conditionality and policy advice. Flexibility is billed by its promoters as a means of increasing employment, easing labor market entry for youth, attracting investment, and expanding production. These claims are challenged by scholars who argue that flexibility reduces incentives for work force training and that "workers ultimately bear the cost in terms of precarious forms of employment..." (Bohle and Greskovits 2006: 14). In sum, there is no consensus on the interaction between flexibility and labor market performance (Eamets and Masso 2005). Nonetheless, reducing the rigidity of labor markets constituted a standard, central piece of the neoliberal restructuring orthodoxy that was promoted in the region. Writing about IFI involvement in Central and Eastern Europe specifically, Cazes and Nesporova point out that "Within the structural adjustment package, introducing employment flexibility and lowering social protection were in most cases offered as the sole means with which to transform labor markets in new market conditions" (2003: 2).

The comparative strength of the IFIs is that they have an enforcement mechanism: the ability to withhold loan tranches and refuse new lending if governments fail to comply with conditionality. Most of the countries under consideration here negotiated stabilization packages from the IMF as well as social sector loans from the World Bank during the 1990s (Stone 2002). Available evidence, however, suggests that conditionality has had little direct effect on employment legislation in the transition states. First, structural adjustment loans were multi-conditional, and the IMF was concerned primarily with macroeconomic stability budget deficits, inflation, trade balances, exchange rate policies, foreign debt, and taxation. While privatization and social expenditures were considered important, labor market liberalization per se was not a central concern. Letters of Intent from several post-communist states during the 1990s focused on these broader conditions, with labor

market reforms a subsidiary topic and flexibility explicitly discussed only occasionally.²⁰ The most extensive commitment to such reforms found, in a 1999 Russian Letter of Intent, promised changes that were indeed passed, but only well after IMF lending had ceased.²¹

The World Bank was also active throughout much of the region during the 1990s. World Bank loans were more focused on social sectors, but labor regulations again generally remained a subsidiary concern. The primary focus of the World Bank's social policy in the post-communist region during the 1990s was on pension reform (partial privatization and introduction of insurance mechanisms) and means-tested social assistance, including unemployment insurance (Cook 2007b; Orenstein 2008). Moreover, loan tranches from both institutions were rarely withheld for long even when conditions were not fulfilled. The Bank's major social sector loan to Russia, the 1997 Social Protection Adjustment Loan, for example, included labor market liberalization as a minor condition, but most of the loan was disbursed despite Russia's failure to adopt almost any of the promised reforms during its term. Labor markets were liberalized only in 2002, after the IMF had left and the Bank's role had declined to minor technical assistance (Cook 2007a).

Stronger focus on labor market liberalization in post-communist states came from the OECD, an economic policy research and reporting body established in 1961 as an organization of the industrialized market economies. Only four of the states covered here are full members of the OECD, but the organization analyzes economic performance and counsels policies favorable to free trade to almost all of them.²² Its well-known 1994 *Jobs Study* analyzed labor markets in the region and proposed strategies for creating jobs and reducing unemployment, mainly loosening restrictions on worker dismissals and introducing fixed-term contracts.²³ The OECD lacks an enforcement mechanism and exercises influence mainly through its regularly published, authoritative reports on regional economies that provide both thorough assessments of economic performance and policy advice.

Study of the political process of labor market reforms in several post-communist states leads to the conclusion that these external organizations mainly played an agenda-setting role, while domestic economic and political elites served as the key agents of change in labor market regulation. The IMF and World Bank articulated a broad liberal consensus on the benefits of flexibility and along with the OECD translated this consensus into direct policy proposals that promised to address major problems, especially unemployment. They provided policy constructs and technical assistance to governments, but the actual process of labor regulation and code reforms was internally driven. Accounts of reforms in the Russian Federation,

²⁰ These conclusions are based on a review of all letters of intent found on the IMF web site for Bulgaria, Estonia, Latvia, Romania, the Russian Federation, and Ukraine.

²¹ See "Statement of the Government of the Russian Federation and Central Bank of Russia on Economic Policies" (July 13, 1999) at www.imf.org/external/np/loi/1999/071399.htm.

²² The Czech Republic (1995), Hungary (1996), Poland (1996), and Slovakia (2000) are full members of the OECD, but the organization publishes economic surveys and policy recommendations for most countries in the region.

²³ By 1999, the OECD had become agnostic about the effects of flexibilizing on employment levels; see Cazes and Nesporova (2003).

Poland, the Slovak Republic, and elsewhere show liberal governments and domestic economic elites as the major sources of pro-reform initiative and pressure.

In Russia, the old 1971 Labor Code, although amended in some respects, was not fundamentally revised during the 1990s because of legislative and other resistance. In 2001, the liberalizing government under Vladimir Putin, which had gained control of a legislative majority, passed a new Labor Code that initiated changes in rules on employment, dismissal, and other dimensions of the labor relationship (Bronstein 2005). Employers lined up with the government, pressing especially for contract flexibility and unimpeded rights of dismissal. The major industrialists' organization, the Russian Union of Industrialists and Entrepreneurs, acted as the main domestic lobby for the bill, and they were seconded by multinationals (Cook 2007a).²⁴ In Poland as well, employers' organizations served as the major source of pressure for labor code reforms (EIRO 2002a). In the Slovak Republic, employers' protests against the restrictive 2001 labor legislation culminated in the liberalizing 2003 reforms discussed above (EIRO 2002b). In Bulgaria and Hungary, employers pressed for flexibility of labor legislation (Dimitrova and Vilrocx 2005: 28).

This process is illustrative of broader arguments about the limitations of international organizations' effectiveness in directly shaping domestic policies and the mediating role of internal actors.²⁵ Most post-communist states had experienced pressures from international organizations to deregulate labor markets from the beginning of transition, but the actual reforms were negotiated internally, driven by domestic business interests, liberal policy elites, and intractable economic problems. International organizations influenced the domestic elites' policy preferences, their approaches to solving policy problems, but for the most part did not impose policy change directly through either conditionality or softer forms of influence.

Conclusions

Is there a relationship between labor market flexibility and labor standards? Figures 3 and 4 plot the *de jure* and *de facto* flexibility and labor standards indexes for 13 post-communist states. The figures indicate a negative relationship, with better labor standards tending to accompany lower flexibility, especially for the accession states. At the same time, it is striking that post-communist states cluster on flexibility while they vary much more on labor standards. The proposed effects of regime type and EU accession status on collective rights emerge clearly, with the 2004 accession states most often at the top, the 2007 in the middle, and the three non-accession at the bottom. Effects on flexibility tend to be much smaller, with all of the states clustering in a middle range that reflects both shared inherited rigidities and common responses to liberalizing pressures.

In answering the questions about institutional influence that led to these relationships, the clearest outcome is that some combination of democracy and EU accession pulled post-communist states toward the strengthening of collective labor rights. The carrot and stick of EU membership acceptance, delay, or denial provided

²⁴ On the negotiation process, see also Ashwin and Clarke, cited in Bronstein (2005: 30, note 45).

²⁵ For important representatives of this argument, see Mosley et al. (1991); Hunter and Brown (2002).

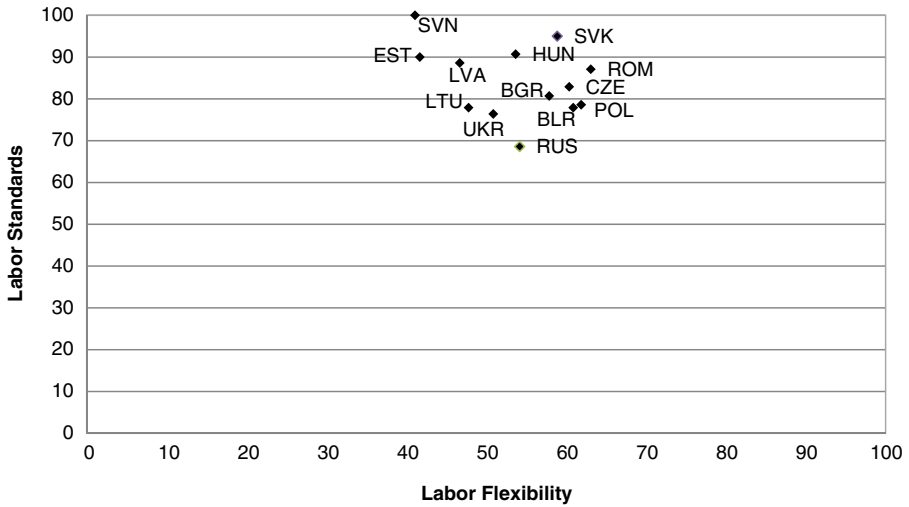


Fig. 3 De jure labor standards and flexibility in Eastern Europe (based on Table 2)

the most powerful means of influence available to any supranational institution. The depth and comprehensiveness of the accession process, the specificity of the EU’s requirements on labor rights, and the annual monitoring of compliance provided possibilities for imposing change. The influence of political democracy and rule of law cannot be clearly separated from accession status. The movement of all accession states toward European norms for political and labor rights, including those such as the Slovak Republic and Romania that initially leaned toward authoritarianism, argues for the EU’s influence, as do the recent reforms in Ukraine where at least part of the political establishment aspires to join Europe.

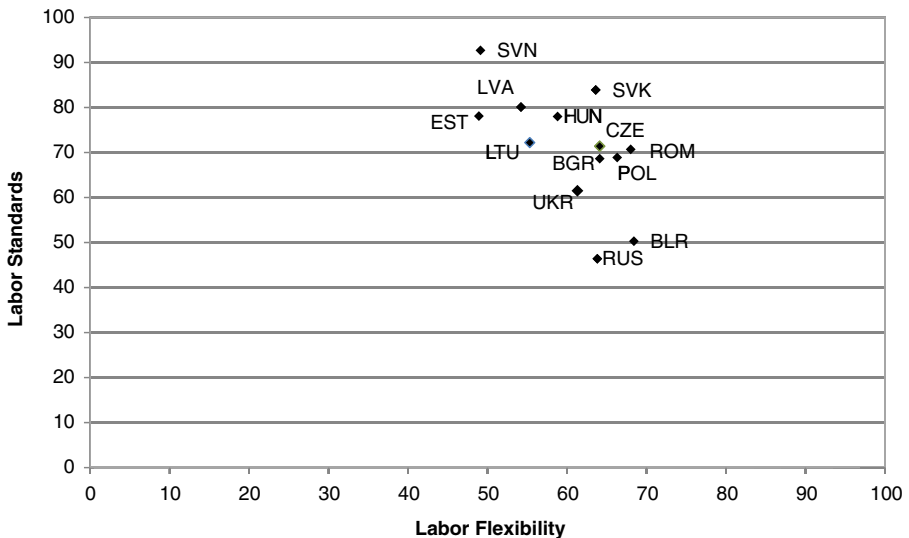


Fig. 4 De facto labor standards and flexibility in Eastern Europe (based on Table 2)

The ILO has weaker, largely normative influence. In the non-accession states, compliance with core standards, particularly the conventions on freedom of association and rights to form trade unions, remain weak, accounting for the large gaps between the *de jure* and *de facto* rights indexes in Russia, Belarus, and Ukraine. At the same time, the ILO has influenced all these states' legislative agendas and provided resources and monitoring authority for trade unions, non-governmental organizations, and other human and labor rights groups. MNCs' voluntary codes of conduct may influence labor standard compliance at the margins, largely within the companies themselves, but they make no provisions for collective labor rights. For Belarus and Russia, the absence or withering (respectively) of democracy, weak rule of law, and more limited integration into European institutions correlate with labor institutions and practices, including nearly monopolistic, proto-official trade union federations, that hark back to the communist period.

The trend toward flexibility of labor markets is more uniform and the pressures producing it less easily specified. The OECD and IFIs are seen to have some influence, providing technical assistance, policy prototypes, and advocacy of labor market liberalization as the key to economic and job growth. But these organizations did not effectively impose flexibility. IMF and WB loans, with their multi-conditionality and questionable enforcement, proved a comparatively weak means of influence at least for these cases. Rather, liberalizing labor code reforms were adopted by domestic policy elites responding to pressures from domestic and international business interests and influenced in their thinking by the reform paradigms that had been elaborated and promoted by the international institutions. The movement of all these states toward more flexible labor markets, whether or not IMF clients, EU accession states, OECD members, democratic or authoritarian, successful or lagging market reformers, speaks of the more universal pressures toward marketization and globalization.

Major questions remain about the substance and depth of labor rights in the East European EU member states. Workers can form and join trade unions, but membership has declined substantially in every case. Through the EU's influence, the institutions of tripartite bargaining that somewhat empowered labor in Western Europe's older industrial democracies have been transposed to the new member states, but the function and substance of those institutions remain comparatively hollow in most cases because unions themselves are weak. The fairly rapid movement of these states from highly rigid labor markets to markets more flexible than the EU average speaks of the weakness of organized labor in comparison to the older EU states. The paradox of more formal rights with limited actual power is reflected in the simultaneous increase in flexibility and labor standards over time.

At the same time, the negative relationship between labor standards and flexibility across cases in the post-communist region suggests that higher standards may give labor some capacity to resist increasing flexibility. In our sample, Slovenia has the highest labor standards and the lowest flexibility, while the late-accession and non-accession states have relatively poor *de facto* labor standards and relatively high levels of *de facto* flexibility. Our data are insufficient to judge this a causal relationship; it may be that flexibility undermines standards or that weak rule of law accounts for both outcomes. Income level also seems to be related to labor standards, while structure of production may have a direct effect on flexibility. What stands out in this study are the large degree

of change in labor conditions and markets throughout the post-communist region, the impressive improvement of labor standards in the accession states, bringing them to the highest level among the four regions, and the stark differences between accession and authoritarian non-accession states.

The other striking outcome is the significantly greater increase in formal labor rights than in actual power or influence. Experts are pessimistic about organized labor's future in the region. Given the ongoing numerical decline in union membership as well as the aging of union members, Dimitrova and Vilroks project a possible "demographic collapse of unions after the present generation retires" (2005: 50). In a somewhat less apocalyptic vein, Ost sees some evidence of revival, but argues that "Labor is likely to remain weak, with a few stronger unions emerging that are more elitist, male, "producerist" and less class-oriented" (2009: 13). Bohle and Greskovits acknowledge recent improvements in the conditions of many workers in Eastern Europe, but assert that "social improvements have mostly occurred without labor empowerment even in the Visegard countries" (2006: 9ff). A recent study of organized labor in the semi-authoritarian regimes of the post-Soviet states argues that their role as independent workers' organizations has been undermined, that labor is capable only of subordinating itself to elites' agendas or expressing lower class desperation (Robertson 2007). The question remains to what extent legal and political rights can still empower labor in the contemporary world.

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Linda J. Cook is a professor in the political science department at Brown University, and an associate of the Davis Center for Russian and Eurasian Studies at Harvard University. She is the author of *The Soviet Social Contract and Why It Failed* (Harvard, 1993), *Postcommunist Welfare States: Reform Politics in Russia and Eastern Europe* (Cornell, 2007) as well as journal articles and book chapters on politics, welfare, NGOs, women and labor in postcommunist states.