



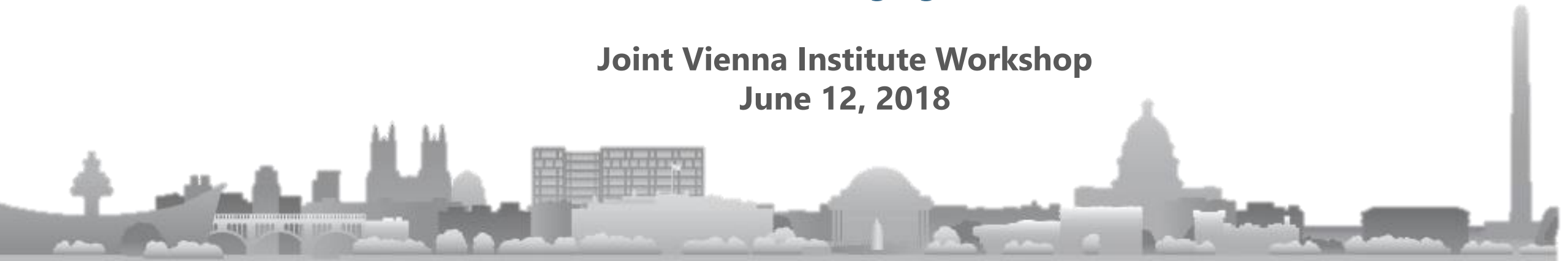
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# **Reforming the Judiciary: Learning from the Experience of Central, Eastern, and Southeastern Europe**

[Chapter 2 of Fall 2017 Regional Economic Outlook](#)

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# Why focus on judicial reform?

*“Institutions are the underlying determinants of economic performance”  
(Douglass North, Nobel Prize lecture 1993)*

- **New wave of reforms needed for convergence**
- **Judicial reform and control of corruption are viewed as key structural reform priorities in many European countries**

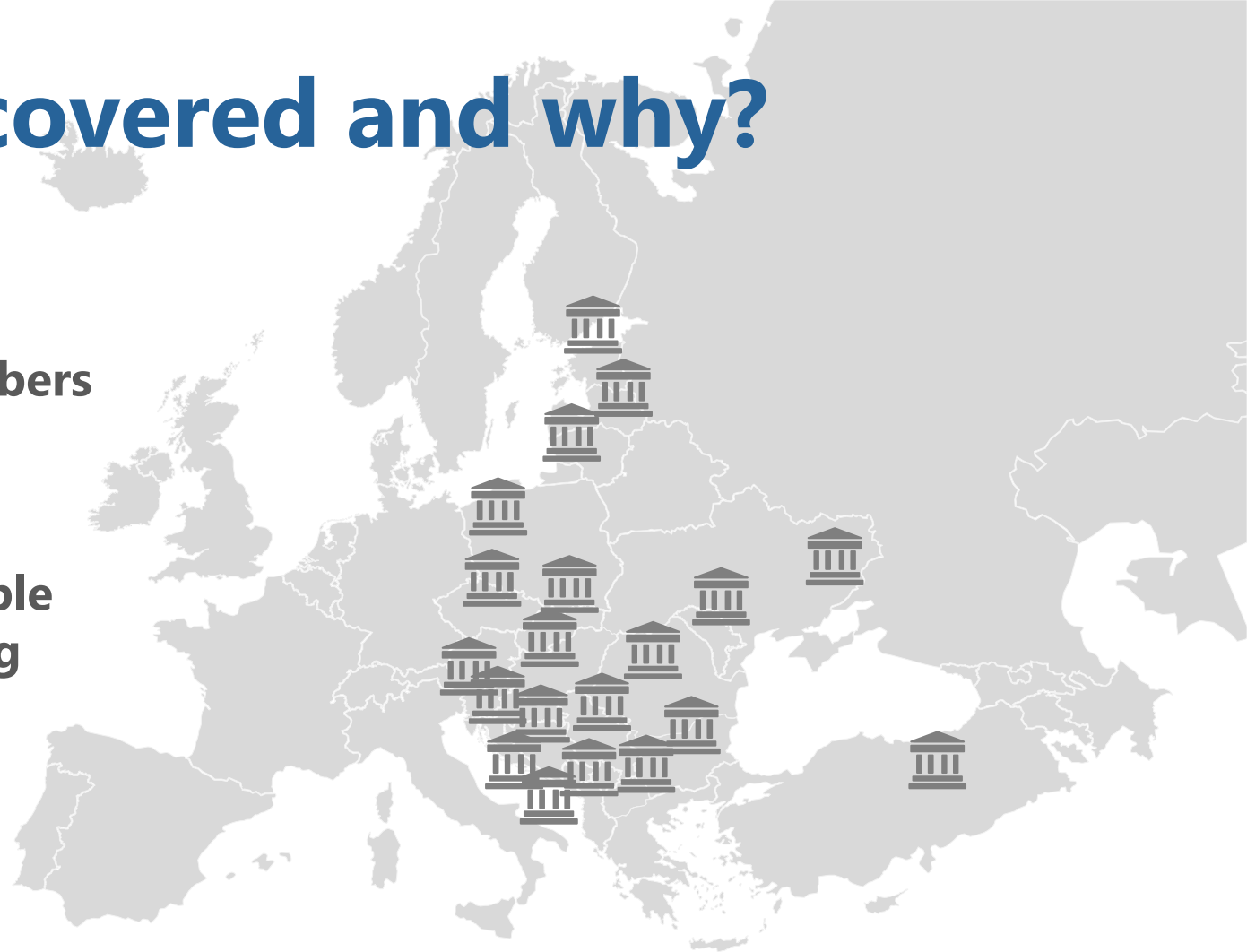


# Which countries are covered and why?

20 Central, Eastern and Southeastern European countries that are EU members or aspire to join the EU.\*

Institutional overhaul and considerable improvements in the judiciary, during transition and EU accession.

Similar initial settings, common goal of EU accession, differences in institutional quality → “natural experiment” of institution building.



\*Albania, Bosnia and Herzegovina, Bulgaria, Croatia, the Czech Republic, Estonia, Hungary, Kosovo, Latvia, Lithuania, Macedonia, Moldova, Montenegro, Poland, Romania, Serbia, Slovakia, Slovenia, Turkey, and Ukraine.

# What do we do?

## Explore what might encourage judicial reforms

- Reforms of the justice system and the context in which they took place
- How did the judiciary's effectiveness evolve over time and how it compares across countries
- Factors that facilitated reforms: domestic factors and the role of the EU



# How did we analyze judicial reforms?

## Case studies

Empirical analysis

Panel regressions

World Economic Forum

**Council of Europe** (Global Competitiveness Index)

European Commission for the Efficiency of Justice (CEPEJ)

Group of States against Corruption (GRECO)

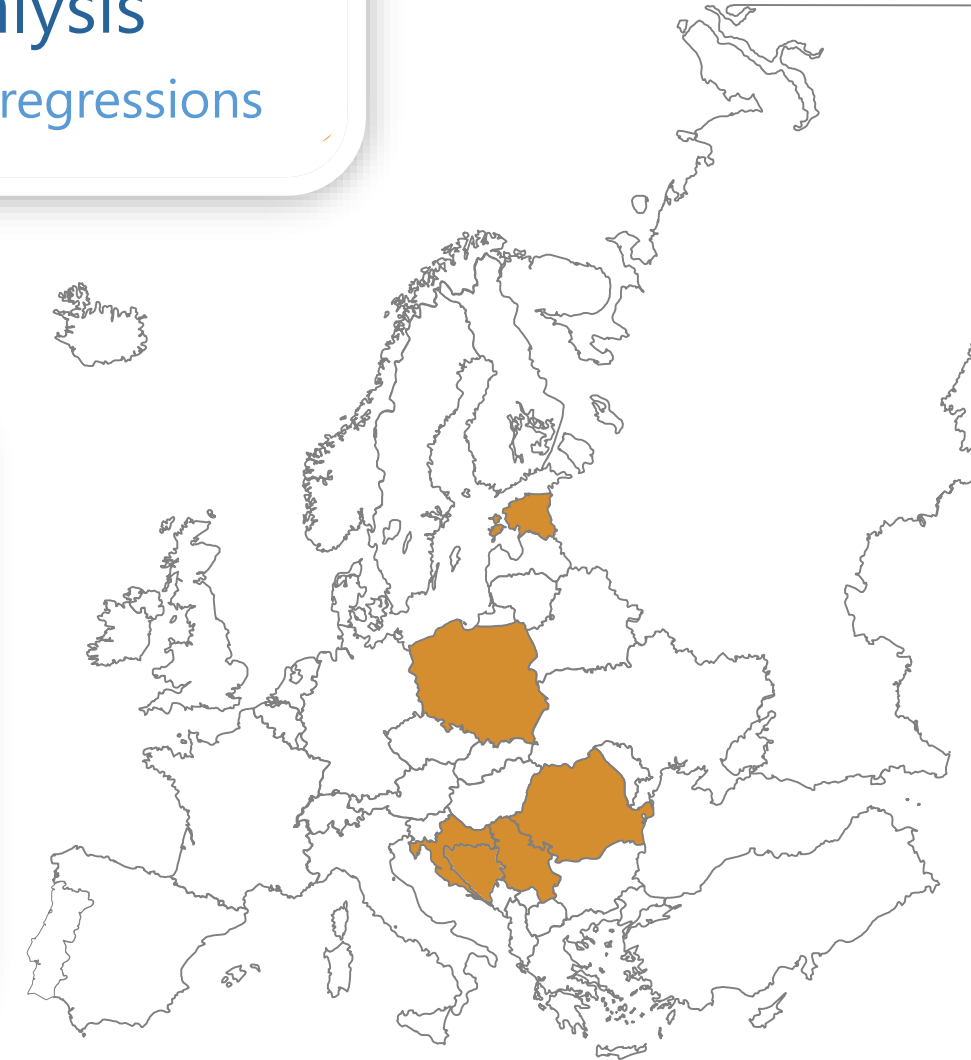
**European Commission**

World Bank World Governance Indicators

University of Gothenburg and **World Bank Doing Business Project**

Varieties of Democracy Institute (V-Dem)

International Country Risk Guide (ICRG)



# Rule of law challenges for many European countries. A lot of progress in CESEE countries but remaining gaps

## Rule of Law, 2016

- Below 25 percentile
- Between 25 and 75 percentile
- Above 75 percentile



Source: World Bank Worldwide Governance Indicators.  
Note: Worldwide distribution excluding LICs.

# Room for improvement especially in judicial independence and impartiality

## Judicial Independence 2015

## Impartial Courts 2015

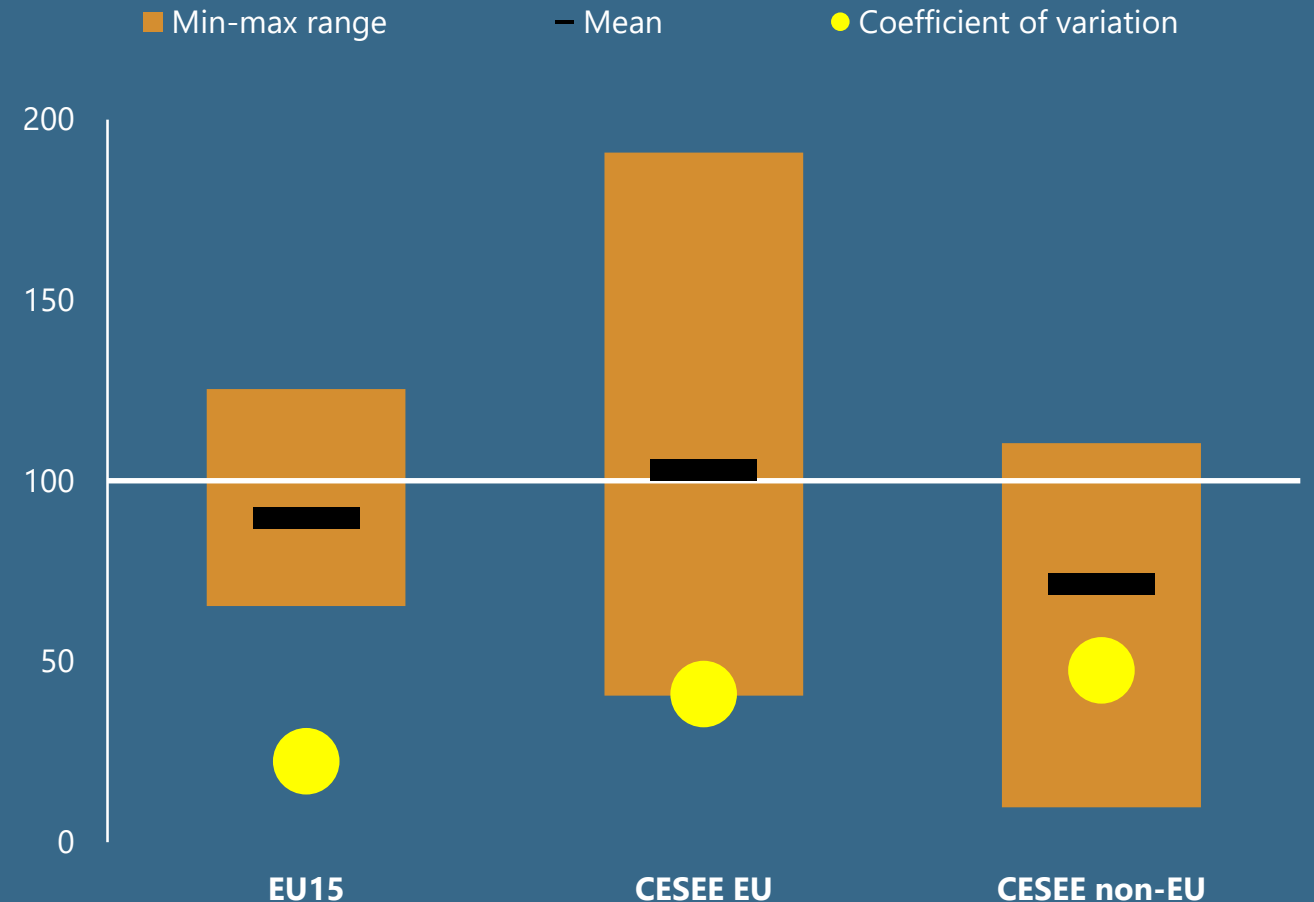
- Below 25 percentile
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# Judiciary efficiency generally good

Group means similar,  
but cross-country  
dispersion large

Resolution Rate: Insolvency Cases, 2014 1/



Source: European Commission for the Efficiency of Justice.  
1/ Values higher than 100 indicate that more cases are resolved than received, and suggest higher efficiency. The coefficient of variation is multiplied by 100.



# Historical progress, but more to do

*“...Judiciaries are the cornerstone of any system of checks and balances. Yet our findings show that over a third of our member states are not guaranteeing sufficient standards of impartiality and independence.”*

*Council of Europe*



# Factors facilitating effective justice systems

 =  **Policies boosting equality**

 **Merit-based selection of judges**

  **More transparency & civil society**

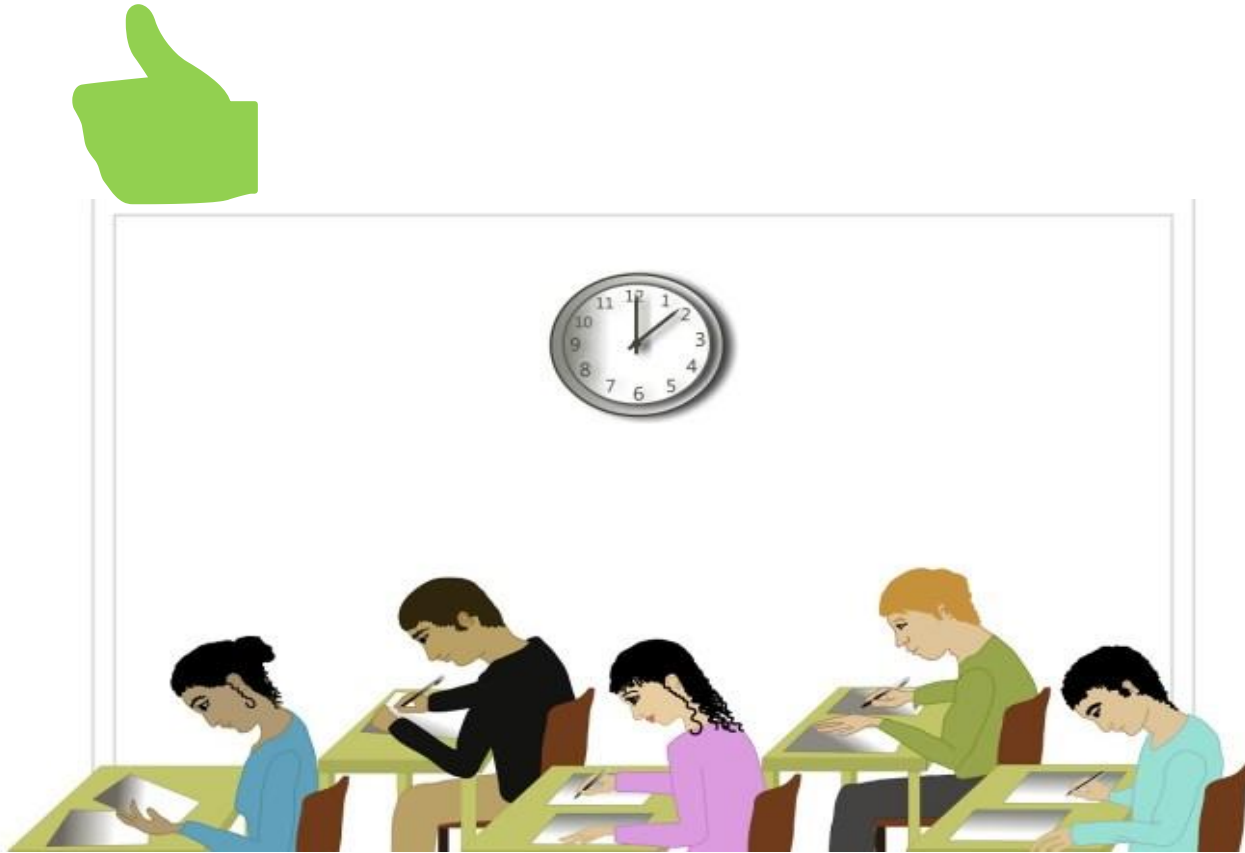


# More equal distribution of resources facilitated judicial reforms

- 📍 **Whether privatization led to concentrated or dispersed ownership mattered**
- 📍 **More openness and reduced market power helped**
- 📍 **Broader concept than GINI, also equal access to opportunities**



# Merit-based procedures to recruit/promote judges instrumental for independence and impartiality





# The power of transparency

- Freedom of information laws strengthened civil society
- Transparency took many forms (e.g. asset disclosures, surveys, indicators, e-government)
- It helped especially when other factors not conducive

# The role of the EU and the Council of Europe as external factors

**Key in catalyzing reforms  
but durability of reforms  
depended more on  
domestic factors**

# OTHER FACTORS



- Strength of civil society
- Societal fragmentation
- Favoritism in politics
- Old age dependency ratio
- Per-capita income

# What have we learnt? What can we do?

1

Substantial progress, but not linear. We ought to continue striving for judicial effectiveness.

2

Examine distributional implications of policies and drivers of inequality.

- **Competition policy**
- **Reducing barriers to entry/opening-up**
- **Redistributive fiscal policies**

3

**Select and promote public officials** on merit.

4

**Transparency** can jump-start reforms. Examples: transparent public procurement; financial disclosures; e-government.

5

The **EU and the CoE key in catalyzing** reforms, but for reforms to be durable they need to affect domestic factors.



**Thank you**