

Secured Transactions Reform Central European Experience

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6783 Banking Groups



EBRD Countries of Operations

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EBRD and Secured Transactions Reform

EBRD Core Principles

- General formulation of goals for successful reform
- Indicate economic result to be achieved
- Help build a consensus

EBRD Regional Survey

- Provide snapshot information
- Encourage improvement
- Encourage mutual assistance in the region



Outline of the presentation

1. Overview on the region on secured transactions reform – what worked and what did not
2. What EBRD learned on the process and current trends



State of secured transactions reform

Malfunctioning ST Systems		Inefficient ST systems	
Armenia Azerbaijan Belarus Georgia	Russia Tajikistan Turkmenistan Uzbekistan	Croatia Czech Rep. Estonia	Kazakhstan Slovenia
Modern ST Systems some defects		Advanced Modern ST Systems	
Bosnia & Herz. FYR Macedonia Kyrgyz Rep. Moldova	Poland S&M (Serbia) Ukraine	Albania Bulgaria Hungary Latvia	Lithuania Romania Slovak Republic

Source: EBRD Regional Survey of Secured Transactions, 2005



Example of Russia – missed opportunity

1992 Pledge Law – advanced features

- non-possessory pledge
- concept of publicity in pledge books
- “pledge over goods in transformation”

2005 – a malfunctioning, out-dated system

- no effective publicity
- investors unable to match legal structure with business requirements, e.g. pledge over bank accounts

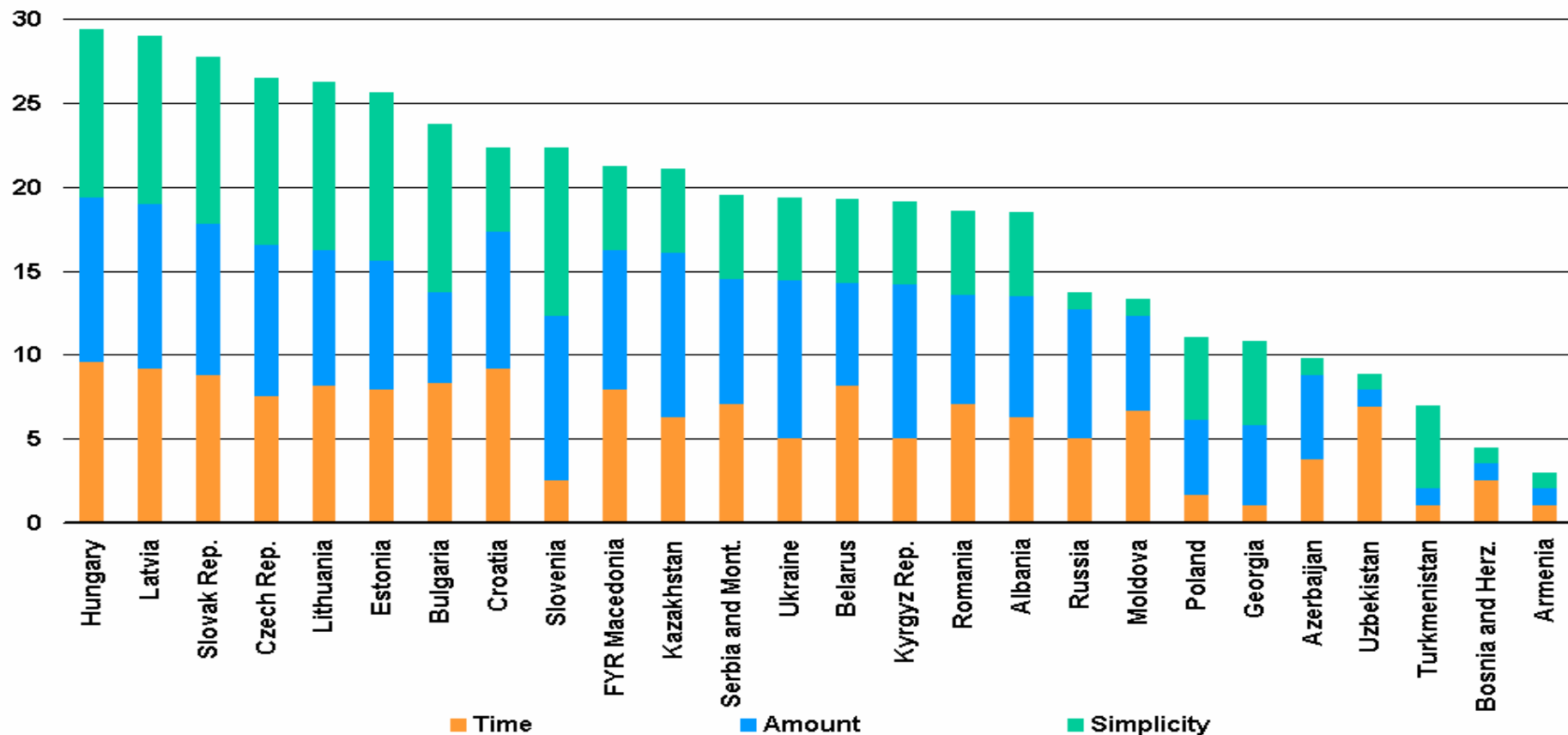


Example of Poland – failing institutions

- 1997 Law on Registered Pledge and Registry
- Rely on the Commercial Courts for registering the pledge
- Art 22 – out-of-court realisation of charged assets by notaries, but decree never adopted
 - The results... it takes on average 14 days to register a pledge, and on enforcement....



Time, amount and simplicity scores



Enforcement of a charge per time, amount and simplicity

Source: EBRD Legal Indicators Survey, 2003

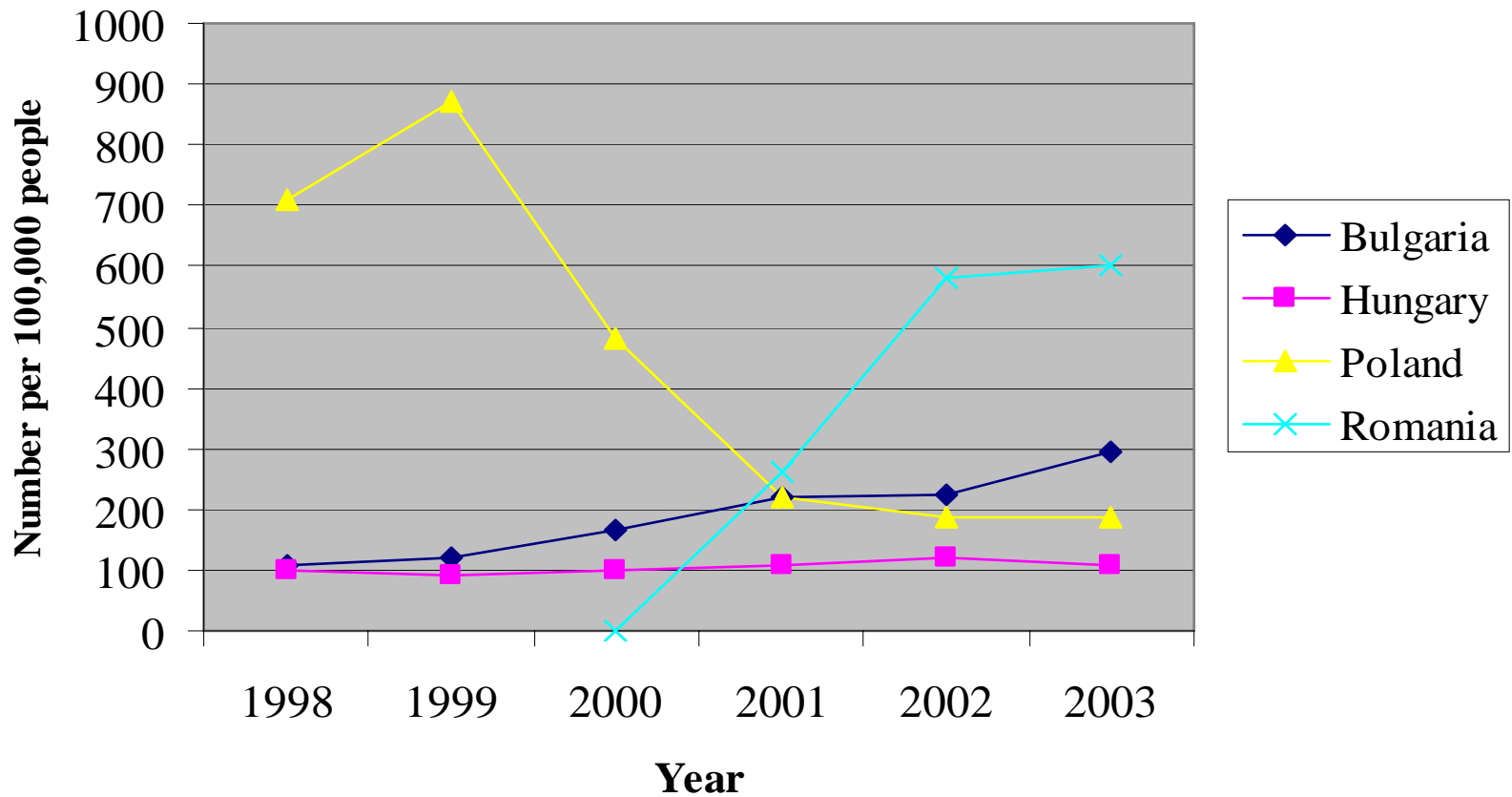
Ratings for each dimension range from 0 (worst) to 10 (best)



Examples of Romania and Bulgaria

- Different reform paths ...
- But both well understood reforms...
- With growing use of the system...





**Number of entries in pledge registers
in selected countries between 1998 and 2003**



But does it matter?

- Indications that poor legal framework = negative effect on access to credit

	Poland		CEB	
	2002	2005	2002	2005
Value of collateral required as % of loan value (in %)	145.37	151.54	139.23	144.85
Loan's annual cost (in % of value of loan)	14.90	12.77	10.42	8.13
Duration of the loan (in months)	24.18	31.09	32.09	41.48
How problematic is access to financing for operation and growth of business? (from 1 to 4)	2.65	2.76	2.06	1.92



EBRD approaches to reform

1. ***Consensus-building***: objective is to create situation favourable to introduction of effective security laws
2. ***Drafting***: most visible but only a small part of the process
3. ***Implementing***: help identifying means for comprehensive and sustainable implementation of reform



1. Consensus-building to create political momentum

- Slovakia: internal momentum following 1999 banking sector reform
- Serbia: pressure from EBRD bankers and investors
- Serbia / Slovakia: co-ordination with World Bank loans
- Georgia: political mandate on improving investment climate for poverty alleviation
- No momentum/commitment – no project



2. Drafting is only a small part

- Essential to build a consensus on the main issues from the outset: e.g. legislative proposal approved by Cabinet
- Local ownership and involvement: creation of working group(s) – bankers and lawyers are conservative!
- Drafting of the law by locals with technical assistance, and time for ‘stress-testing’
- Assistance also needed through adoption of the law by Cabinet and Parliament: e.g. tax lien



3. Working on implementation of reform

- Institution building for practical operation of the law (e.g. registry) – this is what users will see
- Law is only good if it is used: getting the potential users to buy in: e.g. practical guides
- Enforcement is the ultimate test – realistic expectations
- Not packing up as soon as the law is passed: monitoring is essential



Conclusion



Key to success is to inspire, not to impose...

