

International Seminar on
Strengthening Public Investment and Managing
Fiscal Risks from Public-Private Partnerships

Budapest, Hungary
March 7–8, 2007

The views expressed in this paper are those of the author(s) only, and the presence of them, or of links to them, on the IMF website does not imply that the IMF, its Executive Board, or its management endorses or shares the views expressed in the paper.

Overview of Concession Legislation in Countries of Central and Eastern Europe

Alexei Zverev

Senior Counsel, EBRD

Budapest , 7 March 2007



Issues to be discussed

- EBRD's Legal Transition Programme (LTP)
- PPP policy
- Legal framework
- Results of EBRD evaluations
- Legislative trends and challenges



LTP activities in the area of PPP

EBRD:

- Participates in and contributes to international standard-setting initiatives
- Monitors and analyses the status of legal transition in its countries of operations and develops measurement tools to assess legal risk for EBRD investments
- Develops and implements technical assistance projects in its countries of operations
- Advances legal reform through various outreach activities, including publication of its legal journal, *Law in transition*



PPP policy

- Why policy issues are important
- Legal framework
- Institutional infrastructure
- Awareness and professional development



Legal framework

- Clear
- Stable
- Predictable
- Fair
- Flexible

www.ebrd.com/law



EBRD Legal Assessments

- Legal Indicator Survey
- Sector Laws Assessment

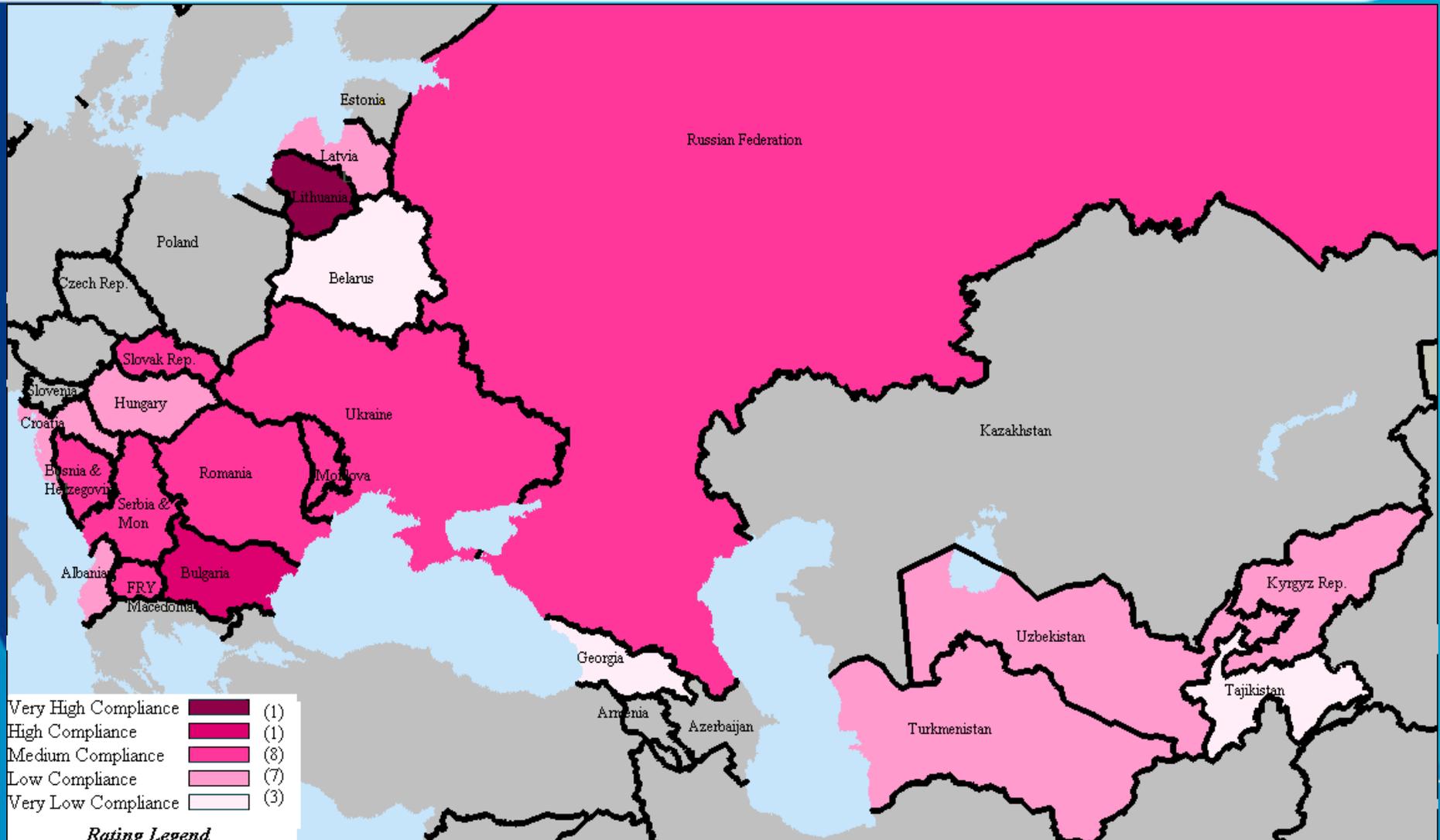


Sector Laws Assessment : Methodology

- Development of a Concession Checklist
- Reference to the relevant "international standards" as benchmarks (in particular the UNCITRAL *Legislative Guide on Privately Financed Infrastructure Projects*)
- Assessment per/classification by core area
- Global assessment: total amount of points per core area
- Distinction between countries with a single Concession Law and those without it



Countries with a concession law – EBRD 2005 Concessions Law Assessment

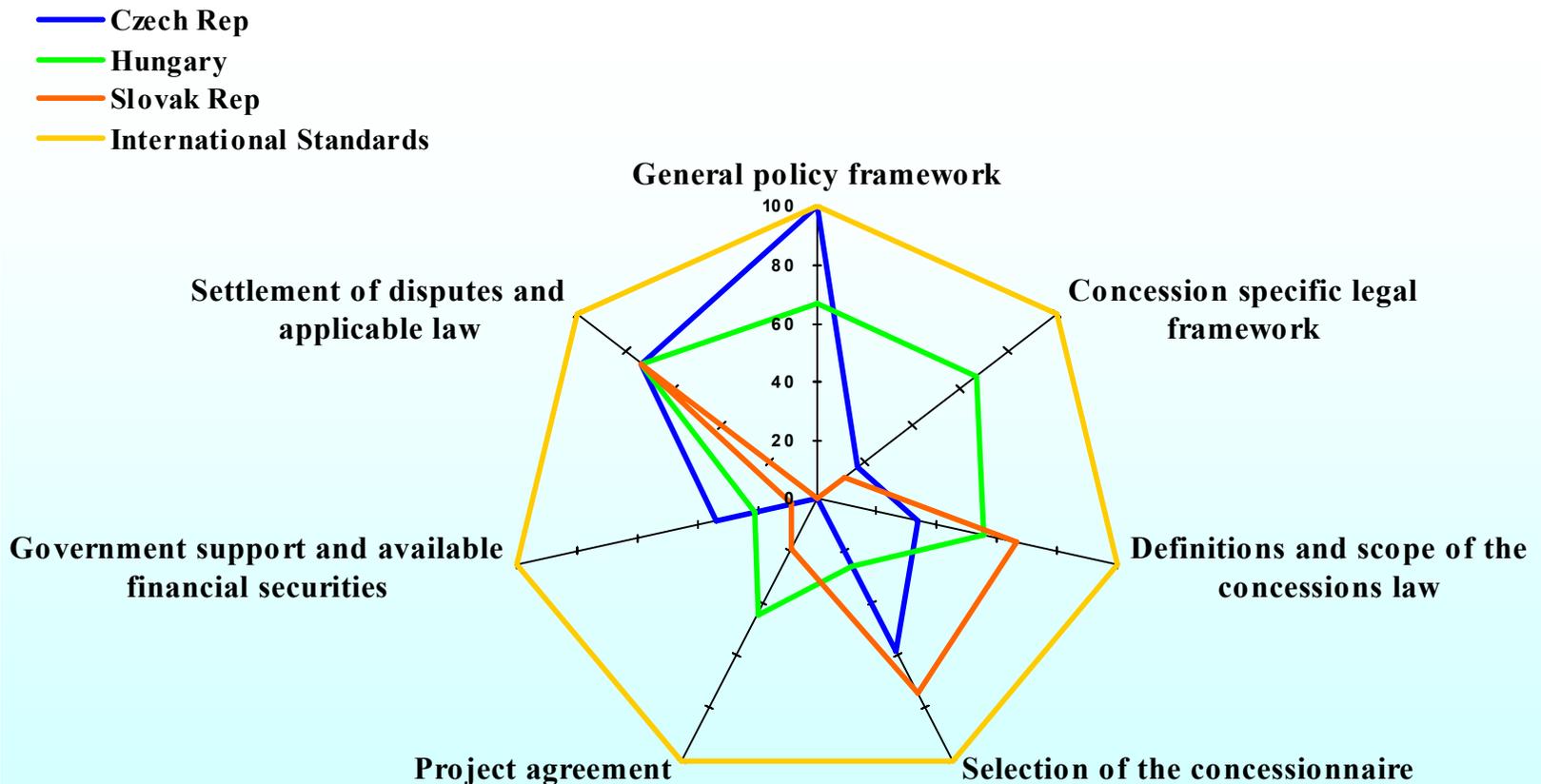


Scores per dimension/core area

- Policy framework as a separate criterion
- Is there a direct correlation/link between policy and legal framework?
- Are general perceptions proved to be right?
- “Best” and “worst” core areas

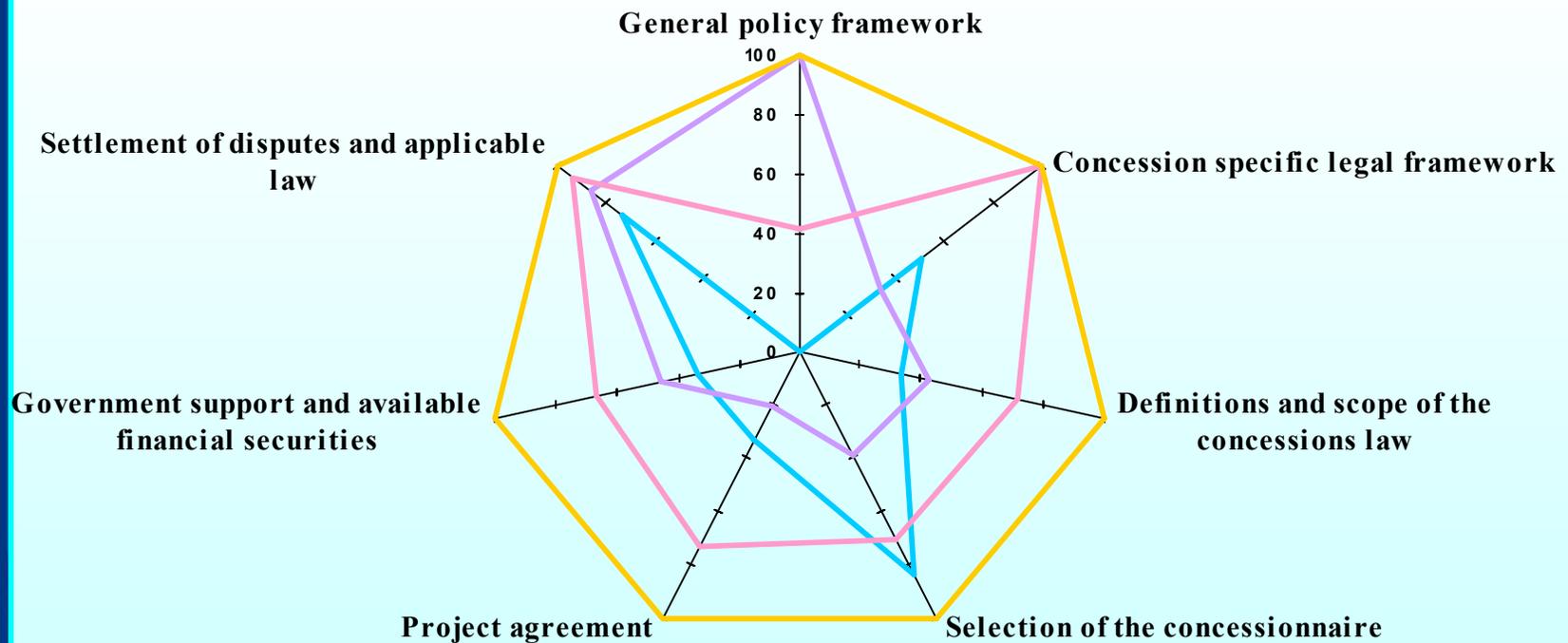


Level of compliance per core area – Czech Republic, Hungary, Slovak Republic - 2005



Levels of compliance per core area – Estonia, Latvia, Lithuania - 2005

- Estonia
- Latvia
- Lithuania
- International Standards



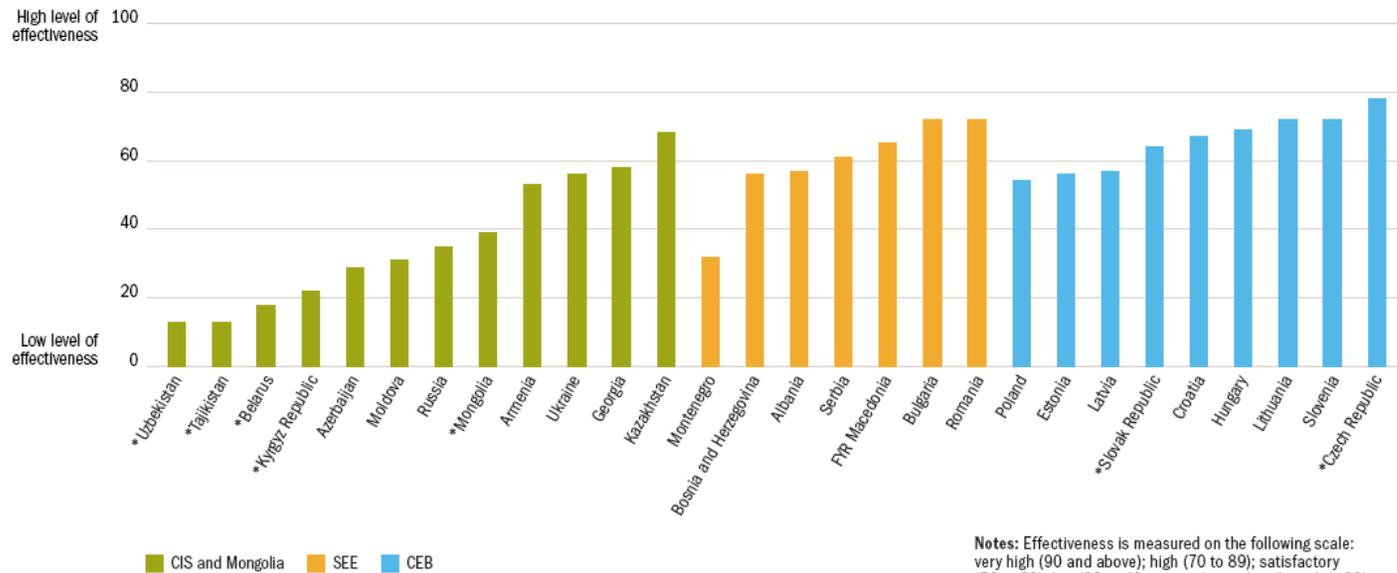
Legal Indicator Survey

- Methodology
- Case Study
- Challenges
- Results



Legal Indicator Survey

Chart 5 How concessions laws in transition countries work in practice
Effectiveness by region



Notes: Effectiveness is measured on the following scale: very high (90 and above); high (70 to 89); satisfactory (50 to 69); low (30 to 49 per cent); very low (less than 30). Data on effectiveness for Turkmenistan were not available. Countries indicated with an asterisk had only implemented one concession project or none at all by July 2006.

Source: EBRD Legal Indicator Survey 2006.



Common impediments to PPP

- Absence of a clear PPP policy
- Inadequacy of concession laws relating to the best international legal standards
- Lack of institutional support and capacity / lack of skilled public sector officials
- Security/assignment restrictions
- Lack of variety of the capital market instruments
- Budgetary constraints



Current legislative trends

- General concessions law environment vs sector laws approach
- Estonia
- Kazakhstan/Slovak Republic
- Romania



Conclusion

- EBRD countries of operations have much room for improvement. Most of them still need to contemplate and implement further law reform to modernise their legal framework if they wish to enable PPPs



www.ebrd.com/law

Alexei Zverev

Senior Counsel, EBRD

zverevA@ebrd.com



www.ebrd.com