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Central American Integration System

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1 Introduction

The Central American integration presents a number of interesting elements for scholars and political analysts. In the first place, it is one of the few regional integration schemes that is not limited to economic objectives alone and claims, at least in theory, to have ambitious political goals. Indeed, the present integration organism called the Sistema de la Integración Centroamericana (SICA—Central American Integration System), has set among its objectives the establishment not only of a free trade zone, but also of a common market and, in the long run, of a political union. Secondly, it also presents a number of original characteristics that deserve particular consideration, such as the fact that the last wave of regional integration started with the establishment of a directly elected parliamentary body, the Parlamento Centroamericano (Parlacen—Central American Parliament), and that the original purpose of this process—not unlike the early efforts in European integration—was to strengthen internal and regional democratization and pacification. Furthermore, it is one of the rare cases of a regional integration scheme where the judicial organ, the Central American Court of Justice, is entrusted with supranational powers and enforceability of its rulings (at least in theory). Still, despite some initial success, the present-day integration process stagnates and regresses at times, while democratic legitimacy elements remain weak and, on occasions, wither. The purpose of this chapter is to analyse the current regional integration process from the point of view of its democratization using the qualitative macro-indicators set by International Democracy Watch (IDW) as guidelines, to examine the gradual reversal of the initial drive towards political integration and to draw perspectives for the future.

2 The history of regional integration in Central America

The five countries that traditionally composed the Central American isthmus (Guatemala, El Salvador, Honduras, Nicaragua and Costa Rica)¹ share a long common past. They formed part of the Mayan cultural zone and, following the Spanish conquest, they became a separate administrative unit (the General Captaincy of Guatemala) within the Vice-Royalty of New Spain (Mexico). During the Spanish–American independence struggles in the 1820s Central Americans, after a brief annexation to the Mexican empire, declared their independence and formed a federal state, the United Provinces of Central America. However, internal fighting between rival political factions and among provinces led to the dissolution of the federation in 1838. Notwithstanding this initial failure, the dream of Central American union (the *patria grande*) guided a number of attempts to reconstruct the federation throughout the 19th and 20th centuries. Each of them failed for reasons similar to the ones that led to the demise of the federation: local antagonism, lack of communication, absence of democratic traditions, insufficient economic and political development, foreign intervention (Torres Rivas 1993).

Only after the Second World War did a successful integration scheme appear: founded in 1960, it aimed at creating a customs union and later a common market, while co-ordinating the region's industrialization and economic development. An integrated executive organ, the Secretaría de Integración Económica Centroamericana (SIECA—Secretariat for Central American Economic Integration) was entrusted with the implementation of common rules adopted, the monitoring of the states' abiding by them, which gradually acquired an existence of its own. Indeed, at that time Central America became a prime example of

the neo-functional theories of integration which saw in it a fertile ground for the theory (Schmitter 1970, 19). Still, though one of the most successful examples of economic integration in the 1960s, the Central American Common Market (CACM) failed to transform economic performance into genuine prosperity (Loucel 1994, 54) and during the 1970s lost its regional significance. Several reasons can explain this failure. Member states were unwilling to deepen the process and to allow for more democracy in the region. At the time, all member states with the exception of Costa Rica were authoritarian regimes, little interested in surrendering economic sovereignty to regional organs. In addition, the CACM was not able to offset the disparities among the 'beneficiary' member states and the 'victims' of integration. The reluctance to proceed towards deeper integration led to the gradual deactivation of the Common Market in the early 1970s, while the region foundered in a series of civil conflicts.

3 The renewal of regional integration in the 1980s and 1990s

3.1 The first regional parliamentary institution: the Central American Parliament

Throughout the 1970s and into the 1980s, Central America came to international attention, as the civil wars in El Salvador and Nicaragua and the external intervention put the region in the centre of the East–West conflict. Amid concerns that the military escalation might lead to a generalized regional war, regional integration came again to the forefront as a way out of the crisis. After all external efforts to reduce tension (mainly those undertaken by the Contadora Group)² failed to produce results and ended in military stalemate, the newly elected Presidents Oscar Arias Sánchez in Costa Rica and Vinicio Cerezo in Guatemala proposed a peace plan based on confidence building, internal democratization and the holding of free elections (Opazo and Vasquez 1990, 134–43). The Esquipulas-I plan, adopted in the Guatemalan city of Esquipulas in July 1986 during the first meeting of all Central American presidents for a generation, included the call for the creation of a directly elected regional parliament, the Central American Parliament (Parlacen) as a focal point for reconciliation and peace in the region.

A remarkable feature of this new wave of regional integration in Central America is that it did not start with the establishment of a comprehensive regional organization, composed of separate institutional entities and entrusted with specific competences, as had happened in the past in the region (and as occurs in other parts of the world). In this case, political integration started from the specific (i.e. a regional parliamentary organ) and later expanded to the general (a new integration system). This sequence of events makes it difficult to understand the structure and the interactions among different integration institutions, in particular if we consider another characteristic of regional integration in Central America: the quasi-perennial attempts to modify, to restructure or to rearrange the existing integration instruments.

The establishment of such a parliamentary institution completely disconnected from any other regional organism³ did not obey any regional integration imperative, but rather the objectives of regional and national democratization and pacification. Still, it is important to stress the explicit nexus thus established between regionalization and democratization. For the first time, Central American leaders recognized the link between pacification on one hand and internal and regional

democratic consolidation on the other. Indeed, breaking with the tradition prevailing elsewhere in Latin America, they looked towards a regional tool in order to facilitate and measure democratic progress nationally and they admitted that national and international democracy could not be separate. Thus, the renewed Central American integration process immediately followed a political path and appealed to popular legitimacy, to be achieved through the direct election of members of the Parlacen.

This step marked a turning point for the regional integration model in the Americas. Traditionally, the parliamentary dimension in regional integration was neglected, even ignored. Since the majority of regional integration schemes were, in any case, limited to economic goals, parliamentary institutions hardly played any role in them. Indeed, popular participation in integration processes was not only undesirable but even actively discouraged: authoritarian or semi-authoritarian regimes which constituted the norm in Latin America neither required nor promoted direct popular involvement. The few regional parliamentary assemblies established were either isolated institutions (like the Latin American Parliament), or mere consultative instruments created in order to emulate the European Community experiment (for instance, the various transformations of what is now called the Andean Community of Nations—CAN).

The election of the members of the Central American Parliament by popular vote not only directly involved citizens in the integration process, but also expanded the integration objectives into the political sphere by linking regional integration to democratization and peace. Indeed, it is interesting to recall the similarities with the foundation and the subsequent enlargement of the European Communities (EC): it was to avoid another war and to consolidate democracy in Germany that Europeans built their first supranational structures. In a similar way, it was to avoid the return of dictatorial regimes that the Southern European states (Greece, Spain and Portugal) joined the EC in the 1980s. The same objective—as well as economic and geopolitical considerations—was also evident in the 2004–07 enlargement of the European Union (EU) to Central and Eastern European countries: economic arguments were accompanied by the conviction that joining a larger European family would strengthen democratic institutions.

Several reasons led to this change of paradigm. In 1986, for the first time since 1954, a civilian, Vinicio Cerezo, was elected President of Guatemala. Cerezo was a Christian Democrat, and belonged to the moderate and reformist tradition of Central Americans who wanted to promote democratic and social changes through peaceful means and for whom the regional framework was as natural as the national one. At the same time, the military deadlock had made clear that regional conflicts could not be solved only by military means. Moreover, for the first time the European Community became actively involved in Central America, which had been considered till then the USA's 'backyard'. The EC saw the region from a different perspective to the USA, and tried to promote projects aiming more at confidence building and less at confrontation. Finally, the fear that Costa Rica might be dragged into the regional wars convinced President Oscar Arias Sánchez—also newly elected—to give up the traditional neutrality and detachment of his country from its region and to propose a plan for democratization that also included regional integration elements.

The responsibility for preparing the text for the treaty that would establish the Parliament was assigned to a committee composed of the vice-presidents of the five states, under the chair of the Guatemalan Vice-President Roberto Carpio Nicolle. Certainly, the European model significantly influenced the discussions in the drafting committee. During the debates, the likelihood of a regional parliament with decision-making powers was seriously envisaged, promoted by Guatemala and, in particular, by Carpio Nicolle.⁴ The Costa Rican opposition and the uncertainty or lack of enthusiasm from the other states led to the abandonment of this plan and to the diminishing of the Assembly's competencies (Sanchez and Delgado Rojas 1993, 451). The question was debated again during the Esquipulas-II meeting of the Central American presidents, in August 1987, and the Constitutive Treaty of the Central American Parliament and Other Political Instances was signed by the five states between 8 and 16 October 1987 (Parlamento Centroamericano 1987).

As is often the case, the results did not live up to expectations. The analysis of the Treaty reveals that it created a symbol rather than an instrument of integration. Although the Treaty's preamble spells out the Central American integration destiny (it declares, among others, that the Parliament is part of 'a pluralistic ... democratic process ... allowing member states to debate and decide on economic, social and cultural issues of interest to them ... in order to reach a higher degree of

co-operation': Parlamento Centroamericano 1987, Preamble, paras 4 and 5), it falls short of recognizing its effective powers. The Parliament is presented as a 'regional body for the discussion, analysis and formulation of recommendations on political, economic, social and cultural questions of common interest aiming to achieve peaceful coexistence in a climate of security and social well-being, based on representative and participatory democracy, pluralism and respect for national legislation and international law' (Art. 1). It is composed by an equal number (20) of members per country, as well as the president and first vice-president of each member state after the end of their term (Art. 2). Its members should be elected for a five-year term through elections 'respecting a wide political and ideological representativity' and 'in a democratic and pluralistic system that guarantees free ... elections on terms of equality' for all parties (Art. 6).

The elimination of the supranational option is evident if we examine in detail the Parliament's competences (Art. 5). They consisted of a number of consultative tasks, such as to act as a forum of discussion on issues of regional interest, to offer impetus to the integration process and allow for further co-operation among Central American countries, as well as to propose draft treaties and agreements among member states and to contribute to strengthening the democratic system and the respect of international law (de Guttry 1992, 35–50).

Still, the Treaty retained a couple of decision-making competences for the Parliament: it is competent 'to elect, appoint or dismiss, as appropriate, the highest-ranking administrator of the existing or future Central American integration agencies established by the States Parties to this Treaty' (Art. 5(c)). Also, it considers 'the annual report ... of the various Central American integration agencies' and reviews the 'means and actions taken in view of the implementation of the decisions adopted during the period under consideration' (Art. 29).

In addition, the Treaty gave formal recognition to two types of meetings that had existed informally since 1986 and had a certain periodicity: the 'Meeting of Central American Vice-Presidents' and the 'Meeting of Central American Presidents'. These two institutions were to be the interlocutors of the Parlacen as well as the addressees of its recommendations. The Meeting of Presidents was competent to examine any matter relating to peace, security and regional development, and to take note of the recommendations emanating from the vice-presidents as well as the Parlacen. It takes its decisions by consensus (Arts 23–25). The Meeting of the Vice-Presidents, besides the task of examining the recommendations submitted by the Parlacen, had a 'wide initiative in the process of regional integration ... in particular to analyse, propose and examine attributions, to promote the said process, to monitor the implementation of decisions adopted and to give its support to regional integration organisms'. The vice-presidents were also able to submit to the Meeting of Presidents any matter needing a political decision at the highest level (Arts 20–22).

It is worth going into a more profound analysis of the status of the Parliament as it came out of the Treaty, which embodies the contradictions of regional integration in Central America. The Treaty established a directly elected regional parliament with hardly any effective power. It created a powerful symbol of regional integration, but not a genuine regional legislative body. In this way, the Central American states retracted from their previous determination to build a regional institution based on popular legitimacy. The weakening of the Parliament was aggravated by the absence of any coherent regional integration institutional framework. The Parliament thus set up had to co-exist, in parallel, with various other regional integration schemes (not only the institutions of the CACM which formally still existed, but also several other sectoral and technical regional instruments). This overlapping further limited the institutional base and the involvement potential of the Parliament (Sanchez and Delgado Rojas 1993, 449).

To make matters worse, the ratification process was thwarted by national resistance, stemming essentially from Costa Rica. As the only democratic state in the region, a large part of the political elite and public opinion in Costa Rica rejected attempts to grant supranational powers to an institution with a majority of members that were less-than-democratic countries (Varela Quirós 1990, 45–56). As a result of the internal controversies on the country's participation in the Parliament, ratification was blocked for more than two years (IRELA 1990, 40). As a way out of this *impasse*, member states adopted a Protocol to the Treaty that 'froze' all the remaining decision-making powers of the Parlacen in exchange for the possibility to allow it to operate without ratification by all countries. Subsequently, after elections were held in Guatemala, El Salvador and Honduras, this rump Parliament was installed on 28 October 1991.

Table 23.1 The Central American Parliament before the 2008 Reform Protocol

<i>Composition</i>	Twenty deputies directly elected by each member state. In addition, the president and vice-president of each member state are ex officio members upon completion of their term.	– At the time, members from Honduras, Salvador, Nicaragua, Guatemala and Panama were directly elected. The Dominican Republic sent national delegates. Belize had two observers.
<i>Seat</i>	Guatemala City	
<i>Duration of the mandate</i>	Five years. Members can be re-elected	– Members are elected for a period of five years by direct and universal secret ballot and may be re-elected (Constitutive Treaty, Art. 2).
<i>Nature of the Parliament</i>	It is essentially an advisory institution	– A regional body for the discussion, analysis and formulation of recommendations on political, economic, social and cultural questions of common interest with the aim of achieving peaceful coexistence in a climate of security and social well-being, based on representative and participatory democracy, pluralism and respect for national legislation and international law (Constitutive Treaty, Art. 1).
	The text of the treaty foresees two binding competences: the election of the highest-ranking executive officers in the integration bodies; the examination of the integration bodies' annual report. However, these competences have been suspended by the Second Protocol to the Constitutive Treaty.	– An organ for exposition, analysis and recommendation (Tegucigalpa Protocol, Art. 12). – Its functions and attributes are those provided for under its Constituent Treaty and Protocols currently in force (Tegucigalpa Protocol, Art. 12). – It has the power to elect, appoint or dismiss, as appropriate, the highest-ranking directors of the existing or future Central American integration agencies established by the States Parties to this Treaty (Constitutive Treaty, Art. 5). – It considers the annual report of the various Central American integration agencies (Constitutive Treaty, Art. 29).

3.2 The reorganization of the integration system: the creation of the SICA

As pointed out above, the Esquipulas process did not mark a renewal of regional integration in the region. It created the Parlacen, but did not formally affect the existing integration schemes in the region, in particular the CACM. The gradual normalization of the political situation, though, as well as external factors (international pressure, in particular the increasing role of the European Community, and the dominant trends of economic globalization) contributed to raising awareness of the fact that the region's structural problems and economic under-development should be better combated with regional co-ordination rather than national measures. In this context, Central American common identity as well as historic, economic and political links left aside in the preceding period, re-emerged as significant parameters for the region and brought a renewed interest not only in political rapprochement but also economic integration. After 1986 the region witnessed a large number of projects aiming to (re-)establish and strengthen political co-operation and economic integration. The pivotal role of this process, though, was not (or was no longer) the Parlacen, as expected earlier, but the Meeting of Presidents.⁵

Between 1986 and 1990, many pre-existing integration institutions were re-established, while new ones were set up. The so-called 'old' institutions had started operating at different stages of the integration process; the regional panorama was thus composed of a blend of neo-functional institutions and of traditional sectoral inter-state co-operation organisms.⁶ It was obvious that co-ordination between all these organs as well as the setting of specific priorities was needed. Gradually, the countries recognized the usefulness of an organism serving as an 'umbrella' for the dispersed integration activities and able to provide the necessary impetus to a more coherent, political direction of regional integration.⁷ Although some had defended the need for a totally new and comprehensive integration treaty, it was finally decided that the most suitable framework was the institutional set-up of the Organization of Central American States (ODECA),⁸ which was from a legal point of view still valid, even though dormant since the 1970s.

During the 11th Meeting of Central American Presidents, held in Tegucigalpa on 13 December 1991, the six presidents⁹ signed the Tegucigalpa Protocol which reformed the Charter of the ODECA and

established the Central American Integration System (SICA). SICA should constitute the 'region's organic structure aiming to achieve integration in all its aspects ... in the perspective of the transformation of Central America into a region of peace, freedom, democracy and development' (Central American Presidents 1991, para. 4). The meeting also decided to set up a preparatory commission for the implementation of the necessary institutional modifications. The Protocol entered into force on 1 February 1993.

The Protocol defines a number of new goals for member states, the first being the consolidation of democracy. It also includes such objectives as the reinforcement of elected and democratic institutions; respect for human rights; the establishment of a new model of regional security; the creation of a regional system for prosperity and economic and social justice, pursuing the construction of a regional economic bloc; reaffirming the self-determination of Central America in foreign affairs; and promoting sustainable development and protecting the environment by the establishment of a new regional ecological order (Parlamento Centroamericano 1991, Art. 3).

4 The institutional structure of SICA

As shown in Figure 23.1, the Protocol put under the same umbrella the various regional integration schemes and organisms.

The system created draws a lot from the European Union institutional mechanism (for instance, its institutions include the Meeting of Presidents, a Council of Ministers, an Executive Committee, a General Secretariat, as well as a Court of Justice and the Parliament). It also sets a wider goal for integration. The SICA no longer has exclusive economic objectives, but rather intends to represent the link between the traditional system of intergovernmental co-operation and a more advanced 'Community' legal order, recognizing the indivisible character of development, peace, democracy and integration, and the use of regional means to achieve them. However, this evolution is not without contradictions: member states did not wish to surrender sovereignty, thus unanimity or rather consensus¹⁰ is still the rule in almost all major decisions. From this perspective SICA was perhaps rightly called 'a confederation of sovereign states' (Sánchez 2003, 44). From the point

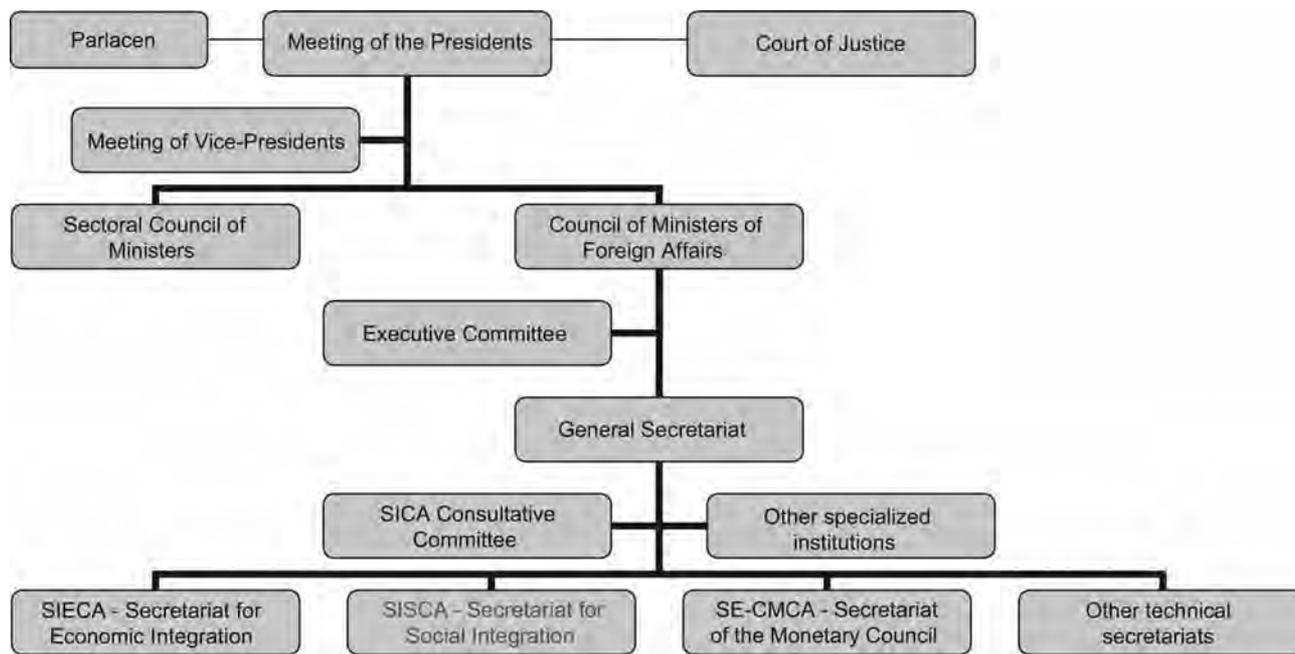


Figure 23.1 Central American Integration System institutional chart

of view of the democratization of regional integration, nevertheless, the evolution should not be underestimated. Indeed, among its founding principles the Protocol includes the recognition of the Central American identity and the gradual completion of regional economic integration. These aims offer, in fact, more opportunities for a legislative intervention in the field of integration. Furthermore, the creation of other integrated instruments (in particular, SICA General Secretariat and, later, the Central American Court of Justice) gave to the Parlacen some objective allies in its fight for a democratic supranational integration system in the region while, at the same time, it reconnected the Parlacen with Central American political developments.

The institutional structure of the organization is indicative of its dual—intergovernmental as well as community—nature. The single most important organ is the Meeting of the Presidents, the ‘supreme organ of the Central American Integration System’, consisting of ‘the constitutional Presidents of the Member States’ and ‘meeting in ordinary session every six months’.¹¹ ‘The country hosting the Meeting of Presidents shall speak on behalf of Central America during the six months following the holding of the Meeting’.¹² It ‘shall be seized of regional questions on which it is required to take decisions, with regard to democracy, development, freedom, peace and security’, in particular to:

... define and direct Central American policy by establishing guidelines for the integration of the region, as well as the provisions necessary to ensure the coordination and harmonization of the activities of the bodies and institutions of the region, and the verification, monitoring and follow-up of its mandates and decisions; to harmonize the foreign policies of its states; to strengthen regional identity as part of the ongoing process of consolidating a united Central America; to approve ... amendments to the Protocol ... ; to ensure fulfilment of the obligations contained in the ... Protocol and in the other agreements, conventions and protocols which constitute the legal order of the Central American Integration System and to decide on the admission of new members of the Central American Integration System.

The intergovernmental character of this supreme body of regional integration is reinforced by the fact that, as mentioned above, it takes its decisions by consensus.

The Meeting of Vice-Presidents is, in fact, a residue of the Parlacen Treaty without specific tasks. According to the Protocol it acts as an advisory and consultative organ to the Meeting of Presidents and normally meets every six months.¹³

The Protocol integrated the Central American Parliament into the regional legal order,¹⁴ acting as an organ for exposition, analysis and

recommendation—identical to the functions it holds according to the Constitutive Treaty—and, notably, the Central American Court of Justice aiming to ‘guarantee respect for the law in the interpretation and implementation of this Protocol and its supplementary instruments and acts pursuant to it’.¹⁵

The Council of Ministers, composed of the ministers holding the relevant portfolios, provides the necessary follow-up to ensure the effective implementation of the decisions adopted by the Meeting of Presidents in the sector in which it is competent, and to prepare the topics for possible discussions by the Meeting. It is chaired by the competent minister of the member state speaking on behalf of Central America—again for a six-month period. The co-ordinating body is the Council of Ministers for Foreign Affairs, competent for all political matters (democratization, peacemaking and regional security), for the co-ordination and follow-up of political decisions and measures in the economic, social and cultural sectors, as well as for approving the budget of the central organization. The Protocol makes special reference to the ‘Council of Ministers responsible for economic integration and regional development’ competent for implementing the decisions of the Meeting of Presidents concerning economic integration, and fostering economic policies geared towards regional integration.

The Protocol establishes two permanent organs of the System: the Executive Committee and the General Secretariat. The first is a hybrid body, composed of representatives of member states—not unlike the Committee of Permanent Representatives (COREPER) of the European Union. It meets once a week and has a wide range of tasks, including the effective implementation of the decisions of the Meeting of Presidents, compliance with the provisions of the Protocol, preparation, evaluation and submission of proposals to the Council of Ministers, and so on. In practice, though, its powers have been much less developed. Many of its competences have been taken over by the secretariat of the rotating presidency (Presidency *Pro Tempore*). It is indicative that the rules of procedures of the Executive Committee were only adopted in December 2007.

The secretary-general, appointed by the Meeting of Presidents for a period of four years, is the chief administrative officer and the legal representative of the System as well as responsible for the General Secretariat. Moreover, the secretary-general is entrusted with the tasks of representation, execution of policies, preparation of regulations and other legal texts, monitoring of the implementation of the provisions of the Protocol and of the work programme, and has budgetary powers, etc.

This general description outlines some of the unique characteristics of SICA. Even if we allow for the usual pomposity of Latin American integration schemes, all including the indispensable references to the Bolivarian heritage and to the community of nations they represent, SICA remains a special case. It is not only that its objectives remind one

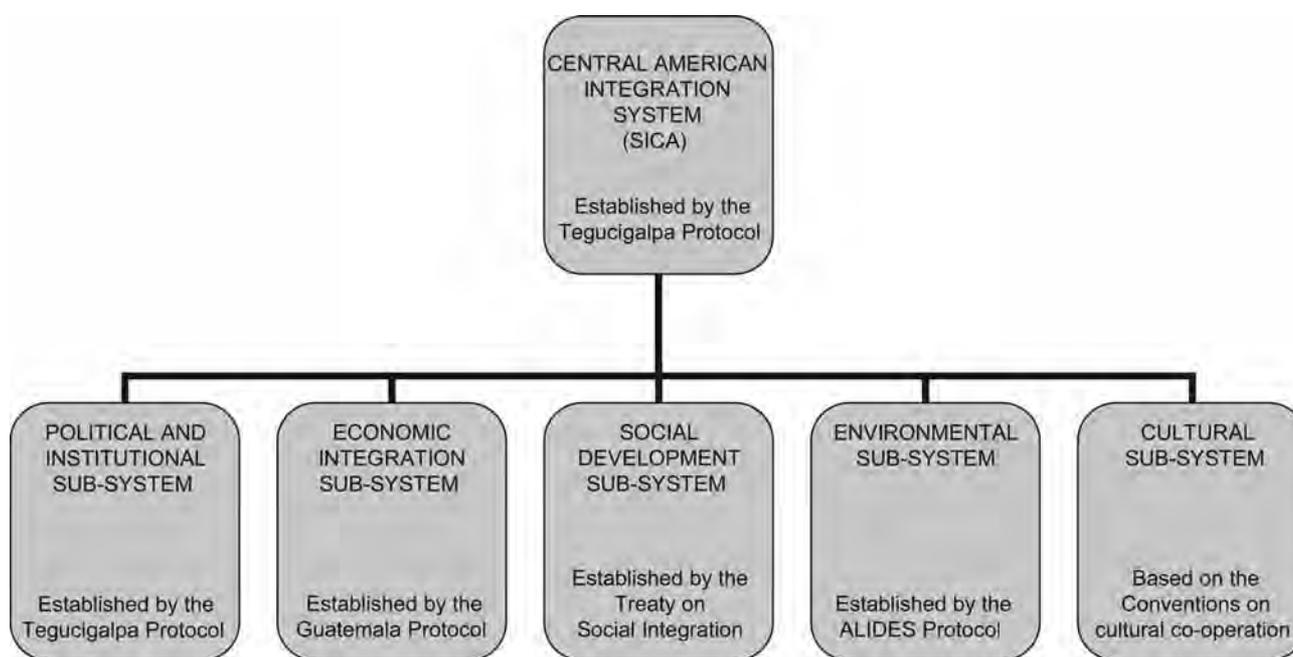


Figure 23.2 The SICA subsystems

of the early European projects—to establish regional democracy and rule of law, to avoid the repetition of internal and external conflicts—but also that it sets aims that need a thorough rearrangement of national policies and practices to implement. In addition, in contrast with previous integration efforts, which were fragmented and sectoral, the SICA aims to provide Central America with a single, global community legal order. It is true that this order is not yet a supranational one since consensus remains the rule in its decision-making process, but it represents the passage between traditional intergovernmental co-operation and the construction of a new political entity. In a way, the creation of the SICA completed the political promises contained in the Esquipulas-II Declaration¹⁶ and confirmed the intrinsic relationship between the national and the regional contexts in Central America.

5 Regional integration in the 1990s: political stagnation and institutional conflict

The setting up of SICA had significant consequences for the region. First, it confirmed the incorporation of Panama in Central America. Panama became a full member of SICA, in 1994 it signed the Parlacen Constitutive Treaty and from 1997 onwards elected members to the Central American Parliament.¹⁷ It also normalized the presence of Belize in the Central American context—Belize became a full member of the SICA in 2001 and has observer or full member status in most other integration organs.

Moreover, the formation of SICA set a number of economic integration goals: the creation of a customs union, a common market and freedom of movement for citizens and goods. In October 1993 the Guatemala Protocol was adopted. The Protocol reformed the 1960 General Treaty on Economic Integration establishing the CACM, set new targets for economic integration (including the creation of a Central American Economic Union), and formalized the so-called economic subsystem of SICA. Finally, this remodelling of economic integration allowed Central Americans to be taken into consideration by the other economic blocs of the world, in particular by the EU, which has supported the regional integration since the beginning for political/ideological as well as economic reasons, and by the North American Free Trade Agreement (NAFTA), which was Central America's primary economic objective.¹⁸

Gradually, SICA expanded also to other areas of integration. Member states adopted the Treaty on Social Integration on 30 March of 1995, aiming to co-ordinate, harmonize and allow the convergence of their social policies. This Treaty set up the Social Sub-system of SICA. Earlier on, the Alianza para el Desarrollo Sostenible (ALIDES—Alliance for Sustainable Development), signed on 12 October 1994,

formed a comprehensive strategy for the environmental sustainable development of the region. In December 1995, in San Pedro Sula of Honduras, the SICA member states signed the Framework Treaty on Democratic Security which set up the Security Area of integration. The Framework Treaty aimed to establish a regional model of democratic security, based on democracy and rule of law and formalized co-operation in the areas of reinforcement of human rights protection and combating violence and impunity. Later on, pre-existing regional co-operation in the fields of education and culture led to the establishment of a cultural sub-system.

This apparently prolific expansion of integration instruments and areas, though, conceals a harsher reality for regional integration. The process of 'new regionalism', as this period is known, for Central America ran out of steam soon afterwards. SICA's ambitious objectives have been gradually reduced when in contact with reality. The organization, despite its complex institutional framework and its wide competences, faces the same challenges that had led to the failure of past experiments. These challenges are of an institutional, a political and a legal nature.

- The first problem concerns co-ordination, in particular that of its economic sub-system. The co-operation between SIECA, an institution since the 1960s (and was relatively successful in it), with the General Secretariat of SICA has been difficult, striven with institutional antagonism as well as uncertainty over the organ competent to promote integration and the speed and the direction of economic integration.
- In addition, co-ordination is further hindered by the proliferation of organs and institutions of the integration system with few and often overlapping competences. Given the reduced budget of integration institutions, the administrative costs for some of them is proportionally elevated, especially compared to their added value. As a result, the perceived 'high administrative' costs of integration led to widespread resentment of the most costly institutions. Such resentment—particularly addressed to the supranational organs of integration¹⁹—was the foundation of all efforts to 'rationalize' the institutional framework of integration.
- The centrifugal forces within the group were and still are strong all through this period. Despite a notable increase of internal trade, all the countries of SICA had a much larger trade dependence on the USA—and some on the EU, too. Their main efforts therefore were largely addressed to securing privileged access to these markets by negotiating bilateral agreements with the USA/NAFTA and other American countries, putting intra-zone integration efforts on a secondary level.²⁰

- In addition, since the early 1990s, the integration process was first and foremost a government-led one. Despite all efforts to reduce this dependency, governments were unwilling to compromise their sovereignty. Thus, consensus remains the rule for all decisions in substance, both at the Meeting of Presidents and in the Council of Ministers. The need to secure the agreement of all member states meant that any progress achieved was attained at the level of the lowest common denominator.
- Furthermore, this intergovernmental dominance also implied that national agendas prevailed over integration. Thus, the election of new presidents, often from former opposition parties (as in Guatemala and Costa Rica) reduced the momentum towards integration. The weakness of party systems and the ephemeral character of political parties, in particular in Guatemala and Panama, means that there is no institutional memory of integration efforts: a new president and a new assembly ignore or marginalize previous integration efforts, while the weakness of the state renders null and void initiatives and decisions taken by the meetings of integration organs.²¹
- At the same time, a number of external factors, in particular various border disputes between SICA members and natural disasters—notably hurricane Mitch in 1998, but also the San Salvador earthquake—further weakened the process.

As a result, after a promising start, integration efforts stagnated. The political dimension of integration which previously led the path, emanating notably from the Central American Parliament and the Court of Justice, all but vanished and these institutions were left at the edges of integration due to the Costa Rican refusal to accept them.

Confronted with the relative failure of the integration objectives, SICA member states started examining ways to remedy this. Refusing to contemplate the possibility of breaking with the consensus in decision making and giving up sovereignty, member states considered, instead, that the root cause was the complexity of regional integration structures, in particular of community institutions. Thus, they began considering ways to re-model the institutional framework in such a way as to streamline and simplify the system.

It is true, as already pointed out, that integration in Central America suffered from an institutional incoherence and was complicated and, at times, even puzzling.²² Still, the delays in achieving regional integration goals were not—or not mainly—due to the existence of many organisms, but rather to member states' reluctance to conform to these goals or their non-compliance with the agreements reached.

Nevertheless, in the mid-1990s the majority opinion among governments was that the delay in integration could be remedied by a simplification of its structures and, from 1995 onwards, a number of efforts aimed to evaluate, streamline and reform in depth the processes and organisms of integration, to reduce their costs and to align their goals—all in the framework of a new vision of integration. Although this evaluation could have been carried out by SICA Secretariat itself, states preferred to commission a team of international experts under the direction of the Inter-American Development Bank (IDB) and the United Nations (UN) Economic Commission for Latin America and the Caribbean (ECLAC, or CEPAL from its acronym in Spanish).²³ Its conclusions²⁴ led to a number of political decisions, none of which has been implemented, in the event.

The most important institutional moments of this stage were the following:

- The Panama Meeting of Presidents, on 12 July 1997, adopted a decision to reform the integration institutions, create a unified secretariat and an executive committee, and reduce the size, competences and costs of the Parlacen and the Court of Justice.
- The extraordinary Meeting of Presidents in Managua, on 2 September 1997, proclaimed the establishment of the Central American Union.
- The proposal to adopt a 'single treaty' for all integration instruments that appeared both in the Panama conclusions and in the Managua Declaration.

These approaches differed substantially despite their closeness in time, demonstrating the duality of Central American perspectives concerning regional integration. The conclusions of the Panama Summit, strongly influenced by Costa Rican diplomacy, proposed the remodelling of integration following an intergovernmental co-operation model: a small number of sectoral institutions, directly dependent on the Executive Committee (a government-appointed committee) and the Council of

Ministers, the sole source of legitimacy being the Meeting of Presidents. On the other hand, the Managua proposal, instigated by Honduran President Carlos Reina and his Salvadorian counterpart Armando Calderón Sol, aimed directly at the establishment of a supranational community. This duality between the 'liberal-morazanist'²⁵ and 'conservative' approaches (Sánchez 2003, 44), always present in Central American integration, is also the cause of the reversals of all efforts to set up a permanent integration mechanism in the region.

As already stated, none of the above proposals came to fruition. Reaction from the opposition (as well as from within the ruling party) in Costa Rica meant that the country went back to its commitment to the Central American Union, while the upheaval provoked by Hurricane Mitch took integration off the countries' agenda. The proposal for a single treaty (the so called *tratado único*), supposedly covering all integration institutions, also fell victim to the contradictory expectations of member states. As a result, today SICA continues to have the same institutional structure of the Tegucigalpa Protocol.

6 Regional integration in the 21st century

6.1 The search for a new role for the Parlacen

Since its inception—but more markedly since the end of the 1990s—the Parlacen has tried to become a focal point of regional integration and, by the end of this decade, had partly succeeded in acquiring a new vitality. Several factors contributed to this development. As mentioned above, Panama ratified the Constitutive Treaty and nominated its first parliamentarians in 1997. Nicaragua also proceeded to the election of its first parliamentarians in October 1996. The Dominican Republic joined it in 2004, as well as Belize.²⁶ Also, the Parlacen cultivated its relations with the European Parliament, all content to co-operate with the only other directly elected regional body.

This new momentum not only substantially increased the number of its MPs (from the initial 60 to currently 120), but also their representativity. In the early days of the Parlacen, MPs were essentially representing centre and right-wing parties; most were second-rate national politicians in search of a sinecure on the way to retirement. The normalization of the political situation in El Salvador and the Nicaraguan participation in Parlacen increased the number of left-wing MPs (and also of women due to the gender policy of the Sandinista National Liberation Front—FSLN), and made the debates more lively, interesting and passionate. The press started reporting on Parlacen debates and the integration institutions are regularly invited into meetings with its thematic committees; one of the initial objectives of Parlacen, to allow for open and sincere discussions on issues of regional relevance among opposing factions which—at national level—are often in almost confrontational relations has, to a significant extent, been achieved.

Indeed, the supranational way of running political activity within the Parlacen has had important consequences for political parties. As in the European Parliament, Parlacen's members are divided by political groups rather than by national delegations. Parties from the different member states, which beforehand had no contact between them, were hence obliged to meet and co-operate on various issues of regional interest as never before. The forum of the Parlacen encouraged relations among political parties of the same country. The consensual way it tended to treat issues at stake, and the fact that most parties, either left- or right-wing, hold broadly similar opinions on the process of regional integration, eased off tensions between them and permitted them to reach out to each other more readily than at a national level. Cross-border co-operation between parties on similar issues was thus promoted outside the Parlacen as well.

The alliance with national parties has been fostered in other ways, as well. Since 1992, the Parlacen has organized annual thematic conferences for all Central American parties, bringing them together on matters that include issues of regional interest, mainly dealing with the deepening of political union, but also covering more practical issues (for instance, the Central American citizenship or the role of indigenous populations). These meetings, far from being simple social activities, constitute a privileged means of action of the Parlacen and a central moment for the international relations of political parties, often represented there by their leaders in person.²⁷

Civil society has been the other target of the Parlacen's campaign to expand its role and enlarge the spectrum of integration. Even more than political society, civil society was completely excluded from the

regional integration process. Certainly, the general political situation of Central American countries did not make it easy for civil society to exist in the first place, and even less to intervene in a process considered primarily of being the competency of the executive. The creation of the Consultative Committee of SICA, which brought together a series of non-governmental organizations (NGOs) and platforms, allowed, for the first time, these non-state actors to have a voice, be it a consultative one, over the developments in regional integration. The Parlamen snatched this opportunity and multiplied its contacts with various local, national and regional organizations and movements with the objective to recall the existence of the Parliament to them and to take into account their needs and demands. These contacts were useful. In the past, civil society and especially those movements that challenged the governments in place, tended to reject all expressions of organized political life and considered that the Parlamen was nothing more than a group of highly remunerated establishment politicians, completely detached from the real needs of the people. The permanent relations thus created broke, little by little, this diffidence and permitted both sides to find common ground for discussions as well as determine their adversaries and act together on various cases.

Finally, one should not underestimate the work done by Parlamen in order to reach out to the national parliaments. Aware of the potential danger of a quarrel with national legislative bodies over the roles and competencies of each level, the Parlamen tried to prevent it by embarking on strong co-operation with national parliaments. The objective was, once again, to demonstrate that a struggle between the legislative organs on the legislative control of integration is useless as long as governments rule over the integration process and to co-ordinate activities to facilitate exchange of opinions and information between Parlamen and national parliaments on integration issues.²⁸ As such, the two levels hold regular meetings; also, specialized committees on regional integration which exist in all national parliaments work in close co-ordination with the respective committees of the Parlamen.

These activities allowed the Parlamen to become actively and aggressively involved in the debate on integration when, after 1995, its specific features came under attack during the attempts to reform and remodel the wider institutional machinery of the SICA. It resisted the proposals put forward by the authors of the 1997 BID-CEPAL report to relegate it to an indirect assembly and counter-attacked by presenting its own vision of regional integration. In a draft Protocol adopted in 1998 (which was never implemented), the Parlamen requested a substantial increase of its powers, in particular the right to vote on the budget of SICA, to control its implementation and to be consulted over all treaties and agreements, to be approved by member states, that concern regional integration. In addition, the Parlamen submitted to the Meeting of the Presidents its own draft Treaty of the Union, in the wake of the BID-CEPAL reform proposals that intended to modify radically the regional integration framework. The draft contained a comprehensive description of the structure and tasks of a future Central American Union. This text, of a clearly constitutional character, was in fact approved by the seventh conference of Central American political parties in San Salvador in September 1998. Still, as with all other proposals for institutional reform, this one, too, failed to materialize but it led to the first significant reform of the Constitutive Treaty: the so-called Reform Protocol amending the Constitutive Treaty.²⁹ The Reform Protocol, adopted by the extraordinary meeting of the Presidents of 20 February 2008 in San Salvador,³⁰ was the first text allowing for an increase in the areas of concern (a more appropriate term than areas of competence) of the Parliament. The Protocol transforms the Parliament into the 'regional and permanent organ of political and democratic representation of SICA', whose 'fundamental objective is the realisation of integration in Central America'. Art. 5 of the Protocol modifies towards a more parliamentary direction the competences of Parlamen, enumerating no fewer than 25 competences. Among others, it is competent to propose 'legislation in matters of regional integration and harmonization of laws' to the relevant Council of Ministers; to propose initiatives in order to expand the regional integration process and legal texts thereupon; to assist and foster popular participation in regional integration and to provide democratic control over regional integration; to promote the process of integration and lead the way to the greatest possible co-operation between the Central American states; to propose draft treaties and agreements which are to be negotiated by the Central American states and to formulate an opinion on relevant SICA proposals; to promote the validity of international law; to be informed of the nominations and to swear in the executive authorities of SICA; and to examine the budgets of the institutions of SICA.

These new competences do not alter fundamentally the role of the Parliament, which remains stripped of any real decision-making power. It is indubitable, though, that the Protocol installs itself more solidly in the Central American integration landscape. This is apparent not only of the increase in its areas of concern but also of the symbolism in its portrayal: it is not as easy to abolish an institution that is the 'organ of political and democratic representation of SICA' aiming at the realization of regional integration. Also, although it is not (yet) a legislative body, it is able to propose legislation, an important step forward in an intergovernmental constellation. Finally, the right of scrutiny over the nomination of senior executive authorities and the budgets of SICA organisms is not a negligible matter, taking into account the total absence of previous powers of the Parlamen in these areas. Although it is still too early to draw conclusions as to the ways the Parliament will use and exploit these first competences, it is a fact that 20 years after its inception the Parliament has finally got itself a small, but no longer marginal, place in the context of SICA which it previously lacked.

In late 2009 Parlamen faced another challenge which demonstrates both the continuing questioning of its usefulness and legitimacy and the increasing tensions between national and 'community' legal orders. In Summer 2009 the newly elected President of Panama, Ricardo Martinelli announced that the country would withdraw from the Parlamen Treaty; indeed, during his pre-electoral campaign, Martinelli had claimed that the Parlamen 'belonged to the past', was 'ineffective' and 'a den of immunities'. In November 2009 Panama officially informed Guatemala³¹ of its withdrawal from the Treaty and on 11 December 2009 law 78 was adopted by Panama's National Assembly confirmed officially the country's withdrawal.³² This decision was opposed both inside Panama (where the Parlamen deputies belonging to the opposition continued to attend the meetings of the Parliament and appealed before the Supreme Court of Justice of the country) and, in particular, in the wider region. Parlamen challenged this decision, assembling allies among other national parliaments of the region and contested it before the Central American Court of Justice. In its consultative opinion,³³ the Court stated that the Parlamen was established to create 'a stable and lasting peace' and therefore there was no way of cancelling it. More importantly, when it became part of SICA system, 'it ceased to be a mere instrument of international law' and acquired the features of a 'Community law treaty'—that is, belonging to a community of states with its own proper legal personality and autonomy.³⁴ It also stated that the Tegucigalpa Protocol obliged states to refrain from 'any unilateral action that would endanger the achievement of the Treaty's goals' and that presidential decisions could not impose themselves on the rights of parliamentarians elected by popular suffrage. Although this opinion was ignored by Panama, it still represents a significant development in the regional legal order—integration is legally and thus politically irreversible as member states surrender part of their authority to the regional level and have, as a result, the obligation to abide by the rules set at this level. Perhaps of greater interest is that a parallel legal challenge of this decision was brought before the country's Supreme Court, which in a binding ruling issued on 24 January 2012 invalidated the law as unconstitutional on the same grounds as the Central American Court of Justice. As a result, President Martinelli announced that he would respect the Court's ruling and Panama's parliamentarians would again join the meetings of the Parlamen (Cerrud 2012).

6.2 The role of the Court of Justice

Strangely, the only supranational SICA institution that holds significant powers is the one least studied. The Court was the last institution of SICA to see the light—not surprisingly, since the establishment of a regional court with binding powers represents a revolution for Central America.

The Court appeared in the Tegucigalpa Protocol, although a predecessor of it had been established for a brief period in the early 20th century. It was considered a necessary element in the reconstruction of the entire regional integration system and an indispensable accessory in a new era of democratic institutions and the rule of law in Central America. It was instituted in Art. 12 of the Protocol stating that the Court should: '[g]uarantee respect of the law in the implementation of this Protocol and supplementary instruments and acts pursuant to it. The integration, functioning and attributions of the Central American Court of Justice shall be regulated in the Statute of the Court which shall be negotiated and signed by the Member States within ninety days of the entry into force of this Protocol'.

Table 23.2 The Central American Parliament, changes after the 2008 Reform Protocol

<i>Duration of the mandate</i>	Variable	– The mandates of the members shall have the same duration as the presidential term in the State in which they are elected (Reform Protocol, Art. 2).
<i>Nature of the Parliament</i>	Political institution	– The Parliament is a regional and permanent body for the political and democratic representation of SICA whose fundamental objective is to achieve the integration of Central America in order to consolidate it as a Region of Peace, Freedom, Democracy and Development (Reform Protocol, Art. 1).
<i>Competence</i>	To propose, debate and examine	<p>– PARLACEN has the power to:</p> <p>a) propose legislation on matters of regional integration as well as legal texts to harmonize laws that promote and strengthen Central American integration. The proposed legislation must be submitted for consideration and response to the respective Council of Ministers or to the competent bodies for consideration and response within a period of no more than 180 days in view of their subsequent submission to the Meeting of Presidents;</p> <p>b) act as a forum for debates and proposals for these political, economic, social, cultural, environmental and security issues of interest;</p> <p>c) propose initiatives to further and complete the Central American integration process concerning significant issues within its competence and prepare draft legal instruments on its own initiative or on that of the heads of state or government;</p> <p>d) promote and support the broadest possible political participation of the Central American peoples in the regional integration process;</p> <p>e) be informed of all nominations to the highest positions in the various departments of the bodies, agencies and institutions of integration;</p> <p>f) swear in persons elected or nominated to the highest positions in the System before the Plenary Assembly;</p> <p>g) on its own initiative or on that of the heads of state or government, propose treaties, conventions or protocols for negotiation between States Parties of SICA which contribute to furthering and completing the regional integration process;</p> <p>h) propose and recommend issues of interest for integration to the bodies, agencies and institutions of the system;</p> <p>i) contribute to the consolidation of the democratic, pluralistic, representative and participatory system as well as to the respect and promotion of human rights in the region;</p> <p>j) contribute to strengthening the full application of international and Community law;</p> <p>k) suggest considerations relevant for the integration process to the Meeting of Presidents after examining the process and requesting information from the system's secretariats, bodies and institutions;</p> <p>l) monitor whether the principles, objectives, norms and commitments of integration and sustainable development in the region are being fulfilled along with the other bodies of the system;</p> <p>m) participate in the Meeting of Presidents through its president or representative.</p> <p>n) participate when invited or requested by the PARLACEN in the meetings of the Council of Ministers through its president or representative;</p> <p>o) promote relations of co-operation and co-ordination with the legislative bodies of the states in the region, in order to advance political support for regional integration;</p> <p>p) submit recommendations based on the documents issued in its ordinary or extraordinary sessions to the Meeting of Presidents;</p> <p>q) provide advisory opinions prior to the adoption of any regional treaty, convention, agreement or any international instrument to be signed by member states related to regional integration, without prejudice to the provisions of other legal instruments of integration upon the request of the relevant body or when the Parliament deems it necessary;</p> <p>r) participate in special commissions aimed at contributing to resolving controversies or disputes among member states which might affect the advancement of regional integration, at the request of the states concerned;</p> <p>s) be informed on matters related to the development of regional integration submitted by natural or legal persons, when those matters do not fall within the competence of other regional bodies;</p> <p>v) be informed on the budgets of the SICA institutions and monitor their budget implementation according to the relative recommendations, requesting reports or clarification orally or in writing when necessary; to this end, it may request that the respective staff members provide explanations before the Plenary; and</p> <p>w) adopt and execute its own budget (Reform Protocol, Art. 5).</p>

Besides this brief description of its role in the Tegucigalpa Protocol, the Court's competencies and functions are to be found in the Statute, composed of 48 articles³⁵ and largely drafted by the presidents of the Supreme Courts of the member states.

The Court has issued more than 100 rulings since it started operating.³⁶ They are mainly actions for failure to act lodged against

governments and opinions requested by other integration institutions. It has also dealt with delicate issues, such as the application of Arnaldo Alemán against the legal proceedings to prosecute him for graft when he became a member of the Parlacen. Moreover, it mediated in the power struggle between President Bolaños and the Assembly of Nicaragua, and in an application from a custom agents' organization

Table 23.3 The Central American Court of Justice

<i>Composition</i>	According to the Statute, at least one full judge per member state and the same number of alternate judges. Currently, each member state that has ratified the Statute may have two judges who are full members and two who are alternate members.	At the time, the Court's Statute was ratified by El Salvador, Honduras and Nicaragua, states that had already appointed judges. Guatemala ratified the Statute in February 2009, but, as of September 2013, it had not yet appointed any judges to it.
<i>Personal attributes of the judges</i>	Judges must be persons of high moral character and fulfil the conditions required in their country for appointment to the highest judicial offices (Statute, Art. 9).	
<i>Duration of mandate</i>	10 years, renewable	
<i>Competence</i>	The court is the highest permanent judicial body in SICA, and its jurisdiction and competence are binding for the States (Statute, art. 1(1)).	
<i>Competence pursuant to Art. 22 of the Statute</i>	<p>As a Community Court, it has competence over:</p> <ul style="list-style-type: none"> – applications for annulment (by individuals and institutions) – applications for failure to act – examinations of the validity of national acts – preliminary rulings – the administrative tribunal of SICA staff <p>– As an international court it has competence over:</p> <ul style="list-style-type: none"> – disputes among member states – disputes between a member state and another state <p>– As an arbitration court it has competence over – general matters</p> <p>– As a consultative organ it has competence over:</p> <ul style="list-style-type: none"> – Supreme Courts – SICA organs <p>And has the competence to:</p> <ul style="list-style-type: none"> – conduct studies <p>– As a regional Supreme Constitutional Court it has competence to rule:</p> <ul style="list-style-type: none"> – in disputes between the bodies of a member state – in cases of failure to respect judicial rulings 	<ul style="list-style-type: none"> – The Court has the competence to: – hear applications for annulment or failure to act regarding the agreements of the Central American Integration System bodies; – hear, at the request of any interested party, the validity of legislative, regulatory, administrative or any other acts taken by a state when these affect conventions, treaties or any other provision of Central American Integration Law or the agreements and decisions of its institutions and bodies; – hear matters submitted directly by individuals affected by the agreements of the institutions or bodies of the Central American Integration System; – hear, on appeal, as a court of last resort, the administrative resolutions prescribed by the institutions or bodies of the Central American Integration System directly affecting a staff member of the same and whose reinstatement has been denied; and – decide on any preliminary ruling submitted by a judge or a court of justice hearing on a case still pending, with the aim of achieving the uniform application or interpretation of the provisions in conformity with the legal order of the Central American Integration System created by the 'Protocol of Tegucigalpa', its complementary instruments or acts derived from the same. – The Court has the competence to: – examine disputes arising among member states at the request of any state, with the exception of disputes relating to land or maritime border issues, which require the request of all parties concerned. Their respective foreign ministries must first provide a written statement that the states may, nonetheless, submit at a later stage as well as at any moment in the court case; and – examine disputes and problems arising between a Central American state and any other non-Central American state, if both parties agreed to submit the dispute to the Court. <p>The Court has the competence to hear and issue verdicts on matters submitted by parties when it is the competent tribunal. The Court may also hear, decide in and resolve disputes <i>ex aequo et bono</i> if the interested parties so agree.</p> <ul style="list-style-type: none"> – The Court has the competence to: – act as a standing Advisory Tribunal for the Supreme Courts of Justice of the states, for explanatory purposes; – act as a consultative body for the institutions and bodies of the Central American Integration System in matters concerning the interpretation and implementation of the Tegucigalpa Protocol reforming the Charter of the Organization of Central American States (ODECA) as well as of their additional instruments and supplementary acts; and – conduct comparative studies of Central American legislation in order to harmonize it and draft uniform legislative proposals in order to achieve legal integration in Central America. This task may be carried out either directly or through specialized institutions or bodies, such as the Central American Judicial Council or the Central American Institute of Integration Law. – The Court has the competence to hear and resolve, at the request of all the parties involved, conflicts arising among the fundamental powers or bodies of the member states and any dispute which may arise when judicial verdicts are not respected.

against Costa Rica (which has not ratified the Statute and does not recognize the Court).³⁷ In December 2011, in an application by Nicaragua against Costa Rica, it ordered the latter to cease the construction of a highway along the disputed border between the two countries.³⁸ In 2009 it took another step in asserting the Community aspect of SICA in its opinion rejecting the right of Panama to withdraw from the Parlacen Treaty (see above). Strangely, it was not asked to mediate—always according to Art. 20(f) of its Statute—on the recent institutional conflict in Honduras, although the terms of this latter Article seem to be made to purpose. The Court has not been spared accusations of inefficiency and costliness and the BID–CEPAL proposals suggested transforming it into an ad hoc court, meeting only when asked to. For the time being, though, no action against it has been undertaken.

7 Is SICA a democratic international institution? An analysis of SICA on the basis of the IDW qualitative macro-indicators

7.1 Appointment of officials

As pointed out above, since SICA establishment, most key integration officials are appointed by the Meeting of the Presidents (or by the national governments, as the case may be).³⁹ In no case is there a popular involvement in such appointments. Although the Constitutive Treaty of the Parlacen provided (in Art. 5(c)) that the Parliament would have competence to ‘elect, appoint or dismiss, as appropriate, the highest-ranking administrator of the existing or future Central American integration agencies established by the States Parties to this Treaty’, this competence, which has never been exercised due to the lack of ratification by Costa Rica, has been formally removed by the Tegucigalpa Protocol. This latter provides in Art. 25 that the secretary-general of SICA ‘be appointed by the Meeting of Presidents for a period of four years’. The secretary-general of SIECA is appointed by the Council of Ministers for Economic Integration, also for a period of four years.⁴⁰ The members of the Court of Justice are appointed by the respective national Supreme Courts.⁴¹ The Reform Protocol provides that the Parlacen is ‘informed of the nomination to the offices of the highest positions of the organs, organisms and institutions of integration’ and swears in those thus elected or nominated. This competence—quite general and vague—has not been implemented yet in any nomination and, in any case, does not allow for any disagreement, much less for a rejection, by the Parliament. In addition, it does not clearly define either the positions that fall under it or the consequences of the Parliament’s disapproval.

The only popular participation in the regional integration process is to be found in the direct election of the members of the Parlacen. As already pointed out, the direct election of a regional parliament is a significant and rare step in regional integration. With the exception of the European Parliament the only other such body is the Parlacen.⁴² However, despite its many attempts to acquire a role in regional integration, the Parlacen remains a consultative body—if anything, its reputation is tarnished by the accusations against its members. Not unlike its European counterpart, considered a luxury, a nuisance and, for all purposes, a second-rate institution, the establishment in the 1990s of a forum for the co-operation of national parliaments (FOPREL)⁴³—initially a Costa Rican attempt to bypass the Parlacen—was a further risk to the centrality of this organism. It is true that the Reform Protocol tries to provide it with a more stable presence and a wider role in regional integration—and in many ways, the Parliament is today less endangered than in the past and more solidly established in the system—but no matter the many areas of concern of the Parliament after the Reform Protocol, it is still, in essence, a consultative body. Even with the Reform Protocol, Parlacen does not retain any decision-making power.

The executive organs of regional integration—the General Secretariat of SICA and that of SIECA—have been unable to acquire a power of their own. They lack resources—the budget for SICA is set by national contributions by member states and, in any case, is used mainly for administrative purposes. In addition, they lack staff and, especially, they lack executive powers. Their legitimacy is also very low: since the 1960s, when for a brief period SIECA had acquired a force of its own thanks to its professionalism and foreign support and had achieved some form of elite legitimacy especially in the central states (El Salvador and Guatemala), regional institutions have worked without any noteworthy public support.

7.2 Legitimacy of the institutions

Given the low popular involvement in regional integration, it is difficult to assess the level of legitimacy of SICA. Theoretically, regional integration is an avowed aim of all Central American states—in some, such as Honduras and El Salvador, it is a constitutional imperative—and school curricula as well as official discourse promote regional integration. In practice, such legitimacy as exists is only limited to certain groups of the urban elite: the majority of the population remains indifferent or even unaware of regional integration. Recent developments in the region (the Honduran coup, the increase in organized crime and widespread violence) have further reduced legitimacy at the national level, but the regional level does not seem to have benefited from such an erosion. There are many reasons for this. Regional institutions are considered by a large part of citizens and civil society as another expression of the political establishment. Regional integration cannot claim to have significantly affected most people’s lives. It is true that SICA finds itself in a vicious circle: its small budget and limited means do not influence the economy and the society in the region and cannot achieve a functional spill-over, or render regional integration important in the eyes of Central Americans. Its relative insignificance, on the other hand, does not allow the setting in motion of a mechanism for the transfer in domestic allegiances and achievement of the critical mass that would allow for an incremental regional integration process.

As far as the Parlacen is concerned, its legitimacy as a directly elected regional parliament, always lukewarm as pointed out above, has further waned as a result of the electoral process used for the election of its members. In order to reduce costs, all countries hold elections for the members of the Central American Parliament simultaneously to national elections—which are held at different times according to the national electoral schedules. As a result, the members of the Parlacen change during its term of office. To make matters worse, most states bind the election of Parlacen members to the national lists—i.e. when a citizen votes for party A in the national elections s/he automatically votes for the same party in Parlacen elections—and thus voters are often even unaware of the Parliament’s existence. In addition, the persistent Costa Rican opposition to the very existence of the Parlacen has prevented it from becoming a moral authority for democracy and integration in Central America, similar, in some ways, to the Council of Europe.

As pointed out above, the only regional institution that is theoretically able to shape policies in the field of integration is the Court of Justice. Its competences are formidable for any court of justice and comparable to those of its European counterpart. Its effectiveness as a tool for integration, though, is hampered by its incomplete operation—in effect, it currently functions with judges appointed only by three member states—and by the long tradition of non-obeyance to the law, a tradition rampant in the region. The inability of the Court to enforce its rulings and the inherent passive character of courts—courts unable to intervene on their own unless another person or institution applies before them—further weaken its role in the regional integration constellation.

7.3 Democracy at a national level

It is commonplace to state that regional integration can only be achieved in a sustainable way by states that accept democratic principles, the rule of law and multi-party regimes. Indeed, previous attempts at integration foundered on this prerequisite: Central America has had a tumultuous democratic past. Throughout the 19th and 20th centuries, the region has been plagued with authoritarianism, military coups and violence. At the beginning of the current process of integration only Costa Rica was democratic, the remaining states of the region falling under various forms of authoritarian rule. In the early days of present-day integration, one of the most compelling arguments inside Costa Rica against supranational integration was the fact that a democratic country would surrender its sovereignty to a bunch of ‘bloody’ dictatorships. The internal fights have gradually drawn to an end and the military has, to a certain degree, been brought under the political leadership.⁴⁴ Of course, since the 1990s, all SICA member states have known political change by civilian means—former rebels are now in government in El Salvador—and may be considered electoral democracies; indeed, the Tegucigalpa Protocol enshrines democracy and rule of law as a basis for regional integration.⁴⁵ However, the situation at a national level is far from perfect: although it is true that today’s Central America has very little in common with the situation in the 1980s, electoral democracy is

not always tantamount to genuine democracy. Freedom House ratings define only Costa Rica, Panama and El Salvador as fully 'free' countries, while Guatemala, Honduras and Nicaragua are defined as only 'partly free'—and Nicaragua's rating is declining since 2009 following President Daniel Ortega's authoritarian policies.⁴⁶ Violence and corruption—two endemic features of the region—have indeed worsened in the 1990s and even Costa Rica has had three former presidents prosecuted for graft. The region is currently prone to a different form of war, as organized crime, in particular linked to drugs-trafficking, plagues the region.⁴⁷ Under these conditions, it is difficult to speak about democratic stability, and even less about regional and national democracy.

A side effect of this situation is political volatility, party fluidity as well as popular disaffection from politics. The party systems in Guatemala and Panama are today totally different from how they were in the 1980s, new parties having replaced older ones without any obvious connection to each other. The same is true to a lesser extent for El Salvador and Nicaragua, while even once-stable two-party Costa Rica has witnessed a reshaping of its party system. Leaders play a key role in political mobilization while ideological differences matter less—as became obvious both from the tactical alliance between Ortega's Sandinista Party and Arnaldo Alemán's Liberal Constitutionalist Party in 2004.

From this point of view, therefore, it is difficult to assess democracy at a regional level. SICA can only be representative of its represented entities. Internal democracy is not at the forefront of its objectives and the main efforts concern economic integration. It is not a coincidence that SICA remained on the sidelines during and after the June 2009 coup in Honduras. Although the Meeting of Presidents condemned the military takeover and froze trade and political relations with the de facto government, SICA played a minor role in the ensuing political and diplomatic initiatives, leaving the main role to the Organization of American States. The same was true for the other integration institutions. The Court of Justice is in fact competent to rule on conflicts between the constitutional organs of SICA's member states.⁴⁸ The escalation before the coup between President José Zelaya and the Congress of the Republic could have thus been brought before the Court and resolved there. The fact that there has been no such proposal—not even a discussion—is more proof that Central American institutions are still very weak and unable to confront national politics directly.

The Honduran crisis brought to the forefront another problem of regional integration. Nowhere in the integration legal texts is there any reference to some form of sanctions against a member state that violates the democratic principles. It is no coincidence that the Meeting of Presidents that met in Managua to discuss the coup in Honduras on 28 June 2009 could only use Art. 2 of the Framework Treaty on Democratic Security which stated, generally, that the 'Central American model is governed by the rule of law which includes the supremacy of law, legal security and effective exercise of citizens' rights, as well as the subordination of armed forces ... to civilian authorities',⁴⁹ in order to condemn the *coup d'état*. Again, even after the normalization of the situation in Honduras, no regional or national debate arose as to the possibility of amending the integration treaties in order explicitly to affirm the obligation of member states to remain democratic.

Another problem for regional democracy lies in the specific character of Central American political systems. As with most other Latin American states, they are all presidential systems. Presidentialism, in general, does not fit easily with regionalism, as it implies a national president with strong popular legitimacy, unwilling to share executive powers with an (unelected) regional integration executive body. It is no surprise that all major decisions in SICA are taken by the Meeting of Presidents, and on a consensual basis. What is more surprising is that quite often such decisions ignore not only the opinion of regional organs but also, on occasions, the integration rules themselves. In institutional matters, in particular, the Meeting of Presidents has ignored, for reasons of convenience, the rules it itself had adopted on earlier occasions.⁵⁰

7.4 Supranationalism

The analysis of competences of and within SICA shows that in the end the global balance of powers leans strongly towards the hands of the governments. In fact, the rule of unanimity that governs almost all decisions by the intergovernmental organs (both at the Meeting of Presidents and the Ministerial Meetings), taken in the context of the inadequate financing system of SICA (by means of annual national contributions), the limited powers of most integrated organisms and the mere consultative nature of the Central American Parliament, lead to the conclusion that SICA as it is today does not—or at least did not

initially—aim to create a supranational, quasi-federal entity, but rather an interstate organism that would ultimately develop into such a community system. Even the General Secretariats of both SIECA and SICA are unable to adopt and impose policy, much less strategy, without the consent of member states.

The only institution that can be qualified as supranational is the Court of Justice. The Court benefits from both the wide range of powers with which it is entrusted and the capacity for legal argumentation of its members, and has tried gradually to impose a community legal order in SICA. Twice in its lifetime it has clashed head-on with the member states, challenging the legitimacy of the Meeting of Presidents in the first case and of a member state in the latter to modify integration texts on a whim. In the former case, the Court questioned the authority of the 1997 Panama Summit to remodel the integration organisms on the grounds that it went against the implicit and explicit aims of the Tegucigalpa Protocol (Corte Centroamericana de Justicia 1997, 246). Indeed, it was the first case where two sources of legitimacy in the regional integration process of Central America came into conflict. In fact, the Court's judges, by means of their position, defended that the source of legality and legitimacy in the process of regional integration of Central America does not lie—or no longer lies—in the will of the presidents but in legal texts that regulate the process that they consider irreversible. In other words, presidents also are obliged to respect and abide by the treaties of integration, once ratified; furthermore, they are no longer able to modify them at their whim.⁵¹ Legitimacy founded on texts adopted legally by the member states is something new in Central America, where the presidential authority was henceforth omnipotent.

Although this first challenge remained theoretical since the decisions of the Panama Summit were not realized, it is important to follow this legal construction further in time. It has been, in fact, the first 'federal' reading of the regional integration process. The Court denied the presidents the right to alter the functioning and competences of their institution, on the grounds of a regional rather than national legitimacy.⁵² This analysis of the situation should be compared to similar positions of the EU Court of Justice, when it underlined the existence of a Community Law.

This approach went even further in the latter, more recent case. After the decision of the newly elected president of Panama to withdraw from the Parlacen Treaty—which was formalized by an official letter of denunciation to the other members of SICA—the Parlacen asked the Court for a consultative opinion.⁵³ The Court's ruling⁵⁴ again clearly underlined the co-existence of two legal orders in Central America and, indeed, the supremacy of the community one. It pointed out that:

the [Constitutive] Treaty ... ceased to be a mere instrument of international law when it became part of the Central American Integration System ... then, the treaty acquires all these characteristics of a Community Law Treaty meaning, in principle, that it belongs to a community of States which has its own personality, an autonomy in its functions and competences and with specific principles and objectives which constitute not only an inalienable commitment for member states also create a genuine political, legal, economic, social and cultural *acquis*.

Although the matter was eventually resolved internally (more proof that regional justice still counts for little), it is not at all certain that such pronouncements influence the regional integration process. In fact, the Court by its very nature cannot find support among the population. Also, there is in Central America a general perception that the judicial system is corrupt, or at best corporatist and biased. As a result, judges in general are not respected as independent judicial experts and the Court is not spared. However, the ability of the Court gradually to form a community legal order—or at least a common understanding of what such an order implies—is today the single most promising expression of supranationality in Central America.

8 Conclusions: integration in Central America today

Regional integration in Central America in the early 21st century presents, as Trinidad points out, 'dark and bright spots' (Comisión Europea 2003, 82). In terms of competences as well as in terms of results, SICA remains a half-way house. Although the Tegucigalpa Protocol set a number of ambitious objectives for the organization which imply a

profound degree of political and economic integration, the structure and the competencies of its institutions do not allow qualifying the System as a genuinely supranational one. Indeed, with the exception of the early period of integration in the 1980s, when pacification was the paramount aim, the region cannot claim a vision of its own on integration. All developments responded to specific national or regional circumstances rather than to a comprehensive vision of what member states want from integration. Thus, the various activities undertaken were incidental actions without a long-term perspective. For the same reasons, it is difficult to assess the level of democracy in the organization. Effective decisions on strategy are taken mostly by the intergovernmental sector with hardly any participation from citizens or their elected representatives. Control is scarce and is mostly attained at national rather than regional level. Although SICA and its various sectoral emanations appear to cover a wide range of areas, the specific impact of regional policies is meagre and implementation of measures remains in practice a national activity. The role of the integrated organs is limited and mostly bureaucratic; their capacity to influence decisions is restricted and these organs are also unelected and unaccountable to citizens.

As far as economic integration is concerned, results are mitigated. SICA can boast of an almost complete free trade area and its common external tariff. However, the completion of a common market (or even a full customs union) is continually deferred,⁵⁵ and intra-zonal trade is stagnating, while dependence on external trade partners increases. Centrifugal forces have always been a major risk for regional integration. Freedom of movement for persons has not been fully achieved either, much less the creation of a common market. The problems encountered by the CACM in the 1960s—absence of market complementarity and exports mostly oriented outside the region—prevent the creation of a genuine regional market. Globalization also became a hindrance in deepening integration, as it created strong pressure to lower tariffs, thus preventing the re-establishment of the 1960s ‘industrialization through import substitution’ policy. This partial failure led to the creation of subgroups within SICA which has a better record. The C-4 (encompassing Guatemala, El Salvador, Honduras and Nicaragua) and the Northern Triangle (the former three states) were created having more ambitious goals of regional integration, with successful results, in particular concerning the customs union and the movement of persons (Sánchez 2009, 142). The ‘*paso único*’ (free movement of persons within the C-4) and the single Central American visa⁵⁶ are some of the achievements of the variable geometry applied inside the SICA. It seems, indeed, that variable geometry will be the rule in regional integration in the future, which might allow for quiches results but, on the other hand, further undermine the region’s coherence. In addition, the gradual dependence of Ortega’s Nicaragua on the Venezuelan-inspired ALBA (Alianza Bolivariana de Americas) co-operation scheme,⁵⁷ further undermines the coherence of SICA.

In the political field, despite the advances in electoral democracy, the Central American societies continue to present strong economic and social disparities. Furthermore, their political systems are still quite weak. Political intermediation is haphazard: political parties are largely discredited and civil society plays a marginal role. Even formal democratic institutions face major challenges. The constitutional dispute and the military coup that brought down President Zelaya of Honduras in June 2009 is but the latest—and most serious—of such institutional conflicts. Between 2002 and 2005 Nicaragua remained locked in an institutional power struggle between then President Bolaños and the Sandinista-dominated Legislative Assembly. The recent presidential elections in Nicaragua which saw the re-election of President Ortega were tainted with allegations of widespread fraud: the country seems to descend towards authoritarian policies which, besides everything else, is negative for regional co-operation and integration. Guatemala faces continuous institutional crises between the presidents and the Congress. Only Costa Rica and El Salvador have maintained strong formal democratic features (and this despite the fact that even in politically sophisticated Costa Rica, three presidents have been prosecuted for graft and taking kickbacks).

At this moment, the process of integration in Central America is at a crossroads. Although its integrated institutions have acquired considerable weight—the Court of Justice has shaped the embryo of a Community legal order and the General Secretariat has gradually become the System’s administrative and political core, with the secretary-general obtaining an internationally recognized political status and role—inter-governmentalism still holds sway. Regional integration pertains still to the field of international law rather than to integration law. The six-monthly Meetings of Presidents continue to be the motor of SICA and unanimity remains the rule in the decision-making process. The main

problem, though, is not simply the difficulty in reaching decisions because of the consensus, but rather the failure to comply with decisions taken. Alfredo Trinidad (Comisión Europea 2003, 82) has calculated that the level of implementation of important decisions taken by the Meeting of Presidents does not exceed 4%. Governments refuse to hand over power to integrated organs but at the same time they refuse to implement their own decisions. As a result, integration is fragile and dependent on national and even personal situations. Even the efforts undertaken by the Meetings of Presidents to modify the institutional structure of SICA fail. It is not chance that the only area where integration has somehow progressed—the economic subsystem—is the area where an integrated organism (namely the SIECA) is most respected and watches over compliance.

In addition, the region continues to face formidable obstacles, not least the continuation of democratization. Despite significant progress achieved, democracy is still fragile, as the 2009 coup in Honduras has shown, and it is only partly accompanied by social equality: the continued existence of mass poverty practically cancels out any democratic achievement.

Nationalist resistance continues to be a barrier to full integration,⁵⁸ as is the ‘presidential’ character of these states. More significantly, the prevailing trend in favour of larger, regional or continental free trade areas in the Americas constitute a major stumbling block to a separate Central American political and economic integration process. In fact, the centrifugal forces advocate direct membership of Central American states in these larger units rather than creating a separate Central American union.

All the same, a ‘community’ attitude is slowly developing, as are the level of popular participation and the concept of Central American identity. The Court and the Parlacen, as well as the Consultative Committee, have gradually taken a role in the regional integration debate. However, none can take, under the present conditions, a leading role in promoting integration. The regional parliament is a victim of the all-powerful presidentialism of the American continent, while the regional court is weakened by the prevailing and generalized tradition of ignoring judicial rulings and the widespread lawlessness. Civil society, finally, is frail and divided: in societies long used to military interventions and social tensions, the role of NGOs remains at best a marginal one.

Any substantial development currently will have to emanate from the governments. This does not appear to be the case. States are unable to achieve a coherent and lasting vision of integration, vacillating between the image of a strong Central American community and that of an intergovernmental co-operation organism. Governments seem unable to understand that after 40 years, Central American integration has exhausted the stage of intergovernmental co-operation. Unless this attitude changes—or unless other, external or regional factors impose upon it—integration in the region will continue to be characterized by a predominance of ambitious goals and modest results.

Notes

- 1 Geographically, Central America also includes Panama and English-speaking Belize, formerly British Honduras. Panama, carved out of Colombia, became an independent state in 1903 with the active help of the USA, aiming at facilitating the construction of the Panama Canal. Historically, though, neither country was oriented towards Central America, while Belize had a longstanding feud with Guatemala which considered it as part of its territory. Both countries have gradually come to a rapprochement with the other Central American states—Panama is now a full member of almost all regional integration institutions and even Belize became a member of the Central American Integration System (SICA) in 2000.
- 2 Composed of four Latin American countries (Mexico, Colombia, Venezuela and Panama) the group took its name from the Panamanian island of Contadora where their foreign ministers met for the first time on 7 and 8 January 1983. The Contadora Group co-ordinated initiatives to achieve direct negotiations among the states and the parties in the conflict in Central America. It also represented the first attempt to solve the Central American conflicts outside the East–West context—the USA were not involved, and were even shunned at the beginning of the initiative—and aimed at promoting negotiations and assist in the ‘conclusion and implementation of a regional multilateral and complete treaty which could satisfy the interests and overcome the fears of all interested parties’, as stated in the relevant Contadora Declaration (IRELA 1988a, 11).

- 3 Namely the CACM, which in any case was barely functioning at the time.
- 4 It was suggested (Sanchez) that Guatemala's keenness concerning the Parliament stemmed, among others, from its desire to re-establish control over regional integration through it, something which escaped it when the focus of integration moved on to SICA.
- 5 The reasons were manifold, but the most significant one was linked to the time factor. The Meeting of Presidents started functioning already from the signature of the Parlacen Treaty—and existed informally even earlier. On the contrary, the Parliament was only set up after Costa Rica's reservations were lifted. This five-year gap—and the departure of the presidents who had imagined and promoted the Parliament—moved the focus of integration into the inter-governmental field.
- 6 The integration constellation in Central America included the institutions of the Central American Common Market which were revitalized after the political normalization, a number of other sectoral institutions, which often dated back to the 1950s and 1960s (among them the Secretariat for Touristic Integration in Central America, the Council for Central American Electrification, the Central American Commission for Maritime Transports and the Regional Technical Commission on Telecommunications), as well as the institutions created by the Constitutive Treaty of the Parlacen.
- 7 This goal was first expressed in the ministerial meeting of the ministers responsible for economic integration (an organ of the CACM which started functioning again in the late 1980s) in San Pedro Sula (Honduras) on 7 October 1989 and became official in the Meeting of Presidents at Antigua (Guatemala), in July 1990. The final declaration of this meeting underlined the decision of presidents to 'restructure, reinforce and reactivate the process of integration ... by adapting or redesigning its legal and institutional framework' (Point 26 of the final Declaration).
- 8 The ODECA (Organización de Estados Centroamericanos, or Organization of Central American States) was a regional co-operation organization, founded in 1951 by the five countries of the region with the Charter of San Salvador. Its objectives and institutional setting emulated those of the UN and the Organization of American States (OAS) and it was not provided with any supranational institution. The ODECA became inactive almost from its inception and was reshaped in 1962, in the wake of the establishment of the CACM by the Panama Charter. Despite the fact that the Charter spelled out ambitious objectives (among them, to create 'an economic and political community [aspiring to] Central American integration', in order to 'ensure economic progress [for states parties], to eliminate the barriers [dividing them], to improve ... living conditions for its peoples, to guarantee stability and growth of the industry and to confirm solidarity among Central Americans', as stated in the Preamble of the Charter) and a complex institutional framework (not fewer than eight principal organs, among which a meeting of presidents, a legislative Council and a Court of Justice), it never took off, its competences being vague and competing with those of the CACM and its powers overwhelmed by the need for consensus in all decisions. It remained inactive during the entire 1970s and 1980s and its organs were never convoked during that period.
- 9 The presidents of the five member states of the ODECA and the president of Panama.
- 10 Art. 14 of the Tegucigalpa Protocol provides that decisions at the meetings of presidents 'shall be taken by consensus'. Art. 21, on the Council of Ministers, provides that 'decisions on issues of substance shall be taken by consensus. When there is doubt as to whether an issue is of substance or of procedure, the issue shall be decided by majority'.
- 11 After Belize joined SICA, the meeting of presidents is usually called meeting of heads of state or government, as Belize is represented in these meetings by its prime minister.
- 12 This six-monthly rotating presidency was eventually formalized with the signature, in March 2009, of the Rules of Procedure of the rotating presidency (in Spanish *presidencia pro tempore*).
- 13 In practice, this organism gradually lost its original importance. Most of the important issues were dealt by the presidents while others were taken over by the SICA Secretariat.
- 14 It is worth noting that the Protocol de facto annulled the provision of the original Constitutive Treaty, which stipulated that the Parlacen shall 'elect, nominate and remove the highest executive director of the integration organisms, existing or to be created' since the Tegucigalpa Protocol (Art. 25) provided that the secretary-general of SICA is to be elected by the meeting of presidents, while a similar provision in the Guatemala Protocol allowed for the election by the meeting of presidents of the secretary-general of the SIECA.
- 15 The Protocol provided that 'the composition, functioning and attributions of the Central American Court of Justice shall be regulated in the Statute of the Court ... [to] be negotiated and signed by the member states within 90 days of the entry into force of the Protocol'. The Statute of the Court was signed by the presidents of the six states that had signed the Tegucigalpa Protocol, during their 13th Presidential Summit in Panama City on 10 December 1992. It entered into force on the 2 February 1994, after El Salvador, Honduras and Nicaragua, the three states that were also the first to ratify the Tegucigalpa Protocol, ratified it. The Court was installed in Managua and became operative on 12 October 1994. Art. 22 of the Statute (which includes 48 Articles, in total) enumerates the competencies of the Court and entrusts it with a substantial number of powers. Among these, the Court can examine at request of any member state disputes that may arise among them; analyse the validity of legislative, regulatory, administrative or any other acts taken by a state affecting conventions, treaties or any other provision, agreement or decision of the Central American Integration Law; act as a standing Advisory Tribunal for the Supreme Courts of Justice of the states, for explanatory purposes; act as a consultative body for the organs and bodies of the Central American Integration System in matters concerning the interpretation and implementation of the Tegucigalpa Protocol; examine and rule, at the request of the affected party, on conflicts that may arise between the fundamental organs or powers of the state, as well as when judicial rulings are not respected in fact. These powers far exceed those of all other organs of the system and make the Court a genuinely supranational institution with almost sovereign powers. For an analysis of the Court see Nyman-Metcalf and Papageorgiou (2005).
- 16 On this topic see the declaration of first Secretary-General of SICA Roberto Herrera Caceres, who claimed that the Tegucigalpa Protocol is 'the culmination, from a legal point of view of the political process of Esquipulas-II', in Ordoñez and Gamboa (1997, 238).
- 17 As detailed below, in summer 2009 the newly elected President of Panama, Ricardo Martinelli, announced that the country would withdraw from the Parlacen Treaty; indeed during his electoral campaign, he had claimed that the Parlacen 'belonged to the past', was 'ineffective' and 'a cave of immunities'. In November 2009 Panama officially informed Guatemala of its withdrawal from the Treaty and on 1 December 2009, law 78 adopted by the country's National Assembly confirmed the withdrawal. Eventually, this law was declared unconstitutional by the country's Supreme Court and the Panamanian parliamentarians returned to the Parliament.
- 18 The economic exchanges (trade and aid) with North America, the USA in particular, are of paramount importance for Central America. The USA remains the largest trade partner of the CACM (during the first half of 2011 it received 32% of the region's exports and provided 41.4% of its imports), ahead of intra-regional trade (13.2% of its imports and 24.9% of its exports) as well as trade with the European Union (6.7% of its imports and 16.5% of its exports) (SIECA, Sistema de Estadísticas de Comercio, www.sieca.int/site/VisorDocs.aspx?IDDOC=Cache/17990000004107/17990000004107.swf). When the North American Free Trade Agreement (NAFTA) was first established in the 1990s, Costa Rica tried in vain to join it on its own, on the grounds that it had a more or less similar economic development to Mexico. The USA, though, refused to contemplate an economic agreement with so small a country and suggested a co-ordinated subregional approach.
- 19 Parlacen, in particular, was (and still is to some extent) perceived as and accused of being a white elephant, composed of second-rate politicians in search of a well-paid sinecure, doing nothing and spending the taxpayers' money. See '¿Qué hacen en el Parlacen?' *El Nuevo Diario*, 1 July 2010.
- 20 In particular Costa Rica and Panama look towards closer co-operation with the USA and are much more interested in negotiating free trade agreements with this country rather than in completing the Central American Common Market. Furthermore, Nicaragua during this last period—and in particular as President Ortega became more and more isolated in international relations—became more and more dependent on Chávez's Venezuela and the ALBA co-operation system.
- 21 As an example, it should be recalled that Guatemala has ratified the Statute of the Central American Court of Justice in 2008 but still has not nominated judges to it.
- 22 Some sectoral and technical integration organs dated back to the first phase of integration in the early 1950s and were pursuing an autonomous and sometimes useless life and their goals of their own, not necessarily linked to the SICA strategy.
- 23 The mandate to the team, decided in the 16th meeting of presidents, at San Salvador on 30 March 1995, consisted of an 'evaluation of the

- operational management of the organs and institutions of integration so as to proceed to their modernisation and to achieve a better efficiency in their procedures and results' (Point 14 of the Final Declaration).
- 24 The conclusions were published in CEPAL-BID (1998).
 - 25 Francisco Morazán was a Central American statesman and last president of the United Provinces of Central America. He was killed in an effort to restore the unity of Central America and is still remembered as the champion of regional integration.
 - 26 Still, neither has proceeded to elect its representatives directly. Belize only appoints two observers while the president of the Dominican Republic designates 20 members.
 - 27 The 19th Conference of Central American and Caribbean Parties, organized on 24–25 August 2010 in San Salvador, was entitled 'from intergovernmental co-operation to community integration: obstacles advances and challenges', and defended, among others, the position of the Parlacen against Panama's withdrawal from it. See 'Declaración especial de los partidos políticos de Centroamérica y del Caribe en respaldo al Parlamento centroamericano', on the Parlacen website (www.parlacen.int). The last meeting at time of writing, the 20th, took place in Antigua Guatemala on 23–24 August 2011.
 - 28 Such a privileged relationship has been useful to the Parlacen at various critical moments of its existence, such as the attempt to relegate it to an indirectly elected body with the Panama proposals as well as the recent decision of Panama to withdraw from it. See the unanimous resolution of the Salvadorian Assembly urging Panama to reconsider its decision. See: 'Pronunciamento de la Asamblea Legislativa de la Republica de El Salvador ante el anuncio efectuado por el Gobierno de la Hermana Republica de Panama sobre su decision de retirarse del Parlamento Centroamericano', 20 August 2009, www.asamblea.gob.sv/primeraline/2009/Agosto/210809_pronunciamento_panama.dwt.
 - 29 The Parlacen Treaty was amended four times previously for practical purposes, in particular to postpone the date of the first elections for the Parliament and to allow the installation of the Parliament without the ratification by Costa Rica.
 - 30 The Treaty came into force on 7 September 2010, after when it was ratified by five SICA member states (the four traditional 'integrationists'—Guatemala, El Salvador, Nicaragua and Honduras—and the Dominican Republic).
 - 31 According to the Constitutive Treaty, Guatemala was the guardian of the instruments of ratification of the Treaty.
 - 32 Law 78 of 2009. Official Gazette 26425/11-12-2009. Interestingly, the law claimed that the withdrawal was in application of the country's 'sovereign will and power as a subject of international law, that it is the right of the country to withdraw from the Treaty'. In addition, the law made reference to the Vienna 1969 Treaty on the law on treaties. It is obvious that Panama wanted, in this way, to demonstrate that the Parlacen treaty was a treaty like any other and that a withdrawal from it was a right of any signatory state as prescribed by international law.
 - 33 Resolution number 6/14-8-2009, issued on September 19, 2009.
 - 34 It specifically made reference to the case *Costa/ENEL* of the European Court of Justice.
 - 35 The text is available online at: www.ccj.org.ni.
 - 36 By the end of January 2012 the Court had received 127 applications. By the end of March 2011 it had ruled on 110 cases (69 contentious cases and 41 opinions). See portal.ccj.org.ni/ccj2/Historia/tabid/57/Default.aspx.
 - 37 Initially, the Costa Rican parliament objected to the right of the Court to rule 'on conflicts that may arise between the fundamental Organs or Powers of the State' (Art. 20(f) of the Statute, above). Later, Costa Rica simply refused to allow supranational power to any SICA organism.
 - 38 'Costa Rica no reconocerá orden de CCJ', *Confidential*, 18 January 2012.
 - 39 Such is the case for the nomination of the national members of the Court of Justice.
 - 40 According to Art. 43 of the Guatemala Protocol.
 - 41 Art. 10 of the Statute of the Central American Court of Justice provides that 'each magistrate ... shall be elected by the Supreme Court of Justice of the respective State, from among a triad of candidates submitted by the corresponding executive organ, which shall be based on a list of no more than five names ... proposed by the Lawyers' Bars'.
 - 42 It is no coincidence that the other regional integration systems that aim to establish direct elections, such as the Andean Community of Nations and the MERCOSUR, have continuously been postponing this step.
 - 43 FOPREL (Foro de Presidentes de Poderes Legislativos de Centroamérica y la Cuenca del Caribe) was formally set up in Managua on 26 August 1994. It brings together the presidents of national parliaments of the region and members of thematic committees.
 - 44 The case of the military coup that, in June 2009, deposed President Zelaya of Honduras, though, is there to prove that such a development cannot be considered as definitive.
 - 45 Art. 3 provides that a 'fundamental objective' of SICA is to 'consolidate democracy and strengthen its institutions on the basis of the existence of Governments elected by universal and free suffrage with secret ballot, and of unrestricted respect for human rights', and Art. 4 proclaims that 'peace, democracy, development and freedom constitute a harmonious and indivisible whole which shall guide the acts of the States Members of the Central American Integration System'.
 - 46 According to Freedom House methodology, 'partly free countries are characterized by some restrictions on political rights and civil liberties, often in a context of corruption, weak rule of law, ethnic strife, or civil war'.
 - 47 In 2010 four of the countries of the region (Honduras, El Salvador, Belize and Guatemala) were among the seven most violent countries in the world and Honduras' murder rate, in 2010, was 82 per 100,000 people, the highest in the world. See *The Economist*, 28 January–2 February 2012.
 - 48 Art. 20(f) of the Court's Statute points out that the Court is competent 'to examine and rule, at the request of the affected party, on conflicts that may arise between the fundamental Organs or Powers of the State, as well as when judicial rulings are not respected in fact'. The Statute has been ratified by Honduras.
 - 49 Special Declaration of the Council of Ministers of Foreign Affairs on the situation of Honduras.
 - 50 The most emblematic such contradiction has been the adoption of the Panama-II conclusions in August 1997 and, hardly a month later, of the Managua Declaration. The two texts were not only mutually conflicting—they were also adopted with total disregard of the rules contained in the Tegucigalpa Protocol.
 - 51 The President of the Court for the period 1996–97, Dr Rafael Chamorro Mora, insisted that the Panama Summit had violated the institutional framework of SICA and noted that the Tegucigalpa Protocol was the constituent treaty of regional integration and, as such, superior in hierarchy to any other decision of institutions deriving from it. See 'Integración política en peligro', *Boletín Semanal de Infopress Centroamericana* 26, 20–27 September 1997.
 - 52 See also the Court resolution, dated 24 May 1995, where the Court underlined the 'constitutional' character of the Tegucigalpa Protocol and insisted that this latter was able to provide legitimacy by itself.
 - 53 The application contained several questions, the most important of which was whether a member state had the right to withdraw from the Constitutive Treaty, whilst this latter did not include any relevant withdrawal provision.
 - 54 Ruling No. 6-14-08-2009, dated 23 September 2009.
 - 55 In March 2010 the Central American Common External Tariff was harmonized in 95.7% of its codes. The products, though, which were not yet harmonized, included a number of important products for the region (such as sugar, coffee, bananas and industrial goods) (SIECA 2011a).
 - 56 The system, established by the CA-4 Border Control Agreement, signed in June 2006 between El Salvador, Guatemala, Honduras and Nicaragua, allows for the free movement across borders between the four signatory states of its citizens without any restrictions or checks and establishes a harmonized visa regime for foreign nationals travelling to the area.
 - 57 Nicaragua joined ALBA in 2007 and as its relations with the rest of the world, and in particular the USA, became strained, it increased its dependence on Venezuelan support to the detriment of regional trade. During the first half of 2011, Venezuela was the second trading partner (after the USA) of Nicaragua counting for 17.5% of the country's total imports and 13.1 % of its exports. During 2010, it had even taken from the USA the first place in Nicaragua's imports (SIECA 2011b).
 - 58 In the ongoing discussions between the EU and SICA in view of concluding an Association Agreement, Costa Rica forced its partners to accept that the Central American parliamentary interlocutor in the political dialogue between the EU and SICA will not be the Parlacen alone, but also a member of the Costa Rican Legislative Assembly. See: 'Costa Rica evitó adhesión a Parlacen en Acuerdo con UE', *La Nación* (San José), 28 January 2009.

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