

**EU CONDITIONALITY AND BALKAN COMPLIANCE:  
DOES SOVEREIGNTY MATTER?**

by

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# EU CONDITIONALITY AND BALKAN COMPLIANCE: DOES SOVEREIGNTY MATTER?

Gergana Noutcheva, PhD

University of Pittsburgh, 2006

The Balkan states have all responded to the EU's conditional offer of membership with domestic institutional and policy changes in line with the EU requirements. Yet, there is a remarkable variation among the countries from the region in terms of their formal sovereignty, both with regard to domestic governance independent of external actors (internal sovereignty) and internationally recognized status (external sovereignty). Does sovereignty affect the conditionality-compliance dynamic? The dissertation offers an explanation of how the statehood of a prospective EU member affects the policy and politics of conditionality at EU level and the politics of compliance at domestic level. It argues that in semi-sovereign countries, the EU conditionality can incur higher compliance costs as it can intervene in the sovereignty of an aspiring candidate suggesting a redefinition of internal and/or external statehood structures. The security nature of such interventions has an effect on the EU foreign policy behavior involving two agents of conditionality - the European Commission and the Council – and creating risks for inconsistency in EU policy execution. Domestic politics hold the key to compliance with sovereignty-sensitive conditions as the political space tends to be very fragmented and political opposition to EU conditions may arise. In countries where sovereignty is not contested, the EU conditionality prioritizes democratic and economic reforms, the politics of conditionality hides less dangers for incoherence as the EU is inclined to speak with one voice and the politics of compliance are more consensual rendering the compliance trend more sustainable.

The dissertation employs the comparative method of analysis and examines the compliance patterns of Bosnia and Herzegovina, Serbia and Montenegro and Bulgaria as cases representing the full variation along the sovereignty variable. The argument is situated at the intersection of international relations and comparative politics. It extends the sovereignty debate in the International Relations (IR) literature to the specificity of the EU relations with the Balkan countries. In so doing it links the IR debate to the Europeanization literature exploring the EU's impact on domestic changes in EU candidate countries. Sovereignty as a variable is neglected in the Europeanization literature and this dissertation is an attempt to address this gap.

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## LIST OF ABBREVIATIONS

BiH	Bosnia and Herzegovina
BSP	Bulgarian Socialist Party
CAFAO	Customs and Fiscal Assistance Office (Bosnia and Herzegovina)
CARDS	Community Assistance for Reconstruction, Development and Stabilization
CEE	Central and Eastern European
CFSP	Common Foreign and Security Policy
CoE	Council of Europe
DG	Directorate General (European Commission)
DG ECFIN	Directorate General Economic and Financial Affairs
DPS	Democratic Party of Socialists (Montenegro)
DS	Democratic Party (Serbia)
DSS	Democratic Party of Serbia (Serbia)
EC	European Commission
ESDP	European Security and Defense Policy
EU	European Union
EUFOR	European Union Force (Bosnia and Herzegovina)
EUPM	European Union Police Mission (Bosnia and Herzegovina)
FBiH	Federation of Bosnia and Herzegovina
EBRD	European Bank for Reconstruction and Development
FDI	Foreign Direct Investment
FRY	Federal Republic of Yugoslavia
GDP	Gross Domestic Product
HDZ	Croatian Democratic Union (Bosnia and Herzegovina)
HR	High Representative (Bosnia and Herzegovina)
ICTY	International Criminal Tribunal for former Yugoslavia
IFI	International Financial Institution
IMF	International Monetary Fund
IR	International Relations

ISPA	Instrument for Structural Policies for Pre-Accession
ITPC	Indirect Taxation Policy Commission (Bosnia and Herzegovina)
JHA	Justice and Home Affairs
KM	Convertible Marka (Bosnia and Herzegovina)
MFA	Macro Financial Assistance
MRF	Movement for Rights and Freedoms (Bulgaria)
NATO	North Atlantic Treaty Organization
NGO	Non-Governmental Organization
NDSV	National Movement Simeon II (Bulgaria)
NS	People's Party (Montenegro)
OECD	Organization for Economic Cooperation and Development
OHR	Office of the High Representative
PDP	Party of Democratic Progress (Bosnia and Herzegovina)
PEP	Pre-accession Economic Program
PfP	Partnership for Peace
PHARE	Poland and Hungary: Assistance for Restructuring their Economies
PIC	Peace Implementation Council (Bosnia and Herzegovina)
RS	Republika Srpska
SAA	Stabilisation and Association Agreement
SAP	Stabilisation and Association Process
SAPARD	Special Accession Program for Agriculture and Rural Development
SBiH	Party for Bosnia and Herzegovina
SCG	Serbia and Montenegro
SDA	Party of Democratic Action (Bosnia and Herzegovina)
SDP	Social Democratic Party (Bosnia and Herzegovina)
SDP	Social Democratic Party (Montenegro)
SDS	Serb Democratic Party (Bosnia and Herzegovina)
SFOR	Stabilization Force in Bosnia and Herzegovina
SNP	Socialist People's Party (Montenegro)
SNS	Serbian People's Party (Montenegro)
SNSD	Alliance of Independent Social Democrats (Bosnia and Herzegovina)

SPO-NS	Serbia Renewal Movement – New Serbia Coalition (Serbia)
SPS	Socialist Party of Serbia (Serbia)
SRS	Serbian Radical Party (Serbia)
UDF	Union of Democratic Forces (Bulgaria)
US	United States
USAID	United States Agency for International Development
VAT	Value Added Tax
WB	World Bank

## **1.0 SOVEREIGNTY AND THE COMPLIANCE PATTERNS OF BALKAN STATES**

The European Union's (EU) response to the historical events of the last decade of the 20<sup>th</sup> century which witnessed the collapse of communism, the dissolution of the Soviet Union and Yugoslavia and the initial reforms of post-communist states to establish liberal democracy and market economy has been to extend the prospect of EU membership to ten countries from Eastern Europe in 1993 and to five countries from the Western Balkans in 2000. The EU's offer was made conditional on each country's achieving European standards of democratic and economic governance and for the Western Balkans on consolidation of statehood of the fragile state structures in the region following the Yugoslav wars of secession in the 1990s. The incentive put forward by the EU proved a powerful mechanism for stimulating reforms in East Central Europe where eight countries successfully fulfilled the EU entry requirements and acceded to the EU in May 2004, fifteen years after the start of the transition process. Two countries from the first group, Bulgaria and Romania, needed more time to satisfy the accession criteria and are expected to be ready by 2007 – 2008. The rest of South East Europe (Albania, Bosnia and Herzegovina, Croatia, Macedonia and Serbia and Montenegro) have accession roadmaps and are working to qualify for membership.

The EU's generous offer of proposing to accept its post-communist neighbors as equal members is only one side of the coin. The other side is the high threshold level the EU set for aspiring candidates in the form of strict conditions they had to comply with in order to be admitted. Through the proposed incentives for political and economic reform, the EU sought to entice compliance and dissuade non-compliance, yet it was up to the countries to take up the offer or not.

A comparison of the performance of the South East European governments more than a decade after the EU extended the membership perspective to Bulgaria and Romania and five years after it promised membership to the Western Balkans shows that all of them have opted to conform to the EU conditions and to engage in pre-accession preparations. Compliance with EU demands has sometimes risked a political crisis or met severe public opposition. Yet Balkan governments have accepted to amend constitutions, reform institutions and change domestic policies against the promise of integration into the EU in an unspecified time horizon. The prospect of becoming a full EU member has induced the adoption of specific laws, the creation

of executive bodies, the revision of internal policies across the whole region. Even in the Western Balkans which embarked on EU integration policies almost a decade after the Eastern Balkans, the accumulated empirical evidence confirms a trend toward compliance. The question is why have the Balkan governments so uniformly chosen to comply with rather than defy the prescriptions of the EU?

If we compare the countries from South East Europe, there is one characteristic on which they show remarkable diversity and this is their sovereignty. Like countries emerging from communist regimes, they all faced similar problems of restructuring the socialist-era institutions and economies in the early 1990s although the former Yugoslav republics had better starting positions due to their communist-time openness towards the West and familiarity with capitalist economic practices. The violent break-up of the Yugoslav Federation in the 1990s, however, was a time when sovereignty was heavily contested in the Western part of the Balkans by ethnic groups that claimed the right to self-determination and took arms to fight for independence. When the wars ended with the capitulation of Milosevic in 1999, not without external intervention, there were five officially recognized states at the place of former Yugoslavia and a few unresolved statehood issues such as the status of Kosovo and the Montenegrin question. There also remained many challenges to the weak statehood of even recognized states like Bosnia and Herzegovina and Macedonia both of which had to accept different degrees of external supervision of their domestic institutions and policies.

Does sovereignty affect the conditionality-compliance dynamic? Is there a difference in the EU conditionality vis-à-vis fully sovereign and quasi-sovereign states? Who is accountable for compliance decisions in countries that are not fully sovereign? What is the impact of the EU on the statehood structures of protectorates and semi-protectorates? Are compliance patterns identical in countries with differently constituted sovereignty, despite the commonly observed orientation toward compliance across the region?

I argue that sovereignty matters for the conditionality-compliance relationship. The statehood of a would-be EU member affects the policy and politics of conditionality at EU level and the politics of compliance at domestic level. I propose that in semi-sovereign countries, the EU conditionality can be more intrusive as it can intervene in the sovereignty of an aspiring candidate suggesting a redefinition of internal and/or external statehood structures. The security nature of such interventions has an effect on the EU foreign policy behavior involving two



agents of conditionality - the European Commission and the Council – and creating risks for inconsistency in EU policy execution. Domestic politics hold the key to compliance with sovereignty-sensitive conditions as the political space tends to be very fragmented and political opposition to EU conditions can arise. In countries where sovereignty is not contested, the EU conditionality prioritizes democratic and economic reforms, the politics of conditionality hides less dangers for incoherence as the EU is inclined to speak with one voice and to deliver a consistent message and the politics of compliance at domestic level are more consensual rendering the compliance trend easier to sustain over time.

The chapter is organized in the following way. The first section defines the sovereignty variable while the second one answers in greater detail why looking at sovereignty is important for understanding Balkan compliance. Section three offers a working hypothesis for explaining Balkan compliance whereas section four looks at alternative explanations. The fifth section is devoted to the elaboration of a model of compliance patterns which helps distinguish the motivation of political elites to comply with EU conditions. The sixth section offers a justification for the case selection. The last part sketches the structure of the rest of the dissertation.

## **1.1 DEFINING THE SOVEREIGNTY VARIATION AMONG THE BALKAN STATES**

The Balkan countries vary in terms of their degree of sovereignty understood in the traditional way and linked to the origins of the modern state and the emergence of the contemporary international system after the signing of the Treaty of Westphalia in 1648. The critical principle for grasping the difference between them as regards their international standing is the distinction between internal and external sovereignty. Internal sovereignty signifies a capacity for self-governance independent of external actors. It is the self-rule of a community on matters of domestic nature without interference of other states or external powers. This definition is similar to Stephan Krasner's concept of Westphalian sovereignty.<sup>1</sup> External sovereignty means a recognized capacity to engage with other actors in the international system on equal terms. It is an external acknowledgement of the authority of a state sealed by the official recognition of a

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<sup>1</sup> Stephen Krasner, *Sovereignty: Organized Hypocrisy* (Princeton: Princeton University Press, 1999), 20-25.

country by the others in the international system. This description is analogous to Krasner's concept of international legal sovereignty.<sup>2</sup>

The countries from the region are widely spread along these two dimensions of sovereignty. Some of the states in the region come close to being characterized as sovereign, both internally and externally (Albania, Bulgaria, Croatia, Romania). Other entities in the region function as international protectorates and in this sense endure severe encroachments on both their internal and external sovereignty (Kosovo). There is a third category which can be described as semi-sovereign countries. They have either their external sovereignty undermined (Serbia and Montenegro) or their internal sovereignty compromised (Bosnia and Herzegovina, Macedonia). The degree of sovereignty depreciation varies in the different cases.

Although some scholars have treated sovereignty as a relational concept and have conceived of it in terms of gradations along both dimensions,<sup>3</sup> for the purposes of this study, states will be treated as sovereign or non-sovereign based on the following two criteria: 1) the presence or absence of external actors in a country's domestic authority structures; and 2) the recognition or not of a country's international legal status, including the existence or not of formal procedures to re-visit that status by stakeholders within or outside the state. The first criterion will be applied to determine whether the principle of non-interference in the internal sovereignty of a country has been respected or not. The second one will be used to determine the consolidation or lack of it of a country's external sovereignty.

While full protectorates can only make choices on their own to the extent that external actors allow them to do so, semi-sovereign and sovereign countries are formally entitled to make decisions regarding their domestic and/or foreign policies. Regardless of the variation in the formal authority implied by the different degrees of sovereignty, the semi-sovereign and sovereign Balkan governments have on the whole complied with EU demands for institutional and policy changes as a precondition for EU integration. The EU conditionality has ranged from changing the parameters of the internal political system to redesigning the economic system of different entities across the region. Countries have at times tried to delay the fulfillment of specific requirements or to avoid them altogether but none of them has chosen the radical path of non-compliance. In this process, countries have had to accept further encroachments on their

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<sup>2</sup> Ibid., 14-20.

<sup>3</sup> For a debate on this point, see Robert O. Keohane, "Ironies of Sovereignty: The European Union and the United States," *Journal of Common Market Studies* 40, no. 4 (2002): 743-765.

statehood while accepting the EU authority to formulate sovereignty-linked conditions. One witnesses convergence rather than divergence in the behavior of states with different characteristics. The question is why?

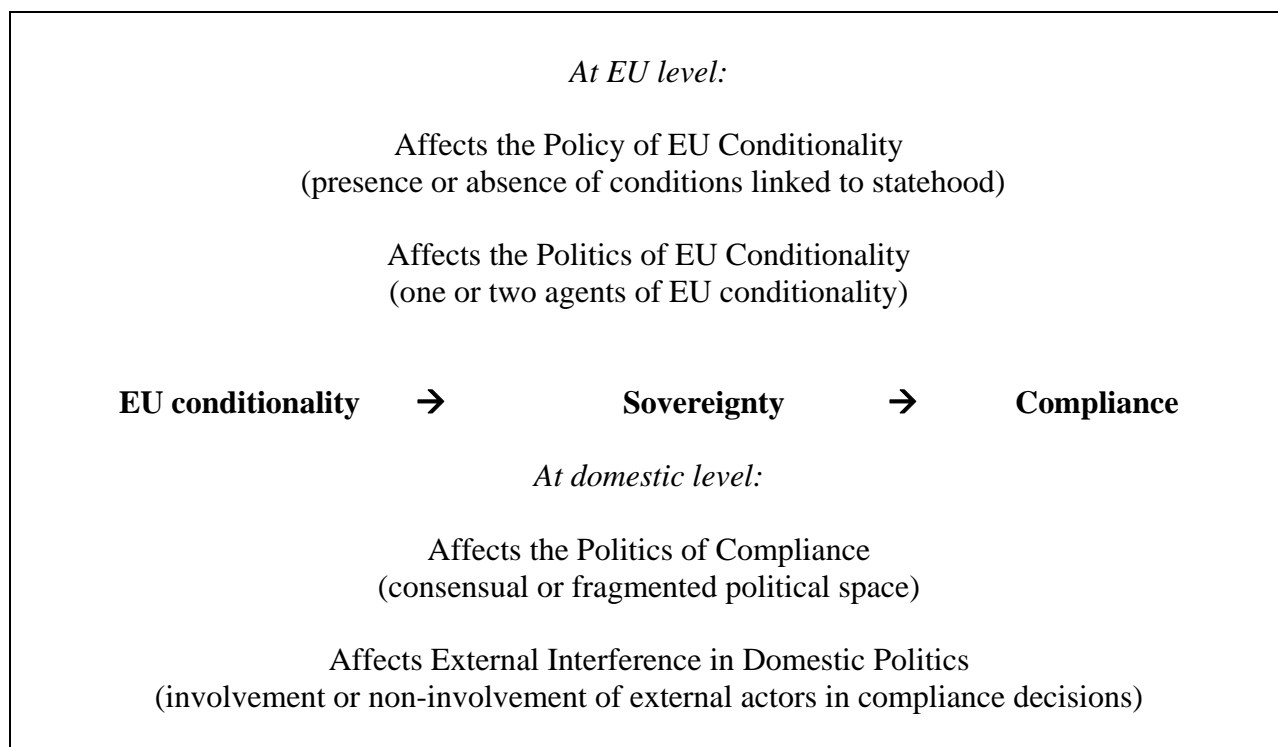
## **1.2 WHY SOVEREIGNTY MATTERS**

The time difference in the extension of the EU pre-accession instruments notwithstanding, the EU conditionality model in its incentive and disincentive part is identical for all Balkan countries. Is there a difference in the conditionality-compliance relationship in states with varying degrees of sovereignty?

I argue that the sovereignty of a prospective EU member matters for the policy and politics of conditionality at EU level and the politics of compliance at domestic level (see figure 1.1). At EU level, it affects the specific conditions the EU sets against the promise of membership. The sovereignty-linked EU demands, while a reaction to the realities on the ground, constitute an additional layer of conditionality distinct from the Copenhagen criteria requiring high democratic and economic standards – see chapter 2. The political nature of the intrusion in the statehood structure of a potential candidate influences, in turn, the EU foreign policy behavior. The necessity to introduce a second agent of conditionality - the Council – to boost the political mandate of the principle agent – the European Commission – has an effect on the EU internal institutional politics and can lead to coordination failure between the two agents with repercussions for the credibility of the EU policy.

At domestic level, the statehood status of a future member affects the domestic political process. In domestically non-sovereign countries, the presence of external actors in the domestic authority structures undermines the robustness of the local political bargaining and has an impact on the way local actors define their interests in the politically constrained space. In domestically sovereign countries, the compliance decisions are a product of domestic political negotiations and executive decisions of the parties in power. The existence of sovereignty-linked EU conditions, however, renders the domestic political community very divisive in the semi-sovereign countries and in some cases brings about serious opposition to EU demands. The political fragmentation, in turn, affects the sustainability of compliance decisions and carries the

risk of non-implementation and even reversal of some reforms with the change of the incumbents in power. In contrast, in the absence of sovereignty conditions, the domestic political process is more consensual and the continuity of policy with the rotation of political parties in government is more easily achievable.



**Figure 1.1: The Impact of Sovereignty on the Conditionality-Compliance Relationship**

Politics at EU level and politics at domestic level interact and change the conditionality-compliance dynamic. To understand the compliance decisions of Balkan elites, one has to examine the “logic of this two-level game.”<sup>4</sup> More than 15 years ago Robert Putnam suggested a conceptual model for studying what he called “the entanglements of domestic and international politics.”<sup>5</sup> Looking at international bargaining and its outcomes, he argues that domestic political

<sup>4</sup> Robert D. Putnam, “Diplomacy and Domestic Politics: The Logic of Two-Level Games,” *International Organization* 42, no. 3 (1988): 427-460.

<sup>5</sup> *Ibid.*, p. 427.

leaders are players at two tables – the international and the domestic – and are thus doubly constrained by both what is negotiable internationally and what is acceptable domestically.<sup>6</sup>

The “two-level game” metaphor can be applied with modifications to the conditionality-compliance relationship under discussion here. The major difference consists in the nature of the linkage between the international and the domestic levels. In Putnam’s argument, the political actors interact as equals on the international arena and attempt to ‘hammer’ compromises which they later try to ‘sell’ to their domestic constituencies. In the EU conditionality – Balkan compliance case, the EU is an actor on its own, although an actor with multiple voices, and its authority to set conditions puts it in an hierarchical relationship vis-à-vis the domestic actors in a candidate country. This fact, however, does not preclude the possibility for reciprocal influences between the domestic and the European levels. What is more important is the presence of a distinct European-level actor with no straightforward constituency but with a separate institutional set which opens the space for ‘bureaucratic politics’ at EU level. The EU does not always act as a unitary actor and its various institutional structures may disagree with each other on the EU policy line or may take policy position driven by their narrow bureaucratic interests rather than genuine concerns about the substance of EU policy.

As domestic players are concerned about winning domestic support for their international undertakings, so is the EU apprehensive about achieving its foreign policy objectives, not only for the sake of its member states’ interests but also for the sake of its own reputation and political weight as an international actor. The way the EU policy line is perceived in the target country and elsewhere in the world is a significant consideration at the EU side of the game.

Furthermore, EU representatives have been visibly present in the public space of prospective members through various means such as interviews and article contributions in local media, speeches in local parliaments, regular meetings with the executive branch and even the political opposition which has put a face to the institutional character of the EU and personified its external actions. As countries and nations are represented abroad by their elected political leaders, so does the EU speak externally through the voices of its High Representative for the CFSP, the External Relations Commissioner or the Enlargement Commissioner as the case dictates. The current institutional division of the EU’s external relations portfolio is very instructive about the potential disagreements and divergences between the different institutional

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<sup>6</sup> Ibid., p. 434.

players in the EU context which can have an adverse effect on the coherence of the EU voice and the consistency of the messages conveyed. Undoubtedly, when bureaucratic politics in the EU are antagonistic, the credibility of the EU line and its positive reception by local actors in third countries are sure to be damaged.

### **1.3 EXPLAINING BALKAN COMPLIANCE**

Balkan compliance with EU conditionality cannot be fully explained with domestic factors. It is EU pressure to adopt specific institutional structures, policies and practices qualifying a country for EU membership that drives Balkan governments to fulfill EU requirements. While pursuing EU integration is a matter of state choice and external authorities cannot be charged with imposing the EU membership objective on either sovereign countries or entities with compromised sovereignty, it is conditioning EU membership on the passage of political and economic reforms that pushes the Balkan governments to comply with concrete economic and political demands.

The EU membership brings economic and political benefits in the long run but incurs compliance costs in the short run. The EU political and economic conditions vary for the different countries and the level of intrusion in the domestic institutional setting and policy mix differs too. EU conditionality is sovereignty-eroding when it requires redefinition of political and economic relations within states and when it asks for reforms that are not automatically implied by the broad formulation of the Copenhagen accession criteria. These specific conditions affect different dimensions of formal sovereignty and in certain cases touch on the core of what constitutes a state and how political authority is organized within it. Not only are the costs of compliance higher in such quasi-sovereign cases but also their domestic political community is divided on the question of compliance.

The EU sovereignty-linked demands do not enjoy the same degree of legitimacy as the normative appeal of the EU requirements for democracy, market economy and rule of law. When the EU demands are perceived as universally applicable rules and principles which it firmly stands behind in its external relations in general, then the EU institutional machinery will have less difficulty socializing the political class of target countries. The more the EU conditions are

seen as an expression of the EU's self-interest, the easier it will be to make a legitimate case against compliance with them in the domestic political context of a would-be member and the harder it will be to convince the political elites in the virtue of EU-compliant domestic changes.

#### 1.4 ALTERNATIVE EXPLANATIONS

An alternative view of EU-Balkan exchanges stems from the *neorealist school* of international relations<sup>7</sup> attributing primary importance to the asymmetry of power resources between the EU and the Balkan countries. Given the disparity in the EU – Balkan relationship, Balkan governments are forced to comply with EU demands. External factors either in the form of systemic pressure or direct coercion by a stronger actor is the ultimate explanation of the compliant behavior of the weaker Balkan players.

The neorealist view of international politics is very helpful to understand why the Balkan states have different relationships with the international system in terms of their sovereignty. Neorealism is particularly well placed to explain the international factor in the governance of protectorates and internally non-sovereign countries. In this sense, explaining Bosnian compliance would be the easiest case for neorealism. In the end, the High Representative of the international community who is also a Special Representative of the EU has the formal power to impose legislation and sack government officials when they do not cooperate and thus bring the country in compliance with EU demands.

The extraordinary powers of the High Representative have been subject to a lot of criticism by academics and analysts who have warned about the detrimental effects of such external interference for the state of democracy in BiH. Some have gone as far as to draw a parallel between post-Dayton Bosnia and the British colonial system in India in the 19<sup>th</sup> century.<sup>8</sup> Equating the rule of foreigners in BiH to “benevolent despotism,” Knaus and Martin give concrete examples of the use and abuse of the unlimited powers of outsiders in the country where no system of checks and balances is in place to control their actions:

“...In BiH, outsiders actually *set* that agenda, *impose* it, and *punish with sanctions* those who refuse to implement it. At the centre of this system is the OHR [Office of High Representative], which can interpret

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<sup>7</sup> See Kenneth Waltz, *Theory of International Politics* (New York: McGraw-Hill, 1979).

<sup>8</sup> Gerald Knaus and Felix Martin, “Travails of the European Raj,” *Journal of Democracy* 14, no. 3 (2003): 60-74.

its own mandate and so has essentially unlimited legal powers. It can dismiss presidents, prime ministers, judges, and mayors without having to submit its decisions for review by any independent appeals body. It can veto candidates for ministerial positions without needing publicly to present any evidence for its stance. It can impose legislation and create new institutions without having to estimate the cost to Bosnian taxpayers. In fact, the OHR is not accountable to any elected institution at all. It answers to a biennial gathering of foreign ministers, the Peace Implementation Council (PIC), which it chairs and whose report it usually drafts. Its mandate is open-ended...”<sup>9</sup>

It is only natural to label the governance regime described above as “liberal imperialism,” Knaus and Martin conclude. Against the background of their arguments, reminders about BiH’s consent in setting up the system in Dayton do not sound strong enough to counterbalance the colonialist tendencies of the international mission in the country. What is even worse is that the arrangement as such creates pervert incentives for political leaders who are tempted to avoid responsibility for politically costly decisions and to leave the internationals to take the blame for domestically unpopular measures. In this account of political life in BiH, the external actors are responsible for both the successes and failures of the domestic reform process and as such for BiH’s progress towards EU accession or its absence.

The above interpretation describes very accurately the negative effects of the protectorate system set in Bosnia but it fails to account for two trends in BiH politics. First, imposed legislation by the HR has to be legitimated through a formal vote by the State Parliament and nationally endorsed in order to be acknowledged by the EU as compliant. The EU has made it clear that only nationally approved measures will count towards fulfilling the roadmap requirements. The EU insists on the voluntary nature of the accession process and has demanded autonomous decision-making and self-governance in the Bosnian case. Coercion and external intervention in this regard are not enough to demonstrate compliance. In fact, all imposed legislative acts that the EU has demanded have been confirmed by the State Parliament. As regards dismissals of public officials, this is entirely up to the High Representative and has no direct link with the EU pre-accession requirements notwithstanding the fact that the HR may justify his decision on grounds of removing domestic obstructionism and delays in BiH’s preparations for EU membership.

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<sup>9</sup> Ibid., 61.



Second, there have been occasions when domestic actors have themselves agreed to pass legislation and carry out reforms without the coercive machinery of the HR being involved. This is the case with 40 laws adopted over the course of 2003 and 2004 as well as with the preparation of answers to the European Commission questionnaire in the context of the Feasibility Study process in 2003.<sup>10</sup> On reforms demanded specifically by the EU as a prerequisite for moving closer to a SAA and candidacy status, domestic politicians have shown a degree of responsibility and have agreed themselves on reforms, such as in the area of taxation and defense for example. Hence, there is an internal dynamic which cannot be captured and explained by a neorealist paradigm looking only at the international level for explanatory variables.

When applied across the cases, the neorealist logic implies a higher degree of compliance in countries where the EU intervenes stronger, either through more intrusive conditionality or through more coercive means. The empirical record, however, suggests the opposite. In fact, BiH and SCG where the EU conditions have been more demanding on the domestic political establishment, the European Commission has found it difficult to certify the countries as fully compliant as a result of which their progress towards accession has been slower to date. Factors other than degree of intrusiveness of EU conditionality and degree of external coercion should be taken into consideration when explaining Balkan compliance with EU demands.

The *liberal view* of international relations is very insightful when it comes to explaining the Western foreign policy orientation of East European states<sup>11</sup> and their objective to join the EU. Examining external state behavior through the prism of state-society relations, the liberal perspective accords primary importance to the domestic social context in which state preferences are shaped.<sup>12</sup> Andrew Moravcsik, the principal protagonist of the liberal IR school, argues that state policy is a product and reflection of a particular subset of societal interests, filtered through the political process and crystallized in a certain political configuration.<sup>13</sup> To account for Balkan compliance, liberals would credit the overwhelming popular support across the Balkans of EU membership. Indeed, public opinion polls demonstrate a very high degree of approval by Balkan citizens of their country's membership in the EU. According to Eurobarometer data, in March

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<sup>10</sup> Author's interviews with BiH state officials.

<sup>11</sup> See Ronald Linden, "Liberalization and Foreign Policy in Eastern Europe" in *Liberalization and Foreign Policy*, ed. Miles Khaler, 164-191 (New York: Columbia University Press, 1997).

<sup>12</sup> See Andrew Moravcsik, "Taking Preferences Seriously: A Liberal Theory of International Politics," *International Organization* 51, no. 4 (1997): 513-53.

<sup>13</sup> *Ibid.*

2004, 65 percent of Bulgarians thought that Bulgaria's membership in the EU was a "good thing."<sup>14</sup> In summer 2004, 87.5 percent of Bosnian citizens would have voted in favor of EU membership if there was referendum on it at that time.<sup>15</sup> In summer 2004, 66 percent of Serbs considered Serbia's membership in the EU a "good thing."<sup>16</sup>

If the social consensus on European integration is to explain Balkan governments' acquiescence to EU demands, then fully sovereign countries like Bulgaria should be the easiest case to account for by liberalism. After all, the sovereign states are the ones where the elite-society linkages are not complicated by the presence external actors in the state structures and the external contours of the state are not contested within the domestic political community. A representative cross-country public opinion survey conducted by the International Institute for Democracy and Electoral Assistance (International IDEA) in January-February 2002 in all Balkan countries, however, indicates that the Bulgarian population is the least satisfied with its situation and most pessimistic about the future from all Balkan nations, although in 2002 Bulgaria was the country closest to fulfilling the EU accession criteria from the region.<sup>17</sup> A total of 81 percent of Bulgarians expressed dissatisfaction with their personal economic situation (the highest figure in the region), only 12 percent expected an improvement of their situation in the following one year and as little as 18 percent thought that the country was going in the right direction.<sup>18</sup> Interestingly, according to the survey results, the public in Kosovo was most satisfied with the state of affairs and most optimistic about the future in 2002.

Against this background, it is perhaps not surprising why the Bulgarian population voted out the internationally most highly praised reformist government in the region (lead by Ivan Kostov of the centre-right Union of the Democratic Forces) in May 2001 to elect the ex-king Simeon Saxe-Coburg-Gotha whose political party was only set up three months before the elections but won half of the seats in the Parliament and the support of Bulgarian citizens of all age, education

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<sup>14</sup> See Eurobarometer, *Comparative Highlights*, EB61 – CC-EB 2004.1, May 2004, available at [http://europa.eu.int/comm/public\\_opinion/archives/cceb/2004/cceb\\_2004.1\\_highlights.pdf](http://europa.eu.int/comm/public_opinion/archives/cceb/2004/cceb_2004.1_highlights.pdf).

<sup>15</sup> See European Commission Delegation to Bosnia and Herzegovina, "Public Opinion Poll in Bosnia and Herzegovina about the European Union," July 2004, available from <http://www.delbih.cec.eu.int/en/index.htm>, accessed on 3 February 2004.

<sup>16</sup> See public opinion polls conducted by Strategic Marketing on behalf of the Serbian European Integration Office, available from <http://www.seio.sr.gov.yu/code/navigate.asp?Id=90>, accessed on 3 February 2004.

<sup>17</sup> See International Institute for Democracy and Election Assistance. "South East Europe Public Agenda Survey," January-February 2002, available from [www.idea.int/balkans](http://www.idea.int/balkans).

<sup>18</sup> Ibid. See also International Institute for Democracy and Election Assistance. "New Regional Opinion Survey Shows the Public in South East Europe Care More about Domestic than International Issues," Press Release, April 2002, available from [www.idea.int/balkans](http://www.idea.int/balkans).

and income levels.<sup>19</sup> In November 2001, the Bulgarian voters ousted a very successful president by all international evaluations, the reform-minded Petar Stoyanov, irrespective of UDF's support for him as well as the backing of Simeon's party. Georgi Parvanov of the Bulgarian Socialist Party turned out the electors' first preference which came as a surprise not only to observers but also to the president-to-be.

Puzzled by these developments, Ivan Krastev, in a recent article of his entitled "The Balkans: Democracy without Choices," rightfully asked the question: "Why do 'reformists' spectacularly lose elections? Is all this a sign of democracy's growing strength, or of its increasing weakness?"<sup>20</sup> His answer is very sobering and strikes at the core of various externally-designed democracy promotion initiatives:

"... The biggest danger for democracy today is not sudden but rather slow death, meaning a gradual process of erosion and delegitimation that destroys democratic regimes even as their surface institutions remain in place... In this "democracy without politics" scenario, the truly representative character of democracy is hollowed out from within, behind a shell of democratic institutions. This, and not some southern authoritarian reversion, is the major risk that the Balkans face today."<sup>21</sup>

Indeed, what liberalism cannot explain is why governments highly praised internationally do get voted out regardless of their external compliance record. While the EU accession criteria dominate the government agenda, issues of primary importance to domestic electorates do not receive the necessary policy attention and resources by politicians. The three top-ranked issues of public concern across the Balkans as shown by opinion polls are unemployment, corruption and crime and there is a remarkable consensus on this in the whole region.<sup>22</sup> The EU-inspired reform agenda has taken control over domestic priorities and as such has seriously damaged the bond between political elites and society. In neglecting societal reactions, the policies pursued by Balkan governments in the context of the prospect for EU membership have led to a crisis of internal instability of Balkan political regimes. Decline of popular trust in the democratic institutions and the political parties in these countries is indicative of the erosion of the indigenous political process. Public confidence in the capacity of the state to provide adequate levels of economic, social and physical protection to the population is very low as a result of past

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<sup>19</sup> See Ivan Krastev, "The Balkans: Democracy without Choices," *Journal of Democracy* 13, no. 3 (2002): 41.

<sup>20</sup> *Ibid.*

<sup>21</sup> *Ibid.*, 44.

<sup>22</sup> See International Institute for Democracy and Election Assistance. "South East Europe Public Agenda Survey," January-February 2002, available from [www.idea.int/balkans](http://www.idea.int/balkans).

failures. Public perceptions that political leaders are abusing office for narrow political interests and personal profit are widespread. While acceding to EU demands, Balkan political leaders are increasingly distancing themselves from their domestic constituencies. “It is a failure of *representation*,” Ivan Krastev concludes.<sup>23</sup>

In the Balkan context, the state-society relationship cannot be held accountable for state policies. To explain governments’ compliance responses, a focus on policy-making elites is warranted. Policy-makers, by virtue of their control over decision-making, constitute a critical factor in the articulation of state preferences. The makeup of the new political class in the Balkan countries is critical for the way state interests are framed in the pre-accession period. It is, therefore, important to take into consideration the material constraints the political elites are faced with as well as their normative orientations and receptivity to European influence. Elites’ interpretations of the national advantages and disadvantages are a key factor in state decision-making leading to compliance outcomes. Examining closely elite alliance structures can produce valuable insights into the puzzle of “why comply with EU conditionality.”

This is not to say that public perceptions are unimportant. In fact, the Balkan peoples are quite sensitive to external interventions even when they are presented to them as benign acts for their own good.<sup>24</sup> EU conditionality, therefore, can easily cross the line and provoke popular resistance in certain societal groups who do not identify themselves with the EU-sponsored changes. In this sense, acceding to EU demands without reservations creates the danger of Balkan governments being seen by their citizens as working for the international public rather than for their domestic constituencies. Popular reactions do count in political elites’ decision-making but they are not the only factor that matters and, in the Balkan context, they are not the decisive factor.

At elite level, there is a clear tendency in the Balkans of political leaders taking advantage of EU interventions in their domestic power struggle. Reluctant governments can easily blame unpopular decisions on the EU and thus account for compliant behavior before their electorates. Political opposition may easily accuse cooperative governments for failing to confront the EU and thus ignite a political crisis with unpredictable outcome. Moreover, the attempt of certain

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<sup>23</sup> Ivan Krastev, “The Balkans: Democracy without Choices,” 52.

<sup>24</sup> On average, between 56 and 88 per cent of the people in the Balkan countries agree that important decisions affecting their lives are taken from outside. See representative cross-country South East Europe Public Agenda Survey conducted by International Institute for Democracy and Election Assistance in January-February 2002, available from [www.idea.int/balkans](http://www.idea.int/balkans).

political formations to present domestic policy failures as a direct consequence of decisions imposed from outside can play out well in the domestic political discourse since the Balkan public is inclined to believe that.

Domestic politics, therefore, hold the key to providing an answer to the question of compliance. Yet, domestic factors alone are not sufficient to account for compliant behavior. Balkan political elites are compelled to react to conditions set in Brussels and this external dimension does play a role in domestic politics. No matter what the driving forces behind the decisions of key government officials, rational or normative, the links between the domestic and the European levels of politics are too obvious to ignore.

Theoretical paradigms that focus on either the international level or the domestic level are ill-equipped to account for Balkan compliance with EU conditionality. Neorealism with its exclusive emphasis on the structure of the international system<sup>25</sup> cannot fully capture the voluntary nature of the compliance process whereas neoliberalism with its focus on various international institutional arrangements<sup>26</sup> misses the asymmetrical character of the EU-Balkans relationship and the fact that the Balkan governments have no right to co-determine the EU accession criteria nor can they reciprocate by setting conditions themselves to the EU. The two structural IR paradigms are underdetermining and incapable of accounting for the specificity and substance of state policy responses.<sup>27</sup> Both neorealism and neoliberalism overemphasize the importance of international factors and underestimate the salience of domestic structures for shaping state behavior.

Similarly, domestic structure approaches, privileging specific features of domestic institutional arrangements<sup>28</sup> or societal interest configurations<sup>29</sup> as sources of state preferences, tend to favor domestic factors in their accounts at the expense of a thorough examination of the international environment as a source of domestic politics.<sup>30</sup> The focus on either international

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<sup>25</sup> See for example Kenneth N. Waltz, *Theory of International Politics* (New York: Mc Graw-Hill, 1979).

<sup>26</sup> See for example Robert O. Keohane, *After Hegemony: Cooperation and Discord in the World Political Economy* (Princeton, New Jersey: Princeton University Press, 1984).

<sup>27</sup> Thomas Risse-Kappen, "Ideas Do Not Float Freely: Transnational Coalitions, Domestic Structures, and the End of the Cold War," *International Organization* 48, no. 2 (1994): 185.

<sup>28</sup> See for example Helen V. Milner, *Interests, Institutions, and Information: Domestic Politics and International Relations* (Princeton, New Jersey: Princeton University Press, 1997).

<sup>29</sup> See for example Andrew Moravcsik, "Taking Preferences Seriously: A Liberal Theory of International Politics," *International Organization* 51, no. 4 (1997): 513-53.

<sup>30</sup> See Peter Gourevitch, "The Second Image Reversed: The International Sources of Domestic Politics," *International Organization* 32, no. 4 (1978): 881-911.

influences or domestic structures as determinants of state preferences results not only in partial analysis but also in omission of the consequences arising from the interaction between international and domestic politics. An integrated approach to the study of state behavior taking into consideration the linkages between the international system and domestic structures and their simultaneous effects on state preferences provides a greater insight into Balkan compliance with EU conditionality.

### 1.5 MODELING THE COMPLIANCE PATTERNS OF BALKAN STATES

There are two important tests when trying to disentangle the motives driving Balkan governments' compliance. The first one has to do with the distinction between *compliance through imposition* and *compliance through voluntary action*.<sup>31</sup> While the former is the result of direct intervention by an external actor, the latter is the outcome of a change in the political opportunity structure as a consequence of EU-offered incentives. This is where the difference between domestically sovereign and domestically non-sovereign countries comes into play. In countries of uncompromised internal sovereignty, the effects of EU conditionality are filtered through the domestic political process and political actors themselves make the decision to comply and choose the measures with which to comply. In countries of constrained internal sovereignty, both direct imposition and domestic political choices can account for compliant responses. To distinguish between the two coercive mechanisms of inducing change in domestically non-sovereign countries, one has to trace the process that lead to a compliance decision in each specific occasion when an institutional or policy change was introduced and verify whether the intervention toolkit of the external actor was directly involved or not.

The second critical test has to do with the distinction between *interest-based* and *norm-based compliance*. In other words, the question is whether actors comply because they see a material or social compensation for the change in domestic policy or structure or whether they comply because they are convinced that 'this is the right thing to do' in the jargon of constructivists. To distinguish between interest-based and norm-based compliance is often difficult since both

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<sup>31</sup> See G. John Ikenberry and Charles A. Kupchan, "Socialization and Hegemonic Power," *International Organization* 44, no. 3 (1990): 283-315. Ikenberry and Kupchan make a distinction between "external inducement" and "internal reconstruction" to indicate the differences in the causal mechanism of norm change.

conditionality and socialization are at work at the same time in the EU pre-accession process and might complement rather than contradict each other.

To measure the effects of conditionality on compliance, one has to examine closely whether arguments based on cost-benefit calculations predominate the thinking of political actors in government and what exactly the balance is in their consideration of gains and losses. To measure the effects of socialization, I propose to look at the degree of legitimacy accorded by domestic actors to EU demands. As explained earlier in the chapter, the receptivity of EU-promoted ideas and standards depends on how political elites in future EU members view the “appropriateness” of EU demands. If there is political opposition to EU conditions and open questioning of the righteousness of EU requirements, then the degree of legitimacy of EU conditionality can be considered low. If no political formation allows itself to challenge the EU demands and publicly campaign against them, then one can assume that there is no case against the “appropriateness” of EU conditions, hence, their legitimacy is high.

Figure 1.2 (see below) presents a simple model which can guide the identification of motives behind compliant decisions of political actors. Two clarifications are due before explaining the model. First, it is based on the assumption that compliance is an elite-driven process. It is the rational calculations and/or normative considerations of political leaders in power that matter most for the compliance pattern with EU pre-accession requirements of candidate countries. Preferences and normative orientations of societies at large are taken into account only to the extent that those are present in the elites’ thinking and argumentation. Second, it presupposes that some degree of compliance, although it may not be full compliance, is the option preferred by domestic actors rather than total non-compliance. Based on the empirical record, it is fair to say that countries in the EU neighborhood have been fighting to get a membership perspective although aware of the costly transformation process that they would have to undergo in order to qualify for full members. The EU has also insisted on the voluntary nature of the accession process and no country has blatantly refused to work towards fulfilling the criteria. There is also no precedent when a country has lost the membership perspective once it has been given a pre-accession roadmap.

		Legitimacy	
		high	low
Cost/benefit Analysis	benefits > costs	genuine compliance	conditionality-driven compliance
	costs > benefits	socialization-driven compliance	fake compliance

Figure 1.2: Conditionality and Socialization: What relationship?

When conditionality and socialization are mutually exclusive, the difference between their effects is easy to recognize. If political actors comply when there is a compelling case that it is against their interests (costs>benefits) but the perceived degree of legitimacy of EU demands is very high, then socialization can be said to be a sufficient mechanism to change actors' beliefs and even definition of interests. In this case, socialization efforts are successful and belief change occurs prior to policy and institutional change.<sup>32</sup> The changes resulting from *socialization-driven compliance* are sustainable over time and further reinforced by supplementary reform measures.

Likewise, if domestic actors identify their interests with the EU-demanded reforms (benefits>costs) but do not find the normative power of EU arguments persuasive (legitimacy is low), then their response can be defined as *conditionality-driven compliance*. The changes introduced through manipulation of material incentives may not be sustainable beyond the delivery of the anticipated benefits and may even be reversed in time.<sup>33</sup> From the point of view of the EU, admitting in its ranks a member who does not endorse the values of the community is very costly in the long run. As Frank Schimmelfenning has argued, such an outcome would increase “the heterogeneity of the membership, the potential for serious intra-organizational

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<sup>32</sup> Ibid., 290.

<sup>33</sup> Ibid.



conflict, and the costs of decision-making.”<sup>34</sup> If domestic elites are not receptive to EU normative influences or if the EU conditions are not an expression of universal norms, then the compliance response can be regarded as based solely on rational choice.

Undoubtedly, the methodologically trickiest situation is when conditionality and socialization complement each other and their combined effects produce compliance. When the expected future benefits are sufficient to compensate short-term compliance costs and the perceived degree of legitimacy of EU conditionality is high, the outcome can be characterized as *genuine compliance*. Political leaders initiate and carry out a thorough transformation of domestic structures in order to bring them up to European standards with the firm intention of sustaining the initiated reform momentum. They are also open to socialization by their European peers into the European way of governing. In these instances, conditionality and socialization reinforce each other. Although triggered by a rational calculation of cost-benefit analysis, this type of compliance gradually becomes driven by confidence in the righteousness of such state behavior.

Finally, when full compliance has a very high short-term price which the anticipated long-term pay-off is unable to offset and the degree of legitimacy of EU conditions is low, political actors simulate compliance to avoid the even higher costs of blatant confrontation, total refusal to comply and denial of a membership prospect. *Fake compliance* is cheaper than non-compliance because the costs of non-compliance are higher than the costs of simulating EU-compliant change in the short run while seeking ways of reversing that change and maximizing profits in the long run. Socialization activities under these circumstances are not sufficient to convince actors in the “appropriateness” of EU-demanded institutional and policy changes. And because the EU conditions do not command the respect of a critical majority of domestic political leaders, those leaders openly challenge the EU policy line and do not accept the EU’s arguments as sufficiently authoritative.

In practical terms, the difference between genuine and fake compliance can be registered by looking at implementation. If domestic actors pass legislation compliant with EU-demands but legal enforcement does not follow up and problems of technical nature are not obvious, the ensuing conclusion is that there is no political will to do the reforms requested. Hence, the actors do not believe in the appropriateness of these domestic changes. Similarly, if political leaders in

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<sup>34</sup> Frank Schimmelfenning, “The Community Trap: Liberal Norms, Rhetorical Action, and the Eastern Enlargement of the EU,” *International Organization* 55, no. 1 (2001): 60-61.

power set up institutions in response to EU conditionality but these institutions remain empty shells and exist more on paper than in reality, one should doubt the genuine nature of compliance and should look for strategic reasons to explain what appears as a compliant outcome. There is a temporal dimension in distinguishing between the two types of compliance. In the short run, it is almost impossible to ascertain the actors' motivation behind certain EU-compliant changes. By taking a longer-term perspective and tracing the follow-up activities of compliant decisions, one is better positioned to maintain with some degree of certainty whether decision-making elites are genuinely complying or just playing the compliance game.

Another indicator of measuring irreversibility of reforms in conformity with EU demands is domestic consensus across the political spectrum on transforming the country and preparing it for integration into the European structures. Short of consensus, it is also important to take note of where the political opposition to EU conditions comes from. If the origin is in the least reform-minded political formations, advocating nationalist ideologies, their receptivity of EU-promoted ideas and norms is very low as a starting point. If they change course towards a more compliant behavior, the logic of conditionality can better account for the observed shift in their positions and actions. The EU value system cannot be internalized instantaneously but the manipulation of incentives and disincentives can create a new political climate in the short run where actors can start seeing more gains from inclusion in the EU framework than losses from compliance with EU conditions in the pre-accession period. The initiated reform process has the chance of staying on track and deepening over time as domestic opposition to the institutional and policy changes undertaken in response to EU conditions becomes marginal.

However, if the Western orientated pro-reform political groups object to specific EU conditions, then the possibility for domestic consensus on a durable pro-compliance policy is minimal. The pro-reformers are the natural constituency for the EU's socialization activities and are the ones open to normative influences from the EU. If they consider compliance with certain EU condition illegitimate and against their interests and if domestic legislative and institutional changes are introduced, those are carefully calculated moves of rational leaders trying to minimize the long-term costs for the country while clearly seeking a reversal of what they see as unfavorable conditions for progressing on the accession path.

In any case, examining carefully the domestic political context is important for identifying the ways in which political actors, in power and opposition, define the gains and losses from

compliance and the ways in which they view the legitimacy of EU demands. The specific constellation of interests and normative attitudes is context-specific and can vary from one country to another, from one political party to another. It is therefore important to analyze closely domestic politics in each case and the way the EU factor plays into the domestic political game in order to understand and explain the conditionality-compliance pattern.

## **1.6 CASE SELECTION**

The study will analyze the EU conditionality and the compliance responses of Balkan states in light of the differentiation of state sovereignty observed in the region. Figure 1.3 presents a categorization of Balkan countries along the two dimensions of sovereignty introduced earlier in this chapter. The cases are selected according to the criteria specified before. In particular, Bosnia and Herzegovina has been chosen as a state of weak internal sovereignty and external sovereignty intact; Serbia and Montenegro as a common state of weak external sovereignty and unquestioned internal sovereignty; and Bulgaria as a prototype of a fully sovereign state. Kosovo does not make part of the comparative case set because, as a full protectorate, it has too little freedom to decide on its internal and external policies. The three cases maximize the variation on the intervening variable providing a good methodological foundation for testing the sovereignty hypothesis.

		Internal Sovereignty	
		Yes	No
External Sovereignty	Yes	Bulgaria	Bosnia and Herzegovina
	No	Serbia and Montenegro	Kosovo

**Figure 1.3: Internal and External Sovereignty: Cross-Case Variation**

The Dayton Peace Accords recognized Bosnia and Herzegovina (BiH) internationally as an externally sovereign country in 1995 but severely limited its internal sovereignty.<sup>35</sup> Since the end of the war in 1995, international military troops under the NATO flag have been stationed in the country to maintain the peace and prevent further eruption of ethnic conflict. The civilian aspects of peace implementation have been formally supervised by a High Representative of the international community who acts on behalf of the Peace Implementation Council (PIC) comprised of many countries and international organizations. At its Bonn meeting in 1997, the PIC granted large discretion to the High Representative to dismiss elected politicians and impose legislation where and when he considers it appropriate (the so called “Bonn powers” are presented in figure 1.4 below). Since 2002, the High Representative has a mandate from the EU as well to act on behalf of the High Representative for the Common Foreign and Security Policy (CFSP).

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<sup>35</sup> See Susan Woodward, “Compromised Sovereignty to Create Sovereignty” in *Problematic Sovereignty: Contested Rules and Political Possibilities*, ed. Stephen Krasner, 252-300 (New York: Columbia University Press, 2001).

**Peace Implementation Council, Bonn Conclusions, 10 December 1997**

...The Council welcomes the High Representative's intention to use his final authority in theatre regarding interpretation of the Agreement on the Civilian Implementation of the Peace Settlement [the Dayton Accords] in order to facilitate the resolution of difficulties by making binding decisions, as he judges necessary, on the following issues:

- a. timing, location and chairmanship of meetings of the common institutions;
- b. interim measures to take effect when parties are unable to reach agreement, which will remain in force until the Presidency or Council of Ministers has adopted a decision consistent with the Peace Agreement on the issue concerned;
- c. other measures to ensure implementation of the Peace Agreement throughout Bosnia and Herzegovina and its Entities, as well as the smooth running of the common institutions. Such measures may include actions against persons holding public office or officials who are absent from meetings without good cause or who are found by the High Representative to be in violation of legal commitments made under the Peace Agreement or the terms for its implementation.

Source: Office of the High Representative, [www.ohr.int](http://www.ohr.int).

**Figure 1.4: The Bonn Powers of the High Representative in Bosnia and Herzegovina**

Yet, regardless of the serious interference in the domestic affairs of Bosnia and Herzegovina, its international legal sovereignty has been strictly guarded. The government of Bosnia and Herzegovina has been able to borrow from the international financial institutions and has been held accountable for its international legal commitments. It has diplomatic representations abroad, including a mission to the EU. In 1998, the Bosnian government requested a special relationship with the EU<sup>36</sup> which was followed by a special EU declaration on Bosnia and Herzegovina giving the promise of a European future for the country.<sup>37</sup> Since the Feira European Council in 2000, BiH has been considered a potential candidate for EU accession with confirmed membership perspective.

Serbia and Montenegro have a problematic international status as a common state. The two republics remained the two constitutive units of the Federal Republic of Yugoslavia following the secession of Slovenia, Croatia, Macedonia and Bosnia and Herzegovina in the early 1990s. In 1997, partly due to Serbia's involvement in the Balkan wars and partly due to differences in economic policy, the Montenegrin leadership started distancing itself from the Milosevic regime in Belgrade. This culminated in Montenegro's declaring its neutrality during the Kosovo conflict in 1999 and openly calling for independence in international fora. Serbia's statehood is further

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<sup>36</sup> Author's interview with a Bosnian diplomat.

<sup>37</sup> See General Affairs Council Conclusions, Luxembourg, 8/6/1998, EU Declaration on Bosnia and Herzegovina.

complicated by the unresolved status of Kosovo. Following NATO's military intervention in Kosovo in 1999, the province was placed under international supervision although legally it is still part of Serbia. In 2002, under pressure from the EU, Serbia and Montenegro agreed to preserve a common institutional framework and to harmonize their economic systems for the sake of being eligible for a SAA with the EU. According to the Belgrade Agreement of 14 March 2002, the State Union of Serbia and Montenegro has a single international legal sovereignty. However, both republics can vote on independence three years after the creation of the State Union, e.d. in 2006. This formal procedure legalizes the right to secession of the two sides and introduces an element of uncertainty and unpredictability when it comes to the external sovereignty of the two republics. In addition, the unresolved question of Kosovo's final status, its unsettled relationship with Serbia, the indecisiveness of international players to address the issue is an additional factor adding ambiguity to the sovereignty equation of the new state union.

Notwithstanding the risks associated with their international legal status, Serbia and Montenegro have maintained internal sovereignty although independent of each other. There are no external actors in the domestic authority structures of either of the republics. The degree of decentralization in both the economic and political domains is so substantial that it is difficult to conceive of the two republics as one state. Both of them have run their economies separately in the last couple of years pursuing different macroeconomic and monetary policies, maintaining two different currencies, independent central banks and distinct trade regimes. The domestic political processes within both of them have at times diverged substantially with Montenegro embarking on democratization and economic reforms much earlier than Serbia. Yet, the two republics agreed initially to accept a level of economic harmonization and political coordination, including common institutions and policies in response to the EU demands for a single international legal sovereignty. Serbia and Montenegro, including Kosovo have been part of the EU's Stabilisation and Association process offering full integration in the EU structures to the Western Balkan countries.

Bulgaria is included in the comparative set as a country which is domestically self-sustainable and governs its affairs independent of external actors. There are no external claims on its territorial integrity or questions about the international recognition of its sovereignty. The case of Bulgaria is valuable to the objective of the study because it is an accession country for which EU membership has been on offer since the early 1990s. Bulgaria has concluded

accession negotiations with the EU and is expected to join the EU on 1 January 2007 or 2008. Being a candidate country since the mid 1990s, Bulgaria has had a longer history of exchanges with the EU and has received a different policy treatment by the EU. While Bosnia and Herzegovina and Serbia and Montenegro are part of the EU's Western Balkans<sup>38</sup> policy, Bulgaria has been reacting to the EU enlargement policy instruments. Sovereignty questions per se have not been an element in Bulgaria - EU relations although certain EU conditions have touched on domestic sensitivities that could have given rise to reluctance to comply. These characteristics make Bulgaria a good test case to enlighten the discussion on EU conditionality - Balkan compliance.

## **1.7 STRUCTURE OF THE DISSERTATION**

The argument of the dissertation will unfold in the following way. Chapter 2 will argue on theoretical grounds why the EU factor is central to understanding domestic changes in EU candidates and potential candidates in the direction of introducing EU-compatible reforms. It will propose that the EU incentive package is identical for all Balkan countries whereas the conditions attached to the membership perspective are not the same implying differences in the politics of compliance in the three cases. It will suggest that sovereignty is the key characteristic that distinguishes the nature of the EU influence on the Western Balkans from that in the Eastern Balkans. The EU demanded changes in the statehood of the semi-sovereign Western Balkan cases sets the stage for variation in the EU's impact on sovereignty and governance in the Balkans.

Chapters 3 and 4 will document empirically the differences in the policy of EU political and economic conditionality vis-à-vis the three cases. They will specify how the EU demands affect the sovereignty of each country and how deep they intervene in the institutional structures of future members. Chapter 4 will explore as well the political implications of the EU economic conditions requiring redefinition of the internal organization of authority within the semi-sovereign countries under review. Chapters 3 and 4, therefore, present the empirical evidence

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<sup>38</sup> Former Yugoslavia minus Slovenia plus Albania.

showing the link between EU conditionality and sovereignty thus demonstrating the relationship between the independent variable and the intervening variable.

Chapter 5 will turn to the politics of EU conditionality to examine whether and how the substance of EU demands affects the execution of EU policy. It will argue that the EU intervention in the statehood of potential candidates requires the involvement of two agents of conditionality – the European Commission as a principle manager of the pre-accession process and the Council through the High Representative for the CFSP and/or his special envoys for the more politically sensitive initiatives with security implications. The potential danger for policy inconsistency due to the multiplication of EU foreign policy voices is paid special attention to in each case, indicating the consequences for the politics of compliance.

Chapter 5 will also examine the extent to which the EU conditionality is in line with demands of other external actors that have power resources to exert influence on domestic policies and structures in the Balkans. It is critical to specify not only whether the EU message to the countries is coherent or not but also whether it is supported or not by other major external players. An attempt, therefore, will be made to isolate the EU-specific conditions from other external influences and determine whether other important actors are in agreement or not with the EU on the domestic changes it requires from the Balkan countries. One example is the US, a very powerful actor throughout the Balkans, especially in security matters and issues that have state-building implications. The US influence on the Balkan governments' willingness/reluctance to comply with EU demands will depend on whether the US supports or not the EU conditions vis-à-vis each country. Since there is a large consensus between the EU and the US on their priorities in the region and since the US has recognized the EU's leadership in shaping the institutions and policies of its future members, US influence will not affect in critical ways Balkan compliance with EU conditionality. Only on issues where there is disagreement between the EU and the US, the Balkan governments face a dilemma. In this case, US influence can lead to non-compliance with EU requirements but the outcome will depend on the Balkan government's choice.

Another example is the International Financial Institutions (IFIs). In light of the prominent role of the IMF and the World Bank (WB) in this field, chapter 5 will also seek an understanding of the collaboration between the EU and the IFIs on economic policy vis-à-vis the region. Given the implicit division of labor that exists between the IMF and WB on macro-economic policy



and structural reform, the chapter will examine the degree of overlap with EU conditionality and how it can influence Balkan compliance with EU conditionality. If the EU and the IFIs have conditions in the same policy area and they are complementary or they duplicate each other, Balkan governments will have a double incentive to comply. If the EU conditions are in areas not covered by the IFIs, compliance with EU conditionality will not be influenced by external factors.

Having specified the EU political and economic conditions and the way the EU communicates them to target states, chapter 6 will explore the compliance record of each country with the EU-formulated demands. It will look at the way and the timing of compliance responses. Considering that the countries are expected to react to different conditions, it does not make sense to compare them in terms of degree of compliance. Rather, the indicator for a sustainable compliance trend will be the rate of implementation of reform pledges. Ultimately, it is the EU that determines whether a country has passed a certain milestone by admitting it or not to the following stage of the pre-accession process.

Chapter 7 will then look at the motives behind political elites' compliance with EU conditionality. The chapter will examine the domestic politics of compliance in each country to determine to what extent politicians in power have been driven by rational calculations of costs and benefits and to what extent they have submitted to the normative authority of the EU. It will juxtapose the empirical record of compliance against the conceptual model advanced in this. It will argue that socialization alone has not been sufficient to tip the political balance in favor of compliance in any of the three cases. Where norms have joined forces with rational arguments, the result has been genuine compliance (Bulgaria) but where neither the normative content of EU demands nor the rational argumentation have been compelling, the outcome has been fake compliance (Serbia and Montenegro). Strong conditionality has determined the outcome in other cases (Bosnia and Herzegovina).

Finally, chapter 8 will put together the arguments from the preceding chapters and will examine the conclusion through the lenses of EU policy. It will explore theoretical propositions regarding the EU's motivation to integrate the Balkans and will argue that the interests of the EU member states in the security and stability of the continent offer a convincing explanation of the EU's initiatives in the region. The chapter will also analyze the EU's foreign policy record in the Balkans in view of its stated objectives and achieved results.

The analysis will rely on information available through official documents spelling out EU conditionality, including the General Affairs Council Conclusions, statements by the EU High Representative for the Common Foreign and Security Policy Javier Solana, the roadmaps preceding the feasibility studies of the European Commission prior to opening negotiations for an SAA, the regular reports by the European Commission for each country measuring progress towards EU membership, etc.

In addition, information received through interviews with both EU officials and government officials from the Balkan countries will complement the analysis. On the EU side, I have interviewed representatives of the Policy Unit at the Council Secretariat as well as DG External Relations, DG Enlargement and DG Economic and Financial Affairs at the European Commission. To get an understanding of the collaboration between the World Bank (WB) and the IMF on one side, and the European Commission on the other side, on economic policy vis-à-vis the Balkan countries, I have conducted interviews with targeted officials from the WB and the IMF. To get an understanding of the US role in the region and its view of the EU policy there, I have conducted interviews at the State Department. I have also consulted policy analysts from think-tanks observing developments in the EU Balkans policy.

On the Balkan side, I have interviewed representatives of the diplomatic missions of individual states to the EU as well as officials from the Foreign Affairs/European Integration Ministries and other branches of the government. I have also exchanged views with political analysts, academics, civil-society activists and journalists from the countries to develop a deeper understanding of domestic reactions to EU conditionality (see appendix A for the list of interviewees).

## **2.0 CONCEPTUALIZING THE EU INFLUENCE ON SOVEREIGNTY AND GOVERNANCE IN THE BALKANS**

The purpose of this chapter is to conceptualize the EU influence on sovereignty and governance in the Balkans. The concept of sovereignty is central to the International Relations (IR) literature which offers various theoretical perspectives on state-to-state relations while according different meaning and significance to the statehood of states in the international system. The IR debate, however, is somewhat detached from the theoretical discussions of the European Union as a political and economic entity. The study of EU's foreign policy is only a very recent attempt at conceptualizing the EU's power as a global actor. Foreign policy is a domain jealously guarded by the member states and the EU's role in it has remained minimal for a long time. Yet, over the years, the EU itself has developed relations with third countries through signing agreements, regulating trade exchanges and establishing institutional contacts which have led to a layer of interactions distinct from the bilateral links of EU member states with individual countries. This has provoked numerous, mainly empirical, studies documenting the EU's growing role in different geographic areas.

The literature studying the EU's impact on changes in domestic structures and policies of EU candidate countries in the framework of the EU's enlargement policy is a strand of the Europeanization literature. While a significant number of studies explore the process of institutional and policy change in Central and Eastern Europe in the context of the EU's conditional offer of membership, there is no systemic examination of the EU's impact on the statehood structures of the protectorates and semi-protectorates from the Western Balkans. Sovereignty as a variable is neglected in this literature. Yet, the EU has intervened deeply in constitutional matters in the region through harder and softer instruments which calls for a theory-informed conceptualization of the mechanisms through which the EU exercises leverage on sovereignty and governance in the Balkans.

This chapter offers a discussion of the sovereignty debate in the IR literature and extends it to the specificity of the EU relations with the Balkan countries. It then reviews the Europeanization literature identifying the mechanisms of conditionality and socialization as major vehicles for channeling EU's influence on candidates and potential candidates. It further compares the EU's instruments employed in the accession process of the Eastern Balkans (Bulgaria and Romania)

and in the Stabilisation and Association Process of the Western Balkans (former Yugoslavia minus Slovenia plus Albania) making important methodological clarifications and justifying important choices underpinning the three-case comparison that follows in the empirical chapters.

## 2.1 SOVEREIGNTY AND THE INTERNATIONAL RELATIONS LITERATURE

The concept of sovereignty lies at the core of major International Relations (IR) theories like neorealism<sup>39</sup> and neoliberal institutionalism.<sup>40</sup> These systemic IR paradigms assume state sovereignty and equality of states in terms of their function as units of the international system. Regardless of whether anarchy or institutionalization is the principle of system order, the sovereignty of states is the primary assumption on the basis of which order in international relations is conceptualized by these rationalist IR accounts. Inherent in the rationalist treatment of sovereignty is the juridical view of the concept focusing on the absolute internal autonomy of states to organize authority within a territorially demarcated space and the external independence of states to act vis-à-vis the larger community of states including the right to wage war against another state.<sup>41</sup>

The constructivist school of thought in IR problematizes the concept of sovereignty instead of taking it for granted and examines its changing meaning through history. For constructivists, sovereignty is an international norm which governs the interrelations among states and which states themselves give meaning to through practices of mutual recognition, reciprocal exchanges, etc.<sup>42</sup> Treating sovereignty as a variable rather than a constant, constructivists put an emphasis on the legitimation of sovereignty as a major principle of the state system.<sup>43</sup> J. Samuel Barkin and Bruce Cronin argue that in different times of modern history the legitimizing rule has oscillated

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<sup>39</sup> See Kenneth Waltz, *Theory of International Politics* (New York: McGraw-Hill, 1979).

<sup>40</sup> See for example Robert O. Keohane, *After Hegemony: Cooperation and Discord in the World Political Economy* (Princeton, New Jersey: Princeton University Press, 1984).

<sup>41</sup> Early IR scholarship is critical of such a static conception of sovereignty. See for example, Douglas W. Campbell, "Sovereignty and Social Dynamics," *International Organization* 28, no. 5 (1934): 825-837; Jacques Maritain, "The Concept of Sovereignty," *The American Political Science Review* 44, no. 2 (1950): 343-357; Karl Loewenstein, "Sovereignty and International Cooperation," *American Journal of International Law* 48, no. 2 (1954): 222-244.

<sup>42</sup> See Thomas J. Biersteker, "State, Sovereignty and Territory" in *Handbook of International Relations*, eds. W. Carlsnaes, T. Risse and B. Simmons (London: Sage Publications, 2002).

<sup>43</sup> See J. Samuel Barkin and Bruce Cronin, "The State and the Nation: Changing Norms and the Rules of Sovereignty in International Relations," *International Organization* 48, no. 1 (1994): 107-130.

between the concept of state defined in terms of territory and the notion of nation based on the right of self-determination of an ethnic group.<sup>44</sup> In a similar vein, Janice E. Thomson stresses the importance of the external dimension of recognizing state sovereignty and calls for closer research attention on who is seen to possess authority in the international system during different historical eras to set recognizing criteria and to grant legitimacy to state sovereignty claims.<sup>45</sup> Through their context-contingent accounts of the meaning of sovereignty, constructivists point to the inherently relational and intersubjective character of the concept, a significant omission in rationalist IR scholarship in their view.

Challenging both rationalists and constructivist conceptions of sovereignty, Stephen Krasner in his *Sovereignty: Organized Hypocrisy* contends that sovereignty has never been practiced and respected by states that have often violated other states' sovereignty or compromised voluntarily their own sovereignty.<sup>46</sup> Both coerced and voluntary infringement of sovereignty has served the objectives of political leaders. Politicians are primarily driven by domestic factors and they adhere to international principles only when it advances their goals.<sup>47</sup> It is the calculation of material and ideational interests on the part of both intervening and acceding parties that accounts for the hollowing-out of the sovereignty concept as a conventional rule in international politics, Krasner argues.

Perhaps the boldest challenge to the concept of sovereignty linked to the modern principle of organizing political space in mutually exclusive and territorially demarcated states came from John Ruggie who, reflecting on the transformation of the world polity in the early 1990s, suggested that a postmodern political form may be emerging in some parts of the international system in the wake of territorially unbundled modes of governance exemplified by the European Union.<sup>48</sup> Ruggie's argument is truly ground-breaking in implying that the concept of territoriality should not be automatically joined with the notion of state sovereignty and as such assigned a central role in conceptualizing political authority in the international order.

Echoing John Ruggie, Robert Cooper maintains that a fundamental change has occurred in the way sovereignty is practiced by some states in the international system, most notably the

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<sup>44</sup> Ibid., 108.

<sup>45</sup> See Janice E. Thomson, "State Sovereignty and International Relations: Bridging the Gap between Theory and Empirical Research," *International Studies Quarterly* 39, no. 2 (1995): 213-233.

<sup>46</sup> See Stephen Krasner, *Sovereignty: Organized Hypocrisy* (Princeton: Princeton University Press, 1999).

<sup>47</sup> Ibid.

<sup>48</sup> See John Gerard Ruggie, "Territoriality and Beyond: Problematizing Modernity in International Relations," *International Organization* 47, no. 1 (1993): 139-174.

member states of the European Union. The EU is a post-modern system of states, Cooper suggests, in which participating members have moved away from notions of sovereignty associated with modernity and have built their relations on the basis of the rule of law rather than on the balance of power.<sup>49</sup> The post-modern states of Europe have rejected the use of force for resolving disputes among themselves and have agreed to open up their domestic structures to influences from other states in the system thus sharing a degree of vulnerability and accepting a degree of mutual interference. Cooper, however, acknowledges that this post-modern state of affairs is only characteristic for the EU member states. Outside its geographical compound, the EU post-modern zone coexists and relates with other systems where modernity and sovereignty in its traditional meaning have not lost relevance.

The Balkans is a geographical area where sovereignty in its classical Westphalian meaning of legitimate authority of a government within a territorially constrained space is not fully respected. The political geography of the region was redrawn in the 1990s when various ethnic groups contested the territorial boundaries and the authority of the former Yugoslav Federation. Sovereignty was violently contested in the Yugoslav wars of secession and the new configuration of state contours has not crystallized yet. There are state-like entities with undetermined final status and external rule of their domestic affairs (Kosovo), there are independent states with no effective domestic authority of the government (Bosnia and Herzegovina), there are internally autonomous countries with a dubious international status (Serbia and Montenegro/Kosovo) and there are also states with consolidated statehood (Albania, Bulgaria, Croatia, Romania).

Does sovereignty matter then for the EU-Balkan relations? From Krasner's point of view, it does not since it has never been in the first place. Constructivist accounts of sovereignty are ill-placed to explain the persistent violations of the norm of sovereignty in the Balkan context, Krasner would argue. Neorealism and neoliberalism alike are erroneous to assume sovereignty as a constant and invariable element of international relations, Krasner's thesis implies.<sup>50</sup> In his view, domestic factors alone can explain the voluntary or coercive compromises of state sovereignty whereas rationality is at the core of the decision-making process leading to such compromises.

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<sup>49</sup> See Robert Cooper, *The Breaking of Nations: Order and Chaos in the Twenty-First Century* (London: Atlantic books, 2004).

<sup>50</sup> See Daniel Philipott, "Usurping the Sovereignty of Sovereignty," *World Politics* 53, no. 2 (2001): 297-324.

For Robert Cooper, sovereignty does matter and the EU-Balkan relationship constitutes a major clash between the post-modern system of sovereignty the EU lives in and the modern system of nation-states the Balkans live in. These two zones are governed by different logics and the inter-zone relations are problematic according to Cooper. The major European states, acting in support of the European values, intervened in the wars in Bosnia and Kosovo against the practice of ethnic cleansing and repression of minority groups<sup>51</sup> but in so doing they violated the modern principles of sovereignty prevalent in the region. To resolve this inherent conflict between the two systems, Cooper suggests an imposition of the European way through all means, including force:

“[F]or the post-modern state there is, therefore, a difficulty. It needs to get used to the idea of double standards. Among themselves, the post-modern states operate on the basis of laws and open cooperative security. But when dealing with more old-fashioned kinds of state outside the post-modern limits, Europeans need to revert to the rougher methods of an earlier era – force, pre-emptive attack, deception, whatever is necessary for those who live in the nineteenth-century world of every state for itself.”<sup>52</sup>

While prescribing a new type of “post-modern interventionism” for the EU policy vis-à-vis the modern type of states, Cooper fails to give an account of how sovereignty matters and in what way the traditional notions of sovereignty in the modern world affect the EU external relations with non-aggressive countries from the modern zone which do not constitute a threat to the values of the EU post-modern world. He also falls short of examining whether and under what conditions states can move from the modern to the post-modern zone of the system and whether and how sovereignty plays a role in this transition. By promising membership to the Balkan countries, the EU has in essence extended an offer to them to join the post-modern world. Cooper is silent on whether and how sovereignty matters in this particular type of cases. His formula of aggressive intervention is therefore not suited to account for EU relations with would-be members.

Indeed, the message the EU is sending to its candidates and potential candidates is rather benevolent, promising to engage rather than coerce, pledging to help rather than threaten, and highlighting inducements rather than punishments. The means through which the EU approaches its future members are benign in nature too – trade liberalization, political dialogue, institutional

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<sup>51</sup> Robert Cooper, *The Breaking of Nations: Order and Chaos in the Twenty-First Century*, 59-61.

<sup>52</sup> *Ibid.*, 62.

ties, financial assistance, etc. The voluntary nature of the EU accession process is beyond doubt too. Cooper, however, strikes a point by suggesting that the EU can have leverage on domestic developments in third countries, including on the way their sovereignty is constituted.

While coercion *per se* is not the EU's method of developing relations with aspiring members, its capacity to set conditions and demand institutional and policy adjustments cannot be overlooked. The asymmetry of power in this relationship is too obvious to ignore rendering Krasner's argument about the primacy of domestic factors difficult to accept. The EU does possess instruments to influence the institutional structures and policy frameworks of future members which makes it imperative to examine the EU level as a factor in explaining domestic outcomes in the Balkans.

## 2.2 CONDITIONALITY AND SOCIALIZATION AS MECHANISMS OF EUROPEANIZATION

The Europeanization literature, reviewed below, is an attempt to conceptualize the EU influence on the domestic structures of countries taking into account the specific characteristics of the EU as a governance system. The Europeanization concept, while developed by scholars of European integration to explain the transformation of institutional and policy structures within the EU member states as a response to institutions and policies adopted at EU level,<sup>53</sup> has become a useful conceptual tool to examine the domestic change taking place in the EU candidates as a reaction to the EU's conditional promise of membership.<sup>54</sup> Europeanization in this context is the process of domestic transformation that brings a country closer to the European standards of democratic and economic governance. It can be viewed as a process of convergence on the

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<sup>53</sup> On the definition of Europeanization as an analytical concept see See Tanja A. Börzel and Thomas Risse, "Conceptualising the Domestic Impact of Europe" in *The Politics of Europeanisation*, eds. K. Featherstone and C. Radaelli, 58-69 (Oxford: Oxford University Press, 2003); Thomas Risse, M. Cowles and J. Caporaso, "Europeanisation and Domestic Change: Introduction" in *Transforming Europe: Europeanization and Domestic Change*, eds. Thomas Risse, M. Cowles and J. Caporaso (Ithaca: Cornell University Press, 2001); Claudio M. Radaelli, "The Europeanisation of Public Policy" in *The Politics of Europeanisation*, eds. K. Featherstone and C. Radaelli (Oxford: Oxford University Press, 2003).

<sup>54</sup> Heather Grabbe, "Europeanisation Goes East: Power and Uncertainty in the EU Accession Process" in *The Politics of Europeanisation*, eds. K. Featherstone and C. Radaelli (Oxford: Oxford University Press, 2003). B. Coppeters et al. *Europeanization and Conflict Resolution: Case Studies from the European Periphery* (Ghent, Belgium: Academia Press, 2004).



norms of democracy, market economy and rule of law that constitute the core of the European value system.

There are two mechanisms of domestic change discussed in the Europeanization literature coming from two different strands of social sciences – rational choice institutionalism and constructivism. They are: 1) domestic redistribution of power among political and societal actors as a result of new opportunities and constraints arising from the European-level policies and institutions; and 2) socialization and social learning leading to internalization of new norms and development of new identities.<sup>55</sup>

Conditionality is the principle mechanism available to the EU to bring about change in the domestic opportunity structure of political actors and encourage alignment of their interests with the EU-demanded reforms.<sup>56</sup> The basic thrust of the EU conditionality is the rational choice logic of cost-benefit analysis where domestic change is a reaction to the material and social benefits offered by the EU.<sup>57</sup> Likewise, the EU can impose costs on third countries by withholding benefits and punishing unacceptable behavior.<sup>58</sup> Being purpose-oriented, actors change their policies and behavior, if the EU-offered rewards are higher than the costs of compliance with the EU conditions.

Socialization is the softer mechanism of stimulating change where transformation of actors' interests and identities occurs gradually through a process of learning and lessons-drawing as a result of personal exchanges and greater exposure to the European way of governance. Socialization has a non-coercive "logic of appropriateness" to it where domestic change takes place due to persuasion and internalization of a code of conduct universally recognized as the norm in Europe and deviations from which are universally "shamed" as unacceptable.<sup>59</sup> It is a

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<sup>55</sup> See Tanja A. Börzel and Thomas Risse, "Conceptualising the Domestic Impact of Europe" in *The Politics of Europeanisation*, eds. K. Featherstone and C. Radaelli, 58-69 (Oxford: Oxford University Press, 2003).

<sup>56</sup> See Milada Anna Vachudova, "The Leverage of International Institutions on Democratizing States: Eastern Europe and the European Union," EUI Working Paper RSC N 2001/33 (2001). See also Heather Grabbe, "A Partnership for Accession? The Implications of EU Conditionality for the Central and Eastern European Applicants," EUI Working Paper RCS N 12/99 (1999).

<sup>57</sup> Frank Schimmelfennig et al., "Costs, Commitment, and Compliance. The Impact of EU Democratic Conditionality on European Non-Member States," EUI Working Paper RSC 2002/29 (2002).

<sup>58</sup> Frank Schimmelfennig et al., "The Conditions of Conditionality: The Impact of the EU on Democracy and Human Rights in European Non-Member States." Paper prepared for Workshop 4, "Enlargement and European Governance", ECPR Joint Session of Workshops, Turin, 22-27 March 2002, <http://www.essex.ac.uk/ECPR/events/jointsessions/paperarchive/turin/ws4/Schimmelfennig.pdf>.

<sup>59</sup> Frank Schimmelfennig, "Introduction: The Impact of International Organisations on Central and Eastern European States – Conceptual and Theoretical Issues" in *Norms and Nannies: The Impact of International*

process based on interaction and the EU dense institutional environment is particularly well placed to socialize agents from within.<sup>60</sup> With regard to non-EU members, the success of socialization will depend to a great extent on the density of institutional ties and contacts between the EU and the third countries and the legitimacy of the EU-promoted norms and policies as perceived by the non-EU actors.<sup>61</sup>

The relationship between the two mechanisms has not been conceptually clarified in the literature. Hypotheses about the conditions under which one pathway will prevail over the other are not well specified and tested by empirical studies. Börzel and Risse have suggested that the logics of action and interaction may occur simultaneously notwithstanding the analytical distinction between them.<sup>62</sup> Judith Kelly has argued that in Central and Eastern Europe, membership conditionality was the more powerful and more effective mechanism to change actors' behavior while socialization-based methods alone were not sufficient to influence domestic policies.<sup>63</sup> A third group of scholars have empirically shown that in the conflict resolution context the use of conditionality may under certain conditions preclude the possibility for socialization.<sup>64</sup>

The Europeanization literature therefore suggests two possible explanations to the question of compliance. One is based on rational-choice assumptions and assigns primary importance to actors' rational calculations for institutional and policy change. The other focuses on norms and values and accords higher explanatory power to normative considerations as a driver of domestic change. It is therefore critical to understand the motivation behind domestic actors' compliance responses in order to account for Balkan compliance with EU conditionality.

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*Organisations on the Central and East European States*, ed. R. Linden (Lanham, Boulder, New York, Oxford: Rowman & Littlefield Publishers, INC., 2002).

<sup>60</sup> See Jeffery Checkel, "Social Construction and European Integration" in *The Social Construction of Europe*, eds. Thomas Christiansen, E. Jorgensen & A. Wiener (London: SAGE Publications, 2001).

<sup>61</sup> Frank Schimmelfennig et al., "Costs, Commitment, and Compliance. The Impact of EU Democratic Conditionality on European Non-Member States."

<sup>62</sup> Tanja A. Börzel and Thomas Risse, "Conceptualising the Domestic Impact of Europe," 74-75.

<sup>63</sup> Judith Kelly, "International Actors on the Domestic Scene: Membership Conditionality and Socialization by International Institutions," *International Organization* 58, no. 3 (2004): 425-457.

<sup>64</sup> Bruno Coppieters et al., *Europeanization and Conflict Resolution*, 34-36, 48-55.

### 2.2.1 How EU Conditionality Works

There are three aspects to the EU's policy and practice of conditionality. First, the EU offers incentives which can interfere in the strategic calculus of domestic political leaders and provide the rationale for compliance. Second, the EU sets conditions upon the fulfillment of which the rewards will be delivered to compliant actors. Third, short of compliance, the EU applies its sanctioning instruments thus providing disincentives for non-compliance and aiming at influencing the pattern of domestic change through negative means.

On the *incentive* side, the EU's offer is identical to all Balkan countries – full EU membership. The strength of the incentive, therefore, is equal for all cases in the region. There is, however, a difference in the time in which the membership perspective was extended to what have become two separate groups of Balkan countries – the Eastern Balkans comprising Bulgaria and Romania and the Western Balkans consisting of Albania, Bosnia and Herzegovina, Croatia, Macedonia and Serbia and Montenegro. The Eastern Balkan countries are part of the Central and Eastern European group for which the integration strategy was devised in the early 1990s shortly after the fall of the Berlin Wall. Bulgaria and Romania were offered Europe agreements as the other Central European and Baltic states in the first half of the 1990s and were subject to regular monitoring and evaluation reports by the European Commission since 1997.

The Western Balkan countries belong to the Stabilisation and Association Process (SAP). While also devised as pre-accession mechanism by the EU, the separation of the SAP from the enlargement process signals important differences. First comes the timetable - the SAP was launched much later than the enlargement process and was perceived from the very beginning as a weaker derivative of the enlargement exercise. Only in 2000 did the EU extend the membership perspective to the five Western Balkan countries, a decade after the EU made first steps to engage the countries from Central and Eastern Europe. By the time peace and ethnic co-existence were restored in the former Yugoslav republics and the Western Balkan region as a whole was deemed eligible for EU membership, Bulgaria and Romania, the laggards of the CEE group, were already negotiating accession to the EU. The timetable of the accession process, therefore, is very different for the Western Balkans and the Eastern Balkans, yet the reward down the road is the same – full membership. There is a delay of roughly 10 years in terms of engaging the potential candidate countries (Western Balkans) in comparison with the candidate

countries (Bulgaria and Romania). Regardless of the time difference, however, the nature of EU engagement is similar and the power of the EU incentive package is the same. And although in 2000 full membership of the Western Balkan countries in the EU seemed like a distant prospect, the same could be said about Bulgaria and Romania in 1990 whose accession to the EU did not appear nearer at the time. Furthermore, similar doubts about the capacity of all these countries to fulfill the pre-accession requirements in a reasonable time frame were expressed at the beginning.

The other important differences between the SAP and the enlargement process have to do with the *conditions* attached to the promise of membership. The EU conditionality for would-be members touches on the core of the political and economic system of a candidate and affects a wide spectrum of policy domains. In 1993, the European Council formulated what became known as the Copenhagen accession criteria (see figure 2.1) as guidelines for judging the preparedness of a prospective member to join the club.

The European Council today agreed that the associated countries in Central and Eastern Europe that so desire shall become members of the European Union. Accession will take place as soon as an associated country is able to assume the obligations of membership by satisfying the economic and political conditions required.

Membership requires that the candidate country has achieved:

- stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities;
- the existence of a functioning market economy as well as the capacity to cope with competitive pressure and market forces within the Union;
- the ability to take on the obligations of membership including adherence to the aims of political, economic & monetary union.

Source: Copenhagen European Council Conclusions, 21-22 June 1993.

**Figure 2.1: The Copenhagen Criteria**

The Copenhagen criteria are invoked directly only when a candidacy status is conferred upon an aspiring member. They can be viewed as a rule-book for steering the transition to democracy and market economy in the former communist states. The former Yugoslav republics of the Western Balkans that were involved in the secessionist wars of the 1990s had, in addition, an extra layer of problems to address as a consequence of the war legacy that was unique to them. Not only did they have a delayed transition but also the initial conditions from which they started

were very different and presupposed the resolution of outstanding statehood questions. The EU conditions vis-à-vis these former war adversaries intervened in these highly sensitive political matters suggesting a vision for the map of the region and the internal state structures against the promise of EU membership.

The regional hostilities in the 1990s also predetermined the EU's emphasis on regional cooperation as a means of promoting reconciliation and *rapprochement*. In 1999, the EU launched the Stability Pact for South East Europe as an attempt to encourage political elites from the region to work together on issues of common concern such as democratization, economic development and security cooperation. It also made regional cooperation an explicit condition for establishing contractual relations between the EU and the Western Balkans. While Bulgaria and Romania's participation in the regional cooperative initiatives was automatically expected by the EU, it was never a matter of official conditionality for the two accession candidates. Indeed, apprehension in Bulgaria and Romania at the start was high because they feared that it could slow them down in their EU membership bid to the speed of the slowest in the region. Scepticism in the Western Balkans was widespread too because some countries were concerned that this might lead to a new Yugoslavia. With the time, these anxieties eased as the countries found it rewarding to launch concrete regional projects and the EU reaffirmed its intention of accepting them as full members as soon as they are ready thus reducing the fear that the proposed regional cooperation formula was a substitute for real integration into EU structures.<sup>65</sup> The EU regional cooperation conditionality, however, is formally applicable to the Western Balkan countries only. And so is the requirement about cooperation with the International Criminal Tribunal for former Yugoslavia (ICTY) which only applies to the countries involved in the Yugoslav secession wars.

The EU sovereignty conditionality, the EU democracy conditionality, the EU market economy conditionality and the EU regional cooperation conditionality are the three sub-categories of *overreaching conditionality* that aim at penetrating very deep and changing the domestic structures of the EU members-to-be (see table 2.1 for a typology of EU conditionality). It is important to note that the sovereignty conditions might not be explicitly mentioned by the EU but disguised under demands for reform of domestic institutions and/or policies. Their

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<sup>65</sup> See the website of the Stability Pact for South East for concrete projects and results at [www.stabilitypact.org](http://www.stabilitypact.org).

implications for formal statehood structures, however, are important to warrant a special attention and emphasis.

The second type of EU demands is linked to the third Copenhagen criterion concerning the approximation of legislation of a candidate with the EU body of law. This *sector-specific conditionality* requires transposition of the EU *acquis* in all domains of common policy into national legislation. This is a highly technocratic process and full legal compliance is only expected once a candidate is invited to start accession negotiations. In practice, the EU *acquis* is a take-it-or-leave-it offer and not much of negotiation takes place during the accession talks. It is an unwritten rule of thumb that as soon as a country fulfils the Copenhagen democracy criterion, it can begin negotiating accession.<sup>66</sup> In fact, this phase of the pre-accession process is a systematic review of the national legal base in all chapters of the *acquis* to determine the level of transposition of the EU law and the institutional capacity of the prospective member to apply the EU law in each sector. The successful completion of this legal process results in a formal membership invitation by the EU to the candidate country. It is therefore the final step before accession. While the EU *acquis* is not directly linked to the EU overarching demands, the opening and closing of *acquis* chapters was occasionally used by the EU to put pressure on the candidates to advance reforms requested in the context of the Copenhagen democracy and market economy criteria.<sup>67</sup>

A third type of EU conditions is linked to the EU assistance programs and the implementation of specific projects in various policy areas. The *assistance conditionality* is at micro level and has a very narrow focus of improving the sectoral indicators or institutional capacity in a particular sphere targeted by the EU as underperforming. While the EU assistance generally contributes to a country's efforts to meet EU standards in a specific domain thus helping it make overall progress towards accession, the EU does not condition assistance on strict compliance with its overarching conditionality. In practice, the European Commission has found it difficult to link assistance conditionality to the general accession criteria and to use the threat of withdrawing financial assistance as an instrument for inducing compliance with the overarching conditions. Only in the face of severe human rights violations the EU would

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<sup>66</sup> Author's interviews at the European Commission.

<sup>67</sup> For instance, the closing of the JHA *acquis* chapter by Bulgaria was linked to the country's progress in reforming the judiciary system. While there is no EU *acquis* on what judiciary structure a member state should have, the EU used its leverage in the JHA chapter negotiations with Bulgaria to demand further reforms from the Bulgarian government in addressing the deficiencies of the Bulgarian judiciary.

consider such an option as a means of last resort.<sup>68</sup> And although this possibility exists theoretically, in practice, it has not been viewed as a credible threat.

**Table 2.1: Types of EU Conditionality**

<b>Overarching Conditionality</b>	<b>Sector-specific Conditionality</b>	<b>Assistance Conditionality</b>
<b>Incentives and disincentives linked to progress in pre-accession process – Enlargement Process or Stabilization and Association Process (SAP)</b>	<b>Incentives and disincentives linked to progress in accession negotiations (closure of respective chapters of the <i>acquis</i>)</b>	<b>Financial incentives and disincentives linked to the implementation of specific projects</b>
Sovereignty Conditionality (linked to statehood structure)	Single Market <i>Acquis</i> - alignment of legislation on the four freedoms: <ul style="list-style-type: none"> <li>- free movement of goods</li> <li>- free movement of services</li> <li>- free movement of capital</li> <li>- free movement of people</li> </ul>	Macro Financial Assistance (MFA) Conditionality <ul style="list-style-type: none"> <li>- direct budgetary support to improve macro-economic performance and as a co-sponsor of an IMF program</li> </ul>
Democracy Conditionality (linked to political governance and rule of law)	JHA <i>Acquis</i> - alignment of legislation in the area of Justice and Home Affairs <ul style="list-style-type: none"> <li>- immigration policy</li> <li>- asylum policy</li> <li>- police and judicial cooperation</li> </ul>	PHARE/SAPARD/ISPA/CARDS Assistance Conditionality <ul style="list-style-type: none"> <li>- support for reform of specific policy sectors</li> <li>- support for capacity building of various branches of government</li> </ul>
Market Economy Conditionality (linked to economic governance)	Sectoral Policy <i>Acquis</i> - alignment of legislation in various policy sectors: <ul style="list-style-type: none"> <li>- transportation</li> <li>- energy</li> <li>- environment, etc.</li> </ul>	
Regional Cooperation Conditionality		
Conditionality on Cooperation with ICTY		
<b>Incentive:</b> EU membership <b>Disincentive:</b> exclusion from the group of countries admitted to the following stage in the pre-accession process	<b>Incentive:</b> invitation to become EU member <b>Disincentive:</b> delays in accession negotiations and postponement of accession date	<b>Incentive:</b> financial resources <b>Disincentive:</b> withholding of financial resources

<sup>68</sup> Author's interviews at the European Commission and the Policy Unit of the Council Secretariat. EU officials use the metaphor of “the nuclear button” to estimate the likelihood of EU’s withdrawal of financial assistance to a third country. This has partly to do with the complicated bureaucratic process of granting money which requires the collection of a number of signatures from various responsible bodies within the EU institutional machinery.

From a comparative perspective, examining compliance with the EU sector-specific conditions is not pertinent due to the time lag in the start of the accession preparations in the Eastern and Western parts of the Balkans. The Western Balkan potential candidates are still far away from the accession negotiation process when the EU demands full and unconditional transposition of the *acquis*. And while the time will inevitably come when harmonization of the national legislation with the EU law in each area of common policy will be requested from each of the Western Balkan countries individually, as a first step the EU prioritizes fulfillment of its overarching requirements.

The comparative analysis will not examine the EU assistance conditionality either because of the nature of the micro-level conditions and the EU's general reluctance to apply financial pressure as a lever of power (see appendix C for EC assistance levels). There is an important differentiation between the members of the two Balkan groups when it comes to assistance mechanisms. In the Western Balkans, a great deal of EU assistance in the 1990s was humanitarian aid and reconstruction funds meant to address the immediate consequences of the war rather than to prepare the countries for future EU membership. Even when the membership perspective for the Western Balkans was confirmed and assistance priorities were retargeted to better help the countries in their pre-accession preparations, there remained a difference in the assistance instruments and the administration of EU-funded projects in the Eastern and Western Balkans. Bulgaria and Romania, as part of the enlargement policy, are recipients of PHARE, ISPA and SAPARD funds, the administration of which is more decentralized and involves to a large extent the national authorities of the country.<sup>69</sup> In contrast, the disbursement of funds and the implementation of projects under the CARDS program for the Western Balkans is done through a specially established EU agency – the European Agency for Reconstruction (EAR) – situated in the region but directly responsible to Brussels. According to EU officials, “there is nothing that can be done under PHARE, SAPARD and ISPA programs which cannot be done under the CARDS program.” The Western Balkan countries have nevertheless felt at a disadvantage in comparison to their Eastern European counterparts and their grievances concerning the EU assistance levels and instruments are well documented by the European Stability Initiative, a Berlin-based NGO advocating equal treatment for both candidates and

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<sup>69</sup> Author's interviews at the European Commission.



potential candidates.<sup>70</sup> What is more important for the analysis here is that no matter whether countries comply or not with the EU Copenhagen criteria, they will continue receiving EU assistance.

The comparative analysis of compliance responses of Balkan governments will focus on conformity with EU overarching conditions only with the exception of the regional cooperation and ICTY cooperation demands. The latter are applicable to the Western Balkans only and as such are unsuitable for comparative examination. The rest of the overarching requirements are linked to the *process* of gradually moving forward towards accession with the incentive of full membership at the end of the road. They are primarily intended to induce a candidate country to make its political and economic system compatible with the EU model of democratic and economic governance. The EU overarching demands can also have far-reaching implications for the statehood structure of a future member.

Finally, on the *disincentive* side, the EU's inclination in the enlargement context has been to withhold benefits rather than inflict punishments. Some scholars have referred to this strategy as "reactive reinforcement"<sup>71</sup> whereas others have conceptualized the EU's sanctioning mechanism as "gate-keeping."<sup>72</sup> The ultimate threat is exclusion from the group of candidates admitted to the following stage in the pre-accession process thus delaying the date of accession.

This approach is inherently linked to the *process* of pre-accession preparations which has different phases and interim milestones. With the time the EU has perfected its instruments and introduced more "barriers" along the way. While it offered almost unconditionally Europe Agreements to all 10 countries from Central and Eastern Europe in the mid-1990s and assigned to them the status of "candidate countries," it became very strict with signing Stabilisation and Association Agreements (SAAs) with the Western Balkan potential candidates asking them to fulfill certain standards in order to qualify for contractual relations with the EU. The formal signature of an SAA is preceded by a positive Feasibility Study by the European Commission which constitutes another stage in the process. For the Western Balkans, there is an additional step in earning the status of "a candidate country" while graduating from the second rank of "a

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<sup>70</sup> See for instance European Stability Initiative, "The Road to Thessaloniki: Cohesion and the Western Balkans," 12 March 2003, available from [www.esiweb.org](http://www.esiweb.org).

<sup>71</sup> Frank Schimmelfennig et al., "The Conditions of Conditionality: The Impact of the EU on Democracy and Human Rights in European Non-Member States."

<sup>72</sup> Heather Grabbe, "How Does Europeanization Affect CEE Governance? Conditionality, Diffusion and Diversity," *Journal of European Public Policy* 8 (2001): 1013-1031.

potential candidate.” For all candidates, there is the crucial moment of being invited to open accession negotiation with the EU which is followed by the opening and closing of 31 chapters of *acquis communautaire*.

In essence, the postponement of reward delivery to non-compliant candidates by not allowing them to move forward to the following stage of the process creates a competitive peer pressure on underperformers to reform faster and catch up with the front-runners. Since clear benchmarks for passing from one stage to the other have been lacking in the Commission’s evaluation toolkit, the ranking of candidates in terms of their relative performance and achieved progress has proven a more realistic approach. While the Commission has been reluctant to apply a more coercive strategy of punishment, it has felt quite comfortable in its role of “shaming” undemocratic practices or criticizing failure to reform.

It is important to note that the EU sanctioning mechanism is inherently social in nature and produces results because of the group character of the pre-accession process. The aspiring candidates themselves have struggled to excel in reform and distinguish themselves from one other in an attempt to arrive first at the finish line. This group dynamic has given the EU the opportunity to rely on symbolic politics and encourage best performance while keeping the bilateral character of the process and emphasizing the individual merit-based treatment. This method has been applied to both the enlargement group of Central and Eastern Europe and the SAP group from the Western Balkans with similar success although separately. Inter-group comparisons of progress towards EU integration have also played a role, especially in the Balkan context with Bulgaria and Romania speeding ahead of the rest of the region but Croatia successfully catching up regardless of the late start. This intra- and inter-group dynamic has spurred competition and provided an important additional stimulus to keep the Europeanization momentum. In essence, the EU disincentives have taken the form of social sanctioning. Social exclusion has been the decisive EU’s “stick.”

### **2.2.2 How EU Socialization Works**

To understand EU socialization activities in Central and Eastern Europe and the Western Balkans, it is critical to keep in mind that they take place in the context of the mega-incentive of membership extended to the EU candidates and potential candidates. EU material rewards are

already on offer and the socialization of the political elites of the future members complements the EU's incentive package. The question then is, given the simultaneous activation of the two Europeanization mechanisms – conditionality and socialization - as a matter of EU strategy and the mega-incentive offered by the EU as a primary instrument, what is the value added of socialization activities?

From the EU's point of view, the objective of socialization in both Central and Eastern Europe and the Western Balkans is twofold. Firstly, it aims at permanently altering the normative orientations of political elites and thus achieving long-term transformation of their interests and identities. Only through a durable change of the mind set of political leaders from the whole political spectrum can the reforms induced through material incentives be sustained over time. Since irreversibility of the domestic transformation process triggered by the promise of membership depends critically on the continuity of policy regardless of the political background of the office-holders, engaging political leaders from both sides of the political spectrum is key. If elites espouse the EU values and believe in the reforms they undertake in response to the EU accession requirements, they would continue pursuing EU-compatible policies even after the EU material rewards have been delivered. The ultimate goal is successful empowerment of EU norms in a domestic political context and long-lasting change of the beliefs and ideals of the political community of a country.

Secondly, since all the candidates and potential candidates are destined to become full EU members, the EU is interested in having reliable partners who abide by the unwritten rules governing the exchanges within the EU community of states. Joining the club grants both rights and obligations. Once the newcomers are permitted to sit around the table as equals, they have a say in the EU decision-making and can influence the evolution of common policies and institutions. Therefore, it is important for the EU to “teach the code of conduct” of the club to the future members prior to their formal accession.<sup>73</sup> As soon as the candidates become full members, the EU loses the sanctioning mechanisms of its conditionality policy and the only way to be sure that the newcomers will “behave appropriately” is by teaching them to respect commitments, to keep promises, to implement negotiated compromises that advance the collective interest of the whole community. The very process of acceding to the EU is about

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<sup>73</sup> See Ronald Linden ed. *Norms and Nannies: The Impact of International Organizations on the Central and Eastern European States* (Lanham, Boulder, New York, Oxford: Rowman & Littlefield Publishers, Inc., 2002).

learning to adjust one's interests to the shared objectives of all members. In essence, this is a process of building mutual trust and learning to rely on a partner's given word and stated intentions.

In the constructivist literature, this gradual alignment of state behavior with norms embedded in international institutions is primarily attributed to the process of argumentative persuasion and elite/social learning but domestic institutional and historical contexts can restrict the causal power of the social interaction process.<sup>74</sup> Many scholars studying the effects of international norms on state policy emphasize the salience of domestic receptivity to externally defined standards of appropriate behavior. Jeffery Checkel, for instance, maintains that the success of norm diffusion in a certain domestic context depends on the "degree of cultural match" between international norms and domestic practices.<sup>75</sup> Similarly, Tomas Risse accounts for the differential Europeanization of nation-state identities in the EU with the varying degree of resonance of Europeanization with domestic political visions and understandings of Europe and of European order.<sup>76</sup>

How receptive are the elites of Central and Eastern Europe and the Western Balkans to EU-emanating normative claims about appropriate state policies and structures? John Ikenberry and Charles Kupchan have argued that domestic elites are more receptive to external normative influence in periods of domestic crisis when their legitimacy is questioned by the national constituency.<sup>77</sup> The collapse of the communist system produced such a crisis time in the early 1990s in Central and Eastern Europe when the old structures were seen as totally discredited while an active search for a credible model of governance was put in motion. The Western model of democracy and market economy did present such a plausible alternative which, coupled with the societal drive towards 'returning to Europe,' provided the legitimacy basis for the constitution of a new domestic order embedded in notions of Europeanization and integration in the community of European nations. Most of the new elites in Central and Eastern Europe

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<sup>74</sup> Jeffrey Checkel, "Why Comply? Social Learning and European Identity Change," *International Organization* 55, no. 3 (2001): 553-588.

<sup>75</sup> Jeffrey Checkel, "Norms, Institutions and National Identity in Contemporary Europe," *International Studies Quarterly* 43 (1999): 83-114.

<sup>76</sup> Thomas Risse, "A European Identity? Europeanisation and Evolution of Nation-State Identities" in *Transforming Europe: Europeanization and Domestic Change*, eds. Thomas Risse, M. Cowles and J. Caporaso, 202 (Ithaca: Cornell University Press, 2001).

<sup>77</sup> G. John Ikenberry and Charles A. Kupchan, "Socialization and Hegemonic Power," *International Organization* 44, no. 3 (1990): 283-315.

accepted the EU's value system and were inclined to remedy their domestic structures in order to bring them up to European standards. The domestic conditions for their socialization into the European mainstream therefore were extremely favorable.

Most of the Western Balkan countries underwent a deeper crisis in the 1990s due to the violent collapse of the Yugoslav Federation and the wars of secession which not only led to massive material destruction but also drove the nationalist passions to the extreme. This period also brought about a major confrontation between the extreme nationalist elite together with its popular support base in the region and the West including the major European powers which intervened to stop the bloodshed and restore peace. Only after the warring parties were pacified did the question of building viable governance structures come to the fore. And although by that time the communist-type system of production and one-party political structure had collapsed, the European model of democracy and market economy did not have the same compelling appeal to the nationalist political formations in the former Yugoslav countries as it did in Central and Eastern Europe. And even though the notion of 'rejoining Europe' did resonate widely in the societies of the Western Balkans, in the post-war period the nationalist elites continued to base their legitimacy on nationalist ideologies which they sought to transform and adapt to the new political realities. The European anchor served as a legitimization milieu only for the pro-reform political groups with Western geo-strategic and normative orientations. The EU influence encountered a more receptive audience with the latter type of political formations with whom the EU-sponsored ideas enjoyed a higher degree of legitimacy. The domestic conditions in the Western Balkan potential candidates therefore were only partially conducive to the socialization of their political elites into the European way of governance and state behavior.

While receptivity to EU normative influence varies across the two regions under discussion as initial state of affairs, it is imperative to have in mind that in the Western Balkan political context not all of the EU conditions have a normative content which is incontestable and derived from the European model of governance. This is the case with some of the sovereignty-linked EU demands. One can think of EU influence in broader terms as promoting democracy, the rule of law and market economy but the specific statehood conditions the EU sets cannot always be linked to widely acceptable international principles and are in fact highly geared towards the perceived sovereignty 'deficits' of individual states in the region. It is more difficult for the EU to normatively appeal even to the reform-oriented political groups when it intervenes in highly

sensitive statehood matters for which there is no universal recipe. The success of its socialization efforts in the Western Balkans, therefore, is additionally impeded by the nature of its intervention in the domestic structures of the would-be members.

Since socialization is based on interaction, the more the opportunities for institutional and private dialogue, the greater the external impact on domestic structures as a result of learning, lesson drawing, model emulating, etc. In general, the density of institutional ties between the EU and a would-be member increases with the time as the candidate comes closer to accession. The process starts off with basic bilateral contacts of intergovernmental nature at official level but later the interactions widen their scope to include more participants from various public bodies. They also get thicker and more personal as the communication between the two sides deepens with the advancement of the accession preparations.

The SAP formula of engagement follows the standard enlargement treatment and makes use of similar socialization instruments as the ones employed by the EU vis-à-vis the CEE countries. These include regular high-level meetings at ministerial level between the EU member states' ministers and the respective country's government representatives; working sessions of parliamentary delegations of the European Parliament and the respective national parliament; day-to-day operational correspondence between the European Commission directorates and the ministries of the respective country; official exchanges of assessments and reactions such as the regular reports on progress towards accession and the successive responses to criticisms and praises. The policy of the EU vis-à-vis the CEE candidates and the Western Balkan potential candidates is comparable but the decade delay in including the Western Balkans in the enlargement framework has influenced the results to date. In the long-run, however, the time lag should not affect the outcome as the socialization mechanisms are analogous in the two regions in relation to a candidate's distance/closeness to accession.

## 2.3 CONCLUSION

The chapter has made the theoretical case for the importance of the EU factor as an explanatory variable for sovereignty- and governance-related changes in the Balkans. The EU-Balkans relationship is a hierarchical one and the power asymmetry is in favor of the EU. The EU's exercise of leverage, however, is rather subtle and depends on the country's willingness to accede to the EU. This empowers the EU to set entry requirements that can have far-reaching implications for the statehood configuration, institutional set-up and economic structure of aspiring EU members. The EU is inclined to practice positive rather than punitive conditionality although the disincentives are there from the beginning to deter non-compliance. Socialization has an equally important emphasis in the EU strategy to encourage transformation in the Balkans even though domestic actors are not equally receptive to EU normative orientations.

The chapter has argued that, despite the time difference in extending the EU membership perspective to the Western and Eastern Balkans, the EU incentives and disincentives are alike for to the two distinct groups of countries, unlike the EU conditions. While in the Eastern Balkans the EU demands are entirely focused on the quality of governance of the candidates, in the Western Balkans they have an additional sovereignty dimension for countries with unconsolidated statehood. Chapters 3 and 4 examine in detail the EU conditions vis-à-vis the three cases mapping this variation and making inferences about its implications for the compliance responses of Balkan governments. The point made here is that the EU's influence on the domestic structures of candidates and potential candidates can be expected to be different due to different prioritization of entry requirements by the EU in the two sub-groups of the region.

### 3.0 THE POLICY OF EU POLITICAL CONDITIONALITY

The objective of this chapter is to empirically show that through its political conditionality, the EU has aimed at redefinition of statehood relationships in the Western Balkan countries in line with its guiding principles of 1) safeguarding the international boundaries of the successor states of former Yugoslavia which used to be the internal administrative borders within the Yugoslav federation<sup>78</sup> and 2) building viable future member states with efficient institutions capable of completing the pre-accession domestic reforms and engaging with the Brussels institutional establishment during and after the accession negotiations process.<sup>79</sup> The EU political conditions have intervened in both external and internal aspects of sovereignty even though the emphasis has varied from case to case. Through its sovereignty-linked demands, the EU favors a state model consistent with modernity but the existence of the EU layer of governance and the prospect of future participation in it provides an external structure within which the solutions to the Balkan statehood disputes can be embedded and sustained over time.<sup>80</sup> The unique features of the EU governance system and the soft mechanisms of exerting external influence on the statehood disputes in the Western Balkans render the reconstitution of sovereignty in the region quite different from the historical process of formation of modern territorial states.<sup>81</sup>

The chapter puts forward two hypotheses. First, it posits that the deeper the EU intervenes in the formal sovereignty of the aspiring EU candidates through demands for reforms of institutional structures and changes to policy frameworks, the higher the costs of compliance of Balkan governments. The Europeanization literature predicts a lower likelihood for compliance in countries with higher adaptation costs.<sup>82</sup> Second, the chapter suggests that the more precise the EU conditions are, the lower the degree of freedom left to the governments to choose the measures with which to comply and the smaller the maneuvering space left to the EU to certify

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<sup>78</sup> See Mark W. Zacher, "The Territorial Integrity Norm: International Boundaries and the Use of Force," *International Organization* 55, no. 2 (2001): 234-236.

<sup>79</sup> See Report of the International Commission on the Balkans, "The Balkans in Europe's Future," April 2005, available from [www.balkan-commission.org](http://www.balkan-commission.org).

<sup>80</sup> On the EU's role as an overarching framework in secessionist conflicts on the European periphery, see Bruno Coppieters et al., *Europeanization and Conflict Resolution: Case Studies from the European Periphery* (Ghent, Belgium: Academia Press, 2004).

<sup>81</sup> For a discussion of the emergence of the modern state system and the condition of postmodernity in international politics see John Gerard Ruggie, "Territoriality and Beyond: Problematizing Modernity in International Relations," *International Organization* 47, no. 1 (1993): 139-174.

<sup>82</sup> See Frank Schimmelfennig and Ulrich Sedelmeier eds., *The Politics of European Union Enlargement: Theoretical Approaches* (London: Routledge, 2005).



compliance. Yet, politics determine ultimately how much compliance we observe in the different cases. The precision of EU demands sets the parameters within which political bargaining can take place both at domestic and at EU level.

Conceptually, the first hypothesis asserts the salience of the size of domestic costs for explaining Balkan compliance decisions in line with the cost-benefit logic of compliance. The Europeanization literature emphasizes three components of the conditionality model of enticing compliance – the size of the incentives, the credibility of the incentives and disincentives and the size of the compliance costs.<sup>83</sup> Chapter 2 advanced the argument that the strength and credibility of EU incentives are comparable in the three Balkan cases discussed here notwithstanding the time difference of the EU offer to them. This chapter explains why the size of compliance costs is different for the three Balkan countries and why this affects significantly their compliance responses through altering the weight of the costs in the cost-benefit calculus of political leaders notwithstanding the equality of the external stimuli. The comparative analysis of the EU political conditions which follows below suggests that the EU is intrusive in different ways in the three countries under review and the variation is a function of the countries' sovereignty.

The three countries from the comparative set have been asked to respond to different conditions. The EU demands vis-à-vis BiH and SCG affect the state of their sovereignty. The conditions vis-à-vis BG target the improvement of the state of democracy and rule of law and have no direct impact on the sovereignty of the country. In the two semi-sovereign cases, the EU conditionality requires particular constitutional changes that do not have the goal of democracy as main motivation and first priority. State-building is the EU's primary concern in BiH and SCG and improvement of democratic practice comes as a secondary although equally important objective. And although one can argue that the EU's emphasis on functioning state structures in the Western Balkans is simply a reaction to the realities on the ground, what is critical for the discussion here is that the deeper penetration in the statehood of the Western Balkan countries increases their costs of compliance with EU demands.

The EU conditionality vis-à-vis Bosnia and Herzegovina and Serbia and Montenegro links the EU membership perspective with the preservation of one common state in each of the cases.

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<sup>83</sup> See for example Frank Schimmelfennig, "The Impact of EU Democratic Conditionality in Central and Eastern Europe: A Qualitative Comparative Analysis," paper presented at the ECPR Second Pan-European Conference, Standing Group on EU Politics, Bologna, 24-26 June 2004, available from <http://www.jhubc.it/ecpr-bologna/docs/230.pdf>.

The EU has made it clear to both of them that only as one state can Bosnia and Herzegovina and Serbia and Montenegro aspire to become members of the EU one day. Regardless of the common philosophy underpinning the EU common state conditionality, its institutional implications are different in the two cases.

In the case of BiH, the EU common state conditionality is directly affecting the country's domestic sovereignty by demanding a change in the internal balance of power between the central government and the two constituent entities - the Republika Srpska (RS) and the Bosno-Croat Federation - and by affecting the relationship between the external authority structure in the country – the Office of the High Representative – and the domestic authority structures – the political institutions of BiH.

In the case of SCG, the EU common state conditionality constrains the external sovereignty of the republic of Serbia and the republic of Montenegro by asking them to preserve a common state with a single international legal status. The EU conditions do not have a direct effect on the internal relationship between the two republics and the way political authority is structured within the common state. The EU conditionality has no direct consequences on the domestic sovereignty of Serbia and Montenegro.

The EU political conditionality vis-à-vis Bulgaria has no sovereignty implications in the sense of direct interference in the country's external or internal sovereignty. It requires respect for democratic principles when it comes to the way in which the institutional system of the country is set up and rule of law when it comes to the functioning of the institutions. It also demands certain standards with regard to the policies of minority protection and human rights. The EU conditions do call for profound changes affecting the institutional capacity and policy practices but the EU conditionality does not substitute the sovereign decision of the country concerning the design of its internal political system and the external representation of its authority.

The second hypothesis proposed in this chapter stresses the implications for compliance decisions of the precision of EU demands. The Europeanization literature suggests that the rate of compliance can be expected to be higher when the EU conditions are more “determinate.”<sup>84</sup> This chapter argues that this relationship may not always be linear and in order to define whether

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<sup>84</sup> See Frank Schimmelfennig and Ulrich Sedelmeier, “Governance by Conditionality: EU Rule Transfer to the Candidate Countries of Central and Eastern Europe,” *Journal of European Public Policy* 11, no. 4 (2004): 672.

the precision of EU condition enhances or hinders compliance, one has to look at 1) domestic politics and 2) politics at EU level. The precision of EU demands affects the compliance responses with EU conditionality in two important ways. First, the more broadly-framed the EU conditions, the greater the freedom of the governments to choose the specific measures with which to respond to them and vice-versa. In essence, the more vaguely defined the EU demands, the broader the domestic bargaining space. This can both create opportunities and pose difficulties for domestic political actors depending on the specific circumstances. If the EU intervenes with very concrete conditions, domestic politics shifts from the necessity to find a compromise agreeable to major stakeholders to the need to compel/convince the groups opposing the specific set of EU-required reforms to support the proposed changes. If the EU identifies vaguely the area where it would like to see more reform, domestic politics can either get stuck with finding an acceptable solution to major parties or produce an outcome that enjoys domestic legitimacy and carries the stamp of local ownership which can be sustained over time rather than reversed (chapter 7 discusses at length the domestic politics of compliance).

Second, the precision of EU demands influences politics on the EU side of the conditionality-compliance dynamic too. The more imprecise the EU conditions are, the greater the EU's freedom in certifying compliance. Vagueness creates bargaining space and allows the EU both to oblige the candidates to do more in order to be considered compliant and to certify compliance when the candidates have done less than expected or in comparison with their peers. The EU can be driven by political and/or security considerations when deciding to admit a country to the next stage of the pre-accession process, if it wants to avoid a situation where a country backslides; if it deems necessary to reward a government for a difficult decision thus making it easier for it to sell the reforms to its population; if it wants to play up a country as a demonstration case thus encouraging others to catch up and do more reforms, etc. The more broadly defined the conditions are, the greater the EU's flexibility in justifying its concrete decisions without undermining the credibility of its conditionality policy and by avoiding criticism for applying double standards (chapters 5 and 6 discuss in greater detail the politics of EU conditionality and compliance certification).

The remainder of the chapter goes into the specific EU political conditions in the three countries and discusses their variation in terms of 1) intrusiveness in the sovereignty structures of

each case and 2) precision and its links to the political process of reaching or not reaching domestic consensus on compliance.

### **3.1 EU POLITICAL CONDITIONALITY AND STATE-BUILDING IN BIH**

#### **3.1.1 The Dayton structure of the Bosnian state**

If there is one single feature that captures the essence of the state structure of Bosnia and Herzegovina, this is decentralization in extreme forms. The state of BiH is a federation consisting of two entities, one of which is a unitary state-like structure, Republika Srpska (RS), and the other one is a decentralized federation itself, the Federation of Bosnia and Herzegovina (FBiH). The institutional structure emerged as a compromise between the warring parties in 1995 when the Dayton Peace Accords were signed under heavy international pressure and mediation. Its first and foremost objective was putting an end to the violent conflict between Serbs, Croats and Bosniaks. The Dayton Agreement proposed an institutional set-up that was aimed at providing maximum guarantees to the three ethnic communities to prevent future conflict by assuring their equality and avoiding ethnic domination in the state structures. The Constitution puts in place numerous institutional mechanisms ensuring the protection of the interests of the constituent peoples such as the vital interest veto in the Parliamentary Assembly, the bicameral legislative system and the collective state presidency.<sup>85</sup>

The central institutions of BiH, in addition to being entrusted by the Constitution with very weak powers, are designed in a way which makes efficient decision-making almost impossible. The executive power at state level is shared by the Presidency and the Council of Ministers. The Chairman of the Council of Ministers, who, in principle, performs the functions of Prime Minister, is nominated by the Presidency and confirmed by the House of Representatives of the state-level Parliament. It is however not entirely clear what the division of labor is between the two institutions and the duplication of executive tasks is real.<sup>86</sup>

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<sup>85</sup> See European Commission for Democracy through Law (Venice Commission), "Opinion on the Constitutional Situation in Bosnia and Herzegovina and the Powers of the High Representative," 11 March 2005, CDL-AD(2005)004, available from [www.venice.coe.int](http://www.venice.coe.int).

<sup>86</sup> *Ibid.*, 10.

The state presidency, in turn, consists of three members or co-presidents - one Bosniak, one Croat and one Serb elected directly for a 4-year term (the Bosno-Croat Federation votes for the Bosniak and Croat presidential members whereas Republika Srpska votes for the Serbian presidential representative). The chair of the presidency rotates among the three co-presidents every eight months. While decisions by consensus are encouraged by the Constitution, they may be adopted by two presidency members only. There is, however, a special mechanism put in place to ensure that the interests of the ethnic community whose presidential representative opposes a certain decision are not adversely affected. If the dissenting member declares a presidential decision destructive to the vital interests of the entity which has elected him/her, the matter is referred to the parliament of the respective entity and the decision can be annulled by a two-thirds vote in the entity legislature concerned.<sup>87</sup>

Similar caution is observed in the design of the legislative organs. The parliament of BiH is bicameral with a House of Representatives and a House of Peoples. The House of Representatives is comprised of 42 members, two-thirds elected from the Federation (14 Croats and 14 Bosniaks) and one-third elected from the RS (14 Serbs), all serving two-year terms. The House of Peoples consists of 15 members, two-thirds of which come from the Federation (5 Croats and 5 Bosniaks) and one-third from the RS (5 Serbs). This is an atypical arrangement for federal states which usually have one chamber representing the entire population and a second chamber ensuring stronger territorial representation of smaller federated units, as the Venice Commission notes in a thorough review of BiH's institutional system.<sup>88</sup> Comparing BiH's federative structure to that of other federal systems, the constitutional lawyers of the Council of Europe conclude that the House of Peoples is a redundant body which is "not a reflection of the federal character of the state but an additional mechanism favoring the interests of the constituent peoples."<sup>89</sup> In fact, the most important function of the House of Peoples is not the territorial representation of the interests of smaller units but the exercise of the vital interest veto by one of the three ethnic groups in the country.

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<sup>87</sup> Sumantra Bose, *Bosnia after Dayton* (London: Hurst & Company, 2002), 64

<sup>88</sup> See European Commission for Democracy through Law (Venice Commission), "Opinion on the Constitutional Situation in Bosnia and Herzegovina and the Powers of the High Representative," 9.

<sup>89</sup> *Ibid.*

Paradoxically, the two state-level institutions with strong state-wide jurisdiction – the Constitutional Court and the Central Bank – are partially or entirely run by foreigners.<sup>90</sup> The Constitutional Court of BiH, the final arbiter on judicial matters in the country, has nine judges, four selected by the House of Representatives of the Federation (two Croats and two Bosniaks), two by the National Assembly of the RS (two Serbs) and three by the President of the European Court of Human Rights (who cannot be citizens of BiH or any neighboring state) after consultation with the BiH Presidency. The Court is empowered to resolve constitutional disputes between the Entities, between the state and the entity(ies) or between the institutions of BiH.<sup>91</sup> It has the ultimate power to decide on constitutional cases brought to it by any other court in the country. In a historic ruling in July 2000, the Constitutional Court obliged the two entities to amend their constitutions and remove provisions that allowed for ethnic discrimination. The decision was the first breakthrough in the reform of the Dayton structure of BiH and provided the constitutional basis for full equality of the three “constituent peoples” throughout the territory of BiH.<sup>92</sup>

Likewise, the Central Bank of BiH, which is the only institution in the country responsible for monetary policy and currency issuing, is run by a governor who cannot be a citizen of BiH or any neighboring state and is appointed by the International Monetary Fund. The Central Bank Governor can tip the balance in favor of a decision through his right to “cast tie-breaking votes” at Central Bank Board’s meetings.<sup>93</sup> Needless to say, the foreign Governor, who is an external actor in the Bosnian context, enjoys large discretion in determining the direction of monetary policy in the country.

The complexities of the central institutional system are replicated at entity level. To most outside observers, Republika Srpska looks like “a state within a state.”<sup>94</sup> It has its own legislature, the National Assembly with 83 directly elected members; a central government consisting of a prime minister, deputy prime minister and about eighteen ministers; around sixty municipalities and local governments; a president and a vice president elected by popular vote

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<sup>90</sup> Sumantra Bose, *Bosnia after Dayton*, 65-68.

<sup>91</sup> *Ibid.*, 66.

<sup>92</sup> See International Crisis Group, “Implementing Equality: The “Constituent Peoples” Decision in Bosnia and Herzegovina,” Balkans Report No 128, 16 April 2002, available from [www.crisisgroup.org](http://www.crisisgroup.org). The Court took the “constituent peoples” decision with a five-to-four majority with the three foreign judges and the two Bosniaks voting in favour whereas the two Serbs and the two Croats dissented.

<sup>93</sup> Sumantra Bose, *Bosnia after Dayton*, 67-68.

<sup>94</sup> *Ibid.*, 74.

for a five-year term; a constitutional court comprising seven judges appointed for an eight-year term.<sup>95</sup>

Similarly, the Federation has its own institutional set-up introducing another layer of decentralization in the already decentralized state system. The federation consists of ten federal units called cantons which enjoy equal status within the system. Five of the cantons are Bosniak, three are Croat and two are ethnically mixed. Each canton has its own government headed by a Prime Minister, a popularly elected unicameral legislature, and various regional ministries, agencies, and cantonal services. Below the canton in the institutional hierarchy of the Federation is the municipality – the lowest tier of government. The Federation has around 80 municipalities. The canton is, however, the layer of public authority entrusted with most competences in the Federation.<sup>96</sup>

The absurdity and the provisional character of BiH's state structure are most clearly observed in the dubious position of the Brcko District, a special administrative unit with its own juridical status within the BiH state but territorially considered part of both entities, with an autonomous government that has no formal links to the institutional structures of either of the entities and a separate International Supervisor whose relationship with the Sarajevo-based Office of the High Representative is ambiguous.<sup>97</sup>

Efficiency, rationality and financial sustainability were clearly not among the guiding principles in devising the institutions of political representation in BiH. The country's 3.8 million population is governed by no less than 14 governments – 1 at state level, 2 at entity level, 10 cantonal and 1 for the district of Brcko.<sup>98</sup> For a country with a GDP per capita of USD 1849,<sup>99</sup> the financial consequences of the multi-tiered governance system are serious. According to EBRD data, in 2003 the general government expenditure in the country was 46.9 percent of

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<sup>95</sup> Ibid., 68-74.

<sup>96</sup> Ibid.

<sup>97</sup> The status of the Brcko district was left unresolved at Dayton in 1995, pending post-conflict international arbitration. The district statute was only promulgated in 2000. For more details on Brcko's status and political situation see International Crisis Group, "Bosnia's Brcko: Getting In, Getting On and Getting Out," Balkans Report No 144, 2 June 2003, available from [www.crisisgroup.org](http://www.crisisgroup.org).

<sup>98</sup> See Freedom House, "Nations in Transit 2004: Bosnia – Herzegovina," available from <http://www.freedomhouse.org/research/nattransit.htm>.

<sup>99</sup> EBRD, *Transition Report*, 2004. Data are for 2003.

GDP.<sup>100</sup> Many analysts estimate that the financial cost of the multiple levels of public administration is not affordable for a country with BiH's level of development.<sup>101</sup>

### **3.1.2 The EU Political Conditions: The Two 'To Do' Lists**

The analysis of the EU political conditionality has to be placed in the context of the initial state of affairs in BiH's institutional setting and political climate. While the state structure of BiH is not optimal, political will to reform the system from within has been lacking. The war-time ethnic divisions have simply reproduced themselves in the post-war political space where any good idea about rationalizing the state structure has been blocked by inertia-driven political leaders with war-time past. The EU has stepped into this political stalemate and offered incentives to politicians in power to strengthen the central level of government in the country as a pre-requisite for integration in the EU. The reforms demanded by the EU as conditions for establishing contractual relations with BiH have, in essence, linked the membership perspective to changes in the internal statehood structure of BiH.

The Dayton Peace Agreement guarantees Bosnia and Herzegovina's international status as a single state. The preamble of its constitution, imposed at Dayton and contained in annex 4 of the Dayton Accords, affirms "the sovereignty, territorial integrity and political independence of Bosnia and Herzegovina in accordance with international law." While there are domestic actors within the country, especially in Republika Srpska, who have not accepted the common state reality, the international legal sovereignty of the country is not under question. The EU common state conditionality, in this sense, acts only as a deterrent against domestic claims for changes in the status quo.

The EU was not responsible for getting the initial conflict settlement in BiH, nor was it involved in direct mediation between the conflict parties. The EU is not directly occupied with political arbitration in the post-conflict context either but its policy has been consistent and aligned with the policy of the other external actors, represented in the Peace Implementation Council (PIC) that supervises the implementation of the Dayton Accords.

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<sup>100</sup> Ibid., 109.

<sup>101</sup> For details on BiH's public finances see European Stability Initiative, "Governance and Democracy in Bosnia and Herzegovina: Post-Industrial Society and the Authoritarian Temptation," 2004, available from [www.esiweb.org](http://www.esiweb.org).



The internal power relationship between the two entities of BiH, however, is affected by the EU common state conditionality, although in an indirect way. Dayton created a very decentralized state with a high degree of ethnic institutionalization at the expense of governance effectiveness. Very few competences are assigned to the common state level whereas a large portfolio of governmental functions is to be performed by the entities. Article 3.1 of the constitution assigns the following policy areas to the common state level of governance: foreign policy, foreign trade policy, customs policy, monetary policy, immigration, refugee and asylum policy, international and inter-entity criminal law enforcement, establishment and operation of common and international communications facilities, regulation of inter-entity transport, and air traffic control. All other competencies are the exclusive prerogative of the entities.<sup>102</sup>

The EU has not demanded directly the BiH authorities to strengthen the common state competences although the European Commission has expressed openly its dissatisfaction with the functioning of the Dayton arrangement. Questioning the performance capacity of the BiH institutional system, the Commission has maintained that “from a perspective of European integration, it is difficult to argue that the current constitutional order is optimal.”<sup>103</sup> Having a technocratic mandate to manage the SAP, the Commission has an interest in having a more centralized structure in place to be its counterpart in the institutional exchanges and negotiation process. It, however, lacks a political mandate to request directly further centralization of political power at the level of the common state. It has only hinted that changes to BiH constitutional framework are desirable pointing to “the possibility of amendment” of the constitution in view of the procedure laid down in article 10.<sup>104</sup>

The Commission, however, has used its levers of power in the SAP to insist that the institutions of political representation and executive power of the common state be made fully functional within their constitutionally defined mandates. Among the 18 reform steps identified by the Commission and presented to BiH in the Roadmap of March 2000, effective government at state level features high. In particular, the Commission has conditioned the release of a positive Feasibility Study on several concrete reforms aiming at enhanced state-level institutional capacity.

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<sup>102</sup> See article 3.3 of the Constitution of Bosnia and Herzegovina.

<sup>103</sup> European Commission, “Report from the Commission to the Council on the preparedness of Bosnia and Herzegovina to negotiate a Stabilization and Association Agreement with the European Union,” (Feasibility Study) COM(2003) 692 final, 18.11.2003, 6.

<sup>104</sup> Ibid.

- Introduction of a permanent secretariat in the Presidency and the Chairmanship of the Council of Ministers;
- Introduction of rules of procedure in the Parliamentary Assembly;
- Adoption of a Civil Service Law, including the establishment of a Civil Service Agency to ensure the creation of an effective public administration;
- Introduction of a single passport;
- Introduction of a State Border Service;
- Ensuring sufficient financial means and personnel resources for the proper functioning of the Constitutional Court of BiH;
- Adoption of an Election Law and ensuring of election financing from the state budget;
- Adoption of property laws;
- Ensuring adequate conditions for refugee returns;
- Improving the functioning of Human Rights Institutions and providing adequate funding for them;
- Adoption of the Law on Judicial and Prosecution Service in the Federation and the Law on Court and Judicial Service in RS;
- Implementation of the Public Broadcasting Service.

Source: Ministry of Foreign Affairs, Bosnia and Herzegovina.

**Figure 3.1: Political Conditions: EU Roadmap for BiH, 2000**

The list of Roadmap political conditions was not considered very demanding by the Commission which expected at the time to have the requirements fulfilled in 8-9 months at most.<sup>105</sup> When devising the Roadmap, the objective of the Commission was minimalist – to put the European integration issue on the BiH domestic agenda. This early pre-accession conditionality, while not explicitly stating it, is linked to the Copenhagen political criteria formulated by the EU in the context of the eastern enlargement. It demands the start of a long-term transformation process in a number of areas that form an intrinsic part of the democratization agenda pursued by the EU in Central and Eastern Europe. One could trace in the Roadmap the intent of building democratic institutions, securing guarantees for the rule of law, encouraging the creation of a professional public administration, stimulating the reform of the judiciary etc., priorities that have been high on the EU enlargement agenda for the CEE candidate countries. Yet, in the BiH context, the goal of state building and state consolidation is paramount and recognizable in the emphasis on passing state-level legislation and strengthening the state-level institutions in all spheres of reform. And since the issue of the state structure of BiH is of highly sensitive nature, the fulfillment of the EU conditions has proved very political.

<sup>105</sup> Author's interview with a European Commission official.

From a technical point of view, the concrete reform steps asked by the Commission for a positive Feasibility Study are not very challenging, yet it took BiH two and a half years instead of the initially foreseen 8-9 months to comply with them.

Certainly, the political conditions set by the European Commission are not entirely its own initiative or specialty. Some of the requirements are closely linked to the High Representative's own agenda and stem from reform plans he has pursued himself. The High Representative, for instance, has been fully involved in setting the rules of procedure for the Council of Ministers up to the point of imposing the Law on the Council of Ministers in December 2002.<sup>106</sup> Likewise, the Law on the Civil Service in the Institutions of BiH, although a joint product of local and international experts and officially endorsed by the Council of Ministers, was at the end also imposed by the HR in May 2002.<sup>107</sup>

Similarly, the Commission conditions in the area of rule of law are a direct spring-off of the judicial reforms initiated and carried out by the Office of the High Representative. Acting on a mandate from the Peace Implementation Council, the highest supervisory body of the international community in BiH, the HR has been the driving force behind the changes in the judicial system of the country. The High Representative, for example, imposed not only the State Court of BiH in November 2000<sup>108</sup> but also the State Prosecutor's Office in August 2002<sup>109</sup> to allow for investigation and prosecution of crimes lying within the competence of the state. On the initiative of the OHR, a Criminal Code<sup>110</sup> and a Criminal Procedure Code<sup>111</sup> were drafted and eventually imposed at state level in January 2003. Setting up a law enforcement agency at state level to deal with inter-entity and international crime is a logical next step in a series of actions intended to transform BiH's judiciary and empower the state-level judicial institutions.

In November 2003, the European Commission issued a partially positive Feasibility Study on BiH in which it acknowledged BiH's compliance with the 18 conditions from the Roadmap. In

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<sup>106</sup> See Office of the High Representative, "HR's Decision Enacting the Law on the Council of Ministers of Bosnia and Herzegovina," 3 December 2002, available from [www.ohr.int](http://www.ohr.int).

<sup>107</sup> See Office of the High Representative, "HR's Decision Imposing the Law on Civil Service in the Institutions of Bosnia and Herzegovina," 23 May 2002, available from [www.ohr.int](http://www.ohr.int).

<sup>108</sup> See Office of the High Representative, "HR's Decision Imposing the Law on the State Court of Bosnia and Herzegovina," 12 November 2000, available from [www.ohr.int](http://www.ohr.int).

<sup>109</sup> See Office of the High Representative, "HR's Decision Enacting the Law on the Prosecutor's Office of Bosnia and Herzegovina," 6 August 2002, available from [www.ohr.int](http://www.ohr.int).

<sup>110</sup> See Office of the High Representative, "HR's Decision Enacting the Criminal Code of Bosnia and Herzegovina," 24 January 2003, available from [www.ohr.int](http://www.ohr.int).

<sup>111</sup> See Office of the High Representative, "HR's Decision Enacting the Criminal Procedure Code of Bosnia and Herzegovina," 24 January 2003, available from [www.ohr.int](http://www.ohr.int).

the official words of the Commission, the roadmap was “substantially completed.”<sup>112</sup> Unofficially, the Commission officials admitted that they could not “squeeze anything out of the roadmap any more” and needed to move forward in order to keep the reform momentum in the country in direction of Europeanization.<sup>113</sup> The Commission then set 16 additional conditions for a fully positive assessment.

A similar tendency of institution-building at the state level is observed in the Commission additional conditionality presented to the BiH authorities in November 2003 as a pre-requisite for a positive recommendation to the Council for opening negotiations for signing a Stabilization and Association Agreement. The specific measures demanded by the Commission in the Feasibility Study are listed in figure 3.2.

There is an apparent emphasis in the European Commission conditionality on institution building at the state level. There is no conditionality targeting directly the enhanced efficiency of the entity level institutions. The Commission has also effectively channeled all its official contacts with BiH through interlocutors from the state institutions. The government of Republika Srpska, for instance, has to deal with the Commission Delegation in Sarajevo for all official business rather than the Commission Delegation’s Regional Office in Banja Luka. While there have been no explicit conditions on the institutional balance between the state and the entity levels of governance, in practice, the Commission conditionality has aimed at strengthening the common state, including the country’s central government.

In the Feasibility Study and during the months following the release of the report, the Commission has started stressing the importance it accords to implementation of legislation already adopted and performance of institutions already set up. From the Commission’ point of view it is not sufficient to assemble a temporary domestic majority to back up a concrete legislative package or the reform of a certain policy sector. What the Commission wants to see is full endorsement of the reforms it demands by political actors on both sides of the spectrum and irreversible change of the policy areas reformed.<sup>114</sup> Furthermore, it requires that its counterparts in BiH keep their promises and implement the commitments they have undertaken during previous rounds of discussions and talks with the Commission. For Brussels, the aim is building

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<sup>112</sup> European Commission, “Feasibility Study.”

<sup>113</sup> Author’s interview with a Commission official.

<sup>114</sup> Author’s interviews with European Commission officials.

a long-term partnership with the political leadership of the country and setting in motion a transparent and frank exchange of views and information.

- Compliance with existing conditionality and international obligations by fully co-operating with the International Criminal Tribunal for the former Yugoslavia, notably in bringing war criminals to justice before the Tribunal and by taking steps to meet BiH's Council of Europe post-accession criteria, especially in the area of democracy and human rights;
- Full implementation of the Law on the Council of Ministers and the Law on the Ministries. Regular meetings of the Council of Ministers and regular sessions of the Parliament to tackle government business expeditiously. Ensure that new State ministries and institutions created by the 2002 Law on the Council of Ministers become properly operational;
- Ensuring that the new State ministries and institutions created by the 2002 Law on the Council of Ministers become properly operational;
- Establishment for 2004 (and following years) a consolidated State-level government work plan matching policy priorities with budgetary resources;
- Development of a comprehensive and cost-estimated Action Plan for public administration reform with a clear distribution of competencies;
- Ensuring the proper and full functioning of the Directorate for European Integration, including its aid-coordination capacities.
- Effective human rights provision by adopting and bringing into force any outstanding legislation supporting refugee returns, in particular by introducing, adopting and implementing legislation on the BiH Refugee Return Fund. Complete transfer of the human rights bodies to BiH control;
- Adoption of legislation establishing a single High Judicial and Prosecutorial Council for BiH with the aim of consolidating appointment authority over the Entity judiciaries and strengthening the independence of the judiciary throughout BiH. Provision of appropriate staff and funding for the State Court;
- Tackling crime, especially organized crime, and building state-level enforcement capacity by allocating the necessary resources and facilities to ensure the full functioning of the State Information and Protection Agency (SIPA) and the BiH Ministry of Security;
- Adoption of legislation in line with European standards that ensure the long-term viability of a financially and editorially independent single state-wide public broadcasting system for BiH whose constituent broadcasters share a common infrastructure.

Source: European Commission, "Report from the Commission to the Council on the preparedness of Bosnia and Herzegovina to negotiate a Stabilization and Association Agreement with the European Union" (Feasibility Study) COM(2003) 692 final, 18.11.2003.

### **Figure 3.2: Political Conditions: Feasibility Study of BiH, 2003**

A core element of the international community's strategy in BiH has been ensuring that those indicted as war criminals are transferred to the International Criminal Tribunal for former Yugoslavia (ICTY) and that domestic authorities cooperate fully with The Hague. There is a strong agreement in the EU and the international community at large that cooperation with ICTY constitutes a key element of building a state based on the rule of law where crime, including war

crime, is prosecuted and punished. There is also a strong consensus that dealing with the issue of war crimes in war-divided societies is part of the societal process of coming to terms with the past and reconciliation. The politics of transferring war crime indictees to international judicial bodies have not been easy across all of the former Yugoslav republics but the political courage of addressing the issue has been considered a sign of political maturity and political will to move closer to the West by all external actors. The US has been very forceful in pushing governments across the region to transfer war criminals to The Hague, including by cutting assistance in the case of non-cooperation. The ICTY cooperation has been part of the NATO conditionality for BiH in its aspirations to become part of NATO's Partnership for Peace first and a full NATO member second.

The EU has also insisted on ICTY cooperation, although in a less vigorous way at the beginning. In April 1997 the EU General Affairs Council identified this as a specific requirement for all countries from the Western Balkans before proceeding to contractual relations with the EU.<sup>115</sup> The European Commission has always emphasized in its SAP reports that “[s]ome of the BiH’s governmental institutions, notably in Republika Srpska, have not yet demonstrated full cooperation with ICTY.”<sup>116</sup> Progressively, the EU conditionality in this area was reinforced and BiH’s progress towards membership in the EU was made dependent on its cooperation with ICTY. In the Feasibility Study the Commission toughened its stance and made full cooperation with ICTY one of the 16 conditions which BiH needed to fulfill in order to receive the Commission’s green light on opening accession negotiations for a SAA. The Commission’s linking of a concrete stage of the SAP process with BiH’s cooperation with ICTY has effectively tightened the grip on BiH authorities and put more pressure on them to deliver.

The two lists of conditions presented to the BiH authorities in 2000 and 2003 make up the political component of the EU pre-candidacy conditionality for BiH. It is highly specific and geared towards the perceived gaps in BiH’s state-level institutional capacity to engage with the EU as a single state. It contains very concrete demands in priority areas identified by the EU itself and as such lays out a reform agenda contributing to the overall objective of state-building. Although some of the conditions appear as framed in broad terms, in practice, the European Commission has followed up with the BiH authorities and made clear what it expects to see as

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<sup>115</sup> See General Affairs Council Conclusions, April 1997, Brussels.

<sup>116</sup> European Commission, “Feasibility Study,” 40.

minimum reform in each domain. Thus, for instance, the requirement of “tackling crime, especially organized crime, and building state-level enforcement capacity” has meant a thorough restructuring of the police sector in BiH. In particular, the Commission has laid out three core principles for police reform in the country, the respect for which would satisfy the pre-SAA requirements: “1) exclusive police competence at the BiH level, but operational control at the local level; 2) police areas drawn up on the grounds of operational efficiency, not political control; and 3) no political interference in policing.”<sup>117</sup> In all areas, the Commission has recommended strengthening of the state-level competences and justified its demands with efficiency considerations.

### **3.2 EU POLITICAL CONDITIONALITY AND STATE-BUILDING IN SCG**

#### **3.2.1 The Dissolution of the Yugoslav Federation and the Montenegrin Question**

Serbia and Montenegro were two of the six republics of the Socialist Federal Republic of Yugoslavia (SFRY) whose dissolution in 1991 triggered the Balkan wars of secession in the late twentieth century. In successive declarations of independence, Slovenia, Croatia, Bosnia and Herzegovina and Macedonia claimed their sovereignty as separate states under international law. Only Montenegro, the smallest of the six republics with a population of about 660 000 inhabitants, decided to stay together with Serbia. In a referendum held on 1 March 1992, 62 percent of Montenegrin citizens voted in favor of a continued union with Serbia while the pro-independence camp boycotted the vote.<sup>118</sup> Thus a new entity, the Federal Republic of Yugoslavia (FRY) was created in 1992 which inherited what was left of the former Yugoslav federation, although it did not receive international recognition as a successor state of SFRY.<sup>119</sup> Serbia and Montenegro were the two constituent republics of FRY with Kosovo and Vojvodina remaining

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<sup>117</sup> Principles reminded to the RS parliamentarians in a speech of the High Representative Paddy Ashdown to the RS National Assembly, see Office of the High Representative, “High Representative Calls for Agreement on Police Reform to Enter Europe,” Press Release, 21 April 2005, available from [www.ohr.int](http://www.ohr.int).

<sup>118</sup> See Srdjan Darmanovic, “Montenegro: Dilemmas of a Small Republic,” *Journal of Democracy* 14 (January 2003): 146.

<sup>119</sup> For more historical details see Susan L. Woodward, *Balkan Tragedy: Chaos and Dissolution after the Cold War* (Washington DC: Brookings Institution Press, 1995).

autonomous provinces of Serbia. The absence of ethnic antagonism between Serbs and Montenegrins and the political alliance between the leaderships of both republics at the time explain partly why Montenegro, contrary to the other republics of the Yugoslav Federation, remained united with Serbia.

The Montenegrin leadership around Milo Djukanovic heading the Democratic Party of Socialists (DPS), a successor of the League of Communists in Montenegro, came to power with the support of Milosevic in 1990 and backed his regime in Serbia at the start.<sup>120</sup> It, however, progressively distanced itself from Milosevic's nationalist policies in former Yugoslavia. Montenegro did not participate in the military actions of the federal army in Bosnia and Herzegovina and Croatia in the 1990s although it was subject to UN sanctions since 1992 as part of FRY and suffered from the economic consequences and the international isolation equally with Serbia.

In 1997, Djukanovic parted company with Milosevic and his loyal supporters in DPS. Having secured the presidential post in the October 1997 presidential elections, he set Montenegro on a collision course with the regime in Serbia.<sup>121</sup> A reformist government was formed in 1998 which showed commitment to democratization and economic reform. During the Kosovo conflict in 1999, Montenegro under the leadership of Djukanovic stayed neutral and tightened the grip around Milosevic by intensifying contacts with international officials from NATO and European and American leaders. At that time, the international community supported Djukanovic's pro-Western political course and Podgorica's distancing from Belgrade by both political and economic means.

The economic policies of the two republics had already diverged substantially. The small and service-oriented Montenegro revealed a preference for a more liberal economic regime whereas the industrialized and unreformed Serbian economy had leaned towards greater protectionism. In November 1999, Montenegro introduced the Deutchemark as its currency, later replaced with the euro, which was a political act with great symbolism as well as an economic decision.

The pro-independence course of official Podgorica became more determined after 1997 together with its more resolute efforts towards political and economic liberalism. While Milosevic was still in power, the policies of Djukanovic received the friendly approval and

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<sup>120</sup> See Florian Bieber, "Montenegrin Politics since the Disintegration of Yugoslavia" in *Montenegro in Transition: Problems of Identity and Statehood*, ed. Florian Bieber (Baden-Baden: Nomos Verlagsgesellschaft, 2003).

<sup>121</sup> See Srdjan Darmanovic, "Montenegro: Dilemmas of a Small Republic," 148-149.



active encouragement from the West, especially against the background of the authoritarian and anti-reformist features of the regime in Belgrade. With the fall of Milosevic on 5 October 2000, the international standing of Montenegro changed profoundly and its independence quest began to be seen by both Washington and Brussels as “a destabilizing factor” in a fragile region of many other latent secessionist sentiments.<sup>122</sup> In this altered political climate, Djukanovic’s plea for peaceful dissolution of FRY similar to the ‘velvet divorce’ of Czechoslovakia met hostility in the West as well as in Belgrade.

The democratic government of Serbia led by Zoran Djindjic and formed after the toppling of Milosevic was quickly embraced by the West and offered financial assistance, policy advice and moral support to undertake bold political and economic reforms in order to normalize the situation in the republic following a decade of war and international isolation. This was seen as an opportunity to stabilize the whole region of the Western Balkans held hostage of nationalist politics for most of the 1990s which delayed its transition to democracy and market economy. The EU launched the Stability Pact for South East Europe in 1999 to promote regional cooperation and encourage the countries to put behind the disputes of the past by working together on common problems of the day. Furthermore, the EU gave a European perspective to all five Western Balkan countries at the Feira European Council in December 2000 and reconfirmed its intention at the Thessaloniki European Council in 2003 to welcome them as full EU members when they reach EU standards of political and economic governance. The province of Kosovo, which was put under international administration in 1999 with final resolution of its status pending, was also promised a European future regardless of the unresolved sovereignty question. Thus the democratic revolution in Belgrade opened a new page not only in the EU-Serbia relations but also brought about a thorough rethink of the EU policy of engagement in the Western Balkans.

### **3.2.2 The EU Political Conditions: The EU Factor in the Belgrade-Podgorica Constitutional Dispute**

It is within this regional political context that the EU High Representative for the CFSP, Javier Solana, intervened in the constitutional debate between Belgrade and Podgorica at the end of

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<sup>122</sup> Ibid., 150-151.

2001 after the two republics had tried unsuccessfully to converge their positions on a new constitutional formula following the democratic turn in Serbian politics in October 2000. Solana's involvement in effect induced the two republics to seek a single legal personality solution to their legal impasse by promising faster EU accession track to the common state. Offering a shorter and more favorable road to EU membership and threatening adverse consequences in the case of non-agreement, he managed to get the two parties' commitment to recreate a loose federal structure. For Montenegro, this meant postponing the referendum on independence its leadership had been promising for a long time to its domestic pro-independence constituency.<sup>123</sup> For Serbia, this meant agreeing to a less substantive constitutional relationship and a less centralized institutional structure than it originally preferred.<sup>124</sup>

The State Union of Serbia and Montenegro was created as a direct consequence of the EU common state conditionality. Solana's intervention, however, put in place a much thinner common state structure than Dayton Bosnia. The Belgrade Agreement brokered by Solana in March 2002 and signed by him on behalf of the EU as an external arbiter and guarantor is a framework document which laid out the basic principles for restructuring the relations between the two republics but left many important aspects of that relationship unaddressed. What the two parties agreed to in Belgrade was the minimum that they could put their signature under and which the EU High Representative for the CFSP could persuade them to agree to, playing the EU membership card. The degree of institutional centralization and economic harmonization between the two republics became the main subject of contention in the subsequent discussions between Podgorica and Belgrade on the implementation of the Belgrade Agreement.

The Belgrade Agreement left many institutional and policy questions open, but it committed the two republics to agreeing on the specific issues in a Constitutional Charter and an Economic Harmonization Action Plan, to be worked out by them in the course of 2002. It laid the foundations for a two-entity State Union with single international representation and a number of joint institutions – a unicameral parliament, a president, a ministerial council and a court. The common state layer of government is responsible for defense, foreign affairs, foreign economic

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<sup>123</sup> See International Crisis Group, "Still Buying Time: Montenegro, Serbia and the European Union," Balkans Report N 129, 7 May 2002, available from [www.crisisgroup.org](http://www.crisisgroup.org).

<sup>124</sup> See "Kostinica/Yugoslavia Proposal of January 2001" presenting the Serb perspective on restructuring the relations between Serbia and Montenegro published in *The Future of Montenegro: Proceedings of an Expert Meeting*, ed. Nicholas Whyte, 111-116 (Brussels: Centre for European Policy Studies, 2001). See also "Differences between FRY/Kostinica and Montenegrin Perspectives" in *The Future of Montenegro: Proceedings of an Expert Meeting*, 97-102.

policy, internal economic relations and the protection of human and minority rights. A joint army, controlled by a common Supreme Defense Council consisting of three presidents (those of the two republics and of the State Union), is in charge of the territorial security of the State Union. All other competences are the exclusive prerogative of the republics.<sup>125</sup>

The Constitutional Charter of the State Union – adopted in February 2003, eight months later than the deadline envisaged by the Belgrade Agreement – was the result of intensive discussions among politicians and experts in Serbia and Montenegro about the nature of the common state. The Montenegrin side maintained that this was a union of two sovereign states in which authority rested with the republican governments and decision-making at central level was limited to coordination with the consent of the republics' authorities.<sup>126</sup> The Serbian side preferred a federation in which decision-making power for certain policy areas resided with the central authorities and there was a clear division of competences between the federal and republican levels of government.<sup>127</sup>

The EU did not express a specific preference on the balance of internal power between the two republics in the state union structure and Solana did not apply conditionality to the parties as to the type of power-sharing mechanisms within the common state. In fact, the EU presented Solana's intervention as an entirely internal affair between the two republics which Solana only mediated and helped broker an agreement.<sup>128</sup> Indeed, the EU did limit the options from which the parties could choose with regard to the external standing of the common state as one legal subject under international law but the Serbian and Montenegrin leaderships themselves defined the internal parameters of their common state. During the negotiations, while the Montenegrin decision-makers insisted on as decentralized a structure as possible and the Serbian decision-makers favored a federal solution, the EU/Solana did not take a side in the debate. In the absence of external pressure and given the divergence of preferences of the two parties, the only possible solution was a symmetrical structure where the two sides share equally the political power regardless of the discrepancies in size and economic weight between them.

In theory, the common state resembles a classical symmetrical federation with one legal personality, an agreement in principle on federal and republican powers, and a number of federal

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<sup>125</sup> See the text of the Belgrade Agreement, reprinted in *CEPS Europa South East Monitor* 32 (March 2002), available from [www.ceps.be](http://www.ceps.be).

<sup>126</sup> Author's interviews with Montenegrin government officials.

<sup>127</sup> Author's interviews with Serbian government officials

<sup>128</sup> Author's interview with an EU Council official.

institutions to decide on common policies. Thus policies on foreign affairs, defense, foreign trade and human and minority rights are determined at the federal level, while all others are the exclusive prerogative of the member states of the State Union, including monetary policy, customs administration, taxation, citizenship, policing, border control, the judiciary, etc. Cooperation in these areas at the common state level is not ruled out, but the degree of formal harmonization or policy coordination is subject to negotiations and further agreements between the two republics. This political condition introduces a confederal approach to decision-making into the federation.

The performance of the common institutions is entirely dependent on a continuous process of bargaining and deal-making on concrete issues between the relevant republican authorities. The central institutions are entrusted with weak powers, and in practice serve to facilitate the ongoing negotiations between the two republican governments, which are the two major decision-making centers of the State Union. The common state functions more like a confederative arrangement in which the two member states have a contractual relationship for most common policies, and multiple inter-republic agreements on cooperation in those areas. The areas in which such common policy positions exist at present, or could be expected to emerge in the future, are predicated on the external constraint of acceding to the EU together, as a common state. The responsibilities of the central institutions are consequently more pronounced in the external representation of the Union, and in particular in coordinating relations with the EU.

Indeed, EU standards and EU integration are the key reference points in defining the main goals of the State Union. In addition to respect for human rights, the promotion of rule of law and the introduction of a market economy, Article 3 of the Constitutional Charter defines the *raison d'être* of the State Union as “integration in European structures, the European Union in particular; harmonization of its legislation and practices with European and international standards; and establishment and insurance of an unhindered operation of the common market on its territory through the coordination and harmonization of the economic systems of the member states in line with the principles and standards of the European Union.”<sup>129</sup>

Furthermore, the two parties agreed to a transition period of 3 years after which any of the republics has the right to call a referendum on independence and following a positive vote, break

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<sup>129</sup> See the Constitutional Charter of the State Union of Serbia and Montenegro, available from [http://www.mfa.gov.yu/Facts/const\\_scg.pdf](http://www.mfa.gov.yu/Facts/const_scg.pdf).

away from the State Union.<sup>130</sup> The negotiation of the withdrawal clause became a major source of concern as to whether the common state will survive in the medium run. Ever since the Belgrade Agreement was signed, the pro-independence Montenegrin government has repeatedly affirmed its intention to invoke its constitutional right and call a referendum in early 2006.<sup>131</sup>

The putting in place of the common state has been the single most important condition for Serbia and Montenegro's first step in the accession process – establishing contractual relations with the EU through signing a SAA. The effects of this mega-condition have trickled down to many policy areas and have affected decisions of constitutional as well as operational nature. The willingness and capacity of the two republican governments to introduce all necessary changes in their governance structures became the ultimate test for their commitment to the common state. The subsequent reviews by the EU of the functioning of the common state institutions and the harmonization of the common policy areas shaped the substance of the EU's pre-SAA conditionality policy vis-à-vis SCG.

In addition, the EU has increasingly tightened its conditionality regarding cooperation with the ICTY vis-à-vis all former Yugoslav republics and the State Union has also been an official target of this policy. While demonstrating compliance with this SAP condition has solely depended on the policies and attitudes of Serbia (Montenegro stayed neutral in the Yugoslav wars of secession for the most part), the common state as a whole, being a single subject under international law, has formally been the focus of international review and criticism on this matter. Although international pressure has been applied on the Serbian government only, the Montenegrin authorities have used the occasion to protest against being held accountable for actions they have no responsibility for and to object against being asked to deliver on something they have no control over. The ICTY conditionality has been a strong card in the hands of the pro-independence government in Podgorica to emphasize the differences between the two republics and to press the case for peaceful dissolution of the State Union. On a practical level, the ICTY conditionality has remained more a EU - Serbia affair than a EU – State Union affair since the EU has been conscious about not putting additional strains on the already fragile common state structure.

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<sup>130</sup> See Art. 60 of the constitutional Charter.

<sup>131</sup> See Nedjelko Rudovic, "Montenegro Launches New Divorce Bid," IWPR's Balkan Crisis Report N 544, 4 March 2005, available from [www.iwpr.int](http://www.iwpr.int).

Thus the core of the EU pre-SAA political conditionality vis-à-vis SCG is the re-creation of a common state between them. As such, it touches directly on the international legal status of the common state and its constituent parts. Although the two republics negotiated the specific details of their new constitutional arrangement by themselves, the joint EU membership perspective extended to them constrained their institutional and policy choices. And while the EU did not prescribe a particular institutional set-up at the common state level, it did require a certain minimum level of policy coordination in the areas affected by Serbia and Montenegro's joint EU bid. In that sense, the EU common state conditionality has affected indirectly the internal balance of power between the two republics.

### **3.3 EU POLITICAL CONDITIONALITY AND DEMOCRATIZATION IN BULGARIA**

#### **3.3.1 The Political Context of Bulgaria's application for EU Membership**

Bulgaria's relations with the EU developed in the context of the EU's general policy vis-à-vis the former communist bloc countries after the fall of the Berlin Wall and the strategic decision of EU leaders to do away with the geo-political division of the continent by reintegrating the Eastern European countries into the European mainstream. Bulgaria was not considered a likely case for deep and fast democratization and marketisation and many in the West doubted the readiness of the country's leadership and society to embark on difficult reforms. The country was nevertheless encouraged to try and included in the group of post-communist states for which the EU progressively developed its enlargement policy. The first democratically elected leaders of Bulgaria did signal their intention to be included in the European integration project in the early 1990s. In December 1990, the Grand National Assembly adopted a resolution expressing Bulgaria's will to become member of the European Community.<sup>132</sup>

From the very early 1990s, Bulgaria was included in all programs initiated by the European institutions to encourage the transition to democracy and market economy in Central Europe. Economic ties between Bulgaria and the European Economic Community (EEC) were established in May 1990 with the signature of a Trade and Cooperation Agreement. In March

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<sup>132</sup> See milestones in the relations between the EU and Bulgaria, annex II.

1993, a more comprehensive Association Agreement, known also as Europe Agreement,<sup>133</sup> was signed between the two parties covering a broader spectrum of relations and providing the framework for political dialogue, trade liberalization and technical and financial assistance to the reform process in Bulgaria. As a result of liberalizing commerce between Bulgaria and the single market, in just a few years the EU became the main trading partner of the country responsible for over fifty percent of both imports and exports. The Europe Agreement also mandated the establishment of an institutional framework for implementing the agreement and monitoring the state of EU-Bulgaria affairs such as the Association Council, the Association Committee, The Joint Parliamentary Committee and various subcommittees dealing with technical questions.<sup>134</sup> The Agreement stated explicitly the goal of EU membership for Bulgaria and the support of the European Union for Bulgaria's efforts to reach the democratic and economic standards that would make its membership possible.

In December 1993, the Copenhagen European Council specified the conditions under which the EU would open its door for the candidate countries from Central and Eastern Europe. To be considered as credible candidates, the countries had to show high standards in democratic and economic governance in addition to being able to align their national legislation with the EU *acquis*. This set the stage for conditionality to be applied later in the accession process. In the early 1990s, it was the EU that was pressurized from the serious reformers from Central Europe to commit to an accession timetable. At that time, the EU itself did not exercise active conditionality on the candidate countries and was still in the process of developing its pre-accession instruments and learning how to apply leverage on the aspiring EU-members.

In December 1995, following the entry into force of the Europe Agreement, the Bulgarian government officially submitted an application for EU membership. The reasons for the submission it explained in the following way:

“Bulgaria’s membership of the European Union constitutes a strategic goal and is a matter of national interest. It will consolidate the results of the democratic reforms which have been carried out since the beginning of the 1990s and will represent a political acknowledgement of their success. Membership of the EU will be an important factor for the further economic development of the country. The stabilization of the democratic process and the establishment of a market economy in Bulgaria correspond to the interests of the countries in the neighboring region and of all Europe. They will have a positive impact on the

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<sup>133</sup> Full text published in Official Journal L 358, 31/12/1994 P. 0003 – 0222.

<sup>134</sup> See European Commission, “Opinion on Bulgaria’s Application for Membership of the European Union,” DOC/97/11, 15 July 1997, available from [www.europa.eu.int](http://www.europa.eu.int).

security and stability of the continent. Bulgaria's aspiration for full membership of the EU reflects the will and readiness to take part in the realization of the vision of a united Europe living in peace, prosperity and social justice."<sup>135</sup>

The first official assessment of the state of democracy and market economy in Bulgaria measured against the broadly defined Copenhagen criteria was made in the Commission's opinion on Bulgaria's application for membership in the EU released in July 1997. Formal institutions of democratic governance were not in question but the quality of governance and the rule of law was judged unsatisfactory. More seriously, the country lagged behind in economic reform and was deemed economically unprepared to fully integrate in the single market. As a result, Bulgaria was not invited to start accession negotiations at the Luxembourg European Council in December 1997 together with the first five front-runners from Central and Eastern Europe.<sup>136</sup>

The delayed accession timetable for Bulgaria sent a strong signal to Sofia that it should step up its work on meeting the Copenhagen criteria. To assist Bulgaria and all other candidate countries in their preparation, the Commission proposed the setting up of Partnerships for Accession bringing together under a single framework all forms of financial aid, legal advice and technical assistance channeled from the EU to the future members. The Partnership for Accession of Bulgaria was adopted in March 1998 and successively revised in December 1999, in January 2002 and in May 2003.<sup>137</sup> It spelled out short and medium-term priorities identified as necessary for the country's fulfillment of the accession criteria echoing the Commission's recommendations from the Regular Reports reviewing progress towards accession.

At the Helsinki European Council in December 1999, the member states accepted the Commission's proposal to open accession negotiations with all of the remaining candidate countries who had all been judged compliant with the political criteria by the Commission in the autumn 1999 Regular Reports. Geopolitical factors helped the candidacy of Bulgaria too which, together with Romania, had strongly supported the Western policy during the Kosovo conflict earlier that year (April - June 1999) and which EU leaders wanted to reward and play up as a

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<sup>135</sup> See Government Memorandum accompanying Bulgaria's Application for Membership in the EU, quoted from European Commission, "Opinion on Bulgaria's Application for Membership in the EU."

<sup>136</sup> The Luxembourg European Council invited Cyprus, Poland, Hungary, the Czech Republic, Slovenia and Estonia to start accession negotiations with the EU.

<sup>137</sup> See European Commission, "Bulgaria: 1999 Partnership for Accession," available from [www.europa.eu.int](http://www.europa.eu.int).



positive example in the turmoil region of South East Europe. Thus Bulgaria was invited to begin accession talks in February 2000 together with Slovakia, Lithuania, Latvia, Romania and Malta. Bulgaria had to commit itself to closing down of 4 units of the Kozloduy nuclear power plant by the end of 2006, an explicit condition for the opening of the accession talks which the government reluctantly agreed to by signing a memorandum of understanding with the EU to that effect.

The Helsinki European Council opened the regatta race for all candidates while affirming the principle of differentiation stating that every country would be judged on its own merits and making possible the catching up of the late comers with the front runners.<sup>138</sup> For Bulgaria, this was good news although no one had illusions that it would finish the regatta with the first group for which a target date of 2002 was set for closure of accession negotiations.

The end of 2002 proved decisive for the big enlargement decisions. The Copenhagen European Council in December 2002 set the stage for what would become the “big bang” enlargement to admit at once ten new member states in May 2004. The decision by the heads of state and government to wrap up negotiations with eight former communist countries plus Cyprus and Malta by the end of 2002, to sign the accession treaty with them in early 2003 to allow sufficient time for ratifications to take place in old and new member states before the target accession date of May 2004 followed the recommendations of the European Commission whose Strategy Paper of October 2002<sup>139</sup> had laid out a timetable and substantive proposals on all outstanding enlargement-related issues.<sup>140</sup>

Bulgaria and Romania were left out of the “big bang” enlargement but this came as no surprise to anyone, including Sofia and Bucharest who had set themselves the target of January 2007 as accession date. The two countries, however, had concerns about creeping “enlargement fatigue” in the EU as a whole as well as new issues coming up on the agenda between them and EU-25. To reassure the two laggards of the continuing nature of the enlargement process, the Commission put forward in November 2002 detailed roadmaps for Bulgaria and Romania whose aim was “to support the two countries’ efforts to meet the remaining criteria for membership by

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<sup>138</sup> See Helsinki European Council, Presidency Conclusions, 10 and 11 December 1999.

<sup>139</sup> See European Commission, “Strategy Paper: Towards the Enlarged Union,” COM(2002) 700 final, 9 October 2002, available from [www.europa.eu.int](http://www.europa.eu.int).

<sup>140</sup> See Peter Ludlow, *The Making of the New Europe: The European Councils in Brussels and Copenhagen 2002* (Brussels: EuroComment, 2004), 139-141.

identifying the tasks ahead and providing increased financial assistance.”<sup>141</sup> The Copenhagen European Council adopted the Roadmaps and went as far as mentioning the objective of welcoming Bulgaria and Romania as members of the EU in 2007 while falling short of endorsing 2007 as a binding timetable.<sup>142</sup>

What became increasingly worrying for policy-makers in Sofia, however, was the widening gap between Bulgaria and Romania in their preparations for membership. The principle concern of the Bulgarian government was that the country’s accession might be put on hold while Romania was still negotiating accession.<sup>143</sup> In order to prevent such a scenario, Sofia used every occasion to insist on the EU’s upholding the principle of differentiation and assessing its candidature on its own merits while hoping that Bucharest would double its efforts in order to make it on time.

In the meantime, the legal harmonization with the EU law proceeded with full speed testing the capacities of the legislature and the public bureaucracy to keep up with the task. On 15 June 2004 Bulgaria completed the accession negotiations of all 31 chapters of the *acquis*. By December 2004, the Romanian government had also closed provisionally all *acquis* chapters and the Brussels European Council of 16-17 December 2004 confirmed the accession date of 2007 while emphasizing the conditional nature of this commitment and specifying the reforms the two countries would still have to complete by 2007.<sup>144</sup> The Accession Treaty with Bulgaria and Romania was signed on 25 April 2005. On 11 May 2005, the Bulgarian Parliament ratified with a large majority (231 votes in favour out of 234 deputies present) the Accession Treaty.<sup>145</sup>

In order to ensure full implementation of the commitments the Bulgarian authorities undertook during the closing phase of the accession negotiations, the EU included a special safeguard clause in the accession treaty with Bulgaria explicitly linking the completion of judicial reform with the accession date of 2007 and envisaging a delay of one year in case of failure to reform – see figure 3.3 below.<sup>146</sup>

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<sup>141</sup> See European Commission, “Communication from the Commission to the Council and the European Parliament: Roadmaps for Bulgaria and Romania,” COM(2002) 624 final, 13 November 2002, available from [www.europa.eu.int](http://www.europa.eu.int).

<sup>142</sup> See Copenhagen European Council, Presidency Conclusions, 12 and 13 December 2002.

<sup>143</sup> Author’s interview with Bulgarian government officials.

<sup>144</sup> See Brussels European Council, Presidency Conclusions, 16 and 17 December 2004.

<sup>145</sup> See “The Bulgarian Parliament Ratified the EU accession Treaty”(in Bulgarian), *Mediapool*, 11 May 2005, available from [www.mediapool.bg](http://www.mediapool.bg).

<sup>146</sup> The same clause applies to Romania. In the case of Romania separate clauses were included linking the 2007 accession date with completion of reforms in the area of judicial reform, competition policy and environment. A

### **Treaty of Accession of Bulgaria and Romania - Art. 39.1**

If, on the basis of the Commission's continuous monitoring of commitments undertaken by Bulgaria and Romania in the context of the accession negotiations and in particular the Commission's monitoring reports, there is clear evidence that the state of preparations for adoption and implementation of the *acquis* in Bulgaria or Romania is such that there is a serious risk of either of those States being manifestly unprepared to meet the requirements of membership by the date of accession of 1 January 2007 in a number of important areas, the Council may, acting unanimously on the basis of a Commission recommendation, decide that the date of accession of that State is postponed by one year to 1 January 2008.

Source: Treaty of Accession of Bulgaria and Romania, Protocol Concerning the Conditions and Arrangements for Admission of the Republic of Bulgaria and Romania to the European Union, OJ L 157/29, 21.6.2005

### **Figure 3.3: Bulgaria: Postponement Clause**

In addition, similar to the Accession Treaty of the ten countries that acceded in May 2004, the Treaty with Bulgaria and Romania contains three specific safeguard clauses which allow the Commission to suspend concrete benefits of membership in the three years after accession in the following three areas:

- “a general economic safeguard clause to remedy serious and persisting difficulties in one or other economic sector in present or new member states (art. 36 of Accession Treaty Protocol);
- an internal market safeguard clause to prevent or deal with serious breaches by of the functioning of the internal market (art. 37 of Accession Treaty Protocol);
- a justice and home affairs safeguard to deal with serious shortcomings in the field of cooperation in civil and criminal matters (art. 38 of Accession Treaty Protocol).”<sup>147</sup>

When the French and the Dutch voters rejected the EU Constitutional Treaty at the end of May 2005 and plunged the EU in a serious political crisis, the possibility for invoking the safeguard clause for Bulgaria and Romania became real. Because the question of further

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recognition of the difference in the degree of preparedness of the two candidates is the fact that in the case of Romania the EU envisaged the activation of the safeguard clauses even with qualified majority voting in the Council of Ministers in case of failure to fulfill commitments and requirements strictly defined in a special annex to the Accession Treaty.

<sup>147</sup> European Commission, “Comprehensive Monitoring Report on the state of preparedness for membership of Bulgaria and Romania,” COM (2005) 534, 25 October 2005, 11.

enlargement of the EU and of the final borders of the EU was very present in the public debates before the referenda in France and the Netherlands, two of the founding member states, the ‘no’ to the Constitutional Treaty was also interpreted as a signal to put a pause to the enlargement process, if not a brake altogether. The Accession Treaty with Bulgaria and Romania is subject to ratification by all 25 member states and the possibility for delay of that process by any member states, even beyond the 2007-2008 accession dates, emerged as a serious factor in Sofia and Bucharest’s accession plans.

### **3.3.2 The EU political conditions: The Copenhagen Political Criteria**

The EU political conditionality vis-à-vis Bulgaria evolved over the course of the 1990s as part of the EU enlargement policy towards the countries from Central and Eastern Europe. Numerous empirical studies of the EU enlargement process have documented the progression from an originally very weak conditionality model in the first half of 1990s to a very robust and deliberate policy of conditionality in the second half of 1990s.<sup>148</sup> EU enlargement conditionality took a more concrete shape with the explicit defining of the membership conditions by the member states at the Copenhagen European Council in 1993. The political condition of what became known as “the Copenhagen criteria” reads as follows:

“Membership requires that the candidate country has achieved stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities.”<sup>149</sup>

As a major entry condition, the EU member states require that a candidate country is a fully-fledged democracy. What kind of political regime qualifies for a democracy, however, is not easily discernable from the formulation of the Copenhagen political criterion. In general, one can trace two distinct elements in the definition of democracy formulated at Copenhagen in 1993. First, there is an institutional component concerning the procedural rules governing the division of power between the legislature, the executive and the judiciary and the respect for the rule of

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<sup>148</sup> Milada Vachudova has introduced the concepts of “passive” and “active” leverage to describe the EU influence on the policies and politics of the candidate countries from Central and Eastern Europe in the 1990s. See Milada Anna Vachudova, “The Leverage of International Institutions on Democratizing States: Eastern Europe and the European Union,” EUI Working Paper, RSC N 2001/33 (2001). See also Heather Grabbe, “A Partnership for Accession? The Implications of EU Conditionality for the Central and Eastern European Applicants,” EUI Working Paper, RCS N 12/99 (1999).

<sup>149</sup> See European Council Conclusions, Copenhagen, December 1993.

law in the inter-institutional relations. Second, there is a policy component regarding the protection of fundamental rights, most notably human rights and minority rights.

There is a very strong normative content in both aspects and a very weak concrete substance to evaluate the achievement of the democracy goal. The EU member states themselves have various political arrangements when it comes to the institutional form of democracy and different regimes for ensuring respect for fundamental rights. The EU itself does not have explicit provisions for minority and human rights protection as binding norms in its legal base. The strong normative drive of the Copenhagen political criterion cannot be easily translated into a list of specific conditions that can be presented to all candidates and whose fulfillment can serve as the basis for certifying compliance.

Given the vague guidance from the Copenhagen criteria and the absence of non-disputable European democracy standards, the European Commission was charged with the uneasy task of operationalizing democracy and assessing the state of democracy in each candidate country. This gave it considerable discretion over what to demand in concrete terms and what to regard as sufficient for meeting the political criterion.<sup>150</sup> The Commission consequently became the major administrator of the enlargement process and acquired considerable leverage over the reform agenda of the candidate countries. It further used its monitoring mechanisms to criticize institutional and policy practices in the aspiring EU members and to demand improvements yet it was up to the governments to choose specific measures and introduce concrete changes in order to bring their country in compliance with the Copenhagen political conditionality.

The Commission has relied more on a reactive approach of ‘shaming’<sup>151</sup> the democracy shortcomings of individual candidate countries instead of rating them against a clearly defined threshold of achievement with the help of benchmarks. The underlying assumption of this policy is the attitude of ‘we all know democracy when we see it and we all know what falls short of democracy when we encounter it.’ In this sense, violations of fundamental rights and breaches of democratic standards have been easier to document and point to by the Commission than defining the democracy norm as such. It is precisely because of the strong normative appeal of the Copenhagen political criterion that no one in the candidate countries has questioned the

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<sup>150</sup> See Heather Grabbe, “How Does Europeanization Affect CEE Governance? Conditionality, Diffusion and Diversity,” *Journal of European Public Policy* 8 (December 2001): 1013-1031.

<sup>151</sup> See Frank Schimmelfennig, “The Community Trap: Liberal Norms, Rhetorical Action, and the Eastern Enlargement of the European Union,” *International Organization* 55, no. 1 (2001): 47-80.

legitimacy of the EU political conditionality. While the Commission has been criticized for not providing sufficient guidance as to what the candidate should do to meet the EU political entry requirement, nobody has voiced any doubt as to the appropriateness of this very requirement.

The political conditionality vis-à-vis Bulgaria evolved in the context of the European Commission's monitoring of the reform process in the country and reporting to the Council of inadequate practices registered by it. The first assessment of the state of democracy in Bulgaria measured against the broadly defined Copenhagen political criterion was made in the Commission's opinion on Bulgaria's application for membership in the EU published on 15 July 1997.<sup>152</sup> The Commission concluded in this evaluation that Bulgaria "was on the way to satisfying the political criteria set by the Copenhagen European Council."<sup>153</sup>

The document analyses in two subsections the institutional framework of the country and the legal basis for human rights and minority protection. With regard to the constitutional arrangement and its respect for the democratic principle of separation of powers, the Commission noted in its opinion:

"In July 1991, Bulgaria adopted a new Constitution, marking the transition to parliamentary democracy. The Bulgarian institutions work smoothly, the various authorities being mindful of the limits of their powers and of the need for cooperation."<sup>154</sup>

With regard to the legal framework for respect for fundamental rights, the Commission conclusions in 1997 read as follows:

"Shortcomings remain on respect for fundamental rights but the new government elected in April 1997 has announced a series of reforms in the right direction... Although the Turkish minority seems well integrated, this is not the case with the Romany (tzigane) population."<sup>155</sup>

These original positive assessments, however, were gradually followed by sharp criticism of various institutional shortcoming and practices. The more the Commission learnt about the institutional structure and legal basis of Bulgaria, the more it saw deficiencies in them. The Commission used its regular reports to criticize these problems and demand changes. Four main areas emerged as a major concern for the EU and subsequently Bulgaria's progress in the accession process became dependent on reform in these domains:

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<sup>152</sup> See European Commission, "Opinion on Bulgaria's Application for Membership in the EU."

<sup>153</sup> *Ibid.*, 119.

<sup>154</sup> *Ibid.*, 12.

<sup>155</sup> *Ibid.*, 19.

- Reform of the judiciary;
- Reform of the public administration;
- Corruption;
- Treatment of the Roma minority.

Thus the EU's political conditions for Bulgaria have the goal of democratization of the Bulgarian political system and consolidation of the democratic process in the country as a main priority. They are openly framed and leave large spectrum of choices to the Bulgarian authorities as regards the compliance measures. They also give a large discretion to the EU to certify compliance or demand more reform. The reforms in the areas singled out by the European Commission do call for profound changes of domestic institutions and policy frameworks but they do not require a thorough redefinition of the way political authority is structured in the country nor do they affect the international legal sovereignty of Bulgaria. Above all, the domestic authorities themselves are left to determine the parameters within which domestic change can occur in the areas of concern to the EU.

### **3.4. CONCLUSION**

The preceding discussion of the EU political conditions has provided empirical support to the higher domestic costs hypothesis in the semi-sovereign cases. The EU political conditionality has been intrusive in different ways in the three countries. In BiH, it has demanded a radical redefinition of the relationship between the entities and the state and as such it has had direct implications for the internal sovereignty of the country. In SCG, it has affected directly the international legal status of the common state and its constituent parts (their external sovereignty) and only indirectly the internal power relationship between the two republics. The EU has not put conditions on the internal institutional structures of the two republics and has not had a direct impact on their internal sovereignty. In Bulgaria, the EU political conditionality has not influenced the sovereignty of the country in a direct way in the pre-accession phase. Although the EU membership objective entails "pooling of sovereignty" with other countries in policy areas for which competencies have been transferred to the EU level, the EU Copenhagen

political conditionality as such does not undermine the formal aspects of sovereignty of a candidate country like Bulgaria. It has implied a change in the domestic institutional structures but domestic actors themselves have determined the limits to the external interference on this matter.

The EU has therefore applied different level of pressure on domestic actors in the three contexts. The EU conditionality vis-à-vis BiH and SCG is more demanding compared to the Copenhagen criteria the EU devised to stimulate reform in CEE countries. In the Western Balkans, the EU policy of political conditionality has clear security objectives and its primary goal is preserving the integrity of the fragile states and/or preventing their disintegration altogether. Because the EU concrete demands substitute sovereign decisions of Balkan societies about the kind of states they live in and the way political authority is organized within them, the costs of compliance with EU conditionality are higher. Although the incentive offered by the EU has been the same – membership in the EU – SCG and BiH have had to undergo more radical institutional and policy adaptations for the same reward.

As regards the second hypothesis concerning the precision of the EU conditions, we have seen that the strictness with which the EU has insisted on fulfillment of a specific set of demands has varied in the countries from the comparative set but the discussion has suggested that the “determinacy” of EU demands cannot be conceptually linked in all cases with more compliance. In Bulgaria, the EU political conditionality has left a wide spectrum of choices to the authorities to pick the measures with which to respond to the EU criticism of the state of democracy in the country. As a result, the governments have had the freedom to opt for the least costly solutions and to avoid the most thorough adaptations. Undoubtedly, this has given domestic players a sense of ownership of the reform process but it has also meant that short of a local agreement, the EU could step in with sanctions punishing failure to advance sufficiently. More importantly, because the EU democracy demands have a strong normative appeal cutting across the political spectrum, the domestic consensus for transformation in a Europeanizing direction has been more easily attainable as chapter 7 will show.

In BiH, the EU has presented the authorities with a very detailed list of conditions and given them little maneuvering space. The EU conditionality has aimed at generating consensus on specific reforms in a highly divided society with no agreement on the domestic reform agenda and even on the future of the country. The precision of the EU conditions has provided local



actors with a firm external anchor and has shaped their choice of compliance measures but it has also led to blockages of the political process when agreement on reform has been difficult to acquire. From an EU point of view, given BiH's semi-protectorate status, it has been politically realistic to intervene in the country's institutional design with very concrete suggestions about desired changes. It is, however, not the precision of EU demands but the nature of the EU sovereignty that ultimately determine the compliance pattern of BiH as chapter 7 will demonstrate.

In SCG, the EU mega-condition of preserving the common state has been precise but not followed up with a list of strict implementation conditions. The two republics were left with lots of freedom to implement the common state agreement with measures of their own choice. From the EU's standpoint, it has been politically unacceptable to demand from an internally sovereign state far-reaching change of its domestic institutional and policy structures. And since the EU mega-condition is very divisive, consensus on its implementation has been lacking. Constant blockages challenged the performance of the common state institutions whereas actors opposed seeking a compromise. Thus, the very "determinate" EU demand of single external sovereignty outcome has not automatically resulted in more compliance in the SCG case.

The discussion in this chapter has made the case for the importance of the politics of conditionality and the politics of compliance which will be examined respectively in chapters 5 and 7. We turn now to the domain of economic conditionality to see whether the empirical evidence will lend further support to the two hypotheses advanced in this chapter.

#### 4.0 THE POLICY OF EU ECONOMIC CONDITIONALITY

This chapter continues the line of argument opened in chapter 3 while examining the EU conditions in the economic domain. The analysis scans the empirical material from the three cases for evidence in support of the two hypotheses developed in the preceding chapter. To reiterate, I have proposed that the domestic costs of compliance of the semi-sovereign countries are higher as a consequence of the deeper intervention of the EU in their statehood structures. The higher compliance costs imply a lower probability for compliance as discussed in the Europeanization literature. I have also suggested that the role of politics both at domestic level and at EU level is key for understanding Balkan compliance whereas the size of the political bargaining space is largely determined by the precision of EU conditions affecting the degree of freedom left to the governments to choose the measures with which to comply and the maneuvering margin left to the EU to certify compliance.

In support of the first hypothesis, this chapter shows empirically that the EU economic conditionality vis-à-vis the three countries under discussion has different degrees of intensity in terms of its requirements for institutional and policy adaptations. The reforms in the economic field demanded from BiH and SCG have profound implications for the way economic policy-making is organized within the two common states. For that reason the EU economic conditionality vis-à-vis BiH and SCH is inherently political in nature. It affects the relationship between the two constituent units of the common states and as such touches on the question of sovereignty. In Bulgaria, the EU economic demands are entirely focused on the substance of the economic policy mix and have no direct link with the way sovereignty is constituted within the country and exercised externally by the country's representatives.

The EU policy of conditioning membership in its framework on the preservation/strengthening of a common tier of governance in BiH and SCG has a well-defined economic component to it. In both cases, the two constituent parts of the common state have managed their economic affairs independently of each other, although the degree of economic autonomy of the entity economies in BiH differs from that of the republic economies in SCG. By demanding a higher level of economic harmonization depending on the starting point, the EU has sought to advance its political goal of building institutionally stronger common states. The EU

“single economic space” conditionality is a direct product of the EU common state conditionality.

In BiH, the EU economic conditionality has affected the internal sovereignty of the country through the requirement to reform the indirect taxation system. This has involved ceding of competences to the state level by the entity governments and has resulted in a more integrated decision-making system for economic policy within the common state. The internal redistribution of power between the centre and the entities has in essence shifted the locus of authority and restructured the power relations within the boundaries of the country.

In SCG, the EU economic conditionality has touched on the external representation of the state union since it has required the establishment of a common external trade regime. It has also influenced the intra-republican relations urging the two governments to put in place institutional mechanisms for policy coordination. It has therefore directly constrained the external sovereignty of the constituent units of the common state and indirectly affected the domestic sovereignty of the two republics.

In contrast, the EU economic conditions vis-à-vis Bulgaria have aimed at steering the country’s transition to market economy and have had no implications for the way authority for economic policy-making is structured within the country. The EU has just demanded good macro-economic performance and progress in structural reform which is not different from what the IFI’s have sought in all transition economies including Bulgaria. The EU economic conditionality, in this sense, is an assurance that the candidate country is on the way of converging with the member states on the basic norms and aims of economic policy in Europe such as low inflation, low budget deficits, sound economic growth, sustainable performance, etc. While the EU and IFIs have had a considerable influence on the substance of economic policy, their policy prescriptions and recommendation have not limited the formal sovereignty of the country. It has been up to the government to do or not to do what the external actors have proposed.

As regards the second hypothesis, the precision of EU economic conditions affects the compliance responses of the countries by allowing or not allowing flexibility in satisfying the criteria by the governments. The specificity of the EU demands further has an effect on the EU’s margin of maneuver in acknowledging compliance by obliging it to deliver rewards when a concrete list of conditions has been fulfilled or permitting it to insist on more reforms when the

requirements have very broadly been defined. While the degree of freedom the country enjoys in responding to EU demands affects the *politics* of compliance (see chapter 7), the margin of freedom the EU enjoys in certifying compliance has an impact on the *politics* of EU conditionality (see chapter 5). In each case, an in-depth analysis of both the EU level game and the domestic politics game is necessary before ascertaining whether the result is more or less compliance. This is contrary to the positive relationship between the “determinacy of the conditions” and the “effectiveness of rule transfer” which the Europeanization literature posits.<sup>156</sup> Chapter 6 will provide ample empirical evidence suggesting that, notwithstanding the more precise conditions BiH and SCG have been faced with, the two semi-sovereign cases have not been considered more compliant by the EU than Bulgaria which has been confronted with very broadly defined accession criteria. What is more important for understanding Balkan compliance is the nature of EU demands and the political divisions they open at both the EU level and the domestic level.

In general, the EU has sought to maximize its leverage on the two Western Balkan cases by setting very specific conditions thus reducing the space for domestic political bargaining. BiH has been presented with a very detailed list of conditions demanding well-specified reforms on which actors have had very little maneuvering space. Serbia and Montenegro have been asked to unify their customs tariffs but have been given the freedom to choose themselves the level of protection of their external trade policy. Short of an external reference point, the two republics have clashed over the specificities of their trade regime. And although the EU conditions imposed a framework within which mutually acceptable solutions were to be sought, the EU did not prescribe directly a common customs tariff to the state union. Not being able to induce the two sides to comply, the EU had to admit defeat and to loosen its economic conditionality. On the contrary, Bulgaria has not been given a “to do list” which has allowed domestic actors to have a feeling of control over the transition process. This deliberate stance of the EU has left policy-makers in the country with policy options to choose from in fulfilling the EU conditions. The EU has also felt unrestrained to demand more before certifying Bulgaria as compliant with the pre-accession economic criteria.

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<sup>156</sup> See Frank Schimmelfennig and Ulrich Sedelmeier, “Governance by Conditionality: EU Rule Transfer to the Candidate Countries of Central and Eastern Europe,” *Journal of European Public Policy* 11, no. 4 (2004): 672.

## 4.1 EU ECONOMIC CONDITIONALITY AND STATE-BUILDING IN BIH

### 4.1.1 The Economic Situation in BiH

The economy of BiH suffered a big shock in the first half of the 1990s as a result of the collapse of the Yugoslav system and the ensuing wars of secession. In the immediate aftermath of the war (1995), the national output stood at 15% of its pre-war level.<sup>157</sup> The military hostilities inflicted serious material destruction on the economic infrastructure of the country, including disruption of production cycles and business exchanges. In the period between 1996 and 1999, the Bosnian economy experienced an unprecedented recovery with economic growth on average above 30% on a yearly basis.<sup>158</sup> This economic boom was driven by an inflow of external reconstruction aid and very little by domestic sources of economic activity.<sup>159</sup> Regardless of the steady improvement of the economic situation in the country, by the end of 2004 the country's real GDP had regained only 60% of its 1989 level.<sup>160</sup> Economic projections point to a full recovery of the pre-war national income level only after 2010.

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<sup>157</sup> See EBRD, *Transition Report 2004*.

<sup>158</sup> See European Commission, "Report from the Commission to the Council on the preparedness of Bosnia and Herzegovina to negotiate a Stabilisation and Association Agreement with the European Union," COM(2003) 692, 18.11.2003, 14.

<sup>159</sup> Ibid.

<sup>160</sup> See EBRD, *Transition Report 2004*.

**Table 4.1: Bosnia and Herzegovina: Main Economic Trends**

		1998	1999	2000	2001	2002	2003	2004 <sup>p</sup>
Real GDP growth	%	15.6	10.0	5.6	4.5	5.5	3.5	5.0
Inflation rate	% (average)	-0.3	3.7	4.8	3.1	0.4	0.6	0.9
Unemployment rate	% of labour force	38.0	39.3	39.7	40.3	40.9	42.0	-
General govt. balance <sup>(1)</sup>	% of GDP	-	-	-16.5	-10.5	-7.3	-3.0	-3.2
General govt. balance <sup>(2)</sup>	% of GDP	-10.9	-7.8	-7.0	-3.3	-2.2	0.4	-0.1
Trade balance	% of GDP	-48.4	-42.8	-36.1	-36.4	-37.0	-35.0	-35.0
Current account balance <sup>(1)</sup>	% of GDP	-23.1	-21.3	-13.8	-16.7	-20.3	-18.2	-18.7
Current account balance <sup>(2)</sup>	% of GDP	-22.2	-20.7	-13.1	-16.2	-20.0	-18.0	-18.5
External debt	% of GDP	71.6	68.2	58.8	48.2	42.2	34.0	33.0
	EUR billion	3.3	3.3	3.0	2.7	2.4	2.0	2.2
Debt-export ratio	%	352.0	319.0	218.5	183.7	171.9	135.8	120.6
Foreign direct investment <sup>(3)</sup>	% of GDP	2.9	2.1	3.2	2.6	4.1	4.5	5.2
	EUR million	100	90	161.1	147.6	219.4	253.4	344.4

<sup>p</sup> Projections (1) before grants (2) after grants (3) net Sources: national authorities, IMF, EC estimates

Source: European Commission, "The Western Balkans in Transition," Enlargement Paper N 23, Directorate-General for Economic and Financial Affairs, December 2004.

Large external imbalances have emerged and persisted over the years although the figures have revealed a tendency of gradual improvement. The external deficits, for instance, have stood at unusually high levels in a comparative international perspective.<sup>161</sup> BiH's economy has been heavily dependent on external aid to finance the government budget deficits. In the last couple of years, the amount of external grants has steadily been declining (see table 4.2 below), imposing a degree a financial discipline in public finance management and obliging the authorities to rationalize the taxation system and the public spending. As levels of aid are expected to be reduced in the future, the Bosnian economy faces a major challenge of macroeconomic adjustment. Progressively, the FDI inflows have been on the rise reaching a level of 4.5% of GDP in 2003 and offering an alternative source of financing the current account deficits. Remittances have also been reported to remain an important financial source helping balance the external accounts of BiH.<sup>162</sup>

<sup>161</sup> For an in-depth economic analysis of the external accounts of BiH, see International Monetary Fund, "Bosnia and Herzegovina: Selected Economic Issues," IMF Country Report No 05/198, June 2005, available from [www.imf.org](http://www.imf.org).

<sup>162</sup> See European Commission, "The Western Balkans in Transition," Enlargement Paper N 23, Directorate-General for Economic and Financial Affairs, December 2004, available from [www.europa.eu.int](http://www.europa.eu.int).

**Table 4.2: Financial Flows to Bosnia and Herzegovina 2001-2005:****Grants and Loans per Capita (population 4 ml)**

Total values in Euro Million Per Capita Values in Euro	Commitments 2001	Commitments 2002	Commitments 2003	Commitments 2004	Expected Commitments 2005
Grants	313.76	303.04	241.12	195.86	154.55
Grants (%)	56.63%	60.55%	77.15%	48.18%	37.84%
Grants per capita	78.44	75.76	60.28	48.97	38.64
Loans	240.32	197.41	71.41	210.66	253.90
Loans (%)	43.37%	39.45%	22.85%	51.82%	62.16%
Loans per capita	60.08	49.35	17.85	52.67	63.47
Total	554.07	500.44	312.53	406.52	408.44
Total per capita	138.52	125.11	78.13	101.63	102.11

Source: European Commission/World Bank, Office for South East Europe, Brussels, [www.seerecon.org](http://www.seerecon.org)

Thanks to a currency board arrangement set up in 1997, inflation in the country has been under control, registering eurozone levels in the last couple of years. In the immediate aftermath of the war there were a couple of currencies circulating in the economy, including the Bosnian dinar, the Yugoslav dinar, the Croatian kuna and the D-mark. In 1997, the Convertible Marka (KM) was introduced as sole legal tender in the country and was initially fixed to the Deutsche Mark. With the official changeover to the euro in January 2002, the KM was pegged to the euro. The currency board has not only maintained monetary stability and kept politics out of the management of monetary policy in BiH, but, together with the single currency, it has also helped the economic integration of the two entities.<sup>163</sup>

#### **4.1.2 The EU Economic Conditions: The Two “To Do” Lists**

The problems facing the Bosnian economy are not very different in substance from those all transition economies from Central and Eastern Europe had to confront in the early 1990s. The additional complication in the Bosnian context stems not so much from the war-resulting material devastation but rather from the territorial fragmentation of the economic space as a consequence of the political division between Bosno-Croat Federation and Republika Srpska and the ensuing dispersal of authority for economic policy making.

<sup>163</sup> Ibid.

The EU economic conditionality has to be examined through the prism of the EU's overall strategy of state-building and strengthening the institutional basis of the central government. The economic conditions presented to Bosnia and Herzegovina by the European Commission call for harmonization of legislation and unification of institutional structures at state level as much as the political conditions. Six economic conditions figure on the 2000 Roadmap as a prerequisite for the launch of the Feasibility Study by the European Commission:

- Elimination of entity payment bureaus;
- Setting up of a state treasury;
- Elimination of trade barriers between entities;
- Establishment of a single National Institute for Standards;
- Adoption of Competition and Consumer Protection Law;
- Adoption of FDI legislation reducing barriers (including restitution legislation).

Source: Ministry of Foreign Affairs, Bosnia and Herzegovina

**Figure 4.1: Economic Conditions: EU Roadmap for BiH, 2000**

The 2003 Feasibility Study recommendations in the economic area build upon measures already undertaken and take the reform process a step further:

- Implementing the recommendations of the Indirect Tax Policy Commission, in particular by ensuring full parliamentary adoption of the Law on Indirect Tax Authority, including the adoption of related enabling legislation. Demonstrate progress in preparing the introduction of VAT to begin on schedule;
- Improving budget management by adopting and starting to implement a budget law covering multi-annual budget planning and forecasting, and starting to elaborate a consolidated government account;
- Implementing fully the Law on Statistics;
- Establishing a coherent and comprehensive trade policy and revising existing legislation to ensure a consistent policy on free zones. Establish at State level certification and other procedures for the export of animal products and a phytosanitary office that are EC compatible with a view to promoting exports but also enhancing standards and the single economic space;
- Integrating the electricity market by implementing relevant Entity Action Plans;
- Developing the BiH single economic space by establishing the Competition Council. Removing all duplicate licenses, permits and similar authorisation requirements to allow service providers to operate throughout BiH without having to fulfil unnecessary administrative requirements. Creating a single business registration system.

Source: Report from the Commission to the Council on the preparedness of Bosnia and Herzegovina to negotiate a Stabilization and Association Agreement with the European Union, COM(2003) 692 final, Brussels, 18.11.2003.

**Figure 4.2: Economic Conditions: Feasibility Study of BiH, 2003**



Indeed, the legal base for the establishment of a single economic space in BiH is provided for in the Dayton Peace Accords. Article I.4 of the Constitution of Bosnia and Herzegovina states unambiguously that

“[t]here shall be freedom of movement throughout Bosnia and Herzegovina. Bosnia and Herzegovina and the Entities shall not impede full freedom of movement of persons, goods, services, and capital throughout Bosnia and Herzegovina. Neither Entity shall establish controls at the boundary between the Entities.”<sup>164</sup>

Dayton, however, does not clearly affirm that all internal market policies should be instituted at the state level. In fact, the section on the responsibilities of the institutions of BiH identifies explicitly only foreign trade policy, customs policy and monetary policy as prerogatives of the state.<sup>165</sup> This is to say that while a single trade regime including a common external customs tariff is provided for, a single customs administration and a unified tax system is not directly envisaged. And since the Constitution assigns all other government functions to the Entities,<sup>166</sup> a highly decentralized system of economic governance has been established by the Dayton architects.

Given the straightforward mandate from Dayton, trade reform in Bosnia and Herzegovina was the first integrating vehicle of the two entity economies following the creation of the common state. To be sure, the differences in the trade policies of the two entities prior to Dayton were substantial. The trade law in the Federation was similar to the one in Croatia whereas the trade law in RS borrowed from the one in the Federal Republic of Yugoslavia (FRY). The average import tariff in the Federation was 12.1 % while the average import tariff in RS was as high as 29 %.<sup>167</sup> In addition, the two entities had individual free trade agreements with Croatia and FRY, respectively. By 1999, however, the trade regimes of the two entities had been unified and responsibility for the customs tariffs transferred to the state level.<sup>168</sup>

Trade policy does figure on the European Commission Roadmap and elimination of trade barriers between the entities is part of the EU economic conditionality. The EU-specific requirements, however, have more to do with the ‘subtle impediments to the common economic

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<sup>164</sup> See annex 4 of the Dayton Peace Agreement “Constitution of Bosnia and Herzegovina,” available from [www.ohr.int](http://www.ohr.int).

<sup>165</sup> See article III.1 of the Constitution of Bosnia and Herzegovina. *Ibid.*

<sup>166</sup> See article III.3 of the Constitution of Bosnia and Herzegovina. *Ibid.*

<sup>167</sup> International Monetary Fund, “Bosnia and Herzegovina: Selected Issues and Statistical Appendix,” IMF Staff Country Report N 00/77, June 2000, available from [www.imf.org](http://www.imf.org).

<sup>168</sup> *Ibid.*, 101.

space' such as regulations related to phyto-sanitary and veterinary control, consumer protection, quality control of products, standards certification, etc.<sup>169</sup> Having in mind that approximately 65% of Bosnian exports is destined to the EU market, the insistence of the EU on product safety legislation and implementation is understandable and Bosnian compliance with it has a strong rationale too.

Where the EU economic conditionality is most demanding, however, is in the areas of economic policy that are not directly singled out as a state competence at Dayton and which remained a prerogative of the entity governments. Neither customs administration nor the power to raise taxes was assigned to the state authorities by Dayton and the entities jealously guarded these competences for themselves. The creation of a single customs administration and the harmonization of the indirect tax systems, both pre-conditions for a positive Feasibility Study by the Commission, call for a far-reaching reform of the economic governance structures of BiH which presuppose a political agreement on the redesign of the system. It is a clear case of the economic spilling over into the political.

The EU single economic space conditionality is a state-building endeavor since it demands a modification of the social contract between the State of BiH and its citizens. The reform of the indirect taxation system is the EU condition with most profound institutional implications in the direction of strengthening the state-level of economic governance. Its stated final goal is economic - improving the efficiency of the public finance system of BiH. The attainment of this objective, however, requires a deep penetration in the domestic institutional set-up of the country with serious consequences for the distribution of power between the different layers of authority within the state. As such, the decision to comply with this condition is a test case of how willing the entity political leaders are to relinquish power in order to secure European integration.

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<sup>169</sup> See European Commission Roadmap and SAP Reports on Bosnia and Herzegovina.

## 4.2 EU ECONOMIC CONDITIONALITY AND STATE-BUILDING IN SCG

### 4.2.1 The Economic Situation in SCG

Similar to BiH, the economy of Serbia was devastated during the 1990s which was a decade of economic decline and regress in standards of living. The economy of Montenegro, while not experiencing material destruction during the Balkan wars, suffered from the international economic sanctions imposed on former Yugoslavia and as a consequence had to face similar problems of decapitalization, international isolation and distortion of normal business activity as the war-torn pieces of the Yugoslav economy.

After the dramatic decline in economic output in 1999 (18 %), the year of the Kosovo conflict, the economy recovered and growth resumed (see table 4.3 below). Economists evaluate the growth potential of SCG's economy very high provided that political stability is maintained and the business climate continues to improve.<sup>170</sup> Yet, considering the low starting point and the constitutional uncertainty surrounding Serbia/Montenegro/Kosovo relationship, the radical economic transformation of SCG will remain a serious challenge for many years.<sup>171</sup>

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<sup>170</sup> See EBRD, *Transition Report 2004*.

<sup>171</sup> See OECD Economic Surveys, "Federal Republic of Yugoslavia: Economic Assessment," Volume 2002, Supplement No 3, January 2003.

**Table 4.3: Serbia and Montenegro: Main Economic Trends**

		1998	1999	2000	2001	2002	2003	2004 <sup>P</sup>
Real GDP growth	%	6.7	-18.0	5.0	5.5	4.0	3.0	5.0
Inflation rate - ann. average	%	30.0	41.1	70.0	92.5	21.5	11.6	9.5
Unemployment rate	% of labour force	n/a	27.0	27.0	28.0	29.0	30.0	34.0
General govt balance <sup>(1)</sup>	% of GDP	n/a	n/a	-0.9	-1.4	-4.5	-4.2	-3.1
General govt balance <sup>(2)</sup>	% of GDP	n/a	n/a	-0.2	-0.7	-3.4	-4.0	-2.7
Trade balance	% of GDP	-13.1	-15.9	-20.8	-24.5	-24.9	-24.3	-24.8
Current account balance <sup>(1)</sup>	% of GDP	-4.8	-7.5	-7.1	-9.7	-12.8	-12.6	-13.0
Current account balance <sup>(2)</sup>	% of GDP	-4.8	-7.5	-3.9	-4.6	-8.8	-10.2	-11.6
External debt	% of GDP	76	103	132	103	73	69	55
	EUR billion	9.0	10.6	12.2	13.5	11.3	11.9	10.5
Debt–export ratio	%	267	500	448	436	365	360	280
Foreign direct investment <sup>(3)</sup>	% of GDP	0.8	1.1	0.3	1.4	3.5	5.8	2.0
	EUR million	101	105	27	184	597	1235	620

<sup>P</sup>Projections (1) before grants (2) after grants (3) net Sources: national authorities, IMF, EC estimates

Source: European Commission, “The Western Balkans in Transition,” Enlargement Paper N 23, Directorate-General for Economic and Financial Affairs, December 2004.

Comparable to the situation in BiH, SCG’s economy shows large external imbalances – sizable trade and current account deficits, which, according to EBRD analysis, are “mainly a reflection of the structural problems in the economy and the competitive pressures faced by exporters.”<sup>172</sup> External sustainability is a major challenge, especially given the decreasing amounts of foreign aid inflows and the high indebtedness of the country.<sup>173</sup> A general trend of the outside financing of the external account deficits is the decreasing proportion of grants and the increasing share of the loan component (see table 4.4 below). Montenegro in particular is considered very vulnerable to declining foreign aid levels as it tended to use the generous assistance package it managed to attract in the past to finance unsustainable current expenditure thus postponing long overdue structural reforms.<sup>174</sup> Notwithstanding the debt reduction scheme negotiated with the Paris Club creditors after the fall of the Milosevic regime in 2000, the SCG’s external debt stood at the level of EUR 11.9 billion at the end of 2003 or 69% of GDP. In the future, FDI inflows are expected to play a bigger role in both the domestic economic

<sup>172</sup> See EBRD, *Transition Report 2004*, 171.

<sup>173</sup> See European Commission, “The Western Balkans in Transition,” 63.

<sup>174</sup> See OECD Economic Surveys, “Federal Republic of Yugoslavia: Economic Assessment,” Volume 2002, Supplement No 3, January 2003.

transformation and the financing of the balance of payments. In 2003, for instance, the SCG's current account benefited from an exceptionally strong FDI inflow of around EUR 1.2 billion (almost 6 % of GDP) as a result of some major privatizations.<sup>175</sup> This FDI level, however, is hardly achievable on a permanent basis and the economic projections point to a sustainable yearly rate at half the 2003 achievement.<sup>176</sup>

**Table 4.4: Financial Flows to Serbia and Montenegro 2001-2005:**

**Grants and Loans per Capita (population 9 ml)**

Total values in Euro Million Per Capita Values in Euro	Commitments 2001	Commitments 2002	Commitments 2003	Commitments 2004	Expected Commitments 2005
Grants	715.44	691.46	567.01	587.61	371.14
Grants (%)	53.54%	50.85%	49.08%	54.81%	35.38%
Grants per capita	79.49	76.83	63.00	65.29	41.24
Loans	620.79	668.40	588.35	484.42	677.74
Loans (%)	46.46%	49.15%	50.92%	45.19%	64.62%
Loans per capita	68.98	74.27	65.37	53.82	75.30
Total	1,336.23	1,359.86	1,155.36	1,072.03	1,048.88
Total per capita	148.47	151.10	128.37	119.11	116.54

Source: European Commission/World Bank, Office for South East Europe, Brussels, [www.seerecon.org](http://www.seerecon.org)

The scope for monetary policy in Montenegro has been limited since the adoption of the D-mark and then the Euro as its official currency. By euroizing,<sup>177</sup> Montenegro both unilaterally renounced its participation in the Yugoslav/Serbian dinar area and forfeited the opportunity of creating its own currency. In economic terms, this has meant giving up the option of making exchange rate adjustments to boost the competitiveness of domestic production. For an economy of Montenegro's size and focused on tourism along the Adriatic coast and other services rather than manufacturing, the choice to borrow monetary credibility from the eurozone makes sense, especially when it is coupled with the nation-building political agenda of the republic's leadership.

<sup>175</sup> See European Commission, "The Western Balkans in Transition," p.72.

<sup>176</sup> Ibid.

<sup>177</sup> The EU has in general discouraged neighbouring non-member states from unilateral adoption of the Euro, or 'Euroisation'. The official economic reasoning is that these states should become more convergent and integrated with the EU economy, including through respecting the Maastricht convergence criteria, before they could aspire for membership in the eurozone. The political reasoning is that the Euro is only intended for full member states and there is no political shortcut to membership in the eurozone. Interviews with EU officials.

Unlike Montenegro, Serbia runs its own monetary system with its own currency - the dinar - and authority for monetary policy residing with the National Bank of Serbia. Its exchange rate regime is a managed float. After a decade of high inflation and financial instability, Serbia managed to restore confidence in the national currency and to bring inflation down to an annual rate of around 11 per cent in 2003 and 2004 – a real achievement considering the high inflation figures in 2000 and 2001. The central bank has also managed to increase its foreign currency reserves to allow for more flexible, credible and effective monetary policy.<sup>178</sup>

#### **4.2.2 The EU Economic Conditions**

The economic policy changes demanded from Serbia and Montenegro as a main precondition for its inclusion in the EU's Stabilization and Association Process (SAP) are a direct consequence of the EU political intervention in the inter-republic relations. In order to qualify for an SAA, Serbia and Montenegro were requested to harmonize their customs tariffs, provide for sufficient coordination of their customs services and create the conditions for free movement of people, goods, services and capital. From the EU's own experience with building the Internal Market, this requirement is straightforward and uncontroversial. Yet, from the two republic's point of view, the statehood implications from implementing the required set of policy changes are serious enough to provoke major contention both between the two of them and vis-à-vis the EU.

The two republics followed divergent economic paths prior to the Belgrade Agreement and the ensuing commitment to re-create a single economic space. Their different trade policy regimes reflected a structural disparity between the industrial inward-looking Serbia and the tourist outward-looking Montenegro. Even after liberalization of the trade regime with the introduction of the Foreign Trade Law and the Customs Tariff Law in May 2001, the tariffs in Serbia remained high with rates between 1 and 30 per cent and almost 50 per cent of imports suffering duties higher than 5 per cent.<sup>179</sup> Montenegro introduced its own tariff regime in June 2000 with tariffs between 0 and 5 per cent applying to more than 90 per cent of imports.<sup>180</sup> The

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<sup>178</sup> See OECD Economic Surveys, "Federal Republic of Yugoslavia: Economic Assessment," Volume 2002, Supplement No 3, January 2003, 56-62.

<sup>179</sup> See OECD Economic Surveys, "Federal Republic of Yugoslavia: Economic Assessment," Volume 2002, Supplement No 3, January 2003, 123-124.

<sup>180</sup> *Ibid.*, 126-127.

differences in the trade regimes led to separate customs administrations and the introduction of a customs line on the common frontier.

In 1999, Montenegro unilaterally renounced the authority of the FRY Central Bank and gave up the diner as legal tender, introducing first the D-mark and subsequently replacing it with the Euro. This act abolished the common monetary space between the two republics and made their economic agents engage with each other through foreign currency transactions. With no adequate clearing system between Serbia and Montenegro in place, payments for traded volumes between them have to be cleared through a correspondent bank in a third country.<sup>181</sup> In addition, the internal economic reform agendas of the two republics followed different priorities with Montenegro initiating liberalization reforms earlier than Serbia. As a result, the initial level of economic integration between the two republics was lower than the one among the entity economies in BiH.

In order to enter into a contractual relationship with the EU, Serbia and Montenegro were asked to adopt a common customs tariff and to present a common stance vis-à-vis the EU when negotiating trade liberalization. In the 2003 SAP report on Serbia and Montenegro, the European Commission stated that “[t]he key to the state fulfilling its full economic potential – and also a prerequisite for contractual relations with the EU – remains the implementation of an internal market and a single trade policy regime.”<sup>182</sup> Translated into the language of economics, the European Commission is demanding the creation of a mini Single Market between Serbia and Montenegro, arguably for the economic benefits of it and for the sake of starting to integrate and learning to cooperate, albeit outside the EU framework for an unspecified time.

When the EU economic conditionality met the firm resistance of the authorities in Belgrade and Podgorica (for reasons to be discussed in chapter 7), the EU relaxed its economic demands in autumn 2004. While it insisted on the political objective of keeping the common state together and preserving the single international legal sovereignty of the state union, it watered down its request regarding the customs tariff harmonization. The EU agreed to conduct separate trade talks with Belgrade and Podgorica in the framework of the negotiations for a common SAA (see chapter 5 for details).

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<sup>181</sup> Ibid., 127.

<sup>182</sup> European Commission, “SAP Report on Serbia and Montenegro 2003,” SEC (2003) 343, 26.03.2003, available from [www.europa.eu.int](http://www.europa.eu.int).

## 4.3 EU ECONOMIC CONDITIONALITY AND TRANSITION TO MARKET ECONOMY IN BULGARIA

### 4.3.1 The Economic Situation in Bulgaria

The transformation of the Bulgarian socialist-era economy proved a daunting task and is still ongoing. In the early 1990s, there were some partial advances to liberalize the economy and privatize the state-owned enterprises but the attempts were nothing close to the shock therapy - Polish style. The absence of rules provided lucrative opportunities to managers of state-owned companies, mostly coming from the communist *nomenklatura*, to make fortunes to their own benefit out of their privileged positions and control over state resources. With the political protection of the ruling ex-communists, a new economic class emerged out of the ruins of the collapsing socialist economy and mostly through back-stage illegal dealings. The scale of economic mismanagement reached its peak when the economy plunged in a severe crisis in 1996-1997 with hyperinflation hitting record levels of above 500%, GDP dropping with more than 5% on an annual basis and the banking sector nearing total collapse after the bankruptcy of a couple of banks. Nothing less than austere and bold measures could have reversed the downward trend and brought the economy back on a growth path. Under external pressure from the IMF, a currency board arrangement was introduced in 1997. Since then all governments have pursued tight fiscal policy and market-oriented structural reforms as a result of which for less than a decade the macroeconomic policies of the country turned into a textbook example of prudence and responsibility.

The results to date speak for themselves. The GDP grew on average with 4% between 1998 and 2003 and above 5% in 2004 despite unfavorable external conditions such as the unstable political situation in the neighboring Western Balkan countries, the economic crisis in neighboring Turkey and the economic slowdown in the EU economy itself.<sup>183</sup> The fixed exchange rate which is at the core of the currency board arrangement (Bulgarian lev was first pegged to the D-mark and then to the euro) as well as the continued opening of the economy to international competition have kept domestic prices in check. In 2003, the annual inflation rate

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<sup>183</sup> European Commission, "2004 Regular Report on Bulgaria's Progress toward Accession," SEC(2004) 1199, October 2004, 30.



stood as low as 2.3% but picked up slightly in 2004 due to rising energy prices and a one-off increase in excise taxes.<sup>184</sup> The unemployment rate peaked in 2001 following the enterprise restructuring in the real economy and reached a level of 19.2% that year. It has dropped since then with new job creation in the thriving private sector but remains high at 13.6% in 2003.<sup>185</sup>

**Table 4.5: Bulgaria: Main Economic Trends**

<b>Bulgaria - Main Economic Trends</b> (as of 1 September 2004)		1997	1998	1999	2000	2001	2002	2003	2004 latest
Real GDP growth rate	%	-5.4	3.9	2.3	5.4	4.1	4.9	4.3	5.3 1st qu.
Inflation rate									
- annual average	%	:	18.7	2.6	10.3	7.4	5.8	2.3	6.7 Jan-July
- Dec.-on-Dec.	%	:	1.6	7	11.3	4.8	3.8	5.6	7.6 July
Unemployment rate	%	:	:	:	16.4	19.2	17.8	13.6	12.0 2nd qu.
(LFS definition)									
General government	% of GDP	-0.3	1.7	0.4	-0.5	0.2	-0.8	-0.1	:
budget balance									
Current account balance	% of GDP	10	-0.5	-5.3	-5.5	-7.3	-5.6	-8.5	:
	million	923	-55	-642	-760	-1106	-929	-1504	-947 Jan.-
	ECU/Euro								June b
Gross foreign debt of the whole economy <sup>b</sup>	% of exports of goods and services	172.5	150.6	188.3	160	147.4	126.1	109.3	:
	million	9211B	8070	10847	11843	11935	10769	10330	11689 June
	ECU/Euro								
Foreign direct investment inflow	% of GDP	4.1	4.2	6.1	8.1	5.0	5.6	6.7p	:
	million	375	479	747	1114	755	923	1190p	962 Jan.-
	(balance of payments data) ECU/Euro								June b

Source: Eurostat, if not indicated otherwise; a Moving 12 months average rate of change. b Source: Website of the National Bank.  
p= provisional figures. B= break in series.

Source: European Commission, 2004 Regular Report on Bulgaria's Progress toward Accession, Brussels, SEC(2004) 1199, October 2004, Brussels.

Unlike the external imbalances of BiH and SCG, the situation with the Bulgarian external accounts has not been worrisome. At the time of the deepest financial crisis in 1997 the current account was in surplus and in 1998 it was close to being balanced. The deficit has widened since then to 8.5% in 2003 but it has entirely been financed by FDI inflows in all years, except in 2001 and 2003 when net FDI covered 68% and 79% respectively.<sup>186</sup> FDI has remained strong over the

<sup>184</sup> See EBRD, *Transition Report 2004*, 111.

<sup>185</sup> See European Commission, "2004 Regular Report on Bulgaria's Progress toward Accession," 31.

<sup>186</sup> *Ibid.*, 31.

years averaging 6% of GDP between 1998 and 2003 and constituting an important vehicle of technology and know-how transfer.<sup>187</sup>

Government spending has also been kept under control with budget deficit around or below 1% in most years and in surplus in some years. In addition, active debt management policies in combination with a strong GDP growth have brought the share of public debt in GDP down to 46% at the end of 2003 from a level of above 100% of GDP in 1997.<sup>188</sup> In the course of 2004 and 2005, the government bought back Brady bonds reducing further the debt-to-GDP ratio. The fiscal reserve kept at the central bank amounts to more than 10% of GDP contributing to the financial stability and giving additional credibility to the government's debt service obligations.<sup>189</sup>

Bulgaria has not been dependent on external aid as much as the Western Balkan countries, although IMF lending was critical for overcoming the 1997 crisis. Yet, regardless of the economic successes in the last decade, Bulgaria remains a relatively poor country with an average per-capita income (purchasing power parity) as low as 29% of the EU-25 average in 2003.<sup>190</sup> Considering the low starting level, catching up with the EU living standards will not materialize soon, if ever, notwithstanding the higher growth rates forecasted for the Bulgarian economy in comparison with the EU economy.

#### **4.3.2 The EU Economic Conditions: The Copenhagen Economic Criteria**

The EU economic conditionality vis-à-vis Bulgaria is part of the overall strategy to encourage and assist the transition to market economy of Central and Eastern European candidate countries in the framework of their pre-accession preparations. The Copenhagen European Council in 1993 defined the economic conditions for EU membership as follows:

“Membership requires the existence of a functioning market economy, as well as the capacity to cope with competitive pressure and market forces within the Union.”

There are two distinct components of the Copenhagen economic criteria – the functioning market economy requirement and the economic competitiveness requirement. These conditions

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<sup>187</sup> Ibid., 37.

<sup>188</sup> See EBRD, *Transition Report 2004*, 111.

<sup>189</sup> See European Commission, “2004 Regular Report on Bulgaria's Progress toward Accession,” 32.

<sup>190</sup> EBRD, *Transition Report 2004*, 111.

have to be examined against the background of the economic situation in Central and Eastern Europe in the 1990s when the economies in the region suffered a great shock after the collapse of the centrally planned economic systems. Stabilization programs were subsequently launched aiming at the introduction of market mechanisms in their economic governance structures. The EU's objective was to make sure that the candidate countries had achieved a level of economic stability and acceptance of market principles as the basis for economic management prior to their full exposure to competitiveness within the internal market. Hence, convergence on the fundamentals of economic policy-making was made a pre-requisite for full integration with the EU economy.

The EU did not and could not prescribe a particular economic model to the transition economies in Central and Eastern Europe. A uniform economic model does not exist within the EU and the member states are very diverse in the way they have designed their socio-economic systems. Indeed, a great deal of their economic decisions is constrained by the economic competences transferred to the EU level, in particular in trade, competition, monetary and other policy areas. Yet, regardless of the EU layer of governance, there is substantial discretion left to the national governments to preserve their national economic features that continue to co-exist with the common economic policies. Some member states, for instance, have opted to preserve a large share of state involvement in the economy whereas others have preferred to keep a minimum level of state presence in the market. Some member states have maintained a higher level of social protection whereas others have gone for more flexible labor market regulation. What all member states have in common, however, is the consensus on basic principle of economic governance such as low inflation, sustainable public finances and external accounts, a transparent and predictable legal environment for economic agents. It is the agreement on these basic norms that forms the core of the economic pre-accession requirements designed for the candidate countries.

The two economic criteria formulated by the EU are linked and reforms intended to improve the functioning of a market economy contribute to its competitiveness and vice-versa. For evaluation purposes, however, the Commission kept the assessment of the two sub-criteria separately. And although the Commission required compliance with both of them, in practice, the functioning market economy requirement was key to getting positive marks and favorable

treatment from Brussels in the pre-accession process.<sup>191</sup> It is also the sub-criterion which is “backward-looking” taking stock retrospectively of reforms already undertaken and of goals already reached whereas the competitiveness condition is “forward-looking” and is expected to be fulfilled only upon accession.<sup>192</sup> Indeed, the capacity to cope with competitive pressures within the single market presupposes a functioning marketing economy and comes only after a longer-term period of sustained effort at restructuring the inefficiencies of the centrally planned economies.

In contrast to the democracy area where the Commission did not have much expertise in advising on particular reforms and in devising comprehensive measurement schemes to assess the state of democracy in candidate countries, in the economic domain, it was well positioned to carry out the operationalization of the Copenhagen economic criteria and to do the subsequent evaluations of compliance with them. After all, it is in the economic sphere that the EU is strongest in terms of competences and the Commission in particular is well equipped with economic expertise. DG ECFIN of the Commission subsequently became the driving force behind the formulation of detailed sub-criteria and the evaluation of the economic performance of candidate countries as well as their readiness to become full and equal players in the single market.

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<sup>191</sup> Author’s interview with a European Commission official.

<sup>192</sup> Ibid.

“Membership requires the existence of a *functioning market economy*, as well as the *capacity to cope with competitive pressure* and market forces within the Union.”

To measure the closeness of a country to being a *functioning market economy*, the European Commission applied the following sub-criteria:

- consensus about economic policy;
- macroeconomic stability, including price stability, sustainable public finances and external accounts;
- price and trade liberalization;
- free market entry (creation of new firms) and exit (bankruptcy legislation);
- adequate legal system, including enforcement of property rights;
- sufficiently developed financial sector.

To determine the *capacity* of a country *to cope with competitive pressures* within the single market, the European Commission employed the following sub-criteria:

- existence of a functioning market economy;
- sufficient human and physical capital, including quality of education and infrastructure;
- public and private stock capital, including FDI levels;
- progress in enterprise restructuring;
- sectoral structure of the economy, including sectoral shifts between share of agriculture, industry and services;
- small and medium enterprise development;
- limited state interference in the economy;
- sufficient trade and investment integration with the EU market.

Source: Regular Reports on Progress towards Accession of candidate countries. Brussels: European Commission.

#### **Figure 4.3: The Copenhagen Economic Criteria and Sub-criteria**

From the point of view of operationalization, the economic criteria are by default more easily quantifiable and measurable. The Commission, however, did not specify threshold levels that would clearly indicate whether a country has fulfilled a certain sub-criterion or not. Thus some of the conditions call for a sufficient level of development in a certain sub-field without even a hint of what “sufficient” in this context means. Similarly, some sub-criteria require liberalization of a certain sphere without specifying how much liberalization is enough.

The openly-framed conditions allow for broad interpretation of what constitutes Copenhagen-compliant economic performance. In the absence of clear benchmarks, the certification of compliance with the economic criteria is less of a technical process. Since it is difficult even for economists to make a neat calculation of what a *functioning* market economy is and what a *competitive* economy is, the Commission looked at the general progress in the transition process focusing more on the big picture rather than on the concrete details. What was sufficient for a good score from Brussels, therefore, was a positive record of the main economic

indicators over a period of time and a proven track of structural reforms to demonstrate sustainability of the reform efforts and irreversibility of the general economic trend.<sup>193</sup>

The Commission's regular reports on progress towards accession of the candidate countries are the primary instrument for evaluating compliance with the economic criteria. In the process of preparation of these reports, the Commission collected and examined the annual country economic data and analyzed policy developments in the previous year. The conclusions of these reports represent the most important part of the assessment where the Commission announces in a clear-cut and straightforward way its decision about whether a country *is* or *is not* a functioning market economy and whether it *is* or *is not* competitive. At times, the Commission used a more nuanced language to express its judgment on a country's closeness to being fully compliant such as "*close to being* a functioning market economy," or "*can be considered* as a functioning market economy." This was all meant to acknowledge the efforts made and to encourage countries to continue on the same track. It was also intended to differentiate between countries thus creating peer pressure among them to catch up and advance faster.

All sub-criteria contributed to the general conclusions. Yet it was the general sense of how far the country has moved forward in the transition process and how committed its leadership has been to carrying forward sometimes difficult reforms that created the overall impression and influenced the final conclusions of the Commission. Some countries did try to lobby the Commission for a more favorable opinion but what made the biggest difference for a positive evaluation was the incremental improvement of the economic situation of a candidate country.<sup>194</sup> The Commission had also made it clear that the GDP level or the wealth of a country was not important and as long as the right economic policy mix was in place and the economy was picking up, the Commission's certification of compliance was sure to follow suit.

The regular reports also contained recommendations for desirable improvements in identified areas but the Commission did not issue direct prescriptions, nor did it give the countries a "to do list." This was a deliberate policy since it was feared that it would have been too big of a commitment on the EU side to specify concrete entry demands. Countries could have mobilized to do the specific reforms demanded and could have requested accession immediately upon the

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<sup>193</sup> Author's interviews at the European Commission.

<sup>194</sup> Author's interviews with European Commission officials.

fulfillment of the list.<sup>195</sup> There was also a concern that a concrete roadmap of conditions could have overlooked some important aspect of reform or that unanticipated problems could have emerged at a later point in time without the Commission being able to influence developments through its pre-accession conditionality. Vagueness and uncertainty were part of the game in order to ensure that the Commission did not lose its leverage prematurely and could keep the pressure on the candidates to do more. It also meant that the Commission had freedom for symbolic politics and could play up one candidate against the others by rewarding successful reform tendencies and sending a message about expected performance beyond the particular case. The specific measures, however, were up to the governments to decide.

#### 4.4. CONCLUSION

The EU economic policy objectives in the Western Balkans have been subdued to the EU's primary goal of state-building and strengthening the institutional base of the fragile state structures across the region. This main political ambition has set the priorities of the EU policy in the economic domain as well. And while all potential candidates from the Western Balkans will be subject to the Copenhagen economic criteria and the '*acquis* conditionality' at a later stage of their accession preparations, the emphasis in the early phases of the Stabilisation and Association Process has been on putting in place adequate economic governance structures at state level suitable for engaging with the EU in a candidate country capacity. Transition to market economy is also on the agenda in the Western Balkans as it was in Central and Eastern Europe but it comes as top priority only after the constitutional questions have been settled and clear lines of responsibility for economic policy-making have been defined in the often disputed state boundaries in the region. The EU is equally interested in helping the Western Balkan economies become fully functioning according to market principles and competitive on the European market but its economic conditionality policy has prioritized institution-building and economic legislative reform to questions of macroeconomics and structural reform. In the Western Balkans, therefore, the EU economic conditionality has been inherently political in nature.

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<sup>195</sup> Ibid.

Similar to the EU political demands, the chapter has shown that the EU economic conditionality has been demanding in different ways for the three countries under discussion and as such it has incurred different adaptation costs on the three polities. The evidence presented renders further support to the higher domestic costs hypothesis of the quasi-sovereign cases. In BiH, the EU has required redefinition of the economic relationship between the two entities and strengthening of the state layer of economic governance. In this sense it has touched on the way internal sovereignty is organized and exercised within the country. In SCG, the EU economic conditionality was initially planned to affect the mode of commercial engagement of the common state with the rest of the international economy and as such was intended to directly influence the way external sovereignty is constituted and exercised by the state union, either as one whole or as two constituent parts. The indirect consequences for economic policy making within the state union, however, proved unacceptable for the domestically sovereign republics as a result of which the EU softened the economic component of its common state conditionality. In Bulgaria, the EU economic demands have no constraining effects on the sovereignty of the country, either external or internal.

Looking comparatively at the “single economic space” conditionality, the degree of intervention of the European Commission in the economic governance structures of the two potential candidates has been higher in the case of BiH than in the case of SCG. Taxation policy goes to the heart of the contract between the state and the citizens and the harmonization conditionality in this area is particularly sensitive and very political. It also requires permanent common institutions and greater centralization of decision-making authority. Trade policy also affects the perceived economic wellbeing of citizens and the role of the state in providing the best conditions for economic prosperity. Harmonization conditionality on trade policy, however, can be achieved through institutional coordination mechanisms and without formal centralization of decision-making authority.

What the European Commission is asking BiH and SCG to do is to go one step further in the integration of their constituent economies but since the starting level of integration is different, the resulting single economic space conditionality has been more demanding on BiH than on SCG. If the two common states fully comply with the Commission requirements, then the BiH single economic space will be much more integrated than the one of SCG. The entities in BiH have had to give up an important competence – the right to tax - in order to qualify for a positive



Feasibility Study from the Commission, whereas the two republics of SCG were initially asked to negotiate and apply a common customs tariff vis-à-vis third countries to receive the same reward. Indeed, the EU had to relax its requirement on the establishment of a common external trade regime in SCG but this did not change the major thrust of EU conditionality which generally sought to advance the political goal of preserving the common state. The very fact that the EU had to adjust its demands after an unsuccessful attempt to impose its own vision of an economic regime on the state union comes as an acknowledgment of the highly political character of the EU intervention and of the politics involved on both the EU side and the side of the aspiring EU candidate(s).

In Bulgaria, the EU economic conditionality asks for high standards of economic governance no matter how economic decisions are taken and who is responsible for formulating and implementing economic policy. As long as the economy was doing better stimulated by the right incentives put in place by the government, the Commission would regard the results as EU-compliant. The focus on transition issues has allowed for channeling the energy of domestic actors on getting the fundamentals of economic policy right rather than arguing about the distribution of competences for the economic policy portfolio.

Concerning the second hypothesis, the discussion of EU economic conditionality has shown that the initial state of affairs in the Western Balkans has required a more targeted approach to setting country-specific conditions penetrating deep into the domestic governance structures of the potential candidates. The EU has intervened with a very specific list of conditions in BiH and SCG leaving very little space for maneuvering to governments wishing to advance on the European integration path. This has also meant that the EU has been relatively inflexible to certify compliance when the candidates have not done their best to fulfil the requirements. In the Western Balkan context, due to the country-specific conditions, delivering rewards to not fully compliant countries has not implied criticism for applying double standards but has involved conceding partial defeat by the EU itself in the form of loosening its conditionality. Needless to say, it has been politically costly for the EU to relax its economic demands vis-à-vis SCG in terms of its reputation as an international actor and in terms of the integrity and righteousness of its requirements vis-à-vis potential candidates.

Bulgaria's economic preparedness to accede to the EU has been judged against two broadly defined criteria applied to all other candidates from Central and Eastern Europe. While in theory

assessments have been made on the basis of the country's own achievements or failures, in practice the ranking of the candidates' performance has proved easier. Thus, Bulgaria's economic record was always examined in comparative perspective with the other candidate countries taking part in the enlargement group. And since the conditions were the same for everyone, it was visible who was doing better and who was doing worse. And because governments had freedom to design their own policies in response to the EU accession criteria, the ultimate responsibility for success or failure rested with them.

The discussion in chapters 3 and 4 allows me to conclude that the EU sovereignty conditionality applied to the Western Balkan quasi-sovereign cases bears higher costs of domestic adaptation compared to the EU democracy and market economy conditionality applied to the Eastern Balkan transition cases. Thus the empirical evidence presented corroborates the first hypothesis and sets the ground for examining the rational choice arguments of Balkan leaders' motivation to comply in chapter 7.

The EU sovereignty demands are more concrete and limit the choices of the Western Balkan governments but they also constrain the EU in accepting or rejecting the results as compliant. And even though the space for politics is restricted at both ends, the precise EU demands do not automatically lead to more compliance as we will see in chapter 6. In fact, the clearly defined conditions call for an unequivocal political expression in favor or against compliance which creates the potential for political divisions within the Western Balkan polities as chapter 7 will discuss. The political parties in power can either comply more readily or defy the EU conditions opening a political game in which the EU can eventually change its mind too, as the case of SCG has shown. Thus while the Europeanization literature generates the expectation that the rate of compliance will be higher when the EU conditions are more precise, the discussion here suggests that politics may still get in the way and obstruct compliance even when the EU intervenes with very specific demands. It is to an examination of the EU's end of the political game that we turn now.

## 5.0 THE POLITICS OF EU CONDITIONALITY

This chapter examines how the nature and substance of EU demands affect the execution of EU conditionality. The preceding chapters have made the case for the critical role of politics at EU level for understanding Balkan compliance. This chapter advances two hypotheses about the impact of the EU-level political game on the propensity of Balkan leaders to comply with EU conditions. First, compliance can be expected to be higher in cases where the EU's behavior in communicating pre-accession conditions and assessing compliance with them is more consistent. Consistency in foreign policy conduct presupposes a single voice in external action or coordination between different EU agents. Second, compliance is more likely when the EU conditions are compatible or overlapping with demands of other external actors such as the US, Council of Europe, NATO, the IFIs etc., including the degree of support of these actors to EU conditionality.

In concrete terms, the chapter argues that the substance of the EU demands vis-à-vis a third country does affect the EU foreign policy conduct. Even when the EU has a coherent strategy, it can still appear inconsistent in the execution of its policy. In the Balkan context, the EU relies on one or two agents of conditionality depending on how sovereignty-intrusive its policy is vis-à-vis a particular state. The Commission is the principle manager of the pre-accession process but it needs the political heavy weight of the High Representative for the CFSP and/or his special envoys in highly sensitive interventions in the statehood structures of potential candidates. The division of responsibility between the European Commission and the Council creates possibilities for coordination failures between the two agents and may lead to open disagreements between them. When the EU is not coherent in communicating its demands and delivers controversial messages to the Balkan countries, the degree of compliance with its conditionality can be expected to be lower. Likewise, when the EU presents a consistent position and conveys it systematically through its different institutional agents, the rate of compliance with its conditionality can be anticipated to be higher.

In Bulgaria where conditionality has aimed at domestic reform enhancing the democratic and economic standards of the country, the European Commission has acted as the sole agent of conditionality although with the full backing of the member states. In SCG and BiH, where the

EU has intervened with politically highly sensitive demands, the political backing of the EU member states has been necessary and a second agent of conditionality - the High Representative for the CFSP or his special envoy - has acted on behalf of the EU too. This policy of double agents, while meant to boost the credibility of the EU conditionality, has, in practice, undermined the integrity of the EU intervention in SCG since it has been coupled with poor coordination and even policy disagreements between the two agents. In BiH, the EU has acted coherently and has taken special measures to ensure the consistency of the actions of its many agents present in the country.

As regards the coordination of EU's conditionality policy with other external actors, the chapter maintains that the EU demands have enjoyed the political support of all other international players involved in state-building and/or in the democratic and economic reform processes in the Balkans. In all three countries, the EU conditionality has been in line with the positions of major international organizations or big countries. Some of the EU conditions have been EU accession-specific which other external actors have not opposed to but supported in principle. Other EU conditions have mirrored the conditionality of other international players who have extended additional rewards for the fulfilment of the same conditions. In this sense, domestic actors in all three countries have had additional incentives (either material or social) to comply with EU conditionality.

The EU political conditionality has been tightly aligned with the conventions and legal norms adopted in the framework of the Council of Europe (CoE). In essence, the CoE legal standards in the areas of human rights, rule of law and democratic institutions have been the reference points for the EU's assessments of democratic achievement in the candidates and potential candidates. The CoE has been an important partner of the EU in granting a degree of legitimacy to the EU political conditionality, including the EU's interference in highly sensitive constitutional questions concerning the sovereignty of some countries. The European Commission for Democracy through Law in the CoE framework, known as the Venice Commission, which consists of constitutional layers from all over Europe and whose opinions on constitutional matters are highly regarded by professionals as well as politicians, has been the ultimate stamp of approval for all constitutional reforms in the new democracies in Central and Eastern Europe, the Western Balkans and the former Soviet republics. The CoE monitoring mechanisms have further tightened the pressure on governments falling short of upholding democratic principles whereas

the web of its institutional structures has played a socializing role for the leadership of all new democracies.

Similarly, NATO has been the other external driver of political change in the Balkans, although its military presence in the Western Balkans and earlier interventions in the Balkan conflicts have earned it a dubious reputation in the eyes of the local population. Yet all governments from the region have at some point in time stated their intention to pursue NATO membership which has given the North Atlantic Alliance leverage over defense reforms and other institutional and policy changes of aspiring members. Above all, NATO has been very forceful in demanding cooperation with the International Criminal Tribunal for the former Yugoslavia (ICTY) which has progressively become a major political condition or stumbling bloc for advancing on the EU pre-accession road for the Western Balkan countries. In this sense, the overlapping NATO and EU conditionality on ICTY cooperation has doubled the reward for governments to turn in indicted war criminals to the Hague Tribunal.

Likewise, the US has stood firmly behind the European aspirations of the Balkan countries and the EU's stated intention to expand to the Balkans. Given the agreement on EU membership for the whole region upon achievement of certain democratic and economic standards, the US has accepted the EU's leadership in dealing with the unresolved statehood questions in some of the countries in the post-conflict period. Beyond the general expression of support for the EU policies in the region, the US has abstained from taking positions on the specificities of EU demands.<sup>196</sup> It has joined forces with the EU and NATO on the question of ICTY cooperation and has used its own diplomatic and financial resources to put pressure on the governments from the region to collaborate with the Hague Tribunal. It has also offered democracy assistance to the region through its own development agency, the USAID, and has given its own contribution to the process of democratic consolidation and economic reforms.

The European Commission has been instrumental in devising the EU economic conditionality policy and formulating country-specific conditions. The economic policy domain is an area where the Commission has traditionally been stronger in its competences within the EU context. This relative institutional strength has translated into the area of foreign policy too where the Commission has considered it legitimate to intervene stronger in third countries through economic instruments. And although it has framed its demands in strictly economic

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<sup>196</sup> Author's interviews at the State Department.

terms, the political implications of its single economic space conditionality vis-à-vis BiH and SCG have been serious. Its conditions vis-à-vis Bulgaria have been strictly limited to the economic domain.

The choices of Balkan countries concerning the concrete content of macroeconomic and sectoral policies have been constrained by other external sources such as the IFIs which have been keen on providing policy advice and financial resources against the endorsement of the ‘Washington consensus’ as a platform for economic governance. In essence, there is no contradiction between the European Commission and the IFIs on the broad framework of economic reform. The IMF and the WB have supported the EU orientation of the countries from Central and Eastern Europe and the Balkans and have worked towards their EU membership but they set the reform priorities in their area of specialization – macroeconomic policy and structural reform, respectively. The European Commission, in turn, has accepted the leadership of the IFIs in their specific fields and complemented their programs but has put special emphasis on issues that are of particular importance to the EU and are related to the country’s relationship with it. By pooling their financial resources and coordinating their policy advice on macroeconomics and structural reform, the European Commission and the IFIs have collectively provided the external anchor for the reform process in the transition economies from Central and Eastern Europe and the Balkans.

## **5.1 THE POLITICS OF EU CONDITIONALITY IN BIH**

### **5.1.1. Agents of EU Conditionality**

From the point of view of coordination of external action, the EU-demanded institutional and legislative changes have been in line with the policy of the rest of the international community present in BiH. There are numerous international organizations in the country with different priorities but they are all united in their objective to build a functioning multiethnic state in BiH where minority protection and government efficiency coexist. The Commission conditionality in this sense enjoys the consensual support of all other external actors. Most importantly, the EU member states, partly represented by the High Representative of the International Community,

are in favour of rationalizing the authority structures of the state and overcoming the centrifugal tendencies of the institutional system. The international agreement on the weaknesses of the constitutional arrangement in BiH and the necessity for constitutional reform is well captured in an opinion of the Venice Commission of the Council of Europe:

“...At present, the State level is not able to effectively ensure compliance with the commitments of the country with respect to the Council of Europe and the international community in general. With respect to the EU it is unthinkable that BiH can make real progress with the present constitutional arrangements. The EU will not countenance the kind of delay, indecision and uncertainty that a multiplicity of governments entails... The Commission therefore considers a revision of the State Constitution to strengthen the responsibilities of the State to be indispensable...”<sup>197</sup>

The European Commission is neither the only external actor nor the only EU actor in the Bosnian context pushing for an enhanced role of the state in domestic governance. The High Representative too can be viewed as a EU foreign policy player after he was given “a double hat” in 2002 to be a EU Special Representative.<sup>198</sup> In that sense, he can be considered as Solana’s man in Sarajevo. He can use the instruments of the CFSP to the extent that all Solana’s special envoys can. He is linked institutionally to the Council’s foreign policy establishment and can mobilize the political support of the EU member states when he needs their political weight to push through specific reforms. He is responsible for the implementation of his EU mandate to the High Representative for the CFSP and receives political direction and strategic guidance from the Political and Security Committee of the Council.<sup>199</sup> In theory, the EU member states, can initiate a dialogue with the HR through the Political and Security Committee in view of assigning a special task to him, although, in practice, the EU Members States have not intervened in such a way and have accepted the HR’s leadership.<sup>200</sup>

The European Commission and the EU Special Representative are the two main EU actors that are concerned with the politics of EU conditionality in the Bosnian context. It is the European Commission that sets the concrete conditions but the HR is involved in the domestic

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<sup>197</sup> European Commission for Democracy through Law (Venice Commission), “Opinion on the Constitutional Situation in Bosnia and Herzegovina and the Powers of the High Representative,” CDL-AD(2005)004, 11 March 2005, available from [www.venice.coe.int](http://www.venice.coe.int), 7.

<sup>198</sup> See Council Joint Action 2002/211/CFSP of 11 March 2002 on the appointment of Lord Ashdown as the EU Special Representative in Bosnia and Herzegovina, OJ L 70, 13.3.2002.

<sup>199</sup> See art. 4 of Council Joint Action 2004/569/CFSP of 12 July 2004 on the mandate of the European Union Special Representative in Bosnia and Herzegovina, OJ L 252/7, 28.7.2004.

<sup>200</sup> Author’s interview with a Council official.

political process which generates the compliance decisions in BiH. The two agents of conditionality complement each other's mandates and work closely together on the whole reform spectrum envisaged in the EU roadmap first and Feasibility Study second. Because the High Representative enjoys a broader international mandate and intervenes in matters not directly related to BiH's relationship with the EU,<sup>201</sup> the European Commission has acquired a special political role and has been seen as the sole face of EU conditionality by domestic players. In this sense, Brussels is viewed as speaking with one voice in BiH.

In theory and in practice, the European Commission and the OHR are in a strategic partnership. The Commission profits from the HR's political leverage on local politicians to assure timely compliance with EU demands whereas the HR uses the EU membership perspective in general and the Commission conditionality in particular to build domestic consensus for reforms. The 16 additional conditions, which the Commission required in the Feasibility Study in November 2003, were not only designed in consultation with the OHR but also ensured a substantive overlap of the agendas of the two institutions.

Yet, the OHR and the European Commission are in an uncomfortable partnership. The European Commission has repeatedly stated in its SAP reports that BiH can become a credible candidate for EU membership only if it proves that it can function as a self-sustaining state.<sup>202</sup> As long as the "Bonn Powers" of the High Representative exist, BiH will not meet this requirement. The 'Bonn Powers' are gradually becoming incompatible with BiH's European ambitions. Officially, the Commission insists that the OHR is not an obstacle to BiH's European integration and it is up to the BiH politicians to ensure that "the Bonn Powers are rapidly becoming redundant, permitting the High Representative to become at most a facilitator and mediator."<sup>203</sup> The HR, however, is aware of these complexities and is gradually transforming his role in BiH politics towards a less interventionist and more mediatory function. While there are

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<sup>201</sup> According to the Dayton Peace Agreement, the HR is charged with overseeing the civilian aspects of peace implementation in BiH. He is officially accountable to the Peace Implementation Council (PIC) which consists of 55 countries and agencies that support the peace process by assisting it financially, providing troops for SFOR, or directly running operations in Bosnia and Herzegovina. The HR receives political guidance from the Steering Board of the PIC which comprises Canada, France, Germany, Italy, Japan, Russia, United Kingdom, United States, the Presidency of the European Union, the European Commission, and the Organization of the Islamic Conference (OIC), represented by Turkey. In Sarajevo, the High Representative chairs weekly meetings of the Ambassadors to BiH of the Steering Board members. For further information on the HR's mandate see [www.ohr.int](http://www.ohr.int).

<sup>202</sup> See European Commission, "2003SAP Report on BiH," 5.

<sup>203</sup> European Commission, "Report from the Commission to the Council on the preparedness of Bosnia and Herzegovina to negotiate a Stabilization and Association Agreement with the European Union," COM(2003) 692 final, 18.11.2003, 11.



no substantive policy differences between the OHR and the Commission, there is an underlying institutional tension between them. The Commission insistence that BiH becomes a domestically sovereign self-governing state goes to the heart of the OHR's mandate in the country as the principal external authority undermining BiH's internal sovereignty.

In order to achieve the policy objectives of the EU in BiH, the mandate of the EUSR shall be to:

- (a) offer the EU's advice and facilitation in the political process;
- (b) promote overall EU political coordination in BiH without prejudice to Community competence;
- (c) provide local political advice to the EUFOR Commander, including with respect to the Integrated Police Unit style capability, on which he may draw, in agreement with the EUFOR Commander, without prejudice to the chain of command;
- (d) contribute to reinforcement of internal EU coordination and coherence in BiH, including through briefings to EU Heads of Mission and through participation in, or representation at, their regular meetings, through chairing a coordination group composed of all EU actors present in the field with a view to coordinating the implementation aspects of the EU's action, and through providing guidance to them on relations with the BiH authorities;
- (e) ensure consistency and coherence towards the public, without prejudice to Community competence. The EUSR spokesperson will be the main EU point of contact for BiH media on CFSP/ESDP issues;
- (f) maintain an overview over the whole range of activities in the field of the Rule of Law and in this context provide advice to the Secretary-General/High Representative and the Commission as necessary;
- (g) as part of his wider responsibilities, have authority to give direction, as necessary, to the Head of Mission/Police, Commissioner of the European Union Police Mission;
- (h) as far as Community activities and activities under Title VI of the TEU, including Europol, are concerned, provide advice, as appropriate, and take part in the required local coordination;
- (i) with a view to coherence and possible synergies, continue to be consulted on priorities for Community Assistance for Reconstruction, Development and Stabilisation.

Source: Art. 3 of Council Joint Action 2004/569/CFSP of 12 July 2004 on the mandate of the European Union Special Representative in Bosnia and Herzegovina, OJ L 252/7, 28.7.2004.

**Figure 5.1: The Mandate of the European Union Special Representative in Bosnia and Herzegovina**

The Commission is not the only voice which, while directly praising the contribution of the HR for moving forward the reform agenda in the country, indirectly criticizes the international arrangement granting the HR extraordinary powers to overrule national legislation and dismiss elected politicians. In March 2005, the Venice Commission of the Council of Europe openly

stated that the Bonn powers were no longer necessary and recommended that an appropriate form be found for their abolishment. In the words of the Venice Commission itself,

“...the need for the wide powers exercised by the High Representative certainly existed in the early period following the conclusion of the Dayton Agreement. However, such an arrangement is fundamentally incompatible with the democratic character of the state and the sovereignty of BiH. The longer it stays in place the more questionable it becomes...”<sup>204</sup>

Indeed, no international body has questioned the intentions behind the decisions of the HR. Quite the opposite, all external actors and a great deal of local politicians and citizens have openly admitted that the HR has acted in BiH’s best interest when making recourse to the Bonn powers. Many have nevertheless questioned the legality and the legitimacy of the HR’s decisions to remove from public office individual citizens of BiH without the possibility of appeal. As the Venice Commission recalls, the OHR is a political body and not an independent court. From the point of view of democratic theory, any decision of a political institution that is not subject to judicial review falls short of international democratic standards.<sup>205</sup> Noting also the fact, that the HR is not politically accountable to the people of BiH, the voices criticizing the undemocratic nature of the HR’s interventions have grown more vocal and more concrete over time.<sup>206</sup> In April 2005, the International Commission on the Balkans, consisting of internationally renowned political figures and independent intellectuals, issued a report arguing that “the OHR has outlived its usefulness” and advocating for “a constitutional debate in BiH within an EU accession framework.”<sup>207</sup> The Balkan Commission as well publicly expressed what has become a widely-shared view that the powers of the HR have become part of the problem rather than the solution to the problems in BiH by impeding the development of self-government and obstructing the EU candidacy of the country.<sup>208</sup>

It is beyond question, however, that the EU member states, the High Representative, the European Commission and the international community at large are in agreement about the objective of institution building in BiH. In this sense, they tend to deliver a consistent message to

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<sup>204</sup> European Commission for Democracy through Law (Venice Commission), “Opinion on the Constitutional Situation in Bosnia and Herzegovina and the Powers of the High Representative,” 20.

<sup>205</sup> *Ibid.*, 20-21.

<sup>206</sup> See Gerald Knaus and Felix Martin, “Travails of the European Raj,” *Journal of Democracy* 14, no. 3 (2003): 60-74.

<sup>207</sup> International Commission on the Balkans, “The Balkans in Europe’s Future,” April 2005, available from [www.balkan-commission.org](http://www.balkan-commission.org), 25.

<sup>208</sup> *Ibid.*, 24.

the domestic political leadership and the Bosnian citizens at large about the direction of institutional changes they favor.

Furthermore, the issue of coherence of EU instruments and actors has been a particular concern for the EU given the multiple roles it has progressively assumed in the post-conflict transformation of BiH. At the end of 2004, the EU involvement in BiH acquired a military dimension through the replacement of the NATO-led SFOR with an ESDP mission – EUFOR. To ensure consistency of the implementation of EU policy, the European Council adopted a special strategy on Bosnia and Herzegovina in June 2004.<sup>209</sup> The main goal is close coordination among the various institutional actors involved in BiH by setting-up special arrangements in Brussels and Sarajevo on the division of labor, information-sharing, monitoring, reporting, etc. To avoid policy failure due to incoherence of its foreign policy behavior, the member states did take special measures to regulate the exchanges between their multiple agents in the BiH domestic context.

### **5.1.2 EU economic conditionality and the IFIs**

The specificity of EU economic conditions in the context of state-building in BiH put the IFIs in the unusual position of giving professional policy advice on economic issues with political implications. The example of reform of BiH indirect taxation system is illustrative of that point. The IFIs abstained from interfering in matters of political nature and left the EU lead the political game while quietly supporting the concerted international effort to unify the tax systems of the entities and establish state-level institutions and policies on indirect taxation.

International pressure on the entities in BiH to adopt comparable rates of excise duties and sales taxes and to put an end to the regulatory competition between them has been the rule rather than the exception. The state of Bosnian public finances was a matter of concern to all external actors, including the World Bank, the IMF and the HR. The precarious lines of responsibility in the BiH fiscal system where the whole multi-tiered governance system spends public money but no body is responsible for aggregate BiH budget deficits have been an IMF's preoccupation.<sup>210</sup>

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<sup>209</sup> See European Security Strategy – Bosnia and Herzegovina / Comprehensive Strategy, European Council Conclusions, 17-18 June 2004, available from [www.europe.eu.int](http://www.europe.eu.int).

<sup>210</sup> International Monetary Fund, "BiH: Request for Stand-By Agreement," IMF Country Report N 02/191, August 2002, 7.

The Fund has sought to streamline BiH's finances through conditioning its assistance on further progress in introducing a modern treasury system at state level, alignment of excise duties and sales taxes of the two entities and the Brcko District and elimination of double taxation on excises.<sup>211</sup> The World Bank too has been committed to public finance reform in BiH given the unsustainable level of public spending in the country estimated at the level of 60 % of GDP.<sup>212</sup> In particular, it has worked with Bosnian authorities through its assistance programs on rationalizing public expenditure by reducing spending on defense and war veterans' entitlements and increasing the efficiency of spending on education, healthcare and social policy.<sup>213</sup>

The IFI's, however, refrain from politically-charged conditionality and take a technocratic view on necessary reforms. Taking the lead on fiscal policy and taxation, the IMF recognized the need to introduce the VAT but was flexible on the question of which level of government was the most appropriate one for the VAT administration. From an efficiency point of view, the Fund argued, it did not matter how the VAT was administered – separately at entity level or collectively at state level.<sup>214</sup> As long as there was sufficient level of coordination between entity and state governments, the technical aspects could be worked out without formal centralization of tax policy and especially if this was the politically more acceptable solution.<sup>215</sup> VAT harmonization, therefore, was not part of the IMF's conditionality.

The WB, in turn, used technocratic arguments too to defend the view that VAT at state level was necessary for the efficient planning and allocation of public expenditure.<sup>216</sup> Being the IFI primarily in charge of public spending restructuring, the Bank was part of the international coalition that favored tax and customs harmonization in Bosnia and Herzegovina for economic efficiency reasons. Pressure from the WB, therefore, to streamline public finances was there even though officially this was not a part of the Bank's conditionality.

The European Commission, in its turn, has been critical about the management of public finances in its annual SAP reports on BiH and has pointed to massive fraud and corruption as a

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<sup>211</sup> See structural conditionality on Stand-By Agreement approved by the IMF's Board of Directors in August 2002. *Ibid.*, 14, 55-60.

<sup>212</sup> See World Bank, "Memorandum of the President of the International Development Association to the Executive Directors on a Country Assistance Strategy Progress Report on the World Bank Group for Bosnia and Herzegovina," World Bank Report N 24978, October 15, 2002, 4-5.

<sup>213</sup> *Ibid.*

<sup>214</sup> Author's interviews at the IMF.

<sup>215</sup> Author's interviews at the IMF.

<sup>216</sup> Author's interviews at the WB.

result of the inefficient system. Reform in this area has been identified as a priority since the first SAP Report of the European Commission on Bosnia and Herzegovina in 2001 and its recommendations were repeated in the 2002 and 2003 SAP Reports.<sup>217</sup> Yet, the BiH authorities took none of these recommendations seriously and bold reforms were not undertaken willingly on their own initiative. It was the conditioning of the introduction of state-level VAT and unified customs administration on a positive Feasibility Study by the European Commission that changed the situation. Moreover, this requirement was one of the conditions attached to the European Commission's macro-financial assistance and failure to fulfill it could have put additional financial pressure on the Bosnian authorities.<sup>218</sup>

The High Representative to Bosnia and Herzegovina Paddy Ashdown has been pushing hard on the VAT issue too arguing that rationalization of the tax system is needed for strengthening revenue collection, cracking down on tax evasion and providing better services to Bosnian citizens, including pensioners, doctors, teachers, police officers and others dependent on public funds for their living. In February 2003, the HR issued a decision setting up the Indirect Tax Policy Commission charged with drafting legislation regarding “(a) the merger of the separate customs administrations in Bosnia and Herzegovina into one single customs administration of Bosnia and Herzegovina; (b) the establishment of a single State-wide VAT; (c) the establishment of an Indirect Taxation Administration... to operate at State level, include the single customs administration and be responsible for the collection and administration of indirect taxes, including customs duties and value added tax.”<sup>219</sup>

Having a special mandate to represent the EU, the HR's initiative can be viewed as part of the EU pressure on Bosnia and Herzegovina to proceed with VAT introduction and customs reform. But given the regular meetings between the Economic Policy Group comprising of the WB, the IMF, the European Commission, the US and the OHR and the Bosnian government's Coordination Board, the message coming from outside became quite clear. And although different external actors used different arguments to justify their position, all of them converged on their recommendation while the European Commission made it an explicit condition for Bosnia's progress towards signing an SAA with the EU.

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<sup>217</sup> See European Commission, SAP Reports on Bosnia and Herzegovina 2001, 2002 and 2003.

<sup>218</sup> Author's interview at the European Commission.

<sup>219</sup> See Art. 2 of the Decision Establishing the Indirect Tax Policy Commission, Office of the High Representative, 12 February 2003, available from [www.ohr.int](http://www.ohr.int).

## 5.2 THE POLITICS OF EU CONDITIONALITY IN SCG

### 5.2.1 Agents of EU Conditionality

The EU institutional coherence in the Bosnian context is not the norm in the conduct of the EU conditionality policy towards SCG even though the objectives are similar – state-building as a matter of most urgent priority and democratization and transition to market economy as equally important but long-term goals. The EU sovereignty-related demands vis-à-vis SCG have required the involvement of the High Representative for the CFSP, Javier Solana, representing directly the member states. The split of the EU mandate between the European Commission and the Council has not played out well in the SCG case. At times the two institutional agents have been perceived as speaking with two different voices and this has damaged the consistency of the EU policy line on the state union question.

Solana's mediation in the constitutional impasse between the two republics in 2002 was a solo act of the EU but an act fully supported by the rest of the international community. It was the EU incentive structure including the ultimate reward of EU membership that affected the strategies of the decision-makers on both sides. No alternative incentive mechanisms were offered by other external actors which facilitated Solana's task and made his intervention an entirely EU affair.

The United States in particular, the other major external actor with enormous leverage in the region on political and security questions, abstained from direct participation in the settlement of the Serbia-Montenegro constitutional dilemma. In view of the confirmed EU membership perspective to all the countries from the region, the US administration considered it appropriate to leave the matter for the EU to sort out.<sup>220</sup> With growing security commitments elsewhere in the world, the US was only relieved to see the EU taking a more active approach in the Balkans. The US wanted Solana to succeed in his initiative and keenly approved this European foreign policy initiative.<sup>221</sup>

Above all, it was the consensus among the EU member states which empowered Solana to use the levers of power assigned to him as High Representative for the CFSP and to compel the

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<sup>220</sup> Author's interview at the State Department.

<sup>221</sup> Ibid.

two sides to stick to a common state constitutional formula. Widespread agreement that the EU interest in the stability of the Balkans was at stake backed Solana's active search for a political deal. Subsequently, all EU efforts were oriented towards preventing further state disintegration and fragmentation of the region into micro-states. Not only did the EU fear recurrence of violence and further conflict but it also had a structural problem of institutionally integrating many smaller entities from a region to which it has promised membership. The technical details of the settlement did not matter that much as long as the geopolitical objective of keeping the common state together was fulfilled.<sup>222</sup>

The technicalities, however, matter a great deal to the European Commission since it is the EU institution that has to assess the capacity of the State Union to conclude a SAA and to take up the obligations under a contractual relationship with the EU. As a manager of the SAP, the Commission is interested in having a credible partner at the State Union level sufficiently empowered for efficient decision-making concerning the EU accession process. Because the Commission is driven by a different set of objectives, its view on the workability and even desirability of the thin common state structure does not necessarily coincide with that of Solana. Officially, the Commission supports the EU line set by Solana and appears committed to making the State Union function. Privately, the Commission admits that in the absence of political will in Serbia and Montenegro to strengthen the common state level of governance, the two republics would go faster if they separated.<sup>223</sup>

Indeed, the EU member states have set the EU foreign policy line in Serbia and Montenegro and the European Commission is in no position to reverse the EU policy orientation. The Commission, however, finds itself in a difficult position to combine its technocratic responsibility to measure objectively the compliance of potential candidates with general pre-SAA requirements and its strategic role in the conduct of EU foreign policy with its own levers of power in the SAP process, although as a junior partner of Solana. On the one hand, it has to deliver on Solana's promise for faster European integration of the State Union and, on the other hand, it has to deal on a daily basis with what it sees as a weak and non-functional common state which is incapable of integrating in the EU structures in its present shape.

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<sup>222</sup> For detailed discussion of the EU's objections against an (early) independence referendum in Montenegro see International Crisis Group, "Montenegro: Settling for Independence?" ICG Balkans Report N 107, 28 March 2001, available from [www.crisisgroup.org](http://www.crisisgroup.org).

<sup>223</sup> Author's interviews with European Commission officials.

The differences between the two EU agents surfaced most clearly on the issue of economic harmonization between the two republics. The EU High Representative for the CFSP whose intervention on behalf of the EU member states achieved the initial constitutional settlement and the principle commitment of the two republics to create “a single economic space” did not apply explicit conditionality with regard to the degree of economic harmonization between the two constituent republics of the State Union. Solana did not put pressure on the Serbian and Montenegrin leaderships to agree on a more economically integrated system with greater responsibilities for economic management at the state union level neither at the time of the negotiations of the Belgrade Agreement nor later during its implementation.<sup>224</sup> The awkward economic relationship between the two republics with two separate currencies and central banks, two distinct regulatory regimes and different administrative structures in charge of policy enforcement did pose a major challenge to the functioning of the common state as a single economic space.

Solana’s insufficient insistence on a higher degree of economic integration of the two separate economies of the two republics left the European Commission with the uneasy task to remedy the shortcomings of the Belgrade Agreement and to demand economic harmonization on its own without possessing an explicit political mandate for that. Indeed, trade liberalization with SAA countries forms the core of a contractual relationship with the EU and it is the European Commission which is solely in charge of EU trade relations with third countries. The Commission, therefore, has been very keen on asserting its own power by applying strict conditionality on both Montenegro and Serbia to unify their customs tariffs and agree on a common trade policy regime.

The Commission, however, is not a fully fledged foreign policy actor and its bureaucracy cannot achieve what the High Representative for the CFSP can. While Solana’s team kept repeating that it is between the Commission and SCG to work out the economic details of the deal,<sup>225</sup> domestic actors in both republics were quick to spot the hesitation and inconsistency in the EU approach (see chapter 7).<sup>226</sup> Solana’s unwillingness to intervene more decisively in the settlement process and his reluctance to rectify this by a more pro-active approach at the

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<sup>224</sup> Author’s interviews with Council and Commission officials.

<sup>225</sup> Ibid.

<sup>226</sup> Author’s interviews with Serbian and Montenegrin officials.



implementation stage of the agreement have in essence undermined the credibility of the Commission's concrete single economic space conditionality.

A confirmation of this reality came from the External Relations Commissioner Chris Patten himself when in July 2004, having tried unsuccessfully for two years to bring about customs tariff harmonization in SCG, recommended a softening of the EU economic conditionality to his counterparts in the Council, the Foreign Minister of the Netherlands holding the rotating Presidency of the EU at the time and the High Representative for the CFSP, Javier Solana. Writing in mid-July 2004, Chris Patten recognized that it was impossible for the Commission to initiate SAA negotiations without a thorough rethink of the EU policy:

“...At the moment, the state union is not functioning well. This is not only about the harmonization of customs duties for 56 agricultural products. There is also the need to harmonize tariffs and taxes levied on an assortment of other products. We simply cannot conduct trade negotiations – which an SAA in a broader sense is - without prior agreement between the two republics on these matters. Despite discussions over the past two years on these issues, there has been no indication that an agreement between Belgrade and Podgorica is in the offing... Javier will have ample opportunity to learn that my teams and the delegation in Belgrade have been tirelessly working, doing everything in their power to resolve these problems, but we are simply not making any progress...”<sup>227</sup>

In essence, the Commission backtracked from its insistence on a single customs tariff and agreed to conduct separate trade negotiations with Belgrade and Podgorica under the umbrella of the common state. In October 2004 at the General Affairs and External Relations Council Meeting of the EU foreign affairs ministers, the member states officially endorsed the ‘twin track’ approach proposed by the Commission earlier:

“...The Council expressed its support for the twin-track approach, which would imply a single Stabilisation and Association Agreement with distinct negotiations with the Republics on trade, economic and possibly on other relevant sectoral policies. The Council reaffirmed its commitment to a strengthened State Union of Serbia and Montenegro based on the Constitutional Charter. The Council welcomed the Commission's intention to relaunch the feasibility report on a Stabilisation and Association Agreement...”<sup>228</sup>

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<sup>227</sup> Letter from European Commissioner for External Affairs Chris Patten to the chair of the EU Ministerial Council and Dutch Foreign Minister Bernard Bot and to the EU High Representative for Common Foreign and Security Policy Javier Solana sent in mid-July 2004. The text of the letter appeared in the public space first in the Montenegrin press and then in English language in the Balkan Crisis Report No. 516, September 17, 2004 of the Institute for War and Peace Reporting, [www.iwpr.net](http://www.iwpr.net). It was subsequently reprinted in the *CEPS Europa South-East Monitor* 58, September 2004, available from [www.ceps.be](http://www.ceps.be).

<sup>228</sup> See General Affairs and External Relations Council Meeting, Conclusions on the Western Balkans, Brussels, 11 October 2004.

Because of the perceived political character of the EU demands, the Commission had to back-pedal and carry on with two-track trade negotiations in order to avoid a complete blockage of EU-SCG relations. This change of policy on the EU side can be seen as acknowledgment by the EU itself that its intervention in the SCG constitutional matters was ill-executed, if not ill-conceived from the start. The EU did not coordinate well its actions in the Serbia – Montenegro political context notwithstanding the fact that it was the only external actor deploying its political weight to exert influence on the sovereignty dispute between the two republics. Prior to initiation of the ‘twin track’ approach, the EU tended to speak with two different voices on the State Union question during the critical implementation stage of the Belgrade Agreement – the voice of Solana concerned with the security interests of the EU member states and the voice of the European Commission preoccupied with the technical aspects of certifying compliance with pre-accession conditionality and ultimately progress towards EU membership. This division of the foreign policy portfolio in the SCG case had important implications for the way domestic actors perceived EU conditionality and responded to it (see chapter 7). Although a direct clash between the Commission DGs and the Council services did not occur, the differences between the two agents played out in the domestic politics of the State Union and did affect domestic actors’ compliance responses.

### **5.2.2 EU Economic Conditionality and the IFIs**

The IFIs stood on the sidelines in the case of customs tariff unification in Serbia and Montenegro. Both the IMF and the WB supported unofficially the state union idea the EU pushed for, including the economic harmonization component, although none of them took an official position on that. Representatives of both institutions privately argued that Montenegro might not be a self-sustainable economy, if it were to go independent but they were flexible about such a political outcome.<sup>229</sup> As a WB official put it, “we [the IFIs] are not in the business of substituting sovereign decisions.”<sup>230</sup> Accordingly, the harmonization of the customs tariffs and administrations between Serbia and Montenegro was not part of the IFI’s conditionality.

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<sup>229</sup> Author’s interviews at the WB and the IMF.

<sup>230</sup> Author’s interview with a WB official.

Likewise, IFI's assistance to Serbia and Montenegro would not have been withheld if the two republics failed to harmonize their economic systems.<sup>231</sup>

The EU acted alone on the customs tariff business and through one distinctive agent – the European Commission. Because the Commission has sole responsibility for the EU's common commercial policy, it feels particularly powerful in this domain. The IMF and the WB set the reform priorities in their area of specialization – macroeconomic policy and structural reform, respectively and the European Commission accepts their leadership in their specific fields. Trade policy, however, has been viewed by the Commission as its own specialty in the implicit division of labor between itself and the IFIs.

The IFIs did not obstruct the EU policy line on economic harmonization between the two republics although they did not actively support it either. Altogether, the international environment was conducive to the EU's efforts to entice compliance with its economic demands. No impeding external factors worked against the EU's policy vis-à-vis SCG.

## **5.3 THE POLITICS OF EU CONDITIONALITY IN BULGARIA**

### **5.3.1 Agents of EU Conditionality**

The European Commission has been the main EU actor executing conditionality in the pre-enlargement period, with the member states acting in agreement with the Commission and in support of the common values of democracy and rule of law. The Commission has often been in the driving seat of the enlargement process while the member states have repeatedly found themselves in the position of reacting to Commission's proposals and following its recommendations. Indeed, it is the member states who have taken all the big enlargement decisions but that has not required the empowering of a second agent, the High Representative for the CFSP, to act on behalf of the Council. Rather, the Commission has been the sole "face and voice" of EU conditionality and, on the whole, the institutional coherence of the EU in the pre-accession phase has been the norm rather than the exception.

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<sup>231</sup> Author's interviews at the WB and the IMF.

The role of the Commission in the EU enlargement policy has received ample attention in the scholarly literature<sup>232</sup> and rich empirical evidence exists by now confirming the importance of the Commission bureaucracy in shaping the pre-accession process and influencing the member states' enlargement decisions. Indeed, it was the Council that empowered the Commission to evaluate the preparedness of the candidates to become full members and to monitor their performance in the period before full membership. The Commission seized this opportunity and with its Agenda 2000 proposals tabled in 1997 took the central stage in the management of the pre-accession process putting its own mark on all major stages of the project.

What has also been demonstrated by scholars of EU enlargement is that while the power asymmetry between the EU and the candidates was to the disadvantage of the latter, the Commission would usually act as an ally of the candidates on grand issues affecting the enlargement momentum.<sup>233</sup> Thus it was the Commission who proposed the 'big bang' accession of ten new members at one go in its Strategy Paper of October 2002<sup>234</sup> which the member states accepted and put their signatures under at the Copenhagen European Summit in December 2002.<sup>235</sup> By using its intermediary position between the member states and candidates, the Commission was well placed to present arguments that would win the support of the member states in favor of the candidates as well as to demand specific actions from the candidates that would tilt the balance in their favor among the member states.

It is beyond the objectives of this chapter to seek explanations for the Commission's role in the enlargement process – whether entrepreneurial or strictly representative of the member states' interests. Whatever reasons might have driven the Commission's institutional behavior, its central position in running the EU membership conditionality machine is not contested. And although differences between the Commission and the member states might have occurred at times, the EU institutional coherence in conducting its conditionality policy has not been

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<sup>232</sup> See Milada Anna Vachudova. *Europe Undivided: Democracy, Leverage and Integration after Communism* (Oxford: Oxford University Press, 2005); Alec Stone Sweet, Neil Fligstein and Wayne Sandholtz, "The Institutionalization of European Space" in *The Institutionalization of Europe*, eds. Stone Sweet, Sandholtz and Fligstein (Oxford: Oxford University Press, 2001); Ulrich Sedelmeier and Helen Wallace, "Eastern Enlargement: Strategy or Second Thoughts?" in *Policy Making in the European Union*, eds. Wallace and Wallace (Oxford: Oxford University Press, 2000).

<sup>233</sup> See Milada Anna Vachudova, *Europe Undivided*, 118.

<sup>234</sup> See European Commission, "Towards the Enlarged Union: Strategy Paper and Report of the European Commission on the Progress Towards Accession by Each of the Candidate Countries," COM(2002) 700 final, 9.10.2002, available from [www.europa.eu.int](http://www.europa.eu.int).

<sup>235</sup> See Copenhagen European Council, Presidency Conclusions, 12 and 13 December 2002.

questioned. Rather, the EU has projected an image of a consistent actor driven by principles and rules, slow and cumbersome in producing decisions but purpose-oriented and mindful of the ultimate goal of full EU membership of the Central and Eastern European candidates.

### **5.3.2 The EU economic conditionality and the IFI's**

The general line of recommendation given by the European Commission to all Central and Eastern European candidate countries did not differ from the economic advice the governments were receiving from the IFIs. The Washington consensus enjoyed the full support of Brussels and the Commission conditionality was tightly aligned with it. The IMF and World Bank were also consulted on the content of the regular reports prior to their official publication. The conclusions, however, remained a strictly Commission business and were never a matter of discussion between Washington and Brussels.<sup>236</sup> The IFI's limited their comments to factual remarks given their deeper expertise on the candidate countries' economies.<sup>237</sup>

The EU's macro-financial assistance (MFA) is a good example of the Washington-Brussels alliance when it comes to the general thrust of advice given to transition economies. The EU's MFA is an important instrument for targeted influence on the economic policy of a third country and is offered only on an exceptional basis and when the need for it has been identified. In essence, it is 'money against reforms.'<sup>238</sup> A major precondition for the provision of such assistance is an agreement between the government of the country and the IMF on a macro-economic program. This is to say that the IMF conditionality is already built into the EU's macro-financial package. In view of the IMF's expertise in macro-economic policy, there is an implicit agreement between the international donors that the Fund take the lead in this area. The IMF's liberal approach to economic stabilization and growth is directly endorsed by the EU and even co-financed.

Besides, the European Commission, acting upon a mandate from the Council, negotiates with the authorities of the country an additional list of conditions in the area of structural reform.<sup>239</sup> These are tailored towards the perceived shortcomings of the recipient and range from public

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<sup>236</sup> Author's interviews at the IMF and the World Bank.

<sup>237</sup> Ibid.

<sup>238</sup> Author's interview with a European Commission official.

<sup>239</sup> Ibid.

finance reform and administration to banking sector reform and private sector development.<sup>240</sup> There is a big emphasis in this conditionality on privatization, liberalization and strengthening the institutional capacity of the regulatory bodies dealing with public and private finances. Indeed, the candidate countries received MFA from the EU mostly in the early days of transition of the 1990s and strict MFA conditionality was absent from the late stages of substantive accession preparations. There was nonetheless an implicit agreement between the EU that the IFIs and the EU's MFA conditions were consistent with conditionality attached to World Bank (WB) and IMF assistance. What is even more, those were discussed in an informal manner with representatives of the IFIs prior to their negotiation with the respective government.<sup>241</sup> Whenever there was an overlap between the EU's conditionality and IFI's conditionality, the message to the country tended to be coherent.<sup>242</sup>

The WB, in turn, added its own resources to the incentive of EU membership in order to stimulate structural reform in the transition economies. It anchored its own programs in the general EU framework providing additional inducements linked to specific reform conditions in various sectors. Thus, while helping the candidates reach 'EU standards,' the WB exercised its own leverage over the reform agenda of the countries. In principle, the WB conditionality complemented the EU conditionality. In practice, the WB's method of setting concrete and often quantifiable targets went down to a level of detail in the concrete policy areas which the EU could not have reached with its grand approach to accession conditionality.

The EU and the IFIs worked in coalition in Central and Eastern Europe and towards achieving a common objective – well functioning and competitive market economies. They complemented each other's actions and firmly supported each other's policies. In that sense, they provided a solid external anchor for the economic policies of the transition countries.

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<sup>240</sup> The specific MFA conditions are contained in a Memorandum of Understanding between the government of the country and the European Commission, a document which is confidential and not available in the public domain. It can be disclosed with the permission of the respective government.

<sup>241</sup> Author's interviews at the World Bank, the IMF and the European Commission.

<sup>242</sup> There are occasions when the international donors disagree on certain aspects of economic reform such as sequencing of reforms and speed of adjustment but there is general consensus on reform priorities and good informal communication between them to work out differences and present a consistent view. *Ibid.*

## 5.4 CONCLUSION

The politics of EU conditionality vis-à-vis the three countries are different. The difference stems from the nature of the EU intervention and its effects on the EU foreign policy behavior. The reasons for the specific EU conduct in the three cases have to do with the internal institutional structure of the EU and the division of labor between the various agents of EU foreign policy. These dissimilarities are not a function of variation in the international political climate in general. In fact, all external actors other than the EU have played a similar role in all three cases, acting as allies of the EU rather than competitors. In this sense, EU-specific internal factors can be held accountable for the differences in the politics of EU conditionality.

In the case of BiH, the EU policy has been part of the international coalition pursuing the same objective. The EU did not facilitate the conflict settlement process in BiH but the EU conditionality has intervened in a critical moment of the post-conflict transformation to help BiH's transition from a protectorate to an EU candidate. The multifaceted intervention of the EU in the sovereignty structures of BiH has required special coordination efforts of the EU institutional agents involved in the country. Paradoxically, regardless of the many other external actors in BiH, the EU has managed to speak with one voice and to deliver a consistent message compatible with the one of the rest of the international community. The High Representative in BiH, although having a broader political mandate from the international community, has acted on behalf of the EU and has assisted with reforms demanded by the EU. Even though not strictly seen as an EU actor, the HR has fully supported the European Commission conditionality and has actively pursued the reforms prescribed by Brussels.

The EU has acted alone in SCG but with the silent support of the other big international players. While in BiH the EU is only a passive framework organization demanding certain standards and expecting compliance rather than negotiation of its conditions, in SCG it is a fully-fledged foreign policy actor complementing its framework characteristics with direct mediation of the High Representative for the CFSP between the parties on a single sovereignty constitutional outcome. Yet, despite the fact that all international players converged on the point that the two republics should stay together and should harmonize their economies, the European Commission found itself alone in pushing for economic harmonization. The High Representative

for the CFSP abstained from putting his political weight behind the Commission's specific economic demands.

As a result of this institutional incoherence, the EU has appeared as speaking with two distinct voices – the voice of High Representative for the CFSP and the voice of the European Commission. Regardless of being the sole external player, the EU has tended to deliver an inconsistent message which has hampered the effectiveness of its conditionality policy. Not surprisingly, domestic actors in SCG have been reluctant to accept the Commission's economic harmonization conditionality, viewing the Commission's politically charged demands as going beyond its technocratic mandate. Solana's silence on the implementation of the economic aspects of the Belgrade Agreement has signaled to the outside actors and observers an internal disaccord within the EU on this matter.

In the case of Bulgaria, the EU conditions have been EU accession-specific and focused on achieving higher democratic and economic standards. The other external actors have been pleased with witnessing the transformation taking place in the country in a democratizing direction and have actively supported the reforms in the economic domain. They have not differed from the EU on the substance of the reforms and have encouraged the leaders of the country to vigorously pursue improvement of domestic policies and practices in all domains singled out by the European Commission as problematic. This has lent further credibility to EU demands. Most importantly, the EU has communicated its demands through a single agent – the European Commission – which has minimized the possibilities for inconsistent external action.

In conclusion, the chapter has shown that the consistency of the EU's foreign policy conduct varies across the cases and this has an influence on the propensity of political leaders in the three countries to comply. The credibility of EU conditionality is closely linked to the coherence in explaining the demands and the firmness in insisting on particular results. As we will see in chapter 7, domestic actors have been sensitive to the messages coming from Brussels and have interpreted every hesitation in the EU stance as a possibility for renegotiation of the conditions, if not as a chance for non-compliance altogether.

The chapter has also demonstrated empirically that the broader international environment has provided additional incentives for domestic actors to comply with EU conditionality in all cases. There has been no major clash between the EU and any other international actor on the direction



of expected domestic changes in the three countries. In this sense, the non-EU milieu has been contributing to achieving EU-compliant outcomes in all aspiring Balkan candidates.

## 6.0 THE RECORD OF BALKAN COMPLIANCE WITH EU CONDITIONALITY

The objective of this chapter is to examine the extent to which countries have complied with EU conditions while having in mind the four hypotheses developed in the preceding three chapters. In particular, chapters 3, 4 and 5 have maintained that 1) the likelihood for compliance is lower in the semi-sovereign cases whose domestic costs of adaptation are higher as a result of the EU's intrusion in their statehood structures; 2) the rate of compliance is affected by politics at domestic and EU levels and the space for political bargaining is smaller in the semi-sovereign countries due to the highly specific conditions set by the EU; 3) compliance can be expected to be higher when the EU speaks with a single voice and/or coordinates well the execution of its policy among its institutional agents; and 4) compliance is boosted by the support rendered to the EU conditionality by other international actors.

Having specified the factors that influence compliance, this chapter takes the analysis a step further by looking at the degree of domestic transformation the countries from the comparative set have already undertaken in a Europeanizing direction. What is important here is the EU's evaluation of a country's compliance record in accordance with its own assessment methods and mechanisms for measuring compliance. What changes have the countries introduced in their domestic structures and policies in response to the EU conditionality and have those been considered sufficient by the EU so that it can certify their progress and admit them to the next milestone of the pre-accession process?

The three countries forming the comparative set are faced with different conditions and it is difficult to rank them in terms of how compliant they are. The conditions themselves have varied in terms of their intrusiveness in the domestic structures of the three cases and in this sense have put to different tests the willingness of the political leaders to initiate profound institutional and policy transformations for the sake of achieving EU membership. And although it may appear that some of the countries have done more to satisfy the EU demands to date, it is important to keep in mind that the EU formulated the Copenhagen accession criteria for the Central and Eastern European countries in 1993 whereas it presented the Western Balkan potential candidates with concrete pre-accession demands only after 2000. The compliance calendar of Bulgaria, therefore, is different from that of BiH and SCG. Examining the compliance record the

three countries have attained by the end of 2005, attention is due to the fact that in the case of Bulgaria it is a record achieved over a period of more than a decade while in the cases of BiH and SCG it is compliance produced in about half that time.

What is critical for the comparison here is that all countries from the comparative set have made the initial choice to start complying with EU demands and none has opted for open defiance. The question is whether over time there is a clear tendency towards more compliance or less compliance. From the point of view of the EU, it is not sufficient to adopt new legislation and set up new institutions to earn a positive mark from Brussels. Increasingly, the rate of implementation of the newly adopted legislative acts and the efficiency of the newly set institutional structures serve as measures indicating the degree of commitment of the political elites to the vision of governance encoded in the EU conditionality. The implementation of reforms in line with promises made to the EU is equally important in certifying progress. Not only are the leaders of a country required to take concrete steps in bringing their domestic policies in compliance with EU demands but they also have to convince the EU in the credibility and irreversibility of the reform process. Thus more implementation over time signals more compliance and vice-versa. In general, the closer the incentive of membership, the more the reasons to make a final push and complete reforms already started in order to obtain the rewards promised.

When measuring compliance, it is also imperative to take into consideration the dynamic nature of EU conditionality. As chapters 3 and 4 have shown, the EU may loosen or tighten its conditions vis-à-vis an accession candidate to reflect the changing geo-strategic context of its regional foreign policy. It may demand additional reforms as the case of BiH indicates or drop certain demands as the case of SCG demonstrates. The EU conditionality is a moving target and a country's compliance record with it has to be examined in a time perspective to capture the changes in the EU stance as well.

Moreover, political factors may interfere in the EU's decision to certify compliance of a country at a specific point in time even when it has only partially complied, as chapter 5 suggests. Hence, the EU's position on a country's compliance record will be taken as a major indicator of compliance. If a candidate or a potential candidate passes a milestone on the pre-accession road, it signals acknowledgement on the EU side of the efforts made and acceptance of

the results achieved, no matter how those compare with the progress of other accession candidates.

For the reasons stated above, it is not adequate to try to measure objectively whether and how much variation there is on the dependent variable. Beyond stating what has been changed in response to EU conditionality and specifying the factors that might have affected compliance in each particular case, it is immaterial to make inferences about the degree of compliance with EU demands. What is more relevant for the comparison here is to determine whether the candidates have sustained their compliance responses over time or whether they have backtracked on reform commitments and avoided costly implementation. This would lay the ground for exploring the motives behind such actions in chapter 7 and for analyzing the extent to which they are genuinely complying or just simulating compliance.

## **6.1 BIH'S COMPLIANCE WITH EU CONDITIONALITY**

### **6.1.1 BiH's Compliance Record with the EU Political Conditionality**

The BiH initial response to the political reform priorities set out by the EU has been incoherent and mixed. On the one hand, verbal commitment to the objective of membership has repeatedly been expressed and all domestic political actors, both in government and opposition, have formally adhered to the European project. On the other hand, domestic political consensus on the reform agenda of the country has been missing. The authorities in RS have systematically opposed initiatives to pass legislation that strengthens the competences of the central government and have viewed every attempt to rationalize the governance structure of the country as an attack on the very existence of RS as an autonomous entity. The authorities in the Federation have been more receptive to ideas about state consolidation although they could very well hide behind the RS obstructionism which they are sure would manifest itself on every reform initiative with state-building implications.

The European Commission has viewed BiH's response to the reform priorities identified by the EU as "slow and low-key."<sup>243</sup> It has regularly pointed to delays due to political resistance on the part of the RS authorities and to performance below expectations. It has recognized progress when such has been made but the general tone of the Commission reports has been critical of the lack of sufficient achievements.<sup>244</sup> The criticism has maintained a degree of pressure on the BiH authorities and has signaled that non-compliance will not be rewarded.

The impasse in the inter-entity relations has often been broken by the HR who, in the absence of domestic agreement, has employed his "Bonn Powers" to impose important legislation as well as dismiss uncooperative government officials. The specific role of the HR in the BiH institutional setting is important for understanding BiH compliance with the Commission 2000 Roadmap political conditionality. Thus key pieces of legislation required by the Commission such as the Law on the Council of Ministers, the Law on the Civil Service in the Institutions of BiH, the Law on the Prosecutor's Office, the Law on the High Judicial Council, the Law on the State Court, the Decision on Restructuring the Public Broadcasting System have been enforced by decree from the external authorities present in the country.

Some of these impositions have been "strategic" when domestic consensus on the substantive terms of the proposed reforms has been either reached or carefully engineered behind the scene by the HR but political actors have rejected to vote in favor of the legislation in parliament in order to avoid being seen as too accommodating by their domestic constituencies.<sup>245</sup> This type of behavior has particularly been characteristic for RS politicians who have consistently fought over the years for a strong entity within a superfluous state of BiH and who have built their political image on such a strategy rather than on a reform platform.

In practice, a great deal of the 2000 Roadmap political reforms have happened as a result of HR interventions. Although all externally imposed pieces of legislation have been confirmed by the State and/or Entity Parliaments, formally BiH has been coerced into compliance with the EU Roadmap conditionality. At the same time, a great deal of the European Commission's reporting on BiH has focused on the lack of self-sustaining governing structures in the country. On the one hand, the EU has been concerned about the slow pace of reform and has supported the HR's

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<sup>243</sup> See European Commission, "Report from the Commission to the Council on the preparedness of Bosnia and Herzegovina to negotiate a Stabilization and Association Agreement with the European Union" (Feasibility Study) COM(2003) 692 final, 18.11.2003, 17.

<sup>244</sup> See European Commission, 2001, 2002 and 2003 SAP Reports on BiH.

<sup>245</sup> Author's interviews at the OHR.

interventions and even encouraged his involvement in the domestic politics of BiH in order to accelerate the reform rhythm. On the other hand, the EU has been insisting on self-governance (domestic sovereignty) as a basic condition for BiH's eligibility for EU membership. This ambivalence has caused apprehension within the BiH senior leadership who has struggled to understand whether the country can proceed on the SAP road with the "Bonn Powers" of the HR.<sup>246</sup> The EU has indicated to the BiH leaders that its expectation for the Feasibility Study conditionality is compliance without the use of the "Bonn Powers."<sup>247</sup> No official changes of the HR's mandate have been envisaged until that moment and it is not up to the EU to decide on that unilaterally. The HR's mandate is a UN matter.

Subsequently, there have been some signs of a gradual shift from HR-driven compliance to domestic-driven compliance. In December 2003, the BiH authorities adopted an action plan for addressing the 16 reform priorities identified by the Feasibility Study assigning responsibilities and deadlines to BiH institutions. In February 2004, the BiH Parliament passed a declaration in support of the reform agenda outlined in the Action Plan. Five months after publishing its Feasibility Study, the European Commission found mixed progress on the reform priorities in BiH in its March 2004 regular SAP report. Some important advances have been acknowledged. In April 2004, for instance, the Council of Ministers of BiH unanimously adopted the public procurement legislation demanded by the European Commission in its Feasibility Study conditionality.<sup>248</sup> An agreement was reached in February 2004 on the establishment of a single High Judicial and Prosecutorial Council at state level. This step is significant given the fact that it involved a transfer of authority from the Entities to the State. The Commission, however, did not miss the occasion to reproach the RS authorities for the reservations and delays with which reform in this area has been carried out.<sup>249</sup> The Commission did not shy away from expressing its overall concerns:

"First, hope for a new and clear reform dynamic has not been clearly confirmed, indeed political obstruction to reform is still frequent. Secondly, BiH "ownership" of reform remains limited; in most advances, international initiative, input and pressure was key."<sup>250</sup>

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<sup>246</sup> Author's interview with a BiH state official.

<sup>247</sup> Author's interview with a Commission official.

<sup>248</sup> See European Commission's Delegation to BiH, "European Commission welcomes CoM adoption of the Public Procurement legislation," 22 April 2004, available at [www.delbih.cec.eu.int](http://www.delbih.cec.eu.int).

<sup>249</sup> See European Commission, 2004 SAP Report on BiH, 6.

<sup>250</sup> *Ibid.*, 8-9.

The message to the BiH leadership coming from the Commission has been simple: “Reform on your own!” Not only has the Commission been anxious about moving the reform agenda forward but it has also been interested in seeing BiH taking over responsibility for that. It has also made clear that non-compliance means no progress in the SAP process. In July 2004, The Council of Ministers of BiH published a report with its own assessment of the country’s progress in fulfilling the 16 additional conditions from the Feasibility Study. The Prime Minister Terzic emphasized in the report the adoption of 40 laws by the BiH Parliament between January and July 2004 from the government’s own program of implementation activities without the participation of external actors in the law-making and law adoption process.<sup>251</sup> In March 2005, the Council of Ministers published a second report laying out the results accomplished by BiH in each of the 16 reform areas and spelled out in details the measures undertaken and planned.<sup>252</sup> These documents were designed to stress BiH’s own efforts to comply with the Feasibility Study conditionality and to demonstrate the local capacity and political determination to do what it takes to move a step closer to EU membership.

### *Police Reform*

The last stumbling bloc before a decision to open SAA negotiations proved police reform in BiH. In July 2004, the High Representative decreed the setting up of another commission – the Police Restructuring Commission – to develop a strategy for the reform of the police sector in the country.<sup>253</sup> It was chaired by a foreign diplomat – Wilfried Martens – and consisted of politicians and professionals from both entities.<sup>254</sup> By the end of 2004, the Commission reached consensus

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<sup>251</sup> See Council of Ministers of BiH, Directorate of European Integration, “Report on the progress made in sixteen priority areas from the European Commission Report to the Council of Ministers of the European Union on the feasibility of negotiations between Bosnia and Herzegovina and the European Union on a Stabilization and Association Agreement,” 22 July 2004, available from [www.dei.ba/en](http://www.dei.ba/en).

<sup>252</sup> See Council of Ministers of BiH, Directorate of European Integration, “Report on the progress made in sixteen priority areas from the European Commission Report to the Council of Ministers of the European Union on the feasibility of negotiations between Bosnia and Herzegovina and the European Union on a Stabilization and Association Agreement and in six short-term priority areas from the European Partnership,” 10-11 March 2005, available from [www.dei.ba/en](http://www.dei.ba/en).

<sup>253</sup> See Office of the High Representative, “Decision on Establishing the Police Restructuring Commission,” 5 July 2005, available from [www.ohr.int](http://www.ohr.int).

<sup>254</sup> The Commission consisted of 12 members among whom the Minister of Security of BiH, the Minister of Interior of the Federation of Bosnia and Herzegovina, the Minister of Interior of the Republika Srpska, etc. and 7 associate members among whom the Chief Prosecutor of Bosnia and Herzegovina, the Director of the State Investigation and Protection Agency of Bosnia and Herzegovina; the Director of the State Border Service of Bosnia and Herzegovina, the Director of the Federation Administration of Police; the Director of Police of the Republika Srpska, etc. For a

on a far-reaching plan for police restructuring and put forward its recommendations on the institutional make-up of a single police structure at state level with exclusive competency for all police matters, including legislative and budgetary functions.<sup>255</sup> The substantive police reform strategy worked out by the Police Restructuring Commission was then turned over to the entity and state parliaments for political endorsement and this is where it stumbled over the political resistance of the RS National Assembly.

In April 2005, the leaders of 11 parliamentary represented political parties reached an agreement on police restructuring at Vlasic, a development which all international actors hailed as a major breakthrough at the time.<sup>256</sup> The agreement backed the transfer of the police competence from entity and cantonal levels to the national level through the creation of a single police structure at the state level; unified budget and financial control and a single Director of Police with two deputies from the entities to keep the structure free of political interference.<sup>257</sup> The ratification of the Vlasic agreement by the two entity parliaments was the final test before the European Commission's green light for SAA talks which was expected before the European Council in June 2005. In May 2005, however, the parliament in Banja Luka rejected the police reform package triggering a chain of negative reactions from external actors<sup>258</sup> and refusal of the European Commission to certify BiH as SAA-compliant. External pressure on RS leadership to endorse police reform has been mounting for months.<sup>259</sup> Notwithstanding the promise made to BiH for immediate launch of SAA negotiations following the 'right' decision, the RS political establishment and the ruling nationalist Serb Democratic Party (SDS) in particular opposed the

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full list of Commission members, see art. 2 of the HR's Decision on Establishing the Police Restructuring Commission.

<sup>255</sup> See Final Report on the Work of the Police Restructuring Commission of Bosnia and Herzegovina, December 2004, available from [www.ohr.int](http://www.ohr.int).

<sup>256</sup> See Council of the EU, "Javier Solana, EU High Representative for the CFSP, welcomes the breakthrough on police restructuring in Bosnia and Herzegovina," S0172/05, 29 April 2005, available from [www.europa.eu.int](http://www.europa.eu.int).

<sup>257</sup> See "First Phase of BiH Police Reform Talks Results in Key Agreement," *Southeast European Times*, 29 April 2005, available from

[http://www.setimes.com/cocoon/setimes/xhtml/en\\_GB/features/setimes/features/2005/04/29/feature-01](http://www.setimes.com/cocoon/setimes/xhtml/en_GB/features/setimes/features/2005/04/29/feature-01).

<sup>258</sup> See OHR Statement, "Negotiations on Police Restructuring Break Down," 17 May 2005, available from [www.ohr.int](http://www.ohr.int); "BiH Constitution will have to be Changed," interview with Javier Solana, EU High Representative for the CFSP by Sead Numanovic, *Dnevni Avaz*, 16 May 2005, available at [www.ohr.int](http://www.ohr.int).

<sup>259</sup> See OHR, Speech of the High Representative Paddy Ashdown to the RS National Assembly "High Representative Calls for Agreement on Police Reform to Enter Europe," 21 April 2005, available from [www.ohr.int](http://www.ohr.int).



unified police force.<sup>260</sup> The HR again refused to use his coercive powers to impose the changes himself as it was clear that the EU would not accept such a solution.<sup>261</sup>

A second deadline was given to the RS legislators to pronounce their verdict on the police reform agreement by mid September 2005 with the EU signaling in advance that SAA talks could be initiated shortly after a positive vote.<sup>262</sup> The RS National Assembly voted down the proposal for a second time on 14 September 2004 quoting its disapproval of the idea of having police districts crossing the borders of the entities and blurring the demarcation between ethnically defined territorial units in BiH.<sup>263</sup> The European Commission's reaction at the encounter of the Bosnian Serb blatant obstructionism and refusal to comply was clear-cut too and expressed by the Enlargement Commissioner Olli Rehn as follows:

"I am disappointed that the National Assembly of Republika Srpska rejected the latest proposal for police reform which is in line with the required EU principles. I regret that this opportunity to reach agreement on this crucial issue has been missed. It is now clear that BiH will not be able to start negotiations on a Stabilisation and Association Agreement with the European Union this year. I regret that the chance to celebrate ten years of peace by opening a new phase of European future has now been lost."<sup>264</sup>

This was confirmed by the EU member states at the highest political level when on 3 October 2005, the EU foreign affairs ministers decided to launch accession negotiations with Croatia and Turkey and to open SAA talks with Serbia and Montenegro while refusing to start the SAA negotiation process with BiH in the absence of a domestic agreement on police reform.<sup>265</sup> In the Council Conclusions of 3 October, the member states left the door open for SAA talks with BiH later in 2005 but clearly emphasized that "a prerequisite for this was agreement on police reform that respected the three EU principles."<sup>266</sup> Two days after BiH was singled out as the only country in the Balkan region falling behind its Balkan neighbors and not being able to set in motion the process leading to a contractual relationship with the EU (an SAA), the RS Parliament endorsed the police reform proposal in compliance with the EU principles thus

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<sup>260</sup> See Mirna Skrbic, "Bosnia: Don't Touch My Cops," *Transition Online*, 23 May 2005, available from [www.tol.cz](http://www.tol.cz).

<sup>261</sup> See Dragan Stanimirovic, "Republika Srpska: A Police Hold-Up," *Transition Online*, 16 June 2005, available from [www.tol.cz](http://www.tol.cz).

<sup>262</sup> See Anes Alic, "BiH Risks Missing another SAA Deadline," *Southeast European Times*, 19 September 2005.

<sup>263</sup> See European Commission, "Bosnia and Herzegovina Falls Short of Conditions for New Negotiations," *Enlargement Newsletter*, 21 September 2005.

<sup>264</sup> *Ibid.*

<sup>265</sup> See General Affairs Council Conclusions, Luxembourg, 3 October 2005.

<sup>266</sup> *Ibid.*

clearing the cloud above BiH's European future. Nothing else worked to convince Bosnian Serb politicians to change the behavior but the exclusion from the group of countries advancing toward EU membership. Neither the threats of the High Representative nor the concerted diplomatic pressure exercised by various external actors had the desired effect on the RS leadership. The shift in Bosnian Serb position was all the more spectacular considering the long-time resistance to submit to the EU demands. And while positive inducements and promises for future rewards did not produce change, the sanctioning mechanism of exclusion did result in alteration of the position of the parliamentary represented political parties in RS.<sup>267</sup>

### *Cooperation with ICTY*

But the most sensitive priority area has undoubtedly been cooperation with the Hague Tribunal. Here the HR did make recourse to his Bonn powers and in an unprecedented move removed from office 59 politicians and government officials from Republika Srpska in June 2004 following the NATO Istanbul Summit and BiH's failure to secure its admittance to NATO's Partnership for Peace on account of not complying with the ICTY conditionality.<sup>268</sup> His decision was swiftly congratulated and strongly supported by the EU two foreign policy voices - the EU High Representative for the CFSP Javier Solana and the External Relations Commissioner Chris Patten. In separate communiqués, Solana and Patten singled out the RS leadership as responsible for holding BiH back from integrating further in the Euro-Atlantic structures and reiterated that the road to Brussels goes via The Hague.<sup>269</sup> While the HR could sack obstructionist politicians, he could not transfer indicted war criminals to The Hague himself. For that the cooperation of the authorities in RS is crucial. The first transfer of a war crime indictee by the RS authorities took place in January 2005 indicating an important shift in the attitudes of RS leadership toward

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<sup>267</sup> The police reform package was adopted 55 votes in favour, 5 against and 15 abstentions. See RFE / RL Newline, 6 October 2005, available from [www.rferl.org](http://www.rferl.org).

<sup>268</sup> See Office of the High Representative, "High Representative Announces Measures against ICTY Obstructionists," and "List of removed and conditionally removed officials by the High Representative," Press Release, 30 June 2004, available from [www.ohr.int](http://www.ohr.int).

<sup>269</sup> See European Commission, "Chris Patten supports Lord Ashdown on measures to promote compliance with ICTY in BiH," 29 June 2004, statement available from [www.europa.eu.int](http://www.europa.eu.int). See also Council of the EU, "Javier Solana, EU High Representative for the CFSP, supports the measures taken by Paddy Ashdown in BiH," 30 June 2004, statement available from [www.consilium.eu.int](http://www.consilium.eu.int).

The Hague Tribunal.<sup>270</sup> In March 2005, two more transfers of indicted war criminals were carried out by the RS authorities.<sup>271</sup> The RS decision to put behind the years of obstinate obstructionism has certainly been influenced by the firmness of both NATO and the EU in upholding the ICTY cooperation conditionality and refusal to admit BiH to PfP and SAP, respectively. In addition, in March 2005, the EU decided to postpone opening of accession negotiations with Croatia on grounds of insufficient cooperation with The Hague. The decision sent a strong signal to everyone in the region, including the RS leadership that the EU meant business when it demanded full cooperation with the ICTY.

### **6.1.2 BiH's Compliance Record with the EU Economic Conditionality**

Similar to reforms in the political domain, external actors have been involved in helping BiH fulfill the EU economic conditions. Technical expertise and financial assistance from the IFIs have been employed in this process. The occasional interventions of the HR have been part of it as well. The biggest breakthrough, however, came in the most sensitive area and with the consent of the local politicians.

#### *Reform of the Indirect Taxation System*

The reform of the indirect taxation system in BiH carried out in response to the EU explicit conditionality in this area is an illustration of the gradual shift towards domestically driven compliance. The High Representative chose not to legislate directly but only decreed the mandate of the Indirect Taxation Policy Commission (ITPC). A weak imposition as it is, it put in place a process of domestic consultation and deliberation under international supervision intended to produce a mutually acceptable indirect tax reform plan. The ITPC consisted of two representatives of each entity, two representatives of the State and was chaired by Jolly Dixon, a retired European Commission official. By the end of July, the ITPC had produced a draft Law on the Indirect Taxation System in Bosnia and Herzegovina. The Council of Ministers officially

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<sup>270</sup> See Office of the High Representative, "Statement by the HR for BiH, Lord Ashdown, with regard to the transfer by the authorities of RS of ICTY indictee Savo Todovic," Press Release, 18 January 2005, available from [www.ohr.int](http://www.ohr.int).

<sup>271</sup> See Office of the High Representative, "Statement: HR welcomes Stanasic transfer to The Hague," Press Release, 11 March 2005, available from [www.ohr.int](http://www.ohr.int); and Office of the High Representative, "HR's Statement on Jankovic's transfer," Press Release, 14 March 2005, available from [www.ohr.int](http://www.ohr.int).

approved the Law in October 2003 and the State Parliament endorsed in December 2003, invoking an article from the Dayton Constitution (art III.5.A) never used before and which allows additional transfer of power to the State with the consent of the entities.

Despite the very sensitive nature of the decision to reform the indirect taxation system in BiH, an agreement on it was reached after intensive deliberations between the three finance ministers and three tax experts representing respectively the two entities and the state level under the skilful chairmanship of Jolly Dixon. Economic arguments dominated the discussion in the ITPC and whenever political tensions surfaced, the chairman made sure that the conversation quickly returned to economic matters.<sup>272</sup> Thus the language of economics served to avoid political stalemate and to defuse the effect of political interventions. The starting position of the chairman that “taxes belonged to taxpayers, not to entities” gave the rationale for what was agreed at the end.<sup>273</sup>

There was also an informal understanding from the very beginning that unless all members agreed on it, the ITPC would not propose a reform plan.<sup>274</sup> The emphasis, therefore, was on building consensus among a group of local experts who had the necessary political weight in the domestic establishment to make an eventual agreement credible and enforceable. Argumentation and persuasion rather than coercion played the decisive role in reaching the compromise on the reform package.

The Law on the Indirect Taxation System that emerged as a result of the work of the ITPC is concerned predominantly with the institutional arrangements regarding policy-making in the area of indirect taxation. It is not a law on the economic aspects of tax policy. It is a framework law which puts in place the decision-making mechanisms that will produce the substantive elements of taxation policy in BiH in the future. It is an attempt to make a highly decentralized system function without excessive centralization of policy-making power. Yet, it goes far enough to do away with the inefficiencies of the old system by merging the fiscal sovereignty of the entities into one Indirect Taxation Authority.

The Authority is neither a state institution nor a feeble coordination mechanism between entity institutions. It is, instead, an independent body which operates state-wide and is in charge of implementation of legislation on indirect taxation and policy and of collection and distribution

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<sup>272</sup> Author’s interview with Jolly Dixon.

<sup>273</sup> Ibid.

<sup>274</sup> Ibid.

of indirect taxes throughout the territory of the country.<sup>275</sup> The structure of the Authority is organized on economic/functional principles rather than on territorial/ethnic principles and in view of offering good services to all BiH taxpayers regardless of their ethnic background.<sup>276</sup> The Director of the Authority is a genuinely independent organ who is appointed by the Council of Ministers but can only be dismissed on grounds of breaches of authority or proven incompetence and not on political grounds.<sup>277</sup>

The Law provides also for a common forum for discussing the substance of the policy and initiating legislation and amendments on indirect taxation. While previously there existed no coordination of indirect tax policy, now it is the Governing Board of the Authority, comprising the finance ministers of the Federation, RS and the State and three other appointees by the two governments of both entities and by the Council of Ministers of BiH respectively, which sets a common policy to be implemented state-wide.<sup>278</sup> A mechanism for consulting the entity Parliaments and the Brcko District Assembly in the process of drafting new legislation is also envisaged whereas the Council of Ministers and the State Parliament have the ultimate power to enact such legislation.<sup>279</sup>

The other novelty of the Law is the creation of a single account and agreed distribution system of the indirect tax revenue.<sup>280</sup> The common collection of taxes completely averts the previous dynamic of rivalry between the tax authorities of the two entities and creates an incentive for them to add more to the common pot instead of competing with the other by offering better tax conditions. This principle of administration will also apply to the single state-wide VAT which is foreseen to become operational a year later from the entry into force of the indirect taxation law.<sup>281</sup>

The institutional solution found by the Indirect Taxation Commission is both innovative and ambitious in its objective of putting in place a sufficiently integrated tax system which nevertheless provides the two entities with substantive input into the making of the common policy. In this sense, it is a compromise that both satisfies the European Commission's requirement of single customs administration and state-level VAT and assures the two entities of

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<sup>275</sup> See art. 4 of the Law on the Indirect Taxation System in Bosnia and Herzegovina.

<sup>276</sup> See art. 6 of the Law on the Indirect Taxation System in Bosnia and Herzegovina.

<sup>277</sup> See art. 7, 8, 9, 10 and 11 of the Law on the Indirect Taxation System in Bosnia and Herzegovina.

<sup>278</sup> See art. 14, 15, 16 and 17 of the Law on the Indirect Taxation System in Bosnia and Herzegovina.

<sup>279</sup> See art. 20 of the Law on the Indirect Taxation System in Bosnia and Herzegovina.

<sup>280</sup> See art. 21 of the Law on the Indirect Taxation System in Bosnia and Herzegovina.

<sup>281</sup> See art. 25 of the Law on the Indirect Taxation System in Bosnia and Herzegovina.

their share of indirect tax revenue. It is undeniably a step towards more central authority in the management of public finances in the country and the political shift in the position of the entities in order to arrive at such an outcome is noteworthy.

More interestingly, not only did BiH signed on paper these far-reaching tax reforms but it actually took concrete steps to implement them. This did not happen without international involvement and external guidance. The HR used his extraordinary powers to appoint Jolly Dixon as the first Chairman of the Governing Board of the Indirect Taxation System in January 2004 for an initial period of one year<sup>282</sup> which was later extended for an additional one year period.<sup>283</sup> Under Jolly Dixon's skilful chairmanship, by mid-2004 the entity customs administrations were merged and placed under the single authority of the new state-level indirect taxation institution. At the same time, legal and technical preparations were made to allow for the collection of sales and excise taxes into one 'single account' and their subsequent distribution to state and entity treasuries according to an agreed formula. In December 2004 new state-level sales tax and excise tax laws were adopted and their implementation since 1 January 2005 annulled the respective entity laws.<sup>284</sup> By mid-2005, the ground work for the introduction of the state-level VAT had been completed and since 1 July 2005 the Indirect Taxation Authority started to register VAT taxpayers in its four regional centers in Banja Luka, Mostar, Sarajevo and Tuzla.<sup>285</sup> The VAT law was passed in January 2005 and is modeled on the EU's Sixth VAT directive.<sup>286</sup> The introduction of VAT is officially planned for January 2006.

Progress in the other reform areas flashed out in the Feasibility Study such as reform of the statistics sector, revision of budget legislation and improvement of budget practice has been on-going although partial according to the Commission evaluation in 2004 SAP report. The overall Commission conclusion in March 2004 was that "[t]he recommendations of the 2003 SAP Report in the economic area have been broadly satisfied."<sup>287</sup>

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<sup>282</sup> See Office of the High Representative, "HR's Decision on the appointment of the first Chairman of the Governing Board of the Indirect Taxation System," 14 January 2004, available from [www.ohr.int](http://www.ohr.int).

<sup>283</sup> See Office of the High Representative, "HR's Decision Extending the mandate of a first Chairman of the Governing Board of the Indirect Taxation System," 14 January 2005, available from [www.ohr.int](http://www.ohr.int).

<sup>284</sup> See International Monetary Fund, "Bosnia and Herzegovina: Selected Economic Issues," IMF Country Report No 05/198, June 2005, available from [www.imf.org](http://www.imf.org).

<sup>285</sup> See European Commission's Delegation to Bosnia and Herzegovina, "VAT Registration Starts Today," 29 June 2005, available from [www.delbih.cec.eu.int](http://www.delbih.cec.eu.int).

<sup>286</sup> See IMF, "Bosnia and Herzegovina: Selected Economic Issues."

<sup>287</sup> See European Commission, 2004 SAP Report on BiH, 10.

Assessing the overall compliance record of BiH with the EU political and economic demands, there is a tendency toward more compliance over time. While the immediate post-Dayton years are characteristic of self-imposed isolation and deliberate refusal of RS to engage with the international community, the period after the EU extended the promise of membership to BiH is marked with intensification of contacts and exchanges between RS leaders, on the one hand, and international representatives and EU officials, on the other hand. Compliance responses of BiH authorities also intensified over time. Compliance with the EU Roadmap demands took approximately three years - between 2000 and 2003 – and many of the reforms were initiated and imposed by the HR. Compliance with the 2003 Feasibility Study list of conditions took approximately two years – between 2004 and 2005 - and progressively the decisions have been taken by the BiH officeholders themselves, with the HR standing in the sidelines, explaining, convincing, pressuring and even threatening sanctions against obstructionist politicians but not imposing.

## **6.2 SCG'S COMPLIANCE WITH EU CONDITIONALITY**

### **6.2.1 SCG's Compliance Record with the EU political conditionality**

As explained in chapter 3, the most important political condition Serbia and Montenegro had to respond to as a pre-requisite for embarking on the EU integration path was their continued existence as one state with a single international legal sovereignty although with a redefined internal balance of power. The two republics signed reluctantly the EU-sponsored constitutional formula in February 2003 agreeing to preserve a very thin common state between them but keeping the most substantive state competences at republican level. The Belgrade Agreement did not resolve the constitutional dispute between Serbia and Montenegro but transformed it into a day-to-day negotiation of the terms of the relationship between the two republics.

The arrangement has appeared fragile and temporary since the day it was signed, as if awaiting a final judgment. In Montenegro, the ruling leadership openly favors independence and attaches considerable importance to the possibility of a future referendum on the status of the republic planned for early 2006. The option of separation is not without support within Serbia

too, since it is assumed that an independent Serbia would be able to reform at a faster pace, without the cumbersome procedures of common institutions.<sup>288</sup> The Montenegrin population is largely over-represented in the State Union, yet the Montenegrin side appears unsure whether it can trust Serbia's declared intention to regard Montenegro as an equal partner. The balance of power between the two republics is the subject of constant internal strife, which is the most characteristic feature of the State Union. Against this background, conflicts between the two republics on concrete issues related to the daily functioning of their common structures are commonplace.

While the two republics complied with the EU condition to put in place a common state, two years after the establishment of the State Union in February 2003 there is little evidence that the two sides are genuinely committed to making the arrangement work. The uncertainty about the future of the State Union has undoubtedly affected the players' willingness to build common institutions and proceed jointly with reforms in key areas. Montenegro has been reluctant to give support to any further centralization of authority at the State Union level, even in policy areas where it could potentially benefit from a more concerted joint effort. While the Montenegrin side has insisted on policy coordination in the areas affected by the State Union's joint EU bid, the Serbian side has been more sympathetic to centralized decision-making, for purposes of efficiency. From the Serbian point of view, the level of administrative capacity is an important EU pre-accession condition, and the slow, cumbersome institutional apparatus of the State Union will not meet the standards required by the European Commission. Strong state institutions such as courts, police and public bureaucracy are the decisive features of a smoothly functioning state, and without them, runs the Serbian argument, a country cannot proceed quickly along the path to EU integration.<sup>289</sup>

The absence of a common vision of what constitutes a viable State Union has put a big question-mark on the longevity of the Serbian and Montenegrin constitutional arrangement. While most of the common institutions have been established, the Court of Serbia and Montenegro, mandated by the Constitutional Charter, "still has no functional premises in

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<sup>288</sup> Author's interviews with representatives of the G17 political party.

<sup>289</sup> Author's interviews with Serbian government officials and independent analysts conducted in Belgrade and Brussels during the course of 2003-2004.



Podgorica and there is little evidence of its activities.”<sup>290</sup> The Court has been given important responsibilities for arbitrating disputes between the two republics and for ensuring that the republics’ constitutions and legislation comply with the Constitutional Charter of the State Union. Yet Podgorica, where the Court is to have its official seat, has taken a ‘wait and see’ approach and has postponed making it operational.

Similarly, the Constitutional Charter mandates the direct election of parliamentarians from both republics to the State Union Parliament after the first two years of functioning of the State Union, i.e. in March 2005. By that time Serbia had adopted the necessary legislation at republican level to prepare the direct vote but Montenegro had failed to do so. The Montenegrin government has insisted that a direct election be delayed and held only after the referendum on independence in Montenegro in early 2006, if the citizens decide to retain the common state structure altogether.<sup>291</sup> An agreement on the amendment of the Constitutional Charter was reached in April 2005 whereby direct election to the State Union Parliament will be held separately in the two republics and together with elections for the parliaments at republican level. In practice, this decision has postponed the election of deputies to the State Union Parliament to October 2006, a move that was immediately welcomed by the pro-independence circles in Podgorica as a “great success.”<sup>292</sup>

From a Serbian perspective, it is the absence of political will on the Montenegrin side – and even the lack of commitment to pursuing European integration as a top priority – that is the fundamental problem for the State Union.<sup>293</sup> Meanwhile, as Montenegro sees it, it cannot be expected to act against its own interests by ceding further decision-making authority, even for the sake of speeding up the process of joining the EU.<sup>294</sup> Given the inter-republic political dynamic, the slow pace of putting in place the commitments undertaken in the Belgrade Agreement is not surprising.

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<sup>290</sup> See Council of Europe, “Serbia and Montenegro: Compliance with Obligations and Commitments and Implementation of the Post-accession Cooperation Program,” Sixth Report (September – November 2004), 16 December 2004, available from [www.coe.int](http://www.coe.int).

<sup>291</sup> See Aida Ramusovic, “Montenegro: Setting Its Own Standards,” *Transitions Online*, 12 May 2005, available from [www.tol.cz](http://www.tol.cz).

<sup>292</sup> *Ibid.*

<sup>293</sup> Author’s interviews with Serbian government officials and independent analysts conducted in Belgrade and Brussels during the course of 2003-2004.

<sup>294</sup> Author’s interviews with Montenegrin government officials and independent analysts conducted in Podgorica and Brussels during the course of 2003-2004.

Both the EU member states and the European Commission have been aware of the absence of cooperation between the two sides at the State Union level and their reluctance to seek compromise and proceed with constitutional reforms and institution-building. Deadlines agreed between the two republics for essential legislative and policy changes have often been missed, including the pledge to adjust the republican constitutions within six months from the entry into force of the Constitutional Charter. Those failures have systematically been pointed to in the monthly statements of the EU Foreign Affairs Ministers after discussions and exchanges in the General Affairs Council.<sup>295</sup> Similarly, the European Commission has criticized in the SAP Reports inadequate actions in all policy areas on the part of both republican governments and noted incomplete fulfillment of obligations undertaken previously.<sup>296</sup> The negative assessment has also extended to SCG's failure to fully co-operate with the International Criminal Tribunal for the former Yugoslavia (ICTY).

The EU conditionality did succeed in (temporarily) suppressing Montenegro's quest for independence and in inducing the two sides to redefine their constitutional relationship as one state. Progress on implementation, however, has been deemed insufficient by the Commission to issue a positive Feasibility Study and a recommendation for opening negotiations for a SAA. Because SCG was not considered fully compliant with the EU common state conditionality, the Feasibility Report was put on hold by the Commission in spring 2004 "in order to give to the authorities more time to address the remaining key issues, including in particular political conditionality, constitutional issues and the Action Plan."<sup>297</sup>

Between October 2004 and April 2005, Serbia did step up efforts too meet EU expectations concerning ICTY cooperation. A dozen of indicted war criminals were transferred to The Hague and ICTY's access to documentation kept by the Serbian public administration improved as well. In the words of the Chief Prosecutor of ICTY, Carla del Ponte, there has been "a great change in the attitude of the government of Serbia" with regard to cooperation with the Hague Tribunal.<sup>298</sup> Regardless of the fact that the most wanted indictees Radovan Karadjic and Ratko Mladic were still at large in autumn 2005, the transformed approach towards the issue of the Serbian Prime Minister Kostunica, one of the most vocal critics of ICTY as an institution, was widely

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<sup>295</sup> See monthly statements of the EU General Affairs Council, Conclusions on the Western Balkans.

<sup>296</sup> See European Commission, SAP Reports on Serbia and Montenegro, 2003 and 2004.

<sup>297</sup> European Commission, "2004 SAP Report on Serbia and Montenegro," COM(2004) 206 final, 1.

<sup>298</sup> See Interview with Carla Del Ponte for B92, "Justice, Reconciliation and Politics," available from [www.b92.net](http://www.b92.net), 7 October 2005.

recognized by that time. Subsequently, the Chief Prosecutor certified the Belgrade authorities as fully cooperating with The Hague before the EU Foreign Affairs Ministers which cleared the way for the EU's Council decision of 3 October 2005 to start SAA talks with SCG.

### **6.2.2 SCG's Compliance Record with the EU Economic Conditionality**

The Belgrade Agreement is very sketchy on the economic aspects of the relationship between the two republics. Beyond a general commitment to a common market and economic harmonization with the EU system, the agreement does not provide sufficient detail on how economic policy within the single economic space is to be conducted:

“The member states shall be responsible for unhindered operation of a common market, including the free flow of people, goods, services and capital.

Harmonization of the economic systems of the member states with the EU economic system shall overcome the existing differences, primarily in the spheres of trade and customs policies.”<sup>299</sup>

Talks between the two governments on economic harmonization started shortly after the signing of the Belgrade Agreement. The first comprehensive plan for putting in place the legislative framework for the four fundamental freedoms of the internal market – free movement of goods, capital, services and people – was agreed in July 2002. With this economic plan, Serbia and Montenegro committed themselves in principle to recreate the common economic space and to agree in the future about all technical questions arising from this intention. In reality, it proved more difficult than expected to compromise on the specific details.

The real Internal Market and Trade Action Plan was only signed a year later, in July 2003 and adopted by the State Union Parliament on 29 August 2003.<sup>300</sup> It constitutes a more systematic effort to identify the legislative differences and gaps in the two republics with regard to the four freedoms and to plan specific measures for the removal of obstacles to free circulation of goods, services, people and capital. The document has 20 annexes with agreements on customs tariffs and customs administration, product standardization and veterinary-sanitary and phyto-sanitary control, payment and collection of sale taxes and excise duties, bank cooperation

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<sup>299</sup> See Belgrade Agreement, reprinted in *CEPS Europa South-East Monitor* 32 (March 2002), available from [www.ceps.be](http://www.ceps.be).

<sup>300</sup> The text of the Economic Action Plan is reprinted in the *CEPS Europa South-East Monitor* 36 (July 2002), available from [www.ceps.be](http://www.ceps.be).

and representation in international financial institutions. Agreement in many sensitive areas, however, was postponed for the near future with a clear commitment to reach a compromise by a certain date.

Harmonizing the customs tariffs in all product categories, however, proved the most sensitive part of the negotiations. The European Commission made it clear that when the time for SAA negotiations came, Serbia and Montenegro had to present a common stance and negotiate a timetable for trade liberalization with the EU from the position of a single external tariff. The European Commission did not recommend to Serbia and Montenegro the adoption of the EU common external tariff<sup>301</sup> but left it to the two republics to develop a common trade policy.

The difficulties came from the divergent trade policies the two republics have been pursuing prior to the state union inception. With modest local production capacity, Montenegro had a very liberal customs tariff policy with an average tariff rate of 2.99 % lower even than the EU average external tariff of 4.38 %.<sup>302</sup> The Serbian economy, with a sizable industrial base and agricultural sector largely non-restructured,<sup>303</sup> followed a policy of protection of local producers which manifested itself in an average tariff rate of 11.03 %.<sup>304</sup> Given the starting positions, finding the middle ground was problematic, especially because the divergence gave good arguments to pro-independence circles on both sides.

Negotiations between Belgrade and Podgorica dragged on for a year. The Montenegrin government maintained that if it raised tariffs to the Serbian level, consumer prices in Montenegro would rise dramatically and the cost to Montenegrin consumers would be too high.<sup>305</sup> The Serbian government argued that if it lowered tariffs to Montenegrin levels, many industries in Serbia would be destroyed, as Serbian producers would be forced to compete with

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<sup>301</sup> During SAA negotiations, the European Commission represents the Member States and their commercial interests. Imposing the EU common external tariff on Serbia and Montenegro in an earlier stage was deemed inappropriate by the Commission which felt it would be sitting on the two sides of the negotiating table during the actual trade liberalization talks. Such an approach might have also gone against the trade interests of some Member States which might have prevented them from getting a better deal on certain products through the EU during the negotiations.

<sup>302</sup> See Daniel Gros, D. Kernohan, V. Najman and P. Wozniak, "On the Cost of Re-establishing Yugoslavia: First Estimates on the Economic Impact on Montenegro of Establishing a Customs Union with Serbia," *Southeast European and Black Sea Studies* 4, no. 1 (2004): 119-139.

<sup>303</sup> In 1999, the share of industry in Yugoslav GDP was 38.2% whereas the share of agriculture in GDP was 25.1%. No reliable statistical data exists for Serbian and Montenegrin economies separately. The share of Serbian economy in the joint economy of Serbia and Montenegro is estimated at 93%, EBRD Transition Report, 2002.

<sup>304</sup> Gros et al., "On the Cost of Re-establishing Yugoslavia: First Estimates on the Economic Impact on Montenegro of Establishing a Customs Union with Serbia."

<sup>305</sup> Ibid.

cheap imports which they were not ready for. While voiced from both sides argued that the two economies were incompatible and impossible to harmonise, the European Commission dismissed the claims and emphasized that the EU single market had proven beneficial to national economies of different sizes and specializations. Although the economic incompatibility argument could not fly in Brussels, it made the State Union many enemies in both republics.

At the end, an agreement was possible only when a time component was introduced meaning that a common customs tariff for the most sensitive products would only become applicable in 18 or 24 months from the entry into force of the Action Plan.<sup>306</sup> In addition, Montenegro managed to preserve its low tariffs for 56 agricultural products considered strategic by it for a minimum quantity of imports.<sup>307</sup> The tariff rates for the quantities exceeding the quotas could not be reconciled at that time and the two sides pledged to present a plan for that by mid-October 2003. An agreement on the issue is still pending.

By the summer of 2003, 90.3 % of the tariff lines between the two republics have been harmonized on paper and the timetables for their implementation have been agreed.<sup>308</sup> Yet, the most sizeable tariff items in terms of trade volumes (agriculture in particular) have not been synchronized. Moreover, two distinct systems of levies continued to be in place which on the whole diminished the effect of customs harmonization.<sup>309</sup> There is no mention in the Action Plan of the levies problem and no commitment by the governments to harmonize those additional import surcharges. However, until such differences in the trade regimes of the two republics exist, the internal customs line between them will remain in place with comprehensive checks for the origin of products crossing the internal border thus effectively obstructing the free movement of goods. Faced with this reality, the Commission could not but conclude in its 2004 SAP report that “there [was] no harmonized trade regime yet” and reiterate its demand that all tariffs and levies “need to be harmonized at state level.”<sup>310</sup>

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<sup>306</sup> Annex 14 of the Action Plan contains the list of harmonized tariff rates for products which would become applicable 18 months from the effective date of the Action Plan. Annex 15 of the Action Plan contains the list of harmonized tariff rates for products which would become applicable 24 months from the effective date of the Action Plan.

<sup>307</sup> Once the quota has been exhausted, the common tariffs would apply. The list of the 56 agricultural products and the reconciled tariffs for them are contained in annex 16 of the Action Plan.

<sup>308</sup> See 2004 SAP Report, p. 31.

<sup>309</sup> Levies cannot be imposed on traded volumes with the EU economy thanks to a standstill clause in the Preferential Trade Arrangements, or with the countries with which Serbia and Montenegro had signed free trade agreements.

<sup>310</sup> See European Commission, 2004 SAP Report on Serbia and Montenegro, 32.

While a single economic space presupposes more than just a common external trade regime, the customs tariff and levy harmonization has been the major focus of contention not only between the two republics but between the Commission and the State Union. The Commission could not simply turn a blind eye, declare partial completion of the pre-SAA requirements and proceed with the issuance of a Feasibility Study. The trade story became a make-or-break issue of the whole State Union. Failure to agree fully on trade harmonization meant either a halt in SCG's progress towards integration in the EU or a decision by the EU to loosen its conditionality on the issue.

With regard to taxation, the two parties agreed to maintain separate VAT administrations and VAT rates but to establish a functioning clearance system to avoid double taxation and fraud. Similar arrangements were made for the excise tax systems. Besides, the two customs administrations committed themselves to data exchange and information sharing by signing an agreement on customs cooperation and mutual assistance. The European Commission did not insist on centralizing the system but stressed the importance of coordination and functionality.<sup>311</sup> In fact, the EU internal market functions along similar lines with Member States having separate customs administrations and different VAT rates but a very advanced clearance mechanism, something clearly lacking in the SCG case.

Concerning the free flow of payments within SCG, the two currencies, the dinar and the euro, remain the sole legal tender in each republic respectively but an agreement was reached between the two central banks on a shared payment system that eases the transactions between economic agents from the two republics.<sup>312</sup> Provided that the system is implemented, it will provide for free movement of capital within the whole State Union. Until then, the cash method of payment across the common border which has been preferred by many local businessmen would continue to be the rule rather than the exception in inter-republic trade.<sup>313</sup>

As far as the free movement of services, the two republics have achieved a level of liberalization of service provision between their respective economies by opening up their markets separately to foreign service-providers in general. This approach, however, does not avoid the problem of double licensing for foreign companies which, from the point of view of

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<sup>311</sup> Author's interview at the European Commission.

<sup>312</sup> See European Commission, 2004 SAP Report on Serbia and Montenegro, 36.

<sup>313</sup> See "Where Have All the Euros Gone? Serbia and Montenegro have failed to put in place financial instruments linking their two currencies and the price is steep," *Financial Times*, 29 June 2004, 13.

the Commission, is a clear indication for the existence of barriers within the single market.<sup>314</sup> In fact, the Montenegrin authorities have often cited the Belgrade Agreement to argue that all they have signed up to is economic harmonization with the EU which would as a secondary effect result in harmonization between the two republics. Podgorica has insisted on aligning the respective economic legislations of the republics with the EU law separately rather than achieving legal approximation with the EU through common acts of legislation with Belgrade. Keeping maximum autonomy in the economic domain and pushing for a very narrow interpretation of the Belgrade Agreement text has been the Montenegrin government response to the Commission's single economic space conditionality.

Regardless of the occasional breakthroughs and partial advancement in certain areas, the Commission's overall conclusion of SCG's compliance with its economic conditionality in its 2004 SAP report was negative rather than positive:

“...Serbia and Montenegro has not yet made sufficient progress towards a single market and a single external trade policy. The existence of two sets of economic legislation, trade policy instruments and customs territories, for the time being, remains a fundamental impediment to the free movement of goods, capital, services and (to a lesser extent) persons within Serbia and Montenegro...”<sup>315</sup>

Facing protracted negotiations on economic harmonization between the two republics and clear indications from the two sides that a deal was not in the making, in October 2004, the EU decided to loosen its requirements in the economic field by offering to negotiate the economic chapters of the SAA separately with the two republics while preserving the common umbrella of a single agreement with the State Union.<sup>316</sup> The initiation of the so called “twin-track” approach allowed the Commission to re-launch the Feasibility Study process without certifying compliance of the two republics. In essence, political factors prompted the EU to change course itself rather than further insisting on full compliance. In the words of the then External Relations Commission Chris Patten, the fear of a reform backlash in Serbia and Montenegro justified the EU decision:

"I am glad that we are finally in a position to move on with Serbia and Montenegro, after long delays due to internal disputes in that country. We have offered a “twin track” approach for parts of the Stabilisation and

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<sup>314</sup> See European Commission, 2004 SAP Report on Serbia and Montenegro, 34.

<sup>315</sup> *Ibid.*, 30.

<sup>316</sup> See General Affairs & External Relations Council (GAERC), Conclusions on the Western Balkans, 11 October 2004, available from [www.europa.eu.int](http://www.europa.eu.int).

Association Agreement, because we do not want to see Serbia and Montenegro fall behind its neighbours. We will need to see a constructive attitude and strong commitment to reforms from all political leaders as well as rapid action on all outstanding issues, in particular full co-operation with ICTY, which remains a fundamental prerequisite for deeper relations with the EU".<sup>317</sup>

In essence, the change of EU policy at the highest political level transformed SCG's compliance record from negative to positive over night. By softening its own demands, the EU accepted a lower degree of compliance from SCG and re-launched the Feasibility Study process without awaiting full compliance. The European Commission gave its green light to SAA negotiations by releasing the Feasibility Study on 12 April 2005.<sup>318</sup> It concluded that "Serbia and Montenegro [was] sufficiently prepared to negotiate an SAA" and thereby recommended to the Council to open negotiations.<sup>319</sup> The Feasibility Study also signaled that from that moment onwards Serbia and Montenegro would be assessed more on the quality of their democratic structures and economic achievements and less on their progress in putting in place a common state.

SCG's has only partially complied with the EU economic conditionality. While the two republics made a bold step in agreeing on the Internal Market and Trade Action Plan which was the major economic requirement of the Commission for releasing a Feasibility Study, they implemented only in part their commitments. As a result, the Commission put on hold the Feasibility Study and in effect blocked the formal procedure for the State Union's entering into a contractual relationship with the EU through signing a SAA. This deceleration of the process was in effect application of the conditionality principle by way of which underperformance was not rewarded. When the approach failed to produce the domestic change sought, the EU backtracked and indirectly acknowledged defeat by accepting two separate trade regimes instead of one.

On the whole, Serbia and Montenegro complied on paper with the EU common state conditionality but failed to implement the commitments they undertook when they signed the

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<sup>317</sup> See European Commission, "Commissioner Patten announces launch of Feasibility Report on Serbia and Montenegro," IP/04/1202, 11 October 2004, available from [www.europa.eu.int](http://www.europa.eu.int).

<sup>318</sup> See European Commission, "Report on the preparedness of Serbia and Montenegro to negotiate a Stabilisation and Association Agreement with the EU," SEC (2005) 478 final, 12 April 2005.

<sup>319</sup> See European Commission, "Communication from the Commission on the preparedness of Serbia and Montenegro to negotiate a Stabilisation and Association Agreement with the EU," COM(2005) 476 final, 12 April 2005.



Solana-brokered Belgrade Agreement.<sup>320</sup> Over time, one can see less compliance with the EU's sovereignty-linked demands and attempts by domestic actors to talk themselves out of the obligation to comply altogether while keeping the EU accession option open. In the meantime, the EU conditionality policy evolved toward a more lenient stance on the level of economic harmonization and institutional integration of the two republics as a result of which the compliance record of the state union appeared positive. Meanwhile, political and economic transformation proceeded in both republics, although separately from one another. Transition issues came to dominate the domestic agendas and the state union bickering received less political energy and media attention. With the EU decision to launch SAA talks on 10 October 2005 under a double-track negotiating mandate, the infeasibility of the EU's earlier demands was officially confirmed and SCG's resistance to comply with them was no longer an issue.

### **6.3 BULGARIA'S COMPLIANCE WITH EU CONDITIONALITY**

#### **6.3.1 Bulgaria's Compliance Record with the EU political conditionality**

Bulgaria's efforts to fulfill the Copenhagen political criteria have to be seen in the overall context of democratization and democracy consolidation which became the dominant paradigm in all transition countries from Central and Eastern Europe. Following the overthrow of the totalitarian regime in Bulgaria on 10 November 1989, the goal of democracy came on top of the public agenda supported by an increasingly vibrant civil society. The EU political conditionality, actively applied after 1997, met the support of the general public which was equally interested in efficiency, transparency and accountability in public life. 'Europe' as whole meant rules and good governance which domestic politicians were not inclined to adopt and follow – quite the opposite. EU pressure on the political establishment was welcome by the majority of Bulgarian citizens whose disenchantment with politics in general had a lot to do with the misdeeds of the political class in the early transition years when the old system had just collapsed while the new one was still in the making. The EU's insistence on specific reforms in the most criticized sectors and policy areas of the Bulgarian political system – 1) judiciary system; 2) public administration;

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<sup>320</sup> Solana's key role in setting up the State Union earned the new state entity the popular name "Solania."

3) corruption; and 4) treatment of the Roma minority – enjoyed high legitimacy in the Bulgarian society and no politician could afford to question the appropriateness of EU demands.

### *Reform of the Judiciary*

The weak capacity of the Bulgarian judicial system has been subject to criticism since the 1997 European Commission Opinion. The Commission recognized early in the pre-accession process that a strong and capable judiciary is key to guaranteeing the rule of law and the implementation of the *acquis* in the long run. It became increasingly more demanding on Bulgaria to introduce reforms in the judicial system without directly prescribing measures but systematically pointing to:<sup>321</sup>

- the insufficient funding for the judicial institutions;
- the inefficient court administration, including cumbersome procedures for caseload management;
- the unsatisfactory selection, recruitment and promotion procedures for judges;
- the insufficient training of judges;
- the inadequate framework for access to justice and legal aid;
- the corruption and low public confidence in the judiciary.

More importantly, the Commission increasingly saw a problem in the structure of the Bulgarian judiciary. In particular, the Commission found that the place of criminal investigators as members of the Bulgarian judiciary did not correspond to the European practice of conducting criminal investigation by the police.<sup>322</sup> The Commission therefore requested that the investigators be removed from the judiciary. Furthermore, the Commission considered the wide immunity from prosecution of all members of the Bulgarian judiciary (judges, prosecutors and investigators) as inadequate and not in line with European standards.<sup>323</sup> The key problems stemmed from the excessive independence which the Constitution of 1991 accorded to the Bulgarian judiciary and which magistrates quickly learned to abuse provoking suspicions about

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<sup>321</sup> See European Commission, Regular Reports on Bulgaria's progress toward accession, 1998, 1999, 2000, 2001, 2002, 2003.

<sup>322</sup> See Regular Report from the Commission on Bulgaria's Progress Towards Accession, 2001, 17.

<sup>323</sup> See Regular Reports from the Commission on Bulgaria's Progress Towards Accession, 2001, 2002.

corruption in its ranks and selective application of the law.<sup>324</sup> The identified deficiencies in the structure of the judiciary and the capacity of the judicial system to ensure the rule of law and the enforcement of the *acquis communautaire* became one of the main obstacles for Bulgaria's accession to the EU.

The Bulgarian government responded with various initiatives to the Commission criticism of the justice system. In October 2001, it adopted a Strategy on the Reform of the Bulgarian Judicial System in which it outlined the short-, medium- and long-term reform priorities in each of the problematic areas touched by the Commission's evaluation.<sup>325</sup> The document effectively acknowledged the Commission's assessment of the state of the Bulgarian judiciary and, in fact, justifies the necessity for a comprehensive reform in this domain with the future membership of Bulgaria in the EU.<sup>326</sup> All the legislative amendments and institutional changes that were subsequently initiated by the Bulgarian side are a direct result of the EU pre-accession political conditionality.

In July 2002, the Bulgarian Parliament approved a set of amendments to the Judicial System Act which marked the first serious attempt to jumpstart the process of thorough reform of the judiciary. The amendments provided for improvement of the regulatory framework in the following areas: court management, initial appointment and subsequent promotion of judges, training and training infrastructure, performance evaluation, the relations between the Supreme Judicial Council and the Ministry of Justice, judicial ethics and discipline, anti-corruption measures.<sup>327</sup> While addressing a wide spectrum of problems, the amendments did leave important issues to be regulated by secondary legislation at a later stage.<sup>328</sup>

The implementation of the amendments, however, did not prove unproblematic. In December 2002, the Constitutional Court of Bulgaria declared 44 provisions of the revised Judicial System Act as unconstitutional in response to a motion initiated by the Supreme Court of Cassation.<sup>329</sup> The Constitutional Court subsequently annulled them with its decision. In particular, the Court

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<sup>324</sup> See B. Schoenfelder, "Judicial Independence in Bulgaria: A tale of Splendour and Misery," *Europe-Asia Studies* 57, no. 1 (2005): 61-92.

<sup>325</sup> Strategy on the Reform of the Reform of the Bulgarian Judicial System, Council of Ministers Decision N 672 of 1 October 2001, available at <http://www.mjeli.government.bg/strategy.aspx>.

<sup>326</sup> *Ibid.*, see introduction of the strategy paper.

<sup>327</sup> Open Society Institute, "Judicial Capacity in Bulgaria: Monitoring the EU Accession Process," 2002, available from [www.eumap.org/reports/2002/judicial/international/sections/bulgaria/2002\\_j\\_bulgaria.pdf](http://www.eumap.org/reports/2002/judicial/international/sections/bulgaria/2002_j_bulgaria.pdf).

<sup>328</sup> *Ibid.*, 56-57.

<sup>329</sup> See Constitutional Court of Republic of Bulgaria, "Decision 13/2002," (16 December 2002), available from [www.legislationonline.org](http://www.legislationonline.org).

found that some of the amendments increased the power of the executive at the expense of the powers of the judiciary in violation of the Constitution, notably the principle of separation of powers postulated in article 8 of the Constitution.<sup>330</sup> In essence, the Court ruled that only by amending the Constitution can there be modifications to the distribution of power between the Supreme Judicial Council, representing the judiciary (including judges, prosecutors and investigators) and the Minister of Justice representing the executive branch of power.

In addition, in a second decision of 10 April 2003 given upon the request of the Prosecutor General, the Constitutional Court made a distinction between constitutional amendments that could be made with a two-third majority by an ordinary Parliament and other more profound amendments that require the election of a Grand National Assembly. The Court ruled that the transfer of the investigation from the judiciary to the police constituted “a change of the state structure or form of government” (art. 158 of the Constitution) and could only be legislated by a Grand National Assembly for which special elections had to be held.<sup>331</sup> As regards amendments concerning immunity, irremovability and the mandate of the judges, the Court decided that those could be addressed by an ordinary National Assembly.<sup>332</sup>

Willingness on the part of the Bulgarian executive and legislature to introduce the changes demanded by the Commission did not lack. Political consensus in principle on the question of reform of the judiciary existed since the judicial system was widely seen as corrupt and inefficient in the combat of crime. Grasping the importance of demonstrating progress in the area of judicial reform for Bulgaria’s accession process and realizing the central role of the legislature in regulating the relationship between the judiciary and the executive, the political parties represented in the Parliament adopted a common declaration on 2 April 2003 in which they announced their consensus on the main objectives of the judicial reform and the methods to achieve them, including consent on the necessary amendments of the Constitution in the course of the reform.<sup>333</sup>

Political declarations, however, were not enough to restrain the unaccountable and autonomous judiciary which itself turned out the main enemy to radical reform. Following

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<sup>330</sup> Ibid.

<sup>331</sup> Council of Europe, “Memorandum: Reform of the Judicial System in Bulgaria, Conclusions adopted by the Venice Commission at its 55<sup>th</sup> Plenary Session,” Opinion N 246/2003, 20 June 2003.

<sup>332</sup> Ibid., 3.

<sup>333</sup> See Parliament of Republic of Bulgaria, “Declaration on the Main Guidelines for a Reform of the Bulgarian Judiciary,” 2 April 2003.

political consultations among the parliamentary represented political parties, the Parliament amended the Constitution with a unanimous vote on 24 September 2003 limiting the magistrates' immunity and tightening the criteria for acquiring a permanent status in the judicial system.<sup>334</sup> The European Commission praised the amendments in its 2003 Regular Report issued in October that year and acknowledged other measures taken during the year to strengthen the institutional capacity of the judicial administration through more training for the magistrates, a substantial increase of the salaries of the magistrates (18-20%), gradually improving court infrastructure, etc.<sup>335</sup>

As regards the place of the investigation, there were divergent views in Bulgaria as to what in particular the EU is asking from the Bulgarian side. Since there is no EU *acquis* in this area and no universal model in the EU member states themselves,<sup>336</sup> it has been difficult for the Commission to prescribe in direct terms what structural changes should be made in order to arrive at an efficient system. As a result, the Commission's starting point has always been to point to the level of crime in the country and the incapacity of the police and the judiciary to contain the rampant criminality in order to argue that there are structural deficiencies in the system and it should therefore be reformed.<sup>337</sup> Hence, what has been framed in the form of recommendation by the Commission in effect meant a real prescription to move the investigation to the police. The major problems were not seen at the level of judgments but rather in the pre-trial phase where procedures were complicated and non-transparent, information got lost and the system as a whole was conducive to corruption.<sup>338</sup>

The absence of a favorable political climate in Bulgaria for calling a Grand National Assembly reinforced the arguments in favor of keeping the status quo and improving the performance of the judiciary through capacity-enhancing measures rather than comprehensive structural changes. In concrete terms, the Bulgarian side proposed that adaptations be made to the existing institutional structures by strengthening the pre-trial role of the police for most widespread and ordinary crime while keeping the investigation of most serious crime as part of

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<sup>334</sup> See Constitution of Republic of Bulgaria.

<sup>335</sup> See Regular Report from the Commission on Bulgaria's Progress Towards Accession, 2003, 18-19.

<sup>336</sup> See Centre for the Study of Democracy, "The Court the Prosecution and the Investigation in the EU Member States and Candidate Countries," (in Bulgarian) Sofia: Centre for the Study of Democracy, 2005.

<sup>337</sup> Author's interview at the European Commission.

<sup>338</sup> Ibid.

the judiciary.<sup>339</sup> Subsequently, amendments to the Penal Procedure Code were put forward by the executive which envisaged the transfer of the responsibility for 95 percent of criminal investigations to the pre-investigative service of the police whereas only 5 percent of the most complicated from a juridical standpoint criminal investigations – espionage, treason, crime against humanity and peace, murders and bribery – were to remain a prerogative of the judiciary.<sup>340</sup> The proposed amendments were once again challenged by the judiciary itself whose senior representatives, assuming a political role, questioned the appropriateness of the decisions in public media and accused the political branches of power of bypassing the Constitution and using loopholes in the legislation to reverse the logic of the basic law in order to please Brussels.<sup>341</sup> Having a vested interest in the system, the magistrates themselves showed the most resistance to introducing structural changes, defending their institutional turf with all legal and political means at their disposal.

The executive branch, in turn, tended to emphasize the prescriptive character of EU demands in order to argue that Bulgaria had no choice but to comply with the EU political criteria if it wanted to accede to the EU in 2007. When in summer 2005, the prospect of delaying Bulgaria's accession with one year for failure to reform the judiciary became real, even the magistrates became receptive to ideas about structural changes in the judicial system. On 1 September 2005, the Constitutional Court ruled that an ordinary Parliament can introduce changes to the status of the prosecution and the investigation thus reversing its previous ruling requiring a Grand National Assembly for such constitutional amendments.<sup>342</sup> This cleared the way for the adoption of the new Penal Procedure Code without concerns that the amendments would then be challenged before the Constitutional Court. The Parliament voted with a large majority in favor of the new Penal Procedure Code in the course of August – October 2005, just weeks before the release of the Monitoring Report of the European Commission on the fulfillment of Bulgaria's commitments in the pre-accession period. Reform of the judiciary is one of the key areas, which can activate the safeguard clause of the Accession Treaty triggering a delay of accession to 2008.

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<sup>339</sup> Author's interview at the Bulgarian Mission to the EU.

<sup>340</sup> See "The Change of the Status of the Investigation – a Condition for Our Membership in the EU" (in Bulgarian), *Mediapool*, 19 July 2004, available from [www.mediapool.bg](http://www.mediapool.bg).

<sup>341</sup> See "The Supreme Judicial Council in a Decisive Battle with the Government on the Status of the Investigation. Brussels: the Investigation Out of the Judiciary" (in Bulgarian), *Mediapool*, 15 July 2004, available from [www.mediapool.bg](http://www.mediapool.bg).

<sup>342</sup> See "The Constitutional Court Unblocked the Constitutional Reform of the Judiciary" (in Bulgarian), *Mediapool*, 1 September 2005, available from [www.mediapool.bg](http://www.mediapool.bg).

In December 2005, after protracted political consultations and under pressure from Brussels, the three-party coalition of BSP, NDSV and MRF finally made its proposals for a consecutive round of constitutional amendments in order to introduce more accountability and control over the activities of senior magistrates. The proposals, envisaging annual hearings in the Parliament of the Chief Prosecutor and the Presidents of the Supreme Administrative Court and the Supreme Court of Cassation as well as the possibility for impeachment of these magistrates, were quickly dismissed as “constitutional minimalism” by the opposition in Parliament as well as by independent observers.<sup>343</sup> The parliamentary approval of even this minimalist package is uncertain given the sharp criticism by the opposition of the proposed modest amendments and the short time span before the EU’s decision in June 2006 to postpone Bulgaria’s accession to 2008 or not.

Indeed, the EU conditionality is the driving force behind the constitutional and legislative changes in Bulgaria but domestic veto players proved very effective in delaying reform if not making it impossible altogether. The attempts of the executive and the legislature to re-write the functions of the judiciary were contested by the judiciary itself which was granted wide ranging independence by the Constitution of 1991 and saw its power base weakening as a result of the initiated changes. The Constitutional Court as the guardian of the basic law of the country and arbiter of the relations between the three branches of power – the executive, the legislature and the judiciary - defined the rules according to which change could be enforced. Finally, it was up to the legislature to produce political agreement on reforms, although political differences on the matter delayed further structural changes and resulted in incremental and limited reform – see chapter 7.

### *Public Administration Reform*

Bulgaria inherited from its communist past a highly centralized state apparatus which was not simply accustomed to receiving and enforcing political orders but was placed entirely in service of the political establishment. The political interference in the work of the bureaucracy did not cease with the collapse of the communist system. Targeted removals cleansed the administration from political ‘enemies’ every time a new political party came to power at the expense of the capacity of the civil service. In addition, the practice of recruiting ‘loyal’ servants provided

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<sup>343</sup> See also Sabina Krasteva, “Constitutional Minimalism” (in Bulgarian), *Kapital* 51-XIII, 24-29 December 2005.

ample employment opportunities for party favorites without care for the qualifications and merits of the candidates. The result was an inefficient and incompetent bureaucracy, highly reliant on its political master. Needless to say, there was neither political interest nor any push from below to develop professional standards and introduce clear recruitment rules, promotion procedures and accountability norms in the public administration.

The European Commission felt early in the pre-accession process that strengthening the administrative capacity of the would-be members was critical for ensuring the implementation of the *acquis communautaire* at a later stage. Public administration, however, is another area where the EU has no competencies with regard to its member states and where there is no “administrative *acquis*” which could be applied to the candidate countries. The Commission was thus constrained in prescribing concrete reforms but it treated the broadly formulated requirement of “independent, efficient and professional civil service” as part of the Copenhagen political criteria which gave it authority to demand reforms in this area since 1997 when it stepped up pressure on the candidates in all domains.<sup>344</sup>

Not having any expertise in defining the specific administrative capacity requirements and measuring progress on their achievement, the Commission outsourced the task to the OECD Public Management Service (PUMA).<sup>345</sup> Sponsored by the European Commission, the SIGMA program of OECD developed assessment criteria and produced assessment reports on the administrative capacity of the candidate countries on a yearly basis since 1999. The SIGMA assessments provided thorough analysis of the administrative legal frameworks, management and control of the public service, and professionalism of the civil servants which then fed into the Commission regular reports.<sup>346</sup> They measured achievement in six core areas: policy-making and coordination machinery, civil service, financial management, public procurement, internal financial control and external audit.<sup>347</sup> The European Commission, therefore, did not lack information about the state of administrative reform in the candidates. Its critical remarks were based on solid knowledge about the deficiencies of the civil service in each country.

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<sup>344</sup> See Antoaneta Dimitrova, “Enlargement, Institution-Building and the EU’s Administrative Capacity Requirement,” *West European Politics* 25, no. 4 (2002): 171-190.

<sup>345</sup> See Tony Verheijen, “Administrative Capacity Development for EU Membership: A Race Against Time?” WRR Working Paper 107 (2000).

<sup>346</sup> The 2002 and 2003 SIGMA Assessments on Public Administration Reform in Bulgaria are available at [www.sigmaweb.org](http://www.sigmaweb.org).

<sup>347</sup> Tony Verheijen, “Administrative Capacity Development for EU Membership: A Race Against Time?”



In its successive regular reports, the Commission increasingly sharpened the language on the perceived flaws in Bulgaria's public administration. In the first regular report of October 1998, the Commission only noted the initial steps undertaken by the Bulgarian government to put in place an "independent, efficient and professional civil service" and emphasized the need for "further legislation" to complete the modernization of the administrative system.<sup>348</sup> In the following regular reports, the Commission progressively pointed to particular problems such as conditions for recruitment and promotion of civil servants, provisions on conflict of interest for civil servants, the low salary level of civil servants, the laws regulating administrative procedures and structures, the judicial review over administrative actions and decisions.<sup>349</sup>

In response to the Commission's conditionality, in 1998 the UDF-led government adopted a Strategy for Building a Modern Administrative System. This marked the beginning of the reform process of the Bulgarian civil service which prior to that was non-existent. Most of the regulatory base for the modernization of the bureaucracy was drafted and adopted during the UDF government tenure (1997-2001). A Law on State Administration was adopted in 1998 and a Law on Civil Service in 1999 (amended in 2003 to improve the legal base for competitive recruitment in the public service, promotion based on merit, salary system linked to performance, etc.). These two pieces of legislation form the core of the legal framework in this domain. The first one determines the structure of the administrative system while the second one defines the status of civil servants.<sup>350</sup> A Law on Access to Public Information also entered into force in 1999 aiming at enhancing the transparency and accountability of the activities of the public administration. A Law on Creating the Supreme Administrative Court was adopted in 1997 while the Law on Administrative Procedures was amended in 1999. In addition, the Institute for Public Administration and European Integration was set up to provide training and to improve the qualification of civil servants. The Simeon government which came to power in 2001 did not change the direction of reforms but rather kept the momentum of public service transformation.<sup>351</sup> The new Strategy for Modernization of the State Administration, adopted in 2002, shows continuity and further commitment to creating a professional public service not only

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<sup>348</sup> See Regular Report from the Commission on Bulgaria's Progress Towards Accession, 1998, 8.

<sup>349</sup> See Regular Reports from the Commission on Bulgaria's Progress Towards Accession, 2000, 2001, 2002, 2003.

<sup>350</sup> See Antoaneta Dimitrova, "Enlargement, Institution-Building and the EU's Administrative Capacity Requirement," 184.

<sup>351</sup> OECD, "SIGMA Assessment 2002 on Bulgaria: Public Service and Administrative Framework," available from [www.sigmaweb.org](http://www.sigmaweb.org).

capable of devising policies and managing their implementation but also less susceptible to direct political interference in its day-to-day operations.

This intensified legislative work does not immediately translate into improved performance and higher standards of the civil service. Problems in the public administration in Bulgaria persist and the Commission reports have repeatedly stressed the legal inconsistencies and management deficiencies. The successive Bulgarian governments, however, could not simply ignore the Commission's criticism and do nothing about it. The Commission, while not prescribing specific measures, had strong arguments on its side to justify its demands for a more satisfactory civil service performance. The Bulgarian governments, although given freedom to decide how to respond to the underachievement identified in this domain, were compelled to initiate reform.

### *Corruption*

The corruption problem was also a key concern of the European Commission. Needless to say, the Commission could not objectively evaluate how much corruption there was and whether it was increasing or decreasing. In the words of the Enlargement Commissioner Ohli Rehn, “[c]orruption is closely linked to people’s perception of what is corrupt and this might not fully reflect the situation on the ground. Nevertheless, even with those caveats as regards measurement, I think most of us recognize corruption when we see it. And the fact remains that we see an awful lot of it in Bulgaria.”<sup>352</sup>

While one could argue that there is a strong social norm against corruption in the EU, a norm worth promoting in the EU candidates as well, the corruption level in the EU member states shows a margin of diversity that does not fully match the image of a corruption-free EU. According to the 2005 Corruption Perception Index of Transparency International, Finland, Denmark and Sweden are the three EU countries with lowest level of corruption in the EU (2<sup>nd</sup>, 4<sup>th</sup> and 6<sup>th</sup> place respectively in the ranking). Their remarkable score, however, co-exists with that of Greece and Italy from the ‘old’ member states (47<sup>th</sup> and 40<sup>th</sup> place respectively) and that of Poland and Latvia from the ‘new’ member states (70<sup>th</sup> and 51<sup>st</sup> place respectively).<sup>353</sup> Yet,

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<sup>352</sup> Ohli Rehn, “Towards Good Governance – Combating Corruption in Public Sector Reform,” speech by the European Commissioner responsible for Enlargement, SPEECH/05/614, seminar organized by “HAUS” Finish Institute of Public Management, Sofia, 14 October 2005, available from [www.europa.eu.int](http://www.europa.eu.int).

<sup>353</sup> See Transparency International Corruption Perceptions Index 2005, available from [www.transparency.org](http://www.transparency.org).

regardless of this diverse corruption record, there is a strong anti-corruption culture in the EU where corruption cases are prosecuted and punished.<sup>354</sup> The EU anti-corruption conditionality vis-à-vis the candidates has a strong normative component which is hard to argue with. Moreover, the EU has to be assured that the money the government receives from the EU budget is spent in a transparent way. As Ohli Rhen put it, “[t]he European policies cannot be effectively implemented and the European taxpayers’ money cannot be efficiently used, if there is dishonest behavior.”<sup>355</sup> This logic has empowered the European Commission to use all tools at its disposal to press the Bulgarian governments to develop, adopt and implement a national anti-corruption policy.

Bulgaria ranked 55<sup>th</sup> in 2005 among 159 nations included in the perception surveys of Transparency International and the corruption perception has been steadily improving in the last couple of years<sup>356</sup> in parallel to the sharpened public attention on the issue and the hard work of the Simeon government to improve its image vis-à-vis both its domestic and international publics. In fact, corruption allegations and amplified public intolerance for political corruption was one of the main reasons for which the UDF-led government was voted out of office in June 2001. The emphasis on “zero tolerance” for corruption of the successor government of NDSV and MRF was very well received by the broad public in Bulgaria. Civil society was already actively involved in monitoring and campaigning against high-level corruption. The work of Coalition 2000, an association of local NGOs and media is well known in this area. In this sense, the pressure on the government to do something about the corruption problem came both from Brussels and from below. One of the first measures of the NDSV-MRF government in this sphere after coming to office was the adoption of a National Anti-Corruption Strategy in October 2001. The strategy was supplemented with an Action Plan for Implementation which contained specific anti-corruption measures with concrete deadlines and envisaged the creation of an Implementation Commission chaired by the Justice Minister.<sup>357</sup>

The European Commission welcomed the adoption of legal provisions in various laws that set the framework for fighting corruption and praised the creation of various institutional bodies

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<sup>354</sup> The Santer Commission, for example, resigned in 1999 for corruption allegations implicating one of the Commissioners.

<sup>355</sup> Ohli Rehn, “Towards Good Governance – Combating Corruption in Public Sector Reform.”

<sup>356</sup> See Nations in Transit Report on Bulgaria, Freedom House, 2005.

<sup>357</sup> See Open Society Institute, “Report on Corruption and Anti-Corruption Policy in Bulgaria: Monitoring the EU Accession Process,” 2002, available from [www.eumap.org/reports/2002/corruption/international/sections/bulgaria/2002\\_c\\_bulgaria.pdf](http://www.eumap.org/reports/2002/corruption/international/sections/bulgaria/2002_c_bulgaria.pdf).

charged with the task of tackling corruption but assessing their efficiency was beyond the Commission's capacity. In the Commission's evaluations corruption is still 'a serious problem' in Bulgaria,<sup>358</sup> although Commission officials would privately admit that the reported cases of petty corruption have diminished giving the impression that corruption level in the country was decreasing.<sup>359</sup> In the later stages of the pre-accession process, the Commission shifted the emphasis to law enforcement and "prosecution of corruption cases up to the end of the judicial process" demanding results in the fight against corruption and not just adoption of strategies and action plans.<sup>360</sup> Yet, in the absence of clear benchmarks defining the sufficient change needed to earn a positive score for anti-corruption reforms undertaken, the Commission has large discretion to use corruption as a source of leverage on Bulgaria's overall accession process.

The question of whether the anti-corruption measures of the government have any impact on the perceived level of corruption in Bulgaria is an open one. In fact, there is no method to estimate whether such a link exists or not. More importantly, some analysts have argued that the pursuit of a special anti-corruption policy is counterproductive and cannot substitute the reform of the economy and the public administration.<sup>361</sup> Since corruption is not measurable, the policy of combating corruption and the anti-corruption rhetoric accompanying it cannot attest to anything more than a declaration of intentions meant to reassure Brussels and the public at home.

### *Protection of Minorities*

The legal framework for protection of minorities and practices related to the social integration of minorities has also been a major problematic area identified by the European Commission. The treatment of the Turkish minority, which is the largest in the country (9.4%), has never been a subject of criticism. Due to the high degree of political integration of the Turkish minority and the traditional representation in the Parliament and in the government of the Turkish political party Movement for Rights and Freedoms, Bulgaria has not been criticized by Brussels for the way it has addressed the question of integration of its largest minority group. In its 1997 Opinion on Bulgaria's application for membership, the Commission simply concluded that the Turkish

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<sup>358</sup> See Regular Report from the Commission on Bulgaria's Progress Towards Accession, 2003, 19.

<sup>359</sup> Author's interviews at the European Commission.

<sup>360</sup> Ohli Rehn, "Towards Good Governance – Combating Corruption in Public Sector Reform."

<sup>361</sup> Ivan Krastev, "Anti-corruption Rhetoric and Reform Policies," Sofia: Centre for Liberal Strategies, 1997, available from [www.cls-sofia.org](http://www.cls-sofia.org).

minority was well integrated.<sup>362</sup> The Commission's critical remarks have always targeted and sought remedies for the treatment of the Roma minority, the second largest minority group in the country (4.6%).<sup>363</sup>

The lack of a coherent European legal base and practice as a firm reference point for anchoring the commitment to European standards of minority protection<sup>364</sup> not only gave hard time to the Commission in measuring Bulgaria's compliance with these standards but also created difficulties for the successive Bulgarian governments in figuring out what to do in order to bring the country in compliance with these standards.<sup>365</sup>

There are two main approaches to the protection of minorities in international legal practice – enforcement of anti-discrimination norms and support for minority rights. Elements of both are present in the Framework Program for Equal Integration of Roma into Bulgarian Society adopted by the Bulgarian government in April 1999 after extensive discussions with Roma organizations and civil society groups. The program set a comprehensive plan with concrete measures in eight spheres: anti-discrimination legislation, employment and economic development, healthcare and sanitation, housing and neighborhood regulation, education, protection of Roma culture, developing the Roma presence in the national media, elimination of discrimination against Roma women.<sup>366</sup> Very good in its intentions and final objectives, the Framework Program was only partially implemented and received minimal financial support from the government for the measures envisaged.<sup>367</sup>

The Commission praised the adoption of the Framework Program<sup>368</sup> but Brussels kept criticizing the social situation of the Roma minority in the following years.<sup>369</sup> In September 2003, the Bulgarian government adopted an Action Plan for the implementation of the

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<sup>362</sup> European Commission, "Opinion on Bulgaria's Application for Membership in the EU," DOC/97/11, 15 July 1997, 19.

<sup>363</sup> James Hughes and Gwendolyn Sasse note the general emphasis on Roma and Russian minorities in the Commission regular reports on Central and Eastern European candidates. See James Hughes and Gwendolyn Sasse, "Monitoring the Monitors: EU Enlargement Conditionality and Minority Protection in the CEECs," *Journal of Ethnopolitics and Minority Issues in Europe* 1 (2003), available from [www.ecmi.de](http://www.ecmi.de).

<sup>364</sup> A number of member states, including France and Belgium, are not parties to the Framework Convention on Protection of National Minorities.

<sup>365</sup> See Iavor Rangelov, "Bulgaria's Struggle to Make Sense of EU Human Rights Criteria," EU Monitoring Accession Programme, 1 October 2001, [www.eumap.org/journal/features/2001/oct/bulgariastr](http://www.eumap.org/journal/features/2001/oct/bulgariastr).

<sup>366</sup> See Open Society Institute, "Report on Minority Protection in Bulgaria: Monitoring the EU Accession Process," 2002, available at [www.eumap.org/reports/2002/minority/international/sections/bulgaria/2002\\_m\\_bulgaria.pdf](http://www.eumap.org/reports/2002/minority/international/sections/bulgaria/2002_m_bulgaria.pdf).

<sup>367</sup> *Ibid.*, 74-75.

<sup>368</sup> See European Commission, Regular Report on Bulgaria, 1999, 75.

<sup>369</sup> See European Commission, Regular Reports on Bulgaria, 2000, 2001, 2002, 2003.

Framework Program committing itself to a range of short-term measures in the areas of anti-discrimination policy, education, housing, culture, employment and social protection, including budgetary support for them.<sup>370</sup> On 16 September 2003, the Parliament adopted the Protection Against Discrimination Act which put in place a comprehensive legal framework guaranteeing equality before the law of all individuals. Yet, regardless of these initiatives which remained largely a paper exercise, there has been no real effort to pursue actively a policy of Roma integration in the Bulgarian society. Progress in the adoption of legislation and drafting of strategies has not been matched with sufficient determination in implementing what has been agreed and put on paper. As a result, the overall conclusion of the Commission in 2003, ten years after the formulation of the Copenhagen criteria, was negative rather than positive:

“Since the last Regular Report, the situation of the Roma minority has barely improved... Determined and sustained efforts will be needed to fight discriminatory attitudes and behavior and to address the widespread social disadvantages affecting the Roma community.”<sup>371</sup>

On the whole, the Commission has counted on a reactive approach of “shaming” the Bulgarian authorities for their policies and practices and embarrassing them in the international and domestic media which provided extensive coverage of the regular monitoring reports.<sup>372</sup> Short of clear assessment benchmarks, the certification of compliance with the Copenhagen political criteria by the Commission has been seen as a political rather than a technical process. The Commission did state officially in 1997 that Bulgaria was a democracy and adhered to the fundamental political values of the EU. The following years proved that the country had the will to work on improving its domestic governance structures. Notwithstanding the shortcomings, the overall conclusion was reinforced over the years, indicating more compliance over time.

### **6.3.2 Bulgaria’s Compliance Record with the EU Economic Conditionality**

When the Commission applied for the first time the Copenhagen economic criteria to the Bulgarian economy in 1997, its conclusions were simple: it is *not* a functioning market economy and it would *not* be able to cope with competitive pressures within the single market in the

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<sup>370</sup> See European Commission, Regular Report on Bulgaria, 2003, 25.

<sup>371</sup> *Ibid.*, 25-26.

<sup>372</sup> Heather Grabbe, “How does Europeanization affect CEE Governance? Conditionality, Diffusion and Diversity,” *Journal of European Public Policy* 8 (2001): 1021.

medium term.<sup>373</sup> The report described the bleak economic situation in the country, noted the limited progress in the transition to market economy in the first six years after the fall of communism and identified serious gaps in the policies of previous governments.

The economic reform process in Bulgaria got to a slow start. In the early 90s, the lack of progress was a matter of reluctance to reform and absence of political will to take bold policy steps in order to transform the economy. Bulgaria missed the opportunity to launch early enough a serious reform program which could have made its performance comparable to that of the willing reformers from Central Europe. As a result of its misguided economic behavior at the start of the transition, the country fell behind in economic development compared to the Central European and Baltic states which faced similar challenges of liberalization, privatization and enterprise restructuring.

A serious attempt to put the economy into shape was only initiated in 1997 with the coming to power of a reform-minded government led by Union of Democratic Forces (UDF), the major centre-right political party at the time. This political change was the precursor of the economic change that followed. The Kostov government became in charge of the country after a particularly severe economic crisis which culminated in social protests and early elections. The new economic team quickly restored macro-economic stability; proceeded with privatization; closed down a number of bankrupt state-owned companies; put in place the legal foundations for the development of the private sector and introduced a level of policy predictability critical for a good business climate and an increased investment interest.

The IMF had a particularly large role in this initial phase of recovery. With the Fund's advice and approval, the government introduced a currency board pegging the Bulgarian currency to the euro which helped re-establish price stability and eliminate political influence on monetary policy. Furthermore, since the 1997 crisis, the broad macro-economic framework has always been discussed with and sanctioned by the IMF in the context of the successive stabilization agreements between the Fund and the Bulgarian government. Even in the later transition years (2003-2004) when Bulgaria was no longer in need of IMF funding, the government still

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<sup>373</sup> See European Commission, "Opinion on Bulgaria's application for membership in the EU."

preferred to involve the Fund on the policy side through signing a precautionary agreement in order to send a positive signal to foreign investors and international rating agencies.<sup>374</sup>

Similarly, on the structural reform front, the World Bank has been fully involved providing targeted assistance in three main areas:<sup>375</sup>

- (a) promotion of competitive private sector-led growth,
- (b) strengthening public administration and anti-corruption initiatives, and
- (c) mitigating the social impact of restructuring and delivering social services more effectively.

All three priority areas of the WB are EU accession-related and form part of the EU conditionality vis-à-vis Bulgaria as well. In essence, the Bank has been helping Bulgaria to comply with EU demands through its assistance programs. In addition, the WB was very transparent about its conditionality with the EU. It has been the WB's practice to share its benchmarks with the European Commission for all candidate countries.<sup>376</sup> It has also been in the right of every government to use the EU criteria when negotiating the WB conditionality package and the Bank has traditionally been very receptive to such initiatives.<sup>377</sup>

In practice, all external players have acted in alliance to improve economic governance in Bulgaria and have used their leverage to influence the direction of economic policy of the country. It is hard to distinguish what the Bulgarian government did specifically in response to the EU requirements. Usually, what was good for the IFIs was good for the EU and vice-versa. In addition, the IFI's assistance programs came with a "to do list" unlike the EU economic criteria and as such the degree of impact of the IMF and the WB was very tangible in this critical phase of economic transformation in Bulgaria.

Moreover, there was enormous domestic pressure to get the economy working. Years of policy inaction and economic mismanagement left the standards of living of the population steadily dropping which led to the popular upheaval of 1997 and the strong social protest against the policy of non-reform. And while the external anchor was important in terms of setting the

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<sup>374</sup> Precautionary agreements allow the choice to use or not to use the funding negotiated between the IMF and the government. On 6 August 2004 the Board of Managing Directors of the IMF approved a two-year stabilization "precautionary" agreement with Bulgaria amounting to SDR 100 million (about USD 146 million) in support of the Government's program for economic and financial reforms during 2004 – 2006.

<sup>375</sup> See World Bank, "Country Assistance Strategy of the World Bank Group for Bulgaria," Report No. 23927-BUL, 31 May 2002, available from [www.worldbank.org](http://www.worldbank.org).

<sup>376</sup> Author's interviews at the World Bank.

<sup>377</sup> Ibid.



parameters of the right policy mix, the domestic environment provided the permissive consensus to do whatever it takes to get the country out of the mess.

Since 1997 it was no longer a matter of generating a critical mass behind the reforms but a matter of capacity to deliver results. The economic situation in Bulgaria improved gradually with incremental advances every year as the successive governments pressed with reforms. In recognition of the progress made and to encourage further efforts, the Commission announced in its 2001 regular report that “Bulgaria is *close to* being a functioning market economy” which was followed a year later with the more categorical and straightforward conclusion “Bulgaria *is* a functioning market economy.”<sup>378</sup>

What also contributed to the Commission’s certification of Bulgaria’s compliance with the functioning market economy criterion in 2002 was the fact that the regular report that year was based on a “stock-taking exercise” which involved a review of the economic progress since the issuance of the Commission Opinion in 1997.<sup>379</sup> The evaluation of the whole 1997-2002 period was mainly designed for the first ten acceding countries from the fifth enlargement wave for which this was the last regular report of the Commission. But since Bulgaria was subject to the same enlargement policy, the same assessment mechanism applied to it too. And because the pre-1997 economic decline in Bulgaria set a very low baseline level, the post-1997 results appeared exceptionally positive.<sup>380</sup>

As regards the competitiveness criterion, the Commission anticipates full compliance with it only at the date of accession. The first ten candidate countries to receive an invitation for EU membership were acknowledged by the Commission as being able to cope with market forces within the single market upon their accession in 2004 only in their last regular reports in 2002. Given the vagueness of this economic criterion and the discretion in assessing a country’s competitiveness, it is safe to say that there is more politics than economics involved in the decision to certify a country as compliant with it. While the Commission indicated in its 2003 regular report on Bulgaria that the country “should be able to cope with competitive pressures within the Union in the medium term,”<sup>381</sup> the full certification is only expected at the end of

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<sup>378</sup> See European Commission, Regular Reports on Bulgaria’s progress towards accession, 2001 and 2002.

<sup>379</sup> Author’s interview with a European Commission official.

<sup>380</sup> Ibid.

<sup>381</sup> See European Commission, Regular Report on Bulgaria’s progress towards accession, 2003.

Bulgaria's pre-accession path when the political decisions on the timing of its membership have already been taken.

While the Washington influence on Bulgaria's economy during the recovery period shortly after the 1997 crisis has been substantial and hard to ignore, Brussels has regressively become more prominent in the economic policy formulation of the country. This has come through the experience of pre-accession engagement of the Bulgarian economic policy-makers who have gradually been drawn into the EU realm of economic policy coordination and multilateral surveillance as part of their preparation for full participation in the procedures in place for the member states. As a result, the economic policy discussions between Brussels and Sofia thickened over time and gradually became more substantial compared to the economic dialogue between Washington and Sofia.

In 1999, as one of the goals of the Accession Partnership, the Bulgarian government and DG ECFIN prepared a Joint Assessment of Bulgaria's Medium-term Economic Policy Priorities which, as noted in the document, represented "the agreed view of the Bulgarian authorities and the European Commission on the economic reforms needed to bring the Bulgarian economy closer to the fulfillment of the Copenhagen criteria."<sup>382</sup> This exercise was a systematic review of the macro-economic policy-mix and structural reforms in view of the accession prospects of the country in the medium run.

From 2001 onwards, the European Commission demanded from Bulgaria and all other candidate countries to prepare on a yearly basis a Pre-accession Economic Program (PEP) which, in addition to outlining the appropriate medium-term policy framework, including public finance objectives and structural reform priorities, had the intention of developing the institutional and analytical capacity of the candidates necessary for their future participation in the Economic and Monetary Union (EMU).<sup>383</sup> The PEPs were subsequently assessed and commented upon by the Commission which introduced a measure of shared analysis and a degree of common purpose between the respective government and the Commission.

The PEP process was driven by DG ECFIN of the European Commission and kept separate from the enlargement policy in general and the Copenhagen criteria evaluation in particular for

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<sup>382</sup> See "Joint Assessment of Bulgaria's Medium-term Economic Policy Priorities," June 1999.

<sup>383</sup> See European Commission, "2003 Pre-accession Economic Programs of Acceding and Other Candidate Countries: Overview and Assessment," Enlargement Paper N 20, November 2003.

which DG Enlargement had the primary responsibility.<sup>384</sup> The member states were fully involved in this process through the Economic and Financial Committee and the Economic Policy Committee - two sitting committees which consist of national economic experts and prepare the work of the ECOFIN Council bringing together the finance and economy ministers of the member states. The PEPs were, in fact, discussed at joint ministerial meetings between the ECOFIN and their counterparts from candidate countries who issued “joint conclusions” on the PEPs.

On the one hand, this procedure was a rehearsal for the time when the candidate countries would be full members and would be subject to the same surveillance mechanisms as the “old” member states in the context of the Stability and Growth Pact of EMU. On the other hand, it intensified the economic exchange between the would-be members and the EU thus engaging the economic elites of the candidates in an equal dialogue and communicating important policy messages in a participatory environment and a non-coercive manner. In essence, this was a process of gradual convergence on the rules that govern economic policy coordination in the EU and the norms that underpin mainstream economic thinking in Europe. The PEP exercise as whole had a very powerful socialization effect on the economic policy-makers of the candidate countries, including Bulgaria.

On the whole, there is ample empirical evidence that over time Bulgaria has become more compliant with EU’s accession conditions. Both in the political and the economic domain, the country has taken concrete measures to democratize and modernize, progressively changing its image of a Balkan country with all the negative connotations associated with it. Its exclusion from the first wave of countries invited to negotiate accession in 1999 served as a powerful catalyst for domestic reform. Since 2001, the country has been negotiating the legal terms of its entry into the EU and that has kept the momentum of legal approximation with the EU *acquis*. After the signing of the Accession Treaty in April 2005, the possibility for delayed accession has maintained pressure on the government to uphold the commitments undertaken during the accession negotiations.

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<sup>384</sup> Author’s interview with a European Commission official.

## 6.4 CONCLUSION

Strictly speaking, none of the three countries under discussion has fully complied with the EU political and economic conditionality by the end of 2005. Yet, all of them have made advances towards that end. BiH and Bulgaria have reacted to the sanctioning mechanism of the EU conditionality machine and have tried to reverse the effects of exclusion from the group of countries marching on the EU road ahead of them. In the case of BiH, this has resulted in an important assertion of domestic sovereignty in the case of police reform. The temptation to use the Bonn Powers to comply on BiH's behalf has been tamed to a degree by the EU requirement for demonstrated capacity for self governance, even though the threat of imposition has remained a legal option. SCG have been less affected by the application of the EU conditionality principle and have provoked a relaxation of the EU demands thus avoiding sanctioning for partial compliance.

In BiH, although the penetration of the EU conditionality in the sovereignty structures of the country has been very deep, the EU coherent foreign policy behavior and the precision of the EU conditions have stimulated compliance. There is mounting empirical evidence documenting an important shift toward domestically driven compliance with decisions being taken by local actors themselves rather than by external players. This is not to say that the country has regained internal sovereignty and the role of the international actors there has become redundant. It is to record the transformation of the external factor in BiH from direct interventions in the form of decisions on behalf of domestic actors to classical exercise of pressure on domestic actors to do themselves the changes expected. When assessing BiH's overall compliance record, one has to keep in mind that many of the reform initiatives have been unfolding simultaneously and there was considerable concerted pressure exercised on the BiH politicians to advance on all policy fronts at the same time.

In SCG, the EU conditionality has been very demanding on the external sovereignty, underspecified on the implementation details affecting the domestic sovereignty of the common state and its constituent republics and inconsistently communicated to domestic actors. As a consequence, domestic actors have contested the EU conditionality and imitated compliance to avoid the costly sovereignty transformation the EU has called for. The outcome has been nominal compliance whereas domestic actors have technically agreed to comply but have not

implemented their commitments. SCG's compliance has been more declaratory than real. The EU lacks more coercive mechanisms of imposing its will in an internally sovereign country like SCG and its membership conditionality is the strongest means of influencing the two republics' behavior. Short of succeeding in either pressurizing the political leaders to implement the agreed reforms or inducing change by delaying the country in the EU pre-accession 'regatta,' the EU has gone into reverse itself instead of penalizing both republics for what may have been the resistance of only one of them.

In Bulgaria, the EU conditionality has been soft on the sovereignty question, consistent in its communication and broadly defined leaving freedom to domestic actors to select the substance and timing of reforms in a way that best suits the domestic political cycle. It has been complemented with socialization of Bulgarian policy-makers by their EU counterparts to ensure convergence with the normative foundations of policy-making in the EU. The country has progressively strengthened its compliance record vis-à-vis the EU demands since 1997 when the country was deemed economically unprepared to start accession talks with the EU. The domestic reforms undertaken after the crisis of 1997 have had no alternative. The EU accession process has proved an important catalyst for political and economic change and a legitimacy source for the governments in power to proceed with sometimes unpopular measures. Compliance with the EU conditions has occurred gradually with the incremental improvement of the functioning of the Bulgarian political institutions and economy.

The analysis up to here has revealed that many factors affect the particular compliance outcomes which we have observed in the three cases. In each case, the combination of influences is unique and the empirical material presented above has documented the specificity of factors at work. In general, the semi-sovereign countries have been faced with more demanding conditions which have raised the political stakes of compliance. They have also been presented with very concrete demands which have restricted their maneuvering space. Under these circumstances, we have seen that the consistency or inconsistency of EU behavior has played an important role. In the case of BiH, the EU's institutional coherence and policy coordination with other external actors has tilted the balance in favor of more compliance. In the case of SCG, the EU's institutional incoherence, even under conditions of full backing of the EU policy orientation by other international players, has contributed to less compliance. This has rendered support to the argument advanced earlier of the importance of politics at EU level for the compliance

outcomes. What has not been examined yet is how politics at domestic level affect the likelihood for compliance with EU conditionality and it is to this that we turn now.

## 7.0 THE POLITICS OF COMPLIANCE

The central question that this chapter seeks to address regards the motivation of Balkan political leaders to acquiesce to EU demands. The challenge here is to distinguish whether normative arguments based on the 'logic of appropriateness' or rational choice arguments based on the 'logic of consequences' have more explanatory power in accounting for Balkan compliance. While 'belonging to Europe' as a political vision for the future of the Balkans has a wide resonance among Balkan populations, confirmed by opinion poll data, the magnetic power of Europe can be expected to have a varying degree of influence on the motivation of political leaders to reform in a Europeanizing direction. Likewise, while the incentive of full membership is equal in strength for all Balkan countries, the conditions for membership are different as discussed in chapters 3 and 4, as a result of which the cost-benefit analysis is not the same for BiH, SCG and Bulgarian politicians. Thus one can expect differences in domestic actors' motives both with regard to the concrete conception of gains and losses and in relation to the weight of normative considerations in their motivation.

Compliance with EU conditionality incurs political costs to incumbents in power in two ways: 1) the reform of state institutions and the introduction of EU-compatible rules in various policy areas have, in many instances, challenged networks of political patronage and implied loss of political power through reduction of opportunities for abuse of public office; 2) the domestic transformation the EU conditionality has called for has at times involved unpopular measures with a high price for officeholders in terms of domestic popularity and chances for re-election. Thus corrupt incumbents who perceive public office more as a source of personal profit than as service to the public will tend to see a higher price in complying with EU demands than responsible leaders interested in reform for the sake of efficiency and good governance. Similarly, politicians who attach greater value to short-term political gains than to the long-term benefit of EU membership will be less willing to make sacrifices in the short run.

As regards the power of attraction of Europe as a driving force behind compliance decisions, one has to keep in mind that in the Balkan context the ideology of nationalism has its own gravitational power and can be mobilized by political leaders to counter the drive towards Europeanization. This is not to say that national identities are incompatible with a European

identity or that the Balkan nations are not European but to argue that when the EU demands are perceived as contradicting the nationalist agendas of some political parties, the transforming force of the 'return to Europe' slogan can be expected to be less influential both among certain political leaders and certain segments of the population.

The sovereignty variable is important for the politics of compliance too. In domestically sovereign countries, compliance with EU conditionality is a choice made by governments. The decision to do or not to do what the EU conditionality calls for is a political choice which some political parties in power would make while others would not make. In domestically non-sovereign countries, external actors interfere in the compliance dynamic and affect the political context in which compliance decisions are made. Examining domestic politics in the three countries with differently constituted sovereignty is important for tracing the rationale of political elites for complying with EU conditionality.

In both Serbia and Montenegro and in Bosnia and Herzegovina, fulfillment of EU conditions means giving up sub-state independence/autonomy by the constitutive republics/entities and strengthening the common state authorities. For the semi-sovereign cases, therefore, changes to their sovereignty make part of the *pre*-accession process and raise the costs of compliance for officeholders. For Bulgaria, a country with uncontested sovereignty, the closer prospect of full EU membership has implied a preparedness to transfer competences to Brussels in policy areas that are subject to collective decision-making at EU level. For the fully sovereign case, therefore, changes to its sovereignty make part of the *post*-accession process but do not affect the politics of compliance prior to membership.

## **7.1 THE POLITICS OF COMPLIANCE IN BIH**

### *Voluntary versus Imposed Compliance*

Bosnian politics are not normal politics. Authority in BiH is split between the government and the Office of the High Representative which, in theory, share responsibility for the governance of the country. Responses to EU conditionality are thus determined by the relationship between the High Representative and the domestic political parties in power. This fragmentation of authority has serious consequences for the politics of compliance in BiH.



The presence of the institution of the High Representative (HR) in Bosnian politics has prevented the development of a robust domestic political process. The HR has extraordinary powers to impose legislation, dismiss government officials, mandate the creation of new institutions and so on without being formally accountable for his decisions to the Bosnian people.<sup>385</sup> The HR has been at the core of the reform process in the country since the Peace Implementation Council assigned to him the so called “Bonn powers” in 1997. As such he has shielded Bosnian politicians from taking responsibility for decisions of crucial importance for BiH’s future.

The official powers of the HR, however, important as they are to shape the image of his office in the Bosnian political context, are only one aspect of the enormous influence of this public figure. The HR is a key player in domestic politics and an ultimate arbiter of political disagreements between local actors. His internationally sanctioned authority has put him in a position above domestic politicians. It has been viewed legitimate both internationally and domestically for the HR to use political pressure beyond his official mandate to achieve results and compel obstructive politicians to change their positions and accept the HR-driven reform agenda.

This tendency has gradually become more pronounced with regard to BiH’s compliance with EU conditionality. The HR did intervene on many occasions to bring BiH in compliance with the roadmap conditions set by the European Commission in 2000. Since EU conditionality targets the adoption of legislation in specific areas and changes of the institutional framework, the HR’s power to impose legislation has been particularly relevant when domestic consensus has lacked. Yet, the HR’s direct interventions have declined, especially on EU-demanded reforms. In the meantime, his role of political mediator pushing for local compromise has strengthened.

The HR, without any doubt, could have imposed both the Law on Indirect Taxation and the Police Reform package instead of setting up the Indirect Taxation Commission and the Police Restructuring Commission with predominantly domestic membership to debate and propose reform plans in the respective policy areas. The Dayton Constitution does not give an unambiguous mandate for customs administration unification and indirect tax harmonization, legal arguments in favor of such an interpretation of the Dayton provisions could be found. In

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<sup>385</sup> For a critical analysis of the High Representative’s role in Bosnian politics see Gerald Knaus and Felix Martin, “Travails of the European Raj,” *Journal of Democracy*, 14, no. 3 (2003): 60-74.

particular, the existence of non-tariff barriers to the free movement of goods and services in the form of differences in the customs procedure or differences in the tax practices could be put forward as justification for such a decision. Similarly, although Dayton assigns police competence to the entities, art. III.5.A envisages the transfer of competences from entity to state level which can be legally handled through amendments to the entity Constitutions, a legal terrain in which the HR has interfered in the past.<sup>386</sup> Without the agreement of the domestic actors, however, such impositions would have been impossible to implement. Winning the consent of the local politicians, therefore, was more important than the reforms themselves.

Knowing the limits of his power to impose legislation, the HR has been keen on getting the Bosnian politicians behind the tax and police reforms and inducing them to make the important decisions themselves. Thus, for example, when addressing the BiH State Parliament after the draft Law on Indirect Taxation had been produced by the Indirect Taxation Commission, the HR clearly indicated his intention not to impose the law:

“...Some may believe that if you throw these arguments out, I will intervene with a compromise solution of my own. They are making a terrible miscalculation, because it isn’t going to happen. Indeed, it cannot happen. Again, let me explain. The European Union is currently in the midst of conducting a Feasibility Study for BiH. They have made it clear that you cannot get to Europe through the Office of the High Representative – that these reforms have to be your reforms, not mine. That is not empty rhetoric. It is hard political fact...”<sup>387</sup>

Likewise, the HR refused to impose directly the police reform package regardless of the negative political response of RS to the reform plans put forward by the Police Restructuring Commission. Furthermore, the HR’s position on that was not a secret to anyone in the country. In an interview for the Bosnian newspaper Dnevni Avaz, Paddy Ashdown communicated it in a straightforward way:

“I cannot impose police reform. Simply, the High Representative cannot impose the way to Europe. You can reach Europe only through the actions of BiH politicians. There are two ways of not reaching the EU. We saw one two nights ago when the European principles were refused. The second is to leave work to the

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<sup>386</sup> The HR has imposed amendments to the Constitutions of both RS and the Federation on a couple of occasions. See the list of decisions of HR available from [www.ohr.int](http://www.ohr.int).

<sup>387</sup> Office of the High representative, “Speech by the High Representative Paddy Ashdown to the BiH Parliamentary Assembly,” 10 September 2003, available from [www.ohr.int](http://www.ohr.int). Emphasis in the original text.

High Representative. The European Commission has clearly said that this reform must be done by BiH politicians and that it cannot be imposed by the High Representative.”<sup>388</sup>

The political endorsement had to come from the domestic politicians themselves. This is not to say that domestic actors alone are responsible for domestically sensitive reforms undertaken in response to EU demands. External actors have long been present on the ground in BiH and have developed a deep knowledge of the shortcomings of BiH structures and clear ideas of what needs to be changed. For example, the Customs and Fiscal Assistance Office (CAFAO), a European Commission-funded program, has been active in both entities helping the authorities establish a single and uniform customs territory and improve the local capacity to fight customs fraud and tax evasion. In fact, it was CAFAO that first started unraveling the massive scale of customs and tax fraud in BiH thanks to its investigations on the ground. According to CAFAO’s estimates, the revenue losses due to administrative inefficiencies and legislative loopholes in the BiH custom system are in the order of 375-400 million KM (convertible marks) per year.<sup>389</sup>

Similarly, the EU Police Mission (EUPM) has been operational in BiH since January 2003 with international personnel of more than 500 people stationed in 22 locations across the territory of BiH and charged with upgrading the capacities of local police forces to fight organized crime and corruption.<sup>390</sup> Needless to say, the EUPM has been closely involved in the formulation of the EU principles on police reform, the EUPM Commissioner has officially participated in the police reform discussions in the Police Restructuring Commission and the mission has been preparing to assist with the implementation of police reform following parliamentary adoption of the reform package in October 2005.<sup>391</sup>

External advice and technical assistance on what to reform and how to reform, therefore, has not been in short supply, quite the opposite. In fact, the BiH policy sectors figuring on the EU list of conditions have been well researched by external consultants financed by the European Commission who have produced lengthy reports about the state of domestic affairs in the

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<sup>388</sup> Interview for Dnevni Avaz of Paddy Ashdown, High Representative for BiH, “There will be no new political negotiations,” 16 September 2005, available from [www.ohr.int](http://www.ohr.int).

<sup>389</sup> See European Commission Delegation to BiH, “Study on Potential Revenue Sources for the Institutions of Bosnia and Herzegovina, report prepared by ADE with the financial assistance of the European Commission,” 2003, 25.

<sup>390</sup> For details on the mandate and mission of the EU Police Mission, see EUPM’s official website from [www.eupm.org](http://www.eupm.org).

<sup>391</sup> For details on the EUPM’s involvement in police reform in BiH, see the press statements of the EUPM, available from [www.eupm.org](http://www.eupm.org).

country.<sup>392</sup> In practice, BiH politicians have been confronted with responding to various reform proposals and invited to react to external actors' initiatives. Yet, their critical consent could no longer be substituted by external impositions nor could their refusal to accept certain reform ideas be ignored any more. Gradually, the direct external imposition of important reforms has become a non-option in BiH.

### *Interest-Based versus Norm-Based Compliance*

Progressively, the Bosnian politicians have been left to decide themselves whether to comply and get the EU-linked benefits for it or not comply and suffer the consequences from it. The EU demands for centralization of public authority at state level, however, clash with the vested interests in the status quo of political parties holding the levers of power at the entity level. The choice for Europe rather than for political privileges linked to the Dayton power-sharing system between the State and the Entities is a fundamental decision. In the BiH context, the domestic political scene has not been consensual on the question of acquiescing or not to the specific reforms requested by the EU.

The political actors in BiH have varied positions on the question of constitutional reform and the ensuing changes to the institutional and policy environment. The (Bosniak) Party of Democratic Action (SDA) and the Croatian Democratic Union (HDZ), seen as the principal expounders of the Bosniak and Croat ethnic interests respectively, are in favor of abolishing the entities and cantons and rationalizing the governance structure of BiH by introducing a two-tier system with a stronger central government and a substantively empowered municipal level of governance.<sup>393</sup> The SDA has always stood for an independent, united and strong Bosnian state with its own history, traditions and cultural heritage. The HDZ has shifted its position on the Dayton entity structure and instead of advocating for a third (Croat) entity is now supporting the elimination of the entities altogether.<sup>394</sup> The EU demands for reinforcing the mandates of the state institutions are not against the political platforms of SDA and HDZ, notwithstanding the

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<sup>392</sup> See for instance European Commission Delegation to BiH, "Study on Potential Revenue Sources for the Institutions of Bosnia and Herzegovina," report prepared by ADE with the financial assistance of the European Commission, 2003, available from [www.delbih.cec.eu.int](http://www.delbih.cec.eu.int); and "Financial, Organizational and Administrative Assessment of the BiH Police Forces and the State Border Service," report prepared by ICMPD and TC Team Consulting and financed by the European Commission, 30 June 2004, available from [www.delbih.cec.eu.int](http://www.delbih.cec.eu.int).

<sup>393</sup> See International Crisis Group, "Bosnia's Nationalist Governments: Paddy Ashdown and the Paradoxes of State Building," Balkans Report N 146, 22 July 2003, available from [www.crisisgroup.org](http://www.crisisgroup.org).

<sup>394</sup> *Ibid.*, 19-21.

differences in their motives. They are, in this sense, more receptive to arguments exposing the inefficiency of the Dayton institutional setting and justifying the necessity for change. The EU explicit conditionality only adds an additional layer of legitimacy for institutional and policy reforms they agree with.

The reform-minded political forces in BiH who formed the core of the coalition Alliance for Change in power between 2000 and 2002 - the Social Democratic Party (SDP) and the Party for BiH (SBiH) – do not oppose changes to the constitutional order and rationalization of the institutional framework of BiH. In fact, they keenly support the strengthening of the competences of the state. They firmly stand behind the belief that there is no rationale for the existence of an expensive and inefficient multi-tier system of governance which is more concerned with ethnic representation than with provision of public services to the average citizen. In this respect, the EU is an ally for them, not least because it is requiring the gradual phasing out of the HR's "Bonn Powers." The SDP is very cross with Paddy Ashdown for having endorsed the nationalist parties after the October 2002 elections as partners in the reform process.<sup>395</sup>

The EU conditionality is viewed differently in RS, however. Seen from Banja Luka, the EU-required changes erode the sovereign competencies of the entity government and constitute a threat to the very existence of RS. This is a line which has been taken by most political parties in RS which have traditionally obstructed any changes to the Dayton system fearing marginalization in a more centralized system of governance and hiding their interests in the status-quo behind nationalist slogans. Even the moderate political groups in RS, the Party of Democratic Progress (PDP) led by Mladen Ivanic and the Alliance of Independent Social Democrats (SNSD) led by Milorad Dodik have defended the status of RS within the overall constitutional setting of BiH although they have been more pragmatic with regard to reforms that improve domestic governance. The political power of the ruling elites in RS thus is directly at stake when decisions to comply with EU conditionality are made.

Yet, it is the hard-line nationalist Serb Democratic Party (SDS) that has governed in a coalition with PDP in Banja Luka since the October 2002 elections that gave the green light for taxation and police reforms, although not without hesitation and not without a great deal of persuasion by external actors and in the case of police reform not without sanctioning by the EU

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<sup>395</sup> Author's interview with a SDP member.

through refusal to open SAA talks with the country on a couple of occasions. What is the motivation behind these decisions? Are the local politicians really persuaded by the EU arguments or do they recognize their own interests in the political situation resulting from introducing the EU-demanded changes?

The EU has been justifying its demands on efficiency grounds and has been constantly pointing to deficiencies in BiH structures in order to press for change. If BiH is to become an EU member, the EU argument goes, it has to achieve European standards of domestic governance. Thus, to demand reform of the taxation system, the EU has exposed the magnitude of fraud the unreformed BiH structures are prone to – see table 7.1 below. To convince BiH politicians to sign up to the tax reform proposals, the EU has repeatedly made the point that the state and the entities would generate more revenues in the budget and would have more money for public spending, if they reformed the system.<sup>396</sup> Only a radical reform of the system could prevent the massive loss of revenue which in 2002 – 2003 stood at more than 4 percent of the national GDP.

**Table 7.1: Estimated Revenue Loss Due to Tax Fraud in BiH\***

<b>Fraud</b>	<b>Revenue loss in million Euro (years)</b>	<b>In percent of GDP</b>
Customs	43 (1997-1999)	1.1
	92 (2000-2003)	1.6
Sales tax	250 (2002-2003)	4.1
Due to shortcomings in customs procedures	250 (2002-2003)	4.1

\* Based on information from the EU Customs and Fiscal Assistance Office (CAFAO) and IMF Staff estimates. Source: International Monetary Fund, “Bosnia and Herzegovina: Selected Economic Issues,” IMF Country Report No 05/198, June 2005.

Similarly, to persuade the BiH politicians and the public at large about the necessity of police reform, the EU has highlighted the benefits of rationalizing the police forces in the country. The fragmentation of police authority in the country allows for easy escape of criminals between compartmentalized police jurisdictions with no central oversight. In order to fight crime more efficiently and ensure law and order for all citizens, a single police structure is essential – see figure 7.1 below with the EU arguments on police reform. In this way, the EU has pragmatically

<sup>396</sup> Author’s interview with an EU Council official.

appealed to the common sense of domestic political leaders trying to make them see the virtues of doing the reforms themselves rather than presenting the reforms as a sacrifice they have to accept in order to be admitted to the club.

Police Restructuring in Bosnia and Herzegovina

- is a requirement of the European Union.
- will make Bosnia and Herzegovina safer for citizens, tougher for criminals.
- will save money to spend on schools and hospitals.
- will get rid of the barriers that help criminals and hinder the police.
- will cut bureaucracy and beef up crime fighting.
- will make police accountable to the citizens of Bosnia and Herzegovina, not politics.
- will mean new career opportunities for police officers across Bosnia and Herzegovina .
- will give the police modern equipment to fight crime.
- will mean that a police officer gets the same pay for the same job anywhere in Bosnia and Herzegovina.
- Without police restructuring, there will be no change in European visa requirements for citizens of Bosnia and Herzegovina.

Source: European Union Police Mission in Bosnia and Herzegovina, available from [www.eupm.org](http://www.eupm.org).

**Figure 7.1: A Single Police Structure for Bosnia and Herzegovina: 10 Key Reasons**

The HR, in turn, has frequently made reference to the ‘Europe argument’ to convince domestic actors to acquiesce to domestic institutional and policy changes. Reinforcing the arguments in favor of the choice for Europe and discrediting the arguments in favor of the choice for the status quo, the HR has sought to disgrace the politicians obstructing pro-Europe reform. His message has been simple but powerful - those who block the process of bringing BiH in conformity with EU demands work against the interests of the Bosnian citizens. The HR has not only repeatedly reinforced the legitimacy of EU conditionality by arguing that the EU conditions are an absolute must for BiH’s return to the European mainstream but he has also publicly shamed the BiH politicians that stand for their narrow political interests and thus stand on the way of BiH’s progress to EU membership. In his 2004 New Year’s address to the people of BiH, for example, the HR delivered this message to the public in straightforward language:

“In some quarters, the pull of the past is still too strong and the commitment to Europe still too weak. Key conditions for our further progress towards the EU and NATO are now being obstructed. This could spell the end of BiH’s European dream if it continues into 2004... Those who support a strong and effective state, should have a care that they do not diminish the great dream of a Bosnia and Herzegovina, whole and free making its way to Europe, and reduce that dream to the mere maintenance of a pocket Bosnia over

which they retain political control. Those who claim the protection of the Dayton Peace Agreement to preserve the competencies of their entity, should have a care not to undermine that agreement by making themselves the primary obstacles in developing the Dayton state. Those who have so much to gain from international investment in a single strong economy, should have a care not to recreate the parallel structures of the past, which are the enemies of a single economic space and undermine the effective government upon which a strong economy depends.”<sup>397</sup>

In such a political climate created by the HR and the EU, it is very difficult for any local actor to challenge EU conditionality and hope for public support for it. Campaigning against the EU and its pre-accession requirements is a political suicide which domestic politicians are too well aware of. EU membership does enjoy massive public support as shown by an opinion poll conducted in February 2004 according to which 73.2 percent of Bosnian citizens look upon their country’s prospective accession to the EU very positively and 83.9 percent would vote in favor of BiH’s EU membership, were it to accede the next day.<sup>398</sup> The decision of the HR not to intervene on EU-demanded reforms has left domestic leaders with a choice – take responsibility and bring BiH closer to Europe or defend their narrow political interests and get sanctioned by their own domestic constituencies for failing to advance on the way to Europe. It is precisely this choice that the HR has been trying to influence politically by making it difficult for Bosnian politicians to defend their vested interests and oppose EU conditionality.

The appropriateness of the EU conditions was only questioned by the RS ruling parties which repeatedly invoked the Dayton provisions to argue that the EU-demanded reforms were unconstitutional. Needless to say, non-reform meant for them continuation of the system of political patronage, including possibilities for political sheltering of criminal networks which everyone has long suspected due to the large scale of financial fraud and other crime in the country. With the transfer of power to the state level, responsibilities for managing public funds and public sector employment shift from entity to state-level institutions too. Considering the RS long-term refusal to give up entity competences, compliance with EU conditions has been viewed as a major surrender of power by them.

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<sup>397</sup>Office of the High Representative, “New Year’s Message to the People of Bosnia & Herzegovina from Paddy Ashdown, High Representative and European Union Special Representative,” 31 December 2003, available from [www.ohr.int](http://www.ohr.int).

<sup>398</sup>European Commission Delegation to BiH, “Public Opinion Poll in Bosnia and Herzegovina about the European Union,” March 2004. Opinion poll commissioned by the European Commission and conducted by Prism Research, available from [www.delbih.cec.int/en/worddocuments/word234.htm](http://www.delbih.cec.int/en/worddocuments/word234.htm).



While in the case of taxation, there was a strong case to be made about entities generating more revenues as a result of improved tax collection and guaranteed proportion of the total budget thanks to the redistribution formula negotiated in advance, no additional incentive other than the efficiency argument could be presented to the politicians in power for enticing their agreement on a single police structure. In the case of police reform, however, the EU did promise softening of the EU visa regime for BiH citizens – a reward for the population as a whole rather than a compensation for the leadership only. This was well known publicly too.<sup>399</sup> In this situation, the refusal to accept the reform package, an act to the detriment of the whole population, was easily attributable to the personal grip on power of RS ruling parties. When the continued obstinacy of RS leadership singled BiH out as the only country from the Western Balkans without a clear time perspective for SAA talks at the EU Council meeting on 3 October 2005, it was obvious with whom responsibility rested for the negative outcome. And when the public indignation was channeled towards the political headquarters in Banja Luka, the RS political elites were quick to change their mind and to adopt police reform two days later – on 5 October 2005. With general elections coming up in October 2006, the sanctioning by the voters was next in line.

There was an extra negative consequence to fear from in the case of non-acceptance of police reform. The Office of the High Representative was scheduled to be replaced by an EU special representative after the celebration of 10<sup>th</sup> anniversary of the Dayton Peace Accords in November 2005 expected to mark a turning point in the post-war history of BiH. That would have meant the phasing out of the “Bonn Powers” of the HR and the withdrawal of Paddy Ashdown from central stage in Bosnian politics. The politicians in power in BiH have good reasons to resent the HR for where he stands in the Bosnian institutional establishment and what he stands for in Bosnian politics. The SDS and PDP leaderships in Banja Luka do not hide their dislike for the HR and refer to his interventions as “attempts to undermine the state institutions of BiH.”<sup>400</sup> There is a certain competition between the HR and domestic political actors with regard to who is doing more for the future of the country and who is getting the credit for any positive achievement. The formal powers of the HR are a big disincentive for initiative and action on the part of Bosnian politicians who only too readily leave the unpopular decisions to the

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<sup>399</sup> See for instance interview for Dnevni Avaz of Javier Solana, EU High Representative, “BiH Constitution will have to be changed,” 16 May 2005, available from [www.ohr.int](http://www.ohr.int).

<sup>400</sup> Author’s interview with a senior RS government official.

responsibility of the international community. Yet, they complain about the HR's powers and feel dissatisfied when they cannot exercise the legitimate right to govern BiH and fulfill the responsibilities the Bosnian electorate has entrusted them with.

When the RS leaders opposed police reform in a consecutive round of talks in mid-September 2005, "Paddy Ashdown made it clear in an interview with the Banja Luka daily *Nezavisne Novine* that his office (OHR) would not terminate its operations or hand over its powers to local authorities anytime soon."<sup>401</sup> Regaining domestic sovereignty is an additional incentive for BiH politicians to comply with EU conditions as they have the promise of becoming fully in charge of the country and of graduating permanently from the HR's policy direction and supervision. The EU perspective is providing a convenient way out of the "Bonn Powers" of the High Representative. In fact, soon after the RS's endorsement of police reform, the Bosnian Prime Minister Terzic appealed to the EU to put an end to the mandate of the HR and strengthen the office of the European Commission in Sarajevo.<sup>402</sup>

The transfer of sovereignty to the BiH state level as a result of compliance with EU conditionality is therefore not perceived as an absolute loss by the RS politicians since they see in the incentive of EU membership a compensation for what they give up in terms of competences in the short run. European integration gives the promise of regaining full domestic sovereignty to domestic politicians and a way out of the protectorate status. The leaders of SDS in particular have realized that if they miss the European train now, they will be worse off tomorrow. The chairman of SDS, Dragan Cavic, also president of RS, conveyed that clearly to the RS Parliamentarians by warning them that "the position of RS was critically endangered by the rejection of the police reform because by doing so the RS made Bosnia the only country in the region excluded from European integration."<sup>403</sup> It is in the interests of the politicians of RS to be a strong region of Europe engaging directly with Brussels and even bypassing the BiH state level in policy areas with an EU dimension that are prerogatives of the entities. EU membership is thus seen as an opportunity to preserve the Dayton entity structure and reinforce the authority of

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<sup>401</sup> See Mirna Skrbic, "Call Us When You're Ready," *Transitions Online*, 21 September 2005.

<sup>402</sup> See Mark Beunderman, "Brussels should take over Sarajevo mandate, Bosnian PM says," *EUobserver*, Brussels, 19 October 2005, available from [www.euobserver.com](http://www.euobserver.com).

<sup>403</sup> Quoted from Dragan Stanimirovic, "SAA on the Horizon," *Transitions Online*, 24 October 2005.

the entity government in Banja Luka.<sup>404</sup> In the long run, the perceived gain is much higher than the perceived loss, even if they have to cede competences to the state level in the short run.

It is important to keep in mind that the political opposition to EU-demanded reforms in BiH comes from the group of least reform-minded formations. For a sustainable reform record in line with EU principles, political consensus across the spectrum is key. From that point of view, the fact that the hard-line nationalists in Banja Luka who have tended to view the existence of RS as a temporary separation from Serbia proper are changing their secessionist thinking and transforming the way they conceive of their interests and view their future political opportunities is positive for the implementation of agreed reforms and the continuity of reform efforts with rotation of parties in power. The EU incentive structure has thus intervened into the strategic calculus of the political leaders most opposed to EU-compliant reforms in BiH by reducing the political attraction of the nationalist project of “rejoining Serbia” and gradually altering their perception of long-term losses and gains. Indeed, the EU had to apply the sanctioning mechanism of its conditionality machine in order to get a local agreement on reform but it is significant that the most obstinate political camp in BiH is the one who made the difficult decision to compromise against their political beliefs and is increasingly adapting to the new possibilities of exercising sovereignty provided by the EU framework. With strict EU conditionality during the successive pre-accession stages, the compliance trend can be expected to be sustained in the future.

To be sure, resistance to restructuring the Dayton power system has not disappeared and blockages in implementation of sensitive reforms are bound to happen. For example, although the political class endorsed police reform in October 2005, the agreement envisaged gradual ceding of control over police matters to the state level in the course of five years. During that period additional negotiations are expected to take place concerning the boundaries of police regions and other operational matters which no one expects to be easy. This will undoubtedly translate into a very slow pace of reform and could give rise to frustration in external representatives in BiH who would like to see a much faster speed of reform. The External Relations Commissioner Chris Patten expressed openly the general disappointment with the rate of implementation of reforms in BiH in his address to the European Affairs Committee of the

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<sup>404</sup> Author’s interview with an EU official from the Banja Luka Office of the Delegation of the European Commission.

German Bundestag in April 2004: “BiH will progress to the next stage, but because of the failure of leadership provided by BiH’s politicians it will take longer than it should.”<sup>405</sup>

On the whole, the empirical record suggests that efficiency arguments and persuasion were not sufficient to tip the balance in favor of compliance in the politically most sensitive reform areas from the EU list of conditions. If they were enough, then police reform would have happened without the year-long protracted negotiations and without the actual application of the EU sanctioning mechanism. The EU requirements on police reform were criticized by the majority of the RS political elites which resisted giving in until they felt the threat of exclusion from the EU as real and credible. The EU did try argumentative persuasion as an instrument of first choice but faced with blunt refusal from the RS political establishment, it was firm and consistent in resorting to more coercive means. At the end, the RS politicians had good reasons to comply rather than take the blame for keeping BiH out of the EU integration process.

This is not to belittle the role socialization activities have played and will play in the politics of compliance. In fact, the EU SAP process is just the kind of mechanism that offers the possibility for intensified contacts between the BiH administration and the EU institutional level. The questionnaire the European Commission presented to the BiH authorities in 2003 in the process of preparing the Feasibility Study and the answers the BiH public institutions had to provide is one such example where through a non-coercive, discussion-based mechanism of information exchange, the two sides advance their knowledge of each other and shape their understanding of each other’s working methods, capacities, views. For the RS government which through responding to the Commission’s information demands had to do a self-evaluation of the policy areas under the entity’s competences, the process involved a degree of developing an awareness of its own capacities as well.<sup>406</sup> And while in the period after the war and up until 2000, RS kept itself isolated not only from the rest of BiH but also from the rest of the world, the shift in the willingness of RS political elites to engage is notable.<sup>407</sup>

At societal level, the absence of a common sense of belonging to one nation of the three ethnically different communities and the ensuing lack of loyalty to the BiH state is perhaps the most often cited reason for the absence of political cooperation at state level. The BiH citizens,

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<sup>405</sup> Chris Patten, External Relations Commissioner, “The Western Balkans: The Road to Europe,” Speech to German Bundestag, European Affairs Committee, Berlin, 28 April 2004, Speech/04/209, available from [www.europa.eu.int](http://www.europa.eu.int).

<sup>406</sup> Author’s interview with a senior RS official.

<sup>407</sup> Author’s interview at the Regional Office of the European Commission in Banja Luka.

however, while divided along ethnic and religious line, all share the same interest in living in a normal country, benefiting from good public services and improving their economical welfare. Opinion poll data confirm that the BiH citizens are mostly concerned about the state of the economy and are highly disillusioned with the political process in general.<sup>408</sup> They also show a remarkable lack of public interest in the nationalist projects of the past that caused the Balkan tragedy in the last decade of the 20<sup>th</sup> century.<sup>409</sup> Indeed, a common conception of political community in BiH may be lacking but the EU integration project may provide just the kind of overarching project that cuts across ethnic lines and unites rather than divides. In this way, the societal quest for European integration feeds into the compliance rationale and strengthens the case for compliance. At the end, the public intolerance against RS political obstructionism on police reform which resulted in almost missing the opportunity to start SAA talks in 2005 played a role a too and pushed the RS political establishment to acquiesce.

## **7.2 THE POLITICS OF COMPLIANCE IN SCG**

In contrast to BiH, the political scene in Serbia and Montenegro is entirely defined by the domestic actors themselves. Responses to EU conditionality are formed through the domestic political process and the positioning of the major political parties on the issue of the common state. There is no external authority in the domestic structures of either Serbia or Montenegro that can impose compliance from outside. Any decision to comply or not-comply is a product of domestic political contestation in reaction to external stimuli. Domestic politics in the two republics follow separate dynamics but the domestic political scene in both of them is very fragmented on the statehood issue rendering the politics of compliance very confrontational. The EU common state and single economic space conditionality has cut across the political spectrum in both republics and has compelled a political expression of agreement or disagreement with it.

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<sup>408</sup> See for instance Center for Democracy and Reconciliation in Southeast Europe, Public opinion survey conducted by Prism Research between 9 and 23 July 2004, available from <http://www.cdsee.org/pdf/BosniaStoryAndTables.pdf>.

<sup>409</sup> Ibid.

## *Interest-Based versus Norm-Based Compliance*

### *Montenegro*

In Montenegro, the independence question has been the dominant political cleavage since 1997 when Djukanovic turned against Milosevic and embarked on a pro-independence course. The EU insistence on preservation of a common state with Serbia was a direct blow to the pro-independence governing coalition of the Djukanovic-led Democratic Party of Socialists (DPS) and the Social Democratic Party (SDP) in Podgorica. The Liberal Alliance of Montenegro (LSCG) which also advocates the pro-independence cause took the occasion to withdraw its support for the DPS-SDP government for its signature to the Belgrade Agreement thus provoking an internal governmental crisis and early parliamentary elections in Montenegro. The DPS-SDP coalition reconfirmed its governing mandate from its pro-independence constituency during the elections held in October 2002 and strengthened its domestic position vis-à-vis its political opponents winning a comfortable majority of 39 seats in the Parliament out of 75.<sup>410</sup>

The pro-union opposition parties in Montenegro, in turn, have failed to capitalize on the overlap between their preference for a strong relationship with Serbia and the EU encouragement of such an outcome. The EU conditionality has directly lent support and legitimacy to a group of political formations with doubtful democratic credentials. The Socialist People's Party (SNP), Serbian People's Party (SNS) and the People's Party (NS) in Montenegro backed Milosevic's regime in Belgrade during the 1990s and were slow to renounce the policies of the past and to accept the necessity for radical reform, both political and economic. Due to their position on domestic issues, they have been unable to become a serious contender to govern Montenegro by enticing a majority of supporters. The EU backing for their stance on the state union has been insufficient to increase their electoral support and bring them closer to a winning majority.<sup>411</sup>

The pro-independence political bloc in Montenegro which took the decision to recreate the common state has maintained an ambiguous position on the state union issue. Being in

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<sup>410</sup> See Peter Palmer, "Montenegro's Elections", Commentary, *CEPS Europa South-East Monitor* 39, October 2002. Electoral support for the pro-independence DPS-SDP coalition rose from 42 per cent in the April 2001 election to 47.4 per cent in the October 2002 election. The LSCG's vote dropped from 7.8 per cent to 5.7 per cent in the October 2002 elections after a dramatic shift of its alliance policy. Having formed a coalition with the anti-independence political bloc "Together for Yugoslavia," the LSCG was punished by the voters.

<sup>411</sup> In the October 2002 elections the main three-party pro-Yugoslav Coalition for Changes saw its support drop from 40.6 per cent to 37.9 per cent which gave it 30 seats in the new parliament. See Peter Palmer, "Montenegro's Elections", Commentary, *CEPS Europa South-East Monitor* 39, October 2002.

government, it had to compromise with Belgrade and be flexible about its independence aspirations, if it wanted Montenegro to have a perspective for joining the EU in the future, within or outside the State Union. Yet, its participation in the common state structures has been reluctant while the pro-independence overtones of its domestic discourse have been preserved. Djukanovic has repeatedly expressed his government's support for the state union formula during exchanges with EU interlocutors<sup>412</sup> whereas his positions in the on-going negotiations on the common policies with Belgrade have remained uncompromising and at times very rigid.<sup>413</sup>

To respond to the exigencies of his domestic pro-independence constituency, Djukanovic has repeatedly made public statements about holding a referendum on independence. Initially, he announced that he would call a referendum as early as the moratorium had expired in February 2005, three years after the signature of the Belgrade Agreement. This was also seen as a tactical move to postpone the direct elections to the Serbia and Montenegro parliament originally planned for early 2005 which was not in the interest of the pro-independence coalition.<sup>414</sup> As a senior DPS official reported, "a direct ballot in which citizens elect deputies to the state union parliament would certainly not play into our [DPS's] hands because half of our independence-minded voters would abstain."<sup>415</sup> Under EU pressure, a more conservative interpretation of the three-year transition period prevailed extending the end of the referendum moratorium to February 2006, three years after the entry into force of the Constitutional Charter. In February 2005, Djukanovic launched a new initiative of a still looser union between the two republics called 'a union of independent states' which would scrap the requirement for holding a referendum altogether and would arrange the matter on an intergovernmental treaty base between Belgrade and Podgorica.<sup>416</sup> Although the idea never gained currency outside Montenegro and was very categorically dismissed by the Serbian President and Prime Minister, it is nevertheless very revealing of the intentions of the Montenegrin governing elite.

The contradiction between Djukanovic's rhetorical backing of the common state and actual obstruction of the common institutional and policy mechanisms is a clear indication of the lack of commitment to the constitutional solution and resistance to the EU single sovereignty

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<sup>412</sup> Interviews with EU officials.

<sup>413</sup> Interviews with Serbian government officials.

<sup>414</sup> See Nedjeljko Rudovic, "Montenegro Plans Independence Vote," *Balkan Crisis Report* 492, Institute for War and Peace Reporting, 16 April 2004, available from [www.iwpr.net](http://www.iwpr.net).

<sup>415</sup> Quoted from Rudovic, *ibid*.

<sup>416</sup> See Nedjeljko Rudovic, "Montenegro Launches New Divorce Bid," *Balkan Crisis Report* 544, Institute for War and Peace Reporting, 4 March 2005, available from [www.iwpr.net](http://www.iwpr.net).

conditionality. The EU's own inconsistency in communicating its policy to key domestic actors has also fuelled local opposition to it and encouraged internal bickering over what it is that the EU really demands. Thus the pro-union forces were willing to embrace the most maximalist interpretation of the EU requirements concerning integration with Serbia whereas the pro-independence parties were ready to denounce every move that according to them went beyond the spirit of the Belgrade Agreement. Thus when the Commission insisted on economic harmonization between the two republics prior to the initiation of the twin-track approach, the government in Montenegro protested vigorously accusing the Commission of trying to reverse the logic of the Belgrade Agreement, backed by Solana, which called for economic harmonization of the two republics with the EU rather than between the two of them.<sup>417</sup> The EU's ensuing acceptance of separate trade talks with the two republics under the umbrella of a common SAA was a further signal that Brussels is weakening its firm position on preservation of the state union and could one day change course completely and accept political disintegration as well as economic autonomy of the two republics.

The EU itself could not produce convincing arguments to persuade the Montenegrin pro-independence leadership that a common state between Serbia and Montenegro was an absolute necessity for faster integration of the two republics in the EU structures. Seen from Podgorica, Montenegro was a victim of a larger geo-strategic concern of the EU with security in the Balkans. In particular, the Montenegrin question was often put in the context of Kosovo's undefined status and the ensuing reluctance to encourage further secessionist ideas in the Balkan region. From an EU point of view, acquiescing to Montenegrin demands for independence was viewed as sending a wrong signal to Kosovo which, under UN administration and *de facto* separated from Serbian control, harbored its own ambitions about independent statehood. Djukanovic, in turn, tried to use the international sensitivities regarding Serbia's unsettled relationship with Kosovo to press the case for an independent Montenegro. Arguing that Montenegro cannot be held hostage to domestic problems pertinent to Serbia only, Djukanovic sought to expose the injustice done to his republic by forcing it into a precarious union with Serbia.

From a Montenegrin point of view, it was the EU security interests rather than universal norms and principles that guided the EU common state preference and this rendered the EU

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<sup>417</sup> Interviews with Montenegrin government officials.



stance unacceptable to Montenegrin pro-independence politicians. The argument about reversing the disintegration trend in the Balkans and giving a strong boost to the integration movement in the region did not have a compelling authority to governing elites who stood to lose face vis-à-vis their pro-independence electorates and give up political power, if they forwent the opportunity to secure full sovereignty. The legitimacy of the EU demands was highly questionable for Montenegrin leaders who refused to embrace wholeheartedly the state union for the sake of serving the EU interest against their own political interest in an independent Montenegro.

Thus while the EU had difficulties justifying its common state position on normative grounds, the Montenegrin pro-independence bloc could mobilize appealing arguments in favor of its preferred option, although those evolved over time. In 1997, when Milosevic was still in power in Belgrade, Djukanovic used political arguments to defend the Montenegrin pro-independence case, affirming the democratic credentials of his republic and pointing to the authoritarian trend in Serbian politics. After the initial democratization steps in Serbia with the fall of Milosevic in October 2000 and the ensuing shift of the policy of the international community this stance was no longer sufficient to win international support for an independent Montenegro, not least because the democratization processes in the republic itself fell short of international standards.

While Serbia was making its own attempts at democratization, the EU stepped up its pressure on the two republics in 2001 to agree on a common constitutional solution. At that point in time, blatant defiance of the EU was not a wise move as it would have had adverse consequences on Montenegro's sovereignty quest as well as its EU integration prospects (assuming that it was viewed as the obstructionist partner). The High Representative of the CFSP Javier Solana put his own reputation alongside the EU political weight in getting a deal between the two republics. Insisting on independence and rejecting the EU package would have triggered almost automatically a refusal by the EU to recognize a self-proclaimed independent Montenegro and would have de-legitimized internationally its obstinate leaders.

Djukanovic, however, made it clear that there were limits as to how much he could compromise. Remaining outside the EU framework as an independent state and developing as tax-haven or tourist-haven was an alternative development path that was seriously considered by

senior Montenegrin government officials.<sup>418</sup> And although it is debatable whether this option is really available to an independent Montenegro, the fact that it was present in the strategic calculations of the pro-independence leadership at the time and the EU interlocutors were aware of it<sup>419</sup> is significant. Yet, to achieve that, Montenegro needed international recognition as an independent state and this constrained the Montenegrin leadership and put limits to its defiance over sovereignty.

Rather than blatantly defying the EU, Djukanovic signed the Belgrade Agreement which he never intended to fully respect. After the common state came into existence on paper, the tactic was to quietly sabotage the common state institutions. By disrupting the normal day-to-day functioning of the common structures, the whole initiative appeared flawed from the very start, a project impossible to implement from a technical standpoint. The Montenegrin opposition to the common state then switched to an institutional rationale and employed inefficiency arguments which dwelled on the suggestion that the EU was backing an inefficient institutional solution which Montenegro could not be held accountable for not putting into practice.

The strongest Montenegrin objections to the common state, however, had an economic foundation. Economic estimations have indicated that adoption by Montenegro of custom tariffs close to Serbian levels would translate into higher domestic prices of most goods in Montenegro due to trade diversion effects and as such would constitute a very high price to Montenegrin consumers.<sup>420</sup> The implementation of the economic harmonization Action Plan was consequently presented as harmful to the economic wellbeing of Montenegrin citizens and on these grounds it was blocked by the Montenegrin government. The EU subsequently dropped its demands on customs tariff harmonization and adopted the twin-track approach to the state union which applied particularly to trade matters.

The only EU argument the pro-independence camp could not counter successfully had to do with the internal societal division on the question of independence which manifested itself in an almost even divide or at most a tiny majority favoring an independent Montenegro.<sup>421</sup> The long-

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<sup>418</sup> Interviews with Montenegrin government officials.

<sup>419</sup> Interviews with EU officials.

<sup>420</sup> See Daniel Gros, "Establishing the Common Market Between Montenegro and Serbia," Commentary, *CEPS Europa South-East Monitor* 41, December 2002. Daniel Gros estimated the potential loss for the average household in Montenegro only in the textile sector at the amount of EUR 150 per year and for the whole Montenegrin economy in the rank of EUR 45 million annually.

<sup>421</sup> Numerous opinion poll surveys conducted in Montenegro show a very narrow margin in favor of independence. The poll conducted in September 2005 by the Centre for Democracy and Human Rights (CEDEM) in Podgorica

standing social cleavage between the “white Montenegrins” favoring unification with Serbia and the “green Montenegrins” supporting independence has persisted over the years and its political importance is still visible in the political fragmentation in Montenegro. The political opening in the 1990s and the regained freedom of political expression did not weaken this traditional societal split which found a new political appearance in the new platforms of the parties. In addition, the 2003 census results in Montenegro showed the absence of a clear ethnic majority within the republic, a common reference point for most independence claims. In 2003, 40.6 percent of Montenegrin citizens considered themselves of Montenegrin ethnicity, a 30 percent decline since the 1991 census, whereas the number of ethnic Serbs in the republic sharply increased from 9.3 percent in 1991 to an estimated 30 percent in 2003.<sup>422</sup> Montenegro has been divided and remains divided on the important question of what its political community is and where its borders lie. The internal division has been a major obstacle to the pro-independence political bloc which was not certain to get an incontestable and resounding “yes”, had a referendum on independence been called in 2001-2002 before agreeing to enter into a state union with Serbia. Although Djukanovic has pledged to hold a referendum on withdrawal from the State Union, the discussions about the terms and conditions that would make such a vote legitimate in the eyes of the world are very telling about the unease with which the pro-independence political bloc is approaching the issue.<sup>423</sup>

In the Montenegrin case, therefore, the EU conditionality was vigorously contested by the governing political parties which, while initially submitting to the EU demands, did everything they could to reverse the deal sponsored by the EU. Not only did the Montenegrin government boycott the work of the common state institutions but it also openly challenged the appropriateness of the EU demands and put forward arguments against the common state. Undoubtedly, the EU demands appeared neither fair nor legitimate to domestic actors favoring independence. The EU itself could not make a convincing case as to why it is pushing for a single sovereignty solution. Neither argumentative persuasion nor socialization could provoke a change of mind in the governing political circles which held pro-Western views and had declared

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shows 41.6% support for an independent Montenegro, 34.5 % opposition to independence and 23.9 % undecided voters. See public opinion polls in Montenegro published by CEDEM, available on [www.cedem.cg.yu](http://www.cedem.cg.yu).

<sup>422</sup> “Montenegro Census Offers Surprising Results,” *Southeast European Times*, 19 December 2003.

<sup>423</sup> The pro-independence bloc has maintained that a simple majority (50% +1) is sufficient for a legitimate outcome of an independence vote whereas the EU has insisted on stricter democratic guarantees for recognizing the results of such a referendum.

their willingness to carry on domestic reforms in line with European democratic and economic standards.

The EU conditionality did not produce a major shift of electoral preferences of Montenegrin citizens nor did it convince the political elites to change their long-term interests and genuinely endorse the common state. The political leaders from the independence bloc have not considered it worthwhile to alter their preferences and have only adjusted their short-term strategy to temporarily accommodate EU demands. In fact, they have viewed the EU pressure as highly illegitimate and have referred to it to explain the temporary setback on the independence agenda to their electorate. The pro-union parties have strategically used the indirect EU support for their position on the common state to boost their image at home but that has not led to a radical revision of their domestic policy preferences and an increase of their domestic popularity. In short, the EU conditionality has not provoked a fundamental redefinition of elite-society relations nor has it inspired a far-reaching reconfiguration of the political space in Montenegro.

### *Serbia*

The state union question has not been a dominant political cleavage in Serbia although political parties on both sides of the spectrum have directly or indirectly expressed a position on the common state. Prior to the signing of the Belgrade Agreement, the major Serbian political actors were united in their insistence on a strong federal state with Montenegro. During the negotiations, the Serbian side maintained that a viable arrangement required a higher degree of centralization of decision-making authority and clear lines of division of competences between the federal and the republican layers of government. A loose institutional structure like the State Union one will not be efficient and lasting and will slow down both Serbia and Montenegro in meeting the EU pre-accession requirements, the Serbian interlocutors contended.

The relationship with Montenegro, while not the most significant issue in Serbian politics, figures in the strategic thinking of all political actors on the Serbian scene. Kostunica's Democratic Party of Serbia (DSS) has a clear pro-union position resulting from its broader political posture, best characterized as a mixture of moderate nationalism and conservatism. His criticism of the legitimacy of the ICTY and vocal opposition to Serbia's transferal of war crime indictees to The Hague is just one example of where his political views stand when it comes to transforming the Serbian society and accepting the Western norms of rule of law and

justice. During his mandate as FRY President, replacing Milosevic in October 2000, Kostunica strongly supported a federal solution for regulating relations between Serbia and Montenegro but he was unable to influence in any substantive way the negotiations on the State Union between the Djukanovic-led Montenegrin government and the Djindjic-led Serbian government at the time. Kostunica did sign the Belgrade Agreement in his capacity of FRY President but this was more an act of desperation than a conscious choice since he preferred some sort of a constitutional link between Serbia and Montenegro than no link at all.<sup>424</sup> He also counted on more vigorous EU pressure on Montenegro during the implantation phase to strengthen the federative elements of the constitutional deal and to deepen institutionally and economically the integration between the two republics.<sup>425</sup> As a Prime Minister in the DSS-led coalition government that came to power in February 2004, Kostunica has consistently and vigorously dismissed any call for dismantling the state union as well as the idea of an independent Kosovo.<sup>426</sup>

The Democratic Party (DS) of the assassinated Prime Minister Djindjic was the one which compromised while in government in order to bring Serbia in compliance with the EU common state conditionality. The DS, which led the Serbian government after the fall of Milosevic in 2000 until the early parliamentary elections in December 2003, accommodated Montenegro's insistence on political equality in the common state but also felt most acutely the difficulties of making the State Union work under the open-ended policy coordination mechanisms negotiated with the pro-independence leadership in Podgorica. Djindjic himself was pragmatic about all issues concerning Serbian statehood, including the thorny question of Kosovo.<sup>427</sup> Above all, Djindjic had a strong vision of Serbia's European future and was reluctant to take risks with the country's EU accession aspirations. He also maintained a very good personal relationship with Djukanovic in Podgorica with whom he finally struck the deal to dissolve FRY through the adoption of the Constitutional Charter and to keep all power at republican level thus successfully removing his political rival Kostunica from public office, at least for a while.<sup>428</sup> The DS under the leadership of Boris Tadic has remained a moderate supporter of the common state formula.

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<sup>424</sup> Interview with a Kostunica's advisor. In the words of one of Kostunica's aides, "Everything in the Belgrade Agreement is against his [Kostunica's] beliefs."

<sup>425</sup> Ibid.

<sup>426</sup> See for example Igor Jovanovic, "Ex-Ex-Yugoslavia: A Virtual Country," *Transitions Online*, 2 March 2005.

<sup>427</sup> Interview with a Djindjic's advisor.

<sup>428</sup> Interviews with Serbian and Montenegrin independent analysts.

The most unintended effect of EU conditionality on Serbian domestic politics, however, has been the indirect support for the most nationalist and least progressive parties from the political spectrum. In principle, the nationalist political formations like the Serbian Radical Party (SRS) of Seselj and the Socialist Party of Serbia (SPS) of Milosevic are sympathetic to the idea of a strong union with Montenegro, although for different reasons from the EU motives. The “Greater Serbia” project is at the heart of the political platform of the SRS and even though it was not the “Greater Serbia” message per se that mobilized the enormous public support for the party during the December 2003 parliamentary elections (27.61 percent of the votes, the highest score obtained by any party – see table 7.2), the SRS leadership is unlikely to criticize the EU for demanding the preservation of one state of Serbia and Montenegro. Paradoxically, the SRS is the least preferred political partner by the EU and its electoral success sent waves of anxiety and alarm in Brussels and the other European capitals.

**Table 7.2: Serbian Parliamentary Elections, December 2003: Final Results**

Political Party	Seats in Parliament (250)	Number of votes	Percentage of votes
Serbian Radical Party (SRS)	82	1,056,256	27.61
Democratic Party of Serbia (DSS)	53	678,031	17.72
Democratic Party (DS)	37	481,249	12.58
G17 Plus	34	438,422	11.46
Serbia Renewal Movement-New Serbia coalition (SPO-NS)	22	293,082	7.66
Socialist Party of Serbia (SPS)	22	291,341	7.61

Source: Government of the Republic of Serbia

Realizing this unfortunate coincidence of the EU statehood preferences and the SRS’s nationalist platform, the EU interfered very strongly prior to the presidential elections in Serbia in June 2004 openly lending its support to the pro-reform Democratic Party leader Boris Tadic against the ultra-nationalist Tomislav Nikolic of the Serbian Radical Party. Between the first and the second round of the elections, the EU put strong pressure on the Kostunica-led government to back the presidential candidacy of Tadic making it perfectly clear that Tadic was the only acceptable partner from the two candidates. On 21 June 2004, just days before the second round of the elections, Javier Solana received Tadic in Brussels whereas Chris Patten, the then External Relations Commissioner, described the choice Serbia faced in the presidential election as

“joining the European family or Belarus.” The EU Heads of State and Government also took the time to express their views on the presidential election in Serbia during the European Council of 17-18 June 2004 and delivered a similar message:

“The European Union emphasizes that the presidential elections in Serbia on 27 June [2004] represent a crucial moment for Serbia, for the state union of Serbia and Montenegro and for the development of their relations with the European Union. The European Council encourages the people of Serbia to exercise their democratic right to vote and in doing so, to ensure that Serbia moves decisively away from the isolation of the past and towards European integration through democracy, reform, regional cooperation and respect for human rights, the rule of law and international obligations. The European Union wants to work with Serbian leaders in the spirit of European integration and on the basis of a shared commitment to European values.”<sup>429</sup>

The election results brought well-awaited relief and hope that politics in Serbia would move in a European direction with Tadic winning 53.61 percent of the vote against 45.03 percent for Nikolic. Yet, concern about the high score of the nationalist candidate remained strong in Brussels and formed an integral part of the motivation that led to the change in EU policy vis-à-vis the state union. In a letter to Javier Solana and the Dutch Foreign Affairs Minister during the Dutch Presidency of the EU in July 2004, Commissioner Patten voiced his apprehension about the matter:

“I am increasingly more concerned about the impact of such a situation on the stability in Serbia. Pro-European reformists have nothing to show to their voters, which perhaps is linked to the unpleasantly high score of 45 per cent of the vote for [Serbian Radical Party member Tomislav] Nikolic in the recent presidential election. Fortunately, Boris Tadic managed to win in the end. However, the current minority government is unstable and may not last for much longer. We desperately need to move Serbia forward while we can before the prospects of new parliamentary election bring the political process once again to a grinding halt.”<sup>430</sup>

The political fragmentation on the common state issue emerged with the increasing disappointment in Serbia with the dysfunctional State Union and mounting criticism of the EU

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<sup>429</sup> See European Council, Presidency Conclusions, Brussels, 17 and 18 June 2004.

<sup>430</sup> See the letter sent by Chris Patten in mid-July 2004 to the chair of the EU Ministerial Council and Dutch Foreign Minister Bernard Bot and to the EU High Representative for Common Foreign and Security Policy Javier Solana and recommending a change of the EU policy vis-à-vis the State Union. The letter was first leaked to the Montenegrin press and was later published in English language in the *Balkan Crisis Report* No. 516, 17 September 2004, Institute for War and Peace Reporting, available from [www.iwpr.net](http://www.iwpr.net). It was subsequently reprinted in the *CEPS Europa South-East Monitor* 58, September 2004, available from [www.ceps.be](http://www.ceps.be).

for not fulfilling its obligations under the Belgrade Agreement to mediate and arbitrate disagreements between the two parties in the implementation phase. With the launch of the anti-state union platform of the newly established political party G17 PLUS in May 2003, the arguments against the EU common state conditionality became part of the political process and a matter of public debate. The traditional perception of sovereignty prevalent in the Serbian society was directly challenged in the “State Program of a European Serbia”<sup>431</sup> of G17 PLUS which for the first time equated the Serbian national interest with faster integration in the EU structures, only achievable if Serbia proper was disconnected from both Montenegro and Kosovo. According to the party platform,

“[t]he fact that the EU itself is composed of national states indicates the need for a new Serbian state and its national program. The interest of Serbian citizens is to create a modern state so as to quickly develop its economy and join European integration. Serbia and its citizens need a new road... Citizens need to be told openly that the creation of a greater state with access to the sea is not necessary for the existence of a rich and prosperous state. Serbia today has no need for territorial enlargement... Serbian authorities have no interest to act against Montenegro or the Kosovo Albanians, but they do have an obligation to work exclusively in the interest of Serbian citizens...”<sup>432</sup>

In addition to proposing a whole new vision for the future of Serbia, G17 PLUS launched a very powerful campaign against the State Union with Montenegro with very concrete rational arguments against the common state in its existing format. In particular, it contested the state union formation on four accounts: 1) the ineffectiveness of the administrative structures for common policy coordination, 2) the formula of equal political power sharing disproportionate to the size and economic weight of the two constituent units; 3) the cost of financing the common institutions, and 4) the overall slow down effect on Serbia’s transition. These grievances are clearly stated in the political program of G17 PLUS, excerpts from which follow below:

“In this unique union of Serbia and Montenegro, which is not even a customs union, let alone a federation, the citizens of Serbia are not equally represented, given that they finance around 95% of its expenditures, whereas Montenegrin representatives hold half of the ministerial posts and claim the right on half of all governing posts, accepting only 5% of the related liabilities...With the present administration of the state union, ..., the reforms in Serbia have started to lag behind and the enormous energy and the precious time of the reformers is wasted in futile and unnecessary discussions on the harmonization of two different economic systems, which is not even possible given the limits of the Constitutional Charter and its

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<sup>431</sup> Available from <http://www.g17plus.org.yu/english/index.html>.

<sup>432</sup> G17 PLUS, “State Program of a European Serbia,” *ibid*.



accompanying law... Therefore, the present state union of Serbia and Montenegro is not sustainable and we will not be able to join the EU. A 3-year period, ..., is far too long, and a waste of time for Serbia...”<sup>433</sup>

The G17 PLUS program is an undisputable attempt to de-emotionalize and rationalize the debate about the borders of the Serbian state. The positions taken are argued from the point of view of the Serbian national interest formulated on the basis of a careful cost-benefit calculation rather than on emotional appeals to history and identity. Two prominent Serbian economists and public figures, the former FRY deputy Prime Minister and Deputy Prime Minister of the Republic of Serbia in the Kostunica government Miroljub Labus and the former Central Bank Governor and Finance Minister in the Kostunica government Mladan Dinkic stand behind the G17 PLUS political platform. Indeed, G17 PLUS brings with it the message of economic reforms and the human capacity to implement them. Milan Dinkic, perhaps the most outspoken opponent of the common state among the Serbian leaders, expressed before the Serbian public his strong economic objections to the economic formula proposed by the EU in an interview to the daily *Politika* in the following way:

“Lingering in the temporary union with Montenegro, accepting its extortions, and lowering customs rates to such a ridiculous level in the process of harmonization of the two markets can only worsen the position of Serbia in international trade, destroy numerous industrial branches – first if all Serbian agriculture, food, textile and petroleum industries – and seriously jeopardize the living standards of the population...”<sup>434</sup>

The EU itself is not spared from criticisms for its contribution to the creation of the inefficient and even harmful state union. Part of the message conveyed by G17 PLUS has been a direct attack on the EU in general for its inappropriate demands and Javier Solana in particular for his passivity in arbitrating disagreements between the two reluctant state union member states. In an interview published in the *Frankfurter Allgemeine Zeitung* on 28 February 2003, Dinkic openly challenged EU policy on the State Union and called for Serbia’s separation from Montenegro:

“The EU and Solana wanted a diplomatic victory at all costs; the content did not matter to them (...). Solana has not fulfilled his role as a helpful mediator (...). We all know that Djukanovic is absolutely set on Montenegro’s independence, so why should Serbia pay for it? (...) If the EU wants to keep the Union

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<sup>433</sup> Ibid.

<sup>434</sup> “Brussels’ Financial aid to Serbia Withheld Because of Montenegro,” interview with Mladjan Dinkic for the Serbian daily *Politika*, obtained from the G17 PLUS secretariat, translation by G17 PLUS.

because it fears the destabilization of the Balkans, it needs to commit itself more strongly than before to bringing about economic harmonization and to correcting the institutional framework.”<sup>435</sup>

The G17 PLUS political program openly questioned the legitimacy of EU political and economic demands and made the case for an independent Serbia capable of reaching EU democracy, market economy and rule of law standards on its own faster than in a precarious common state with a reluctant Montenegro. Not only did the party put forward a political vision for the future of Serbia different from the EU’s preferred solution but its political positions translated into public support of 11.5 percent at the December 2003 early parliamentary elections in Belgrade, only after a year of existence and several months of political campaigning. As a political party, G17 PLUS shows a profound understanding of the EU and commitment to the values and norms underpinning the European integration project. In principle, they are the natural protagonists of the Europeanization process in the Serbian context. It is significant that a political group of that caliber is able to launch a campaign against the EU common state and mobilize an important domestic constituency behind its political and economic agenda.

This is not to say that the arguments of G17 PLUS enjoy the support of the majority of Serbian citizens. In fact, the successful electoral performance of the nationalist political formations in the post-Milosevic era demonstrates that a sizable part of the Serbian public is trapped in traditional understandings of borders, ethnicity, political boundaries, etc. The Serbian population, just like the citizens of Montenegro, is dubious about the political boundaries of its community. More importantly in the Serbian context, the Serbian society has not come to terms with its most recent past yet and the majority of Serbs still think in terms of historical rights over territories with predominantly ethnic Serbian population when they define Serbia’s statehood. The societal traditionalism on the question of what constitutes the Serbian state is reflected in the political platforms of the majority of political parties in Serbia favoring a continued relationship with both Montenegro and Kosovo. Furthermore, G17 PLUS, while strong in the economic policy domains in the Kostunica government, is in minority when it comes to political issues regarding Serbia’s relationship with the remaining constituent parts of the former Yugoslav

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<sup>435</sup> “Solana has not fulfilled his task. Central Bank Governor Dinkic is for separation from Montenegro”, *Frankfurter Allgemeine Zeitung*, 28 January 2003 (my translation).

federation.<sup>436</sup> Thus it is not in a position to set the government policy on statehood matters although it is well positioned to intervene on political issues with economic implications for Serbia.

Just like in Montenegro, the EU conditionality has not had a profound impact on the Serbian political space. Indeed, domestic actors have seized the opportunity to exploit EU conditions for their own political purposes but the EU common state demands as such have not provoked a dramatic restructuring of the political scene in Serbia. The rift between Kostunica and Djindjic and consequently between the DSS and the DS has widened after Djindjic and Djukanovic successfully orchestrated Kostunica's ousting while complying with EU conditionality. G17 PLUS, in turn, has challenged the core of the EU conditionality and has used the occasion to score domestic points by questioning the legitimacy of EU conditions, exposing the incompatibility of the state union with the 'Serbian national interest' defined as fast EU accession and revealing the adverse effects of the EU economic harmonization demands on the Serbian industrial base. The interests of the nationalist political parties have coincided with the EU-required constitutional changes but those formations have been incapable of grasping the EU dimension in order to use it to their advantage. Instead, they have relied on traditional conceptions of nationalism and sovereignty to appeal to their electorate adhering to nationalist discourse of 'retaining control' over former Yugoslav territories.

While the EU could neither persuade nor pressurize Serbia and Montenegro to work out their differences, the rational arguments put forward by the two sides did convince the EU to soften its conditionality on economic harmonization. In September 2004, signaling a major policy shift, the EU Foreign Affairs Ministers agreed to initiate a "twin-track" approach for the State Union. The decision came after the External Relations Commissioner at the time Chris Patten admitted that there was no political will on either side to proceed with the technical issues of economic nature.<sup>437</sup> While not abandoning completely its policy of single sovereignty, the EU gave up the requirement on common economic space and decided to proceed with the two republics

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<sup>436</sup> The implicit political bargain that led to the formation of the coalition government between the Democratic Party of Serbia (DSS), G17 PLUS and Serbia Renewal Movement-New Serbia coalition is based on the compromise reached that G17 PLUS would take the lead on economic policy while suppressing its political views on statehood questions. Interviews with Serbian political analysts and G17 PLUS representatives.

<sup>437</sup> See the Patten Letter, reprinted in the *CEPS Europa South-East Monitor* 58, September 2004, available from [www.ceps.be](http://www.ceps.be).

separately although under a single SAA and while preserving the common state as an institutional framework. In the words of Commissioner Patten,

“[t]he “twin track” approach to SAA negotiations means dealing with the two republics on policies which they conduct separately, notably trade, economic and sectoral policies, while continuing to work with the State Union where it is the competent authority, for example on international political obligations and human rights.”<sup>438</sup>

Indeed, faced with vigorous opposition to its demands and fearing the unintended consequences of its policy for political stability of the region, the EU loosened its stance. Voices from both sides hailed the EU’s decision. The Deputy Prime Minister of Serbia Miroljub Labus announced in the media that the “Belgrade Agreement mistake [was] finally corrected,”<sup>439</sup> whereas the President of Montenegro Filip Vujanovic, welcoming the Brussels initiative, expressed Montenegro’s interest not only in economic autonomy but also in political independence.<sup>440</sup>

In both Serbia and Montenegro, the EU conditions have been very divisive and the domestic political space highly fragmented. As a result, resistance to EU demands and confrontation with the EU have been inevitable. Notably, there are political formations in both Belgrade and Podgorica that can make the case against the EU conditionality and be able to mobilize substantive domestic constituencies in support of their position. In this sense, the G17 PLUS views on Serbia’s independence and Djukanovic-led independence campaign in Montenegro are an important challenge to the EU conditionality policy. These political parties do not identify their domestic political interests with the EU demanded changes nor do they see the benefits offered by the EU exceeding their costs of complying with EU conditions. The mega incentive of EU membership is not sufficiently strong and attractive to compel a radical redefinition of local players’ interests. There are limits to what the EU can ask in exchange of granting the prospect for future accession.

Moreover, the EU tendency to speak with two distinct voices and to communicate an incoherent message has created an impression in domestic actors that the EU stance on the state

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<sup>438</sup> European Commission, “Commissioner Patten announces launch of Feasibility Report on Serbia and Montenegro,” IP/04/1202, 11 October 2004, available from [www.europa.eu.int](http://www.europa.eu.int).

<sup>439</sup> Miroljub Labus, “Belgrade Agreement Mistake Finally Corrected,” *Balkan Crisis Report* No. 516, 17 September 2004, Institute for War and Peace Reporting, available from [www.iwpr.net](http://www.iwpr.net).

<sup>440</sup> Filip Vujanovic, “Comment: EU Realizing State Union Can’t Function,” *Balkan Crisis Report* No. 516, 17 September 2004, Institute for War and Peace Reporting, available from [www.iwpr.net](http://www.iwpr.net).

union question is not definitive. This, in turn, has fuelled their expectations that a change of EU policy is possible and if the right arguments are employed, the EU policy-makers can be convinced to soften the conditionality policy, if not completely reverse it.

The pro-independent formations in both Serbia and Montenegro have taken advantage of the weakness in the conduct of the EU foreign policy. G17 PLUS has actively been lobbying the European Commission to accept a double-track treatment of the two republics under a single SAA hoping that this would untie the hands of the Serbian government to proceed with reforms on its own without having to coordinate with a reluctant Montenegro.<sup>441</sup> Similarly, it has criticized Solana for failing to deliver on his promise to be the ultimate external authority arbitrating disagreements between the two republics and imposing solutions when there is no accord.

In general, rational arguments have played a very strong role in the politics of compliance with EU conditionality on single statehood and economic harmonization in both Serbia and Montenegro. The two republics did sign up nominally to the common state and the single economic space in 2002 but none of them was really prepared to implement the agreement they reached under EU pressure. Because the political parties in power see the state union deal going against their interests, they do not respect their own commitments and fake their putting into practice.

Even softer mechanisms of argumentation and persuasion after the initial period of strong pressure to sign up to the deal failed to convince political actors in Serbia and Montenegro in the merits of rebuilding the single market between them. Because ruling elites considered the EU intervention lacking legitimacy, each one for his/her own reasons, socialization could not help in changing the hearts and minds of anti-state union Serb and Montenegrin leaders. If anything, Montenegro has had a longer history of interaction with the EU institutions and should have been more open to EU-sponsored ideas. Yet, it is the Montenegrin leadership that appears the more reluctant partner and the less convinced side of the benefits of European integration.

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<sup>441</sup> Interviews with G17 PLUS representatives.

### 7.3 THE POLITICS OF COMPLIANCE IN BULGARIA

As in SCG, the contours of political life in Bulgaria are entirely defined by domestic actors and the compliance decisions are a product of the domestic political process rather than of external interventions. The politics of compliance in Bulgaria, however, are very different from the other two countries under review due to the absence of sovereignty-related conditions as part of the EU pre-accession requirements and the strong normative justification of the EU pre-accession requirements.

Bulgaria started the double transition to democracy and market economy in the early 1990s with a consolidated statehood. There were no internal or external challenges to the country's sovereignty although the task of integrating politically and socially the sizable Turkish minority was very demanding, especially given the maltreatment of the Turkish population by the late communist regime. Yet, in Bulgaria, the unitary state was a reality and there was no urgent state-building project on the agenda. The accommodation of the needs of various ethnic groups was pursued through the enforcement of legal mechanisms guaranteeing human and minority rights rather than through institutional solutions leading to complicated power-sharing schemes.

The Bulgarian Constitution adopted in July 1991 does not recognize the existence of national minorities and does not grant collective rights to any ethnic group in the country. The Constitution also bans the existence of political parties based on ethnic, racial or religious principles. A paradox of the Bulgarian constitutional order, however, is the existence of a political party, the Movement for Rights and Freedoms (MRF), which speaks for the Turkish population and whose political support is the Turkish ethnic minority in the country. The Constitutional Court, however, ruled in 1991 that the MRF is not unconstitutional. There is an unspoken societal consensus that the MRF is the principal vehicle for political representation of the Turkish population since its founding in the early 1990s and this socially acceptable solution has by now become the cornerstone of the Bulgarian model of accommodating ethnic diversity. As a result of this early political response to the reality of ethnic heterogeneity in the country, civil strife was avoided in Bulgaria and the unitary nature of the state was not challenged from within (nor from outside for that matter). In addition, the MRF became a prominent political actor in the Bulgarian domestic context situating itself in the centre of the political spectrum and serving as a balancer in the political contest between centre-right and centre-left parties. It is also

the formation that has been in every government since the start of the transition process in Bulgaria.

State consolidation in the Bulgarian case therefore meant the existence of a single political community which could be mobilized around a common national project. After the initial political turmoil following the collapse of the communist regime in the early 1990s, European integration turned into that unifying project which captured the imagination of both political elites and the society at large. Fulfilling the EU accession criteria formulated by the Copenhagen European Council in 1993 became dominant on the transition agenda of all successive governments. This external anchor proved particularly powerful after 1997 when the Commission tightened the application of the conditionality principle in its dealings with all candidate countries and put in place monitoring mechanisms to keep an eye on the reform process and evaluate progress towards accession.

#### *Interest-Based versus Norm-Based Compliance*

From the very start of the transition process, the major political cleavages in the Bulgarian political system formed along ideological lines. The newly established political formations on the right side of the political spectrum, the Union of Democratic Forces (UDF) in particular, developed their political identity through rejection of the communist past and vigorous criticism of the former communist party. The former communist party itself went through a difficult process of image reshaping to emerge as the Bulgarian Socialist Party (BSP) which tried to mobilize public support with a leftist platform. Since the first steps of the democratization process in Bulgaria, the major political clash has occurred on the question of how to transform the country into a democracy and market economy. The principle political disagreements involved differences over the pace and sequencing of reforms but the final goal of democracy and market capitalism associated with the successful Western European model of governance has not been contested by domestic political players.

Judging by the political declarations of all major domestic actors, political consensus on the norms underpinning the EU conditionality existed across the political spectrum in Bulgaria since the early transition years. Because the accession requirements had such a strong normative appeal, no one could make a case against them and rely on broad public support for that. Even the former communist party, the BSP, supported the orientation of the country towards Europe

and was, in fact, the political power that submitted Bulgaria's application for EU membership in December 1995 while in government.

When judged by the performance record of political parties in power, however, the embrace by political elites of the rules and norms enshrined in the Copenhagen criteria does not appear so wholehearted and unconditional. The BSP governments in the early 1990s present textbook examples of state capture by the communist *nomenklatura* linked to the ruling elites.<sup>442</sup> Under the banner of market reforms, predatory elites profited from the absence of clear and transparent rules to divert enormous sums of public funds to friendly interest groups and political clientele.<sup>443</sup> During the Videnov-led government in particular (1994-1997) the economic mismanagement and political corruption reached scandalous levels and implicated directly PSP politicians who found fertile ground for "theft of the assets of state enterprises, the appropriation of loans from state banks and the very lucrative arbitrage opportunities that existed in the foreign export business."<sup>444</sup> So widespread and observable were the misdeeds of the BSP leadership and so grave were their consequences for the Bulgarian population (misery and impoverishment) that they provoked massive street protests in the winter of 1996-97 against the practice of what amounted to nothing less than state robbery and ultimately led to the toppling of Videnov and his corrupt clique.

It is hard to depict the BSP leadership in the early transition period as convinced reformers willing to do whatever it takes to introduce EU compatible rules and governance principles. Up until the economic crisis of 1996-97, the behavior of the ruling elites suggests just the opposite - they were reluctant to pay the short term political cost of reform as a result of which they introduced only partial market reforms that allowed them to preserve their grip on power. Regardless of their stated political goals of EU integration and lip service to the rhetoric of reform, their actual performance in government is better described as rent-seeking rather than Europeanization. And although the EU's insistence on democracy and market economy as pre-accession requirements enjoyed a high degree of legitimacy in the society at large and the politicians in power could not afford to campaign against the EU conditions, they were certainly

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<sup>442</sup> See Venelin Ganey, "The Dorian Gray Effect: Winners as State Breakers in Postcommunism," *Communist and Postcommunist Studies* 34 (2001): 1-25.

<sup>443</sup> Milada Anna Vachudova, *Europe Undivided: Democracy, Leverage and Integration after Communism* (Oxford: Oxford University Press, 2005).

<sup>444</sup> *Ibid.*, 50.



not ready to undermine their sources of power by introducing clear and transparent rules in state governance and European standards in policy-making.<sup>445</sup>

Needless to say, the mediocre progress in transition of Bulgaria soon became pretty obvious, especially when the country's record was compared to that of the willing reformers from Central Europe. By 1997, the reform gap between the frontrunners from Central Europe, on the one hand, and the laggards from the Balkans including Bulgaria, on the other hand, was documented by all well-known and well-regarded indicators measuring democratic consolidation and progress in economic reform such as the Nations in Transit Democracy Index of Freedom House, the Transition Indicators of the European Bank for Reconstruction and Development and the Governance Indicators of the World Bank. The lost years in the early 1990s started to affect adversely Bulgaria's prospects for fast democratization, economic modernization and European integration. First came the market sanctions in the form of the severe economic crisis of 1996-97 which demanded nothing less than the introduction of a currency board under the watchful eye of the IMF in order to "tie the hands" of misbehaving politicians in monetary policy and to help gain market credibility so crucial for attracting FDI and getting access to external sources of financing.<sup>446</sup> Second came the EU sanctions in the form of exclusion of Bulgaria from the group of countries advancing towards membership on two important occasions – in 1997 when the EU invited the best performers to start accession negotiations and in 2002 when the EU invited all successful reformers to accede a year and a half later.

Since the first evaluation of the candidate countries' progress in fulfilling the Copenhagen democracy and market economy criteria by the European Commission in July 1997, Bulgaria was in the group of the laggards that proceeded with reforms at a slower pace. Following the Commission's Opinions on all 10 CEE candidates' applications, the Luxembourg European Council in December 1997 invited only 5 CEE countries to start accession negotiations. Bulgaria was among the 5 that were deemed unprepared to discuss the 31 chapters of the *acquis communautaire* with the member states. The exclusion effect of this decision is critical for understanding the speeding up of reforms in Bulgaria after 1997.

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<sup>445</sup> See also Milada Anna Vachudova, *Europe Undivided*.

<sup>446</sup> See R. Bronk, "Commitment and Credibility: EU Conditionality and Interim Gains," *European Institute Working Paper* 2002-02 (2002), London School of Economics and Political Science, available from <http://www.lse.ac.uk/collections/europeanInstitute/pdfs/EIworkingpaper2002-02.pdf>.

By keeping Bulgaria out of the negotiation talks in 1997, the EU in essence applied the ‘stick’ of its conditionality policy. In addition, the start of accession negotiations with the best performing candidates gave a strong signal to all excluded countries that the EU meant business when it promised membership. The big incentive of full integration became more tangible and within reach for governments willing and able to work hard in order to bring their countries in compliance with EU conditionality. The more credible the prospect of joining the EU appeared, the more the political actors and/or the CEE societies at large became locked into the EU accession process.<sup>447</sup> It further raised the political cost of non-reform in laggards like Bulgaria and made the politics of blatant rent-seeking more difficult to sustain by reluctant reformers.

The intensification of reform efforts in Bulgaria had a lot to do with the coming to power of a reform-minded centre-right government in the summer of 1997. The UDF’s main priority for the party’s term in office was to bring Bulgaria closer to EU membership. Not only did the UDF identify the country’s interests with EU membership, but it also used the EU accession preparations as a source of legitimacy to justify the reform steps to the national constituency. The image projected abroad was one of determined action in a Europeanizing direction that goes deep in reforming the domestic structures and brings about change that is irreversible in time. The message sent to the electorate at home was that public support was needed for the reform project in order to deserve a seat in the most prestigious club of European democracies and share with them equally the benefits of European integration. The social mobilization in favor of pro-EU reforms was readily available, especially in view of the disastrous policies of the socialist government 1994-1997 whose economic mismanagement brought the country close to bankruptcy in 1996-97. The underlying assumption in both the society and the government was the absence of an alternative to the EU roadmap.

Reinforcing this internal socio-political dynamic, Brussels always delivered interim rewards as long as the government showed willingness to reform and undertook concrete steps to achieve results. In acknowledgement of the progress made and to encourage further efforts, at the Helsinki European Council in 1999, the member states decided to invite Bulgaria, among others, to start accession negotiations. Since early 2000, the progress in legal approximation measured by the provisionally closed *acquis* chapters became the third indicator for evaluating Bulgaria’s

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<sup>447</sup> See Heather Grabbe, “How Does Europeanization Affect CEE Governance? Conditionality, Diffusion and Diversity,” *Journal of European Public Policy* 8 (2001): 1013-1031.

closeness to accession, together with the Commission's assessments on compliance with the Copenhagen political and economic criteria revealed in the regular reports each autumn.<sup>448</sup>

While the opening of entry talks was an enormous boost for the politicians in power, the biggest interim "carrot" for the Bulgarian society was the EU decision to lift the visa regime for Bulgarian citizens as of 10 April 2001.<sup>449</sup> The positive effects were felt by the whole Bulgarian population which suddenly found itself in the privileged position to travel visa-free to the Shengen area for a period of up to 90 days – something unthinkable for any of its Balkan neighbors at the time.<sup>450</sup> Undoubtedly, this development brought the EU membership offer closer to the citizens and made the prospect of European integration more real and meaningful to them. It also eased the job of the UDF government in justifying to the electorate why the country had to go through the reforms Brussels asked for.

The external legitimization of the policy changes initiated by the Kostov government, however, was not sufficient to win a second mandate for the UDF. The party was voted out of office at the parliamentary elections in June 2001 regardless of the right steps it had undertaken during its term in office in the direction of Europeanization and the positive signals it received from abroad about its pro-Western policy orientation. The electoral defeat of UDF was not a failure for the EU-anchored reform process but rather a protest vote against what was believed by the Bulgarian population a highly corrupt management of the economy and the public administration. At the time of the elections in 2001, the general sentiment among the public was that abuse of public office by the Kostov government was as bad as during the BSP times and this certainly overshadowed the progress made in pre-accession preparations during the UDF's term in office. Furthermore, the areas and policies affected by the prospect of EU accession were changing for the better, whereas other sectors such as healthcare and education remained neglected and non-reformed. Above all, the average citizen did not feel a tangible improvement of his/her living standards which was perhaps unrealistic as a short-term expectation but important to determine the electoral behavior of the Bulgarian citizens in 2001 when they voted

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<sup>448</sup> The "ability to take on the obligations of membership" in the sense of being capable of transposing and implementing the whole *acquis communautaire* is the third accession criterion formulated by the member states at the Copenhagen European Council in 1993. The legal harmonization of the national legislation with EU law enters the pre-accession game once a country starts accession negotiations with the EU.

<sup>449</sup> See Council Regulation N 539 of 15 March 2001.

<sup>450</sup> The visa regime between the EU and Romania was only abolished a year later in 2002.

in the former king Simeon Sax-Cobourg-Gotha only two months after the establishment of his party NDSV (National Movement Simeon II).

The Kostov government did put Bulgaria on the right track but the lost years in the early 1990s could not be made up. Indeed, whenever cross-country comparisons were made of progress in transition in Central and Eastern Europe, Bulgaria fared worse than the rest of the countries, together with Romania. Both in terms of democratic governance and economic performance, Bulgaria lagged behind the other EU candidates. As a result of this delayed transition, the December 2002 European Council excluded Bulgaria from the first wave of enlargement, leaving it out of the group of ten countries which received an invitation to accede to the EU on 1 May 2004, following successful ratification of the Accession Treaty. This second exclusion drew a line between Central Europe and the Balkans and set the task for the Simeon government that came to power in July 2001 to demonstrate that Bulgaria was as good as CEE frontrunners.

Bulgaria and its northern neighbor Romania were given the provisional date of 2007 as accession target provided that they fulfilled the conditions by that time. This conditional timetable was a big success for the two Balkan countries both of which feared a lack of interest in their candidacies on the part of EU-25 and further complications on the pre-accession road triggered by the new EU members after 2004.<sup>451</sup> In the case of Bulgaria, the concerns were even greater as it was running ahead of Romania in terms of preparations and negotiations and there was a serious danger that Bulgaria's accession would be delayed as a result of Romania's "feet-dragging."<sup>452</sup> When the Commission released its 2002 Regular Reports, Bulgaria had closed provisionally 22 chapters of the *acquis* whereas Romania had managed to finalize talks on 13 chapters only. In addition, while the Commission certified Bulgaria as a functioning market economy that year thus acknowledging the country's compliance with the Copenhagen economic criterion, that was not the case for Romania.<sup>453</sup>

It was the UDF government that set the 2007 accession date as a target and the Simeon government endorsed that objective when it came to power in 2001. The EU only reacted to that

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<sup>451</sup> See Peter Ludlow, *The Making of the New Europe: The European Councils in Brussels and Copenhagen 2002* (Brussels: EuroComment, 2004), 142.

<sup>452</sup> The Bulgarian policy-makers knew very well that Portugal had to wait for its bigger neighbor Spain to get ready so that the two could accede to the EU at the same time. The parallel with the Bulgaria-Romania "couple" was too strong to leave much hope to the Bulgarian diplomacy about a potential "decoupling" of the two countries. Author's interview with a Bulgarian diplomat.

<sup>453</sup> Romania was certified as a functioning market economy by the Commission in the 2004 Regular Report.

proposal by accepting to support Bulgaria's own timetable. Yet it was the UDF already in opposition in 2002 which, among other political voices, used the EU exclusion decision to criticize the political forces in power, the Simeon-led NDSV and the MRF, for failing to do enough in order to get a more favorable treatment from Brussels. In the Bulgarian political context, governments were not attacked by political opponents for complying with EU demands but rather the opposite – for not complying faster.

In general, there was more continuity than rupture between the policies of the UDF government and its successor the Simeon government. Thus for its four-year term in office, NDSV and its coalition partner the MRF continued the process of economic reform and completed the accession negotiations but made hesitant attempts at reforming the judiciary and improving the standards of the public administration. While the economic situation improved progressively during the NDSV rule, the sharp criticisms coming from Brussels since the 2002 regular report regarding the unreformed judicial system are a consequence of the failure of the Simeon government to assemble the parliamentary majority for the constitutional and legislative reforms needed in this area. Domestic interests in the status quo proved very powerful and blocked the reform initiatives every time they threatened to disrupt the balance of power in the judiciary-executive-legislature relationship (see chapter 6 for details).

### *Reform of the Judiciary: Political Differences*

The Bulgarian Constitutional Court's ruling which obliged the political class to amend the constitution if it wanted to transfer the investigation from the judiciary to the executive opened up the Pandora box of domestic politics and politicized the issue. Not only did the professional guild of magistrates enter the political game but also the domestic political consensus started falling apart.

To begin with, Brussels did not prescribe directly a constitutional amendment for the reform of the pre-trial phase of the judicial process. It only hinted that a radical change was preferable to patchwork legislative revisions which appeared vulnerable before the Constitutional Court and risked being annulled later.<sup>454</sup> The EU did use all its leverage to compel the Bulgarian authorities to change what it saw as an inefficient judicial system incapable of coping with widespread criminality and unable to bring justice to the society. It linked the provisional closure of the

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<sup>454</sup> Author's interviews at the European Commission.

Justice and Home Affairs chapter of the *acquis* with progress in reforming the judiciary, despite the fact that the legislative contents of this chapter had nothing to do with the structure of the judiciary of a candidate country. Sofia had to commit to ensuring efficiency and transparency of the judicial system, including the pre-trial phase of the investigation. It also agreed to seriously consider the relevance of constitutional changes.<sup>455</sup> The obligations the Simeon government undertook in October 2003 as a condition on the EU side to close the JHA *acquis* chapter were subsequently frequently invoked by the Commission which insisted on Bulgaria's honoring its commitments.

The strongest EU argument to demand structural changes of the judicial system had to do with the crime rate in Bulgaria and the apparent impotency of the authorities in Sofia to convict any of the murderers in the high-profile mafia killings that shook the country in 2003-2005. Charting a chronicle of the street murders in the country for the last 10 years (1995-2005), the Bulgarian online daily *Mediapool* counted 58 killings, most of which remained unsolved.<sup>456</sup> If the Bulgarian law enforcement and judicial organs were working properly, the EU argument went, criminals would not be able to walk away unpunished for killings that happened before the eyes of the whole nation, not to mention the eyes of Brussels. Reports about the corrupt and inefficient Bulgarian judiciary appeared in international media too. After the murder of one of the richest men in Bulgaria, Emil Kyulev, in October 2005, *The Economist* ran an article entitled "Bulgarian Crime: Where Killing is a Habit."<sup>457</sup> That the judiciary was not up to standard was clear to everyone inside and outside Bulgaria. The defensive stance of the judiciary itself was also revealing. When the 19 EU ambassadors to Sofia met the representatives of the Supreme Judicial Council on 7 December 2005 and enquired, among other things, about the recruitment policy in the judicial system following publications in the Bulgarian press about latest appointments of relatives of senior magistrates, they met a wall of silence and embarrassment.<sup>458</sup>

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<sup>455</sup> Author's interview with a European Commission official. The specific commitments are written down in the European Union Common Position on Chapter 24: Cooperation in the Fields of Justice and Home Affairs. The text was agreed between the two sides on 15 October 2003 at the Conference on Accession to the European Union with Bulgaria.

<sup>456</sup> "Chronicle of the Murders in the Last Ten Years" [in Bulgarian], *Mediapool*, 26 October 2005, available from [www.mediapool.bg](http://www.mediapool.bg).

<sup>457</sup> "Bulgarian Crime: Where Killing is a Habit," *The Economist*, 29 October 2005.

<sup>458</sup> "The Euro-Ambassadors Spoiled the Mood of the Supreme Judicial Council with the Question of Patronage Recruitments" [in Bulgarian], *Mediapool*, 7 December 2005, available from [www.mediapool.bg](http://www.mediapool.bg); Pavlina Jeleva, "The Euro-Ambassadors did a 'Check-up' of the Judiciary," *Dnevnik*, 8 December 2005, available from [www.dnevnik.bg](http://www.dnevnik.bg).

The EU arguments about deficiencies in the Bulgarian judicial system and the EU pressure on the Bulgarian judicial establishment and political class were well received by the Bulgarian public who had an equal interest in an efficient and well-functioning judiciary upholding the rule of law. The sharp media attention to the issue with numerous, mainly critical, publications and broadcasts on the topic helped raise the public awareness by explaining the problems and commenting on the lack of action on the side of the politicians.<sup>459</sup> The domestic climate was conducive to reform whereas the ‘stick’ of EU conditionality made reform a necessity.

Since there were more ways of complying with the EU demands, different political actors had different views on the structural changes needed for a system that was both politically negotiable and sufficiently reformed to please Brussels. The right-wing opposition, the UDF and the Democrats for Strong Bulgaria (DSB), a spring-off of the UDF set up in 2004 and led by the former Prime Minister Ivan Kostov, were strongly in favor of changing the Constitution and addressing the structural deficiencies of the judiciary by adopting the most common European practice of having the criminal investigation as part of the police rather than the judiciary.

The NDSV and MRF, in government between 2001 and 2005 and under pressure from Brussels and from political adversaries at home, opted for the politically easiest and practically most feasible solution – revision of the Penal Code and the Penal Procedure Code. It put forward before the Parliament amendments to these two legal acts in September 2004 envisaging a transfer of 95 percent of the cases from the judiciary to the executive, a move which many believed was unconstitutional. At the end, the proposal could not survive in plenary and even the coalition partner MRF joined forces with the opposition and voted against the amendments in the format proposed.

While in opposition during the NDSV-MRF government, the Bulgarian Socialist Party (BSP) was the strongest opponent of constitutional amendments. It carefully guarded the 1991 Constitution adopted with the majority of the socialists in the Grand National Assembly shortly after the fall of the communist regime. When in power after the June 2005 parliamentary elections, together with NDSV and MRF, the BSP leadership warmed up to the idea of changing the Constitution. The evolution of BSP’s views on the question has to be examined in the overall European context following the ratification failure of the EU constitutional treaty in May 2005 in France and the Netherlands. The BSP’s ascent to power coincided with the constitutional crisis

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<sup>459</sup> See, for example, publications in *Kapital*, *Dnevnik*, *Mediapool*.

in the EU which triggered a general concern about the direction of European integration, including the EU's enlargement policy. In June 2005, the Commissioner for Enlargement Olli Rhen sent a warning letter to Sofia signaling out the judiciary, among other areas, as problematic and making clear that failure to reform could trigger the safeguard delay clause. In October 2005, the comprehensive monitoring report of the European Commission stated explicitly that it would not hesitate to recommend the delay of Bulgaria's accession with one year, if there were clear indications that the country's judiciary was not in shape.<sup>460</sup>

Sensing the credible threat of delayed accession and knowing that talking about reform while doing nothing will not pass in Brussels, the BSP, the NDSV and MRF leaders finally came to an agreement in December 2005 on what a MRF representative called a "sanitary minimum" of constitutional amendments, which, if approved by two thirds of the Parliament, would limit the competences of the magistrates; restrict the immunity of the members of parliament to their duties as parliamentarians; reduce the power of the Supreme Judiciary Council on budgetary and property-related matters; introduce a compulsory annual hearing in the Parliament of the Chief Prosecutor and the Presidents of the Supreme Administrative Court and the Supreme Court of Cassation as well as an impeachment procedure for these senior magistrates.<sup>461</sup> The latter provision was included in the last moment under heavy pressure from Brussels as an attempt to introduce some form of accountability of the excessively independent judicial organs of Bulgaria.<sup>462</sup> The proposed constitutional amendments need to be adopted before the monitoring report of the Commission planned for May 2006 and the vote of the European Council in June 2006 which would determine whether Bulgaria's accession would be delayed or not.

It is important to note that the reform of the judicial system in Bulgaria would probably not have been on the political agenda without the EU judiciary conditionality. The issue made its way into the public discourse and the political calendars of the government and the parliament because of the European Commission's criticism which was no secret to either the politicians or the general public. And given the political divisions in Bulgaria on the issue, it would not have attracted the political attention it did. The protracted reform of the judicial system in Bulgaria

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<sup>460</sup> European Commission, "Communication from the Commission, Comprehensive Monitoring Report on the state of preparedness for membership of Bulgaria and Romania," COM (2005) 534, 25 October 2005.

<sup>461</sup> See "The Constitutional Amendments: the Difficult Lies Ahead" (in Bulgarian), *Kapital* 52-XIII, 30 December 2005 – January 2006.

<sup>462</sup> See "The Prosecution Will No Longer be Absolutely Uncontrollable: the Parliament Can Impeach the Chief Prosecutor with Qualified Majority" (in Bulgarian), *Mediapool*, 20 December 2005, available from [www.mediapool.bg](http://www.mediapool.bg).



happened to the extent that it did due to EU pressure. The judiciary itself proved a powerful veto player which sabotaged all attempts to limit its powers through all means at its disposal, including striking down new legislation and intervening directly in the political debate on judicial reform.

It took a very long time to politicians to realize that simulating judicial reform would not pass in Brussels. The EU itself, while leaving domestic actors to decide on the concrete parameters of judicial reform, communicated successfully the seriousness of its concerns about rampant criminality and disrespect for the rule of law in a country that was expected to apply the EU law from day one of its accession. By the end of 2006, both the Bulgarian society and the Bulgarian political elite were aware that if the judiciary was not reformed by the envisaged accession date of 2007, the safeguard clause would be activated. Even after accession, the EU has at its disposal protection mechanisms. The Accession Treaties with all CEE countries have provisions which allow the suspension of membership benefits to a new member state in various policy areas, including Justice and Home Affairs, if certain accession obligations are not respected. With the mega reward of full EU membership so close and with so much of political capital already invested in the EU integration project, the last minute push to do what has remained undone is politically wise and justifiable. The political bonus to preside over Bulgaria's accession to the most prestigious club of nations in Europe proved sufficient to induce agreement on structural reform in a sector prone to corruption and susceptible to reform blockages from within due to constellations of vested interests.

On the whole, Bulgaria reformed only when it was sanctioned from outside – either by the markets or the EU. The societal consensus on EU integration could not translate into stable pro-reform parliamentary majorities and was not enough as a driver of change. The political leadership at the start was unprepared for the new realities and tempted to take advantage of the absence of clear rules to profit from their position in power. By prolonging the time for underwriting the rules of the new system, they privileged private to public interests which not only delayed the transition process but also made it more difficult to reform the socialist institutions and structures later.<sup>463</sup> The prospect of EU accession did change the incentive structure of ruling elites who increasingly saw disadvantages in not complying with EU demands in the form of forgone benefits that neighboring reformers could enjoy. With the time the rules

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<sup>463</sup> See Venelin Ganey, “The Dorian Gray Effect.” Also Milada Anna Vachudova, *Europe Undivided*.

promoted by the EU did start to penetrate in the governance structures of the country gradually eroding the strength of domestic institutional resistances and the power of veto players. While it is not sure yet how deep the transformative effect of the EU conditionality will be on the country's institutions and governing practices, the EU sanctioning mechanism did have partial success in disciplining the ruling elites and tipping the political balance in favor of compliance. Has reform been inspired by the strong normative content of the EU conditions only, it would not have been so painfully slow and incomplete 15 years after the fall of communism.

## 7.4 CONCLUSION

This chapter has offered a discussion of the political dynamics that have determined the compliance responses of governing political leaders in the three countries. The ultimate goal has been the unraveling of the motives driving political elites in power to comply with EU conditions at a certain point in time and to choose a particular way in which to comply. The analysis is based on the empirical record of compliance laid down in chapter 6 and the two important conceptual tests elaborated in chapter 1 – the sovereignty test and the norms versus interests test.

### *The Sovereignty Test*

The chapter has argued that sovereignty does matter for the politics of compliance and this conclusion is the result of the comparative examination of the political process in the three cases. In BiH, an externally sovereign country with weak internal sovereignty, compliance is affected by the position of external actors in the domestic political process either as direct interveners in decision-making or indirect balancers of the political differences between local players. In SCG, an internally sovereign state with weak external sovereignty, the compliance process is driven by domestic actors alone but external sovereignty constraints affect the chances for domestic consensus on a pro-compliance policy line. In Bulgaria, a fully sovereign country, domestic political players in power determine entirely the national responses to Brussels.

The chapter has shown that the presence of sovereignty-linked demands provokes political mobilization against the EU conditionality, whether from the political camp of nationalists like in BiH or from the ranks of pro-Western reformers like in Serbia and Montenegro. When EU

conditions clash with sub-state aspirations for independence or self-determination, political fragmentation on the question of compliance can be expected. And since EU demands affect the way statehood is constituted within states with compromised sovereignty, political opposition to EU requirements has become part of the politics of compliance in the semi-sovereign cases. In the absence of sovereignty-linked conditions, pro-compliance consensus across the political spectrum has been easier to achieve in the fully sovereign case examined here.

The case of BiH requires special attention when applying the sovereignty test due to the additional requirement to determine whether compliance decisions are imposed from the outside or result from voluntary action of domestic political leaders. The fact that BiH is domestically non-sovereign has affected profoundly the politics of compliance in the country. The domestic political process in BiH is very weak and the powers of the HR have a lot to do with it. The compliance dynamic has been driven by the exchanges between the High Representative (HR) and the political parties in government. The HR has been very closely involved in domestic politics, shaping the public debate in the country, pulling strings behind the scenes to win domestic political consensus and pushing through reforms. His position in the BiH institutional establishment cannot be ignored when examining the compliance dynamic in the country.

The HR's self-assigned role of manager of the internal political balance in BiH, however, has led to a lot of frustration and resentment among domestic politicians. There has been a lot of animosity between the HR and the political parties in power which has rendered the internal politics of the country very antagonistic. This has opened a second front of political confrontation in BiH along the line of domestic versus international actors. This has added fragmentation to the already divided domestic political scene on the issue of what kind of state BiH is and how its future should look like. The whole political spectrum in BiH, however, has been remarkably consensual with regard to the role of HR in domestic politics and the desire to dispose of the external presence in the domestic authority structures thus regaining domestic sovereignty.

The empirical facts presented in the chapter support the conclusion that it is the EU conditionality rather than the political bullying of the HR that accounts for the difficult agreement to transfer some competences to the central level of government in BiH. Had it been for the HR's pressure only, the legislative changes in indirect taxation policy and the police sector would have been imposed again rather than negotiated by domestic actors and adopted by

the BiH Parliament. It is the EU's sanctioning through delay of the start of SAA talks rather than the HR's threat of dismissals and impositions that produced the domestic consensus to complete the EU list of conditions in order to begin SAA negotiations.

In contrast to BiH, in SCG the compliance decisions are filtered through the domestic political process which is very robust compared to the one in BiH. Domestic actors themselves took the decision to sign the Belgrade Agreement and to implement it in the way they did while responding to material inducements and promises of EU accession from outside. The EU common state conditionality (one state, one legal personality) while not affecting the domestic sovereignty of the two republics is politically divisive and illegitimate from the point of view of some political parties. The political space in both Serbia and Montenegro is very fragmented and there is neither societal majority nor political consensus in favor of the common state. As a result, the politics of compliance are conflict-ridden, both between the two republics and between the EU and the common state.

In Bulgaria, sovereignty considerations have not been part of the domestic debate about the country's accession to the EU. Concerns about losing sovereignty because of transfer of competences to Brussels once a full EU member have not affected the strategic calculations of political elites. European integration has not been perceived as threatening the statehood and self-governance of the country although the EU itself is about sharing sovereignty and giving up elements of state autonomy. When faced with the choice of being sovereign outside the EU or being less sovereign inside the EU, Bulgarian political leaders have opted for the latter. What is important in the Bulgarian case is that the domestic political consensus on EU-orientated reforms has been possible to a large extent due to the country's consolidated statehood which has allowed the EU to focus its conditionality on democratic and economic reforms and the domestic political community to concentrate on securing EU membership as the primary national objective. Political fragmentation has occurred on the question of how to comply with Brussels demands but no political actor has questioned the necessity to comply.

### *The Norms versus Interests Test*

In all three cases, both normative considerations and rational arguments have been part of the politics of compliance. The EU itself has both offered incentives and disincentives and tried to socialize the leadership of EU candidates and potential candidates through high-level political

dialogue as well as regular exchanges between the Brussels bureaucracy and the national administrations of the countries. As argued in chapter 2, the EU enlargement strategy has simultaneously employed both conditionality and socialization and the challenge has been to distinguish their effects and define their relevance for explaining compliance outcomes.

This chapter has argued that socialization alone cannot be held accountable for the compliance outcomes in any of the three cases so none of them is suited for the *socialization-driven* category of the model presented in chapter 1. As a measure of successful normative impact I have proposed to look at the degree of legitimacy local players accord to EU conditions. An indication of the ‘appropriateness’ of EU demands is the absence of political mobilization against them and vice-versa. While the power of EU attraction has certainly influenced the strategic orientation of the Balkan countries towards participation in the EU integration project, not all EU conditions have been accepted without reserves and without questioning the authority of the EU. This has certainly been the case with the EU sovereignty-linked conditions whose legitimacy has been challenged by political formations in the two semi-sovereign cases. In Serbia and Montenegro in particular, the EU common state condition has very vigorously been contested by credible political circles and seen as serving the EU security interest rather than manifesting adherence to a universal norm. Resistance to EU conditionality has been strongest in SCG case.

The EU membership incentive has not been instantaneously grasped by political leaders in any of the three countries. The long-term benefits of EU membership have not been seen at the start as a sufficient compensation for the short term costs of compliance for ruling elites. The EU disincentives, however, in the form of delay and exclusion from the front-running (potential) candidates have had an effect on the compliance rate of BiH and Bulgaria as both of them have reacted with more compliance after EU sanctioning. In Bosnia and Herzegovina, for instance, arguments about good governance have also been used by the EU to induce reform in certain sectors in addition to interim benefits such as visa facilitation but when those failed to convince the political leadership in RS, the ‘stick’ of EU conditionality has proven more efficient.

In BiH, the politicians in power seem to have made the cost-benefit calculation in favor of the EU regardless of the high degree of intrusion of the EU conditionality in the domestic authority structures and the high compliance costs for ruling elites. The pressure of EU conditionality as well as the political opportunities offered by the EU’s supranational level of

governance can be held accountable for the subtle re-articulation of interests by the most obstructive politicians in the BiH political establishment. The incentive of regaining domestic sovereignty through the pre-accession process has also been part of the rational calculus favoring compliance. Socialization opportunities have complemented the conditionality applied on the country. Persuasion and argumentation have played an important role in justifying and explaining the rationale of the EU demands but ultimately it was the EU sanctioning through initial exclusion of BiH from the countries invited to establish contractual relations with the EU that produced the last minute consent on police reform. The fact that the RS leadership refused to comply before the EU applied sanctions suggests that the ruling elites did not find the EU arguments sufficiently convincing and contested till the last minute the appropriateness of EU conditions. BiH compliance pattern fits best in the *conditionality-driven* category – see chapter 1. While it is early to say whether all of the commitments made will be put into practice, the fact that the least progressive and least reform-inclined political circles made the compromise shows potential for sustained reforms in the country as the other political parties are either more moderately against the EU sovereignty demands or entirely in favor of them.

In SCG, the cost-benefit analysis made by the politicians in power in Montenegro and some political actors in Serbia does not favor whole-hearted and unconditional compliance with EU conditionality. Rational arguments against the common state have been advanced by both sides. The evidence presented demonstrates that important political formations in both Serbia and Montenegro do not align their interests with the EU-defined terms of accession when it comes to the kind of state the EU would like to welcome as a full member. The EU membership perspective which brings with it a sense of transformed sovereignty has not been able to redefine fundamentally the concept of statehood in SCG at elite level.

Socialization activities have had little chance of changing the interests of unlike-minded political elites. Although negotiation, persuasion and argumentation are the major thrust of EU foreign policy behavior, there are limits to what the EU can achieve with soft mechanisms. Being unable to justify on normative grounds its demands before the pro-Western anti-state union political parties and to produce convincing arguments supporting its position on the common state, the EU has been forced to admit defeat and to adjust its policy. The EU policy shift is partly explained by geopolitical factors, in particular fear of destabilization of Serbia and consequently of the whole region of the Western Balkans. With its ‘twin track’ decision, the EU

has aimed at reversing its unintended and indirect backing for the nationalists in Serbia at the expense of the reformers who are the domestic force both willing and able to push forward the democratization and economic modernization of the country.

The necessity to involve a second agent of conditionality – the High Representative for the CFSP – because of the security implications of the EU common state conditions has also contributed to the political mobilization against the EU conditions in SCG. Coordination problems and muted disagreements between the two EU agents have empowered local actors to seek renegotiation of the EU conditionality package. The two EU foreign policy voices – that of the Commission and that of the Council – have in essence played in the hands of the opponents of the EU-backed common state in the domestic political contexts of both republics.

Thus low legitimacy of EU demands and very high short-term costs of compliance have resulted in *fake compliance* in the case of SCG – see chapter 1. Socialization has proven unsuccessful in generating transformation of domestic actors' interests. As a consequence they have preferred to simulate compliance in order to avoid the even higher costs of non-compliance while seeking opportunities to reverse what they have committed themselves to.

In Bulgaria, conditionality and socialization are complementary drivers of change and reinforce each other's effects. EU conditions are not seen as controversial from the point of view of domestic actors. Not only have local players not contested EU conditionality but after 1997 they have actively sought external legitimization of their domestic agenda and the EU project has provided such uncontested authority. Although this has not been sufficient to get political parties re-elected, the continuity of policy with the new incumbents has been assured.

The Bulgarian political elites have been forced to learn in the pre-accession process that non-reform or partial reform does not yield the benefits of inclusion but rather the opposite - it bears the cost of European isolation. Likewise, they have realized that introducing EU-compatible reforms does pay and brings with it interim benefits such as visa-free travel as well as shortens the distance to full membership. The EU-promised rewards have been considered attainable upon completion of requirements. At the same time, the threat of withholding benefits has been perceived credible too.

In fact, exclusion from the group of compliant neighbors advancing on the road to EU has been the ultimate political stick which, together with the market sanctioning, has kept a check on the Bulgarian political class and thus has helped the country qualify for EU membership. Cost-

benefit calculations and normative orientations combine to produce *genuine compliance* in the case of Bulgaria.

The comparative analysis of domestic politics in the three Balkan countries leads to the conclusion that while the formal sovereignty of an EU candidate/potential candidate affects the EU conditionality and the responses to it, rational calculations are at the core of the motivational factors that drive the compliance of Balkan political elites. In all three cases, politicians in power have had good reasons to acquiesce to Brussels demands to the extent that each of them did. Normative considerations have had a bearing on the political decision-making but they have not been decisive for introducing the EU-required changes. Where the EU did use arguments based on norms and on the “appropriateness” of certain changes, it has been more difficult for domestic politicians to ignore those. Ultimately, the power of norms has given legitimacy to the EU to ‘punish’ disinclined elites thus giving them a rational reason to comply as well.

The sustainability of the compliance trend has depended on whether political leaders in power identify their long-term interests with the transformation of domestic structures requested from Brussels. When the benefits of EU membership are perceived as exceeding the costs of compliance, Balkan political elites opt for Europe. The choice for Europe can then be internalized over time and become part of the identity through elite learning and socialization. This requires that political elites across the political spectrum begin to identify their interests with the European integration process. Conditionality and socialization are complementary in this case and can lead to long-term transformation of interests and identity.

When the incentive of EU integration in a distant future is considered insufficient to compensate the cost of compliance with EU conditionality, Balkan political leaders fake compliance while covertly rejecting the authority of Brussels to dictate the terms of domestic reforms. The relations with Brussels then become a game of false promises and unfulfilled commitments. Under these circumstances, socialization as a mechanism of change proves unproductive and even inappropriate. The effectiveness of conditionality in altering the behavior of domestic political leaders then depends on how consistent and persistent the EU policy is.



## 8.0 THE BALKANS IN THE EU'S FOREIGN POLICY

As the 'old' EU watched the 'new' members from Eastern Europe accede in May 2004 after a successful transformation of their polities and economies in the course of fifteen years, the question that focused the minds of policy-makers and academics alike was whether this widely acknowledged success could be replicated in the Balkans too. Bulgaria and Romania had already proven the skeptics wrong by showing that they can shape up under the vigilant eye of the European Commission even though they needed more time to reach a satisfactory level of domestic governance. The big question mark, however, remained around the fate of the Western Balkans where undoubtedly the problems were graver and where the EU was facing challenges unknown to it from the East European enlargement.

The Balkan peculiarity is rooted in its reputation for ethnic intolerance frequently escalating to bloody violence and redrawing of state borders. In fact, the Balkans have given their name to a whole set of human actions that symbolize uncivilized and disgraceful behavior. In the course of the 1990s, the Balkans have often reminded the international community of their existence in a way consistent with their external image. The violent dissolution of former Yugoslavia left behind not only enormous human tragedy but also very weak states either in terms of capacity to solve domestic problems or in terms of recognized status for external representation or both.

Is the enlargement formula suited to address state weaknesses as well as governance shortcomings? Can the pre-accession conditionality machine be adapted to deal with the statehood issues persisting on the Western Balkan agenda? Is the pull of Europe strong enough to persuade war-time enemies to put behind the past and embrace each other for a common future in the European Union? Would the Western Balkan countries, ten years after embarking on pre-accession preparations, look at least like Bulgaria and Romania in 2005, if not like Hungary and the Czech Republic? These and other questions were among the key concerns of EU policy-makers when they launched the Stabilisation and Association Process for the Western Balkans in 1999 which then evolved into an enlargement policy for the five countries from the region.

This chapter will examine the overall context of the EU's foreign policy in the Balkans and will reiterate the arguments advanced in the previous chapters through the prism of the EU and its policy objectives. It will offer a discussion of the motivation behind the EU's conditional

offer of membership to the Western Balkans and will argue that the security concerns of the member states are the primary drivers of the EU policy in the region, including its direct security contribution. It will then address questions concerning the successes and failures of the EU's policy in the region and the factors that have been crucial for the policy outcomes. The analysis will constantly draw on the main conclusions of preceding chapters and interpret them from the point of view of the EU policy-maker.

### **8.1 THE EU MEMBERSHIP INCENTIVE AND THE PULL OF EUROPE**

The Western Balkans turned out Europe's Achilles' heel in the 1990s exposing its weaknesses in crisis management and incapacity for foreign policy action. Historically, the EU has been unable to deliver positive results in conflict situations even when the political will has been there for common action. The EU did not intervene in a decisive way in any of the bloody conflicts in the former Yugoslavia nor did it lead the international community toward resolving the Kosovo problem before its escalation. The NATO intervention in the Kosovo conflict demonstrated again the military inferiority of Europe, a fact duly acknowledged by Europeans themselves in the aftermath of the crisis. Indeed, the U.S. dominated the military operation aimed at ending the ethnic violence in the Western Balkans in spring 1999. Nowhere is the EU capacity to act internationally better tested and nowhere is the EU activism or absence of activism more visible than in the Western Balkans.

In the 1990s the EU failed to mobilize its resources to prevent the worst. The Balkan crises, however, came as a wake-up call to West European political leaders and Brussels bureaucrats who saw the necessity to offer incentives to the Western Balkan states to come to terms with the past, normalize their bilateral relations, and reconcile their grievances. After the region was pacified, there was a widespread sentiment that Europe could do better and the opportunity presented itself to try a second time. Moreover, the EU has seen its leverage growing from its experience in Central and Eastern Europe both in terms of suppressing nationalist sentiments and introducing discipline in the economic and political reforms of the democratically elected governments. The conditional offer of membership has given the EU enormous influence on the policy course of the new political authorities in Central and Eastern Europe, a mechanism that

has speeded up the diffusion of Western norms to the region. Having learned from its past experience and counting on the enormous normative appeal of the EU throughout the Western Balkans, the EU was now ready to commit its economic and political resources in the Western Balkans in a similar way it did in Central and Eastern Europe in the early 1990s.

The EU's first attempt to show engagement in the Western Balkans was the launching of the Stability Pact for South East Europe in June 1999 promising to deliver bold results in a short period of time. It was accompanied with lofty declarations of international donors' commitment to coordinate their efforts in encouraging regional interdependence and restoring natural community linkages in the Balkans. However, it soon became very clear that, despite the good intentions, the Stability Pact did not bear even a close resemblance with the Marshall Plan for Europe, as the analogy was made at the time. It did not channel millions of hard currency cash toward the region, the projects meant to mobilize regional efforts in the democratization of the local polities and the reconstruction of the local economies came short of vision, and, instead of stimulating regional collaboration with the aim of reinforcing security, the Stability Pact provoked cynicism and disillusionment in the Balkan populations. As a critic once put it, the Stability Pact remained "a shell without a strategy."<sup>464</sup>

The major problem with this initiative was the lack of a clear prospect for integration with the West, a formula that captured best the aspirations and desires of Balkan nations. As the experience from Central and Eastern Europe has suggested, regional cooperation cannot be a substitute for EU integration and, in this sense, the absence of Balkan enthusiasm for special regional treatments of their problems was quite predictable and explainable. In addition, the undemocratic regimes in Croatia until January 2000 and in Serbia until October 2000 were an apparent obstacle to any large-scale infrastructure investment in the region and, in the case of Serbia, an obvious impediment for the development of regional trade due to the economic sanctions imposed on the country and the criminal charges raised against Milosevic. In short, both investment and trade flows were impaired by the limited EU political commitment to the future of the region and the foreign aid conditionality attached by the West to its assistance programs, generating further fragmentation of the regional economy rather than integration. It is

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<sup>464</sup> Benn Steil and Susan Woodward, "A European 'New deal' for the Balkans," *Foreign Affairs* 78, no. 6 (1999): 106.

not surprising why the loudly proclaimed solution to the Balkan predicament did not produce the desired effect and disappointment with the Stability Pact settled in shortly after its inception.

The democratic elections in Serbia in October 2000 presented the real opportunity for the EU to change policy course and assert its leadership in the Balkans. In a message to the Serbian people signed on September 19, 2000 by the 15 EU Foreign Ministers and supported by 14 other European countries, the EU made the pledge that “a vote for democracy in Serbia will be a vote for Serbia in Europe.”<sup>465</sup> Following the favorable election results, the EU Foreign Ministers lifted the economic sanctions against Yugoslavia (with the exception of those targeting Milosevic and his circle) only a couple of hours after the democratic transition on October 5, 2000.<sup>466</sup> The European Commission urged the member states to quickly re-establish diplomatic relations with Federal Republic of Yugoslavia (FRY) while President Kostunica was extended an invitation to participate in the informal European Council meeting in Biarritz in mid October 2000. Welcoming the new Yugoslav President as one among equals in the group of European Heads of State and Government was meant to confer credibility and legitimacy to the new political leadership in FRY and to signal a dramatic change in the EU policy toward Serbia. The symbolism of this gesture went much beyond the usual diplomatic courtesy and immediate promises of support. As Javier Solana himself put it in a special contribution to the *Herald Tribune* of October 12, 2000, “[w]e (the EU) are no longer satisfied with simply wanting to see peace and stability in the Balkans. Responding to their aspirations, we are committed to working for the full integration of the Balkan countries into the political and economic mainstream of Europe.”<sup>467</sup> Another political encouragement from the EU for the new authorities in Belgrade came with the arrest of Slobodan Milosevic on March 30, 2001. In three separate statements of April 1, 2001, the EU High Representative for the CFSP, Javier Solana, the President of the European Commission Romano Prodi and the European Commissioner for External Affairs Chris Patten congratulated the democratic Serbian government for making “another important step toward Europe.”<sup>468</sup>

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<sup>465</sup> Quoted from European Commission, “The EU and the Federal Republic of Yugoslavia,” text available from [www.europa.eu.int](http://www.europa.eu.int), accessed on April 6, 2001.

<sup>466</sup> *Ibid.*

<sup>467</sup> Javier Solana, “A European Future for Serbia,” *International Herald Tribune*, 12, October 2000.

<sup>468</sup> Council of the EU, “Statement by Dr. Javier Solana, EU High Representative for the CFSP after the Arrest of Slobodan Milosevic,” 1 April 2001, available from [www.europa.eu.int](http://www.europa.eu.int); European Commission, “European Commission Reacts to the Arrest of Milosevic: Statement by European Commission President Romano Prodi,” 1 April 2001, available from [www.europa.eu.int](http://www.europa.eu.int); European commission, “Chris Patten, European Commissioner for

The EU began to signal more categorically its intentions to integrate the Western Balkans after the last dictator in the region was gone and democratic elections have brought to power more credible leaders. It took a long time before the EU announced it was ready to welcome the Western Balkan countries as full members when they reached the political and economic maturity implied by EU membership. At the Feira European Council in 2000, the Heads of State and Government explicitly stated that the EU policy objective was full membership for the Western Balkans without specifying the time frame for it. This position was reinforced three years later at the Thessaloniki European Council in 2003 when the EU leaders reconfirmed the membership perspective for the five countries from the region and specified the procedure for their promotion from potential candidates to full candidates thus upgrading the status of the future members. In 2005, responsibility for the Western Balkans in the European Commission was moved from DG External Relations to DG Enlargement indicating again that the name of the game for the region had changed and was now called enlargement.

The story of how the EU's Western Balkan policy evolved up to the conditional offer of membership has its parallels with the way the EU warmed up to the idea of enlargement to Eastern Europe in the early 1990s. At the beginning, the EU was only willing to offer Association Agreements to the post-communist states which, similar to the SAAs, did not contain a clear commitment to an enlargement timetable nor did they specify clearly the conditions under which the candidates could accede to the EU. The provisions for a progressive trade liberalization between the EU and the East European states in the course of ten years were decidedly in EU's favor envisaging a lot of protection mechanisms for the EU member states to safeguard their domestic producers from East European competition.<sup>469</sup> As Milada Anna Vachudova concludes, although the "Europe Agreements explicitly declared that they were more advantageous to the weaker party in what was recognized as the asymmetric relationship between the EU and Eastern Europe, the opposite turned out to be true."<sup>470</sup> Furthermore, just like in the Western Balkans, the idea of regional cooperation, certainly in the Visegrad group format, was very much encouraged by the EU in the early 1990s and decidedly rejected by some, if not all, Visegrad countries who feared they would be at least slowed down in their EU membership

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External Affairs, Welcomes Milosevic Arrest," 1 April 2001, available from [www.europa.eu.int](http://www.europa.eu.int), accessed on 6 April 2001.

<sup>469</sup> For a detailed analysis of the trade clauses of the Europe Agreements see Milada Anna Vachudova, *Europe Undivided: Democracy, Leverage and Integration after Communism* (Oxford: Oxford University Press, 2005).

<sup>470</sup> *Ibid.*, 87.

bid by regional arrangements, if not offered regionalism as a substitute to EU integration altogether.<sup>471</sup>

As I discussed in chapter 2, the EU accession conditions were formulated in 1993 at the Copenhagen European Council and it took a couple of more years to make those operational in order to measure the state of democratic and economic achievement of the candidate countries. Only in 1997 did the EU start applying rigorous conditionality on the post-communist states which also meant a more committed stance on the EU delivery end, namely the ‘reward’ of full membership. This delayed reinforcement of the EU commitment to Eastern Europe was a reflection of the opposition to enlargement in some quarters of the EU member states but also of the lack of attention to the enlargement questions relative to other important internal issues on the EU agenda such as the completion of the single market project in 1993, the agreement on Economic and Monetary Union culminating in the changeover to the euro in 2002 as well as the consideration of various institutional matters some of which were designed to prepare the EU institutional machinery to function at 27 rather than 15 members. The institutional arrangement reweighing the voting power in the Council to take into account the prospect for an enlarged membership was only agreed in 2000 with the signature of the Nice Treaty. In short, enlargement was not the first priority for the EU leaders for most of the 1990s and the East European candidate countries did complain on many occasions about the lack of interest of the EU in their fate.

We detect similar elements of uncertainty in the EU policy of engaging the two groups of countries in the early stages of their Europeanization. Making the EU membership promise appear credible so that it can be perceived as a genuine incentive has been a major weakness of EU policy in the context of both the enlargement process and the stabilization and association process. Yet, both the East European and the Western Balkan states had to face similar external constraints. I have argued that regardless of the time difference of approximately ten years of the EU’s extension of the membership perspective to the two groups of countries, the EU pull factor as an external driver of change is comparable. In other words, the external compensation for reform is equal in strength for the Eastern and the Western parts of the Balkans.

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<sup>471</sup> See George Kolankiewicz, “Consensus and Competition in the Eastern Enlargement of the European Union,” *International Affairs* 70, no. 3 (1994): 483-484.

*Why EU Membership for the Balkans?*

Is there a difference then in the EU's motivation in offering the incentive of membership to the two groups of states? The enlargement literature has offered both rationalist and constructivist explanations as to why the EU decided to enlarge to Eastern Europe. Milada Anna Vachudova, for instance, gives primacy to the material interests (both economic and geopolitical) of the EU member states in an undivided Europe as a major explanatory variable for the EU's enlargement decision.<sup>472</sup> In contrast, Frank Schimmelfennig argues that rational arguments can explain why the EU offered association through the Europe Agreements to the East Europeans but cannot account for why the EU agreed to share political power through full institutional inclusion of the East European states.<sup>473</sup> Rhetorical action provides the missing bit of the puzzle as reluctant EU member states were 'rhetorically entrapped' and shamed into approving enlargement by enlargement champions who referred to the liberal norms of the EU regime and the past commitments undertaken by the EU to argue their case, Schimmelfennig contends.<sup>474</sup>

It is beyond my goals here to offer an evaluation of the rationalist and constructivist accounts of the EU's decision to enlarge eastwards. The academic debate on the matter is already quite rich and reviewed in every volume on enlargement. The question that has not received sufficient scholarly attention, however, is why the EU decided to offer membership to the five Western Balkan countries in 2000 when the first wave of East European membership applications were not quite dealt with and the terms and conditions of the East European accession were still under negotiation.

To answer this question, we turn now to three different explanations derived from International Relations theory. Is the EU acting in a fashion consistent with the *realist* prescriptions of rational behavior?<sup>475</sup> The realist paradigm is well suited to account for the military and diplomatic contribution of the EU in containing conflict in Western Balkans, an element which was absent from the EU - Eastern Europe agenda in the early 1990s. The EU's strategy to integrate the Western Balkans cannot be detached from the overall geopolitical situation in the region. The EU has high stakes in preventing conflict in the Balkans and

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<sup>472</sup> Milada Anna Vachudova, *Europe Undivided*.

<sup>473</sup> Frank Schimmelfennig, "The Community Trap: Liberal Norms, Rhetorical Action, and the Eastern Enlargement of the European Union," *International Organization* 55, no. 1 (2001): 47-80.

<sup>474</sup> *Ibid.*

<sup>475</sup> For a theoretical defence of realism, see John J. Mearsheimer, "The False Promise of International Institutions," *International Security* 19, no. 3 (1995): 5-49.

maintaining peace and stability due to the geographic proximity and the immediate danger of migration influx and excessive financial demands. The EU's involvement in the Western Balkans, a realist would argue, is an expression of the self-interested behavior of a rational actor concerned about its own security as well as its geo-strategic position in the global environment. Acting together, the EU member states are reclaiming control over the destiny of the continent in an attempt to maximize their political influence commensurate with their economic might, the argument goes.

The EU interest in peace and stability on the continent is commonsensical but rivalry among the big international powers for influence on the Western Balkans is rather absent. The Balkans do not possess the riches that can trigger a competition among big players for strategic reasons. Quite the opposite, the Balkans are known for their unpredictability and trouble-making potential that often leads to direct contributions rather than relative gains. Yet, containing the Balkan ethnic tensions is a much greater concern for Western Europe than for any other international player. The EU, due to its geographical location, is most interested in preventing turbulence in the Balkans. However, Europe has often been taken by surprise by events in the Western Balkans in the 1990s and has not been able to respond to them in a timely and efficient manner. The EU's international image has seriously suffered out of this experience, as it had to face the humiliation of failing to keep in order its backyard. It is not surprising that the EU has stepped up its efforts to develop a capacity to act independently in crisis situations. For too long, Europe has been paying the bill while the U.S. has been fighting the wars.<sup>476</sup>

It is within the context of the Balkan crises that the internal debate on conflict prevention and crisis management was initiated in the EU. Official EU documents and policy interventions by senior EU officials have increasingly asserted that the successful repression of sporadic violence eruption requires "both the political will and the practical ability to apply military force in the last resort."<sup>477</sup> While Europe has grown to accept the necessity of collective action on security matters, progress on the capability aspect has been slow to come. Conscious of the need to strengthen the European military muscle, the EU Heads of State and Government agreed at the Helsinki Summit in December 1999 to create a Rapid Reaction Force of 60,000 troops by 2003.

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<sup>476</sup> Douglas Hurd, "Europe Must Respond to the Arc of Danger," *Financial Times*, 28 March 2001.

<sup>477</sup> Chris Patten, "The EU's Evolving Foreign Policy Dimension – the CESDP after Helsinki," speech delivered at the Joint Meeting between the European Parliament Foreign Affairs Committee and Members of the NATO Parliamentary Assembly, 22 February 2000, Brussels, available from [www.europa.eu.int](http://www.europa.eu.int), accessed on 6 April 2001.



This military arrangement is not meant to undermine NATO's position as a major provider of European defence. Neither is it intended to challenge others and provoke an arms race. The Rapid Reaction Force has a narrow mandate to perform Petersberg Tasks limited to peacekeeping and crisis management. Europe keeps reassuring the U.S. that the "European Security and Defense Identity is not about Europe going it alone, but about Europe doing more."<sup>478</sup> The official EU discourse frames the purpose of the new military formation as an attempt to provide Europe with an autonomous capacity to intervene in crises when NATO as whole does not wish to get involved. On the same note, the EU is repeatedly communicating to Russia the goals of the Common Security and Defense Policy and trying to engage it in consultations and political dialogue on security and defense issues.<sup>479</sup>

The European Security Strategy, adopted by the European Council at the Copenhagen Summit in December 2003, attests to the perceived threat to European security posed by 'weak states.' Europe is particularly vulnerable to state failure in its immediate neighborhood since it breeds organized crime and threatens regional stability. The European Security Strategy particularly singles out the Balkans as a region where "restoring good government, fostering democracy and enabling the authorities there to tackle organized crime" is a priority for the EU.<sup>480</sup>

The EU has already taken over important security tasks in the Western Balkans through both military and civilian means. The EU military operation in Macedonia (Concordia) in 2003 and the replacement of NATO's SFOR in Bosnia-Herzegovina (BiH) with the EU military mission EUFOR (operation Althea) at the end of 2004 are both examples of the EU's interest in maintaining peace in the region as a first step toward creating the necessary conditions for good governance. The EU police missions in Macedonia (Proxima) and in BiH (EUPM), both launched in 2003, constitute further attempts to strengthen the capacity of the Balkan states to address security threats such as criminality and to enforce law and order in their societies.

It is clear that the EU intensions are not offensive. As a realist would suggest, in the self-help international environment, the EU is acting to provide for its own security through all possible means, including the deployment of military forces to prevent conflict and maintain peace on the

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<sup>478</sup> Ibid.

<sup>479</sup> See Intervention by Dr. Javier Solana, High Representative of the EU for the CFSP, at the EU-Russia Forum for Foreign and Security Policy, Moscow, 15 February 15 2001, available from [www.europa.eu.int](http://www.europa.eu.int), accessed on 6 April 2001.

<sup>480</sup> See "A Secure Europe in a Better World," European Security Strategy, Brussels, 12 December 2003.

continent. Western Europe is making a long-term investment into its own security and stability by taking decisive steps to Europeanize the Western Balkans, the realists would have it. Realism, however, is weak in explaining the non-military component of the EU policy, namely the offer of membership. Pacifying the region and keeping it under scrutiny to avoid further trouble is achievable by means other than full economic and political integration, as the EU's offer has it. By offering membership, the EU is signaling a greater commitment than just an interest in keeping its periphery in check.

Is *liberalism* better suited to explain the EU's motivation to extend the membership perspective to the Western Balkans?<sup>481</sup> It is imperative to keep in mind that the means of engagement of the EU in the Balkans are to a great extent liberal in character. The most immediate "carrot" the EU has offered to the Balkan countries is the instantaneous lifting of EU trade barriers for Balkan imports. Indeed, since 2000 all five Western Balkan countries have almost full market access to the single market due to the exceptional trade measures granted by the EU even to the states without a signed Stabilization and Association Agreement. In this sense, the EU has given more to the Western Balkans than to the East European in the early 1990s. The EU gesture is all the more important knowing that already in 2000, the EU was the major trading partner of the countries from the Balkans accounting for 92.5% of Albanian exports, 85% of Yugoslav exports, 49.6% of the exports of Bosnia and Herzegovina, 44% of Macedonian exports, and 38% of Croatian exports.<sup>482</sup> Considering the dependence of Balkan economies on exports to the European market, the trade liberalization measures provide undoubtedly a big stimulus for regional economic development.

The asymmetry of trade liberalization, however, corresponds to the asymmetry in economic weight. When the EU offered the trade deal to the Western Balkans in 2000, the Western Balkan exports to the EU were a tiny little portion of the volumes traded within the single market. The Western Balkans accounted for only 0.6% of the total EU imports in 2000 most of which (from 83.8% in the case of Albania to 58.4% in the case of Yugoslavia) consisted of agricultural, textile, and footwear products as well as iron and steel, and wood.<sup>483</sup> In addition, the products

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<sup>481</sup> For a theoretical analysis of the liberal view of world politics, see Michael W. Doyle, "Liberalism and World Politics," *American Political Science Review* 80, no. 4 (1986): 1151-1169.

<sup>482</sup> Stanislav Daskalov, Nickolay Mladenov, Daniel Gros, Paul Brenton, Michael Emerson, and Nicholas Whyte, "A Comprehensive Trade Policy Plan for the Western Balkans: A Bold Initiative to bring More Stability and Prosperity to South Eastern Europe," *CEPS Working Document* 146 (2000), available from [www.ceps.be](http://www.ceps.be).

<sup>483</sup> *Ibid.*

manufactured by the war-devastated Balkan economies were not believed to be highly competitive on the European market and posing a threat to the economic well-being of European producers. The EU has no acute economic interest in the Western Balkans nor is it sacrificing much by opening its trade borders to the Western Balkan economies. Furthermore, the total size of the Western Balkan economy is so small that it hardly offers lucrative business opportunities to EU companies. The combined GDP of the whole region is in the order of 50 billion Euro which amounts to approximately 0.6% of the GDP of EU-15 or roughly 40% of Portugal's GDP.<sup>484</sup> Considerations about absolute gains and mutual profits are hardly part of the EU motivation. Indeed, the Western Balkan countries get to gain more from the trade relationship with the EU.

The integration of the Balkans in the European economy is justified on strategic grounds. It is meant to create incentives for the Western Balkan countries to trade more with the EU and their immediate neighbors and fight less among themselves.<sup>485</sup> The EU economic interests are only indirectly affected by the asymmetrical trade arrangement with the Balkans through the security-enhancing consequences of its intended results. The economic mechanism of engagement notwithstanding, the EU is primarily concerned about ensuring peace and stability on the European continent, an environment conducive to both EU internal trade and investment and the general prosperity and welfare of European citizens. The politics of the EU's Western Balkan policy takes precedence over the economics of the EU's involvement in the region.

Aware of the gravity of the problems in the Western Balkans and conscious of the enormous efforts that had to be pooled together in order to set the region on a firm Europeanizing path, the EU leaders felt that a stronger incentive was necessary to lock the politics of the region in the Europeanization process. Fearing the negative repercussions of the EU's failure to act boldly, the member states consensually put the membership perspective on the table thus acquiring leverage over the reform agenda of willing EU candidates from the Western Balkans. The expectations of EU policy-makers at the time were of a very long pre-accession process for most of the countries from the region, perhaps with the only exception of Croatia, but that played well for the EU which was not in a hurry itself as it had to still sort out and digest the East European enlargement

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<sup>484</sup> European Commission, "The Western Balkans in Transition," Occasional Paper 1, 2003, Directorate General for Economic and Financial Affairs, available from [www.europa.eu.int](http://www.europa.eu.int).

<sup>485</sup> See Michael W. Doyle, "Liberalism and World Politics," 1151-1169.

before thinking seriously of letting in five more members. Yet, showing commitment to the integration of the Western Balkans at the time was considered strategic.

Do the insights of the *constructivist* approach to international politics help us understand some aspect of the EU-Balkans relationship?<sup>486</sup> A constructivist take on the question would suggest that by promising to integrate the Western Balkans, the EU is spreading the norm of integration which underpins the successful model of Western Europe in coping with national differences and war-time grievances. The experience of the EU itself has proven a viable option and now there is a chance to extend the space of peaceful and prosperous coexistence of neighboring nations to encompass the whole continent. A decade of violent wars in the Balkans revealed the need for external help in initiating a reconciliation process between the ethnic adversaries in this part of Europe. Replicating the EU model in the Balkans, therefore, requires offering incentives to the Balkan parties to cooperate regionally in an attempt to prevent future conflict among them. In short, the EU is acting in support of the values and principles that justify its own existence.

The constructivist approach assigns primary importance to identity politics and the degree of cultural affinity between Europeans. The diffusion of the norm of integration to the Balkans as a result of the EU efforts to include that part of Europe into its own framework is a fascinating idea yet it is difficult to accept the EU's behavior as an expression of utmost benevolence and altruism. For a long time, the Balkans have been constructed as the 'other' of Europe which evokes everything that Europe is not about. The name of the Balkans always provokes a very straightforward negative attitude in Western Europeans and brings into mind the notion of ancient hatreds and bloody wars coupled with economic backwardness and misery.

In a thorough study of the representations of the Balkans in Western written documents and literature, Maria Todorova has referred to the bridge metaphor to characterize the most common perception of the Balkans.<sup>487</sup> In the Western mindset, she argues, the Balkans are the bridge between the West and the Orient, between Europe and Asia. As such, they are associated with "a bridge between different stages of growth, and this invokes labels such as semideveloped, semicolonial, semicivilized, semioriental."<sup>488</sup> This ambiguous position of the Balkans, Todorova

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<sup>486</sup> For a theoretical discussion of the constructivist view, see Jeffrey Checkel, "The Constructivist Turn in International Relations Theory," *World Politics* 50 (1998): 324-348; Jeffrey Checkel, "Norms, Institutions and National Identity in Contemporary Europe," *International Studies Quarterly* 43 (1999): 83-114.

<sup>487</sup> Maria Todorova, *Imagining the Balkans* (New York, Oxford: Oxford University Press, 1997), 15.

<sup>488</sup> *Ibid.*, 16.

contends, has earned them an inferior status which has gradually been internalized by the Balkan people themselves thus reinforcing the cultural stereotype attached to their geographical area.<sup>489</sup>

Given the widespread and deeply entrenched prejudices against the Balkans in the Western way of thinking, it is hard to imagine that the EU's attempt to embrace the Balkans is indicative of a change in Western imagery of the Balkan uniqueness. Nor is it apparent that Western Europe has been involved in re-articulation of its own identity to incorporate the Balkans as a building bloc rather than an opposing 'other.' In addition, the Balkans have behaved in their traditional way in the last decade and have not made an effort to project a different image that could have encouraged a genuinely different approach to them. Had the EU been truly inspired by benign motives, it would have extended its civilian means of engagement to the Balkans long ago when it was making first steps to include Central and Eastern Europe into the European integration process. While the intentions of the EU's Western Balkan policy appear consistent with the EU's image of a generous neighbor, the impetus behind it may have more to do with pragmatics rather than kinship. It is difficult to see the EU's conditional offer of membership as dictated by identity considerations only. Normative concerns may well be part of the EU motivation but alongside the paramount security interests of the member states.

## **8.2 THE EU MEMBERSHIP CONDITIONS AND THE COSTS OF COMPLIANCE**

The incentive of EU membership is the cornerstone of the EU policy vis-à-vis the Balkans and we have seen that the EU's enlargement process for Eastern Europe and the Stabilisation and Association Process for the Western Balkans are comparable. I have argued in Chapter 2 and shown empirically in chapters 3 and 4 that the main difference in the EU approach vis-à-vis the two groups of countries has to do with the conditions under which the EU has promised to deliver the 'reward' of membership. I have proposed that sovereignty is the critical intervening variable which determines the varied EU impact (the independent variable) on changes in the domestic structures and policies of Balkan countries (the dependent variable). In the Western Balkans, the EU's objective of 'state-building' has prompted the formulation of conditions that intervene in the statehood of some EU potential candidates against the promise of EU

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<sup>489</sup> Ibid., Introduction, 3-20.

integration. This has changed not only the nature of the EU's external influence on the semi-sovereign cases but has also raised their costs of compliance with EU demands.

I have maintained that in the Western Balkan region, the driving forces behind the EU policy are the security concerns of the member states and the goal of maintaining peace and building viable states comes first. The objective of building functioning democracies and market economies across the region is not less important but it becomes a matter of highest priority only after a stable security environment has been put in place and the outstanding statehood questions have been resolved. The EU's primary concern is to stabilize and strengthen the Western Balkan states in order to make them credible accession candidates to which the full range of democracy and market economy requirements will then be applied. As explained in chapter 2, there is a special category of EU demands designed to deal with the war legacy in the Western Balkan countries which has resulted in deeper intrusion of the EU in domestic power structures and decision-making arrangements. The result has been a more costly compliance for political elites in government who have had to accept greater encroachments on their domestic power sources.

In particular, the EU's conditionality has touched on the internal sovereignty configuration in Bosnia and Herzegovina through requesting a redistribution of policy competences between the central and entity layers of government in the country and a redefinition of the relationship between external actors and politicians in power. In Serbia and Montenegro, the EU has demanded a reconstitution of the collective external sovereignty of the two republics through the continuation of a (thin) layer of common institutions and policies between them. Through setting these conditions, the EU has articulated its preferred version of the political map of the region thus interfering in highly sensitive political questions with profound implications for regional security. This has polarized the political space in the semi-sovereign cases and raised the stakes in the politics of compliance.

In the East European enlargement context, the EU's promise of full membership to the candidate countries legitimized the EU conditionality based on the Copenhagen criteria and there was no question mark regarding the sincerity of the EU intentions to promote good governance in the post-communist states. The membership perspective is the legitimation foundation for the EU's sovereignty conditionality in the Western Balkans too but here more than in Eastern Europe the question of whether the EU is genuinely concerned about spreading its norms in the

region or whether it just serves its own geo-strategic interests has more intensely been present in political thinking on the receiving end of the EU conditions.

### 8.3 THE EU AS A FOREIGN POLICY PLAYER

Has the EU played well its role of an external driver of domestic change? The insights of neoliberal institutionalism are helpful in understanding the EU's foreign policy performance once the membership perspective was extended to the Balkans. As chapter 5 has shown, the EU internal institutional dynamic can both contribute to and inhibit the accomplishment of the EU's policy objectives in the course of implementation.

Traditionally, foreign policy has been a reserved realm for intergovernmental cooperation where the national governments have been the major players in terms of both decision-making and implementation.<sup>490</sup> The sensitivity of the policy domain and the divergence among member states on policy choices have stood on the way of true communitarization of this issue area. The European Commission has enjoyed partial involvement in the CFSP since the Amsterdam Treaty but it has not been granted the sole right of initiative nor has it been given exclusive competences to represent the Community as in the area of trade policy and development assistance.<sup>491</sup>

The fresh institutional impetus for invigorating the collective foreign policy of EU member states came with the creation of the post of the High Representative for the CFSP of the EU by the Amsterdam Treaty and the inauguration of Javier Solana in October 1999. Even more importantly, the establishment in the Council Secretariat of a Policy Unit has proven critical for the timely provision of crisis assessments and policy recommendations.<sup>492</sup> It has also improved the coordination between the national foreign ministries and diplomatic services on issues of foreign and security policy. As a symbolic representation, the institutional arrangement signifies the intergovernmental nature of the CFSP pillar and reasserts the central role of the national

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<sup>490</sup> For an intergovernmental view of European integration, see Andrew Moravcsik, *The Choice for Europe: Social Purpose and State Power from Messina to Maastricht* (Ithaca: Cornell University Press/London: UCL Press, 1998).

<sup>491</sup> See Chris Patten, European Commissioner for External Relations, "A European Foreign Policy: Ambition and Reality," Speech Delivered at the Institut Francais des Relations Internationales, 15 June 2000, Paris, available from [www.europa.eu.int](http://www.europa.eu.int), accessed on 6 April 2001.

<sup>492</sup> See Javier Solana, EU High Representative for the CFSP, "Reflections on a Year in Office," Speech Delivered at the Swedish Institute of International Affairs and the Central Defense and Society Federation, 27 October 2000, Stockholm, available from [www.europa.eu.int](http://www.europa.eu.int), accessed on 6 April 2001.

governments in CFSP policy making. The state of the art in the policy domain is such that the member states are in charge of the decisions, regardless of the external visibility of the their agent and the high profile of the current High Representative. Javier Solana, therefore, has to seek the consent of the national capitals before initiating and carrying out foreign and security missions.

These internal developments have not occurred without institutional tension within the EU decision-making structure. In particular, the Commission has resisted the duplication of mandates arguing that the competencies of the High Representative overlap in important ways with the responsibilities of the Commissioner for External Relations. Indeed, Javier Solana and Chris Patten have worked “extremely well together” by their own assessments.<sup>493</sup> Yet, the institutional division of labor has created frustration in the Commission as it has seen its legitimate institutional turf being penetrated and threatened by rival entities with competing interests.

This latent institutional conflict has surfaced very acutely in the context of the EU’s Western Balkan policy where the lack of coherence in policy coordination and implementation has created serious risks for the EU’s external performance. I have argued in chapter 5 that the security implications of the EU sovereignty conditionality has required the involvement of the High Representative for the CFSP and/or his special envoys to boost the political mandate of the European Commission as a principle agent of EU accession conditionality. This has intensified the institutional rivalry between the Commission and the Council and has harmed the EU’s policy line in Serbia and Montenegro.

This is not to belittle the importance of the EU’s institutional machinery for the capacity of the EU to exert leverage beyond its borders. The empowerment of the EU institutions by the member states to take actions in the area of foreign and security policy did address an institutional necessity that was the missing link for the assertion of a more coherent EU policy stance vis-à-vis third parties in general. With regard to the EU’s Western Balkan policy, the broad mandate given to Javier Solana and Chris Patten in March 2000 by the Lisbon European Council to ensure that the EU strategy in the region delivers can partially explain the EU’s progress in translating intentions into actions. It is the institutional structure of the EU that

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<sup>493</sup> Chris Patten, European Commissioner for External Relations, “A European Foreign Policy: Ambition and Reality.” See also Javier Solana, EU High Representative for the CFSP, “Reflections on a Year in Office.”



provided the legal ground for political entrepreneurship of the major institutional actors to strike the deal between Serbia and Montenegro, to devise the intervention toolkit in Bosnia and Herzegovina and to elaborate and apply the Copenhagen criteria to future members. The policy results in the Balkans, therefore, can to a large extent be attributed to the momentum gained as a result of previous delegation of competencies to EU institutions by member states.<sup>494</sup>

#### 8.4 SUCCESS OR FAILURE IN THE BALKANS?

Can the EU claim success in the Balkans more than a decade after it promised membership to Bulgaria and Romania and about five years after it declared it would integrate the Western Balkans too? If by success we only mean peace, then the EU can safely be credited for making a major contribution to the stability of the region. The danger of armed conflict in the Balkans today is not on the cards. The region has been pacified and to a large extent the nationalist projects of the 1990s have been pushed aside by the EU agenda which is becoming more and more dominant in the politics of all countries from the region.

When it comes to the transformative power of the EU conditionality to bring about a durable political consensus on pro-Europe reforms and a stable equilibrium concerning the sovereignty configuration in the region, the empirical evidence is mixed. Judging by the compliance record up to now of the semi-sovereign cases in the comparative set, we can see that Bosnia and Herzegovina has taken important initiatives to strengthen its central institutions in compliance with EU demands whereas the probability of a ‘velvet divorce’ between Serbia and Montenegro is quite high. I have argued that the constellation of domestic interests and external factors in Bosnia and Herzegovina is conducive to a sustained compliance trend but only time will show how much of their commitments the Bosnian political leaders will implement. In contrast, I have maintained that in Serbia and Montenegro the blend of internal and external political dynamics is not favorable to prolonging the life of the EU-backed common state for too long.

While in the Western Balkans, we are looking at compliance outcomes achieved in the period of roughly five years, in the case of Bulgaria, the longer time horizon allows for firmer

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<sup>494</sup> For a theoretical statement of the historical institutionalist perspective, see Paul Pierson, “The Path to European Integration: A Historical Institutional Analysis,” *Comparative Political Studies* 29, no. 2 (1996): 123-163.

conclusions about the degree of permeation of European rules and standards in the domestic governance structures of the country. I have argued that, although political reluctance to deep and irreversible change was common at the start of the transition, over time the EU governance norms have gradually been accepted by the political class on both sides of the political spectrum. This has not occurred without external sanctioning but progressively the EU milieu has empowered pro-reform political actors to take control and prevail over rent-seeking veto players.

With regard to compliance, we have encountered an interesting phenomenon in the EU-Balkan exchanges. Domestic actors have at times committed to reform on paper but have defected from their pledges in the process of implementation. The concern over enforcement of mutual agreements and the possibility that exists for states not to respect the international commitments they have undertaken is not new to international relations theory. The concept of cheating is primarily a focus of theorizing in the neoliberal institutionalist strain but realists also acknowledge the inhibitory effects of cheating for interstate cooperation. While the realist theory is skeptical about the mitigating capacity of institutions to counteract the effects of anarchy on state behavior,<sup>495</sup> the institutionalist theory suggests that institutions can help states overcome the problem of cheating.<sup>496</sup> Neoliberal scholars have argued that international regimes not only provide an opportunity for states to pursue their mutual interests in a cooperative manner but they also affect state behavior by generating principles of fairness and by creating expectations about what is acceptable and what is not in international exchanges.<sup>497</sup> Institutions structure the way in which actors engage with one another and reduce the uncertainty of inter-state interactions. The result of regularizing the contacts is predictability. In short, institutions guide state behavior by providing a common understanding of purpose and a shared meaning of justice in the sense of fair distribution of benefits from the collective efforts.

If we apply the institutionalist logic to the EU - Balkan relations, it is apparent that in the early encounters between EU officials and Balkan policy-makers there is no common understanding of what is mutually desirable and beneficial. Nor is there a shared meaning of what is right and fair for both sides. Mistrust and suspicion about the intentions of the other have not lacked on either side. The Balkan leaders have doubted the willingness and readiness of the

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<sup>495</sup> See Joseph M. Grieco, *Cooperation Among Nations* (Ithaca: Cornell University Press, 1990).

<sup>496</sup> See Robert O. Keohane, *After Hegemony: Cooperation and Discord in the World Political Economy* (Princeton: Princeton University Press, 1984).

<sup>497</sup> *Ibid.*, 182-216.

EU to open its doors one day whereas the EU leaders have hesitated believing that the Balkan political elites are serious about turning the page of nationalism, accepting the European way of relinquishing sovereignty for the sake of living better with neighbors and other fellow Europeans and endorsing the Western norms as a basis for rebuilding their countries in the best interest of their citizens. Distrustful of the EU and under pressure to act first, Balkan politicians have shown a tendency to cheat by simulating or evading EU-compatible changes at the beginning of the road to the EU. With regularization of EU-Balkan interactions over a period of time, however, and with institutionalization of their relationship in the context of the EU pre-accession process, deception has become easily discernible and the option of cheating less available. EU sanctions have played a role here too.

The case of Bulgaria is illustrative of the gradual shift towards greater predictability in policy conduct. Thus one can expect the EU – Western Balkan exchanges to be governed by less uncertainty about expected behavior as the two sides deepen their ties. As the EU gradually shifts the emphasis from state-building to governance issues in the Western Balkans, a similar trend towards more consistency, reliability and steadiness in the performance of the Balkan states can be anticipated. We have seen that when the EU can justify its demands on efficiency grounds or can site models from its own governance practice to ask for particular reforms, its authority to define the terms of domestic transformation in the countries has more easily been accepted and respected even by reluctant Balkan politicians. And when argumentation has failed, we have witnessed that the ‘stick’ of EU’s conditionality has had a disciplining effect on disinclined elites.

## **8.5 EXOGENOUS VERSUS ENDOGENOUS FACTORS AS DRIVERS OF COMPLIANCE**

Is the EU conditionality then the sole driver of change in the Balkan states? I have argued that the behavior of Balkan countries cannot be explained completely by an arbitrary privileging of domestic or international factors. Indeed, it is implausible to arrive at a convincing account of institutional and policy changes in the Balkans by disregarding the critical role of the conditionality of international institutions like the EU, NATO, the Council of Europe and the

external pressure for compliance with their accession criteria. An isolated analysis of the external influence on these countries, however, is not sufficient as it overlooks the interaction between domestic and external actors and the linkages between the international milieu and the domestic political process. To comprehend the Balkan behavior vis-à-vis the EU, it is necessary to also take a look at the countries' domestic political space and the way the recent past has shaped the political actors of the transformation period. The voluntary subjecting to EU demands as well as the degree of aligning domestic policies and practices with European normative orientations thus can best be accounted for by an integrated approach of domestic and international politics.

An analysis of the protagonists of Europeanization in each domestic context has shown that to get compliance with EU conditions as a policy outcome, it makes a difference who is in power. Some political formations have turned out more inclined to accept EU claims about what is right and wrong. Others have found it beneficial to play lip service to the EU rhetoric while sticking to their traditional ways of management and mismanagement. A third group has rejected the EU's interference in statehood matters while embracing the EU's governance norms. Depending on the constellation of political interests in government, we have seen different propensity towards compliance.

An emphasis on political elites is justified by the authority they possess in shaping the direction in which both domestic and foreign policies are oriented. Policy-makers, by virtue of their control over decision-making, constitute a critical factor in articulating the national preferences and responding to EU conditionality. The makeup of the political class in the Balkans is partly accountable for the way state interests are framed in the pre-accession period and choices are made from the spectrum of options available between compliance and defiance. Elite interpretations of the national advantages and disadvantages are thus a key factor in reacting positively to the stimuli coming from the European milieu or ignoring the EU offer. Besides, differences in elite alliance structures across states, a function of different historical legacies and different sets of socio-economic conditions in the countries, are also suggestive of the compliance patterns of Balkan states.

I have maintained that for a sustained compliance trend, a consensus across the political spectrum on EU-demanded domestic changes is necessary. I have proposed in chapter 7 that when the EU conditionality concentrates on exposing governance deficiencies and requests adequate improvements, a consensual domestic political space does appear over time, if it did not

exist at the start. In such cases, irreversibility of the reform process can be expected with the rotation of political parties in power as the Bulgarian example has confirmed. On the contrary, when the EU prioritizes the resolution of statehood matters in its conditionality policy, the domestic political space tends to be divided and political contestation of the EU accession requirements becomes part of domestic politics as we have seen from the two semi-sovereign cases.

It also matters who is in opposition to EU conditionality in such fragmented polities. If compliance is the outcome of a difficult process of transformation of political formations with weak reform credentials, often espousing nationalist ideologies, then the compliance tendency can be expected to be preserved and even strengthened with the coming to power of pro-European political groups. The case of Bosnia and Herzegovina is instructive here. If the political opposition to EU sovereignty demands comes from the camp of the reformers who endorse the EU political and economic norms, then the likelihood for implementation of the EU-preferred statehood solutions is not great. We have seen that when this has occurred, as in the case of Serbia and Montenegro, the EU itself has backed down and loosened its demands.

## **8.6 NORMS VERSUS INTERESTS**

What is driving the Balkan political elites to abide by the EU rules then? Are their acts of compliance a carefully calculated choice or are they really convinced that the EU-sponsored ideas about domestic governance and sovereignty are the right way to go?

I have argued in chapter 7 that both rationality and norms have been at work in the politics of compliance. The empirical evidence, however, suggests that the process of socialization, while occupying an important place in the EU's external relations toolkit, has not had a decisive effect on compliance decisions of Balkan states. Norms and rules about efficient governance, nevertheless, have been a strong tool in the hands of the EU empowering it to resort to sanctions whenever candidates were not deemed as measuring up to the EU standard. In so doing, the EU has incurred indirect costs to reluctant politicians inducing them to reconsider and change policy. Thus the combined force of rationality and norms has produced compliance outcomes in the cases of Bulgaria and Bosnia and Herzegovina. In Bulgaria, both costs-benefit calculations and

legitimacy considerations have complemented each other to result in a genuine move towards EU-compatible reforms. In Bosnia and Herzegovina, the compelling power of EU arguments have been reinforced by the EU disincentives to induce change in the behavior of ruling elites even though the latter did not consider the EU sovereignty-eroding conditions appropriate.

In the case of Serbia and Montenegro, however, the EU was short of good reasons and could not lean on universal norms to justify its demands, thus ultimately failing to convince the pro-EU leadership in the two republics in the appropriateness of its sovereignty conditions. Neither argumentative persuasion, nor conditionality could change the hearts and minds of opposed elites. In fact, the EU itself was reluctant to apply sanctions knowing the unintended effects of its earlier intervention and fearing destabilization of the region as a consequence of its indirect support for nationalist and illiberal political forces.

This leads us to a final discussion about the blend of coercive and non-coercive mechanisms the EU should rely on in order to have success in influencing the pattern of change in countries that are further away from the EU core geographically, politically and economically? The EU strategic documents indicate its intention to assume more responsibility in world politics. The EU has potentially both the structural power to lead and the “soft power”<sup>498</sup> to attract others with the norms it espouses and the values it promotes. To be effective, it has to employ the right mix of hard and soft power instruments and make sure that they do not contradict each other but reinforce their qualities to achieve the desired impact.<sup>499</sup>

In the Balkans, the EU has counted on both hard and soft power resources to achieve its objectives. We have seen that it has had more success when its more coercive means have supported a policy goal justifiable on normative grounds. On the contrary, when the EU has tried to exercise leverage against what it stands for as a community of values, its efforts have been counterproductive. While the EU is a new player on the international scene, through its enlargement policy and Western Balkan policy, it has started to develop a profile of an international actor. It has manifested an increased sense of leadership beyond the traditional domains of trade and development assistance in its external relations. It has signaled that it no longer avoids assuming responsibility for politically charged tasks in the area of security. But

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<sup>498</sup> See Joseph S. Nye, Jr., *Soft Power: The Means to Success in World Politics* (Public Affairs: New York, 2004).

<sup>499</sup> *Ibid.*, 25.

above all, it has demonstrated the enormous transformative potential of its power to attract by virtue of being what it is and standing for its political and economic values.

## APPENDIX A

### LIST OF INTERVIEWEES

- Julian Baithwaite, Chief Spokesman, Director of Communications, Office of the High Representative, Sarajevo, December 2003.
- Dejan Bajic, Office of the Prime Minister of Montenegro, Podgorica, July 2003.
- Geoffrey Barrett, Head of Delegation, Delegation of the European Commission to Serbia and Montenegro, Belgrade, July 2003.
- Florian Bieber, Senior Research Associate, European Centre for Minority Issues, Belgrade, June 2003.
- Sonja Biserko, Helsinki Committee for Human Rights in Serbia, Belgrade, July 2003.
- Roland Bless, Spokesperson, Stability Pact for South Eastern Europe, Brussels, May 2002.
- Janusz Bugajski, Director, East European Studies, Center for Strategic and International Studies, Washington DC, March 2003.
- Renee Carrico, Senior Public Administration Reform Advisor, OSCE, Mission to Bosnia and Herzegovina, Regional Centre Banja Luka, Banja Luka, December 2003.
- Srdan Darmanovic, Director, Centre for Democracy and Human Rights (CEDEM), Montenegro, Podgorica, July 2003.
- Brice De Schietero, Bulgaria Team, DG Enlargement, European Commission, Brussels, July 2004.
- Francesca Di Mauro, BiH Desk, DG ECFIN, European Commission, Brussels, October 2003.
- Mladjan Dinkic, Central Bank Governor, Serbia, Belgrade, July 2003.
- Joly Dixon, Chairman, Indirect Taxation Commission, BiH, Brussels, October 2003 and February 2004.
- John Dunn, Bosnia and Herzegovina Desk, DG External Relations, European Commission, Brussels, March 2004.
- Markus Ederer, Head of Cabinet, Special Coordinator of the Stability Pact for South Eastern Europe, Brussels, May 2002.
- Claire Fromentin – Kuljaninovic, Head of Office, Delegation of the European Commission to Bosnia and Herzegovina, Banja Luka Office, Banja Luka, December 2003.
- Simon Gray, Lead Country Officer, Bosnia and Herzegovina, World Bank, Washington DC, March 2003.
- Raffi Gregorian, Deputy Director for Bosnia and Herzegovina, US Department of State, Washington DC, April 2003.



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Martin Hallet, Bulgaria Desk, DG ECFIN, European Commission, Brussels, August 2004.

Johannes Herderschee, Senior Economist, World Bank Institute, Washington DC, May 2003.

Helene Holm-Pedersen, Council of the EU, Directorate General for External and Politico-Military Affairs, Brussels, October 2003.

Michael Hryshchshyn, Political Director, OSCE, Mission to Bosnia and Herzegovina, Sarajevo, December 2003.

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Pierre Lazar, Senior Economist, International Monetary Fund, Washington DC, May 2003.

Stephan Lehne, Council of the EU, Policy Unit, Brussels, May 2002.

Dusko Lopandic, Minister Plenipotentiary, Ministry of Foreign Affairs, Serbia and Montenegro, Belgrade, July 2003.

Nikola Lukic, Deputy Director, Directorate for EU, Ministry of Foreign Affairs, Serbia and Montenegro, Belgrade, July 2003.

Branko Lukovac, Minister for International Economic Relations, Serbia and Montenegro, Belgrade, July 2003.

Sabina Mazzi-Zissis, Administrator, European Parliament, Brussels, February 2003.

Slavica Milacic, Minister, Ministry of International Economic Relations and European Integration, Republic of Montenegro, Podgorica, July 2003.

Lisa Miller, Bulgaria Desk, US State Department, Washington DC, May 2003.

Dobrosav Milovanovic, Deputy Minister, Ministry of International Economic Relations, Republic of Serbia, Belgrade, July 2003.

Mary Teresa Moran, Serbia and Montenegro Desk, DG External Relations, European Commission, Brussels, May 2002.

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Milan Nikolic, Director, Centre for Policy Studies, Belgrade, July 2003.

Rory O'Sullivan, Chief, World Bank Mission to Serbia and Montenegro, Belgrade, July 2003.

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Danijel Pantic, Secretary General, European Movement in Serbia, Belgrade, July 2003.

Dusan Pavlovic, Researcher, Institutional Reforms Department, G17 Institute, Belgrade, July 2003.

Christophe Pavret De La Rochefordiere, Deputy Head of Unit, DG ECFIN, European Commission, Brussels, February 2003.

Vesna Perovic, Liberal Alliance of Montenegro, Member of Parliament, Montenegro, Podgorica, July 2003.

Dragasa Pesic, Vice-President, Socialist People's Party (SNP), Montenegro, Podgorica, July 2003.

R. Kyle Peters, Senior Manager, World Bank, Washington DC, April 2003.

Paul Pfeuffer, Macedonia Desk, US State Department, Washington DC, April 2003.

Bill Potter, Office of the High Representative, Sarajevo, December 2003.

Vojislav Raonic, Director, Montenegro Media Institute, Podgorica, July 2003.

Jovan Ratkovic, National Coordinator of the Stability Pact for South East Europe, Serbia and Montenegro, Belgrade, July 2003; Brussels, January 2004.

Darija Ramljak, Assistant Director, Directorate of European Integration, Council of Ministers of Bosnia and Herzegovina, Sarajevo, December 2003.

Slobodan Samardzic, Professor, Faculty of Political Sciences, University of Belgrade, Belgrade, July 2003.

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Predrag Simic, Professor, University of Belgrade, Belgrade, July 2003.

Stefan Simosas, Political Advisor, European Commission Delegation to Bosnia and Herzegovina, Sarajevo, December 2003.

Dragi Stanimirovic, International Secretary, Social Democratic Party (SDP) of Bosnia and Herzegovina, Banja Luka, December 2003.

Milka Tadic, Journalist, Monitor Independent Weekly, Podgorica, July 2003.

Osman Topcagic, Deputy Chief of Mission, Mission of BiH to the EU, Brussels, October 2002.

Osman Topcagic, Director, European Integration Directorate, Office of the Prime Minister, BiH, Sarajevo, December 2003.

Archie Tuta, Office of the High Representative, BiH, Sarajevo, December 2003.

Vesselin Valkanov, Councilor, Political Affairs, Bulgarian Mission to the EU, Brussels, May 2002.

Ivan Vejvoda, Executive Director, The Balkan Trust for Democracy, Belgrade, July 2003.

Tony Verheijen, Senior Public Sector Specialist, World Bank, Washington DC, March 2003.

Srdja Vranic, Head of Office, Office of the Prime Minister, Republika Srpska, Bosnia and Herzegovina, Banja Luka, December 2003.

Vesselin Vukotic, President, Institute for Strategic Studies and Prognosis, Montenegro, Brussels, January 2003.

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Scott Withrow, Senior Democratization Officer, OCSE, Mission to Bosnia and Herzegovina, Regional Centre Banja Luka, Banja Luka, December 2003.

Colin Wolfe, Head of Unit, Europe, EuropeAid Cooperation Office, European Commission, February 2003.

Emmanuel Zervoudakis, Mission Chief, Serbia and Montenegro, International Monetary Fund, Washington DC, April 2003.

## APPENDIX B

### EU – BALKAN RELATIONS: KEY HISTORICAL DATES

#### Milestones in the relations between the EU & Bosnia and Herzegovina

1995: The Dayton/Paris Peace Agreement brought the war to an end and established two Entities of roughly equal size in Bosnia and Herzegovina (BiH): the Federation of BiH and the Republika Srpska.

1997: Regional Approach. The EU Council of Ministers establishes political and economic conditionality for the development of bilateral relations. BiH benefits from autonomous trade preferences and from 1996, assistance under the Phare and Obnova programs.

1998: EU Declaration. Establishment of the EU/BiH Consultative Task Force (CTF), a joint vehicle for technical and expert advice in the field of administration, the regulatory framework and policies.

1999: Stabilisation and Association Process (SAP). The SAP offers for the first time a clear prospect of integration into EU structures to BiH and four countries of the region.

2000: Publication of the EU Road Map. This document set out 18 essential steps to be undertaken by BiH before work on a Feasibility Study for the opening of negotiations on a Stabilisation and Association Agreement could be begun.

2000: Feira European Council stated that all the countries covered by the SAP are potential candidates for EU membership. Extension of duty-free access to EU market for products from Bosnia and Herzegovina.

2001: First year of the CARDS assistance program specifically designed for the SAP countries. This replaced the Phare and Obnova programs for the countries of the SAP. Adoption of the Country Strategy Paper for 2002 to 2006.

November 2003: Following substantial completion of the Road Map, the European Commission conducted a Feasibility Study, identifying sixteen priority reforms on which significant progress would allow the Commission to recommend to the Council the opening of negotiations on a Stabilisation and Association Agreement with BiH.

December 2004: The EU's Operation ALTHEA takes over from NATO's SFOR military operation.

October 2005: The EU decided to open talks on a Stabilisation and Association Agreement with Bosnia and Herzegovina.

Source: European Commission, [www.europa.eu.int](http://www.europa.eu.int)

**Figure B.1: EU-Bosnia and Herzegovina Relations**

## **Milestones in the relations between the EU & Serbia and Montenegro**

1991-92: Dissolution of the SFRY and foundation of the Federal Republic of Yugoslavia (FRY), consisting of the republics of Serbia and Montenegro, on 27 April 1992.

1999: The Kosovo war leads to the creation of an international protectorate with responsibility for the Serbian autonomous province of Kosovo. Montenegrin leadership, which has already begun to distance itself from Serbia, now affirms its intention to create an independent republic of Montenegro.

5 October 2000: Downfall of Milosevic.

9 October 2000: EU lifted sanctions against FRY - except those directed against ex-President Milosovic and his close associates. The oil and flight embargo were lifted with immediate effect.

24 November 2000: The FRY was welcomed as a full participant in the Stabilisation and Association Process and invited to the Zagreb Summit.

25 November 2000: The EC formally signed a framework agreement in Belgrade covering all EC assistance to the Federal Republic of Yugoslavia. The EC extended the mandate of the European Reconstruction Agency, to implement most EC assistance, to cover the entire FRY. The Agency now has offices in Pristina, Belgrade and Podgorica.

1 December 2000: The EC included the entire FRY in the liberalized EC preferential trade regime for the region of the Western Balkans.

14 March 2002: The republic of Serbia and the Republic of Montenegro sign the Belgrade Agreement in which the two republics commit themselves to establishing the State Union of Serbia and Montenegro.

February 2003: Adoption of the Constitutional Charter of the State Union of Serbia and Montenegro.

August 2003: Adoption of the Internal Market and Trade Action Plan by Serbia and Montenegro.

September 2003: The European Commission decides to launch the Feasibility Report to look into the possibility to open negotiations on a Stabilisation and Association Agreement (SAA).

March 2004: Release of Feasibility Report postponed by the European Commission to give Serbia and Montenegro more time to address remaining key issues.

September 2004: A "twin-track" approach adopted by the EU whereby the two republics would negotiate with the EU separately in areas where they operate separately but at the same time they would aim to conclude a single Stabilisation and Association Agreement.

11 October 2004: The Commissioner for External Relations, Chris Patten, announced the re-launch by the European Commission of the Feasibility Report on a single Stabilisation and Association Agreement with Serbia and Montenegro.

12 April 2005: The European Commission releases the Feasibility Report on the readiness of the State Union to open negotiations on a SAA.

October 2005: Opening of SAA talks.

Source: European Commission, [www.europa.eu.int](http://www.europa.eu.int).

**Figure B.2: EU-Serbia and Montenegro Relations**

## Milestones in the relations between the EU & Bulgaria

9 August 1988: Diplomatic relations established between Bulgaria and the European Economic Community.

8 May 1990: Bulgaria and the European Economic Community signed the Agreement on Trade, Business and Economic Relations. The PHARE Program was opened for Bulgaria.

1 November 1990: The Agreement on Trade, Business and Economic Relations became effective. It envisaged gradual elimination of the quantitative limitations on Bulgarian import to the Community, and making mutual concessions in the field of trade in agricultural goods.

22 December 1990: The Bulgarian Grand National Assembly adopted a decision whereby the willingness of the Republic of Bulgaria to become a member of the European Community was expressed.

1 October 1991: The European Council decided to authorize the European Commission to start preliminary talks with Bulgaria for signing Europe Agreement.

8 March 1993: The Europe Agreement for Bulgaria and the Provisional Agreement on Trade and Related Matters are signed.

15 April 1993: The Bulgarian Parliament ratified the texts of the Europe Agreement and the Provisional Agreement on Trade and Related Matters.

21 – 22 June 1993: The European Council in Copenhagen defined the political and economic criteria to be met by countries willing to join the EU.

31 December 1993: The Provisional Agreement on Trade and Related Matters became effective. The 1990 Convention on Trade, Business and Economic Cooperation is suspended in its business part.

14 April 1994: The Government of the Republic of Bulgaria adopted a declaration confirming the willingness of the country to become a member of the European Union.

24 November 1994: Bulgaria and the other associated countries were invited to join EU declarations on foreign policy and security matters.

9 – 10 December 1994: The European Council in Essen adopted a Strategy on Preparing the Associated CEE Countries for EU accession.

1 February 1995: The Europe Agreement for Bulgaria became effective.

25 September 1995: The Council of EU Ministers of Justice and Home Affairs approved a list of the countries (Regulation No. 2317/ 95), with a requirement for their nationals to have visas when crossing the external borders of the Union. Bulgaria is on the list.

December 1995: The Bulgarian Government adopted a decision to apply for EU membership.

14 December 1995: The Bulgarian Parliament adopted a resolution for official application of Bulgaria for EU membership.

16 December 1995: Third meeting of Heads of State and Government during the European Council in Madrid was held. Javier Solana was given the application of the Republic of Bulgaria for EU membership.

April 1996: The European Commission requested from the Bulgarian Government a detailed questionnaire to be filled in, so that an EC opinion on the Bulgaria application for membership is prepared.

31 July 1996: Answers to the questionnaire were prepared and delivered to the Delegation of the European Commission in Sofia.

16 July 1997: The opinion on Bulgaria's application for membership was published within Agenda 2000. The Republic of Bulgaria was assessed as a candidate country, which was not sufficiently prepared to start negotiations for accession. The European Commission adopted the Accession Partnership.

12 – 13 December 1997: The European Council in Luxembourg decided to start negotiations for accession with Hungary, Poland, Estonia, the Czech Republic and Cyprus. Along with that the Council decided to accelerate the preparation for negotiations with Bulgaria, Latvia, Slovakia and Rumania by starting a screening of the legislation.

23 March 1998: The Council of Ministers of the Republic of Bulgaria adopted a National Strategy on Bulgaria's Accession to EU.

27 April 1998: The multilateral screening of the legislation of Bulgaria started.

May 1998: The Bulgarian Government adopted National Program for the Adoption of the *Acquis*.

4 November 1998 The European Commission published the first regular reports on the progress of candidate countries towards membership.

13 October 1999: The second European Commission regular reports on candidate countries' progress were published.

29 November 1999: Memorandum on decommissioning Kozloduy NPP units was signed with EC.

10 December 1999: The European Council in Helsinki decided to start negotiations with Bulgaria, Latvia, Lithuania, Slovakia, Romania and Malta.

January 2000: The Council of Ministers of the Republic of Bulgaria appointed the Chief Negotiator of Bulgaria, the core team for negotiations and set up work groups according to negotiations' chapters.

15 February 2000: The first Intergovernmental Conference on Bulgaria's accession has launched the negotiations for EU membership.

28 March 2000: The first work meeting at deputy level was held. Bulgaria presented negotiations' positions on 8 chapters.

1 December 2000: The Council of Ministers on Justice and Home Affairs decided to remove Bulgaria from the negative Schengen visa list.



7 – 9 December 2000: The Nice European Council was held with the participation of the Heads of States and governments of the candidate countries. A formal decision for EU enlargement and the necessary institutional reforms was made.

9 October 2002: The Commission's regular reports were published, recommending the accession of 10 new Member States. Bulgaria was recognized as a "functioning market economy". The European Commission expressed its support for Bulgaria's accession to the EU in 2007.

24-25 October 2002: The European Council in Brussels requests the Commission and the Council to prepare a "package" for Bulgaria and Romania to be presented at the Copenhagen meeting of the Heads of State in December 2002. The "package" should contain a detailed "roadmap" for accession of both countries and increased pre-accession assistance.

End of 2002: Bulgaria opened all negotiations chapters.

December 2002: The European Council in Copenhagen expressed its supports for Bulgaria and Romania in their efforts to achieve the objective of membership in 2007 and adopted roadmaps for both countries.

15 June 2004: Bulgaria completed the Accession Negotiations of all 31 *acquis* chapters.

25 April 2005: The Accession Treaty between Bulgaria and the EU signed in Luxembourg.

1 January 2007: Envisaged Date of Accession

Source: Mission of Republic of Bulgaria to the European Union, [www.missionbg.be](http://www.missionbg.be)

### **Figure B.3: EU-Bulgaria Relations**

## APPENDIX C

### EC ASSISTANCE TO THE BALKANS

**Table C.1: EC Assistance to Bosnia and Herzegovina (million €), 1991-2004**

1991-2004 EC assistance to Bosnia and Herzegovina - Allocations in millions of €											
1991-1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	Total
<b>BOSNIA AND HERZEGOVINA</b>											
<b>Phare, OBNOVA and CARDS</b>											
0.21	0.65	229.77	211.16	190.50	118.36	90.30	105.23	71.90	63.00	65.00	1146.08
<b>ECHO (humanitarian assistance)</b>											
495.26	145.03	142.45	105.00	87.95	58.90	0.40	0.75				1035.74
<b>Specific actions</b>											
	70.00	65.40	39.90	15.00	30.90	3.96					225.16
<b>Democracy &amp; Human Rights</b>											
	0.70	4.80	4.80	1.80	0.80	0.60	0.80	2.30	2.00	2.00	20.60
<b>Balance of payments support (1)</b>											
					25.00	10.00	25.00		15.00	35.00 <sup>(2)</sup>	75.00
<b>Total EC assistance</b>											
495.47	216.38	442.42	360.86	295.25	233.96	105.26	131.78	74.20	80.00	102.00	2547.58

(1) Figures refer to disbursement and include grants and loans

(2) Projected - subject to future Commission Decisions and/or conditions

Source: European Commission, [www.europa.eu.int](http://www.europa.eu.int)

**Table C.2: EC Assistance to Serbia and Montenegro/Kosovo (million €), 1991-2002**

	<b>Republic of Serbia</b>	<b>Kosovo</b>	<b>Republic of Montenegro</b>	<b>Total</b>
<b>Reconstruction / reform (OBNOVA / CARDS)</b>	599.1	891.4	81.5	<b>1572</b>
1998-99 Reconstruction	11.2	134	26.5	171.7
2000 Reconstruction (incl. EAP)	188.2	275	20	483.2
2001 Reconstruction	210	335.5	20	565.5
2002 Reconstruction	189.7	146.9	15	351.6
<b>Macro-financial assistance</b>		65		<b>560</b>
2000		35	20	55
2001		30		345 <sup>4</sup> +30
2002				130 <sup>4</sup>
<b>Humanitarian aid (ECHO)</b>				<b>662.7</b>
1991-98				255.2
1999	75.1	111.7	18.6	205.4
2000	50.5	28.8	14.0	93.3
2001	47.8	14	7.5	69.3
2002	37.5	2		39.5
<b>Democracy / Human rights/ Media</b>				<b>29.6</b>
1994-99 Democratisation and Media				20.6
2000-02 EIDHR projects				8.9
<b>Common Foreign &amp; Security Policy</b>		48.2	3	<b>51.2</b>
1998 budgetary assistance (social welfare)			3	3
UNMiK 1999-2002 plus other CFSP actions		48.2		48.2
<b>Other</b>				<b>53.9</b>
2000-03 Danube clearance				22
1999-2000 food security	10.5		21.4	31.9
<b>Total 1991-2002</b>				<b>2929.4</b>

Source: European Commission, [www.europa.eu.int](http://www.europa.eu.int)

**Table C.3: EC Assistance to Serbia and Montenegro/Kosovo (million €)**

**Multi-Annual Indicative Program 2003-2004**

	Serbia and Montenegro	Serbia		Kosovo		Montenegro	
		2003-04	2003	2004	2003	2004	2003
<b>Governance&amp;Inst. Building</b>							
Justice & Home Affairs	31-37	13	7-12	5	3-4	3	
Customs & Taxation	14-17	5	4-6	2	1-2	1	1
Public Admin Reform	76-86	41	20-27	5	5-8		5
<b>Eco Reconst. Regen&amp;Reform</b>							
Energy	132-145	69	40-50	14	7-10	2	
Transport	18-28	5	10-20				3
Environment	33-38	13	10-14	5	1-2	4	
Economic development	106,5-121,5	56	30-40	12	5-10	1,5	2
<b>Social and Civil Society</b>							
Education & VET	32-36	13	12-15	3	2-3		2
Tempus programme	11,5	4	4	1	1	0,5	1
Civil Society and NGOs	13,5-14	7	4	1	0,5-1	1	
<b>Other</b>							
Agency's administrative costs	30,5-33,5	11	8-10	4	4-5	1,5	2
Specialised assistance, studies & costs	15,5-16,5	5	6	2	1-2	0,5	1
Transfer UNMIK	7			7			
<b>Total</b>	<b>565</b>	<b>240</b>	<b>195</b>	<b>60</b>	<b>40</b>	<b>15</b>	<b>15</b>
Integrated Border Management	8,5						

Source: European Commission, www.europa.eu.int

**Table C.4: EC Assistance to Bulgaria (million €), 1992-2004**

PHARE	ISPA	SAPARD	TOTAL
1992 – 2004	2000-2004	2000-2004	1992-2004
€1645.4	€562.7	€168.6	€2376.7

Source: European Commission, www.europa.eu.int

## BIBLIOGRAPHY

- Alic, A. "BiH Risks Missing another SAA Deadline." *Southeast European Times* (19 September 2005), available from [www.setimes.com](http://www.setimes.com).
- Bachrach, P. and M. S. Baratz. "Two Faces of Power." *American Political Science Review* 56, no. 4 (1962): 947-952.
- Barnett, M. and M. Finnemore. "The Politics, Power, and Pathologies of International Organizations." *International Organization* 53, no. 4 (1999): 699-732.
- Batt, J. (ed.) "The Western Balkans: Moving On." Institute of Security Studies *Chaillot Paper* 70 (October 2004).
- Barkin, S. J. and B. Cronin. "The State and the Nation: Changing Norms and the Rules of Sovereignty in International Relations." *International Organization* 48, no. 1 (1994): 107-130.
- Bell, J. D. (ed). *Bulgaria in Transition: Politics, Economics, Society, and Culture After Communism*. Boulder and Oxford: Westview, 1998.
- Beunderman, M. "Brussels should take over Sarajevo mandate, Bosnian PM says." *EUobserver* (19 October 2005), available from [www.euobserver.com](http://www.euobserver.com).
- Bieber, F. "Institutionalizing Ethnicity in Former Yugoslavia: Domestic vs. Internationally Driven Processes of Institutional (Re-)Design." *The Global Review of Ethnopolitics* 2, no. 2 (2003): 3-16.
- Bieber, F. "Montenegrin Politics since the Disintegration of Yugoslavia." In *Montenegro in Transition: Problems of Identity and Statehood*, Florian Bieber (ed.). Baden-Baden: Nomos Verlagsgesellschaft, 2003.
- Bienen, H. and M. Gersovitz. "Economic Stabilization, Conditionality, and Political Stability." *International Organization* 39, no. 4 (1985): 729-754.
- Biersteker, T. J. and C. Weber. *State Sovereignty as Social Construct*. T. Biersteker and C. Weber (eds.). Cambridge: Cambridge University Press, 1996.
- Biersteker, T. J. "State, Sovereignty and Territory." In *Handbook of International Relations*, W. Carlsnaes, T. Risse and B. Simmons (eds.). London: Sage Publications, 2002.
- Borzel, T.A. and T. Risse. "Conceptualising the Domestic Impact of Europe." In *The Politics of Europeanisation*, K. Featherstone and C. Radaelli (eds.), 57-80. Oxford: Oxford University Press, 2003.
- Bose, S. *Bosnia after Dayton*. London: Hurst & Company, 2002.
- Bronk, R. "Commitment and Credibility: EU Conditionality and Interim Gains." European Institute Working Paper 2002-02, London School of Economics and Political Science (2002).
- "Bulgarian Crime: Where Killing is a Habit." *The Economist* (29 October 2005).

- Bunce, V. *Subversive Institutions: The Design and the Destruction of Socialism and the State*. Cambridge: Cambridge University Press, 1999.
- Campbell, D. W. "Sovereignty and Social Dynamics." *The American Political Science Review* 28, no. 5 (1934): 825-837.
- Caporaso, J. "The European Union and Forms of State: Westphalian, Regulatory or Post-Modern?" *Journal of Common Market Studies* 34, no. 1 (1996): 29-51.
- Centre for Democracy and Human Rights. "Public Opinion in Montenegro." *On-line publications* (2002-2005), available from [www.cedem.cg.yu](http://www.cedem.cg.yu).
- Center for Democracy and Reconciliation in Southeast Europe. "Public opinion survey conducted by Prism Research in Bosnia and Herzegovina between 9 and 23 July 2004." *On-line publication* (2004), available from <http://www.cdsee.org/pdf/BosniaStoryAndTables.pdf>.
- Centre for the Study of Democracy. "The Court, the Prosecution and the Investigation in the EU member states and Candidate Countries" (in Bulgarian). Sofia: Centre for the Study of Democracy, 2005.
- Checkel, J. "International Norms and Domestic Politics: Bridging the Rationalist-Constructivist Divide." *European Journal of International Relations* 3, no. 4 (1997): 473-495.
- Checkel, J. "The Constructivist Turn in International Relations Theory." *World Politics* 50 (1998): 324-348.
- Checkel, J. "Norms, Institutions and National Identity in Contemporary Europe." *International Studies Quarterly* 43 (1999): 83-114.
- Checkel, J. "Why Comply? Social Learning and European Identity Change." *International Organization* 55, no. 3 (2001): 553-588.
- Checkel, J. "Social Construction and European Integration." In *The Social Construction of Europe*, T. Christiansen, E. Jorgensen & A. Wiener (eds.). London: SAGE Publications, 2001.
- "Chronicle of the Murders in the Last Ten Years" (in Bulgarian). *Mediapool* (26 October 2005), available from [www.mediapool.bg](http://www.mediapool.bg).
- Constitution of Bosnia and Herzegovina. Dayton Peace Agreement, Annex 4. *On-line publication*, available from [www.ohr.int](http://www.ohr.int).
- Constitutional Charter of the State Union of Serbia and Montenegro, *On-line publication*, available from [http://www.mfa.gov.yu/Facts/const\\_scg.pdf](http://www.mfa.gov.yu/Facts/const_scg.pdf).
- Constitutional Court of Republic of Bulgaria. Decision 13/2002 (16 December 2002), available from [www.legislationonline.org](http://www.legislationonline.org).
- Cooper, R. *The Breaking of Nations: Order and Chaos in the Twenty-First Century*. London: Atlantic books, 2004.
- Coppieters, B., M. Emerson, M. Huysseune, T. Kovziridze, G. Noutcheva, N. Tocci and M. Vahl. *Europeanization and Conflict Resolution: Case Studies from the European Periphery*. Ghent, Belgium: Academia Press, 2004.

- Council of Europe. “Memorandum: Reform of the Judicial System in Bulgaria.” Conclusions adopted by the Venice Commission at its 55<sup>th</sup> Plenary Session. *On-line publication* 246/2003 (20 June 2003), available from [www.coe.int](http://www.coe.int).
- Council of Europe. “Serbia and Montenegro: Compliance with Obligations and Commitments and Implementation of the Post-accession Cooperation Programme.” Sixth Report (September – November 2004). *On-line publication* (16 December 2004), available from [www.coe.int](http://www.coe.int).
- Council of Ministers of Bosnia and Herzegovina, Directorate of European Integration. “Report on the progress made in sixteen priority areas from the European Commission Report to the Council of Ministers of the European Union on the feasibility of negotiations between Bosnia and Herzegovina and the European Union on a Stabilization and Association Agreement.” *On-line publication* (22 July 2004), available from [www.dei.ba/en](http://www.dei.ba/en).
- Council of Ministers of Bosnia and Herzegovina, Directorate of European Integration. “Report on the progress made in sixteen priority areas from the European Commission Report to the Council of Ministers of the European Union on the feasibility of negotiations between Bosnia and Herzegovina and the European Union on a Stabilization and Association Agreement and in six short-term priority areas from the European Partnership.” *On-line publication* (10-11 March 2005), available from [www.dei.ba/en](http://www.dei.ba/en).
- Council of Ministers of Republic of Bulgaria. “Strategy on the Reform of the Bulgarian Judicial System.” Decision N 672 (1 October 2001), available from <http://www.mjeli.government.bg/strategy.aspx>.
- Council of the EU. “Statement by Dr. Javier Solana, EU High Representative for the CFSP after the Arrest of Slobodan Milosevic.” *Press Release* (1 April 2001), available from [www.europa.eu.int](http://www.europa.eu.int).
- Council of the EU. “Joint Action 2002/211/CFSP of 11 March 2002 on the appointment of Lord Ashdown as the EU Special Representative in Bosnia and Herzegovina.” OJ L 70, 13.3.2002.
- Council of the EU. “Javier Solana, EU High Representative for the CFSP, supports the measures taken by Paddy Ashdown in BiH.” *Press Release* (30 June 2004), available from [www.europa.eu.int](http://www.europa.eu.int).
- Council of the EU. “Joint Action 2004/569/CFSP of 12 July 2004 on the mandate of the European Union Special Representative in Bosnia and Herzegovina.” OJ L 252/7, 28.7.2004.
- Council of the EU. “General Affairs and External Relations Council: Conclusions on the Western Balkans.” *On-line publication* (11 October 2004), available from [www.europa.eu.int](http://www.europa.eu.int).
- Council of the EU. “General Affairs and External Relations Council: Conclusions.” *On-line publication* (3 October 2005), available from [www.europa.eu.int](http://www.europa.eu.int).
- Council of the EU. “Javier Solana, EU High Representative for the CFSP, welcomes the breakthrough on police restructuring in Bosnia and Herzegovina.” *Press Release* S0172/05 (29 April 2005), available from [www.europa.eu.int](http://www.europa.eu.int).
- Crampton, R. *Concise History of Bulgaria*. Cambridge: Cambridge University Press, 2005.

- Cremona, M. (ed). *The Enlargement of the European Union*. Oxford: Oxford University Press, 2003.
- Crisp, B. and M. Kelly. "The Socioeconomic Impacts of Structural Adjustment." *International Studies Quarterly* 43, no. 3 (1999): 533-552.
- Darmanovic, S. "Montenegro: Dilemmas of a Small Republic." *Journal of Democracy* 14, no. 1 (January 2003).
- Daskalov, S., N. Mladenov, D. Gros, P. Brenton, M. Emerson, and N. Whyte. "A Comprehensive Trade Policy Plan for the Western Balkans: A Bold Initiative to Bring More Stability and Prosperity to South Eastern Europe." *CEPS Working Document* 146 (2000), available from [www.ceps.be](http://www.ceps.be).
- Dimitrov, V. "Learning to Play the Game: Bulgaria's Relations with Multilateral Organisations." *Southeast European Politics* 1, no. 2 (2000): 101 -114.
- Dimitrov, V. *Bulgaria: The Uneven Transition*. London: Routledge, 2001.
- Dimitrova, A. "Enlargement, Institution-Building and the EU's Administrative Capacity Requirement." *West European Politics* 25, no. 4 (2002): 171-190.
- Dimitrova, A. "Europeanisation and Civil Service Reform in Central and Eastern Europe." In *The Europeanization of Central and Eastern Europe*, Schimmelfennig, F. and U. Sedelmeier (eds). Ithaca: Cornell University Press, 2005.
- Del Ponte, C. "Justice, Reconciliation and Politics." Interview with the Chief Prosecutor of the ICTY for B92. *On-line publication* (7 October 2005), available from [www.b92.net](http://www.b92.net).
- Doyle, M. "Liberalism and World Politics." *American Political Science Review* 80, no. 4 (1986): 1151-1169.
- "Economic Action Plan Adopted by the Two Governments of Serbia and Montenegro for Implementing the Belgrade Agreement." *CEPS Europa South East Monitor* 36 (July 2002), available from [www.ceps.be](http://www.ceps.be).
- Ekiert, G. *The State Against Society*. Princeton, NJ: Princeton University Press, 1996.
- Emerson, M. "The Wider Europe as the European Union's Friendly Monroe Doctrine." *CEPS Policy Brief* 27 (October 2002), available from [www.ceps.be](http://www.ceps.be).
- Emerson, M. *The Wider Europe Matrix*. Brussels: Centre for European Policy Studies, 2003.
- Emerson, M. (ed). *Democratisation in the European Neighbourhood*. Brussels. Centre for European Policy Studies, 2005.
- Emerson, M. and D. Gros. *The CEPS Plan for the Balkans*. Brussels: Centre for European Policy Studies, 1999.
- Emerson, M. and G. Noutcheva. "Europeanisation as a Gravity Model of Democratisation." *CEPS Working Document* 214 (November 2004), available from [www.ceps.be](http://www.ceps.be).
- Emerson, M., S. Aydin, G. Noutcheva, N. Tocci, M. Vahl and R. Youngs. "The Reluctant Debutant: The European Union As Promoter of Democracy in Its Neighbourhood." *CEPS Working Document* 223 (July 2005), available from [www.ceps.be](http://www.ceps.be).



- Eurobarometer. "Comparative Highlights." EB61 – CC-EB 2004.1. *On-line publication* (May 2004), available from [http://europa.eu.int/comm/public\\_opinion/archives/cceb/2004/cceb\\_2004.1\\_highlights.pdf](http://europa.eu.int/comm/public_opinion/archives/cceb/2004/cceb_2004.1_highlights.pdf).
- European Bank for Reconstruction and Development. *Transition Report*. London: EBRD, 1997-2005.
- European Commission. "Commission Opinion on Bulgaria's Application for Membership of the EU." *On-line publication* DOC 97/11 (1997), available from [www.europa.eu.int](http://www.europa.eu.int).
- European Commission. "European Commission President Romano Prodi Reacts to the Arrest of Milosevic." *Press Release* (1 April 2001), available from [www.europa.eu.int](http://www.europa.eu.int).
- European Commission. "Chris Patten, European Commissioner for External Affairs, Welcomes Milosevic Arrest." *Press Release* (1 April 2001), available from [www.europa.eu.int](http://www.europa.eu.int).
- European Commission. "Towards the Enlarged Union: Strategy Paper." *On-line publication* COM (2002) 700 final (2002a), available from [www.europa.eu.int](http://www.europa.eu.int).
- European Commission. "Roadmaps for Bulgaria and Romania: Communication from the Commission to the Council and the European Parliament." *On-line publication* COM(2002) 624 final (2002b), available from [www.europa.eu.int](http://www.europa.eu.int).
- European Commission. "The Western Balkans in Transition." *On-line publication* (January 2003), available from [www.europa.eu.int/comm/economy\\_finance](http://www.europa.eu.int/comm/economy_finance).
- European Commission. "Report from the Commission to the Council on the preparedness of Bosnia and Herzegovina to negotiate a Stabilization and Association Agreement with the European Union." *On-line publication* COM(2003) 692 final (18 November 2003), available from [www.europa.eu.int](http://www.europa.eu.int).
- European Commission. "2003 Pre-accession Economic Programmes of Acceding and Other Candidate Countries: Overview and Assessment." *Enlargement Paper N 20. On-line publication* (November 2003), available from [www.europa.eu.int](http://www.europa.eu.int).
- European Commission. "Chris Patten supports Lord Ashdown on measures to promote compliance with ICTY in BiH." *Press Release* (29 June 2004), available from [www.europa.eu.int](http://www.europa.eu.int).
- European Commission. "Commissioner Patten announces launch of Feasibility Report on Serbia and Montenegro." *Press Release* IP/04/1202 (11 October 2004), available from [www.europa.eu.int](http://www.europa.eu.int).
- European Commission. "The Western Balkans in Transition." *On-line publication* (December 2004), available from [www.europa.eu.int/comm/economy\\_finance](http://www.europa.eu.int/comm/economy_finance).
- European Commission. "Report on the preparedness of Serbia and Montenegro to negotiate a Stabilisation and Association Agreement with the EU." *On-line publication* SEC (2005) 478 final (12 April 2005), available from [www.europa.eu.int](http://www.europa.eu.int).
- European Commission. "Bosnia and Herzegovina Falls Short of Conditions for New Negotiations." *Enlargement Newsletter* (21 September 2005), available from [www.europa.eu.int](http://www.europa.eu.int).

- European Commission. "Comprehensive Monitoring Report on the state of preparedness for membership of Bulgaria and Romania: Communication from the Commission." *On-line publication* COM (2005) 534, available from [www.europa.eu.int](http://www.europa.eu.int).
- European Commission. "Regular Reports on Bulgaria." *On-line publications* (1997-2005), available from [www.europa.eu.int](http://www.europa.eu.int).
- European Commission. "SAP Reports on Bosnia and Herzegovina." *On-line publications* (2001-2005), available from [www.europa.eu.int](http://www.europa.eu.int).
- European Commission. "SAP Reports on Serbia and Montenegro." *On-line publications* (2001-2005), available from [www.europa.eu.int](http://www.europa.eu.int).
- European Commission Delegation to Bosnia and Herzegovina. "Study on Potential Revenue Sources for the Institutions of Bosnia and Herzegovina." Report prepared by ADE with the financial assistance of the European Commission. *On-line publication* (2003), available from [www.delbih.cec.eu.int](http://www.delbih.cec.eu.int).
- European Commission Delegation to Bosnia and Herzegovina. "Public Opinion Poll in Bosnia and Herzegovina about the European Union," Opinion poll commissioned by the Delegation of the European Commission to BiH and conducted by Prism Research. *On-line publication* (March 2004), available from [www.delbih.cec.int/en/worddocuments/word234.htm](http://www.delbih.cec.int/en/worddocuments/word234.htm).
- European Commission Delegation to Bosnia and Herzegovina. "European Commission Welcomes Council of Ministers' Adoption of the Public Procurement Legislation." *Press Release* (22 April 2004), available from [www.delbih.cec.eu.int](http://www.delbih.cec.eu.int).
- European Commission Delegation to Bosnia and Herzegovina. "Financial, Organizational and Administrative Assessment of the BiH Police Forces and the State Border Service." Report prepared by ICMPD and TC Team Consulting and financed by the European Commission. *On-line publication* (30 June 2004), available from [www.delbih.cec.eu.int](http://www.delbih.cec.eu.int).
- European Commission Delegation to Bosnia and Herzegovina. "Public Opinion Poll in Bosnia and Herzegovina about the European Union." *On-line publication* (July 2004), available from <http://www.delbih.cec.eu.int/en/index.htm>, accessed on 3 February 2005.
- European Commission Delegation to Bosnia and Herzegovina. "VAT Registration Starts Today." *Press Release* (29 June 2005), available from [www.delbih.cec.eu.int](http://www.delbih.cec.eu.int).
- European Commission for Democracy through Law (Venice Commission). "Opinion on the Constitutional Situation in Bosnia and Herzegovina and the Powers of the High Representative." *On-line publication* CDL-AD(2005)004 (11 March 2005), available from [www.venice.coe.int](http://www.venice.coe.int).
- European Council. "Presidency Conclusions: Helsinki Summit." *On-line publication* (10 and 11 December 1999), available from [www.europa.eu.int](http://www.europa.eu.int).
- European Council. "Presidency Conclusions: Copenhagen Summit." *On-line publication* (12 and 13 December 2003), available from [www.europa.eu.int](http://www.europa.eu.int).
- European Council. "European Security Strategy – Bosnia and Herzegovina / Comprehensive Strategy." *On-line publication* (17-18 June 2004), available from [www.europa.eu.int](http://www.europa.eu.int).

- European Council. "Presidency Conclusions: Brussels Summit." *On-line publication* (16 and 17 December 2004), available from [www.europa.eu.int](http://www.europa.eu.int).
- European Stability Initiative. "Sovereignty, Europe and the Future of Serbia and Montenegro: A Proposal for International Mediation." *On-line publication* (February 2001), available from [www.esiweb.org](http://www.esiweb.org).
- European Stability Initiative. "Politics, Interests and the Future of Yugoslavia: An Agenda For Dialogue." *On-line publication* (November 2001), available from [www.esiweb.org](http://www.esiweb.org).
- European Stability Initiative. "In Search of Politics: The Evolving International Role in Bosnia and Herzegovina." *On-line publication* (November 2001), available from [www.esiweb.org](http://www.esiweb.org).
- European Stability Initiative. "The Other Macedonian Conflict." *On-line publication* (February 2002), available from [www.esiweb.org](http://www.esiweb.org).
- European Stability Initiative. "Imposing Constitutional Reform: the Case for Ownership." *On-line publication* (March 2002), available from [www.esiweb.org](http://www.esiweb.org).
- European Stability Initiative. "Ahmeti's Village: The Political Economy of Interethnic Relations in Macedonia." *On-line publication* (October 2002), available from [www.esiweb.org](http://www.esiweb.org).
- European Stability Initiative. "Western Balkans 2004: Assistance, Cohesion and the New Boundaries of Europe." *On-line publication* (November 2002), available from [www.esiweb.org](http://www.esiweb.org).
- European Stability Initiative. "The Road to Thessaloniki: Cohesion and the Western Balkans." *On-line publication* (12 March 2003), available from [www.esiweb.org](http://www.esiweb.org).
- European Stability Initiative. "Governance and Democracy in Bosnia and Herzegovina: Post-Industrial Society and the Authoritarian Temptation." *On-line publication* (2004), available from [www.esiweb.org](http://www.esiweb.org).
- Evans, P., D. Rueschemeyer and Th. Skocpol (eds.). *Bringing the State Back In*. Cambridge: Cambridge University Press, 1985.
- Finnemore, M. *National Interests in International Society*. Ithaca: Cornell University Press, 1996.
- Finnemore, M and K. Sikkink. "International Norm Dynamics and Political Change." *International Organization* 52, no. 4 (1998): 887-917.
- "First Phase of BiH Police Reform Talks Results in Key Agreement." *Southeast European Times* (29 April 2005), available from [http://www.setimes.com/cocoon/setimes/xhtml/en\\_GB/features/setimes/features/2005/04/29/feature-01](http://www.setimes.com/cocoon/setimes/xhtml/en_GB/features/setimes/features/2005/04/29/feature-01).
- Freedom House. "Nations in Transit Report 2004: Bulgaria." *On-line publication* (2005), available from <http://www.freedomhouse.org/research/nattransit.htm>.
- Freedom House. "Nations in Transit 2004: Bosnia – Herzegovina." *On-line publication* (2005), available from <http://www.freedomhouse.org/research/nattransit.htm>.
- Fukuyama, F. *State-Building: Governance and World Order in the Twenty-First Century*. London: Profile Books Ltd., 2004.

- Ganev, V. "The Dorian Gray Effect: Winners as State Breakers in Postcommunism." *Communist and Post-Communist Studies* 34, no. 1 (2001): 1-25.
- Garton Ash, T. *Free World: Why a Crisis of the West Reveals the Opportunity of Our Time*. London: Penguin Books, 2004.
- General Affairs and External Relations Council. "Council Conclusions." *On-line publication* (April 1997), available from [www.europa.eu.int](http://www.europa.eu.int).
- General Affairs and External Relations Council. "Council Conclusions: EU Declaration on Bosnia and Herzegovina." *On-line publication* (8 June 1998), available from [www.europa.eu.int](http://www.europa.eu.int).
- General Affairs and External Relations Council. "Conclusions on the Western Balkans." *On-line publication* (11 October 2004), available from [www.europa.eu.int](http://www.europa.eu.int).
- Gilpin, R. *War and Change in World Politics*. Cambridge: Cambridge University Press, 1981.
- Gilpin, R. *The Political Economy of International Relations*. Princeton, NJ: Princeton University Press, 1987.
- Gilpin, R. *Global Political Economy: Understanding the International Economic Order*. Princeton, NJ: Princeton University Press, 2001.
- Glenny, M. *The Balkans 1804 – 1999: Nationalism, War and the Great Powers*. London: Granta Books, 1999.
- Goldstein, J. and R. Keohane. *Ideas and Foreign Policy: Beliefs, Institutions, and Political Change*. Ithaca: Cornell University press, 1993.
- Golub, J. "In the Shadow of the Vote? Decision Making in the European Community." *International Organization* 53, no. 4 (1999): 733-764.
- Gourevitch, P. "The Second Image Reversed: The International Sources of Domestic Politics." *International Organization* 32, no. 4 (1978): 881-911.
- Gourevitch, P. *Politics in Hard Times: Comparative Responses to International Economic Crises*. Ithaca: Cornell University Press, 1986.
- Grabbe, H. "A Partnership for Accession? The Implications of EU Conditionality for the Central and East European Applicants." European University Institute Working Paper RSC No.99/12 (1999).
- Grabbe, H. "How Does Europeanization Affect CEE Governance? Conditionality, Diffusion and Diversity." *Journal of European Public Policy* 8, no. 4 (2001): 1013-1031.
- Grabbe, H. "Europeanisation Goes East: Power and Uncertainty in the EU Accession Process." In *The Politics of Europeanisation*, K. Featherstone and C. Radaelli (eds.), 303-330. Oxford: Oxford University Press, 2002.
- Grabbe, H. *The Constellation of Europe: How Enlargement Will Transform the EU*. London, Centre for European Reform, 2004.
- Gros, D. "Establishing the Common Market Between Montenegro and Serbia." *CEPS Europa South-East Monitor* 41 (December 2002), available from [www.ceps.be](http://www.ceps.be).

- Gros, D., D. Kernohan, V. Najman and P. Wozniak. "On the Cost of Re-establishing Yugoslavia: First Estimates on the Economic Impact on Montenegro of Establishing a Customs Union with Serbia." *Southeast European and Black Sea Studies* 4, no. 1 (January 2004): 119-139.
- G17 PLUS. "State Program of a European Serbia." *On-line publication* (May 2003), available from <http://www.g17plus.org.yu/english/index.html>.
- Haggard, S. and R. R. Kaufman. *The Political Economy of Democratic Transitions*. Princeton, N.J.: Princeton University Press, 1995.
- Hall, P. and R. C.R. Taylor. "Political Science and the Three New Institutionalisms." *Political Studies* XLIV (1996): 936-957.
- Hellman, J. "Winners Take All: The Politics of Partial Reform in Postcommunist Transitions." *World Politics* 50, no. 2 (1998): 203-234.
- Hooghe, L. and G. Marks. *Multi-Level Governance and European Integration*. Lanham, MD: Rowman & Littlefield, 2001.
- Hughes J. and G. Sasse. "Monitoring the Monitors: EU Enlargement Conditionality and Minority Protection in the CEECs." *Journal of Ethnopolitics and Minority Issues in Europe* 1 (2003), available from [www.ecmi.de](http://www.ecmi.de).
- Hughes, J., G. Sasse and C. Gordon. *Europeanization and Regionalization in the EU's Enlargement to Central and Eastern Europe: the Myth of Conditionality*. Basingstoke: Palgrave Macmillan, 2004.
- Hurd, D. "Europe Must Respond to the Arc of Danger." *Financial Times* (28 March 2001).
- Hurrell, A. and A. Menon. "Politics Like Any Other? Comparative Politics, International Relations and the Study of the EU." *West European Politics* 19, no. 2 (1996): 386-402.
- Ikenberry, J. G. and C. A. Kupchan. "Socialization and Hegemonic Power." *International Organization* 44, no. 3 (1990): 283-315.
- International Commission on the Balkans. "The Balkans in Europe's Future." *On-line publication* (April 2005), available from [www.balkan-commission.org](http://www.balkan-commission.org).
- International Crisis Group. "Montenegro: Settling for Independence?" *On-line publication* (28 March 2001), available from [www.crisisgroup.org](http://www.crisisgroup.org).
- International Crisis Group. "Bosnia: Reshaping the International Machinery." *On-line publication* (November 2001), available from [www.crisisweb.org](http://www.crisisweb.org).
- International Crisis Group. "Belgrade's Lagging Reform: Cause for International Concern." *On-line publication* (March 2002), available from [www.crisisweb.org](http://www.crisisweb.org).
- International Crisis Group. "Implementing Equality: The "Constituent Peoples" Decision in Bosnia and Herzegovina." *On-line publication* (16 April 2002), available from [www.crisisgroup.org](http://www.crisisgroup.org).
- International Crisis Group. "Still Buying Time: Montenegro, Serbia and the European Union." *On-line publication* (7 May 2002), available from [www.crisisgroup.org](http://www.crisisgroup.org).

- International Crisis Group. "Moving Macedonia Toward Self-sufficiency: A New Security Approach for NATO and the EU." *On-line publication* (November 2002), available from [www.crisisweb.org](http://www.crisisweb.org).
- International Crisis Group. "Bosnia's Brcko: Getting In, Getting On and Getting Out." *On-line publication* (2 June 2003), available from [www.crisisgroup.org](http://www.crisisgroup.org).
- International Crisis Group. "Bosnia's Nationalist Governments: Paddy Ashdown and the Paradoxes of State Building." *On-line publication* (22 July 2003), available from [www.crisisgroup.org](http://www.crisisgroup.org).
- International Institute for Democracy and Election Assistance. "South East Europe Public Agenda Survey." *On-line publication* (January-February 2002), available from [www.idea.int/balkans](http://www.idea.int/balkans).
- International Institute for Democracy and Election Assistance. "New Regional Opinion Survey Shows the Public in South East Europe Care More about Domestic than International Issues." *Press Release* (April 2002), available from [www.idea.int/balkans](http://www.idea.int/balkans).
- International Monetary Fund. "Bosnia and Herzegovina: Selected Issues and Statistical Appendix." *On-line publication* 00/77 (June 2000), available from [www.imf.org](http://www.imf.org).
- International Monetary Fund. "BiH: Request for Stand-By Agreement – Staff Report." *On-line publication* 02/191 (August 2002), available from [www.imf.org](http://www.imf.org).
- International Monetary Fund. "Bosnia and Herzegovina: Selected Economic Issues." *On-line publication* 05/198 (June 2005), available from [www.imf.org](http://www.imf.org).
- Jeleva, P. "The Euro-Ambassadors did a 'Check-up' of the Judiciary" (in Bulgarian). *Dnevnik* (8 December 2005), available from [www.dnevnik.bg](http://www.dnevnik.bg).
- Jovanovic, I. "Ex-Ex-Yugoslavia: A Virtual Country." *Transitions Online* (2 March 2005), available from [www.tol.cz](http://www.tol.cz).
- Kaiser, W. and J. Elvert (eds). *European Union Enlargement: A Comparative History*. London: Routledge, 2004.
- Kaplan, R. *Balkan Ghosts: A Journey Through History*. New York: St. Martin's Press, 1993.
- Katzenstein, P. *Small States in World Markets*. Ithaca: Cornell University Press, 1985.
- Katzenstein, P. (ed.). *The Culture of National Security: Norms and Identity in World Politics*. New York: Columbia University Press, 1997.
- Kelly, J. "International Actors on the Domestic Scene: Membership Conditionality and Socialization by International Institutions." *International Organization* 58, no. 3 (2004): 425-457.
- Keohane, R. *After Hegemony: Cooperation and Discord in the World Political Economy*. Princeton, New Jersey: Princeton University Press, 1984.
- Keohane, R. "Ironies of Sovereignty: The European Union and the United States," *Journal of Common Market Studies* 40, no. 4 (2002): 743-765.
- Keohane, R. and J. Nye. *Power and Interdependence*. Boston: Little Brown, 1977.

- Keohane, R., J. Nye and S. Hoffman (eds.) *After the Cold War: International Institutions and States Strategies in Europe, 1989-91*. Cambridge, MA: Harvard University Press, 1993.
- Knaus, G. and F. Martin. "Travails of the European Raj." *Journal of Democracy* 14, no. 3 (2003): 60-74.
- Kolankiewicz, G. "Consensus and Competition in the Eastern Enlargement of the European Union." *International Affairs* 70, no. 3 (1994): 477-483.
- Krasner, S. *Sovereignty: Organized Hypocrisy*. Princeton: Princeton University Press, 1999.
- Krasner, S. *Problematic Sovereignty: Contested Rules and Political Possibilities*. S. Krasner (ed.). New York: Columbia University Press, 2001.
- Krastev, I. "The Inflexibility Trap: Frustrated Societies, Weak States and Democracy." *On-line publication* (February 2002), Sofia: Center for Liberal Strategies, available from [www.cls-sofia.org](http://www.cls-sofia.org).
- Krastev, I. "The Balkans: Democracy without Choices." *Journal of Democracy* 13, no. 3 (2002): 39-53.
- Krasteva, S. "Constitutional Minimalism" (in Bulgarian). *Kapital* 51-XIII (24-29 December 2005).
- Kratochwil, F. "The Force of Prescriptions." *International Organization* 38, no. 4 (1984): 685-708.
- Kubicek, P. (ed). *The European Union and Democratisation*. London: Routledge, 2004.
- Labus, M. "Belgrade Agreement Mistake Finally Corrected." *Balkan Crisis Report* 516 (17 September 2004), available from [www.iwpr.net](http://www.iwpr.net).
- Lauterpacht, E. "Sovereignty – Myth or Reality." *International Affairs* 73, no. 1 (1997): 137-150.
- Lebow, R. "The Long Peace, the End of the Cold War, and the Failure of Realism." *International Organization* 48 (1994): 249-277.
- Legro, J. "Which Norms Matter? Revisiting the 'Failure' of Internationalism." *International Organization* 51, no. 1 (1997): 31-63.
- Leonard, M. *Why Europe Will Run the 21<sup>st</sup> Century*. London and New York: Fourth Estate, 2005.
- Linden, R. "Liberalization and Foreign Policy in Eastern Europe." In *Liberalization and Foreign Policy*, M. Khaler (ed.), 164-191. New York: Columbia University Press, 1997.
- Linden, R. "Putting on Their Sunday Best: Romania, Hungary and the Puzzle of Peace." *International Studies Quarterly* 44 (2000): 121-145.
- Linden, R. (ed.). *Norms and Nannies: The Impact of International Organizations on the Central and East European States*. New York: Rowman & Littlefield Publishers, Inc., 2002.
- Loewenstein, K. "Sovereignty and International Co-operation." *American Journal of International Law* 48, no. 2 (1954): 222-244.
- Ludlow, P. *The Making of the New Europe: The European Councils in Brussels and Copenhagen 2002*. Brussels: EuroComment, 2004.

- Mayhew, A. *Recreating Europe - The European Union's Policy towards Central and Eastern Europe*. Cambridge: Cambridge University Press, 1998.
- Majone, G. "The Rise of the Regulatory State in Europe." *West European Politics* (July 1994): 77-102.
- Mancur, O. *The Rise and Decline of Nations*. New Haven: Yale University Press, 1982.
- Maritain, J. "The Concept of Sovereignty." *The American Political Science Review* 44, no. 2 (1950): 343-357.
- Mearsheimer, J. "Back to the Future: Instability in Europe After the Cold War." *International Security* 15, no. 1 (1990): 5-56.
- Mearsheimer, J. "The False Promise of International Institutions." *International Security* 19, no. 3 (1995): 5-49.
- Milner, H. "International Theories of Cooperation among Nations: Strengths and Weaknesses." *World Politics* 44, no. 3 (1992): 466-496.
- Milner, H. *Interests, Institutions, and Information: Domestic Politics and International Relations*. Princeton, New Jersey: Princeton University Press, 1997.
- "Montenegro Census Offers Surprising Results." *Southeast European Times* (19 December 2003), available from [www.setimes.com](http://www.setimes.com).
- Moravcsik, A. "Taking Preferences Seriously: A Liberal Theory of International Politics." *International Organization* 51, no. 4 (Autumn 1997): 513-553.
- Moravcsik, A. *The Choice for Europe: Social Purpose and State Power from Messina to Maastricht*. Ithaca: Cornell University Press/London: UCL Press, 1998.
- Moravcsik, A. "A New Statecraft? Supranational Entrepreneurs and International Cooperation." *International Organization* 53, no. 2 (1999): 267-306.
- Moravcsik, A. and M. A. Vachudova. "National Interests, State Power and EU Enlargement." *East European Politics and Societies* 17, no. 1 (2003): 42-57.
- Mungiu-Pippidi, A. "EU Enlargement and Democracy Progress." In *Democratisation in the European in the European Neighbourhood*, M. Emerson (ed.), 15-37. Brussels: Centre for European Policy Studies, 2005.
- Noutcheva, G. and M. Emerson. "Economic Regimes for Export: Extending the EU's Norms of Economic Governance into the Neighbourhood." CEPS Working Document 233 (December 2005), available from [www.ceps.be](http://www.ceps.be)
- Noutcheva, G., N. Tocci, B. Coppieters, T. Koziridze, M. Emerson and M. Huysseune. "Europeanization and Secessionist Conflicts: Concepts and Theories." In *Europeanization and Conflict Resolution*, Coppieters, B., M. Emerson, M. Huysseune, T. Kovziridze, G. Noutcheva, N. Tocci and M. Vahl, 13-62. Ghent, Belgium: Academia Press, 2004.
- Noutcheva, G. "The EU and the Western Balkans: A Tale of Mutual Mistrust." *Challenge Europe* (September 2004), available from [www.theepc.be](http://www.theepc.be).
- Noutcheva, G. "The EU and the Western Balkans: How Much Involvement is Enough?" *CEPS Commentary* (February 2003), available from [www.ceps.be](http://www.ceps.be).



- Noutcheva, G. "Negotiating a Viable State Union of Serbia and Montenegro." *CEPS Commentary* (August 2002), available from [www.ceps.be](http://www.ceps.be).
- Nye, J. S. Jr. *Soft Power: The Means to Success in World Politics*. New York: Public Affairs, 2004.
- OECD. "SIGMA Assessments on Public Administration Reform in Bulgaria." *On-line publications* (2002 – 2003), available from [www.sigmaweb.org](http://www.sigmaweb.org).
- OECD. "Federal Republic of Yugoslavia: Economic Assessment." *Economic Surveys 2002*, Supplement no. 3 (January 2003).
- Office of the High Representative. "HR's Decision Imposing the Law on the State Court of Bosnia and Herzegovina." *On-line publication* (12 November 2000), available from [www.ohr.int](http://www.ohr.int).
- Office of the High Representative. "HR's Decision Imposing the Law on Civil Service in the Institutions of Bosnia and Herzegovina." *On-line publication* (23 May 2002), available from [www.ohr.int](http://www.ohr.int).
- Office of the High Representative. "HR's Decision Enacting the Law on the Prosecutor's Office of Bosnia and Herzegovina." *On-line publication* (6 August 2002), available from [www.ohr.int](http://www.ohr.int).
- Office of the High Representative. "HR's Decision Enacting the Law on the Council of Ministers of Bosnia and Herzegovina." *On-line publication* (3 December 2002), available from [www.ohr.int](http://www.ohr.int).
- Office of the High Representative. "HR's Decision Enacting the Criminal Code of Bosnia and Herzegovina." *On-line publication* (24 January 2003), available from [www.ohr.int](http://www.ohr.int).
- Office of the High Representative. "HR's Decision Enacting the Criminal Procedure Code of Bosnia and Herzegovina." *On-line publication* (24 January 2003), available from [www.ohr.int](http://www.ohr.int).
- Office of the High Representative. "Decision Establishing the Indirect Tax Policy Commission." *On-line publication* (12 February 2003), available from [www.ohr.int](http://www.ohr.int).
- Office of the High Representative. "Speech by the High Representative Paddy Ashdown to the BiH Parliamentary Assembly." *On-line publication* (10 September 2003), available from [www.ohr.int](http://www.ohr.int).
- Office of the High Representative. "New Year's Message to the People of Bosnia & Herzegovina from Paddy Ashdown, High Representative and European Union Special Representative." *On-line publication* (31 December 2003), available from [www.ohr.int](http://www.ohr.int).
- Office of the High Representative. "HR's Decision on the appointment of the first Chairman of the Governing Board of the Indirect Taxation System." *On-line publication* (14 January 2004), available from [www.ohr.int](http://www.ohr.int).
- Office of the High Representative. "High Representative Announces Measures against ICTY Obstructionists." and "List of removed and conditionally removed officials by the High Representative." *Press Release* (30 June 2004), available from [www.ohr.int](http://www.ohr.int).

- Office of the High Representative. "Final Report on the Work of the Police Restructuring Commission of Bosnia and Herzegovina." *On-line publication* (December 2004), available from [www.ohr.int](http://www.ohr.int).
- Office of the High Representative. "Statement by the HR for BiH, Lord Ashdown, with regard to the transfer by the authorities of RS of ICTY indictee Savo Todovic." *Press Release* (18 January 2005), available from [www.ohr.int](http://www.ohr.int).
- Office of the High Representative. "Statement: HR welcomes Stanisic transfer to The Hague." *Press Release* (11 March 2005), available from [www.ohr.int](http://www.ohr.int).
- Office of the High Representative. "HR's Statement on Jankovic's transfer." *Press Release*, OHR, Sarajevo, 14 March 2005, available from [www.ohr.int](http://www.ohr.int).
- Office of the High Representative. "High Representative Calls for Agreement on Police Reform to Enter Europe." Speech of the High Representative Paddy Ashdown to the RS National Assembly. *On-line publication* (21 April 2005), available from [www.ohr.int](http://www.ohr.int).
- Office of the High Representative. "High Representative Calls for Agreement on Police Reform to Enter Europe." *Press Release* (21 April 2005), available from [www.ohr.int](http://www.ohr.int).
- Office of the High Representative. "Negotiations on Police Restructuring Break Down." *Press Release* (17 May 2005), available from [www.ohr.int](http://www.ohr.int).
- Office of the High Representative. "Decision on Establishing the Police Restructuring Commission." *On-line publication* (5 July 2005), available from [www.ohr.int](http://www.ohr.int).
- Office of the High Representative. "There will be now new political negotiations." Interview for Dnevni Avaz of Paddy Ashdown, High Representative for BiH. *On-line publication* (16 September 2005), available from [www.ohr.int](http://www.ohr.int).
- Open Society Institute. "Judicial Capacity in Bulgaria: Monitoring the EU Accession Process." *On-line publication* (2002), available from [www.eumap.org/reports/2002/judicial/international/sections/bulgaria/2002\\_j\\_bulgaria.pdf](http://www.eumap.org/reports/2002/judicial/international/sections/bulgaria/2002_j_bulgaria.pdf).
- Open Society Institute. "2002 Report on Corruption and Anti-Corruption Policy in Bulgaria. Monitoring the EU Accession Process." *On-line publication* (2002), available from [www.eumap.org/reports/2002/corruption/international/sections/bulgaria/2002\\_c\\_bulgaria.pdf](http://www.eumap.org/reports/2002/corruption/international/sections/bulgaria/2002_c_bulgaria.pdf).
- Open Society Institute. "Report on Minority Protection in Bulgaria. Monitoring the EU Accession Process." *On-line publication* (2002), available from [www.eumap.org/reports/2002/minority/international/sections/bulgaria/2002\\_m\\_bulgaria.pdf](http://www.eumap.org/reports/2002/minority/international/sections/bulgaria/2002_m_bulgaria.pdf).
- Osiander, A. "Sovereignty, International Relations and the Westphalian Myth." *International Organization* 55, no. 2 (2001): 251-287.
- Palmer, P. "Montenegro's Elections." *CEPS Europa South-East Monitor* 39 (October 2002), available from [www.ceps.be](http://www.ceps.be).
- Parliament of Republic of Bulgaria. "Declaration on the Main Guidelines for Reform of the Bulgarian Judiciary" (in Bulgarian). *On-line publication* (2 April 2003), available from [www.parliament.bg](http://www.parliament.bg).

- Papadimitriou D. *Negotiating the New Europe: the European Union and Eastern Europe*. Aldershot: Ashgate, 2002.
- Patten, Ch. "The EU's Evolving Foreign Policy Dimension – the ESDP after Helsinki." Speech delivered at the Joint Meeting between the European Parliament Foreign Affairs Committee and Members of the NATO Parliamentary Assembly. *On-line publication* (22 February 2000), available from [www.europa.eu.int](http://www.europa.eu.int).
- Patten, Ch. "A European Foreign Policy: Ambition and Reality." Speech Delivered by the European Commissioner for External Relations at the Institut Francais des Relations Internationales, Paris. *On-line publication* (15 June 2000), available from [www.europa.eu.int](http://www.europa.eu.int).
- Patten, Ch. "The Western Balkans: The Road to Europe." Speech of the External Relations Commissioner to the German Bundestag, European Affairs Committee. *On-line publication* Speech/04/209 (28 April 2004), available from [www.europa.eu.int](http://www.europa.eu.int).
- Patten, Ch. "Letter to the chair of the EU Ministerial Council and Dutch Foreign Minister Bernard Bot and to the EU High Representative for Common Foreign and Security Policy Javier Solana on the State Union of Serbia and Montenegro, July 2004." *CEPS Europa South-East Monitor* 58 (September 2004), available from [www.ceps.be](http://www.ceps.be).
- Philipott, D. "Usurping the Sovereignty of Sovereignty." *World Politics* 53, no. 2 (2001): 297-324.
- Pierson, P. "The Path to European Integration: A Historical Institutional Perspective." *Comparative Political Studies* 29, no. 2 (1996): 123-163.
- Polanyi, K. *The Great Transformation*. Boston: Beacon Press, 1957.
- "Proceeding Points for the Restructuring of Relations Between Serbia and Montenegro (Belgrade Agreement)." *CEPS Europa South East Monitor* 32 (March 2002), available from [www.ceps.be](http://www.ceps.be).
- Puchala, D. "Institutionalism, Intergovernmentalism and European Integration: A Review Article." *Journal of Common Market Studies* 37, no. 2 (1999): 317-31.
- Putnam, R. "Diplomacy and Domestic Politics: The Logic of Two-Level Games." *International Organization* 42, no. 3 (1988): 427-460.
- Radaelli, C. M. "The Europeanisation of Public Policy." In *The Politics of Europeanisation*, K. Featherstone and C. Radaelli (eds.). Oxford: Oxford University Press, 2003.
- Ramusovic, A. "Montenegro: Setting Its Own Standards." *Transitions Online* (12 May 2005), available from [www.tol.cz](http://www.tol.cz).
- Rangelov, I. "Bulgaria's Struggle to Make Sense of EU Human Rights Criteria." *On-line publication* (1 October 2001) available from [www.eumap.org/journal/features/2001/oct/bulgariastr](http://www.eumap.org/journal/features/2001/oct/bulgariastr).
- Rehn, O. "Towards Good Governance – Combating Corruption in Public Sector Reform." Speech by Mr. Ohli Rehn, Member of the European Commission, responsible for Enlargement. *On-line publication* SPEECH/05/614 (14 October 2005), available from [www.europa.eu.int](http://www.europa.eu.int).

- Risse-Kappen, T. "Public Opinion, Domestic Structure, and Foreign Policy in Liberal Democracies," *World Politics* 43 (1991): 479-512.
- Risse-Kappen, T. "Ideas Do Not Float Freely: Transnational Coalitions, Domestic Structures, and the End of the Cold War." *International Organization* 48 (1994): 185-214.
- Risse, T., S. C. Ropp and K. Sikkink (eds). *The Power of Human Rights: International Norms and Domestic Change*. Cambridge: Cambridge University Press, 1999.
- Risse, T., M. Cowles and J. Caporaso. "Europeanisation and Domestic Change: Introduction." In *Transforming Europe: Europeanization and Domestic Change*, T. Risse, M. Cowles and J. Caporaso (eds.). Ithaca: Cornell University Press, 2001.
- Risse, T. "A European Identity? Europeanisation and Evolution of Nation-State Identities." In *Transforming Europe: Europeanization and Domestic Change*, T. Risse, M. Cowles and J. Caporaso (eds.). Ithaca: Cornell University Press, 2001.
- Rudovic, N. "Montenegro Plans Independence Vote." *Balkan Crisis Report* 492 (16 April 2004), available from [www.iwpr.int](http://www.iwpr.int).
- Rudovic, N. "Montenegro Launches New Divorce Bid." *Balkan Crisis Report* 544 (4 March 2005), available from [www.iwpr.int](http://www.iwpr.int).
- Ruggie, J. "International Regimes, Transactions, and Change: Embedded Liberalism in the Post War Economic Order." *International Organization* 36, no. 2 (1982): 379-415.
- Ruggie, J. "Territoriality and Beyond: Problematizing Modernity in International Relations." *International Organization* 47, no. 1 (1993): 139-174.
- Sbragia, A. (ed). *Euro-politics: Institutions and Policymaking in the "New" European Community*. Washington D.C.: The Brookings Institution, 1992.
- Schimmelfennig, F. "The Community Trap: Liberal Norms, Rhetorical Action, and the Eastern Enlargement of the European Union." *International Organization* 55, no. 1 (2001): 47-80.
- Schimmelfennig, F., S. Engert and H. Knobel, "Costs, Commitment, and Compliance. The Impact of EU Democratic Conditionality on European Non-Member States." European University Institute Working Paper RSC 2002/29 (2002).
- Schimmelfennig, F., S. Engert and H. Knobel, "The Conditions of Conditionality: The Impact of the EU on Democracy and Human Rights in European Non-Member States." Paper prepared for Workshop 4, "Enlargement and European Governance", ECPR Joint Session of Workshops, Turin. *On-line publication* (22-27 March 2002), available from <http://www.essex.ac.uk/ECPR/events/jointsessions/paperarchive/turin/ws4/Schimmelfennig.pdf>.
- Schimmelfennig, F. "Introduction: The Impact of International Organizations on Central and Eastern European States – Conceptual and Theoretical Issues." In *Norms and Nannies: The Impact of International Organizations on the Central and East European States*, R. Linden (ed.). Oxford: Rowman & Littlefield Publishers, INC., 2002.
- Schimmelfennig, F. *The EU, NATO and the Integration of Europe: Rules and Rhetoric*. Cambridge: Cambridge University Press, 2003.

- Schimmelfennig, F. "The Impact of EU Democratic Conditionality in Central and Eastern Europe: A Qualitative Comparative Analysis." Paper Presented at the Second Pan-European Conference, Standing Group on EU Politics, Bologna. *On-line publication* (24-24 June 2004), available from <http://www.jhubc.it/ecpr-bologna/docs/230.pdf>.
- Schimmelfennig, F. and U. Sedelmeier. "Governance by Conditionality: EU Rule Transfer to the Candidate Countries of Central and Eastern Europe." *Journal of European Public Policy* 11, no. 4 (2004): 661-679.
- Schimmelfennig, F. and U. Sedelmeier, eds. *The Politics of European Union Enlargement: Theoretical Approaches*. London: Routledge, 2005.
- Schoenfelder, B. "Judicial Independence in Bulgaria: A Tale of Splendour and Misery." *Europe-Asia Studies* 57, no. 1 (2005): 61-92.
- Sedelmeier, U. "Eastern Enlargement: Risk, Rationality, and Role-Compliance." In *The State of the European Union: Risks, Reform, Resistance and Revival*, Cowles, M.G. and M. Smith (eds), 164-185. Oxford: Oxford University Press, 2000.
- Sedelmeier, U. "East of Amsterdam: The Implications of the Amsterdam Treaty for Eastern Enlargement." In *European Integration After Amsterdam: Institutional Dynamics and Prospects for Democracy*, K. Neunreither, and A. Wiener (eds), 218-238. Oxford: Oxford University Press, 2000
- Sedelmeier U. and H. Wallace. "Eastern Enlargement: Strategy or Second Thoughts?" In *Policy Making in the European Union*, Wallace and Wallace (eds.). Oxford: Oxford University Press, 2000.
- Sjursen, H. "Enlargement and the Common Foreign and Security Policy." *ARENA Working Papers* 98/18 (1998).
- Sjursen, H. "Why Expand? The Question of Legitimacy and Justification in the EU's Enlargement Policy." *Journal of Common Market Studies* 40, no. 3 (2002): 491-513
- Skrbic, M. "Bosnia: Don't Touch My Cops." *Transition Online* (23 May 2005), available from [www.tol.cz](http://www.tol.cz).
- Skrbic, M. "Call Us When You're Ready." *Transitions Online* (21 September 2005), available from [www.tol.cz](http://www.tol.cz).
- Smith, K. *The Making of EU Foreign Policy: The Case of Eastern Europe*. London: MacMillan Press Ltd., 1999.
- Smoke, R. *Perceptions of Security: Public Opinion and Expert Assessments in Europe's New Democracies*. R. Smoke (ed.). Manchester and New York: Manchester University Press, 1996.
- Snidel, D. "The Limits of Hegemonic Stability Theory." *International Organization* 39, no. 4 (1985): 579-614.
- Solana J. "A European Future for Serbia." *International Herald Tribune* (12 October 2000).
- Solana, J., "Reflections on a Year in Office," Speech Delivered by the EU High Representative for the CFSP at the Swedish Institute of International Affairs and the Central Defence and

- Society Federation, Stockholm. *On-line publication* (27 October 2000), available from [www.europa.eu.int](http://www.europa.eu.int).
- Solana, J. "Intervention of the High Representative of the EU for the CFSP at the EU-Russia Forum for Foreign and Security Policy, Moscow." *On-line publication* (15 February 2001), available from [www.europa.eu.int](http://www.europa.eu.int).
- Solana, J. "BiH Constitution will have to be Changed." Interview of the EU High Representative for the CFSP by Sead Numanovic, *Dnevni Avaz* (16 May 2005), available at [www.europa.eu.int](http://www.europa.eu.int).
- "Solana has not fulfilled his task. Central Bank Governor Dinkic is for separation from Montenegro" (in German) *Frankfurter Allgemeine Zeitung* (28 January 2003).
- Stanchev, K. *et al. Anatomija na prehoda: stopanskata politika na Balgarija ot 1989 do 2004* [Anatomy of Transition: Bulgaria's Economic Policy from 1989 to 2004]. Sofia: Ciela, 2004.
- Stanimirovic, D. "Republika Srpska: A Police Hold-Up." *Transition Online* (16 June 2005), available from [www.tol.cz](http://www.tol.cz).
- Stanimirovic, D. "SAA on the Horizon." *Transitions Online* (24 October 2005), available from [www.tol.cz](http://www.tol.cz).
- Steil, B. and S. Woodward. "A European 'New Deal' for the Balkans." *Foreign Affairs* 78, no. 6 (1999).
- Stein, A. *Why Nations Cooperate*. Ithaca: Cornell University press, 1990.
- Stone Sweet, A., N. Fligstein and W. Sandholtz. "The Institutionalization of European Space." In *The Institutionalization of Europe*, A. Stone Sweet, W. Sandholtz and N. Fligstein (eds.), 1-28. Oxford: Oxford University Press, 2001.
- Stokes, G. *The Walls Came Tumbling Down: The Collapse of Communism in Eastern Europe*. New York: Oxford University Press, 1993.
- Strategic Marketing on behalf of the Serbian European Integration Office. "Public Opinion Polls in Serbia." *On-line publications*, available from <http://www.seio.sr.gov.yu/code/navigate.asp?Id=90>, accessed on 3 February 2005.
- Tejada, M. *Bulgaria's Democratic Consolidation and the Kozloduy Nuclear Power Plant: the Unattainability of Closure*. Stuttgart: Ibidem-Verlag, 2005.
- "The Bulgarian Parliament Ratified the Accession Treaty with the EU" (in Bulgarian). *Mediapool* (11 May 2005), available from [www.mediapool.bg](http://www.mediapool.bg).
- "The Change of the Status of the Investigation – a Condition for Our Membership in the EU" (in Bulgarian). *Mediapool* (19 July 2004), available from [www.mediapool.bg](http://www.mediapool.bg).
- "The Constitutional Amendments: the Difficult Lies Ahead" (in Bulgarian). *Kapital* 52-XIII (30 December 2005 – January 2006).
- "The Constitutional Court Unblocked the Constitutional Reform of the Judiciary" (in Bulgarian). *Mediapool* (1 September 2005), available from [www.mediapool.bg](http://www.mediapool.bg).

- “The Euro-Ambassadors Spoiled the Mood of the Supreme Judicial Council with the Question of Patronage Recruitments” (in Bulgarian). *Mediapool* (7 December 2005), available from [www.mediapool.bg](http://www.mediapool.bg).
- “The Prosecution Will No Longer Be Absolutely Uncontrollable: the Parliament Can Impeach the Chief Prosecutor with Qualified Majority” (in Bulgarian). *Mediapool* (20 December 2005), available from [www.mediapool.bg](http://www.mediapool.bg).
- “The Supreme Judicial Council in a Decisive Battle with the Government on the Status of the Investigation. Brussels: the Investigation Out of the Judiciary” (in Bulgarian). *Mediapool* (15 July 2004), available from [www.mediapool.bg](http://www.mediapool.bg).
- Thomson, J. E. “State Sovereignty in International Relations: Bridging the Gap between Theory and Practice.” *International Studies Quarterly* 39, no. 2 (1995): 213-233.
- Todorova, M. *Imagining the Balkans*. New York and Oxford: Oxford University Press, 1997.
- Transparency International. “Corruption Perceptions Index.” *On-line publication* (2005), available from [www.transparency.org](http://www.transparency.org).
- Treaty of Accession of Bulgaria and Romania, Protocol Concerning the Conditions and Arrangements for Admission of the Republic of Bulgaria and Romania to the European Union, OJ L 157/29, 21.6.2005.
- United States Institute of Peace. "Serbia Still at Crossroads." *On-line publication* (March 2002), available from [www.usip.org](http://www.usip.org).
- United States Institute of Peace. "Kosovo's Final Status: Opinions and Cross-Border Requirements." *On-line publication* (July 2002), available from [www.usip.org](http://www.usip.org).
- Vachudova, M. A. “The Leverage of International Institutions on Democratizing States: Eastern Europe and the European Union.” European University Institute Working Paper RSC N 2001/33 (2001).
- Vachudova, M. A. *Europe Undivided: Democracy, Leverage, & Integration After Communism*. Oxford: Oxford University Press, 2005.
- Van Meurs, W. and A. Yannis. "The European Union and the Balkans: From Stabilization to Southeastern Enlargement." *On-line publication* (September 2002), Center for Applied Policy Research, available from [www.cap.uni-muenchen.de](http://www.cap.uni-muenchen.de).
- Verheijen, T. “Administrative Capacity Development for EU Membership: A Race Against Time?” The Netherlands Scientific Council for Government Policy, *WRR Working Paper* 107 (2000).
- Viner, J. “Power Vs. Plenty as Objectives of Foreign Policy in the 17<sup>th</sup> and 18<sup>th</sup> Centuries.” *World Politics* 1, no. 1 (1948): 1-29.
- Vujanovic, F. “Comment: EU Realizing State Union Can’t Function.” *Balkan Crisis Report* 516 (17 September 2004), available from [www.iwpr.net](http://www.iwpr.net).
- Wallerstein, I. *The Capitalist World Economy*. New York: Cambridge University Press, 1979.
- Walt, S. *The Origins of Alliances*. Ithaca: Cornell University Press, 1987.
- Waltz, K. *Theory of International Politics*. New York: Random House, 1979.

- Wendt, A. "Anarchy Is What States Make of It: The Social Construction of Power Politics." *International Organization* 46 (1992): 391-425.
- Wendt, A. *Social Theory of International Politics*. New York: Cambridge University Press, 1999.
- "Where Have All the Euros Gone? Serbia and Montenegro have failed to put in place financial instruments linking their two currencies and the price is steep." *Financial Times* (29 June 2004): 13.
- Woodward, S. *Balkan Tragedy: Chaos and Dissolution after the Cold War*. Washington DC: Brookings Institution Press, 1995.
- Woodward, S. "Compromised Sovereignty to Create Sovereignty." In *Problematic Sovereignty: Contested Rules and Political Possibilities*, S. Krasner (ed.), 252-300. New York: Columbia University Press, 2001.
- World Bank. "Country Assistance Strategy of the World Bank Group for Bulgaria." *On-line publication* 23927-BUL (31 May 2002), available from [www.worldbank.org](http://www.worldbank.org).
- World Bank. "Memorandum of the President of the International Development Association to the Executive Directors on a Country Assistance Strategy Progress Report on the World Bank Group for Bosnia and Herzegovina." *On-line publication* 24978 (15 October 2002), available from [www.worldbank.org](http://www.worldbank.org).
- World Bank. "Judicial Systems in Transition Economies." *On-line publication* (2005), available from [www.worldbank.org](http://www.worldbank.org).
- Whyte, N. (ed.). *The Future of Montenegro: Proceedings of an Expert Meeting*. Brussels: Centre for European Policy Studies, 2001.
- Zacher, M. W. "The Territorial Integrity Norm: International Boundaries and the Use of Force." *International Organization* 55 no. 2 (2001): 215-250.
- Zielonka, J. "Paradoxes of European Foreign Policy. Policies Without Strategy: The EU's Record in Eastern Europe." European University Institute Working Paper RCS 72 (1997).