

## SOME VIEWS ON THE EU'S CONDITIONALITY AND PRE-ACCESSION POLICIES FOR THE CENTRAL AND EASTERN EUROPEAN COUNTRIES

Oana Mocanu\*

**ABSTRACT.** *The end of the Cold War has brought to the European public attention the issue of the 'forgotten countries' of the Eastern part of Europe. After years of totalitarian regime, these countries discovered the chance to 'return to Europe', to proclaim their freedom and their commitment to the democratic values. At the same time, they were about to face the difficulties of the transition process. Immediately after 1990, the Central and Eastern European countries (CEEC) began their quest for membership of EU. By choosing to open its doors to the Central and Eastern European countries, the European Union did not mean to make the accession process an easy one. On the contrary, EU imposed far stricter conditions for accession, bringing the 'conditionality' concept to the debates around the theories of European integration. This article will review some comments on the EU's conditionality concept and on its effectiveness in support of the CEEC efforts of political and economic transformation.*

### 1. Introduction

The end of the Cold War has brought to the European public attention the issue of the 'forgotten countries' of the Eastern part of Europe. After years of totalitarian regime, these countries discovered the chance to 'return to Europe', to proclaim their freedom and their commitment to the democratic values. In the aftermath of the Iron Curtain's dissolution, the countries in Central and Eastern Europe faced probably the biggest challenge in their history: the necessity to reform, to undertake profound economic and political transformation in order to become stable, democratic states and free market economies.

These countries were about to face the difficulties of the transition process. At the same time, immediately after 1990, the Central and Eastern European countries (CEEC) began their quest for membership of

EU. The frequently stated openness of EU to all the European democracies has only encouraged the CEEC to try to become 'full members of the Club', this way confirming their European identity, their commitment to democracy and European values.

By choosing to open its doors to the Central and Eastern European countries, the European Union did not mean to make the accession process an easy one. On the contrary, EU imposed far stricter conditions for accession, bringing the 'conditionality' concept to the debates around the theories of European integration.

The purpose of this article is to explain the EU's conditionality concept and to try to briefly comment on its effectiveness in support of the CEEC efforts of political and economic transformation.

The second part of the article will look at the reasons EU had for imposing the

\* Oana Mocanu is an Expert/Project Coordinator within the European Studies Unit, European Institute of Romania and also the Editor-in-chief of the Romanian Journal of European Affairs. This analysis is part of the result of the research undertaken in 2003, during a Post-Graduate Course in Contemporary European Studies, at European Research Institute, University of Birmingham, UK.

conditions, will try to answer the question: why was conditionality needed in the accession process? The third part will mainly focus on the types or stages of conditionality. It will make note of the existing conditionality ever since the beginning of EU's relations with the CEEC, starting from cooperation and trade agreements, going through the Europe Agreements, the Copenhagen criteria for accession, the pre-accession policy established in Essen, the Partnerships for Accession and, finally, the negotiation process. The fourth part will try to synthesize the impact that EU's conditionality and pre-accession policies have had over the CEEC political and economic transformation process, the existing link between preparation for accession and the transition process. Brief note will be made on the link to the 'neo-colonial' question on whether EU's conditionality was more an imposition of 'alien models and values' on the CEEC, rather than a real support for their transition changes. The final part is reserved for conclusions.

## **2. Reasons for EU's Conditionality**

Before trying to explain the reasons for EU's conditionality in the accession process of the Central and Eastern European countries, it is useful to first define the concept. What is conditionality? How can it be best defined? 'Conditionality' refers to the sum of conditions that EU has imposed on the candidate states in order for them to become full members of the Union. A wide-range of conditions has been imposed on the CEEC during the last 10-12 years, at different stages of their preparation for accession to EU. These types or stages of conditionality will be further analyzed in the next part.

One can find the EU's reasons to apply this policy of conditions, if one focuses upon the concepts of diversity and asymmetry. It is a wide-known fact that this enlargement round is, in many ways, different from the previous one. One thing that makes this particular enlargement unique is the diversity of the countries involved. First of all, it is the first time that EU expands to countries with an economic development level much lower than its present Member States. These are countries in transition from a centrally planned economy to a free market system. Secondly, it is the biggest enlargement round, as far as the number of candidates is concerned. Thirdly, most of the candidates are new, fragile democracies. Not only their economy, but also their legal and administrative structures are less developed.

Enlargement of EU to the East has raised the question of increased diversity as a threat/challenge for the European Union (Amato and Batt, 1999, p.11). Some analysts expressed their concern about this 'problematic diversity' (WRR Report, 2001, p.354). Increased diversity carries the risk of immobility in the decision-making system. At the same time, this diversity can facilitate cooperation and promote further integration, it can be a source of competition, self-improvement and innovation (Zielonka and Mair, 2002, p.6-8). On the other hand, the CEEC candidates are not a uniform bloc. The diversity among the Central and Eastern European countries seems to have increased in the last decade, rather than decreased (Thornton, 2002, p.1).

All these specific features matter in the enlargement process. Analysts often argue that it was precisely for these existing differences between EU and CEEC, that the

conditionality was so necessary in the overall process of enlargement, in order to ensure a smoother integration of the new member states.

Adding to the difficulties of the transition process, the necessity to adopt and implement the full *acquis communautaire* prior to accession makes the whole preparation for accession even more troublesome for the candidate states. One has to take into account the volume of EU legislation that the new member states have to adopt, which is more extensive than in previous enlargement rounds, now including also the enhanced Single Market regulations, the Economic and Monetary Union provisions and the Schengen *acquis* (Brenton 2002).

The question of existing asymmetries between EU and CEEC is also worth mentioning in this analysis. The existing difference between the economic and political weight gives CEEC very little bargaining power compared to EU. The two sets of countries have rather non-compatible economic infrastructure and legislation. The CEEC lack expertise and knowledge in EU law. In the field of trade relations, EU has maintained protectionism exactly in the key areas for the Central and Eastern European countries: agriculture, textiles, steel industry.

Engelbrekt (2002) argues that the most obvious EU-CEEC asymmetry is in the field of 'formal legality'. Applicants are obliged to comply with Copenhagen criteria and to adopt the whole *acquis*, instead the EU has only committed to the enlargement procedure, undertaking no legal obligation to admit one country or another. Moreover the candidate states recognize the supremacy of EC law prior to their full

membership without having the possibility to have a say in the rule-making process (Engelbrekt, 2002, p.44-45).

Two asymmetries are inevitable: first, the EU Member States hold a veto over enlargement, so they have the ultimate power to say 'no' to the accession of a particular country. Secondly, the *acquis* is a moving target, it is continuously growing and the candidates' taking up further more legislation is unavoidable (Engelbrekt, 2002, p.49).

The European Union has felt that it had to impose strict conditions on the entrance of these new Member States not only to reduce the gap between them, making easier their absorption into the Club, but also in order to preserve the gains of its existing structure.

### 3. Main Stages of EU's Conditionality

In the aftermath of the profound political changes that occurred in the Central and Eastern European countries around 1989, the European Union responded quickly to the new challenges that the East was about to encounter. The EU's first response was focused on trade and aid. The so-called 'first generation agreements', namely the trade and cooperation agreements were signed with CEEC on an individual basis and were meant to be a start for intensive trade relations, by progressively eliminating the quantitative restrictions on import of EU goods (Tsoukalis, 1997, p. 248). The European Union created then the Phare programme, initially set up for Poland and Hungary, and, then extended to all CEEC. At first, this programme was meant to give the CEEC the necessary technical assistance

in the process of economic transformation in the transition period, but later on it was extended also to the 'civil society component'.

The next stage of conditionality came along with the Europe Agreements that EU has signed with each of the Central and Eastern European countries, starting 1991. The Europe Agreements were meant to liberalize the trade with industrial goods between EU and the associated countries, with a more rapid liberalization from the EU part. These second generation agreements received two main criticisms from the Central and Eastern European countries: one regarding the association status they conferred to CEEC, not clearly linked to a future membership of EU, and the second regarding the EU's reluctance to open up its market for agricultural products, textiles, coal and steel - the most sensitive areas both for EU and for CEEC economies (Sedelmeier and Wallace 2000).

The Europe Agreements were not merely trade agreements. Important provisions were made towards a free movement of services, capital and labour and they established a general framework for political and economic cooperation.

The conditionality was reflected in the 'eligibility for a Europe Agreement, which depended upon five conditions: rule of law, human rights, a multi-party system, free and fair elections and a market economy' (Grabbe, 1999, p.11).

The next step of EU's conditionality was the set-up of the accession criteria during the Copenhagen European Council in 1993, where it was agreed that the associated countries should become members of the European Union. In order to become full members, all the candidate states have to

comply with the Copenhagen criteria, namely: to have stable institutions guaranteeing democracy, rule of law, human rights and respect for and protection of minorities; to have a functioning market economy and the capacity to cope with competitive pressures and market forces within the Union; to have the ability to take on the obligations of membership including adherence to the aims of political, economic and monetary union. On the other hand, the European Union must have the capacity to absorb new members (European Council 1993).

Grabbe (1999, p.3) explains the dual character of the conditionality, given that conditions were set in order to 'minimize the risk of new comers becoming politically unstable and economic burdensome to the existing EU, to reassure reluctant Member States, as well as to guide CEEC applicants'.

It is the first time that EU sets political conditions for membership (first time it introduces political conditionality). Until this moment, they were considered to be implicit. This was generated by a feeling of mistrust from EU part on the real commitment of CEEC to a democratic system. 'The tougher conditionality employed in the current enlargement, compared to the previous ones suggests to candidates that they are viewed as less competent and trustworthy than the previous ones' (Fowler, 2002, p. 433).

This also created a feeling of discomfort from the CEEC part, given that the EU Member States were putting stricter conditions for the new entrants than for themselves, giving rise to the question of 'double standards' (Amato and Batt 1999).

The economic conditions imposed by the Copenhagen criteria were meant to

help the applicants prepare themselves for full membership and complying with this criterion was also meant to reduce the potential negative impact that entering the Union could have had on poorer economies, unable to face the competition within the enlarged Union.

As far as the adoption of the *acquis* is concerned, this condition is probably perceived as the most difficult one for the candidates. It was the first time in the history of enlargement that the candidates were obliged to adopt and implement the full *acquis*, prior to their accession. What made this process even more complicated was the continuously evolving character of the *acquis*: 'the *acquis communautaire* is fluid rather than fixed, and hence an unstable basis for judging the credentials of candidates, just as it is an unstable basis from which candidates are forced to judge the possible or probable implications of accession' (Wallace, 2002, p.660-661). The fact that the *acquis* is continuously growing only rendered more difficult for the candidates the compliance with 'the legislative criterion'.

On the other hand, the European Union's fears regarding the potential costs that Eastern enlargement could have on its institutions and policies is best reflected in the fourth criterion, the ability of EU to absorb new members. Grabbe (1999) explains that, in fact, 'this is a condition for enlargement, while the others are conditions for entry'. This way, enlargement depends also on whether EU considers itself capable to open up for new members.

Hillion (2002) argues that the substance of these criteria was not entirely new, but it made the accession conditions appear more institutionalized than in previous

enlargements. The application of accession conditions is stricter than before, and this is also reflected by EU's non-acceptance of opt-out clauses for the present candidates.

CEEC had to cope with evolving obligations. Madrid European Council (1995) introduced another condition for accession, namely the capacity of candidates to adjust their administrative and judicial structures.

One could ask for reasons for EU's shift from the association agreements to the offer of full membership for the candidate countries. Several analysts explain this phenomenon by the external factors, the deteriorating security environment leading to constant pressures from CEEC for a more clear commitment to their EU membership. 'Because EU could not protect itself against the spillover effects of political instability or conflict at its borders, it had to increase its engagement with the region in order to stabilize it' (Friis and Murphy, 1999, p.220).

However, the Copenhagen criteria were welcomed in the way they precised the common basic standards expected of EU Member States (Amato and Batt, 1999, p.35).

A première in the enlargement process was the EU's initiative to set up a pre-accession strategy for the candidate states. The formal launch of this strategy took place at the Essen European Council in December 1994. This strategy incorporated the Europe Agreements and Phare programme and also new elements such as: Single Market White Paper and the structured dialogue (Grabbe 1999). The Essen strategy was meant to help the applicant states better prepare for accession, aiming at free movement of industrial goods, services, capital to some extent and giving them the possibility of a



more regular schedule of dialogue with the EU's representatives through the 'structured dialogue'.

Tsoukalis (1997, p.250) defined the main elements of the 'pre-accession strategy' as: 'improved conditions of market access for the exports of the associated countries, the progressive integration of CEEC in the internal market, a reorientation of Phare programme and a reinforced and extended multilateral dialogue and a structured relationship with EU institutions'.

A very important component of the pre-accession strategy was the Single Market White Paper, approved by Cannes European Council in 1995, containing all the key legislation governing trade in goods and services in the EU's Internal Market (Grabbe 1999). Although 'not a legally binding agreement', the White Paper became an important part of EU conditionality for the candidate states, since progress in taking on the measures was judged later on by the Commission's Opinions on the applicant states (Grabbe, 1999, p.14). The White Paper set out what should be approximated as regards internal market legislation in 23 sectors (Hillion, 2002, p.415).

The White Paper and the pre-accession strategy were also seen as a 'protective strategy': the more of the *acquis* the applicants introduced before membership, the easier it would be to incorporate them as new members (Friis and Murphy, 1999, p.222).

One major step in EU's conditionality was the issue of Commission's Opinions on the progress of applicant states towards accession in 1997. The opinions were the first documents that generated the possibility of differentiation between the

applicants, according to their progress in meeting the Copenhagen Criteria. The 'enhanced pre-accession strategy' was based on the Accession Partnerships in Agenda 2000. The Accession Partnerships, elaborated by EU for each applicant country for the first time in 1998, were meant to make conditionality even stricter. These partnerships set short and medium-term priorities for policy reforms, focusing mainly on the third criterion, namely the adoption of *acquis* (Grabbe 1999).

The purpose of these partnerships is to make sure that the Phare assistance is directed specifically towards the candidates' needs in their preparation for membership (Hillion, 2002, p.416). The Accession Partnerships also establish a control procedure and system of sanction, through a reduction or suspension of pre-accession funds. An important element is the National Programme for the Adoption of *Acquis* (NPAA) which involves applicants to specify the main laws, institutions, administrative reforms they intend to undertake in the priority areas of the Accession Partnership (Nugent, 2003, p.505).

The pre-accession conditions for this enlargement round are likely to result in less favourable negotiating terms than in previous enlargements, given that the applicants must meet all the conditions prior to their accession and the transitional periods that they negotiate are few and limited in time (Grabbe, 1999, p.24). The reluctance of EU to offer more extensive transitional periods and derogations is an important factor that testifies for the EU's conditionality in the negotiation process, as well.

#### 4. The Effectiveness of EU's Conditionality in the Economic and Political Transformation of CEEC

Analysts often argue about the effectiveness of EU's conditionality in support of CEEC efforts of political and economic transformation. Some of them tend to say that EU's conditionality was beneficial for CEEC; it gave them the right direction to become stable free market economies and strong democracies.

'EU's conditionality has two goals: to support the post-communist transformation and to guide the CEEC towards taking on the obligations of membership'. In the academic literature it is often stated that accession and transition are part of the same process, they share the same goals. However, if one takes into account the fact that EU's policies, norms and regulations were designed for the Western economies, which are quite different from the CEEC' economies, one could say that these policies were not designed for and, therefore, are not fit for the countries in transition (Grabbe 1999).

Still, both EU and CEEC have tried to maintain this link between EU accession and the transition process, as a 'means for legitimizing enlargement'. The CEEC leaders have often justified the need for reform as a compulsory condition for accession. This implies that, if reforms are successful, CEEC elites may claim responsibility for themselves, if not, they can always blame the accession goal for the necessity to undertake painful reforms, which can lead to 'a risk of disillusionment with accession' (Fowler, 2002, p. 428). On the other hand, EU might be tempted to lay the blame for the

burden of its own reform on the difficulty to absorb the new Member States, this way creating a more negative public opinion vis-à-vis enlargement within the Member States (Amato and Batt, 1999, p.11).

In the academic literature, some specialists argued that the accession conditions might have been an imposition of 'alien models and values', a form of neo-colonialism. They focused their theory on the fact that EU's Member States have vast colonial practices experiences and they tend to transform EU in 'another project of manipulating boundaries' (Borocz and Kovacs, 2001, p.8). Despite that, one should bear in mind that the classical theories of colonialism refer to the purely exploitative relationship center-periphery, therefore this could not be applied to EU, since the applicants have chosen to join EU on a voluntary basis and since they will obtain real power in the overall EU's decision-making process once they become full Member States (Engelbrekt, 2002, p.42).

It is very difficult to measure the efficiency of EU's conditionality in the overall process of transition. Some people would agree that it was an imposition of too many and too strict conditions and they shifted the focus of CEEC from the real, profound structural transformations that transition implies to the obligation to rapidly assimilate the whole EU legislation into their own.

Others argue that EU's conditionality and pre-accession policies have helped the transition process, have given a more precise direction for the changes to be done and have rendered smoother the whole process of becoming a free market economy.

One can mention at least two benefits that CEEC had obtained in the pre-accession period: one is the improvement of the investment climate, given the prospect of accession, and the other is the permanent increase of exports to European Union, which proved to be a real driver for growth (Baldwin et al. 1997).

Somehow, 'conditionality challenges the notion that post-communist reforms and preparations for EU membership are synonymous, since it implies that the reforms in question might not otherwise be implemented' (Fowler, 2002, p.431).

Some of the candidate states have done quite well in their way to reform. Avery (1998) argues that the prospect of EU membership has been the best incentive to CEEC to persevere economic and political transformation, though painful, in some cases. Mayhew (1998, p.368) also considers that without conditionality, there would have been no real incentive for the associated countries to pursue reform.

The CEEC have felt not only discriminated by the EU's imposition of so many new burdensome conditions for their accession, but also discontented with EU's reluctance to liberalize trade in sensitive areas, keeping restrictions on movement of workers and, more general, failure to undertake institutional reform in order to be able to accommodate the new members and to be able to cope with the new challenges (Barysch and Grabbe, 2002, p. 24). Candidates are also interested in the successful reform of the European Union, since they will not join Economic and Monetary Union but after at least two years after accession and they will be allowed to join the Schengen area only when the other EU members are satisfied with their ability

to control their borders with third countries. Thus, conditionality will carry on, even after accession (Barysch and Grabbe, 2002).

In addition, the Commission is planning to introduce a new and tougher monitoring system for Romania and Bulgaria, the two countries that did not join the EU in 2004. This system is giving the EU the possibility to delay accession for a year "if commitments undertaken during membership negotiations are not properly implemented". Another sample of EU's conditionality, this system is meant to ensure that reforms will carry on in these two countries in the period between signing the Accession treaty and the actual accession to EU.

## 5. Conclusions

It is difficult to affirm that EU's conditionality was more of a burden for the CEEC than an incentive for reforms. If one thinks of the variety of conditions that EU imposed on the candidate countries for their accession, one might think of them as a burden. Some analysts say that it could have been better to let these countries do the reforms their own way, to focus more on developing their economies at their own pace rather than assimilating the whole *acquis communautaire* in such a short time.

On the other hand, if one takes the time to look at the statistics, it is obvious that all the CEEC have developed their economies in the last decade. The prospect of accession was, in many ways, the strongest incentive they had for undertaking severe and painful reforms. The investment climate has improved considerably in these countries, the prospect of EU accession giving only positive feedback to foreign investors. The



trade relations that CEEC developed with the EU had a major contribution to their general economic growth.

Taking all these into account, one could conclude that the European Union's conditionality proved to be more of a stimulus for reform and economic development in the candidate countries, rather than an obstacle.

## BIBLIOGRAPHY AND REFERENCES

- Amato, G., Batt, J. (1999), „**The Long Term Implications of EU Enlargement: The Nature of the New Border**“, San Domenico, Florence: Robert Schuman Centre, European University Institute
- Avery, G. and Cameron, F. (1998), **The Enlargement of the European Union**, Sheffield: Sheffield Academic Press
- Baldwin, R., Francois, J. F. and Portes, R. (1997), „**The Costs and Benefits of Eastern Enlargement: The Impact on the EU and Central Europe**“, *Economic Policy* 24
- Barysch K., Grabbe, H. (2002), „**Who is ready for EU Enlargement?**“, Centre for European Reform, London
- Borocz, J. and Kovacs, M., eds. (2001), „**Empire's New Clothes. Unveiling EU Enlargement**“, *Central Europe Review*
- Brenton, P. (2002), „**The Economic Impact of Enlargement on the European Economy: problems and perspectives**“, *CEPS Working Document no. 188/Oct 2002*, Brussels
- Engelbrekt, K. (2002), „**Multiple Asymmetries: the European Union's Neo-byzantine Approach to Eastern Enlargement**“, *International Politics* 39
- European Council, 1993. **Conclusions of the Presidency**, Copenhagen, June 1993, *Bulletin of the European Communities* 26 (6)
- Fierke, K. and Wiener, A. (1999), „**Constructing Institutional Interests: EU and NATO Enlargement**“, *Journal of European Public Policy* 6(5), pp. 721-742
- Fowler, B. (2002), „**Legitimacy and Accountability in EU Enlargement: Political Perspectives from the Candidate States**“ in Annull, A. and Wincott, D., eds., *Accountability and Legitimacy in the European Union*, Oxford: Oxford University Press
- Friis, L., Murphy, A. (1999), „**The European Union and Central and Eastern Europe: Governance and Boundaries**“, *Journal of Common Market Studies* 37(2), pp. 211-232
- Grabbe, H. (1999), „**A Partnership for Accession? The Implications of EU Conditionality for the Central and Eastern European Applicants**“, *EUI Working Papers RSC 99/12*. San Domenico, Florence: Robert Schuman Centre, European University Institute
- Hillion, C. (2002), „**Enlargement of the Union: A Legal Analysis**“, in Annull, A. and Wincott, D., eds., *Accountability and Legitimacy in the European Union*, Oxford: Oxford University Press
- Mayhew, A. (1998), **Recreating Europe**, Cambridge: Cambridge

- University Press
- Nugent, N. (2003), **The Government and Politics of the European Union**, London: Macmillan
  - Sedelmeier, U, and Wallace, H. (2000), „**Eastern Enlargement. Strategy or Second Thoughts?**“ in Wallace, H. and Wallace, W., eds., *Policy-Making in the European Union Vol.4*, Oxford: Oxford University Press
  - Thornton, G.M. (2002), „**The European Union: Teleology and Some Challenges of the Eastern Enlargement**“, *CEPS Policy Brief no.19*/March, Brussels
  - Wallace, H. (2002), '**Enlarging the European Union: Reflections on the Challenge of Analysis**', *Journal of European Public Policy*, 9(4), pp. 658-665
  - WRR Report (2001), „**Towards a Pan-European Union**“, Report no. 59/2001, Netherlands Scientific Council for Government Policy
  - Zielonka, J. and Mair (2002), special issue of *West European Politics* on enlargement, 25 (2)