

## SECURING FRAGILE DEMOCRACIES IN THE BALKANS: THE EUROPEAN DIMENSION

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**Abstract\*\*.** *The European Union faces unprecedented difficulties in its integration of the Western Balkans in terms of the requirements for change by countries in that region wishing to join. In order to meet this challenge, the EU's political conditionality has moved significantly beyond its demands made on the post-Communist entrants of 2004 and 2007. But its effort to bridge the gap between the ability or political will of Balkan countries to adapt to European modernisation and uncertainties about EU commitment created by "enlargement fatigue" among Member States is vulnerable to weak consensus on both sides. Accordingly, the dynamic behind further enlargement is not comparable with the historic drive that impelled the enlargement of 2004. At the same time, there are strong geopolitical arguments on grounds of stabilising the Balkans for going ahead with integrating the Western half of this region.*

**Key words:** *Western Balkans, EU political conditionality, democratic consolidation, EU enlargement*

### Introduction

Regional stability in the Balkans has remained since the wars of 1991-95 a powerful concern of the outside powers and international organisations, as shown in the underlying fear that discord in one or other of the countries (such as Macedonia or also Kosovo) might have negative spill-over effects on the rest of the region. It is for this reason that an on-balance priority has been given at times to the interests of stability over other

considerations including democracy promotion. Nevertheless, from the long-term perspective, regional security and democratic consolidation in the Balkans are closely related.

The special and rather salient feature of post-dictatorial regime change in the Balkans is this very relationship. The post-1989 democratisations in the former Yugoslavia were negatively affected by the war which not only interrupted the democratisation process but also created new legacy burdens for subsequent regime change, as seen still for instance in the cumbersome and fragile efforts at reconstructing the state in Bosnia and in the

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slow and laborious business of trying to overcome the effects of the Milosevic regime in Serbia as well as to deal with problems of new statehood in Montenegro and Kosovo.

In all this systemic transformation, outside powers and international organisations have played a crucial if at times reluctant role. This is emphasized today by the presence of protectorate structures in Bosnia and Kosovo involving several IOs to handle problems of statehood. But outside intervention of this kind may create its own problems for regime change as in producing a reaction to this or a dependency factor or even a vicious circle situation. Such problems are underlined by the 2005 report of the International Commission on the Balkans, with respect to the role of the EU. It refers to the dangers from “the integration trap”:

“The consensus uniting governments and peoples in the Balkans is that the region cannot achieve prosperity and stability outside the process of European integration. At the same time, it is quite clear that the dysfunctional states and protectorates that characterise the region actively hinder the inclusion of the Balkans into the European mainstream. In this sense, the status quo is a problem because it is blocking the road to EU accession<sup>1</sup>.”

The report’s main message is that there is a need for the Balkans to move on from the stage of protectorates and weak states to the stage of EU accession. In the past couple of years since that report, that movement has begun to happen albeit slowly; but there is still a long way to go before the integration of these countries has a significant impact on

their domestic systems. Meanwhile, attention is increasingly on the role of the EU among international organisations in overcoming the obstacles to democratic consolidation in the region – and it is on the EU’s role that the following discussion concentrates. In doing so, the main attention will be to the Western Balkans – which is now since 2004 the focus of further EU enlargement – with some reference back to the two Eastern Balkan countries that joined in 2007. Since the still somewhat problematic countries of Romania and Bulgaria feature several of the recognised difficulties facing Balkan countries in democratisation (such as corruption and organised crime, though less the difficulties surrounding statehood), some reference to these will be included.

The structure of the discussion is, therefore, as follows: firstly, a brief overview of democratisation problems in the Balkan region (more neutrally known as South-East Europe); secondly, a summary of the EU’s policy of democracy promotion through political conditionality in the light of the 2004 and 2007 enlargements; thirdly, the evolution of and changes in that policy with respect to the Western Balkans; fourthly, reference to the scope and limitations of the EU’s political role in transforming the Balkans as well as responses there to this conditionality and problems of implementation; and conclusions on the European future of the region. The main argument is that, on the one hand, the EU’s approach to democratisation via political conditionality is an extension and modification of previous enlargement policy and, on the other hand, the EU is facing unprecedented tasks, such as over statehood problems, and doubts that it has the capacity to deal with them – all this against the background of “enlargement fatigue” within the EU.

<sup>1</sup> International Commission on the Balkans, *The Balkans in Europe’s Future* (Centre for Liberal Strategies, Sofia, 2005), p. 12.

### Difficult democratisation in the Balkans

Looking back at the period of over a decade since the EU first really began to embrace a strategic approach towards the Balkans following the Dayton Peace Accords of 1995, it is useful to consider the main events or turning-points in regime change. These include the return to democratisation in Croatia and Yugoslavia following the death of Tudjman in 1999 and the fall of Milosevic in 2000, the resolution largely under international supervision of the ethnic conflict in Macedonia in 2001, the EU-guided agreement on reconstituting Serbia-Montenegro in 2003 and the final move to independence by Montenegro in 2006 while the status of Kosovo came to a head with its declaration of independence in early 2008.

Significantly, while the first two events were familiar cases of a positive redirection in regime change, all the other examples illustrated problems of statehood. This reminds us that regime change in the Balkans has continued up to the present time to revolve around primary problems of political change, suggesting that in most cases these countries are still somewhat engaged in democratic transition (or an extended phase of this) with open prospects for eventual democratic consolidation. Indeed, it was long regarded in democratisation studies that the state and its boundaries were a stable given or precondition for transition. Since this has in a significant number of cases not been so in the Western Balkans, there has existed in this region not only a special heavy burden for new democracies but also an uneasy potential for destabilisation. This has to be combined with problems in integrating ethnic minorities and the persistence of illiberal political forces and nationalist tendencies. By any comparative account, therefore, the Balkan countries may be collectively described as

difficult democracies in terms of their legacy problems imposed on regime change, their actual functioning as political systems, the extraordinary effort required to construct and maintain domestic consensus behind political reform and, of course, the magnitude of socio-economic problems with an obvious potential for political impacts.

Much nearer in time, Western Balkan countries are either moving towards accession or – in most cases – are still in the early stage of an associate relationship with the EU. However, uncertainty has remained over whether at least some of these countries in the region are capable of achieving eventually democratic consolidation, thus raising doubts about EU chances for influencing regime change in a positive direction. The Bertelsmann Transformation Index has provided a fairly recent standardised survey of the countries in the Western Balkans. This made for rather sober reading for further enlargement in the region, with only one country (Croatia) having so far acquired a positive dynamics where improvements in democratisation were connected to increased cooperation with external actors<sup>2</sup>. Overall, the Western Balkans were otherwise marked by widespread disaffection with democratic performance where some observers saw a crisis of democracy in the region. Consequently, reformist political actors have suffered from a weak societal basis making transformation not very sustainable. There was a significant gap in political and economic transformation between the Western Balkans and East-Central Europe, with the former showing some similarities with difficulties of democratisation in Latin America. Countries in the Western Balkans could therefore still be

<sup>2</sup> M. Brusić, 'Assessing the state of democracy, market economy and political management in Southeastern Europe' in *Southeast European and Black Sea Studies*, 2006, vol. 6, no. 1, p. 67.

fairly easily categorised as defective democracies, especially as regards progress with stateness, the rule of law, institutional stability and political integration<sup>3</sup>.

The persistence of such fundamental problems was not so surprising given their depth and historical roots, for it was unrealistic to expect large-scale improvement in less than a decade. All the same, this meant that the EU was faced with an unprecedented challenge in engaging with these countries even while the membership perspective is now seriously voiced. The prospects for the EU, now regarded as the foremost international actor in the Balkans, in producing real political transformation there appear restricted. In any case, handling the accession path with them is going to be a more formidable task than has been the case with the now new member states from East-Central Europe and even more so than with the two Balkan candidate countries of Romania and Bulgaria, with which the EU is still finding some serious difficulties over meeting conditionality and accession requirements.

#### **The EU's political conditionality and post-communist regime change**

By the time the Western Balkans became the focus of enlargement policy in 2004, the EU had already for a decade developed a political conditionality policy that was focussed, had an elaborate procedure and utilised its leverage over candidate countries. Its salient and relevant features need to be highlighted in order to contextualise the discussion that follows.

Firstly, it took some years for conditionality to be pressed in the case of countries from Central & Eastern Europe (CEE) that had abandoned Communist rule. By the time political conditionality came to be applied systematically from 1997-98 with EU membership prospects in mind – beginning with the Commission's *avis* on applicant states and the first of the annual progress reports – the CEE countries in question were already well down the road of democratisation although far from achieving democratic consolidation. Therefore, conditionality policy over the following decade was essentially focussed in its own way on underpinning and encouraging democratic consolidation in candidate countries. This meant that with the entrants of 2004 this policy did not essentially confront transition tasks of securing new democratic institutions; nor did it choose to confront legacy problems from the Communist period except insofar as they affected in practice specific conditions, such as resistance to judicial reform. Conditionality policy was concerned with 'the stability of institutions guaranteeing democracy', however they had developed in transition, and not with providing any systemic models.

Secondly, the scope of the EU's conditionality expanded from the mid-1990s significantly beyond the (somewhat bland) formal democracy criteria utilised in previous decades into areas of substantive democracy. The Copenhagen criteria as defined in 1993 covered as themes the stability of democratic institutions, the rule of law and human and minority rights. Since then, the EU has also specified the strengthening of state capacity, the independence of judiciaries, the pursuit of anti-corruption measures and the elaboration of a series of particular human and minority rights. Conditionality policy thus became more demanding and ambitious and hence

<sup>3</sup> M. Brusis and P. Thiery, 'Comparing political governance: Southeastern Europe in a global perspective' in *Southeastern European and Black Sea Studies*, 2006, vol. 6, no. 1.

conceivably more difficult to satisfy. But taken together, it did not embrace the full range of democratic consolidation tasks, party systems and civil society as a whole being major exceptions; nor did it present an integrated approach to its diverse political demands even though “democratic consolidation” (undefined) was regularly identified as the ultimate objective.

Thirdly, a new priority was granted political conditionality as it became locked procedurally into the accession process. One feature of the Commission’s new conditionality approach in the 1990s was to insist that democratic standards are met before accession takes place, and that the original Copenhagen criteria of 1993 are met before membership negotiations are opened. This strict requirement was influenced on the EU’s side by anxiety among member states over the future effects of enlargement on its own capacity and cohesion<sup>4</sup>. It was buttressed by tight monitoring procedures detailing the satisfaction of the political conditions by candidate countries, notably by means of the Commission’s annual Regular Reports on each applicant. This change much enhanced the EU’s leverage over conditionality matters, especially as progress between stages of accession depended on satisfying these (especially the political conditions) in Brussels’ eyes.

Altogether, these various major changes strengthened the EU’s political conditionality from the mid-1990s. Nevertheless, the outcome by the actual accession in May 2004 was one of incomplete implementation. This was due to the top-down fashion in which political conditionality was pursued but also to the relatively short time span in which

Brussels exerted pressures on the CEE countries before 2004. It produced most success with formal responses by candidate countries. Thus, results were evident for example in the creation of new anti-corruption agencies and in introducing new judicial structures in line with the principle of judicial independence. But consolidating such changes through eradicating corruption and furthering a new democracy-compatible culture among the traditional judiciary was much slower in coming. Rather more difficult to implement, therefore, were those conditions, which depended on significant behavioural changes involving essentially respect for the law that was crucial to achieving democratic consolidation.

These deficiencies in conditionality implementation were the occasion within the European Commission for a firm reappraisal soon after the May 2004 enlargement and once the new Barroso Commission was installed at the end of that year with a change in Enlargement Commissioner. A different approach was adopted which was much less prepared than before to compromise for the sake of meeting enlargement deadlines. This harder line, influenced among other things by difficulties over Romania’s accession and certain conditionality matters, was first in evidence over the final stage of the two remaining candidate countries of Romania and Bulgaria which were regarded as less stable, prosperous and dynamic than the East-Central European and Baltic candidate countries<sup>5</sup>. However, the time for decision on their actual entry to the EU arrived very shortly after the Barroso Commission came into office.

Given strong doubts about closing negotiations with these two countries,

<sup>4</sup> H. Grabbe, *The EU’s Transformative Power: Europeanization through Conditionality in Central and Eastern Europe* (Basingstoke: Palgrave Macmillan, 2006), p. 29.

<sup>5</sup> D. Papadimitriou, ‘The EU’s Strategy in the Post-Communist Balkans’ in *Southeast European and Black Sea Studies*, vol. 1/3, September 2001, pp. 72-73.

especially on the part of the Commission, a compromise was agreed whereby the negotiations were closed but a form of extended conditionality would be operated by means of a “safeguard clause” during the remaining period before the entry of Romania and Bulgaria, with the actual date of that undetermined but with a choice presented between January 2007 and January 2008. In other words, entry could be delayed by one year if there were ‘serious shortcomings’ in meeting certain ‘commitments and requirements’; and, there would be further monitoring reports by the Commission in the meantime. This clause was unprecedented, as previously conditionality had been applied up to but never beyond the agreement on the invitation to become a new member state.

Despite some scepticism, the operation of the safeguard clause did serve to speed up reform efforts as national prestige was seen as at stake if entry were delayed<sup>6</sup>. A form of motivation in meeting conditionality targets was maintained although some critics argued that the EU’s leverage could not be the same as before since membership had already in effect been granted. In Romania’s case, progress was made over judicial reform – which had stalled – primarily because of the reformist commitment of the new Justice Minister who came into office when a centre-right government replaced the Socialists in power at the end of 2004. New efforts were made over high-level corruption but with rather less success. When after the final monitoring report was issued in September 2006, and the entry date of 2007 was chosen, it was nevertheless decided to continue with applying conditionality to Romania and Bulgaria in the first years of their membership

by means of a new programme of benchmarks and sanctions (including the freezing of EU funds) in the event of relapses. This was again unprecedented in the history of EU conditionality for no new member state had previously been subjected to such a monitoring regime<sup>7</sup>.

Monitoring reports have been issued on these two new member states from the Balkans in June 2007 and February 2008. The latter report for Romania concluded that in the first year of membership continued efforts had been made to ‘remedy weaknesses that would otherwise prevent an effective application of EU laws, policies and programmes’ but ‘in key areas such as the fight against high-level corruption convincing results have not yet been demonstrated’<sup>8</sup>. It is significant that resentment in Bucharest among the political elite at EU pressures over fighting high-level corruption expressed itself shortly after Romania’s entry when the reformist Justice Minister – who had been brazen towards political corruption over the previous two years and alienated many parliamentarians in the process – was ejected from office during a government crisis. This caused sceptical shockwaves in Brussels, confirming opinion, such as in the European Parliament, that Romania – the perennial “laggard” of the enlargement process up till that time – should not have been admitted. As it was, Bulgaria turned out to be the more difficult case in the final year before accession because of failures in dealing with the serious problem of organised crime in that country.

There were various lessons from the 2004 and especially 2007 enlargements that provided pointers to conditionality policy in the near future. Firstly, the Commission had

<sup>6</sup> G.Pridham, ‘The Scope and Limitations of Political Conditionality: Romania’s Accession to the European Union’ in *Comparative European Politics*, December 2007, pp. 360-61.

<sup>7</sup> *Ibid.*, p. 361.

<sup>8</sup> European Commission, *Interim Report on Progress in Romania under the Cooperation and Verification Mechanism* (Brussels), 14 February 2008, p. 7.

especially in the Romanian case been unusually interventionist and tough-minded in pressing for the satisfaction of conditionality and other accession requirements. This was due primarily to persistent problems and frustrations in dealings with public authorities in Bucharest both in terms of political will but also bureaucratic efficiency. On two occasions during accession, in spring 2001 and early 2004, there had been pressure from the European Parliament to interrupt membership negotiations (the ultimate threat) because of Romania's lack of progress over specific political conditions<sup>9</sup>.

Secondly, a key factor in achieving progress over conditionality matters was the existence of a sufficiently committed and stable group of both political and bureaucratic reformists in national capitals who in cooperation with Brussels – and playing the EU card effectively – could drive through change<sup>10</sup>. Problems were particularly met with the Social Democrats in office during 2000-04 and therefore during nearly the whole of the negotiations period. Party interest was obviously behind resistance to serious change over both fighting corruption and real judicial reform.

Thirdly, and finally, it has to be said again that aside from the matter of will and efficiency that some of the political conditions were intrinsically difficult to implement because they involved deep or widespread behavioural change. This was notably true of corruption that was rather common in post-Communist societies as well as being rooted in the political class, which had not resisted the temptations arising from the privatisation

process. Similarly, judicial reform also ran up against legacy problems from the Communist period by virtue of the preponderance of judges trained under non-democratic rule who found it difficult to adapt to new, more open procedures as well as embrace unfamiliar areas of law now required by Brussels. Also, it goes without saying that instilling respect for minority rights encountered difficulties that tended to have fairly long historical roots.

Altogether, therefore, the experience of the 2004 and 2007 enlargements to Post-Communist countries demonstrated in the end the limitations of the role and power of Brussels. To some extent, such limitations related to the fact that conditionality was applied to these countries when they were already beyond the stage of regime transition and therefore when their systemic merits and faults were in play. But, it was also clear, producing real change was unrealistic in such a short period as less than a decade notwithstanding the high pressure as well as leverage exerted on candidate countries by the EU. The Commission itself took the view that it was the manner in which conditionality policy was applied that mattered; and, it accordingly made changes when it came to confront the applicants from the Western Balkans. However, as we shall see, this region presented a challenge far greater than the problems that simply new procedures could resolve.

### **EU conditionality and the Western Balkans**

Notwithstanding the emergence of “enlargement fatigue” after the 2004 mega-enlargement to CEE, further enlargement to other post-Communist countries has not essentially been halted. During this recent period, membership negotiations have been opened with Turkey and Croatia (in late 2005)

<sup>9</sup> Pridham, 'The Scope and Limitations of Political Conditionality', pp. 358-59.

<sup>10</sup> This point is emphasised in W. Jacoby, 'Inspiration, Coalition and Substitution: External Influences on Postcommunist Transformations' in *World Politics*, July 2006, pp. 623-51.

and further Stabilisation and Association Agreements (SAAs) have been pursued with various countries in the Western Balkans. The Commission's DG Enlargement has for some years now been deeply engaged in South-East Europe (SEE) and an escalator effect has already been created, so that - should these countries continue to satisfy the various requirements of Brussels - the prospect of further accessions begins to acquire some probability. Already, Croatia is as the frontrunner of the Western Balkans likely to join in a few years; while the next decade might turn out to be the period of SEE Enlargement to encompass the Balkans as a whole, although Turkey's accession prospects still face uncertainty. And, then, there is growing pressure from further East – notably, from Ukraine and to a lesser extent Georgia and Moldova – to jump the barrier to associate status, with these additional countries voicing ambitions to join as full members. The European Neighbourhood Policy (ENP) does, in fact, represent a stalling attempt by Brussels to call at least a temporary halt to further enlargement; but that does not apply to the Western Balkans.

The Western Balkans, a term officially adopted by the EU at its Vienna European Council in 1998, is applied to former Yugoslav republics (minus Slovenia that became a member state in 2004) together with Albania. In late 2005, *The Economist* argued in line with the enlargement dynamic that opening to these countries was compelling because the alternative would be more costly in the long run:

“Despite resistance in some quarters, EU policy-makers seem to have decided that it is better to have these countries inside the club rather than causing trouble outside. A look at the map explains why. In 2007, Romania and Bulgaria are due to join the EU, although that date may slip to

2008. The remaining Balkan countries will then be encircled by the EU. Unless they have a genuine prospect of membership, that could have serious consequences. With some 22m people penned inside a kind of poor Balkan reservation, inter-ethnic conflict, smuggling and organised crime would be certain to flourish. Compared with the cost of all that, EU membership might look quite cheap<sup>11</sup>.”

In truth, the EU had been evolving a strategy towards the Balkans from the mid-1990s featuring the Royaumont Process of 1996, the Regional Approach of 1997 and the Stability Pact of 1999. The Balkan wars were a powerful stimulant in forcing the EU, specifically the Commission, to recognise the need for a sustained involvement, having previously been absorbed with East-Central Europe (ECE) insofar as enlargement affairs were concerned<sup>12</sup>. A commitment to consider future membership for the Balkans began to emerge at the Zagreb European Council in 2000 which recognised these countries as 'potential candidates', while in 2003 the Thessaloniki Declaration made the proclamation that 'the future of the Balkans is within the EU', a phrase that has been repeated on several official occasions since.

Thus, there is some similarity with the 2004 enlargement process a decade and more ago, when the escalator effect created a dynamic that gradually required the EU to offer membership provided that the countries in question met Brussels' rigorous demands. But the internal difference for the EU compared with the mid-1990s in the case of

<sup>11</sup> *The Economist*, 5 November 2005.

<sup>12</sup> Papadimitriou, 'The EU's Strategy in the Post-Communist Balkans'; M. Turkes and G. Gokgoz, 'The European Union's Strategy towards the Western Balkans: Exclusion or Integration?' in *East European Politics & Societies*, vol. 20, no. 4, 2006.



ECE is that there has not emerged a clear and strong consensus among member states over the prospect of Balkan enlargement<sup>13</sup>. And, it is here that “enlargement fatigue” is significant. The persistent doubts, especially among some member states, over the admission of Romania and Bulgaria reflected this problem. At the same time, this lack of real consensus made it even more likely that the EU would adopt a more severe conditionality policy than ever before – an option already favoured by the new Barroso Commission.

The EU’s fundamental objective for the Western Balkans was ‘to create a situation where military conflict is unthinkable – expanding to the region the area of peace, stability, prosperity and freedom established over the last 50 years by gradual European integration’<sup>14</sup>. This echo of the Schuman Declaration of May 1950 about making war impossible put the new insistence on proper observation of conditionality – whether political, economic or administrative – into a wider or geopolitical context. It also explained new themes of conditionality such as regional cooperation to enhance the security environment, of which political conditions like furthering ethnic and religious reconciliation and fighting organised crime formed an integral part<sup>15</sup>. Furthermore, the EU’s political conditionality entered new domains compared with the 2004 and 2007 enlargements.

Firstly, it confronted sensitive and politically charged issues relating to the past, like the insistence on “full cooperation” with the International Criminal Tribunal for the

former Yugoslavia (ICTY) over handing over alleged war criminals. Rather than as previously handling the past in a pragmatic or functional way, this amounted to a principled demand. It was regarded in EU circles as a symbolic matter indicating the willingness of prospective candidate countries to move on in time and embrace a European future, namely as being relevant to respect for the rule of law<sup>16</sup>. Secondly, the EU was in devising a strategic approach to the Western Balkans compelled to embrace also basic problems of stateness. For some years now, it has insisted on police reform in Bosnia-Herzegovina as an indicator of state reorganisation as a necessary condition before concluding that country’s Stabilisation and Association Agreement. And, on a grander scale, the EU has been a central actor in dealing with relations between Montenegro and Serbia during 2003-06 and of course with the problem of the status of Kosovo. The latter may be described as a high-political issue that is interlinked with prospects for Serbia’s own SAA. The significance of these stateness questions for the EU’s political conditionality was that previously this had assumed the existence and stability of the state as a given. Now it was required to confront first-order systemic problems and hence matters relating to regime transition. This underlines how much the stakes for political conditionality had been raised. The SAAs, a variation on the Europe Agreements for the ECE countries in the mid-1990s, originally adopted a form of political conditionality influenced by the latter. As the Thessaloniki Declaration of 2003 had stated, the Stabilisation and Association Process (SAP) would ‘remain the framework for the European course of the Western Balkan countries, all the way to their future

<sup>13</sup> Turkes and Gokgoz, ‘The European Union’s Strategy towards the Western Balkans’, p. 659.

<sup>14</sup> <http://www.euractiv.com/en/enlargement/eu-western-balkans-relations/article-129607>, dated 21 September 2004.

<sup>15</sup> G. Pridham, ‘Change and Continuity in the European Union’s Political Conditionality: Aims, Approach and Priorities’ in *Democratization*, June 2007, pp. 458-59.

<sup>16</sup> Author interview with Reinhard Priebe, Head of Western Balkans Directorate, DTG Enlargement, European Commission, in Brussels, October 2005.

accession' and 'the process and the prospects it offers serve as the anchor for reform in the Western Balkans in the same way the accession process has done in Central and Eastern Europe'<sup>17</sup>. Its political conditions included the usual emphasis on democratic principles and a range of specific demands like opposition to ethnic divisions and protection of minority rights as well as fighting organised crime and corruption for strengthening the rule of law – not to mention full cooperation with the ICTY - while there was a provision for political dialogue and mechanisms for this. But, in effect, conditionality concerns have expanded since the inauguration of the SAP. This also happened during the 2004 enlargement process, moving conditionality into new areas of substantive democracy; but in this more recent case conditionality was now engaging with primary systemic problems.

In doing so, the EU was risking conditionality overstretch. On the one hand, the more strict approach adopted by the Commission following the 2004 enlargement was being put into practice; and, this aimed at preventing or reducing conditionality failures in the future. Various new mechanisms were introduced to improve implementation by making progress with accession more tightly and procedurally geared to conditionality results. Now, an element of immediacy was created by adopting new mechanisms 'taking account of the experience of the fifth enlargement process'<sup>18</sup>. They included: applying benchmarks for provisionally closing and also opening negotiation chapters (thus allowing each member state 'veto points'), the introduction of safeguard clauses to extend monitoring and a more routine procedure for suspending negotiations. These provisions

were written into the negotiating frameworks for Croatia and Turkey which commenced their membership talks in autumn 2005.

While these measures were mainly aimed at securing the adoption of the *acquis*, they also allowed for conditionality problems to reach the agenda of the EU more readily, making it easier procedurally to suspend negotiations. As the two negotiating frameworks made clear on the political conditions, 'to ensure the irreversibility of progress ... and its full and effective implementation, notably with regard to fundamental freedoms and to full respect of human rights, progress will continue to be closely monitored by the Commission, which is invited to continue to report regularly on it to the Council'<sup>19</sup>. The Commission had already made clear in its 2005 Enlargement Strategy Paper that it 'is prepared to recommend the suspension of progress [with accession] in case of a serious breach of the EU's fundamental principles or if a country fails to meet essential requirements at any stage'<sup>20</sup>. Finally, to further tighten up on implementation, some of the conditions were given added procedural force by being written into the *acquis*, including judicial reform (linked to chapter 24) and human rights (now written into chapter 23 drawing on the Charter of Fundamental Rights).

Other lessons drawn from the pre-2004 conditionality experience included a recognition of the need for strengthening the credibility of conditionality by, if necessary, example setting – to show that Brussels meant business when it came to infractions of the conditions. This was much easier to follow since 2004 as further enlargement would be phased, so that being

<sup>17</sup> <http://europa.eu.int/comm/enlargement/see/decl.htm>

<sup>18</sup> European Council briefing, December 2005, pp. 6-7.

<sup>19</sup> European Council, *Negotiating Framework for Croatia*, Brussels, 2005, p. 1.

<sup>20</sup> European Commission, *Communication from the Commission: 2005 Enlargement Strategy Paper*, COM (2005) 561 (Brussels, 9 November 2005), p. 3.

'tough' with one candidate country could be used as an indicator for another further down the line of accession. This thinking was present in the Commission 2005 Enlargement Strategy Paper:

"There is no further enlargement with a large group of countries...in view. Accession negotiations with Turkey are a long-term process. The Western Balkans contains smaller countries at different stages of their road towards the EU. Future enlargements will go at the pace dictated by each country's performance in meeting the rigorous standards, to ensure the smooth absorption of new members<sup>21</sup>."

The first occasion when this idea was applied was in March 2005 over the issue of starting negotiations with Croatia, for Zagreb had failed to deliver the war criminal Ante Gotovina. A decision was taken to postpone negotiations both to put intense pressure on the Croatian government (a clear case of direct EU leverage) but also to demonstrate to Western Balkan countries – especially Serbia-Montenegro – that Brussels refused to countenance any undermining of EU support for international law<sup>22</sup>.

On the other hand, it was evident this stricter approach to political conditionality would not work if governments in the Western Balkans simply lacked the will or capacity or domestic consensus to meet Brussels' requirements. Given the atmosphere of "enlargement fatigue" within the EU, this suggested a potential gap emerging between defective response in the country in question and accession commitment in Brussels. Furthermore, the Commission no longer dominated conditionality matters as during the 2004 enlargement process, with member

states now playing a more proactive role than before over conditionality matters through the European Council while the European Parliament was beginning to assert itself more over enlargement policy as from the time of the accession decision over Romania and Bulgaria<sup>23</sup>. This made for more complicated decision-making, with new opportunities for individual EU actors to halt or inhibit further enlargement.

At the same time, there were strong geopolitical arguments that emphasised Balkan stability, pressing for urgent attention to the Balkans' integration future, and that criticised the EU's slow and in the eyes of some lethargic approach. From 2005, warnings began to surface that the integration process in that region could come unstuck. In June, the President of the European Bank for Reconstruction and Development (EBRD) remarked that the current 'lack of clarity' about enlargement prospects made it 'more and more difficult' to promote reforms in candidate and applicant countries: 'We need to make the whole process of reforms in Eastern Europe sustainable; without the process of EU accession, that is very difficult – what happens now if we talk to Turkey or to Serbia and they get the impression in these discussions that they are no longer welcome in Europe?'<sup>24</sup>. The seriousness of this risk was also underlined by the International Commission on the Balkans in 2005 which observed 'a growing trend of public pessimism and dissatisfaction with the direction of political and economic developments' in the Western Balkans which was dangerous<sup>25</sup>.

<sup>21</sup> Ibid, p. 3.

<sup>22</sup> *European Voice*, 10-16 March 2005.

<sup>23</sup> Pridham, 'Change and Continuity in the European Union's Political Conditionality', pp. 465-67.

<sup>24</sup> Euractiv, 24 June 2005.

<sup>25</sup> International Commission on the Balkans, *The Balkans in Europe's Future*, p. 11.

### **The EU's role in political transformation of the Balkans: responses and problems of implementation**

From the above discussion, it is clear there are unprecedented circumstances surrounding the integration process involving the Western Balkans. Not only are the conditionality demands greater and in some cases more onerous than those before 2004, but also the political and institutional capacity of Western Balkan countries to meet them is weaker compared with the then candidate countries.

EU leverage had worked with the 2004 entrants, and to some lesser extent with those of 2007, because there was sufficient commitment and consensus on both the EU side and the candidates' side, with a dynamic that gave momentum and direction to the process as well as a capacity to deliver in both the EU sense of fulfilling the promise of membership and with the candidates of carrying through change. This undoubted achievement in bringing in so many post-Communist countries into the EU and requiring them to embrace political and economic change – at perhaps a faster pace than they would otherwise have adopted – is however not so easily repeated with the Western Balkan countries. This is because the conditions favouring EU leverage, described above, are much less present in these countries. As a consequence, the outcome of the present integration process in that region remains uncertain and rather open, with unsettling prospects for political conditionality. For, despite official statements about the Balkans' future as lying within the EU, there is a combination of circumstances that could dictate why this may not happen. During the 2004 and 2007 enlargements, there

developed a gradual inevitability about the outcome. With the one exception of Croatia, that has not happened over the Western Balkans not least as negotiations for full membership – which accelerate the dynamic of integration in embracing new countries – have not yet commenced elsewhere; but for this to happen would require some qualitative leap in domestic reforms that is not yet in the offing. This combination of circumstances is as follows, drawing on the discussion above.

Firstly, the motivation to join the EU is certainly present among the elites in the Western Balkan countries. Motives have included, on the international front, a desire to escape from the troublesome historical pattern of the Balkans and to join the European mainstream, allowing thereby greater scope for international influence; and, on the domestic front, the benefits as prospective poor member states from welcome EU funds to buttress programmes of socio-economic modernisation. The latter motive may be given a somewhat special twist as there is a dependency factor which underlies it. However, there are points of qualification about this motivation. Expectations to join the EU have remained high and impatient which does not fit with the new more laboured and bureaucratically more constrained accession process. Moreover, this elite commitment to join is compromised by the incidence of nationalism, which is far greater than in ECE although cross-nationally variable. It is especially pronounced in its impact on EU relations in Serbia and Bosnia-Herzegovina. In its 2006 report on Serbia, for instance, the Commission warned that country that it should focus on the "European future" rather than on "the nationalist past"<sup>26</sup>.

<sup>26</sup> *Frankfurter Allgemeine*, 9 November 2006.

Secondly, the preconditions for integration success are rather less favourable than with the 2004 enlargement and even the 2007 one, even though some of the problems facing EU relations with the Western Balkans were already present in the latter case (such as those of political will to reform and of state capacity). The burden of political (and also economic) change is much greater than before, above all because there remain and persist various primary questions relating to regime transition. The EU has in the Western Balkans been compelled to be more interventionist and thereby ambitious in its democracy promotion if only because not doing so could lead to worse problems – as encapsulated in Commissioner Patten’s apt remark that “either Europe exports stability to the Balkans or the Balkans export instability to the rest of Europe”.

Thirdly, there is missing the kind of driving dynamic that characterised the 2004 enlargement process and was marked by a sense of historical opportunity over re-uniting Europe. The understood trade-off between the promise of EU membership and the satisfaction of conditionality and other accession requirements – which was present in the 2004 and 2007 enlargements (and only temporarily called in doubt during enlargement setbacks or moments of loss of confidence by one candidate country or other) – is far less clear. While it is understandable that the Commission should introduce tighter procedures, the risk involved in this weaker credibility is to undermine the will to reform. It has a special effect since in the past reform-committed leaders in candidate countries had been able to use a domestic leverage over recalcitrant domestic actors with the argument that they were threatening their countries’ chances of

joining the EU; but now this is less persuasive. There have even been attempts by some Balkan leaders to direct this problem back towards Brussels. A warning from Bosnia at the end of 2006 that EU hesitation about enlargement could undercut reform efforts in the Balkans as ‘the countries of the EU are playing around with the strongest political instrument that they have’<sup>27</sup> is just one example. In other words, there is some danger of pre-accession limbo which, if it persists, could weaken the prospects of success in the Western Balkans’ integration process.

Fourthly, to complement problems of consensus within the EU over a full-scale Balkan enlargement, there are serious difficulties of achieving a viable consensus within the Balkan countries. The latter is a vital factor because it provides a reliable guarantee that governmental responses to EU requirements will be underpinned domestically. One potential vulnerability here is that these two patterns might interact negatively as when EU doubts or even tough demands weaken domestic consensus. One sign of this happening was when membership negotiations with Croatia were postponed for half a year in spring 2005 because Zagreb failed to deliver the alleged war criminal Ante Gotovina; and there followed a sharp decline in public support in that country for EU membership. Obviously, the chances of this negative scenario are especially present in Turkey’s more extended and more controversial negotiations for membership. The issue here is not simply one of public support for integration for it involves deeper problems, as noted by the European Commission in its March 2008 report on the Western Balkans:

<sup>27</sup> *European Voice*, 14-20 December 2006.

“Public opinion in the Western Balkans is largely favourable to EU integration. All governments have committed themselves to this objective and are implementing reforms. However, societies remain divided on a number of key issues related to the co-existence and integration of different communities and, in some cases, constitutional reform. Further efforts are needed to achieve consensus on such issues, to avoid harmful displays of nationalism, and to press on with the necessary political and economic reforms<sup>28</sup>.”

The domestic backdrop for EU-committed leaders in the Balkans is decidedly more difficult than was the case with their predecessors in the 2004 enlargement process. Indeed, this problem has been noted in past years with the inability of reformists to gather sufficient and firm support for EU purposes, as in the Bertelsmann Transition Index on the Western Balkans<sup>29</sup>. It has at times been highlighted by the new conditionality issue of handing over alleged war criminals who, like Ante Gotovina in Croatia and Ratko Mladic in Serbia, have enjoyed a measurable degree of support as national heroes in patriotic circles in these countries. But there is also a problem of conflicts among the political class over major priorities, as notably in Serbia today where the issue of losing Kosovo has a significant symbolic meaning and weighs in the balance

of political considerations in Belgrade over the country's European strategy.

Altogether, therefore, the Western Balkans represent the most difficult set of prospective accession countries so far encountered by the EU. The EU has, in spite of “enlargement fatigue”, found itself drawn into this process for similar reasons as with earlier post-Communist accession countries; but it has hardly developed adequate instruments to deal with this more challenging task. Accordingly, there is a strong likelihood of major mishap along the way and even the occasional accession disaster should the combination of four circumstances, discussed above, acquire an unstoppable negative dynamic.

<sup>28</sup> European Commission, *Western Balkans: Enhancing the European Perspective*, Communication to the European Parliament and the Council, Brussels, 5 March 2008, p. 2.

<sup>29</sup> See references 2 and 3 above; also, Papadimitriou, ‘The EU's Strategy in the Post-Communist Balkans’, p. 83.

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