

THE EU'S LOPSIDED QUEUE:  
CONDITIONALITY, COMPLIANCE, AND THE DIVERGING ACCESSION PATHS OF MACEDONIA AND SERBIA

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## **ABSTRACT**

Rainier Jaarsma: The EU's Lopsided Queue:  
Conditionality, Compliance, and the Diverging Accession Paths of Macedonia and Serbia  
(Under the direction of Robert F. Jenkins)

This thesis analyzes the differentiation of European Union accession momentum in Serbia and Macedonia. Although Serbia and Macedonia face similar domestic challenges in their EU accession sagas, Serbia has recently managed to outpace Macedonia, once a frontrunner in the process. The author assesses this divergence to stem from the institutional and political setup of EU enlargement, and stresses the importance for acceding countries to have a credible European perspective, and for the institutions of the EU to apply political conditionality consistently and constructively. The final section of the thesis suggests how the EU's experience in Serbia could form the basis for a jumpstart of Macedonia's EU accession bid.

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## LIST OF ABBREVIATIONS

Council	Council of the European Union
CVM	Mechanism for Cooperation and Verification
EEC	European Economic Community
EU	European Union
FRY	Federal Republic of Yugoslavia
FYROM	Former Yugoslav Republic of Macedonia
ICTY	International Criminal Tribunal for the former Yugoslavia
ODIHR	Office for Democratic Institutions and Human Rights
OFA	Ohrid Framework Agreement
OSCE	Organization for Security and Cooperation in Europe
SAA	Stabilization and Association Agreement
SAP	Stabilization and Association Process
SFRY	Socialist Federal Republic of Yugoslavia
SNS	Serbian Progressive Party
VMRO-DPMNE	Internal Macedonian Revolutionary Organization – Democratic Party for Macedonian National Unit

## INTRODUCTION

With the war in Ukraine raging, and the Syrian refugee crisis threatening the cohesion of the European Union, 2015 marked a critical year for the European project. The increased tensions on Europe's borderlands have sparked renewed interest in the European periphery. Both crises have highlighted the dependency of the European Union on its non-EU partners. Whereas the war in Ukraine has clearly indicated the sensitivities of the European alignment of prospective member states vis-à-vis the Russian Federation, the refugee crisis has revealed how pivotal political coordination with non-EU member states can be. As over 500,000 migrants passed through Macedonia and Serbia on their way to Western Europe in 2015, these two prospective member states have started to play a key role in the European facilitation of refugees. The primacy of the refugee crisis has reinvigorated the necessity of coordinating European Union policies with the states of the Western Balkans,<sup>1</sup> as well as increased international interest in the region.

The European Union has a longstanding history of engagement with the Western Balkans. Following the catastrophic wars of Yugoslav secession in the early nineties, the European Union recognized the need to establish a framework for relations with the former Yugoslav states. Although this framework started out in 1996 with the intention to maintain political stability and push the successful implementation of the Dayton and Erdut peace agreements (EUR-Lex 1999), in 1999 it transformed into a more comprehensive approach with the establishment of the Stabilization and

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<sup>1</sup> Institutions of the European Union and its member states define Southeastern Europe in political-geographical terms as the Western Balkans, thereby omitting EU-member states Greece, Slovenia, and recently, Croatia. Therefore, the term 'Western Balkans' in this paper refers to the state entities of Bosnia and Herzegovina, Montenegro, the Republic of Serbia, the Republic of Macedonia, the Republic of Albania, and to the disputed territory of Kosovo. Recognizing the status dispute that has arisen over Kosovo since its proclamation of independence in 2008, this paper will treat Kosovo as a *de facto* independent entity, but will avoid terminology that affirms Kosovo's statehood, in accordance with United Nations Security Council Resolution 1244.

Accession Process (SAP). The launch of the SAP also confirmed the possibility of eventual EU membership for the targeted states. Following the conflicts in Kosovo and Macedonia, and in line with the extensive enlargement process of the European Union that would take place in 2004, the European Council reaffirmed its full support towards the European integration of the Western Balkans at the Thessaloniki Summit, held on 21 June 2003. The declaration that was signed by the heads of state of all European Union member states and of all Western Balkan states minus Slovenia (which was due to accede to the EU in 2004) was unambiguous in its wording:

The EU reiterates its unequivocal support to the European perspective of the Western Balkan countries. The future of the Balkans is within the European Union. The ongoing enlargement and the signing of the Treaty of Athens in April 2003 inspire and encourage the countries of the Western Balkans to follow the same successful path. (Thessaloniki Summit 2004)

The optimism prevailed for a few years as frontrunners Croatia and Macedonia applied for membership and were granted candidate status in 2004 and 2005, but the problems that arose from the European Union's successive enlargements in 2004, and especially from the accession of Romania and Bulgaria in 2007, have since cast a long shadow over the enlargement process in Southeastern Europe. Over time, the inequalities between the former Yugoslav republics have resurfaced, with Bosnia and Herzegovina, Kosovo, Montenegro and Macedonia trailing far behind Croatia (which acceded to the EU in 2013) and Serbia. As of 2016, Serbia is the only country in the Western Balkans that may become part of the European Union by 2020.

The disparity in these countries' paths towards EU accession is not easily explained. The multiplicity of actors involved in the enlargement process, as well as the increasing complexity of the enlargement process itself, render it difficult to offer a single satisfying answer that would attempt to explain the divergent paths. Regional analytical approaches to the challenges of enlargement in the Western Balkans have certainly been attempted in the last few years (Taylor, Geddes & Lees 2013, Vachudova 2013, Noutcheva 2012), but the complexity of the region has proven too vast to allow for a

satisfying conclusion. The peculiarities of Montenegro's accession process translate difficultly to Albania's struggle in receiving candidate status, and Kosovo's unique relationship vis-à-vis Serbia make any comparison with, for example, the problems that Bosnia & Herzegovina is facing inherently problematic. Instead of attempting to solve the grand question of Western Balkans enlargement, this thesis will take a detailed comparative approach, and will restrict itself to an analysis of two of the six Western Balkans states currently in the waiting room. Two accession sagas stand out in particular; Serbia's rise from alleged warmonger and justice obstructionist to the current accession-frontrunner, and Macedonia's remarkable backpedaling since mid-2000. Whereas Serbia's European perspective gained traction with the arrest of Ratko Mladic in 2011, Macedonia's has arguably lost its European compass after a very promising start, which in 2015 also prompted the European Commission to withdraw its positive recommendation for the formal start of accession negotiations with the country. The Commission's decision is remarkable as it has never before withdrawn a positive recommendation to start accession negotiations, but it is a logical response to the backsliding that has occurred in Macedonia since the change of government in 2006. Acknowledging that the causes for backsliding are multi-faceted, this thesis will argue that the amalgam of a weakened European perspective and unfavorable political conditions within Macedonia lies at the heart of the country's regress.

The dissimilarity of both countries' paths towards the European Union is remarkable given the similar political characteristics of Serbia and Macedonia. Both candidate states can be characterized as *ambiguous hybrid regimes* (Diamond, 23). Although multi-party elections have been in place in both countries since the disintegration of Yugoslavia, the fairness of these elections has been impaired by an uneven political playing field. Clientelist elements featured prominently in both countries include the assertion of control over the media by political elites, the frequent issuing of early elections to sustain political power, party influence over public administration appointments, systematic defamation campaigns aimed at oppositional forces, a quasi-independent judiciary, and so forth. According to the



Corruption Perceptions Index annually issued by Transparency International, the perceived level of corruption in Serbia and Macedonia in 2015 is nearly equal (Macedonia ranks 66<sup>th</sup>, Serbia 71<sup>st</sup>). Freedom of the press is curbed significantly in both countries, and self-censorship is rampant (Bieber 2015). Alignment with the EU *acquis* is comparable, as the Commission has assessed Macedonia to be *moderately prepared* with regards to 24 chapters of the *acquis*, whereas Serbia has received this designation with regards to 25 chapters of the *acquis* (European Commission Progress Reports Serbia / Macedonia 2015).

The accession process is however not only dictated by internal political realities; accession to the European Union is far from a technocratic exercise, and enlargement policy itself has been subject to many historical and political developments. Although the Copenhagen Criteria were adopted in 1993 to define the criteria of eligibility for joining the European Union, their application by the various institutions of the European Union has been subject to increasing levels of politicization. The accession of Romania and Bulgaria to the European Union in 2007 has often been evoked to exemplify that the assessment of adherence to the Copenhagen Criteria is a deeply political process involving a multiplicity of international actors (Noutcheva 2008). The implementation of post-accession safeguards to secure the stability of institutions and rule of law in Romania and Bulgaria is just one example of how the European Union's enlargement policy, and especially its application of conditionality, is constantly evolving. Whereas in 1957 the Treaty of Rome stipulated that the only condition for membership was to have a 'European identity,' the states of the Western Balkans are nowadays subject to much more rigorous conditionality. The application thereof has however been haphazard at best. These are problems the thesis will address.

This thesis will first set out to explain how the enlargement process is structured for the Western Balkans, and how *political conditionality* has risen to the forefront of the accession procedure, especially since the enlargements of 2004 and 2007. Recognizing that the European Union's accession

process is structured around different stages, I will focus on the conditionality involved in the two early stages of negotiations that take place between the prospective member states and the European Union's institutions. These are the *pre-negotiation stage* and the *negotiation stage*, in which Macedonia and Serbia are currently located. These two stages of the European Union's enlargement process feature different rewards for the applicant states and are characterized by different levels of conditionality. The political challenges in both stages are however very similar; acceding states do not only have to fulfill the demands set by the European Commission, but are *de facto* also required to gain the necessary political support for their membership bids. One of the goals of this thesis is to explain how this latter requirement, i.e. the necessity of gathering political support from member states in the process, has impacted Macedonia in a fundamentally different way than it has impacted Serbia. As such, this thesis rejects the notion that the current enlargement procedure as set up by the institutions of the European Union is largely technocratic (Chiva 2011, O'Brennan 2008) and highlights the possibility of political intervention in the process and the political versatility of EU institutions, most notably that of the European Commission. As a further elaboration on this perspective, this thesis will then proceed to evaluate the role of veto players and its linkage with the incentive structure embedded in the accession procedure. Ultimately, this thesis will argue that the politicization of Enlargement and inconsistent application of political conditionality in the two early stages of the accession process have become the main causes of the divergent levels of progress towards EU accession for Serbia and for Macedonia.

## **THE ENLARGEMENT PROCESS: FROM THE SAP TO THE OPENING AND CLOSING OF ACCESSION CHAPTERS**

“EU enlargement is a function of differentiated influences from multiple actors and external pressures.” (Gateva 2015, 3)

The EU accession process for the Western Balkans differs from the process that was originally envisioned for Central and Eastern Europe. A key aspect of the accession process to the European Union with regards to the Western Balkans is that it is fundamentally asymmetric. Whereas member states that have acceded to the European Union in the past — primarily due to the new historical environment in which the process took place — have been able to influence the EU’s accession procedure, the evolution of the European Union over the last decade has rendered prospective member state influence over the receiving end of the process negligible. This asymmetry was much less developed in the 1990s, when most Central-East European states were given the chance to adapt their post-communist political systems in order to be incorporated into the European Union. States such as Hungary and Poland were not mere policy-takers; negotiations with the European Union often took a relatively open format and allowed the countries of Central Europe to also act as policy-shapers (Taylor, Geddes & Lees 2013, 11). Recognizing the strategic benefits of including the former states of the Warsaw Pact in the European project, contemporary forms of country-specific political conditionality were largely absent from the process. Hence, in 2004 the European Union was able to incorporate ten new member states in one year. A similar open-ended format of negotiations and a more regionalized form of conditionality, in which the prospective member states can negotiate the formal demands, is inconceivable with regards to the Western Balkans. The European Union dictates the structure of the accession process, the conditions countries have to meet, the rewards countries will receive, and is firmly in charge of the monitoring process. The goal of the EU accession process for the European Union is to “reorient the

direction and shape of politics [in prospective member states] to the degree that the EU's political and economic dynamics become part of the organizational logic of national politics and policy-making" (Ladrech 1994, 69).

Countries interested in acceding to the European Union have to follow a pre-determined path towards accession. The first step is typically the signing of an association agreement, but with regard to the Western Balkans, the European Union follows a slightly different track. The countries of the Western Balkans are part of the distinct Stabilization and Association Process (SAP). As part of this process, all countries are expected to fulfill country-specific Stabilization and Association Agreements (SAA). These agreements confirm the willingness of the states that are interested in EU membership to commit to political reforms that are necessary in order to start formal negotiations with the European Union. The signing and adaptation of the SAA is therefore part of another stage of the enlargement process than the stage in which the formal negotiations take place; prospective member states are expected to sign, initial, and put a SAA in force prior to the start of negotiations on EU accession. The depth of policy harmonization expected from putting a SAA in force is far less dramatic than the harmonization that is expected at the end of the negotiations stage that normally follows the adaptation of the SAA. Because the implementation of the SAA is more open-ended than the harmonization expected from the negotiations phase of the process, all Western Balkans states with the exception of Kosovo<sup>2</sup> have implemented the agreements. The signing of the SAA has to be ratified by all current member states of the European Union before it effectively goes into effect (and allows a country to move forward towards the next stage), which provides member states with major influence over this stage of the process. The politicization of the SAA ratification process is an important phenomenon that I will return to in-depth later in this thesis.

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<sup>2</sup> Kosovo's limited recognition within the EU has significantly hindered the initialing of its SAA. In order to move Kosovo's SAA forward and prevent problems with member state ratification of the signing of the SAA, the EU has conferred legal personality to itself in the initialing of the SAA.

The signing and implementation of the SAA opens the door to two important rewards in the accession process: the formal granting of candidate status and the formal opening of accession negotiations. After successful signing, implementation, and ratification of the SAA, a country can apply for EU membership. The latest country to apply for EU membership at the time of writing is Bosnia and Herzegovina, which handed over its application for membership to the President of the Council of the European Union on February 15, 2016, after its SAA had entered into force on June 1, 2015. Following the submission of an application, it is forwarded to the European Commission, which will give its expert opinion on the application. Concurrently, the European Parliament has to give its consent if the application is to be successful. The European Parliament's consent requires an absolute majority vote. After both the European Parliament has given its consent and the European Commission has issued a favorable opinion, the European Council will decide whether the application for membership is successful, and whether official candidate status will be granted to the applicant. Unanimity in the European Council is required for candidate status to be granted. While Serbia was only granted candidate status in March 2012, Macedonia received it more than six years prior, in December 2005.

Once a state has been granted formal candidate status, it will have to continue the implementation of the SAA in order for the European Commission to recommend the start of negotiations. The European Commission monitors the progress of all states of the Western Balkans in its yearly progress reports, which are the result of intensive cooperation between the European Commission, European Union member states, the government institutions of the state that is seeking membership, local NGO's, and independent consultants. The European Commission's progress reports annually highlight the challenges a prospective member state is facing and assess the readiness of the prospective member state to move to the next stage of the accession process. In its 2015 communication, the Commission elaborated on the methodology used:

This Commission has introduced this year a strengthened approach to its assessments in the annual reports. In addition to reporting on progress, much more emphasis is put on the state of play in the countries and where they stand in terms of preparedness for taking on the obligations of membership. At the same time, the reports provide even clearer guidance for what the countries are expected to do in both the short and long term. Harmonized assessment scales are used to assess both the state of play and the level of progress, increasing comparability between the countries. The new style of reporting provides greater transparency in the accession process. This should facilitate greater scrutiny of reforms by all stakeholders. This new approach has been applied in particular to a number of pilot areas directly linked to the fundamental reform required on the EU path. (European Commission Enlargement Strategy 2015)

The European Commission may recommend the start of negotiations with a state that has been granted candidate status if it meets the minimal benchmarks that the Commission has set, and the timing of a positive opinion varies, because conditionality is in play throughout the process. Whereas the opening of accession negotiations with Croatia took place six months after it had become a formal candidate, Serbia and Montenegro had to wait respectively fifteen and eighteen months. Macedonia received a critical progress report in 2006 (one year after it received candidate status) and only received the European Commission's first recommendation to start accession negotiations three years later.

Once the European Commission has issued its recommendation to the Council of the European Union, the Council unanimously decides on the start of negotiations with a given candidate state, which also marks the formal beginning of the negotiation *stage* in the enlargement procedure. In order not to delegitimize the credibility of the Commission's recommendation, the Council of the European Union in practice has always followed up the Commission's opinion, with one noteworthy exception: The Council has set aside six consecutive recommendations from the European Commission to start accession negotiations with Macedonia over the period from 2009 until 2015 due to a lack of unanimity among EU member states. Although an overwhelming majority of EU member states have been in favor of starting accession negotiations with Macedonia, the Greek government has effectively become a crucial veto player in the process. Greek obstructionism to Macedonia's bid to join the European Union has furthermore been supported by Bulgaria since 2013, following the worsening of bilateral relations

between Macedonia and Bulgaria. Although the Commission already recognized in 2008 that the resolution of the Greek-Macedonian name dispute will effectively form a precondition to EU accession, it has not actively engaged in the dispute, which is surprising given the weight the Commission ascribes to the process of normalization in the rest of the Western Balkans, most notably with regards to normalization of relations between Belgrade and Pristina. However, the institutional setup of the European Union severely hinders its ability to exert political leverage over one of its member states vis-à-vis an acceding state.

Entering the negotiation stage of the process is far from a symbolic exercise. The opening of negotiations is followed by extensive screening of a country's current level of harmonization with the European *acquis communautaire* by the European Commission and the candidate country. The screening process is important as it highlights the areas in which significant progress is required before accession talks can be conducted. The screening process is organized along thirty-three chapters, which range from agriculture and rural development to energy policies and the judiciary. The screening procedure also allows the candidate country to become more familiar with the *acquis*. Candidate countries in this stage have to submit specific action plans to the European Commission, in which they provide specific strategies on how to harmonize existing legislation with the *acquis*. Once the screening has been completed and chapter action plans have been approved by the Commission, the Commission may decide to open a chapter in order to formally start the process of aligning legislation in the particular field of the opened chapter. The opening and closing of chapters is the main benchmark in this stage to assess the progress a candidate country is making towards accession.

Since the European Commission adopted its new methodology in 2015, two chapters in particular are considered crucial in the negotiation stage: Chapter 23 on the Judiciary & Fundamental Rights, and Chapter 24 on Justice, Freedom, and Security. Although the protection of human rights and independence of the judiciary have always been important factors taken into account in the EU

accession process, the 'new approach' provides a more structured framework for negotiations. In future accession negotiations, the Commission will open Chapter 23 and Chapter 24 as early as possible, and will only aim to close them after all other chapters have been closed. The new approach also introduced interim benchmarks to further guide the reform process, and allows the Commission to halt all negotiations on other chapters if progress on Chapter 23 and Chapter 24 is lagging (European Commission Enlargement Strategy 2015). By putting these two particular chapters at the heart of accession negotiations, the Commission hopes for acceding countries to have a very firm judicial foundation in protecting the rights of its citizens. Recent backsliding in East European member states such as Poland and Hungary has arguably reinvigorated the belief that without a sound judicial system in new member states, basic human rights and the values enshrined in the Copenhagen Criteria will continue to be at risk. The first country to be affected by the Commission's new approach is Serbia, which is expected to open Chapter 23 and Chapter 24 before the end of 2016.



## ON CONDITIONALITY: EVOLUTION, DIFFERENTIATION, AND POLITICIZATION

The literature on European integration is not decisive on what exactly constitutes conditionality.

Different theorists have outlined different forms of conditionality, including *accession conditionality* (Grabbe 2002), *acquis conditionality* (Grabbe 2002, Schimmelfennig and Sedelmeier 2004), *democratic conditionality* (Pridham 2002) and *enlargement conditionality* (Hughes, Sasse and Gordon, 2004, Schimmelfennig and Sedelmeier 2004), which correspond with the different stages of the enlargement process. Whereas Pridham's concept of democratic conditionality puts much emphasis on the necessity of new member states to adopt the democratic standards prominently featured in the Copenhagen Criteria, the more contemporary notions recognize this particular type of conditionality as a subtype of the broader enlargement conditionality (Schimmelfennig and Sedelmeier 2004). Schimmelfennig and Sedelmeier argue that democratic or political conditionality is the soft counterpart — characteristic of the pre-negotiations stage dominated by the signing of Stabilization and Association Agreements — of the more well-defined *acquis* conditionality, which becomes more dominant later in the accession process. Hughes, Sasse and Gordon particularly stress the evolutionary nature of the different types of conditionality, and argue that accession to the European Union is a process marked by necessary differentiation, and that conditionality has been used in a rather flexible manner depending on a plurality of factors, including the policy area, the country concerned, and the political context in which it is applied (526). Recognizing the vast differences between the states applying for EU membership, Hughes, Sasse and Gordon emphasize that the subsequent enlargements of the European Union have led to further differentiation of conditionality. This thesis suggests that the flexibility and differentiation of political conditionality has been apparent with regards to Serbia and Macedonia, and takes the

position that these developments are at the heart of the diverging levels of EU accession progress in both countries.

Political conditionality originated in the field of development studies, where it was originally envisioned as a negative form of conditionality that allowed donor governments to put pressure on the recipient state by issuing threats of revoking aid when conditions were not sufficiently met (Stokke 1995, 12). Although it was primarily conceived as an enforcement mechanism, alternative conceptualizations have stressed the inverse possibility of positive political conditionality, in which the fulfillment of conditions leads to benefits (Koch 2015, 101). Political conditionality can therefore be considered both an enforcement mechanism and an incentive mechanism. In terms of enlargement, political conditionality is a specific subset of conditions that accompany (or intensify) the existing conditionality framework based on the Copenhagen Criteria and the *acquis communautaire*. As there is no guiding framework for political conditionality, the use thereof by the institutions of the European Union is highly contextualized. An analysis focusing on the coherent application of political conditionality is therefore a difficult exercise, as inconsistency should be regarded one of the defining features of political conditionality. However, this thesis puts forward the normative notion that the level of (temporal and geographical) coherence in the application of political conditionality by the institutions of the European Union should be taken into the equation determining the conditionality's imposition. From a rational-actor perspective, this would mean that political conditionalities that are not realistically attainable, or digress too far from the original conditionality structure (stretching the inconsistency), should not be imposed on prospective member states.

A second important distinction with regard to political conditionality is the difference between *implicit* and *explicit* political conditionality. The Dutch objective to impose tough ICTY-conditionality (a subset of political conditionality) on Serbia was an act of explicit political conditionality. The Greek objective to prevent Macedonia from joining the European Union prior to a solution to the name dispute

has been reached is an act of issuing implicit political conditionality; although it is not formally communicated to Macedonia, a solution to the name dispute is effectively a political condition Macedonia has to meet before it can join (and even move on towards) the European Union. Although one should expect explicit political conditionality to be more stringent due to its formal nature, the cases of Macedonia and Serbia reveal that implicit political conditionality can be applied just as strictly as explicit political conditionality.

The literature on conditionality has also shifted towards a more rational actor-approach as the enlargement procedure itself moved geographically closer towards Southeastern Europe, and perhaps more importantly, away from the Central European countries that had a long history of standing up to communism. Indeed, if the literature on the accession of Central European countries was largely driven by constructivist notions as *passive leverage* (Vachudova 2003), on a sense of belonging to a progressive value-system that was defined as 'European' (always in opposition to the Soviet *other*), the literature on the accession of the Western Balkans is more rooted in terms of *active leverage* (Vachudova 2003), with the EU explicitly eliciting compliance throughout the process. This shift has had an important repercussion for the use of political conditionality; it is now primarily used as a method of enforcement to guarantee necessary reforms in countries that are seemingly hesitant to adopt these reforms. This shift in theorizing Europeanization in part springs from different historical legacies; the softer, decentralized form of socialism that characterized the former Yugoslavia stands in stark contrast with the more Stalinist experiences of a socialist Central Europe that was eager to be incorporated into the existing West European structures after the fall of communism (Vachudova 2003). Furthermore, whereas the oppositional political forces in Central Europe often rallied on a platform of liberalization and resistance to the communist political and economic systems, in the former Yugoslavia the opposition to the communist regime was primarily characterized by its nationalist inclinations, which set the stage for a much more dramatic (and violent) transition process. The challenges to Europeanization

in the Balkans however also stem from developments within the European Union itself. The constant challenging of the European Union, both internally by its member states, and externally by the effects of globalization, economic crises, and the insecurity on the European periphery, has had its effect on the Union's attractiveness, and on relations between the European Union and its candidate states. In turn, conditionality has evolved from its more general reliance on the Copenhagen Criteria, and has nowadays also become a crucial mechanism for the European Union to exert increasing levels of political (and financial) pressure on countries that are willing to join.

Differentiation of EU conditionality is an important and politically controversial development in Southeastern Europe. According to Eli Gateva, differentiation of conditionality does not only occur along the different stages of the accession procedure but is also historically and politically determined (Gateva 26). The handing out of accession rewards — such as granting a country candidate status and the opening and closing of accession chapters — and the implicit and explicit threats issued by the different institutions of the European Union take place in changing political, geographical and strategic contexts, which undermines the continuity and consistency of the entire enlargement process. An example of the discontinuity can be found in the cases of Romania and Bulgaria, which nearly ten years after EU accession are still under comprehensive and innovative safeguard clauses better known as the Mechanism for Cooperation and Verification (CVM). The CVM was invoked by the European Commission to be of influence in the transitional process of new member states after they have acceded to the European Union. Although these safeguard clauses are instances of *post-accession conditionality*, the implementation thereof has also risen the bar in the pre-negotiation and negotiation stage of the enlargement process for the entire Western Balkans, with the laggards facing a level of country-specific critical scrutiny already in the process of the formal member state ratification of the Stabilization and Association Agreements that was absent when Romania and Bulgaria started their accession paths

towards the European Union. With regard to the negotiation stage of the enlargement procedure in Romania and Bulgaria, Gateva observes the following:

“Although the EU did not change the structure of the accession negotiations, the instrumental approach of the Commission to setting the range and scope of the closing benchmarks illustrates the increasing application of detailed and differentiated conditionality.” (92)

Country-specific conditionality in the Western Balkans — or, more precisely, concerning Serbia and Croatia — was initially focused on full cooperation with the International Criminal Tribunal for the Former Yugoslavia (ICTY). In December 2004, the Council of the European Union urged Croatia to fully cooperate with the ICTY, and rendered the opening of accession negotiations conditional on its compliance (Brussels European Council 2004). In practice, full cooperation meant timely and sufficient Croatian efforts to capture Ante Gotovina, who had been indicted by the ICTY on war crimes and crimes against humanity charges in connection with Operation Storm in 1995. Croatia failed to meet this requirement by the date that was set by the Commission — 17 March 2005 — and therefore the commencement of negotiations was postponed. Although this may seem a rather hard form of conditionality, Croatia eventually still commenced negotiations, even though Gotovina had not been arrested yet.

Cooperation with the ICTY as a mechanism of country-specific conditionality was to a large extent member state-driven, as the ratification of the Stabilization and Association Agreement had already been stalled over member states’ concern over cooperation with the ICTY. The United Kingdom, Italy, and the Netherlands had stalled ratification of Croatia’s SAA until the end of 2004, and continued to express their demand for full cooperation with the ICTY also in the next stage of the accession procedure. As the Council of the European Union has to decide unanimously on the start of accession negotiations with a candidate state, its decision-making arrangements provide member states with significant veto powers over a critical stage in the accession procedure, especially in light of country-specific conditionality.

Eventually however, the conditions for starting accession negotiations with the Western Balkan states gradually expanded. In November 2010, for example, in review of Albania's membership bid, the European Commission identified as many as twelve policy priorities that became conditions for Albania to start the negotiation stage of the enlargement process. On top of fulfilling the Copenhagen Criteria, Albania's opening of accession negotiations became conditional on the "adoption of pending laws requiring a reinforced majority in Parliament," the appointment of an Ombudsman, modification of the legislative framework for elections in line with OSCE-ODIHR recommendations<sup>3</sup>, depoliticization of the Department of Public Administration, reinforcing the rights of Roma, and so forth (Commission Opinion on Albania's Application for Membership, 2010).

The country-specific detail invoked here by the European Commission prior to the opening of accession negotiations signifies an important trend in the enlargement process. Gradually, the European Commission — prompted by the pivotal input of member states — is not only raising the bar for candidate states to meet criteria prior to the start of accession negotiations, but it is also transferring specific benchmarks that would beforehand be solely considered in the framework of key chapters of the *acquis* in the negotiation stage into the pre-negotiation stage of the process. This process is not inherently linked to Albania; it could also be observed in the negotiations with Bosnia and Herzegovina from the early-mid 2000s. In large part — and the Commission's reformed methodology hints at this in its desire to conduct 'interim' benchmarks — this 'advancement' of conditionality to earlier stages of the process stems from the desire of member states to have more control over the accession process along the entire length of the enlargement procedure. However, it also forms an attempt to stretch the pre-negotiation phase as long as possible, as the European Union believes that reform attempts are most successful when they are conducted as early on in the process as possible (General Affairs Council 2015).

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<sup>3</sup> These included the elimination of political party involvement in the selection of judges who adjudicate election appeals, clearer conditions to establish the necessity of repeat elections, restrictions on the provisions for public funding of electoral campaigns, and so forth (OSCE/ODIHR Election Report Albania, 2009).

Albania's long list of specific conditionalities for example stands in stark contrast with the country-specific conditionalities imposed on Bulgaria in the same stage of the enlargement procedure; back in 1999, the start of accession negotiations with Bulgaria was solely conditional on "acceptable closure dates for units 1-4 of the Kozloduy Nuclear Plant" (Commission Opinion on Bulgaria's Application for Membership, 1999). The large conditionality gap in this comparison indicates that over time, political conditionality has become institutionalized and is utilized more freely.

Increased levels of country-specific conditionality in response to earlier challenges faced, and the superimposition of reforms that were beforehand conducted in the negotiation stage onto the pre-negotiation stage are not inherently problematic developments. These changes in the enlargement procedure however do become problematic once the inconsistency in the application of conditionality not only increases from one enlargement wave to the other but also expands across candidate states in a geographical and not merely temporal context. As individual member states become more invested in the enlargement process, the risks of politicization are bound to increase, which in turn puts the credibility and the perceived technocratic nature of the enlargement process at risk. Although the Commission as the executive arm of the European Union should take a distinctively technocratic approach to enlargement, it naturally acts as an institution in a network of other European institutions — most notably the Council of the European Union— and its decision-making processes regarding enlargement do not take place in a sealed-off environment. Although by design, the Commission is the most detached and most technocratic player in the European polity, it also "embodies the tensions between technocratic, insulated decision making and democratically responsive supranational governance" (Rauh, 3). Furthermore, even though the European Commission drafts its own progress reports and membership application opinions, to a large extent it also relies on policy contributions of individual member states, external consultants, and the advice of international organizations such as the IMF, the World Bank, and the OSCE. The comparative analytical section of this thesis will explore how

the Commission's application of conditionality vis-à-vis Serbia and Macedonia has been haphazard at best.



## **THE (DIS)INCENTIVES OF COMPLIANCE: EUROPEAN PERSPECTIVES AND DOMESTIC POLICY PREFERENCES**

The normative pressures of Europeanization have managed to transform Central Europe not only because of the region's long-standing resistance to authoritarian rule. Several studies have revealed that international reform efforts in Central-Eastern Europe have also been successful because of the 'inspiring' role of the European Union, and the possibility to make reform-oriented coalitions with it (Jacoby 2006, Kelley 2004). With an inspired populace and prospective member states willing to enter into a political coalition with the European Union, formal adoption of reforms proceeded rather smoothly in most of Central-Eastern Europe. Political elites in most of Central-Eastern Europe faced relatively little opposition to the far-reaching reforms that were necessary after the fall of Communism. In a political context where the pro-European alignment of political elites is less obvious however, norms and values form much less of an accelerative factor. Indeed, as Judith G. Kelley concludes in her study of Europeanization in Central-Eastern Europe, "normative pressure alone is decreasingly effective as the domestic and institutional policy preferences diverge" (176). Hughes, Sasses and Gordon have also underscored the importance of domestic policy preferences in the enlargement process in Central-Eastern Europe, observing that "domestic institutional choices made during the early transition period outweigh and actually constrain the importance of external factors during enlargement" (8). When the institutional preferences of the European Union and domestic leadership are at odds, the prospects of a fruitful coalition remain low. This can have a dramatic impact on the pace of an acceding state's accession process.

In the context of the Western Balkans however, we may extend upon this notion and suggest that reform efforts— especially when brought about by institutional policy preferences that lack an

inherent, visible, and credible reward structure — can have the adverse effect of reinforcing undemocratic power structures in the target country. The clientelist and informal power structures that are prevalent in the Western Balkans have appeared to be resistant to socialization processes, in which the importance of normative pressure is emphasized and a mutually reinforcing reform dynamic between external actors and domestic policy preferences is likely to emerge. Crucial reforms instigated by the enlargement process, for example in restructuring the judiciary and the strengthening of civil society, often go against the domestic policy preferences in regimes featuring a high level of clientelism, and — as the case of Macedonia will show — can even be interpreted as threatening the social fabric and stability of a target state. This ‘hostile’ reception of EU influence has the potential to derail a country’s accession process, especially when the perceived domestic gain of reforms do not realistically warrant any short-term political commitment to the process. Such has also been the case in Serbia, where attempts at democratization and deconstruction of the clientelist political system were severely hamstrung by tough political conditionalities imposed on the country by individual EU member states. Only when Serbia’s European perspective appeared brighter on the horizon due to its eventual compliance with the ICTY did the domestic political calculation shift in favor of compliance, which in turn allowed for rapid advancement in the enlargement process. The comparison between Serbia and Macedonia will reveal that a credible membership perspective<sup>4</sup> and favorable domestic policy preferences are intrinsically linked by the laws of circular causation.

Both Serbia’s and Macedonia’s incentive structures have to a large extent been determined by

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<sup>4</sup> How to assess the credibility of a membership (European) perspective? This thesis builds on the notion that membership perspective should be visualized as a continuum instead of in absolute terms. The credibility of this perspective is partly determined by the reasonableness of the conditionality linked with it. If Kosovo’s perspective would be tied to recognition by all EU-member states, we can hardly assume the perspective to be credible, given the existence of five non-recognizing EU-member states. With regards to Macedonia and Serbia, the credibility of the perspective is similarly determined by the attainability of the conditions set, but also by the political environment in which the conditions are issued. In a scenario where the external political climate is hostile and the conditions set are politically unfeasible (or pragmatically unattainable) the credibility of the perspective should be put in doubt.

the external *veto players* of the enlargement process. The unanimous voting requirement in the Council of the European Union has held these countries back in different stages of the enlargement process. The existence of veto players is arguably the strongest disincentive to compliance with EU demands, for a variety of reasons. First of all, veto players allow domestic political elites to externalize their own political responsibility in the accession process. Because of their uncompromising nature, veto players are often domestically perceived as unjust or inherently biased, they allow political elites to blame their own non-commitment to reforms on the perceived unjustness of the enlargement procedure. The avoidance of responsibility in turn leads to an effect closely reminiscent of rallying ‘round the flag’, in which the veto player is politically ostracized by the forces of nationalism that the veto player has unwillingly helped to strengthen. Without a break in this cyclical process, the veto player’s veto may reinforce nationalist sentiment to such an extent that the domestic adoption cost of compliance with EU demands reaches a level that renders it politically very difficult for domestic political elites to overcome the obstacle that caused the veto in the first place.

Veto players also undermine the rewards that are driving much of the accession process in the Western Balkans. The accession model does not explicitly address the effects of a prolonged veto on the accessibility of rewards that are necessary for the accession procedure to sustain momentum. Overcoming the issue of veto players undermining the reward structure requires creative, ad-hoc political intervention from the European Commission. The Commission has tried to counter the loss of momentum over the vetoes cast with regard to the accession process of Macedonia by starting a High Level Dialogue in 2012, three years after Greece first objected to the start of accession negotiations with the country. The probability of the High Level Dialogue acting as a successful substitute to the important reward of starting accession negotiations was already low in 2012, and Macedonia’s further backsliding has revealed that the success of such an ad-hoc mechanism is to a large extent dependent on its credibility, which in turn is shaped by the level of alignment of the mechanism with the existing

incentive structure. When the mechanism is not deemed credible by the actors that bear responsibility for the implementation of reforms to guarantee the momentum of the accession process, the veto player has not only succeeded in obstructing a prospective member state's path towards accession, but has also derailed the original incentive structure to such an extent that it will take a momentous level of commitment by the Commission to overcome the impasse. Hence, the Commission has repeatedly stated its desire for Greece to lift its veto as opposed to accepting the veto as a given and tried to continue the accession process by working around it (European Commission Enlargement Strategy 2009, 2010, 2011, 2012, 2013 and 2014).

This brief reflection on the accession process served to highlight how complex the entire procedure has become since it was first envisioned for Central-Eastern Europe by the European Community after the fall of Communism. It also highlights how political the process has become now the different actors involved have learned the lessons of earlier enlargement waves, most notably that of the necessity to use political conditionality prior to the accession of new member states. Differentiation of political conditionality and the emergence of tactical vetoing are important developments that undermine the perceived technocratic nature of Enlargement. In the following section, it will become clear how these developments have contributed to the diverging levels of EU-accession progress in Macedonia and in Serbia.

## **MACEDONIA'S EU ACCESSION: FROM THE ARBITRATION COMMISSION TO THE PRZHINO AGREEMENT**

Strengthening diplomatic relations with the European Union has been a strategic priority of the Republic of Macedonia ever since it declared its independence from the Socialist Federal Republic of Yugoslavia in 1991. From the outset, this strategic priority was determined by Macedonia's security concerns. With war raging in Croatia and in Bosnia-Herzegovina, and tensions rising in Serbia's autonomous province of Kosovo, the international community feared that an outbreak of conflict in Macedonia would be inevitable. Like its northern ex-Yugoslav neighbors, the Republic of Macedonia features a delicate multiethnic population pattern, with the sizeable Albanian minority making up about a quarter of the country's population. The Macedonian-Albanian minority is distinct from the ethnic Macedonian majority on the basis of religion and language; whereas ethnic Albanians in Macedonia are predominantly Muslim and speak the Albanian language as their mother tongue, ethnic Macedonians are predominantly Christian-Orthodox and speak Macedonian. Although many Macedonian-Albanians have adopted Macedonian as a second language, the Albanian language is unintelligible to ethnic Macedonians, further establishing the cultural divide. Although Macedonia's ethnic divisions do not constitute a security concern *an sich*, the international community aptly realized that the violent collapse of Yugoslavia elsewhere in the region could easily form a precursor to conflict in Macedonia. Therefore, in 1992, the United Nations decided to expand its United Nations Protection Force, which was initially deployed to Croatia, to the Albanian-Macedonian border, and the Organization for Security and Cooperation in Europe (OSCE) established a spillover prevention mission in Skopje, both with the intention to prevent an outbreak of conflict in Macedonia.

In light of these concerns, the Council of Ministers of the European Economic Community (EEC)

in 1991 sought the advice of the Arbitration Commission on the Conference on Yugoslavia, whose task it was to assess the legality of recognizing the new republics that emerged from the SFRY. The Arbitration Commission suggested recognition of Macedonia's independence after certain pre-conditions had been met. These pre-conditions in hindsight marked the start of EU conditionality vis-à-vis Macedonia. The following three pre-conditions were set by the Arbitration Commission (Ramet, 185):

- Adoption of amendments to the constitution (Article and Article 49) that ensured the respect for existing state borders
- Declaring explicitly that the country possessed no territorial pretensions toward any of its neighbors
- Assuring explicitly that the country would abstain from interfering in the internal affairs of the Hellenic Republic

Naturally, these pre-conditions were the result of extensive diplomatic pressure from Greece on the Arbitration Commission. Macedonia however immediately<sup>5</sup> followed suit and adapted the constitution, declared that it did not hold any territorial pretensions, and assured Greece that it would abstain from interfering in its internal affairs. Despite Macedonia's quick fulfillment of the Arbitration Commission's demands, the EEC did not follow up the commission's opinion and decided not to recognize Macedonia's independence. Six months after the advice of the Arbitration Commission had been issued, the Council issued a statement including a new precondition that was absent in the conclusions of the Arbitration Commission:

The European Council reiterates the position taken by the Community and its member states in Guimaraes (Portugal) on the request of the former Yugoslav Republic of Macedonia to be recognized as an independent State. It expresses its readiness to recognize that republic within its existing borders according to their declaration on 16 December 1991 under a name which does not include the term Macedonia. It furthermore considers the border of this republic as inviolable and guaranteed in accordance with the principles of the UN Charter and the Charter of Paris (European Council Lisbon, 1992).

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<sup>5</sup> The Macedonian parliament adopted the constitutional changes and fulfilled all demands within three weeks after they had been set by the Arbitration Commission (December 16, 1991 – January 6, 1992) (Ripiloski, 70).

The Lisbon Declaration further exacerbated tensions in Macedonia. The nationalistic Internal Macedonian Revolutionary Organization – Democratic Party for Macedonian National Unity (VMRO-DPMNE), which had won the first multi-party elections in 1990, had been representing Macedonian independence as the first step towards reunification of a “Greater Macedonia” (Ripiloski, 43). VMRO-DPMNE’s efforts to frame the independence question in nationalistic terms were highly successful, and a nationalistic ‘fever’ gripped the country in 1992. More than a hundred thousand Macedonians demonstrated against the Lisbon Declaration in July 1992, which in turn increased Greek hostility to its northern neighbor. Furthermore, the public outcry had the side effect of hindering the technical government in its efforts to sustain interethnic relations between Albanians and Macedonians, as “giving in” to the demands of the Albanian minority became increasingly politically unfeasible as a result of the nationalism that had been rising since the name dispute had become a prominent political mobilization tool (Ahrens 2006 in Ripiloski, 43). The conditionality introduced in the Lisbon Declaration therefore directly affected the security environment in Macedonia in a negative way and also institutionalized the name dispute on a European level. Furthermore, the decision of the Council to sidestep the recommendation of the Arbitration Commission in hindsight also set the stage for the interinstitutional disagreement between the Council and the European Commission regarding Macedonia in the years to come.

In 1997, the European Community signed a cooperation agreement with the Republic of Macedonia under the country’s referential name (the former Yugoslav Republic of Macedonia). It aimed to promote cooperation in the fields of transport and trade, and was accompanied by a financial protocol for the period 1996-2000 that included a 150 million euro loan from the European Investment Bank, meant for infrastructural development that would “ensure uninterrupted links between the member states and the Community” (Cooperation Agreement Macedonia, 1997). In the absence of the Stabilization and Association framework that would be established a few years later, the cooperation

agreement was primarily intended to prevent an interruption of international trade along the critical Corridor X that links Skopje with Thessaloniki. The Greek-Macedonian border had been subject to Greek economic embargoes and closures throughout the 1990s, which had a severe impact on the Macedonian economy (Ripiloski, 40). The agreement sought to facilitate trade along this corridor, but it did not address the rising political tensions in the country between Macedonians and Albanians. The cooperation between the Community and the Republic of Macedonia was purely financial at this point, exclusively focusing on trade relations and the easing of import of goods deemed interesting for the Community, such as “wines and spirits” (Cooperation Agreement Macedonia, 1997).

On March 21, 2001, the European Union and its member states signed the Stabilization and Association Agreement with Macedonia as part of the Stabilization and Association Process. By this date however, Macedonia had already seen intense interethnic clashes and was on the brink of a civil war. The 2001 conflict affirmed the concerns that the international community had voiced ever since Macedonia’s independence. Rising nationalism within Macedonia, aggravated by the economic crises resulting from the Greek trade embargoes, had had a detrimental effect on interethnic relations. The 1999 war in nearby Kosovo furthermore had caused an unprecedented refugee wave which drastically altered Macedonia’s ethnic makeup. The success of the Kosovo Liberation Army in bringing down Serbian rule over Kosovo served as an inspiration for KLA affiliates in Macedonia. The European Union recognized the need to step up its engagement with Macedonia, — an engagement that so far had been characterized by Greek demands — primarily because of the necessity to prevent another war in the unstable Balkans.

Later that year in August, the European Union took the lead in bringing about a negotiated peace settlement. The Ohrid Framework Agreement was brokered by Francois Leotard on behalf of the European Union and James Pardew as a representative of the United States, in close cooperation with the leaders of the most important Albanian and Macedonian political parties in Macedonia. The



agreement called for another amendment to the preamble of the constitution — which had been ignored by the Arbitration Commission — in order to declare the Republic of Macedonia a state of all its citizens, as opposed to a state “of the Macedonian people [...] and the Albanians, Turks, Vlachs, Roma and other nationalities” (Brunnbauer, 4). The agreement also established Albanian as an official language on the central state level, as well as on the municipal level in municipalities where more than a fifth of the population spoke Albanian. It furthermore provided for stronger participation of Albanians in public institutions, equitable representation in the police apparatus, and allowed for tertiary education in the Albanian language (Ohrid Framework Agreement).

Implementation of the Ohrid Framework Agreement (OFA) formed the cornerstone of relations between the European Union and the Republic of Macedonia in the years to come. The primacy the OFA’s implementation enjoyed is probably the main reason why Macedonia was the first country in the region to have its Stabilization and Association Agreement ratified by all EU member states. As the country had narrowly avoided a full-scale civil war, EU member states arguably prioritized security concerns over a rigorous assessment of whether the SAA should be ratified. Additional conditionality was not formally imposed on Macedonia in this stage of the accession process, in part due to growing disillusionment within the European Union with Greece’s uncompromising stance (Glenny, 240). Radmila Sekerinska, the Deputy Prime Minister for European Integration from 2002 to 2006, affirms that Macedonia’s progress towards EU accession was —in these years— for the most part linked to successful implementation of the OFA:

When politicians and experts read the Ohrid agreement, they said: ‘Oh my God, this would be difficult to implement even in a richer, stronger and more mature country. And it is difficult to do it in few years.’ So they said: ‘Ok, if you do at least this, then you’ll show that Macedonia can actually progress in the future.’ And we took it for granted and we said: ‘OK, if it’s the Ohrid Agreement [that counts] then so be it.’ We were aware that Macedonia would not be a perfect candidate country in a few years, but the Ohrid Agreement was the big argument in our favour because it became clear in 2005 that Macedonia has implemented the most difficult parts of the Ohrid Agreement

against all odds and against all predictions. (The Ohrid Agreement and its Implementation, 2006)

Rapid implementation of the agreement followed. The number of Albanians in the police force sextupled in this period; Albanian participation in the armed forces quadrupled; Albanian universities faced little resistance in offering an Albanian language curriculum; and the number of Albanians enrolled in university education rose from 2,285 in 2001 to more than 9,540 in 2005 (The Ohrid Agreement and its Implementation, 2006).

Formally, Macedonia's EU accession progress in this phase required far more than successful implementation of the Ohrid Framework Agreement, which in line with the established accession framework should have been considered an instance of political conditionality. The result of the primacy that implementation of the OFA received was however that implementation of the OFA to a large extent substituted the accession framework established under the SAA. Macedonia was highly aware of this political reality, and submitted its EU membership bid to the Council on 22 March 2004 in the hope that successful implementation of the agreement would suffice to move on to the next stage of the process. The European Commission set out to analyze the application on the basis of the country's capacity to meet the Copenhagen Criteria and the conditions set for the Stabilization and Association Process. The Commission confirmed that the main challenge for the country's political stability since it became independent was the 2001 crisis (Conclusions on FYROM 2005, 3), and concluded that the new legislative framework had been implemented "effectively" (ibid. 3). With regard to other political criteria however, the Commission noted the "serious irregularities of the 2005 local elections,"<sup>6</sup> the abstaining

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<sup>6</sup> "The local elections in 2005 displayed a series of serious irregularities," according to the European Commission. These irregularities followed on irregularities during the general elections in 2002. In reaction to the elections in 2002, OSCE-ODIHR had issued a list of recommendations for Macedonia to implement before the 2005 elections, which is also noted as a soft conditionality in the EU Progress Report of 2005. The implementation of these recommendations did not occur, but did not restrain the European Commission in recommending Macedonia's EU candidacy. This sidestepping of conditionality based on free and fair elections stands in sharp contrast with the very tough election conditionality imposed on Macedonia as a result of the Przhino Agreement of 2016 and is a clear act of conditionality differentiation in a temporal context.

of one opposition party from Parliament, and the high level of corruption that affected many aspects of the economic, social, and political life of the country (ibid. 4). Similar concerns continue to appear in Macedonia's progress reports up until today. In its conclusion, the Commission however counterintuitively concluded the following:

In the light of these considerations, and taking into account, *in particular*, the substantial progress made by the country in completing the legislative framework related to the Ohrid Framework Agreement of 2001, and following four years of implementation of the Stabilization and Association Agreement (including the application of its trade related provisions in the form of an Interim Agreement) the Commission recommends that the Council should grant the status of candidate country to the former Yugoslav Republic of Macedonia. This status is a political recognition of a closer relationship between the EU and the former Yugoslav Republic of Macedonia on its way towards membership. (ibid. 7, emphasis mine)

In December 2005, only one month after the publication of the Commission's recommendation, the Council heeded the Commission's advice and granted Macedonia its candidate status. Even though Greece could have deferred a unanimous Council decision, it chose not to do so, presumably under diplomatic pressure from influential EU member states.

The granting of candidate status by the end of 2005 marked the high point of Macedonia's EU accession 'momentum.' Macedonia's momentum by the end of 2005 was a product of its relatively successful implementation of the Ohrid Framework Agreement and the political willingness within the European Union to accelerate the pace of accession. The European context here is one in which enlargement fatigue had only started to set in. In 2004 ten new member states joined the European Union, most of whom shared a historical legacy of communism with the former Yugoslavia. It was only natural for the newly acceding states not to hinder aspirant member states so shortly after their own accession to the European Union. The rejection of the European Constitution in referenda in France and the Netherlands in 2005 set the stage for growing Euroscepticism in the decade to come, but by the end of 2005 these forces were still relatively marginalized on the European stage. Furthermore, the delay that Romania and Bulgaria experienced in acceding to the European Union was still interpreted in a

constructive fashion, with many EU member states not willing to impose new conditionalities on these two aspirant member states. The conclusion of accession negotiations with Bulgaria was for example already confirmed in December 2004, when the Council decided to only “strictly monitor” Bulgaria’s progress before it eventually acceded to the EU in January 2007 (Brussels European Council, 2004). In hindsight, the fact that Bulgaria is still supervised under a safeguard clause more than eight years later renders the 2004 decision not to impose new conditionalities highly counterintuitive. It indicates that accession momentum is as much shaped by the attitude of the aspirant member state as by the European political climate at the time.

Unfortunately for Macedonia’s EU-accession process, both of these factors have taken a dramatic hit since the country received its candidacy in 2005. Many international commentators have attributed the inversion of momentum to a change in domestic policy preferences and a rise in authoritarian governing since VMRO-DPMNE won the elections in 2006 and Nikola Gruevski came to power (Byrne 2015, Fouere 2015, Dimitrov and Fouere 2015, Stavrevska 2015, Taleski 2012). Such a perspective however underemphasizes the ‘artificial’ nature of the momentum created post-2001, downplays how political disagreement within the European Union and in NATO have significantly altered the domestic adoption costs of Euro-Atlantic integration, and ignore the inconsistent application of EU-conditionalities in the Western Balkans.

Gruevski — who was Minister of Finance from 1998 to 2002 — was elected in 2006 on a platform calling for further stabilization, commitment to Euro-Atlantic integration, and most importantly, economic revitalization. As Minister of Finance, he introduced the Value Added Tax in Macedonia, improved conditions for private sector development by lowering customs tariffs and taxes, denationalized the telecommunication and oil industries, and drastically reduced public administration staffing (Address by FYROM Minister of Finance, 2002). Building on his political profile as a reformer, Prime Minister Gruevski initially set out to accelerate the liberalization of the Macedonian economy.

Simultaneously however, the new VMRO-DPMNE-led government, probably in an effort to appeal to its less moderate wing, also made an important mistake by answering the lifting of Greek obstructionism in the Council with increased Macedonian nationalism. Although VMRO-DPMNE had not been running on an explicitly nationalistic agenda in the 2006 elections (as opposed to the two Albanian parties)<sup>7</sup>, the party's ideological dependency on the historical Internal Macedonian Revolutionary Organization (IMRO) naturally invites for nationalistic policy preferences. The most apparent move that angered Greece and set in motion renewed diplomatic tensions was the announcement of the renaming of Skopje's airport to "Alexander the Great" airport by the end of 2006. Other symbolic moves that angered the Greek government were revisions made in Macedonian schoolbooks describing the continual lineage of the Macedonian people and VMRO-DPMNE's inclination to not shy away from ultranationalist photo opportunities, such as the laying of a wreath on a monument to which a map of the so-called "Greater Macedonia" was attached (Bakoyannis, 2008).

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<sup>7</sup> The 2006 elections featured relatively little nationalistic appeals on the ethnic-Macedonian side. However, the campaigns of the Democratic Party of Albanians (DPA) and the Democratic Union for Integration (DUI) in 2006 featured excessive nationalism, with the elections itself marred by intra-Albanian violence (OSCE/ODIHR FYROM Election Observation Mission Final Report, 2006).

## **“Ç’EST LE NOM!”**

The renewed Greek-Macedonian tensions culminated in the Greek insistence not to provide Macedonia an invitation to join NATO at the 20<sup>th</sup> NATO Summit in Bucharest in April 2008. In hindsight, this decision may as well have marked the beginning of Macedonia’s backsliding in the EU accession process. Whereas the European Commission issued a critical progress report in 2006, citing the “slow pace” of reforms (European Commission Enlargement Strategy 2006, 11), in 2007 the language became a bit more optimistic, with the Commission citing “some progress” in addressing political criteria and “gradual implementation” of the pivotal public administration reform. The Commission however also notes in 2007 that “actions which would negatively affect good neighborly relations should be avoided,” clearly referring to the renewed diplomatic tensions between Greece and Macedonia (European Commission Enlargement Strategy 2007, 38). In 2008, the wording remained relatively encouraging, with the Commission citing that “progress has been made in a number of key areas [...] in particular as regards judicial reform, police reform, and implementation of the requirements under the Stabilization and Association Agreement” (European Commission Enlargement Strategy 2008, 4). However, in 2008 the Commission also noted that Macedonia “needs to ensure the holding of free and fair elections and to improve the dialogue between major political parties and actors” (ibid. 14). This condition —which was by no means new; the same wording already came to the surface in 2004 and 2006 and has become the EU’s main conditionality vis-à-vis Macedonia by 2016 — appears to be crucial, given the first paragraph and sentence of the Commission’s conclusion in 2009 in which it recommends the start of negotiations:

*The presidential and local elections of 2009 met most international standards and most of the recommendations of the OSCE/ODIHR from previous elections have been implemented. Political dialogue has improved: the governing coalition is stable, the political climate is more cooperative and the parliament is more effective. The key Accession Partnership priorities regarding the reform of the police, the judiciary, public administration and corruption have been substantially addressed. On this basis, and in view of the overall progress of reforms, the Commission considers that the country sufficiently fulfils the political criteria. (European Commission Enlargement Strategy 2009, emphasis mine)*

Comparing the Commission's progress report of 2005 (in which the Commission recommended Macedonia's candidacy to the Council) with the Commission's conclusions of 2009 (in which it recommended the start of accession negotiations to the Council) delivers a paradoxical result. Whereas Macedonia received the candidacy recommendation in spite of "serious irregularities" during the local elections in 2005 (European Commission Enlargement Strategy 2005, 4), in 2009 the Commission considered the implementation of OSCE/ODIHR recommendations an important prerequisite for the start of accession negotiations. This inconsistency on the one hand confirms the assertion that security concerns and successful implementation of the Ohrid Framework Agreement held primacy over free and fair elections in 2005. Additionally however, it indicates the political sensitiveness of the Commission, which was very well aware that a positive recommendation could have backfired immensely if it had been issued in 2008, shortly after the NATO Summit in Bucharest, at the height of Macedonian-Greek animosity. In 2008, French Foreign Minister Kouchner confirmed that such sentiments played a very important role in the input that France delivered for Macedonia's 2008 progress report:

The problem of Macedonia, it's the name [...] Frankly, you can ask me about visas and about progress all you like; as long as the name issue is not solved, you are knocking on the wrong door. This problem must be solved. (Vucheva 2008)

There is another viable reason to believe that the Commission's decision to recommend the opening of accession negotiations in 2009 instead of 2008 could be linked with political developments outside Macedonia. In June 2009, the Panhellenic Socialist Movement (PASOK), headed by George Papandreou — the son of Andreas Papandreou, who was Prime Minister of Greece when relations hit a

low in the 1990s — decisively won the European Parliament elections in Greece, and was expected to sweep the upcoming general elections in October 2009. The conservative New Democracy party — Foreign Minister Dora Bakoyannis' party — was trailing PASOK in the polls, and a change of political leadership in Greece was highly probable. The Commission released its conclusion on Macedonia short of two weeks after the general elections in Greece had taken place, and a week after the installment of Papandreou's new cabinet (which included Papandreou as the new Minister of Foreign Affairs<sup>8</sup>). If we understand the Commission to indeed be a political actor in a complex network of European institutions — and as an institution interested in maximizing its own political credibility — the political opening offered by a new Papandreou government could make a crucial difference in the reception of the Commission's positive recommendation by the Council.

Even though the change in political leadership in Greece may have been an additional encouragement for the Commission to issue a positive recommendation for Macedonia, the recommendation still backfired when the foreign ministers of the European Union were not able to reach a compromise on a Council decision in December 2009. Although Sweden — which held the EU-presidency at the time — initially prepared a draft conclusion in which it proposed to postpone a decision until March 2010, Papandreou insisted that the Council had to postpone its decision on Macedonia's start of accession negotiations until a solution to the name dispute had been reached (*BalkanInsight*, 2009). Due to the Council's unanimity requirement in this stage of the enlargement process, no decision on the start of accession negotiations with Macedonia could be made, and the Council was forced to postpone its decision indefinitely. A disappointed Gruevski noted after the meeting that "Greece had done big political damage, and history will prove this" (*ibid.*).

Gruevski's warning words can now be considered of prophetic value. Even though he held the

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<sup>8</sup> George Papandreou was acting Minister of Foreign Affairs of Greece from 6 October 2009 until 7 September 2010, when he was succeeded by his Alternate Minister of Foreign Affairs, Dimitrios Droutsas.



most powerful political position in Macedonia for nearly ten years, and was therefore able to shape the direction of the country for a decade, the Greek veto in the Council delivered an enormous blow to the credibility of the EU in Macedonia. The impact of the veto was twofold: Firstly, it removed a major instrument for securing compliance from the EU's toolbox (Hughes 2012, 89), and secondly, the veto to a large extent inverted the incentives to comply with the Commission's demands.

The first impact of the veto on Macedonia's EU accession progress (the removal of a credible membership perspective) has been resoundingly clear. Following its first recommendation in 2009, the European Commission recommended the start of accession negotiations with Macedonia subsequently in 2010, 2011, 2012, 2013 and 2014. As of 2016, the Council has yet to make a decision on all of these recommendations. In 2011, already noticing that European influence in Macedonia was waning, the Commission stated the following in its conclusion, underscoring the importance of credibility:

The Commission notes that the Council has not been able to follow up on the Commission recommendation dating from 2009 for opening accession negotiations with the former Yugoslav Republic of Macedonia. Moving the accession process of this country to its next stage will benefit the momentum of reforms and the climate of inter-ethnic relations, and will impact positively on the region. The dispute between Greece and the former Yugoslav Republic of Macedonia over the name of the latter has remained unresolved for almost two decades. A dialogue under the auspices of the UN has been ongoing since the 1990s and it is complemented since 2009 by bilateral contacts, including at Prime Ministerial level. However, these processes have yet to yield results. Maintaining good neighborly relations, including a negotiated and mutually acceptable solution to the name issue, under the auspices of the UN, remains essential. The Commission underlines the need for a redoubling of efforts for a solution without further delay. It also recalls that actions and statements that could negatively impact on good neighborly relations should be avoided. A solution to the name issue is long overdue. (European Commission Enlargement Strategy 2011, 14)

In an effort to overcome the impasse, the European Union in 2012 launched the aforementioned High-Level Accession Dialogue with Macedonia. The goal of the dialogue was to enhance the EU's credibility in the country by giving it an alternative framework to push progress in strategic priority areas — such as the judiciary and the establishment Rule of Law — prior to the formal start of negotiations. Without the membership perspective however, the High-Level Accession Dialogue failed to be a determining

factor in preventing Macedonia's backsliding (Karadjoski 2015). The Commission was very well aware of this in its reflections on the alternative framework in its 2013 conclusions:

The High Level Accession Dialogue is a useful tool which will continue to focus on key issues, including good neighborly relations, but it cannot replace the accession negotiations (European Commission Enlargement Strategy 2013, 17).

The Commission furthermore dramatically altered its language in 2013 in an unusual effort to convince the Council that another postponement could prove disastrous for the country:

This is the fifth time the Commission recommends the opening of accession negotiations with this country. No decision has been taken by the Council to date. Failure to act on this recommendation poses potentially serious challenges to the former Yugoslav Republic of Macedonia and to the EU. This calls into question the credibility of the enlargement process, which is based on clear conditionality and the principle of own merits. The lack of a credible EU perspective puts at risk the sustainability of the country's reform efforts.

The Commission reiterates its intention to present without delay a proposal for a negotiating framework, which takes into account the need to solve the name issue at an early stage of accession negotiations, and will carry out the process of analytical examination of the EU acquis beginning with the chapters on the judiciary and fundamental rights, and justice, freedom and security. The Commission considers that, if the screening and the Council discussions on the negotiating framework were under way, the necessary momentum could be created which would support finding a negotiated and mutually accepted solution to the name issue even before negotiating chapters are opened. (European Commission Enlargement Strategy 2013, 18)

The European Commission's regret over the inconclusiveness of the Council was shared by the Macedonian government, which ever since the first veto in 2009 has attempted to consolidate its power outside of the framework of EU accession. This alternative consolidation of political power speaks to the assumption made in the first part of this thesis: That reform efforts may have the adverse effect of consolidating authoritarian structures if these efforts are not met with a credible and clearly visible membership perspective. In Macedonia, the continuous indecision of the Council has allowed the Macedonian government to set up a political narrative in which outside actors bear sole responsibility for the country's plights. For example, when the largest opposition party in Macedonia in 2014 revealed that the Gruevski regime conducted widespread wiretapping on more than 20,000 people in the country

in order to sustain its political power, the government responded by naming opposition leader Zoran Zaev a “puppet of foreign services” (*BalkanInsight*, 2015). Similarly, demonstrators, intellectuals, and even EU mediators<sup>9</sup> have been condemned by official government channels for their connections with George Soros, or are simply called out for acting ‘Greek.’ This nationalistic condemnation strategy would bear far less popular credibility if the VMRO-DPMNE-led governments had not been able to base these narratives on the European credibility deficit that emerged as a result of the successive Greek vetoes in NATO and in the Council. Furthermore, it should be expected that in a scenario where Macedonia’s bid to join the EU had not been derailed by Greece, the regime would have been held more accountable for its increasingly authoritarian nature, given the fact that in such a scenario, a political alternative would have been able to rally for the European cause. Although this scenario has played out earlier in countries whose EU accession progress was severely stalled, — Mikuláš Dzurinda’s defeat of Vladimír Mečiar in 1998 would be the closest analogy — the complete lack of a credible European perspective for Macedonia renders this political alternative highly unviable. The lack of perspective therefore not only hinders Macedonia’s EU accession, but reinforces anti-European sentiment, and has been an important tool in the consolidation of power under Gruevski.

In 2015, after six successive positive recommendations, the Commission decided to opt for a different strategy to prevent additional backsliding in Macedonia, in which it tried to realign Macedonia’s readiness to start EU-accession negotiations in terms of *acquis conditionality* with the political conditionality of adhering to the EU-brokered agreement struck in June 2015 (the Przhino Agreement) that attempted to overcome the deep political crisis in the country:

The EU accession process of the former Yugoslav Republic of Macedonia remains at an impasse. The revelations in the context of the wiretapping case have corroborated

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<sup>9</sup> Peter VanHoutte, the Belgian EU mediator leading inter-party talks prior to the early elections of 2016, was blocked from continuing mediation by VMRO-DPMNE after he had made satirical comments on the party’s stance in the mediations on his personal Twitter page. In an official party communication, VanHoutte was advised to spend his “90-day tourist visa” in a meaningful way, for example by writing a tourist guide and visiting the Museum of the Macedonian Revolutionary Struggle in Skopje (*META*, 2016).

earlier serious concerns of the Commission and others over political interference in the judiciary and the media, increasing politicization of state institutions and the conduct of elections. At the same time, the country maintains a high level of alignment with the acquis relative to where it is in the accession process. Political actors now need to concentrate fully on implementing the Commission's "Urgent Reform Priorities" and overcoming the political crisis [...] It remains essential that decisive steps are taken towards resolving the 'name issue'. The former Yugoslav Republic of Macedonia has been seriously affected by the refugee crisis, managing an influx of more than two hundred thousand third country nationals transiting its territory since the beginning of the year. In the light of the progress made so far in the implementation of the June/July political agreement, the Commission is prepared to extend its recommendation to open accession negotiations with the former Yugoslav Republic of Macedonia. This shall, however, be conditional on the continued implementation of the June/July political agreement and substantial progress in the implementation of the urgent reform priorities. This issue shall be addressed again after the elections. (European Commission Progress Report on Macedonia 2015)

The drastic shift in the stance of the Commission is fueled by two developments. First of all, it is an effort to tie membership perspective to the political arrangement made in June 2015, in which the four largest political parties in Macedonia agreed to install a caretaker government without Gruevski, and hold early elections, with the caveat that those elections have to be free and fair. In a sense, this is an ironic requirement, given the fact that the Commission gave prevalence to successful implementation of the Ohrid Framework Agreement in 2005 over elections that clearly did not adhere to OSCE/ODIHR standards. The second development influencing the Commission's different strategy is the fact that the political crisis in Macedonia in 2015 became linked with two major security crises: The enduring Syrian refugee crisis, and the reappearance of the Kosovar-Albanian insurgency movement, which led to warlike scenes and 18 casualties in the ethnically divided city of Kumanovo in May. Both events have led to a highly visible increase in EU engagement in Macedonia, with the aforementioned Przhino-agreement as the clearest example. The first-ever issuance of a *conditional recommendation* to start accession negotiations only underscores how conditionality — at least in the case of Macedonia — can be utilized in near limitless fashion and is always bound to political circumstance.

## **SERBIA'S EU ACCESSION: COMMON EUROPEAN INTERESTS AND CONSTRUCTIVE AMBIGUITY**

How has the application of conditionality, and the role of the European Commission vis-à-vis the Council, been different in the case of Serbia? Having established that Macedonia's backsliding is intrinsically linked with its loss of a European perspective, the example of Serbia highlights how the differentiation of conditionality and politicization of enlargement can also jumpstart a country's accession process.

Serbia's European perspective took off much later than that of Macedonia due to the country's role in the breakup of Yugoslavia, the Bosnian and Croatian Wars, and the subsequent conflict in Kosovo. The violent legacy of Slobodan Milosevic' rule left the European Union very hesitant to connect necessary democratization with the carrot of a European perspective. Henceforth, not the European Union but the United States was the main driver behind the initial push for democratization post-2000, long after UN sanctions against the Federal Republic of Yugoslavia (FRY) were lifted. It was also the United States — more specifically the Bush Jr. administration — that introduced the primacy of cooperation with the International Criminal Tribunal on Yugoslavia (ICTY) as a condition for further financial aid. In her memoirs, Carla Del Ponte, the Chief Prosecutor of the ICTY from 1999 to 2008, argued that it took years of diplomatic pressure from the United States before the European Union started to introduce ICTY conditionality in its negotiations with FRY (Del Ponte, 152).

When the European Union established the Stabilization and Association Process in 1999, FRY was left out of the process due to the ongoing war in Kosovo. When FRY was invited to join the SAP in late 2000, cooperation with the ICTY did not yet form a political conditionality. As mentioned earlier, the Thessaloniki Summit of June 2003 marked the beginning of a clear EU perspective for the entire Western

Balkans, including FRY, but ICTY cooperation was not yet tied to that perspective (Rajkovic, 85). In its feasibility study — which the EU conducts prior to the negotiation of an SAA — cooperation with the ICTY was also largely disregarded until a highly critical report on Serbia’s cooperation with the ICTY was published by the ICTY in 2004 (Dobbels, 9). In a response to this report, the EU decided to delay the finalization of the feasibility study, which stalled a possible recommendation by the Commission to start negotiations on the opening of the SAA. This delay marks the first instance in which the EU tied ‘full cooperation’ with the ICTY to progress in the EU accession process. Commissioner Olli Rehn shortly afterwards confirmed the new approach, noting that “serious progress on cooperation with the ICTY was a precondition for a positive assessment” (Rajkovic, 87).

The establishment of cooperation with the ICTY as political conditionality, first as part of the feasibility study, and later in negotiations over the SAA, coincides temporally with the primacy given to successful implementation of the Ohrid Framework Agreement with regards to Macedonia’s EU-accession process. Furthermore, the granting of candidacy status to Macedonia and the start of accession negotiations with Croatia happened in the same year as the commencement of SAA negotiations with the now renamed State Union of Serbia and Montenegro<sup>10</sup>. All these rewards were put forward *in spite of* non-compliance with the established political conditions: Macedonia did not hold the fair and free elections that were required, Croatia did not arrest Ante Gotovina until after it had received the reward of starting accession negotiations, and Serbia — whose newly installed Kostunica-led government had won elections on an anti-ICTY platform — also did very little to adhere to the new ICTY conditionality. With domestic developments clearly departing from the standards the EU had in mind for the Western Balkans in 2005, the favorable political climate within the EU at the time must

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<sup>10</sup> Referred to as Serbia for the remainder of this thesis. The EU adopted a two-track approach in 2005 in which it separated the accession paths of Serbia and of Montenegro for all purposes other than “the political part of the SAA.” In 2006, Montenegro declared its independence, which resulted in the further deconstruction of the shared SAA.

have played a determining role. In hindsight, it should be concluded that concerns over the stability of the Western Balkans, and the artificial creation of enlargement momentum — probably connected with the optimism surrounding the 2004 enlargement wave — trumped adherence to strict conditionality.

The case of Macedonia has shown that Greece reemerged as a veto player in Macedonia's accession process at the Bucharest Summit of 2008 and in response to the first positive recommendation to start accession negotiations issued by the Commission in 2009. The case of Serbia here again parallels that of Macedonia (despite the different stages both countries were in at the time), as the negotiations over its SAA, conducted from 2005 to 2008, also saw the emergence of veto players. The emergence of veto players in Serbia's accession process was however far less constraining on Serbia prior to 2008 due the common political interest of the more powerful EU-member states; a common interest that was — and still is — painfully absent with regards to Macedonia.

In 2006, the Netherlands became the only country within the Council that wanted to follow up the Commission's recommendation, which had suggested to suspend all negotiations with Serbia if it did not improve its cooperation record with the ICTY. Diplomatic pressure from Germany however prevented this tough application of conditionality (Pridham, 466), and the Council decided to postpone its decision on Serbia's SAA negotiations. In 2007, the Netherlands and Belgium stood strong with the Commission's opinion that Serbia was "not fully cooperating with the ICTY" (European Commission Enlargement Strategy 2007, 46), and that the country was therefore not yet ready to sign the SAA. However, several member states (including Germany and France) wanted Serbia to move on towards the next stage of the accession process, arguing that signing of the SAA would boost the chances of a change in government in Serbia (Dobbels, 15).

Boris Tadic, who had been running on a pro-European platform, was leading in the polls by the end of 2007, and the reasoning of Germany and France was that the signing of the SAA would give Tadic the necessary momentum and enhance the EU's credibility prior to the presidential elections that would

take place a couple of weeks later. If Tadic would indeed be re-elected as Serbia's president, this would form a precedent for a strong pro-European showing in the general elections that followed in May. This argument proved effective: The two veto players in the Council were overruled through diplomatic pressure, and the European Union initialed the signing of Serbia's SAA. Boris Tadic was indeed re-elected as president, and his Democratic Party also won the subsequent parliamentary elections. The Netherlands, frustrated over the inconsistent application of conditionality (De Wereldomroep, 2008), and personally involved in the matter because of its role in the Srebrenica massacre of 1995, then decided to take matters into its own hands, and stalled the Dutch ratification of Serbia's SAA until Serbia had achieved full cooperation with the ICTY. When Serbia arrested the last two important fugitives — Ratko Mladic and Goran Hadzic — in 2011, the Netherlands followed suit and ratified the SAA, which paved the way for the granting of candidacy in 2012.

A comparison focusing on the role of veto players in the accession procedures of Macedonia and Serbia inevitably highlights how a strong common European interest may trump a veto player in the Council, *even* if that also means neglecting the advice of the European Commission. Whereas Macedonia received five positive recommendations to start accession negotiations, the Commission issued three negative advices concerning Serbia's progress in SAA-negotiations. The irony here is obvious; the Council managed to overcome a veto — silently supported by multiple member states — that was instigated in order to adhere to political conditionality in the case of Serbia, but it has not actively opposed five consecutive vetoes that have undermined the credibility of the enlargement process and of the Commission, and clearly accelerated backsliding. The cynical conclusion of this comparison is that sustaining accession momentum with Macedonia does not form a strong common European interest, whereas sustaining accession momentum with Serbia does.

After the arrest of Mladic and Hadzic, and following Kosovo's declaration of independence, conditionality vis-à-vis Serbia shifted from ICTY focused to 'normalization focused' (Galacic, 9). The



European Union never explicitly demanded a hard political conditionality regarding Serbia's dispute with Kosovo over its status. Realizing that demanding recognition of Kosovo's statehood would undermine, if not completely derail Serbia's accession process, the EU has taken a *constructively ambiguous* stance on Serbia – Kosovo relations (Reljic, 1). In 2015, the EU opened the first two chapters of the acquis; Chapter 32 on financial control and Chapter 35 — normally reserved for 'other issues' — on normalizing relations with Kosovo. The philosophy behind the early opening of Chapter 35 is that this would contribute to "fresh momentum" and that it "should have a positive and concrete impact on the everyday life of citizens in both Kosovo and Serbia" (European Commission Enlargement Strategy 2015, 20). Normalization of relations of Kosovo, together with the judicial and Rule of Law-based reforms in Chapters 23 and 24, are deemed critical in Serbia's future EU-accession process (*EurActiv*, 2015).

What normalization entails, and when it has been achieved, has deliberately been left unclear, in order not to make any demands that could potentially backfire if Serbia is unable to follow them up. At the same time, the EU is well aware that elaboration of its conditionality concerning Serbia's relations with Kosovo could potentially open an avenue in which Kosovo could unilaterally prevent Serbia's EU accession progress by refusing to normalize relations. Opposition parties in Kosovo, most notably the radical Vetevendosje party, have already expressed their desire to stall Serbia's EU accession wherever they can (*KosovaPress*, 2015), in similar fashion as conservative parties in Greece with regards to Macedonia. As normalization of relations is by definition a two-way street, the constructive ambiguity of Chapter 35 allows the Commission greater flexibility in its assessment of normalization, and prevents Kosovo from taking Serbia hostage in its EU-accession process. This in turn secures the credibility of the European perspective, and limits the chances of backsliding in Serbia. For Serbia, the EU's recently invented policy of constructive ambiguity is nothing short of a godsend.

A comparison of the way in which the European Union has dealt with bilateral disputes and good neighborly relations in its framing of conditionality vis-à-vis Serbia and Macedonia reveals that

Serbia is benefitting from its late entrance in the accession procedure. The EU never set a hard conditionality for Macedonia to solve its name dispute with Greece prior to any stage of the process; however, the practical implication of the Greek vetoes is that Macedonia can only move forward and regain its European perspective once it has found a solution to the name dispute, or finds an alternative way to convince Greece to stop blocking its EU accession process. With regard to Serbia, the European Union has set in place a delicate framework that prevents one country from exercising too much influence over the EU accession process of another. The ambiguity of what entails normalization furthermore allows the EU — for now — to avoid tough questions over national boundaries; questions which could potentially severely impact the European perspectives of both Serbia and Kosovo. It is apparent that the Greco-Macedonian dispute, and the disastrous effects it has had on Macedonia's European outlook, have formed an important lesson for the EU, and the current application thereof can be clearly witnessed in the EU's common position on Chapter 35, which is intentionally left ambiguous and is characterized by soft wording ('showing commitment,' 'acting in good faith,' and the necessity to 'continue to make progress'):

The EU encourages Serbia to continue showing commitment to deliver results and progress in the completion of the implementation work as well to work towards further progress in normalization [...] In view of the present state of Serbia's preparations, the EU notes that, on the understanding that Serbia, while acting in good faith, has to continue to make progress in the implementation work and make further progress in the normalization process, Serbia can be considered to be sufficiently prepared at this stage for negotiations on this Chapter. (EU Common Position on Chapter 35)

The concluding requirement sums up the EU's soft conditionality concerning normalization:

Serbia remains committed to the EU-facilitated Dialogue, engages in reaching further agreements in new subjects/areas, furthering the normalization in good faith, with a view gradually leading to the comprehensive normalization of relations between Serbia and Kosovo, in line with the negotiating framework. (ibid.)

With its recent compromising stance, the European Union aided Serbia in gaining accession momentum, which has in turn led to a decrease in the domestic adoption costs of EU-reforms for the Serbian government. Even though the current SNS-dominated government of Aleksandar Vucic has been widely accused of using authoritarian practices — including a crackdown on the media and a systematic campaign to have political opponents of his regime arrested — in order to consolidate power (Bieber 2015, Stavljanin 2016, Dawson 2014, Ejodus 2014), the government’s popularity is to a large extent determined by Vucic’ public persona of being pro-European and reform-minded (Ejodus 2014). The ruling Serbian Progressive Party (SNS) will enter the forthcoming early elections hailing its reform record. Encouraging quotations from recent progress reports will surely feature prominently in the campaign, and recent polling indicates that Serbian citizens largely equate the governing of SNS with the acceleration of the EU accession process (FaktorPlus, 2016). If the European Union had insisted on imposing tough political conditionality on Serbia with regards to its relations with Kosovo, it is fair to assume that Vucic would have had much more trouble to sustain Serbia’s accession momentum.

## CONCLUDING REMARKS: OFFERING A NEW PERSPECTIVE

This thesis has demonstrated that the current divergence in the EU accession paths of Macedonia and Serbia stems from inconsistent application of political conditionality, the relatively weak political position of the European Commission vis-à-vis the Council of the European Union, and a general politicization of European enlargement, which have cumulatively benefitted Serbia, and have held back Macedonia's progress in the accession procedure since 2009. These developments have resulted in a 'lopsided' EU accession-queue, in which the original frontrunner is now considered the region's greatest backslider, and in which Serbia has managed to outlive its 'pariah' past (De Launey, 2014). Furthermore, this thesis points out the importance for acceding states to sustain momentum throughout the procedure. External political intervention in that process is not necessarily harmful. The interplay between domestic policy preferences and a credible European perspective is mutually tied. In an ideal 'harmonious' construction — a strong European perspective linked with favorable domestic policy preferences — we can expect an acceding state to quickly gain and sustain momentum. The opposite is however also true; in a 'draconian' construction — limited European perspective matched with unfavorable domestic policy preferences — momentum is nearly impossible to attain, even when introduced artificially. The case of Macedonia shows furthermore that the limitation of the European perspective directly affects domestic policy preferences, which in turn further limits the European perspective. The case of Serbia inversely reveals that bolstering the European perspective allows for domestic policy preferences to become more in line with the demands of the EU, which in turn further opens up the European perspective.

The cyclical logic described above spells doom for Macedonia's European future, and opens the

door for Serbia's accession to the EU by 2020. Macedonia's loss of a positive recommendation — substituted by a conditional recommendation — will not have any significant impact on Macedonia's EU-accession bid. Credibility of the EU hit an all-time low in Macedonia in 2016, and the refugee crisis has further increased the level of frustration. The linkage of the conditional recommendation with credible parliamentary elections in 2016<sup>11</sup> is likely to cause a major uproar this summer, as the likelihood of those elections leading to the fall of VMRO-DPMNE is negligible. In fact, the European Union has embarked on a perilous path by linking Macedonia's European fate with the early parliamentary elections, as the elections will likely reinforce VMRO-DPMNE's grip on the country. Although efforts aimed at pushing for fair conduct of elections deserve praise, the current political polarization in the country has reached a level in which the opposition cannot be expected to accept the outcome of the elections, even if OSCE/ODIHR positively assesses the elections' credibility. Because of the zero-sum attitude of both camps, and the complete lack of political accountability, the elections are likely to cause a revolt by non-political means. Linked with the economic deprivation, fragile interethnic relations, and with the clashes in Kumanovo as an eerie foreshadower, the current EU-strategy has the potential to lead to a renewed outbreak of conflict in Macedonia. Conflict in Macedonia is likely to impact the normalization process between Kosovo and Serbia, and pose a great threat to stability in the Western Balkans in general. This worrisome trajectory has to be avoided at all cost.

In order to get Macedonia back on the European track, it is imperative that the European Union adopt a similar strategy as it has adopted with regard to Serbia, focusing on a strong European perspective, and intense diplomatic lobbying to gain momentum. The winner of the early elections — conducted fairly — should receive the full support of the European Union. The European Commission

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<sup>11</sup> The Przhino Agreement initially foresaw elections taking place on 24 April, but the European Union and the United States have forced Macedonia to postpone the election date due to the limited progress made to ensure the credibility of the upcoming elections. It is foreseeable that the elections — at the time of writing scheduled for 10 June — will be postponed again if no significant progress has been made by that date.

needs to issue an immediate recommendation to start accession negotiations, which has to be followed up by intense intergovernmental pressure on the Greek government to assure that it will agree with a constructively ambiguous proposal to settle the name dispute at a later stage, under auspices of the European Union (or a concert of EU member states) instead of the United Nations. These efforts should also be directed at NATO in order to secure the long overdue invitation to join the organization.

Simultaneously, the EU should install an EU mediator — preferably the High Representative for Foreign Affairs and Security Policy — tasked with finding a solution to the name dispute, thereby taking charge of the bilateral dispute in a similar fashion as it has done with the Belgrade-Pristina Dialogue. Following the opening of accession negotiations, the European Commission will have to open Chapters 23 and 24, along with the chapters in which the *acquis*-alignment has already been satisfactorily established, and close some of these chapters early on in the process for reforms to gain momentum. Additionally, a separate Chapter 35 — opened first and closed last — will have to hold Macedonia accountable for showing good faith in normalizing relations with Greece, and include a commitment to abstain from acts that could possibly damage good neighborly relations. This has been a recipe for success for Serbia, and there is no reason to expect it would not work for Macedonia.

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