

Minority Policies and EU Conditionality - The Case of the Republic of Macedonia

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The EU in the Western Balkans has been significantly engaged in the promotion of improved minority protection in the framework of its political criteria for accession. Despite the EU's involvement in these policies, the question of how external pressures have affected and interacted with domestic institutional and policy changes is still not well understood. This paper sheds light on this debate by examining the interactions between the EU and national actors in the case of the Republic of Macedonia in relation to minority policies. The theoretical and methodological approach for this research largely follows the work of Hughes, Sasse and Gordon on the Eastern enlargement. The paper argues that political conditionality should be understood as a process encompassing both its formal and informal elements and emphasizes the problems of analysing minority conditionality as an independent variable. The analysis is focused on two examples: the adoption of the law on the use of languages and the policy of equitable representation of non-majority communities. The paper tracks and explains developments in EU conditionality in relation to minority protection over time through document analysis and interviews with various stakeholders.

Keywords: EU conditionality, minority policies, Macedonia, EU enlargement

As a candidate country for European Union (EU) membership, Macedonia is subject to conditionality in relation to minority policies primarily through the Copenhagen criteria for accession. According to the first Copenhagen criterion, in order to join the EU a new member state must ensure the stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities.¹ Conditionality in relation to the protection of minorities was also part of the last enlargement round which was completed in 2007 with the accession of Bulgaria and Romania to the EU. In the Western Balkan countries that are in the queue for the upcoming enlargement, minority policies have been high on the EU accession agenda

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primarily due to the legacy of recent inter- and intrastate conflicts. Scholars and practitioners have highlighted that the democratic consolidation of the region depends upon the management of minority issues (Gordon *et al.*, 2008).

In this context, the EU has significantly engaged in the promotion of improved minority protection in the framework of its political criteria for accession. Despite the EU's involvement in these policies, the question of how external pressures have affected and interacted with domestic institutional and policy changes remains little understood (Sasse, 2005, 2009). On the one hand, studies guided by rational choice institutionalism do not see much space for the impact of the EU on minority protection because of the high associated domestic costs and the lack of consistency in the application of this norm. Empirical studies, on the other hand, have found that in some cases the EU has fostered interethnic cooperation, while in others it has increased polarization (Tesser, 2003; Schwellnus *et al.*, 2009; Sasse, 2009). Overall, studies of minority politics and policies in the accession process have indicated the need for contextualized analysis of the EU's impact, especially in the candidate countries for accession.

In light of the significance of the EU in domestic politics in the candidate countries, this paper extends the research from the previous enlargement to the Western Balkans, and examines conditionality in relation to minorities in the case of Macedonia. The theoretical and methodological approach for this research largely follows the work of Hughes, Sasse and Gordon on the Eastern enlargement (Hughes *et al.*, 2005; Sasse, 2005). Hughes *et al.* argue for the need to study conditionality as a process by taking into consideration its formal and informal pressures, questioning the suitability of the external incentives model for studying 'soft areas' of the *acquis communautaire* (hereafter *acquis*), such as minority policies.² Focusing on dynamic interactions between the EU and the national level, and relying strongly on stakeholders' views, this paper demonstrates the flexible nature of conditionality as well as its development and change over time.

The analysis focuses on two key minority policies in Macedonia: the adoption of a law on the use of languages and the policy of equitable representation. The two examples illustrate changes in conditionality over time, the lack of consensus between stakeholders over the conditions, as well as its unwanted effects. Whereas the law on languages was not 'officially' considered part of EU conditionality, and was only included after its adoption at the national level, the policy of equitable representation

has been at the core of EU demands since the signing of the Stabilization and Association Agreement (SAA) in 2001. By contrasting developments in these two cases, this paper demonstrates the dynamic nature of EU conditionality. Due to the difficulty of drawing clear causal relationships between the EU conditions and national policies, as well as to the different understandings of what EU conditions in this area are, the paper questions the viability of analysing minority conditionality as an independent variable. Moreover, with the latter policy of equitable representation, the paper illustrates the potential for unwanted effects of conditionality, even when there is consensus among the stakeholders on the stipulated conditions.

The paper utilizes qualitative methods, i.e. document analysis and open-ended interviews. It is primarily based on EU and national documents prepared for the process of Macedonia's European integration. From the perspective of the EU it examines the annual Progress Reports issued by the European Commission (EC) on Macedonia since 2005 and the Accession/European Partnerships prepared during this period. These two groups of documents provide important information on progress towards fulfilment of EU conditionality and they set short- and medium-term priorities for the country both in terms of political and economic criteria, as well as in relation to adoption of the *acquis*. On the national side, the paper looks into the yearly National Plans for the Adoption of the *Acquis* (NPAA) and contributions to the progress reports from the national authorities. It also uses data from open-ended interviews in Brussels and Skopje with EU and national officials, as well as non-governmental organizations (NGOs) and think tanks, conducted in late 2010 and early 2011.

The paper is organized into two major sections. The first section provides a background to political conditionality and minority policies in the context of EU accession. It reflects upon the disputed meaning of both these terms and explains how they are used in this research. The second section examines the understanding of minority conditionality in both EU and national documents in the post-2005 period in which Macedonia has been a candidate country, focusing on two thematic issues: the adoption of the law on the use of languages and the policy of equitable representation of non-majority communities.

1. Minority policies and EU political conditionality

'Respect for and protection of minorities' in the EU accession context

Although included in the Copenhagen criteria and the regular European Commission (EC) progress reports, the meaning of the term “respect for and protection of minorities” in the EU context is subject to debate. From a legal perspective, De Witte concludes that the meaning of the term has not been developed in EU law (De Witte, 2002). Similarly, Kymlicka points out that ‘Western countries differ amongst themselves in their approach to ethnic relations and attempts to codify a common set of minimum standards or best practices have proven difficult’ (Kymlicka, 2002: 1). Jackson Preece explains this difficulty by arguing that the identity of those persons who constitute a minority is dependent upon political and historical context, but is also influenced by international society (Jackson Preece, 2005: 182). Identity for the purposes of this study is understood in line with Tilly’s definition of ‘a potent set of social arrangements in which people construct shared stories about who they are, how they are connected, and what has happened to them’ (Tilly, 2003: 608).

Soft law measures have been developing in light of these contextual specificities, but these are not accepted by all EU member states. Furthermore, in the enlargement process the EU has also been using minority protection standards developed by the High Commissioner on National Minorities (HCNM) of the Organization for Security and Cooperation in Europe (OSCE) and the Council of Europe (CoE). Sasse argues that ‘while the EU borrowed the link between democracy and human (and later) minority rights from the CoE, the OSCE provided the EU with the security-based rationale for minority protection’ (Sasse, 2006: 65). Kymlicka in turn highlights that the EU relies heavily on HCNM assessments in devising conditionality and assessing progress in the area of minority rights (Kymlicka, 2002: 375). In addition to the OSCE HCNM, the CoE is also involved in minority rights monitoring through the reporting system established under various conventions within its framework. Most prominently, this includes ‘the Council’s Framework Convention for the Protection of National Minorities, which by virtue of its binding character is considered as a breakthrough in minority protection’ (Liebich, 2002: 125). The EC commonly uses these reports when preparing its yearly progress reports and puts forward priorities in Accession Partnerships that are related to fulfilment of OSCE and CoE requirements. Due to the variety of organizations involved in this exercise,

Sasse argues that EU conditionality in the area of minority protection is best understood as the cumulative effect of different international institutions (Sasse, 2005).

In response to the difficulties of setting unified standards of minority rights and their implementation, research has adopted context-specific definitions of minority policies in light of the elements under examination. In the context of EU accession, these have commonly included the adoption of non-discrimination directives, ratification of the CoE Framework Convention, and adoption of governmental strategies and programmes for the inclusion of the Roma minority (Rechel, 2008: 174). In addition, when examining minority policies in the context of EU accession, research has also focused on the development of citizenship policies and social integration of minority groups. Overall, the lack of a common standard of minority rights and its inclusion in EU accession policy has important implications for an analysis of minority rights, as it makes assessment of the impact of policies increasingly context-specific, as demonstrated by research in this area.

The paper examines the issues which the EU has included in its reports under the headings ‘minority rights’, ‘cultural rights’ and ‘protection of minorities’, focusing on *soft* areas of the *acquis*. Doing so, the minority conditionality as understood in this paper fits within the broader definition of conditionality as a process, pointing towards the importance of the politics surrounding conditionality (Sasse, 2008). As a result, the study excludes non-discrimination directives which have commonly been addressed through compliance studies.

EU political conditionality

Minority policies are an element of “EU political conditionality”, which emphasizes ‘respect for and the furtherance of democratic rules, procedures and values’ (Pridham, 2002: 956). In its widest sense “political conditionality” is a policy instrument which involves ‘the linking of development aid to demands concerning human rights and (liberal) democracy in recipient countries’ (Sørensen, 1993: 2). This broader notion of political conditionality is most commonly used in development studies and although it shares some similarities with EU political conditionality, there is a substantial difference between the two (Crawford, 2001). The main instrument used in the former is the ‘threat of the reduction or ending of development assistance funds’ (Uvin, 1993: 67–68). In turn, the main instrument used in EU political conditionality is the carrot of

membership, while the main threat is exclusion. In light of this difference, political conditionality has also been defined as a mechanism that ‘entails the linking, by a state or international organization, of perceived benefits to another state (such as aid, trade concessions, cooperation agreements, or international organization membership) to the fulfilment of conditions relating to the protection of human rights and the advancement of democratic principles’ (Smith, 2001: 37). When referring to EU conditionality, this research adopts the latter definition and focuses on the literature linked with the EU accession process.

While research commonly uses both terms, Anastasakis argues, in his work on the Western Balkans, that the term “political conditionality” should be used instead of “democratic conditionality” (Anastasakis, 2008: 366). This argument underlines the political nature of this process, without the unquestionable inclusion of a democratization element. Anastasakis also highlights that ‘from a substantive point of view EU political conditionality can run counter to democratisation, at least in the short term when some of the prescriptions prioritize law and order instead of elections and/or civil society development’ (*ibid*). Accepting these critiques the paper operates with the term political conditionality, since it corresponds with the EU usage (i.e. political criteria) of this term, but also because the analysis does not presuppose the democratizing effects of EU conditionality.³

Despite its importance in the literature, a consensual definition of conditionality is missing both within the literature and in practice. The dominant approach for the study of EU conditionality in the accession context has been rational institutionalism. Schimmelfennig and Sedelmeier have developed three models for the examination of the effectiveness of conditionality - the external incentives model, the social learning model, and the lesson drawing model - and have applied them in two alternative contexts: democratic and *acquis* conditionality (Schimmelfennig and Sedelmeier, 2005). In their research, conditionality is ‘a bargaining strategy of reinforcement by reward, under which the EU provides external incentives for a target government to comply with its conditions’ (Schimmelfennig and Sedelmeier, 2004). The conclusions of their research indicate that rule transfer from the EU to the Central and Eastern Europe (CEE) and the variation in its effectiveness are best explained according to the external incentives model and are linked to the high credibility of EU conditionality and the low domestic costs of rule adoption (Schimmelfennig and Sedelmeier, 2005).

Though a leading analytical tool for the study of the effectiveness of EU conditionality, the external incentives model has difficulty accommodating minority policies. First, a core precondition for the success of the external incentives model is consensus and clarity of the rules, which is not the case with minority policies. Moreover, the external incentives model has been criticized because of the risk of overestimating the effects of EU conditionality. Bearing in mind that the process of Europeanization was simultaneous to the democratic transformation of these societies, separating the respective developments linked to each of them is increasingly difficult. As a result, demonstrating causal links between the impact of the externally induced conditions and the domestic policy choice is questionable.

In response, empirical studies of conditionality have argued for a more flexible approach, which emphasizes its changes over time and the multiplicity of actors involved in its application. Hughes *et al.* argue that EU conditionality ‘includes not only the formal technical requirements on candidates but also the informal pressures arising from the behaviour and perceptions of actors engaged in the political process’ (Hughes *et al.*, 2005: 2). Thus, they distinguish ‘between *formal conditionality*, which embodies the publicly stated preconditions [...] of the “Copenhagen criteria” and the [...] *acquis*, and *informal conditionality*, which includes the operational pressures and recommendations applied by actors within the Commission [...] during their interactions with their CEE counterparts’ (*ibid.*, 26). This definition, according to Sasse, highlights the pitfalls of linear causality models and the inherent politicisation of conditionality over time (Sasse, 2009: 19).

The latter process-based definition of conditionality underpins this study for several reasons. First, it provides for the possibility of examining the process of construction, application of conditionality and its outcome, thereby taking into consideration changes over time. Second, a narrow definition of conditionality is not appropriate because the ‘Copenhagen criteria do not define the benchmarks or the process by which EU conditionality could be enforced and verified’ (Hughes *et al.*, 2005: 25). The lack of benchmarks is particularly significant for minority conditionality as there is little guidance on criteria and substantial conditions within the EU due to the absence of EU norms in the field of minority rights. Third, the process-based definition of conditionality is necessary due to the contextual peculiarities of this process, since research has commonly argued that ‘the EU applied differentiated pressure across applicants, dependent on whether minority protection

was regarded as problematic and security relevant in the particular case' (Schwellnus, 2008: 187). Lastly, the process-based approaches highlight the importance of domestic actors for the success of EU conditionality and include them as important elements of analysis. Hence, this study is in line with Sasse's understanding of minority conditionality as a construct, thereby recognizing that any notion of compliance is a construct and a political judgement (Sasse, 2009: 20). Acknowledging the contested notions of respect for minorities in the EU accession context and the flexible nature of EU conditionality, the following empirical part of the paper examines two specific examples of EU minority conditionality: the adoption of the law on the use of languages and equitable representation in the public sector.

2. Minority policies and EU conditionality in the case of Macedonia

Law on the use of languages

The adoption of the 2008 Law on the Use of Language Spoken by at least 20% of Citizens in the Republic of Macedonia and in the Local Self-government Units (hereinafter 'law on the use of languages')⁴ as an element of EU conditionality illustrates the significance of the informal pressures of the EC and the lack of a common understanding between actors at the EU and national levels as to what constitutes EU conditionality. The law on languages is mentioned directly for the first time in the Analytical Report 2005, in which the EC notes that 'the coalition partners have agreed that, although not formally required by the Framework Agreement, a law on the use of languages should be adopted to complement the substantial number of existing specific laws specifying use of the Albanian language' (EC, 2005). Similarly, the European/Accession Partnerships and Progress Reports between 2006 and 2008 do not contain any direct reference to this law, which suggests that the EC did not include this requirement as a formal condition in the case of Macedonia.

However, while the issue of the law on languages was formally left to the national level, national officials highlighted that there was informal pressure from the EC to adopt such a law. For example, a respondent said: 'EU representatives in Macedonia insisted that we make a list of laws to be adopted for the Ohrid Framework Agreement (OFA) implementation and one of the big differences between the coalition partners was whether we need a separate law on languages.'⁵ This

difference, as highlighted by my interviewee, is clearly visible in the national strategic documents for EU accession which show a mixed record with respect to the inclusion/non-inclusion of the law on languages for the purposes of EU accession. Contrary to the EC, in its answers to the Questionnaire for membership, the government at the time stated that ‘the only remaining law to be adopted in accordance with Section 6 [of the OFA] is the Law on Use of Languages of Communities in the Republic of Macedonia, which will be adopted in the first half of 2005’ (Government of the Republic of Macedonia, 2005). Hence, while in its report the EC did not consider this law to be an OFA obligation, the government had a different opinion in 2005, when the country was under consideration by the EC to become a candidate for EU accession. Following the granting of candidate status in December 2005, the 2006 NPAA retained the obligation of adopting such a law, even though according to the same government the law on languages was not an OFA obligation (Government of the Republic of Macedonia, 2006a). The references to the law as an OFA obligation are the result of the peculiar role assigned to the EU in post-Ohrid Macedonia, as a monitor of the implementation of this agreement, which has been noted in the literature and was also confirmed by interlocutors. Anecdotally, the role of the EC is illustrated in the phrase used by many EC and EU officials: ‘*the road to Brussels leads through Ohrid*’.

Despite these differences over whether or not it was an OFA obligation, until 2006 this law was mentioned in the national strategic documents. Similarly, the Action Plan for European Partnership prepared at the same time as the 2006 National Plan for the Adoption of the *Acquis* (NPAA) foresaw the adoption of such a law in the first half of 2006 (Government of the Republic of Macedonia, 2006b). This is the only official document where the adoption of a law on the use of languages appears as an obligation by the government with a specific deadline, and was defined by a civil servant at the national level as a ‘self-imposed obligation’.⁶ Bearing in mind that in 2006 there was no draft text of this law and that the parliamentary elections were already scheduled for the summer of 2006 it is likely that the outgoing government formally undertook this obligation, knowing that it would not be able to fulfil it before the end of its term of office. Following the change in government in the summer of 2006, the law does not appear in subsequent planning documents, i.e. the NPAA 2007 and 2008, indicating that it was not accepted by the new government as an obligation for EU accession (Government of the Republic of Macedonia, 2007a, 2008).

However, in the summer of 2008, following a change of the minority party in government, a breakthrough occurred when the parliament adopted a law regulating the use of languages following a proposal by the Democratic Union for Integration (DUI), the Albanian party in government at the time. The law was swiftly placed on the agenda without going through the regular consultation procedures. The adoption of the law was actually part of a previous agreement between the ruling party Internal Macedonian Revolutionary Organization-Democratic Party for Macedonian National Unity (VMRO-DPMNE) and DUI, the so-called “May Agreement”, an informal arrangement which enabled DUI to return to parliament following several months of boycott in 2007. As reported by a local newspaper, preparation and adoption of a law on the use of languages was part of this understanding.⁷ Recent studies of EU involvement in Macedonia have argued that ‘the May agreement case can be perceived as some sort of a turning point for EU involvement in ethnic conflict management in Macedonia as this process has been marked by the increasing persuasive role of the EU’ (Markovic *et al.*, 2011). A member of the Macedonian Parliament explained that the law was significant for DUI, because ‘the Albanians, DUI especially, needed a symbol that this issue was resolved’.⁸

Even though the EC and the government in power from 2006 did not consider the law to be an element of EU accession conditionality prior to its adoption, the regular progress reports and the national documents for European integration have nevertheless covered the progress in its implementation since 2008. Hence, the 2008 Progress Report from the EC acknowledges its adoption and considers that ‘it clarifies and extends the scope for the use of non-majority languages at all levels of state and local self-government [...]’ (EC, 2008). However, the EC also notes that ‘the law does not sufficiently address the use of languages of the smaller ethnic communities’ (*ibid*). A year later, the EC noted that there had been some progress in implementation of the law, with some chairpersons of parliamentary committees beginning to use Albanian; however little progress could be reported regarding use of the languages of smaller ethnic communities (EC, 2009). Hence, since adoption of the law, the EC has begun monitoring its implementation, although originally the issue was not part of the EU conditions.

Similarly, as in the case of the European official documents, following its adoption, the national documents such as the NPAA and the national contributions to the progress reports consider the law on the use of languages to be an element of EU

conditionality and reflect upon the plans and progress in its implementation. Although the 2009 NPAA does not undertake any specific obligations directed towards its implementation and does not address the issue of use of languages of the smaller ethnic communities, the law is included as an element on which the country reports in the context of its EU accession process (Government of the Republic of Macedonia, 2009). The 2010 NPAA underlines that efforts will be made to extend the use of this law to state institutions where this was previously not possible due to the lack of technical equipment, thereby “justifying” its feeble implementation to Brussels (Government of the Republic of Macedonia, 2010). Nevertheless, both documents mention the law on the use of languages as an issue that is being monitored in the context of the country’s EU accession.

Both national and EC officials interviewed for this research had contrasting views on the role of the law as an element of EU accession conditionality. On the one hand, EC interviewees in Brussels expected this law to be one of the main issues that would be included in the accession negotiations, thereby illustrating that the issue has firmly entered the array of EU political criteria. On the other hand, EC interviewees in Skopje stressed that the law was not an issue of interest to the EC in the accession process.⁹ This conflict within the EC itself underlines the problems of stipulating conditionality in the absence of clear EU rules. For national officials the law has become part of conditionality, and they stressed the change of the EC approach from considering the issue to be outside of its competences to its gradual inclusion in conditionality.¹⁰

Having in mind the mixed record of EU and national documents, as well as the interview data regarding the adoption and implementation of this specific law, it is very difficult to draw a precise conclusion on the role of EU conditionality. While the law was not a specific obligation according to the Progress Reports and the European/Accession Partnerships, after its adoption it became an element of EU conditionality which blurred the distinction between the impetus for change coming from the European or the national levels. This case clearly illustrates the role domestic politics plays in feeding into conditionality and its bottom-up dimension, which has important implications for its analysis. With this conclusion, the analysis largely confirms the findings of authors such as Brusis who emphasize the importance of domestic factors in the outcomes of conditionality in areas not regulated by the *acquis* (Brusis, 2005). Moreover, both the EU and national authorities had differing views of

the inclusion/non-inclusion of this law as a condition of EU accession, clearly pointing to a lack of consensus between and within these two groups of stakeholders. Lastly, the law on languages is an example of the “informal” channels used by EC officials in their communication with national stakeholders.

Equitable representation of non-majority communities

The equitable representation of minorities, unlike the law on languages, was clearly an element of the OFA and the EU conditions pertaining to Macedonia.¹¹ In essence this policy requires that the country achieves proportional representation of minorities at all levels of public administration, including in the judiciary and public enterprises. The origins of the condition related to the equitable representation are in the OFA and the SAA reports, although stronger emphasis has been given to the issue since 2005 with the Progress Reports. The need for achieving equitable representation was clearly highlighted in the Analytical Report of 2005 and has been continuously raised as an issue of concern by the EC (EC, 2005). Similarly, in 2006 the EC put forward both a short-term and mid-term priority in the European Partnership requiring the adoption and implementation of a medium-term strategic plan for equitable representation in the public administration (Council of the European Union, 2006). In 2008 this priority was repeated, with an emphasis on the need for its upgrading and enforcement (Council of the European Union, 2008). As part of the European/Accession partnerships, equitable representation was part of the highest form of EU conditionality on which progress of the country was evaluated.

The obligations in relation to equitable representation can also be found in national documents. The 2006 NPAA undertakes an obligation to adopt a Medium-Term Strategy for Adequate and Equitable Representation of members of Communities in the Public Administration (Government of the Republic of Macedonia, 2006a). Similarly, the strategy is part of the Action Plan for European Partnership 2005 with a deadline of mid-2006 (Government of the Republic of Macedonia, 2006b). Bearing in mind the political sensitivity of the issue, the likelihood of adopting such a medium-term strategy within half a year prior to the parliamentary elections scheduled for July 2006 was unlikely at the time. One can compare this case to the issue on the adoption of a law on the use of languages, as an activity taken up by an outgoing government largely aware that it would not be able to fulfil it by the end of its term. However, unlike the law on languages, which was taken

off the EU agenda for a couple of years, this strategy was adopted in January 2007 by the new government. Not surprisingly, the EU facilitated the adoption of this strategic document through an EU-funded project which provided technical assistance from EU experts during its preparation, as was explained by a civil servant involved in the drafting process.¹² Since 2008, it has been taken as a basis in national documents for the further promotion of equitable representation of the non-majority communities (Government of the Republic of Macedonia, 2008). Furthermore, the NPAA 2008 is the first government document which refers to the allocation of funds for the strategy and undertakes to report on its implementation on a quarterly basis.

Hence, since 2008, the Secretariat, the institution responsible for implementing the Ohrid Framework Agreement at the central level, which is headed by an Albanian vice prime minister, has been allocated funds for managing the hiring process for equitable representation annually. The significance of this institution was constantly highlighted during interviews for this paper. An EU official in Skopje called it ‘the biggest employment agency in the country, hiring approximately 300-400 people per year, which means that the Employment Agency can’t do what this Secretariat is doing’.¹³ A briefing paper from a local think tank has recently highlighted that data from the Central Registry of Civil Servants depict a commendable increase in the number of ethnic Albanians in the civil service from 5.61% in 2004 to 24.18% in 2012 (Risteska, 2012).

Despite this statistical increase, at the same time the policy has been criticized for lack of transparency in its implementation and for neglecting the needs of smaller communities. With regard to transparency, the absence of reliable data on employees has been of primary significance. In a commentary on the effective participation of minorities in the public life, the CoE’s Advisory Committee on the Framework Convention for the Protection of National Minorities highlighted that ‘comprehensive data and statistics are crucial to evaluate the impact of recruitment, promotion and other related practices on minority participation in public services. They are instrumental to devise adequate legislative and policy measures to address the shortcomings identified’ (Council of Europe, 2008). Already in 2007 the government highlighted that ‘the adopted Strategy [...] envisages the possibility for setting up a state authority in charge for processing data on the employees in the public sector. Presumably the State Statistical Office will be in charge’ (Government of the Republic of Macedonia, 2007b). This obligation was not fulfilled by the end of 2011,

as was highlighted by a national civil servant, because the focus was constantly on the statistical increase of non-majority communities.¹⁴

In addition, reports on recruitment of employees that are only employed on paper rather than in practice have been a common occurrence. In my interviews it was estimated that around 1,000 people have been hired to boost statistics, and are paid from the state budget, but are not formally working.¹⁵ In 2009, the vice prime minister responsible for these recruitments recognized that a number of people have been hired and are not working in practice (Trajkovska, 2009). A 2010 International Crisis Group report highlighted that ‘hiring ethnic Albanians also risks becoming a ‘box ticking exercise’ in which many new employees have no clearly defined job description, office or equipment’ (International Crisis Group, 2011). The 2011 EC Progress Report highlights that ‘a large number of newly recruited civil servants received salaries, even though they were not assigned any tasks or responsibilities’ (EC, 2011a).

Lastly, implementation of this policy has been criticized for the lack of attention paid to non-Albanian communities present in the country. This tendency has been noted in numerous EU reports, which highlight that representation of smaller communities, particularly Turkish and Roma, in the civil service remains low (EC, 2010). A recent policy brief presented the following numbers: in 2010 Turks and Roma, who represent 3.85% and 2.66% of the population in Macedonia, comprised only 1.49% or 0.64% in the civil service respectively (Risteska, 2012). Most of my interlocutors noted this tendency, although they highlighted that despite these regular reports, there was no increased involvement of the EU on the issue. A civil servant interviewee pointed out that the EU has not increased pressure on the matter, despite the evident ‘appropriation of this policy by the Albanian community’.¹⁶ Generally, the widespread opinion was that the EC prioritized the employment of one community and neglected that of others.

Overall, the above analysis of the role EU conditionality has played in securing equitable representation of communities in Macedonia points to a set of divergent conclusions. The EU documents and the interviews indicate that since the signing of the OFA this policy has been at the forefront of EU conditionality and was supported by EU funds and assistance. At the same time, the government responded formally with Action Plans and employment of non-majority communities. While these results indicate that the role of EU conditionality in supporting domestic policy

makers in this field could be considered positive, at a substantive level the policy has been accompanied by numerous problems. Domestic actors and interaction in the local context resulted in mixed results and highlighted the need for re-examination of the methods of implementation. Although there was no major domestic opposition to equitable representation, the policy was not put into practice as expected. In many cases employment has only been on paper, has violated the principle of merit and has not taken into consideration the needs of smaller communities. These findings, in turn, point to the potential abuse of EU conditionality at the national level and its possible unwanted consequences.

3. Conclusion

The study of political conditionality in the context of EU accession has been burdened with questions over its effectiveness and outcome. Conditionality in the context of minority policies has been a specific source of contention because of the lack of unified standards at the EU level and political sensitivity surrounding the issue. In the Western Balkans, due to the legacy of war, these issues have gained even greater significance. Not surprisingly, in October 2011 the EC announced that the first and the last chapters to be opened and closed in the upcoming accession negotiations would be Chapter 23 (Judiciary and Fundamental Rights) and Chapter 24 (Justice, Freedom and Security), which would be continuously monitored based on specific benchmarks and action plans (EC, 2011b).¹⁷ Hence, conditionality in relation to minority policies would be on the agenda, especially in light of countries in the region opening up accession negotiations.

With this in mind, and using tools from the previous enlargement, this paper extended the study of EU conditionality and minority policies to the Western Balkans and the case of Macedonia. The diverse trajectories of the two policies examined highlighted the need for contextualized analysis of the EU's impact. The dynamics of EU and national interactions in relation to the law on languages and the equitable representation policy illustrate the difficulties of dealing with conditionality as an independent variable. First, as indicated by the example of the law on languages, conditions change over time and there is no consensus over what conditionality entails. Since issues and policies can become elements of conditionality along the way, an examination over a longer period of time is indispensable for understanding

the complexities of EU conditionality. Due to these changes over time, it is not surprising that there is generally no consensus both within and among national and EU stakeholders as to the conditions in such a policy area, which is not regulated by the *acquis*. The law on languages also illustrates the informal dimensions of conditionality, which cannot be grasped through an external incentives model.

On the other hand, even when there is consensus between the EU and national authorities - as in the case of the equitable representation policy - exogenous factors at the national level (for example political party) can lead to abuse of EU conditionality. In such cases the instrumental use of EU conditionality at the national level can contribute to the perpetuation of detrimental policies and even result in further polarization. The findings of this paper therefore question whether the “specific benchmarks and plans” announced by the EC in non-*acquis* areas will inevitably breed effective policies. From an analytical perspective, this paper highlights the complexity of the conditionality mechanism, and supports the findings of previous empirical studies which argue that this phenomenon should be studied as a process that takes into consideration both formal and informal features.

Notes

1 In cases when the paper deals with topics in relation to the heading on minority protection in the EU reports, it uses the term ‘minority’. When discussing national policies, the paper uses the term ‘non-majority community’ which has been introduced in the country’s legislation and political discourse to refer to all the communities following the signing of the Ohrid Framework Agreement in 2001. Due to this contextual specificity, this paper uses both terms at the expense of uniformity of terminology.

2 *Acquis communautaire* is a term referring to the European Community legislation and case law.

3 On different aspects of EU conditionality see also Bieber (2011).

4 Official Gazette of the Republic of Macedonia No. 101/2008.

5 Author’s interview with Member of the Parliament of the Republic of Macedonia in Skopje, December 2010.

6 Author’s interview with a high-ranking civil servant from the Secretariat for European Affairs, December 2010.

7 The Agreement is not available to the public, but its main points were summarised by a newspaper article at the time, VMRO-DPMNE and DUI hide the Agreement [VMRO – DPMNE i DUI go zatskrivaat dogovorot], Dnevnik daily newspaper, 30 May 2007.

<http://www.dnevnik.com.mk/?itemID=C13A64D422158841A5A52709A2C06E08&arc=1>.

- 8 Author's interview with a Member of Parliament of the Republic of Macedonia, Skopje, December 2010
- 9 Author's interview with a European Commission official in Skopje, February 2011.
- 10 Author's interview with a high-level civil servant in the Ministry of Justice in Skopje, January 2011.
- 11 For the first time, the equitable representation of communities in the case of Macedonia is guaranteed in the OFA (section 4.2.). The amended Constitutional article states that 'equitable representation of persons belonging to all communities in public bodies at all levels and in other areas of public life.' In order to implement this provision, it was agreed that: The Assembly shall adopt by the end of the term of the present Assembly amendments to the laws on the civil service and public administration to ensure equitable representation of communities in accordance with Section 4.2 of the Framework Agreement.
- 12 Author's interview with civil servant from the Secretariat for European Affairs in Skopje, December 2010.
- 13 Author's interview with a European Commission official in Skopje, January 2011.
- 14 Author's interview with a civil servant from the Secretariat for European affairs, Skopje, 23 December 2010.
- 15 Author's interview with a OSCE representative in Skopje, January 2011.
- 16 Author's interview with a high-ranking civil servant from the Ministry of Justice in Skopje, 18 January 2011.

References

- Anastasakis, O. 'The EU's Political Conditionality in the Western Balkans: Towards a More Pragmatic Approach'. *Southeast European and Black Sea Studies* 8(4) (2008): 365–377.
- Bieber, F. 'Building Impossible States? State-Building Strategies and EU Membership in the Western Balkans'. *Europe-Asia Studies* 63(10) (2011): 1783–1802.
- . 'Introduction'. *Europe-Asia Studies* 63(10) (2011): 1775–1781.
- Brusis, M. 'The Instrumental Use of European Union Conditionality: Regionalization in the Czech Republic and Slovakia'. *East European Politics and Societies* 19(2) (2005): 291–316.
- Council of Europe, Advisory Committee on the Framework Convention for the Protection of National Minorities 'Commentary on the Effective Participation of Persons Belonging to National Minorities in Cultural, Social and Economic Life and in Public Affairs', 2008.
http://www.coe.int/t/dghl/monitoring/minorities/3_fcnmdocs/PDF_CommentaryParticipation_en.pdf
- Council of the European Union, 'Council Decision of 30 January 2006 on the Principles, Priorities and Conditions Contained in the European Partnership with the Former Yugoslav Republic of Macedonia and Repealing Decision 2004/518/Ec', 2006.
- . 'Council Decision of 18 February 2008 on the Principles, Priorities and Conditions Contained in the Accession Partnership with the Former Yugoslav Republic of Macedonia and Repealing Decision 2006/57/Ec', 2008.

- Crawford, G. *Foreign Aid and Political Reform: A Comparative Analysis of Democracy Assistance and Political Conditionality*. Basingstoke: Palgrave Macmillan, 2001.
- De Witte, B. 'Politics Vs Law in the EU's Approach to Minorities'. In *Europe Unbound: Enlarging and Reshaping the Boundaries of the European Union*, ed. J. Zielonka: 137–160. London, New York: Routledge, 2002.
- European Commission, 'Analytical Report for the Opinion on the Application from the Former Yugoslav Republic of Macedonia for Eu Membership'. In *Commission Staff Working Paper*. Brussels: European Commission, 2005.
- 'The Former Yugoslav Republic of Macedonia 2008 Progress Report'. In *Commission Staff Working Paper*. Brussels: Commission of the European Communities, 2008.
- 'The Former Yugoslav Republic of Macedonia 2009 Progress Report'. In *Commission Staff Working Paper*. Brussels: European Commission, 2009.
- 'The Former Yugoslav Republic of Macedonia 2010 Progress Report'. In *Commission Staff Working Paper*. Brussels: European Commission, 2010.
- 'The Former Yugoslav Republic of Macedonia 2011 Progress Report'. In *Commission Staff Working Paper*. Brussels: European Commission, 2011a.
- 'Enlargement Strategy and Main Challenges 2011-2012'. In *Communication from the Commission to the European Parliament and the Council* Brussels: European Commission, 2011b.
- Gordon, C., G. Sasse, and S. Sebastian. 'Specific Report on the EU Policies in the Stabilisation and Association Process'. *Mirico Special Report Work Package 4* (2008).
- Government of the Republic of Macedonia, 'Answers to the Questionnaire for the Preparation of the European Commission's Opinion on the Application of the Republic of Macedonia for Membership of the European Union - Political Criteria'. Government of the Republic of Macedonia, 2005.
- 'Draft National Plan for the Adoption of Acquis'. Skopje: Government of the Republic of Macedonia, 2006a.
- 'European Partnership 2005 Action Plan'. Skopje: Government of the Republic of Macedonia, 2006b.
- 'National Plan for the Adoption of Acquis 2007 Revision'. Skopje: Government of the Republic of Macedonia 2007a.
- 'Progress Report on the Process of Accession of the Republic of Macedonia to the Eu for the Period October 2006–June 2007'. Skopje: Government of the Republic of Macedonia, 2007b.
- 'National Plan for the Adoption of Acquis 2008 Revision'. Skopje: Government of the Republic of Macedonia, 2008.
- 'National Plan for the Adoption of Acquis 2009 Revision'. Skopje: Government of the Republic of Macedonia, 2009.
- 'National Plan for the Adoption of Acquis 2010 Revision'. Skopje: Government of the Republic of Macedonia, 2010.
- Hughes, J., G. Sasse, and C. Gordon. *Europeanization and Regionalization in the EU's Enlargement: The Myth of Conditionality (One Europe or Several?)*. Basingstoke: Palgrave MacMillan, 2005.
- International Crisis Group, 'Macedonia: Ten Years after the Conflict.' In *Europe Report*. International Crisis Group, 2011.

- Jackson Preece, J. *Minority Rights: Between Diversity and Community*. Cambridge, UK, Malden, MA: Polity Press, 2005.
- Kymlicka, W. 'Multiculturalism and Minority Rights: West and East'. *Journal on Ethnopolitics and Minority Issues in Europe* 4 (2002).
www.ecmi.de/jemie/download/Focus4-2002_Kymlicka.pdf
- 'Reply and Conclusion'. In *Can Liberal Pluralism Be Exported? Western Political Theory and Ethnic Relations in Eastern Europe*, eds. W. Kymlicka and M. Opalski. Oxford: Oxford University Press, 2002.
- Liebich, A. 'Ethnic Minorities and Implications of EU Enlargement'. In *Europe Unbound: Enlarging and Reshaping the Boundaries of the European Union*, ed. J. Zielonka, 117–136. London and New York: Routledge, 2002.
- Markovic, N., Z. Ilievski, I. Damjanovski, and V. Bozinovski. 'The Role of the European Union in the Democratic Consolidation and Ethnic Conflict Management in the Republic of Macedonia'. *Regional Research Promotion Programme Western Balkans* (2011). <http://rrpp-westernbalkans.net/dms/downloads/Library/Research-Results/Macedonia/European-Union-in-the-democratic-consolidation/European%20Union%20in%20the%20democratic%20consolidation.pdf>
- Pridham, G. 'EU Enlargement and Consolidating Democracy in Post-Communist States: Formality and Reality'. *Journal of Common Market Studies* 40(5) (2002): 953–973.
- Rechel, B. 'What Has Limited the EU's Impact on Minority Rights in Accession Countries?' *East European Politics and Societies* 22(1) (2008): 171–191.
- Risteska, M. 'Ten Years after the Ohrid Framework Agreement'. *Policy Brief* (2012). <http://www.crpm.org.mk/Papers/Ten%20years%20after%20the%20Ohrid%20Framework%20Agreement.pdf>.
- Sasse, G. 'EU Conditionality and Minority Rights: Translating the Copenhagen Criterion into Policy'. *EUI-RSCAS Working Papers*, No. 16 (2005), www.eui.eu/RSCAS/WP-Texts/05_16.pdf.
- 'National Minorities and Eu Enlargement: External or Domestic Incentives for Accomodation?' In *European Integration and the Nationalities Question*, eds. J. McGarry and M. Keating, 64–84. New York: Taylor and Francis, 2006.
- 'The Politics of EU Conditionality: The Norm of Minority Protection During and Beyond EU Accession'. *Journal of European Public Policy* 15 (6) (2008): 842–860.
- 'Tracing the Construction and Effects of Eu Conditionality'. In *Minority Rights in Central and Eastern Europe*, ed. B Rechel. London and New York: Taylor & Francis, 2009.
- Schimmelfennig, F., and U. Sedelmeier. 'Governance by Conditionality: EU Rule Transfer to the Candidate Countries of Central and Eastern Europe'. *Journal of European Public Policy* 11(4) (2004): 661–679.
- 'Introduction: Conceptualizing the Europeanization of Central and Eastern Europe'. In *The Europeanization of Central and Eastern Europe*, eds. F. Schimmelfennig and U. Sedelmeier, 1–28. Ithaca, NY: Cornell University Press, 2005.
- Schweltnus, G. 'Minority Protection as a Condition for Membership'. In *Questioning EU Enlargement*, ed. H. Sjursen, 186–200. London: Routledge, 2008.

- Schwellnus, G., L. Balazs, and L. Mikalayeva. 'It Ain't Over When It's Over: The Adoption and Sustainability of Minority Protection Rules in New EU Member States'. *European Integration online Papers* 2 (2009).
<http://eiop.or.at/eiop/texte/2009-024a.htm>.
- Smith, K.E. 'Western Actors and the Promotion of Democracy'. In *Democratic Consolidation in Eastern Europe*, eds. J. Zielonka and A. Pravda, 31–57. Oxford: Oxford University Press, 2001.
- Sørensen, G. 'Introduction'. *The European Journal of Development Research* 5(1) (1993): 1–5.
- Tesser, L. M. 'The Geopolitics of Tolerance: Minority Rights under EU Expansion in East-Central Europe'. *East European Politics and Societies* 17(3) (2003): 483–532.
- Tilly, C. 'Political Identities in Changing Polities'. *Social Research: An International Quarterly* 70(2) (2003): 605–619.
- Trajkowska, M. 'Pravicno zastapeni, nepravicno preplateni' ['Equitably Represented, Unjustifiably Overpaid'], 14 October 2009.
<http://www.dnevnik.com.mk/default.asp?ItemID=FE325C4500FFE3448861DC7D3C1251C9>.
- Uvin, P. "'Do as I Say, Not as I Do": The Limits of Political Conditionality'. *The European Journal of Development Research* 5(1) (1993): 63–84.