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ABSTRACT

The accession of Bulgaria and Romania into the European Union (EU) in 2007 offers significant theoretical and empirical insights into the way in which the EU has deployed and realised its enlargement strategy/strategies over the past 15 years. Borrowing from the literature on enlargement-led Europeanisation and EU conditionality, this article discusses how the EU has sought to influence domestic reform in the two countries through a mix of threats and rewards. What emerges from Bulgaria's and Romania's trajectory towards EU membership is the evolutionary and contested nature of EU conditionality as well as the considerable EU discretion in the manner of its implementation. In that sense Bulgaria and Romania, as 'outliers' of the 2004-7 EU enlargement, offer us critical tests of the enlargement-led Europeanisation thesis. Thus, their study provides useful conceptual insights into the transformative power of the EU in Eastern Europe and highlights important policy legacies affecting the current EU enlargement strategy in the Western Balkans and Turkey.

Keywords: Europeanisation, European Union, conditionality, Bulgaria, Romania

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1. Introduction

Whilst often regarded as the 'procedural' conclusion of the 2004 enlargement round, the accession of Bulgaria and Romania into the European Union (EU) in 2007 offers significant theoretical and empirical insights into the way in which the EU has deployed and realised its enlargement strategy/strategies over the past 15 years. Ever since their turbulent transition to democracy in the early 1990s, the two countries have experienced a difficult relation with the EU. For officials in Brussels the slow pace of democratic consolidation and domestic economic reform has been a regular source of frustration, necessitating the enactment of special measures to account for the 'Balkan exceptionalism' of the two candidates. Naturally all attempts to differentiate Bulgaria and Romania from the candidate countries of Central and Eastern Europe have been met with fierce opposition in Sofia and Bucharest where political elites have found it difficult to reconcile their pro-European rhetoric with the implementation of a reform agenda capable of meeting the considerable conditionalities attached to the enlargement process.

Conceptually, the position of Bulgaria and Romania as 'outliers' in the process of the EU's eastwards enlargement offers a critical test case to the thesis of enlargement-led Europeanisation. It also points to the significance of domestic mediating factors that condition the transformational impact of the EU and have produced divergent reform trajectories across Central and Eastern Europe. In policy terms, too, the imperative of dealing with 'outliers' (and more generally with the significant degree of diversity amongst accession candidates) underlines the highly contingent and evolutionary nature of the EU's enlargement strategy. The word 'strategy' is used here with a degree of caution for, ever since its inception in the early 1990s, the EU's approach vis-à-vis its accession hopefuls has been built upon an uncomfortable dualism: on the one hand the building of a *rule-governed process* structured around the principle of conditionality and, on the other, the preservation of a significant element of *discretion* about the interpretation and implementation of these rules.

The position of the Commission in this process - both as a 'policy entrepreneur' (Kingdon, 1984) on enlargement and as the arbitrator of the 'rules of the game' - has been crucially important. From an early stage the Commission assumed a key role in driving the enlargement agenda forward against the backdrop of internal EU divisions (over the pace and scope of the process) as well a rapidly changing geopolitical context involving, amongst others, the wars of succession in the former Yugoslavia and NATO enlargement. Under these circumstances the Commission was called to exercise discretion that went well beyond the bureaucratic oversight of the accession negotiations and deployed a different

mix of rewards and punishments for each candidate country. Naturally the premises and implications of such discretion acquired far greater significance for 'marginal candidates' on the edges of the enlargement process. By tracing the key components of the EU's response to the Bulgarian and Romanian membership ambitions, this article does not simply shed light on facets of an EU enlargement round that is now confined to history. The contemporary relevance of previous EU attempts to deal with 'Balkan exceptionalism' remains pertinent as the policy legacies of the 2007 enlargement continue to shape the context in which current and forthcoming accession hopefuls pursue their own 'return to Europe'.

This article is structured in three parts. The first part revisits the literature of enlargement-led Europeanisation and discusses the 'added value' offered by the experiences of the 2007 enlargement. The second part discusses aspects of differentiation and policy-learning evident in the EU's strategy vis-à-vis Bulgaria and Romania since the early 1990s. The third part articulates the policy legacies of the Bulgarian and Romanian accession into the EU and their likely implications for the membership prospects of other enlargement candidates from the wider Balkans.

2. Revisiting Conditionality-led Europeanisation in the context of the EU's 2004-07 Enlargement

One of the most distinguishing features of the recently completed round of EU enlargement has been the demand for the adoption by the candidate countries of an unprecedented volume of EU-inspired rules. The very nature of the accession negotiations (structured around the need for full compliance with the EU's *acquis communautaire*) coupled with their extremely tight timeframe and profound power asymmetries between the negotiating parties have unleashed a massive pressure for domestic adaptation across Central and Eastern Europe. This process has often been referred to as 'Europeanisation'. Initially the term was used to describe the way in which the experience of EU membership affected 'the organisational logic of national politics and policy making' in the member states (Ladrech, 1994, 69). Radaelli speaks of Europeanisation as a process of 'construction, diffusion and institutionalisation' of EU rules that shape 'domestic discourse, identities, political structures and public policies' (Radaelli, 2003, 30). Owing to its rapid expansion over the past decade, the literature on Europeanisation offers us today a bewildering array of perspectives, ranging from case-specific manifestations of Europeanisation dynamics (e.g. Börzel, 1999) to more general conceptualisations on the nature of the interactivity between European and national levels (e.g. Cowles *et al* 2001; Bulmer and Lequesne, 2005) and the mechanisms through which Europeanisation impacts on domestic politics (e.g. Knill and Lehmkuhl, 1999).

More recently conceptualisations of Europeanisation as an 'export' – particularly in the context of the EU's eastwards enlargement – have also been utilised to illustrate the impact of the EU beyond its own geographical confines (e.g. Lippert *et al* 2001; Goetz 2001b; Grabbe 2003; Papadimitriou and Phinnemore 2004, 2008). The principle of conditionality - one of the key components of the EU's strategy in post-communist Central and Eastern Europe - is widely acknowledged to be the driving force behind the process of enlargement-led Europeanisation. Indeed the principle of conditionality, with all its multiple guises and methods of application, has attracted a great deal of scholarly attention, both in the context of EU enlargement and the wider field of the EU's external relations (see, for example, Pridham, 2002; Smith, 1998, 2005). Building on a rationalist perspective, Schimmelfennig and Sedelmeier define conditionality as 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, 662). Under this external incentives model, actors are assumed to be utility-maximisers, whose preferences are determined by 'cost and benefit' calculations, shaped by four main factors: the clarity of EU conditions; the size and speed of rewards; the credibility of threats and promises; and the size of adoption costs (Schimmelfennig and Sedelmeier, 2004).

The ambiguities surrounding the definition and application of externally imposed norms on post-communist countries in Central and Eastern Europe are discussed by Hughes *et al* who argue that EU conditionality is not 'a uniformly

hard rule-based instrument, but rather a highly differentiated one' (Hughes *et al*, 2004: 256). Indeed, by distinguishing between formal (i.e. based on the Copenhagen criteria and the EU's acquis) and informal (i.e. softer mechanisms of applying pressure) conditionality they argue that the transformative effects of enlargement-led conditionality depend upon the nature of the EU acquis, the policy area concerned and the political context in which conditionality is applied. Grabbe argues along similar lines by pointing out that the accession conditionality established by the Copenhagen criteria is not always amenable to quantitative targets. As a result, the establishment of clear causalities between 'compliance' and 'reward' are not always straightforward or free from political contestation (Grabbe, 2006).[1]

Hence, an understanding of EU enlargement as a purely bureaucratic process of rule-based assessment would conceal the significant room for discretion available to both the Commission (as the assessor of the performance of candidate countries) and the Council (as the ultimate 'gatekeeper' in the enlargement process). Neither should EU enlargement be understood solely on the basis of the 'rhetorical entrapment' paradigm (Schimmelfennig, 2001) and the inevitability it implies. Indeed, the experience of the Bulgarian and Romanian accession to the EU highlighted the strong interplay between, on the

[1] Neither, of course, should all sources of domestic reform be traced exclusively to processes of Europeanisation. For example, the eventual accommodation of ethnic minority parties into the mainstream of Bulgarian and Romanian politics offers evidence of compliance with the Copenhagen democratic criterion that is best attributable to the complexities of the domestic party political scene (and the delicate process of governmental coalition building) rather than externally imposed conditionalities. Similarly a range of domestic reforms can be best understood by reference to international actors (other than the EU) with a stake in the process of domestic reform in the two countries, including the International Monetary Fund the World Bank and the World Trade Organisation.

one hand, the rhetorical commitment to Europe's reunification and the creation of a rule-based process of EU enlargement and, on the other, the need for the constant adjustment of the EU's strategy in the region so as to account for a rapidly evolving geo-strategic environment and the very diverse nature of the candidate countries knocking on its door. With this in mind, the case of the 2007 entrants offers three theoretically-informed insights into the process of EU enlargement: *firstly*, it highlights the evolutionary nature of enlargement-led conditionality and presents evidence of policy learning across different waves of EU enlargement; *secondly*, it demonstrates the difficulties surrounding the consistent application of conditionality towards 'exceptional' candidate countries (whether defined in cultural, historical or security terms); and, *thirdly*, it problematises the causalities between conditionality and domestic reform. Put simply, do Bulgaria and Romania prove the effectiveness of enlargement-led conditionality or just confirm the limitations of its inconsistent application? The first two points are addressed in the next part of the article. The third point is discussed in the conclusion.

3. The Importance of Being Balkan: differentiation and policy learning in the EU's enlargement strategy

Since its very inception in the late 1980s, EU policy towards Central and Eastern Europe has balanced (often uncomfortably) two fundamental principles: on the one hand, the need for a single policy framework open to all

countries in the region that sought to deepen their relations with the EC/EU and, on the other, the preservation of an element of differentiation which allowed the EU to regulate the range of (and timing of access to) 'rewards' (contractual, financial etc) available to individual Central and East European (CEE) partners. The first principle (i.e. single policy framework) spoke to the need for a visible and coherent EU policy towards post-communist Europe which would mobilise more effectively the Commission's financial and administrative resources and would insulate the EU from the criticism that its commitment to the region was either lukewarm or selective (in terms of preferred partners). The second principle (i.e. differentiation) was born out of the conviction that, given the degree of diversity amongst its East European partners, the EU should not deal with the region *en bloc*. Indeed, the placing of conditionality (as a mix of threats and rewards) at the heart of the EU's strategy in Central and Eastern Europe necessitated the assessment of individual partners on the merits of their reform performance rather than an *a priori* acceptance of their claim to EU membership by virtue of their 'return to Europe' (e.g. Papadimitriou, 2002).

The importance of this policy paradigm for the European ambitions of Bulgaria and Romania has been profound throughout the past twenty years. Given their geographical location and their particular trajectories of post-communist transition, the experience of EU differentiation against the two countries can be understood by reference to three main axes: *iconic acts of differentiation*, *enhanced conditionalities* and *the securitisation of EU marginalisation*.

3.1. Iconic acts of differentiation

The first and more obvious observation relates to the delay (compared with Central and Eastern Europe's frontrunners) with which Bulgaria and Romania have ascended the ladder of contractual relations with the EU (see Table 1).

Table 1: Key Dates in the Process of the EU's Eastwards Enlargement

	Signing of TCA	Signing of EA	Opening of Accession Negotiations	Conclusion of Accession Negotiations	Signing of Accession Treaty	Accession
Hungary	26.09.89	16.12.91	31.03.1998	13.12.2002	16.04.2003	01.05.2004
Poland	19.09.89	16.12.91	31.03.1998	13.12.2002	16.04.2003	01.05.2004
Czechoslovakia	08.05.90	16.12.91	–	–	–	–
Czech Republic	–	04.10.93	31.03.1998	13.12.2002	16.04.2003	01.05.2004
Slovakia	–	04.10.93	15.02.2000	13.12.2002	16.04.2003	01.05.2004
Bulgaria	08.05.90	08.03.93	15.02.2000	17.12.2004	25.04.2005	01.01.2007
Romania	22.10.90	01.02.93	15.02.2000	17.12.2004	25.04.2005	01.01.2007
Estonia	11.05.92	12.06.95	31.03.1998	13.12.2002	16.04.2003	01.05.2004
Lithuania	11.05.92	12.06.95	15.02.2000	13.12.2002	16.04.2003	01.05.2004
Latvia	11.05.92	12.06.95	15.02.2000	13.12.2002	16.04.2003	01.05.2004
Slovenia	05.04.93	10.06.96	31.03.1998	13.12.2002	16.04.2003	01.05.2004

Source: Own representation.

Although the overthrown of Todor Zhivkov and Nicolae Ceauşescu on 10 November and 24 December 1989 respectively followed very soon after the collapse of the Berlin Wall (9 November), the nature of regime change in both Bulgaria and Romania produced a far weaker reform impetus by comparison to those witnessed in Poland, Hungary and Czechoslovakia. The outcome of the first multi-party elections in Romania (May 1990) and Bulgaria (June 1990)

confirmed Western suspicions that much of the previous communist order had remained intact in both countries. In this sense Bulgaria and Romania failed to meet the first (implicit) conditionality for advancing their relations with the EU: a clean break from their communist past and the emergence of reform-minded governments.

The implications of this setback first became evident during the second half of 1990,[2] when the EU revealed its association strategy for the CEE countries. Hence, whereas Poland, Hungary and Czechoslovakia were invited to negotiate their Europe Agreements with the EU in September 1990, neither Bulgaria nor Romania was asked to do so. The two Balkan countries were 'officially' decoupled from Central and Eastern Europe's frontrunners As a result, the Romanian and Bulgarian Europe Agreements were signed in February and March 1993 respectively, over a year later than those between the EU and the then 'Visegrád Three'.

From that point onwards the reputation of Bulgaria and Romania as 'outliers' in the process of the EU's eastwards enlargement never seriously recovered. The publication by the Commission in July 1997 of Agenda 2000 and its opinion on the membership applications of the ten CEE countries confirmed that the pace of reform in both countries had fallen behind those of the region's frontrunners.[3] Indicative of this was the fact that both Bulgaria and Romania

[2] Romania's relations with the EU were effectively frozen during the summer of 1990 following government-sponsored violence against student demonstrations in June 1990.
[3] The ten CEE countries were: Bulgaria, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Romania, Slovakia and Slovenia.

were judged to have failed the economic criteria set in Copenhagen, whereas Romania and Slovakia were the only candidate countries to have failed to meet fully the political criteria (Phinnemore and Papadimitriou, 2008). The Commission's assessment paved the way for the second 'official' act of differentiation against the two Balkan applicants at the Luxembourg European Council in December 1997: Bulgaria and Romania (alongside Latvia, Lithuania and Slovakia) were excluded from the accession negotiations that were launched in London in March 1998 (Council of the European Union 1997).

The European Council's U-turn at Helsinki two years later (December 1999) ended the 'formal' differentiation amongst East European candidates and committed the Union to an all inclusive negotiating process (Council of the European Union 1999). Bulgaria and Romania were now in a position to stake a much stronger claim to their EU membership credentials. But, unlike the rest of the 'pre-ins' of Luxembourg, they were unable to make up for the lost time. As a result neither Romania nor Bulgaria was amongst the eight East European countries who, alongside Cyprus and Malta, participated in the fifth round of EU enlargement on 1 May 2004. The two Balkan candidates, by contrast, fulfilled their EU membership ambitions 32 months later, on 1 January 2007.

3.2. Enhanced Conditionalities

If iconic acts of differentiation (like Luxembourg) in the EU's 'gate-keeping' policy in Central and Eastern Europe (Grabbe, 2001) have dominated news

headlines, more marginal adjustments in the definition and application of EU-imposed conditionalities have produced a significant cumulative effect on the articulation and execution of the EU's enlargement strategy. Many commentators have argued that, given the unprecedented nature (in terms of speed, policy coverage and applicant numbers) of eastwards enlargement, much of the EU strategy in this field developed incrementally and not always in a linear fashion (see for example, Sedelmeier, 2005). This 'learning by doing' approach to enlargement allowed the EU to revisit and adjust some of the key components of its strategy in the region in light of its experiences of dealing with the frontrunners of the process, but also in anticipation of the challenges likely to emerge in subsequent waves of applicants (see below).

Much to their frustration, Bulgaria and Romania were first exposed to tighter EU conditionalities during the negotiation of their Association agreements in 1992. Upon the insistence of the EU, the Bulgarian and Romanian Europe Agreements included in their preamble a specific 'human rights clause' that made explicit reference to the protection of minority rights (see Table 2). In addition, Article 118 (paragraph 2) of the Final Provisions of the agreements included a 'unilateral suspension clause' that allowed either party to suspend co-operation in case of failure (of the opposite party) to fulfil the obligations prescribed in the agreement (Papadimitriou, 2002). As neither clause was included in the first set of Europe Agreements with the 'Visegrád Three', the tightening of political conditionalities for the two Balkan applicants was interpreted as a reflection of widespread scepticism in Brussels over the pace of

their democratic transitions and the treatment of the substantial Turkish and Hungarian minorities in Bulgaria and Romania respectively (the latter being a major case for concern).[4]

Table 2: Association, Accession and Post-Accession Conditionalities in Comparative Perspective

	2004									2007	
	Hu	Po	CSFR	Cz	Slk	Lat	Lit	Est	Slo	Bu	Ro
Europe Agreement											
Human Rights Clause	-	-	-	√	√	√	√	√	√	√	√
Unilateral Suspension Clause	-	-	-	√	√	√	√	√	√	√	√
General Economic Safeguard Clause	√	√	√	√	√	√	√	√	√	√	√
Sector-Specific Safeguard Clauses	-	-	-	√	√	√	√	√	-	√	√
Treaty of Accession											
General Economic Safeguard Clause	√	√	n/a	√	√	√	√	√	√	√	√
Internal Market Safeguard Clause	√	√	n/a	√	√	√	√	√	√	√	√
Third Pillar Safeguard Clause	√	√	n/a	√	√	√	√	√	√	√	√
Postponement Clause (unanimity)	-	-	n/a	-	-	-	-	-	-	√	√
Postponement Clause (QMV)	-	-	n/a	-	-	-	-	-	-	-	√
Post Accession											
Benchmarking	-	-	n/a	-	-	-	-	-	-	√	√

Source: Own representation.

Calls for enhanced conditionalities and more robust mechanisms of EU monitoring grew louder in Brussels as Bulgaria's and Romania's membership prospects became more real. Evidence of suspicion over the pace of domestic reform can be detected in most of the Regular Reports published by the Commission since 1997 as well as in almost all European Parliament reports on the two countries. These concerns were expressed in the most manifest way in

[4] Elements of policy learning (from the experience of the first round of Europe Agreements) in the EU's trade-related strategy towards Bulgaria and Romania were visible in the insertion of a specific safeguard clause on steel products as well as a more cautious trade liberalisation timetable on agricultural products.

the Treaty of Accession governing Bulgaria and Romania's accession that was signed on 25 April 2005 (Official Journal, 2005b). As was the case with all 2004 entrants, the Treaty of Accession included three safeguard clauses: a 'general' economic safeguard clause allowed EU member states (as well as the two members-to-be) to apply to the Commission for authorisation to take protective measures in case of 'serious deterioration in the economic situation of a given area' (applicable for a period of up to three years following accession); and two 'specific' safeguard clauses relating to the internal market and third pillar issues (such as cooperation in criminal and civil matters) which allowed the Commission or individual member-states (in the case of the JHA safeguard clause) to take 'appropriate measures' in cases where Bulgaria and/or Romania fail to meet the membership obligations. The time frame for the activation of the two specific safeguard clauses went beyond the first three years following accession, extending for 'as long as the relevant commitments have not been fulfilled' (Official Journal, 2005a).

Unlike the 2004 entrants, however, the Bulgaria's and Romania's Accession treaties included an additional 'postponement clause', according to which:

> 'if…. there is clear evidence that the state of preparations for adoption and implementation of the acquis in Bulgaria or Romania is such that there is a serious risk of either of those States being manifestly unprepared to meet the requirements of membership by the date of accession of 1 January 2007 in a number of important areas, the Council may, acting unanimously on the basis of a Commission recommendation,

decide that the date of accession of that State is postponed by one year to 1 January 2008' (Official Journal, 2005a: Article 39).

For Romania the scope of enhanced conditionality went even further by allowing the Council to activate the postponement clause by qualified majority voting if Romania's progress towards implementing eleven specific areas of the *acquis* was not satisfactory (see Table 2).[5]

The Commission's monitoring procedures during the ratification process of the Treaty of Accession were also significantly tightened. For the 2004 entrants the publication of the Commission's Comprehensive Monitoring Reports in November 2003 raised a number of outstanding issues to be resolved before formal accession.[6] In the absence of a 'postponement clause', however, these reports were widely regarded as a 'tidying up exercise' rather than a serious threat for derailing the agreed accession date of 1 May 2004. For Bulgaria and Romania, the stakes were much higher. Between April 2005 and January 2007, the Commission published three such monitoring reports; a clear sign that Brussels was anxious not to let the two Balkan applicants 'off the hook' easily. In the first monitoring report published in October 2005 the Commission

[5] The 11 policy areas stipulated in Annex IX of the Accession Treaty were: 1) the implementation of the Schengen Action Plan; 2) control and surveillance at the future external borders of the Union; 3) the implementation of the Action Plan and Strategy for the Reform of the Judiciary; 4) the enforcement of anti-corruption legislation and the effective independence of the National Anti-Corruption Prosecutors' Office (NAPO); 5) the full implementation of the National Anti-Corruption Strategy; 6) improvements in the operations of the gendarmerie and the police; 7) the implementation of the strategy to protect victims of trafficking; 8) further investigations into accusations of state aid to the energy sector; 9) the strengthening of the State aid enforcement record; 10) the submission of a revised steel restructuring plan and 11) the strengthening of the financial means and human resources of the Competition Council. See Official Journal (2005b).

[6] The number of outstanding issues varied across candidate countries: there were nine for Poland; six for Malta; four for the Czech Republic, Hungary and Slovakia; three for Estonia; two for Lithuania and one for Slovenia.

concluded that neither country was able to cope fully with the competitive pressures of the Single European Market (one of the Copenhagen criteria) and identified various areas of 'serious concern' for Bulgaria (16) and Romania (14) (European Commission, 2005a; European Commission, 2005b).[7]

By the time the second monitoring report was published in May 2006 the areas of 'serious [EU] concern' were reduced to six for Bulgaria and four for Romania.[8] As regards the Single Market criterion the Commission concluded that both countries would be able to fulfil it in the 'near term', subject to the 'continuation' (for Bulgaria) and 'vigorous implementation' (for Romania) of their respective reform programmes (European Commission, 2006a; 2006b). Despite its more positive overtone, however, the Commission's report fell short

[7] For Bulgaria these can be summarised as follows: protection of intellectual and industrial property rights in the company law field and motor vehicle insurance in the services chapter; the paying agency and the integrated administration and control system; the common market organisation on milk; transmissible spongiforme encephalopathies (TSEs) and animal by-products; the veterinary control system and animal diseases control; trade in live animals and animal products; veterinary public health and animal welfare in the chapter on agriculture; institutional structures and financial management and control in the area of regional policy; application of the Schengen acquis; management of the future EU external border; police cooperation; and fight against organised crime and fraud and corruption. See European Commission (2005a). For Romania these can be summarised as follows: public procurement in free movement of goods; protection of intellectual and industrial property rights in company law; setting up of paying agencies and implementation of an integrated administration and control system; measures relating to transmissible spongiform encephalopathies (TSEs) and animal by-products; veterinary control system in the internal market; animal disease control measures; veterinary public health; administrative capacity in the taxation area; strengthening of institutional structures and financial management and control mechanisms to deal with regional policy; coordination of structural instruments; industrial pollution and overall administrative capacity in the field of environment; application of the Schengen acquis; management of the future EU external border; fight against fraud and corruption. See European Commission (2005b).

[8] For Bulgaria these were: a) the setting up an integrated administration and control system (IACS) in agriculture; b) the build-up of rendering collection and treatment facilities in line with the acquis on TSE and animal by-products; c) clearer evidence of results in investigating and prosecuting organised crime networks; d) more effective and efficient implementation of laws for the fight against fraud and corruption; e) intensified enforcement of anti-money laundering provisions; f) strengthened financial control for the future use of structural and cohesion funds. See European Commission (2006a). For Romania these were: a) fully operational paying agencies accredited for handling direct payments to farmers and operators; b) setting up an integrated administration and control system (IACS) in agriculture; c) build-up of rendering collection and treatment facilities in line with the acquis on TSE and animal by-products; d) tax administration IT systems ready for inter-operability with those of the rest of the Union, to enable a correct collection of VAT throughout the EU internal market. See European Commission (2006b)

of recommending to the Council 1 January 2007 as the target date of accession. Instead the final decision on this matter would be taken in the light of another (third) monitoring report scheduled for September/October 2006. This was an astonishing act of brinkmanship by the European Commission. The date of Bulgaria's and Romania's accession into the EU would not be made known to the two applicants until three months before it was due to take place.

Indeed the confirmation of the 1 January 2007 accession date in the Commission's report (26 September 2006) was welcomed with jubilation (and a great deal of relief) by Bulgarian and Romanian policy-makers. Their 'victory', however, had come at a high cost; namely the acceptance of an unprecedented series of post-accession conditionalities that allowed the Commission to monitor Bulgaria's and Romania's compliance with the *acquis* even after the two countries had formally acceded into the EU (European Commission, 2006c). The so-called 'cooperation and verification process', whose full operational details were finalised by two Commission decisions in December 2006 (European Commission, 2006d; European Commission, 2006e), had its legal base in the safeguard clauses provided for in the Romanian and Bulgarian Accession Treaties (particularly those prescribed in articles 37 and 38). The 'cooperation and verification mechanism' set a series of benchmarks (six for Bulgaria and four for Romania) to be regularly monitored by the European Commission (twice-annually).[9] Failure to comply

[9] The benchmarks for Bulgaria were: a) adopt constitutional amendments removing any ambiguity regarding the independence and accountability of the judicial system; b) ensure a more transparent and efficient judicial process by adopting and implementing a new judicial system act and the new civil

with these benchmarks carried the threat of major sanctions, including the withdrawal of EU funding and the unilateral suspension of bilateral cooperation with other EU member states on judicial matters.

The introduction of post-accession conditionalities in the 2007 enlargement was a major example of policy innovation reflecting both the 'Balkan exceptionalism' of the two new EU member states and the Commission's ability to learn and adjust its enlargement strategy in view of changing realities on the ground. Since Bulgaria's and Romania's accession, the Commission has published three 'Cooperation and Verification' reports for each of the two new member states (European Commission 2007a; 2007b; 2008a; 2008b, 2008c, 2008d). The fallout of these reports has already been acutely felt, particularly in Bulgaria which has recently suffered the withdrawal of €220 million of EU funding because of its persistent failure to tackle corruption (See European Commission 2008e, 2008f; EUobserver 2008; Euractiv 2008a, 2008b). The implications of post-accession conditionalities for the design and execution of

procedure code. Report on the impact of these new laws and of the penal and administrative procedure codes, notably on the pre-trial phase; c) continue the reform of the judiciary in order to enhance professionalism, accountability and efficiency. Evaluate the impact of this reform and publish the results annually; d) conduct and report on professional, non-partisan investigations into allegations of high-level corruption. Report on internal inspections of public institutions and on the publication of assets of high-level officials; e) take further measures to prevent and fight corruption, in particular at the borders and within local government; f) implement a strategy to fight organised crime, focussing on serious crime, money laundering as well as on the systematic confiscation of assets of criminals. Report on new and ongoing investigations, indictments and convictions in these areas. See European Commission (2006d). The benchmarks for Romania were: a) ensure a more transparent and efficient judicial process notably by enhancing the capacity and accountability of the Superior Council of Magistracy. Report and monitor the impact of the new civil and penal procedures codes; b) establish, as foreseen, an integrity agency with responsibilities for verifying assets, incompatibilities and potential conflicts of interest, and for issuing mandatory decisions on the basis of which dissuasive sanctions can be taken; c) continue to conduct professional, non-partisan investigations into allegations of high-level corruption; d) take further measures to prevent and fight against corruption, in particular within the local government. See European Commission (2006e).

future rounds of EU enlargement will be discussed in more detail in the concluding section of this article.

3.3. The 'Securitisation' of EU Marginalisation

An understanding of Bulgaria and Romania's 'Balkan exceptionalism' as an exclusively EU-driven discourse leading to discrimination and the imposition of enhanced conditionalities against the 2007 entrants fails to encapsulate fully the complexities of their relationship with the EU since 1989. Indeed claims to the exceptionalism of their own countries have often been employed by Bulgarian and Romanian political elites themselves in order to advance their European ambitions. Within this context major security crises such as the outbreak of the wars of succession in former Yugoslavia in Spring 1991 or the coup against Gorbachev in the former Soviet Union in August 1991 became powerful bargaining cards in the hands of the Bulgarian and Romanian governments in getting the EU to speed up their inclusion into the Association process (Papadimitriou, 2002). In later years, references to the fragility of their own imperfect democracies and their potential implosion into Balkan instability have also helped the two countries to resist the danger of more a permanent form of isolation from the European mainstream (Phinnemore, 2000). For Romania, in particular, its especially traumatic communist experience (the 'Ceauşescu factor') and its population size ('too big to be ignored') and have

often been used as part of an exceptionalist discourse to account for the slow pace of post-communist reform and promote fast-track accession into the EU.

The effectiveness of 'securitising' the (threat of) marginalisation from the EU's enlargement process was most clearly demonstrated in the aftermath of the 1997 decision of the Luxembourg European Council not to open fast-track accession negotiations with the two countries. The entanglement of the Romanian and Bulgarian EU and NATO membership applications with the escalating crisis in Kosovo and the unresolved issue of Turkey's European perspective produced a powerful incentive for the revision of the EU's enlargement strategy. By the time the EU's U-turn was completed at Helsinki (December 1999), Bulgaria and (particularly) Romania's admission into the 'fast lane' of the enlargement process was much more a reflection of a new EU security thinking for the wider Balkan region (as well as a reward for their crucial support to NATO during the Kosovo war) rather than a simple technocratic appraisal of the reform record in the two countries (significant as that was for Bulgaria at the time).

The U-turn at Helsinki also highlighted the fact that, for all of its flaws in terms of definition and execution, the EU's differentiation principle within its enlargement strategy did not produce 'stable' groups of 'frontrunners' and 'laggards' across Central and Eastern Europe. The rapid progression of relative 'latecomers', such as the Baltic States or Slovenia, in the enlargement process is an indicative example. Similarly, the ability of marginalised candidates (such

as Slovakia in the mid-1990s) to catch up with the 'frontrunners' and meet the 2004 target date also illustrates that there was nothing 'pre-determined' or 'inevitable' about Bulgaria's and Romania's late accession to the European Union. This is a point often overlooked by political elites in both Sofia and Bucharest who regularly attribute the sources of this delay to external factors rather than the extensive network of veto points to reform in their own countries.

4. Conclusion: policy legacies and future implications – looking back to see forward

Bulgaria's and Romania's accession into the European Union on 1 January 2007 is the culmination of a long and often difficult relationship that is inextricably linked to the complexities of post-communist transition in the two countries and the evolutionary nature of the EU's enlargement strategy. The empirical, conceptual and normative implications of the 2007 enlargement are not always easily discernable, shaped, as they are, by unclear causalities and ambiguous yardsticks for evaluating success. At one level, the delayed entry of the two countries into the EU can be read as a confirmation of their 'Balkan exceptionalism'; their slower reform performance vis-à-vis the 2004 entrants and the resilience of their domestic veto points to the adaptational pressures of enlargement-led Europeanisation. A similar line of argumentation may also suggest that Bulgaria's and Romania's accession into the EU is not the result of

an ‘objective’ assessment of their compliance with EU conditionalities, but rather a reflection of wider security imperatives which led the EU to allow the accession of ‘imperfect’ new member states instead of risking the unpredictable costs of their exclusion. The introduction of post-accession safeguards against non-compliance by the two Balkan countries would also be seen under a similar perspective.

Where does this leave enlargement-led conditionality? Does the inconsistent application of conditionality negate its very *raison d’être*? The Bulgarian and Romanian experience suggests that the EU’s leverage in promoting domestic reform has been greatly enhanced when the prospect of membership appeared more credible to the candidate countries. The evident marginalisation of the two countries during the first half of the 1990s failed to produce strong reform coalitions on the ground. The progress witnessed in the two countries since Helsinki (1999) reinforces the point that EU conditionality works more effectively by reference to the anticipated rewards for compliance rather than an opportunity for domestic elites to reflect on failure. This reality, likely to become even more evident as the EU expands into the Western Balkans and Turkey, is not without its moral hazards. Above all, it highlights the fact that the mix of rewards and threats (the essence of conditionality) at the disposal of the European Union through its enlargement strategy may produce different ‘Pareto optimal’ points in different candidate countries. This, in turn, suggests that the exercise of discretion (over the timing, scope and application of

conditionality) will remain a crucial element of the EU's engagement with candidate countries in the future.

Indeed processes of learning and policy entrepreneurship that developed within the context of the 2007 enlargement are already evident in the Commission's approach to the Western Balkans and Turkey. Additional conditionalities such as the 'good neighbourliness' clause and the full co-operation with the International Criminal Tribunal on former Yugoslavia (ICTY) are already being imposed on the new wave of accession applicants. The mechanism of benchmarking, first developed in the context of the Romanian and Bulgarian post-accession verification process, is now being implemented for each chapter of the EU's acquis under negotiation. Crucially, with the exception of Croatia,[10] the EU has refused to set target dates for the completion of its accession negotiations with the countries of the Western Balkans and Turkey, stressing instead that the process of enlargement is 'open-ended' and without a 'pre-determined outcome'. Many (e.g. Barysch, 2006) are also predicting new forms of EU membership where future entrants may be permanently excluded from certain aspects of the EU's acquis.

Whether these declarations are best understood as evidence of 'strategic adjustment' to the EU's enlargement policy or as a more 'paradigmatic shift' in the EU's appetite for further expansion remains to be seen. Few would deny, however, that the current discourse on enlargement is indeed very different to

[10] The European Commission has set the end of 2009 as the target date for the completion of its accession negotiations with Croatia.

the one that led to the accession of 12 Southern and Central and Eastern European countries into the EU in 2004-7. This is bound to have an effect on the impact of enlargement-led Europeanisation in the Western Balkans and Turkey. Whereas Bulgaria and Romania (as well as the new members in 2004) were encouraged to comply with EU conditionalities safe in the knowledge that their accession was, in principle, agreed upon, current candidate countries are forced to pursue their adaptation to the EU acquis without such a clear EU membership perspective. The absence of clear 'reward', however, may hinder the emergence of a sustainable reform impetus in the region and seriously damage the EU's ability to guide more countries away from their 'Balkan exceptionalism' and into the European mainstream.

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