

EU CONDITIONALITY IN SENSITIVE MATTERS

Serbia's policy towards Kosovo

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Abstract

The unresolved Kosovo issue is considered major factor of instability in the Balkans, since it is not only dispute between Serbia and Kosovo, but it also undermines regional relations. Since the EU is interested in the stability of the region and for last ten years, it has been the most important actor in the Balkans, it is interested to help resolve this issue, but often it has not been very successful because of its lack of unity on this issue. However, recently it has been more openly imposing certain conditionality towards Serbia on this issue and urging Belgrade to cooperate with Pristina. This conditionality, because of the lack of unity in the EU and the fact that it is dealing with “sensitive” issue for Serbia, has certain distinctive features, which makes it interesting case study. It shows that indirect and unclear conditionality can produce certain compliance. It reaffirms importance and effectiveness of short-term incentives not only for acquis conditionality, but also in sensitive matters. It shows that EU conditionality can have certain Europeanization effect on potential candidate’s foreign policy. However, some deeper changes in security identity can be expected only in a longer run and it reaffirms importance of clear EU membership perspective for changes in prospective member states, thus providing recommendation for the EU that it should offer more credible membership perspective for the Western Balkans.

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Introduction

On February 17, 2008, after eight years of UN administration, the Parliament of Kosovo declared independence of this Serbian province from Serbia, and invited other states to recognize this act. The US and majority of the EU member states recognized Kosovo as independent. Serbia refuses to recognize independence of Kosovo, with support of Russia, which blocked in UN Security Council adoption of a new resolution in on Kosovo which would replace SC Resolution 1244 from 1999 and many other countries have not done that either. Until now, Kosovo has been recognized by 69 states. Among the states that have not yet recognized Kosovo are also five EU member states, which refuse to recognize Kosovo because of their own minority problems.¹

This unresolved issue is considered major factor of instability in the Balkans. It also undermines regional relations, since, apart from Serbia and Bosnia and Herzegovina, other countries of the region have recognized Kosovo.

The most important stabilizing factor in the Balkans today is the EU and it has been very present in the region with its conditionality, policies and ESDP missions for the last ten years. Therefore, it has been engaged in attempts to resolve this issue. It is precisely the Kosovo crisis that is considered a milestone in history of the ESDP and that it influenced change in EU's approach towards the Western Balkans. The EU decided to replace earlier Regional Approach with new initiatives: Stability Pact for Southeastern Europe and Stabilization and Association Process and eventually decided to give the region the EU perspective.

Prospect of EU membership made EU leverage in the Balkans much stronger and the EU conditionality more efficient, since that is the strongest incentive for changes and it has transformative power in states that are prospective EU members.

¹ Vedran Džihic and Helmut Kramer, "Kosovo after Independence", International Policy Institute, July 2009

Both Serbia and Kosovo, as they constitute part of the Western Balkans, have EU membership perspective. Serbia signed Stabilization and Association Agreement, which still has to be ratified and has submitted application for candidate status. Since Kosovo has not been recognized by all member states, it is not included in the SAP, but the EU has developed for Kosovo so-called Stabilization Tracking Mechanism as a mirror instrument of the SAP.

EU conditionality in the Balkans is established by the general Copenhagen criteria, additional criteria developed for the Western Balkans, country-specific criteria and conditions that arise out of peace agreements and resolutions (Dayton and Ohrid Agreement and SC Resolution 1244).

One of the criteria, which the EU has especially stressed in case of Western Balkans countries is regional cooperation, with the main idea that the countries learn to overcome their mutual differences rather than bring their disputes to the EU.

These conditions are clearly stated and compliance with them have been monitored and evaluated annually in the European Commission Progress Reports. Some of them have met quite high resistance in accession countries, for example, cooperation with the ICTY.

Although the region has been offered membership perspective, currently because of the EU's "enlargement fatigue", it does not seem very credible and near, and considering that this is the main incentive for compliance with EU conditions, there is a question whether the EU is losing its leverage in the SEE and which mechanisms it can use to overcome the fact that there is no will for new enlargements in near future.

In this paper, I will examine how EU integration process and EU conditionality affect Serbia's policy towards Kosovo. This case is interesting for several reasons.

First of all, recognition of Kosovo is not clearly and directly stated as condition for Serbia's EU accession. Officially, it has not been asked from Serbia, because it would not even be possible since six EU member states also do not recognize Kosovo as independent state, and it

has been stressed many times that EU integration and resolution of Kosovo status are two separate processes. However, insisting on regional cooperation condition and assumption that Kosovo is Serbia's neighbor, makes situation somewhat confusing. Besides that, quite frequent announcements from EU and member states officials that the EU will not allow "another Cyprus" and that Serbia has to find a way of co-existence with Kosovo signifies that there is certain conditionality on this matter, although not clearly expressed.

Therefore, it is interesting to examine level of compliance with this condition, which is put indirectly, whether it produced change, and which incentives affected the changes.

Secondly, this condition represents very sensitive issue, important for national identity and therefore one of those issues where EU conditionality has less effect than in case of acquis conditionality.

Third, since it is a territorial issue and a matter of hard security concerns, it enables us to see whether the EU conditionality can result in Europeanization of foreign policy, as understood by Pernille Rieker², whose one aspect is decreasing importance of hard security concerns and change of identity.

The purpose of this paper is therefore to analyze Serbia's approach towards Kosovo in light of EU external governance and EU conditionality concepts and find out implications of this case for EU external governance and conditions of its efficiency. What is the EU's ability to exert its external governance in such sensitive cases, regarded as very important for national identity? What are the main incentives for compliance with the EU conditions in these cases, especially in light of "enlargement fatigue"? Can EU conditionality, according to this case, enable Europeanization of foreign policies of targeted countries?

² Pernille Rieker, "Europeanization of National Security Identity: The EU and the Changing Security Identities of the Nordic States", Routledge, 2006

In this thesis, I argue that EU conditionality does lead to certain changes of foreign policy approach. However, it does not lead to Europeanization of foreign policy, understood as change of identity and decreasing importance of traditional security concerns.

I argue that the EU still has the leverage in the Balkans in cases of sensitive issues, although more limited compared with *acquis* conditionality. Regarding incentives for compliance, we rediscover importance of short-term incentives, such as visa liberalization. One important implication of this case refers also to the assumption of EU external governance that conditions have to be clear. As seen in case of Kosovo, the conditions are sometimes more efficient if they are not put directly, at least not in the beginning.

This thesis uses primarily document analysis of primary and secondary sources with the aim of process tracing. Primary sources will be reports and official statements of the European Commission, other EU institutions and EULEX mission, Stabilization and Association Agreements, statements reports of different and some statistical data. Secondary sources will be relevant literature on relations in the Balkans, Europeanization, EU enlargement and conditionality, Kosovo conflict and relations in the Balkans. Besides text analysis of these sources, I will also use discourse analysis of statements and speeches of relevant government officials and the EU officials. The fact that this is a “hot topic” resulted in limitation of available sources- both primary, since it was not easy to find available relevant interviewees, and secondary, since there have not been many analysis written on this particular case.

This thesis also uses comparative case study, since I will also use sources related to similar case- Turkey’s approach towards Cyprus in light of EU accession process.

First chapter of this thesis provides theoretical framework of Europeanization, EU external governance and EU conditionality. It particularly explains external incentives model, developed by Schimmelfennig and Selemeyer, largely accepted in the literature as the best

analytical tool for explanation of EU external governance. I will then present recent developments of this concept, its adaptations to specificities of the EU conditionality in the Western Balkans and particularly analysis of the effectiveness of EU external governance in the cases of hard, or as we call it in this thesis, sensitive issues, with high importance for perceived national identity.

The second chapter will provide short insight in general EU policy in the Western Balkans, its evolution, especially after the Kosovo crisis 1999 and condition agenda for accession of the countries of the region.

In the third chapter, I will present short background of Kosovo issue, its status after 1999, the situation prior to unilateral declaration of independence 2008 and after it.

The fourth chapter is dedicated to Serbia's policy towards Kosovo, its evolution since 1999 and especially after the unilateral declaration of independence, in order to assess the changes in this policy through process tracing.

The final chapter will use the data and conclusions of this case study to assess whether there have been significant changes in these policies as result of EU integration, and whether these changes can be characterized as Europeanization. We will also examine the implications of this case study for EU external governance and for its main assumptions.

Chapter 1: Europeanization, EU external governance and EU conditionality

There is significant amount of literature written on EU conditionality and EU external governance as part of Europeanization in general.

Europeanization is the concept that has been quite commonly used in social science, international relations and especially European studies. At the same time, most of the authors agree that this concept is quite contested, since different authors are defining it differently, and some of them even question usefulness of this concept because of this contestation³. However, majority of authors would still say that although contested and sometimes used in such a context that it alters its substantive meaning, concept of Europeanization, if clearly defined, is very useful analytical framework for assessing transformative effect of the European integration on national policies.

For some authors, Europeanization means, first of all, impact of European system of governance on national policies. However, for most authors that definition is too narrow. For example, for Claudia Major, that is only part of a definition. Europeanization, according to her, is more complex process which has three components: so-called “downloading”- “the impact that European integration process and the evolving European system of governance have on the national level of policy, polity and politics”, “uploading”- “the effect that the EU MSs have on the processes and outcomes of European integration process”, and “cross-loading”- horizontal pattern of Europeanization, which is outcome of exchange between

³ Kassim in Johan Olsen, “The Many Faces of Europeanization”, Arena Working Papers, WP 01/2

governments, indirect modifications, alteration of beliefs and expectations, socialization and learning process.⁴

On the other hand, Europeanization, for many authors, is not limited only to EU member states, they see Europeanization of non-EU member states through EU external governance, which is the most visible in EU accession process.

Objects of Europeanization can be institutions, policies, formal and informal norms, procedures, beliefs, ways of doing things. Mechanisms of Europeanization can be binding rules, which is applicable only for Europeanization of member states in the first pillar, where EU rules- regulations and directives are binding. In the area of foreign and security policy and for EU external governance, the only applicable mechanisms are social learning, socialization and policy or rule transfer.⁵

Methods suggested by Major for assessing and measuring Europeanization in this area are: process tracing of transfer and developments and establishing causal relationships, comparison of modifications in different countries, counterfactual reasoning.⁶

Pernille Rieker distinguishes two forms of Europeanization: adaptation and learning. While „adaptation refers merely to instrumental adjustments, learning tends also to lead to a more stable and enduring policy change“⁷. Europeanization therefore starts as when actors decide to adapt their policies for instrumental reasons, to defend their interests, but through argumentation process (providing arguments to defend these changes), the process slowly evolves from instrumental adaptations to learning process. The final stage of Europeanization, which does not always happen, is change of identity.⁸ She argues that security concerns change as a result of Europeanization in that sense that the state becomes less preoccupied

⁴ Claudia Major, , “Europeanization and Foreign and Security Policy: Undermining or Rescuing the Nation State?, *Politics*, 25 (3), 2005

⁵ Ibid.

⁶ Ibid.

⁷ Rieker, *ibid.*

⁸ Ibid

with hard, traditional, security concerns, such as territorial defense. This understanding of Europeanization of foreign and security policy is interesting for this thesis, especially considering that one of the conclusions she draws is that the EU does not influence only its members, and type of relationship with the EU is more important than its form or whether certain country is an EU member or not. Therefore, one of the questions this thesis wants to address is whether the EU conditionality can lead to Europeanization in this sense.

1.1 EU external governance

Europeanization, as we said, is relevant not just to explain policy-making inside the EU, but also EU external relations, and it is especially useful for analysis of EU enlargements. This was particularly apparent in the process of eastern enlargement, when the Central and Eastern European countries (CEECs) have undergone a major process of changes as a result of the EU external governance. The desire of these countries to become EU members made it possible for the EU to influence changes in domestic institutions and to affect significant range of public policies in these countries.⁹ Difference between internal and external governance is that internal governance encompasses the creation of rules primarily and their implementation in member states, the external governance means only transfer of given rules and compliance with these rules by non-member states.¹⁰

In last decade, great amount of research has emerged on EU external governance, especially in the context of eastern enlargement. The conclusions drawn from this research have also been applied on EU conditionality exerted in the Balkans. However, there has been more

⁹ Frank Schimmelfennig and Ulrich Sedelmeier, "Governance by conditionality: EU rule transfer to the candidate countries of Central and Eastern Europe", *Journal of European Public Policy*, Vol.11, No.4, August 2004

¹⁰ Ibid.

research focusing on particular EU external governance in the Balkans, acknowledging specificity and difference of conditionality here compared to conditionality in the Central and Eastern Europe.

Schimmelfennig and Sedelmeier have been interested in modes of EU rule transfer and especially which mode is most effective for rule transfer.

In line with the debate between rationalism and constructivism in IR theory, they distinguish two logics of action that rule adoption follows.: “logic of consequences”, which assumes strategic, instrumentally rational actors who seek to maximize their own power and welfare and “logic of appropriateness”, where actors are motivated by internalized identities, values and norms.¹¹

According to these different logics, Schimmelfennig and Sedelmeier differentiate three models of rule transfer. Those are the external incentives model, social learning model and lesson-drawing model. While external incentives model is linked with logic of consequences, social learning model corresponds with logic of appropriateness. The external incentives model is rationalist bargaining model, strategy of reinforcement by reward, under which the EU provides external incentives for a target government to comply with its conditions. According to the external incentives model, EU external governance mainly follows a strategy of conditionality in which the EU sets its rules as conditions that the non-members have to fulfil in order to receive EU rewards. These rewards consist of assistance, trade and co-operation agreements, association agreements to full EU membership. Strategy of reinforcement by reward means that in exchange for compliance with the conditions, the EU pays the reward and in case of non-compliance, it withholds the reward. This strategy does

¹¹ Frank Schimmelfennig and Ulrich Sedelmeier (ed.), “The Europeanization of Central and Eastern Europe”, Cornell University, 2005, p.9

not encompass reinforcement by punishment (inflicting eadditional costs in case of non-compliance) nor reinforcement by support (offering extra-benefits).¹²

The analytical starting point in evaluation of EU conditionality is domestic status quo, which is different from an EU rule. EU conditionality changes this status quo by introducing incentives for compliance with EU rules.

As we said, this model coresponds with „logic of consequences“, which means that actors in this model are rational utility-maximizers who make their decisions based on cost-benefit analysis. Therefore, the main hypothesis of this model is that „a state adopts EU rules if the benefits of EU rewards exceed the domestic adoption cost“¹³. The cost-benefit balance depends on „determinacy of conditions, (ii) the size and speed of rewards, (iii) the credibility of threats and promises, and (iv) the size of adoption costs“¹⁴

The second model is social learning model, derived from constructivist thinking, according to which non-member states chose to comply with the conditions because they find them the appropriate or legitimate. The third model is lesson-drawing model, according to which countries which are not EU members decide to comply with EU rules because of their domestic dissatisfaction with status quo.¹⁵ Schimmelfennig and Sedelmeier have come to conclusion, which is generally accepted today in theory of external governance, that rule transfer and the variation in its effectiveness are best explained according to the external incentives model.

There are two main conditions for successful EU conditionality. The most important is possibility of further EU enlargement and membership perspective for targeted countries, since EU membership is the most efficient external incentive, and the second one is that this

¹² Schimmelfennig and Sedelmeier, “Governance by conditionality: EU rule transfer to the candidate countries of Central and Eastern Europe”

¹³ Ibid

¹⁴ Ibid

¹⁵ Ibid

conditionality does not produce high domestic political costs. Only membership perspective can make EU's external governance effective. Non-material incentives and mechanisms of social learning such as imitation, persuasion or social influence are not strong enough to overcome domestic resistance to reforms. Even material incentives below the EU membership, such as financial aid or association agreements do not have that power.¹⁶ Therefore, only credible accession perspective is effective. Credibility in this case means two things- first, target states have to be certain that they will be rewarded in EU accession process for compliance with the EU's political conditions, and secondly, they have to be certain that they will be deprived from membership perspective otherwise. The second condition is that these policies have to fall on fertile domestic field, meaning that the political costs of compliance are not too high for target governments.¹⁷

This cost-benefit balance, therefore, depends on the size and credibility of international rewards, on the one hand, and the size of domestic adoption costs, on the other. One of assumptions regarding conditions is also that “the effectiveness of rule transfer increases if rules are set (formally) as conditions for reward and the more determinate they are.”¹⁸

The impact of these conditions, however, varies according to the context of conditionality. In the context of democratic (political) conditionality, domestic adoption costs severely limit the effectiveness of EU conditionality — even when it was credible and rewards were sizeable. Authoritarian governments turned down the offer of membership rather than accept the political power costs of adopting liberal democratic rules. By contrast, in the context of

¹⁶ Frank Schimmelfenning, “EU political accession conditionality after the 2004 enlargement: consistency and effectiveness”, *Journal of European Public Policy*, 15:6, 2008

¹⁷ Ibid

¹⁸ Schimmelfennig and Sedelmeier, “Governance by conditionality: EU rule transfer to the candidate countries of Central and Eastern Europe”

acquis conditionality, variation in the size of domestic adoption costs only accounted for the speed of rule transfer, but did not matter systematically for its effectiveness.¹⁹

Some authors, Onis, for example, give even more importance to domestic conditions, arguing that, while the external incentives for change can be strong, the most important incentive comes from domestic actors.²⁰

Conditionality in the CEE and eastern enlargement are considered to be success story of the EU. Now, the EU is using similar strategy in the Western Balkans, especially since the region was given membership perspective.

However, there are some differences, both in EU conditionality and in response from targeted states. First of all, the EU uses experience with eastern enlargement to improve and modify its conditionality in order to have better prepared candidates and to avoid some mistakes from previous enlargements. That is why the conditions agenda for the countries of the Balkans is much broader than for previous candidates. Maire Braniff says that the EU has gone through the process of lessons learning and institutional reflexivity, which has resulted with „significantly extended political conditionality, the timeframe for accession and the mechanisms for enlargement.“²¹ Policy innovations included introduction of benchmarks, more balanced use of carrots and sticks, the pressure to achieve progress earlier in the pre-accession process etc. The EU is relying mostly the same toolbox like in previous enlargements. Therefore, it offered the Balkans the prospect of membership. However, it adapts its policies to the specificities of some Balkans countries.²² Much of this additional conditionality is dealing with issues outstanding from the wars and are part of conflict resolution.

¹⁹ Ibid

²⁰ Onis in Teodor Lucian Moga, “Connecting the enlargement process with the Europeanization theory)the case of Turkey”, „Alexandru Ioan Cuza” University, Iasi

²¹ Maire Braniff, “Transforming the Balkans: Lessons Learning and Institutional Reflexivity in the EU Enlargement Approach”, *European Foreign Affairs Review*, 2009

²² Ibid

However, this broadening of conditionality has been viewed by some authors, and, especially in the region, not as mechanism for having better prepared potential candidates, but more as a mechanism of delaying accession of these countries, because the EU does not seem ready for new enlargements in near future. This „enlargement fatigue“ is second difference on the side of the EU, in comparison with the EU's approach towards CEE, since these countries had more credible and certain membership perspective, which is the most effective incentive for compliance with the EU conditions.

Besides the demand side (the EU), difference also exists on the response side (targeted region). Countries of the Western Balkans are more fragile and weaker than it was the case with Central and Eastern Europe. They are not only post-communist, but also post-conflict states.

Therefore, conditions agenda for the Southeast European countries seems to be more demanding than for the CEE, costs of compliance higher, while reward seems to be less credible. These features of EU conditionality in the Western Balkans have been the reason for certain suspicion whether the EU can keep its leverage in the Balkans.

Anastasakis and Bechev characterize EU conditionality in the Balkans as “a multidimensional and multi-purpose instrument, geared towards reconciliation, reconstruction and reform.”²³ (Anastasakis and Bechev). It includes regional, sub-regional, bilateral and project-specific approach, which deals with economic, political, social and security-related issues. However, they argue, conditionality in the Balkans has not been as successful as in CEE, it has not been able to sustain reform and to generate local consensus about the need for reform.²⁴ (ibid) They explain this by using the argument of deficit of commitment on both sides. On the supply side, the reward of EU membership is not very certain. On the demand

²³ Othon Anastasakis and Dimitar Bechev, “EU Conditionality in Southeast Europe: Bringing Commitment to the Process”, University of Oxford, 2003

²⁴ Ibid

side, support for the EU among Balkan governments and populations does not always translate into a consistent trend for more reforms as a route to membership.²⁵ Anastasakis and Bechev argues that compliance with the EU conditions is harder for the Balkans countries because they are weaker and more fragile. The assassination of Serbian prime minister Zoran Djindjic is example of vulnerability of these democracies.²⁶

Gergana Noutcheva also questions the EU's ability to exert its leverage in the Balkans arguing that the EU is here facing with „fake compliance, partial compliance or non-compliance with the EU's conditions, with the latter provoking imposed compliance“²⁷ She argues that the EU's policy in the Western Balkans lacks a strong normative justification. Although, as she argues, the EU employs great effort to ensure stability of the region and to improve the governance standards of the countries, in the region, the EU's motivations are not always perceived like that, which undermines the EU's „normative power“ and affects the degree of compliance with the EU's demands.²⁸

Renner and Trauner also notice that the EU is facing commitment deficit, but they argue that this has not resulted with the EU's limited influence in the SEE. Since enlargement is becoming less of an option for external governance, the EU is looking for some other forms to export its rules. It has therefore, incited rule adoption differently than in previous rounds of enlargements. Incentive of EU membership is still powerful, but less tangible, and thus, the way to encourage adoption of these rules is to offer clear, short-term incentives in various policy fields.²⁹ (p.451). This approach is more flexible, since it does not demand from the

²⁵ Ibid

²⁶ Ibid

²⁷ Gergana Noutcheva, “Fake, partial and imposed compliance: the limits of the EU's normative power in the Western Balkans”, *Journal of European Public Policy*, Vol.16, No.7

²⁸ Ibid

²⁹ Stephan Renner and Florian Trauer, “Creeping EU Membership in Southeast Europe”: The Dynamics of EU Rule Transfer to the Western Balkans”, *Journal of European Integration*, Vol. 31, No.4, 2009

countries of the Western Balkans to adopt whole *acquis* within one determined timetable, but it allows them to set priorities regarding the policy fields they want integrate.³⁰

The EU managed to compensate for less credible membership perspective by increasing the value of intermediary rewards, such as visa free-travel.³¹

Visa liberalization has proved to be example of very effective short-term incentive. The EU offered visa liberalization to the countries of the Balkans, which were on the EU's negative visa list (Albania, Bosnia and Herzegovina, Macedonia, Montenegro and Serbia) in exchange for the fulfillment of certain list of requirements: improving border controls, fighting organized crime, signing readmission agreements. The use of visa liberalization as an incentive was not new. It has already been used as part of policy towards Bulgaria and Romania as incentive for implementation of the Schengen rules. What was different in the Western Balkans is that, the EU introduced the concept of a graduated approach towards the lifting of the visa requirements and linked an unusually broad range of conditionality requirements to the reward.³² Therefore, Trauer argues that the EU has remained leverage in the EU despite unclear membership perspective, and that the external incentives model is still useful in explanation of this compliance, since the EU has introduced short-term incentives.

Some other authors are also acknowledging importance of these short-term incentives and finding a mechanism of compensation for still quite distant membership incentive. Jim Seroka, thus, suggests that the EU, if it wants to remain its impact in the Balkans, should "develop a partial accession membership category"³³

³⁰ Ibid

³¹ Florian Trauer, "From membership conditionality to policy conditionality: EU external governance in South East Europe", *Journal of European Public Policy*, 16:5, 2009

³² Ibid

³³ Jim Seroka, "Issues with regional reintegration of the Western Balkans", *Journal of Balkan and Near Eastern Studies*, Vol.10, no.1, 2008

However, in order to remain effective, the short-term incentives have to be supported by commitment concerning future prospect of full membership.³⁴

Still, in certain sensitive issues, important for national identity of targeted countries, the EU conditionality seems to have much weaker leverage, and in these cases, usefulness of cost-benefit analysis of external incentives model has been questioned by some authors

Tina Freyburg and Solveig Richter, for example, question the usefulness of the external incentives model and cost-benefit analysis in these cases, which are important for national identity. Rational choice explanations, including the external incentives model, in their opinion, fall short of explaining these responses. Therefore, they suggest that EU external governance concept should be complemented by a constructivist perspective.³⁵ However, although constructivist perspective and identity based approach are useful and may help better explain response of targeted countries to the EU demands, it still does not rule out external incentives model.

Schimmelfennig also says that the effectiveness of political conditionality in the Balkans is weakened in those matters, which have high symbolic value for national identity and therefore cause high domestic political costs. He uses example of condition of cooperation with ICTY as one of these hard issues, since the response from Croatia and Serbia was either partial compliance either non-compliance, which led to the postponment of accession negotiations with Croatia in 2005 and suspension of association negotiations with Serbia between 2005 and 2007.³⁶ However, he explains this non-compliance with the fact that their high national identity value causes high domestic political costs. Therefore, Schimmelfennig argues that it

³⁴ Renner and Trauer, 2009

³⁵ Tina Freyburg and Solveig Richter, "National identity matters: the limited impact of EU political conditionality in the Western Balkans", *Journal of European Public Policy*, Vol.17, No.2, 2010

³⁶ Schimmelfennig, "EU political accession conditionality after the 2004 enlargement: consistency and effectiveness"

confirms the main hypothesis of the external incentives model, that „a state adopts EU rules if the benefits of EU rewards exceed the domestic adoption cost“. ³⁷

³⁷ Ibid

Chapter 2: EU policy towards the Western Balkans

This chapter will present the EU policy and development of its approach towards the Western Balkans in general and the EU conditions for the EU accession of the Balkans countries, which would help us understand the EU approach towards Serbia, which is with other countries in the region included in the Stabilisation and Association Process, and it will help us understand the EU conditionality regarding Serbia's policy towards Kosovo.

In 1992, at the outset of the war in Yugoslavia, Jacques Poos, Luxembourg's foreign minister announced that the "hour of Europe has come". It was just in the time of the emergence of the EU, whose second pillar, Common Foreign and Security Policy, replaced earlier non-efficient European Political Cooperation. Therefore, that was the time of optimism and faith in newly developed foreign policy of the EU. However, it was the US military and diplomacy that ended Bosnian war. The same happened in 1999 in Kosovo crisis. These European failures served as lessons for the EU's post-conflict management and they contributed to development of ESDP. The Balkans may take credit for being in many ways catalyst for emergence and development of crisis management within the EU.³⁸

Although the military interventions in Bosnia and Kosovo were both initiated by the USA and also relied heavily on American military presence initially, with time and development of the ESDP, the Balkans has become primarily EU responsibility, while responsibility for civilian presence and aid and reconstruction programmes have been in the EU responsibility since the Dayton Agreement.

In the period after the Dayton Agreement and Kosovo crisis, the EU launched Regional Approach, which offered some incentives to the countries of the Western Balkans (trade concessions, financial assistance and economic cooperation) if they comply with general

³⁸ Simon Duke, "Lessons for EU Conflict: Management from the Balkans" in Jody Jensen (ed.) "Europe Bound-Faultlines and Frontlines of Security in the Balkans", p.57

Copenhagen criteria. Copenhagen criteria were put forward at the 1993 Copenhagen Council, when CEE countries were given EU membership perspective, and these criteria were criteria that they had to fulfill as conditions for accession. In order to acquire membership, countries have to have “achieved stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities, the existence of a functioning market economy as well as the capacity to cope with competitive pressure and market forces within the Union”³⁹ and they have to be able to take on the obligations of the *acquis communautaire*. One additional criteria is on the side of the EU- „the Union's capacity to absorb new members“.⁴⁰

The EU also launched OBNOVA financial program to help reconstruction in the Western Balkans.⁴¹

However, Kosovo crisis made evident the limitations of all these initiatives. During the crisis, the EU, therefore, reconsidered its strategy towards the SEE and introduced “a more comprehensive regional approach”⁴² through the Stabilisation and Association Process (SAP) for the Western Balkans and the regional Stability Pact for Southeastern Europe (SP). The Stabilization and Association Process (SAP) was launched in 2000, it replaced the Regional Approach and it was supposed to deepen relations with individual Western Balkan states based on the principle of conditionality. It offered these countries association deals modeled on Europe Agreements, it agreed to open its markets to products coming from the Western Balkans, incorporated CARDS (Community Assistance, Reconstruction, Development and Stabilization) program as the main channel for Community’s financial and technical cooperation, designed to enhance the EU assistance, but most importantly it offered

³⁹ European Council in Copenhagen, 21-22 June 1993, Conclusions of the Presidency, 7/A/3

⁴⁰ Ibid

⁴¹ Othon Anastasakis and Dimitar Bechev, “EU Conditionality in Southeast Europe: Bringing Commitment to the Process”, University of Oxford, 2003

⁴² Othon Anastasakis, “The EU’s political conditionality in the Western Balkans: towards a more pragmatic approach”, Southeast European and Black Sea Studies, Vol. 8, Issue 4, 2008

membership perspective to Western Balkans countries,⁴³ later confirmed at the Copenhagen and Thessaloniki European Councils. Conditionality of the SAP was broadened and it placed the emphasis on the principles of peace, war crimes prosecution, reconciliation, anti-discrimination, and good neighbourly relations, return of refugees, compensation for lost or damaged property, cooperation with the Hague-based International Criminal Tribunal for Yugoslavia (ICTY) for the crimes committed during the Yugoslav wars, and compliance with the Dayton and Ohrid peace agreements and with the UN 1244 resolution for Kosovo. Stability Pact was launched during the war and it was greeted from the region as some kind of Marshal Plan for SEE.⁴⁴ The core objective was regional cooperation. The launching of Stability Pact was based on assumption that only cooperation, induced by outside organizations, could overcome the root causes of the conflict on the long run. It was supposed to fulfill two functions: it was supposed to act as clearing house for the aid and support of the EU to the region and for cooperation within the region.⁴⁵ Although officially launched under the OSCE, in the region, this initiative was perceived as linked to the EU and that was the way the Pact itself was trying to present itself. The Stability Pact was described as a new form of contractual relationship that “holds out the carrot of integration into the EU structures, trade liberalization, financial assistance, help with democratization and civil society, humanitarian aid for refugees, cooperation in justice and home affairs, and the development of a political dialogue in return for political and economic reform and regional cooperation.” (Patten, 2000).⁴⁶

Before eastward enlargement, regional cooperation never occurred as accession condition. However, the EU has always preferred to negotiate with groups of countries that already

⁴³ Dimitar Bechev, Carrots, Sticks and Norms: the EU and regional cooperation in Southeast Europe, *Journal of Southern Europe and the Balkans*, Vol. 8, No. 1, April 2006, p.32

⁴⁴ Ibid, p.34

⁴⁵ Florian Bieber, Regional Cooperation as an Instrument for Conflict Prevention: The Case of the Stability Pact for Southeastern Europe, in Jody Jensen (ed.) “Europe Bound-Faultlines and Frontlines of Security in the Balkans”, 2003, p.100

⁴⁶ Duke, p.63

reached some sort of mutual cooperation. In eastward expansion, there was no formal requirement for regional cooperation in European Agreements, but there was pressure on these countries to overcome their initial reluctance and Visegrad group was encouraged by the EU. The EU has especially encouraged the establishment of free trade areas among candidate countries: CEFTA and BAFTA. The guiding principle was the same as later in the Balkans: a country cannot become EU member without good relations with their neighbors. It is a sort of exercise for EU integration, which is also based on regional integration. Regional cooperation was for the first time formally put as condition for EU accession in European Agreements signed with Baltic states in 1995 and Slovenia in 1996. In case of countries included in Stabilization and Association Process, this condition is put explicitly and more strictly. There are several reasons for that. First of all, the EU has generally been more willing to negotiate, if it was possible, with groups of countries which already integrated with each other to some extent. Secondly, earlier pre-accession regional cooperation projects, such as CEFTA or BFTA generated many positive political and economic outcomes. Third reason, specific to the SEE, is the fact that this is post-conflict region, in which stabilization, reconciliation and overcoming mutual animosities and learning to cooperate are indispensable for EU integration.⁴⁷ Florian Bieber argues that EU promotion of regional cooperation is sort of post-conflict strategy or crisis management.⁴⁸ However, combination of bilateral and regional approach sometimes has as effect that the EU does not act only as catalyst of regional cooperation, but also as divisive actor, since it causes the informal “beauty contest” among the accession countries, which can halt the reformist momentum in areas, such as trade liberalisation or privatisation.⁴⁹

⁴⁷ Martin Dangerfield, Regional Cooperation in the Western Balkans: Stabilization Device or Integration Policy?, *Perspectives on European Politics and Society*, Vol.5, No.2, 2004

⁴⁸ Bieber, p.91

⁴⁹ Laszlo Csaba, “Transition in and towards Europe: Economic Development and EU Accession of Post-Communist States”, *Zeitschrift für Staats und Europawissenschaften*, Berlin, 2004

In February 2008, the Stability Pact was transformed in Regional Cooperation Council, as more regionally owned initiative. Regional ownership means that region itself defines the scope, objectives, methods and instruments of cooperation via a team, consisting exclusively of representatives from the region and with equal financial contributions of the SEE countries, European Commission and bilateral donors. In short, that means that it is the region that predominately provides guidance, leadership, expertise and funds.⁵⁰ That does not mean that EU role in this process has become unimportant. As we already concluded, the big part of the answer why EU was successful in promotion of regional cooperation in the Balkans was offer of membership perspective.

Membership perspective offer was major turning point for the efficiency of the EU conditionality in the Balkans. As a result of lessons-learning from previous enlargements, specificity and position of the Western Balkans region and „enlargement fatigue“ of the EU, the EU conditionality agenda was broadened and road to membership rendered more complicated and divided in many steps: the feasibility study of the SAP, start of negotiations for a Stabilisation and Association Agreement (SAA), the conclusion of SAA negotiations, the initialling of the SAA, the signing of the SAA, the ratification process, the EU candidacy, the start of accession talks. Reaching each of these steps requires fulfilment of certain conditions. These conditions are usually clearly stated and compliance with them is carefully monitored and evaluated.

However, not all conditions have to be clearly and directly stated as conditions for different reasons, but they can be put forward in indirect way, as we will see in our case study in next two chapters.

⁵⁰ Jelica Minic, “A Decade of Regional Cooperation in Southeastern Europe- Sharing Guidance, Leadership and Ownership”, *Dialogues, Ownership for Regional Cooperation in the Western Balkans Countries*, June 2009, p.21

Chapter 3: Kosovo issue- short background

This chapter will provide us with short background of the issue, which is our case study, and also show the EU role in this process, and also what consequences lack of unity in the EU had for its policy regarding Kosovo issue.

On June 10, 1999, following NATO military campaign and capitulation of Serbia, UN Security Council adopted Resolution 1244, which placed Kosovo under international administration. It did not resolve Kosovo's status, but postponed it and established "substantial autonomy" within the Federal Republic of Yugoslavia. According to this resolution, all military, police and paramilitary forces of Yugoslavia were supposed to withdraw from Kosovo; it called for immediate deployment of international civil and security presence in Kosovo, under United Nations auspices (UN Interim Administration Mission in Kosovo- UNMIK), and it requested from UN Secretary-General to appoint a Special Representative, which would head UNMIK. One of main responsibilities of this international civilian presence would, among others, encompass „organizing and overseeing the development of provisional institutions for democratic and autonomous self-government.“⁵¹

Therefore, since conflict in Kosovo and NATO intervention in Serbia, Kosovo has been under international administration. The international intervention in Kosovo under UNMIK leadership, and with participation of NATO (in the form of KFOR troops) the EU, the OSCE and many other international organizations has represented the most extensive and ambitious peacekeeping mission in the history of the UN.

Until 2004, there was no will in the international community to put status issue on the agenda despite growing pressure by Kosovo Albanians. In December 2002, UNMIK presented its strategy "Standards before Status", with the aim to put aside questions about Kosovo's status

⁵¹ Security Council Resolution 1244

for as long as possible, while setting European standards for Kosovo's government.⁵² According to this strategy, progress was supposed to be achieved in eight key areas⁵³ before a decision on final status of the province could be made.⁵⁴ The frustrations of Albanians resulted with violent riots against Serbs in 2004. After these events, although there have not been significant progress in the eight key areas, the international community became aware of unsustainability of the status quo, and therefore gave up on the principle "Standards before status" and decided to open negotiations on the status. The Security Council authorized the Secretary-General to start a process of determination of the final status of Kosovo. After the Contact Group laid down fundamental set of principles (no return to pre-1999 situation, no immediate full independence, no partition and no unification with any other state⁵⁵), the UN Secretary General, Kofi Anan appointed Martti Ahtisaari, former Finish President, as UN Special Envoy for Future Status Process for Kosovo.⁵⁶ After a number of Ahtisaari's consultations with Belgrade and Pristina, direct negotiations were held in Vienna, but they did not lead to any progress, since both sides were firm on their positions. With no chance of agreement being reached between two sides, the Contact Group authorized Ahtisaari to begin preparation of status proposal. In January 2007, Ahtisaari revealed draft of his Comprehensive proposal for the Kosovo Status Settlement to the Contact Group, to both sides and later to the UN Secretary General. Although the word "independence" is not mentioned in the proposal, it included several provisions that were widely interpreted as implying statehood for Kosovo. Thus, the draft Settlement was supposed to give Kosovo the right to apply for membership in international organizations, conclude international agreements, create a Kosovo Security

⁵² Tim Judah, "Kosovo: What Everyone Needs to Know", Oxford University Press, 2008, p.108

⁵³ The eight key areas were: functioning democratic institutions, rule of law, freedom of movement, sustainable returns and the right of communities and their members, economy and property rights, including cultural heritage, Pristina-Belgrade dialogue and the Kosovo Protection Corps. (Tim Judah, *ibid.* p.109)

⁵⁴ James Ker-Lindsay, "Kosovo: The Path to Contested Statehood in the Balkans", IB Tauris, London, 2009, p.102

⁵⁵ In January 2006, Contact Group added one additional principle- that a solution must be acceptable to the people of Kosovo.

⁵⁶ Vedran Dzihic and Helmut Kramer, "Kosovo after Independence", International Policy Institute, July 2009

Force and adopt national symbols” Thus, proposed status was supposed to be *de facto* supervised independence, and that is mentioned in the report that was attached to the proposal. Significant part of the Settlement is dedicated to protection of human and minority rights, decentralization, protection of cultural and religious heritage, right of refugee return, justice system. It also suggests structure of future international presence in Kosovo, which would enclose: an International Civilian Representative, double hated as the EU Special Representative, who would have ultimate supervisory authority over the implementation of the Settlement; a civilian ESDP mission, that would monitor, mentor and advise on all areas related to the rule of law; a NATO-led international military presence and OSCE mission.⁵⁷ Pristina accepted, but Belgrade rejected the proposal. The proposal did not pass in the UN Security Council either because of Russia’s objection. This was followed with yet another round of negotiations between Belgrade and Pristina under the auspices of diplomatic Troika (comprising representatives of the USA, Russia and the EU), which also, as it was expected, resulted with failure. Security Council had a meeting in December to discuss Troika’s report and it failed to reach compromise on it, which meant that hopes for reaching a negotiated agreement on status were over.⁵⁸ Several weeks later, on 17 February 2008, Kosovo declared itself independent.

Kosovo was soon recognized by the USA and majority of the EU member states, but despite expectations, majority of the UN members has not yet recognized Kosovo, and what is especially significant, that also includes five EU members- Cyprus, Greece, Romania, Slovakia and Spain who did not recognize it for reasons associated with domestic policy issues and international legal reservations.⁵⁹

⁵⁷ The Comprehensive proposal for the Kosovo Status Settlement

⁵⁸ Dzihic, Kramer, *ibid*.

⁵⁹ Johanna Deimel and Armando Garcia Schmidt, “Kosovo 2009: Uncertain Future”, *Spotlight Europe*, Issue 1, 2009

Serbia vowed never to recognize Kosovo's independence and appealed to the UN Security Council to proclaim Kosovo's declaration of independence null and void⁶⁰ and it was supported by the two permanent members of the SC, Russia and China, and therefore the UN maintained its position of strict neutrality on Kosovo's status.⁶¹ Kosovo is by now recognized by 69 UN states⁶² including neighboring Albania, Croatia, Macedonia and Montenegro.

When status of Kosovo appeared on the agenda of international community, it was clear that the formal solution of the status must be followed by reorganization of international community's operations in Kosovo. UNMIK was supposed to be succeeded by an EU mission according to Ahtisaari plan. Future EU involvement in Kosovo was supposed to have three components: EU Special Representative (EUSR) on the model of Bosnia and Herzegovina, who would, also, head the International Civilian Office, which was supposed to assist Kosovo in the EU integration process and implementation of the Ahtisaari plan. Second component would be the role of EULEX in the area of rule of law. This component includes funds that were supposed to be made available for Kosovo from future Pre-Accession instruments. Third component would be the EU activities aimed to prepare steps for EU accession of Kosovo within the framework of the Stabilisation and Association Process.⁶³

The EU already had its role in Kosovo. The EU's mandate in Kosovo is derived from point 17 of Security Council Resolution 1244, according to which the EU should "develop a comprehensive approach to the economic development and stabilization of the region affected by the Kosovo crisis, including the implementation of a Stability Pact for South Eastern Europe with broad international participation in order to further the promotion of democracy, economic prosperity, stability and regional cooperation".⁶⁴ As result of that, the EU was

⁶⁰ <http://www.un.org/en/events/tenstories/08/kosovo.shtml>

⁶¹ Ibid

⁶² <http://www.kosovothankyou.com/>

⁶³ "On the Future EU Role and Contribution in Kosovo", report written by High Representative for CFSP, Javier Solana and Enlargement Commissioner, Oli Rehn, July 2006

⁶⁴ SC Resolution 1244, Point 17

assigned leadership of Pillar IV of the UNMIK, which is responsible for reconstruction and for the international community's economic aid measures. Therefore, the EU, through the European Commission Taskforce for the Reconstruction of Kosovo, the European Humanitarian Aid Office (ECHO) and the European Agency for Reconstruction took on the main financial burden of the reconstruction and stabilization of Kosovo.

EULEX mission was, as we said, supposed to replace UNMIK. However, replacement of UNMIK and the installation of EULEX could have been done only by new SC Resolution, which was not achievable because of Serbia's opposition and Russia's support of the Serbian concerns in Security Council. Serbia was against a new UN mandate for EULEX, because it felt that it would confirm Kosovo's independence. Therefore, Serbia managed, in negotiations with the EU and the USA to push through idea of "status neutral" mission in parallel of continuing UNMIK presence. In November 2008, the UN Secretary General presented the so-called "Six-Point Plan", which emphasized EU status neutral mission and the extension of Resolution 1244, which meant that UNMIK and EULEX would function in parallel. Under this plan, the protection of rights of Kosovo's Serbian population with regard to policing, justice, transport, customs, transport, infrastructure, the borders of Serb communities and Serb Orthodox religious heritage was transferred to Serbian government. The Kosovar government opposed to this plan as an attack on the integrity of new state and its de facto division and organized protests in late November, but it did not alter reached agreement with Serbia.⁶⁵ On December 9, 2008, the European Union EULEX mission was officially launched as the largest and most costly civilian mission ever launched under Common Security and Defense Policy. It was supposed to support Kosovar institutions in the area of the rule of law, in particular in strengthening capacities in the police, the judiciary and the customs service.⁶⁶

⁶⁵ Dzihic, Kramer, *ibid.*

⁶⁶ In accordance with its programmatic approach, EULEX Kosovo was to conduct monitoring, mentoring and advising activities aimed at improving the performance of the competent Kosovo institutions, judicial authorities and law-enforcement agencies. It has in particular reviewed the backlog of sensitive investigations pertaining to

During the process of status negotiations and in the period after declaration of independence, the lack of unity rendered the EU's policy towards Kosovo issue complicated and inefficient.

The EU's role in determination of the status was not major in comparison with the role of the USA and Russia because of its division over the issue. It limited its possibility to suggest some alternative option, which allowed the USA and Russia to control the debate.⁶⁷

This lack of unity was also apparent before the declaration of independence, and it complicated establishment of EULEX mission, since it made passing any relevant resolution on this mission was difficult. The reason why the decisions on the arrangements for the EULEX mission were very quickly adopted during January and February, before the declaration of independence, is because of the awareness that after that it would be much harder. The formula of "diversity on recognition and unity in engagement" was accepted to enable the EU's continued role in Kosovo, but as experience showed, this policy was not easy to implement.⁶⁸

war crimes, terrorism, organised crime, corruption, inter-ethnic crimes, financial/economic crimes and other serious crimes (<http://www.csfederalismo.it/index.php/it/eulex-kosovo>)

⁶⁷ James Ker-Lindsay, p.123

⁶⁸ Dzihic, Kramer, *ibid.*

Chapter 4: Serbia's Policy towards Kosovo

In this chapter, I will present shortly EU-Serbia relations and EU conditionality in Serbia and whether there is EU conditionality regarding Serbia's policy towards Kosovo. After that I will present Serbia's policy towards Kosovo, its development since 1999, with the emphasis on the period after the unilateral declaration of independence and I will examine whether there have been any changes in this policy.

As we said in previous chapter, in 1999, Serbia had to withdraw its forces from Kosovo and since then Kosovo has been under international administration. Serbia could no longer exert its sovereignty in it, as it still continued to refer to it, southern province. Still, it has decisively been rejecting the option of independence as a solution for final status of Kosovo, claiming its sovereignty in Kosovo and vowed that it would never recognize Kosovo as independent. This official policy and rhetoric has not changed since 1999. However, it seems that we can still identify certain changes, which are indicative of a more pragmatic approach on Serbian side. These acts have been taking place despite criticism from great part of Serbian nationalistic opposition, who viewed these acts as acts of *de facto* recognition of Kosovo. These changes have been happening in parallel with EU integration process of Serbia, which started in 2000 with democratic changes in Belgrade and with 2000 Zagreb Summit, which launched the Stabilization and Association Process for five countries of the Western Balkans.

EU – Serbia relations and EU conditionality in Serbia

After October revolution in 2000 in Federation of Yugoslavia, and after parliamentary elections in Republic of Serbia in December 2000, new government has taken on new foreign policy agenda and introduced new foreign policy priorities. Those were: Euro-Atlantic integrations, relations with great powers and cooperation with neighbors,⁶⁹ and accession to the EU was defined as a foreign policy priority of the new Serbian democratic coalition⁷⁰. Zagreb Summit in 2000 launched the SAP and Thessaloniki European Council in 2003 confirmed EU membership perspective for countries of the Western Balkans, and since then, Serbia and other Western Balkans countries are potential candidate countries for EU accession.⁷¹

In April 2005, the European Commission adopted Feasibility Report on the State Union of Serbia and Montenegro confirming the preparedness of the State Union to commence negotiations on a Stabilization and Association Agreement with the European Union.⁷² In June 2006 Montenegro declared independence following the referendum of 21 May 2006, which meant that the State Union of Serbia and Montenegro ceased to exist and Serbia continued the process of European integration as an independent state. In May 2006, SAA negotiations were suspended due to unsatisfactory ICTY compliance. The blockade on the European road of Serbia was removed after the parliamentary elections in Serbia in 2007, when the new government of Serbia made a commitment to cooperate fully with the

⁶⁹ Goran Svilanovic, foreign minister of Yugoslavia in interview “Spoljna politika trpi zbog nestabilnosti”, B92, 26 December 2002

⁷⁰ Program Demokratske opozicije Srbije, 2000 and Report of Minister of Foreign Affairs, Goran Svilanovic in National Assembly, 2001

⁷¹ http://ec.europa.eu/enlargement/potential-candidates/serbia/relation/index_en.htm

⁷² Dragisic, Petar, Serbia and the EU- A View from Brussels, Ph.D., Institute for Recent History of Serbia, Belgrade

International Criminal Tribunal for former Yugoslavia.⁷³ There are views that the EU restarted SAA negotiations not because of ICTY compliance, but to give support to new government.⁷⁴

In April 2008, the EU and Serbia signed the Stabilization and Association Agreement (SAA). After positive assessment of Serbia's cooperation with ICTY by ICTY Chief Prosecutor Brammertz, in December 2009, the Council decided to unblock the EU-Serbia Interim Agreement on Trade and Trade-related issues. The SAA has to be ratified in parliaments of member states and the implementation of the Interim Agreement will start as soon as the Council decides that Serbia fully co-operates with the International Criminal Tribunal for the former Yugoslavia. On 1 January 2008, a visa facilitation and a readmission agreement between Serbia and the EU came into force and in December 2009, Serbia got visa liberalization for Schengen zone. In late December 2009, Serbia submitted its application for EU membership.⁷⁵

The EU in its conditionality towards Serbia placed a lot of emphasis on condition of its cooperation with ICTY. Compliance with this condition has often been non-satisfying and it was either limited, slow or non-compliance, which has slowed down EU integration process of Serbia. This condition proved to be difficult for big part of Serbian public and has even led to the consequence that in significant part of public, the idea of European integration has been challenged. However, there seems to be progress regarding this condition, especially after new government was formed in 2008, which captured Radovan Karadzic and handed him over to the International Criminal Tribunal for the former Yugoslavia.⁷⁶

⁷³ Dragisic, *ibid.*

⁷⁴ Judy Batt, *The Western Balkans – Forwards, Backwards, Sideways?*, EU Institute for Security Studies, Paris, 2007

⁷⁵ http://ec.europa.eu/enlargement/potential-candidates/serbia/relation/index_en.htm

⁷⁶ Shepherd, Alistair J. K. „A milestone in the history of the EU’: Kosovo and the EU’s international role“, *International Affairs*

EU policy on Kosovo issue and Kosovo as a condition for Serbian EU integration

As for relation to Kosovo, officially it is regarded separately from EU integration and the only official condition is related to regional cooperation condition for which purpose Kosovo is considered Serbia's neighbor. However, quite frequent announcements from the EU and member states officials that the EU will not allow "another Cyprus", meaning accession of another country with unresolved territorial issue and that Serbia has to find a way of co-existence with Kosovo signifies that there is certain conditionality on this matter, although not clearly expressed.

The EU and international community, as we saw in the previous chapter, were not willing to deal with status of Kosovo in the first couple of years following the Kosovo's conflict and had no stand on that matter. However, on a 2004 Summit in Slovakia the EU decided to divide the accession agenda and keep it separate for Kosovo, due to its international administration. In 2005 European Partnership priorities for the Union of Serbia and Montenegro and priorities for Kosovo were separated under the assumption that Kosovo would develop a separate plan for addressing EP priorities under the authority of the UNMIK.⁷⁷ The SAA confirmed that it "shall not apply in Kosovo which is at present under international administration pursuant to United Nations Security Council Resolution 1244 of 10 June 1999. This is without prejudice to the current status of Kosovo or the determination of its final status under the same Resolution".⁷⁸

Recently, messages and statements addressed to Belgrade regarding its approach towards Kosovo can be heard quite frequently. Germany's ambassador to Serbia, Wolfram Maas said that "a request for Kosovo to be recognised as an independent state by Serbia was never

⁷⁷ Bauerova, Jana, "Role of EU Integration in Forming an Independent Kosovo", Research Paper Philosophy, Politics and Economics Institute, Colgate University

⁷⁸ Article 135 SAA

made. However, good regional co-operation and good neighbourly relations are a part of the preconditions for membership in the EU. For us, Kosovo is Serbia's neighbour".⁷⁹

Thus, British Ambassador to Serbia Stephen Wordsworth said that Serbia is not being asked to recognize Kosovo's independence, but argued that Belgrade must establish a model of cooperation with Pristina.⁸⁰ Bernard Kouchner, French foreign minister, said that "there are no special conditions for Serbia to join the EU, but I do not think it would be possible with Kosovo as a problem within Serbia."⁸¹

These ambiguous and contradictory statements are signs that, although still not clearly and directly, Serbia's relation towards Kosovo is becoming part of the EU conditionality.

Serbia's policy towards Kosovo

„Considering the state tradition of the Serbian people and equality of all citizens and ethnic communities in Serbia, considering also that the Province of Kosovo and Metohija is an integral part of the territory of Serbia, that it has the status of a substantial autonomy within the sovereign state of Serbia and that from such status of the Province of Kosovo and Metohija follow constitutional obligations of all state bodies to uphold and protect the state interests of Serbia in Kosovo and Metohija in all internal and foreign political relations, the citizens of Serbia adopt Constitution Of The Republic Of Serbia“⁸²

This is the text of the Preamble of Serbia's Constitution adopted in 2007, which replaced Serbian Constitution from 1990. For several years after the democratic changes in 2000, there have been attempts to change quite outdated Constitution, but each initiative failed because it was not able to obtain necessary majority in the Parliament. It was precisely this Preamble

⁷⁹ <http://www.guardian.co.uk/commentisfree/2010/mar/30/serbia-kosovo-independence-dispute>

⁸⁰ <http://www.balkaninsight.com/en/main/news/26633/>

⁸¹ <http://www.balkaninsight.com/en/main/news/27760/>

⁸² http://www.srbija.gov.rs/cinjenice_o_srbiji/ustav.php?change_lang=en

that had mobilizing power in the political elite and managed to get necessary support for this Constitution, since apart from one political party, all the other parties supported this text and it was adopted, in awaiting of Kosovo's announced declaration of independence, in order to stress that Serbia would never recognize Kosovo's independence. This is illustration of Serbia's stand on this issue and mobilizing power of this matter in Serbia's public and political elite.

During the status negotiations, Serbia was willing to accept the highest level of autonomy for Kosovo, outlined in formula "more than autonomy, less than independence" or "everything but the state." Independence as a solution for Kosovo's final status was unacceptable for Serbia.

When Kosovo declared itself independent, reaction of Serbia's government was that it represents violation of international law, it called the UN Security Council to proclaim Kosovo's declaration of independence null and void. It brought charges against president of Kosovo, its prime minister and speaker of parliament for the „declaration of a false state within Serbian state“ which was „a serious criminal act against the constitutional order and security of Serbia." ⁸³ The events that marked first days in the aftermath of the UDI were protests in Belgrade against Kosovo's independence with few violent incidents, when Western embassies were attacked or set on fire, Western businesses plundered and vandalised and US and EU flags burned by demonstrating crowds. In the north of Kosovo, there were also large protest rallies and two border crossings between Serbia and Kosovo were destroyed.⁸⁴ The Serbian government also implemented the diplomatic measures against states that had recognized Kosovo, downgraded diplomatic relations and recalled its ambassadors to Belgrade. Interestingly, one of the reasons for EU integration that was

⁸³ "Serbia files criminal charges against Kosovo leaders"
<http://www.abc.net.au/news/stories/2008/02/18/2166065.htm>

⁸⁴ Dzihic, Kramer, *ibid.*

sometimes spelled out was that it would help Serbia keep its territorial sovereignty in Kosovo.⁸⁵

This would imply very firm, strict and non-compromising policy of Belgrade on this matter. However, it does not mean that things are not changing. First visible change in Serbia's policy since Kosovo conflict, are means of achieving foreign policy goals. In 2005, National Strategy of Republic of Serbia for EU accession of Serbia and Montenegro was adopted, and among foreign policy goals of Serbia, it mentions normalization of relations with international institutions and influential countries, orientation towards Euro-Atlantic integrations and inclination towards peaceful dispute settlement relying on diplomatic and political measures.⁸⁶ As this Strategy also stresses, during violent riots in Kosovo against Serbs, in March 2004, Belgrade had very prudent and peaceful reaction. As Serbian Defense Minister Šutanovac has explained: "Among all scenarios, the only one that is not logical and applicable is the entry of the army into Kosovo and conflict with KFOR" since it „would again be a conflict with the international community”⁸⁷ Instead, Serbia has resorted to diplomatic and legal means.

Threats from some Serbian officials before unilateral declaration of independence that Serbia would use force in case Kosovo declares itself independent were not taken seriously and they were more of a bluff.⁸⁸ When Kosovo declared itself independent, majority of the announced measures were not taken. One of these measures were supposed to be files against states that have recognized Kosovo, but it has been rejected. The Serbian government implemented the diplomatic measures against states that had recognized Kosovo, but it did not carry out

⁸⁵ Denisa Kostovicova, *Post-socialist identity, territoriality and European integration: Serbia's return to Europe after Milosevic*, London School of Economics and Political Science, 2004

⁸⁶ National Strategy of Republic of Serbia for EU accession of Serbia and Montenegro, 2005

⁸⁷ <http://www.blic.rs/Vesti/Politika/22922/Sutanovac-Vojaska-Srbije-nece-uci-na-Kosovo->

⁸⁸ Dusan Prorokovic, Serbia's state secretary for Kosovo announced that, in the case of UDI, Serbia would no longer be bound with Kumanovo military accord and it would have no legal limits to go with its army to Kosovo. He also announced other tough measures to be taken by Serbia- trade embargo for Kosovo and sealing of its borders. (<http://www.nytimes.com/2007/09/05/world/americas/05iht-serbia.4.7393520.html>)

announced economic boycott in the areas of trade and electricity and water supply.⁸⁹ Belgrade has been using its diplomatic energy primarily on lobbying against further international recognition of Kosovo.⁹⁰

Despite importance of this issue in Serbia and the fact that majority of the EU member states had recognized Kosovo, this did not lead to anti-European sentiments in Serbian public and taking off from EU integration track, which was an indicator of changes that irreversibly took place in Serbia and of importance given to EU perspective. The parliamentary elections held several months later were not won on issue of Kosovo but on the EU. They were considered to be „referendum for the EU“ and the coalition named “For European Serbia” had majority and pro-European government in Serbia was formed in July 2008.⁹¹ It gave high importance on its agenda to the issue of the European integration. Serbia’s parliament ratified the Stabilization and Association Agreement in September 2008⁹² Soon after these elections, there was a split in Serbian Radical Party, main opposition nationalist party.

The new government visibly changed Serbia’s policy towards Kosovo. Although Kosovo remains a theme of special interest for Serbia in foreign policy, the fact is that Serbia took a number of strategic and technical steps in relation to Kosovo. It did continue to employ diplomatic and legal means in order to defend its territorial integrity and sovereignty. One of these measures was its successful initiative within the General Assembly in December 2008, which resulted with adoption of a resolution requesting an advisory opinion from the International Court of Justice on the legality of Kosovo’s secession.⁹³

⁸⁹ Ibid.

⁹⁰ “Serbia and consolidation of the Kosovo state“, Helsinki Committee to Defend Human Rights in Serbia, http://www.bosnia.org.uk/news/news_body.cfm?newsid=2698, 2010

⁹¹ Although it should not be overstated, since this outcome was more result of „a fortunate electoral calculus“ than great support of Serbian public.⁹¹

⁹² Dragisic, *ibid.*

⁹³ Jancic, Davor, “*Serbia Amidst Competing Sovereignty Claims*“, Harvard University, 2009

However, this is also considered to be exit strategy, an act that removed the Kosovo issue from the political agenda and left space for focusing on questions, such as EU integration.⁹⁴

Besides that, we can identify some other indicators of Serbia's more pragmatic policy. One of them is approval of launching of EULEX mission despite initial non-approval. Former prime minister of Serbia, Vojislav Kostunica, and leader of Serbian Radical Party, Vojislav Nikolic were arguing that, if the EU decides to deploy EULEX mission, which they would deem illegal, Serbia could no longer continue with European integration.⁹⁵ However, new government did not share this attitude and, after reaching agreement with EULEX on its "status neutral" position, despite certain disapproval from Serbian opposition and Serbian community in the north of Kosovo, in December 2008, the Serbian government adopted a decision supporting the UN Secretary- General's plan to deploy EULEX on the territory of Kosovo.⁹⁶

Besides, in July 2008, Serbian government returned its ambassadors to the EU states that had recognized Kosovo, which reflects importance of EU integration for Serbia and power of EU membership perspective as incentive. In addition, in September 2008, Serbian government ratified the Stabilization and Association Agreement despite opposition from Serbian nationalist block that this represents *de facto* recognition of Kosovo, since the SAA did not include Kosovo.

Measures taken in order to fulfil conditions for viza liberalization were also indicators of more pragmatic approach towards Kosovo and importance of EU integrations for Serbia.

As we already said, the EU offered visa liberalization to the countries of the Balkans, which were on the EU's negative visa list (Albania, Bosnia and Herzegovina, Macedonia, Montenegro and Serbia) in exchange for the fulfillment of certain list of requirements:

⁹⁴ "Serbia and consolidation of the Kosovo state"

⁹⁵ Tim Judah, *ibid.*

⁹⁶ Serbia 2009 Progress Report

improving border controls, fighting organized crime, signing readmission agreements. The European Commission gave countries of the Western Balkans a roadmap specifying the measures that need to be taken in order to further proceed towards visa free-travel. One of roadmap requirements were biometric passports. Therefore, in August 2008, Serbia started issuing biometric passports and it was issuing them also for citizens of Kosovo. However, the European Commission wanted to exclude citizens of Kosovo from free visa travel because of “security concerns regarding in particular potential for illegal migration“⁹⁷ and asked Serbia to stop the issuance to Kosovars until a specific Coordination Directorate at the Ministry of Internal Affairs would be set up as the only body authorised to provide Kosovo residents with passports. In August 2009 the Coordination Directorate in Belgrade started issuing passports for Kosovars, but, according to the EC decision, holders of these passports are excluded from visa free-travel and, since the issuing authority is always mentioned in passports, this makes the passports of Kosovo residents distinguishable.⁹⁸

As part of fulfillment of these conditions for visa free-travel, Serbian Ministry of Internal Affairs, in September 2009, Serbia signed a protocol on police cooperation with EULEX in order to meet criteria of regional cooperation in the fight against organized crime and trafficking. These measures also faced criticism in Serbian opposition and among Kosovo Serbs, but that did not stop their implementation.

One of the acts that could also be mentioned, which does not seem to be very welcomed by the EU and international community and neither Kosovo Albanians, but it is indicator of softening Serbia’s firm position on Kosovo’s status, are announcements of willingness for possible talks on partition of Kosovo by some Serbian officials. This may be regarded as a significant twist in Serbian politics towards Kosovo, since this possibility was never officially mentioned before. However, according to some analysts, Belgrade’s main aim in relation to

⁹⁷ Commission proposal on visa-free travel (15 July 2009)

⁹⁸ Isolating Kosovo? Kosovo vs Afghanistan 5:22, ESI Discussion Paper, 2009

Kosovo issue, has always been to reopen negotiations with Prishtina in order to pose the question of Kosovo's partition, which would result in its northern part joining Serbia and it put effort on preventing the integration of northern Kosovo.

On the other side, Serbia cut down significantly expenses on Kosovo, which suggests that Serbia is unable fully to finance its Kosovo policy, i.e., pay for the parallel institutions and the people implementing the policy of division.⁹⁹ Serbia used to spend a lot of money on Kosovo without proper public control. Part of the budget dedicated to Kosovo was "treated as a top state secret", which led to widespread corruption. In 2010, the Serbian government decided to reduce the Kosovo budget (around 40 million euro for the year).¹⁰⁰ According to Oliver Ivanovic, State Secretary for Kosovo, current economic assistance of Serbian Government for Kosovo Serbs is unsustainable.¹⁰¹ Serbia also wrote off Kosovo's debt. During the negotiations in Vienna, it was concluded that the debt incurred in the aftermath of the construction of objects and enterprises in Kosovo not be assumed by Kosovo, but Serbia. However, president Tadic later agreed that the debt would be delegated to Pristina. Both acts were not welcomed by Kosovo Serbs and are regarded as signs that Belgrade is giving up on Kosovo. "If it delegated Kosovo's debt to Albanian side, it actually recognized its existence".¹⁰²

This still does not mean that Serbia is making significant shift in its relation to status of Kosovo. The official rhetoric has not changed. Serbia is still claiming its territorial integrity and sovereignty over Kosovo and employing extensive diplomatic lobbying to prevent further recognitions of Kosovo. The Serbian government does not have official contact with the

⁹⁹ "Serbia and consolidation of the Kosovo state"

¹⁰⁰ "Serbia and consolidation of the Kosovo state"

¹⁰¹ Oliver Ivanovic in „Does Belgrade betray the interests of Kosovo Serbs? An interview with State Secretary Oliver Ivanovic and the leader of Kosovo Serbs Marko Jaksic", Central and Eastern European Watch, 10.9.2009 (Maxim Braxatoris)

¹⁰² Marko Jaksic in *ibid.*

Kosovo authorities, insisting on dealing only with UNMIK and EULEX.¹⁰³ This dispute also has repercussions in the wider Western Balkan region since all the countries of the region except Bosnia and Herzegovina recognized Kosovo. The Serbian government does not recognise Kosovo's customs stamps and insists that the stamps be labelled "UNMIK customs" or alternatively "EULEX customs", which raises problems regarding the impact on trade and regional cooperation, especially regarding implementation of CEFTA agreement of free trade¹⁰⁴ Serbia is still maintaining parallel institutions in Kosovo and the Serbian authorities have organised local by-elections in Kosovo, which was not consistent with UNSCR 1244. The Serbian government protested against the establishment of the Kosovo security force and stated that it is an illegal body.¹⁰⁵

However, these changes that took place do show more flexible and pragmatic approach. In following months, the ICJ is supposed to deliver its ruling on legality of Kosovo's declaration of independence. It is expected that ruling would be written in such a way that it does not change the situation on the ground, since given recognition can not be taken back. "It is unlikely to change the commitment of recognising states to Kosovo's independence"¹⁰⁶ It might be followed with new wave of recognitions, since many countries are still waiting to see the ICJ opinion.¹⁰⁷ It would make it more possible for the EU to achieve common position on this issue. It is also expected that it would "encourage Kosovo and Serbia to engage more fully on technical issues of practical neighborly cooperation".¹⁰⁸ Besides, the permanent Russian representative at NATO, Dmitry Rogozin, said that Serbia would have to give up Kosovo, if it persisted in its intention to join NATO, and Russia would then have to re-

¹⁰³ Serbia 2009 Progress Report

¹⁰⁴ Guraziu, Rudi, "European Union Foreign Policy Vis-à-Vis the Western Balkans: An Ongoing Puzzle", 2009, <http://www.yfp.org/content/european-union-foreign-policy-vis-%C3%A0-vis-western-balkans-ongoing-puzzle>

¹⁰⁵ Serbia 2009 Progress Report

¹⁰⁶ <http://www.balkaninsight.com/en/main/news/28430/>

¹⁰⁷ Ivan Vejvoda in interview: "Da li je politika Srbije prema Kosovu u ćorsokaku?", Radio Slobodna Evropa, http://www.slobodnaevropa.org/content/most_da_li_je_politika_srbije_prema_kosovu_u_ćorsokaku/1988971.html

¹⁰⁸ <http://www.balkaninsight.com/en/main/news/28430/>

examine its attitude to Kosovo, because “the Russians cannot be greater Serbs than the Serbs themselves”. Although some analysts see this announcement as blackmail, others see it as an exit strategy for Russia from a situation that causes it problems in its relations with the EU and NATO.¹⁰⁹

¹⁰⁹ “Serbia and consolidation of the Kosovo state“

Chapter 5: Incentives for changes, dominant logic and implications for EU external governance

One of the main questions is: What were the main incentives for these changes? What caused Serbia to take more cooperative approach regarding Kosovo? We could argue that majority of them were in connection with Serbian EU integration process and EU external governance.

Some of these changes, however, can not be attributed strictly and necessarily to EU external governance and EU incentives. For example, writing off of Kosovo's debt and reduction of Kosovo budget have been motivated by economic reasons and financial unsustainability of Serbia's policy towards Kosovo, especially because of the economic crisis. Besides, Serbia's commitment to peaceful solutions and non-willingness to start conflicts and confrontations with other states may also be result of learned lessons from recent Serbian history and tiredness of wars. The reason why the option of initiating actions against the states that have recognized Kosovo has been rejected might have been a result of the lessons learned after the failure of proceedings instituted against ten NATO members during the bombing in 1999.¹¹⁰

On the other side, even these acts, which are indicators of change in behavior and of more rational approach could be attributed to more indirect effect of the EU policies and possibility of EU membership.

However, some acts, those regarding issuance of biometric passports and police protocol are direct consequence of EU conditionality. They also confirm what was said about importance and effect of short-term incentives, since short-term incentive of visa free travel was the reason for Serbia's compliance. It also shows that short-term incentives do not work only for the "traditional" conditionality, but also for conditionality of "sensitive" issues, like matters of territorial integrity and national identity. They are also important for keeping momentum for

¹¹⁰ Jancic, *ibid.*

changes. As public opinion polls show, the support for the EU has arisen in the end of 2009.¹¹¹

The question whether these changes can be considered Europeanization is quite complex, beside other reasons, because Europeanization can be understood differently. One of the understandings start from the fact, that the main feature of the EU security identity, after the end of Cold War, is emphasis on soft security concerns, rather on hard, traditional security, such as territorial defense. The EU is thus described as post-westphalian entity in a sense that it assumes a „system of overlapping authorities, divided sovereignty, diversified institutional arrangements and multiple identities“¹¹² and „transformation of state territoriality as European integration relaxes the state’s absolute control over territory.“¹¹³ (Post-milosevic) Taking this into account, Europeanization of security identity would be such a change of security identity that means softening of security concerns and also substantial transformation of state territoriality.¹¹⁴

As we could see from our case study, this change of security identity did not happen in Serbia. These changes cannot be called Europeanization of Serbia’s policy in a sense Rieker understands it, they do not indicate post-westphalian understanding of sovereignty, since territorial issues still remained very important. The territorial issue of Kosovo has even been used as a reason for EU integration in the first several years after democratic changes in Serbia and in the beginning of EU integration process. European integration has been used as a justification for the pursuit of deeply territorial and hard security goals. It was not just seen as a way to keep Kosovo in Serbia, but also as a possibility of linkage with Serbs in Bosnia-

¹¹¹ Support for EU membership in Serbia runs high. According to a November 2009 report by the Centre for Free Elections and Democracy (CESID), 71% of Serbs support EU entry, up from 61% in October 2009 (<http://www.euractiv.com/en/enlargement/eu-serbia-relations>)

¹¹² Jan Zelionka in Jancic, *ibid.*

¹¹³ Denisa Kostovicova, *Post-socialist identity, territoriality and European integration: Serbia’s return to Europe after Milosevic*, London School of Economics and Political Science, 2004

¹¹⁴ *Ibid.*

Herzegovina.¹¹⁵“European integration, hence, emerged as democratic territorial strategy to soothe Serbian territorial grievances and fears“¹¹⁶. (Post-Milosevic)

As Vuk Jeremic, Serbian foreign minister, once stated „when it came to territorial questions, Serbia did not intend to give an inch, regardless of what the EU said or did“¹¹⁷

Territorial integrity and sovereignty on Kosovo was also the main reason for Serbia’s interest in keeping State Union with Montenegro, since Resolution 1244 defined Kosovo as part of Yugoslavia, not Serbia, and therefore there was concern that with dissolution of State Union which was suuccessor of FR Yugoslavia, Serbia loses Kosovo. However, since, according to Belgrade Agreement, Serbia emerged as successor state of FR Yugoslavia and of State Union, dissolution of State Union which followed refferendum in Montenegro was accepted peacefully in Belgrade.

Territorial legacy from wars from 1990s and the fact that political and security culture of the Balkans, in general, lags behind Europe is also the reason for hard transition to post-modern state territoriality a genuine challenge. Changes in security approach in Nordic Countries, which were Rieker’s case study, are therefore not applicable for comparisons with changes in the Balkans countries, because of different starting point and different tradition.

Changes that took place in Serbia in regard of its policy towards Kosovo are therefore not, what Schimmelfennig and Sedelmeier call logic of appropriateness, but logic of consequences. Those changes that are direct consequence of EU conditionality for getting visa liberalization, did not happen as a result of genuine understanding of appropriateness of

¹¹⁵ Simic in *ibid*.

¹¹⁶ *Ibid*.

¹¹⁷ Bauerova, *ibid*.

these measures. saradnje sa EULEKS-om bili iznuđeni jer su bili uslov za belu šengensku listu¹¹⁸

However, change in general attitude towards not only Kosovo, but other matters as well, more cooperative, pragmatic, flexible approach and willingness to resolve disputes by peaceful means without confrontations with neighbors and major powers and commitment to regional cooperation can be considered as genuine change, socialization, and linked with logic of appropriateness. As changes through policies of conditionality in the short to medium run can be those which are more imposed, but in the longer run they will result with more deep-rooted change.¹¹⁹

These little changes can also be test for Serbian public and also prepare Serbian public for more comprehensive changes in the future.

Maire Braniff points out that it is more efficient to put hard demands in the beginning of the pre-accession process than later¹²⁰. Schimmelfennig and Sedelmeier also say that it is important for EU external governance efficiency that conditions are stated clearly and directly. However, in this case, it could not have been done, if for no other reason, than because of non-unity on the side of the EU on Kosovo issue. Still, even if it was possible, it would unlikely produce any effect on Serbian side. On the contrary, it would most likely result with, what Radaelli calls „retrenchement“, „opposition leading to less ‘Europe’ than before“¹²¹

¹¹⁸ Aleksandra Joksimovic in interview: “Da li je politika Srbije prema Kosovu u ćorsokaku?”, Radio Slobodna Evropa,
http://www.slobodnaevropa.org/content/most_da_li_je_politika_srbije_prema_kosovu_u_corsokaku/1988971.html

¹¹⁹ Coppieters, Emerson, Huyseune, Kovziridze, Tocci, Noutcheva and Vahl, „Europeanisation and Conflict Resolution: *Case Studies from the European Periphery*“

¹²⁰ Braniff, *ibid.*

¹²¹ Radaelli in Major, *ibid.*

However, at some point, the condition has to be put clearly, which might happen after the delivery of the ICJ advisory opinion. More frequent statements of the EU member states officials are indicative in that matter.

But that also has to go with more clear reward. There are some opinions that during the negotiations on status, EU incentives should have been stronger and that, if that had been the case, it could have had as an effect more cooperative Serbia's attitude. Exactly at that time, between 2005 and 2007, process had been stalled.¹²² Besides, in December 2007, the EU debated offering Serbia a faster track to the EU in exchange for independence for Kosovo, but it was ruled out because full cooperation with the Hague tribunal has been deemed essential for the signature of the SAA agreement with Serbia.¹²³

Case, which is usually compared to Kosovo case is case of Cyprus. Serbian officials sometimes claim that Serbia will enter the EU on Cyprus model, and on the other side, it can often be heard from the EU and member states officials that they will not allow "another Cyprus", referring to Kosovo. However, this is not very successful comparison, since in Cyprus issue, it was not Cyprus the one which was subject of conditionality, but Turkey, which will have to settle territorial disputes and recognize Cyprus if it wants to become the EU member. It is therefore possible to compare conditionality and its effects on Turkey's approach towards Cyprus with Serbia's approach towards Kosovo. This comparison as well has certain flaws, since the EU is unanimous in its approach towards Cyprus issue, while in issue of Kosovo, this is not the case. Secondly, in case of Turkey it does not have to be part of conditionality, it is more clear and obvious that Turkey will have to recognize Cyprus if it wants to become the EU member, because Cyprus is EU member state, and thus able to veto Turkey's accession. However, we can see some compliance on the side of Turkey several

¹²² Batt, *ibid.*

¹²³ Bauerova, *ibid.*

years before Cyprus became EU member. The candidate status of Turkey was more important incentive for compliance than the fact that Cyprus became EU member.¹²⁴

That leads us to conclude that candidate status and EU membership perspective do matter, and that they work even in case of hard and “sensitive” matters, such as matter of territorial integrity. Therefore, while Serbia still has to adopt more cooperative, pragmatic and prudent approach in the future in settling its dispute with Kosovo, the EU should be able and willing to do the same towards both, Kosovo and Serbia and the whole Western Balkans region if it want to keep its external governance in the region.

¹²⁴ Jerneck, Magnus, “Does Candidate Status Matter? Unpacking the Relationship Between Europeanization and Conditionality in Turkey and Serbia”, Lund University

Conclusion

As we could see from this case study, the EU does impose certain, not very clear though, conditionality regarding Serbia's approach to Kosovo issue, and according to it, Serbia is showing certain, not very clear as well, compliance with this condition. As the international situation regarding Kosovo issue changes and, more specifically position in the EU on this matter, it is more likely that both condition and compliance would be more clear.

`Analysis of this case study allows also that we make some conclusions on EU external governance concept. It reaffirms importance and effectiveness of short-term incentives not only for acquis conditionality, but also in sensitive matters, as well. It shows that EU conditionality can have certain Europeanization effect on potential candidate's foreign policy. However, some deeper changes in security identity can be expected only in a longer run and within more stronger relationship with the EU. In the end, it reaffirms importance of clear EU membership perspective for changes in prospective member states and therefore it provides recommendation for the EU policies towards Western Balkans.

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