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*Katharina Crepaz: Accession Conditionality as a Tool for Achieving Compliance Regarding  
Minority Protection Policy – A Rationalist Bargaining Approach*

63

### **Accession Conditionality as a Tool for Achieving Compliance Regarding Minority Protection Policy – A Rationalist Bargaining Approach**

*Katharina Crepaz*

#### **Abstract**

*After a relatively long period of neglect, the EU finally put minority protection policy on its agenda in the early 1990s, as the CEECs were now making their way towards accession and minority issues could therefore have posed a destabilizing threat to the Union as a whole. The importance of ethnic conflicts and their devastating potential for violence became all the more clear during the years of the Balkan Wars, making a commitment to protection and non-discrimination of minorities a vital security interest. The EU therefore made the protection of minorities part of its Copenhagen accession criteria, creating a gap between “old” member states (who often had very neglectful minority policies, e.g. France and Greece), and new members and candidates, who were now under pressure to change their approach in order not to endanger their accession. This paper therefore argues – in accordance with Schimmelfennig & Sedelmeier’s (2002) External Incentives Model – that accession conditionality and the promised advantages are what entices states to comply, and that candidates make a rational cost-benefit calculation, in which they often decide to accept the EU’s desired policies to profit from the assets of membership. Social learning processes offer much less explanatory capacity – if the adoption of the most appropriate rules was the case, the neglectful “old” member states would have adapted their policies to those publicly endorsed by the EU by now. In order to illustrate these hypotheses, a comparison between Greece as a long-time member and Croatia as a candidate and their respective policy development will be drawn.*

*Keywords: EU accession conditionality, minority protection policy, rational approach, Greece, Croatia, Macedonia*

## Introduction: EU and its Approach to Minority Issues – Past and Present

The EU has played a prominent role in advocating minority rights over the past few years, but this strong commitment has only been made recently. In its early years, the EU steered clear of going into the touchy subject of minorities, which in an ethnically very fragmented Europe could also always represent threats to state-sovereignty. Instead, the Council of Europe stepped up to the role of human rights champion in post-war Europe, presenting its *Convention for the Protection of Human Rights and Fundamental Freedoms* as the first European document on human rights in 1950. A general non-discrimination article was already present in this version, amended in 2000 by Protocol No. 12:

1 The enjoyment of any right set forth by law shall be secured without discrimination on any ground such as sex, race, color, language, religion, political or other opinion, national or social origin, *association with a national minority*, property, birth or other status.

2 No one shall be discriminated against by any public authority on any ground such as those mentioned in paragraph 1. (Council of Europe, Protocol No. 12 to the *Convention for the Protection of Human Rights and Fundamental Freedoms*; emphasis mine).

Besides this general prohibition of discrimination, no international commitments to minority protection were made in Europe, and the matter remained a purely internal state affair. A prominent case of a minority problem being internationalized was the German- and Ladin-speaking minorities in the province of Bolzano (South Tyrol), Italy. They had been granted certain rights (education in their mother tongue, e.g.) in the Treaty of Paris signed by Italy and Austria in 1946, but Italy was disregarding the commitments made. Due to the promised minority rights having been recorded in an international treaty and with the help of Austria acting as a kin-state, the case was brought to the U.N. in 1960. However, no solution was found, and the U.N. General Assembly told Italy and Austria to find an acceptable compromise on their own. This again shows that no international body was willing to get involved in

issues that could possibly pose imminent threats to state sovereignty. Therefore, having minority protection policies was also not an issue the EU took interest in when rating a possible new member's application. The matter was left completely to member states' decency, and if a country chose to opt for neglectful or even hostile minority policies, there was not much more than possible criticism from the Council of Europe to be expected as a consequence. This explains how one of the "engines" of the EU, France, could get away with very neglectful behavior, even denying the existence of minorities on its territory. To this day, France still has not ratified some of the most important international documents on the matter (see below); the same is valid for Greece, which will be investigated in more detail later on in my paper. In 1981, when the country of Greece joined the Union, no demands were made regarding minority protection standards.

Commitments to minority protection on the European level only really began to be made at a much later date: after the downfall of communism in the CEECs and the Baltic States, and especially after the Balkan Wars and their horrible instances of genocide that had sprung from ethnic conflict. In 1995, the Council of Europe drafted a specific document for minority policy, namely the *Framework Convention for the Protection of National Minorities*. Along with key documents by the OSCE, the *Framework Convention* is also nowadays used by the EU as a benchmark to rate applicants regarding their minority protection policies. The *European Charter for Regional or Minority Languages* was drafted in 1992, giving the Council of Europe a tool to protect minority languages but not minorities as such, as the Charter does not offer any kind of group rights.

As can be noted by the dates on which these new documents were made, progress in minority protection began to advance at a much faster pace after the downfall of communism in the CEECs and after the Balkan Wars. Strong ethnic tensions had led to these conflicts, and it became clear that issues relevant to ethnic groups and minorities could lead to a significant destabilization of the Union as a whole. From a security-policy point of view, action needed to be taken to prevent such outbursts in the future, and reducing conflict potential could only be achieved by dealing with ethnic questions, such as minority issues. In 1993, the OSCE created the High Commissioner for National Minorities' mandate. This new position was installed to enable direct involvement in conflict areas, using an approach of "quiet diplomacy": before publicly putting pressure on countries and maybe

even creating resentment or a backlash against the minorities present, the High Commissioner aims to find compromises and solutions through discrete talks with the parties concerned. The High Commissioner co-operates closely with the European Commission, especially with the DG Enlargement, and provides evaluation of minority situations in applicant and candidate states.

The EU itself has not established any kind of protection regime giving group rights, as this would fall beyond its competences. However, minorities can expect protection through various pieces of EU legislation that prohibit discrimination. Article 13 of the Treaty Establishing the European Community (TEC) establishes the Commission's right to "take appropriate action to combat discrimination based on sex, racial or ethnic origin, religion or belief disability, age or sexual orientation. This article constitutes the basis for the "Racial Equality Directive", adopted in 2000, and demanding equal treatment for people irrespective of racial or ethnic origin. "Membership of a national minority" was also included in Article 21 of the *Charter of Fundamental Rights*. The EU's approach therefore remains focused on human rights based on outlawing discriminatory behavior; this is underlined by the fact that out of the four Copenhagen accession criteria, only minority protection still remains merely a political and not a legal prerequisite for accession.

Membership requires that the candidate country has achieved stability of institutions guaranteeing democracy, the rule of law, human rights, 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 (Copenhagen Presidency Conclusions, 1993).

All other demands made in this statement are now part of the *acquis*, while minority protection was too sensitive a topic to be included. This of course reduces the EU's leverage on the matter (Schwellnus 2004). However, accession conditionality has still proven to be a valuable tool for achieving compliance on the minority protection policy sector, and norm adoption or rule transfer without the use of conditionality is much less likely.

This paper therefore argues that before the EU had access to the tool of accession conditionality, applicants had no incentive to adjust neglectful minority policies to official EU standards and still to this day lack this kind of stimulus. Where conditionality is absent, rule adoption is less likely to occur

and develops at a much slower pace, if at all. A rationalist bargaining approach, like the one presented by Schimmelfennig and Sedelmeier in their *External Incentives Model* (2004) thus offers a more comprehensive explanation for this problem than social learning or lesson drawing models (Schwellnus, 2004). Without the often quoted “carrot and stick”, a change in policies is very difficult to achieve. As the case of Greece shows: a member for over 30 years, the country still preserves a hostile approach to the minorities present on its territory, denying their existence in most cases. Comparatively, I will shortly investigate the case of Croatia, where changes on the field of minority protection policies have gradually been made since the accession perspective for the Western Balkans was given. However, there are also internal factors that may hinder compliance, such as national identity functioning as a bias.

#### **Divergences in Minority Protection Policies: A New Field for Research?**

The gap between some of the “old” and “new” member states regarding minority protection has not been very thoroughly investigated yet; research has been carried out by Sasse (2008) regarding differences between the EU's “internal” and “external” approach to minority protection. The main focus regarding European Integration and minorities has been on minority situations in the CEECs over the last few years, e.g. research on minority protection in Romania, Hungary and Poland (Schwellnus, 2004), a single case study on the effectiveness and limits of EU conditionality in Slovakia (Fedorová, 2011) and a theoretical analysis of Europeanization in the CEECs (Grabbe, 2006), or comparisons of political conditionality in Slovakia and Latvia (Pridham, 2008). Latvia and Slovakia have been the most investigated cases in recent literature, as they offer two prominent examples of conditionality: Slovakia's change from the neglectful Meciar government to a more minority friendly executive was arguably influenced by EU conditionality, and Latvia faced considerable problems with its russophone community. The EU intervened using conditionality, but it also turned a blind eye to the shortcomings still present.

In a paper that has been very influential for accession conditionality research, Schimmelfennig and Sedelmeier (2004) provide two different accounts for how rule adoption occurs regarding the EU and new member

states: the External Incentives Model and the Social Learning Model. *The External Incentives Model* takes up a rationalist bargaining approach, arguing that states will adopt EU rules if the benefit of EU rewards will exceed the domestic adoption costs. If this is the case or not depends on the determinacy of the conditions and on the size and speed of the rewards that can be expected – the strongest reward possible is obviously being granted membership. Other important factors include the credibility of threats and promises, meaning that if accession could occur in the near future, the EU's leverage again increases; as well as the size of domestic adoption costs, and if they go against the preferences of the applicant states' government or other significant internal veto-players.

The second explanation is referred to as the *Social Learning Model*, taking a more constructivist approach. According to the *Social Learning Model*, countries are motivated by internalized values and norms, and when faced with alternative courses of action choose the most appropriate or legitimate one. The process of rule transfer is therefore not characterized by bargaining, but by persuasion, and by complex learning instead of behavioral adaptation. Rules are more likely to be adopted if a state identifies with the EU, and if the state's internal norms and preferences do not differ significantly from those of the EU. The EU is seen as a community of shared values and norms, and the adoption of these rules ensues because countries realize that the provided norms are the most appropriate ways of handling issues (Schimmelfennig & Sedelmeier, 2004).

As this paper was written in 2004, the theories present have mostly been applied to the CEECs until now. I would like to test if the *External Incentives Model* also offers explanatory capacity for the Western Balkans, Croatia in this case, and if external incentives and conditionality are indeed the strongest methods for achieving compliance. If, contrary to my assumptions, Greece presented signs of rule adoption, this would function as a case in point for social learning models, since conditionality and external incentives have been absent in this case.

In a comparative paper dating back to 2003, Schimmelfennig, Engert and Knobel introduce the notion of "reinforcement by reward" regarding conditionality. This refers to "the expectation that, after a certain time, the actors subjected to reinforcement will stick to a pro-social behavior in order to avoid punishment and continue to be rewarded" (Schimmelfennig, Engert and Knobel, 2003, p. 496). Also noting the strong leverage that conditionality

possesses, Schimmelfennig and Lavenex (2009) carried out a study on rule adoption and found that norm transfer is more likely when a hierarchical mode of governance is chosen.

Freyburg & Richter (2010) make an important contribution to research on the limits of conditionality, saying that national identity needs to be taken into account as a constructivist factor in rationalist bargaining models. National identity acts like a filter through which governments look at EU policy guidelines: “it biases choices so that certain behavior is discounted as inappropriate for national identity” (Freyburg & Richter, 2010, p. 266). As national identity plays an important role in the Western Balkans, as well as in my cases of Croatia and Greece, an in-depth analysis of how this may have impeded compliance and rule transfer represents an interesting field for future research.

The Western Balkans will provide the future main area of interest for conditionality research, as they are the next countries who will join the Union. Croatia has already been given an accession date (July, 2013) and in December 2011, the accession treaty was signed by the EU member states. A referendum was held on January 22, 2012, with the result of 66% of voters being in favor of joining the Union. Croatia has ratified the treaty in March 2012. Serbia has been granted candidate status on March 2, 2012, and as the Serbs constitute the largest ethnic minority in Croatia, it will be especially interesting to witness the impact of EU accession on this situation. The Republics of Macedonia and Montenegro also hold candidate status. Macedonia's road to EU accession will also offer many possibilities for research on the minority sector, because of the country's ethnic diversity and because of the ongoing conflict about names and national symbols with Greece. The predominant prediction in literature so far (e.g. Sedelmeier, 2008) is that compliance with EU norms will be more difficult to achieve in the Western Balkans than in the CEECs, due to higher adoption costs and because more salient issues such as state sovereignty and national identity are at stake.

## Case Studies

### Croatia

Croatia became an independent country in 1991, after being part of the Socialist Federal Republic of Yugoslavia. The first democratic elections were held in 1990, and saw the predominant Communist Party replaced by the Croatian Democratic Union (HDZ), who endorsed Croatian sovereignty. The Serb population, to the day this the strongest national minority in Croatia, did not benefit from the country's independence: its status was reduced from a constituent nation to a national minority, and many Serbs working in the public service sector were forced to leave their posts in the shadow of the Yugoslav Wars in the early 1990s. Under-representation and discrimination were especially high in the police force, the judiciary and in education (Petričušić, 2004, p. 6). According to the 2001 census, the Serbs are still the largest minority in the country, even though the ethnic conflicts have reduced its population by a large margin and refugee return is only occurring slowly. They are at one third of their 1991 strength, numbering 201,631 ethnic Serbs and making up 4.25% of the country's total population. The downfall of Yugoslavia and the nationalist policies that ensued in Croatia have in fact seen a very significant decrease in minority population overall: it went from 22% in 1991 to 8% in 2001, rendering it very interesting to see which direction this development has taken in the last 5 years. The second largest minority are the Bosniaks with a population of 20,755, followed by the Italians in Istria (19,636), Hungarians (16,595), Albanians (15,082), Slovenes (13,171), Czechs (10,510) and Roma (9,463). The Italian minority is very active and well-protected, as it had already been under the Yugoslavian rule – having a Western European kin-state surely helped in achieving protective measures (Minority Rights Group International 2008: Croatia).

Croatia had already installed minority protection legislation shortly after its independence, but most measures lacked actual implementation. The first law on minority protection was the Constitutional Law on Rights and Freedoms and the Rights of Ethnic and National Communities or Minorities in the Republic of Croatia. The passing of this law was mentioned by the international community as a prerequisite for the recognition of Croatia as an independent state (Petričušić, 2004, p. 8). This provides a first instance of conditionality and the country complying with the demands made. As non-



compliance would have led to unacceptable consequences, e.g. the country becoming marginalized as a state not even existent in the eyes of the Western world, Croatia complied and implemented the Constitutional Law. Despite this step in the right direction, discrimination especially against the Serb population continued in the country, fueled by the Tudjman government and its strong focus on ethnic identity.

The parliamentary elections of 2000 marked a turning point in the country's approach to minority protection policy, new laws regarding education in minority languages were implemented and compliance with the ICTY started to take place. In 2002, Croatia drafted the *Constitutional Law on National Minorities*, which granted minority language education, non-discrimination and participatory rights. The OSCE High Commissioner on National Minorities positively commented on this law, saying it was in line with the *Lund Recommendations* the organization had issued (Minority Rights Group International, 2008: Croatia).

In the meantime, the EU had made progress towards the future rounds of enlargement. The 1993 Copenhagen Presidency Conclusions mentioned the protection of minorities as a prerequisite for joining the EU, and the Santa Maria da Feira Council in 2000 opened the membership perspective for the Western Balkans: "The European Council confirms that its objective remains the fullest possible integration of the countries of the region into the political and economic mainstream of Europe through the Stabilization and Association process, political dialogue, liberalization of trade and cooperation in Justice and Home Affairs. All the countries concerned are potential candidates for EU membership" (Presidency Conclusions, Santa Maria da Feira, 2000). Croatia therefore knew that compliance was necessary to achieve its goal of joining the Union, and in October 2001 a Stabilization and Association Agreement was signed. However, the EU retained the right to suspend the agreement if demands made on the human rights sector were not fulfilled (Miller, 2004). Besides granting incentives, the main one of course being future membership, the EU also made arrangements to be able to withdraw already granted perks based on non-compliance, using both "carrot" and "stick".

In 2003, Croatia applied for EU membership, and was granted candidate status in June 2004. In its Opinion on Croatia's application for membership, the Commission honored the commitments made so far, but also noted that improvement still needs to be made, especially regarding

representation of ethnic minorities in the judiciary and in administrative bodies. It also criticized the lack of minority media, and ongoing societal discrimination particularly against the Serb and Roma minorities (European Commission: Opinion on Croatia's Application for Membership of the European Union, 2005).

Croatia therefore seemed to be on a stable road towards membership, but the 2005 Progress Report issued by the Commission slowed the present enthusiasm down. The Commission criticized the slow implementation of the 2002 *Constitutional Law on the Rights of National Minorities*, especially regarding minority representation in local bodies. It also noted that minorities were still under-represented in the public sector, and that no numbers were available regarding how many civil servants and judiciary workers belonged to national minorities (Progress Report on Croatia, 2005, p. 20-21). Progress was made in the sector of Roma inclusion, where the country signed an action plan. This supports the findings of Rechel, who carried out his analysis for the CEECs: "One of the main concerns for the EU was the potentially destabilizing role the large Roma population could play for the enlarged EU and it aimed to put their integration onto the agendas of candidate countries" (2012, p. 11). However, the main shortcoming was lack of compliance with the ICTY regarding the arrest of war criminal Ante Gotovina, leading the Chief Prosecutor to note that Croatia was no longer fully cooperating. The EU reacted to this development, and on March 16, 2005 the Council decided to postpone the start of accession negotiations (Progress Report on Croatia, p. 24).

Faced with the EU's strongest possible leverage, the withdrawal of potential membership, Croatia implemented an Action Plan to hasten progress on the matter. ICTY compliance is not directly related to the minority sector, but it is closely connected to the problems of national identity and ethnic conflict, making it a comparably delicate issue. Willingness to comply on the ICTY sector might indicate that if a credible threat regarding possible loss of membership perspective is made, Croatia will consider responding with compliance even on highly salient issues. Cooperating on the arrest of a war criminal that was still considered to be a hero by a considerable proportion of the population was certainly an endeavor with high costs, especially on the internal level, but the benefits of EU membership being at stake prompted the country to comply. In October 2005, the Chief Prosecutor noted that cooperation was now making sufficient progress, and in December 2005 Ante Gotovina was arrested in Spain.

In 2010, Croatia amended prior laws made with the *Constitutional Act on the Rights of National Minorities*. The main target area was the political representation of minorities, especially regarding seats in local-self government entities. As this had been one of the EU's main points of criticism, and therefore represented a possible hindrance on the way to EU accession, it seems logical that Croatia would take action on the matter. Political representation particularly concerns the Serb minority groups, who tend to be under-represented and discriminated against in local ethnically Croatian-dominated entities. Serbia was granted candidate status on March 2, 2012; it is therefore now officially on its way towards membership, and minority situations need to be settled between the two countries in order to avoid possible conflicts during the accession process.

It is important to note the big part conditionality has played in inducing Croatia to establish changes regarding minority protection policies. Without the goal of EU membership and the obligations that came with it, Croatia would not have implemented minority protection measures like the ones present today. The credibility of both threats and promises was high: the EU would deny membership in case of non-compliance, and as the membership perspective for the Western Balkans was open since Santa Maria da Feira in 2000, it was likely that the Union would honor compliant behavior with further steps towards membership. Croatia's progress on the minority policy sector clearly coincides with its rapprochement towards the EU, as the country was given an incentive to correct its neglectful course and to adopt a more minority-friendly approach. The Union also reprimanded Croatia for non-compliance, making it clear that this was an important topic regarding its progress towards accession. It can therefore be concluded that without the EU membership perspective, the advancement of minority protection in Croatia would have happened at a slower pace; arguably, it would not have ranked high on the political agenda to implement minority protection measures, as issues of high salience such as national identity are affected by this topic. However, when EU accession is at stake, even high internal adoption costs are often overcome by the foreseen benefits of future membership.

It can therefore be concluded that accession conditionality is a very powerful tool to achieve policy adoption. But as the case of France and its recent neglectful or even hostile treatment of the Roma population shows, once a country has entered the Union, there is not much to be done to force a

member state to change its minority policies, even if they are quite openly discriminatory. Even in fields that are part of the *acquis*, such as general anti-discrimination regulations, countries may find a way to circumvent the law: in France, financial benefits were promised to Roma who would return to their home countries – rendering it a repatriation based on “free will”. It will be very interesting to witness the unfolding of Croatia's way into the EU, and particularly to track if the way towards favorable minority policies continues or if progress slows down once membership is reached. The Western Balkans will probably prove to be a very fruitful area for future research on ethnic and minority issues; as EU membership is also seen as a means to stabilize the region and prevent further conflict, minority issues will need to be put on the agenda and settled in a European context.

### Greece

Greece has been a member of the European Union since 1981. Due to the country having been part of the Ottoman empire until 1827, a Turkish minority population is present; it mostly resides in the area of Western Thrace. In 1923, a population exchange was established in the Treaty of Lausanne, making for the exchange of almost 2 million people between their respective kin-states Greece and Turkey. The Treaty also to this day remains the most important document for minority protection, as it establishes the presence of a largely Turkish Muslim minority in the country. The Muslim minority is the only officially recognized minority in Greece. It must also be noted that Greece only accepts a religious minority – ethnic diversities are not acknowledged or even denied. This becomes apparent in the official stance on the Macedonian question: speakers of Slavonic languages are seen as ethnic Greeks speaking a different language (Minority Rights Group International, 2011: Greece).

Like Spain and Portugal, Greece also has a history of dictatorship. In 1967, the Colonels tempted a first coup d'état, forcing king Constantine to flee the country. In 1973, kingship was abolished and dictator Papadopoulos declared himself president. The junta subsequently wanted to invade Cyprus, then run by Archbishop Makarios. The Greek invasion prompted Turkey's reaction, who in turn occupied the North of the island. The Greek-Turkish conflict in Cyprus has not been settled to this day, and will prove to be a major obstacle on Turkey's way into the EU. In 1974, the dictatorship was

overthrown, and Greece became a republic in 1975. Accession negotiations to the then EEC began in 1976, and the accession treaty was signed in 1979.

A report compiled in 1982 as an official EU document shows that minority policies were not on the agenda during negotiation and accession. Greece was promised help and special measures on agricultural policy and industrialization, as the EU noted that it lagged behind on these instances. There was also a section on human rights present; however, it only evaluated general constitutional human rights, and did not comment on the minority situation at all. The report strongly focuses on agricultural and economical evaluation, providing detailed lists of the country's produce and monetary outcomes. Social policy only plays a minor role, and it is not scrutinized in the domestic context, but more regarding possible large workforce movements from Greece to EEC countries that the Community wanted to prevent.

As the Greek census does not ask about belonging to an ethnic minority, the minority populations present in the country can only be estimated, and the sources cited differ significantly according to the political side they are used by (the Greek government tries to downplay the number, while minority organizations are likely to overestimate it, especially regarding those speakers who actually identify themselves as ethnic Macedonians and not just as speakers of another language). The biggest minority present in Greece today are the Albanians (4.28 % of the population – counting those who are not yet Greek citizens), a group who has largely come into the country because of economic immigration (Minority Rights Group International, 2011: Greece).

Discrimination is reported as being a frequent phenomenon in Greece, especially regarding the Roma and Albanian minorities, who are not seen as ethnic Greeks. Besides the above mentioned Turks in Western Thrace, none of the other minorities present in the country receive publicly funded education in their mother tongue (Minority Rights Group International, 2011: Greece). The neglect of specific policies for ethnic minorities seems to be defining the official policy line; by simply disregarding the existence of minorities on its territory, Greece is free from constraints to take action in any kind of way. The EU does not possess any kind of leverage regarding the minority question if the country is already a member. As minority protection is not part of the *acquis*, no treaty infringement procedure can be run against the country, and besides general non-discrimination rules, protecting minorities remains in the discretion of the member state alone. However, other

international organizations such as the Council of Europe and the OSCE expressed their concerns on the situation of minorities in Greece.

In 1999, there was considerable discussion in Greece about the government's recent adherence to the Copenhagen Document, drafted by the OSCE in 1990. The Copenhagen Document provides extensive articles about the protection of minorities, noting that "to belong to a national minority is a matter of a person's individual choice" and that "persons belonging to national minorities have the right freely to express, preserve and develop their ethnic, cultural, linguistic or religious identity and to maintain and develop their culture in all its aspects, free of any attempts at assimilation against their will" (OSCE Copenhagen Document, 1990). The Document also specifically underlines the group rights dimension by stating that "Persons belonging to national minorities can exercise their rights individually as well as in community with other members of their group". Discussions in Greece revolved mainly around this granting of group rights, seen by many as paving the way for minorities to demand their right to self-determination and maybe cause losses of territory.

The second point that caused arguments was the fact that each person was free to decide if they belonged to an ethnic minority or not. This rendered state recognition unnecessary; a minority was present if people declared themselves to belong to it. The OSCE High Commissioner for National Minorities, Max van der Stoep, explicitly stressed this in a statement issued after the polemics in Greece: "A second misunderstanding is that in order to acquire or enjoy the rights mentioned in the Copenhagen Document a minority will have to be formally recognized by the State. The Copenhagen Document makes it clear that this is not necessary" (Statement by the HCNM on minorities in Greece, 1999).

The question on minorities in Greece had been brought to the forefront by 13 members of Parliament belonging to minorities, who had raised a Parliamentary Question to the Greek minister of foreign affairs regarding the ratification of the *Framework Convention for the Protection of National Minorities*. Greece had signed the Convention in 1997, but has to this day not ratified it. The Minister's response was that the ratification was a matter of time, and that:

All Council of Europe states that have to this date ratified the Framework Convention, among which Germany, have made interpretative 'declarations', on the basis of which they either limit the Convention's application to specific minority groups, which they name in the text of their declaration; or determine particular criteria on the basis of which they will identify the national minorities present on their territory and to which, as a result, this Convention will apply. (Parliamentary Question, 1999).

In regard of more than 10 years having passed since this statement was issued, a commitment to ratifying the Convention in the near future seems unlikely. Also, the assumption about the declarations made by other states is incorrect: only 11 states have issued such statements or made reservations regarding the minorities the Convention applied to in their territory. However, even the small concession made by the Minister that ratification of the Convention was under way created outrage among the Greek media. This indicates that social learning processes have not been present or at least have not had much impact on the way public opinion in Greece sees the minority question. Even though the country had already been an EU member for almost 20 years when this discussion took place, no signs of rule adoption or adhering to norms promoted by the EU can be noted. The *Framework Convention* functions as the main benchmark that applicants are measured by before joining the EU; Greece not ratifying the Convention therefore means that it refuses to implement minority standards that the Union demands from its new members.

Among the minorities most strongly demanding recognition is the Macedonian group, represented by the Rainbow coalition in the Greek parliament. However, the relations with this minority remain very frail, as do the general relations between Greece and Macedonia. Macedonia declared independence in 1991, and its official name is Republic of Macedonia. Greece saw this choice of name as a threat for its territorial integrity, because of the Northern Greek provinces that also run by the name of Macedonia. It argued that the Former Yugoslav Republic of Macedonia, by choosing the name Macedonia, was making demands to include these provinces in its territory. After Macedonia's independence, Greece prevented the country from joining the U.N., and it imposed an embargo that brought Macedonia close to economic breakdown. In 1995, a truce was reached under the leadership of

Cyrus Vance: Greece forced Macedonia to change its name to Former Yugoslav Republic of Macedonia, to write an article in its constitution that it would not threaten Greek territorial integrity or interfere in Greek internal affairs, and to change its flag. The Macedonian flag had been displaying the sun symbol used by Alexander the Great, showing its nation as descending from a statesman claimed by Greece as one of its main national symbols. The constitution article prohibiting any interference in inner-Greek politics also makes it very difficult for Macedonia to act as a champion and kin-state for the Macedonian minority in Greece. Macedonia holds candidate status, but it is likely that Greece will try to counteract accession, as it is still doing regarding Macedonia's accession to NATO. Regarding this case, hearings for the lawsuit filed by Macedonia against Greece took place before the International Court of Justice in 2011. Macedonia accuses Greece of violating the 1995 agreement, which stated that Macedonia can enter international organization as long as it goes by the name of Former Yugoslav Republic of Macedonia. Greece's refusal of Macedonian NATO accession in 2008 stands against this principle (SETimes, 2011). In December 2011, the ICJ ruled that Greece had indeed violated the principle present in the treaty, and warned the country not to repeat this action. As long as this hostile background between the two countries is present, any kind of recognition for the Macedonians in Greece remains unlikely. Social learning processes would have led to a more favorable climate for minorities. If the country accepted the EU's norms as most appropriate and chose to follow suit, the door would be open for at least a gradual process towards recognition of ethnic and not only religious minorities. However, with a conflict so salient for national identity taking place, rule adoption processes will not occur. It will be very interesting to witness how this situation evolves as Macedonia makes its way towards the EU.

These recent developments show that if social learning processes are present in Greece, they are certainly not strong enough to bring about change in society and rule adoption. Greece has signed the benchmark document, the *Framework Convention for the Protection of National Minorities*, but as long as it is not ratified this commitment remains an empty shell. International organizations like the Council of Europe and the OSCE, along with NGOs like Human Rights Watch, have spoken out about the minority situation in the country, noting that improvements need to be made. However, none of these organizations possess any leverage to provide consequences in case of non-compliance; the credibility of threats is not maintained. Greece has no reason



to change its policy on minorities, as continued neglect will not lead to any worsening of the country's stand in the EU. Demands made by the EU mainly concern the financial situation and the aid given during the financial crisis, and minority protection is not ranked among the provisions the country has to fulfill.

### **Conclusions**

In the present paper, I have tried to show that without EU conditionality, compliance with official EU norms regarding minority protection policy is very difficult to achieve. This accounts for the large discrepancies still present between some of the "old" and the "new" member states who joined in more recent rounds of enlargement. Since it has made the protection of minorities part of the accession criteria, the Union demands that applicants fulfill certain standards before achieving membership; one of the benchmarks used to evaluate candidates' performance is the Framework Convention for the Protection of National Minorities, drafted by the Council of Europe. If a candidate does not comply on certain measures, the EU can withhold the membership perspective or at least slow down or suspend the accession process, giving it a tool with high credibility of threat that in most cases successfully reaches compliance. Faced with the threat of not being accepted into the Union, countries will make a rational cost-benefit calculation and consider their options (Schimmelfennig & Sedelmeier, 2004); in most cases, the benefits of EU membership will outweigh the domestic costs of complying on a particular matter. The EU has made a credible promise by opening an accession perspective, and it is therefore likely that the country will indeed be granted its promised reward if it acts according to EU norms. Depending on what the consequences of non-compliance could be, accession conditionality may also force countries to change their policy on issues of high salience, such as subjects concerned with national identity. The case of Croatia and the ICTY shows that as the EU delivered a credible threat (the suspension of accession negotiations), the country considerably increased its efforts to cooperate, despite the fact that the treatment of General Gotovina as a war criminal was a very contested issue among the Croatian public. Denying accession is the strongest leverage the EU possesses, and it represents a very useful tool when dealing with issues that are strongly connected to national identity and ethnic conflicts. Even though the protection of minorities

remains a purely political criterion, the EU is able to force considerable progress by the use of conditionality during the accession phase. Laws and concessions made regarding minority protection in Croatia would have happened at a slower pace, if at all, without EU involvement. EU membership functions as a very strong pull-factor, and it is able to overcome domestic concerns even on issues of high salience such as national identity. Croatia represents a very interesting field for research on this problem, as identity and sovereignty issues rank highly among the internal political priorities, and any further developments now that the accession date has been given will also prove to be a fruitful field for ongoing investigation. Once the new member state has entered the Union, achieving compliance on the matter could be a considerably harder task, as minority protection is not part of the *acquis* and no legal measures can be taken to enforce it. However, it has to be noted that even though conditionality has proven to be a viable measure, it does have its limitations. The main concern is that while legislation may be installed on paper, the implementation may not be sufficient.

When a country has already joined the Union, compliance regarding minority protection is much less likely. As the case of Greece shows, a country that is already a member state does not have many incentives to comply, because no credible threats can be made. Without the possibility to deny accession, the EU's leverage decreases considerably, and since minority protection is not part of the *acquis*, no other consequences can arise for the member state. International organizations such as the OSCE, the Council of Europe and NGOs may express their evaluation of the matter, but they also do not possess the capability to make a credible threat. The only possibility is to attempt a procedure of "shaming", e.g. inducing the country to comply by publicly noting its non-compliance with recognized protection standards. However, this is only viable when the country desires to adhere to a community of values and norms and wants to be seen as a member of said community. If this is not the case, "shaming" loses its power, as the country does not care about its reputation on this particular matter, framing it as one of only internal importance. Looking at Greece, it is unlikely that social learning processes have occurred at a larger level: the reactions regarding the Macedonian minority's demands prove that rule transfer has not taken place, and that EU-promoted measures are not seen as the most appropriate way to handle the minority issue. When dealing with an issue so important for national identity, countries are very reluctant to make any commitments that

could weaken their position, or even pose a threat to territorial identity. Without an incentive from the EU, both in form of “carrot” and “stick”, and the following cost-benefit calculation that usually favors the adoption of EU norms, compliance regarding minority protection policies is unlikely and very difficult to achieve.

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