

*Paper prepared for the First Euroacademia Global Conference
Europe Inside-Out: Europe and Europeaness Exposed to Plural Observers,*

Vienna, 22 – 24 September 2011

*This paper is a draft
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EU CONDITIONALITY IN SENSITIVE MATTERS

Serbia's policy towards Kosovo

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2011

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. The EU is interested in stability of the region and for the last ten years, it has played a major role in the Balkans. Thus, it is interested to help resolve this issue, but due to lack of unity on this case, these efforts have not been too successful. However, recently the EU started imposing more openly 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 an interesting case study. Using this case study, this paper examines the argument of EU external governance approach that, in order to be effective, EU external governance has to have clear and direct conditions. It shows that, contrary to this argument, indirect and unclear conditionality can produce certain compliance, and that conditions are sometimes even more efficient if they are not put directly, at least not in the beginning. This paper further reaffirms importance and effectiveness of short-term incentives, such as visa liberalisation, not only for acquis conditionality, but also in sensitive matters- matters which are perceived as important for national identity. However, this study also reaffirms importance of clear EU membership perspective for deeper changes in prospective member states, thus providing recommendation for the EU that it should offer more credible membership perspective for the Western Balkans.

KEY WORDS: EU External Governance, EU conditionality, Kosovo, Serbia, EU Enlargement.

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 on Kosovo which would replace SC Resolution 1244 from 1999, and many other countries have not recognized Kosovo either. Among these states, there 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. 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 a so-called Stabilization Tracking Mechanism as a mirror instrument of the SAP.

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, 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 the 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.

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, which are 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”?

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

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 and reports of different international bodies and some statistical data. Secondary sources will be relevant literature on 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 much research on this particular case.

Chapter 1: 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 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. 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.

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.²

In the 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 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. 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.

Frank Schimmelfennig and Ulrich Sedelmeier have been interested in modes of EU rule transfer and especially in finding out which mode is the 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.³ 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. EU external governance mainly follows a strategy of conditionality in which the EU sets its rules as conditions that the non-members have to fulfill 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 reward⁴ 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.

The second model is social learning model, derived from constructivist thinking, according to which non-member states choose to comply with the conditions because they find them 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.⁵

Schimmelfennig and Sedelmeier have come to a conclusion, generally accepted today in theory of external governance, that rule transfer and the variation in its effectiveness are best explained by external incentives model.

There are two main conditions for successful EU conditionality. The most important condition 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 conditionality does not produce high domestic political costs.

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.⁶

One hypothesis regarding conditions, in which we are primarily interested in this paper, is “determinacy hypothesis”. The EU has to set rules as conditions for them to be adopted and likelihood of the adoption enhances with the determinacy of the EU’s conditions. Determinacy refers to both the clarity and formality of a rule. First, determinacy helps the target governments to know exactly what they have to do to get the rewards. Second, determinacy enhances the credibility of conditionality, because they cannot avoid adopting an EU rule by manipulating the interpretation of what constitutes compliance with the rule. On the other side, it binds the EU as well as it becomes more difficult for the EU to withhold the reward. Therefore, Schimmelfennig and Sedelmeier formulate a determinacy hypothesis-^ “the effectiveness of rule transfer increases if rules are set as conditions for rewards and the more determinate they are”.

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 suggest that EU external governance concept should be complemented by a constructivist perspective⁷

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. 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 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”.⁸

Since enlargement is becoming less of an option for external governance because of enlargement fatigue, the EU is looking for some other forms to export its rules. Therefore, it managed to compensate for less credible membership perspective by increasing the value of intermediary rewards, such as visa free-travel.⁹ 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.¹⁰ This approach is more flexible, since it does not demand from the 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 to integrate.¹¹

The EU managed to compensate for less credible membership perspective by increasing the value of intermediary rewards, such as visa free-travel.¹² However, in order to remain effective, the short-term incentives have to be supported by commitment concerning future prospect of full membership.¹³

Chapter 2: EU policy towards the Western Balkans

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 Copenhagen criteria. The Copenhagen criteria were put forward at the 1993 Copenhagen Council, when CEE countries were given EU membership perspective, and these criteria were set as 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”¹⁴ 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“.¹⁵ The EU also launched OBNOVA financial program to help reconstruction in the Western Balkans.¹⁶

However, Kosovo crisis made evident the limitations of EU policy. During the crisis, the EU, therefore, reconsidered its strategy towards the SEE and introduced “a more comprehensive regional approach”¹⁷ through the Stabilization 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 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 membership perspective to Western Balkans countries,¹⁸ which was major turning point for the efficiency of the EU conditionality in the Balkans. 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.

The Stabilisation and Association Process was divided in steps: feasibility study of the SAP, start of negotiations for a Stabilisation and Association Agreement (SAA), conclusion of SAA negotiations, initialing of the SAA, the signing of the SAA, ratification process, EU candidacy, start of accession talks. Reaching each of these steps requires fulfillment 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, but they can be put forward in indirect way, as we will see in our case study.

Chapter 3: Kosovo issue- short background

Since the conflict in Kosovo and NATO intervention in Serbia, Kosovo has been under international administration and resolution of its status was postponed. 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 for as long as possible, while setting European standards for Kosovo’s government.¹⁹ However, after violent riots against Serbs in 2004, although there has not been significant progress in the standards, the international community became aware of unsustainability of the status quo, 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 negotiations failed, Marti Ahtisaari, the UN Special Envoy for Future Status Process for Kosovo was authorized 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 implied *de facto* supervised independence. 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.²⁰ Several weeks later, on 17 February 2008, Kosovo declared itself independent.

Chapter 4: Serbia’s Policy towards Kosovo

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 its, as it 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.

4.1 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, good relations with great powers and cooperation with neighbors.²¹ Accession to the EU was defined as a foreign policy priority of the new Serbian democratic coalition²². Zagreb Summit in 2000 launched the SAP and Thessaloniki European Council in 2003 confirmed EU membership perspective for countries of the Western Balkans, and Serbia and other Western Balkans countries became potential candidate countries for the EU accession.²³

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. 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 International Criminal Tribunal for former Yugoslavia.

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 cooperates with the International Criminal Tribunal for the former Yugoslavia. On 1 January 2008, Visa Facilitation and 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.²⁴

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, although it took some time for all ICTY indicted to be arrested, this condition can be considered fulfilled now.

4.2 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 a certain conditionality on this matter, although not clearly expressed.

The EU and international community 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.²⁵ 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".²⁶

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 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".²⁷

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

4.3 Evolution of Serbia's policy towards Kosovo

The Preamble of Constitution of Serbia adopted in 2007, which replaced Serbian Constitution from 1990, defines Kosovo as an inseparable part of the country. 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 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.

When Kosovo declared itself independent, reaction of Serbia's government to Unilaterally Declared Independence (UDI) 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."²⁸ The events that marked first days in the aftermath of the UDI were protests in Belgrade against Kosovo's independence with few violent incidents.²⁹ The Serbian government also implemented the diplomatic measures against states that had recognized Kosovo, downgraded diplomatic relations and recalled its ambassadors to Belgrade. This implied very firm, strict and non-compromising policy of Belgrade on this matter.

However, things might slowly be changing. First visible change in Serbia's policy since Kosovo conflict, are means of achieving foreign policy goals. In 2005, National Strategy for EU accession enlists foreign policy priorities of Serbia-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.³⁰ As this Strategy also stresses, during violent riots in Kosovo against Serbs, in March 2004, Belgrade had very prudent and peaceful reaction. 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.³¹ When Kosovo declared itself independent, majority of the announced measures were not taken. Among 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 announced economic boycott in the areas of trade and electricity and water supply.³² Belgrade has been using its diplomatic energy primarily on lobbying against further international recognition of Kosovo.³³

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. The coalition named "For European Serbia" had majority and pro-European government in Serbia was formed in July 2008.³⁴ It gave high importance on its agenda to the issue of the European integration and newly established Serbian Parliament ratified the Stabilization and Association Agreement in September 2008.

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 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.³⁵ However, this initiative was also considered an exit strategy, an act that removed the Kosovo issue from the political agenda and left space for focusing on questions, such as EU integration.³⁶

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 process.³⁷ However, new government did not share this attitude and, after reaching agreement with EULEX on its "status neutral" position, in December 2008, it adopted a decision supporting the UN Secretary-General's plan to deploy EULEX on the territory of Kosovo.³⁸

Besides, in July 2008, Serbian government returned its ambassadors to the EU states that had recognized Kosovo. 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 fulfill conditions for visa liberalization were also indicators of more pragmatic approach towards Kosovo and importance of EU integrations for Serbia. 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 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 and in August 2008, Serbia started issuing biometric passports to its citizens, including citizens of Kosovo. However, the European Commission wanted to exclude Kosovo from free visa travel because of "security concerns regarding in particular potential for illegal migration"³⁹ 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.⁴⁰

As part of the fulfillment of these conditions for visa free-travel, Serbian Ministry of Internal Affairs, in September 2009, signed a protocol on police cooperation with EULEX in order to meet criteria of regional cooperation in 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 was indicator of softening Serbia's firm position on Kosovo's status, were announcements of willingness for possible talks on partition of Kosovo by some Serbian officials and moving its focus on northern Kosovo. This may be regarded as a significant twist in Serbian politics towards Kosovo, since topic of partition has earlier been a taboo topic as it meant altering Serbia's official policy towards Kosovo. Some Serbian politicians are calling for a reconsideration of the policy "both Serbia and Kosovo". Former Minister of Foreign affairs, Vuk Draskovic, suggests replacement of this policy with new policy "both EU and EU standards for Serbs in Kosovo".⁴¹

Besides, in 2010, 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 in northern Kosovo,⁴² and that current economic assistance of Serbian Government for Kosovo Serbs is unsustainable.⁴³ Serbia also wrote off Kosovo's debt; it agreed that the debt incurred in the aftermath of the construction of objects and enterprises in Kosovo not be assumed by Serbia anymore, but Kosovo. These 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".⁴⁴

The most recent progress have been European Union-moderated negotiations between Serbia and Kosovo, series of talks on issues, such as economic co-operation, electricity and telecommunications, freedom of movement, customs stamps, recognizing education diplomas, cultural heritage and missing people. The negotiations started in March 2011 and are supposed to resume again this September These are the first negotiations between Belgrade and Pristina since Kosovo declared independence.

Therefore, the changes that took place do show more flexible and pragmatic approach.

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

Some of these changes 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 tiresome 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 1999.⁴⁵

To some extent, 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 a 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 changes. As public opinion polls show, the support for the EU has arisen in the end of 2009.⁴⁶

Changes that took place in Serbia in regard of its policy towards Kosovo are 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 these measures.⁴⁷

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.⁴⁸

Schimmelfennig and Sedelmeier 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 Claudio Radaelli calls "retrenchement", "opposition leading to less 'Europe' than before"⁴⁹

Conclusion

As we could see from this case study, the EU conditionality has leverage in "sensitive issues" as well, and that the external incentives model is useful analytical tool in these issues as well, and not just in *acquis* conditionality. The EU does impose certain, unclear and indirect conditionality regarding Serbia's approach to Kosovo issue, and Serbia is showing certain compliance with this condition. Therefore, our main conclusion is that, contrary to "determinacy hypothesis", it is sometimes, and especially in cases of "sensitive issues", more efficient not to put conditions clearly and directly, at least in the beginning.

This case study also reaffirms importance and effectiveness of short-term incentives not only for *acquis* conditionality, but also in sensitive matters as well, and it shows that EU conditionality can have certain Europeanization effect on potential candidate's foreign policy.

Short bio on the author: Maja Bogicevic obtained a Master of Arts in International Relations and European Studies from the Central European University in Budapest and Bachelor of Arts in Political Science from Belgrade University. Her main interest is in European integration, EU enlargement and in regional cooperation in the Balkans.

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