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Anne Bercio / Katrin Böttger

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About the Authors
Anne Bercio is project manager and research associate at the Institut für Europäische Politik (IEP) where she has been responsible for various programmes aiming at strengthening the capacities of central administration in South-eastern European Countries, namely Bosnia and Herzegovina as well as Serbia. She graduated at the Jagellonian University of Cracow, Poland. Her main fields of interest are legal and administrational reform within the process of EU enlargement and the efficiency of EU and bilateral technical assistance.

Katrin Böttger, is deputy director of the Institut für Europäische Politik (IEP), where she is the project leader for the research project "The EU's policy towards Eastern Europe and Central Asia – A key role for Germany". She has written her dissertation on the development of the European Neighbourhood Policy at Tübingen University. Her main fields of research at the IEP are the European Neighbourhood Policy, EU enlargement, the EU's relations to Central Asia and the EU constitutional process.

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A wake-up call from enlargement fatigue: The cases of Bosnia-Herzegovina and Serbia

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Given the current criticism of EU foreign policy after the Lisbon Treaty, the EU urgently needs success in the Western Balkan's approximation to the EU in order to reassert its own foreign policy standing. After the 2004 enlargement, the EU has been widely advocating its accession policy as its most successful foreign policy instrument. With the Western Balkan countries' ambitions for and great expectations in a future EU membership, the confirmation of the "European perspective" at Thessaloniki 2003, should have put them on a stable and progressive path towards European Union membership.

However, if we follow recent progress reports as well as the public and scientific debates, we can identify a prevalence of pessimistic attitudes and a general lack of enthusiasm concerning the progress made towards EU standards by the Western Balkan countries. This is also mirrored in the fact that the EU has introduced several additional accession criteria along the way, which has reduced the EU's credibility in the Western Balkan region. Moreover, the countless steps from the pre-accession phase up to the post-enlargement structural funding phase have been fine-tuned, revised and adopted to the specific situation of the accession candidates in the Western Balkans. Today an incentive structure more tightly knit than was the case for the Central and Eastern European (CEE) countries exists. In addition, the EU is employing a more flexible individualized approach to each country in the region which, in theory, takes into account needs and problems of each country and may offer tailor-made assistance.

In the policy brief at hand we aim to identify the reasons for the ineffectiveness of these dynamics and the stalling approximation process. Although the region is often handled as one entity, it is unavoidable to look at the countries individually. For the purpose of this paper we have selected two countries in the Western Balkan region with very different accession performances so far. In Bosnia-Herzegovina, the ongoing approximation seems to be hampered by a number of reasons, while Serbia appears to be on a relatively foreseeable track towards full-fledged membership with the candidate status being granted at the European Council meeting on 1./2. March 2012 after that decision had been postponed in December 2011. We specifically analyse acquis conditionality, i.e. the compliance with legal acts and mechanisms of the EU acquis communautaire in exchange of benefits and rewards leading to a closer approximation with the European Union. Based on the reasons found for non-compliance in the cases of Bosnia-Herzegovina and Serbia, we will formulate policy recommendations for how to overcome obstacles the enlargement process is currently facing concerning the two target countries and the enlargement policy in general.

Recent developments in Bosnia-Herzegovina

For Bosnia-Herzegovina, the year 2011 was mainly shaped by political immobility. After the parliamentary elections on 3 October 2010 a coalition government was formed only 15 months later when the risk of financial collapse became imminent. The opposing political parties managed to find a compromise in late December 2011, by which a lacklustre coalition government is to be formed. With this compromise none of the different entities is "getting everything" as the leader of the pro Serbian-nationalistic party SNDS Milorad Dodik put it. The prime minister is Vjekoslav Bevanda from the leading Croatian party HDZ. Out of the six governing parties only the social-democratic party SDP is multi ethnic. The distribution of the important portfolios has yet to be decided and although an agreement has been established, it has yet to be implemented. Meanwhile, two important legal acts were passed in response to repeated requests by the EU in its progress reports: the law on state aid and the law on census. Therefore, the first step out of domestic lethargy has been completed

but further efforts geared towards political stability and additional implementation of the Stabilisation and Association Agreement are still pending.

Recent developments in Serbia

In 2011 Serbia made good progress in strengthening the public administration and in political reform. Despite a deficit in economic reforms, the overall assessment also of the European Commission has been positive. At the recent European Council meeting Serbia was granted the EU candidate status due to the country's compliance with the demands for full cooperation with the ICTY, improved relations with neighboring countries, as well as to recognizable improvement of Serbia-Kosovo relations. In addition, it signed a protocol on the statute of minorities with Romania. A demand that had been made by the Romanian government after granting candidate status had already been preliminarily agreed upon in the General Affairs Council on 27 February 2012.

After the conflict in Northern Kosovo turned violent in December 2011, Serbia's candidacy was blocked by some EU member states, particularly Germany, and further EU approximation was made conditional upon Belgrade's ability to allow EULEX and KFOR to fully execute their mandates.

Recent developments show that the EU extended it's enlargement strategy by "two-track negotiations" which separate the acknowledgment of a sovereign Republic of Kosovo from the improvements of domestic economic and administrational reforms. With Serbia being granted the EU candidate status the European Council followed the European Commission's recommendation and last but not least strengthened the pro-European Serbian government with regard to the upcoming parliamentary elections of May 2012.

EU related reasons for lack of progress

The first reason for defective acquis conditionality is a result from the EU's experience in previous enlargement rounds. EU actors now stress the fact that enlargement is an open-ended process meaning that dates and deadlines are not supposed to be set beforehand, as all steps taken depend on the performance of the accession country in question. In addition, the EU now prefers bilateral negotiations rather than a „package solution", as was the practice until 2004, where groups of countries were prepared collectively to join the EU. For Bosnia-Herzegovina and Serbia these lengthy "individualized solutions" directly affect the domestic population's attitude towards joining the EU. While in Serbia polls have dropped down to an alarming 51 percent[1] when Serbians were asked whether the country should join the EU, the situation in Bosnia-Herzegovina is still positive: 83 percent[2] are in favour of a potential EU accession. However it is unclear how the situation in the region will be affected after the accession of Croatia and Iceland. It is especially problematic that there are no current member states that strongly advocate on behalf of further enlargement. This is due to the fact that in times of constant crisis the Western Balkan countries have been shifted to the back of the political agenda, as the region is composed of small countries and has little to no political and economic power beyond its borders. Nevertheless security and stability in WB must remain an EU priority not least due to moral obligations.

In general the ongoing EU approximation process is assessed rather negatively for Bosnia-Herzegovina and rather positively for Serbia. In Bosnia-Herzegovina, although considerable progress has been achieved when it comes to acquis compliance regarding individual policies and acquis chapters, the overall political process is characterised as shaky. In Serbia, civil servants directly involved in the approximation process have managed to address technical aspects, although they have excluded the political dimension. When de-politisation is successful, compliance with the EU acquis will have been achieved. In these cases, acquis conditionality appears to be effective, and according to EU

1 EurActiv RS: Pad podrške građana ulasku u EU. http://www.euractiv.rs/srbija-i-eu/3433-pad-podrke-graana-ulasku-u-eu (last accessed 19.1.2012).

2 GfK Bosnia: B&H citizenry support to eventual EU membership http://www.gfk.ba/public_relations/press/press/003217/index.en.html (last accessed 24.1.2012).

provisions on a purely technical level, the results reflect absorption and the partial transformation of institutional structures.

Contrary to the self-criticism of the EU regarding its lack of knowledge for the annual evaluation of the EU approximation process, actors in BiH and Serbia involved in the approximation largely support the opinion that the results of the annual reports are accurate and realistically reflect the situation in their respective countries. Last year's progress reports have been precise in their identification of the failures of domestic policy. In both countries this mainly refers to deficits in approximating EU directives and regulations. In addition, these reports are understood as being based on precise, detailed and policy-focused technical information and are accepted as an effective instrument of evaluation. Many domestic actors even claimed that the EU should put more pressure on the governments of both countries by introducing stricter standards for the annual evaluation. In fact, one think tank representative on the domestic level has stated that the EU "hopefully won't be as soft on corruption issues as it was the case with Bulgaria and Romania".

Despite tangible enlargement fatigue, the EU still profits from being viewed as an honest broker in the Western Balkans. However, several limitations are reducing the benefit of this image. When it comes to the demands placed on the potential candidates and the set of progression steps leading to EU accession, and when they compare these to their Western Balkan's neighbours, the EU is no longer as trustworthy as it was at the beginning of the association process in 2003. While the main point of criticism in Serbia is the EU's discordant position towards the Kosovo issue, actors in Bosnia- Herzegovina claim that only the "general" demands of the EU towards the country are congruent and traceable, while this is not the case when it comes to the evaluation of politically sensitive topics such as the visa liberalisation issue or the status of approximation granted to some neighbouring countries. Referring to the specific demands set out for Bosnia-Herzegovina, civil servants working for the entities claim that steps for further EU approximation remain "unclear" and are introducing "political conditionality as something technical", one civil servant even accused the EU of regularly changing "requirements" and employing "double standards". The demands of a new constitution and a re-settlement of competencies between entities and central level are especially viewed as an obstacle towards further EU integration. In Serbia, domestic actors argued for the opting out of the Kosovo issue based on the fact that the EU has not agreed on a common position on the issue thus far. While "most of the acquis related statements are clear all Kosovo related statements are blurry".

This assessment shows that on a technical level of policy-making demands and the rules of the game are clear and traceable, which leads to the conclusion that acquis conditionality is functioning on a working level even when the results (of domestic policy efforts) are negative. This is particularly true for all acquis related policies dealing with single market issues. When it comes to the different demands of the EU towards the potential candidate countries, research shows that civil servants working in a line ministry with a clearly applicable acquis chapter (e.g. 1-4 on single market) are assessing these demands as reasonable and manageable. Overall, the demands of the European Commission are "technically okay" but where they touch upon politically controversial issues, broad support for the EU standards is lacking.

Other recently introduced criteria for the opening of EU accession negotiations such as regional cooperation, the successful cooperation with the ICTY or Serbia's cooperation in regard to North-Kosovo have been viewed critically by actors involved in the approximation process, as well as the general domestic public. In both countries, one is aware of the fact that new political criteria have been introduced in addition to the accession criteria that were employed in the CEE countries for the 2004/07 EU enlargement. The question arises whether the EU is following its own hand-book of enlargement with clear rules for all involved players, or merely introduces new conditions once the previous demands have been fulfilled, without offering new and attractive incentives.

Concerning the equal treatment of all potential candidate countries as demanded for an enlargement "by the book", these countries constantly compare their own performance to that of their neighbours and in general strive to achieve better results. However, despite claims, this comparison is not always leading to constructive competition and progress in terms of EU approximation.

Country specific reasons for lack of progress

What decisive reasons for non-compliance with EU conditionality can be found within the countries themselves?

First of all, the legacies of war clearly have an impact on the EU approximation process in both countries. Political actors point out that society still needs to come to terms with the past; however the failures of the current political situation are not solely attributed to historical circumstances.

For Bosnia-Herzegovina, war legacies have particular implications. Further progress of the EU's Europeanisation policy is closely connected to the success or failure of a thorough constitutional reform for the whole country, which would as a result, overcome the post-war Dayton regime. The vast majority of actors are convinced that such a reform needs to be implemented before the country can become a full-fledged member of the EU. Interestingly, political actors in Bosnia-Herzegovina seem to ignore the fact that the EU does not prescribe a specific kind of constitutional reform but rather demands consistent positions; this includes a clear division of competences for each policy and a problem-solving mechanism for cases in which the decision-makers on different political levels disagree. However actors working on the entity level share a common position that points in the opposite direction. The EU's push for institutional changes for Bosnia-Herzegovina is seen as interference in domestic politics, and an attempt to push for a "transfer of authority [from entity] to the central level". At the same time, doubts and concerns arise as to whether such substantial reform can be implemented only through internal, domestic efforts and without being bound to the tight structures of a wider institutional setting.

In Serbia recent history is mainly concerned with the political status of Kosovo and its international recognition. The government is blaming the EU for not having a common and congruent position on the topic. This lack of unanimity diminishes the overall credibility of the EU within the approximation process and reduces the acceptance of democratic conditionality in the country. Meanwhile it seems to be a matter of common sense in Serbia that this controversial issue needs to be settled before final accession negotiations and a full-fledged EU-membership. However, political actors want the EU to acknowledge the progress the country has achieved during the 12 years since the initiation of a democratic transition.

Another factor often mentioned as a reason for slowing down the process of approximation is a lack of self-confidence exhibited by the government and the civil servants. According to our findings, this does not seem to have a significant impact in both countries. In Serbia, the argument is not supported at all, while in Bosnia-Herzegovina, however, opinions on self-confidence of the government are divided. While some domestic actors view the government as "more than self-confident", others would like to see, in general, a more congruent approach with a state-wide perspective towards the EU and its member states. However, this is not perceived as one of the main reasons for a failure of EU conditionality.

While in Serbia a national consensus for EU membership has been established under President Boris Tadić, who communicated his decisions to the entire public administration as well as to Serbian society, the situation in Bosnia-Herzegovina is difficult to evaluate. On the entity level of Republika Srpska, civil servants confirm the existence of a national consensus on EU accession. Simultaneously, public servants working at the federal level or the entity level of the federation question the commitment of Republika Srpska, and deny that a national agreement has been supported by all actors involved. This dissent indicates at least an imagined lack of national consensus for EU membership, and could prove to be a considerable obstacle in the approximation process.

A decisive reason for the fitfulness of Bosnia-Herzegovina's EU approximation lies in the weak economic performance of the country. Economic decline, mainly caused by the international financial and economic crisis since 2008, as well as the weak micro-economic structures within the country itself, have been identified as responsible for Bosnia-Herzegovina's inability to fully comply with the single market related EU acquis. This is further supported by national polls in which economic prosperity is named as one of the three main reasons for which Bosnia-Herzegovina should join the EU, the other two factors being stability and individual freedom. In Serbia, the situation is perceived differently. The country has been severely hit by the international financial crisis as early as 2008, making it the first case in which the EU granted IPA funding for general budget aid in order to combat the budget deficit. Furthermore, the economic situation called for a 15% reduction of state employees in early 2010. However, the domestic economy is not seen as the main driving (and thus breaking) force of the approximation process. According to actors involved, intrinsic structural problems of Serbian politics are causing these economic deficits and have to be made responsible for its slow progress. The country still needs to "overcome its 19th century national legacy". The political culture which mainly focuses on preserving the status quo of political power needs to be changed by the country itself. This "switch of Serbia's political culture" is essential for "bridging the time zone gap" between the EU and Serbia.

Overall, economic reasons are given much more importance in Bosnia-Herzegovina than in Serbia although general macro-economic indicators show that Bosnia-Herzegovina has recently been better off than its neighbour. However, interviewees in Serbia put greater weight on structural political problems that owe to the country's past such as connections between military structures and legislative forces and the open Kosovo issue.

Recommendations

1. In general, in order to accelerate the accession process the EU should **acknowledge the importance of their continuous approximation process for peace, security and stability in the whole of Europe,** regardless if Western Balkan countries are small and economically less relevant for the EU. The actors aware of this fact should then form a more prominent and active coalition to advocate the need for enlargement towards the Western Balkans.
2. Considering the **acquis conditionality** as main enlargement instrument, the EU should take into consideration the **situation on the ground** (political structure, national specifics) when adapting the instruments designed to bring these countries closer to the EU. Regarding the progress reports, the EU should not try to stress progress at all costs. Rather, it should clearly state the shortcomings of the individual country's progress and sketch out reasons. However, it is important that the **line of argumentation is clearly established** and based on technical rather than political evaluation. This will give pro-integrationist actors a line of argumentation against a variety of veto players.
3. Beyond acquis conditionality, the EU should look for **additional instruments**. Since promises might not be upheld, and the basket of rewards or carrots could soon be empty, the EU should **not neglect the political dialogue in favour of technical absorption**. This also means that the EU should try to spend more effort and to be more proactive in achieving national, political compromises especially in Bosnia-Herzegovina. Moreover, the **EU should work on its own credibility** as the level of approval of the EU's decisions has decreased significantly in both countries. Simultaneously, **clear timeframes** need to be established wherever possible. People as well as administrations tend to fail in their own efforts if there are no short- or medium-term incentives in sight. Concrete examples for enhanced engagement from the EU's side

could involve more frequent enlargement-focused summits to offer more visibility and proof of the EU's unwavering commitment for enlargement. In addition to the merely technical side of enlargement and this top-down approach, the EU should not lose out of sight the citizens. In order to cater to their needs, a bottom up approach should be added. This could include informing citizens across the country about the relevance of accession for them individually and according to a variety of target groups (farmers, youth) to show them the hard and soft benefits of their countries' EU membership.