

When Does the EU Make a Difference? Conditionality and the Accession Process in Central and Eastern Europe

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A number of recent studies examining the accession of states from Central and Eastern Europe into the European Union have provided a much more sophisticated understanding of when, why and how the EU shaped, directed and occasionally determined change in the region since 1989. Although acknowledging the EU was at times a motor of change, its power was limited to particular points in the accession process and varied significantly across policy areas. Even in cases such as Slovakia, often used to demonstrate the power of EU conditionality, the influence of the EU on domestic actors and policy change has been exaggerated. The EU's 'transformative power' is at its greatest when deciding to open accession negotiations, a finding which has implications for the EU's ability to enact change in Croatia and Turkey.

Central and Eastern Europe (CEE) has witnessed enormous changes in the past decade and a half. In addition to the fall of the communist regimes and the triple transition of democratization, marketization and state-building (Offe, 1991), eight countries from the region joined the European Union (EU) on 1 May 2004, with two more scheduled to join in 2007/8. To what extent, however, can we see the European Union as a key driver of change in the region since 1989? Thanks to a number of recent studies including books by Grabbe (2006), Hughes *et al.* (2004), Jacoby (2004), Kelley (2006), Pridham (2005) and Vachudova (2005) and a volume edited by Schimmelfennig and Sedelmeier (2005), we now have a much more sophisticated understanding of when, why and how the EU shaped, directed and occasionally determined change in CEE. Although this article acknowledges that the EU ensured some specific changes, building on some of the key arguments made in these accounts and an example of a country (Slovakia) often thought to demonstrate the impact of EU conditionality, it maintains that the EU's 'transformative power' (Grabbe, 2006) was limited.

A large slice of the literature exploring change in CEE has employed the concept of Europeanization (e.g. Grabbe, 2001; Hughes *et al.*, 2004; Schimmelfennig and Sedelmeier, 2005). Moreover, the term has become flavour of the month for many scholars writing on European politics more broadly, often to very good effect (e.g. Bulmer and Lequesne, 2005), although even scholars who employ the term recognize that it remains undeveloped (e.g. Bache and Jordan, 2006). Indeed, Europeanization has 'many faces', having been used by different scholars in very different ways, referring, for example, to the internalizing of European values and policy paradigms at the domestic level, or a process by which domestic policy

areas become increasingly subject to European policy-making (Olsen, 2002). At times the term is employed to describe developments, on other occasions to explain the causal mechanisms of change, and elsewhere the descriptive and explanatory are blended together.

In terms of explaining changes brought about by the EU in applicant states, Helen Wallace (2000) introduced a distinction between 'Europeanization' and 'EU-ization' (change driven by the demands of EU membership). With a few exceptions (e.g. Malová and Haughton, 2002), the latter (admittedly rather inelegant) concept was not taken up by scholars despite the obvious advantages of disentangling the broader process of replication of what are deemed to be European norms from the narrower process of changes brought about explicitly by the demands of EU membership. Indeed, with the notable exception of Schimmelfennig and Sedelmeier (2005), the best accounts of the impact of the EU on CEE marginalize use of the term 'Europeanization', preferring instead to introduce new terminology into the political science lexicon. Moreover, the very label 'Europeanization' harbours a slice of value-laden superiority when applied to CEE, implying that territories where such changes or phenomena have not occurred are somehow less or non-European. This article, therefore, eschews use of the term Europeanization, preferring instead to examine the impact of EU-ization on CEE through an examination of the contributions mentioned above, especially 'passive' and 'active leverage' (Vachudova, 2005).

Attempting to assess the causal role of the EU in shaping domestic developments raises significant methodological problems (Haverland, 2006). Unlike our colleagues from chemistry, as political scientists we are not afforded the luxury to isolate and remove individual ingredients and then rerun experiments to see if the results change. We cannot remove the EU from the equation and rerun the history of CEE from 1989 to prove or disprove causality. Nonetheless, we can attempt to disentangle the impact of different variables by studying a variety of countries and policy areas, and pose the counterfactual as to what would have happened had the EU not existed.

Recent contributions to the debate vary in their focus and geographical spread. Whereas, for instance, Milada Anna Vachudova's (2005) monograph provides an analysis of developments in six CEE states, incorporating an account of macro-political trajectories, the behaviour of political actors and policy change, Wade Jacoby's (2004) and Judith Kelley's (2006) books have a narrower focus. The former is largely an account of policy emulation in the Czech Republic and Hungary, the latter an examination of minority policy. Common to many of the accounts, especially Frank Schimmelfennig and Ulrich Sedelmeier's (2005), Vachudova's and Kelley's, is a recognition that the EU's impact varied significantly over time, thanks in no small part to the incentives on offer.

Indeed, the process of joining the EU can be disaggregated into three stages: pre-accession, the accession negotiations and, sandwiched between these two,

the decision phase when the EU decides whether to open accession negotiations or not. I argue the EU's transformative power varied across these phases, being at its strongest during the decision phase of whether or not to open accession negotiations. Secondly, the EU's power varied across issue areas. While in some areas, such as the single market, the EU demonstrated its power to transform, in others, such as minority protection, the EU's power was much more limited, especially in policy implementation.

Assessing the EU's 'Transformative Power'

The 'transformative power' of the European Union (and in its previous incarnation the European Community)¹ rests largely on what Vachudova (2005) terms its 'active' and 'passive leverage'. Passive leverage refers to the attraction or magnetism of EU membership, especially the expected economic benefits of joining the club. Active leverage, in contrast, refers to the criteria for membership, starting with those laid down at the Copenhagen European Council in 1993. These include the requirement for states to be democratic, to function according to the rule of law and to respect minorities, while possessing a functioning market economy able to withstand the competitive pressures of membership of the single market and having the ability to take on the obligations of membership including adherence to the aims of political, economic and monetary union. These rather broad conditions were fleshed out at the Madrid European Council in 1995 and in the numerous Commission reports charting the aspirant states' progress (or lack thereof). States wishing to join the EU have to meet the Copenhagen criteria and then transpose the EU's body of law (*acquis*) into their domestic law with no opt-outs allowed.

At first glance, therefore, the EU seems extremely powerful. Not only did it act as a powerful magnet in the early post-communist years, it then also acted as a gatekeeper at a number of points on the path to EU membership, allowing only those it deemed to have performed the required tasks through the gates. Moreover, there was a clear power asymmetry during the process of accession, when the accession states of CEE were expected to transpose into domestic law the 80,000 pages of the *acquis* to a standard acceptable to the Commission and European Council (a condition which was not necessarily met by the existing member states). Indeed, the term 'accession negotiations' is in many respects a misnomer, as there was very little left open to negotiation beyond the odd temporary transitional arrangement (derogation). Nonetheless, this article argues that the EU's power was limited to particular points in the accession process and varied significantly across policy areas.

When Does the EU Make a Difference? The Temporal Dimension

What political and economic reforms would have been undertaken in the countries of CEE if the EU had not existed? Would we still have seen the

democratization and marketization that we witnessed in CEE? Although 'Return to Europe' was a prominent clarion call during the heady days of the 1989 revolutions and their aftermath, the appeal was not specifically about joining the European Community. Rather it was more a wish to replicate the democratic political system and economic success of Western Europe and the US allied to a desire to distance the countries from their past and distinguish them from their Eastern neighbours, notably Russia. Also, appealing to Western political and economic values at that time had a security function. The appeal gave the states of CEE, especially the Baltic States, more power in ensuring they would be protected from a Soviet military intervention.²

Moreover, the key motivation of the trail-blazing marketizers in the early 1990s in CEE such as Leszek Balcerowicz in Poland, Václav Klaus in Czechoslovakia/Czech Republic and Mart Laar in Estonia were their ideological beliefs and wish to replicate certain Western economic models, rather than a more specific desire to prepare for membership of the European club (Appel, 2005; Blazyca, 2003). It seems as if the magnetism to replicate Western Europe's political and economic model and the ideological convictions of the first post-communist governments would have ensured the broad thrust of economic and political reform in these countries even if the EC/EU had been absent. Elsewhere in the region, the magnetism of the Western economic model was far weaker. In countries such as Romania the ideological convictions of politicians combined with clientelism to produce limited or skewed reforms which benefited the ruling elite and their cronies (Gallagher, 2005; Vachudova, 2005). The EU's passive leverage had little effect here either.

Nonetheless, if we fast-forward to 2006, all the CEE states which are already member states (or scheduled to be in 2007/8) had become consolidated democracies. Indeed, one of the real 'dividends' of the accession process lies in the fact that EU membership makes democratization and marketization in Central and Eastern Europe practically irreversible (Sadurski, 2004). The EU, therefore, is important as an entrenchment actor anchoring democracy and the market economy. Nevertheless, the link between the EU and the consolidation of democracy and marketization provokes three further thoughts. Firstly, was the EU's transformative power effective in states which did not initially embark on radical political and economic reform? As I will argue later, the EU only played a marginal role in reversing Slovakia's illiberal turn. Secondly, and linked in with the salience of domestic political factors, the reform paths of countries such as Poland and Hungary were assured thanks to the transmogrification of their communist parties into modern social democratic parties (Gryzmała-Busse, 2002). They drew inspiration from Western Europe, not from the EU per se, but from left-leaning politicians and parties in the member states (Paterson and Sloam, 2005). Thirdly, such time-consuming tasks as incorporating 80,000 pages of EU law into domestic law prompted CEE states to institute fast-tracking mechanisms which bypassed the normal procedures of democratic deliberation

process, provoking the question of whether EU demands were actually harming rather than helping democratic consolidation (Grabbe, 2001; Malová and Haughton, 2002, pp. 110–2).

If the EU did not make a decisive difference during the immediate post-communist period, what about the remainder of the pre-accession period? From 1989 to 1993 the most striking aspect of the evolving relationship between the EC/EU and the states of CEE was the reluctance of the EC/EU to offer membership. Initially the EC was just interested in offering aid through the PHARE programme,³ not least because the EC was itself preoccupied with preparations for what was to become the Maastricht Treaty. The states of CEE, however, were not content and began pressing for something much more substantial. The EC responded with the proposal of Association (or Europe) Agreements offering the removal of commercial and economic barriers and the prospect of a free trade area in return for the CEE states introducing legislation in areas such as competition (state aid) and the protection of property rights that would be compatible with EC rules.

The states of CEE, however, were not content with just the Europe Agreements. Like the eponymous hero in Charles Dickens' *Oliver Twist*, they asked for more. Invoking the EC's own rhetoric of shared European values and norms enshrined in the founding treaties, these new European liberal democratic states challenged the member states either to set out clear guidelines for accession or justify the exclusion of a large part of the continent. As Schimmelfennig (2003) argues in his highly persuasive account,⁴ the EC was caught in this rhetorical trap and responded by laying out the criteria for beginning accession negotiations at the Copenhagen European Council in June 1993. The decision to map out the route to membership was not just provoked by the CEE countries expressing their desire to join the club – broader geopolitical concerns were also at play. The bloody events in the former Yugoslavia, for example, highlighted the potential instability of the rest of the region. Indeed, this leads us towards the paradoxical conclusion that during this period we witnessed not the EU's transformative power, but in terms of setting the enlargement agenda, conversely the CEE's power to transform the EC/EU.

In contrast to the pre-accession period, the EU was much more powerful during the decision phase. The ability to decide whether to open accession negotiations or not appears to be a powerful weapon in the EU's armoury. Indeed, the need to ensure their country meets the Copenhagen criteria provided a clear 'external incentive' for change in aspirant member states (Schimmelfennig and Sedelmeier, 2005). Once the formal applications for membership from the CEE states had begun to be submitted from March 1994, the EU's active leverage began to take effect. What mattered, however, was the credibility of the EU's offer of membership. Judgment was passed on the former communist states of CEE at the Luxembourg European Council in 1997. Five states from the region (Estonia, Hungary, Poland, Slovenia and the Czech Republic)

were invited to begin accession negotiations, but five others (Bulgaria, Latvia, Lithuania, Romania and Slovakia) were considered to have made insufficient progress. This willingness to open the negotiation doors to those deemed to have met the criteria, therefore, seemed to demonstrate that the EU's offer of membership was genuine, providing a clear signal for those left out that by enacting the required changes the much sought-after reward could be achieved. The decision to exclude the second group of countries thereby 'enhanced the credibility' of the EU's conditionality (Schimmelfennig *et al.*, 2005, p. 49). Two years later these countries were considered to have made significant progress in meeting the criteria and were invited to start accession negotiations at the Helsinki European Council in December 1999.

Latvia provides an example of the power of external incentives in the key decision phase of whether to open accession negotiations or not. The Commission's negative *avis* (opinion) of the country's progress and the decision to open negotiations with Estonia in 1997 'had a shock effect' on Latvia, stimulating a new action plan and institutional change (Pridham, 2005, p. 106). Moreover, EU pressure helped bring about changes even in sensitive policy areas such as those affecting minorities. The proposed 1998 Latvian State Language law, for example, which required even private businesses and enterprises to conduct their activities in Latvian, was heavily criticized by the EU and other international bodies such as the Organization for Security and Cooperation in Europe. The Finns, who held the EU presidency in the second half of 1999, warned Latvia that its chances of being invited to begin accession negotiations at the forthcoming summit could be jeopardized if the law came into force. EU pressure was important, but significantly it required the intervention of a domestic political actor to enforce change. It was the new Latvian president Vaira Vike-Freiberga's refusal to sign the law and her request to revise it to conform to EU legislation which ensured Latvia passed an amended law just days before the December 1999 European Council.

Even during the decision phase, however, the EU's power was limited. The decision to open accession negotiations with Romania and Bulgaria appears to have been driven as much by broader geo-strategic concerns as by the countries' progress in meeting the criteria. As David Phinnemore (2005) has argued, the Commission's regular report of 1999 maintained that Romania was still neither a functioning market economy nor likely to be able to compete with the competitive pressures of membership of the internal market; nevertheless Romania was invited to begin negotiations. Both Romania and Bulgaria were rewarded for their stance in the Kosovo conflict. There was a general feeling among EU leaders that the countries' backing of the NATO-led operation and the economic consequences of the embargo on oil sales to Serbia merited a reward (Grabbe, 2006; Phinnemore, 2005). Moreover, with Turkey being granted candidate status, and the development of the Stabilization and Association Process for the Western Balkans, there was pressure on the EU to upgrade relations with Bulgaria and Romania (Phinnemore, 2005).

Once the process of accession began, the need to direct and manage the accession process prompted institutional change and innovation. The Czech Republic, for instance, provides a clear illustration of the EU's impact on institution-building. The Czechs created a raft of new institutions including a government Council for Integration, a subordinate working committee of the Council and 22 separate working groups with responsibility for specific policy areas (Jacoby, 2004, pp. 44–5). Nonetheless, administrative reform in CEE during the accession phase was often slow and reluctant. Slovenia, for example, only made the required changes in 2002. Moreover, changes to political appointments in the 1998 law in Poland actually went against the EU's preferences, in part because the 'credibility of a potential threat of exclusion was quite low' (Dimitrova, 2005, p. 86), a point to which I will return below.

When Does the EU Make a Difference? Policy Change and Implementation

The impact of the EU in terms of policy was at times decisive, especially, but not exclusively, just before decisions were taken on the opening of accession negotiations. At all stages, however, policies were enacted which went against mainstream domestic political preferences. Chapter 24 of the *acquis*, for example, which dealt with cooperation in the field of justice and home affairs, forced the accession states to impose visa restrictions on bordering states such as Ukraine (e.g. Duleba, 2005; Grabbe, 2006). Equally, criticism of the Czech judicial system in the Commission's 1999 progress report provoked the Zeman government to adopt a reform package (Pridham, 2005, p. 135). Sometimes these measures even involved rowing back on initial liberalization. Estonia, for instance, was forced to introduce 10,794 new tariffs and adopt a number of non-tariff barriers, such as quotas, subsidies and anti-dumping duties to comply with the *acquis* (Tupy, 2003, p. 2).

Given the Copenhagen criteria and the politically sensitive position of ethnic minorities in many CEE states, minority policy was closely monitored (Kelley, 2006; Rechel, 2005). Although some changes in the early 1990s owed more to pressure from the Council of Europe (Kelley, 2006), there are some clear examples of EU pressure making a difference. Estonia, for example, was required to amend citizenship laws to grant automatic citizenship to all children born to non-citizen parents in Estonia after February 1992. Equally, a 1993 law providing for the complete transition to Estonian-language instruction in schools by 2000 was amended to allow ethnic Russians to continue being taught indefinitely in their own mother tongue (Smith, 2003). Moreover, the Commission's Agenda 2000 document (agreed at the Berlin European Council in March 1999) provoked 'dramatic progress' in minority policy in the Baltic States (Gelazis, 2003, p. 66). In Latvia, a new citizenship law was adopted removing many of the restrictions on ethnic Russians, including the opening up of the naturalization process to all resident non-citizens, and the provision that children born in Latvia to stateless

parents could be granted citizenship. Restrictions on non-nationals in several areas of employment such as airline staff, firefighters and veterinary pharmacists were removed (Gelazis, 2003, p. 67). Nonetheless, in the Estonian case, reports of progress 'were coupled with further criticisms and improvement requirements' (Gelazis, 2003, p. 67).

The substantive progress made by Latvia in the area of minority policy in 1999, in contrast to its northern neighbour, highlights the argument raised above about the beginning of accession negotiations. Estonia had begun accession negotiations so the threat of exclusion was far weaker, especially in light of the progress made in other policy areas. In addition, throughout CEE there was a noticeable gap between the declared policies and implementation. Minority policy may have changed *de jure*, but frequently not *de facto*. Maltreatment of ethnic Roma, for instance, was a common and frequent theme of EU reports, but while much formal discrimination towards the Roma was largely removed, widespread prejudice and discrimination on the ground remained (Rechel, 2005; Vermeersch, 2002). Indeed, in off-the-record remarks Commission officials lamented the difficulty of maintaining pressure on accession states to continue with reforms in many policy areas, especially when almost all of the negotiating chapters had been closed.

The impact of the EU in bringing about policy change was mitigated or bolstered by several factors. Firstly, it was affected by whether EU institutions and its member states were singing in unison, harmony or discordantly. Where accession states received mixed signals they tended to opt for the most domestically palatable. Secondly, the nature of the *acquis* mattered (Hughes *et al.*, 2004). In some fields such as health care and consumer protection the EU *acquis* density was low, providing much more scope for choosing or ignoring prevailing Western models (Jacoby, 2004, p. 16). What also mattered was not just the density of the *acquis*, but its clarity and degree of implementation in existing member states. Above all, what mattered was the salience the EU ascribed to a particular policy. Although the Justice and Home Affairs chapter of the *acquis* was in places rather opaque and was undergoing rapid changes, officials from the accession states 'knew it was a potential veto-point in negotiations', so transposition of the *acquis* and conformity to EU standards was critically important (Grabbe, 2006, p. 204). In contrast, thanks in part to the poor record of some of the existing member states in minority policy, provided the right language was used by the accession state, lack of policy improvement was highly unlikely to be a veto-point.

When Does the EU Make a Difference? The Case of Slovakia

The impact of the EU on Slovakia has generated much scholarly interest (e.g. Deegan Krause, 2003; Harris, 2004; Pridham, 2002). Indeed textbooks often argue that the impact of conditionality 'may be clearly seen in the case of Slovakia' (e.g. Glenn, 2003, p. 219). The attention stems from the EU's decision not to invite

Slovakia to begin accession negotiations at the Luxembourg European Council in 1997 due to a failure to meet the political criterion promulgated at Copenhagen four years earlier (Henderson, 1999). Following the 1998 parliamentary elections and the removal of the government led by Vladimír Mečiar from power, however, at the Luxembourg European Council in 1999 Slovakia was invited to begin accession negotiations. The country made great strides over the following three years. An examination of this period casts an interesting light on the influence of the EU.

Firstly, the relationship between the EU and potential members is, as Vachudova (2005, p. 109) argues, one of 'asymmetric interdependence' in which the EU 'does not coerce candidates into meeting the membership requirements'. Indeed, Slovakia demonstrates that a *sine qua non* of change is a receptive domestic political elite willing to make the necessary sacrifices. Despite the frequent threats warning of exclusion from the first wave of CEE states to start accession negotiations and the rare and diplomatically significant decision by the EU and the USA to issue *démarches* (strong diplomatic notes) deploring the state of democracy in Slovakia,⁵ the impact of such measures on the 1994–8 government's policy was minimal. Even when the European Council decided not to invite Slovakia to begin accession negotiations at the Luxembourg summit, the EU's pressure had little effect on policy (Haughton, 2005). The active leverage of the EU had only minimal impact on the policies of the government led by Prime Minister Vladimír Mečiar, because compliance with the Copenhagen criteria would have placed constraints on the policies and functioning of the administration which Mečiar and his coalition allies were not prepared to accept, even though they sought membership. The EU, for example, had criticized the campaign waged by the government against one of the prime minister's political opponents, President Michal Kováč. But in response to the 'no' issued at Luxembourg, the campaign against the president and other opponents who were blamed for sullyng Slovakia's name was merely intensified (Haughton, 2003). In stark contrast, following the 1998 parliamentary elections, the new government led by Mikuláš Dzurinda displayed great enthusiasm in placing EU entry at the top of its agenda (Bilčík, 2002). It was desperate to catch up with its neighbours who had already begun accession negotiations. At times Slovakia resembled 'an obedient dog faithfully following its master's instructions' (Malová and Haughton, 2006, pp. 326–7).

It would be incorrect, however, to see the EU as instrumental in bringing about the change of government in Slovakia in 1998. Although the EU's snubbing of Slovakia in 1997 was used in the 1998 election campaign, opponents of the Mečiar-led coalition were driven primarily by a desire to remove Mečiar and his allies from power and overcome the illiberal tendencies of the previous four years (Fisher, 2006; Henderson, 2004). Where outside (not just EU) actors played a role was in providing contacts that were 'promoting learning about and adapting to the substance of democratic liberalism, capitalism and minority rights protection'

(Vachudova, 2005, p. 178), but this reinforced rather than changed the policy orientations of the incoming government.

Secondly, clear and unambiguous judgments requiring clear and measurable change provoked action. In response to explicit criticism contained in the Commission's November 2000 regular report berating Slovakia for the insufficient independence of the judiciary, the unsatisfactory state of the fight against corruption, the generally poor state of institutional preparedness and overall administrative capacity of Slovakia, on 23 February 2001 the Slovak parliament 'adopted the most extensive amendment to the Slovak Constitution' since independence (Bilčík, 2002, p. 289). The amendment paved the way for reform of the judiciary, clarified the status of international treaties, redefined the powers of the Constitutional Court, provided for the creation of an ombudsman in the field of human rights protection and 'paved the way' for a 'broader reform of public administration' (Bilčík, 2002, p. 289). In contrast, despite a raft of criticisms emanating from Brussels regarding treatment of the Roma minority, the Dzurinda government's actions were largely limited to declarations and resolutions. Roma continued to suffer discrimination and a lack of social inclusion (Vašečka, 2002). The EU was much more effective in changing the language and content of policy than in affecting policy implementation.

Thirdly, the importance of the opening of accession negotiations seems to bear fruit in the Slovak case. The Dzurinda government was keen to open accession negotiations as soon as possible. Not only were fast-tracking mechanisms in parliament used almost exclusively during the government's first year to get laws on the statute book demonstrating Slovakia's preparedness (Malová *et al.*, 2005, pp. 71–3), but key acts such as the Law on the Use of Minority Languages were passed in July 1999, demonstrating that the new government had heeded the criticisms of the previous government. Nevertheless, this law and the appointment of a deputy prime minister for human rights and minority affairs were driven more by domestic factors (compare Pridham, 2002), such as the inclusion of the ethnic Hungarian party (the Party of the Hungarian Coalition, SMK) in the government. Where external incentives may have had more of an impact was in coalition cohesion. Joining the EU was the 'focal point for cooperation' keeping the ideologically broad-based 1998–2002 government together (Vachudova, 2005, p. 178). SMK was on the verge of walking out of the government in 2001, but external influence, in the form of politicians and political parties with an interest in Slovakia and keen to ensure the country's accession was not jeopardized, seems to have been significant in persuading the party to remain in the government (Malová *et al.*, 2005, p. 44).

Lessons from the 2004 Enlargement

The European Union helped to bring about change in Central and Eastern Europe in the decade and a half following the 1989 revolutions, but much of the

broad thrust of democratization and marketization seen in the early 1990s would have probably occurred in the absence of the EC/EU. Indeed, the variety of paths taken by post-communist states suggests rather the importance of the motivations of domestic political actors. From the mid-1990s onwards, however, the EU had much more impact when CEE governments introduced policies which conformed to the demands of the EU. Nonetheless, the EU's 'enormous potential influence' was 'constrained by diffuseness and uncertainty' (Grabbe, 2006, p. 3). Where the EU's requirements were clear and directly linked to a reward, the EU made a difference (Schimmelfennig and Sedelmeier, 2005), but often the requirements were embodied in vague or unsettled sections of the *acquis*, where only limited change occurred.

The EU was at its most powerful when it was deciding whether or not to begin accession negotiations with a particular state, because the demands laid down by the EU were tied to a credible offer of membership. The decision at the Luxembourg European Council in 1997 to begin accession negotiations with five states from the region, while excluding the others, but stressing that the door was not permanently closed, provided a major stimulus for change. But even here domestic political actors receptive to the EU's demands and enforcing the requisite change were a necessary condition of conforming to the EU's standards. Moreover, once over the hurdle of beginning accession negotiations, with the threat of exclusion less strong, states demonstrated recidivist tendencies or just resistance and delay in implementing the required measures such as civil service reform in the Czech Republic (Dimitrova, 2005). Some states such as Poland demonstrated a particular stubbornness, driven in part by a belief that the enlargement boat would not embark without them.

The behaviour of leading EU officials involved in the enlargement process has been modified partly in light of the experience of the 2004 enlargement. Firstly, a new mechanism, the postponement clause, which threatened to put back Bulgarian and Romanian accession by up to 12 months, was introduced once Bulgaria closed all the accession negotiations in June 2004. The purpose of the mechanism was to provide an added incentive not to take the foot off the reform accelerator and maintain momentum right up until entry. Although expected to announce in May 2006 whether it would recommend the enactment of the postponement clause, recognizing the power of uncertainty, the Commission decided to delay its decision until the autumn, with some resultant discernible improvements in the realm of Justice and Home Affairs. Enlargement Commissioner Olli Rehn, however, continued to voice concerns, warning of different penalties if more progress were not made.⁶ But even if there were 'considerable slippage' by Bulgaria or Romania, the Treaty of Accession envisaged accession by 1 January 2008 'at the latest' (Phinnemore, 2006, p. 19).

Secondly, aware of the power of the EU's active leverage when deciding to open accession negotiations, the EU took a tough line on Croatia in 2005, demanding full cooperation with the International War Crimes Tribunal in The Hague before

accession negotiations could begin. The stance not only stimulated changes in Croatia, but also sent a clear message to the rest of the Western Balkans, resulting in a number of indicted war criminals from other former Yugoslav states going to The Hague. The decision in 2005 to open negotiations with Croatia and Turkey, however, meant the EU played its best 'transformative power' card. With accession negotiations under way, how much further 'transformative power' will the EU be able to exert? The experience of the 2004 enlargement suggests that much depends on the clarity of demands, the tying of rewards to progress made and a receptive domestic political elite. In both cases, but especially for Turkey, officials from the EU and the member states would be well advised to bear in mind the importance of the credibility of the Union's willingness to absorb new members, as pessimism about prospects for admission decreases the power of incentives.

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- 1 The European Union came into existence in November 1993 following the implementation of the Maastricht Treaty.
- 2 I am grateful to Nida Gelazis for suggesting this point to me.
- 3 Poland and Hungary: Assistance for Economic Reconstruction. Initially restricted to the two named countries, after the 1989 revolutions this was expanded to include other post communist states.
- 4 For alternative explanations of why the 2004 enlargement took place see, for example, Nugent (2004).
- 5 The EU issued *démarches* on 24 November 1994 and 25 October 1995. The US issued its *démarche* on 27 October 1995.
- 6 See, for example, *Financial Times*, 7 September 2006.

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