## PROJECTING POLITICAL INFLUENCE AND DIPLOMACY: BEYOND EU CONDITIONALITY 1

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The evolution of the practice of gaining membership through the stipulation and fulfilment of conditions (conditionality) from standard procedure in international relations to a normative strategy of change is among the most interesting developments of our political times. From a historical perspective, the practice is as old as the first international organizations and the opportunity to establish diplomatic contact. The very presumptions of the relationship between international subjects are in reality a contract of recognition of certain conditions: recognised territory, sovereignty, etc. Accession to an existing international organization also by definition entails participation in a process of fulfilment of stipulated conditions regarding which the acceding state has no instruments of influence. This is valid even in the case of the organization with easiest access - the United Nations. The complexity of the process of fulfilling the criteria and the evaluation of this effort depend on the scope and political ambition of the given international organization. This reaches furthest in the case of the European Union (EU). What deserves more serious attention is the process of transforming this standard, formal procedure into a normative instrument for change in the structures, behaviour and culture of the acceding country. What are the reasons for its emergence and its eventual duration? What are the mechanisms of its operation and functioning? There are also purely practical reasons for enquiring deeper into this process. Bulgaria is already a member of two organizations, which continue to be object of persistent interest from third countries. Knowledge of the development, scope and possibilities of this instrument are of importance in the formulation of various strategies of the country in its capacity of a full member. The article has the task of

<sup>1.</sup> Conditionality in short describes a strategy of inducing change by means of stipulation and fulfilment of specific conditions in the framework of a given institutional structure. The term will be explained in detail in the course of the article. For ease, the original English-language term will be used throughout.

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investigating the precise parameters and circumstances in which the strategy of conditionality works. The key reference is the last, fifth enlargement of the EU.

Careful overview of the last decade reveals the gradual maturation of EU conditionality into a key and universal instrument of projection of political influence. In this sense, it is conceived and perceived as 'one-way' approach to inclusion, which functions equally successfully in a variety of social and political contexts. In other words, its effectiveness is equally independent of the cultural distance of the respective society from the 'European core'. The European hinterland is equally manageable through this instrument. Through it, diverse polities may be included, be they territories of former European empires or culturally 'in-between' territories such as these in Eastern and South-Eastern Europe. This is, roughly, how the most widespread perception of conditionality looks. The large scope and dynamic of the process have an important origin, this is the well – established and popular thesis of the 'soft power' of the organization. The EU is perceived and interpreted as the international organization with the most pronounced 'soft power' due to the highly desirable structure of tangible and intangible benefits it offers (most central are access, prestige and funding). The existence and maintenance of this 'soft power' creates the setting in which the conditionality strategy may be realized. The legitimacy of the process flows to a large extent from this opportunity for access to benefits regardless of whether it would lead to accession or some other form of relationship with the EU. Rooted in such a perception, the abovementioned two factors appear as long-term, well-structured conditions of the foreign policy environment which possess enormous historical perspective and potential to define the behaviour of many and varied governments and societies. The idea of the existence of some supranational political imperative is interesting in this context because it permits the modelling of some entrenched elements of the foreign policies of different countries. This holds, for instance, in relation to the regional policies of many European countries to the extent to which there is an explicit requirement for the resolution of various territorial disputes, systematic refraining from aggressive cultural policies, etc. Various events over the last few years are placing under doubt the stability of the discussed factors but this will briefly discussed in the concluding part of this article.

The key thesis of the article is that successful EU conditionality is more of a historical juncture of a unique set of conditions than a universal strategy which may be reproduced with equal effect in a prolonged time frame. This is not to imply that the political rhetoric about its importance and application will weaken or disappear. On the contrary, we are witnessing efforts at its canonization through the persistent pronouncement of the enlargement policy as a crucial success story of the EU.

In order to perceive clearly the instance of successful exercise of conditionality a number of decisive factors need to be outlined.

A crucial feature ensuring the effectiveness of the conditionality strategy is the presence of a *clear*, achievable and systemic end goal, in this case EU membership. The combination of these three subconditions (clear, achievable and systemic) is significant if only because it is very rarely encountered in international affairs, especially within a single time frame and not dispersed over time. Clarity and achievability are important sub-conditions. All too often in international relations players are inclined to settle for various sub-optimal solutions due to the large number of actors and the lack of resource symmetry at their disposal. In relation to achievability, in many cases states in reality work with a set of possible strategies where there is rarely an ultimately reliable evaluation of it. I place special emphasis on the feature of 'systematic' as it points to the extent and fundamental nature of benefits and stakes at hand. In other words, this is not a question of attaining some specific, more limited good (for instance, signing of a bilateral agreement) but rather a good with systemic, widely transformative effect on the nation state. This dimension of conditionality is of importance for one further reason. The state-object in this process, the acceding state, de facto exits from the standard format of international relations which is based on reciprocity. This crucial condition, an actual prerequisite for these relations is suspended, especially when in instances of EU accession negotiations. The acceding state accepts as legitimate to model its institutions, practices, laws and behavior in reference to parameters which are not of its own making and are not expression of its political will. The big question in this situation is then linked to the reason for the inclination of that state to agree to this suspension. The benefits of membership are one answer but the presence of the above-listed sub-conditions is equally important. The systemic nature of the end goal stems from the very characteristics of the EU. Achievability flows from the structure of the developed mechanisms for dialogue: negotiation framework, evaluation criteria in meeting the membership conditions, confidence in the good will of the acceding country, etc.

And yet there remains an important question: how long can such a suspension of reciprocity continue? What is the timeframe during which the legitimacy of this suspension can be upheld awaiting of the expected benefits? Is there a point in time at which this asymmetry between the two parties becomes untenable for the local elites? Are there situations and conditions under which it becomes visible to public opinion and an opening for a reaction on its behalf starts to be possible? The fifth enlargement of the EU suggests some answers, the sixth provides hints of others. *Patience* is function of a series of factors in the framework of the last enlargement. These include the

following: the feeling of correction of a historical wrong, achievability of accession in a negotiation setting lasting 4-5 years, relatively high degree of social and political compatibility between most of the acceding states and the member states, provision of institutional credit of trust in relation to the actual application of the EU acquis (closing of negotiation chapters by means of action plans and commitments for implementation of legal norms and not through mid-term history of factual application of these norms), overlap between EU membership and desired overall development strategies in the acceding countries. The enumeration of these circumstances sheds light on much of the specificity of the fifth enlargement. Change in these circumstances leads to consequences related to the temporal prolongation of the suspension of reciprocity and the emergence of potential legitimacy issues in such a political situation. Two instances from the present sixth enlargement illustrate this hypothesis. The first relates to Croatia and the changed accession negotiation strategy adopted by the EU. Under the present framework the estimation of the real and sustainable application of European legal norms is not based predominantly on commitment but on clearly defined and implemented indicators which extends temporally the process before individual chapters are being closed. When carefully surveying the dynamics of public opinion support for Croatia's EU accession, it is possible to identify fluctuations linked to the public communication of these indicators. The second example is Turkey which has a legacy and self-perception of a regional power which at times 'explodes' her patience when the new overall accession negotiation framework is being implemented. The continuous and persistent public communication of these indicators is specific to the current wave of enlargement and this, to a large extent, 'exits' the process of negotiation from the field of international relations. This impacts on the dynamics of public opinion and stands in the way of prolonged existence in a state of suspended reciprocity.

The possibility of successful implementation of the conditionality strategy also depends on the presence of specific 'exogenous' perceptions, relating to the very organization applying it. A few such perceptions might be identified in relation to the period 1997-2005 which encompasses the various stages of the fifth enlargement. Most important among these is the presence of a narrative and an encompassing political framework providing explanation and meaning to the process of accession itself. This narrative relates to the end of post-WW2 division, the motive of historical reunification of divided Europe after decades of various consequences stemming from this. This political aim needs to be complemented by another, cultural perception linked to the core cultural compatibility between the states subject of this enlargement and the 'old' member states. In other words, the countries where conditionality – induced change is occurring are perceived as compatible

with those of 'old Europe' when it comes to their cultural depth, characteristics, habits and history. And there is another condition of importance. Very often European integration is thought through the dichotomy: widening or deepening. Such type of debate has its important place when the EU perceives itself as a regional structure, i.e. one operating and solving problems of a regional nature. At this scale, the dilemma has its meaning and can more easily be resolved in favour of enlargement. However, deep change sets on when the EU becomes part of the perception of ever-increasing globalization and the member states and their publics begin to think in terms of the expected behavior of the organization in such a context. This debate begins to frame in a new manner the issue of enlargement and respectively the scope of the conditionality strategy. The combination of the above perceptions and conditions actually constitutes an historical window of opportunity permitting the successful application of the strategy. When these conditions begin to disappear conditionality itself assumes a different nature. During the last few years, the EU has entered just such a period in which these conditions are being displaced and to a large degree transformed. Consequently, a new perception is emerging: of EU as a relatively expensive enterprise. This is not so much linked to some relentlessly increasing skepticism towards the organization but is rather a consequence of the bourgeoning limitations on the fiscal policy of various member states and the domination of a political culture which simultaneously makes raising taxes more difficult while also making public finances more transparent and subject of greater scrutiny. Another feeling gaining prominence relates to the governmentability of the union itself. During the last few years a couple of surveys have been published refuting the thesis that the increase in the number of member states has impacted the pace of adopting of legislation. Nevertheless, there does exist an intuition that the EU has a point of saturation beyond which the ambition of the European project will fall prey to the number of participants and their inevitably growing heterogeneity resulting from the process of enlargement. As an addition, after the end of the process of historic reunification of divided Europe and the slow disappearance of the political elites socialized in the wake of the Second World War, the perception of enlargement policy as a key project of the EU is gradually fading away. Increasingly, globalization is forcing the union to think beyond its regional categories despite the difficulty of this process transpiring among foreign policy elites. Focusing on these three perceptions of growing importance viz-a-viz the organization draws out the feeling of a historical window of opportunity which underpinned the fifth enlargement.

The successful functioning of conditionality was premised on another important, key presumption and it relates to the *political evolution and development of the elites* of the negotiating countries.

The received institutional credit during the time of the negotiations was also due to the expectation that the political and governing elites would undergo a process of political learning relating to democratic practices and governance culture befitting those of an EU member state. In the overall process of accession there was an expectation of the existence of a rising curve of continuous improvement in this regard. The inclusion of the different elites in the 'democratic and European game' was considered a decisive condition for the process of member-state building. In line with the theory of 'third wave democratization' this optimism was built into the overall attitude towards the EU in the acceding countries. Such optimism relied on two logics. The first was functional and in its dynamic the fulfillment of the functions and norms of membership would mature into sustained behavioral change leading towards further compatibility with the political and administrative culture of the 'old' member states. The second logic is cultural in its nature. According to it, EU membership creates a feeling of belonging influencing elite behaviour in the long term and at a micro level impacting organizations, firms and citizens. What is presupposed here is a path of value development stemming from the change of context, development perspective as well as planning at the micro and macro levels.

There are well-founded arguments in support of the expected elite development in the acceding states in the direction of political democratic learning. The conviction and belief of key players of the existence of such a trajectory was an important element of the fifth enlargement and the conditions permitting conditionality to function. At the same time, this phenomenon has underestimated a few important limitations which are already perceivable even on the side of the EU. The political imagination of the transition in Eastern Europe has always conceived of dissent and opposition as anti-system game, i.e. as an anti-democratic attitude and behaviour. After 1989 opposition implied protest against the democratic and the market, against the whole agenda of the reforms. Within such a perception, in practice the oppositional was defined by too large a scale and the absence of antisystemic opposition was for too long seen as a sign of absence of oppositional strategies of a lower order but eventually just as dangerous to the process of reform. This has led to the underestimation of some counter strategies attempting to solidify various organized interests without these maturing into anti-systemic alternatives which would have activated the EU partners. One such counter strategy is the partial application of European legislation and the use of the 'soft acquis' (recommendations, Council conclusions, etc.) in instances where organized interests have much to lose. The lack of progress in the area of 'justice and home affairs' in Bulgaria can largely be explained in this manner. A second counter strategy is the game of 'implementation deficits'. There, big volumes of complex European legislation cam be employed as an excuse for 'insufficient progress', thereby preserving a status quo in favour of various organized interests. Evidence is readily available by means of continuous arguments about administrative shortcomings, a context of norm application in permanent construction, etc. Illustrating such a strategy with specific instances in the various European policies is rather difficult but informed intuition for their existence is evident in the fields of internal market, environmental protection, etc. The gradual understanding and research of these strategies on the part of the EU led to changes in the conditionality application and the establishment of various mechanisms which envisaged their emergence and functioning in the negotiating countries.

The overwhelming majority of analyses and diplomatic strategies conceive the EU as a single player. Within the framework of the whole pre-accession period there was in practice one, unified approach to the union and not a collection of separate approaches aimed at the different structures of the organization. The key player was the European Commission even though in certain periods the role of the Council was of significant importance. Lifting of the visa requirement for Bulgarian citizens and the ratification of the accession treaty are just two examples of that. Yet, from the point of view of careful analysis the question of the subject of conditionality needs to posed, who precisely and in what manner applies the process of conditionality. The response to this question appears obvious for the simple reason that the EC is empowered to conduct the negotiations on behalf of the EU and represents the main site where the expertise and will for conducting the negotiating them is present. The member states were willing to delegate this activity to the EC and only towards the end of the pre-accession period did they perceive a need to develop systematically parallel expertise which complements that of the commission and correct it when necessary. The absence of initial engagement by the member states was visible from the weak and underdeveloped system of committees and working groups within the Council of the EU which was dealing with the candidates. In the European Parliament the question of accession was perceived as a political issue and also did necessitate systemic and orderly expertise on the depth and quality of change in the negotiating states. One of the main conditions under which conditionality was applied in the fifth enlargement was the prolonged period of relatively limited information about the acceding countries within the EC. The prevalence allotted to information linked to legal harmonization as well as the sense of high degree of compatibility among the various candidates dominated perceptions in the commission almost to the very end of the negotiation process. Its capacity to formulate a deeper, more fundamental understanding about the nature and dynamics of processes in Central and Eastern Europe was far weaker. One proof of that is the insufficient appreciation of the importance of the judicial system and reform in the candidates generally and Bulgaria in particular. Another particularly important element concerns the lack of linkage between the political criteria for membership and the reforms required under the various negotiation chapters. The EC lacked mandate and could not find a way to link the need for continuous implementation of the political criteria and what was being done in the separate acquis chapters. This allowed a member state like Bulgaria to attain a high degree of formal legal harmonization in the area of justice and home affairs but persist in its difficulties to comply with the rule of law principle. All mentioned conditions placed the acceding countries in a favourable position but this no longer holds in the present circumstances. The main reason is the emergence of a plurality of subjects which participate in the application of conditionality. The activity of member states is now much higher and they have developed improved mechanisms for the collection and evaluation of information. The same is true of the European Parliament which is continuously building prerogatives and expertise. Further, public opinion has also arrived on the political stage. In spite of the fact that this process is not even among the various member states, political elites are increasingly having to take into consideration public feelings relating to the issues of future enlargements.

I have already mentioned that in the societies of acceding countries EU membership support is generally high. Of course, the most important reason for this support is to be found in the expectation of benefits but there is a further reason not so immediately visible. It is linked to the degree of overlap between the transition and EU accession agenda. The hypothesis here is that higher degree of overlap produces greater patience in relation to required transformations. The initial legitimacy of the transition comes from the civic desire for Europeanization. In this sense, the earlier start of this process ensures a pool of patience necessary for the implementation of structural reforms in the various systems of society and economy. Conversely, if the process of accession is relatively distant from the onset of transition reforms, there is a higher likelihood of more, deep-seated discontent. This would particularly valid in situation when membership and European legislation displace and destroy economic balances already attained during the transition (for instance, reductions by means of quotas of production in a successful sector attained through already implemented reforms). In such instances examples can only be indirect. The present case of Croatia shows such signs but requires much more detailed research. Here, there exists potential for the periodic re-emergence of Euro-discontent due to a still vibrant and strong nationalist feeling. In any case, we can expect higher sensitivity and volatility of public opinion in societies in which EU membership will require yet another generation of reforms (i.e. above those implied by mere transition imperatives). This is in contrast to the fifth enlargement and would place some limitations on the national governments conducting the negotiations with the EU. A decisive factor would then be the degree of development of organized interests in the various states because that relates to the temporal framework in which conditionality is being applied. In this instance, the starting presumption is that upon exit from communism most societies have a relatively underdeveloped system of organized interests outside the political system (business, sectoral and policy, citizen, etc.). The most notable examples contrary to this is the farmers in Poland who are a pre-existing, well-organized stratum before the start of the changes at the end of 1980s.

The displacement caused by these reforms gradually leads to the appearance of winners and losers of the structure of the new economy which rational behavior expectations would suggest to facilitate group self-organization with a view of preservation or change of the status quo. In practice, the process is much more complex and multi-layered but it is clear that the later the negotiations start and the longer they last, the greater is the likelihood of the emergence of organized interests which national governments need to take into consideration. It is feasible that these governments, at one time or another, might find themselves in a situation of negotiation with these interests as well as the EU. Lastly, it is important to mention something obvious but nevertheless insufficiently appreciated. European legislation has developed unevenly due to the structure of prerogatives which the organization has. In a wider sense, this entails that pressure for change differs markedly from one policy area to the next. Yet, these relative distributions alter and in different enlargements the structure of pressure would be different. For example, it is obvious that the fifth enlargement would have been far harder if the norms in the area of 'justice and home affairs' then were what they are now: more numerous, better structured, more elaborate, more encompassing. This process is important because the expansion of European legislation in the 'more difficult' policy areas occurring at present is going to make future enlargements even more complex and time-consuming affairs, requiring greater efforts and strict application of conditionality.

Political elites conduct their tasks with various *unwritten ideas and perceptions about space*, *culture and development*. In the context of the fifth enlargement these elites worked with perceptions defined by post-Second World War history, utilized the end of communism paradigm and that of the triumph of liberalism. The entire process of enlargement had a significant degree of pre-determination largely due to the idea of reunification, overcoming of a historical injustice, reintegration of culturally compatible territories. The 'new' member states were perceived as the 'old'

neighbors which historical division has abandoned on the other side of the Berlin Wall. The political elites of the West thought about the societies of the East through two key notions: that of the dissident and that of convergence. The former permitted the thinking of Eastern societies as possessing certain ethics and culture, while the latter allowed the thinking of Eastern societies as structurally compatible with those of the West. In other words, in 1989 the Western part of Europe had no difficulty perceiving the East as part of itself. In this sense, the fifth enlargement of the EU is one within the 'natural space' of Europe itself. Due to this, it was not perceived as carrying long-term problems. It is rather obvious that here we are dealing with a unique cultural situation not likely to be repeated.

The contrast with the present is stark. After 15 years of intensive globalization its realities and features have become more pronounced and visible to public opinions and the various elites in Europe. This fact is beginning to transform deeply the ways in which the EU itself is being perceived and governed. It is slowly turning from a project oriented towards Europe towards one linked to the management of globalization. If many years ago the big question was 'how do we unite Europe?', now it reads more like 'how do we respond to globalization?'. Future enlargements and conditionality will rather be a function of the answer to this question. At present, this question seems to have two possible replies without much clarity as to which one will prevail. One option is in the direction of creation and maintenance of a core of countries and policies predominantly seeking to consolidate and protect the EU. Under this scenario the opportunities for enlargement are rather conservative. The other option is for a more flexible and wider structure which does not so much attempt to protect but rather open to the peripheries. In this instance, the opportunities for further enlargement increase even if the conditionality strategies will be quite different. This is the debate which will provide us with some guidance as to the feasible future strategies. The other important novelty is that the member states will not be the sole players. Rather, public opinions will make an entry. Their responses to the challenges of globalization are not clear and are yet to take shape.

A couple of words are due in relation to the *future of the European instruments for projecting political influence and the opportunities for their employment*. The career of EU conditionality has been impressive thus far. It is continuously portrayed as a decisive instrument in the implementation of one of the most successful policies of the organization, that of its enlargement. At the same time, there is a danger that thinking about EU political influence projection has become too dependent on conditionality and its real and imagined effects. Despite its success, it has serious shortcomings in a situation in which there is no overall narrative, a coherent, convincing and sustainable response to

the question of expansion of the organization. Further, there exists a rather paradoxical effect whereby in circumstances of lack of clarity on EU finality, conditionality becomes desirable and sought after by potential members and candidates. They begin to perceive such strategy as a path to structuring their relations in a long-term framework, as something that will eventually lead to success, in instance full membership. In such a situation, the candidates attempt to initiate the negotiation game which will then slowly be modeled into a clear, long-term commitment by the EU. Here 'the initiating side' attempts to kick off the very process of negotiating and fulfilling conditions presuming (and hoping) that the framework and inertia of the process will hold. In a comparatively unstable European context, this strategy appears reasonable and depends on the ways by which the fifth enlargement functioned. If we accept that conditionality will remain a desired strategy for a long time to come and that the EU will continue to refrain from fixing its external frontier, then it is worthwhile to think about the possible manners of enhancing the effectiveness of this strategy. There are at least two approaches to that. The first is by means of shifting of effort from legal norm towards political practice. The second has a slightly different focus and is linked to the shifting from a single 'point of entry' towards the pluralization of interface points and fields between the two sides in the relationship. Further, this implies work on the sustained development of these interface fields. These two approaches have the potential to transform the strategy as they preserve to a maximum degree its capacity to induce change even in a situation where many of the preconditions for successful conditionality are lacking. The first approach is a kind of critique of the accession negotiation strategy during the fifth enlargement of the EU. The approach is centred on the proposition of the limited impact of legal norms. Under this mode of dialogue negotiation chapters were closed at the point of accumulation of critical mass of 'harmonized' legal norms by the acceding country. In practice this represented an institutional credit of trust under which a few things are expected: stability of the norm, systemic influence of the norm on the behavior of public subjects, a culture of compliance and implementation of the norms, open-endedness and flexibility in the behavior of private and public subjects who in the long-term would model their actions in reference to the norms. For different reasons these consequences either do not materialize or have a limited impact which then creates difficulties for the EU. One key reason for this effect is clear. Even though the organization itself is 'post-national' and with a high degree of shared sovereignty, its functioning depends critically on the strength of the national institutions which continue to constitute its backbone. Sufficient understanding of this process could be observed during the last stages of Bulgaria's accession and in the behavior of the enlargement commissioner, Olli Rehn. The elaboration of the justice and home affairs 'safety clause' by a series of benchmarks is in line with this growing awareness of the limited impact of the legal norm. The correction and change of this understanding may be clearly witnessed in the new EU accession negotiation strategy viz-a-viz Croatia and Turkey.

The second manner of strengthening the effectiveness of conditionality relates to the increase of number of 'entry points' between the two sides. Placing emphasis on legal harmonization and permitting the bureaucracy to be central to the conduct of relations between state and international organization creates too limited a basis from which to induce change in the acceding country. During the fifth enlargement this led to overconcentration of European issues in the terrain of the administration and partially in an NGO sector, often partially produced by it. This contracts the effect of change and in practice all other fields need to be tied to this basis in order for the European influence to 'transpire'. Such a phenomenon is a consequence of the very strategy of accession negotiations and has led to significant limitation of conditionality in more peripheral areas of social and economic life. The pluralization of interface points between the two sides involved in the process means a widening of the fields in which the European project is being actively and systematically introduced. Under this logic, to the state-administrative sector we add the non-governmental sector, business organizations, branch organizations, academic institutions, local authorities and local civic organizations and the media.

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