



Journal of European Public Policy

Publication details, including instructions for authors and subscription information:

<http://www.tandfonline.com/loi/rjpp20>

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Published online: 08 Feb 2011.

To cite this article: Gwendolyn Sasse (2008) The politics of EU conditionality: the norm of minority protection during and beyond EU accession, *Journal of European Public Policy*, 15:6, 842-860, DOI: [10.1080/13501760802196580](https://doi.org/10.1080/13501760802196580)

To link to this article: <http://dx.doi.org/10.1080/13501760802196580>

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The politics of EU conditionality: the norm of minority protection during and beyond EU accession

Gwendolyn Sasse

ABSTRACT The norm of minority protection is often singled out as a prime example of the political impact of European Union (EU) conditionality on the ethnically diverse states of Central and Eastern Europe. The EU's 'minority condition' is best understood as a political and social construct rooted in European security concerns. As such, it has had very 'real' effects, both intended and unintended, and direct and indirect. This article extends the study of EU conditionality by including the post-accession period, and by concentrating on the politics surrounding conditionality. As the cases of Latvia and Estonia demonstrate, high-intensity EU involvement during the accession process did generate a rationalist momentum for legislative change, and formal compliance gave rise to a perception of behavioural change. However, socialization effects can point in the opposite direction of the rationalist momentum that informs formal legal change and thereby 'lock in' deeper structural problems and contradictory behavioural trends.

KEY WORDS Behavioural change; Estonia; EU conditionality; Latvia; legal change; minority protection; socialization.

INTRODUCTION

While 'the respect for and protection of national minorities' was enshrined in the first Copenhagen criterion and is often singled out as a prime example of the European Union's (EU's) positive impact on democracy in Central and Eastern Europe, the EU has in fact promoted norms which lack a foundation in EU law and remain controversial, even in the 'old' member states. This paradox points to the fact that the EU's 'minority condition' is a political and social construct. Constructs can have very 'real' effects, both intended and unintended, and direct and indirect. It is important to understand the context and rationale underlying the construction of the EU's minority condition in 1993, the dilemmas involved in translating the construct into EU policy, and the resonance of the construct in international and domestic politics in the pre- and post-accession periods. The EU's minority condition has proven to be 'sticky': it is a powerful cognitive framing device for both

international institutions and domestic actors in the accession countries. At first glance, EU conditionality may appear as something fixed and constant but its chameleon-like characteristics can turn it into a dynamic process itself. Through an empirical case study of the medium-term effects of the minority condition in Latvia (and Estonia), this article challenges some of the conceptual and empirical findings of previous research on conditionality.

The post-enlargement context provides a new testing ground for the study of the effectiveness of EU conditionality in anchoring political, economic and legal reforms in Central and Eastern Europe (see Epstein and Sedelmeier 2008). In the post-accession period, the continued compliance with the *acquis* might be primarily a question of administrative capacity and the political will to be a 'good EU citizen' (see also Sedelmeier 2008), while the components of 'democratic conditionality', as defined by the first Copenhagen criterion, regain in significance as a litmus test of the medium- to long-term consolidation of the polities in question. So far the study of 'democratic conditionality' has been tied most convincingly to the early phase of regime change prior to the onset of the EU accession negotiations (Vachudova 2005). The scope for EU leverage in the post-accession period is clearly limited, in particular in the political sphere. The question is whether the EU created a certain momentum in the pre-accession period through sustained rhetoric and involvement with domestic actors, which carries over into the post-accession period. This momentum might be reinforced either by the EU itself or by other international actors specializing in a particular issue area (e.g. the Council of Europe and the Organization for Security and Co-operation in Europe (OSCE) with their expertise in minority issues). Domestic actors might seek to enhance or limit the EU-induced pre-accession momentum in the post-accession phase depending on their own interests, thereby providing us with an insight into the domestic consensus and commitment behind the EU's prescribed democratic values.

The study of the effects of democratic conditionality generally suffers from the broad nature of the first Copenhagen criterion which combines exceptionally large concepts, such as the 'stability of institutions' or the 'rule of law'. These criteria lack clear measures and benchmarks and, therefore, turned the EU's own monitoring and assessment into a political judgement (Grabbe 2006). How can we measure 'compliance' if conditionality itself is in flux? What does compliance mean in the case of a constructed norm like minority protection that lacks an internal EU consensus, a firm legal base and clear benchmarks, and is used flexibly over time? Thus, in the areas where conditionality was weakly defined or its interpretation changed over time, the seemingly precise term 'compliance' can be as fuzzy as the term 'conditionality' itself. At best, we can formally measure post-accession 'compliance' against the domestic follow-up on the actual complaints and recommendations, including legal changes, made by the EU during the accession process, or against international norms of minority protection, as propagated and monitored by the Council of Europe and the OSCE. What did the EU actually do during the accession process, and to what extent have legal, policy or behavioural changes been implemented in

the issue areas raised during the accession process? In the field of minority protection the EU borrowed legal tools and policy recommendations from the Council of Europe and the OSCE in particular. This incorporates the interplay between different international actors into the study of conditionality pre- and post-accession. An in-depth assessment of the effects of the EU's minority condition that takes a more long-term perspective and connects the pre- and post-accession periods has to go beyond measuring 'compliance' and probe the domestic context in the accession countries for the political resonance (or lack thereof) of the EU's condition. Has the EU's 'minority condition', constructed in a particular historical and political context, shaped the domestic politics in the accession countries, and if so, how?

Taking the well-documented ambiguity and contested nature of the minority condition as a starting-point (de Witte 2000; Schweltnus 2001, 2006a, 2006b; Hughes and Sasse 2003; Vermeersch 2003, 2004; Sasse 2005a, 2005b; Toggengburg 2004, 2006; Wiener and Schweltnus 2004), this article traces the medium-term effects of the EU condition by focusing on the case with the most significant international emphasis on minority issues – Latvia (and Estonia as a variation on the same case). Though being a single case, it is the strongest test case for the EU's ability to assert direct influence and encourage the adoption of an EU-promoted norm associated with democratic conditionality. We would expect the intensity and visibility of the EU's involvement in specific minority issues to underpin a momentum for legal and behavioural change in the new member states before and after accession. This question is ultimately about the politics of conditionality, and it allows us to revisit the balance between international and domestic actors shaping legal and behavioural change.

CONCEPTUAL CHALLENGES IN THE STUDY OF EU CONDITIONALITY

Research on the impact of EU conditionality struggles with the difficulty of isolating the effect of international factors from the domestic incentives for legal, institutional or behavioural change. The gradually growing body of work that empirically tests the scope of conditionality has demonstrated that the record of conditionality is mixed across countries and policy areas. This evidence has led to the EU's role being conceptualized as a 'reinforcement mechanism' or a 'lock-in effect' (Schimmelfennig *et al.* 2003; Sasse 2005a). As part of this ongoing conceptual refinement, 'effective' conditionality has been tied primarily to consistency and credibility as well as low domestic adoption costs (Schimmelfennig and Sedelmeier 2005). The minority condition is neither consistent (in its application in any one country or across candidates) nor credible (the opening of the accession negotiations began when the first Copenhagen criterion was deemed 'fulfilled', though monitoring and criticism continued, and non-compliance with elements of the minority condition, such as the ratification of the Framework Convention for the Protection of National Minorities (FCNM), did not hold up accession).

While the adoption of minority-sensitive legislation may not derail a government, the domestic costs (mostly political, but also financial) of adopting and implementing progressive norms on minority protection and participation cannot be considered to be 'low'. Thus, the minority condition violates some of the requisites of effective conditionality and points to a necessary distinction between rule adoption and implementation.

Some scholars have tried to empirically unpack the concept of conditionality itself by pointing to its constructed, flexible, continuously evolving and highly politicized content (Hughes *et al.* 2004; Brusis 2005; Epstein 2006). Conditionality is being shaped by various actors at the EU level, in member states or in candidate countries. The preferences and norms of these political actors change over time, and they regularly instrumentalize references to EU conditionality in order to shape an agenda or silence opposition. Hughes *et al.* (2004: 3–4) conceptualized conditionality as a process shaped by the interaction of multi-level actors, perceptions and interests, differentiated rewards and sanctions, temporal factors and different degrees of institutional or policy compliance. This definition highlights the pitfalls inherent in treating conditionality as a variable, but it remains rather broad and calls for further conceptual and empirical precision. The minority condition fits the broad definition of conditionality as a process and thereby points us to the importance of the politics surrounding conditionality.

When extended into the post-accession period, the methodological difficulty of isolating the EU impact amidst the dynamics of domestic politics is amplified, in particular with regard to the components of 'democratic conditionality'. It is unclear to what extent any post-accession policy implementation and behavioural change can be accredited to the EU rather than to domestic political contestation. The lack of an EU effect would be most apparent where a legislative, policy or behavioural change occurs that goes openly against an EU priority stressed during the accession process. Conversely, an EU effect can manifest itself in at least two ways in the post-accession period: either through new domestic initiatives in an issue area initially put on the domestic agenda by the EU (and potentially followed up by other international institutions), or through a steady continuity of deepening structural or behavioural trends from the pre-accession period.

Analysing conditionality as a construct, as suggested here, is closely related to the conceptualization of conditionality as a process. Process-tracing starts from the actual construction of conditionality itself, and it traces the utilization, redefinition and politicization of a condition over time. This approach is particularly, though not exclusively, relevant to the study of the expansive first Copenhagen criterion ('democratic conditionality'), including the norm of minority protection. Process-tracing is not a new method, though the term has recently regained in prominence. Process-tracing can fit both a rationalist and a constructivist line of argument. So far it has been presented as primarily rooted in the research of linear causal mechanisms, although its creation of a series of 'mini-checks' has been credited with raising awareness of the limits

of causal stories (Checkel 2005). If we accept that an outcome at one stage in the process can shape or determine a different outcome at a later stage in the process, process-tracing goes beyond a basic causality model. If we factor in the fluidity of a construct shaping a process of legislative or behavioural change, the linearity of causality is further disrupted. In the area of conditionality research, the use of the word 'process' starts with unpacking the construction and malleability of a specific condition. A condition might be weakly defined, as in the case of regional policy (Hughes *et al.* 2004; Jacoby 2004), or it may lack a solid foundation in the *acquis* or international law, as in the case of the minority condition.

Most empirical studies of the EU's impact on minority protection trace the successive legal and constitutional changes in Estonia and Latvia as proof of the EU's impact. Kelley's conceptually more nuanced study of the norm of minority protection in Central and Eastern Europe also emphasizes that EU membership conditionality was the key impetus for a change towards minority-friendly legislation (Kelley 2004). She concludes that only membership conditionality had the capacity to overcome domestic opposition, but she points to the importance of socialization supporting the process of legal change. According to Kelley, socialization without the leverage of membership conditionality fails to overcome domestic opposition. Similarly, Schimmelfennig and Sedelmeier (2005) and Jacoby (2004) point to mechanisms of social learning, lesson-drawing and emulation respectively. Ultimately, these studies find it hard to empirically pinpoint socialization or variants thereof in the accession context where they are difficult to separate from rationalist calculations.

So far the study of conditionality has not fully taken account of the political context of the minority condition during the accession process. It is here that the notion of socialization plays out empirically. Moreover, the temporal extension into the post-accession period has been absent from the study of EU conditionality so far. In principle, value and behavioural change that has taken effect during accession should be more consolidated and thus more apparent post-accession.

THE CONSTRUCTION OF THE EU'S MINORITY CONDITION

There are three stages to the construction of the EU's minority condition: the process of formulating the first Copenhagen criterion, its translation into a process of monitoring and assessment, and the anchoring of the minority condition in the political context of the Central and Eastern European (CEE) countries. The first two stages have been analysed at length in the literature, so a brief summary of the main findings will suffice in order to frame the analysis of the third stage.

The formulation of the conditions for membership, as set out by the Copenhagen Council of 1993, marked a significant disjuncture for the EU through the explicit mention of minority protection in addition to familiar human rights clauses among the political norms associated with democracy (de Witte 2000;

Toggenburg 2004). A number of security concerns arising from the post-communist transition process, especially the violent disintegration of the former Yugoslavia, formed the rationale for a greater internationalization of minority rights in the early 1990s. Sizeable minority groups in many CEE countries were associated with conflict potential in the context of a volatile transition process. The formulation of the EU's political conditions for accession took shape against the background of a changing pan-European framework of norms, driven by the OSCE and the Council of Europe in the early 1990s.

Once the EU had formulated the loose first Copenhagen criterion, it faced the challenge of translating it into policy and enforcing it in the absence of an EU-wide or international legal or political consensus on the norm of minority protection or, in fact, clear benchmarks or enforcement mechanisms (Vermeersch 2004; Sasse 2005a; Schweltnus 2006b). These dilemmas were further compounded by a procedural challenge, namely the fact that in the case of the first- and second-wave accession countries the first Copenhagen criterion had to be 'fulfilled' by the time the accession negotiations got under way, thereby limiting the EU's subsequent leverage in the political sphere.

The Commission's annual Regular Reports, following on from the Opinions of 1997 and the Accession Partnerships, have been the EU's key instrument to monitor and evaluate the candidates' progress towards accession. In the case of the minority criterion the EU based its monitoring exercise on a set of values and non-EU documents, namely the European Convention on Human Rights, the major OSCE documents of the early 1990s and the UN Declarations. Over time the Council of Europe's FCNM of 1995 became the Commission's primary instrument for translating the minority criterion into practice.¹ The Regular Reports frequently reminded the candidate states to sign and ratify the FCNM – despite the fact that several EU member states had not done so. This discrepancy and the fact that the first Copenhagen criterion lists the EU values embodied in Art. 6(1) Treaty on European Union (TEU) – with the notable exception of the minority criterion – gave rise to the discussion about 'double standards' (de Witte 2000; Hughes and Sasse 2003; Hoffmeister 2004; Sasse 2005a; Schweltnus 2006b).

The Regular Reports are a compendium of results compiled from a variety of sources. In the area of minority issues the Council of Europe and the OSCE were privileged sources of information. The coverage of the minority condition in the Regular Reports is characterized by a hierarchy of minority issues, ad hocery and inconsistencies resulting from the lack of clear benchmarks, and a lack of mechanisms to enforce implementation (Hughes and Sasse 2003; Sasse 2005a). The Reports primarily focus on the Russophones in Estonia and Latvia and the Roma across Central and Eastern Europe, reflecting the EU's soft security concerns. In the absence of clear benchmarks, the Reports track the adoption and amendment of laws on citizenship, naturalization, language and elections, the establishment of institutions or programmes targeting minority issues. The borrowing of different external 'standards' has at times confounded the

ambiguity inherent in the minority condition and given rise to inconsistencies. The 2002 Reports on Estonia and Latvia, for example, report on the one hand that the OSCE mission in these states closed in late 2001, including the official OSCE reasons for this decision (that the improved situation no longer warranted their presence), but on the other hand also highlighting the EU's continued concerns (Hughes 2005). As a Commission official put it: 'Although the closure of the OSCE missions was not a formal condition, the Commission had a clear interest in it'.²

A closer analysis of the EU's monitoring exercise and the successive adoption of legislation in the candidate countries suggests that international actors and a vaguely defined European norm have framed the debates and perceptions and affected the timing and nature of specific pieces of legislation, especially the gradual modification of restrictive citizenship laws in Estonia and Latvia (Kelley 2004). In Commission circles the EU's actual impact has been described rather realistically: 'we help them do what they are already doing anyway'.³ The post-accession period now allows us to go beyond the initial legislative changes in order to assess the more long-term effects of the EU on the norm of minority protection in Central and Eastern Europe.

The contingent construction of the EU minority condition, premised on a dual concern for security and democratization, highlights the importance of tracing the social and political process behind the component parts of the Copenhagen criteria. The logical conclusion of presenting the minority condition as a construct is the recognition that any notion of compliance is a construct as well. Thus, both conditionality and compliance become flexible constructs in need of a nuanced understanding through their politicization.

THE POLITICS OF THE EU'S MINORITY CONDITION

The intensity and visibility of international involvement in the area of minority protection singles out Latvia and Estonia as the strongest test case of the EU's transformative impact on legislative and behavioural change. The sizeable but loose category of 'Russophones', accounting for 35–42 per cent of Estonia's and Latvia's respective populations in 1989, represents a diverse group, including Russians, Ukrainians, Belarusians, and some smaller minority groups. With perceptions shaped by the Soviet era occupation and in the absence of organized minority interests, the domestic push for a minority-sensitive policy in Estonia and Latvia was small. Restrictive citizenship and language laws and naturalization procedures have been amended gradually in the context of EU accession (Norgaard 1996; Kolsto 2002; Kelley 2004), but the persistently high numbers of stateless Russophone residents suggest that the effect of international pressure on forging deeper societal cohesion has been limited (Hughes 2005).⁴ As of April 2007 there were 392,816 non-citizens (17 per cent of the population) and 41,439 Aliens registered in Latvia (Latvian Naturalization Board 2007) and as of May 2006 there were 120,000 (9 per cent of the population) in Estonia (Estonian Ministry of Foreign Affairs 2006).⁵

The dimensions of this phenomenon of statelessness are unprecedented inside the EU. A discussion of this political reality neither calls into question the legitimacy of Estonian or Latvian sovereignty nor does it detract from the fact that the presence of such large Russophone minorities is primarily a legacy of Soviet imperial policies. The intensity and visibility of international involvement during the EU accession process, the closure of the OSCE missions at the end of 2001, and EU membership in 2004 have underpinned the impression that all the outstanding issues concerning the Russophones have been 'resolved'. Successive Estonian and Latvian governments, policy-makers and analysts have been eager to safeguard this image.

The discussion here will focus primarily on Latvia where the urgency of restrictive measures was fuelled by particularly extreme demographic statistics: in 1989 only 52 per cent of its residents were Latvian, compared to 42 per cent Russophones (by now the Latvian share of the population stands at 59 per cent). The details of the citizenship and language laws and their gradual changes over time have been documented elsewhere (e.g. Gelazis 2004; Kelley 2004; Hughes 2005; Sasse 2006). Suffice it to say that delayed membership in the Council of Europe and exclusion from the first wave of candidate countries opening accession negotiations with the EU provided important catalysts for a partial rethinking of the legal side of minority issues. The densely packed period was characterized by the interaction of different international actors (the EU, the OSCE High Commissioner on National Minorities, the OSCE missions, the Council of Europe, the North Atlantic Treaty Organization (NATO) and prominent government interventions from the USA, the Scandinavian countries and Russia). The OSCE High Commissioner, in particular, provided detailed legal input into the reformulation of the laws (Dorodovna 2003). Despite their limited constitutional remit, the Estonian and Latvian presidents have repeatedly played a moderating role, encouraging legal change. By June 1998 the Latvian parliament had passed amendments to the citizenship law, paving the way for the 'window' system, which imposed a restrictive timetable on citizenship applications, to be overturned. In line with the recommendations by the OSCE High Commissioner, echoed by the EU, a referendum in October 1998 abolished the 'window' system and confirmed the right of children of non-citizens to obtain citizenship. The timing of this decision was closely related to the annual Regular Reports of the EU, and the exclusion of Latvia from the first-wave accession countries in December 1997.

Measuring the EU effect against the EU's own 'benchmarks'

The Commission's Opinion and the Regular Reports concentrated on three particular areas: the amendments of the citizenship legislation and the rate of naturalization; the development of the language law and policy; and Latvia's ratification of the FCNM. While the legal provisions for citizenship were gradually amended and are now in line with those of many European countries, throughout

Latvia's accession process the take-up rate has remained low to moderate under the changed naturalization procedure, suggesting that the real or perceived 'costs' of naturalization, including administrative fees, learning Latvian or preparing for the citizenship test, were still too high, and people felt too alienated at this late stage in the transition process to be attracted by a new procedure or legal provision. Between 1 February 1995 and 30 November 2007, 124,797 naturalization applications were received, requesting 137,833 persons to be naturalized (of these 127,505 persons have been granted citizenship; see Latvian Naturalization Board 2007). The most significant increase in the number of successful applications trailed the legal changes: from 4,439 (1998) it jumped to 12,427 (1999) and 14,900 (2000). A second increase occurred in the immediate run-up to EU accession from 10,049 (2003) to 16,064 (2004). The number peaked in the immediate post-accession period with 19,169 people being granted citizenship in 2005, followed by a decrease to 16,439 in 2006 and a further decrease to 6,545 in 2007 (data for December 2007 not included) (Latvian Naturalization Board 2007). In Estonia, the figures follow a similar trend: 3,706 (2003), 6,523 (2004), 7,072 (2005) (Estonian Citizenship and Migration Board 2006).

These figures suggest that the potential carrot of (eventual) labour mobility across the EU added an incentive but the figures quickly stabilized at a level that falls short of a speedy reduction of the number of stateless residents.⁶ Given that the legal framework is now in place, the real issue is whether there is a lack of will to naturalize among the Russophones, and if so, what explains it. Estonia and Latvia are demonstrations of the detrimental consequences for socialization and integration that flow from exclusionary ethnified rhetoric and discriminatory policies in the early phase of post-communist state- and nation-building. The damage done to the Russophones' willingness to identify with the state cannot easily be undone by later modifications to citizenship and language laws and procedures.⁷ The latest report on Estonia by the Council of Europe's Commissioner for Human Rights (Council of Europe 2007a) notes that

the number of non-citizens is still high and the risk of alienation is present. There is obviously a connection between citizenship and social inclusion, both perceived and real . . . increased importance should be given to awareness-raising measures targeting non-citizens about the possibilities of learning the Estonian language and the benefits associated with it.⁸

Latvia's 1999 Language Law, which toned down its 1989 and 1992 precursors, and which still aims to regulate Latvian language use down to private institutions and companies and self-employed persons, has remained an international concern beyond EU accession (Poleshchuk 2002). The law's definition of when these activities relate to public interests is vague, and only 'unofficial' and 'internal communication' of residents and national minorities are excluded, and reference is made to assessment procedures to check the required level of state language proficiency (Latvian Language Law 1999). The 2007 amendments to Estonia's Language Law have given the equivalent language inspectorates extended powers, including the right to recommend the dismissal

of employees with insufficient language proficiency, to make people holding language certificates resit an exam. The Council of Europe's High Commissioner for Human Rights singled out this latest provision among his concerns (Council of Europe 2007a), following up on similar criticism by the Advisory Committee of the FCNM (Council of Europe 2006b).

During the EU accession process, the EU's calls for Latvia's ratification of the Framework Convention proved unsuccessful. On 26 May 2005 the Latvian parliament ratified the Framework Convention, which entered into force in October 2005. Latvia's post-accession ratification demonstrates the importance of domestic political considerations shaping the adoption of internationally binding documents. The adoption of the FCNM in the post-EU accession period rids international institutions of a concrete reminder of Latvia's lack of commitment to minority protection – not having ratified the FCNM can have a greater reputational effect over time than ratifying it with crucial reservations. Latvia's timing of the ratification ensures that the country-specific declarations added to the FCNM have come under less international scrutiny. Latvia added three declarations to its ratification of the FCNM (Council of Europe 2007b). The first one in particular goes beyond those attached by other signatories: in it the Republic of Latvia recognizes the diversity of cultures, religions and languages in Europe as a constituent of a common European identity and a particular value; refers to the experience of the Council of Europe member states and the wish to foster the preservation and development of national minority cultures and languages, while respecting the sovereignty and national cultural identity of every state; affirms the positive role of an integrated society, including the command of the state language, in the life of a democratic state; and refers to the specific historical experience and traditions of Latvia.

The term 'national minority', which remains undefined in the actual FCNM, applies to 'citizens of Latvia who differ from Latvians in terms of their culture, religion or language, who have traditionally lived in Latvia for generations and consider themselves to belong to the State and society of Latvia, who wish to preserve and develop their culture, religion or language'. A fuzzy formulation was adopted according to which 'persons who are not citizens of Latvia or another state but who permanently and legally reside in the Republic of Latvia, who do not belong to a national minority within the meaning of the FCNM as defined in this declaration, but who identify themselves with a national minority that meets the definition contained in this declaration, shall enjoy the rights prescribed in the Framework Convention, unless specific exceptions are prescribed by law.'⁹ Latvia's further two declarations state that Latvia will apply Article 10, paragraph 2 (the recognition of the right to use minority languages in relations between individuals and administrative authorities), and Article 11, paragraph 2 of the Convention (an individual's right to display minority language signs, inscriptions and other information of a private nature visible to the public), in line with the Latvian constitution and other legislative acts defining the use of the state language, thereby effectively limiting their scope.¹⁰

The Council of Europe, less visible during the EU accession process, provides the main post-enlargement institutional follow-up to the EU's monitoring and the detailed OSCE recommendations during the accession process. The monitoring tied to the legally binding FCNM is very detailed – often pointing to the politicized definition of national minorities – and one monitoring cycle includes several reports by the governments and the Council of Europe, both based on consultation with a wide range of domestic actors. Latvia's first monitoring cycle attached to the FCNM has only just begun. In the Initial Report on the Implementation of the FCNM by the Republic of Latvia of October 2006, the Latvian government emphasized that it effectively opened the application of the FCNM to legally resident non-citizens who identify with a national minority (Council of Europe 2006a). Furthermore, it cross-references the OSCE High Commissioner's verdict that Latvia had fulfilled the OSCE recommendations on citizenship. With regard to Article 15 of the FCNM, 'effective participation' of national minorities is discussed as a matter of civil society participation rather than as a characteristic of the political system as a whole.

Other parts of the Council of Europe, namely the Commissioner for Human Rights and the Parliamentary Assembly, provide additional monitoring. There is considerable overlap and mutual reinforcement through these different mechanisms. The monitoring under the FCNM appears to be most immune to the politicization inherent in international organizations. A critical report by the Council of Europe's Parliamentary Assembly rapporteur György Frunda, asking Latvia to drop its FCNM declarations, waive the naturalization of Soviet era immigrants, and allow non-citizens to vote, was overruled by the Assembly's Monitoring Committee in November 2005. This decision, taken by an unusual majority vote, is noteworthy, as the Assembly tends to accept a rapporteur's recommendations.¹¹ The fact that Frunda is also an active member of the Hungarian minority party in Romania documents another trend: the proactive minority policies by Hungarian politicians, advisers and officials at home and abroad which gained legitimacy through the EU's minority condition.

While the EU accession process, with its emphasis on the ratification of the FCNM, paved the way for the Council of Europe's increased role in the post-EU accession period, the OSCE saw its scope for action weakened. The successor of OSCE High Commissioner on National Minorities Max van der Stoep, Rolf Ekeus, welcomed Latvia's ratification of the Framework Convention including its 'liberal' definition of 'national minorities' during a visit in June 2005 (Ministry of Foreign Affairs for the Republic of Latvia 2005). On a further visit in April 2006 he addressed education and naturalization issues, highlighting progress as well as the need for further 'attention'. The Latvian authorities have been keen to publicize the OSCE High Commissioner's general endorsement of their policies, but his domestic and international clout is small compared to the 1990s, in particular in the new EU member states (Ekeus 2006). The ongoing election monitoring by the Office of Democratic Institutions and Human Rights (ODIHR), invited by the authorities, maintains a low level of visibility of international involvement and provides an update on the naturalization

process in the context of voting. The politically motivated closure of the OSCE missions in Estonia and Latvia in late 2001, aimed at avoiding an anomaly inside the EU, limited the OSCE's scope for action in the Baltics and contributed to an internal crisis of the OSCE as a whole, not least as Russia has been less co-operative in response to the mission closure. The immediate post-Cold War period and the process of EU accession temporarily empowered the OSCE, particularly in the presence of a proactive High Commissioner like van der Stoep and in a context where detailed legal advice was asked for and encouraged by the EU as the international actor offering the biggest incentive structure.

When measuring the EU's medium-term effect against the EU's own benchmarks applied during the accession process, the evidence points to a limited impact. The language laws and their implementation have remained ambivalent beyond EU membership. The significant legal and constitutional changes during the accession period did not foster a trend of legislative activity in the post-accession period. Moreover, Estonia's 2007 Language Law points to follow-up through tougher monitoring of the use of the state language. The naturalization rate, a much referred to benchmark during the accession period, has dropped significantly after a temporary peak around the accession date. Naturalization benefited from the incentives of mobility tied to EU citizenship, but there is little evidence of a general acceptance of citizenship among the Russophones. The FCNM was the international document used as a shorthand reference to a commitment to minority protection during the EU accession process. The fact that Latvia did not heed the EU's rhetorical pressure on this issue at the time demonstrates the lack of commitment to enforcement on both sides – Latvia delayed the process of ratification, and the EU did not make this a stumbling block on the way to membership. The content of the declarations which Latvia has added to the FCNM illustrates that the post-accession ratification of the document is at best a lukewarm endorsement of the principle of minority protection and primarily a carefully timed matter of political convenience.

During the accession process the EU's leverage over minority issues was reinforced by the expertise and involvement of the OSCE and the Council of Europe. While the EU's own leverage on the various components of democratic conditionality ends with accession, the leverage of the other two international institutions is significantly shaped by the politics of conditionality during accession. The OSCE limited its own scope for action, and the institution's image remains tainted by the politically motivated decision on the mission closure in Estonia and Latvia. The Council of Europe's reputation is intact, and it is widely recognized as the only institution with a scope for action on minority issues beyond the EU's enlargement. However, owing to its political weakness, it can at best hope to gradually shape the engrained structural, attitudinal and behavioural trends.

Measuring the EU's effect against domestic politics

Proportional representation alone has not been conducive to effective minority representation. Since independence in 1991 Latvia's and Estonia's party landscape

has been characterized by a missing political left.¹² The continuous centre-right or right-wing political consensus has had implications for the integration and political mobilization of minorities. The mobilization of a linguistic – rather than an ethnic or a clear-cut historical – minority has proven difficult in both countries. Divided interests among voters and party leaders, a higher living standard compared to other parts of the former Soviet Union, and early disillusionment with the post-Soviet regimes turning into political apathy, are among the key explanations for the lack of a coherent and sustained minority mobilization in either state. The ethnic divide has become more polarized over time, though this has not led to sustained societal mobilization on the part of the Russophones. The absence of an overarching ethnic identity among the Russophones and a tangible avenue for political mobilization have hindered the formation of coherent minority parties or organizations. In Estonia the minority vote is split between self-declared minority parties, such as Estonia's Constitution Party or the Russian Party of Estonia, which only secured 1.1 and 0.2 per cent respectively in 2007 and failed to enter parliament (the Constitution Party was represented with six seats 1999–2003), and mainstream parties that include minority concerns in their programmes, namely the Estonian Centre Party (26.1 per cent in 2007).

Latvia's political scene illustrates that even sizeable political representation at the national level does not necessarily guarantee influence over policy-making, especially if the other factions in parliament stand united on minority-relevant legislation. After Latvia's 2002 election 25 out of 100 deputies represented a loose bloc 'For Human Rights in a United Latvia' which combined a minority platform with a leftist outlook. The number of minority-friendly deputies decreased to 23 in the 2006 elections, and two former constituents of the bloc ran a separate campaign after internal disagreements. Despite their potential numerical strength, Latvia's minority-oriented deputies are easily outvoted by the overwhelming *de facto* majority Latvian 'ethnic' bloc whenever minority-relevant issues are being decided in parliament.¹³ Parliamentary representation of minority interests even seems to feed directly into a more extremist rhetoric among the main parties of the right in the run-up to elections. Thus, in a political climate where the issue of minority integration is highly sensitive, continuous international emphasis on minority protection and political minority representation can deepen rather than bridge the gap in majority–minority relations. The continuing problems with integration after accession and occasional protests, including provocations by Russian organizations,¹⁴ demonstrate that the legal changes promoted by EU pressure were not sufficient to bring about behavioural change – on the part of the majority of the Russophones as much as on the part of the political élites representing the majority. Rather than inducing a traceable change in the attitudes of representatives of the political establishment and society at large, the continuous emphasis of international institutions on minority issues in Estonia and Latvia has helped to successfully build a political majority consensus around the image that the minority issues have been resolved. Deeper structural issues have remained unaddressed or have, in fact, been further engrained through the politics of conditionality.

The domestic political context provides significant pointers as to the medium-term effects of EU conditionality. International pressure on minority issues did not per se increase the domestic political will for the effective implementation of integration policies, such as proactive measures on naturalization. Legal changes notwithstanding, the EU's minority condition – in particular the intensity and visibility of international actors emphasizing the minority issue – has not widened the domestic scope for a systematic engagement with the deeper structural problems. The empirical evidence suggests that this type of international involvement has triggered a strong negative reaction among the political élites which narrows rather than widens the domestic scope for a rethinking of minority policies. Moreover, the generally positive assessment by international institutions of the situation prior to accession has further eroded the space for political claim-making on the part of the minorities. The analysis of Latvia and Estonia illustrates the significance of the political system as an element in the more long-term assessment of the socialization of new values and behaviour through conditionality. By contrast, the empirical evidence from accession countries with sizeable, politically mobilized ethnic minorities but an absence of a comparable sustained and high-profile visibility of international involvement in minority issues, such as in Slovakia, Romania and Bulgaria, points to an indirect EU effect on the de facto ethnic power-sharing through party representation (Brusis 2003; Sasse 2006). Thus, the domestic political context in accession countries determines the EU's scope in promoting ethnically inclusive governments.

CONCLUSION

This paper has argued that any component of the EU's democratic conditionality, such as the condition on minority protection, is best understood as a social and political construct. As a framing device, this construct can have 'real' effects on domestic actors, but these effects are insufficiently captured by the focus on legislative change employed in most studies of EU conditionality. Methodologically, if we want to go beyond a formal or technical understanding of conditionality and compliance, we need to begin with the construction and malleability of the condition itself, taking seriously the political process by which it was devised and re-appropriated by different actors over time.

EU effects can be unintended and indirect. An intense and highly visible international involvement in a politicized issue area can produce an overlay of contradictory outcomes: a legal change can hide deeper political or societal trends which might, in fact, become more engrained in the context of the EU's involvement. An important conceptual clarification emerges from the case study presented in this article: in the realm of political conditionality, the concentration on formal measures, such as legal change, offers at best a very thin notion of conditionality effects. Rather, there is a different dimension to the lock-in effect of EU conditionality

that has not been highlighted previously: deeper structural issues, underpinning polarization and segregation, can also be 'locked in' through the process of EU involvement as, in particular, the case of Latvia has shown. This is one of the ways in which the EU's political leverage carries over into the post-accession period. In this period the scope for EU involvement in minority issues is gone, the OSCE is politically weakened, and the Council of Europe remains the only international institution with a mandate to monitor minority issues in Europe.

In the short run, the socialization effects of conditionality are almost impossible to trace. They certainly play a role when a candidate country engages in proactive policy-making in an issue area outside the EU's official *acquis*-based remit or when a change occurs in the domestic political dynamics (e.g. through the representation of ethnopolitical parties). In the medium term, a wider range of socialization effects becomes apparent. Without at least a degree of socialization the implementation of rationally adopted laws and policies from the accession period is bound to remain patchy. Process-tracing over time can reveal where the patchiness exists and what its scale is. The study of conditionality, which has stressed either the alternative rationalist and constructivist explanations of policy change, or their compatibility, must open itself for a better understanding of the contradictory effects of the EU's involvement. Rational cost-benefit calculations about accession may inform legal changes in candidate countries, but this does not necessarily mean that legal changes are underpinned by successful socialization into European norms or indeed will promote such a normative and behavioural change. As the case study has demonstrated, socialization can in fact 'lock in' a majority consensus on the inappropriateness of a political norm as well as a minority's lack of engagement and thereby limit or undermine the effect of formal legal change. Thus, the socialization effects, revealed through a change in attitudes or behaviour, can point in the opposite direction from the rational motivation that informs legal change.

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ACKNOWLEDGEMENTS

I would like to thank Rachel Epstein, James Hughes, Kalypso Nicolaidis, Mitchell Orenstein, Ulrich Sedelmeier, Sherrill Stroschein and two anonymous reviewers for their useful comments on this article.

NOTES

- 1 Author's interviews with officials from the Country Desks in DG Enlargement, the Horizontal Co-Ordination Unit and the Legal Service, Brussels, 12–13 January 2004.
- 2 Author's interview with a Commission official, DG Enlargement, Brussels, 12 January 2004.
- 3 Author's interview with a Commission official in the Horizontal Co-ordination Unit, 13 January 2004.
- 4 Statistical data allowing for an assessment of ethnic employment and discrimination are rare and inconclusive. What is most striking is the lack of minority representation in certain sectors and institutions (local government and administration, most state institutions with the exception of the Ministry of the Interior, prison administration and the police) resulting from the Soviet era ethnic division of labour, the consequences of the citizenship and language policies, and a degree of self-segregation on the part of both the majority and the minorities (especially in educational institutions and small private companies) (see Pabriks 2002).
- 5 Compared to 22.4 per cent and 12.5 per cent of Latvia's and Estonia's resident population respectively before accession; see European Commission (2002a, 2002b).
- 6 The Council Directive 2003/109/EC has been interpreted to include all non-EU citizens irrespective of their citizenship or statelessness.
- 7 Amendments to Estonia's Law on Citizenship entered into force in March 2004, providing for the state to reimburse the fee for Estonian language training for persons who have passed the naturalization examination. The overall naturalization process has been shortened, and persons born before 1930 are now exempt from the written examination component, though the obligation to pass the oral language examination remains; see https://wcd.coe.int/ViewDoc.jsp?id=1163131#P106_4925).
- 8 In his last report (2003) on Latvia, the Council of Europe's High Commissioner also urged that 'the state should do even more to bring those populations into its fold, as a forthright demonstration to them of their place in Latvian society' (<https://wcd.coe.int/ViewDoc.jsp?id=112881&Site=COE&BackColorInternet=9999CC&BackColorIntranet=&BackColorLogged=FDC864>). He recorded 'that the communities concerned often perceive the positive changes as very slow and that there is a consequent danger that they may fail to achieve their purpose and thereby aggravate certain tensions between the minorities generally (non-citizens in particular) and those of Latvian stock, who frequently feel misunderstood despite all the efforts that have been made', and concluded that it was clear that 'the naturalizations have not achieved their objective in that the numbers naturalized are still on the low side and the tendency in the last two years (2001 and 2002) has been downwards.'
- 9 See <http://conventions.coe.int/Treaty/Commun/ListeDeclarations.asp?NT=157&CM=8&DF=4/19/2006&CL=ENG&VL=1>
- 10 <http://www.mfa.gov.lv/en/news/press-releases/2005/May/27-3/?print=on>
- 11 Vladimir Socor, 'Council of Europe's biased rapporteur overruled on Latvia', see http://www.jamestown.org/edm/article.php?article_id=2370534
- 12 In Estonia's 2007 elections the Social Democratic Party obtained 10.6 per cent of the vote and was easily accommodated as part of a centre-right governing coalition with the liberal Estonian Reform Party and the conservative Union of Pro Patria and Res Publica (<http://www.valitsus.ee/?lang=en>).
- 13 Author's interviews with members of the Latvian parliament, Riga, September 2005.
- 14 The removal of the 'Bronze Soldier' monument from the centre of Tallinn in early May 2007 triggered violent clashes, partly orchestrated by the Kremlin-sponsored Russian youth movement 'Nashi', and a political crisis in Estonian–Russian relations.

REFERENCES

- Brusis, M. (2003) 'The European Union and interethnic power-sharing arrangements in accession countries', *Journal on Ethnopolitics and Minority Issues in Europe* 1: 1–21.
- Brusis, M. (2005) 'The instrumental use of European Union conditionality: regionalization in the Czech Republic and Slovakia', *East European Politics and Societies* 19(20): 291–316.
- Checkel, J. (2005) 'It's the process, stupid! Process-tracing in the study of European and international politics', *ARENA Working Paper*, No. 26. http://www.arena.uio.no/publications/working-papers2005/papers/wp05_26.pdf
- Council of Europe (2006a) Initial Report on the Implementation of the FCNM by the Republic of Latvia, ACFC/SR(2006)001, 11 October; [http://www.coe.int/t/e/human_rights/minorities/2_framework_convention_\(monitoring\)/2_monitoring_mechanism/3_state_reports_and_unmik_kosovo_report/1_first_cycle/PDF_1st_SR_Latvia_eng.pdf](http://www.coe.int/t/e/human_rights/minorities/2_framework_convention_(monitoring)/2_monitoring_mechanism/3_state_reports_and_unmik_kosovo_report/1_first_cycle/PDF_1st_SR_Latvia_eng.pdf)
- Council of Europe (2006b) Advisory Committee on the Framework Convention for the Protection of National Minorities, Second Opinion on Estonia, ACFC/INF/OP/II(2005)001, adopted 24 February; http://www.coe.int/t/e/human_rights/minorities/2_framework_convention_%28monitoring%29/2_monitoring_mechanism/4_opinions_of_the_advisory_committee/1_country_specific_opinions/2_second_cycle/PDF_2nd_OP_Estonia_eng.pdf
- Council of Europe (2007a) Commissioner for Human Rights, Report on Estonia; https://wcd.coe.int/ViewDoc.jsp?id=1163131#P106_4925
- Council of Europe (2007b) Latvia's Declarations to the Framework Convention for the Protection of Minorities; <http://conventions.coe.int/Treaty/Commun/ListeDeclarations.asp?NT=157&CM=8&DF=08/02/05&CL=ENG&VL=1>
- De Witte, B. (2000) 'politics versus law in the EU's approach to ethnic minorities', *EUI Working Paper* RSC No. 2000/4.
- Dorodovna, J. (2003) 'Challenging ethnic democracy: implementation of the recommendations of the OSCE High Commissioner on National Minorities to Latvia 1993–2001', *CORE Working Paper* 9.
- Ekus, R. (2006) OSCE High Commissioner on National Minorities, Statement to the 616th Plenary Meeting of the OSCE Permanent Council, Vienna, 29 June; available at http://www.osce.org/documents/hcnm/2006/06/19959_en.pdf, accessed 20-10-08.
- Epstein, R.A. (2006) 'Cultivating consensus and creating conflict: international institutions and the (de)politicization of economic policy in postcommunist Europe', *Comparative Political Studies* 40(8): 1019–42.
- Epstein, R.A. and Sedelmeier, U. (2008) 'Beyond conditionality: international institutions in postcommunist Europe after enlargement', *Journal of European Public Policy* 15(6): 795–805.
- Estonian Citizenship and Migration Board (2006) http://www.mig.ee/index.php/mg/eng/citizenship_and_migration_board
- Estonian Ministry of Foreign Affairs (2006) http://www.vm.ee/estonia/kat_399/pea_172/4305.html; <http://web-static.vm.ee/static/failid/460/Nationalities.pdf>
- European Commission (2002a) *Regular Report Estonia*; http://ec.europa.eu/enlargement/archives/key_documents/reports_2002_en.htm
- European Commission (2002b) *Regular Report Latvia*; http://ec.europa.eu/enlargement/archives/key_documents/reports_2002_en.htm
- Gelazis, N.M. (2004) 'The European Union and the statelessness problem in the Baltic states', *European Journal of Migration and Law* 6(3): 225–42.
- Grabbe, H. (2006) *The EU's Transformative Power. Europeanization through Conditionality in Central and Eastern Europe*, Basingstoke: Palgrave.

- Hoffmeister, F. (2004) 'Monitoring minority rights in the enlarged European Union', in G. Toggenburg (ed.), *Minority Protection and the Enlarged European Union: The Way Forward*, Budapest: LGI Books, pp. 85–106.
- Hughes, J. (2005) 'Exit in deeply divided societies: regimes of discrimination in Estonia and Latvia and the potential for Russophone migration', *Journal of Common Market Studies* 43(3): 739–62.
- Hughes, J. and Sasse, G. (2003) 'Monitoring the monitors: EU Enlargement conditionality and minority protection in the CEECs', *Journal on Ethnopolitics and Minority Issues in Europe* 1: 1–36.
- Hughes, J., Sasse, G. and Gordon, C. (2004) *Europeanization and Regionalization in the EU's Enlargement to Central and Eastern Europe. The Myth of Conditionality*, Basingstoke: Palgrave.
- Jacoby, W. (2004) *The Enlargement of the European Union and NATO. Ordering from the Menu in Central Europe*, Cambridge: Cambridge University Press.
- Kelley, J. (2004) *Ethnic Politics in Europe. The Power of Norms and Incentives*, Princeton, NJ: Princeton University Press.
- Kolsto, P. (2002) *National Integration and Violent Conflict in Post-Soviet Societies: The Cases of Estonia and Moldova*, Oxford: Rowman & Littlefield.
- Latvian Language Law (1999) <http://unpan1.un.org/intradoc/groups/public/documents/UNTC/UNPAN018409.pdf>
- Latvian Naturalization Board (2007) http://www.np.gov.lv/index.php?en=fakti_en&saite=residents.htm; http://www.np.gov.lv/en/faili_en/stat_angl.xls
- Ministry of Foreign Affairs for the Republic of Latvia (2005) 'Societal integration in Latvia: Towards mutual understanding and cooperation', 2 June; available at <http://www.mfa.gov.lv/en/news/Newsletters/Integration/45/>, accessed on 20-06-08.
- Norgaard, O. (ed.) (1996) *The Baltic States after Independence*, Cheltenham: Edward Elgar.
- Pabriks, A. (2002) *Occupational Representation and Ethnic Discrimination in Latvia*, Soros Foundation Latvia: Nordik Publishing House.
- Poleshchuk, V. (2002) *Estonia, Latvia and the European Commission: Changes in Language Regulation in 1999–2001*; <http://www.eumap.org/journal/features/2002/jan02/languageereg>
- Sasse, G. (2005a) 'EU conditionality and minority rights: translating the Copenhagen criterion into policy', *EUI Working Paper RSCAS No. 2005/16*.
- Sasse, G. (2005b) 'Securitization or securing rights? Exploring the conceptual foundations of policies towards minorities and migrants in Europe', *Journal of Common Market Studies* 43(4): 673–93.
- Sasse, G. (2006) 'The political rights of national minorities: lessons from Central and Eastern Europe', in W. Sadurski (ed.) *Political Rights under Stress in 21st Century Europe*, Oxford: Oxford University Press, pp. 239–82.
- Schimmelfennig, F. and Sedelmeier, U. (eds) (2005) *The Europeanization of Central and Eastern Europe*, Ithaca, NY: Cornell University Press.
- Schimmelfennig, F., Engert, S. and Knobel, H. (2003) 'Cost, commitment and compliance: the impact of EU democratic conditionality on Latvia, Slovakia and Turkey', *Journal of Common Market Studies* 41(4): 495–518.
- Schwellnus, G. (2001) "'Much ado about nothing"? Minority protection and the EU Charter of Fundamental Rights', *Constitutionalism Web-Papers (ConWEB)* 5, available at <http://www.bath.ac.uk/esml/conWEB/current.htm>
- Schwellnus, G. (2006a) 'Looking back at ten years of EU minority conditionality vis-à-vis Central and Eastern European candidate states', *European Yearbook of Minority Issues* Vol. 4, 2004/05: 321–40.
- Schwellnus, G. (2006b) 'Double standards? Minority protection as a condition for membership', in H. Sjursen (ed.), *Questioning Enlargement: The EU in Search of Identity*, London: Routledge, pp.186–200.

- Sedelmeier, U. (2008) 'After conditionality: post-accession compliance with EU law in East Central Europe', *Journal of European Public Policy* 15(6): 806–25.
- Toggenburg, G. (ed.) (2004) *Minority Protection and the Enlarged European Union: The Way Forward*, Budapest: Local Government and Public Reform Initiative.
- Toggenburg, G. (ed.) (2006) 'A remaining share or a new part? The Union's role vis-à-vis minorities after the enlargement decade', *EUI LAW Working Papers* No. 15.
- Vachudova, M.A. (2005) *Europe Undivided. Democracy, Leverage and Integration after Communism*, Oxford: Oxford University Press.
- Vermeersch, P. (2003) 'EU enlargement and minority rights policies in Central Europe: explaining policy shifts in the Czech Republic, Hungary and Poland', *Journal on Ethnopolitics and Minority Issues in Europe* 1: 1–32.
- Vermeersch, P. (2004) 'Minority policy in Central Europe: exploring the impact of the EU's enlargement strategy', *The Global Review of Ethnopolitics* 3(2): 3–19.
- Wiener, A. and Schwellnus, G. (2004) 'Contested norms in the process of EU enlargement: non-discrimination and minority rights', *Constitutionalism Web-Papers*, No. 2.