

## **Policy Brief: The Working Group on the Western Balkans**

*Although the EU and the US agree that the long-term goal for the Western Balkans is European integration, progress has stalled. This series of working group meetings aims at launching a discussion on the hurdles to enlargement in the Western Balkans, the tools available to various international actors in the region, and how these resources might best be applied to reach the goal of integration most efficiently. These meetings, therefore, address issues that are at the core of the making the Transatlantic relationship work.*

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### **Policy Brief from Meeting V: Reinforcing EU Conditionality**

According to the logic of conditionality, the promise of membership is the key incentive that compels politicians to implement difficult reforms, and it is the EU's main tool in the accession process. For many reasons, however, conditionality is not working in the Western Balkans in the same way it had in previous enlargements.

The factors that weaken EU conditionality in the Western Balkans stem from the legacies of war, which created unfinished states and bilateral problems with neighboring countries. The post-conflict intervention seems to put the international community in charge of implementing reforms, and local politicians neither feel the pressure to meet the EU's conditions, nor the responsibility for failing to adopt reforms. Even in countries that do not have issues of sovereignty, the prolonged period of enlargement has allowed local politicians to bide their time and continue to profit from current institutional arrangements. Instead, their political skills are put to use manipulating facts so that the EU itself is blamed for their lack of progress.

The difficulty and complexity of the accession process, the EU's on-going economic crisis (and related internal discord), and the perception that the EU is ambivalent about enlarging to the Western Balkans may have made membership somewhat less attractive. These and other factors have caused leaders in the region to look to other actors, such as Russia, Turkey and even the United States for alternative visions. Moreover, the experience of countries that have been successful in achieving EU membership is not always attractive. Leaders in the Western Balkans see that their one-time colleague, former Prime Minister Ivo Sanader, is now in prison on corruption charges and do not want to join him. It is important to realize that not everyone in the region wants transparency and the rule of law.

To address these weaknesses, the EU and the U.S. should collaborate more closely in order to reinforce conditionality, or to find new tools and incentive structures that will help to bring the countries of the Western Balkans back on the path toward the EU.

The Commission is well aware of the limitations of conditionality from previous enlargements and has already made adjustments that address the unique context of the Western Balkans. The Commission has expanded the number of steps in the process—offering interim carrots for specific reforms—in order to strengthen the EU’s leverage during what is sure to be a protracted period of enlargement. Once countries become official candidates, they must now meet certain conditions before negotiation chapters are opened, and new benchmarking procedures ensure that there is no backsliding in adopting or implementing reforms. New sub-conditions introduced by the Commission, such as the Stabilization and Association Process and visa liberalization, have not only brought intermediate rewards to countries in the form of aid and visa-free travel, but also proved to leaders in the region and their constituencies that meeting EU targets is, in fact, possible.

EU conditionality has been identified as the only reason that Croatia and Serbia eventually cooperated with the International Criminal Tribunal for the former Yugoslavia (ICTY), which seems to support claims that this leverage remains strong. Yet this apparent success also shows how complicated conditionality has become: the requirement for ICTY cooperation has been so politically charged that at times, it has seemed to undermine the policy, since constituencies felt that they are forced to choose between protecting their nation and joining the EU. Moreover, measuring ICTY cooperation became difficult, as individual EU member states bickered over their different standards, which made the process seem arbitrary and deeply political, rather than merit based. This feeds the perception in the region that EU conditions are unreachable because they change over time, and that they do not have any control over this process.

EU conditionality is based on the legitimacy of the conditions, which stem directly from the EU acquis. This legitimacy is undermined when conditions are not applied coherently or consistently. Yet, the Commission has lowered its standards at certain times, in an effort to help the countries of the Western Balkans make progress on the path to membership. This was clear when the EU allowed Bosnia to move forward in the process despite the largely theatrical adoption of a gutted version of police reform. In some cases, however, the Commission’s attempts to cater to the unique situation in the Western Balkans have actually weakened its leverage. Lowering standards in order to increase the pace of progress gives the impression that making progress on the accession track is more important to EU officials than it is to accession countries.

Lowering standards has also damaged the credibility of the EU’s local partners. When Bosnia was allowed to enter into the Stabilization and Association Agreement, the EU undermined the work being done by civil society activists who were joining the EU in applying pressure on local leaders to adopt the police reform. When the EU released leaders from the obligation to adopt difficult reforms, civil society actors ceased to be

credible to politicians, who now feel that civil society can be safely ignored. Adjustments to EU conditionality should now focus on recreating the credibility of local actors allied with the goals of the international community.

To a great extent, EU conditions remain invisible to the public. In Montenegro, for example, relatively quick progress in adopting EU norms cannot be linked with visible improvements in state functioning or how it delivers public goods. Strengthening conditionality, therefore, should involve linking progress with public campaigns explaining what changes have been made and why. The Commission's Regular Reports already include this information, and they could be used by domestic and international actors to help make this process more transparent.

Leverage outside of EU conditionality should also be considered as a way to add pressure on leaders to adopt difficult reforms. International actors act independently from each other, which gives more power to local leaders since they alone seem to have all of the information about the different development aid projects, investments, and loans that come from the international community. Political leaders in the Western Balkans use these resources to support their political machines and insulate themselves from EU conditionality. Sharing information between international donors and financial institutions could help to reveal the incentives that are driving elite behavior in the Western Balkans, and allow the EU and U.S. to devise more tailored short-term priorities for each country. Ultimately, the value of speaking with one voice is that it strengthens the EU's negotiating position vis-à-vis the leaders of the Western Balkans.

Negotiations between the international community and intransigent leaders in the region should consider the incentives that are driving their behavior. Many people involved in the public sector fear losing their jobs when the EU requires states to streamline institutions and improve efficiency, and therefore do not feel an urgency in supporting or helping to implement reforms. Yet, EU accession involves building state capacity, which promises to create as many jobs as it eliminates. More transparency about the process of enlargement would help to clarify what new capacities a state must develop, and could reassure public sector employees that their support for reforms will benefit them directly. Opposition leaders would also be interested to know how EU accession conditions might help to break political machines and reopen electoral competition.

The success of the visa liberalization policy offers a clear template for how to strengthen conditionality. The policy offered a limited set of conditions that were legitimate; had the support of all EU member states, which could contribute to the process individually; and publicized the road map, so that the process was transparent. Even if it proves difficult to recreate discrete policy initiatives along this template, any one of the elements that made the policy successful could be applied to the process currently in place. For example, the EU could issue background documents and translations of EU reports to civil society institutions so that they have a better idea what their elected officials are supposed to do.

Increasing transparency at the regional level could improve understanding of the accession process as whole and its elements for all the countries in the Western Balkans.

For example, if Montenegro is the next country to open negotiation chapters, its progress should be explained not only to Montenegrins, but also to Bosnians and Kosovars, who may have to wait a few years before they can participate in the process. In this way, countries that are further behind can still feel that they are part of the entire region's progress toward European integration and will be at an advantage when their turn comes to actively engage with a process that has become more familiar to them.

In reinforcing its leverage in the Western Balkans, the EU and U.S. must walk a tightrope to determine how to deepen conditionality without forestalling enlargement, and how to make conditions more flexible without damaging its legitimacy. EU conditionality is based on checking that laws and institutions conform to EU norms. This checklist approach is far from sufficient to building a democratic, rule of law system, and it is important to be humble about the limits of this policy. At the same time, the EU should remember that the goal of this policy is to build democratic states that serve the interests of their citizens. In that sense, the policy must be made to be more ambitious and reach out to a wider pool of people in order to gain credibility and support for the enlargement strategy.