



## THE LIMITS OF EUROPEANIZATION ‘FROM WITHOUT’: IS THERE AN EU-DRIVEN DEMOCRATIZATION PROCESS IN SERBIA?<sup>1</sup>

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### Abstract:

The enlargement strategy became an influential tool in promoting the process of Europeanization of the CEES, by providing different mechanisms to the EU in order to influence the democratization outcomes of the new formed states. The process of “Europeanization from the outside” endows EU institutions with important power which attracts the states that are seeking democratic changes. As a method of “Europeanization from without”, the conditionality principle offered a great opportunity of spreading democratic values broader across the continent, whilst creating the opportunity to build a common European identity based on shared democratic values. The question in stake is where the limits of this driving force lie and what is the relation between process of Europeanization of an outside state and its path through democratization process? The improvement of the quality of democracy comprises something more than the simple precondition for accession to the EU.

**Keywords:** Europeanization; enlargement; democratization; transition; Serbia and Montenegro.

### Resumen:

*La estrategia de ampliación se convirtió en un instrumento influyente en la promoción del proceso de europeización de los países de Europa Central y Oriental (CEES en sus siglas en inglés), proveyendo diferentes mecanismos a la UE para poder influir en los resultados de la democratización en los estados recién formados. El proceso de “Europeización desde fuera” otorga a las instituciones de la UE con un poder significativo que atrae a los estados que están buscando cambios democráticos. Como método de “Europeización desde fuera”, el principio de condicionalidad ofrecía una gran oportunidad para extender los valores democráticos más ampliamente en el continente, mientras se crea la oportunidad de construir una identidad europea común basada en valores democráticos. La cuestión a debate es donde se encuentran los límites de esta fuerza motora y cuál es la relación entre el proceso de Europeización de un estado ajeno a la Unión y su curso a través del proceso de democratización. La mejora de la calidad de la democracia comprende algo más que una simple precondition para el acceso a la UE.*

**Palabras clave:** Europeización; ampliación; democratización; transición; Serbia y Montenegro.

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## Introduction

It has been noticed during the last decade that the process of europeanization had a far reaching impact not only on the member states but also on the 'outside of the Union' states that are seeking democratic changes within a broader, comprehensive and historically unique political system like the EU, capable of recomposing and reorganizing national sovereignty around a multilevel and multicentric system of governance. It is widely accepted that the attractiveness of EU membership works as a great leverage for transformation of those states that are opting for inclusion offering opportunity to the EU member states and institution to be one of very important driving forces for domestic polity and policy changes. But where the limits of this driving force lie? Or in other words, to what extent the actions and decisions of the EU concerning a third (potential member) state can create (more or less) positive incentives for transformation at the domestic level and in the particular EU's way?

This specific characteristic of the EU to be leverage -either passive or active<sup>3</sup> - is derived from the EU's possibility to enlarge altogether with the strong desire of a third country to be included. It offers an opportunity of being a vehicle for democratization and political transformation in the countries that are trying to build and consolidate new, democratic norms and values in their domestic systems. Nevertheless, the efficacy of this transformative power of the EU is relying on the question whether there is a consistent, substantial and effective strategy for the transition of these new founded political systems to the contemporary democracy. Even if such a strategy exists, it remains a question whether the europeanization process can be considered amongst the most important driving forces of domestic democratization process. What kind of relation exists between the processes of europeanization and democratization and mainly to what extent the former influences the democratic behavior of the political system of an associated country.

Two different sets of research issues can be raised when we observe impact of the EU on democratization process of the third country through the perspective of Europeanization "from without". First set is determination of democratic norms and values defined and consolidated in the EU. Second is finding EU mechanisms used for general incorporation of these democratic values in new political orders of states that can be considered as potential future members of the Union. However, the aim and the scope of this paper is less broad than examining the overall process of europeanization 'from without' in terms of its utility over the democratization process of an outside EU country. It is more to turn the spotlight on the prospect of spreading common European democratic norms and values wider to the states that will some time in the future become members of the EU. More precisely, it is to present the process of europeanization 'from without' and its main parameters and mechanisms that provide an opportunity of an EU driven building of a democratic identity.

The paper is separated in two parts. The first part of the paper examines the European notion of its democratic identity and the whys and the wherefores of the EU involvement in the external promotion of these democratic values more widely to the European continent. In accordance to this, the conditionality mode of governance of 'beyond EU states' as the main method of imposing adaptation pressure on these states is further explained together with its specific mechanisms that the EU applies to the countries that could be future members of the Union. Furthermore, in the first part how the europeanization paradigm is applicable to the outside states -what I called europeanization 'from without'- will be examined. The second

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<sup>3</sup> For notion of the EU as leverage see Vachudova, Milada (2005): *Europe Undivided .Democracy Leverage and Integration after Communism*, Oxford, Oxford University Press.



part of the paper analyses the application of the EU enlargement strategy but also of the mechanisms of europeanization in the case of Serbia. The second part of the paper examines the EU involvement in the process of the reorganization of the common State Union of Serbia and Montenegro (SM) as a paradigm of the europeanization strategy. The paper concludes with an evaluation of the EU strategy on Serbia in relation to the prospect of the europeanization and democratization.

## **1. Europeanization ‘from without’: assumptions, presuppositions and compliance**

### **1.1. European Union as a democratic promoter**

The European Community’s (EC) (external) promotion and (internal) protection of the democratic norms and values in a broader sense on the European continent come as a result of a twofold process. On the one hand, there was an outside catalyst –international systemic changes –reaction to external factors caused at first by the overthrow of Mediterranean authoritarian regimes and latter with the fall of communism in Central and Eastern Europe (CEE) and on the other hand an internal evolution that reinforced its development. Until that time “the mentions to the democracy as a fundamental basis of the EU have their grounding in what is considered the common constitutional tradition of the member States”<sup>4</sup>. Despite that EC did not make political and thus democratic conditionality the cornerstone of an enlargement strategy, prospect of inclusion of Greece and the Iberian countries into the EC brought democracy issues in the centre of the discourse. The Birkelbach Report (1962) was the crucial first step towards declaring democracy a necessary condition for membership. Actually the Report did not explicitly refer to democratic conditionality but to membership in the Council of Europe as a precondition to membership in the EC. It remained though an essential step to the development of democratic conditionality.

A turning point in establishing democratic conditionality was the Community’s response to the Greek coup (1967), when the suspension of the Greek Association Process was decided with the limitation of the Association to its “current administration” (*gestion courante*)<sup>5</sup>. The interesting fact here is that the Athens Agreement did not provide any legal basis for responding to democratic threat, apparently lacking in democratic conditionality. However, although the process of association did not result in unambiguous democratic conditionality, democratic consolidation of three Mediterranean countries was the outcome of active membership in the EC. In other words, although democratic conditionality during the process of association of the Mediterranean states was reluctant and “illustrated various patterns and problems relating to DC [democratic conditionality]”<sup>6</sup>, integration of these three states today is considered to be the most successful in terms of offering a major opportunity to new

<sup>4</sup> Burchil, Richard, (2003): “International Law on Democracy and the Constitutional Future of the EU: Contributions and Expectations”, *Queen’s Papers on Europeanization*, No3, at <http://www.qub.ac.uk/schools/SchoolofPoliticsInternationalStudiesandPhilosophy/FileStore/EuropeanisationFiles/Fileupload.38411.en.pdf>

<sup>5</sup> Charitos, Spyros (1981), *Σύνδεση της Ελλάδας με την ΕΟΚ*, Αθήνα. See also Verney, Susannah: “Political Conditionality and the Quality of Democracy: The Case of Greek Association and Accession to European Community”, in Haluk, Kabaalioglu; Dartan, Muzaffer M.; Akman, Sait and Nas, Cigdem (eds) (2005): *Europeanization of South-Eastern Europe: domestic Impacts of Accession Process*, Istanbul, Marmara University, European Community Institute, pp.79-80.

<sup>6</sup> Pridham, Geoffrey (2005): *Designing Democracy, EU Enlargement and Regime Change in Post-Communist Europe*, London, Palgrave, pp. 34.



member states for stabilization and consolidation of their democracy. Despite various shortcomings<sup>7</sup>, it is widely acknowledged today that the inclusion of three Mediterranean states in the EC established positive internal mise-en-scène for domestic democratic stabilization.

However, the Mediterranean enlargement case was only an overture to global systemic changes that were then announced but took place almost two decades later (beginning of '90), when the EC had to deal with growing inclusion pressures that followed the fall of communism and a wider liberalization process in the continent. The newly founded situation created a major internal need for the stipulation of an enlargement strategy. Moreover, the changing direction and dimension of the European integration process created new demands concerning the enlargement strategy. The issue at stake was not only to manage the external inclusion pressures but also to protect and preserve the foundation values on which the European integration was based<sup>8</sup>.

The Maastricht Treaty (TEU) shifted the European integration paradigm from 'politics to polity' and from 'diplomacy to democracy' and the foundation of the EU political system were established, thus making Treaty-based strengthening of criteria imperative in order to govern the future enlargement process as the existing structures were insufficient to support both the internal evolution processes of the EU system and the external environmental changes. In the past, any "European" state was entitled to apply for a membership in Communities according to the Coal and Steel Community Treaty (and later European Economic Community and Euratom). Neither the European Single Act (1986) nor the TEU did they make new provisions for that, as "the Treaty instruments previously in force had prepared a solid base for the future enlargement regulation"<sup>9</sup>. It was only the Amsterdam ICG agenda that was stimulated by a growing awareness and sensitivity for democracy and basic values of the EU which was provided by the previously set of conditions for membership at Copenhagen European Summit (1993)<sup>10</sup>. Subsequently, the breaking point in extending Pax Europea was the Amsterdam Treaty text in which Art. 49 (considering enlargement criteria) was explicitly connected with Art. 6 of the TEU, so "any European state which respects the principles set out in Article 6(1) may apply to become a member of the Union". Art. 6 of the TEU lists those principles –liberty, democracy, respect for human rights and fundamental freedoms and the rule of law –which are considered to be common to all member states and are supposed to be protected by any new member.

During the '90 the EU has developed considerably more coherent view on its enlargement policy and practice as well as better crystallization of what the EU (western) democratic tradition was. Being that, the EU secured its values but at the same time more coherently became a catalyst for transformation of countries of fallen communism. Respect of protected democratic values immediately became first condition to satisfy in order to interact with the EU. The quality of democratic setting in a third country became fundamental priority.

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<sup>7</sup> *Ibid.*, pp.24-25.

<sup>8</sup> Smith, Karen: "The Evolution and Application of EU Membership Conditionality", in Kremona, Marise (ed) (2004): *The Enlargement of the European Union*, Oxford, Oxford University Press, pp. 106-109.

<sup>9</sup> Kochenov, Dimitry: "EU enlargement Law: History and Recent Developments: Treaty – Custom Concubinage", *European Integration online Papers (EIoP)*, vol. 9, n° 6, (2005) at <http://ssrn.com/abstract=704381>

<sup>10</sup> de Witte, Bruno: "The Impact of Enlargement on the Constitution of the EU" in Kremona, Marise (ed) (2004): *The Enlargement of the European Union*, Oxford, Oxford University Press, pp.210, 228.



## 1.2. Decoding Political Conditionality as a method of the europeanization ‘from without’

In order to apply a coherent enlargement strategy to the CEES, member states at the Copenhagen European Council (1993) have set conditionality (political –stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities; economic –functioning market economy, as well as the capacity to cope with competitive pressure and market forces within the EU; and *acquis* –the ability to take on the obligations related to membership, including adherence to the aims of political, economic and monetary union) as a cornerstone of it introducing a new mode of governance of the CEES –the conditionality. Conditionality, as applied to the Copenhagen Criteria (CC), became instrumental in stimulating domestic changes in the target states as it obtains its dynamism from the aspiration of eligible countries to be included ‘in the club’. Nevertheless, the CC, despite aiming at the codification and clarification of the accession criteria, raised the new question of hierarchy of the criteria. At the time, it was not clear to the candidate countries precisely what requirements should they meet, and what exactly the EU demands were. It was the Amsterdam treaty that set the political thus the democratic criterion as the precondition for applying for membership and for the opening of the negotiation process. The ambiguity of the criteria was boosted further by a lack of clarity in these requirements. Even today, the exact context of the democracy requirements of the EU is pretty vague. The Agenda 2000, as agreed at the Berlin European Council (1999)<sup>11</sup> was to bridge this gap together with the preparation of the EU for the major project of enlargement. As Karen Smith summarized, according to the agenda 2000, a fully functioning democracy is indicated by<sup>12</sup>:

- 1) The fact that the constitution must guarantee democratic freedoms, such as political pluralism, the freedom of expression, and the freedom of religion,
- 2) Independent judicial and constitutional authorities,
- 3) Stability of democratic institutions permitting public authorities to function properly,
- 4) The holding of free and fair elections, the recognition of the role of opposition,
- 5) Respect for fundamental rights as expressed in the Council of Europe’s Convention for the Protection of Human Rights and Fundamental Freedoms (including acceptance of the protocol allowing citizens to take cases to the European Court of Human Rights), and
- 6) Respect for minorities, which includes adoption of the Council of Europe’s Framework Convention for the Protection of National Minorities, and Recommendation 1201 of the Council of Europe’s Parliamentary Assembly.

Additionally, the criterion of ‘good neighborliness’ has been set at the Helsinki European Council (1999), noting the willingness of a country to cooperate with its neighbors and resolve their disputes peacefully.

Furthermore, clarification of the country-specific and *ad hoc* development of criteria can be found in the Annual Reports submitted by European Commission, designed to support monitoring the progress of the process of the candidate countries.

<sup>11</sup> Presidency Conclusion, Berlin European Council, 24-25/03/1999.

<sup>12</sup> Smith, *op. cit.*, p.116.



Thereafter, conditionality became the most influential tool in the attempts for the convergence of democratic values of the states that are in close neighborliness with the EU and to which the prospect of inclusion is acknowledged.

### **1.3. The pattern of the Europeanization ‘from without’ . Basic assumptions**

The aim of this considerably large list of membership requirements, concerning democracy in the applicant state, is, on the one hand, to protect the common values of the member states which could be endangered by an enlargement with no or less democratic states, but also, on the other hand, to set conditionality as a method of Europeanization of the states that are not members. Despite generally looseness of the concept of the term europeanization, it becomes important because it indicates the impact of the EU on domestic changes. The ‘Europeanization’ of an outside country emanates from the top- down approach according to which the EU as a political entity influences in a certain way the outcomes in the domestic sphere. One can borrow Radaelli’s definition to describe processes that are underway as soon as a country becomes eligible. According to him the Europeanization is a “process of constriction, diffusion and institutionalization of formal and informal rules, procedures, policy paradigms, styles, “ways of doing things” and shared beliefs and norms which are first defined and consolidated in the EU policy process and then incorporated in the logic of domestic (national and subnational) discourse, of political structures and of public policies”<sup>13</sup>.

Despite not being new practice, europeanization through conditionality in the cases of associated countries differs from the same pattern when the member states are the case. One can easily distinguish two different patterns of Europeanization of a member state. Both are outcomes of active participation in the integration process. It is an outcome of interactive participation that is developed between the EU and its member states<sup>14</sup>. An EU member state benefits (explicitly or implicitly) from the change that occurs due to Europeanization process so it voluntarily adopts it in accordance to its implicit cost/benefit calculation. Many times though, the pressure for adaptation to the needs of the European integration requires from the EU institutions implementation of the carrot and stick method thus conditionality, where cost/benefit analyses get explicit characteristics. It is possible to see conditionality only through the logic of ‘sticks and carrots’ and the effectiveness of conditionality only as the efficacy of ‘carrot and sticks’ methods either it has implicit or explicit implications. But what is important here is that the ‘carrot and stick’ pattern is the outcome of the participation of a state in the European integration. This pattern is combination of bottom-up with top-down interaction simply because a member state is in the same time norm maker and norm taker. When the europeanization is taking place in a candidate country, this condition does not exist.

Conditionality as a mode of governance of states that are outside of the EU, aiming at the europeanization of their domestic systems in order to adapt to the European system of governance and achieve unimpeded participation, is a quite different mode than the one of conditionality of member states. First of all, it evolves as a process in a very uncertain

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<sup>13</sup>Radaelli, Claudio: “Europeanization of Public Policy”, in Featherstone, Kevin; Radaelli, Claudio. (eds) (2003): *The Politics of Europeanization*, Oxford, Oxford University Press, pp.10.

<sup>14</sup> See for more, Featherstone, Kevin: “Introduction: In the Name of Europe” in Featherstone, Kevin and Radaelli, Claudio. (eds) (2003): *The Politics of Europeanization*, Oxford University Press, Oxford, p3-26. also Olsen, Johan: “Many Faces of Europeanization”, *Journal of Common Market Studies*, vol. 40, n° 5, (December 2002) pp. 921-952 and George, Stephen; Bache, Ian (2005), *Politics in the European Union*, Oxford, Oxford University Press.



environment. One can consider many examples of uncertainty of the enlargement processes, starting with the determination of ‘a European country’ (popular in Turkish case but also in Ukraine, Belarus and Moldova cases) and going further to defining the time of candidacy acceptance, or even to defining the time of the full integration of a country etc. Although the EU has developed its enlargement policy prominently, the overall process is relying not only to the unbiased fulfillment of conditions but also to the political decisions of the EU, increasing therefore considerably the level of uncertainty of an enlargement process. As uncertainty grows the dynamics of Europeanization ‘from without’ may weaken.

The uncertainty level is emphasized by another mode of governance of the outside countries –the asymmetry, which originates from the generic framework under which the enlargement takes place. The EU is the one that is the only ‘norm maker’ as much as the ‘outside’ country is opting for inclusion and not the opposite. The EU sets conditions, frameworks, timetables etc, while the third country only accepts them. This places the third country simply in the position of a ‘norm taker’. This ‘norm maker-taker’ mismatch relation between EU and an outside country offers a great positioning advantage to the EU, but can seriously endanger the perspective of EU’s influence improvement on domestic political systems as it can produce several negative conditions, such as (not exclusively): a) An outside country can see it as a reduction in its sovereignty (different from sovereignty issues of member states) so it is possible to react negatively, b) The enlargement intentions of the EU can lose their credibility due to misinterpretation of the imposed conditionality, and c) The imposed conditionality or strategy might not address the needs of a country.

These conditions, if applicable, affect the prospects of Europeanization ‘from without’ that can vary from the reduction in positive dynamic of the EU influence to the creation of a “reactive identity” that is broadening the gap in the “us-them” relationship where ‘them’ are opponent.

Conditionality and asymmetry are the most influential modes of the Europeanization ‘from without’ process that define the efficacy of the enlargement strategy aiming at adaptation of one state to the pressures of the EU in the direction of convergence, namely in terms of incorporating European democratic “formal and informal rules, procedures, policy paradigms, styles, “ways of doing things” and shared beliefs and norms”.

#### **1.4. The Mechanisms of Europeanization**

The Europeanization of an associate country is mainly conditionality-driven, but efficacy of the conditionality mode depends on the appropriate application of “carrot and sticks” methods and other means of exerting pressure on a state.

In the case of enlargement conditionality, the highest reward is the inclusion of a state in the EU, as the ultimate reward for compliance is full integration. According to Grabbe<sup>15</sup>, the most powerful mechanism of Europeanization of an eligible, associate or candidate state is the gate-keeping tool, where the EU allows, based on merit, access to the upper stages in the accession process. As Lippert, Umbach and Wessels noticed in the cases of CEES the influence of the EU on the system of governance was growing as the level of cooperation was

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<sup>15</sup> Grabbe, Heather, “Europeanization Goes East: Power and Uncertainty in the EU Accession Process”, in Featherstone, Kevin and Radaelli, Claudio.(eds) (2003): *The Politics of Europeanization*, Oxford, Oxford University Press, pp. 316-317.



shifting –starting from the minimalist impact during the 80’s and reaching its peak during the negotiation process of accession<sup>16</sup>.

Additionally, the EU developed different kinds of mechanism in order to reinforce compliance with the conditions. This mechanism can be listed (not exclusive) as:

1) The norm promotion, which is the criteria themselves that could be used as a “road map” for transformation,

2) The monitoring process that is used for clarification and differentiation of a country’s specific needs and, furthermore, as an opportunity for “public shaming” (in case of negative feedback) or of promotion of the membership application (when positive developments occur)<sup>17</sup>. At the domestic level Reports outcomes can foster domestic change offering either the excuse for the implementation of politically costly choices or the confirmative support for what is ‘already done’,

3) The interim incentives, such as financial aids, further liberalization of the EU market for the associate country, ‘upgrading’ relations (e.g. as in case of CEES from candidate country to associate partnership).

4) The practical and technical support through advising and twinning programmes with aims, such as capacity building, transferring of know-how, learning, establishing transnational networks etc.

All these tools can be implemented in positive terms, as a carrot, or otherwise, negatively if compliance is impeded, as a stick. Moreover, the compliance to EU rules relies on effectiveness of those mechanisms that should be enforced adequately in terms of proportionality (balance between “carrot and stick”) and appropriateness (addressing specific transitional needs of a country).

### **1.5. Compliance and non compliance**

It may be useful to distinguish three phases of association process in order to test the importance and utility of different mechanisms applied in those different stages in order to enhance the prospect of rule compliance in a third country. Even though the importance of the mechanisms applied in total and in every stage is undoubted, I argue that some of those have stronger influence in a particular stage of cooperation than in other. Table 1 presents the congruence between different levels of cooperation and the importance of the imposed mechanism in every particular stage mainly in terms of appropriateness and proportionality.

At the eligibility level, the hypothesis is that the EU has acknowledged the eligibility status to an outside state, meaning that the country is eligible to apply for membership as soon as the conditions are fulfilled or, more specifically, it is eligible to apply and start negotiations when democratic (political) conditions are met. This refers to the oldest precondition of accession which stipulates that inclusion is preserved for “any European state”. I argue that

<sup>16</sup> Lippert, Barbara; Umbach, Gaby; Wessels, Wolfgang. : “Europeanization of the CEE Executives: EU membership Negotiation as a Shaping Power, *Journal of European Public Policy*, vol. 8, n° 6, 2001, pp. 988-1012.

<sup>17</sup> See Verney, *op.cit.*, p.72.



this level is highly politicized for one important reason. The context of the meaning “European state” is not explicitly defined, thus offering space for politically interference decisions. It is up to the EU institutions and member states to offer an eligibility status to a state, which relies on the implicit understanding of the adjective ‘European’. It is a political decision on eligibility that puts a country on the EU track and offers the prospect for greater EU pressure imposed on democratic transition. It is though relying on the political determination of where the EU’s boundaries lie.

**Table 1**

	<b>Eligibility level</b>	<b>Partnership level</b>	<b>Associate/Candidate level</b>
Major Essence of the stage	Highly politicized stage – political decisions play the most important role (convergence)	Conditionality Stage – conditionality plays the most important role as a country opts for inclusion	Technical Stage – if negotiation process smoothens the de-politicization of the process (irreversibility)
External Actor	Preconditions: Status of persuader  Identity match	Preconditions: Sizable carrot  Real stick	
	Consistency of the promise  Gate keeping  Monitoring process + norm promotion  Soft conditionality should be used	Interim incentives  Monitoring process + norm promotion  Gate keeping  Technical support	Practical and technical support in implementing <i>acquis</i>  Gate keeping
Domestic Arena	Democratization process undergoing	Stabilising Democracy	Assimilation of Democratic Values – Consolidation of democracy

While undergoing this process, we can notice two strong preconditions for maximizing the outcome of the European engagement in the domestic democratization process: that is the status of persuader and the identity or –as noticed elsewhere –cultural match<sup>18</sup>. Status of

<sup>18</sup> Kubicek, Paul (ed.) (2003): *The European Union and Democratization*, London, Routledge.



persuader implies what Emerson and Noutcheva called the ‘democracy gravity model’<sup>19</sup>, where the existence of a democracy, in reference to the world together with the reputation quality and the attractiveness of that democracy, create a positive environment in which the prospect for democratization of a country could be reinforced. Furthermore, identity match refers to the cultural but also to the historically designed values proximity with those of the EU. Combination of these two prerequisites could be, for instance, recognised in the “return to Europe” claim of the CEEC. Many of them had to remember or ‘to be reminded of’ historical moments when they were not only part of but also shared what today is called common European heritage. Even if the argument “return to Europe” in some cases is not plausible and powerful, the strong persuasive democratic image of the EU together with the gap created by the fall of previous regimes may be a sufficient driving-force for internationally-driven domestic changes. In the vague environment of this premature stage of accession process, the most important incentive the EU can implicitly offer is the consistency of its promises for future inclusion. Nevertheless the uncertainty usually prevails at this level more than in any other further stage. As the level of credibility of promises increase domestic support also increased, and the rule adoptions became more likely<sup>20</sup>. In order to maximize eagerness for rule adoption the credibility of outside actor should be also linked with the domestic consensus and aspiration for inclusion. The eligibility status is offered by the EU to the states that have just passed critical juncture and started transition and are on democratization path. This is the point where those states are trying to solve Offe’s ‘simultaneity dilemma’<sup>21</sup>, where “every aspect of the state and society had to undergo far-reaching reform at the same time, all within a context of scarcity of resources (both political and economic)”<sup>22</sup>. Introducing specific conditionality at this moment by a influential external factor that rely on credible promise of inclusion can be value additional as it is the strong incentive for persistence on reform process. Furthermore concerning this stage, it is of paramount importance that the EU actions address adequately specific needs of the third country. Possible misfit between the EU and the third country’s priorities can have negative impact either on status of persuader or on will or ability of the country’s elite to proceed with reforms depicted by the EU.

The norm promotion and monitoring process at this early stage initiate the process of Europeanization as a first attempt to foster (where existing) or to create (where not) domestic democratic changes and transformations. Tough conditionality imposition at this level can prove to be less effective in cases where historical references to the democratic tradition of the state and its society are missing.

Nonetheless, if progress at this stage is acknowledged and the EU promise is realistic, then it is time to ‘upgrade’ the cooperation at Partnership level as an interim incentive where conditionality mode of ‘extended-beyond-EU-boundaries’ governance plays the most important role. At this level, domestically, the transition is well undergoing, the new political and democratic order is introduced and the state is in the phase of stabilising its democracy.

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<sup>19</sup> Emerson, Michael and Noutcheva, Gergana: “Europeanization as a Gravity Model of Democratization”, paper presented at the conference of the Center for Democracy, Development and the Rule of Law, “Promoting Democracy and the Rule of Law: EU and USA Strategies and Instruments”, (2004).

<sup>20</sup> For cost/benefit analyses see Schimmelfennig, Frank and Sedelmeier Ulrich, (2005): *The Europeanization of Central and Eastern Europe*, London, Cornell University Press, p.33.

where they noticed that “credibility [is] a necessary but not sufficient condition”)

<sup>21</sup> Offe, Claus: “Capitalism by Democratic Design? Democratic Theory facing the Triple Transition in East Central Europe, *Social Research*, vol. 58, n° 4, (1991), pp. 865-81.

<sup>22</sup> Vejvoda, Ivan: “Serbia after four years of transition”, *Chaillot Paper*, n° 70, (2004), Institute for Security Studies.



At this critical moment, the whole EU toolkit available for the straightening of the democratization process should be used simultaneously accompanied by the “carrot” of membership and implementation of real “sticks”. Concerning external actor activity, the precondition for this level to be effective is the evident prospect of accession but also the willingness to make use of a real stick. In order to fortify the undergoing domestic democratization process, the EU should have a consistent and coherent policy over the potential member state. If highly political decisions do not interfere in the process of conditionality (as it occasionally happened in the past –e.g. Bulgaria, Romania) the prospect for success at this stage is growing. It is important that such states should not recognise the willingness of the EU to offer a discount in conditionality implementation, guided by the political decisions, as this can offer them an opportunity for reluctance in the rule\_adoption process.

The negotiation process is the last, but not the least, level before the accession takes place. It is indicated by the (at least phenomenal) irreversibility of the process. It can be assumed at this level that the process can not go backwards and the membership could be taken almost for granted. That is why, in terms of democratic promotion and in comparison to the previous levels, the impact of the EU on democratic governance of the country is less likely. However, it also presupposes that the process of democratization is completed and that countries at this stage are consolidating their democracy. In other words, at this specific level the “carrot” (membership) becomes considerably bigger and less uncertain making the application of the “stick” less dynamic.

There are several reasons why Serbian case is interesting. First of all and obviously, because it is a country to which the EU has acknowledged the status of eligible country, therefore the mechanisms available for adaptation pressures are applicable. Secondly, the case of Serbia is particularly interesting for its turbulent democratization but also for its europeanization process. The Serbian democratization process differentiates itself from the recent examples of democratic transitions of Central and Eastern European Countries (CEES) for at least two reasons: the first is that the Serbian transition to democracy needs something more than solving what Offe called ‘simultaneity dilemma’ of transition<sup>23</sup>, as it was the case with CEES, but also supplementary to resolve its major problem of stateness namely defining its territory of sovereignty. Besides, Serbia has to go through a transition in terms of breaking with its recent past. Third and according to the previous, there are well founded doubts about the appropriateness of the EU strategy during the first six most difficult years of the transition. The main issues are if the EU should treat Serbia in the same way as the CEES as well as whether the political system of Serbia has reached yet the satisfactory level of maturity in order to comply smoothly with specific EU requirements.

## **2. European Strategy for Serbia – Narratives VS Reality**

### **2.1. From Conflict Resolution to Integration project**

During the Cold War era Yugoslavia was one of the communist countries the EU would prefer most for closer cooperation. However, within only 2 years from the communism fall in the Central and Eastern Europe the situation has changed. Dissolution of Yugoslavia grew from an ‘internal European-space problem’ to an ‘international catastrophe’ in only a few

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<sup>23</sup> Offe, *op.cit.*



months. Early EU response to the crisis proved to be immature. It is a quite common belief today that EU interference at the beginning of the crisis was not that of mitigation<sup>24</sup>. The Western Balkan area became the heart of violent conflicts and the country of Yugoslavia was disintegrating. As a consequence, the priority of the EU states on the Western Balkans was differentiated from that of CEES in the early '90's and was not considering any integration project but only crisis resolution and security issues. The former became the aim only of the late '90s EU - Western Balkan strategy. The main axes of the EU re-approaching the Western Balkan states after the turbulent decade of the '90s was to enforce security, good neighborliness and economic cooperation through the Balkan Regional Approach as agreed at the 1903<sup>rd</sup> Council Meeting General Affair 1996 as it was confirmed and conceptualized a year later<sup>25</sup>. But, under Milosevic's nationalistic guidance of domestic and internal affairs and in the eve of the Kosovo crises, the relation between the EU and Serbia had frozen again.

After the international isolation of the state which was followed by Kosovo crisis and the NATO air strike over Serbia, a new opportunity for EU-Serbia re-approaching was born under the "Stability Pact for South Eastern Europe". The Stability Pact (SP) was actually a political initiative aiming at creating better cooperation between countries in the region, with the broader goal of the political and economic integration of the area in Europe and also the establishment of conditions for a lasting peace, security and stability in the region<sup>26</sup>. Serbia was accepted to SP at 26.10.2000, only a few days after ousting Milosevic from power. The latter –critical juncture in the Serbian political life –was acknowledged by the European Council of the same year, where it was decided to offer eligibility status to Serbia and Montenegro (SM).

Although the post crisis period was structured mainly around SP, a more evident prospect of inclusion promise was incorporated in the Serbian strategy of the EU –starting with the invitation of Kostunica to the European Council in Biarritz soon after his inauguration as the new President of the state and continued with the offering of the eligibility status, the opening of negotiations for the Stabilization and Association Agreement (SAA) etc. The key assumption underlying those steps was that the process of genuine democratization had started in the country and that the strong political will to tackle things according to the legacy of the previous regime was undeniable<sup>27</sup>. But this EU enthusiasm about prospects of democratization in Serbia led to the creation of a turbulent EU-Serbia relation soon after and proved to be immature at that time. One of the EU miscalculations was "the tendency to treat Serbia as just another Eastern European post-communist country in transition"<sup>28</sup>

## 2.2. Applying Initial Conditionality to Serbia

<sup>24</sup> Folk, Richard (1995): "Neuspeh u Evropi: regionalna bezbednost posle hladnog rata", Beograd, Institut za Evropske Studije.

<sup>25</sup> PRES/96/33, General Affair Council 1996 and PRES/97/129 General Affair Council 1997.

<sup>26</sup> (see also Kameron Fraser and Kintis Andreas: "Southeastern Europe and the European Union", *Journal of Southeast European and Black Sea Studies*, 1/2, 2001, pp 94-122 and Bellou, Fotini: "Η Ευρωπαϊκή Ένωση στη Νοτιοανατολική Ευρώπη: Από τη Διαχείριση Κρίσεων στην Ενσωμάτωση" in Tsinisizelis, Michalis and Xenakis, Dimitris (ed) (2006), *Παγκόσμια Ευρώπη; Οι Διεθνείς Διαστάσεις της Ευρωπαϊκής Ένωσης*, Αθήνα: Εκδόσεις Ι. Σιδέρη, pp. 433-460.

<sup>27</sup> Rupnik, Jacques: "Europe's Challenges in the Balkans, A European Perspective", *Readings in European Security*, London, CEPS, International Institute for Security studies, vol. 3, (2003), pp. 79-80

<sup>28</sup> International Crisis Group (2004): "Serbia's U-Turn", *Europe Report*, n° 154 (26 march 2004).



The first time the EU developed the principle of conditionality as a relationship mode with FRY (later Serbia and Montenegro) was in April 1997 at the 2003<sup>rd</sup> Meeting General Affairs Council in Luxemburg. Different levels of cooperation were offered to the countries of the region (without Association Agreements) such as autonomous trade preferences, assistance through PHARE and contractual relations based on a different set of conditions. Every progress in cooperation was linked with meeting new conditions (gradual approach). This set of ‘added’ conditionality is still attached to the conditionality list Serbia should meet today together with the CC.

This first conditionality approach to Serbia was the attempt to implement “softer conditionality” (compared to enlargement conditionality). However, with the absence of sizable ‘carrots’ the efficacy of conditionality was diminished as “the ‘carrot’ was far too small to make a difference”<sup>29</sup>. The first re-approach with the region after the violent dissolution of Yugoslavia (1990-1996) was not that of successful implementation of a ‘carrot’ and ‘sticks’ strategy<sup>30</sup>. Despite the question of (in)sufficiency of strategy and implementation of available tools at the moment, the Serbian state did not pass the critical juncture of abandoning its authoritarian regime, so any strategy would prove ineffective at the moment. In other words, the Serbian political system was not at a sufficient level of maturity in terms of democratization process to be able to take advantage of the re-approach with the EU. Besides, the oppressing politics of Milosevic’s nationalistic and authoritarian government over the media and basic democratic freedoms was a complementary puzzle to that of the miscalculated choices of the EU in the crisis of the country, international isolation and open-ended problems of the Serbian stateness and state identity that composed the picture of the international community as an hostile community giving the opportunity to domestic actors to develop opposing discourse against it. Any effort for re-approach was doomed to failure as the international environment was presented as a hostile one, intending only to suppress the rights of the Serbian nation. The Kosovo crisis was only to confirm that notion.

The aftermath of the fall of Milosevic’s regime blew fresh air in the EU- Serbia relations. Followed by President Kostunica’s invitation to Biarritz, a month later, at the Feira EU Council, Serbia (together with the rest of the Stabilisation and Association Process (SAP) countries) gained the status of a potential candidate for EU membership, which was endorsed at the Zagreb EU-Western Balkan Summit, but the real turning point in the EU-Serbian relations was the Thessaloniki EU Council in June 2003, where the EU perspective of SAP countries was confirmed. Under the procedure of SAP the EU established an Enhanced Permanent Dialogue with Serbia a month after the Thessaloniki Summit, which was actually upgrading the already existing EU-FRY Consultative Task Forces. Initiation and institutionalization of a bilateral political dialogue between EU- SM at foreign ministers level is considered to be an important tool in re-approach, familiarization and socialization of both sides in order to encourage the process of the SM faster integration with the EU. These EU steps demonstrated a new approach in the region, indicating the shift from the conflict resolution policy to the implementation of a closer cooperation and integration process.

The initiation of this pre-integration process was followed by both the fortification of the conditionality and the implementation of all available pressure tools for adaptation. Subsequently, the Council decision (June 2004) on establishing a European Partnership for SM was the next important measure to enhance cooperation with Serbia and to employ

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<sup>29</sup> Papadimitriou, Dimitris: “European Strategy in the Post-Communist Balkans”, *Journal of Southeast European and Black Sea Studies*, vol 1, n° 3, (2001), pp. 69-94.

<sup>30</sup> *Ibid.*, pp.78-80.



stronger conditionality in order to strengthen the democratization process in the country. One particular note here is that the European Partnership process came as an opportunity to overcome deceleration in EU-SM cooperation which was started in mid 2002 due to failure of status redefinition of the common state of Serbia and Montenegro. However, the Feasibility Report, which gave the green light to launching negotiations for a SAA, was adopted only in October 2005 but it was to be called off within the next few months (May 2006) as the country did not fulfil its commitment to fully cooperate with the ICTY. This political deadlock in the EU- Serbia's relations was to be partly overcome only in 2007.

According to the Commission Annual Reports for Serbia (the monitoring process started after the fall of Milosevic's regime and the First Report was published in 2002) one can envisage two different clusters of issues. The first one concerns internal political deadlocks that stilled the democratization process in the country and the second concerns mainly procedural bureaucratic problems. The latter is not in any case less important and is strongly linked with political problems.

As far as the political situation and the improvement of democratic setting are concerned, there are two stumbling blocks that actually led relations with the EU in turmoil. Firstly, it is the definition of coexistence between Serbia and Montenegro in a common state and secondly, the cooperation with International Criminal Tribunal for former Yugoslavia (ICTY). These two issues were of significant importance and were strongly linked with the identity problems of the Serbian stateness and statehood as reflected both in internal domestic affairs and in external relations with the international community.

### **2.3. Europeanization of Serbia-Montenegro relations –spill or split over?**

As the new era in the EU- Serbian relation thrived and the first scrupulous EU pressure on the Serbian state emerged, the first serious impediment aroused to clash with satisfying the political criterion- the nature of the future Serbian –Montenegro coexistence in a common state. Both the Commission Reports for the country and the EU stance in the crisis demonstrate the importance of the issue of preserving the unity of those two states as a precondition for meeting the CC, or more, for sustaining peace in the wider region. The domestic democratic transformative power was seriously diminished by the deadlocks in the relations between Serbia and Montenegro. The first attempt of implementing political conditionality was supposed to work as a 'safety belt' for the preservation of the common state. The aim of maintaining the common state was relying upon the assumption that peace and stability of the region can be safeguarded only without a new reshaping of the borders, as well as without the creation of small and self-insufficient states.

The European mediating attitude during the negotiation on the new (con) federal constitutional setting of SM was to mandate High Representative Javier Solana to intercede in the agreement between Belgrade and Podgorica, which indicates what Teokarevic noted as activity "beyond conditionality"<sup>31</sup>. The Union was involved not only providing a framework but also as an actor<sup>32</sup>, meaning that the EU was not simply inflicting conditionality to the state but also taking an active role in the negotiation procedures. The direct mediation role of the

<sup>31</sup> Teokarevic, Jovan: "EU Accession and the Serbian- Montenegrin Constitutional Charter", *Romanian Journal of Political Science*, vol. 3, n° 2, 2003, pp. 45-46.

<sup>32</sup> Tocci, Natalia: "The EU Intervention in Ethno-political Conflicts: The Case of Cyprus and Serbia and Montenegro", *European Foreign Affairs Review* n° 9, (2004), p.562.



EU and linking the success of the negotiation with ‘prospect-of-membership’ conditionality made the conclusion of the Belgrade Agreement (2002) feasible. It is important to note here that despite multiplicity of clusters of problems concerning overall functioning of the State Union, the EU, one year later, adjusted its approach to the state implementing a ‘twin track’ approach as “the Serbian system and the Montenegrin system were totally different, and their harmonisation (was) inconceivable... (and) the union did not function at all”<sup>33</sup> in order to be able to publish a positive Feasibility Report for starting negotiations for the SAA. As Milica Delevic-Djilas noted “the EU remained attached to the concept of state Union of Serbia and Montenegro and wanted the SAA to be concluded with this overarching entity”<sup>34</sup>.

Although the overall outcome of the attempt to maintain State Unity was not positive, as Montenegrins decided on the referendum for the independence of their state, it is a valuable attestation of the potential of the Europeanization ‘from without’ process. It also raises several issues on the appropriateness of EU strategies for the country. As largely acknowledged, the Belgrade Agreement was evidently possible due to EU mediation, and the conditionality mode which was used as a pressure for adaptation –meaning reforming the State Union –had functioned positively. Soon after the conclusion of the negotiations (but not earlier than functioning problems emerged) the EU advanced its relations with the State Union. Following the Thessalonica Summit promise, the Permanent Political Dialogue was upgraded and the European Partnership was introduced. Subsequently, the linkage of the gate keeping tool with the specific conditionality turned to be very powerful measures at that time as the EU managed with its specific position and tools to influence the outcome.

Nevertheless, the question only arose when it came to the point of compatibility of the EU imposed solutions with the domestic state of affairs and domestic preferences. In general, the compromise that led to the conclusion of the Belgrade Agreement was estimated by the two states (Serbia and Montenegro) as a climbing step closer to the launching of negotiations for the SAA. The Annual Report that followed the signing of the Agreement, however, did not justify these notions; on the contrary, it highlighted the problems that the two sides were going to face while attempting to cohabit in a common state<sup>35</sup>. The EU assumption that an Agreement between the two parts was going to solve all the functional problems the State Union was facing, and that further ‘balkanization’ was going to be blocked was disproved. This solution did not exactly represent the preferences of the two sides. It just made room for different interpretations of the Agreement in terms of opening the prospect for closer cooperation with the EU<sup>36</sup>.

The Serbian side estimated that the Agreement was going to bring the European perspective closer for the State Union while the Montenegrin side treated the Agreement as an opportunity for future independence that would foster the European path of the state. What actually happened was that the new constitutional order of the State Union (also called ‘Solania’ or ‘Frankenstein state’) with all its functioning problems became a serious impediment in transforming the state both at federal and at unit level, thus negatively affecting the fulfilment of CC and political conditionality. According to Samardzic the EU remarks on the serious dysfunctional problems of the State Union remained an ‘empty letter’

<sup>33</sup> Karpat, Can: “Montenegro’s Independence Depends on European Mathematics”, at <http://www.axisglobe.com/article.asp?article=803> (22/09/2008)

<sup>34</sup> Delevic-Djilas, Milica: “Comment: On the twin track highway to Europe”, Institute for War and Peace Reporting, December, 2003.

<sup>35</sup> COM 2003: Stabilization and Association Report, Serbia and Montenegro, *Commission Staff Working Paper*, 139.

<sup>36</sup> See for more: International Crisis Group, “Serbia’s U-Turn”, *op.cit.*



as far as the EU did not take full responsibility for its actions<sup>37</sup>. Although the EU implemented a ‘twin track’ approach in order to overcome the problems of synchronizing the economic systems of the two states, little progress was indicated in the full compliance with political conditionality.

Although further ‘balkanization’ was not in any sense acceptable by the EU (in the case of SM), the separation of the two states was unavoidable after the Montenegro referendum in May 2006. The results of the EU-SM strategy during the first five years after the fall of Milosevic’s regime can have a twofold evaluation.

On the one hand, as regards the dynamic of the EU pressure imposed on SM, it can be considered productive although problematic, but the overall positive acceptance of the EU indicated solutions adopted by the two governments in order to achieve progress in the cooperation with the EU. It also demonstrates the implicit perspective of Europeanization ‘from without’ as well as how the early (if one can say preemptive) response of the EU had a strong impact on the domestic decisions to make an effort to maintain the State Union. Finally, the separation of the two states was a peaceful achievement and an outcome of a democratic process. Besides, although implicitly, the fact that Montenegro gained its independence in a peaceful and democratic way (in contrast to past examples of the dissolution of Yugoslavia) could be considered, at least partly, as the outcome of EU interference in the process together with a lesson-learning process for both SM and the EU.

On the other hand, the EU imposed solution was quite incompatible with the domestic preferences or at least with that of the one side. The interpretation of the EU mediation role, which was linked with strong conditionality on the issue, afflicted for one more time the status and image of the EU as an outside actor that was supposed to encourage and not to complicate the process of democratization of the country and thus reducing the value added democratization of the prospect of a EU-driven one. As the EU insisted on maintaining the State Union, the domestic democratization process of the State units was stalled and problems remained concealed for this long and important period and a huge amount of energy had been wasted on keeping the two parts together and on the attempt to maintain the democratic transformation at state level. The attempt to preserve the unity between Serbia and Montenegro forced the Serbian government to “devote considerable political capital to satisfying the EU, at a time when it should have been using its energies to dismantle the old regime structures... (giving) the old guard time to regroup”<sup>38</sup>.

### **3. Evolving of a ‘reactive identity’**

The outcome of the imposed conditionality (2000-2006) with its controversy (not only on the preserving State Union with SM but also the ICTY cooperation etc) entails the danger of shaping a ‘reactive identity’ of the Serbs that can seriously impede the prospects of the international value added dimension on the transition. The creation of a ‘reactive identity’ would be the outcome of the imposition of the inappropriate and disproportionate conditionality that is strongly linked with its asymmetry mode in which the relation between the EU and an outside state is developing. The conditionality paradigm on preservation of the

<sup>37</sup> Samardzic Slobodan (2004): *Jacanje drzave je uslov svih reformi*, Prizma, Centar za Demokratsko Liberalne Studije, p.18.

<sup>38</sup> International Crisis Group, “Serbia’s U-Turn”, *op. cit.*



State Union of Serbia and Montenegro impose strong reasons for reservation over not only the appropriateness but also the proportionality of the imposed mechanisms at the specific level of cooperation where Serbia sees its road to the EU only as a far future perspective. The central issue here is whether the EU with its strategy is addressing the real problems of the country and its people. Besides the wider acceptance of the EU association (and latter integration) goal by the governing elite and more widely by the society, Serbian people have associated conditionality only with a 'stick' and are "bitter at the West and see themselves as victims of past decades"<sup>39</sup>. Important to note here is that the Serbian society has paid the biggest price of all internationally imposed measures during the 90's and thereafter. The deprivation of the living conditions and the ubiquitous increasing levels of the economic indicators of poverty result in human life and dignity deprivation coupled with strong (personal) isolation imposed by the international community (e.g. visa regime). At the same time the accumulation of wealth in the hands of old elites that continue to affect the economic and political conditions of the country called the people's attention from domestic issues with external implication to the 'ordinary' problems of everyday life, such as unemployment, economic standards etc. It is representative the fact that during the previous Presidential Elections (2004) the debate was dominated mostly by economical issues where the 'international' issues in relation to Montenegro, Kosovo and ICTY "did not play significant part in campaign rhetoric"<sup>40</sup>. It looks more like that only the international community and subsequently the governing elite are seriously concerned with these issues.

Despite integration in the international community is widely accepted goal, it is still presented and accepted as the hostile and distrustful one. This makes the creation of society driven claims for democratic transformation, which are the outcome of socialization and identification with international political systems –like the EU –a difficult task.

In the process of the transformation or transition of a country the improvement of the quality of democracy comprises something more than the simple precondition for accession to the EU. Its convergence within a broader system of values must be substantial not only typical in order for a common and lawful society to be founded on the principles of freedoms, democracy and rule of law. The case of Serbia demonstrates that the relation between europeanization 'from without' and the democratization process could not be seen either as a linear or as a teleological one, but more as a dialectic with its own characteristics, discrepancies and mainly with its own results. However, this statement does not deflect the outstanding role that the EU plays in -and its influence on - outside political systems as the Serbian one is.

My overall conclusion is that the Serbian political system has not reached yet a level of sufficient maturity in order to distance itself from the past problems of democratic functioning and for that reason it demonstrates inconsistent moves in terms of a fully fledged democratic transition, and for the same reason, the prospect of europeanization 'from without' has its specific limits. However, neither the EU strategy applied on Serbia is fully fitted nor entirely proper concerning the specific characteristics of the Serbian democratic transition. In other words, the outside actors, like the EU with its mechanism is, are not capable of penetrating into the hard core of the Serbian political system that is reluctant to a fully fledged democratic transition.

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<sup>39</sup> International Crisis Group, "Serbian Reforms Stalls Again" *Europe Report*, n°145 (17 July 2003).

<sup>40</sup> International Crisis Group, "Serbia's Changing Political Landscape" *Europe Briefing*, n°32 (22 July 2004).