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Fake, partial and imposed compliance: the limits of the EU's normative power in the Western Balkans

Gergana Noutcheva

ABSTRACT This article examines the EU's external power through the prism of perceptions by non-EU countries of the aims of EU's foreign policy, as shown in the Western Balkans. It argues that the EU's policy in the Western Balkans lacks a strong normative justification, which affects the degree of compliance with the EU's demands in areas related to state sovereignty. The perceived lack of legitimacy opens up political space for domestic actors to contest the positions taken by the EU on normative grounds. The Western Balkan countries have responded by giving preference to internal sources of legitimacy and asserting domestic reasons for fake compliance, partial compliance or non-compliance with the EU's conditions, with the latter provoking imposed compliance. The article links the enlargement literature with the study of EU foreign policy by offering a new approach to analysing the normative and strategic dimensions of the EU's external power.

KEY WORDS Compliance; EU conditionality; European foreign policy; Europeanization; legitimacy; 'normative power Europe'.

1. INTRODUCTION

The growing political weight of the European Union (EU) in international politics has stimulated a lot of discussion about the nature and facets of the EU's external power. The question of 'what kind of power' the EU represents (Sjursen 2006) has generated arguments in support of both the 'normative power Europe' (Manners 2002, and 2006) and the 'strategic power Europe' (Youngs 2004; Hyde-Price 2006), with the debate as to what drives EU foreign policy remaining inconclusive to date. Academic contributions to this debate have predominantly favoured explanatory variables linked to the EU's *internal* policy processes and institutional relationships while neglecting the *external* impact of the EU's foreign policy (Smith 2006).

At the same time, scholars of the EU's enlargement have been studying the effects of the 'EU's transformative power' (Grabbe 2006) on the candidate countries, observing the profound domestic changes that occurred in Central

and Eastern Europe in the context of preparations for EU accession. Concerned primarily with the EU's external impact on this specific kind of non-member country, the Europeanization literature has offered interesting insights into the mechanisms of EU influence on the domestic structures of these countries and the reasons for their compliance with EU conditions (Schimmelfennig and Sedelmeier 2004, 2005; Grabbe 2001, 2006; Jacoby 2004; Kelley 2004; Vachudova 2005).

These two specific strands of the scholarly debate about the EU's external relations have developed in parallel, notwithstanding the linkages between them. On the one hand, conclusions about the EU's normative power or strategic leverage cannot be drawn without considering the reactions of non-EU countries to the EU's policies or assessing the EU's impact 'on the ground'. On the other hand, evaluations of non-member states' responses to the EU's external actions cannot be credible without taking into account their perceptions of the EU's motivations for pursuing certain policy objectives in the first place.

In an attempt to bridge these two distinct bodies of research, this article analyses the EU's influence in the Western Balkans by studying the compliance responses of Balkan candidates to the EU's statehood conditions and how these responses have been affected by domestic views of the overall purpose of the EU's actions. The Western Balkans present a good case for the objective of this analysis because they have been on the receiving end of both the EU's common foreign and security policy (CFSP) and enlargement policy. The EU's involvement in the region for the time being cannot be clearly categorized under either foreign or enlargement policy. As a result, neither the conceptual tools of foreign policy analysis nor those of Europeanization are entirely suited to explaining the EU's impact on the state structures in the region.

The article argues that the EU's policy in the Western Balkans lacks a strong normative justification, which affects the degree of compliance with the EU's demands on sovereignty-related issues. The Balkans' challenge to the EU's normative influence plays out in the politics of compliance and manifests itself in these countries contesting the appropriateness of the EU's pressure on them to undertake specific statehood-linked changes. When Balkan political leaders openly confront the EU about the kinds of conditions being set, they not only question the normative foundations of the EU's policies but also reject the EU's external authority and assert domestic reasons for partial compliance or non-compliance. Compliant outcomes in such cases are more the result of the EU's strategic leverage than of voluntary submission to the EU's normative power and are vulnerable to reversals in the short run.

The argument unfolds in two steps. In the first part, the article demonstrates that the EU's policy of linking accession with changes in statehood structures in three Western Balkan cases – Serbia and Montenegro during 2002–06, Bosnia and Herzegovina (BiH), and Serbia and Kosovo – is better explained with rational motives than with normative considerations or moral concerns. In the second part, the article shows that domestic actors in the three cases have

tried to challenge the normative grounds of the EU's policy and have responded with *fake* compliance, *partial* compliance and non-compliance, respectively, with the latter provoking *imposed* compliance. The article maintains that the legitimacy of the EU's demands as perceived by domestic political actors is key to explaining the divergent compliance responses of the Western Balkan countries.

2. LEGITIMIZATION AND THE EU'S POLICY IN THE WESTERN BALKANS

What drives the EU's policy in the Western Balkans? March and Olsen (1989, 1998) distinguish between two basic logics of action through which human behaviour can be interpreted – action driven by anticipated consequences and action driven by appropriateness and a sense of identity. The logic of consequences explains outcomes as the end result of a rational process of calculating gains and losses whereas the logic of appropriateness views behaviour as rule-following (March and Olsen 1989, 1998). These two logics, while representing separate analytical categories, are intertwined in real situations and often co-determine action. While putting aside the complex relationship between them, the question that becomes key to understanding third countries' reactions to the EU's policy is how these basic justifications for action are linked to the legitimacy of the EU's foreign policy in the international context.

Defining legitimate foreign policy action within the consequential frame involves distinguishing between one's own conception of costs and benefits and the expected consequences for the party on the receiving end of the action. While a purely altruistic foreign policy, taking into account only the wellbeing of the 'other', is theoretically possible, the duty to protect the safety and welfare of one's own citizens is not less legitimate, certainly in a democratic setting where political leaders are accountable for their actions to their electorates. In the same vein, a purely selfish foreign policy, disregarding the consequences for others and justifying decisions in an entirely zero-sum fashion, cannot be viewed as legitimate from a broader international perspective (Brown 2002). International legitimacy in the framework of the rational model of action can be defined in terms of 'utility' or efficient problem-solving which implies that actions are taken to the mutual benefit of all sides (Sjursen and Smith 2004). The EU's conditionality approach, based on offering incentives and disincentives to third parties for behavioural change while guarding the overall wellbeing of European citizens, falls within this category.

Identifying legitimate foreign policy action within the research tradition of appropriateness entails clarifying the norms that guide behaviour and the level at which they are accepted as uncontested categories – local or global. The question in this context is what is legitimate from an international viewpoint – a foreign policy grounded in one's own values and principles or a foreign policy resting on universal rules and norms? If one assumes that there is no difference between the two categories, an action based on one's own

conception of the normative should suffice. Yet, the belief that one's own norms are universally valid may well be an illusion that conceals an attitude of self-righteousness and a self-assigned position of the moral high ground which cannot be a benchmark for international legitimacy. This difference in defining the normative reference within the frame of appropriateness has led scholars to conceptualize a third distinct logic of moral justification for foreign policy action which is based on universal principles of fairness and justice and validates foreign policy choices on moral grounds, irrespective of actors' interests or identities (Sjursen and Smith 2004).

The academic literature focusing on describing the EU as a 'force for good' in international politics includes both contributions that accept the EU's own normative basis as the yardstick for normative foreign policy (Manners 2002) and arguments insisting on the primacy of universal legal norms applicable across the globe as the foundation for normative behaviour (Sjursen 2006; Tocci 2008). For Manners (2002), the key to understanding the EU's normative power is its capacity to shape 'what is normal' in international politics based on its internal 'substantive normative principles' such as peace, democracy, respect for human rights and fundamental freedoms, rule of law. Encoded in the EU's own treaties and laws, these norms not only constrain the EU's behaviour *vis-à-vis* the others but also constitute its own international identity, Manners argues. Sjursen (2006) puts the threshold higher when it comes to certifying normative foreign policy behaviour. To be sure that norms are not instrumentally used to conceal the pursuit of interests, a foreign policy action has to be in line with existing universal legal norms and a foreign policy actor has to bind itself to these internationally agreed legal principles, Sjursen maintains. In other words, normative foreign policy behaviour is by definition based on a universal rather than a parochial (European or other) conception of the 'normative'. Taking the universally valid as a normative benchmark is a guarantee that norms will not be used as a 'fig leaf' for an imperialist agenda (Sjursen 2006).

Can the EU lean on its own ways of dealing with sovereignty, or should it legitimize its sovereignty interventions on the basis of universal principles to be able to claim a normative goal and intention? The EU's approach to sovereignty has often been described as post-modern, going beyond traditional notions of borders, territoriality and exclusive authority (Cooper 2004). The EU's way of 'pooling sovereignty' within its borders is unique and central to its identity but it does not translate directly into a model to follow in cases of contested sovereignty. Most of these so-called 'frozen conflicts' are about sovereignty in the traditional sense, involving claims to territory and self-rule which are irreconcilable with the EU's advanced governance system going beyond territoriality and combining various levels of governance. For the EU to act in a normative way when intervening in such conflict situations, it has to follow universal principles for secession and state recognition, to the extent that these are encoded in the international legal system. The identity-based legitimization is not sufficient, even though references to elements of the EU's

governance system cannot be excluded given that conflict resolution often touches on very practical questions of governance nature.

If the EU's policy of state building in the Western Balkans is to be considered normative, it has to pass the universal legitimacy test. Short of good arguments supporting a universal justification of the EU's sovereignty-linked conditionality, a rational motivation will appear more plausible as an explanation for the EU's actions. The remainder of this section will demonstrate that the utility rationale for the EU's demands on sovereignty issues seems overarching across the Western Balkans, as illustrated below with evidence from Serbia and Montenegro, BiH, and Serbia and Kosovo. The EU has enormous stakes in the stability of the region and acts to secure a peaceful environment conducive to improving the governance standards of the countries, objectives that it sees as advantageous to the citizens of both the EU and the Western Balkans. This does not automatically imply that the countries from the region perceive the EU's aims in the same way.

2.1 Serbia and Montenegro

The experiment with building a State Union of Serbia and Montenegro, one of the very first EU-supported state-building projects in the Western Balkans, ended with a 'velvet divorce' after three years of existence, during which the common state failed to capture the imagination of its population. A sizeable majority of Montenegrin citizens (about 55 per cent) voted in favour of independence in a referendum in May 2006, thus putting an end to the precarious state-like formation.

Between 2001 and 2006, the EU's policy towards Serbia and Montenegro clearly favoured the preservation of a common state for the two republics. The EU demanded the reconstitution of the international legal sovereignty of Serbia and Montenegro as a single subject under international law and the continuation of a (thin) layer of common institutions and policies. High Representative for the CFSP Javier Solana mediated the negotiations between the two republics and signed the Belgrade Agreement on behalf of the EU as guarantor and arbiter in March 2002.¹

The domino theory of spillover effects from further disintegration in former Yugoslavia is most frequently invoked by EU officials to explain the EU's policy towards Serbia and Montenegro in the period mentioned.² In the words of EU representatives themselves, regional stability and the EU's interests in it are most often cited as the drivers of the EU's involvement in the constitutional impasse between Serbia and Montenegro. The reference to the EU's security concerns is important in this context. Heavily engaged politically, financially and militarily in the stabilization and consolidation of BiH and Kosovo, the EU has been cautious not to upset the fragile peace reached in the Balkans at the end of the 1990s. The fear of yet another wave of violence overpowered any argument favouring a scenario other than that of a single state solution for Serbia and Montenegro.³ Thus, a decision acquiescing to Montenegro's

independence in 2001 (and thereby indirectly encouraging latent secessionist sentiments in the region) was not one the EU was prepared to take at that time.

Norms and rules of efficient governance could not be easily used by the EU to explain why harmonization and policy co-ordination between Serbia and Montenegro was better from an economic point of view. In fact, in economic terms there was a strong logic supporting the continued separate management of the two very different economies (Gros *et al.* 2004). With divergent trade policies, reflecting structural differences between the service-oriented, outward-looking Montenegro and the industrial, inward-looking Serbia, and separate monetary regimes, resulting from the unilateral introduction by Montenegro of the Deutsche Mark in 1999 and then the euro in 2002, the case for reintegrating the Montenegrin and Serbian economies was rather weak and open to challenge.

In addition, there was no moral case to be made as to why the other former Yugoslav republics (Slovenia, Croatia, Macedonia and Bosnia) could go their separate ways whereas Montenegro was required to stay with Serbia in a re-created mini Yugoslavia. One could argue that there was a strong moral imperative to try to avoid another Balkan tragedy following the European failure to prevent and then stop the Balkan bloodshed of the 1990s. Moral arguments undoubtedly weighed heavily on the EU's decision to extend the membership perspective to the whole Western Balkan region in 2000.⁴ Compared with the Eastern European enlargement, however, where the theme of historical reunification of the Continent and the moral obligation of Western Europe to integrate Eastern Europe was prevalent in official discourse, the EU's responsibility with respect to the Western Balkans is uncomfortably articulated, mostly in private and mainly with reference to Europe's disappointing behaviour during the Balkan wars of the 1990s.⁵

In short, rational calculations rather than norms or moral duties seem better at explaining the EU's initial insistence on establishing the State Union of Serbia and Montenegro. The security interests of the EU member states overwhelmingly dominated the political thinking of EU policy-makers when the decision to push for a common state between Serbia and Montenegro was made.⁶

2.2 Bosnia and Herzegovina

If there is a single feature that captures the essence of the state structure of BiH, it is decentralization in extreme forms (Bose 2002). The state of BiH is a federation consisting of two entities, one that is a unitary state-like structure, the Republika Srpska (RS), and another that is a decentralized federation itself, the Federation of Bosnia and Herzegovina, comprising ten cantons. The institutional structure emerged as a compromise among the warring parties in 1995 when the Dayton Peace Accords were signed under heavy international pressure and mediation. With the inception of the Stabilization and Association Process in 2000, the EU offered incentives to BiH politicians to strengthen the central level of government as a prerequisite for integration with the EU. In essence, the

reforms demanded by the EU as conditions for establishing contractual relations with BiH link its membership prospects to changes in the internal state structure of BiH.

Examples from two policy areas illustrate the latter point – police reform and reform of the indirect taxation system. Regarding police reform, the EU requirement of ‘tackling crime, especially organized crime, and building state-level enforcement capacity’⁷ has meant a thorough restructuring of the police sector in BiH. Compliance with the police reform requirements has implied entrusting the state with more competences in law enforcement and institutional build-up beyond the entity level. Reform of the indirect taxation system, through the creation of a single customs administration and the establishment of tax collection at the state level,⁸ has involved ceding competences to the state by the entity governments and has resulted in a more integrated decision-making system for economic policy. The internal redistribution of power between the centre and the entities has in essence shifted the locus of authority and restructured the power relations within the country.

The EU has justified its demands *vis-à-vis* BiH on efficiency grounds and has repeatedly pointed to deficiencies in the governing structures of BiH in order to press for change. To persuade BiH politicians and the public at large of the necessity of police reform, the EU has highlighted the benefits of rationalizing the police forces in the country.⁹ The fragmentation of police authority in BiH allows for the easy escape of criminals among compartmentalized police jurisdictions with no central oversight. To fight crime more effectively and ensure law and order for all citizens, a single police structure is essential.¹⁰

Similarly, to push forward reforms of the taxation system, the EU has exposed the magnitude of fraud to which the unreformed BiH structures were prone. To convince BiH politicians to sign up to the tax reform proposals, the EU has repeatedly made the point that such reforms would result in the state and the entities generating more revenue for the budget and having more money for public spending.¹¹ Only a radical reform of the system could prevent the massive losses of revenue, which in 2002–03 stood at more than 4 per cent of the national gross domestic product (GDP).¹²

Appeals to European standards of governance as justification for the EU’s conditions have also featured strongly in the EU’s strategy for BiH. While serving as High Representative of the international community (2002–06), Paddy Ashdown frequently referred to the ‘Europe argument’ to convince domestic actors to acquiesce to the institutional and policy changes sought by the EU. His message was simple but powerful – that the EU will not water down its norms of what is appropriate from a domestic governance standpoint and it is up to BiH to live up to EU standards.¹³ He also publicly shamed those BiH politicians who stood for narrow political interests and obstructed BiH’s progress towards EU membership.

In short, both utility justification and identity-based arguments seem to converge in the case of BiH, with regard to both ‘selling’ EU policy to domestic actors in BiH and defending the EU’s position within the EU member states.

A resurgence of violence reminiscent of the Bosnian war of the early 1990s is certainly not a scenario anyone in Europe would like to see repeated, and in this sense the policy of state consolidation in BiH is seen by the EU as a security measure. The EU also pursues its state-building agenda for the sake of efficient governance of BiH whose population directly benefits from improved public services, irrespective of ethnic origin. Due to the EU's intervention in internal statehood matters with consequences for domestic governance, it has been possible to legitimize some of its demands with its own standards and solutions to problems.

2.3 Serbia and Kosovo

On 17 February 2008, Kosovo's Parliament declared the independence of the province from Serbia and invited the rest of the world to recognize this act. The proclamation of independence was the culmination of an eight-year period of United Nations (UN) administration of the province following the North Atlantic Treaty Organization (NATO) air strikes on Serbian positions in 1999 and the ensuing withdrawal of the Serbian army from the territory of Kosovo. The US and a majority of the EU member states had already given the 'green light' to Pristina and moved quickly to recognize the newest state on the map of Europe.

What brought about the agreement in the EU to back Kosovo's independence while putting aside dissenting views of some member states? The discussion among the member states in the Council leaned towards emphasizing the *sui generis* features of the Kosovo case.¹⁴ One of the unique characteristics argued to have no parallels with other 'frozen conflicts' was the UN's presence on the ground since 1999 as a direct consequence of NATO's intervention to stop the violence against the Albanian population instigated by the late Milosevic regime. Following the years-long rule of the province by the UN in denial of the official sovereignty of Serbia over Kosovo, there was no conceivable alternative to independence, as the argument went (Patten 2007; ICG 2007).¹⁵

Furthermore, the perpetuation of underdevelopment in Kosovo owing to its undefined status was increasingly seen as an argument in favour of speeding up the final settlement of the province's statehood. Kosovo would remain a black hole in the Balkan region breeding criminality and poverty and thus a problem for European security unless there was clarity about its future direction.¹⁶ In short, pragmatic reasons contributed to the emerging consensus that the time had come to acknowledge realities on the ground and to accept what had become the only possible solution to the problem, namely the legal separation of the two sides and eventually the recognition of a new state in Europe.

Kosovo's independence is hard to reconcile with universal legal principles. The big dilemma underpinning Kosovo's independence is whether to give precedence to the right to self-determination or to the principle of territorial integrity. The former is linked to the notion of human rights and the responsibility of

states to uphold the individual rights of all citizens. It has, however, a much weaker legal basis in international law compared to the principle of state sovereignty which is the cornerstone of the multilateral world order. By opting to support Kosovo's independence, the EU has undermined its support for the multilateral legal order which it has pledged to strengthen in its security strategy (European Security Strategy 2003). Russia, for its part, opportunistically seized the opportunity to position itself as a guardian of legality in the international system and to criticize the West for its infringement of international law through encouraging and eventually recognizing Kosovo's independence.

Whereas outside the EU, power politics rather than universal principles determined the parameters of the final settlement of Kosovo's status, the search for unity among the member states dominated the discussions about Kosovo's future within the EU. In the absence of EU norms to guide decisions on such sovereignty questions, disagreements among the member states were increasingly silenced by the necessity to speak with a single voice in this highly charged international political climate. Differences of opinion nevertheless exist. The hesitation of some EU member states in supporting Kosovo's independence¹⁷ stems from the same concern about the potential violation of the established international norm of safeguarding state borders. It is hardly surprising that countries with sizeable domestic minorities such as Spain, Slovakia, Cyprus and Romania have been lukewarm about accepting Kosovo's eventual independence and apprehensive about the broader repercussions of a possible precedent.

The point at which Kosovo's bid for independence becomes justifiable from a normative stance is the threat of genocide to its population in 1999 by the Milosevic regime. About ten thousand ethnic Albanians from the province are reported to have been killed and about one million of them driven out of their houses by Serbian military and paramilitary groups in 1998–99. Related to it are the grievances of the Kosovar population and the almost unanimous rejection by the Kosovars of any institutional or other link with the authorities in Belgrade. These arguments, however, have not been prevailing in the EU internal discussion about Kosovo. Universal human rights, even though not firmly embedded in international law, could have been mobilized strongly to support Kosovo's independence but the EU chose not to do so. Had the EU acted in a normative way, as Sjusren would suggest, it would not have been afraid of presenting Kosovo's independence as a precedent based on human rights protection and it would have used the occasion to move towards reforming the international legal order in line with cosmopolitan law and beyond power politics in international relations (Sjusren 2006: 248).

3. LEGITIMIZATION AND COMPLIANCE RESPONSES BY THE WESTERN BALKAN COUNTRIES

Deciphering the drivers of the EU's policy towards the Western Balkans is important because it provides insights into the reasons that motivate Balkan

political leaders to comply with the EU's demands. To fully understand whether a foreign policy is norms-driven or utility-driven, this article proposes examining the reactions of political actors on its receiving end. If a foreign policy action is truly normative, it will be accepted as such by the domestic players experiencing its effects and they will submit voluntarily to the normative pressures for change. If a foreign policy actor has normative power, it will meet no opposition to its demands for behavioural change. Even in the absence of a universal normative agenda, an action can still be considered normatively legitimate, if domestic actors accept as normal the behaviour expected by the norm concerned and do not challenge external adaptation pressure to that end.

How can we account for the compliance responses of the Western Balkan countries? The political opposition to the EU's sovereignty demands cannot be fully explained by the domestic power considerations of Balkan political leaders. Political élites in the Western Balkans may have a natural inclination to defy external adaptation pressures but their reluctance to acquiesce to the EU's conditionality is partly explained by the dubious legitimacy foundation of the EU's statehood-linked conditions. The EU has had difficulties justifying normatively its specific pre-accession requirements linked to changes in statehood structures and this has fuelled domestic resistance to compliance. Furthermore, the lack of strong and convincing arguments explaining the appropriateness of the EU's sovereignty conditions has empowered domestic opponents to question the EU's authority to set conditions in the area of statehood and to doubt the benign motives behind the EU's policies in the region. The variation in the compliance responses of the Western Balkan countries to the EU's sovereignty conditions is closely linked to the contested legitimacy sources of the EU's state-building policy in the region.

These findings go to a certain extent against the conclusions of the enlargement literature which contends that the patterns of compliance with the EU's political criteria in Central and Eastern Europe (CEE) are largely explained by the external incentives model, in particular by the size of the domestic adoption costs (Schimmelfennig and Sedelmeier 2005). Thus non-compliance with the EU's democracy demands of authoritarian governments in CEE is explained by the costs of democratization for the incumbent political leaders. Once reform-minded political parties came to power, the process of rule transfer and progress toward membership would become the norm even in difficult cases such as Slovakia, Romania and Bulgaria (Vachudova 2005). The legitimacy of the rules to be transferred did not make a difference for the outcomes observed (Schimmelfennig and Sedelmeier 2005; Schimmelfennig *et al.* 2006).

The compliance responses of the Western Balkan governments to date do not entirely correspond to the predictions of the rational conditionality model. Domestic resistance to the EU's demands in the area of sovereignty comes not only from authoritarian governments with doubtful reform credentials but also from reform-minded political forces. In this sense, the arrival to power of political parties embracing the EU's philosophy of political governance does not automatically translate into higher compliance rates with the EU's

statehood conditions. The success of the EU's conditionality in the region is not simply a matter of empowering the right political actors within each domestic context and of progressively marginalizing their opponents, not least through popular mobilization against the non-compliers. The EU's sovereignty-linked demands, in fact, reproduce divisions within the domestic political space of Western Balkan states and further entrench political disagreements instead of bringing about a domestic consensus around an EU agenda which no political actor can plausibly claim to be against. The politics of compliance in the Western Balkans, therefore, are quite different from those in CEE prior to EU accession.

What is demonstrated in the remainder of this article is that domestic understandings of the sources of legitimacy of the EU conditionality affect whether or not local political leaders are receptive to normative arguments and persuasion by EU interlocutors. When political players in the domestic context openly question the legitimacy of EU conditions, they tend to assert more vigorously both their rational motives and distinctive identities in defiance of the EU. The proposed indicator of contestation of the EU-proposed sovereignty formulas is the degree of political mobilization *against* compliance with them. In the Western Balkans, the question of whether the EU is genuinely concerned about spreading its norms, or is acting out of a rational interest to secure stability on the Continent, has been more prominent in the political thinking on the receiving end of EU conditionality, as a result of which compliance with conditions tied to sovereignty has been either *fake* or *partial* or *imposed* by external actors. When the EU's policy lacks strong normative foundations, political leaders in non-EU countries tend to reject EU-sponsored ideas about what is right and appropriate for the governance and external relations of their states and tend to revert to domestic sources of legitimacy, no matter whether these are based on rationality or identity. Their assertion of rational or normative reasons depends on the domestic political context, which is shown in the cases of Serbia and Montenegro, BiH, and Serbia and Kosovo.

3.1 Serbia and Montenegro

Serbia and Montenegro's compliance record with the EU's conditions on a common state structure can be regarded as an example of *fake compliance*. The two republics simulated EU-compliant institutional and policy reforms between 2002 and 2006, which were rolled back once the Montenegrin referendum on independence succeeded. How can we account for this policy reversal? Two factors are important for understanding the politics of compliance in Montenegro and Serbia. First, through its initial insistence on a state union between the two republics, the EU indirectly and unintentionally aligned itself with the most nationalist and the least reform-minded political formations relegated to opposition by Montenegrin and Serbian voters themselves and set as its opponents the protagonists of the Europeanization project in both republics. Second, the EU itself could not produce convincing arguments to persuade the

pro-European Montenegrin and Serbian leaderships that a State Union of Serbia and Montenegro was a better vehicle for the faster integration of the two republics into the EU structures. The legitimacy of the EU's policy stance was seriously contested by political actors predisposed to accepting EU normative influences in both contexts as measured by their political mobilization against the EU's sovereignty demands. In the absence of a strong normative justification of the EU's policy, local players in both republics advanced strong rational arguments against the union backed by the EU. Short of convincing counter-arguments, the EU chose to backtrack and to accept the dissolution of the state union rather than to continue putting pressure on the two sides through its membership conditionality.

In Montenegro, the EU's preference for a common state clashed with the position of the pro-independence political parties – the Democratic Party of Socialists (DPS), the Social Democratic Party (SDP) and the Liberal Alliance of Montenegro (LSCG) – and favoured the pro-union political formations – the Socialist People's Party (SNP), the Serbian People's Party (SNS) and the People's Party (NS). Owing to the origin of the pro-independence bloc as opposition to the Milosevic regime in Serbia, the Montenegrin public strongly associated the independence cause with pro-Western reforms leading to pluralistic democracy and liberal economy and linked pro-union parties with the socialist past. Having no credible political alternative in its domestic context, the pro-independence DPS–SDP coalition has ruled Montenegro since the 1998 parliamentary elections.

The strongest Montenegrin objections to the common state had an economic foundation. Economic estimations had indicated that adoption by Montenegro of customs tariffs close to Serbian levels would translate into higher domestic prices for most goods in Montenegro due to trade diversion effects and as such would constitute a very high cost for Montenegrin consumers (Gros 2002).¹⁸ Economic reintegration with Serbia was consequently presented as harmful to the economic wellbeing of Montenegrin citizens and on these grounds it was blocked by the Montenegrin government. The EU subsequently dropped its demands on customs tariff harmonization and adopted a twin-track approach towards the State Union, which applied particularly to trade matters.

There were strong objections to the EU-backed common state from the Serbian side too, although these were of a different nature. Prior to signing the Belgrade Agreement, the major Serbian political actors were united in their insistence on a strong federal state with Montenegro. The political mobilization against the common state gathered pace with the increasing disappointment in Serbia over the dysfunctional State Union and mounting criticism of the EU for not fulfilling its obligations under the Belgrade Agreement to mediate and arbitrate disagreements between the two parties in the implementation phase. With the launch in May 2003 of the anti-State Union platform¹⁹ by a newly established political party, the G17 Plus, the arguments against the EU conditionality on a common state became part of the political process and a

matter of public debate. Advancing very concrete, rational arguments against the common state, the G17 Plus contested the State Union formation on four accounts:

1. the ineffectiveness of the administrative structures for common policy co-ordination;
2. the formula of equal political power-sharing, which was considered disproportionate to the size and economic weight of the two constituent units (a 50–50 ratio of political power-sharing despite the 95–5 ratio of economic weight of Serbia and Montenegro, respectively);
3. the cost of financing the common institutions, largely relying on Serbia's financial backing; and
4. the overall delaying effect on Serbia's transition.²⁰

The political leadership of the party became openly critical of the EU's hands-off approach during the implementation stage of the Belgrade Agreement, accusing the High Representative for CFSP Javier Solana of wanting 'a diplomatic victory at all cost' and of 'failing to fulfil his role as a helpful mediator'.²¹ Not only did the G17 Plus publicly question the legitimacy of the EU's political and economic demands, but also the party's political positions translated into an 11.5 per cent share of public support in the December 2003 early parliamentary elections in Serbia, after only a year in existence and several months of political campaigning.

In both Serbia and Montenegro, the EU's conditions have been very divisive and the domestic political space highly fragmented. The ruling élites regarded the EU's intervention as lacking legitimacy, for varying reasons. This perception in turn fuelled hopes that a change of EU policy was possible and, if the right arguments were employed, EU policy-makers could be convinced to soften the conditionality policy, if not completely reverse it.

3.2 Bosnia and Herzegovina

BiH's reform track to date can be regarded as *partially compliant* with the EU's demands. By the end of 2007, the two 'to-do' lists of conditions that BiH had received from Brussels in 2000 and 2003 respectively had been largely fulfilled with the exception of police restructuring for which an inter-party deal was reached in late November 2007, paving the way for initialling the Stabilization and Association Agreement (SAA) with the EU on 4 December 2007. The agreement on police reform was a watered down version of the initial external ideas about police reorganization in BiH but, given the protracted negotiations and the numerous deadlocks, the EU accepted the deal as compliant with its conditionality and proceeded with signing the SAA with BiH in June 2008.

What explains the partial compliance record of BiH to date? Two variables are key to understanding the politics of compliance in BiH. First, the EU's sovereignty-linked requirements affect the domestic political structure by empowering political actors that favour a stronger central state in BiH.

Second, the absence of a strong normative appeal of the EU-required statehood changes expands the political space of domestic players that oppose centralized government to mobilize domestic constituencies around an ethnic/nationalist agenda and against compliance with the state-building conditions coming from outside. Thus, the external sanctioning of obstructionist politicians does not have the effect of discrediting them *vis-à-vis* their electorates but rather galvanizes popular support for them and gives them legitimate arguments to justify resistance to Brussels.

The political scene in BiH has not been consensual on the question of acquiescing to the specific reforms requested by the EU and these political differences have remained deep and unbridgeable to a large extent. The (Bosniak) Party of Democratic Action (SDA), considered the principal expounder of Bosniak ethnic interests, is in favour of abolishing the entities and cantons and rationalizing the governance structure of BiH (ICG 2003). The Croat community, represented by the long-time dominant Croatian Democratic Union (HDZ BiH), has held a shifting position on the Dayton entity structure, from advocating a third (Croat) entity in the late 1990s, through supporting the elimination of the entities altogether in the early 2000s (ICG 2003), to favouring a federal structure with three 'national-majority' units in the 2006 round of domestic talks on constitutional reform.²² The reform-minded political forces in BiH – the Social Democratic Party (SDP) and the Party for BiH (SBiH) – support the strengthening of the competences of the state and see no rationale for the existence of an expensive and cumbersome multi-tier system of governance.²³ The SBiH leader Haris Silajdzic, who has been a key political player in the most recent political history of the country, openly questions the existence of RS from a moral point of view as an entity created through genocide during the war.

The EU's conditions are viewed differently in the RS, however. Seen from Banja Luka, the changes sought by the EU would erode the sovereign competencies of the entity government and constitute a threat to the very existence of the RS. This is the line that has been taken by most political parties in the RS, which have traditionally obstructed any changes to the Dayton system owing to fears of marginalization in a more centralized system of governance. Not only the hard-line, nationalist Serb Democratic Party (SDS) that dominated RS politics until the October 2006 elections, but also the moderate political groups in the RS, such as the Party of Democratic Progress (PDP) and the Alliance of Independent Social Democrats (SNSD), have defended the status of the RS within the overall constitutional setting of BiH, although the latter two have been more pragmatic with regard to reforms that improve domestic governance.²⁴ Thus, the political power of the ruling élites in the RS is directly at stake when decisions on complying with the EU's conditions are made. Yet, the message of the RS politicians to the Bosnian Serb population has had distinctive nationalist overtones, systematically reviving the idea of holding a referendum on independence, if not reunification with Serbia, as seen in the political campaigning prior to the October 2006 general elections.

And while this rhetoric has further undermined their international standing, the political establishment in Banja Luka has enjoyed good popularity among its domestic constituency and has been able to successfully conceal its power interests behind a nationalist agenda.

The efficiency argument used by the EU to rally political support in BiH has only worked partially and has been at times overshadowed by powerful domestic resistance to the external views of how the state of BiH should be organized internally. The protracted police reform discussions are a good example of the limits of externally designed state-building initiatives that lack local legitimacy. The police reform requirement became part of the EU political conditionality in 2004 after the intervention of the then High Representative Paddy Ashdown who successfully instrumentalized the EU leverage to pursue changes in this area (Muehlmann 2007). The three broadly defined police reform criteria were seen by the Serb side in BiH as an ill-conceived plan to make them cede to Ashdown's pressure, they openly criticized him as 'bosniakophile' (Muehlmann 2007: 57). The RS politicians sought to expose what they saw as injustice and did not shy away from publicly denouncing the police reform condition as 'unfair and against the European idea'.²⁵ The 'Europe argument' thus could be countered with a legitimate domestic discourse playing on nationalist sentiments and presenting the external demands as inappropriate. Given the weak external legitimization of the statehood conditions, the EU factor has not produced the necessary domestic consensus in BiH in favour of compliance in the same way and to the same extent as it did in CEE.

3.3 Serbia and Kosovo

Kosovo proclaimed its independence without the endorsement of the UN Security Council but with the backing of the US and a majority of the EU member states. Serbia and Russia firmly rejected this act. Serbia's population mobilized in huge numbers in the days following the proclamation to protest peacefully against the decisions regarding Kosovo's status, with a few violent incidents taking place in Belgrade. In the meantime, in Pristina, the Kosovars were celebrating their hardly won independence.

What have been the drivers behind these domestic reactions in both Serbia and Kosovo? Officially, the EU has kept Serbia's and Kosovo's European perspectives separate from the settlement of Kosovo's status but, in practice, the two processes have been linked from the point of view of the domestic actors in the Balkan EU applicants. To many ordinary Serbian citizens, the Kosovo question boiled down to a choice between EU membership and Serbia's sovereignty. To Kosovans, the question of sovereignty was paramount, both external sovereignty through international recognition and internal sovereignty through self-governance, but the price they had to pay was the acceptance of the EU's extensive supervision over their domestic affairs for an unspecified time. Thus both sides were left with no choice regarding different aspects of their statehood, rendering the settlement of Kosovo's status a matter of *imposed compliance*.

The EU's impact on the politics of compliance in Serbia and Kosovo has two important dimensions. First, the EU's support for the independence of Kosovo empowers all political actors in Pristina who consensually favour the self-determination of Kosovo and constrains all political formations in Belgrade who consensually reject the change to the territorial integrity of Serbia. It puts further pressure on the pro-European Serbian parties in power that seek external legitimization of their domestic reform policies through close association with the EU integration project. Acquiescing to the EU's view on Serbia's sovereignty has been most difficult for the reformers in government in Belgrade who have seen their domestic manoeuvring space restricted in the face of wide-ranging popular discontent with the EU's handling of Kosovo's status. Second, the EU's position on the sovereignty question has met the firm emotional resistance of Serbian society, touching on identity elements with massive mobilization potential at the popular level. Given the profound lack of legitimacy of the EU's intervention as seen by the Serbs, the political space for persuading them to comply using rational reasoning has been minimal. Short of good arguments, the EU has had to resort to imposition in view of the perceived consequences for European security.

Not surprisingly, the EU's problem-solving approach to Kosovo's status has been questioned by the majority of the Serbian political leadership and the population. Not only have the radical nationalists of Vojislav Seselj (the Serbian Radical Party or SRS) and the socialists of the Milosevic regime (the Socialist Party of Serbia or SPS) opposed independence for Kosovo, so too have the moderate nationalists of Vojislav Kostunica (the Democratic Party of Serbia or DSS) and the pro-Western reformers of Boris Tadic (the Democratic Party or DS), although some more fervently than others. The Kostunica-led coalition government pushed through a new constitution in a referendum in October 2006, which reaffirmed Kosovo as an integral part of Serbia (ICG 2006). The only political party that openly pushed for Kosovo's independence was the Liberal Democratic Party led by Cedomir Jovanovic, receiving 6.8 per cent of the popular vote in the parliamentary elections in January 2007 (Dombey *et al.* 2007).

What is more important for understanding Serbia's reaction is the deeply entrenched perception among Serbia's political establishment that, through the international recognition of Kosovo's independence, present-day democratic Serbia is being 'punished' for the wrongdoings of an authoritarian regime in Belgrade that belongs to the past.²⁶ It is the pro-reform part of the political spectrum in Serbia which espouses the EU's political values and normative orientations that has been most bitter about this 'injustice' done to the country.²⁷

On Kosovo's side, all the political formations and the majority of the ethnic Albanian population (around 90 per cent) have openly claimed their right to self-determination since 1999. From their point of view, full independence is the only legitimate outcome. Kosovo's leaders have emphasized their ability to compromise by accepting significant limits to their self-governance in the first years of independence and by accommodating the international concerns about guarantees for the Serbian minority rights in the province, including

through decentralization. Identity reasons as well as appeals to moral justice have been at the core of Kosovo's quest for independence.

4. CONCLUSION

This article has argued that the EU's policy of state-building in the Western Balkans is better explained by the rational motives of the EU member states rather than by the EU's norms and rules of governance or by universal principles of fairness and justice. This situation has opened up political space for domestic actors in the Western Balkans who are reluctant to comply with the EU's conditions to contest the EU's policy positions on normative grounds. Exposing the non-normative basis of some of the EU's demands has turned into a political tool in the hands of unwilling players, who have challenged the EU line and given preference to domestic sources of legitimacy. The outcome has been less voluntary compliance and more imposed compliance with implications for the EU's international identity.

These findings contest the conceptualization of the EU as a normative power based on the external projection of its internal characteristics (Manners 2002). In the Western Balkans, the EU's actions are more in line with those of a strategic actor ready to apply pressure on third parties, if its power of attraction and persuasion fails to achieve its preferred outcomes. Not only are its policies not always grounded in its own norms and values, but they are also not always aligned with universal principles and global norms. It is therefore not justified to assume that the EU's unique experience with overcoming power politics and transcending sovereignty within its boundaries will automatically translate into normative foreign policy behaviour beyond its borders.

The article has shown an alternative way of explaining the effects of international socialization on EU accession candidates. Far too often, the conditions for successful socialization have been attributed to domestic receptiveness towards external normative claims, while assuming the normative foundations of that influence (Checkel 2001). This study has suggested that the legitimacy of the EU's external actions has to be closely examined before assessing the potential of the EU as an agent of socialization and 'a force for good'.

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NOTES

- 1 See the text of the Belgrade Agreement, reprinted in *CEPS Europa South-East Monitor*, No. 32, CEPS, Brussels, March 2002 (available from <http://www.ceps.be>).
- 2 Derived from interviews with EU officials, May 2002–September 2004.
- 3 Ibid.
- 4 Ibid.
- 5 Ibid.
- 6 Ibid.
- 7 See European Commission, *Report from the Commission to the Council on the preparedness of Bosnia and Herzegovina to negotiate a Stabilization and Association Agreement with the European Union* (Feasibility Study) COM(2003) 692 final, Brussels, 18 November 2003.
- 8 See the Law on the Indirect Taxation System in Bosnia and Herzegovina adopted in December 2003, after intensive domestic negotiations under international supervision in the framework of the Indirect Taxation Policy Commission chaired by Jolly Dixon.
- 9 See documents under the heading ‘Police Restructuring in Bosnia and Herzegovina’ on the website of the Office of the High Representative and EU Special Representative (available from <http://www.ohr.int/ohr-dept/rule-of-law-pillar/prc/>).
- 10 Derived from interviews with EU Commission officials, Brussels, May–July 2005.
- 11 Derived from interviews with EU Council officials, Brussels, April–May 2004.
- 12 See International Monetary Fund (IMF), *Bosnia and Herzegovina: Selected Economic Issues*, IMF Country Report No. 05/198, IMF, Washington, DC, June 2005.
- 13 See, for instance, Office of the High Representative and EU Special Representative, ‘New Year’s Message to the People of Bosnia & Herzegovina from Paddy Ashdown, High Representative and European Union Special Representative’, Sarajevo, 31 December 2003 (available from <http://www.ohr.int>).
- 14 See also the speech by European Commissioner for Enlargement Olli Rehn, ‘Introductory Remarks on Western Balkans’, SPEECH/07/170, delivered at the European Parliament, Foreign Affairs Committee, Brussels, 21 March 2007(a) (available from <http://www.europa.eu>).
- 15 Derived from interviews with EU member state officials in Brussels, October 2006–March 2007.
- 16 Ibid.
- 17 For differences among the EU member states, see D. Dombey and N. MacDonald, ‘Europe Divided over Kosovo’, *Financial Times*, 7 March 2007.
- 18 Gros (2002) estimated the potential loss for the average household in Montenegro solely in the textile sector as €150 per year and for the Montenegrin economy as a whole in the region of €45 million annually.
- 19 For further information, see the G17 Plus website (available from <http://www.g17plus.org.yu/english/index.html>).
- 20 Ibid.
- 21 Quotes from an interview of Central Bank Governor and G17 Plus leader Dinkic for *Frankfurter Allgemeine Zeitung*, 28 January 2003.
- 22 See Office of the High Representative, *31st Report of the High Representative for Implementation of the Peace Agreement on Bosnia and Herzegovina to the*

- Secretary-General of the United Nations*, Sarajevo, 16 May 2007 (available from <http://www.ohr.int>).
- 23 Derived from interviews with party officials, Sarajevo, December 2003.
- 24 Derived from interviews with party officials, Banja Luka, December 2003.
- 25 Address by Mladen Ivanic, Co-chair of the House of Peoples of BiH and former Minister for Foreign Affairs, to the high-level European Policy Summit 'A Balkans Balance Sheet', Brussels, 24 June 2008.
- 26 Derived from interviews with Serbian government officials, November 2006–January 2007.
- 27 Ibid.

REFERENCES

- Bose, S. (2002) *Bosnia after Dayton*, London: Hurst & Company.
- Brown, C. (2002) 'On morality, self-interest and foreign policy', *Government and Opposition* 37(2): 173–99.
- Checkel, J.T. (2001) 'Why comply? Social learning and European identity change', *International Organization* 55(3): 553–88.
- Cooper, R. (2004) *The Breaking of Nations: Order and Chaos in the Twenty-first Century*, London: Atlantic Books.
- Dombey, D., Macdonald, N. and Wagstyl, S. (2007) 'Serbian poll results offers chance to build a pro-western coalition', *Financial Times*, 23 January.
- European Security Strategy (2003) 'A secure Europe in a better world', European Council, 12 December.
- Grabbe, H. (2001) 'How does Europeanization affect CEE governance? Conditionality, diffusion and diversity', *Journal of European Public Policy* 8(6): 1013–31.
- Grabbe, H. (2006) *The EU's Transformative Power: Europeanization through Conditionality in Central and Eastern Europe*, New York: Palgrave Macmillan.
- Gros, D. (2002) 'Establishing the Common Market between Montenegro and Serbia', *CEPS Europa South-East Monitor*, 41, December.
- Gros, D., Kernohan, D., Najman, V. and Wozniak, P. (2004) 'On the cost of re-establishing Yugoslavia: first estimates on the economic impact on Montenegro of establishing a customs union with Serbia', *Southeast European and Black Sea Studies* 4(1): 119–39.
- Hyde-Price, A. (2006) "'Normative" power Europe: a realist critique', *Journal of European Public Policy* 13(2): 217–34.
- International Crisis Group (ICG) (2003) 'Bosnia's nationalist governments: Paddy Ashdown and the paradoxes of state building', *Balkans Report* 146, 22 July.
- International Crisis Group (ICG) (2006) 'Serbia's new constitution: democracy going backwards', *Europe Briefing* 44, 8 November.
- International Crisis Group (ICG) (2007) 'Kosovo: no good alternatives to the Ahtisaari plan', *Europe Report* 182, 14 May.
- Jacoby, W. (2004) *The Enlargement of the European Union and NATO: Ordering from the Manu in Central Europe*, Cambridge: Cambridge University Press.
- Kelley, J. (2004) 'International actors on the domestic scene: membership conditionality and socialization by international institutions', *International Organization* 58(3): 425–57.
- Manners, I. (2002) 'Normative power Europe: a contradiction in terms?' *Journal of Common Market Studies* 40(2): 235–58.
- Manners, I. (2006) 'Normative power Europe reconsidered: beyond the crossroads', *Journal of European Public Policy* 13(2): 182–99.
- March, J.G. and Olsen, J.P. (1989) *Rediscovering Institutions: The Organizational Basis of Politics*, New York: Free Press.

- March, J.G. and Olsen, J.P. (1998) 'The institutional dynamics of international political orders', *International Organization* 52(4): 943–69.
- Muehlmann, T. (2007) 'Police restructuring in Bosnia and Herzegovina: problems of internationally-led security sector reform', *Journal of Intervention and State Building* 1(Special Supplement): 37–65.
- Patten, C. (2007) 'Kosovo's last chapter is still to be written', *Financial Times*, 7 June.
- Schimmelfennig, F. and Sedelmeier, U. (2004) 'Governance by conditionality: EU rule transfer to the candidate countries of Central and Eastern Europe', *Journal of European Public Policy* 11(4): 661–79.
- Schimmelfennig, F. and Sedelmeier, U. (eds) (2005) *The Europeanization of Central and Eastern Europe*, Ithaca, NY and London: Cornell University Press.
- Schimmelfennig, F., Engert, S. and Knobel, H. (2006) *International Socialization in Europe: European Organizations, Political Change and Democratic Conditionality*, New York: Palgrave Macmillan.
- Sjursen, H. (2006) 'What kind of power?', *Journal of European Public Policy* 13(2): 169–81.
- Sjursen, H. and Smith, K.E. (2004) 'Justifying EU foreign policy: the logics underpinning EU enlargement', in T. Christiansen and B. Tonra (eds), *Rethinking EU Foreign Policy: Beyond the Common Foreign and Security Policy*, Manchester: Manchester University Press, pp. 126–41.
- Smith, M. (2006) 'Crossroads or cul-de-sac? Reassessing European foreign policy', *Journal of European Public Policy* 13(2): 322–27.
- Tocci, N. (2008) *Who is a Normative Foreign Policy Actor? The European Union and Its Global Partners*, Brussels: Centre for European Policy Studies.
- Vachudova, M., A. (2005) *Europe Undivided: Democracy, Leverage and Integration after Communism*, Oxford: Oxford University Press.
- Youngs, R. (2004) 'Normative dynamics and strategic interests in the EU's external identity', *Journal of Common Market Studies* 42(2): 415–35.