OLEKSANDR MOSKALENKO

# THE EU'S POLITICAL CONDITIONALITY FOR UKRAINE AND WESTERN BALKAN COUNTRIES: COMPARATIVE ANALYSIS

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# The EU's Political Conditionality for Ukraine and Western Balkan Countries: Comparative Analysis

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# The EU's Political Conditionality for Ukraine and Western Balkan Countries: Comparative Analysis

The full-scale war in Ukraine paradoxically triggered the next round of the EU's enlargement process.[1] Simultaneously, it gave new impulse to the accession process of the Western Balkans (WB) countries,[2] which have been waiting since 2003.[3] This development has revived the discussion of EU's political conditionality. The

[1] The decision of the European Council of 23 June 2022 granted the status of candidate countries got two former USSR republics – Ukraine and Moldova.

[2] Traditionally by the abbreviation, the reference is made to the six Balkan countries that are not EU members yet: Serbia, Montenegro, Northern Macedonia, Kosovo, Bosnia and Herzegovina, and Albania.

[3] The decision of the Thessaloniki summit of 2003, when the EU membership for the countries was officially promised.

experience of Central and Eastern European countries (CEEC) initiated the reference to conditionality as a relevant and successful policy. However, this policy turned to be a failure for the WB countries, as twenty years of its application have not transformed them into stable democracies. Neither have they paved a path to EU accession. On the contrary, most WB countries have been recently recognized as cases of state capture with a trend of deteriorating towards authoritarian regimes. Furthermore, the pattern of the EU involvement in the region gave reason for the growing scholarship that stresses the reinforcement of the WB authoritarian regimes as one of the primary side effects of the EU's conditionality.

Comparing domestic political dynamics of the WB countries with Ukraine, one should outline an empirical puzzle of rather similar path of their evolution over the decades, despite the difference in status in the EU accession process. Moreover, in terms of democratization, Ukraine's path has been much more dynamic, as Ukraine cannot be called an authoritarian regime or captured state.[4] Moreover, the Russian invasion of 2022 revealed that Ukraine also has working state institutions and a resilient civil society. Another side effect of the Russian invasion was the speed-up of the internal Ukrainian reforms.[5] This empirical puzzle undermines two primary theoretical theses of the Europeanization scholarship of two recent decades:

[4] Ukraine, however, has problems with other conditions to qualify for the EU membership: particularly, in the area of the rule of law and corruption.

[5] Observers stressed that Ukraine had done much more after the start of the war than in years before it.

1. Conditionality[6] is a successful and reliable toolkit for the preparation of candidate countries for the EU membership.
2.The success of the conditionality application depends on the "golden carrot" of a credible promise of the EU membership.

Both conclusions were made based on CEEC accession experience; however, other cases do not reinforce these findings.[7] Without excluding other explanations, this article submits that the current empirical puzzle can be explained by the differences in the asymmetry in the EU relations with a particular country as well as by the difference in the goals and patterns of the conditionality application. Dealing with the puzzle in question, the article provides a multi-level comparative analysis, including the experience of Ukraine, WB and CEE countries. The article subsequently deals with certain aspects of conditionality, followed by the analysis of the differences between the cases.

## A Neutral Instrument of Conditionality

Traditionally, conditionality and its application are associated with democratization and/or Europeanization.[8] However, conditionality is a neutral instrument (methodology) that can be utilized for achieving a variety of different goals. The world financial institutions[9] have been using conditionality regularly in different parts of the world.

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[6] Particularly its "reinforcement by reward" pattern.

[7] Conditionality failed in EU-Turkey accession process, in Eastern and Southern Neighbourhood projects, and in the EU relations with the WB countries.

[8] Despite certain differences, these terms are often used as synonyms.

[9] The IMF, World Bank, etc.

Conditionality or its application is not automatically connected with either Europeanization or democratization. Being a neutral instrument, conditionality can be utilized for those purposes as well as others. Therefore, the results may vary greatly, depending on the set goals. It is also important to distinguish the difference between the Copenhagen criteria, the conditions themselves – the final destination to be achieved by the candidate countries to be eligible for the EU accession – and political conditionality as an instrument to achieve this destination. As the experience of the WB countries demonstrates, conditionality can be utilized for goals that differ from either democratization or achieving other Copenhagen criteria.

By its nature, conditionality is an anti-democratic instrument, as it projects implementation of decisions, standards, etc., without their discussions at the national level. The obvious leading role of the executive branch of power in this process is clear evidence for this statement. Moreover, the involvement of legislative institutions (national parliaments) was often limited to the practices of "rubber-stamping" already dictated decisions, which provides another angle for revealing the antidemocratic nature of conditionality. It is also important to stress that asymmetry of power is a key element for the success of the application of the conditionality. Yet, the asymmetry level of EU's relations with Ukraine, CEE and WB countries has varied considerably. This is determined by the differences in the challenges that each particular country encountered as well as by the political value and price of the EU membership for particular cases.

**The Economic Roots**

Although all three categories of countries had similar Communist pasts, their post-Communist economic development went different ways, which evolved in a separate factor of the domestic political landscape. In the CEEC, the fall

of Communism was a certain point zero. With the intensive EU involvement and control, the process of privatization took place in the general atmosphere of the "fair play" rules. Furthermore, the EU ensured the transformation of the economic systems in the CEEC towards a particular model – the model of Foreign-Direct Investment economy. This resulted in the general separation of business from political power and thus prevention of national oligarch groups' formation.

For Ukraine and the WB countries, the path was rather different, resulting in the formation of oligarch groups, their capture of major national wealth and domination in the national governance systems, which ended up with rather similar consequences – antidemocratic trajectory of the countries' development and state capture after 2010. [10] Obviously, the de-construction of the oligarchies became a critical task; however, the aim has been far from successful in either of the cases.

In Ukraine, the existential threat and acute need to make a civilizational choice against the background of the Russian aggression brought about two unexpected consequences. First, it catalyzed the formation of civil society, which had to defend its commitment to the European values in the course of two revolutions.[11] The second was the need to start the combat against Russian oligarch groups often controlled by Putin's administration. This initiative was transformed into a wider

[10] For Ukraine, it was the period of the Yanukovych presidency (2010–2014).

[11] The Revolution of Dignity started in November 2014 after President Yanukovych refused to sign the Association Agreement with the EU, and decided to join the Russia-led alternative integration project of the Customs Union. The Russia's reply to the Revolution was the start of military hostilities – the occupation of the Crimea in March 2014 and the ignition of the war in Eastern Ukraine by groups of Special Forces officers.

process against the background of numerous corruption scandals and growing pressure from the civil society and international donors. In the absence of any existential external threat, in the WB countries the situation got locked-in by the condition of state capture. Moreover, the growing economic presence in the WB countries of groups from the countries with the authoritarian regimes[12] is an alarming sign, including the security perspective. Thus, the gap of 25-30 years locked-in the differences in the path of the market transformations. Furthermore, the formation of oligarch-type political regimes has evolved into a separate political factor directly influencing the level of democracy in the countries.

**The "Carrot": Its Value and Price**

The "golden carrot" of EU membership credible promise is traditionally viewed as the key to the success of the conditionality application. Yet, it is not a stable and identical trophy, as the EU membership has different value depending upon the particular political reality, timing and cost-benefit analysis of the ruling elites. This article submits that the value of the EU membership and its political price for different ruling elites has been drastically different.

For the CEEC, the value of EU membership was extremely high for a combination of diverse factors determined by the uniqueness of the political momentum. These factors inter alia included:

a) Civilizational choice made after 50 years of the "Iron Curtain";

[12] Russia, China and Turkey.

b) Existential – breaking free from the Soviet satellite system; [13]

c) Security – ensuring long-term independence and international peace against the challenges of re-establishment of the Russian military threat[14] and potential outbreaks of regional violence; [15]

d) Political – the need for the transformation into democracies;

e) Economic – the need to re-establish economy on the free market principles;

f) The factor of prestige with the EU being an elite club of prosperous and successful countries.

The twin accession into NATO and EU would and indeed did provide a unified and compound reply to all the challenges. These factors ensured the wide consensus between the CEEC elites and civil societies for the determination for the accession to the EU. In turn, it created strong societal pressure on the ruling elites, which reaffirmed the swift path of the CEEC to the EU and their compliance with the EU's conditionality.

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[13] The "coloured revolutions" of 1990s were not the first mass uprisings against the rule of the USSR in the CEE countries. The others included: 1953 – Eastern Germany, 1956 – Hungary, 1968 – Czechoslovakia, 1980s – Poland.

[14] Russia in 1990s swiftly turned away from the ideas of peace, democracy, "European values", etc. Russian President Yeltsin used tanks against Russian parliament already in 1993. The first relatively free parliamentary elections to the Russian Duma of 1996 were won by an overtly revanchist party (Liberal Democracy party of Russia of Zhirinovsky). The Russian Communist party took second place, with the revenge of Communism being among the central issues of its political agenda. Already in 1995, Russia started its invasion in the Republic of Chechnya with its numerous war crimes and crimes against humanity. The transformation of Yeltsin regime into an autocracy started in 1996, which only accelerated after the appointment of Putin as Yeltsin's successor in 1999.

[15] Against the background of the ongoing war in the former Yugoslavia

For WB countries, the value of the EU membership is much less, as the challenges topical for CEEC have partially been resolved and partially lost their acute relevance. The wide permanent presence of NATO in the region[16] is a relevant reply to most of the existential and security challenges. The economy has already been reformed into the market model. Moreover, the relations with the EU are regulated by the Association Agreements,[17] that ensure significant level of exposition to the Single Market of the goods and services from the region. The financial markets also demonstrate rather high level of convergence, with the EU being the principal investor in the banking and financial sectors of the region. The WB countries have a visa-free regime with the EU,[18] which ensures sufficient level of the freedom of movement. Thus, existing level of socio-economic relations indexes much lower added value of the EU membership for the WB countries compared with the CEEC. The EU has also lost its image of a prestigious club. The existing divergence between the "old" and "new" members and numerous crises of two recent decades have washed most of the glamour from the EU's image.

For Ukraine EU membership is of existential importance. Against the background of ongoing Russian aggression,[19] international support is the "last resort" for Ukrainian statehood. Thus, Ukraine's membership in the EU and NATO is the only feasible strategy of survival. Moreover, this membership is

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[16] Serbia and Kosovo are not NATO members. Three out of six countries are already NATO members: Albania (2009), Montenegro (2017), North Macedonia (2020); Bosnia and Herzegovina is in the accession process with the Membership Action Plan of 5 December 2018. Moreover, NATO members are all neighboring countries: Turkey, Bulgaria, Croatia, Romania, Slovenia, etc.

[17] Stabilisation and Association Agreements.

[18] Except for Kosovo.

[19] The aggression started in 2014, and the full-scale war on 24 February 2022.

crucial in terms of regaining occupied territories. Although from an economic perspective, the Ukrainian situation is closer to the WB countries, from the security, existential and civilizational challenges, the situation in Ukraine is similar to the CEEC of 1990s.

The political price for complying with the EU conditionality is another similarity between the CEEC and Ukraine. In both cases, the EU membership is a matter of societal consensus, as both elites and the civil societies perceive it as the primary national strategy.[20] Thus, the political price remains low. Moreover, the elites' own high interest in accessing the EU make the compliance with the EU conditionality a strategy politically beneficial both internationally and domestically.[21]

In the WB countries, the situation with the societal consensus is much more problematic. The political elites have become more reticent of EU membership, as it threatens to undermine their domestic economic dominance with nothing of comparable gain at the open EU markets. Furthermore, political costs of the compliance with the EU's conditionality are high due to three primary factors: a) a different set of conditionality; b) the "accession fatigue";[22] c) an authoritarian type of political regimes in most WB countries.

As EU's conditionality includes a variety of conditions that are sensitive from a local perspective, the political price of their implementation goes up. Moreover, evolving into a part of

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[20] In Ukraine, the situation is even more acute against the background of the Russian genocide against the Ukrainian nation in general.
[21] An illustration is Ukraine's acquisition of visa-free regime in 2017 was among the major political playing cards of then-President Poroshenko for the Ukrainian presidential election campaign of 2019.
[22] Which has evolved into a political factor of its own.

domestic political agenda, these sensitive conditions have a tendency to transform into populist rhetoric of different types, which creates additional political pressure in terms of electoral risks. As mentioned, the political benefits to compensate the risks are not abundant. Furthermore, the reference to the EU accession as a goal reachable in foreseeable future does not look like an adequate political strategy against the background of twenty years of "wait and see" policy of the EU.[23]

The literature on the subject points out that authoritarian regimes are extremely reluctant to comply with the conditionality even if the benefits are direct, near and numerous. Thus, the current situation is a stalemate – WB countries are already in state capture situation with authoritarian regimes reluctant to perform any democratization reforms. Recent elections in Serbia were rather illustrative of a vicious cycle situation.[24] It could, however, be broken by traditional measures for democratization such as a) empowering of civil society; b) ensuring the freedom of press; c) control over the transfer of power by means of free and fair election process.

The case of the WB countries represents a classic situation of (what the scholarship calls) an "elite-driven" process. With the EU membership being an insufficiently attractive "carrot" for local political elites, the EU has failed to offer any other incentives that would facilitate the national elites to increase their pace towards the EU. The ongoing transfer from offering incentives to punishments only emphasizes the EU's failure. Yet, the current situation is becoming ambiguous as the accession of WB countries to the EU is increasingly in the EU's political interests, in

[23] As recent studies demonstrate, popular support for the EU accession has significantly decreased in the last 10 years.
[24] Serbian parliamentary elections of 2023.

terms of both strategical and security issues against the background of further involvement into the region of larger authoritarian players. [25]

From the perspective of theory, the current situation in WB countries reveals a lack of asymmetry that is a critical component for the swift and successful application of the EU's conditionality. The EU's inability to overcome this stalemate raises questions regarding EU's ability to build relations on principles that are different from "deep asymmetry", which reveals the need to re-evaluate the EU's neo-imperial "conditionality thinking".

**Instead of Conclusions**

This comparative analysis reaffirms the limited success of democratization in the context of the EU conditionality application in both Ukraine and WB countries.[26] However, the democratization processes in Ukraine have been more dynamic, which can be explained by the differences in: a) the asymmetry of the relations; b) EU's conditionality; c) goals and methods of its application.

*The Difference in Asymmetry*

Until 2014 in both Ukraine and WB countries, the application of EU's conditionality was a classic elite-driven process, with the elites being rather reluctant to comply. In Ukraine, the Russian aggression, transforming into an existential threat for the entire Ukrainian society,[27]

[25] Russia, China and Turkey.

[26] This fact is also recognized in the existing Europeanization scholarship.

[27] The experience of the Russian occupation of the Eastern Ukraine (Donbass) from 2014 demonstrated that Russia plans full "de-Ukrainization" of Ukraine, leaving no place for the Ukrainian elite either.

underpinned the common accord as for the survival strategies. Thus, the EU's conditionality was in general perceived as a sign of promise rather than a burden to deal with. No similar existential or security challenge exists for WB countries, which is a factor that drastically reduces the asymmetry in their relations with the EU against the background of the current insufficient attractiveness of the EU membership for their ruling elites.

*The Difference in the Conditionality*

Classic conditionality refers to the Copenhagen criteria.[28] Today, the conditionality is different – for Ukraine it is "Copenhagen +", while for the WB countries it is "Copenhagen ++", "Copenhagen +" implies enhanced demands in terms of de-oligarchization, rule of law, judiciary system, as well as fighting against corruption.[29] The conditionality for WB countries also contains these enhanced demands; however, it also includes a number of additional conditions that deal with the legacies of the Balkan wars,[30] state-building capacities, and number of other points that are often politically sensitive. Examples include the official recognition of Kosovo, minority representation in the state system, language issues, the name of the country, etc.[31] It is rather symptomatic that EU's priority has primarily been on those additional "++" conditions.

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[28] The EU accession criteria established by the decision of the Copenhagen European Council in 1993. This "classic conditionality" was applied to the CEE countries during their accession period.
[29] By both legislative and institutional means.
[30] The wars of 1990s.
[31] This conditionality includes both internal issues and the implementation of international treaties concluded in the context of stabilization of the Balkan region. For example, minority-related issues and the implementation of the Dayton Agreement of 1995 for Bosnia and

*The Difference in the Application Goals*

In Ukraine, the goals of the conditionality were rather general in the context of ensuring the approximation of the national legislation with the EU's principles of governance. The primary goals of the conditionality for WB countries have been security reasons.[32] However, these goals are usually contrasted to the democratization of the region. This creates another puzzle, as theoretically, the provision of peace, security and stability should have been implemented through democratization. Otherwise, the security remains fragile and short-termed. As a result, EU's conditionality in Ukraine reinforces democratization at least indirectly, while for the WB countries, the conditionality has been utilized for goals that are not connected or even oppose democratization, which is rather problematic.

*The Difference in Methods*

With the CEEC, the EU's involvement was multi-level, including the entire spectrum of the political establishment.[33] On the other hand, a much less intense, yet rather similar pattern of EU's involvement has been in Ukraine after the "Orange revolution".[34] This trend multiplied

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Herzegovina, the official use of Albanian, other language-related issues (with Bulgarian), official name-related discussion and the implementation of the Ohrid Framework Agreement of 2001 for Northern Macedonia, recognition and establishment of bilateral relations with Kosovo and the implementation of the Ohrid Framework Agreement of 2023 for Serbia, etc.

[32] Such as the stabilization of the region, prevention of the national-based violence, etc.

[33] It included the level of the central government as well as regional and local authorities, political parties, opposition, civil society, NGOs, etc. by a wide variety of means of assistance, support, "socialization measures" programs, twinning, etc.

[34] Of 2004.

after the Revolution of Dignity,[35] which was also a landmark for swift evolution and structuring of the Ukrainian civil society.[36] Both trends – the development of civil society and its empowering are strategies theoretically recognized as primary for democratization. Thus, the EU adequately saw the opportunities and made use of them to energize the democratization path of Ukraine in the context of its conditionality. As for the anti-corruption measures, there has been considerable institutional support reinforcing their implementation.[37] Such practice is not new and proved to be rather successful for certain CEEC, as well as for Bulgaria and Romania.

For WB countries, the EU's involvement remains limited mostly to the official government level. The EU indeed has been rather deeply involved in particular types of reforms – i.e., police and military reforms,[38] however, there are two points to make here. First, EU involvement is mostly limited to security-related aspects, following the EU's general focus in the region. Second, the EU does not work with civil society of WB countries on a regular basis, instead preferring to stick to cooperation with the existing governments, despite their authoritarian type. By following this pattern, the democratization effect of EU involvement in the region is reduced to the minimum. Furthermore, this pattern has reinforced authoritarian regimes in the region.

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[35] Of 2013-2014

[36] Against the background of the rapid rise of different NGOs, expert organizations, volunteering groups, societal and political movements, etc.

[37] There were established an entire new branch of agencies that include special anti-corruption investigation bureau, procurator's office and courts.

[38] For example in Northern Macedonia and Bosnia and Herzegovina.

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