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# Beyond conditionality: international institutions in postcommunist Europe after enlargement

Rachel A. Epstein and Ulrich Sedelmeier

**ABSTRACT** According to the dominant incentive-based explanation, European Union (EU) conditionality has been particularly effective when the EU offered a credible membership incentive and when incumbent governments did not consider the domestic costs of compliance threatening to their hold on power. However, after the EU's eastern enlargement the influence of international institutions could then be expected to decrease in three different contexts: (i) the new member states after accession; (ii) the current candidate countries; and (iii) the postcommunist countries in the European neighbourhood policy. Yet although the incentive-based explanation receives support in some issue areas, in others, external influence is more enduring than predicted. To the extent that our understanding of the power of incentives is complicated by post-enlargement findings, there are new avenues for research into the full range of mechanisms that international institutions have at their disposal for influencing target states.

**KEY WORDS** Conditionality; East Central Europe; enlargement; European Union; international institutions; postcommunism.

## INTRODUCTION

International institutions use conditionality – the conferral of rewards in exchange for compliance – to direct policy in target states. The use of conditionality has proliferated in recent decades since the ‘first wave’ of conditionality exercised by the International Monetary Fund (IMF) in the 1950s. A growing range of international institutions has become increasingly engaged in areas of domestic politics the world over. Yet the capacity of such conditionality to elicit its intended response has been notoriously uneven – except in one region – and that is East Central Europe (ECE).

The European Union's (EU's) membership conditionality, employed most intensively in the run-up to the 2004 and 2007 enlargements, has been perceived as a highly effective means of influence. It is widely credited with having brought about an alignment of the ten postcommunist countries' systems of governance,

economies and legal structures with the West European member states and the EU's *acquis communautaire*. According to the rationalist, incentive-based explanation that dominates the literature, conditionality has been particularly effective when the EU offered a credible membership incentive and when incumbent governments did not consider the domestic costs of compliance threatening to their hold on power (Kelley 2004; Schimmelfennig 2005; Schimmelfennig and Sedelmeier 2005; Vachudova 2005).

From the perspective of such an incentive-based 'conditionality hypothesis', however, the EU's 2004 and 2007 enlargements might present a turning point for the influence of international institutions in postcommunist Europe. For if the incentive-based explanation were correct in predicting the circumstances under which non-member states comply with the demands of international institutions, we would expect their influence on postcommunist domestic politics to deteriorate after the 2004/07 enlargements. After enlargement, the main conditions that incentive-based explanations regard as critical for the EU's influence through conditionality – a credible membership incentive and non-prohibitive domestic adjustment costs – are no longer as favourable in postcommunist Europe. According to the conditionality hypothesis, the decreasing influence of international institutions should be particularly salient in three different contexts: (i) the new member states *after* accession; (ii) candidate countries in the western Balkans and Turkey; and (iii) the postcommunist countries involved in the EU's European neighbourhood policy (ENP).

This issue tests the conditionality hypothesis explicitly in these areas and finds only mixed results for it in the post-enlargement setting, and in some instances reaching back to the pre-enlargement setting, as well. Some contributions find evidence for the incentive-based approach. For example, in certain issue areas compliance with international institutions indeed corresponded to membership conditionality before accession and declined after, particularly with respect to political party platforms and economic and monetary union (EMU). Likewise, the high domestic costs of compliance with international institutions' demands in the western Balkans and Turkey do undermine the power of the EU's membership conditionality in the current period.

But other findings from this issue call the conditionality hypothesis into question. Compliance with EU law among postcommunist member states has been strong in the post-enlargement period. Although compliance with EMU has been uneven across states, some postcommunist states are indeed striving hard to join. Compliance with the prescriptions of international organizations (IOs) in the areas of bank privatization and pension reform has remained consistent, despite the absence of EU conditionality, in the pre- *and* post-enlargement periods. Finally, the ENP exercises influence differently without the membership incentive, namely through extending less hierarchical governance structures to non-member states. In what follows, we first derive expectations from the conditionality hypothesis and then compare those predictions to the findings in the issue, highlighting where the conditionality hypothesis does and does not get support from the evidence. We conclude by outlining further avenues for research.

## THE CONDITIONALITY HYPOTHESIS: EXPECTATIONS

### New member states: post-conditionality compliance

After accession, the membership reward is no longer conditional for the EU's new member states. As the incentive structure for the new members changes, post-accession compliance with costly pre-accession demands of international institutions should deteriorate. After all, if it had only been the external incentive of membership that drove compliance, then – having won the ultimate reward – why would the newest EU members not be tempted to roll back reforms that had been the most costly to implement? Of course, dismantling institutions is not always cost free, and domestic actors benefiting from IO demands can raise the costs of non-compliance. However, if domestic costs of compliance remain high, a rationalist perspective would expect the likelihood of continued post-accession compliance to vary across issue areas, according to the extent to which the EU is able to sanction (non)compliance by its members.

We can distinguish four such issue areas: (i) the rules that are part of the *acquis communautaire*; (ii) rules for which EU institutions continue to apply conditionality after accession; (iii) rules that the EU made subject of its political conditionality; and (iv) rules that are neither part of the *acquis* nor were an explicit part of conditionality.

#### *Acquis communautaire*

With regard to the *acquis communautaire*, EU institutions can sanction persistent non-compliance in member states through financial penalties imposed by the European Court of Justice (ECJ). Yet despite such leverage, a sanctioning gap should appear compared to the pre-accession phase. The ultimate sanction of withholding membership is no longer available and financial penalties take time to impose. All else being equal, rules that are part of the *acquis* should then see a general deterioration of compliance. However, non-compliance is most likely to be temporary (albeit possibly drawn-out) until the ECJ imposes sanctions, rather than a complete reversal and durable non-compliance.

#### *Continuation of conditionality*

Although membership conditionality ends with accession, in a few policy areas conditionality continues. Membership in the Schengen area and in EMU are not automatic with EU membership. In both cases, membership requires a separate decision, which is subject to would-be members meeting certain conditions. An incentive-based explanation would then expect the likelihood of compliance to depend on governments' issue-specific cost/benefit calculations that include the incentive on offer. The decoupling of compliance from EU membership suggests that compliance will vary across the new members.

The new members already had to adopt Schengen rules as part of the EU's accession conditionality. Continued compliance in order to qualify for membership should be more uniform than with the EMU convergence criteria, because

although the new members had to accept EMU ultimately, they were not asked to meet the conditions upon accession. Indeed, all new members (except for Cyprus, Bulgaria and Romania) joined Schengen in December 2007, while so far only Slovenia (January 2007), Malta and Cyprus (January 2008) have been accepted into EMU.

#### *Rules of political conditionality*

Rules that are not part of the *acquis*, but were part of the EU's political conditionality, include democratic principles, human rights, and minority rights. In these issue areas EU institutions do not have any sanctioning power in full members, except in extreme cases of a 'serious and persistent breach' of democracy and fundamental rights, where they can act under Article 7 of the EU treaty to suspend certain membership rights. An incentive-based approach would then expect a significant loss of influence for international institutions after accession. The new members might not implement pre-accession commitments after accession, or reverse earlier concessions in costly areas – unless domestic beneficiaries of internationally induced reform have veto power.

#### *Rules that are not subject to EU conditionality*

Incentive-based approaches expect the influence of international institutions to be weakest in areas in which the EU never applied conditionality. Such areas concern rules that are neither part of the *acquis*, nor explicitly included in its accession conditionality. Post-accession compliance problems could also be expected in issue areas in which other IOs – including the IMF and the World Bank, which supported a similar overall reform agenda as the EU but could not offer similarly high incentives – had taken the lead. Incentive-based approaches might expect that pre-accession influence of such institutions is already very limited if they could not offer material inducements and if the EU did not tie their recommendations to improved prospects for EU accession. Whatever influence such an implicit link to EU accession yielded, it would be expected to erode quickly after accession.

### **Current candidate countries and the ENP**

#### *Candidate countries*

Beyond the question of post-accession compliance in the EU's new member states, an incentive-based explanation of the influence of international institutions would also expect bigger obstacles to IO influence in two different geographical contexts: (i) the current candidate countries; and (ii) the remaining countries of postcommunist Europe that do not currently have a membership perspective and are included in the ENP.

As in the last enlargement rounds, the EU has offered the current candidate countries in the western Balkans and Turkey the incentive of membership. Still, in the current candidates, the conditions are much less conducive for this incentive to result in strong EU influence. First, for most of the candidates,

the membership perspective is far more distant and less credible. The exception is Croatia, which started accession negotiations alongside Turkey in October 2005. For Turkey, even the start of accession negotiations did not ensure the credibility of the membership perspective. First, the member states simultaneously started a debate about whether the negotiations could only lead to membership. This debate marked a departure from the practice of earlier enlargement rounds when the start of negotiations indicated a commitment on both sides to conclude them successfully. Second, the 2005 amendment of the French constitution that subjects any enlargement (after Croatia) to a popular referendum takes the final decision out of the hands of the member state governments (although this constitutional amendment might be reversed again).

Furthermore, most of the remaining candidate countries face much higher domestic adjustment costs to meet the EU's political conditionality. In many areas, the EU's demands touch directly on questions of national identity and statehood, and the EU's demands threaten more directly the political support of governments.

### *European neighbourhood policy*

In the postcommunist countries currently included in the ENP, the EU's ability to wield influence through conditionality is even more circumscribed. The most potent incentive that the EU has on offer – membership – is explicitly not on the agenda ('everything but institutions'). Moreover, the domestic conditions in the eastern ENP countries are much less conducive to meeting the EU's political conditionality than in the 2004/07 candidate countries. Their democratization is generally much less advanced, which implies high domestic adjustment costs with regard to the EU's accession criteria.

In sum, an incentive-based approach expects a significant deterioration of the influence of international institutions in postcommunist Europe after the EU's first two eastern enlargement rounds. The conditions are least favourable in the ENP, where the EU does not use membership as an incentive; in current candidates where the membership incentive is less credible and domestic political adjustment costs are high; and in the new member states with regard to rules that are not part of the *acquis*. Compliance with the *acquis* in new member states could be expected to deteriorate, but non-compliance should be temporary – albeit possibly drawn out – rather than durable. Compliance in areas in which the EU continues to apply issue-specific conditionality after accession is likely to vary according to issue- and country-specific cost/benefit calculations.

## **FINDINGS**

In order to explore both the power and limits of international institutions in postcommunist Europe after enlargement, contributors to this special issue explicitly address one or more of the following dimensions in which the EU operates beyond conditionality as applied in the 2004/07 enlargements.

The first set of contributions analyses the temporal move ‘beyond conditionality’ and assesses the ongoing compliance record of the EU’s newest members following the 2004 and 2007 enlargements. Sedelmeier (2008) examines compliance with the *acquis communautaire*. Johnson (2008) analyses the impact of the ongoing conditionality for EMU. Sasse (2008) and Vachudova (2008) examine areas affected by the EU’s political conditionality in which EU institutions have no leverage after accession – minority rights and the orientation of political parties, respectively. Finally, Epstein (2008a) and Orenstein (2008) analyse two areas in which the EU has neither competences nor applied political conditionality prior to accession – the internationalization of the banking sector and partial privatization of pension systems.

Contributions in the second and third contexts go geographically beyond conditionality as applied in the 2004/07 enlargements. The second context concerns states currently in various stages of negotiation with the EU. Schimmelfennig (2008) examines the EU’s political conditionality in Croatia, Serbia, and Turkey to whom the membership perspective is more distant and less firm and the compliance costs for governments are much higher than they had been in the early 2000s in the first ten postcommunist candidates. The third context refers to states outside the current accession orbit over which the EU has no membership leverage but that the EU still seeks to influence. Lavenex (2008) examines the EU’s influence through the ENP, in particular in the sectoral policies of air transport regulation, transboundary waters management, and immigration control.

Finally, a fourth category is a conceptual extension of influence ‘beyond conditionality’. That is, although international institutions’ use of conditionality was an ongoing feature of postcommunist transition and enlargement, the question arises as to whether other mechanisms were nevertheless more powerful in securing domestic reform. The framework does not rule out the power of incentives, but it also broadens the analysis to include constructivist and constructivist-rationalist synthetic explanations that centre on persuasion, social context, socialization and social learning (see respectively Checkel 2001; Epstein 2008b; Gheciu 2005; Schimmelfennig and Sedelmeier 2005).

### **Assessing the influence of international institutions**

Contrary to the expectation that compliance with IOs’ prescriptions should falter among postcommunist states after enlargement, this special issue finds that, in a significant number of cases across a range of issues, compliance has actually endured. Compliance among the EU’s newest members continues in areas that include the implementation of EU law (Sedelmeier 2008), the openness to foreign investment in central and east European banking sectors (Epstein 2008a), and convergence on some (though not all) key indicators of European monetary integration (Johnson 2008). In the area of pension reform, in which the EU’s only prescription was that aspiring members heed the World Bank’s advice, ECE states have adopted private pillars in large numbers and have

stayed with that strategy following accession (Orenstein 2008). And in the area of minority protection, formal compliance has continued as Latvia met the demand to ratify the Council of Europe's Framework Convention for National Minorities (FCNM) in 2007 (Sasse 2008).

Yet in other areas in which the EU used to apply political conditionality there are signs that IO influence is limited. For example, Sasse (2008) finds that underneath formal legal compliance, problems with the application of minority rights in practice persist. Moreover, the involvement of IOs has had unintended consequences that deepened some structural problems and limit or undermine the effect of formal legal change. Vachudova (2008) finds that, while political parties moderated their agendas to bring them in line with the prescriptions of the EU's political conditionality, after EU accession the parameters for party competition broadened again. The lifting of accession-related constraints is especially apparent among parties that adopt more nationalist and culturally conservative positions.

The deterioration of the influence of IOs is also noticeable beyond the new members. Schimmelfennig (2008) argues that setbacks in the EU's attempts to obtain compliance in the various relations with Croatia, Serbia, and Turkey are due to the high political costs to the target governments, since parts of the EU's political conditionality are highly salient for national identity. Lavenex (2008) also notes the limits of using conditionality as a source of influence in the ENP. However, she suggests that, under specific conditions, a different mode of network governance can emerge in the ENP, which might provide an alternative to conditionality in creating new forms of horizontal flexible integration.

### **Beyond conditionality: mechanisms of influence after enlargement**

In addition to the fact that external incentives have apparently done more than provide short-term motivation for compliance, this special issue highlights the myriad other ways in which IOs have exercised their power in postcommunist Europe. In some instances, IOs have attempted to encourage certain policy innovations in the absence of conditionality – with varying success (Orenstein 2008; Lavenex 2008). In other cases, this issue finds that conditionality can have uneven effects for heretofore unexamined reasons – namely because of the social context between IOs and domestic actors (Epstein 2008a) or the existence of particularly strong domestic inhibitors (Schimmelfennig 2008). Finally, conditionality, as well as other kinds of policy guidance, can have unintended consequences that not only fail to elicit the intended response but that create new dilemmas (Sasse 2008). This research is therefore suggestive of the ways in which IOs will exercise their power in postcommunist Europe after enlargement, but also of the ways in which IOs globally will behave and with what consequences.

To varying degrees, the articles in this special issue then confirm, undermine or complicate the explanatory power of the incentive-based approach to IO

influence that predicts domestic compliance will follow the credible promise of rewards if the domestic costs of compliance are low. Vachudova (2008) and Schimmelfennig (2008) largely confirm the incentive-based approach. Sedelmeier's (2008) finding of good post-accession compliance with the *acquis* despite generally unfavourable compliance conditions fits much less easily. Sasse's (2008) observation of Latvia's ratification of the FCNM in 2007 also appears puzzling from a conditionality perspective. However, she finds that EU influence is only tied to legal change; it is not effective in bringing about behavioural and attitudinal change either pre- or post-accession. The lack of behavioural compliance could either fit a rationalist explanation (as it avoids the costs of correct application) or a constructivist explanation focusing on the lack of domestic resonance of new norms. Johnson (2008) presents similarly mixed results. However, the importance of the absence of a clear deadline for combined euro adoption and of variation in national economic structures for the uneven EU influence over new member states' monetary and fiscal policies fits well with an incentive-based explanation. The remaining contributions are not explicit tests of the conditionality hypothesis as it applies to EU membership, but they question in different ways its explanatory power. They emphasize the importance of alternative mechanisms of influence, such as network governance in the ENP, or a more general form of IO policy guidance, and the significance of the social context in (Bretton Woods) conditionality.

## CONCLUSIONS

In recent years, the study of the influence of IOs in postcommunist Europe, and in particular of the EU on its candidate countries, has become a major growth area of research in the study of IOs and EU enlargement. The completion of the 2004 and 2007 rounds of EU enlargement does not mark the end of this research agenda – on the contrary. Post-accession and post-enlargement present a very promising context in which to refine and develop some of the central insights gained from research on pre-accession influences in the ECE.

First, the post-accession context allows researchers to probe the extent and durability of pre-accession influences, as well as the role of different mechanisms of influence. The countries that acceded to the EU in 2004/07 generally presented the EU with particularly conducive conditions for influence through incentives. Many scholars have concluded that incentives were strong enough to provide sufficient conditions to generate the broader patterns of adjustment. But the mixed record of the incentive-based approach after enlargement should encourage us to revisit those original findings to assess the explanatory power of competing approaches. The uneven legitimacy of IOs, the social context, persuasion and socialization could have been a bigger part of the story than is often recognized because of the methodological difficulty of separating incentives from social forces.

Furthermore, pre-accession conditionality was not a level playing field to test analytically distinct mechanisms of external influence. Given the overpowering

incentives on the one hand, and the legitimacy problems of the conditionality process on the other, it presented arguably a most likely case for rationalist, and a least likely case for constructivist, approaches. Post-accession could be a more favourable context for observing alternative mechanisms, as they are no longer crowded out by overwhelming incentives.

Moreover, the post-accession phase might prove a fertile testing ground for whether the mechanisms of pre-accession rule transfer make a difference for post-accession compliance. Are rules that were transferred through social learning and persuasion more likely to be durably implemented than rules that were instrumentally adopted to achieve the objective of membership?

Finally, only the long-term perspective of the post-accession phase will allow researchers to identify and appreciate the full importance of socialization processes that accompanied the use of conditionality, including unexpected, unintended, or failed socialization. Of course, in over 15 years of 'transition', and often even before enlargement, many effects of socialization were on display (see, e.g., Checkel 2001; Epstein 2008b; Gheciu 2005). However, the accession period could still be considered rather short, and constructivist approaches will be particularly appropriate to capture the longer-term social processes. Some of these processes will only become apparent post-accession, and they include cases in which IOs failed to engender social learning. IOs might have been able to overcome a lack of domestic resonance of international rules in the short term through powerful incentives, but the lack of resonance could turn out to be a major long-term obstacle to behavioural compliance.

Second, in current candidate countries, and especially in those countries for whom membership is not currently on the EU's agenda, the incentives that the EU has to offer are less powerful because of a combination of higher domestic costs and fewer sizeable and/or credible rewards. In these cases the EU cannot expect simply to reproduce the policies that were deemed successful in eastern enlargement. The EU either needs to rethink how to use the incentives at its disposal more effectively and/or how to go 'beyond conditionality' – through different mechanisms of influence and different modes of external governance.

In both these broad areas, further research is necessary to provide more systematic evidence across issue areas and across new members and non-members, both with and without a membership perspective. The contributions in this special issue suggest that the influence of IOs and of the EU in particular does not necessarily end with the 2004 and 2007 enlargements. The new member states' compliance has been surprisingly durable, especially with the *acquis communautaire*, but also to some extent in areas of political conditionality. In the postcommunist non-member states, the EU's influence is generally much more limited than in the recent enlargement rounds. Yet even in the ENP, in certain sectoral policy areas, promising new forms of co-operation have emerged. The weakening of external incentives after accession creates obstacles for IO influence, but the contributions provide plenty of evidence of instances in which the EU and other IOs have successfully gone 'beyond conditionality' to exercise influence on postcommunist politics.

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