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European Foreign Policy and the Challenges of Balkan Accession: Conditionality, Legitimacy and Compliance

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“Why have the Balkan countries responded differently to the EU’s pre-accession demands? (Noutcheva, 2012: 5)”. In this book Gergana Noutcheva aims to explain this puzzle and thereby to increase knowledge on the impact of EU policy in its neighboring countries. The author is an associate professor in International Relations and European Foreign Policy at the University of Maastricht. Her research focuses on the EU enlargement and neighborhood policy, in particular the impact of the EU on the domestic structures of non-EU countries.¹ Noutcheva’s most recent book on EU influence abroad is based on her PhD thesis in 2006, *EU Conditionality and Balkan Compliance: Does Sovereignty Matter?*. As I will argue below, Noutcheva’s effort stands out thanks to an appealing research approach that refines previous attempts to explain diverging responses to EU demands in receiving countries.

In the first part of her book (Chapters 2 and 3), Noutcheva takes stock of the literature on Europeanization in Central and Eastern Europe (CEE) and European Foreign policy to discuss subsequently the theoretical and conceptual underpinnings of her research endeavor. As reviewed by the author, previous literature on European enlargement mainly stressed two mechanisms to explain the compliance of CEE countries to the EU’s pre-accession demands. According to the rationalist “logic of consequences”, compliance is the result of domestic political elites’ cost-benefit calculations regarding EU conditionality. External incentives, such as pre-accession aid and the prospect of EU membership, are seen to induce a shift towards compliance because domestic actors gradually realize that the benefits of accession outweigh the costs of adaptation. Alternatively, according to the socialization-based “logic of appropriateness”,

compliance is the product of social learning, where domestic actors begin to internalize EU norms and values through the regular interaction with and persuasion by EU actors. Whereas these two explanations have been mostly treated on an “either-or” basis of competing hypotheses, Noutcheva acknowledges the value of both of them to explain the compliance patterns in the Balkans. In addition, the author highlights “legal coercion” as a further explaining variable, which enables the EU to induce compliance beyond the conditionality and socialization mechanisms in some Western Balkan states. She asserts that the EU, as part of the international community and via its proper foreign policy instruments, is in a position to provoke compliance by exercising coercive power on semi-sovereign states such as Bosnia and Herzegovina and Kosovo.

While all three above mentioned factors find their way into Noutcheva’s model, the author gives particular prominence and scrutiny to the socialization argument. Departing from dominant accounts in the literature, she points out that the success or failure of socialization depends on the legitimacy of EU conditions. Since actors tend to disagree on what is universally legitimate or mutually beneficial, Noutcheva “proposes to examine the reactions of political actors on the receiving end of EU policies” as a proxy of legitimacy beliefs (Noutcheva, 2012: 37). Hence, instead of assuming the EU’s “normative power”, understood as the structuring force of EU norms, Noutcheva problematizes these norms by underlining the relevance of perceived legitimacy for explaining compliance. This may seem obvious for some readers, but it represents a pleasing perspective change vis-à-vis the Europeanization literature, where the appropriateness of EU demands is rather taken for granted than questioned.

1 <http://www.fdcw.unimaas.nl/staff/default.asp?id=294>
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The theoretical framework proposed by Noutcheva comprises a three-step model (Noutcheva, 2012: 32). When EU demands enjoy high legitimacy in the would-be member state, one can expect substantial compliance to the conditions in question, although the costs of compliance perceived by domestic elites can have a delaying effect. When the legitimacy of EU demands is low, but domestic elites consider the benefits of compliance to overturn their costs, the result is partial compliance. In case of low legitimacy and preponderance of costs versus benefits, compliance is only possible through coercive power. If the EU maintains strong pressure in a consistent manner, one can observe imposed compliance. When the EU is perceived to be weak (or to become weak) in maintaining its pressure, imposed compliance can turn into fake compliance, which risks to be reversed later on (reversed compliance). One could surely argue that this step-by-step model artificially divides processes that appear simultaneously. But from a political science perspective the theoretical abstraction of the different variables is promising and facilitates a clear analysis of the main influencing factors.

Turning in chapter 3 to the legitimization of EU pre-accession demands, Noutcheva draws the distinction between the “usual” Copenhagen criteria and specific additional conditions for the Western Balkans countries. The former concern the political and economic criteria as well as the adoption of the *acquis communautaire* as agreed by the European Council in 1993. As for the former candidates of CEE, Noutcheva sees these conditions to be legitimized by their deep anchorage in the values of democracy and economic governance that are enshrined in the European treaties and secondary law. Regarding the specific conditions for the countries of former Yugoslavia, the author is particularly concerned with the EU demands’ effects on the sovereignty structures in several Western Balkan countries, for example the country’s international legal status or the composition of the state. In these cases of indirect sovereignty conditions, Noutcheva considers the local response as crucial for evaluating the legitimacy of EU demands.

The sovereignty question is also the author’s main case selection criteria. Acknowledging the complexity of the sovereignty concept, Noutcheva focuses on two attributes of authority, i.e. the formal dimension of sovereignty. On the one hand, internal sovereignty relates to the presence or absence of external actors in the domestic authority structures; on the other, external sovereignty refers to the country’s international legal status.

Along these two dimensions, Noutcheva selects four cases out of the “Balkans”²: Bosnia and Herzegovina (external sovereignty, lack of internal sovereignty), Serbia and Montenegro 2002-2006 (internal sovereignty, lack of external sovereignty), Kosovo (lack of internal and external sovereignty) and Bulgaria (presence of external and internal sovereignty).

The remainder of the book addresses the empirical examination of these case studies. Part II comprises two chapters where the author analyses, first, the EU’s demands vis-à-vis each case study country (Chapter 4), and second, the EU’s legitimization practices, the coherence between EU actors and the compatibility of the EU approach with other major actors, e.g. the United States (Chapter 5). The third part of the book is devoted to the response of the four receiving states. While Chapter 6 retraces their compliance record, Chapter 7 discusses the “why” of compliance, i.e. the reasons for the compliance patterns with reference to the theoretical framework. Consequently, each of the four empirical chapters (4-7) features one subchapter for each case study. This sectioning is comprehensible from an analytical point of view but detrimental to the readability. For this reason, the mayor results are discussed below on a case-by-case basis.

The case of Serbia and Montenegro falls according to the author into the category of fake compliance which turned into reversed compliance. Whereas the two former Yugoslav republics formed a common state after the dissolution of the Socialist Federal Republic of Yugoslavia (SFRY), the Montenegrin pro-independence movement gained weight with the fall of the Milošević regime in 2000. The EU, backed by the larger international community, championed the re-creation of a common state since one feared the destabilizing effect of state partition. However, the EU demand for a common state was not perceived legitimate by the Montenegrin pro-independence actors who could invoke the same right for self-determination as other former Yugoslav republics. Nor was it perceived beneficial from an economic point of view because the EU’s insistence on domestic economic harmonization went against the diverging patterns of the economy in the two republics.

2 The selection of the cases is naturally linked to the study’s focus on the “Balkans”. While the author claims that “these countries belong to the same historical region (Noutcheva, 2012: 10)”, the cultural meaning and connotation of the “Balkan” notion is discussed only at the margin. Its use in the book seems to arise rather from common language than from “implicitly ‘privileging’ something (Stokes, 1997)”. The same is true for its use in this review.

Due to the pressure of EU actors and the unlikelihood of international recognition in case of a declaration of independence, the Montenegrin government acquiesced to a broad framework agreement in 2002 (the "Belgrade agreement") and a Constitutional Charter in 2003. Yet, these (fake) compliance moves left many important aspects unaddressed and maintained the right to call a referendum on independence after a period of three years (Noutcheva, 2012: 70f). The Montenegrin government's quest for independence was emboldened by the subsequent weakening and incoherence of EU pressure in maintaining a common state. The lack of legitimacy, perceived benefit and EU coercion paved thus the way for Montenegrin independence, which followed the referendum held in 2006.

The Kosovo case is according to Noutcheva an example for imposed compliance. After the end of the Kosovo war in 1999, the EU led the economic reconstruction of the new UN protectorate, but kept a low profile on the sensitive issue of the final status (Noutcheva, 2012: 77). From a legitimacy perspective, the dilemma regarding Kosovo's independence is "the legal tension between the right to self-determination and the principle of territorial integration (Noutcheva, 2012: 107)". This dilemma provoked not only diverging views between Serbs and Kosovars, but also between EU member states. Accordingly, several EU members have not recognized Kosovo's independence bid from 2008 due to the fear of emboldening own domestic secessionist movements. The EU nevertheless converged in taking a pragmatic "approach of diversity in recognition, but unity in engagement" (Noutcheva, 2012: 79). In fact, Kosovo's independence was widely seen as a security-enhancing outcome, but the EU abstained from legitimizing this step from a moral human rights perspective in order to avoid a precedent for other secessionist movements. International and intra-EU division just enhanced the pronounced perception of illegitimacy inside Serbia regarding Kosovo's independence. Faced with an ambivalent legitimacy status and the huge costs for political parties in Serbia to sell the loss of Kosovo to their voters, the EU has heavily pressured Serbia to accept the status quo and pursue negotiations with Kosovo's political leaders. In line with the book's explanatory model, the according outcome can be described as imposed compliance.

In the case of Bulgaria, the EU demands were the "classic" Copenhagen criteria of democratic and economic governance. In contrast to the above mentioned cases, the EU could here fully rely on the normative appeal of the EU common values

which were largely welcomed by the Bulgarian population. The delayed EU accession of the country as compared to the ten accession members of 2004 was mainly due to the resistance of different domestic actors who tried to shield their lucrative positions in the state machinery from EU induced reform undertakings. The EU conditionality mechanism of incentives and disincentives succeeded in the long run to foster substantial compliance. As Noutcheva (2012: 186) acknowledges, the politics of compliance in the Bulgarian case is somewhat different from the remaining selected countries. This is due to the deferred time horizon of the Bulgarian accession process and, more importantly, to the lack of sovereignty-related conditions as compared to the other cases. It could have been interesting to replace Bulgaria with Croatia or to add the latter country to the set of cases. Noutcheva (2012: 9) recognizes that Bulgaria and Croatia can be categorized in the same way regarding the sovereignty status (presence of external and internal sovereignty). In addition, as Croatia's accession to the EU is imminent, the country would also fit the status of substantial compliance as conceptualized by the author. At the same time, Croatia shares with the remaining country cases the legacy of the war, the same starting point of the enlargement process and some contested additional EU conditions compared to the CEE candidates. For instance, the cooperation with the International Criminal Tribunal for the Former Yugoslavia (ICTY), one of the "special" conditions inflicted on Croatia during the accession negotiations, entailed a certain degree of legitimacy-based contestation in Croatia, which makes the case interesting vis-à-vis the proposed theoretical framework.

For Bosnia and Herzegovina, the author thoroughly identifies the underlying state-building aspects of the EU's political and economic reform requirements. The Dayton Peace Agreement (DPA) put in place a highly decentralized state structure with a weak central state and two entities with state-like competences, i.e. the Serb Republic (RS) and the Bosniak-Croat Federation of Bosnia and Herzegovina. The latter was further divided into ten cantons, each with its own legislative and governmental bodies. The main objective of the international community throughout the years became to enhance the powers of the central state level with the justification that the DPA system was inefficient and too costly. The High Representative, deployed as the guardian of the DPA, was provided in 1997 with extraordinary powers (the "Bonn powers"), which gave him the right to interfere extensively in the internal authority structures of Bosnia and

Herzegovina to foster the implementation of the DPA. But as the transfer of competences to the state level requires the approval of both entities, the High Representative admittedly needed alternative leverage to his “Bonn powers” for inducing the reform steps. The EU filled this gap by requesting congenial requirements when the EU perspective loomed for Bosnia and Herzegovina as of the year 2000. Influenced by the High Representative, who became double headed as EU special representative in 2002, the EU asked widely for institutional reforms under the normative banner of efficiency and accountability. While these norms seemed plenty of legitimacy in the eyes of EU actors, the demanded reforms touched the core of the contested internal sovereignty structure in Bosnia and Herzegovina. Notably, political leaders in the RS were reluctant to cede any competences to the central state because they perceived such moves as a creeping destruction of the RS. The EU demands were thus perceived illegitimate at least in the Serbian segment of the Bosnian-Herzegovinian leadership (and society) which could rely on the compatibility of its position with the Dayton provisions. Noutcheva argues that the EU succeeded nevertheless to induce domestic-driven reform projects through intermediary incentives in the EU accession process. The author cites the reform of the indirect taxation system and the more contested police reform as examples where the parties reached agreement when faced with the possibility to take an important step on the road to EU membership, e.g. the signing of the Stabilization and Association Agreement (SAA). With a lack of perceived legitimacy, but a positive account of benefits versus costs thanks to the EU incentives, the author classifies Bosnia and Herzegovina in the category of partial compliance.

The case of Bosnia and Herzegovina illustrates that the book’s compliance typology is not to take in a rigid manner. Some authors would probably tend to file the case of Bosnia and Herzegovina rather in the category of imposed compliance than partial compliance. For instance, this view seems to be reflected in several works of David Chandler who accused external actors (including the EU) of “sucking out the life from elected bodies” in Bosnia and Herzegovina (Chandler, 2007: 346; Chandler, 2011). Furthermore, recent attempts from political leaders in RS to roll back previously agreed transfers of responsibilities suggest that under current circumstances one could tend to reclassify the case of Bosnia and Herzegovina as fake compliance with first attempts of reversal.

Finally, one could argue that the case of BiH, notably the EU’s cutting down of requirements

related to police reform (Noutcheva, 2012: 167), illustrates the context-based volatility of the compliance concept. As Chandler points out, “(...) the incremental use of conditionalities is not some technical process, it is entirely political. When the EU is considering which ‘benchmarks’ are important or what level of reforms are necessary for the next stage, a large number of factors come into play (...) (Chandler, 2010: 78)”. Accordingly, compliance benchmarks may change for political reasons, and this makes the measurement of an “objective” compliance status a cumbersome venture.

In spite of these points for debate, the reviewed book is in summary a highly recommendable contribution and starting point for further research. The theoretical framework enables to combine different explanatory perspectives (logic of consequences/ logic of appropriateness) that were often artificially separated in the previous literature for the sake of “scientific” hypotheses competition. While the author’s inclusive theoretical approach is certainly detrimental to the parsimony of explanation, it carries the great advantage of drawing theory closer to reality. Furthermore, the study advocates a much needed perspective change for the research on EU norm diffusion. Previous literature considered EU demands mostly as given (exogenous) or embedded in near to undisputable norms. By contrast, Noutcheva’s work suggests that norms are exposed to contestation and that we need to look at their legitimacy in the eyes of receiving actors (see also Wiener, 2007). Recent resistance to austerity measures (or norms) in several EU countries and growing Euroscepticism suggest that this insight is not limited to EU enlargement or cases of contested sovereignty. More generally, international norms, rules and standards coined by Western civilization are not automatically perceived as legitimate in other parts of the world. The challenge is to thoroughly analyze the politics of norms and the legitimacy perceptions of affected actors (e.g. emerging and developing countries) without falling into pure relativism or polemic debates on Western imperialism.

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