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Relevance of Copenhagen Criteria in Actual Accession: Principles, Methods and Shortcomings of EU Pre-accession Evaluation

Viljar Veebel*

Abstract

This paper will analyse the transparency, impartiality and objectiveness of the European Union's (EU) pre-accession assessment procedure. The principal aim is to test and analyse whether the EU follows official and objective criteria in its progress reports or if it is dominated by institutional and national interests. The central questions of the paper are: What were the main motivators of the EU's independent closed assessment system for the pre-accession process and what influence did this have on the accession process during the years 2004–2006?

To answer these questions, the paper will compare the European Commission's (Commission) progress reports on selected candidate countries with the assessments of six other respected research centres: the International Monetary Fund, the World Bank, Freedom House, the Bertelsmann Foundation, Transparency International, Fraser Institute and the Heritage Foundation. If the evaluation results of the EU differ significantly or systematically from the calculated average of the other evaluators, then there is a need to analyse the methods, logic and motivation of the European Commission during the pre-accession evaluation, as there is a possibility of subjectivity and politicised evaluation.

This analysis covers the main areas of the Copenhagen Criteria. The test cases will be pre-accession progress assessments of Bulgaria, Croatia, FYROM and Romania in 2004–2006. Test areas will consist of: *Governance efficiency; Existence and quality of rule of law; Level of corruption and efficiency of anti-corruption activities; Efficiency of legal system, and Economic liberties and freedoms.*

Keywords: European Union, enlargement, conditionality, evaluation.

Introduction

The 5th enlargement of the European Union, which was unique in many respects, starting from the magnitude of the accession and its political importance, was also the first enlargement of the EU to contain a list of accession criteria known as the Copenhagen Criteria and a administrative system of conditionality to support criteria fulfilment and a regular progress assessment.

What had earlier been an overwhelmingly political process of pre-accession negotiations (even when not admitted openly) was gradually replaced with a technical system of conditions, measurable criteria and assessment. The European Commission's official aim was to provide a transparent and competitive environment for candidate states during the whole pre-accession period. It was also clearly stated in the 1993 Copenhagen Council's conclusions and the 'White Paper on Enlargement' that possible acceptance in the upcoming enlargement conditionality is clearly connected with the progress shown in the fulfilment of accession criteria.

The Copenhagen Criteria and the supportive conditionality were officially introduced as a fair and open way to compete for EU membership, obtain practical feedback and finally fulfil the criteria in the most effective way. Applicant countries were encouraged to open their economies and societies in an unprecedented way in exchange for a fast and supervised accession process. EU institutions and

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member states alike emphasised that only a joint and transparent effort, where both sides trusted each other, was the fastest and the most effective enlargement strategy. The EU used both the 'carrot' of possible membership and the 'stick' of exclusion, to drive economic and political reforms in the candidate countries. Each applicant country was offered membership when it fully complied with the Copenhagen Criteria (Copenhagen Council Conclusions 2003).

On the other hand, critics claimed that by establishing the Copenhagen Criteria, the EU went only half way towards transparency and functionality—the criteria were not quantitative or clearly measurable, they were not fixed for the whole period of enlargement, they were not measured by an impartial body, and assessments tended to include additional categories outside the official criteria. In a situation where most of these shortcomings were caused not by a lack of technical ability, but mainly political choice, the question of the functional purpose and objectivity of the accession criteria was raised (for example Anastasakis & Bechev 2003).

But why did the EU need to create an entirely new assessment system, when most components of the Copenhagen Criteria were simultaneously regularly and impartially measured by several international organisations and agencies? The two most logical answers might be: a) deeper, more sophisticated and quantitative research was needed; and b) there was a need for adjusted results. Important questions are also how and why objective assessment, transparency and trust are important for the efficiency of the conditionality during the pre-accession process, and what the prior motivation is of the European Commission as an evaluator?

Sceptical analysts have pointed out the possibility that the accession criteria were established in a 'semi-quantitative' way to control the speed and cost of the pre-accession process from the EU side instead of supporting actual progress-based accession. Some criticism has also been based on the fact that strict criteria and evaluation did not seem important in previous enlargements.

The following paper will focus on one of the central aspects of the pre-accession process: the actual measuring and assessment of candidate states' progress in order to analyse the connection between the progress in the fields of the Copenhagen Criteria and their influence on actual membership prospects. To put it in a nutshell, the questions *What were the main motivators of the EU evaluation system's design and what was its actual influence in practice during the 2004–2006 pre-accession assessments?* will be the main questions to be answered in the following paper.

The paper will also analyse what role conditionality plays in pre-accession logic—was it a function and efficiency creation tool, or a control and manipulation tool?

The following analysis will be based on the pre-accession assessment cases of Bulgaria, Croatia, FYROM and Romania during their joint candidate status years in 2004–2006. The applicant states were selected on the basis of similarity in regional, historical and cultural aspects, in many ways comparable but clearly chosen in a way that some of them should be accepted by the EU and some not during the years following the observation period. Comparison will be as quantitative as possible, to highlight the possible difference of the EU's and other evaluators' results. The main method of analysing the evaluation's objectivity and connection between progress and assessments will be a comparison of the EU Progress Report results with the results of other main evaluators in this field. The EU assessment results of the EU will be compared with assessments of the IMF, WB, the Bertelsmann Foundation, Transparency International, Freedom House, Fraser Institute and the Heritage Foundation.

Categories to be compared in this paper will be: a) rule of law; b) level of corruption and efficiency of anti-corruption activities; c) economic liberties and freedoms; d) governance efficiency; and e) judicial efficiency.

These are areas where an evaluator can choose a qualitative or semi-quantitative way of assessment. By choosing a semi-quantitative approach, rankings and indices are the main components of evaluation. By choosing the qualitative option, the comments and opinions are the bases of a final decision. The European Commission has decided on a qualitative evaluation model, while most other independent evaluators have decided on a quantitative model.

The methodology, criteria and test cases

The research is based on a functional and idealistic assumption that in order to serve the wider integration process goals, pre-accession assessments are aimed at reflecting candidate countries' actual (measurable or recognisable) progress, as it provides a logical basis for assistance and creates competition for further progress. The assumption that objective evaluation is regarded as necessary is supported by the Commission's statement, "Progress is measured on the basis of decisions taken, legislation adopted and measures implemented. This approach ensures equal treatment across all reports and permits an objective assessment" (European Commission 2006b: 5).

The logical starting point of the analysis is that if the European Commission and other international institutions are professionally and impartially evaluating the same criteria, in general, they should receive similar results. Or if the results differ slightly, in general, it is not systematic and does not purposely discriminate against any of the candidate states. There is, of course, an alternative critical view that EU assessments and reports are not only aimed at mirroring the actual progress of candidate states, but also at regulating the accession speed and conditions. Accordingly, if the European Commission's Progress Report results do not match the results of impartial international evaluators, there is a need to research the core reasons, nature and motivation of this difference.

The EU Commission's assessments of a candidate state's progress will be taken as a reference point, and the data will be compared with the assessments of other international evaluators (at least four organisations in each criterion. Annual and Special Reports of the IMF, WB, the Bertelsmann Foundation, Transparency International, Freedom House and the Heritage Foundation will be used as sources of comparison. The evaluations of independent evaluators will be summarised and the average will be compared with the EC evaluations.). The wider the difference between the EU and other evaluators is, the more evident the possible subjectivity of the EU assessment. As the second step, the logic of differentiation will be analysed to find out if subjectivity is random or systematic in supporting some candidate states. It will be followed by a short motivation analysis.

The main criteria in data source selection are their quantitative nature and similarity with the EU evaluation categories. The reports also need to cover the whole reference period (2004–2006). No criteria that are by nature fully based on quantitative measuring (GDP growth, inflation, unemployment, budget deficit, public debt) are used, as these offer no possible option for subjectivity.

Comparison categories are broadly based on the Copenhagen Criteria and more concretely on special categories described in candidate countries' Progress Reports in 2005–2006. As Progress Reports are standardised, based on the accession treaty structure, all Commission reports consist of the same sub-chapter numeration ('Rule of law', for example, chapter 2.1).

The Copenhagen Criteria form also three general areas of evaluation. The first group of criteria covers democracy, rule of law, institutional stability, level of corruption and minority treatment. The second group of criteria covers: general level of market economy, ability to sustain in common market competition, economic liberties and defence of ownership. The third group of criteria covers the administrative ability of the harmonisation of EU laws and the ability to take further membership obligations (European Commission 1993, and European Commission 2006e: 22).

As the Copenhagen Criteria themselves are too general to be measured quantitatively, in practice, these are replaced by a modified list of criteria that is best represented in Progress Reports. Progress Report chapters include both the criteria, which have a direct connection to pre-accession (Copenhagen Criteria), and numerous sub-areas, which have a questionable connection with the original criteria: budgetary control, security and defence policy, public procurement, human rights, employment and social policy, etc. Most of the non-Copenhagen Criteria are fitted into a third part of the Progress Report (under the chapter 'Ability to harmonise and adapt EU laws and obligations of membership'). The empirical part of the paper will analyse the following specific criteria from the Progress Reports:

- Governance efficiency: indicates the level of democracy, stable institutions and respect of minority rights (based on the 1st Copenhagen Criteria and located under chapters 2.1, 2.2, 5 and 22 in the Progress Reports).
- Rule of law (based on the 1st and 3rd Copenhagen Criteria and located under chapter 2.1 in the Progress Reports).
- Level of corruption and efficiency of anti-corruption activities (based on the 1st Copenhagen Criteria and located under chapters 4.4, 4.5 and 5 in the Progress Reports).
- Economic liberties and freedoms (based on the 2nd Copenhagen Criteria and located under chapters 3.1, 4.3 and 4.4 in the Progress Reports).
- Judicial efficiency: actual ability of legal protection (based on the 2nd and 3rd Copenhagen Criteria and located under chapters 2.1, 4.6, 7 and 23 in the Progress Reports).

The comparison will only cover the fields where the EU is using opinion-based assessment, but the other agencies are using quantitative measuring. These are the areas where quantitative measuring is technically possible and the other evaluators provide numeral evaluations, but the EU has chosen to prefer a non-measurable approach. An attractive and intriguing part, however, is that both the EU Commission and the independent evaluators offer the rankings of selected states and the magnitude of their difference. The purpose of comparison is based on these rankings, to test the objectivity of the EU Commission's evaluations. The second level of the analysis is to summarise which countries have received an advantage or discrimination in the scoreboard ranking from the European Commission. It is also important whether those advantages and discriminations actually played a role in the actual selection of which country is ready for membership.

The test cases are the pre-accession assessments of Bulgaria, Croatia, FYROM and Romania on the social economic and legal progress during their joint pre-accession period in 2004–2006. Selection was based on the criteria of comparing 'as similar cases as possible' among the applicant states, where all selected states shared a quite comparable socio-economic development level, cultural background and motivation for reforms to achieve EU membership.

The test period is limited due to practical reasons since Croatia joined the actual accession talks in 2005, and FYROM was also accepted as a candidate state in 2005; Bulgaria and Romania ended their pre-accession negotiations on EU accession on January 1st, 2007. All four were similarly evaluated by the EU Commission only during the years 2005–2006.

Theoretical logic of pre-accession conditionality and assessment

EU pre-accession and assessment analysis brings together two research frameworks: first, the positive conditionality paradigm and second, the accession and pre-accession logic of the EU. The traditional conditionality paradigm is dominated by models based on development cooperation studies; the most well-known among them is Tony Killick's *Aid and the Political Economy of Policy Change*. While offering a wide-range systematic overview of the evaluation methodology and efficiency of multilateral donors in Africa, these approaches do not include critical variables of EU pre-accession: membership perspective and a far-developed level of integration (Killick 1998).

The theoretical logic of conditionality efficiency has also been thoroughly researched by Paul Collier and his associates, but once again mainly in the cases of African states, where a starting situation initiates a different logic and actual tools from the EU pre-accession situation. The main similarity to the EU pre-accession process is the core logic of structural conditionality: a step-by-step model, positive motivation and tools to safeguard already achieved reforms (Collier 1997: 1401).

The conditionality analysis of Carlos Santiso focuses on governance efficiency during the conditionality based on the broader experience of the G8. In this case, the 5th and 6th enlargement rounds once again provide different results, which cannot be explained by a single logical model or connection (Santiso 2002).

Traditional studies on EU enlargement offer the second part of the theoretical package for this paper. The motivation for enlargement as well as rules and practical results are seen differently depending on the authors' theoretical background. Jan Zielonka in his *Europe as Empire; the Nature of the Enlarged European Union* has offered a broader philosophical view of the logic of the enlargement and post-enlargement situation through a neo-imperial prism. Zielonka's questions of the applicants' loyalty and the importance of the geographical location of candidate states will be taken into account in this paper as well. He focuses on the importance of voluntarism when forming the new European empire (Zielonka 2006: 53–56).

Most authors bring those two paradigms of conditionality and enlargement together. Heather Grabbe describes how third important concept- Europeanisation affects CEE governance, when influenced by conditionality, diffusion and diversity. Grabbe offers a specialised and focused approach, where a special empirical situation in the CEE is the source of new logic and models, instead of attempting to adapt already existing models for the latest EU accession cases (Grabbe 2001).

Mapping and defining the main components and logic of EU conditionality towards candidate countries has been the main focus of Frank Schimmelfennig in his multiple joint writings with Ulrich Sedelmeier and Stefan Engert ('Candidate Countries and Conditionality', 'Pre-accession Conditionality and Post-accession Compliance in the New Member States: A Research Note'). They also focus on the importance of constructed values like 'community', 'identity' and 'solidarity' during conditionality and on the accession process. Especially important are their guidelines on the efficiency of conditionality, by proposing 'soft, step-by-step' tactics instead of using force (Schimmelfennig 1999, Schimmelfennig & Sedelmeier 2007).

Karen E. Smith has added a dynamic aspect to pre-accession conditionality studies, by researching 'The Evolution and Application of EU Membership Conditionality', which offers some aspects of motivation explanations in this paper. She also describes and analyses how the relationship between imposers and address countries developed in mutual cooperation (Smith 2003).

To answer the central research question, it is important to start with the question of how and why objective assessment, transparency and trust, as a part of conditionality, are important for the efficiency of the whole pre-accession process, and how these values serve the interests of existing member states, institutions and applicant countries.

Conditionality (and a criteria of success, as the main part of it) is a technical method to achieve cooperation efficiency. Basically, conditionality should provide the playground for two or more actors for the most efficient cooperation. The main question for the imposing side of the conditionality is how to motivate the target country to follow certain rules and achieve results in exchange for a reward (Killick 1998: 5). Asymmetry in a conditional relationship is quite unavoidable, as the receiving side (applicant country) is partly or fully dependent on the imposer's assistance and rules (Fierro 2003: 95). The system of conditionality and assessment needs to serve the efficiency of the process and be as free of ideology as possible.

The conditionality situation, which is often described as the 'stick and carrot' approach, offers in practice several choices for the motivation: the final reward (membership for example), the temporary financial support and the nature of the relation (Smith 2003: 58, Zalewski 2004: 3-5).

When looking at the conditionality and assessment logic in the context of EU integration theory, according to the dominant neo-functional paradigm, the fastest inclusion and progress will lead to the fastest actual convergence. In pre-accession logic, it means that a more motivated environment for both sides will lead to faster and more effective accession, which serves the interests of both sides. Therefore, at least in theory, it would be reasonable for EU institutions to support transparent, guided and motivational enlargement conditions and assessment based on actual progress as widely as possible (Rosamond 2000).

Where accession is the main reward, the rules of assessment and the nature of relationship play the central role. A more transparent system offers more space and a clearer status for applicant states, and also motivates them more as the final decision actually depends on their pre-accession progress.

It seems to be a win-win situation for all those around the pre-accession table. In the 5th and 6th enlargements, the main motivation to fulfil the accession criteria was based on proof and the hope that progress really mattered and that the assessment was fair, so there was no rational need to look for political support, but only a need for faster progress. Quite often it was just based on an idealist hope that the EU and the West in general and contrary to the habits of the former Soviet Union, were based on fairness and progress.

The accepted and rejected countries alike have later underlined the importance of a clear promise of accession if the Copenhagen Criteria are met. The conditional framework offered by the EU was seen as a solution to achieving a quick transition from the previous regime to a liberal capitalist system. The nature and purpose of conditionality in practice was questioned mainly only in academic writings or post-rejection announcements from Bulgaria and Romania (Anastasakis & Bechev 2003: 5-6). The central question remained practical—how to bring conditionality efficiency into practice?

The utilitarian argument has been the second most important motivator for candidate countries: at first based on the promise of donors to cover up to 80% of necessary costs for reform implementation, later also providing some additional reward resources for social and institutional reforms. Therefore, the EU-related activities became priorities that helped to solve the local problems and to compensate the lack of finance within state budgets. Public support was also often gained by the joint argument that all the efforts would be later compensated through a higher standard of living. The belief in European values also legitimised the process of harmonisation without adaption. Even when the candidate countries did not understand the purpose of every legal act, there was a strong belief that it was a need to gain welfare (Sjursen 2002: 495). As long as the candidate countries believed that the accession process was open, transparent and objective, it remained popular among the candidate countries' political elite and public opinion. Critique was provided mainly after the rejection of Romania and Bulgaria from the 2004 enlargement, where both state-based and independent Balkan analysts started to debate the logic and motivation of the pre-accession conditionality (Anastasakis & Bechev 2003: 5). Also the content of the criteria and the growing nature of the Progress Reports' fields were not seen as problematic as long as they were supported by a clear promise of accession.

In the 1990s and less after the millennium, the utilitarian view was counterbalanced by morality and the idea of equality. Ethical and moral explanations were based on Webberian administration ideals, protestant ethics and the idea of the historical guilt of Germany in relation to the CEE. Accordingly, the CEE countries deserve an equal chance to join the EU, despite their weaknesses after the regime transition. The role of existing member states should be supportive, not dominant or discriminative. Enlargement is not a technical process with demands on one side and funding on the other side, but it is based on the equal treatment of states and compensating historical injustice (Sjursen 2002: 494). The logic was based on the assumption that in case of enlargement conditions the question was not only the efficiency of the process but also its legitimacy and message to society.

On the one hand, a clear motivating system seemed the simplest and most ethical, and on the other hand it offered almost no control over the speed and conditions of the enlargement. A completely qualitative or politicized system on the other hand would have been de-motivating for candidate states and would direct their efforts to political negotiation, not to the actual process of modernisation. The decision for a more flexible and semi-quantitative system was introduced, and surprisingly most applicant countries did not raise any counter-arguments to the non-quantitative assessment, leaving them to complete dependence on the European Commission's opinion, while the Commission itself was one of the interested actors in the accession process. This is close to the rationalist point of view, where cost/benefit calculations are the main factors in the conditionality, determining the partners' decision to cohere with the norms of the international organisation or refuse cooperation (Schimmelfennig & Knobel 2006).

One central motivation for the member states and the EU institutions (especially the European Commission) during pre-accession was (as it is today) to safeguard and control the accession process. Fear that the possible enlargement could cause problems for the existing union, in financial or legal terms, played a key role in building the sophisticated accession conditionality in the 1990s. The CEE enlargement costs and risks were considered (by existing member states and EU institutions) to be so high that it was sometimes seen as a dilemma between the union's enlargement and its internal efficiency. At the time of pre-accession, the EU was shown as an altruistic actor putting its own existence at stake to re-unite Europe. Possible delays and unpredictable costs were seen as central components of enlargement risks. This approach worked very supportively for conditionality supporters, as it allowed them to demand something in exchange from applicant countries for such a great risk taken by the EU. As applicant countries offered all possible cooperation, the risk of possible failure of enlargement was not considered in official assessments and reports.

Among the member states, motivation was different. Some of them were interested in fast enlargement (UK); others tried to postpone it (Greece, Spain and Portugal); the third group was interested in controlled accession (France and Benelux), where the pre-accession conditionality would provide them with better access to new resources and markets; the fourth group (Austria, Finland and Sweden) was interested in legal and historical justice. During the accession period, the motivation of those groups also changed and diverged, but officially the transparent and functional accession process still remained the only purpose of the accession criteria (Germany, in different pre-accession periods, covered most of the mentioned positions: first being motivated by idealistic historical justice reasoning and ending finally with a pure profit-motivated approach, where advantages based on political influence and economic size were fully utilised). Most member states tended to follow realistic arguments and national interests, when designing the pre-accession assessment system based on the principle that economic and political gains of accession were important only as long as these did not threaten the states' sovereignty or statehood (Moravcsik 1999: 35-38). Accordingly, there was some fear of a zero-sum game among existing member states, based on the logic that for every winner, there must be a loser. The strongest idealistic and ethical arguments were used by Germany at the beginning of the formulation of the Copenhagen Criteria, but were abandoned as neither the other member states nor the applicants appreciated the German approach, but supported faster accession with more asymmetrical conditions.

It is also evident that the accession interests of separate institutions can be (and often are) different from the general long-term interest of the EU—accession has often become a vital component in the institutional competition between the Commission, Council and Parliament. In that situation, the possibility to delay accession by adjusting Progress Reports offered needed additional time to the European Commission for institutional reform and a new financial approach package. A non-quantitative assessment methodology was needed to convince applicants that the reason for delay was their slowness in the reform process, not the EU's unwillingness (Schimmelfennig & Sedelmeier 2002).

There were serious doubts whether democratic candidate states should share their legislative and executive power in an asymmetrical way as it was demanded during the pre-accession conditionality, even if it was a strategic goal for a nation, as it is implemented in a way that is in some aspects both anti-constitutional and anti-democratic. Final willingness to accept sovereignty sharing was justified by the idea of mutual interests and benefit. Integration is seen as a complete win-win game, where all the participants are at every stage certain that they will benefit through an additional deepening or widening of the integration process. But in such cases of asymmetry, at least the final result needs to indicate an actual benefit for both sides.

When combined together, this logic fitted well with a neo-institutionalist approach of the appropriateness of social processes, which is based on three components: rule following, habit, and rational choice from the morally acceptable options. The norms and formal rules of institutions will

shape the actions of those acting within them. “Compliance occurs in many circumstances because other types of behaviour are inconceivable; routines are followed because they are taken for granted as ‘the way we do these things’” (Scott 2001: 57).

To summarise: the creation of an assessment system and conditionality can be dominated by three main groups (all on the imposers’ side): net payers, non-gainers, and separate institutions (i.e. the European Commission). In rare cases, conditionality can be without a clear dominant side or dominated by applicant states. In certain areas, the criteria and the conditionality are supported by the representation of special interests of existing member states via giving special status to some applicant countries over others (Sjursen 2002). Preferences were caused by economic interests and political arguments/preferences; in both cases, the official accession criteria only play a secondary role and the conditionality must guide the applicant countries to their place in the union.

Comparison of candidate countries’ progress reports: European Union versus independent evaluators

The governance efficiency

The governance efficiency criteria indicate the level of democracy, the stability of institutions and the respect of minority rights (based on the first Copenhagen Criteria and on some aspects the third Copenhagen Criteria)¹. Governance efficiency criteria are next to European Commission regularly evaluated by the World Bank, the Bertelsmann Foundation and Freedom House.

The main sub-components for the European Commission’s assessment are the administrative capacity of the public sector, the competence of the civil service, the regional administration capacity, the integrity of public interests and the ability to conduct reforms in the public sector. The European Commission assessment is published in the annual Progress Reports for all the applicant states. Governments’ efficiency criteria in the cases of FYROM and Croatia also consist of a non-treaty add-on stating: “It also monitors regional cooperation, good neighbourly relations and the respect for international obligations, such as cooperation with the UN International Criminal Tribunal for the former Yugoslavia” (European Commission 2006b: 6).

In the Commission’s evaluation, no quantitative categories are used; also no levels of progress are indicated. A central measurable aspect is that the Commission found some countries (Bulgaria and Romania) to have a sufficient level for accession and other countries required continuing reforms and efforts. Accordingly, on the scoreboard Bulgaria and Romania, which were ready for accession, were in the lead over Croatia and FYROM.

The main evaluative categories of the European Commission are: ‘the country has achieved success’, ‘the country is developing’, ‘the country has several challenges’, ‘limited progress’, ‘reforms need to be faster’. The first two (positive categories) have been used to describe the progress in Bulgaria and Romania (European Commission 2006a: 5 and European Commission 2006d: 5) and the remaining three negative categories to describe Croatian and FYROM developments (European Commission 2006c: 6 and European Commission 2006b: 7).

Independent qualitative evaluators offered indexed evaluation, enabling us to see the difference in percentages. Based on the 2004–2006 reports, Croatia could be considered as the best performer with an almost 10% advantage over Bulgaria. FYROM is ranked in the last position by all evaluators. Summarising the governments’ efficiency indices from the World Bank, Freedom House and the Bertelsmann Foundation in the period of 2004–2006, Croatia scores the highest average in every year, whereas Bulgaria achieves second place, Romania third and FYROM fourth. Table 1 offers an example of the evaluation of the impartial evaluator (World Bank 2006).

¹ Evaluations on government efficiency can be found under chapters 2.1, 2.2, 5 and 22 in the Progress Reports.

Table 1: World Bank evaluation on governance efficiency 2004–2006 on a 100-point scale

	2004	2005	2006
Bulgaria	60.7	61.6	58.3
Croatia	71.1	69.7	70.1
FYROM	54.5	45.5	52.1
Romania	57.3	56.9	57.8

Source: Worldwide Governance Indicators (WGI) <http://info.worldbank.org/governance/wgi/>, World Bank 2006

Table 2: Governance efficiency 2004–2006: European Commission versus independent evaluators

Country	EU ranking ²	Index-based ranking ³	Difference
Bulgaria	1–2	2	+0.5 positions
Croatia	3–4	1	-3.5 positions
FYROM	3–4	4	+0.5 positions
Romania	1–2	3	+1.5 positions

Source: European Commission 2006a; 2006b, 2006c, 2006d)

Table 2 indicates that the difference between the Commission’s assessment and the index-based assessments is the smallest in terms of Bulgarian and FYROM progress, and the Commission supported both by a 0.5 position. Romania gained a respectable 1.5 position support, and Croatia is the most discriminated. While being at the top of the independent scoreboards, Croatia shares the worst result with FYROM in European Commission Progress Reports.

Existence and quality of the rule of law

The rule of law indicates the level of judicial process, the competence of judges, the possibility of disputes, non-discrimination in the judicial process and the efficiency of the police (based on the 1st Copenhagen Criteria and in some aspects the 3rd Copenhagen Criteria)⁴. Subcomponents for the European Commission assessments are: treatment of minorities, treatment of prisoners, gender equality, protection of children’s rights and treatment of handicapped people. In this category, the EU is quite critical of all four applicants and fully positive categories are avoided. The main problems are seen in areas of the witness protection, integrity of the legal system, prisoner treatment, impartiality of the legal system, lack of reforms in the judicial system, etc. (European Commission 2006a: 7, European Commission 2006b: 8 and European Commission 2006c; 10).

The European Commission’s Progress Reports use the following categories for evaluation: ‘significant progress’ (Romania), ‘partial success and necessity of further progress’ (Bulgaria), ‘long way to transparent and efficient rule of law’, ‘limited changes and progress’ (Croatia), ‘important challenges needed to create an effective reform program’, and ‘Parliament has so far failed to enact new rules’ (FYROM) (Commission 2006a: 7; European Commission 2006b: 8 and European Commission 2006c: 10). Also as a rare example, some measurable facts were offered as an example: ‘The European Court of Human Rights (ECtHR) delivered 25 judgements concerning Croatia’ (European Commission 2006b: 9).

Accordingly, the European Commission assessment indicates that Romania has the highest development, Bulgaria is in second place, Croatia is ranked third and FYROM last in this comparison. In their conclusions, the European Commission also indicated that Bulgaria and Romania have a positive membership perspective, but Croatia and FYROM required deeper reforms.

² Based on data presented by the European Commission in 2006 Country Reports.

³ Based on the data of independent evaluators.

⁴ The Commission’s evaluations are located under chapter 2.1 in the Progress Reports.

Table 3: Quality of the rule of law according to the Bertelsmann Foundation

	Bulgaria	Croatia	FYROM	Romania
2003–2004	7.8	8.3	7.0	7.3
2005–2006	8.5	8.0	6.8	8.3

Source: Bertelsmann Foundation report 2006

Table 4: Rule of law 2004–2006: European Commission versus independent evaluators

Country	EU ranking	Index-based ranking	Difference
Bulgaria	1–2	1	-1 position
Croatia	3	3	No difference
FYROM	4	4	No difference
Romania	1–2	1	+1 position

Source: European Commission 2006, Bertelsmann Foundation 2006, Freedom House 2006 and World Bank 2006

Next to the EC, the existence and quality of the rule of law is regularly evaluated by the World Bank, the Bertelsmann Foundation and Freedom House. Independent evaluators included similar subcomponents for comparison, adding also the transparency aspects and level of bureaucracy. Combining all indices in this regard, Bulgaria was ranked at the top, but was seen to have structural problems. Romania and Croatia, while not having any specific critique, were placed in equal 2nd and 3rd places, and FYROM is ranked last since it had several problems with its prison system, police, religious discrimination and recruitment principles. The best score in all the reference years and evaluators was achieved by Bulgaria, followed by Romania in 2nd and Croatia in 3rd place. FYROM was ranked last by all the evaluators during all those reference years. But the differences are only by one point on the 10-point scale.

The difference between the European Commission's assessment and the index-based assessments is very small. Croatia and FYROM have achieved similar positions, Bulgaria has an advantage of one position and Romania has lost a place when compared with independent index-based results.

Level of corruption and efficiency of anti-corruption activities

The level of corruption and the efficiency of anti-corruption activities (based on the 1st Copenhagen Criteria) indicate the general environment for the residents and the investors in terms of corruption and the government's efforts and success in fighting corruption, as well as the rules of public procurement. The level of corruption and efficiency of anti-corruption activities are regularly evaluated by the European Commission⁵, the World Bank, the Bertelsmann Foundation, Transparency International and Freedom House.

The main subcomponents for the European Commission assessment are: the judicial framework for anti-corruption activities, the existence of the necessary institutional structure and experts and public interest for implementation. The main evaluative categories for the European Commission and independent evaluators are overlapping: the level of corruption cases on the top level (politicians) and low level (education and medicine), cost of corruption for society, acceptance of corruption in society.

The European Commission assessment published in annual Progress Reports uses in this category no qualitative measuring. Evaluative categories are as follows: 'proof of high level fight against corruption' (Bulgaria), 'showing progress' (Romania), 'situation is serious and critical', 'measures have

⁵ Located under chapters 5, 4.4 and 4.5 in the Progress Reports.

Table 5: Transparency International rating on corruption 2004–2006

	2004	2005	2006
Bulgaria	4.0	4.0	4.1
Croatia	3.4	3.4	4.1
FYROM	2.7	2.7	3.7
Romania	3.0	3.1	3.3

Source: Transparency International 2006, <http://www.transparency.org/>

Table 6: Anti-corruption activities 2004–2006: EU Commission versus independent evaluators

	EU ranking	Index-based ranking	Difference
Bulgaria	1	1–2	+0.5 position
Croatia	3	1–2	-1.5 positions
FYROM	4	4	No difference
Romania	2	3	+1 position

Source: European Commission 2006, Bertelsmann Foundation 2006, Freedom House 2006 and World Bank 2006

been taken'; however, 'corruption remains a serious problem' (Croatia), 'corruption is widespread', 'low political will to fight corruption' (FYROM). The EU Progress Report is most positive for Bulgaria, slightly positive for Romania, Croatia is evaluated as having serious problems in the fight against corruption, and FYROM is in the worst situation, having low political interest in anti-corruption activities (European Commission 2006a: 8; European Commission 2006d: 8; European Commission 2006b: 8; European Commission 2006c: 12). In the Croatian case, the Commission points to the crucial importance of the negative evaluation: "Progress on tackling corruption will also be an important indicator of Croatia's readiness for eventual membership" (European Commission 2006b: 9).

Independent index-based evaluators find that the level of the anti-corruption fight is highest in Bulgaria (highest by the Freedom House index) and Croatia (highest by WB). The Bertelsmann Foundation and Transparency International find the level to be equal. Romania is clearly seen in third place and FYROM is in a league of its own (average results 15-20% lower than Romania's results).

The comparison indicates that the European Commission reached the same conclusion as the independent evaluators in terms of FYROM (last place) and by Bulgaria, being in first and second places. The difference with the independent evaluators appears in terms of Romania and Croatia. Romania, which according to the independent evaluators is seen clearly in third place, is in a positive light and in second place in the European Commission's Progress Report. Croatia, on the other hand, has been downgraded 1.5 positions by the European Commission, while ranked as one of the best by the independent evaluators. It is seen as far behind Bulgaria and Romania in the Commission's Progress Report. The Commission's negative attitude towards Croatia also appears in the year-to-year evaluation: where the Progress Report in 2006 points out that the level of corruption is growing compared to its previous level (European Commission 2006b: 52), other evaluators see the situation as improving. For example, Transparency International states the Corruption Perception Index in Croatia is improving from 3.4 to 4.1 on a 10-point scale. While the European Commission's Progress Reports assess the four applicants as positive/progressive (Bulgaria and Romania) and negative (Croatia and FYROM) groups, independent evaluators are more critical and divide the groups in a way that Bulgaria, Croatia and Romania are more similar (having serious problems but showing the will to reform) and FYROM is far behind demonstrating a lack of will for reforms in this area.

Efficiency of the legal system

The legal system's efficiency indicates the level of speed and transparency of legal procedures, disputes, property protection and the level of competition laws, (third Copenhagen Criteria)⁶. The efficiency of the legal system is regularly evaluated by the World Bank, the Bertelsmann Foundation and Fraser Institute, to be used in the following comparison.

The main subcomponents for the European Commission's assessments and other evaluators overlap: efficiency in the fight against cartels, intellectual and industrial property rights and efficiency in property disputes.

The main evaluative categories of the European Commission state: remarkable progress' (Bulgaria, Romania), 'partial success', 'efforts have been made', 'special attention is needed', 'lack of success in several aspects', and 'budget remains insufficient' (Croatia and FYROM). No quantitative categories are used; also no levels of progress are indicated. A central measurable aspect is that the Commission found some countries to have a sufficient progress level concerning some chapters (competition law) for accession (Bulgaria and Romania) and some countries 'needing continuing reforms and efforts' (Croatia and FYROM). Accordingly, on the scoreboard Bulgaria and Romania are ranked higher than Croatia and FYROM (European Commission 2006a: 21; European Commission 2006d: 21, European Commission 2006b: 20 and European Commission 2006c: 24).

The problems of applicants are not seen in Community legislation harmonisation, but in terms of practical implementation and efficiency (European Commission 2006e). In the cases of Croatia and FYROM, they are seen as not yet ready for accession: 'There has been some progress in the area; however, a number of important challenges still remain', and 'substantial efforts will still be required overall' (European Commission 2006c: 55). When comparing the two successful (Romania and Bulgaria) and the two unsuccessful (Croatia and FYROM) applicants, then Bulgaria receives more positive comments than Romania, and Croatia is seen as the worst even compared to FYROM. Croatia receives a most negative comment in this aspect: 'The judicial system has continued to suffer from slow and inefficient court proceedings, poor case management and low administrative and professional capacity' (European Commission 2006b: 31). The following Table 7 offers an example of evaluation by an impartial evaluator (World Bank 2006).

Summarising the legal system's efficiency indices from the World Bank, Fraser Institute and the Bertelsmann Foundation in the period of 2004–2006: Bulgaria is seen as the best performer in the field, followed by Croatia and Romania. The average differences are small (less than 3%) and, for example, the Fraser Institute ranks Croatia in first place and Bulgaria only in third place. FYROM is ranked as last by all evaluators. Independent evaluators also evaluate the reform progress dynamics in this field differently. FYROM is seen showing the best progress, while Bulgaria and Croatia are seen stagnating throughout the period.

A comparison indicates that the European Commission reached the same conclusion with other evaluators in terms of Bulgaria being the best. FYROM and Romania both received one position advantage in the Progress Report, while Croatia received -2 positions' discrimination.

Economic liberties and freedoms

Economic liberties and freedoms indicate the level of market accessibility, market safeguarding efficiency, the market accessibility of other EU residents, acceptance of EU qualifications and standards, and limits of bank procedures (a concern of the 2nd Copenhagen Criteria)⁷. The main subcomponents for the European Commission's assessment and other evaluators cover: the simplicity of starting up and closing down companies/enterprises, access to the labour market, limits for non-national

6 Commission evaluations can be found under chapters 3.1, 4.3 and 4.4 in the Progress Reports.

7 Evaluations are located under chapters 3.1, 4.3 and 4.4 in the Progress Reports.

Table 7: World Bank evaluation on judicial efficiency 2004–2006, 100-point scale (100 is the most efficient)

	2004	2005	2006
Bulgaria	72.7	69.8	66.8
Croatia	68.6	65.4	63.4
FYROM	53.2	50.7	54.1
Romania	60.5	58.5	64.9

Source: Worldwide Governance Indicators (WGI) <http://info.worldbank.org/governance/wgi/>; World Bank 2006

Table 8: Legal system efficiency 2004–2006: European Commission versus independent evaluators

	EU ranking	Index-based ranking	Difference
Bulgaria	1	1	No difference
Croatia	4	2	-2 positions
FYROM	3	4	+1 position
Romania	2	3	+1 position

Source: European Commission 2006, Bertelsmann Foundation 2006, Fraser Institute 2006 and World Bank 2006

residents, accessibility of foreign investment instruments, conditions for real estate ownership for foreigners, measures to stop money laundering, intellectual property law, and development of corporate legislation. There are some differences in the composition of specific sub-components of different evaluators, but the majority of components overlap. The most detailed is the Fraser Institute's research, while the Heritage Foundation offers a composite index, and the Bertelsmann Foundation's report is the most comprehensive.

The European Commission's assessment is published in annual Progress Reports. The main evaluative categories are 'absence of sufficient progress', 'urgent need for additional efforts' (both FYROM); 'limited progress' and 'partial success' (Croatia), and 'remarkable progress' (Bulgaria). No quantitative categories are used; also no levels of progress are indicated. None of the applicants have been able to close this chapter in negotiations with the EU in time for the Progress Report being issued (European Commission 2006a: 15-20; European Commission 2006b: 27-30; European Commission 2006c: 26; European Commission 2006d: 26).

In general, progress Reports are critical and offer recommendations as well as guidelines to all candidate states. The Commission is critical of all applicant countries concerning anti-money laundering activities and credit market regulations.

The European Commission is most critical of FYROM's lack of results and demands further efforts. Critics of Croatia's progress are softer and partial progress is acknowledged, but it is not combined with a positive evaluation: 'no progress can be reported' and 'continued efforts needed'. In Croatia's case, it is again highlighted that the lack of progress is a possible obstacle for accession: "Legislation in the area of the fight against money laundering needs further alignment and administrative and enforcement capacity should be strengthened. Increased efforts will be needed to meet the requirements of this chapter." Romania partially receives a positive assessment (but the fewest number of comments in this area), while Bulgarian progress is seen as remarkable in several sub-areas of economic liberties and freedoms. Accordingly on the scoreboard, Bulgaria is in first place, followed by Romania, Croatia and FYROM (European Commission 2006a: 15-20; European Commission 2006b: 27-30; European Commission 2006c: 26; European Commission 2006d: 26).

Table 9: Bertelsmann Foundation's evaluation on economic liberties on a 100-point scale

	2004	2005 and 2006 summarised	Change
Bulgaria	83.3	86.6	+3.3
Croatia	86.6	83.3	-3.3
FYROM	64.4	72.2	+7.8
Romania	77.7	83.3	+5.6

Source: Bertelsmann Foundation Report 2007

Table 10: Economic liberties 2004–2006: European Commission versus independent evaluators' average

	EU ranking	Index-based ranking	Difference
Bulgaria	1	1–2	+0.5 positions
Croatia	3	1–2	-1.5 positions
Macedonia	4	4	No difference
Romania	2	3	+1 position

Source: European Commission 2006, Bertelsmann Foundation 2006, Fraser Institute 2006 and Heritage Foundation 2006

Based on the calculated average of the Heritage Foundation, Fraser Institute and the Bertelsmann Foundation's assessments during the period of 2004–2006, Bulgaria and Croatia are the two best performers with the same average; Romania is third and close behind. FYROM is in fourth place, but the difference is similar to the difference between the first two and Romania. The average differences are small, less than 2% (see Table 9 as an example).

Assessments of Croatia's progress are the most controversial, since the quantitative results and index values are high, but at the same time Croatia receives the highest number of critical comments. Romania, at the same time, receives lower index values but also fewer critical comments (both from independent evaluators and from the Commission).

The comparison indicates that the European Commission arrives at the same conclusion as the other evaluators in terms of FYROM's progress. Bulgaria receives a half position advantage; Romania gains an advantage of one position, while Croatia loses 1.5 positions.

Similarities and differences between the European Commission and independent evaluators

To answer the main research question, 'What were the main motivators of the EU evaluation system's design and what was its actual influence in practice during the 2004–2006 pre-accession assessments?', there is a need to first specify the scope and nature of differences between the European Commission's rankings and the rankings of other respected evaluators. If systematic and influential differences appear, the next task will be to analyse the opportunities and motivation of the Commission for adjustments in the Progress Reports.

The logical starting point of the analysis was that if the European Commission and other international institutions were in their best ways, objectively and impartially evaluating candidate countries by using the same criteria and statistical data, they should in general receive a similar result. Or if the results differed slightly, it was not systematic and in general purposely discriminatory against any of the candidate states.

The following analysis (see also Table 11) summarises which countries have received an advantage or been discriminated against on the scoreboard ranking from the European Commission when compared with the average of other evaluators. It is also an important question whether those advantages and discriminations actually play a role in the selection process.

The analysis indicates two types of results concerning differences of assessments. The Commission's evaluations of Bulgaria and FYROM in 2004-2006 show minimal differences from the independent evaluators, as the difference is only 0.1 positions in both cases. This can be considered an almost ideal overlapping result and proof that the methodology of different evaluators is comparable.

In comparison, the assessments of Croatia and Romania show a remarkably higher difference between European Commission assessment results and the average of other evaluators. In the Romanian case, the average difference is positive by 1.1 positions and in the Croatian case the difference is negative by 1.7 positions. There is also a need to take into account that in the comparison of four states, the maximum difference can be three positions. The second important aspect is that all differences in both cases are non-balanced: in all cases where the difference of positions appears, it appears in the way that Romania is being given a comparative advantage and Croatia a disadvantage.

Table 11: Comparative rankings of European Commission Progress Reports and independent evaluators

	Bulgaria	Croatia	FYROM	Romania
Governance efficiency (European Commission)	1-2	3-4	3-4	1-2
Governance efficiency (Neutral evaluators)	2	1	4	3
Position advantage by Commission Report	+0.5	-3.5	+0.5	+1.5
Rule of law (European Commission)	2	3	4	2
Rule of law (Neutral evaluators)	2	3	4	1
Position advantage by Commission Report	-1	0	0	+1
Anti-corruption activities (European Commission)	1	3	4	2
Anti-corruption activities (Neutral evaluators)	1-2	1-2	4	3
Position advantage by Commission Report	-0.5	-1.5	0	+1
Efficiency of legal system (European Commission)	1	4	3	2
Efficiency of legal system (Neutral evaluators)	1	2	4	3
Position advantage by Commission Report	0	-2	+1	+1
Economic liberties (European Commission)	1	3	4	2
Economic liberties (Neutral evaluators)	1-2	1-2	4	3
Position advantage by Commission Report	+0.5	-1.5	0	+1
Summarised position advantage given by Commission Reports	0.5	-8.5	0.5	5.5
Average position advantage given by Commission Reports	-0.1	-1.7	0.1	1.1
Average rank by the EC	1.3	3.3	3.7	1.9
Average rank by independent evaluators	1.6	1.8	4	2.6

Source: European Commission 2006, Bertelsmann Foundation 2006, Fraser Institute 2006 and Heritage Foundation 2006.

The Commission Report shows Bulgaria and Romania (average positions in the Commission ranking: 1.3 and 1.9) as one group, which is clearly more progressive and worthy of accession, while putting Croatia in the same boat as FYROM (average positions in the Commission ranking 3.3 and 3.7).

When looking at the independent evaluators' side, which is based on a comparison of the index-based data, the results are different. Croatia scores the best result and seems to be the most prepared for membership. Bulgaria receives the second result and is also seen as ready for accession. Romania and FYROM are clearly left behind, as not having sufficient social and administrative progress.

As a result, European Commission assessments have exchanged the Croatian and Romanian positions in question regarding which of them deserves the accession invitation. Clarification of the motivation for this exchange is even more important when considering that the actual accession selection was mainly about the evaluation of Romania and Croatia, and as a result Croatia was left out and Romania was accepted for the 2007 accession round (this decision was justified with the Progress Report results).

The main motivators of the EU assessment system 2004-2006

Parallel to the long-term organisational needs of the EU to use the assessment system to reflect actual progress in the candidate states and motivate them for further progress, practical circumstances and political pressure may have played an important role in the assessments of Bulgaria, Croatia, FYROM and Romania.

Contrary to the original 5th enlargement round, where both Bulgaria and Romania participated with eight other CEE states, Malta and Cyprus, in the period of 2004-2006 candidate states with different accession perspectives were included in one assessment procedure. Bulgaria and Romania were the rejected countries from the original 5th enlargement group, having had long and complicated accession talks, both having high social expectations of being accepted for membership, and both putting heavy political pressure on the EU to be accepted as soon as possible. Even when seen as quite similar by EU public opinion, the socio-economic development and harmonisation has been quite different for those two countries. Bulgaria, according to neutral evaluators, was quite progressive and more or less acceptable for membership in most of the evaluations, while Romania, on the other hand, had difficulties in several areas with fulfilling the Copenhagen Criteria.

According to independent evaluations—Bulgaria was already ready for accession in 2004 and Romania's progress fluctuated even in 2006—these two countries should have been treated differently. In this situation, the political and geographical aspects started to become dominant—in terms of practical policy implementations and public support, it became quite uncomfortable for the EU to reject Romania while Bulgaria was accepted. After understanding the circumstances, the Romanian policymakers started to play even more on the emotional and political aspect rather than on showing actual progress in terms of the Copenhagen Criteria. Politically and administratively it seemed most rational to many other EU member states and EU policymakers to accept the two neighbouring countries together.

The need to evaluate Croatia with Bulgaria and Romania over the same period of time using the same criteria and assessment logic made the situation even more complicated for the EU. First, it made it more difficult simply to conclude that this time both Romania and Bulgaria had met the criteria as Croatia served as a reference base, according to the results between Bulgaria and Romania in terms of fulfilling the Copenhagen Criteria (according to the data of independent evaluators). This situation was even more complicated due to the wish of some member states and EU institutions to force Croatia to fulfil some additional (non-Copenhagen Criteria) conditions before receiving positive assessments in terms of the pre-accession progress.

According to the terms of the accession partnership, only progress in the Copenhagen Criteria is legally binding in the final decision. But as there was strong political and administrative pressure in the EU to accept both Bulgaria and Romania and not to accept Croatia, the starting point of the assessment was not neutral. On the other hand, as the Commission already had its favourites, adjustments to the Progress Report were mainly needed to justify political preferences and necessities (to accept Bulgaria and Romania and reject Croatia and FYROM). The Commission's influence over the accession selection is even more evident when considering that Romania was accepted for membership in 2006 (accession in 2007), but Croatia is still outside the EU in 2012—after six years of efforts with more progress still to be made with the Copenhagen Criteria.

Additionally, a general broader international image of Croatia being 'the troublesome part of former Yugoslavi' was used to prepare most of the audience emotionally to admit that Bulgaria and Romania were more suitable candidates than Croatia. Adding FYROM to the same assessment reports only supported this logic, as Croatia and FYROM were introduced as countries that had made similar socio-economic progress.

Adjustments in the assessment results were possible by broadening the criteria and losing the quantitative aspect, which was technically conducted by using the gap between the actual Copenhagen Criteria and a modified list of criteria used for the Progress Reports. Once the candidate states accepted that the Progress Report evaluates questions outside the original Copenhagen Criteria, every new Progress Report continued to raise additional 'non-criteria' questions. The European Commission even made it no secret that the Progress Reports were only partly based on the actual Copenhagen Criteria (for example, the first chapter of the FYROM Progress Reports states, "This section examines the progress made by the former Yugoslav Republic of Macedonia towards meeting the Copenhagen political criteria, which require stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities. It also monitors regional cooperation, good neighbourly relations and respect for international obligations, such as cooperation with the UN International Criminal Tribunal for the former Yugoslavia" (European Commission 2006c: 5).

Candidate countries, while relying on objective criteria and trying to achieve positive feedback in the Progress Reports, trusted the EU fully (at least in their open statements), even when in some cases not clearly understanding the actual motivation of some requirements. The EU, of course, stated often that the only way to accession is the way through conditionality and fulfilling all demands pointed out in the Progress Reports. "The pre-accession conditionality has in many aspects served as the best option to explain to candidate countries that they have a 'take it or leave it' situation. We just ask countries that are interested in participating in our structures to comply with our rules and to share our values" (Solana 2003).

This process found no counterarguments as the European Commission was the only official evaluator, and candidate countries accepted the broadening of criteria. The use of qualitative measuring worked according to the same logic—as none of the participants demanded use of quantitatively measurable benchmarks, the European Commission continued the use of qualitative assessment methods. It can also be seen as a strategic choice of the EU to signal to the candidate countries that all the demands of the member states and institutions must be fulfilled, even if these are not included in the Copenhagen Criteria. Otherwise, Progress Reports would not find sufficient progress in the criteria field, even when most of the other impartial evaluators do so.

The question *What is right or legal?* loses its importance when applicant countries have clearly accepted the whole set of accession measures. The model becomes an effective conditionality factor as acceptance is needed only in the beginning, but transformation of conditionality can continue during the whole process. Applicant countries find themselves in a path-dependence model, where they have the options to continue the process or lose previous progress. As continuing to follow the path does not need any fundamental decisions, but cancellation does, the logical choice is to continue.

This created a conditionality situation, which was clearly asymmetrical and discriminatory towards candidate countries, providing a possibility of subjective treatment, without the possibility of impartial arbitrage. Basically, the candidate countries have found themselves in a situation where they had no options against the possible misuse of conditionality, which started to encourage the European Commission for political use of assessments as seen in cases tested in this paper.

Conclusions

The creation of the Copenhagen Criteria and the evaluation system based on a wide range of sub-criteria, regular assessments and a reward system has been seen as one of the success stories of the EU during the last 20 years. The original goal of the European Commission was to create a transparent and competitive environment for candidate states for the whole pre-accession period.

The aim of this paper was to analyse the motivation and actual purpose of the pre-accession assessment process in the examples of Bulgaria, Croatia, FYROM and Romania in the period of 2004–2006. The practical case studies conducted in the research also provided some arguments with which to answer the question, *Why did the EU need to create a separate assessment system instead of summarising the already existing reports of the OSCE, OECD, WB, IMF, the Bertelsmann Foundation, the Frazer Institute, the Heritage Foundation and Freedom House?* and *What influence did it have on the actual accession process during the years 2004–2006?*

This study was motivated by criticism in the end stage of the fifth enlargement both about the general conditionality logic and the practical assessment methods. First, the criteria were seen as too universal and idealistic. Second, the evaluation process itself was not transparent or measurable, causing some member states to fail (and complain), especially when these countries showed quite reasonable progress when evaluated by the IMF, WB or other impartial international evaluators. The possible existence of the so-called ‘hidden agenda’ and the importance of political support instead of actual progress in the criteria area were raised by candidate countries. After the hard treatment of Slovenia, the rejection of Bulgaria and Romania in 2003, and later evaluation problems with Croatia, the critique became more systematic.

The main findings proved the importance of the research question, as it was possible to locate five important accession criteria, which can be measured quantitatively, but where the European Commission prefers to use semi-quantitative assessments. As a result, EU assessments in these criteria offer a possibility for a subjective image of applicant countries. Third, the EU uses Progress Reports to inform applicant states that non-Copenhagen Criteria need to be fulfilled as well, as results in official criteria depend on the EU’s general political will and attitude towards the applicant state.

The research results also indicated the existence of two different evaluation methodologies in the EU pre-accession conditionality. The evaluation cases of Bulgaria and FYROM showed that the European Commission’s results almost fully overlap with those of independent evaluators—accordingly, the methodology and criteria components are sufficiently similar to be compared in other cases as well. In the cases of Croatia and Romania, the European Commission’s evaluation results of the EU differ significantly or systematically from the calculated average of the impartial evaluators

The difference was both systematic and influential, as it was changing the actual standings in the pre-accession scoreboard. The differences also reflected the practical motivation of the European Commission and member states in the cases of Romania and Croatia, where the first needed to be accepted (due the practical interests of the European Commission and member states) and the second rejected despite the better results and actual progress in the areas of the Copenhagen Criteria.

Regular assessments and Progress Reports were not used only to select candidate countries and evaluate their progress, but also to justify political reality, which demanded the acceptance of Romania and Bulgaria and the rejection of Croatia despite actual progress in the Copenhagen Criteria.

The EU's evaluation impartiality and transparency are also important topics five years later in 2012, as the European Commission announced that Croatia would not be ready for accession before 2013.

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