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The “Europeanization” of the Western Balkans: Is European Conditionality
Fostering Democracy?

George Kostakis

May 2012

Master’s Thesis

Submitted in Partial Fulfillment of the Requirements for the Degree of Master of
International Affairs at the City College of New York

Advisor: Dr. Jacqueline Braveboy-Wagner

Abstract

This thesis analyzes the current model of European Union conditionality toward the Western Balkans, which based on a dual approach through the Stabilization and Association Process (SAP). Through SAP, the European Union (EU) is trying to stabilize the Western Balkans, while at the same time associating them with EU policies and supporting them in taking over the EU acquis. My hypothesis is that in order to promote democracy and the rule of law, the EU's policy of stabilizing and integrating should be reformed to better strengthen and clarify conditionality.

In order to test my hypothesis, I focused on the three Western Balkan countries, Croatia, Serbia, and Bosnia and Herzegovina. They were chosen because each represented a different stage of accession; they share a geographical footprint; and many historical experiences. I first discussed problems associated with each country's transition to democracy. I looked at the justice and home affairs sector of the Instrument for Pre-Accession Assistance (IPA). Within that I assessed whether the measures to address corruption and minority rights and refugees have been effective.

The results of my tests indicate that despite the financial assistance the EU has given towards the Western Balkans, the countries have a long way to go to improving democracy and the rule of law. Conditions have not worsened but they have not improved. The EU can get its enlargement policy toward the Western Balkans back on track by strengthening its conditionality and only accepting members when they are politically and technically ready to become EU member states.

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Chapter 1: Introduction

More than twenty years after declaring its independence from the former Yugoslavia, Croatia took a historic step by signing the European Accession Treaty on December 9, 2011, making it the twenty-eighth member of the European Union (EU), as of mid 2013. Croatia will become the EU's second ex-Yugoslav member, after Slovenia.¹

Further pushing Croatia towards the EU, on January 22, 2012, Croatians voted in favor of EU membership in a national referendum. Voters were asked a simple question, "Do you support the Republic of Croatia's membership of the European Union?"² Sixty-five percent voted in favor of membership versus thirty-three percent against.³ Praising the result, European Commission president José Barroso, and European Council President Herman Van Rompuy, issued a press statement calling the upcoming accession of Croatia a "positive outcome."⁴ "The upcoming accession of Croatia sends a clear signal to the whole region of South Eastern Europe. It shows that through political courage and determined reforms, EU membership is within reach," they said.⁵

While this new development might paint European accession in a rosy light, all is not quiet on the Western Front. Voter turnout in the referendum was about forty-four percent.⁶ Minister of Parliament (MP) Ruza Tomasic said, "We are not ready for the European Union. We should have improved our economy, increased our exports, and only join then. Our economy is

¹ "Croatia Signs Treaty to Join EU in Middle of 2013." *BBC News*. BBC, 9 Dec. 2011. Web. 15 Mar. 2012. <<http://www.bbc.co.uk/news/world-europe-16106982>>

² "Croatia EU Referendum: Voters Back Membership." *BBC News*. BBC, 22 Jan. 2012. Web. 15 Mar. 2012. <<http://www.bbc.co.uk/news/world-europe-16670298>>

³ *Ibid.*

⁴ *Joint Statement of European Commission President Barroso and European Council President Van Rompuy on the Outcome of the EU Accession Referendum in Croatia*. *EUROPA*. 22 Jan. 2012. Web. 15 Mar. 2012. <<http://europa.eu/rapid/pressReleasesAction.do?reference=MEMO/12/29&format=HTML&ag>>

⁵ *Ibid.*

⁶ "Croatia Votes for EU Membership." *Euronews*. 22 Jan. 2012. Web. 15 Mar. 2012. <<http://www.euronews.com/2012/01/22/croatia-votes-for-eu-membership>>

in very bad condition. We don't have a single real national bank. Our exports are abysmal. We are on our knees."⁷ While these words are stark, the numbers confirm the statements of Ms. Tomasic and others in the "No" camp. Croatia's economy is sluggish, with a growth rate of just 0.4 percent and a debt higher than its income at 102 percent of its GDP as of January 2012.⁸ The unemployment rate is around eighteen percent and the average salary is equivalent to €715 or \$944.⁹ Given these alarming numbers, it remains to be seen whether Croatians will still accept restructuring willingly.

Croatia's accession to the EU represents the dilemma of European enlargement in the Western Balkans.¹⁰ On the one hand, enlargement will bring about better market access, more trade and investment opportunities, and security. The EU promises to transform the Western Balkans into stable, self sufficient democracies, at peace with themselves and their neighbors, with market economies and rule of law.¹¹ On the other hand, should the Western Balkans join a community in the midst of severe economic problems? The EU's policy towards the Balkans has had mixed results. From Greece's name dispute with Macedonia to European divisions over recognizing Kosovo, to arguments over whether Serbia is cooperating with the Hague Tribunal, the EU's policy towards the Western Balkans is in disarray.¹²

⁷ "Croatia's EU Leap." *Euronews*. 23 Jan. 2012. Web. 15 Mar. 2012.
<<http://www.euronews.com/2012/01/23/croatia-s-eu-leap>>

⁸ Ibid.

⁹ Ibid.

¹⁰ The Balkan Peninsula is best defined as an area of southeastern Europe surrounded by water on three sides: the Adriatic Sea to the west, the Mediterranean Sea to the South and the Black Sea to the east. Its northern boundary is given as the Danube, Sava, and Kupa rivers. The countries that fall within this area are: Albania, Bosnia, and Herzegovina, Bulgaria, Greece, Kosovo, the Former Yugoslav Republic of Macedonia (FYROM), and Montenegro. Serbia, Croatia, and Slovenia are significantly located on the peninsula and are considered part of the Balkans. For this thesis, we will be looking at the Western Balkan countries. The European Commission defines the Western Balkans as Albania, Bosnia and Herzegovina, Croatia, FYROM, Montenegro, Serbia, and Kosovo.

¹¹ Arolda Elbasani. "EU Enlargement in the Western Balkans: Strategies of Borrowing and Investing." *Journal of Southern Europe and the Balkans* 10.3 (2008): 293-307 p. 293

¹² Kristof Bender, and Gearld Knaus. *High Soon in Slovenia-a Referendum and the Future of Balkan Enlargement*. European Stability Initiative, 2010.

The European Economic Community Treaty (EEC) or the Treaty of Rome, signed in 1957, evoked the aim “of creating an ever-closer union among the peoples of Europe.”¹³ It omitted, however, that becoming a closer union on the inside simultaneously implies becoming a closed union on the outside. This is the dilemma of European integration, which contains both dimensions of inclusion and exclusion.

If a country wants to join the European Union, it must fulfill the Copenhagen Criteria. The criteria were drawn up in 1993 for the newly independent Central and Eastern European countries whose transition to democracy and capitalism became synonymous with transition to EU membership.¹⁴ Countries must meet certain political and economic preconditions, have to be able to adopt the full body of EU law, and need to obtain the EU’s political consent to initiate the accession process.¹⁵ The fundamental precondition for membership, however, is a “European identity.” As the Treaty on the European Union states: “Any European State [...] may apply to become a member of the Union.”¹⁶

If the EU does not recognize the interested country as “European,” it does not need to apply any other criteria, as was the case when it rejected Morocco’s application in 1987.¹⁷ While there is no dispute that the Western Balkans are in Europe, they are a hard nut for the EU to crack. Not only do the countries of the region need to undergo the triple transition of democratization, marketization, and state consolidation, which the Central and Eastern European

¹³ *The Treaty of Rome*. EUROPA. Web. 25 Apr. 2012.

<http://ec.europa.eu/economy_finance/emu_history/documents/treaties/rometreaty2.pdf>

¹⁴ Desmond Dinan. "Beyond the EU's Borders." *Ever Closer Union: An Introduction to European Integration*. 4th ed. Boulder, CO: Lynne Rienner, 2011. 483-527. p.485

¹⁵ Marcel Viëtor. "Putting the Neighborhood on the Map: Ever Closer, Ever Closed? Enlargement, Neighborhood, and the Question of "European Identity." Ed. Almut Möller. *DGAP Analyse: Crossing Borders: Rethinking the European Union's Neighborhood Policies 2* (2011): 11-15. p. 11

¹⁶ *Consolidated Version of the Treaty of the European Union*. EUROPA. Web. 15 Mar. 2012. <http://eur-lex.europa.eu/en/treaties/dat/12002M/htm/C_2002325EN.000501.html#anArt59>.

¹⁷ Marcel Viëtor. "Putting the Neighborhood on the Map: Ever Closer, Ever Closed? Enlargement, Neighborhood, and the Question of "European Identity p. 11

Countries (CEE) faced following the changes in 1989, they also face the legacy of wars of the 1990s.¹⁸ The breakup of Yugoslavia remains a heavy burden upon relations between the successor states and has required sustained state and nation-building efforts throughout the region.

This thesis will analyze the current European model, which is based on a dual approach through the Stabilization and Association Process (SAP). SAP has three aims:

1. Stabilizing the countries and encouraging their swift transition to a market economy;
2. Promoting regional cooperation;
3. Eventual membership of the EU.¹⁹

Through SAP, the EU is trying to stabilize the Western Balkans, while at the same time associating them with EU policies and supporting them in taking over the EU acquis. This approach draws not only on the ordinary toolkit of enlargement policy, but makes use of a series of instruments pertaining to foreign policy as personified in the Common Foreign and Security Policy (CFSP) and its operational arm, the Common Security and Defense Policy (CSDP).²⁰

I will argue that the SAP or dual approach model of stabilizing and integrating to promote democracy and the rule of law in the case of the Western Balkans is ineffective. The model needs to be clearer and more consistent. The EU must do a better job of increasing the internal coherence of its policies in the region. They must better communicate the conditions and benefits of accession by having a consistent message, clarifying the criteria of accession. While

¹⁸Natasha Wunsch. "Reaching Its Limits? EU Enlargement Policy in the Western Balkans." Ed. Almut Möller. *DGAP Analyse: Crossing Borders: Rethinking the European Union's Neighborhood Policies 2*: 25-29. p. 25

¹⁹"The Stabilization and Association Process." *European Commission-Enlargement*. EUROPA, 20 Apr. 2012. Web. 15 Mar. 2012.
<http://ec.europa.eu/enlargement/enlargement_process/accesion_process/how_does_a_country_join_the_eu/sap/index_en.htm>

²⁰Natasha Wunsch. "Reaching Its Limits? EU Enlargement Policy in the Western Balkans p. 25

the future of the Balkans and the rest of Europe is interdependent, the current model is unproductive and producing very sluggish results.

The EU's credibility as an international actor depends to some degree on its success in the Western Balkans because the Western Balkan enlargement is a major test case for EU foreign policy. In no other region in Europe are the incentives for transformation so significant. Thus, the failure to successfully integrate all the Western Balkan States would have an impact and would damage the EU's claim to act as a transformative power in its neighborhood. This thesis aims to provide policymakers, practitioners, and the public with fresh ideas on how the Western Balkans can best integrate into the EU.

Chapter 2: Research Design

My hypothesis is that in order to promote democracy and the rule of law, the European Union policy of stabilizing and integrating should be reformed to better strengthen and clarify conditionality.

I plan to apply this hypothesis to the specific case of the Western Balkans, that is Croatia, Serbia, and Bosnia and Herzegovina. These three cases have been chosen because each represents a different stage of accession. Croatia signed its Accession Treaty on December 9, 2012 with the European Council.¹ Subject to ratification of the Treaty by Croatia and all Member States, Croatia will become an EU Member State on July 1, 2013.² Serbia became an EU candidate country on March 1, 2012 after the European Council endorsed their conclusions of February 28, 2012 on the Enlargement and the Stabilization and Association Process.³ Bosnia and Herzegovina is still progressing towards becoming a candidate country but its deteriorating political situation makes Bosnia and Herzegovina's enlargement bid uncertain.⁴ In addition, all three states share a geographical footprint and many historical experiences. They were all principal actors in the wars in Yugoslavia and faced/face challenges stemming from efforts to change political attitudes and chart a new course towards a more productive future.⁵

I will focus on the transition to democracy as well as the justice and home affairs sector of the Instruments for Pre-Accession Assistance (IPA), which is a particular element, in measuring the effectiveness of EU methods. The IPA has five components: Transition Assistance

¹ General Secretariat of the Council. *European Council-9 December 2011-conclusions*. EUROPA, 25 Jan. 2012. Web. 15 Mar. 2012. <http://consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/ec/126714.pdf> p. 5

² Ibid. p. 5

³ General Secretariat of the Council. *European Council-1/2 March-Conclusions*. EUROPA, 28 Mar. 2012. Web. 15 Mar. 2012. <http://www.consilium.europa.eu/uedocs/cms_Data/docs/pressdata/en/ec/128520.pdf>.

⁴ *Report of the High Representative of the Union for Foreign Affairs and Security Policy on the Activities of the European Union Military Mission in Bosnia and Herzegovina*. Rep. no. S/2011/717. United Nations. Web. 15 Mar. 2012. <<http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N11/592/73/PDF/N1159273.pdf?OpenElement>> p. 3

⁵ Richard P Farkas. *Democratization in the Balkans: Prescription for a Badly Scarred Body Politic*. Boston: Northeastern UP, 2007. p.4

and Institution Building, Cross-Border Cooperation, Regional Development, Human Resources Development, and Rural Development. However, in the interest of time, I will be looking closely at only the first component which is used to strengthen democratic institutions and the rule of law. Within this first component, there are seven sectoral foci. They are: justice and home affairs and fundamental rights; public administration reform; environment and climate change; transports; private sector development; social development; and agriculture and rural developments. Again in the interest of time, I will be looking only at the justice and home affairs sector within that I will also assess whether the measures undertaken to address corruption and minority rights and refugees have been effective, that is whether the step by step goals are being met. By that I mean whether there have been positive changes in the areas of corruption and minority rights and refugees.

Before going into the literature relevant to this study, it is important to define two terms, “Europeanization” and “democracy.”

Europeanization

Throughout modern history, Europeanization has taken on different meanings. It has referred to the process of socialization or the internalization of EU norms.⁶ It is used in this way by historians and anthropologists to describe the export of cultural norms and patterns. Today, Europeanization is associated with the domestic adaption to the pressures resulting directly or indirectly from EU membership. It is used to show how public administrative institutions have adapted to the obligations of EU membership.⁷

⁶Adrienne Héritier. "Europeanization Research East and West: A Comparative Assessment." *The Europeanization of Central and Eastern Europe*. Ed. Frank Schimmelfennig and Ulrich Sedelmeier. Ithaca, NY: Cornell UP, 2005. p. 202

⁷ Ibid. p. 202

Many researchers have used Europeanization in a variety of ways. A common usage was first provided by Robert Ladrech in his 1994 article “The Europeanization of Domestic Politics and Institutions: the Case of France.”⁸ He saw Europeanization as a process reorienting the direction and shape of politics to the degree that the European Community’s political and economic dynamics become part of the organizational logic of national politics and policy making.⁹ This concept focuses on how actors redefine their interests and behavior to meet the rules, norms, and logic of EU membership.

Looking at the institutional sphere, Caporaso, Cowles, and Risse suggest that Europeanization should be a dual product of adaptational pressures resulting from varying goodness of fit between EU and national institutions and policies and domestic intervening variables, including the number of veto points and the organizational and political cultures embedded in existing national institutions.¹⁰ Their focus is on cross-level political interactions.

In contrast, Knills and Lehmkuhl focus on a top-down approach. Each mechanism involves policy constraints emanating from the European level that may yield domestic institutional changes.¹¹ The first mechanism takes the form of “positive integration” and is found when EU obligations advise an institutional model to which domestic arrangements have to be adopted, with little national discretion.¹² In this context, Europeanization rests on institutional goodness of fit between domestic and European arrangements.¹³ The second mechanism is called “negative integration” and occurs when EU legislation changes the domestic rules of the game.

⁸Robert Ladrech. "The Europeanization of Domestic Politics and Institutions: The Case of France." *Journal of Common Market Studies* 32.1 (1994): 69-88. p. 69

⁹Ibid. p. 69

¹⁰Mark A Pollack. "Theorizing EU Policy-Making." *Policy-making in the European Union*. Ed. Helen Wallace, Mark A. Pollack, and Alasdair R. Young. 6th ed. Oxford: Oxford UP, 2010. 15-44 p. 37

¹¹Kevin Featherstone. "Introduction: In the Name of "Europe"" *The Politics of Europeanization*. Ed. Kevin Featherstone and Claudio M. Radaelli. Oxford: Oxford UP, 2003. 3-26 p. 14

¹²Christopher Knill, and Dirk Lehmkuhl. "How Europe Matters: Different Mechanisms of Europeanization." *European Integration Online Papers* 3.7 (1999) p. 3

¹³ Featherstone, Kevin. "Introduction: In the Name of "Europe" p. 14

Finally, the third mechanism is whether European policy changes the beliefs and expectations of domestic actors, who in turn may change their preferences and strategies.¹⁴

For this thesis, I define Europeanization as a process in which states adapt to EU rules for enlargement. When I refer to “states,” I denote the political-institutional structures into which EU rules are integrated. “Governments” are the actors that adopt the EU rules. The rules cover a broad range of issues and structures, such as regulation and distribution in specific policy areas, political and administrative processes, and the creation and competences of state and sub-state organizations.¹⁵ Government works to institutionalize and implement EU rules at the domestic level.

Democracy

The term “democracy” is something we hear a lot but often do not usually clarify. In the European Union Treaty, Article 6 states, “The Union is founded on the principles of liberty, democracy, respect for human rights and fundamental freedoms, and the rule of law, principles which are common to the Member States.”¹⁶ But what actually is “democracy”?

According to James Coporaso, democracy is a set of procedures about how collective decisions are taken. Collective decisions are made by all the relevant actors.¹⁷ In this definition, democracy means that people choose those who make the decisions and the procedures by which these decisions are made.

Seymour Martin Lipset defines democracy as a “political system which provides regular constitutional opportunities for changing government officials... [and] permits the largest

¹⁴ Christopher Knill, and Dirk Lehmkuhl. "How Europe Matters: Different Mechanisms of Europeanization." P. 3

¹⁵ Frank Schimmelfennig, and Ulrich Sedelmeier. "Introduction: Conceptualizing the Europeanization of Central and Eastern Europe." *The Europeanization of Central and Eastern Europe*. Ed. Frank Schimmelfennig and Ulrich Sedelmeier. Ithaca, NY: Cornell UP, 2005. 1-28. p. 7

¹⁶ *Consolidated Version of the Treaty of the European Union*. EUROPA

¹⁷ James A Caporaso. *The European Union: Dilemmas of Regional Integration*. Boulder, CO: Westview, 2000. p. 43

possible part of the population to influence decisions through their ability to choose among alternative contenders for political office.”¹⁸ Samuel Huntington defines democracy as the extent to which collective decision makers are selected through fair, honest, and periodic elections in which candidates freely compete for votes and the entire adult population is eligible to vote.¹⁹ For Charles Beitz, democracy is conceived as “a kind of rivalry for control over the state’s policy-making apparatus, with an electoral mechanism at its center in which all citizens are entitled to participate...The generic idea of democracy is indeterminate about these matters, but because not all the possibilities are equally acceptable, some criterion is needed for selecting among them.”²⁰ Finally, Elmer Schattschneider defines democracy as a “competitive political system in which competing leaders and organizations define the alternatives of public policy in such a way that the public can participate in the decision-making process.”²¹

In addition to defining democracy in terms of elections and representation, there are other definitions that look at democracy through the specter of governance. Governance in its most fundamental sense implies the capacity of a society to develop some means of making and implementing collective choices. The logic of the governance concept is that an effective society requires some set of mechanisms for identifying common problems, deciding upon goals, and then designing and implementing the means to achieve those purposes.²² One aspect of governance is good governance, which has eight major characteristics. Good governance is participatory, consensus orientated, accountable, transparent, responsive, effective and efficient,

¹⁸Seymour Martin Lipset. *Political Man*. London: Mercury, 1963 p. 71

¹⁹Samuel P Huntington. *The Third Wave: Democratization in the Late Twentieth Century*. Norman: University of Oklahoma, 1991. p. 7

²⁰Andreas Follesdal, and Simon Hix. "Why There Is a Democratic Deficit in the EU: A Response to Majone and Moravcsik." *Journal of Common Market Studies* 44.3 (2006): 533-62. p. 547

²¹ Ibid. p. 547

²² B. Guy Peters, and Jon Pierre. "Governance Approaches." *European Integration Theory*. By Antje Wiener and Thomas Diez. Second ed. Oxford: Oxford UP, 2009. 91-104 p. 92

equitable and inclusive and inclusive, and follows the rule of law. It assures that corruption is minimized, the views of minorities are taken into account in decision-making, and responsive to the present and future needs of society.²³

Kaufmann defines good governance as “the traditions and institutions by which authority in a country is exercised.”²⁴ This includes; a process by which governments are selected, monitored, and replaced; the capacity of the government to effectively formulate and implement sound policies; and the respect of citizens and the state for the institutions that govern economic and social interactions among them.²⁵

Huther and Shah define good governance as a “multifaceted concept encompassing all aspects of the exercise of authority through formal and informal institutions in the management of the resource endowment of a state. The quality of governance is thus determined by the impact of this exercise of power on the quality of life enjoyed by its citizens.”²⁶

Finally, the World Bank defines good governance as the manner in which power is exercised in the management of a country’s economic and social resources.²⁷

In this thesis I will define democracy broadly as a political system that focuses on effective and accountable institutions, the electoral process, representation, and responsible structures of government, in order to ensure an open and legitimate relationship between the state and its citizens.

²³ "What Is Good Governance?" *United Nations Economic and Social Commission for Asia and Pacific*. United Nations. Web. 1 May 2012. <<http://www.unescap.org/pdd/prs/ProjectActivities/Ongoing/gg/governance.asp>>.

²⁴Bo Rothstein, and Jan Teorell. "What Is Quality of Government? A Theory of Impartial Government Institutions." *Governance* 21.2 (2008): 165-90. p. 168

²⁵ Ibid. p. 168

²⁶ Ibid. p. 169

²⁷ Weiss, Thomas G. "Governance, Good Governance and Global Governance: Conceptual and Actual Challenges." *Third World Quarterly* 21.5 (2000): 795-814. p. 797

Integration Theory

In explaining European enlargement, the main explanatory framework is integration theory. Integration theory has evolved over time. In the 1940s and 1950s, the prominent theories were federalism and functionalism. Following World War II, two paths towards European integration were laid out; one an integrated European federal union modeled on the United States (federalism); the other international functional cooperation, in which states would build foundations for peace and security by cooperating with one another (functionalism).²⁸ Building on the tenets of functionalism, in the 1960s to the 1980s, neofunctionalists and intergovernmentalists argued that what drove functional cooperation was key interest groups which favored integration and governments that pursued national interests.²⁹ Since the 1990s, a new crop of theories have emerged, including multilevel governance and constructivism. For each theory, I will explain their main arguments and theorists, and how it helps explain European enlargement over time.

Federalism has its roots in the Latin term *foedus*, meaning covenant.³⁰ It is based on the idea that you can bring together previously separate, autonomous, or independent entities into a union whose purpose is to recognize, preserve, and accommodate distinct interests, identities, and cultures. The meaning of *foedus* constituted the first serious challenge to the famous French philosopher, Jean Bodin, and his conception of the state in his 1576 work, “*Les Six Livres de la Republique*.”³¹ Bodin believed in the notion of an independent sovereign state as centralized, absolute, and indivisible with a supreme power resident (king) answerable only to God and

²⁸Roy H Ginsberg. *Demystifying the European Union: The Enduring Logic of Regional Integration*. 2nd ed. New York: Rowman & Littlefield, 2010 p. 65

²⁹ Ibid. p. 65

³⁰ "Foedus." *Babylon.com*. Latin-English Online Dictionary. Web. 15 Mar. 2012.
<<http://www.babylon.com/define/112/Latin-Dictionary.html>>

³¹ Micheal Burgess. "Federalism." *European Integration Theory: Second Edition*. By Antje Wiener and Thomas Diez. Oxford: Oxford UP, 2009. p. 27

natural law. In addition, according to Baruch Spinoza, Jean-Jacques Rousseau, Immanuel Kant, and Georg Wilhelm Friedrich Hegel, all states are legally equal, that is all states have the same juridical status.³²

The Bodinian model of the state was first challenged by German Calvinist intellectual and political magistrate Johannes Althusius, in his 1603 work, “*Politica Methodice Digesta* (known as the *Politics*).³³ It articulated a set of federal principles as the basis for the modern state. Althusius is seen as the father of modern federalism.

In the context of the EU, federalism promotes the idea of a voluntary union of states and people that is binding upon its members and rooted in mutual respect, recognition, reciprocity, tolerance, consent, and equality.³⁴ Its shape and structure are determined by the declared goals of the covenant and the historical circumstances that created it. Since integration, not assimilation, is the main goal of the EU, it was founded on both self and shared rule.³⁵

The modern origins of the European federalist movement are to be found in the threat of war and the practical experience of World War II. One of the most prominent federalists was Altiero Spinelli. Spinelli’s strategy for a European Federation called for creating political institutions that would be quickly translated into a constitution. His argument can be boiled down to three themes. First, he believed in an autonomous European federation. The federation must not be a political party but rather it should be an organization aimed at uniting all supporters of a European federation regardless of their political beliefs or social background. The organization must be supranational in nature so as to instill loyalty in its supporters and enable them to

³²Patrick Riley. "The Origins of Federal Theory in International Relations Ideas." *Polity* 7.1 (1973): 87-121. *JSTOR*. Web. 22 Apr. 2012. <<http://www.jstor.org/stable/3234183>> p. 105

³³Micheal Burgess. "Federalism." p. 28

³⁴*Ibid.* p. 30

³⁵*Ibid.* p. 30

organize political action at a European level.³⁶ Finally, the movement must have a direct influence on public opinion, outside of national electoral campaigns, which would help them exert pressure on the European policies of governments.

The second theme of Spinelli's strategy was the concept of a European constituent assembly. He believed that the biggest obstacle to the federation movement was the European governments themselves, which were afraid to give up their power. European institutions, he argued, cannot bring about federal solutions because national governments will try to maintain absolute sovereignty at the expense of effective unification.³⁷ A constituent assembly, composed of people representing public opinion, would be more favorable toward federal institutions for three reasons. First, if the majority of the public supports unification, their representatives have to take this into account. Second, the political parties would have an international orientation and would thus support the creation of transnational groups within a European assembly working together to strengthen pro-European attitudes. Finally, those representing public opinion would not hold positions of power which are directly dependent on the continuance of absolute national sovereignty.³⁸

Spinelli's model for a constituent assembly was the United States Constitution. The Philadelphia Convention, which framed the Constitution, contains three elements that Spinelli says should be used for a creation of a European Constitution. First, the governments of individual states should have the responsibility for starting the process by giving the convention authority, but afterward should refrain from interfering in its deliberations. Second, the convention must act by majority vote. Third, the ratification of the Constitution should be

³⁶Sergio Pistone. "Altiero Spinelli and the Strategy for the United States of Europe." *The European Union Readings on the Theory and Practice of European Integration*. Ed. Brent F. Nelsen and Alexander Stubb. Third ed. Boulder, CO: Lynne Rienner, 2003. 91-98 p. 94

³⁷ Ibid. p. 95

³⁸ Ibid. p. 95

entrusted to the appropriate constitutional organs of individual states, and come into force once ratified by a majority of them.³⁹

From a federalist perspective, enlargement would create a problem for a federal Europe. The largest concern would be the preservation of unity and diversity in both European institutions and policies. Federalists argue that the EU would have to accommodate all of the applicants without damaging the already agreed upon norms and rules within the EU.⁴⁰

In contrast to federalists, functionalists believe that technical cooperation among states raises human welfare and enhances world peace. National divisions become less important relative to the work of international functional bodies. Two of the most prominent theorists of functionalism are Jean Monnet and David Mitrany.

Jean Monnet has been referred to as the “father of Europe.”⁴¹ He convinced French Foreign Minister Robert Schuman, to propose the European Coal and Steel Community (ECSC) and became its president from 1951 to 1955. He also led the Europe-wide Action Committee of a United States of Europe until 1975.⁴² Monnet argued that a political strategy of small, concrete, economic steps would culminate in a federal Europe. He believed that states should adopt common rules governing their behavior and create common institutions to apply these rules.⁴³ The ECSC perfectly expressed these small economic steps.

David Mitrany published “A Working Peace System” in 1943, which introduced the theory of functionalism. In his study he rejected classical power politics and federalist visions in favor of the notion of a working peace system, in which specific areas of human activity,

³⁹ Ibid. p. 96

⁴⁰ Micheal Burgess. "Federalism." p. 40

⁴¹ Desmond Dinan. "Reconstruction, Reconciliation, and Integration 1945-1957." *Ever Closer Union: An Introduction to European Integration*. 4th ed. Boulder, CO: Lynne Rienner, 2005. 9-28. p. 9

⁴² Ibid. p. 23

⁴³ Jean Monnet. "A Ferment Change." *The European Union Readings on the Theory and Practice of European Integration*. Ed. Brent F. Nelsen and Alexander Stubb. Third ed. Boulder, CO: Lynne Rienner, 2003. 19-26. p. 19

important to welfare, would be organized internationally and managed by experts.⁴⁴ Rather than giving up their sovereignty, Mitrany argued that states should share it.⁴⁵ Functional integration would be rational, pragmatic, technocratic, and flexible. It would blur national and international, public and private, and political and nonpolitical distinctions.⁴⁶

Federalists such as Spinelli criticized functionalism for its belief that one can integrate selected sectors of national activity without a federalist constitutional framework. They argued that by refusing to start with a supranational authority, the principle of a national veto would be retained. Thus, European institutions would be deprived of their ability to overcome special interests that arise from unrestrained national sovereignty.⁴⁷ In addition, chaos and inefficiency would be a product of a lack of common management of the interdependent economies of modern states.

An updated form of functionalism, neofunctionalism, was formulated in the late 1950s and early 1960s, mainly through the work of Ernest Haas and Leon Lindberg in response to the creation of the ECSC and the European Economic Community (EEC). It finds its intellectual roots at the juncture between functionalists, federalists, and communication theories, while drawing indirectly upon the “group theorists” of American politics.⁴⁸ Neofunctionalism differs from functionalism because while functionalists hold that form, scope, and the purpose of an organization is determined by the task it was designed to fulfill, neofunctionalists attach

⁴⁴David Mitrany. "A Working Peace System." *The European Union Readings on the Theory and Practice of European Integration*. Ed. Brent F. Nelsen and Alexander Stubb. Third ed. Boulder, CO: Lynne Rienner, 2003. 99-119 p. 104-105

⁴⁵ Ibid. p. 114

⁴⁶ Ibid. p. 99

⁴⁷Sergio Pistone. "Altiero Spinelli and the Strategy for the United States of Europe." p. 97

⁴⁸Arne Niemann, and Philippe C. Schmitter. "Neofunctionalism." *European Integration Theory*. By Antje Wiener and Thomas Diez. Second ed. Oxford: Oxford UP, 2009. 45-66.p. 45

considerable importance to the autonomous influence of supranational institutions and the emergence of organized interests.⁴⁹

Neofunctionalism gave no single authoritative definition of integration. Both Haas and Lindberg argued that integration is a process as opposed to an outcome and involves the creation and role expansion of regional institutions.⁵⁰ In addition, they both stressed change in expectations and activities on the part of participating actors. While Lindberg limited his study to the EEC, Haas based his analysis on the ECSC, but extended his conclusions to both the EEC and the European Atomic Energy Community (EURATOM).⁵¹ In his 1958 book, “The Uniting of Europe” Haas defined integration as:

The process whereby political actors in several distinct national settings are persuaded to shift their loyalties, expectations and political activities toward a new centre, whose institutions possess or demand jurisdiction over the pre-existing national states. The end result of a process of political integration is a new political community, superimposed over the pre-existing ones.⁵²

Lindberg in his 1963 book “The Political Dynamics of European Integration” defines integration slightly differently from Haas:

The process whereby nations forgo the desire and ability to conduct foreign and key domestic policies independently of each other, seeking instead to make joint decisions or to delegate the decision-making process to new central organs; and the process whereby political actors in several distinct settings are persuaded to shift their expectations and political activities to a new center.⁵³

⁴⁹Geoffrey Pridham. "Democratization in the Balkan Countries: From Theory to Practice." *Experimenting with Democracy: Regime Change in the Balkans*. Ed. Geoffrey Pridham and Tom Gallagher. London: Routledge, 2000. 1-21 p. 3

⁵⁰Charles Pentland. *International Theory and European Integration*. New York: Free, 1973 p. 101

⁵¹Arne Niemann, and Philippe C. Schmitter. "Neofunctionalism." p. 47

⁵²Ernest Haas. "The Uniting of Europe." *The European Union Readings on the Theory and Practice of European Integration*. Ed. Brent F. Nelsen and Alexander Stubb. Third ed. Boulder, CO: Lynne Rienner, 2003. 145-49. p. 148

⁵³Leon N Lindberg. "Political Integration: Definitions and Hypothesis." *The European Union Readings on the Theory and Practice of European Integration*. Ed. Brent F. Nelsen and Alexander Stubb. Third ed. Lynne Rienner p. 155

Lindberg's definition can be seen as more cautious than that of Haas. Unlike Haas, he does not suggest any endpoint for the integration process. Lindberg also suggested that political actors only shift their expectations and not their loyalties to a new centre.⁵⁴

There are five main assumptions of neofunctionalists about the dynamics of Europeanization. The first is that actors are rational and self-interested and have the capacity to learn and change their preferences. This change of expectations, activities, and loyalties are motivated by the actors' interests.⁵⁵ They are not constant, however, and are likely to change during the integration process as actors learn from the benefits of regional policies and from experiences in decision-making. For example, Haas argued that membership in the ECSC altered the way that interest groups and, later, member governments, perceived their interests.⁵⁶

Second, once institutions are established, they can take a life on their own and progressively escape the control of their creators. Because they want to increase their own power, employees of regional institutions become agents of further integration by influencing the perception of a participating government's interest.⁵⁷

Third, most political actors are unable to engage in long-term purposive behavior because they are driven by the unintended consequences of previous decisions.⁵⁸ Decisions are undertaken with little knowledge of their consequences and decision makers are under constant pressure of deadlines. Fourth, neofunctionalists reject the realist notion that all actions between actors are zero-sum in nature. Exchanges are better described as positive-sum games under a supranational style of decision-making. States refrain from vetoing proposals and instead seek to

⁵⁴Arne Niemann, and Philippe C. Schmitter. "Neofunctionalism." p. 47

⁵⁵ Ibid. p. 48

⁵⁶Charles Pentland. *International Theory and European Integration* p. 132

⁵⁷Ernest Haas. "The Uniting of Europe." p. 148

⁵⁸Ernst B Haas. "The Study of Regional Integration: Reflections on the Joy and Anguish of Pretheorizing." *International Organization* 24.04 (1970): 607-46. p. 627

compromise.⁵⁹ Fifth, neofunctionalists believe that interdependencies between whole economies and their productive sectors tend to foster integration.

All five of these assumptions are summed up in the notion of spillover. Haas describes spillover as a process in which the integration of one sector leads to the pushing of states to integrate into other sectors.⁶⁰ The spillover process can be split into two key components, the sectoral spillover and political spillover. The sectoral spillover involves the expansion of integrative activities from one sector to another, for example, moving from coal and steel to agriculture.⁶¹ Political spillover means increasing the politicization of sectoral activities, for example, when the coordination of monetary policies was replaced by a more centralized system of governance.⁶²

Neofunctionalist theory has been criticized on a number of premises. First, it has been criticized as being too grand in its theoretical assumptions. It cannot provide a general theory of regional integration in all settings, especially of its origins.⁶³ Second, liberal interdependence theorists such as Robert Keohane and Joseph Nye have questioned neofunctionalists' assertion that spillover is inevitable as well as their dependence on economic determinism. More economically minded critics observe that the concept of spillover is connected to the belief that economic growth would continue unabated in the capitalist world, and all member states would benefit more-or-less equally.⁶⁴ Finally, neofunctionalists have been criticized for their lack of attention to domestic political processes and structures. According to Hansen and George, they underestimated the role of national leadership by assuming that they were only "economic

⁵⁹Arne Niemann, and Philippe C. Schmitter. "Neofunctionalism." p. 49

⁶⁰ Ibid. p. 49

⁶¹Teodor Lucian Moga. "The Contribution of the Neofunctionalist and Intergovernmentalist Theories to the Evolution of the European Integration Process." *Journal of Alternative Perspectives in the Social Sciences* 1.3 (2009): 796-807 p. 798

⁶² Ibid. p. 798

⁶³ Ibid. p. 799

⁶⁴Geoffrey Pridham. "Democratization in the Balkan Countries: From Theory to Practice." p. 3

incrementalists and welfare seekers.”⁶⁵ Neofunctionalists have also overestimated the role of interest groups in affecting policy.

For the purpose of this study, neofunctionalism, despite the criticisms, provides relevant framework in that EU integration has been deepened across sectors and as a result, new states that want to join have to meet sectoral requirements. Integration is a process and enlargement can be viewed as another stage in the integration process, that is in the expansion stage (widening and deepening).

Another theory, liberal intergovernmentalism (LI) is known as a “baseline theory,” to which other integration theories are often compared.⁶⁶ It rests on two basic assumptions. First, states are actors and can achieve their goals through intergovernmental negotiations and bargaining, rather than through a centralized authority creating and enforcing decisions. The first assumption differs from realism because national security is not the dominant motivation, state power is not based on coercion, state preferences and identities are not identical, and interstate institutions are not insignificant.⁶⁷ Liberal intergovernmentalists acknowledge that states in institutions such as the EU are in control of their decision-making and political legitimacy. The second assumption is that states are rational. Actors will always choose the course of action that maximizes their utility under the circumstances. Agreements to cooperate or establish international institutions are a collective outcome of interdependent rational state choices and intergovernmental negotiations.⁶⁸

The prominent author of LI is Andrew Moravcsik. In his book, *The Choice of Europe*, he argued that EU integration is best understood as a series of rational choices made by national

⁶⁵Arne Niemann, and Philippe C. Schmitter. "Neofunctionalism." p. 53

⁶⁶Andrew Moravcsik, and Frank Schimmelfennig. "Liberal Intergovernmentalism." *European Integration Theory*. By Antje Wiener and Thomas Diez. Second ed. Oxford: Oxford UP, 2009. 67-87 p. 67

⁶⁷ Ibid. p. 68

⁶⁸ Ibid. p. 68

leaders. These choices respond to constraints and opportunities coming from three areas: first, from the economic interests of powerful domestic constituents; second, from state power stemming from asymmetrical interdependence; and finally from the role of institutions in bolstering the credibility of interstate commitments.⁶⁹

Liberal intergovernmentalism is not without its share of critics. Rational-choice institutionalists assert that liberal intergovernmentalism cannot explain everyday decision-making and is limited to only a small sliver of EU policy-making in which institutions plays a small role. Historical institutionalists argue that liberal intergovernmentalists only focus on “conscious intergovernmental decision-making at treaty-amending moments.”⁷⁰

Another relevant theory is multilevel governance. Governance implies the capacity of a society to develop some means of making and implementing collective choices. An example would be the development of the Open Method of Coordination (OMC). This mechanism involves the member countries creating their own goals and benchmarks for pursuing European policies, rather than using the conventional top-down means of goal setting.⁷¹ It is part of a movement toward new governance in which the tools used to enact public programs are softer and based on more negotiation than on the use of authority.

The idea of multilevel governance was developed in order to understand the implementation of European directives. The model recognizes the existence of national governments in the EU as well as the importance of regional governments.⁷² Because it empowers and creates regional entities, multi-level governance legitimizes the EU. However, the

⁶⁹ Ibid. p. 69

⁷⁰ Ibid. p. 73

⁷¹ "Open Method of Coordination." *Investing in European Research*. EUROPA. Web. 15 Mar. 2012. <http://ec.europa.eu/invest-in-research/coordination/coordination01_en.htm>

⁷²B. Guy Peters, and Jon Pierre. "Governance Approaches." *European Integration Theory*. By Antje Wiener and Thomas Diez. Second ed. Oxford: Oxford UP, 2009. 91-104 p. 95

development of these relationships provides some social and political groups with greater influence over the integration process.

In relation to this study, liberal intergovernmentalism is useful in that members will calculate the advantages of enlargement in terms of the costs and benefits of socioeconomic interdependence. New members want to join the EU on the basis of both domestic and state preferences. Meanwhile, existing members have shown variable enthusiasm about welcoming new members, again based on their preferences. This has impacted the level of conditionality imposed on perspective candidates.

Finally, multilevel governance is a strategy that explains how the Commission works. The EU has little implementation capacity of its own, and thus depends upon the member states in order to be able to put policy choices into effect. The assumption is that the directives coming from the Commission will be implemented as intended.⁷³

In the next chapter, we will be looking at the past European enlargements and how they have affected the Europeanization of the Western Balkans.

⁷³ Ibid. p. 96

Chapter 3: Background on EU Enlargement

For more than half a decade, the EU has grown considerably. From six countries in 1951 (Belgium, Germany, France, Italy, Luxemburg, and the Netherlands in the European Coal and Steel Community, the EU has grown to twenty seven today.¹ It has a population close to 500 million and economically is a superpower that competes with the United States.² There have been five successive enlargements since 1951:

- 1973: Denmark, Ireland and the United Kingdom joined the European Community (EC)
- 1981: Greece joined the EC
- 1986: Spain and Portugal joined the EC
- 1995: Austria, Finland and Sweden joined the EU
- 2004: In the largest EU enlargement, the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovakia and Slovenia joined the EU
- 2007: Completing the current enlargement, Romania and Bulgaria joined the EU³

The procedures for accession into the EU are set out in the Treaty of the European Union in articles 6 and 49. They state respectively:

Article 6 (1)

The Union is founded on the principles of liberty, democracy, respect for human rights and fundamental freedoms, and the rule of law, principles which are common to the Member States.⁴

Article 49

Any European State which respects the principles set out in Article 6(1) may apply to become a member of the Union. It shall address its application to the Council, which shall act unanimously after consulting the Commission and after receiving the assent of

¹ "From 6 to 27 Members." *European Commission-enlargement*. EUROPA, 30 Jan. 2012. Web. 15 Mar. 2012. <http://ec.europa.eu/enlargement/the-policy/from-6-to-27-members/index_en.htm>

² Charles Grant. *EU 2010: An Optimistic Vision of the Future*. London: Centre for European Reform, 2000. p. 7

³ From 6 to 27 Members." *European Commission-enlargement*. EUROPA

⁴ *Consolidated Version of the Treaty of the European Union*. EUROPA

the European Parliament, which shall act by an absolute majority of its component members.

The conditions of admission and the adjustments to the Treaties on which the Union is founded, which such admission entails, shall be the subject of an agreement between the Member States and the applicant State. This agreement shall be submitted for ratification by all the contracting States in accordance with their respective constitutional requirements.⁵

Since the 1957 Treaty of Rome, the procedures for accession have remained relatively unchanged. The 1987 Single European Act added the requirement that the European Parliament's consent was needed when approving an association agreement during the accession process.⁶ Also, the 1997 Treaty of Amsterdam clarified the political conditions by inserting the reference to Article 6 which stated the Union is founded on the principles of liberty, democracy, respect for human rights and fundamental freedoms, and the rule of law which are common to all member states.

Until the 1990s, there appeared no need for an enlargement policy beyond the rules of Article 49 and case-by-case bargaining among the member states and between existing members and candidate countries. The Iron Curtain prevented one half of Europe from contemplating EU membership. The rest of Western Europe was either skeptical about deeper integration or under authoritarian regimes. Thus, enlargement was restricted to fairly discrete episodes, and ad hoc bargaining.⁷

Until the end of the Cold War, the challenge to the European Union became to create an enlargement policy that went beyond the traditional procedures for accepting new members. In

⁵ Ibid.

⁶ "The Single European Act." *Summaries of EU Legislation*. EUROPA, 26 Oct. 2010. Web. 15 Mar. 2012. <http://europa.eu/legislation_summaries/institutional_affairs/treaties/treaties_singleact_en.htm>

⁷ Ulrich Sedelmeier. "Enlargement: From Rules for Accession to a Policy towards Europe." *Policy-making in the European Union*. Ed. Helen Wallace, Mark A. Pollack, and Alasdair R. Young. 6th ed. Oxford: Oxford UP, 2010. 401-29 p. 405

other words, the question was how best to manage relations with countries that wanted to join, but were not yet ready to enforce the body of EU legislation.⁸

A key element in this new policy is how to provide support for the transition to market economies and democracy and whether to use the prospect of EU membership to support such reforms. The prospect of reforming the countries of Central and Eastern Europe (CEECs) appealed to the EU's greater foreign policy goal of bringing stability in the European neighborhood.⁹

In 1989, the EU developed a policy framework that went far beyond the procedures in Article 49 of the Treaty. Enlargement policy now comes into play long before a country officially applies for membership and accession negotiations are only the final stage in a much longer process. The enlargement process can be broken down into three stages: associate process; being recognized as a potential candidate country and the development of a policy framework for accession; and accession negotiations. During each phase, the EU uses conditionality to link progress from one phase to the next until certain conditions are met.¹⁰ As of March 2012, there are nine countries vying to become EU members. They are all in varying degrees of the accession process.

Croatia is the only acceding country, due to become a member on July 1, 2013.¹¹ Iceland, the Former Yugoslav Republic of Macedonia, Montenegro, Serbia, and Turkey are all candidate

⁸ Ibid. p. 406

⁹ Ibid. p. 407

¹⁰ Desmond Dinan. "Beyond the EU's Borders." p. 485

¹¹ "Croatia-EU-Croatia Relations." *Commission-enlargement*. EUROPA, 22 Feb. 2012. Web. 15 Mar. 2012. <http://ec.europa.eu/enlargement/acceding-country/croatia/relation/index_en.htm>

countries.¹² Finally, Albania, Bosnia and Herzegovina, and Kosovo under UN Security Council resolution 1244 are considered potential candidate countries.¹³

A country's application for membership is no longer the first stage of accession. Until the 1995 enlargement, the process usually started with an application because countries were mostly judged to be already in a position to apply and enforce the *acquis* (EU laws). There were some exceptions in the cases of Greece, Portugal, and Spain. All three shook off right-wing dictatorships in the mid-1970s and wanted to join the EU as soon as possible to end their relative isolation, stabilize their newly established democracies, and develop their economies. Although Greece was able to join within a relatively short time, the accession negotiations with Spain and Portugal were long and drawn out.¹⁴ Despite the Commission advising against early accession for Greece for economic reasons, the Council saw the Greek case from a political perspective and disregarded the Commission's advice.¹⁵ Greece became the tenth member of the EC in January 1981. The Council saw membership of the European Community as a way to strengthen Greece's democracy and it wanted to ensure stability on its southern border.

Not wanting to be lumped in with Spain, given that some EC countries feared that Spain's accession would bring negative consequences, Portugal applied to join the EC in March 1977, more than a year before Spain applied. The Commission identified numerous economic, structural, and administrative issues (mainly textiles, migrant workers, fisheries, and agriculture) that had to be addressed before they could recommend a timetable for accession.¹⁶ Even though

¹² "Candidate Countries." *Commission-enlargement*. EUROPA, 12 Mar. 2012. Web. 15 Mar. 2012. <http://ec.europa.eu/enlargement/candidate-countries/index_en.htm>

¹³ "Potential Candidates." *Commission-Enlargement*. EUROPA, 19 Apr. 2012. Web. 15 Mar. 2012. <http://ec.europa.eu/enlargement/potential-candidates/index_en.htm>

¹⁴ Michael J Baun. *A Wider Europe: The Process and Politics of European Union Enlargement*. Lanham, MD: Rowman & Littlefield, 2000., p. 2

¹⁵ Desmond Dinan. "From European Community to European Union, 1985-1992." *Ever Closer Union: An Introduction to European Integration*. 4th ed. Boulder, CO: Lynne Rienner, 2010. 73-102. p. 74

¹⁶ *Ibid.* p. 76

Portugal made progress, such as reaching an agreement with the International Monetary Fund (IMF) to restructure the economy, the main point of contention was with regard to agriculture and fisheries. Therefore, Spain's and Portugal's negotiations became increasingly linked.

The main opposition to Spain came from France, concerned over the impact of Spanish agriculture on the Common Agriculture Policy (CAP). Spain's accession would have increased the EC's agricultural area by thirty percent and farm workforce by twenty-five percent.¹⁷ Spain, for its part, was unwilling to accept all the obligations of membership, specifically the need to launch a value-added tax, curtail subsidies, and curb protectionism. The situation improved when the new government of Felipe González, embarked on a goodwill tour to promote Spanish accession. Despite this, in a dispute over the Common Fisheries Policy, Spanish fishermen attacked foreign trucks and in turn, French truckers blockaded the Spanish border throughout 1984.¹⁸

The breakthrough for both Iberian countries came at the Fontainebleau summit in June 1984, when national leaders announced that enlargement would take place in June 1984. In March 1985, foreign ministers resolved the remaining issues: fisheries, free movement of Spanish and Portuguese workers in the EC, and the applicant countries' budgetary contributions.¹⁹ The final major agreement was the Integrated Mediterranean Programs, proposed by Greek Prime Minister Andreas Papandreu in 1985. The program called for financial assistance mainly to Greece but also to Italy and southern France to help develop agriculture, tourism, and small business. Papandreu linked this program with enlargement.²⁰ In March 1985,

¹⁷Sebastián Royo, ed. "Portugal and Spain: Mission Accomplished?" *The European Union and the Member States*. Ed. Eleanor E. Zeff and Ellen B. Pirro. 2nd ed. Boulder, CO: Lynne Rienner, 2006. 211-34 p. 211

¹⁸Desmond Dinan. "From European Community to European Union, 1985-1992 p. 77

¹⁹Ibid. p. 77

²⁰Sebastián Royo, ed. "Portugal and Spain: Mission Accomplished?" p. 212

the European Council agreed to the program in order “to adjust under the best conditions possible to the new situation created by enlargement.”²¹ On January 1, 1987, Portugal and Spain joined the EC.

The first step of the accession process is establishing closer relations with potential member states through association agreements. They are a long standing tool for the EU’s external relations and in recent history, necessary for membership. Three examples of association agreements are the European Economic Area (EEA), Europe Agreements (EA), and the Stabilization and Association Process (SAP).

On January 1, 1994, the EU and the member states of the European Free Trade Association (EFTA) created the European Economic Area as a long term framework for relations between them. EFTA was created in 1959 as an alternative to the EC for those that mistrusted supranationality or sought to keep their distance from the West for fear of antagonizing the USSR.²² The EFTA originally consisted of Austria, Denmark, Norway, Portugal, Sweden, Switzerland, and the United Kingdom. In 1961, Finland became an associate member, then a full member in 1986. Iceland joined EFTA in 1970. After joining the EEC, the UK and Denmark left the EFTA. Portugal followed suit in 1985 to become an EC member and Lichtenstein joined the EFTA in 1991.²³

Having already adopted much of the EU’s *acquis* in the mid 1980s, the EFTA countries called for a role in creating single market policies that directly affected them. When the Commission refused, a number of EFTA countries considered joining the EC. However, the EC

²¹ The European Council. *European Council in Brussels and March Council Meetings*. Rep. no. 3/1985. Bulletin of the European Communities. Web. 15 Mar. 2012. <http://aei.pitt.edu/1434/1/Brussels_march_1985.pdf> p. 12

²² James A Caporaso. *The European Union: Dilemmas of Regional Integration* p.91

²³ "EFTA through the Years." *The European Free Trade Association*. Web. 15 Mar. 2012. <<http://www.efta.int/about-efta/history.aspx>>

had just completed the Iberian enlargement (Spain and Portugal) and was uninterested in acquiring new members.²⁴ As a compromise, the Commission proposed the EEA, a huge integrated market intended to encompass the twelve EC and seven EFTA members (Austria, Finland, Iceland, Lichtenstein, Norway, Sweden, and Switzerland). The EEA would be the largest and most lucrative commercial bloc, accounting for forty percent of global trade.²⁵

However, the EFTA countries considered the EEA to be only a transitional regime on the way to full membership. The EEA was further undermined by the European Court of Justice's (ECJ) Opinion (1/1991) that the participation of EFTA judges was incompatible with EU law.²⁶ The opinion prevented a more symmetrical relationship between the EU and EFTA and thus reduced the appeal of the EEA as an alternative to enlargement.²⁷ Following the accession of Austria, Finland, and Sweden to the EU in 1995 and the rejection by Swiss voters in December 1992, the EEA no longer was viewed as a path towards enlargement.²⁸

After the fall of the Soviet Union, the EU looked to devise an agreement for relations with the Central and European Countries (CEESCs). In December 1989, the Council agreed to create the appropriate form of association and the Commission's Directorate-General for External Relations sketched a broad framework.²⁹ In April 1990, The Council agreed to create Europe Agreements (EA) as a new type of association agreement. EAs were offered to the leading reformers, Hungary, Poland, and Czechoslovakia.³⁰ The EAs called for the creation of

²⁴Desmond Dinan, "The Emergent European Union, 1993-1999." *Ever Closer Union: An Introduction to European Integration*. 4th ed. Boulder, CO: Lynne Rienner, 2010. 103-31. p. 105

²⁵ Ibid. p. 105

²⁶ The EEA envisaged an EEA Court consisting of ECJ and EFTA judges

²⁷Ulrich Sedelmeier. "Enlargement: From Rules for Accession to a Policy towards Europe." p. 411

²⁸ Ibid. p. 411-412

²⁹ Ibid. p. 412

³⁰Marc Maresceau. "Pre-accession." *The Enlargement of the European Union*. Ed. Marise Cremona. Oxford: Oxford UP, 2003. 9-42. P. 14

free trade zones, the gradual adoption of EU legislation, and the launch of political dialogue. Most importantly, the agreement acknowledged that accession was the ultimate objective.³¹

The EU policy towards Central and Eastern Europe was based on two principles: a single policy framework open to all countries in the region that sought to deepen their relations with the EU and the preservation of an element of differentiation which allowed the EU to place conditions on membership. The single policy framework spoke for the need for a visible and coherent EU policy towards post-communist Europe that would utilize the EU's financial and administrative resources effectively and protect the EU from criticism that its commitment to the region was inconsistent.³² The second principle, differentiation, was created out of the belief that the EU should not deal with the region en bloc. Rather the EU should use conditionality based on the merits of individual performance.

Although accession negotiations were opened up around the same time as the CEESCs, both Romania and Bulgaria underwent a much different accession process (accession negotiations opened up with Romania and Bulgaria on February 15, 2000).³³ Both Romania and Bulgaria were given much tighter EU conditionalities during the negotiations of their Association Agreements in 1992. Their Europe Agreements included a "human rights clause" that made explicit reference to the protection of minority rights and a "unilateral suspension" that allowed either party to suspend cooperation in case the obligations of the agreement were not met.³⁴ In addition, the Commission put forward a series of post-accession conditionalities

³¹Desmond Dinan. "The Unsettled European Union, 2000-2010." *Ever Closer Union: An Introduction to European Integration*. 4th ed. Boulder, CO: Lynne Rienner, 2010. 133-67 p. 137

³²Dimitris Papadimitriou, and Eli Gateva. "Between Enlargement-Led Europeanisation and Balkan Exceptionalism: An Appraisal of Bulgaria's and Romania's Entry into the European Union." *Perspectives on European Politics and Society* 10.2 (2009): 152-66. p. 155

³³ *Ibid.* p. 156

³⁴ *Ibid.* p. 157-158

that allowed the Commission to monitor Romania and Bulgaria's compliance with the acquis even after the two countries formally acceded to the EU. The "cooperation and verification benchmarks" set a series of benchmarks (six for Bulgaria and four for Romania) to be regularly monitored by the Commission with the threat that if they were not carried out, it would lead to the withdrawal of EU funding and the suspension of bilateral cooperation with other EU member states on judicial matters.³⁵ These threats have been carried out, most recently in Bulgaria in 2008, where €220 million was withdrawn as a result of a failure to tackle corruption.³⁶

Despite a seeming lack of progress, both countries were put on the fast track to accession due to a new EU security thinking for the wider Balkan region and as a reward for their crucial support to NATO during the Kosovo war.³⁷ Bulgaria and Romania became EU members on January 1, 2007.

Using the Europe Agreements as a template, the EU set out to create a regional framework for the Western Balkan countries. I will go into more detail about this approach later on in the chapter but in short, the Stabilization and Association Process (SAP) was launched at a European summit in Zagreb, Croatia, in 2000. SAP aimed to support the economic and democratic transition of the Western Balkans and foster regional cooperation. It saw all SAP members as potential EU candidates.³⁸ The two key elements of the SAP are a specific type of association agreement, stabilization and association agreements (SAAs), and financial assistance through the Community Assistance for Reconstruction, Development, and Stabilization (CARDS), now replaced, as discussed below by the Instruments for pre-Accession (IPA).

³⁵ Ibid. p. 160

³⁶ "Bulgaria Loses 220 Million Euro of EU Funding." *EurActiv*. 26 Nov. 2008. Web. 15 Apr. 2012. <<http://www.euractiv.com/enlargement/bulgaria-loses-220-euro-eu-funding/article-177496>>

³⁷ Dimitris Papadimitriou, and Eli Gateva. "Between Enlargement-Led Europeanisation and Balkan Exceptionalism: An Appraisal of Bulgaria's and Romania's Entry into the European Union." p. 161

³⁸ Ulrich Sedelmeier. "Enlargement: From Rules for Accession to a Policy towards Europe." p. 413

Association agreements provide the legal framework for would-be-members, until accession, even after they achieve the next two steps: potential candidate status and pre-accession alignment.³⁹

Once a country submits its application, the Commission conducts a “screening process” with the applicant country. It assesses whether the applicant is able to apply the *acquis*, and identifies possible challenges for the negotiations.⁴⁰ After the screening process, the Commission drafts a common EU position that requires unanimous agreement by the Council. Then the Council decides unanimously to open, and afterward close provisionally, negotiations on specific chapters of the *acquis*. The *acquis* includes a number of elements, including:

- Content, principles and political objectives of all EU Treaties;
- Legislation and decisions adopted pursuant to the EU Treaties, and the case law of the ECJ;
- Interinstitutional agreements, resolutions, statements, recommendations, and guidelines, legally binding or not, which were adopted by the EU;
- Joint actions, common positions, declarations, conclusions and other acts within the framework of the common foreign and security policy;
- Joint actions, positions, conventions signed, resolutions, statements and other acts agreed within the framework of justice and home affairs and;

³⁹ Ibid. p. 414

⁴⁰ "Negotiations." *Commission- Enlargement*. EUROPA, 20 Apr. 2012. Web. 15 Mar. 2012. <http://ec.europa.eu/enlargement/how-does-it-work/negotiations/index_en.htm>

- International agreements concluded by the Communities, the Communities jointly with their Member States, the EU, and those concluded by the Member States among themselves with regard to EU activities.⁴¹

In the 2004 enlargement, there were thirty-one chapters, while in the case of Croatia, there are thirty-five chapters. The *acquis* itself is not negotiable and this precedent was established during the first enlargement round.⁴² The EU expects candidates to adjust unilaterally to existing EU laws, even if established policies and practices do not fit their specific situation. A timetable for adopting the *acquis* is the only thing candidate countries can negotiate.⁴³ Among the candidate countries, Iceland and Turkey are the only ones with closed chapters.

During the pre-accession process, the European Commission gives its opinion on whether the candidate is meeting the conditions of membership through progress reports and official opinions.⁴⁴ The opinions are not binding and the Commission sends them to the European Council, which decides unanimously whether to accept them or not. Only in the case of Greece has the Council not followed the Commission's recommendations.⁴⁵ The two most recent opinions involved Croatia's accession to the EU and Serbia's application for membership.

After the negotiations have concluded, and the European Parliament gives its consent, an accession treaty is signed by all governments and the candidate becomes an accession country. The Draft Accession Treaty lists all the transitional arrangements and deadlines, as well as the

⁴¹"How Does a Country Join the EU?" *Commission-Enlargement*. EUROPA, 5 Mar. 2012. Web. 15 Mar. 2012. <http://ec.europa.eu/enlargement/enlargement_process/accesion_process/how_does_a_country_join_the_eu/negotiations_croatia_turkey/index_en.htm>

⁴²Ulrich Sedelmeier. "Enlargement: From Rules for Accession to a Policy towards Europe." p. 418

⁴³ *Ibid.* p. 418

⁴⁴ "How Does It Work?" *Commission-Enlargement*. EUROPA, 30 Jan. 2012. Web. 15 Mar. 2012. <http://ec.europa.eu/enlargement/how-does-it-work/index_en.htm>.

⁴⁵Ulrich Sedelmeier. "Enlargement: From Rules for Accession to a Policy towards Europe." p. 418

details of financial arrangements and any safeguard clauses.⁴⁶ Then the treaty has to be ratified by all member states and the acceding country.⁴⁷

Once the Accession Treaty is signed, the candidate becomes an acceding state, and is entitled to privileges until accession makes it a member state. It can comment on draft EU proposals, communications, recommendations, and initiatives, and has “active observer status” on EU bodies and agencies, where it can speak but not vote.⁴⁸ Subsequently, once the ratification process is finished, and the treaty enters into force on the scheduled date, then the accession state becomes a member state. Ratification has not always been successful. Ratification referendums failed twice in Norway in 1972 and 1994. Also, France is the only member state to hold a referendum to ratify an accession treaty, in the case of the accession of the UK.⁴⁹

In addition to what is required in Article 49 in the Treaty of the European Union, the EU has put other conditions on the pre- accession process. The first direct statement of accession conditions came from the European Council in Copenhagen in June 1993. At the meeting, the Council declared for the first time that the CEECs that wanted membership could eventually become members. Many member states were reluctant about this and a debate ensued concerning the membership criteria. Some argued for quantitative criteria, such as a specific level of GDP per capita, in order to reduce the possibility of politically motivated decisions for or against enlargement.⁵⁰ The Council accepted the Commission’s proposal for qualitative conditions that included not only the ability to apply the *acquis* after accession, but also political and economic criteria. The Copenhagen criteria require a candidate to have:

⁴⁶“Closure of Negotiations and Accession Treaty.” *Commission-Enlargement*. EUROPA, 30 Jan. 2012. Web. 15 Mar. 2012. <http://ec.europa.eu/enlargement/the-policy/process-of-enlargement/closure-and-accession_en.htm>

⁴⁷Ulrich Sedelmeier. "Enlargement: From Rules for Accession to a Policy towards Europe." 420

⁴⁸“Closure of Negotiations and Accession Treaty.” *Commission-Enlargement*

⁴⁹Ulrich Sedelmeier. "Enlargement: From Rules for Accession to a Policy towards Europe." 420

⁵⁰ *Ibid.* p. 422

- Stable institutions that guarantee democracy, the rule of law, human rights and respect for and protection of minorities;
- A functioning market economy, as well as the ability to cope with the pressure of competition and the market forces at work inside the Union;
- The ability to assume the obligations of membership, in particular adherence to the objectives of political, economic and monetary union.⁵¹

In 1995, the European Council in Madrid added administrative capacity to the criteria. The Council stated, "...the strategy will have to be intensified in order to create the conditions for the gradual, harmonious integration of those States, particularly through the development of the market economy, the adjustment of their administrative structures and the creation of a stable economic and monetary environment."⁵²

In order to prepare countries for membership, the EU provides financial assistance to both candidate and potential candidate countries. The countries that receive financial assistance are: Croatia, Iceland, Montenegro, Serbia, Turkey, FYROM, Albania, Bosnia and Herzegovina, and Kosovo. The total pre-accession funding for 2007-2013 is €11.5 billion.⁵³ Since January 1, 2007, the Instrument for Pre-accession Assistance (IPA) has been the financial instrument for all pre-accession funding. It replaces the Poland and Hungary Assistance for Restructuring their Economies (PHARE) program, Instrument for Structural Policies for pre-Accession (ISPA),

⁵¹*European Council in Copenhagen-21-22 June 1993-conclusion of the Presidency. EUROPA Press Releases RAPID.* EUROPA, 22 June 1993. Web. 15 Mar. 2012.

<<http://europa.eu/rapid/pressReleasesAction.do?reference=DOC/93/3&format=HTML&aged=1&language=EN&guiLanguage=en>>

⁵²*Madrid European Council (15 and 16 December): Presidency Conclusions. EUROPA-Press Release RAPID.* EUROPA, 16 Dec. 1995. Web. 15 Mar. 2012.

<<http://europa.eu/rapid/pressReleasesAction.do?reference=DOC/95/9&format=HTML&aged=1&language=EN&guiLanguage=en>>

⁵³"Instrument for Pre-accession Assistance (IPA)." *Commission-Enlargement.* EUROPA, 17 Feb. 2012. Web. 15 Mar. 2012. <http://ec.europa.eu/enlargement/how-does-it-work/financial-assistance/instrument-pre-accession_en.htm>

Special Accession Programme for Agriculture and Rural Development (SAPARD), the Turkey pre-accession instrument, and the Community Assistance for Reconstruction, Development and Stabilization (CARDS), bringing them all into a single framework.⁵⁴

The IPA consists of five components:

- I. Transition Assistance and Institution Building: Focuses on building and strengthening of the institutional framework related to the adoption and implementation of the acquis. Component I is open to all candidate and potential candidates and is managed by the Directorate-General (DG) Enlargement.
- II. Cross Border Cooperation: Supports cross-border cooperation between candidates and potential candidates and with the EU Member States. It can also fund participation in transnational cooperation programs and Sea Basin programs. Component II is open to all candidate and potential candidates and is managed by the DG Enlargement and DG Regional Policy
- III. Regional Development: Finances in areas of environmental protection, and transport, as well as the promotion of competitiveness and regional development. It is open to candidate countries only and is managed by Directorate-General Regional Policy
- IV. Human Resources Development: Focuses on employment, education, and training, as well as social inclusion. It is open to candidate countries only and is managed by Directorate-General Employment, Social Affairs and Equal Opportunities.
- V. Rural Development: Contributes to sustainable rural development. It provides assistance for the restructuring of agriculture and its adaption to EU standards in the

⁵⁴ "Instrument for Pre Accession Assistance "IPA -Questions and Answers." *Commission-Enlargement*. EUROPA, 16 June 2010. Web. 15 Mar. 2012.
<http://ec.europa.eu/enlargement/questions_and_answers/assistance_ipa_en.htm>

areas of environmental protection, public health, animal and plant health, animal welfare, and occupational safety. It is open to candidate countries only and is managed by Directorate-General Agriculture and Rural Development.⁵⁵

The granting of IPA funding is based on the beneficiary country's respect for the principles of democracy, the rule of law, and human, minority rights, and fundamental freedoms. It can be in the form of investments, procurements, contracts, subsidies, administrative cooperation, actions by the EU in the interest of the beneficiary country, measures to support the implementation process and program management, and budget support.⁵⁶

Within the IPA is the Multi-Annual Indicative Financial Framework (MIFF), which is designed to provide information on the indicative breakdown of financial allocations by IPA beneficiaries. It acts as a link between the political framework within the enlargement package and budgetary process.⁵⁷ The MIFF takes the form of a financial table covering a three year period, which is elaborated on the basis of the beneficiaries' needs, absorption capacity, management capacity, and conditionality. Taking into account the framework proposed in the MIFF, the Multi-Annual Indicative Planning Documents (MIPD) are established for each country and list the assistance priorities.

In addition, the multi-beneficiary programmes under Component I are designed to complement the national programs and to strengthen relations in the Western Balkans. Both regional and horizontal projects benefit from IPA assistance. Multi-beneficiary programmes support the Regional School for Public Administration, the Central European Free trade

⁵⁵"Instrument for Pre-accession Assistance (IPA)." *Commission-Enlargement*.

⁵⁶ Ibid.

⁵⁷ *Communication from the Commission to the European Parliament and the Council Instrument for Pre-accession Assistance (IPA) Revised Multi-annual Indicative Financial Framework for 2012-2013*. Rep. no. COM(2011) 641 Final. EUROPA, 12 Oct. 2011. Web. 15 Mar. 2012.

<http://ec.europa.eu/enlargement/pdf/how_does_it_work/miff_12_10_2011.pdf> p. 2

Agreements (CEFTA), the Regional Cooperation Council (RCC), fight against organized crime, and European Community Action Scheme for the Mobility of University Students (ERASMUS) scholarships and higher education.⁵⁸ Institution building is also supported by the Technical Assistance and Information Exchange Instrument (TAIEX). Assistance from TAIEX comes in three forms, assessment missions, expert missions, and study visits. TAIEX coordinates expert workshops which provide specifics of EU legislation, regulation, procedures, and best practices. Assessment missions are a peer-based exercise whose purpose is to identify needs, provide a gap analysis or elaborate a strategy in a given sector.⁵⁹ Expert missions involve experts from one or two Member States traveling to beneficiary countries and providing them with in-depth advice on specific parts of EU legislation, regulation, and best practices.⁶⁰ Finally, study visits consist of three practitioners from the beneficiary country going on a study visit to EU member states lasting up to five days.⁶¹ TAIEX provides assistance to the Western Balkan Countries, Turkey, Iceland, Northern Cyprus, Algeria, Armenia, Azerbaijan, Belarus, Egypt, Georgia, Israel, Jordan, Lebanon, Libya, Moldova, Morocco, the Palestinian Authority, Syria, Tunisia, Ukraine and Russia.⁶²

In the latest MIFF 2012-2013, there were seven sectors for 2011-2013 that the Commission focused its assistance on. They are justice and home affairs and fundamental rights;

⁵⁸Ibid. p. 3

⁵⁹ "Expert Missions, Study Visits and Assessment Missions." *Commission-TAIEX*. EUROPA. Web. 15 Mar. 2012. <http://ec.europa.eu/enlargement/taieux/dyn/activities/individual_mobilisation_en.jsp>

⁶⁰ European Union. *TAIEX Activity Report 2010*. Belgium: Luxembourg Publication Office of the European Union, 2011 p. 8

⁶¹Ibid. p. 8

⁶²"What Is TAIEX." *Commission-Taiex*. EUROPA, 23 Apr. 2012. Web. 15 Mar. 2012. <http://ec.europa.eu/enlargement/taieux/what-is-taiex/index_en.htm>

public administration reform; environment and climate change; transports; private sector development; social development; and agriculture and rural developments.⁶³

The IPA is monitored by the Commission through its services in DG enlargement, DG Regional policy, DG Employment, Social Affairs and Equal Opportunities, DG Agriculture and Rural Development, and through the EU's missions in the beneficiary countries.⁶⁴ Once a year, the Commission puts out its report in the form of "the Annual Report on Financial Assistance for Enlargement."⁶⁵

The first EU initiative aimed at stabilizing the Western Balkans was the Royaumont Process in December 1996. It came right after the Dayton Peace Accords and focused on promoting regional projects in civil society, culture and human rights.⁶⁶ In April 1997, the EU General Affairs Council adopted the Regional Approach, establishing political and economic conditionality for the development of bilateral relations with the five Western Balkan countries (Albania, Bosnia and Herzegovina, Croatia, the then Federal Republic of Yugoslavia, and FYROM). The conditions included the respect for democratic principles, human rights, and the rules of law; protection of minorities; market economy reforms; and regional cooperation.⁶⁷ However, the Regional Approach had limited success and focused more on the suspension of, and/or or exclusion form agreements, or the freezing of financial assistance.⁶⁸

⁶³Instrument for Pre-Accession Assistance (IPA) Multi-Annual Indicative Planning Document (MIPD) 2011-2013 Multi-Beneficiary. Rep. EUROPA. Web. 15 Mar. 2012.

<http://ec.europa.eu/enlargement/pdf/mipd_multibeneficiary_2011_2013_en.pdf> p. 4-5

⁶⁴ "Planning of the IPA." *Commission-Enlargement*. EUROPA, 23 Apr. 2012. Web. 15 Mar. 2012.

<http://ec.europa.eu/enlargement/how-does-it-work/financial-assistance/planning-ipa_en.htm>

⁶⁵ Ibid.

⁶⁶Mustafa Türkes, and Göksu Gökgöz. "The European Union's Strategy towards the Western Balkans: Exclusion or Integration?" *East European Politics and Societies* 20.4 (2006): 659-90. SAGE. Web. 5 Mar. 2012.

<<http://eep.sagepub.com/content/20/4/659>> p. 675

⁶⁷ Ibid. p. 675

⁶⁸Othon Anastasakis. "The EU's Political Conditionality in the Western Balkans: Towards a More Pragmatic Approach." *Southeast European and Black Sea Studies* 8.4 (2008): 365-77. p. 368

The Kosovo war showed the EU that their instruments of foreign policy, crisis management, and the Regional Approach were not working. The EU realized that a new approach was needed. The German Foreign Minister at the time, Joschka Fischer, summarized it best when he said, “if the awful conflict in Kosovo has brought something good with it, it is that we understand our belonging together far better.”⁶⁹ Thus, the EU moved toward a two-pronged approach involving regional cooperation and closer ties with Europe.

The EU launched the Stability Pact (SP) for the Western Balkans, simultaneously with the approval of Security Council resolution 1244. The SP received a broad mandate from the EU, Organization for Security and Cooperation in Europe (OSCE), Group of 8 (G8), NATO, and a large number of other states and institutions as a comprehensive form of preventive diplomacy.⁷⁰ The pact aimed to promote “peace, democracy, respect for human rights and economic prosperity” in the region.⁷¹ The cornerstone of the SP was regional cooperation that called on the Balkan countries to first cooperate among themselves and then with international actors towards reaching a set of common objectives (creating a secure environment, promoting sustainable democratic systems, and promoting economic and social well-being). The SP was perceived as an intergovernmental body providing a forum for dialogue and cooperation. From a political perspective, the SP showed the international community’s commitment to the Western Balkans, while practically, it allowed for much needed coordination of various international structures.⁷² The SP was soon overtaken by the Stabilization and Association Process (SAP).

⁶⁹ Arolda Elbasani. "EU Enlargement in the Western Balkans: Strategies of Borrowing and Inventing." *Journal of Southern Europe and the Balkans* 10.3 (2008): 293-307 p. 297

⁷⁰ Mustafa Türkes, and Göksu Gökgöz. "The European Union's Strategy towards the Western Balkans: Exclusion or Integration?" p. 677

⁷¹ "About the Stability Pact." *Stability Pact for South Eastern Europe*. Web. 15 Mar. 2012. <<http://www.stabilitypact.org/about/default.asp>>

⁷² Arolda Elbasani. "EU Enlargement in the Western Balkans: Strategies of Borrowing and Inventing." p. 298

In the SAP, the Commission insisted on six new instruments: development of existing economic and trade relations with and within the region; development and partial redirection of existing economic and financial assistance; increased assistance for democratization, civil society, education, and institution-building; co-operation in the area of justice and home affairs; development of political dialogue, including at the regional level; and the development of Stabilization and Association Agreements (SAA).⁷³

The SAA, the centerpiece of SAP, represents a contractual relationship between the EU and each Western Balkan country. The SAA focuses on respect for key democratic principles and the core elements which are at the heart of the EU single market. Just as the Europe Agreements did for the CEECs, the SAA provides the tools so the EU can bring the Western Balkans closer to the EU standards.⁷⁴ Effective implementation of the SAA is a prerequisite for any further talks of accession. The EU signed the first SAA agreement with FYROM in April 2001, followed by Croatia in October 2001.⁷⁵ Albania signed their SAA on June 12 2006 and then Montenegro followed suit on October 15, 2007. On April 29, 2008, Serbia signed their SAA follow by Bosnia and Herzegovina on June 16, 2008. Kosovo is the only Western Balkan state that has not signed a SAA.

The main financial instrument for SAP was the CARDS program. It had four main objectives:

⁷³ European Council. *2192nd Council Meeting-General Affairs-Luxembourg, 21-22 June 1999*. EUROPA, 1999. Web. 15 Mar. 2012. <http://www.consilium.europa.eu/ueDocs/cms_Data/docs/pressdata/en/gena/09008.EN9.htm>

⁷⁴ Gelina Maliqi, and Alba Dumi. "Western Balkan States and the European Union Enlargement." *ACTA Universitatis Danubius* 5.1 (2011): 105-19. p. 107

⁷⁵ Annegret Bendiek. "The EU in South East Europe: Peace Consolidation and Differentiation." *The Boundaries of EU Enlargement: Finding a Place for Neighbours*. Ed. Joan DeBardeleben. Basingstoke, Hampshire: Palgrave Macmillan, 2008. 222-37 p. 222

- Reconstruction, democratic stabilization, reconciliation, and the return of refugees;
- Institutional and legislative development, including harmonization with EU norms and approaches, in order to underpin democracy and the rule of law.
- Sustainable economic and social developments, including structural reform and;
- Promotion of closer relations and regional cooperation among SAP countries⁷⁶

The European Agency for Reconstruction (EAR) managed CARDS for FYROM, Serbia, Montenegro, and Kosovo, while the EU was responsible for managing CARDS in Croatia and Bosnia and Herzegovina. Before it was replaced by the IPA, the EU allocated €4.65 billion in the period of 2002 to 2006.⁷⁷

At the Zagreb Summit in November 2000, the EU Council reaffirmed the “European perspective of the countries participating in the stabilization and association process and their status as potential candidates for membership.”⁷⁸ Three years after the Zagreb Summit, on June 16, 2003, the Thessaloniki Summit confirmed the SAP as the policy framework for the EU provides the overall framework for helping the Western Balkan Countries to meet the Copenhagen Criteria and to eventually join the EU.⁷⁹

In the next chapter, I will examine my three case studies, Croatia, Serbia, and Bosnia and Herzegovina, focusing on the assistance they receive transitioning to democracy, including such

⁷⁶Heidrun Ferrari, and Samia Liaquat Ali Khan. *EU Financial Assistance to the Western Balkans: A Minority-focused Review of CARDS and IPA*. London: Minority Rights Group International, 2010 p. 7

⁷⁷ Ibid. p. 7

⁷⁸"Zagreb Summit 24 November 2000." *Commission- Enlargement*. EUROPA, 30 Jan. 2012. Web. 15 Mar. 2012. <http://ec.europa.eu/enlargement/enlargement_process/accesion_process/how_does_a_country_join_the_eu/sap/zagreb_summit_en.htm>

⁷⁹"The Thessaloniki Agenda for the Western Balkans." *Commission-enlargement*. EUROPA, 30 Jan. 2012. Web. 15 Mar. 2012. <http://ec.europa.eu/enlargement/enlargement_process/accesion_process/how_does_a_country_join_the_eu/sap/the_ssaloniki_agenda_en.htm>

good governance areas as the fight against corruption and minority rights and refugees. The discussion is undertaken in the context of my hypothesis which is clearer and stronger conditionality is needed in the EU's enlargement policy for the Western Balkans.

Chapter 4: Transition to Democracy-Problems, EU Conditions and Support

In this chapter, I will examine the countries of Croatia, Serbia, and Bosnia and Herzegovina, focusing on the assistance they receive transitioning to democracy, including such good governance areas as the fight against corruption and the protection of minority rights and refugees. I will first explain the nature of each problem. Then I will cover the EU's demands. Finally, I will describe the projects, i.e. where the money is going to assist the three countries.

As noted in the last chapter, the EU places certain conditions on candidate and potential candidate countries and then provides assistance under the Instrument for Pre-Accession Assistance (IPA). The focus in this study is on the IPA funding for the Component I-Transition and Institution Building, which covers all institution-building actions and investments related to the acquis.¹ The IPA helps recipient countries build up administrative and judicial capacity and address cooperation measures not expressly covered by other components.²

Croatia

Croatia has come a long way from when it declared independence from Yugoslavia on June 25, 1991. In the war for Croatia's independence, Croatian nationalist forces battled the Serbian minority paramilitaries which were backed by the powerful federal army, the Yugoslav People's Army (JNA). Fighting was ferocious on both sides, giving rise to the term "ethnic cleansing."³ In 1991 alone, United Nations High Commissioner for Human Rights (UNHCR)

¹ "Instrument for pre-accession Assistance (IPA)." Commission-Enlargement. EUROPA

² *Instrument for Pre-Accession Assistance (IPA) Multi-Annual Indicative Planning Document (MIPD) 2011-2013 Multi-Beneficiary*. p. 3

³ Alan Hanson. "Croatian Independence from Yugoslavia, 1991-1992." *Words over War: Mediation and Arbitration to Prevent Deadly Conflict*. Ed. Melanie C. Greenberg, John H. Barton, and Margaret E. McGuinness. New York: Rowman & Littlefield, 2000. 76-108. p. 76

estimated that 20,000 people were killed, 200,000 refugees fled from Croatia, and 350,000 became internally displaced.⁴

During the war in Croatia, the European Community (EC) was criticized for how they handled the situation. The EC was accused of being ambiguous and vague in their mediation goals. At times, they supported Yugoslav unity while other times the EU called for Croatia's self-determination. On January 15, 1992, despite the recommendations of its own commission, the Arbitration Commission of the Peace Conference on Yugoslavia, the EC formally recognized Croatia.⁵ Croatia signed a Stabilization and Association Agreement on October 29, 2001 and applied for EU membership on February 21, 2003. The Commission lays down benchmarks for Croatia in thirty-five policy areas, all of which were satisfied by June 30, 2011. Table 4.1 shows the overall assistance given to Croatia from 2003 to 2013.

Table 4.1 Croatia CARDS and IPA Assistance: 2003-2013 (million €)

	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013
Overall Assistance	62	81	105	140	141.2	146	151.2	153.5	156.5	151.1	95.4

(Compiled from CARDS and IPA Financial Assistance to Croatia:
<http://ec.europa.eu/enlargement/how-does-it-work/financial-assistance/cards/statistics2000-2006_en.htm> and <http://ec.europa.eu/enlargement/acceding-country/croatia/financial-assistance/index_en.htm>

- a. For 2003-2006: Financial allocation was administered under CARDS.
- b. For 2007-2013: Financial allocation was administered under the IPA

Transition to Democracy

In 2003, Croatia held elections for the second time in its post-Communist history, which resulted in the Croatian Democratic Union (HDZ) returning to power. HDZ promoted a pro-European Union platform and presented itself as a modern European conservative party.

International and domestic observers deemed the 2003 elections as free and fair. However, the

⁴ *The State of the Worlds Refugees 2000-Fifty Years of Humanitarian Action-War and Humanitarian Action: Iraq and the Balkans*. Rep. UNHCR, 2000. Web. 15 Mar. 2012. <<http://www.unhcr.org/3ebf9bb50.html>> p. 218

⁵ Alan Hanson. "Croatian Independence from Yugoslavia, 1991-1992." p. 104

Organization for Security and Co-operation in Europe (OSCE) expressed serious concern about the country's legislative framework for election, the absence of a permanent election administration, and the limited access to polling stations for refugee voters outside Croatia.⁶ In addition, Freedom House in their Nations in Transit 2004 Report noted that one of the most serious issues was the judiciary because of the slow pace of judicial reform and a backlog of 1.3 million cases inherited from the 1990s.⁷

In 2005, the EU reported that two elections were held in Croatia. One was presidential elections held over two rounds on January 2 and 16, 2005. The other was local elections held on May 15, 2005 for 426 municipal and 123 city councils, twenty county assemblies, and a new Zagreb City Assembly.⁸ According to the State Elections Committee and local NGO GONG, which observed both elections, voting in both the presidential and local elections were held in a tolerant atmosphere without any major irregularities. The irregularities observed mainly concerned out-of country voting and cases of double voting.⁹ The Commission also noted that there was a serious lack of clarity on the implementation of the provisions of the Constitutional Law on Minorities (CLNM) that dealt with allocation of reserved seats for minority representatives.¹⁰

In 2007, the EU's Progress Report noted that the Croatian parliament adopted a number of laws that addressed outstanding issues related to electoral legislation. However, they

⁶*Republic of Croatia Parliamentary Elections 23 November 2003 OSCE/ODIHR Limited Election Observation*. Rep. OSCE/ODIHR, 20 Jan. 2004. Web. 15 Mar. 2012. <<http://www.osce.org/odihr/elections/croatia/21057>> p. 1

⁷*Nations in Transit 2004-Croatia*. Rep. Freedom House. Web. 15 Mar. 2012. <<http://www.freedomhouse.org/report/nations-transit/2004/croatia>>. p. 2

⁸*Croatia 2005 Progress Report*. Rep. no. SEC (2005) 1424. European Commission, 9 Nov. 2005. Web. 15 Mar. 2012. <http://ec.europa.eu/enlargement/archives/pdf/key_documents/2005/package/sec_1424_final_progress_report_hr_en.pdf> p. 12

⁹*Ibid.* p. 12

¹⁰*Ibid.* p. 12

expressed their concern that the data on permanent residence, which is the basis for voter registration, is incorrect.¹¹

To help assist Croatia in stabilizing their democracy, the EU provided €50.5 million from 2002 to 2004 in CARDS assistance.¹² Assistance focused on improving the legislative process, helping institutions in administering new election laws, and providing support to the media and civil society. The IPA does not provide projects that deal specifically with democratic stabilization. In addition, technical assistance to improve the legislative and administrative framework is provided by the OSCE.

Governance Issues

Corruption

When Croatia applied for membership in 2003, it was ranked 59 out of 133 countries (the least corrupted country being placed first, and the most corrupted 133) by Transparency International's Corruption Perception Index (CPI).¹³ Such ranking meant that corruption was estimated to be very high. In December 2001, the Office for the Prevention of Corruption and Organized Crime (USKOK) was established to help prosecute corruption and organized crime. USKOK is attached to the State Attorney's office.¹⁴ In 2002, the National Anti-Corruption Programme and Action Plan was drawn up. However, abuse of office was not covered in USKOK's mandate until July 2007. Thus, it was difficult for the Croatian prosecution authority to employ USKOK in high level corruption cases. Also, some law enforcement agencies and

¹¹ *Commission Staff Working Document Croatia 2007 Progress Report*. Rep. no. SEC(2007) 1431. European Commission, 6 Nov. 2007. Web. 15 Mar. 2012.

<http://ec.europa.eu/enlargement/pdf/key_documents/2007/nov/croatia_progress_reports_en.pdf> p. 7

¹² "CARDS Statistics 2000-2006." *European Commission-Enlargement*. 30 Oct. 2010. Web. 15 Mar. 2012. <http://ec.europa.eu/enlargement/how-does-it-work/financial-assistance/cards/statistics2000-2006_en.htm>

¹³ *Corruption Perception Index 2005*. Rep. Transparency International. Web. 15 Mar. 2012

¹⁴ "About USKOK." *Office for the Prevention of Corruption and Organized Crime*. Croatian State Attorney's Office. Web. 03 May 2012. <<http://www.dorh.hr/Default.aspx?sec=607>>

state bodies involved in the fight against corruption were not providing reports to USKOK, which they are required to do by law.¹⁵

With respect to the 2002 National Programme, it prioritized declarations of political will and the recognition that corruption constituted a serious problem for society. On March 31, 2006, the 2002 National Programme was replaced by the 2006-2008 National Programme for the Suppression of Corruption, which stressed the Croatian government's determination to curb corruption by strengthening institutional capacity.¹⁶ Before 2006, the stress had been on the enactment of legislation; after 2006 it was on strengthening law enforcement.¹⁷

The 2007 Progress Report commented that while some activities of the 2006-2008 National Programme were being carried out, such as awareness raising, training, and increased transparency through the use of the internet, action plans of the different authorities responsible for implementing the Programme were not sufficiently detailed.¹⁸ A National Council for the Fight against Corruption, which was established to monitor the implementation of the National Programme was said to interpret its mandate too restrictively and to not see its role as making any proposals to improve the implementation of the National Programme but merely to monitor it.¹⁹

To help improve the anti-corruption framework, the EU provided €17.033.500 since 2003.²⁰ Table 4.2 shows the assistance provided under CARDS from 2003 to 2006. Table 4.3 shows the projects and funding under the IPA.

¹⁵ *Commission Staff Working Document Croatia 2007 Progress Report*. p. 51

¹⁶ *Anti-corruption Strategies and Action Plans in South-eastern Europe-current Status*. Rep. no. PC-TC-(2006)16. PACO Impact, July 2006. Web. 3 May 2012.

<[http://www.coe.int/t/dghl/cooperation/economiccrime/corruption/projects/paco%20impact/PC-TC\(2006\)16-AC-Strategies4July.PDF](http://www.coe.int/t/dghl/cooperation/economiccrime/corruption/projects/paco%20impact/PC-TC(2006)16-AC-Strategies4July.PDF)> p. 90

¹⁷ *Ibid.* p. 90

¹⁸ *Commission Staff Working Document Croatia 2007 Progress Report*. p. 51

¹⁹ *Ibid.* p. 51

²⁰ Compiled from CARDS 2003-2006 and IPA 2007-2011

Table 4.2: CARDS Assistance to Fight Corruption-Croatia (million €)

	2003	2004	2005	2006
Overall Assistance	7.0	0	2.0	2.5

(Source: European Commission Financial Assistance:
<http://ec.europa.eu/enlargement/press_corner/key-documents/cards_reports_and_publications_en.htm>)

Table 4.3: IPA Projects to Fight Corruption-Croatia

Projects	Strengthening the Capacities of the Office for the Suppression of Corruption and Organized Crime (USKOK) ²¹	Improving Anti-Corruption Inter-Agency Cooperation ²²	Restoration and Equipping of the Premises for PNUSKOK Osijek and Rijeka ²³
Overall Objective and Purpose	<p><u>Objective</u> -Strengthen the rule of law by increasing the investigation and prosecution capacity of the fight against corruption and organized crime</p> <p><u>Purpose</u> -Improve the institutional capacity and efficient functioning of USKOK and continue the implementation of the National Program for combating corruption 2006-2008</p>	<p><u>Objective</u> -Strengthen the rule of law through the implementation of the National Anti Corruption Strategies and inter-agency cooperation at national and local levels</p> <p><u>Purpose</u> 1. Strengthen the Ministry of Justice Independent Department for Strategic Development (IDSD) as a coordination body in charge of drafting and implementing anti-corruption strategies 2. Strengthen the professional ethics in state and local administration and within judiciary bodies 3. Improve inter-agency cooperation by developing a information system with</p>	<p><u>Objective</u> -Enhance the capacity of the Ministry of Interior to combat organized crime and corruption</p> <p><u>Purpose</u> -Create preconditions for the effective operation of the National Police Office for Suppression of Corruption and Organized Crime (PNUSKOK) departments Osijek and Rijeka</p>

²¹ *Strengthening Capacities of USKOK*. Rep. no. HR2007/01/23/1. European Commission. Web. 15 Mar. 2012. <http://ec.europa.eu/enlargement/pdf/croatia/ipa/hr2007_01_23_1_version_07.09.2007_en.pdf> p. 2-13

²² *Improving Anti-Corruption Inter-Agency Co-operation*. Rep. no. HR2007/01/23/2. European Commission. Web. 15 Mar. 2012. <http://ec.europa.eu/enlargement/pdf/croatia/ipa/hr2007_01_23_2_version_07092007_en.pdf> p. 2

²³ *Restoration and Equipping of the Premises for PNUSKOK Osijek and Rijeka*. Rep. no. IPA/2011/022-954/3. European Commission. Web. 15 Mar. 2012. <http://ec.europa.eu/enlargement/pdf/croatia/ipa/2011/03_pn_uskok_osijek_and_rijeka.pdf> p. 2

Table 4.3 Continued:

Projects	Strengthening the Capacities of the Office for the Suppression of Corruption and Organized Crime (USKOK)	Improving Anti-Corruption Inter-Agency Cooperation	Restoration and Equipping of the Premises for PNUSKOK Osijek and Rijeka
Overall Objective and Purpose		4. a central database and secure Intranet/Internet access Raise awareness on corruption through developing and implementing a public awareness campaign	
Budget	€1.270.00 (€1.252.000 in EU contributions and €17.500 in national contributions)	€2.550.000 (€2.488.000 in EU contributions and €62.000 in national contributions)	€2.110.000 (€1.793.500 in EU contributions and €316.000 in national contributions)
Implementation Schedule	Contract Signed: 4Q 2008/Project Completed: 4Q 2010	Contract Signed: 4Q 2008/Project Completed: 3Q 2010	Contract signed: 1Q 2013/Project Completed: 4Q 2013

(Compiled from the IPA Assistance to Croatia <http://ec.europa.eu/enlargement/acceding-country/croatia/financial-assistance/index_en.htm>)

Minority Rights and Refugees

In the area of minority rights and refugees several problems needed addressing. The Serb minority faced major discrimination in the public sector in access to employment. Second, Roma were excluded from mainstream life and face difficult living conditions. There was discrimination against Roma in access to employment, housing, and schooling.²⁴ The Roma have no legal status or citizenship and coordination among Roma groups is weak and lacking expertise.

In relation to refugees, former tenancy rights holders as well as others were encountering major housing problems when they attempted to return. The Croatian government implemented

²⁴ Croatia 2005 and 2007 Progress Report

housing care programs within and outside the areas of special state concern (ASSC) for the former tenancy rights holders who wished to return to Croatia but the process of providing housing was extremely slow.²⁵ Apart from housing issues, refugees faced problems in accessing employment, enduring hostilities in validating certain documents and rights, including pension rights, of those living in the parts of Croatia not under the Croatian government's control during the 1990s.²⁶ To address these problems, the EU provided €33.386.225 in funding.²⁷ Table 4.4 shows the overall amount under CARDS while Table 4.4 shows the projects and funding under the IPA.

Table 4.4: CARDS Assistance to Protect Minority Rights and Refugees-Croatia (million €)

	2003	2004	2005	2006
Overall Assistance	15	13	0	0

(Source: European Commission Financial Assistance:
<http://ec.europa.eu/enlargement/press_corner/key-documents/cards_reports_and_publications_en.htm>

Table 4.5: IPA Projects to Protect Minority Rights and Refugees in Croatia

Projects	Roma support Project-Phase III ²⁸	Establishing a comprehensive system for anti-discrimination protection ²⁹	Upgrading the capacities for minors and other vulnerable groups of illegal migrants in the Reception Centre for Aliens ³⁰
Overall Objective and Purpose	<u>Objective</u> -Enhance and facilitate active and full participation of the Roma	<u>Objective</u> Support the establishment of an efficient and effective system for combating	<u>Objective</u> Strengthen institutional capacities of the ministry of Interior in order to

²⁵ Commission Staff Working Document Croatia 2007 Progress Report p. 13

²⁶Ibid. p. 14

²⁷Compiled from CARDS 2003-2006 and IPA 2007-2011

²⁸Roma Support Project – Phase III. Rep. no. HR2008-01-35-05. European Commission. Web. 15 Mar. 2012.

<http://ec.europa.eu/enlargement/pdf/croatia/ipa/2008/2008-0101-05_roma_support_project_-_phase_iii_version_081010_en.pdf> p. 2-12

²⁹Establishing a Comprehensive System for Anti-discrimination Protection. Rep. no. HR2009-01-36-02. European Commission. Web. 15 Mar. 2012.

<http://ec.europa.eu/enlargement/pdf/croatia/ipa/2009/04_establishing_a_comprehensive_system_for_anti-discrimination_protection.pdf> p. 2-14

³⁰Upgrading the Capacities for Minors and Other Vulnerable Groups of Illegal Migrants in the Reception Centre for Aliens. Rep. no. IPA/2011/ 022-954/6. European Commission, 2011. Web. 15 Mar. 2012.

<http://ec.europa.eu/enlargement/pdf/croatia/ipa/2011/06_reception_centre_for_foreigners.pdf> p. 2-13

Table 4.5 Continued

Projects	Roma support Project-Phase III	Establishing a comprehensive system for anti-discrimination protection	Upgrading the capacities for minors and other vulnerable groups of illegal migrants in the Reception Centre for Aliens
Overall Objective and Purpose	national minority in the economic, cultural, and social life of Croatian society <u>Goal</u> -Improve the environmental and general living conditions of the Roma settlements in Orehovica and Mursko Središće (Sitnice) in Međimurje County, by providing access to communal infrastructure and utilities, such as roads, water, and electricity supply	discrimination in order for Croatia to meet EU standards <u>Goal</u> 1. Strengthen the capacity of the Office of the Ombudsman and the Office for Human Rights in combating discrimination. 2. Develop an efficient system for statistical monitoring of the reported and prosecuted cases of discrimination Elaborate a comprehensive system of assistance to the victims of discriminatory practices	fulfill the requirements of EU acquis in the field of illegal migration <u>Goal</u> Fulfill the criteria of the acquis concerning the detention of minors, illegal migrants, and other vulnerable groups of illegal migrants
Budget	€3.333.330 (€2.500.00 in EU contributions and €833.330 in national contributions)	€800.000 (€738.000 in EU contributions and €62.000 in national contributions)	€2.527.323 (€2.148.225 in EU contributions and €379.098 in national contributions)
Implementation Schedule	Contract Signed: 4Q 2009/Project Completed: 3Q 2010	Contract Signed: 4Q 2010/Project Completed: 1Q 2013	Contract Signed: 4Q 2012/Project Completed: 4Q 2013

(Compiled from the IPA Assistance to Croatia <http://ec.europa.eu/enlargement/acceding-country/croatia/financial-assistance/index_en.htm>)

Serbia

Relations between the EU and Serbia have veered between positive and frictional. The move to include Serbia in the EU can first be traced to the late 1980s and the fall of communism in Europe. Yugoslavia was included in the Council Regulations on economic aid to certain Central and Eastern European countries, but was removed when war broke out in the 1990s. In

the late 1990s, a pledge for eventual membership was made to Serbia.³¹ In 1999, the Commission officially extended the opportunity for Serbia to join once it had fulfilled the Copenhagen Criteria. In 2000, the Zagreb Summit renewed the promise of including Serbia in the SAP and signaled the prospect of signing the SAA.³² The Feasibility Report, released on April 12, 2005, assessed Serbia as having progressed enough in meeting the SAP political and economic criteria and as ready to negotiate an SAA.³³ SAA negotiations with Serbia opened up on October 10, 2005. However the Commission found that the country did not meet its commitments with the International Criminal Tribunal for the former Yugoslavia (ICTY) and halted negotiations on May 3, 2006. Specifically, it noted the lack of progress in apprehending Ratko Mladić and that the “Action Plan” on co-operation with the ICTY suffered from deficiencies between civilian and military security services and in the role and power of prosecution.³⁴ Negotiations resumed on June 13, 2007, after Serbia held parliamentary elections in January 2007, and a coalition made up of pro-democracy and pro-EU parties won and pledged to fully cooperate with the ICTY.³⁵

An SAA was finally signed on April 29, 2008 in Luxembourg along with the Interim Agreement on trade and trade-related matters. EU ministers agreed to submit the SAA to their parliaments for ratification as soon as the Council should decide that Serbia was fully cooperating with the ICTY. Serbia submitted its application for EU membership on December 22, 2010 and subsequently on October 25, 2010, the Council asked the Commission to submit its

³¹Johannes-Mikael Mäki. "EU Enlargement Politics: Explaining the Development of Political Conditionality of 'full Cooperation with the ICTY' towards Western Balkans." *Politička Misao* 45.5 (2008): 47-80. p. 64

³²Ibid. p. 65

³³*Communication from the Commission on the Preparedness of Serbia and Montenegro to Negotiate a Stabilisation and Association Agreement with the European Union*. Rep. no. COM(2005) 476 Final. EUR-Lex, 14 Apr. 2005. Web. 15 Mar. 2012. <http://eur-lex.europa.eu/smartapi/cgi/sga_doc?smartapi!celexplus!prod!CELEXnumdoc&lg=en&numdoc=505DC0476>

³⁴*Commission Staff Working Document Serbia 2006 Progress Report*. Rep. no. COM (2006) 649 Final. Commission of the European Communities, 8 Nov. 2006. Web. 15 Mar. 2012.

<http://ec.europa.eu/enlargement/pdf/key_documents/2006/nov/sr_sec_1389_en.pdf> p. 15

³⁵"Serbian MPs Approve New Coalition." *BBC News*. BBC, 15 May 2007. Web. 15 Mar. 2012.

<<http://news.bbc.co.uk/2/hi/europe/6660113.stm>>

opinion on the application.³⁶ On June 14, 2010, the Council decided to submit the SAA to their parliaments for ratification after it was decided that Serbia was fully cooperating with the ICTY.³⁷

In their opinion on Serbia's membership, the Commission found that Serbia had built up a positive track record in implementing its obligations under SAP and the Copenhagen Criteria. Also they noted that Serbia could take on the obligations of membership in nearly all of the acquis, provided that the alignment process continues and efforts are made to ensure the implementation and enforcement of legislation.³⁸ Serbia became a European candidate country on March 1, 2012. Table 4.6 shows the overall assistance given to Serbia from 2003 to 2013.

Table 4.6 Serbia CARDS and IPA Assistance: 2003-2013 (million €)

	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013
Overall Assistance	324.3	307.9	282.5	257.5	189.7	190.9	194.8	197.9	201.8	202.0	214.7

(Compiled from CARDS and IPA Financial Assistance to Serbia:

<http://ec.europa.eu/enlargement/candidate-countries/serbia/financial-assistance/index_en.htm>)

- a. For 2003-2006: Financial allocation was administered under CARDS. Figures include the Republic of Serbia, the Republic of Montenegro, and Kosovo under UNSCR 1244
- b. For 2007-2013: Financial allocation was administered under the IPA

Transition to Democracy

Serbia's democratic transition began much later than most post-Communist countries, with the fall of Slobodan Milosevic's regime in October 2000. Democratization slowly resulted from elections won by the opposition and massive protests that forced the regime to accept the

³⁶ *Communication from the Commission to the European Parliament and the Council Commission Opinion on Serbia's Application for Membership of the European Union*. Rep. no. SEC(2011) 1208 Final. European Commission, 12 Oct. 2011. Web. 15 Mar. 2012.

<http://ec.europa.eu/enlargement/pdf/key_documents/2011/package/sr_rapport_2011_en.pdf> p. 2

³⁷ *Council Conclusions on the Western Balkans 3023rd Foreign Affairs Council Meeting Luxembourg, 14 June 2010*. Rep. Council of the European Union, 14 June 2010. Web. 15 Mar. 2012.

<http://ec.europa.eu/enlargement/pdf/serbia/key_document/council_conclusions_on_wb_june_2010_en.pdf> p. 2

³⁸ *Conclusions and Recommendations of the Commission's Opinions on the Membership Applications by Serbia*. Rep. European Commission. Web. 15 Mar. 2012.

<http://ec.europa.eu/enlargement/pdf/key_documents/2011/package/sr_conclusions_2011_en.pdf> p. 1

results. The transition to democracy was also negotiated, in that some members of the old regime supported the opposition for the price of political protection.³⁹ According to Freedom House, in 2005 Serbia's constitutional environment was problematic because the charter of the State Union of Serbia and Montenegro was frequently broken by both member states, and the 1990 Serbian Constitution stayed in place. The Serbian parliament faced serious challenges due to political instability and a lack of respect for legal procedures. The government of Serbia faced a serious problem in the high degree of politicization of public administration.⁴⁰ In April 2005, the EU released a feasibility study on the preparedness of Serbia and Montenegro to negotiate an SAA with the EU. The study found that the judiciary was the main weakness in Serbia's transformation to democracy. Despite some legal reforms, the appointment of judges and prosecutors remained susceptible to political pressure, and corruption was ever present.⁴¹

After the State Union of Serbia and Montenegro dissolved on June 5, 2006, and Serbia became its own independent state, a new constitution of the Republic of Serbia entered into force in November 2006. In 2007, the EU's Progress Report noted that some provisions of the new constitution were not fully in line with European standards, specifically political party control of mandates of individual members of parliament, and the role of parliament in judicial appointments.⁴² In addition, the EU reported that parliamentary elections were held in January

³⁹*Nations in Transit 2006-Serbia*. Rep. Freedom House. Web. 15 Mar. 2012.

<<http://www.freedomhouse.org/report/nations-transit/2006/serbia>> p. 1

⁴⁰ *Ibid.* p. 1

⁴¹*Commission Staff Working Paper Report on the Preparedness of Serbia and Montenegro to Negotiate a Stabilisation and Association Agreement with the European Union*. Rep. no. SEC (2005) 478 Final. European Commission, 12 Apr. 2005. Web. 15 Mar. 2012.

<http://ec.europa.eu/enlargement/pdf/sam_feasibility_report_staff_working_paper_en.pdf> p. 38

⁴²*Commission Staff Working Document Serbia 2007 Progress Report*. Rep. no. SEC(2007) 1435. European Commission, 6 Nov. 2007. Web. 15 Mar. 2012.

<http://ec.europa.eu/enlargement/pdf/key_documents/2007/nov/serbia_progress_reports_en.pdf> p. 6

2007. Though the elections were observed to be free and fair, they exposed the need for better regulation of party financing and a revision of voter registration.⁴³

In 2010, the EU reported that the alignment of the constitution and constitutional law with European standards was progressing. However, a draft Statute of Vojvodina, endorsed by the Serbian parliament in 2009, has not yet been fully adopted.⁴⁴ The Statute was adopted by the Provincial Assembly of Vojvodina in October 2008, in line with constitutional requirements. The Commission also noted that the electoral framework has only been partially revised and efforts are needed to improve the legislative output of the Serbian parliament.

To help assist Serbia in stabilizing its democracy, the EU adopted a Partnership Agreement on February 18, 2008. It called for the EU to ensure that the Serbian constitution is being implemented according to European standards, that Serbia is cooperating with the ICTY, and that Serbia is complying with its obligations under the SAA.⁴⁵ The EU provided €185.7 million from 2002 to 2006 under CARDS and technical assistance is being provided by other international organizations, such as the OSCE.⁴⁶

Governance Issues

Corruption

Like Croatia, Serbia has encountered problems in the fight against corruption. In 2005, Transparency International ranked Serbia 97th out of 158 countries in the Corruption Perception

⁴³Ibid. p. 7

⁴⁴ *Commission Staff Working Document Serbia 2010 Progress Report*. Rep. no. SEC(2010) 1330. European Commission, 9 Nov. 2010. Web. 15 Mar. 2012.

<http://ec.europa.eu/enlargement/pdf/key_documents/2010/package/sr_rapport_2010_en.pdf> p. 7

⁴⁵ *European Council Decision of 18 February 2008 on the Principles, Priorities and Conditions Contained in the European Partnership with Serbia including Kosovo as Defined by United Nations Security Council Resolution 1244 of 10 June 1999 and Repealing Decision 2006/56/EC*. Rep. no. Official Journal L080,19/03/2008 P.0046-0070. European Commission, 19 Mar. 2008. Web. 15 Mar. 2012. <<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2008:080:0046:01:EN:HTML>>

⁴⁶ "CARDS Statistics 2000-2006."

Index.⁴⁷ In December 8, 2005, the National Anti-corruption Strategy was adopted by the Serbian parliament and an action plan to implement the Strategy was adopted on December 2006.⁴⁸ By January 2010, the Anti-Corruption Agency started its work. The agency is responsible for preventive measures and the supervision of conflict of interest cases and funding of political parties. The EU noted in their 2010 Progress Report that implementation of the Action Plan continued to be slow and there was little progress in the investigation and prosecution of corruption cases.⁴⁹ The Anti-Corruption Agency was not yet fully staffed and lacked a permanent premise and technical equipment. The existing legislation had significant problems and did not provide the Agency with sufficient investigative and sanctioning powers to monitor party funding effectively.⁵⁰

There were also problems with the legal framework that regulates public procurement, the privatization process and larger budgetary expenditures, which the Commission noted, did not provide sufficient checks and balances to minimize the risk of corruption. A comprehensive audit system was not yet in place, which represented an obstacle to the establishment of a duly regulated public expenditure system capable of preventing systemic corruption.⁵¹

In addressing these problems, the EU provided €28.5 million since 2003.⁵² Table 4.7 shows the assistance provided under CARDS from 2003 to 2006. Table 4.8 shows the projects and funding under the IPA.

⁴⁷ *Corruption Perception Index 2005*. Rep. Transparency International. Web. 15 Mar. 2012

⁴⁸ *Commission Staff Working Document Serbia 2007 Progress Report*. p. 11

⁴⁹ *Commission Staff Working Document Serbia 2010 Progress Report*. p. 11

⁵⁰ *Ibid.* p. 11

⁵¹ *Commission Staff Working Document Serbia 2007 Progress Report* p. 11

⁵² Compiled from CARDS 2003-2006 and IPA 2007-2011

Table 4.7: CARDS Assistance to Fight Corruption-Serbia (million €)

	2003	2004	2005	2006
Overall Assistance	0	19	2	2.5

(Source: European Commission Financial Assistance:
<http://ec.europa.eu/enlargement/press_corner/key-documents/cards_reports_and_publications_en.htm>)

Table 4.8: IPA Projects to Fight Corruption-Serbia

Projects	Fight against corruption ⁵³	Capacity building of the Directorate for Confiscated Property and improving the system of Criminal Asset Confiscation ⁵⁴	Strengthening the rule of law in Serbia ⁵⁵
Overall Objective and Purpose	<p><u>Objective</u> -Promote good governance and strengthen institutions in Serbia which are instrumental in the fight against corruption</p> <p><u>Purpose</u> -Contribute to reducing the level of corruption by supporting the operational functioning of a comprehensive agency that will coordinate the fight against corruption</p>	<p><u>Objective</u> -Contribute to democracy and the rule of law by suppressing organized crime and corruption in accordance with EU/international standards and Countering Money Laundering and Financing of Terrorism (MONEYVAL)/Group of States against Corruption (GRECO)</p> <p><u>Purpose</u> -Enhance the institutional capacity and efficient functioning of the Directorate for Confiscated Property Management as well as other key institutions in the search, seizure, management and confiscation of the proceeds from crime in Serbia</p>	<p><u>Objective</u> -Contribute to good governance in Serbia by ensuring the rule of law, efficient state border security, improving the efficiency and accountability of the public sector, and tackling corruption as essential elements of a framework, within which economies can prosper</p> <p><u>Purpose</u> <i>Component I: Implementation of Justice Sector and anti corruption policy</i> 1. <i>Subcomponent I (Direct agreement with the World</i></p>

⁵³ *Standard Summary Project Fiche-IPA Centralised Programmes Project Number 5: Fight against Corruption.* Rep. no. 2008/020-406. European Commission. Web. 15 Mar. 2012.
<http://ec.europa.eu/enlargement/pdf/serbia/ipa/2008/5-anti-corruption_en.pdf> p. 6

⁵⁴ *Standard Summary Project Fiche-IPA Centralised National Programme Project Number 1: Capacity Building of the Directorate for Confiscated Property and Improving the System of Criminal Asset Confiscation.* Rep. no. 2009/021-638. European Commission. Web. 15 Mar. 2012.
<http://ec.europa.eu/enlargement/pdf/serbia/ipa/2009/1_criminal_assets_confiscation.pdf> p. 2-14

⁵⁵ *Standard Summary Project Fiche – IPA Centralised Programmes Project Number 1: Strengthening the Rule of Law in Serbia.* Rep. no. 2011/022-585. European Commission. Web. 15 Mar. 2012.
<http://ec.europa.eu/enlargement/pdf/serbia/ipa/2011/01_strengthening_the_rule_of_law_in_serbia.pdf> p. 17

Table 4.8 Continued

Projects	Fight against corruption	Capacity building of the Directorate for Confiscated Property and improving the system of Criminal Asset Confiscation	Strengthening the rule of law in Serbia
Overall Objective and Purpose			<p><i>Bank): Support to the Multi-Donor Trust Fund for Justice Sector</i></p> <p>a. Support the Multi Donor Trust Fund for Justice Sector in the introduction of sector wide approach in design, programming and implementation of justice sector reform initiatives</p> <p>2. <i>Subcomponent 2 (Direct agreement with the Council of Europe): Strengthening the capacities of law enforcement and judiciary in the fight against corruption in Serbia</i></p> <p>a. Improve the capacities and quality of the implementation of institutional reforms aimed at preventing and combating corruption</p>
Budget	€2.500.000 in EU contributions	€2.500.000 in EU contributions	€2.000.000 in contributions from the World Bank and €1.400.000 in contributions from the Council of Europe
Implementation Schedule	Contract Signed: 3Q 2009/Project Completed: 3Q 2013	Contract Signed: 2Q 2009/Project Completed: 2Q 2012	Contract signed: 1Q 2012/Project Completed 4Q 2015

(Compiled from the IPA Assistance to Serbia <http://ec.europa.eu/enlargement/candidate-countries/serbia/financial-assistance/index_en.htm>)

Minority Rights and Refugees

The Roma continue to face very difficult living conditions and discrimination in Serbia.

Roma find it difficult to obtain personal documents, hindering their access to the social security

system, education, employment, and other services.⁵⁶ A large portion of the Roma population lives in extreme poverty and exclusion, and regularly faces discrimination and attacks. Over eighty-percent of Roma children living in Roma establishments are poor and suffer from discrimination and exclusion. On average, only around one third of Roma children complete primary education.⁵⁷ A national strategy for the improvement of the Status of Roma and a related action plan were adopted in 2009. In the 2011 Progress Report, the EU expressed the need for further funding of the strategy to improve its effectiveness.⁵⁸ There is also no systematic approach to the relocation of illegal Roma settlements, which is often conducted inappropriately, resulting in serious violations of basic human rights.

As of January 2011, there are 73,608 refugees and 228,442 internally displaced persons (IDPs) in Serbia.⁵⁹ Around 800 refugees and 2,500 IDPs were accommodated in twenty-nine collective centers.⁶⁰ In 2002 a National Strategy for Resolving Issues of refugees and IDPs was adopted and revised in March 2011. The Commission noted in the 2011 Progress Report that around 97,000 IDPs remain in need of assistance for housing, employment and personal identification documents, with Roma being the most disadvantaged segment of the IDP population.⁶¹ To address these problems, the EU provided €114.65 million in assistance.⁶² Table 4.9 shows the overall amount under CARDS while Table 4.10 shows the projects and funding under the IPA.

⁵⁶*Commission Staff Working Document Serbia 2007 Progress Report p. 16*

⁵⁷*Ibid.* p. 16

⁵⁸*Commission Staff Working Paper Analytical Report.* Rep. no. SEC(2011) 1208. European Commission, 12 Oct. 2011. Web. 15 Mar. 2012.

<http://ec.europa.eu/enlargement/pdf/key_documents/2011/package/sr_analytical_rapport_2011_en.pdf> p. 32

⁵⁹"2012 UNHCR Country Operations Profile-Serbia." *UNHCR.* Web. 15 Mar. 2012. <<http://www.unhcr.org/cgi-bin/texis/vtx/page?page=49e48d9f6>>

⁶⁰*Commission Staff Working Paper Analytical Report.* p. 32

⁶¹*Ibid.* p. 32

⁶²Compiled from CARDS 2003-2006 and IPA 2007-2011

Table 4.9: CARDS Assistance to Protect Minority Rights and Refugees-Serbia (million €)

	2003	2004	2005	2006
Overall Assistance	4	51.5	29.5	0

(Source: European Commission Financial Assistance:
<http://ec.europa.eu/enlargement/press_corner/key-documents/cards_reports_and_publications_en.htm>)

Table 4.10: IPA Projects to Protect Minority Rights and Refugees-Serbia

Projects	Further support to refugees and Internally Displaced People (IDPs) in Serbia⁶³	Supporting access to rights, employment and livelihood enhancement of refugees and IDPs in Serbia⁶⁴	Support to the implementation of strategies for IDPs, refugees and returnees⁶⁵
Overall Objective and Purpose	<p><u>Objective</u> -Build durable solutions to address the IDP/Refugee Challenge</p> <p><u>Purpose</u> 1. Integrate refugees through projects that will develop accommodation solutions, employment and income generation activities 2. Support return/reintegration through cross-boundary initiatives and cross-border initiatives 3. Contribute to the self-reliance of</p>	<p><u>Objective</u> -Contribute to resolving the problems of refugees and IDPs in Serbia through the provision of adequate support</p> <p><u>Purpose</u> -Promote the livelihood improvement of the most vulnerable IDPs and refugee families through economic and housing support, information provision and access to social services</p>	<p><u>Objective</u> -Contribute to sound implementation of strategies for refugees, IDPs, and returnees according to Readmission Agreements</p> <p><u>Purpose</u> 1. Integrate refugees, improve living conditions, and reintegrate returnees under the readmission agreements 2. Facilitate the realization of the rights of refugees, IDPs, and returnees under the</p>

⁶³Standard Summary Project Fiche – IPA Centralised Programmes Further Support to Refugees and IDPs in Serbia. Rep. no. 2007/19322. European Commission. Web. 15 Mar. 2012.

<http://ec.europa.eu/enlargement/pdf/serbia/ipa/support_to_refugees_and_idps_en.pdf> p. 1

⁶⁴Standard Summary Project Fiche – IPA Centralised National Programmes Project Number 2: Supporting Access to Rights, Employment and Livelihood Enhancement of Refugees and Internally Displaced Persons (IDPs) in Serbia. Rep. no. 2009/021-638. European Commission. Web. 15 Mar. 2012.

<http://ec.europa.eu/enlargement/pdf/serbia/ipa/2009/2_refugees_and_idps.pdf> p. 9-10

⁶⁵Standard Summary Project Fiche – IPA Centralised Programmes Project Number 09: Support to the Implementation of Strategies for IDPs, Refugees and Returnees. Rep. no. 2011/022-585. European Commission. Web. 15 Mar. 2012.

<http://ec.europa.eu/enlargement/pdf/serbia/ipa/2011/09_support_to_strategies_for_idps_refugees_and_returnees.pdf> p. 2

Table 4.10 Continued

Projects	Further support to refugees and Internally Displaced People (IDPs) in Serbia	Supporting access to rights, employment and livelihood enhancement of refugees and IDPs in Serbia	Support to the implementation of strategies for IDPs, refugees and returnees
Overall Objective and Purpose	specifically targeted refugees/IDPs through socio economic support packages and legal assistance 4. Secure the full implementation of the Sarajevo Declaration		readmission agreements through legal assistance 3. Since a significant number of returnees and IDPs are Roma, the project will benefit this vulnerable group
Budget	€10.000.000 in EU contributions	€13.541.000 (€12.650.000 in EU contributions and €891.000 in national contributions)	€7.722.000 (€7.000.000 in EU contributions and €72.000 in national contributions)
Implementation Schedule	Contract Signed: 2Q 2008/Project Completed: 3Q 2010	Contract Signed: 1Q 2010/Project Completed: 4Q 2013	Contract Signed: 4Q 2012/Project Completed: 3Q 2014

(Compiled from the IPA Assistance to Serbia <http://ec.europa.eu/enlargement/candidate-countries/serbia/financial-assistance/index_en.htm>)

Bosnia and Herzegovina

Of our three cases, Bosnia and Herzegovina (BiH) is the farthest on its path to European accession. The EU established diplomatic relations once BiH declared independence from Yugoslavia in 1992. Their relationship intensified once the war ended and the EU began to shift its focus to the Western Balkans as a whole. The Roymaount Process began in December 1996. It was the first such initiative that focused on the stabilization of South-East Europe.⁶⁶ In June 1998, the EU-BiH Consultative Task Force was established and provided technical and expert advice in the fields of the judiciary, education, media, administration, and economy. In 1999, the EU initiated the Stabilization and Association Process (SAP) for five South-Eastern Europe,

⁶⁶Bedrudin Brljavac. "Assessing the European Criteria in Bosnia and Herzegovina: A Litmus Test for the European Union." *Journal of Comparative Politics* 5.1 (2012): 4-23 p. 7

including BiH, and the SAP was confirmed by the Thessaloniki European Council as the EU policy for the Western Balkans.⁶⁷

Bosnia and Herzegovina signed their SAA agreement along with an Interim Agreement on Trade and Trade-related issues (IA) on June 16, 2008 in Luxembourg. The IA entered into force in July 2008 but its implementation is mixed. According to the latest European Commission Progress Report (2011), BiH is in non compliance with the European Convention on Human Rights and with the rules on State Aid.⁶⁸ The SAA has been ratified by all EU Member States but has not yet entered into force. Table 4.11 shows the overall assistance given to Bosnia and Herzegovina from 2003 to 2013.

Table 4.11 Bosnia and Herzegovina CARDS and IPA Assistance: 2003-2013 (million €)

	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013
Overall Assistance	63	72	49.4	51	62.1	74.8	89.1	105.3	107.4	107.8	111.8

(Compiled from CARDS and IPA Financial Assistance to Bosnia and Herzegovina: <http://ec.europa.eu/enlargement/potential-candidates/bosnia_and_herzegovina/financial-assistance/index_en.htm>)

- a. For 2003-2006: Financial allocation was administered under CARDS.
- b. For 2007-2013: Financial allocation was administered under the IPA

Transition to Democracy

Bosnia and Herzegovina's political system is the product of the Dayton Peace Accords of November 1995 which ended the war in Bosnia. BiH operates under institutional supervision as a loose asymmetrical federation of autonomous entities: the centralized Serb-dominated Republika Srpska (RS), the decentralized Bosniak and Croat-dominated Federation of Bosnia and Herzegovina (FBiH), and Brčko, a district with its own governing institutions.⁶⁹ At the state level, BiH has a tripartite presidency with one Bosniak representative, one Serb, and one Croat. Seventeen years after the Dayton Peace

⁶⁷ Ibid. p. 7

⁶⁸ *Commission Staff Working Paper Bosnia and Herzegovina 2011 Progress Report*. Rep. no. SEC(2011) 1206 Final. European Commission, 12 Oct. 2011. Web. 15 Mar. 2012.

<http://ec.europa.eu/enlargement/pdf/key_documents/2011/package/ba_rapport_2011_en.pdf> p. 7

⁶⁹ *Core Document Forming Parts of the Reports of States Parties Bosnia and Herzegovina*. Rep. no. HRI/CORE/BIH/2011. United Nations International Human Rights Instruments, 2011. p. 16

Accords, BiH remains dependent on international involvement, especially the Office of the High Representative (OHR), which is responsible for the civilian implementation of the Dayton Peace Accords.⁷⁰

2006 was marked by two major events. First, in April 2006, Bosnia and Herzegovina's Parliamentary Assembly rejected a package of proposed constitutional amendments. The amendments would have improved the functionality of the state and enhanced its capacity to negotiate with the EU, and redistribute some competences.⁷¹ Second, presidential and parliamentary elections occurred on October 2006. They were the first elections since the Dayton Peace Accords to be fully administered by the authorities of Bosnia and Herzegovina. The elections were generally considered to be run in accordance with international standards for democratic elections.⁷² However, Freedom House reported that because of constitutional limitations and ethnicity-based nominations, the elections violated the European Convention on Human Rights (ECHR) and the obligations toward membership in the Council of Europe.⁷³

In 2010, the EU's Progress Report noted that in autumn 2009, a joint EU-U.S. initiative to help meet the minimum requirements of the EU accession process, improve the functionality of the state, and align the Constitution with the ECHR was started. However, no agreement on a way forward emerged.⁷⁴

Recently, Bosnia and Herzegovina underwent major political turmoil. Until December 28, 2011, BiH was without a state-level government following their general elections in October

⁷⁰ Ibid. p. 16

⁷¹ *Commission Staff Working Document Bosnia and Herzegovina 2007 Progress Report*. Rep. no. SEC(2007) 1430. European Commission, 6 Nov. 2007. Web. 15 Mar. 2012.
<http://ec.europa.eu/enlargement/pdf/key_documents/2007/nov/bosnia_herzegovina_progress_reports_en.pdf> p. 10

⁷² Ibid. p. 10

⁷³ *Nations in Transit 2007-Bosnia and Herzegovina*. Rep. Freedom House. Web. 15 Mar. 2012.
<<http://www.freedomhouse.org/report/nations-transit/2007/bosnia-and-herzegovina>> p. 5

⁷⁴ *Commission Staff Working Document Bosnia and Herzegovina 2010 Progress Report*. Rep. no. SEC(2010) 1331. European Commission, 9 Nov. 2010. Web. 15 Mar. 2012.
<http://ec.europa.eu/enlargement/pdf/key_documents/2011/package/ba_rapport_2011_en.pdf> p. 8

2010.⁷⁵ Thus, during that time, no state-level legislation was adopted, including a state budget. In the run-up and after the general election in October, 2011 nationalistic rhetoric continued. Legal and political actions by the Republika Srpska challenged the authority of the High Representative for Bosnia and Herzegovina and BiHs state-level institutions, competencies, and laws. On April 13, 2011, the Republika Srpska National Assembly adopted a series of conclusions and a decision to hold a referendum on the powers of the High Representative for Bosnia and Herzegovina and the powers of BiHs state-level judicial institutions.⁷⁶ The conclusion rejected the authority of the High Representative to impose legislation.⁷⁷ Following a visit on May 13, 2011 to BiH by the European Union High Representative of the Union for Foreign Affairs and Security Policy/Vice-President of the European Commission, Ms. Catherine Ashton, the Republika Srpska authorities voted on June 1, 2011 to annul the decisions on holding a referendum and review the previously adopted conclusions. However, in his fortieth report, High Representative for BiH, Valentin Inzko, noted that the conclusions adopted remain in force and appear to shape the polices of RS.⁷⁸

In addition, several high-level officials of Republika Srpska called for the separation of RS from BiH, threatening the stability of the country. For example, the RS President asserted that the Bosniak people can only build their identity by destroying others and other officials have

⁷⁵ "Breakthrough on Bosnian Impasse." *Balkan Insight*. 28 Dec. 2012. Web. 15 Mar. 2012. <<http://www.balkaninsight.com/en/article/end-of-political-stalemate-in-bosnia>>

⁷⁶The proposed referendum question had been the following: "Do you support the laws imposed by the High Representative of the International Community in Bosnia and Herzegovina, particularly those pertaining to the Court of Bosnia and Herzegovina and the Prosecutor's Office of Bosnia and Herzegovina, and their unconstitutional verification in the Parliamentary Assembly of Bosnia and Herzegovina.?"

⁷⁷*Report of the High Representative of the Union for Foreign Affairs and Security Policy on the Activities of the European Union Military Mission in Bosnia and Herzegovina*. p. 3

⁷⁸*Fortieth Report of the High Representative for Bosnia and Herzegovina*. Rep. no. S/2011/682. United Nations, 4 Nov. 2011. Web. 15 Mar. 2012. <<http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N11/575/00/PDF/N1157500.pdf?OpenElement>> p. 11

called for a referendum for succession.⁷⁹ In response, some Bosniak political leaders warned of possible conflict if there was an attempt to divide the country. Some Federation politicians called for the creation of a Croat dominated entity within BiH.⁸⁰

In July 2011, just before the fiftieth anniversary of the genocide in Srebrenica in 1995, several high-level politicians from RS made statements praising the perpetrators of this crime, including Radovan Karadžić, who is currently awaiting trial at the ICTY.⁸¹ Some politicians also denied that the genocide actually took place.

Like Serbia, to help assist Bosnia and Herzegovina in stabilizing their democracy, the EU adopted a Partnership Agreement on February 18, 2008. It called inter alia, for the EU to provide BiHs parliament with technical resources and personnel, help establish mechanisms for political, legislative, and technical cooperation between State and the Entities, and help amend the electoral legislation to ensure full compliance with ECHR and the Council of Europe post-accession commitments.⁸² The EU provided €55 million from 2002 to 2006 under CARDS and technical assistance is being provided by other international organization, such as the OSCE.⁸³

Governance Issues

Corruption

In 2005, Transparency International ranked Bosnia and Herzegovina 88th out of 158 countries in the Corruption Perception Index.⁸⁴ In May 2006, Bosnia and Herzegovina adopted a National Anti-Corruption Strategy and action plan but it was insufficiently implemented and had

⁷⁹Ibid. p. 10-11

⁸⁰Ibid. p. 12

⁸¹ "Bosnia and Herzegovina Annual Report 2011." *Amnesty International*. Web. 15 Mar. 2012. <<http://www.amnesty.org/en/region/bosnia-herzegovina/report-2011>>

⁸² *Council Decision of 18 February 2008 on the Principles, Priorities and Conditions Contained in the European Partnership with Bosnia and Herzegovina and Repealing Decision 2006/55/EC*. Rep. no. 2008/211/EC. European Commission. Web. 15 Mar. 2012. <<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32008D0211:EN:NOT>>

⁸³"CARDS Statistics 2000-2006."

⁸⁴ *Corruption Perception Index 2005*. Rep. Transparency International. Web. 15 Mar. 2012

coordination problems between the Entities. Therefore a new Strategy against Corruption 2009-2014 and the related Action Plan were adopted.⁸⁵ However, its implementation had been limited due to a lack of political will and institutional capacity, the 2011 Progress Report noted.⁸⁶ On January 2007, a third evaluation report adopted by the GRECO underlined the need to enforce the legal framework and improve the coordination and training of the agencies involved in fighting corruption. The Commission noted that BiH has only done little to follow through on the recommendations of the report to improve anti-corruption legislation.⁸⁷ In addition effective investigation, prosecution, and conviction of corruption cases remained low. When corruption cases did occur, they were often minor cases, while high level corruption cases have ended in the dropping of the charges, acquittals, or suspended sentences.⁸⁸ To address these problems the EU provided €39 million in funding.⁸⁹ Table 4.12 shows the overall amount under CARDS while 4.13 shows the projects and funding under the IPA.

Table 4.12: CARDS Assistance to Fight Corruption-Bosnia and Herzegovina (million €)

	2003	2004	2005	2006
Overall Assistance	10	23.5	0	0

(Source: European Commission Financial Assistance:
<http://ec.europa.eu/enlargement/press_corner/key-documents/cards_reports_and_publications_en.htm>)

⁸⁵ *Commission Staff Working Document Bosnia and Herzegovina 2009 Progress Report*. Rep. no. SEC(2009) 1338. European Commission, 14 Oct. 2009. Web. 15 Mar. 2012.

<http://ec.europa.eu/enlargement/pdf/key_documents/2009/ba_rapport_2009_en.pdf> p. 14

⁸⁶ *Commission Staff Working Paper Bosnia and Herzegovina 2011 Progress Report*. Rep. no. SEC(2011) 1206 Final. European Commission, 12 Oct. 2011. Web. 15 Mar. 2012.

<http://ec.europa.eu/enlargement/pdf/key_documents/2011/package/ba_rapport_2011_en.pdf> p. 14

⁸⁷ *Staff Working Document Bosnia and Herzegovina 2007 Progress Report* p. 14

⁸⁸ *Commission Staff Working Paper Bosnia and Herzegovina 2011 Progress Report* p. 13

⁸⁹ Compiled from CARDS 2003-2006 and IPA 2007-2011

Table 4.13: IPA Projects to Fight Corruption-Bosnia and Herzegovina

Projects	Support to the State Court and Prosecutor's Office of BiH to fight war crimes and organized crime ⁹⁰	Strengthening the capacities of BiH institutions to combat and prevent corruption ⁹¹	Implementation of the Anti-Corruption Strategy and Action Plan ⁹²
Overall Objective and Purpose	<p><u>Objective</u></p> <ol style="list-style-type: none"> 1. Build sustainable institutional capacity at the State level by strengthening the Court of BiH and the Prosecutor's Office of BiH 2. The Strategic framework is to improve the overall effectiveness and impartiality of these institutions through their ability to consolidate the rule of law and address violations of international humanitarian law committed during Bosnia war between 1992 and 1995 in addition to the prosecution of organized crime, economic crime and corruption cases <p><u>Purpose</u></p> <p>-Build sustainable professional and technical capacities for prosecuting and investigating cases related to war crimes, economic crime, organized crime, and corruption</p>	<p><u>Objective</u></p> <p>-Strengthen the capacities of BiH institutions to enforce accountability and effectively fight and prevent corruption</p> <p><u>Purpose</u></p> <ol style="list-style-type: none"> 1. Strengthen the institutional and administrative capacities of the anti-corruption body in order to enable it to fulfill its mandate 2. Improve the anti-corruption capacities and cooperation mechanisms of institutions whose mandate is to combat and prevent corruption on different administrative levels 3. Reinforce corruption 	<p><u>Objective</u></p> <p>-Contribute to the fight against corruption and effective corruption prevention in BiH</p> <p><u>Purpose</u></p> <p>-Support the institutions in BiH to effectively implement effectively the Anti-Corruption Strategy and its Action Plan in cooperation with civil societies and business associations</p>

⁹⁰IPA National Programme 2008 Part I-Bosnia and Herzegovina: Project Fiche 2: Support to the State Court and Prosecutor's Office of BiH to Fight War Crimes and Organised Crime. Rep. no. 2008/20-111. European Commission. Web. 15 Mar. 2012.

<http://ec.europa.eu/enlargement/pdf/bosnia_and_herzegovina/ipa/2008/ipa_2008_part_i_02_state_court_en.pdf> p. 13

⁹¹IPA National Programme 2009 Part II – Bosnia and Herzegovina Fiche 6 "Anti-Corruption" Rep. no. 2009 / 021-650. European Commission. Web. 15 Mar. 2012.

<http://ec.europa.eu/enlargement/pdf/bosnia_and_herzegovina/ipa/2009/ipa_2009_part_ii_06_anti-corruption_en.pdf> p. 2

⁹²IPA National Programme 2010–Bosnia and Herzegovina Fiche 5 "Anti-Corruption" Rep. no. 2010 / 022-259. European Commission. Web. 15 Mar. 2012.

<http://ec.europa.eu/enlargement/pdf/bosnia_and_herzegovina/ipa/2010/part-1/pf_05_ipa_2010_anti_corruption_2010.04.29_en.pdf> p. 11-12

Table 4.13 Continued

Projects	Support to the State Court and Prosecutor's Office of BiH to fight war crimes and organized crime	Strengthening the capacities of BiH institutions to combat and prevent corruption	Implementation of the Anti-Corruption Strategy and Action Plan
Overall Objective and Purpose		prevention capacities of public institutions and law enforcement agencies through more extensive training and the creation of sustainable training capacities	
Budget	€3.000.000 in EU contributions	€500.000 in EU contributions	€2.000.000 in EU contributions
Implementation Schedule	Contract Signed: 2Q 2009/Project Completed: 2Q 2010	Contract Signed: 2Q 2010/Project Completed: 4Q 2011	Contract Signed: 3Q 2011/Project Completed: 3Q 2013

(Compiled from the IPA Assistance to Bosnia and Herzegovina
<http://ec.europa.eu/enlargement/potential-candidates/bosnia_and_herzegovina/financial-assistance/index_en.htm>)

Minority Rights and Refugees

In Bosnia and Herzegovina, there are seventeen officially recognized minorities. The three constituent peoples, Bosniaks, Croats, and Serbs do not constitute minorities.⁹³ Because minorities do not belong to the three constituent peoples, they have been excluded from representation in the State-level House of Peoples and the Presidency.⁹⁴ The National Minority Council was established in February 2008 to act as an advisor to the Parliamentary Assembly. However, the 2011 EU Progress Report noted their influence has remained limited due to the lack of political and financial support.⁹⁵

⁹³ "Bosnia and Herzegovina Overview." *Minority Rights Group International*. Oct. 2011. Web. 15 Mar. 2012. <<http://www.minorityrights.org/?lid=2471>>

⁹⁴ *Commission Staff Working Paper Bosnia and Herzegovina 2011 Progress Report* p. 19

⁹⁵ *Ibid.* p. 19

The most vulnerable minority group in BiH is the Roma.⁹⁶ Discrimination against Roma persists in access to housing, social services, education, and employment. In September 2008, Bosnia and Herzegovina joined the Decade for Roma inclusion 2005-2015. At the same time, BiH adopted an Action Plan on Roma housing, health, and employment. The Action plan complements the 2004 Action Plan on the Education Needs of Roma and Members of Other National Minorities.⁹⁷ By 2011, the EU reported that there has been little progress on implementing the action plan on health while the action plan on the education needs of Roma needed to be stepped up.⁹⁸

As of January 2011, 113,365 IDPs, including 7,492 in collective centers, and 7,000 refugees were living in BiH.⁹⁹ Refugees continue to face discrimination in access to employment, health care, pension rights, and social protection. To address these problems, the EU provided €54.3 million in funding.¹⁰⁰ Table 4.14 shows the overall amount under CARDS while Table 4.15 shows the projects under the IPA.

Table 4.14: CARDS Assistance to Protect Minority Rights and Refugees-Bosnia and Herzegovina (million €)

	2003	2004	2005	2006
Overall Assistance	19.5	7.5	3.1	2.5

(Source: European Commission Financial Assistance:
<http://ec.europa.eu/enlargement/press_corner/key-documents/cards_reports_and_publications_en.htm>)

⁹⁶ Ibid. p. 19

⁹⁷ *Commission Staff Working Document Bosnia and Herzegovina 2008 Progress Report*. Rep. no. SEC(2008) 2693 Final. European Commission, 5 Nov. 2008. Web. 15 Mar. 2012.

<http://ec.europa.eu/enlargement/pdf/press_corner/key-documents/reports_nov_2008/bosnia_herzegovina_progress_report_en.pdf> p. 20-21

⁹⁸ *Commission Staff Working Paper Bosnia and Herzegovina 2011 Progress Report p. 19*

⁹⁹ "2012 UNHCR Country Operations Profile-Bosnia and Herzegovina." *UNHCR*. Web. 15 Mar. 2012.
<<http://www.unhcr.org/cgi-bin/texis/vtx/page?page=49e48d766>>

¹⁰⁰ Compiled from CARDS 2003-2006 and IPA 2007-2011

Table 4.15: IPA Projects to Protect Minority Rights and Refugees-Bosnia and Herzegovina

Projects	Enhancing the Social Protection and Inclusion System for Children in Bosnia and Herzegovina ¹⁰¹	Support for Vulnerable Groups in Bosnia and Herzegovina ¹⁰²	Enhancing the social protection and inclusion system for vulnerable groups – Phase III ¹⁰³
Overall Objective and Purpose	<p><u>Objective</u> -Development of a fiscally sustainable and effective social safety net and the establishment of a harmonized, well targeted, efficient, and sustainable social protection system</p> <p><u>Purpose</u> -Support minority and vulnerable groups concerns in particular services, legislative matters, and socio-economic development that is in line with BiH's own sectoral reform and development strategies taking into account the Mid-term Development Strategy and EU Integration Strategy for BiH</p>	<p><u>Objective</u> -Combat social exclusion in Bosnia and Herzegovina</p> <p><u>Purpose</u> -Develop an integrated Social Protection and Inclusion Strategy that will support minority and excluded groups by strengthening public services, legislative frameworks, and influence socio-economic developments in coordination with BiH's own reform and development strategies</p>	<p><u>Objective</u> -Contribute to the development of a fiscally sustainable and effective social safety net and to the establishment of a harmonized, well-targeted, efficient, and sustainable social protection system</p> <p><u>Purpose</u> -Support key government partners in establishing a country-led process for the development and implementation of a sustainable strategy for integrated social protection and inclusion of children and families in BiH</p>
Budget	€1.300.000 in EU contributions	€1.955.555 (€1.900.000 in EU contributions and €55.555 in private contributions)	€1.650.000 (€1.400.000 in EU contributions and €250.000 in national contributions)
Implementation Schedule	Contract Signed: 1Q 2008/Project Completed: 1Q 2009	Contract Signed: 3Q 2009/Project Completed: 3Q 2011	Contract Signed: 4Q 2010/Project Completed: 4Q 2011

(Compiled from the IPA Assistance to Bosnia and Herzegovina < http://ec.europa.eu/enlargement/potential-candidates/bosnia_and_herzegovina/financial-assistance/index_en.htm>)

¹⁰¹IPA Annual Action Programme 2007 for Bosnia and Herzegovina: *Enhancing the Social Protection and Inclusion System for Children in Bosnia and Herzegovina*. Rep. European Commission, 2007. Web. 15 Mar. 2012. <http://ec.europa.eu/enlargement/pdf/bosnia_and_herzegovina/ipa/2007/ipa_2007_05_social_protection_and_inclusion_of_children_en.pdf> p. 1-8

¹⁰²IPA National Programme 2008 Part II – *Bosnia and Herzegovina Fiche 1 "Support for Vulnerable Groups in Bosnia and Herzegovina"* Rep. no. 2008/20-339. European Commission. Web. 15 Mar. 2012. <http://ec.europa.eu/enlargement/pdf/bosnia_and_herzegovina/ipa/2008/ipa_2008_part_ii_01_social_protection_and_inclusion_of_children_en.pdf> p. 2

¹⁰³IPA National Programme 2010 – *Bosnia and Herzegovina Fiche 2 "Social Protection and Inclusion III"*. Rep. no. 2010 / 022-259. European Commission. Web. 15 Mar. 2012. <http://ec.europa.eu/enlargement/pdf/bosnia_and_herzegovina/ipa/2010/part-1/pf_02_ipa_2010_social_inclusion_final_eud_en.pdf> p. 16

In the next chapter, I will assess whether progress has been made in their transition to democracy including in the areas of corruption and the protection of minority rights and refugees. The aim is to evaluate whether EU assistance correlates to improvements in the democratic areas.

Chapter 5: Critique of EU Approach in the Western Balkans

I am now going to look at whether the EU's projects in the Western Balkans have had any positive effects on the areas they were designed to impact.

Fight against Corruption

Croatia has increased the transparency and integrity of its public administration and state owned companies. The government has also stepped up the fight against corruption and improved interagency cooperation. However, the Commission noted that many high level corruption cases have not yet been concluded and Croatia needs to start a track record of successfully handling organized crime and corruption cases. Also, Croatia needs more experience in implementing newly adopted legislation and the implementing structures have to be further strengthened.¹

Regarding Serbia, the Commission paints a somewhat bleaker picture. The Commissioners noted that Serbia has put in place a legal and institutional framework, including an Anti-Corruption Agency and a new law on funding political parties to fight corruption. Also steps have been taken for the specialization of certain law enforcement agencies to fight corruption and a large number of cases have been prosecuted.² However, the Commission did remark that corruption remains prevalent in many areas and continues to be a serious problem. There needs to be stronger political will and law enforcement agencies need to take a more proactive approach in investigating and prosecuting corruption. Finally the Commission believes

¹*Commission Staff Working Paper Croatia 2011 Progress Report*. Rep. no. SEC(2011) 1200 Final. European Commission, 12 Oct. 2011. Web. 15 Mar. 2012.

<http://ec.europa.eu/enlargement/pdf/key_documents/2011/package/hr_rapport_2011_en.pdf> p. 8

²*Commission Staff Working Paper Analytical Report*. Rep. no. SEC(2011) 1208. European Commission, 12 Oct. 2011. Web. 15 Mar. 2012.

<http://ec.europa.eu/enlargement/pdf/key_documents/2011/package/sr_analytical_rapport_2011_en.pdf> p. 22

that the Serbian judiciary needs to build up a better track record of final convictions, including high level cases.³

Bosnia and Herzegovina's (BiH), according to the Commission, is "still at the early stage in the fight against corruption."⁴ Corruption is still very prevalent in many areas and remains a serious threat throughout the private and public sectors. Though a legal framework is in place, corruption continues to negatively impact all spheres of life, economic development, and the rule of law.⁵ The third GRECO evaluation, launched in January 2007 and published in May 2011, highlighted a number of deficiencies in the legal framework to fight corruption. Specifically, there is a lack of harmonization of the four existing Criminal Codes in the country. The lack of consistency was noticeable with the criminalization of bribery and jurisdiction.⁶

Looking at independent sources, the actual picture of corruption in Croatia, Serbia, and Bosnia and Herzegovina is bleaker than what the Commission reports. According to a Gallup House Poll conducted in cooperation with the European Fund for the Balkans in 2010, 89% of Croatians believed that corruption is widespread in government and 93% believe that corruption is widespread in business in 2010.⁷ In both cases, this was an increase since 2006. In 2006, 77% of Croatians believe that corruption was widespread in government. In 2009, the percentage of respondents increased to 87% and then to 89% in 2010.⁸ For business perception in 2006, the

³Ibid. p. 22

⁴Commission Staff Working Paper *Bosnia and Herzegovina 2011 Progress Report* p. 14

⁵Ibid. p. 14

⁶*Third Evaluation Round Evaluation Report on Bosnia and Herzegovina Incriminations (ETS 173 and 191, GPC 2)*. Rep. no. Greco Eval III Rep (2010) 5E+ANNEX. Group of States Against Corruption (GRECO), 27 May 2011. Web. 15 Mar. 2012.

<[http://www.coe.int/t/dghl/monitoring/greco/evaluations/round3/GrecoEval3\(2010\)5_BiH_One_EN.pdf](http://www.coe.int/t/dghl/monitoring/greco/evaluations/round3/GrecoEval3(2010)5_BiH_One_EN.pdf)> p. 34

⁷*Gallup Balkan Monitor Insights and Perceptions: Voices of the Balkans 2010 Summary of Findings*. Rep. Gallup, Inc. Web. 15 Mar. 2012. http://www.balkan-monitor.eu/files/BalkanMonitor-2010_Summary_of_Findings.pdf p. 12

⁸Ibid. p. 35

percentage of Croatian respondents was 83%. The percentage increased to 92% in 2009 and then increased again to 93% in 2010.⁹

In Serbia, unlike in Croatia, the percentage of respondents saying corruption was widespread in government and business decreased from 2009 to 2010. In 2006, 71% of respondents believed that corruption was widespread in government and 82% believed it was widespread in business.¹⁰ In 2009 for government, the percentage increased to 84%, then decreased to 81% in 2010. For businesses in 2006, 82% of respondents believed corruption to be widespread. Following the corruption in government trend, the percentage of respondents increased in 2009 to 91% and then decreased to 88% in 2010.¹¹

Within Bosnia and Herzegovina there was a striking difference in the perception of government corruption between the two Bosnian entities: while in the Federation 93% of respondents were convinced that corruption was common at the governmental level, the corresponding figure for the Republika Srpska was 71% in 2010.¹² BiH follows the same trend as Serbia in terms of the perception of corruption in business. In 2006, the percentage of respondents was 86%. This increased to 90% in 2009 and then decreased to 87% in 2010.¹³

Chart 5.1 shows the Gallup results in terms of the percentage of respondents who believe corruption is widespread throughout government while Chart 5.2 shows the percentage of respondents who believe corruption is widespread within business. Overall, then, in every country about 85% of respondents agree that corruption is rampant in 2006-2010. This is an extremely high percentage.

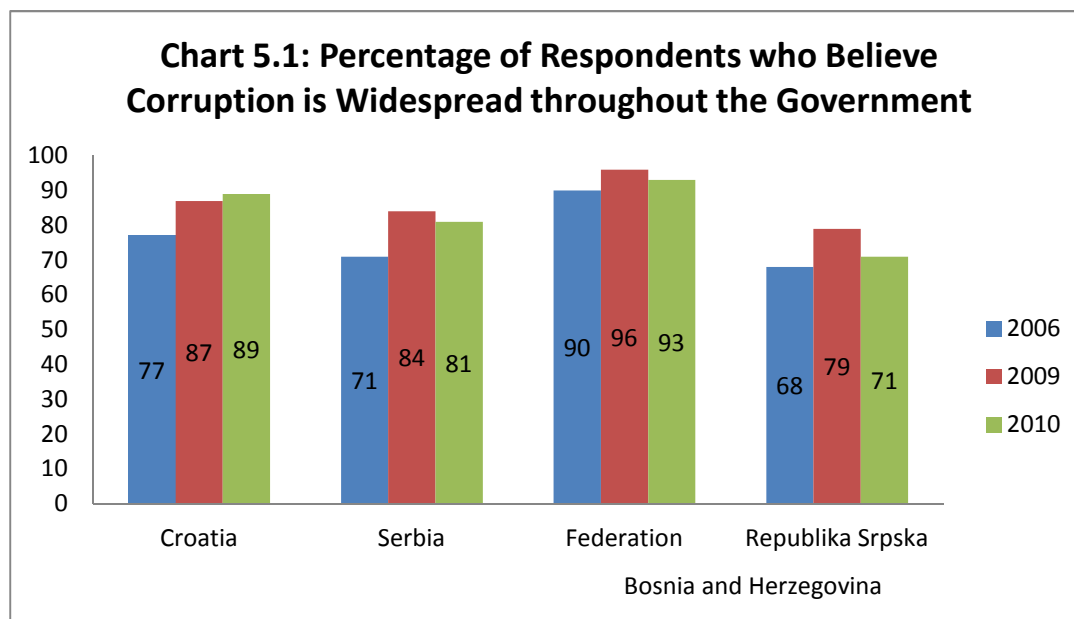
⁹Ibid. p. 35

¹⁰Ibid. p. 35

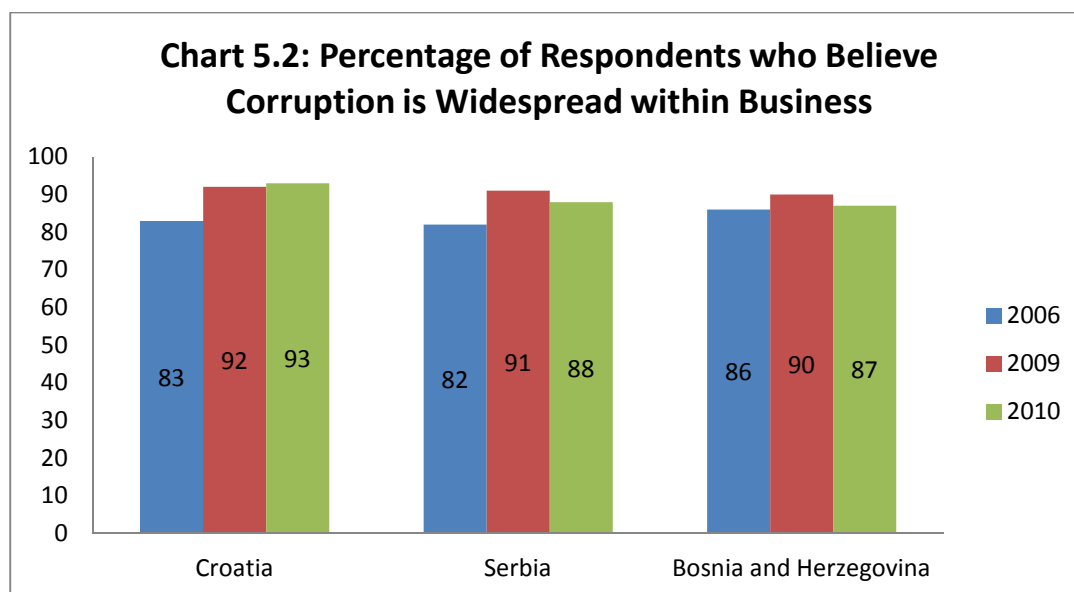
¹¹Ibid. p. 35

¹²Ibid. p. 35

¹³Ibid. p. 35



(Source: 2010 Gallup Balkan Monitor Insights and Perceptions Voices of the Balkans http://www.balkan-monitor.eu/files/BalkanMonitor-2010_Summary_of_Findings.pdf)



(Source: 2010 Gallup Balkan Monitor Insights and Perceptions Voices of the Balkans http://www.balkan-monitor.eu/files/BalkanMonitor-2010_Summary_of_Findings.pdf)

The perception of higher corruption is corroborated by a 2011 United Nations Office on Drugs and Crime (UNODC) report on corruption in the Western Balkans and its impact on people's everyday lives. Respondents were asked whether they perceive corruption as having

increased, remained stable, or decreased since 2007. 30% of Croatians perceive that corruption has increased, 55% perceive that corruption has remained the same, and 12% believe it has decreased.¹⁴ In Serbia, the percentages were 32%, 52%, and 12%.¹⁵ BiH had the highest percentage of respondents who believe that corruption has increased, 45%. 47% believe that corruption has remained the same and only 5% believe it has decreased.¹⁶

Transparency International published a Global Corruption Barometer report in 2010. The report is a survey that assesses the general public attitudes and experiences of corruption. The barometer asked the question, “To what extent do you perceive the following institutions in this country to be affected by corruption (1-not at all corrupt, 5 extremely corrupt)”.¹⁷ The institutions were the judiciary, media, business, parliament/legislature, and political parties.

Looking at these three charts below, we see that for all three countries, respondents believed that the judiciary is the most corrupt, followed by political parties, and the parliament. From year to year, the perception of corruption among the five institutions has remained relatively the same. Compared to 2007, the results for 2010 remained relatively the same. For Croatia in 2010, the judiciary scored the highest in corruption decreasing by 0.2 in 2007(4.3 in 2007 to 4.1 in 2010). Businesses received the next highest score, though the score decreased by 0.1 from 2007 (4 in 2007 to 3.9 in 2010).¹⁸ For Serbia, the perception of corruption in political parties increased by 0.2 (4 in 2007 to 4.2 in 2010) and the judiciary increased by 0.1 (3.8 in 2007 to 3.9 in 2010) between 2007 and 2010.¹⁹ For BiH, the perception of corruption in all institutions

¹⁴*Corruption in the Western Balkans*. Rep. United Nations Office on Drugs and Crime, 2011p. 44

¹⁵*Ibid.* p. 44

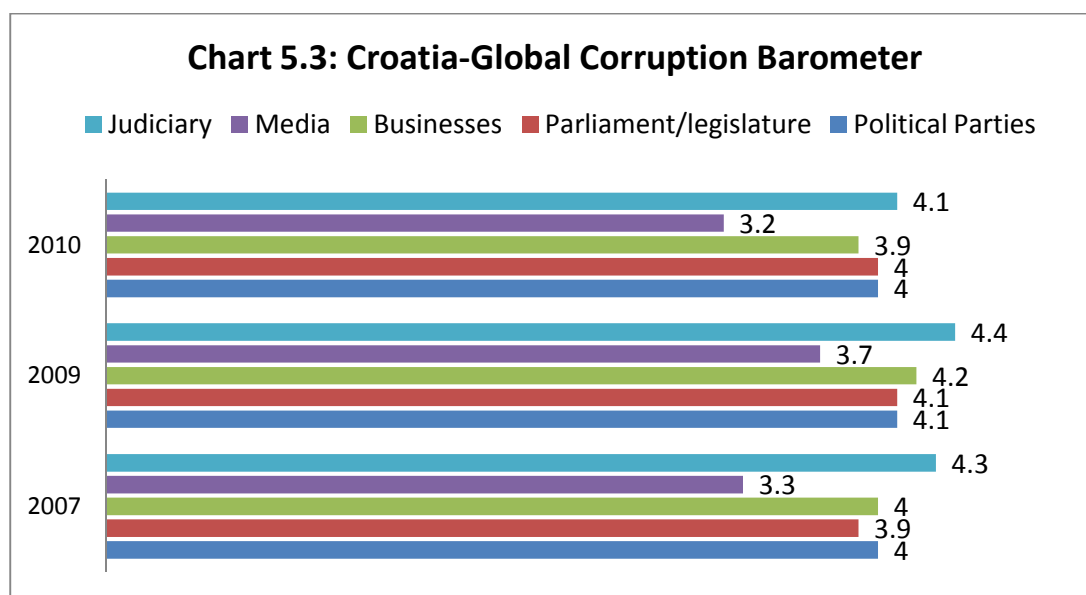
¹⁶*Ibid.* p. 44

¹⁷"Global Corruption Barometer 2010." *Transparency International*. Web. 15 Mar. 2012.
<http://archive.transparency.org/policy_research/surveys_indices/gcb/2010/results>

¹⁸*Transparency International 2009 Global Corruption Barometer*. Rep. Berlin, Germany: Transparency International, 2009 p. 31

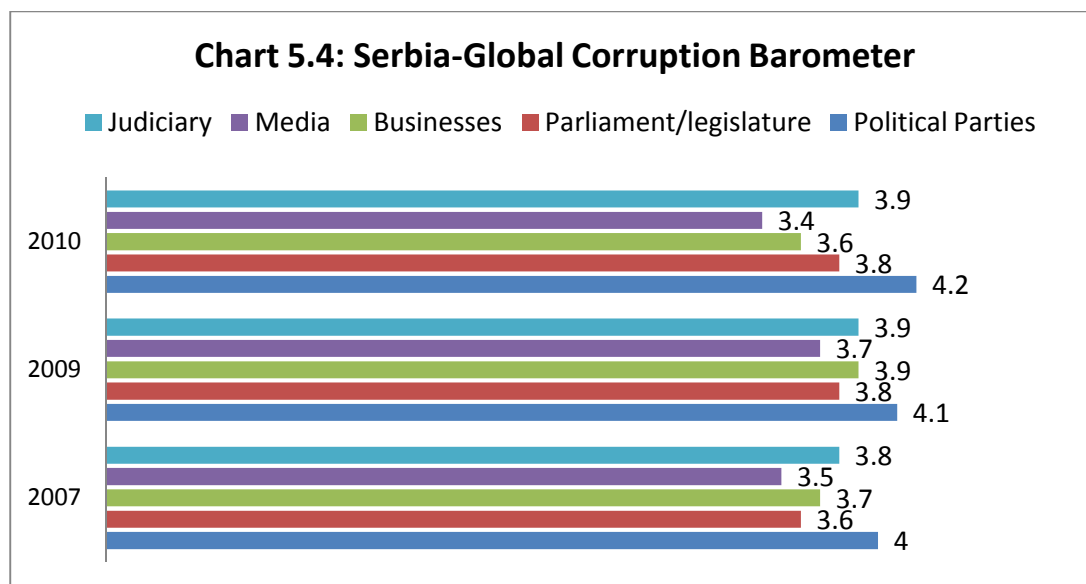
¹⁹*Ibid.* p. 31

decreased between 2007 and 2010. The judiciary decreased by 0.7 (4.2 in 2007 to 3.5 in 2010) while political parties decreased by 0.3 (4.4 in 2007 to 4.1 in 2010).²⁰



(Compiled from Transparency International: 2007 to 2010 Global Corruption Barometer <http://archive.transparency.org/policy_research/surveys_indices/gcb>)

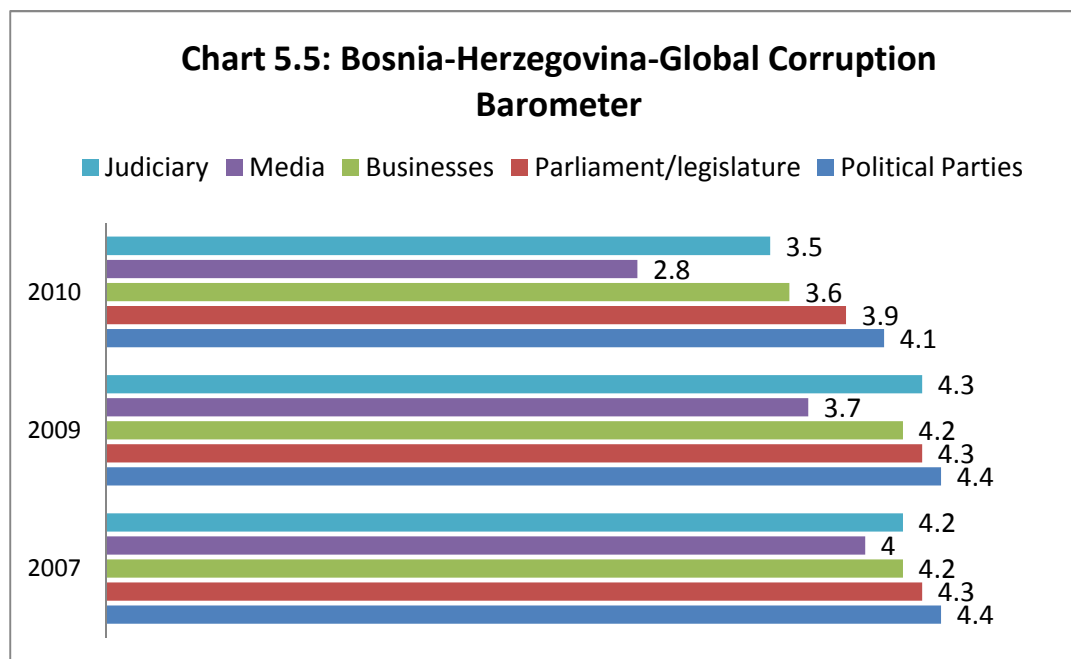
- a. Question asked "To what extent do you perceive the following institutions in this country to be affected by corruption"(1-not at all corrupt, 5 extremely corrupt)



(Compiled from Transparency International: 2007 to 2010 Global Corruption Barometer <http://archive.transparency.org/policy_research/surveys_indices/gcb>)

- a. Question asked "To what extent do you perceive the following institutions in this country to be affected by corruption"(1-not at all corrupt, 5 extremely corrupt)

²⁰Ibid. p. 31



(Compiled from Transparency International: 2007 to 2010 Global Corruption Barometer
<http://archive.transparency.org/policy_research/surveys_indices/gcb>)

- a. Question asked “To what extent do you perceive the following institutions in this country to be affected by corruption”(1-not at all corrupt, 5 extremely corrupt)

Further substantiating our claim that the EU’s policies have done little to stifle corruption, we will look at Transparency International’s Corruption Perception Index (CPI). The CPI ranks countries according to their perceived levels of public-sector corruption. For the 2011 report, data was calculated from seventeen sources from thirteen institutions, including the World Bank, Freedom House, and the Economist Intelligence Unit.²¹ The questions include bribery of public officials, kickbacks in public procurement, embezzlement of public funds, and the effectiveness of public-sector anti-corruption efforts. Countries are scored from 0-10, with a zero meaning highly corrupt and a ten meaning very clean.²² Included with the CPI score and

²¹Transparency International Short Methodological Note. Rep. Transparency International, 2011. Web. 15 Mar. 2012

²²Ibid.

rank are the number of sources and the confidence range for each country. The CPI 2011 evaluates 183 countries. Below are the results for the three case studies in the 2011 CPI.²³

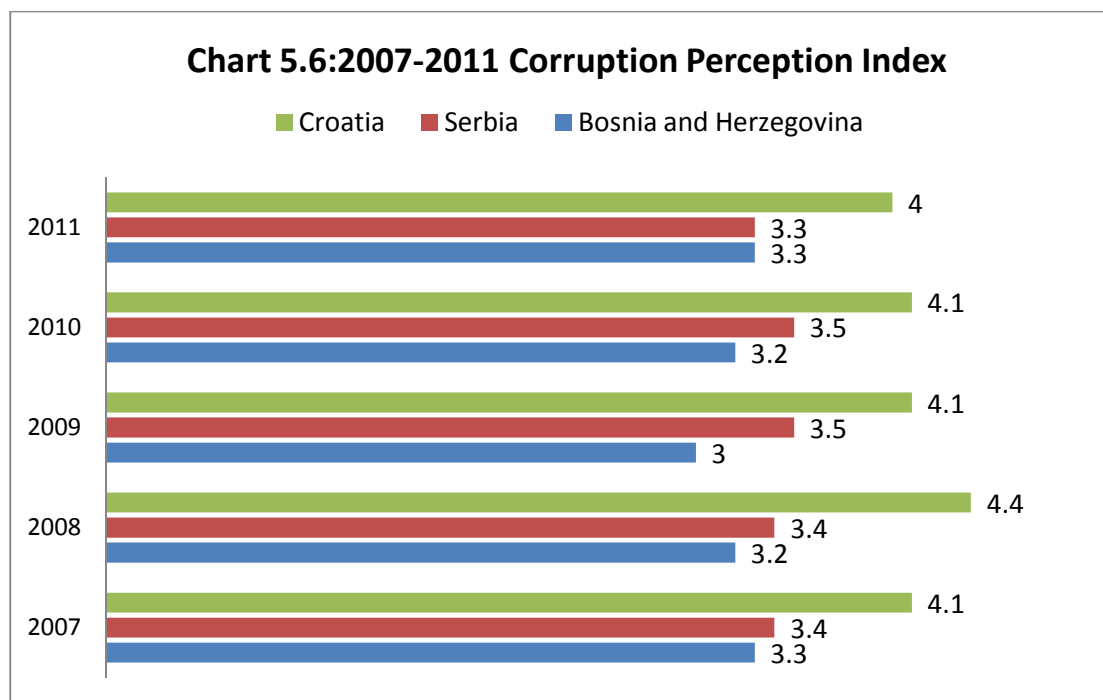
Table: 5.1: Corruption Perception Index 2011

Country	Score (1-10)	Rank (of 183 countries)	Sources	Confidence Range
Croatia	4	66	10	3.7-4.4
Serbia	3.3	86	7	3-3.6
Bosnia and Herzegovina	3.2	91	6	3-3.4

(Source: Transparency International-2011 Corruption Perception Index <<http://cpi.transparency.org/cpi2011/>>)

Looking at the previous CPI's since 2007, we see that the rankings have remained steady, although they have to be interpreted with caution because the number of countries changed.²⁴

Chart 5.3 is a summary of scores since 2007 (rankings not included).



(Compiled from Transparency International-2007 to 2011 Corruption Perception Index <<http://cpi.transparency.org/cpi2011/>>)

²³ *Corruption Perceptions Index 2011*. Rep. Transparency International, 2011. Web. 15 Mar. 2012 p. 4

²⁴ Corruption Perception Index 2007-2011

Protection of Minority Rights and Refugees

In dealing with minority rights and refugees, the Commission noted in its 2011 Progress Report that Croatia has made progress and that cooperation between political representatives of minorities and the government remains good.²⁵ Though financial funding for minority organizations decreased by 1.25 percent, conditions for the effective implementation of the constitutional act on the rights of national minorities have improved. The number of racist or xenophobic incidents has decreased and in terms of those incidents that do occur, the police and political response level has increased.²⁶ While the numbers of attacks on the Serb minority have decreased, they face difficulty in employment. In regards to dealing with the Roma, the Commission noted improvements in access to education and provision of adequate housing. However, Roma still face much discrimination in the areas of education, social protection, health, employment, and housing.²⁷ The Roma continue to face a problem regarding their residence and citizenship. Finally, the report remarked that Croatia has made good progress on refugee return. The Commission estimates that 132,872 refugees (mostly Serbian) have returned to Croatia, which is approximately half of those who fled the country up until 1995.²⁸ Croatia has its Action Plan on the Housing Care Programme for returning refugees and has met its 2009 target for building 2,070 homes.

Regarding Serbia, the Commission noted that the legal and policy framework for human rights and the protection of minorities is in line with European standards. Implementing the legislation needed to protect human rights does need to be stepped up though. In addition, while

²⁵*Commission Staff Working Paper Croatia 2011 Progress Report p. 12*

²⁶*Ibid. p. 12*

²⁷*Ibid. p. 12*

²⁸*Ibid. p. 13*

the Commission noted that human rights are generally respected in Serbia, the situation regarding refugees and internally displaced people remains a very high concern.²⁹

Finally, the Commission reported that in Bosnia and Herzegovina, Roma continue to face discrimination and harsh living conditions. Also, action plans on health and education need to be implemented better and access to pension rights, health care, and social protection for refugees needs to be improved.³⁰ Refugees continue to face difficulties with economic reintegration, access to health care, social protection, pensions, and employment.

Results from independent sources show a slightly less optimistic picture. In their January 2012 report, Human Rights Watch noted that Croatia's progress on human rights lagged behind its commitments. Despite the arrests of a high ranking fugitive, Goran Hadzic in July 2011, Croatia is still having difficulty in handling war crimes accountability. In 2011, the number of war crime trials conducted in absentia increased. Despite a plan by the Chief State Attorney to revise past convictions given in absentia, in the first eight months of 2011, twenty of the thirty-three active war crimes trials took place at least partially in absentia.³¹ In addition, war crimes trials continue to be held in regular district courts instead of four courts designed especially for war crimes trials. According to Amnesty International, there are 540 war crime cases in 2011 still at the pre-investigative stage, with an average of eighteen war crime cases being concluded each year.³² At this pace, most of those allegedly responsible will never face trial.

According to UNHCR estimates, there are 26,388 people that are of concern in Croatia as of December 2011. This number is broken down to represent 786 registered refugees, 807

²⁹*Commission Staff Working Paper Analytical Report* p. 23

³⁰*Commission Staff Working Paper Bosnia and Herzegovina 2011 Progress Report* p. 20

³¹"Croatia Country Summary." *Human Rights Watch*. Jan. 2012. Web. 15 Mar. 2012. <<http://www.hrw.org/world-report-2012/world-report-2012-croatia>>

³²Amnesty International. *New Croatian Government Must Deliver War Crimes Justice*. Amnesty International. 23 Dec. 2011. Web. 15 Mar. 2012. <<http://www.amnesty.org/en/for-media/press-releases/new-croatian-government-must-deliver-war-crimes-justice-2011-12-23>>

asylum seekers, 2,059 internally displaced people (IDPs), 1,720 stateless people, and 21,016 other persons of concern.³³ The number of returnees to Croatia from Bosnia and Herzegovina and Serbia/Montenegro has decreased every year since 1998. In 2011 there were 305 returns to Croatia, down from 538 in 2010.³⁴ In addition, the number of IDPs has decreased at a much smaller rate. Below is the number of IDPs since 2007.³⁵

Table 5.2: Internally Displaced Persons in Croatia (IDPs)

Year	Number of IDPs
2007	2,873
2008	2,497
2009	2,285
2010	2,128
2011	2,059

(Source UNHCR Representation in Republic of Croatia: <http://www.unhcr.hr/eng/images/stories/news/stats2012/unhcr_statistical_report_december_2011.pdf>)

According to Human Rights Watch, there have been ongoing delays for government-sponsored housing programs for returnees. Only 286 applications were approved from June 2010 to June 2011.³⁶ Also, as of the end of June 2011, 23,568 out of 24,901 pension requests for recognition of wartime work in formerly rebel-held areas, had been processed, with only fifty-seven percent of them being resolved positively. Human Rights Watch argues that this continues to compromise the financial security of returnees.³⁷

In Serbia, according to both Human Rights Watch and Amnesty International, little progress has been made on human rights issues. Roma continue to suffer from discrimination and attacks. For example in March 2011, a Roma boy was repeatedly beaten outside his high school. A similar incident occurred in May, when three individuals beat a young Roma adult in a

³³UNHCR Representation in Republic of Croatia. Rep. UNHCR, Dec. 2011. Web. 15 Mar. 2012.

<http://www.unhcr.hr/eng/images/stories/news/stats2012/unhcr_statistical_report_december_2011.pdf>

³⁴Ibid.

³⁵Ibid.

³⁶"Croatia Country Summary." *Human Rights Watch*

³⁷Ibid.

Belgrade bus.³⁸ Forced evictions of Romani people also continue across Belgrade. In April 2011, thirty eight Romani families were evicted from their informal settlement in Ćukarica municipality. The majority of them were sent back to Serbia where they came from.³⁹ In October 2011, thirty-six Roma, including seventeen children, were evicted from their homes in Belgrade. Five of the families were later relocated in containers, which did not meet international standards for adequate housing.⁴⁰

According to UNHCR, Serbia has about 73,608 refugees, one of the largest displaced populations in Europe. They have approximately 228,442 IDPs from Kosovo, of whom 97,000 still need assistance according to an IDP Needs Assessment Survey done by the Serbian Commissariat for Refugees and UNHCR in 2011.⁴¹ Also, the number of asylum seekers registered in Serbia rose dramatically, from 522 in 2010 to 2,134 in 2011.⁴² This rise is attributed to an influx of migrants through Greece, Turkey, and FYROM.

In their 2012 country summary, Human Rights Watch noted that BiH again failed to implement a 2009 European Court of Human Rights ruling (Sejdic and Finci vs. Bosnia and Herzegovina) ordering the country to amend its constitution to eliminate ethnic discrimination in the national tri-partite presidency and House of Peoples.⁴³ The court ruled that BiHs constitution violated the European Convention on Human Rights (ECHR) by discriminating against leading members of the Jewish and Roma communities in political life solely based on their ethnicity.

³⁸"World Report 2012: Serbia." *Human Rights Watch*. Jan. 2012. Web. 15 Mar. 2012. <<http://www.hrw.org/world-report-2012/serbia>>

³⁹"Serbia Annual Report 2011." *Amnesty International*. Web. 15 Mar. 2012. <<http://www.amnesty.org/en/region/serbia/report-2011>>

⁴⁰ Ibid.

⁴¹"2012 UNHCR Country Operations Profile-Serbia." *UNHCR*. Web. 15 Mar. 2012. <<http://www.unhcr.org/cgi-bin/txis/vtx/page?page=49e48d9f6>>

⁴² "World Report 2012: Serbia." *Human Rights Watch*

⁴³"Country Summary Bosnia and Herzegovina." *Human Rights Watch*. Jan. 2012. Web. 15 Mar. 2012. <http://www.hrw.org/sites/default/files/related_material/bosnia_2012.pdf>

On March 15, 2012, BiHs parliament missed a Council of Europe deadline to propose constitutional reforms to end ethnic discrimination in the constitution.⁴⁴

Although more Roma children were enrolled in primary and secondary education in 2011, they still attend school at lower rates than their peers and the ninety-nine percent unemployment rate for Roma in 2011 meant that those that completed school have little chance of finding work.⁴⁵ Also, at their seventy-seventh session in August 2010, the Committee on the Elimination of Racial Discrimination (CERD), expressed concern about the continued discrimination of Roma in access to adequate housing, health care, employment, social security, and education.⁴⁶

Finally, strategies to support returnees have done little to stop their declining numbers. According to UNHCR, only 146 refugees and 177 IDPs returned to their areas of origin in the first six months of 2011.⁴⁷ As of mid 2011, there were 113,365 registered IDPs.⁴⁸ The impediments for returnees according to UNHCR, are the same as in previous years: lack of economic opportunity, inadequate housing, and a reluctance to return to areas where residents would be an ethnic minority.

Democracy and Rule of Law as a Whole

Taking a broad view of the status of democracy and the rule of law in the Western Balkans, we see that little progress has been made and in some cases, the situation has gotten worse. Every year, Freedom House publishes its Nations in Transit Report. The most recent one

⁴⁴"Second Class Citizens." *Human Rights Watch*. 4 Apr. 2012. Web. 15 Mar. 2012. <<http://www.hrw.org/node/106194/section/3>> p. 3

⁴⁵"Country Summary Bosnia and Herzegovina." *Human Rights Watch*

⁴⁶*Report of the Committee on the Elimination of Racial Discrimination*. Rep. no. A/65/18. United Nations, 2010. Web. 15 Mar. 2012. <<http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G10/459/21/PDF/G1045921.pdf?OpenElement>> p. 25

⁴⁷"2012 UNHCR Country Operations Profile-Bosnia and Herzegovina." *UNHCR*. Web. 15 Mar. 2012. <<http://www.unhcr.org/cgi-bin/texis/vtx/page?page=49e48d766>>

⁴⁸*Ibid.*

was in 2011, which covering twenty-nine countries from Central Europe to Central Asia. Ratings are done in seven categories: national democratic process, electoral process, civil society, independent media, local democratic governance, judicial framework and independence, and corruption.⁴⁹ The scores are averaged and a final democracy score is given. The ratings are based on a scale of one to seven, with one representing the highest and seven the lowest level of democratic progress. The democracy score (one to seven), defined the following regime types: 1.00-2.99-consolidated democracy; 3.00-3.99-semi-consolidated democracy; 4.00-4.99-transitional or hybrid regimes; 5.00-5.99-semi-consolidated authoritarian regimes; and 6.00-7.00 consolidated authoritarian regimes.⁵⁰

From 2007 to 2011, both Croatia and Serbia were identified as semi-consolidated democracies while Bosnia and Herzegovina was identified as a transitional hybrid regime. A semi-consolidated democracy means that the country meets relatively high standards for the selection of national leaders but exhibits some weaknesses in their defense of political rights and civil liberties. A transitional or hybrid regime means that the country meets only minimum standards for the selection of national leaders. Democratic institutions are weak and extensive challenges to the protection of political rights and civil liberties exist. Also, the likelihood for a sustainable, liberal democracy is unclear.⁵¹ Below are the results from each country from 2007-2011:

⁴⁹*Nations in Transit 2011 Methodology*. Rep. Freedom House, 2011. Web. 15 Apr. 2012.
<http://www.freedomhouse.org/sites/default/files/inline_images/NIT-2011-Methodology.pdf> p. 11-12

⁵⁰Ibid. p. 21-25

⁵¹Ibid. p. 21-25

Table 5.3: Freedom House Nations in Transit 2007-2011 Croatia

	2007	2008	2009	2010	2011
Electoral Process	3.25	3.25	3.25	3.25	3.25
Civil Society	2.75	2.75	2.75	2.75	2.50
Independent Media	4.00	3.75	4.00	4.00	4.00
National Democratic Governance	3.50	3.25	3.50	3.50	3.50
Local democratic Governance	3.75	3.75	3.75	3.75	3.75
Judicial Framework and Independence	4.25	4.25	4.25	4.25	4.25
Corruption	4.75	4.50	4.50	4.50	4.25
Democracy Score	3.75	3.64	3.71	3.71	3.64

(Compiled from Freedom House- Nations in Transit 2007-2011-Croatia
<<http://www.freedomhouse.org/report-types/nations-transit>>)

Looking at these scores, we see that the democracy score for Croatia has remained relatively stable except in 2011 when it decreased a little bit. The corruption score decreased while electoral process and judicial framework and independence scores remained unchanged.⁵² The scores signify that the EUs policies have not done much to neither help nor hurt Croatia.

Table 5.4: Freedom House Nations in Transit 2007-2011 Serbia

	2007	2008	2009	2010	2011
Electoral Process	3.25	3.25	3.25	3.25	3.25
Civil Society	2.75	2.75	2.75	2.50	2.25
Independent Media	3.50	3.75	3.75	4.00	4.00
National Democratic Governance	3.75	4.00	4.00	3.75	3.75
Local democratic Governance	3.75	3.75	3.75	3.50	3.50
Judicial Framework and Independence	4.25	4.50	4.50	4.50	4.50
Corruption	4.50	4.50	4.50	4.50	4.25
Democracy Score	3.68	3.79	3.79	3.71	3.64

(Compiled from Freedom House- Nations in Transit 2007-2011-Serbia
<<http://www.freedomhouse.org/report-types/nations-transit>>)

Looking at these results for Serbia, we see the same results as Croatia. The corruption score decreased while electoral process and judicial framework and independence score remained

⁵²Peter Dorić. *Nations in Transit 2011 Croatia*. Rep. Freedom House, 2011. Web. 15 Mar. 2012 p. 163

unchanged. From 2010 to 2011, the national democratic governance score remained unchanged.⁵³

Table 5.5: Freedom House Nations in Transit 2007-2011 Bosnia and Herzegovina

	2007	2008	2009	2010	2011
Electoral Process	3.00	3.00	3.00	3.25	3.25
Civil Society	3.50	3.50	3.50	3.50	3.50
Independent Media	4.00	4.25	4.50	4.50	4.75
National Democratic Governance	4.75	5.00	5.00	5.25	5.25
Local democratic Governance	4.75	4.75	4.75	4.75	4.75
Judicial Framework and Independence	4.00	4.00	4.00	4.00	4.25
Corruption	4.25	4.25	4.50	4.50	4.50
Democracy Score	4.04	4.11	4.18	4.25	4.32

(Compiled from Freedom House- Nations in Transit 2007-2011-Bosnia and Herzegovina <<http://www.freedomhouse.org/report-types/nations-transit>>)

BiH received the worst scores, and its democracy score has increased each year since 2007.

BiH's received the highest score due to its lack of democratic governance and critical reforms.⁵⁴

According to the Economist Intelligence Unit's Democracy Index, Croatia is listed as a "flawed democracy" and defined as "countries that have free and fair elections, even if there are problems basic civil liberties will be respected."⁵⁵ However, there are significant weaknesses in other aspects of democracy, including problems in governance, an underdeveloped political culture and low levels of political participation.⁵⁶ The index is based on the ratings for sixty indicators grouped in five categories: electoral process and pluralism; civil liberties; the functioning of government; political participation; and political culture. Each category has a rating on a zero to ten scale, and the overall index of democracy is the simple average of the five category indexes.⁵⁷ The higher the number, the higher the democracy index.

⁵³Misha Savić. *Nations in Transit 2011 Serbia*. Rep. Freedom House, 2011. Web. 15 Mar. 2012 p. 481

⁵⁴Jasna Jelisić. *Nations in Transit 2011 Bosnia-Herzegovina*. Rep. Freedom House, 2011. Web. 15 Mar. 2012 p. 125

⁵⁵*Democracy Index 2011: Democracy under Stress*. Rep. Economist Intelligence Unit, 2011. Web. 15 Apr. 2012 p. 5

⁵⁶Ibid. p. 31

⁵⁷Ibid. p. 31

Croatia ranks 53 out of 167 countries, with an overall democracy index of 6.73. In the respective categories, Croatia scores the highest on the electoral process and the lowest in political culture.⁵⁸ Croatia has a 9.17 in electoral processes and pluralism; 5.71 in functioning of government; 5.56 in political participation; 5.00 in political culture; and an 8.24 in civil liberties. In comparison with the 2010 index, Croatia has the same rank (53) but a slightly lower score (6.81 in 2010 versus 6.73 in 2011).⁵⁹

Serbia is considered a flawed democracy with an index of 6.33 (ranked 64 out of 167). Breaking down the score, Serbia has a 9.17 in electoral process and pluralism; 4.64 in functioning of government; 6.11 in political participation; 4.38 in political culture; and 7.35 in civil liberties.⁶⁰ In comparison with 2010, Serbia's index has remained the same though it went down one in rank (65 in 2010 to 64 in 2011).⁶¹

Finally, Bosnia and Herzegovina is considered a hybrid regime, with an index rank score of 5.24 (ranked 95 out of 167). Breaking down the score, BiH has a 6.92 in electoral process and pluralism; 3.29 in functioning government; 3.33 in political participation; 5.00 in political culture; and 7.65 in civil liberties.⁶² Comparing the 2010 score with 2011, we see that in 2011, the index decreased (5.32 in 2010 to 5.24 in 2011).⁶³

In summary, the results of our findings show despite the financial assistance the EU has given towards the Western Balkans, these countries have a long way to go in improving democracy and the rule of law. Conditions have not worsened but they have not improved. They have been relatively constant. This is indicated by the numerous independent rankings, reports,

⁵⁸Ibid. p. 32

⁵⁹Ibid. p. 13

⁶⁰Ibid. p. 5

⁶¹Ibid. p. 13

⁶²Ibid. p. 6

⁶³Ibid. p. 13

and opinion polls we looked at. According to the Economist Intelligence Unit's Democracy Index, Croatia and Serbia are listed as a "flawed democracies" and Bosnia and Herzegovina is a "hybrid regime."⁶⁴ From the start of Instrument for Pre-Accession (IPA) funding in 2007, their rankings have remained relatively the same.

Regarding corruption, all three states still have major problems combating it. Though two states, Croatia and Serbia received lower scores in 2011 from Transparency International than they did in 2010, Bosnia and Herzegovina's score remained the same. Looking at the scores since the IPA was established they have remained relatively constant.⁶⁵ Opinion polls indicate that the general public believes that corruption is widespread in both government and business.

Regarding the protection of minority rights and refugees, we see that little has been done regarding the protection of the Roma in all three countries. Also, the programs that tried to support returnees and Internally Displaced People (IDPs) have done little to stop their declining numbers. The most troubling situation was in Bosnia and Herzegovina, where due to inflammatory rhetoric a government was not formed for over a year following their general elections in October 2010.⁶⁶

⁶⁴*Democracy Index 2011: Democracy under Stress* p. 5-6

⁶⁵*International Corruption Perceptions Index 2011-2007*. Transparency International

⁶⁶ "Breakthrough on Bosnian Impasse." *Balkan Insight*.

Chapter 6: Proposals for Strengthening Conditionality and Conclusion

In this chapter, I will conclude by providing some specific recommendations for improving EU conditionality. These are based on expert analysis and collected and summarized here.

Looking at the results, there are a number of ways the EU can better strengthen their conditionality towards the Western Balkans. First, the EU should stand firm on conditionality and only allow countries to become members if they are politically and technically ready. The EU currently refers to the need to only accept members when they are ready, in their Enlargement Strategy Reports. The most recent reference to rigorous conditionality was in the 2008-2009 Enlargement Strategy and Main Challenges. The report stated that “the EU should be ready to accelerate their pre-accession preparations, as soon as they meet the necessary conditions, and to ensure that the region continues to benefit from the highest level of political and economic treatment in line with the SAP.”¹ A more explicit reference to strong conditionality is found in the 2005 Enlargement Strategy. In it the Commission stated that:

The EU must remain rigorous in demanding fulfillment of its criteria, but fair in duly rewarding progress. Aspirant countries can only proceed from one stage of the process to the next once they have met the conditions for that stage. Moreover, the Commission is prepared to recommend the suspension of progress in case of a serious and persistent breach of the EU’s fundamental principles, or if a country fails to meet essential requirements at any stage. Such requirements include cooperating with the International Criminal Tribunal for the former Yugoslavia (ICTY).²

Though the EU claims to follow conditionality, they have used enlargement policy as a diplomatic tool. For example, in April 2008, the EU decided to sign a Stabilization and

¹*Communication from the Commission to the Council and European Parliament Enlargement Strategy and Main Challenges 2008-2009*. Rep. no. COM(2008) 674 Final. European Commission, 5 Nov. 2008. Web. 15 Mar. 2012. <http://ec.europa.eu/enlargement/pdf/press_corner/key-documents/reports_nov_2008/strategy_paper_incl_country_conclu_en.pdf> p. 8

²*Communication from the Commission 2005 Enlargement Strategy*. Rep. no. COM (2005) 561 Final. European Commission, 9 Sept. 2005. Web. 15 Mar. 2012. <<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2005:0561:FIN:EN:PDF>> p. 3

Association Agreement (SAA) with Serbia even though Serbia did not fulfill its obligation to cooperate with the International Criminal Tribunal for the former Yugoslavia (ICTY). The signing of the SAA was seen by many experts as an opportunity to influence the 2008 parliamentary elections to provide a boost for the pro EU parties, amid a polarized political climate in Serbia, and in the wake of the Kosovo declaration of independence and its recognition by a number of EU member states.³

In Bosnia and Herzegovina, while the EU called explicitly for the unification of the police forces as a prerequisite for signing a SAA, it weakened its conditionality when faced with a strong internal reaction from Bosnian Serbs that threatened to derail the whole association process. In the end, the agreement between the two was an accommodation between the different internal views in Bosnia and EU, and foresaw the setting-up of some state-level police coordination bodies without immediately affecting the autonomy of the two forces.⁴

The Balkan people and officials are confused by contradictory statements made by EU representatives and vague EU progress reports. For example, Reuter news agency reported in October 2008, that France and Germany were trying to block the European Commission from setting the date for the end of accession talks with Croatia not because the country did not fulfill its obligations, but because Germany and France wanted to wait until all twenty-seven members ratified the Lisbon Treaty.⁵ This occurred despite a pledge from Commission President Jose Manuel Barroso to Croatia's Prime Minister Ivo Sanader, to give Croatia a provisional accession schedule. Citizens of the Western Balkans expect the EU to act as a single body and are disappointed when European foreign policy is adjusted to the requirements of one

³ Othon Anastasakis. "The EU's Political Conditionality in the Western Balkans: Towards a More Pragmatic Approach" p. 374

⁴Ibid. p. 374

⁵"France, Germany 'Block' Croatia's EU Path." *Balkan Insight*. 23 Oct. 2008. Web. 15 Mar. 2012. <<http://www.balkaninsight.com/en/article/france-germany-block-croatia-s-eu-path>>

uncompromising state.⁶ When the EU hesitates on its commitments, it undermines the credibility and effectiveness of the EU's projects and instruments.

The EU must not make the same mistake in accepting members too early as they did in Bulgaria and Romania in 2007. In both cases, their accession was not of the result of an objective assessment of their compliance with EU conditionalities, but rather a reflection of wider security and political imperatives. For example, negotiations with Bulgaria were to some extent timed to provide the Irish Presidency of the Council with a "success" in case the negotiations on the Treaty establishing a Constitution for Europe could not be finalized on its watch.⁷ In addition, the entanglement of the Romanian and Bulgarian EU and North Atlantic Treaty Organization (NATO) with the rising crisis in Kosovo and the unresolved issue of Turkey's application produced a powerful incentive for the revision of the EU's enlargement strategy.⁸

The enlargement strategy should be based on political consensus from both the EU and the Western Balkans. A policy based on broad consensus adds credibility to the enlargement process. It helps moderate possible deterioration, such as political crises in some countries and helps prepare the population of the region for EU membership.⁹ In addition to coherence, conditionality should be based on country tailored strategies, ensuring that accession does not move at the pace of the slowest candidate. Lowering standards in order to increase the pace of progress gives the impression that making progress on the accession track is more important to EU officials than it is to accession countries.

⁶Odile Perrot, "Multiple Bilateral Issues: Obstacles to the Thessaloniki Agenda." *Accession of the Western Balkans to the EU: Evaluating a Process* (2010): 14-17. p. 15

⁷David Phinnemore. "From Negotiations to Accession: Lessons from the 2007 Enlargement." *Perspectives on European Politics and Society* 10.2 (2009): 240-52. p. 243

⁸Othon Anastasakis. "The EU's Political Conditionality in the Western Balkans: Towards a More Pragmatic Approach." p. 161

⁹Eduard Kukan. "Is the EU Strategy the Most Adapted Strategy to the Balkan Region?" *Accession of the Western Balkans to the EU: Evaluating a Process* (2010): 36-38. p. 37

The EU should use its screening reports to clearly communicate to the government and civil society actors in both member and applicant countries, where the enlargement process of a particular country stands, how far it has to go, and what benefits it can expect on the way. Clear to-do lists and comprehensive lists of priorities with guiding principles for implementation will help countries aspiring for EU membership to respond better to the EU's demands and make it easier for civil society to hold their governments accountable.¹⁰ The EU should also include a date when it believes a candidate country would be ready to join the EU. The date should be used as a purely preliminary reference point. The report should read "based on the current assessment, we expect a country to be ready for membership in 2015." The EU should revise this given year with each progress report, moving it up or back if necessary.¹¹

The Western Balkan population generally still supports the EU's enlargement efforts. In Bosnia and Herzegovina, according to the 2010 Gallup Balkan Monitor, 69% think that acceding to the EU would be a good thing for the country. That figure rose dramatically from 2008, when 48% responded that EU accession was good for their country.¹² In both Croatia and Serbia, support for the EU in 2010 decreased with 25% of Croatians and 44% of Serbians believing that EU accession would be a good thing compared to 26% of Croatians and 50% of Serbians in 2009.¹³

The EU needs to better inform and motivate citizens of the Western Balkans in the accession process. To accomplish this, the EU needs to include and build up civil societies. Civil society funding needs to be more independent from government and become mutual partners. Currently,

¹⁰Cornelius Adebahr, and Almut Möller. "Chapter IV: Recommendations for Strengthening the Union's Neighborhood Policies." Ed. Almut Möller. *DGAP Analyse Crossing Borders Rethinking the European Union's Neighborhood Policies 2* (2011): 77-84. p. 81

¹¹ Ibid. p. 81

¹²*Gallup Balkan Monitor Insights and Perceptions: Voices of the Balkans 2010 Summary of Findings*. p.21

¹³Ibid. p. 22

all IPA funding goes through the national governments. A more independent civil society would make them follow their own agenda and their watchdog role could be strengthened.

In addition, many people involved in the public sector fear losing their jobs when the EU requires countries to streamline institutions and improve efficiency, and thus do not feel an urgency in supporting or helping implement reforms. Increasing transparency about the process of enlargement would clarify what new capacities a country must develop, and could reassure public sector employees that their support for reforms will benefit them directly.¹⁴ Leaders of the opposition political parties would also be interested to know how EU accession conditions might help break political machines and reopen electoral competition.

In this thesis I set out to see if the European Union's enlargement model had a positive effect in helping build up democracy and the rule of law in the Western Balkans. I focused on the Component I of Instrument for Pre-Accession Assistance (IPA), which is used to strengthen domestic institutions and the rule of law. Within the first component, I looked at the justice and home affairs sector within that I assessed whether the measures to address corruption and minority rights and refugees have been effective. The three Western Balkan states that were chosen were Croatia, Serbia and Bosnia and Herzegovina. They were chosen because each represented a different stage of accession; they share a geographical footprint, and many historical experiences.

The results indicate that despite the financial assistance the EU has given towards the Western Balkans, the countries have a long way to go to improving democracy and the rule of law. Conditions have not worsened but they have not improved. They have been relatively

¹⁴*Policy Brief from Meeting V: Reinforcing EU Conditionality*. Issue brief. Woodrow Wilson International Center for Scholars, 2011 p. 3

constant. However, hope is not lost for the EU's policy in the Balkans. If the EU strengthens and clarifies its conditionality and only accepts members when they are politically and technically ready to become EU member states, it will show that the EU is truly committed to enlargement, and the future of the EU and the Western Balkans will look bright.

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