



Money, power, glory: the linkages between EU conditionality and state capture in the Western Balkans

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ABSTRACT

The Western Balkan countries are stuck in a hybrid status quo on their way to democracy. Traditional arguments related to cost–benefit calculations, national identity or conflicting objectives fail to explain the observed decoupling between gradual improvements in formal compliance with membership criteria and stagnating, if not declining, democratic performance. We explain the limited impact of the EU's political conditionality in the Western Balkans with rampant state capture and proceed to unpack how EU conditionality has effectively contributed to the consolidation of such detrimental governance patterns. First, EU pressure for simultaneous economic and political reforms opened opportunities for business actors to build powerful clientelist networks that reach into politics. Second, top-down conditionality has weakened political competition and mechanisms of internal accountability and deliberation. Finally, formal progress towards membership and high-level interactions with EU and member state officials legitimize corrupt elites. A congruence analysis of the Serbian case provides empirical evidence for the hypothesised linkages between EU conditionality and state capture.


KEYWORDS Conditionality; democracy promotion; EU enlargement; informal politics; state capture; Western Balkans

Introduction

Political conditionality is the major instrument through which the European Union (EU) has sought to foster democratic reforms in the Western Balkans. The strict application of ‘carrots and sticks’ with the membership perspective at its core yielded major steps forwards, confirmed not least by Croatia’s accession to the EU in July 2013. Still, the EU has not been able to reproduce its success story from the Central and Eastern European (CEE) enlargement in the Western Balkans. Governance effectiveness has increased under the

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influence of EU conditionality, but the level of democracy in the region is stagnating at best (see also Börzel and Schimmelfennig 2017). Although the Western Balkan countries display partial compliance with membership requirements, profound political reform remains elusive, making it unlikely any of them will be able to fully meet accession requirements in the near future (Böhmelt and Freyburg 2018). Instead, we observe an effective decoupling between formal advancement towards EU membership and a lack of progress in democratisation, which casts a shadow over the EU's transformative power. Our article addresses this theoretical and empirical puzzle by asking: *how can we explain the decoupling between formal compliance and democratic transformation in the Western Balkans?*

Prominent explanations of the limited effects of accession conditionality that centre on cost-benefit calculations (Schimmelfennig and Sedelmeier 2004), national identity (Freyburg and Richter 2010) or conflicting objectives (Richter 2012; Töglhofer and Wunsch 2011) cannot fully account for the EU's struggle to forge long-term democratisation in the Western Balkans. A limited body of work acknowledges so-called 'pathological effects' of Europeanisation, especially in the rule of law area (Börzel and Pamuk 2012; Mendelski 2016; Mungiu-Pippidi 2007, 2014). However, existing studies tend to focus on specific empirical findings and fall short of offering an overarching approach to studying such detrimental EU effects.

Our article puts forward a comprehensive theoretical argument that systematically factors informal domestic politics into the analysis of potential (unintended) negative effects of conditionality. Bringing together the study of EU external governance and approaches from comparative politics, we identify state capture as a key explanatory factor for the observed decoupling between formal compliance and democratic performance in the Western Balkans. The term 'state capture' refers to processes whereby state institutions and intermediary actors, such as political parties or parliaments, become hijacked or infiltrated by clientelist networks who lend their informal ways of decision making, including corrupt practices, a formal mantle (see Richter 2017). Captured institutions have been recognised as a major impediment to democratic consolidation in the CEE region (Innes 2014).

Our analysis goes a step further: we claim that EU conditionality is not only unable to effectively counter state capture, but that it has involuntarily entrenched informal networks in the Western Balkans and enabled them to strengthen their grip on power. It is important to underline that we do not suggest that EU conditionality caused state capture in the first place. State capture is a multi-causal process that tends to emerge across a range of transition contexts (Grzymala-Busse 2008). In consequence, we do not make any counterfactual claim that state capture would not have occurred in the absence of EU conditionality, nor do we claim to isolate the effect of EU conditionality in comparison to other factors driving state capture. Instead, our

argument focuses on showing that EU conditionality has not only triggered positive developments in the Western Balkans, even where it is applied in a correct manner. We maintain that in the specific context of post-conflict democratic transition prevalent in the region, where the challenge of simultaneous economic and political transition observed in the broader Post-Communist region is compounded by ongoing processes of state-building and tense regional relations, conditionality has effectively enabled the consolidation of pathological political developments.

We identify three distinct linkages connecting EU conditionality to the consolidation of state capture. First, pressure for the liberalisation of markets in the absence of a comprehensive legal framework allowed a small economic elite to realise private gains and build powerful networks that influence political decision-making (*money*). Second, strong top-down conditionality stifles domestic deliberation and weakens internal mechanisms of accountability, allowing ruling elites to silence domestic opponents (*power*). Finally, progress towards EU membership and frequent interactions with high-ranking EU and member state officials serve to legitimize ruling elites (*glory*). As a result, the countries of the Western Balkans are stuck in a 'state capture trap' that leads to stagnating democratisation and the inability to implement deep reforms.

Our article makes three main contributions to the debate. First, we offer a theoretical model that explains the multiple effects of conditionality in transition contexts, including its harmful influence on domestic politics. In doing so, we provide a conceptual underpinning to the debate on 'pathological effects' of conditionality (Börzel and Pamuk 2012; Mendelski 2016). Second, by highlighting the importance of informal politics in candidate countries, we add an important dimension to the recognised temporal limitations of conditionality (Böhmelt and Freyburg 2013; Steunenberg and Dimitrova 2007) and feed into the literature on the importance of domestic politics as an intermediary of EU pressures (Dimitrova 2010; Mungiu-Pippidi 2010). Finally, we provide an explanation for our empirical puzzle by showing how EU conditionality strengthened state capture even as it triggered compliance with formal membership requirements. Our findings contribute to the debate on the limits of the EU's transformative power in the Western Balkans and speak to research on the effectiveness and functioning of external democracy promotion more broadly.

We begin with an empirical demonstration of the puzzle that underpins our theoretical argument, contrasting the evolution of compliance levels with EU membership criteria and democratic performance in the Western Balkans. The following section outlines our theoretical argument regarding the linkages between EU conditionality and state capture and contrasts it with existing approaches. We proceed to describe our research design and justify our case selection. We then illustrate the plausibility of our theoretical argument

through a congruence analysis in the case of Serbia and demonstrate its broader applicability by highlighting the prevalence of state capture across the region and providing further evidence from individual countries. The conclusion highlights the broader implications of our findings in both theoretical and practical terms.

Decoupling of compliance and democracy levels in the Western Balkans

The lower responsiveness of the Western Balkan candidate countries to EU accession conditionality is a long-standing concern among EU enlargement scholars (Elbasani and Šelo Šabić 2017; Grabbe 2014; Noutcheva 2012). Drawing on fresh empirical evidence, we contend that the root of the problem lies not, in fact, in a sluggish reform pace and a higher degree of domestic resistance to the sweeping adjustments required throughout the EU accession process. Based on an update of compliance data collected through a detailed analysis of the European Commission's country reports (Böhmelt and Freyburg 2018), we show that contrary to common perception, the Western Balkan candidates overall are making gradual progress in their fulfilment of membership conditions.¹ Improved levels of formal compliance, however, do not translate into positive developments with regards to democratic performance, which is instead in decline at the regional level. Figure 1 illustrates the effective decoupling of compliance and democracy levels in the

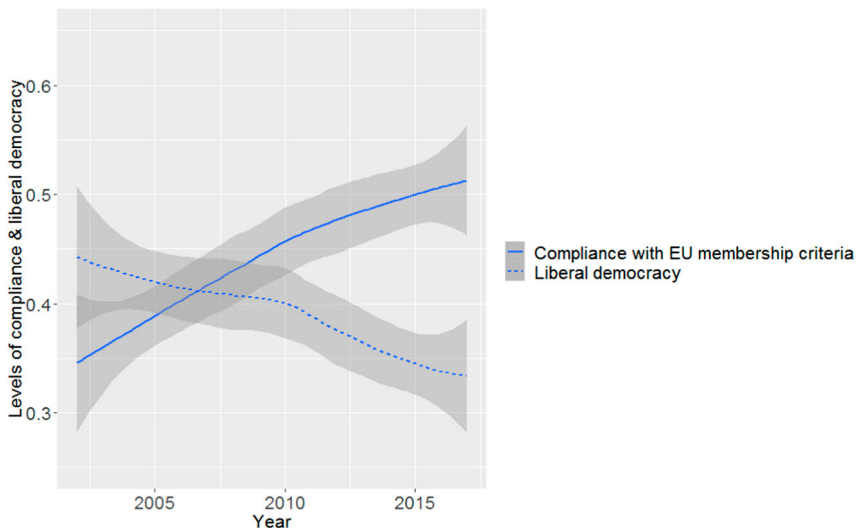


Figure 1. Decoupling of compliance and democracy levels in the Western Balkans. Source: authors' compilation based on Böhmelt and Freyburg 2018 and own coding for compliance data and the V-Dem liberal democracy index.²

Western Balkans that forms the central puzzle around which we articulate our theoretical argument.

We submit that the effective decoupling between the levels of formal compliance and liberal democracy in the region is due to widespread state capture, which has been recognised as a key challenge in the Western Balkans (Keil 2018). Most recently, the EU has picked up on state capture as a major impediment to deep reforms in the Western Balkans (European Commission 2018a: 3), and is seeking to counter such tendencies by engaging more actively in monitoring state capture across the region.³ So far however, we argue that EU conditionality has unintentionally contributed to consolidating, rather than disabling, patterns of state capture in the enlargement region. We develop this argument further in the following theoretical section, which addresses competing explanations and then outlines our own alternative model.

Theoretical argument: explaining the adverse impact of EU conditionality

The dominant external incentives models explains the underlying logic of political conditionality as one of top-down incentives, whereby candidate countries have to fulfil certain criteria and are rewarded for compliance (Schimmelfennig and Sedelmeier 2004). It singles out three key conditions for the effectiveness of conditionality: a credible membership perspective, the consistent application of conditionality, and an acceptable level of domestic costs incurred for compliance with accession requirements. Candidate state governments are the EU's primary interlocutor and mostly treated as a unitary actor. Despite several studies demonstrating how EU conditionality might empower certain local actors differentially by providing them with legitimacy, resources and bargaining power (Dimitrova and Buzogany 2014; Vachudova 2005; Wunsch 2016), domestic politics generally figure in accounts of compliance only in terms of adaptation costs.

The external incentives model was initially formulated in the context of the CEE accession negotiations and its continued relevance in the Western Balkans region has been subject to debate (Epstein and Sedelmeier 2008; Schimmelfennig 2008). For one, its proponents have repeatedly acknowledged the lower effectiveness of democratic conditionality in comparison to more technical accession requirements (Dimitrova and Pridham 2004; Schimmelfennig and Sedelmeier 2004). Furthermore, the credibility of conditionality has been shown to differ over time, increasing as membership approaches, but dropping sharply once an accession date has been set (Böhmelt and Freyburg 2013; Steunenberg and Dimitrova 2007). These limitations have resulted in two extensions of the initial external incentives model. One highlights how the perceived legitimacy of membership requirements by

the target country supersedes purely rationalist cost–benefit calculations where core issues of national identity and sovereignty are concerned, resulting in partial or imposed compliance for specific contested accession conditions (Freyburg and Richter 2010; Noutcheva 2009). Another suggests that the EU's simultaneous attempts to stabilise and integrate the Western Balkans has led to an inconsistent application of conditionality that has thwarted its effectiveness, resulting in lower overall degrees of compliance (Richter 2012; Töglhofer and Wunsch 2011). A recent discussion of the enduring effectiveness of EU enlargement as a driver of domestic change in the Western Balkans highlighted that the 'accession process is moving much more slowly and the feedback loop between accession prospects, domestic reforms and economic improvements is not functioning positively' (Grabbe 2014: 41). However, neither the original external incentives model nor its extensions offer a convincing explanation for the observed generalised decoupling of compliance and democracy levels in the Western Balkans.

What we do find in the existing literature are suggestions that EU enlargement policy is producing 'pathological effects' in third countries. Jacoby has pointed to 'Potemkin-village organizational structures' (Jacoby 1999: 3), whereby elites adapt their behaviour in short-term as a façade to hide deep-rooted informal practices of decision making. Regional experts have expressed doubt on the enduring positive effect of the EU accession process in Post-Communist countries (Mungiu-Pippidi 2007, 2010). Finally, specific detrimental effects of EU conditionality were shown to result from the selective implementation of anti-corruption policies in the South Caucasus (Börzel and Pamuk 2012) and a deficient approach to rule of law promotion in Romania (Mendelski 2016). Still, these studies remain largely empirically driven and fall short of providing a broader explanatory framework.

Our proposed explanation for the adverse effects of EU conditionality places domestic politics at its core. Domestic actors – be they political parties, elites or interest groups – are part of a continuous struggle over political decision-making power and influence in the country, both in formal and informal institutions. We contend that compliance with political conditionality depends not only on adaptation costs for the government or the level of appropriateness of criteria in specific policy issues, but rests crucially on patterns of (informal) power politics. To fully grasp the EU's impact on the domestic level, we therefore need to look more systematically at how conditionality affects such informal politics. It is here that linkages between EU conditionality and state capture come into play.

The concept of state capture originated from the work of the European Bank for Reconstruction and Development and the World Bank on transition economies in Eastern Europe to describe a particularly destructive form of structurally entrenched corruption (Rijkers et al. 2014). Where informal ways of decision-making, previously important to ensure continuity and stability,

fail to become smoothly integrated into formal, democratic processes, there is a high risk of state capture (Grzymala-Busse 2008). Once the legislature, administration and judiciary are fully subordinated to private interests, the state is neither able to effectively fight corruption nor to act as the legitimate representative of the citizens (Pech 2009). This results in the selective application of rules, resource allocation based on private rather than public interests, and biased decision-making processes. Eventually, such processes lead states into a state capture trap, a stagnating status quo during which governance structured are unable to reform and highly resilient to any change.

In the Western Balkans, we submit that state capture emerged in a highly volatile context of simultaneous democratisation and market liberalisation coupled with post-conflict state-building, which offered multiple opportunities for illicit economic activity and the creation of informal networks. Unlike in CEE, where certain crucial political reforms were adopted prior to the onset of EU conditionality (Bodnar 2010), a conditional membership perspective was offered to the Western Balkans immediately upon their transition from authoritarian rule in 2000. Following the early conflation of democratisation and Europeanisation processes, we argue that state capture became further entrenched and consolidated due to the workings of EU conditionality. Whereas previous studies suggest that new rules adopted under the pressure of conditionality remain 'empty shells' (Dimitrova 2010) or 'Potemkin villages' (Kmezić 2014; Mikulova 2014), we suggest instead that new institutions have been captured by existing clientelist networks, thus becoming a mantle for informal practices. We contend that the EU accession process further consolidated this process by unintentionally providing informal networks with opportunities for corruption and by boosting their authority and legitimacy. We identify three distinct linkages between conditionality and state capture, which we label *money*, *power*, and *glory*. Although intertwined, these three mechanisms account for different dimensions in the state capture model, as illustrated by Figure 2.

Money

Market liberalisation lies at the core of both the SAP and the EU accession process. Yet whereas deregulation, privatisation and the introduction of the European single market occurred gradually in Western European countries, the Western Balkans faced a particularly challenging 'dilemma of simultaneity' (Offe 1991). They were required not only to tackle the parallel implementation of political and market reforms, but in addition to undertake comprehensive state-building processes that further enhanced the new political systems' vulnerability to state capture. The absence of well-developed regulatory frameworks enabled a small elite of economic actors to secure considerable private monetary gains, build up strong clientelist networks and systematically increase their influence on politics. By pushing for liberalisation and

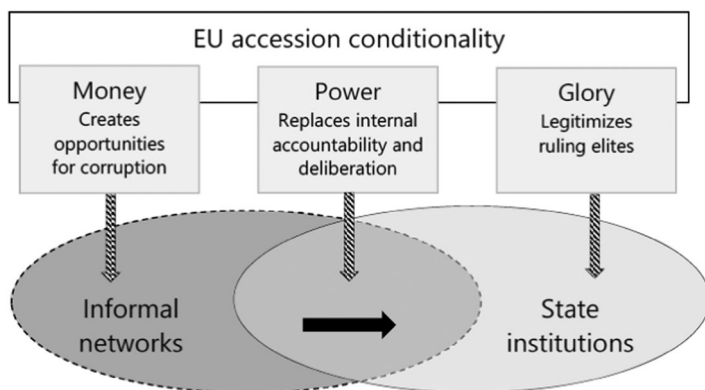


Figure 2. EU conditionality and the state capture model. Source: authors' compilation.

privatisation at an early stage of political transition and in a fragile post-conflict context, the EU – jointly with international financial institutions such as the International Monetary Fund – inadvertently facilitated the emergence of informal networks with political clout.

Power

EU membership tends to become an overriding priority for domestic policy-making in candidate countries and offers an important boost to domestic actors supporting a liberal-democratic agenda. Yet, strong top-down EU conditionality also reduces the space for political competition and domestic deliberation and empowers executive actors to impose their preferences by referring to external constraints (Grabbe 2001; Grzymala-Busse and Innes 2003). By overloading the political agenda with strict deadlines and detailed criteria, EU conditionality enables dominant parties to justify the absence of internal mechanisms of accountability. Such dominant parties then proceed to shape the laws and rules, including those on party financing and conflict of interests, often legalising the exploitation of the state (Fazekas and Tóth 2016). The resulting dominance of party over public interests undermines the effective functioning of democratic processes.

Glory

Captured states operate as hybrid regimes that exhibit a high level of political stability, but a low level of legitimacy. At the same time, the EU's interest in stability in the Western Balkans has led it to knowingly pursue negotiations with governments that have been infiltrated by clientelist networks (Bieber 2018). Given the high salience of EU membership in public opinion, any formal progress towards accession as well as high-level interactions with EU or member state officials can be construed by government representatives

as endorsements of their actions towards the local population. The EU's focus on formal and legal compliance moreover facilitates strategies of 'window dressing' (Ridder and Kochenov 2011). This allows local elites to bolster their legitimacy despite low levels of accountability and transparency, while simultaneously undermining critical domestic voices.

Research design and methods

We use a two-stage congruence analysis to assess the plausibility of our proposed state capture model. Congruence analysis serves to 'provide empirical evidence for the explanatory relevance or relative strength of one theoretical approach in comparison to other theoretical approaches' (Blatter and Haverland 2012: 144). This focus on arbitrating between rival theories is what distinguishes congruence analysis from causal process tracing, where the main interest lies in accounting for the temporal sequence of events producing a specific outcome in a given case (Blatter and Blume 2008: 334). Instead, congruence analysis strives to link empirical observations back to more abstract theoretical concepts to assess their relative explanatory power. The objective is therefore not statistical generalisation towards a wider universe of cases, but analytic generalisation towards a broader theory (Yin 2009: 43).

In a first stage, we assess the concrete functioning of our proposed state capture model by applying it to the observed pattern of decoupling in Serbia. Case selection for congruence analysis strives not for variation among or within cases, but is instead theory-driven, with the general advice to select a crucial case that is expected to conform to the dominant theory (Blatter and Blume 2008: 346). We argue that an examination of decoupling in Serbia is doubly relevant as a case study. In theoretical terms, Serbia is a most likely case for the external incentives model given the country's prominence in the region and its continuous engagement with the EU, and has been previously used to argue for the model's continued relevance following the completion of the CEE enlargement (Schimmelfennig 2008). Yet along with Macedonia and Montenegro⁴, Serbia also presents the most obvious pattern of decoupling, thus contradicting the assumptions of the external incentives model that predicts gradual progress with regards to both formal compliance and democratic transformation. In practical terms, Serbia is a frontrunner among the current accession candidates and, as the largest state in the Western Balkans, key to the region's stability. Explaining the failure of conditionality to foster long-term democratisation in this context can therefore also yield relevant policy insights when it comes to reformulating the EU's approach to democracy promotion in its neighbourhood. Our empirical analysis is based on primary sources in the form of 18 semi-structured interviews⁵ conducted principally face-to-face between April 2017 and May 2018 with

Serbian and EU actors as well as secondary literature from international organisations, local media, and civil society groups.

In a second stage, we extend our analysis to the regional level. By establishing the prevalence of state capture across the Western Balkans region and by pinpointing the presence of our hypothesised mechanisms in certain individual countries, we demonstrate the broader generalisability of our argument to the Western Balkans and, more cautiously, to the broader Eastern European region.

Conditionality and state capture in Serbia

The emergence of state capture patterns is well documented during Serbia's early transition process (Pešić 2007). Ruling political parties act as main agents of state capture, with the regular replacement of civil servants following government turnover resulting in a highly politicised state administration (Djolai and Stratulat 2017). Indicating the extent of party-based clientelist structures, membership in the ruling Serbian Progressive Party (SNS) amounts to 700'000 persons or ten per cent of the overall population, despite surveys regularly showing that only ten per cent of the electorate trust political parties in general.⁶ Furthermore, state resources to the non-governmental sector are generally distributed to organisations close to the party in power, including blatant cases in which these were created only months before the opening of a call for proposals.⁷

The European Commission is well aware of the widespread presence of state capture across the region.⁸ The term was first introduced in the annual report on Macedonia in 2016 and local EU Delegation staff from all Western Balkans countries received a dedicated training in October 2017 on how to recognise and measure state capture.⁹ Yet, our proposed model contends that conditionality effectively contributes to state capture by strengthening clientelist networks and allowing them to consolidate their grip on power. In the following, we provide empirical evidence that the identified mechanisms – money, power, and glory – are important contributing factors to the consolidation of state capture. Our intention is not to trace the entire process of Serbian transition, but rather to establish the empirical plausibility of our theoretical argument.

Money

The money mechanism presumes that pressures for a parallel implementation of political reforms and market liberalisation under the EU accession framework created opportunities for business elites not only to make often questionable privatisation gains, but also to wage political influence via informal networks and political party financing. Privatisation was a key priority already under the SAP (European Commission 2005), with EU officials

emphasising the importance of a swift privatisation of large state-owned companies to avoid further strains on public finances (Priebe 2004). However, the absence of a consolidated legal framework and sufficient judiciary and police capacities facilitated large-scale privatisation corruption and ‘close tie[s] between tycoons and state bodies’ (Barać quoted in Jovanović 2011). Transparency International’s latest report on the region highlights political parties as the ‘least transparent players’ with breaches of electoral and campaign laws allowing ‘those with money [to] influence elections’ (Transparency International 2016). Whereas local sources argued that strict regulations make it hard for politicians in power to directly abuse EU money¹⁰, the prevalence of clientelism suggests that external funding serves as a displacement, freeing up local sources to nurture informal networks. In sum, while EU conditionality is certainly not the only factor explaining widespread corruption in Serbia, early pressures for simultaneous economic and political transformation clearly facilitated the emergence of clientelist structures that are at the origin of the ‘state capture trap’ we observe today.

Power

The power mechanism supposes that ruling elites use conditionality to undercut domestic debates and push through their own political programme. An issue of particular concern is the misuse of the urgent procedure to pass laws in the Serbian National Assembly¹¹, which undermines both the transparency and the quality of legislation (Dragojlo 2015). The locally organised Open Parliament initiative has documented a significant rise in the proportion of laws adopted under this procedure since democratic changes were introduced in Serbia in 2000 (Otvoreni Parlament 2018). According to the Council of Europe’s GRECO group, over 57 per cent of parliamentary acts in 2015 were adopted under the urgent procedure, with the required harmonisation of domestic legislation with the EU acquis used as prime excuse to sideline parliamentarians and avoid wider consultations (GRECO 2017: 3).

A similar instrumentalisation of EU conditionality by ruling elites drives the pervasive rejection of input by civil society actors. Illustrating the problematic role of ‘window dressing,’ interactions between Serbian state officials and NGOs often take the form of façade cooperation, especially where high-ranking political appointees are involved (Fagan and Wunsch 2018). Critical assessments of government performance are framed as unduly delaying the membership negotiations¹², and their authors increasingly portrayed as national traitors seeking to taint Serbia’s image in Brussels.¹³ Before the marginalisation of non-executive actors and interested third parties in policy debates, the Belgrade Centre for Human Rights qualifies the political situation in Serbia as one of ‘democracy without dialogue’ (2018: 234).

Finally, the incumbent party frequently refers to the need for stability during the EU accession process to justify prolonging its stay in power. A

television advertisement launched by the Serbian Progressive Party (SNS) in the run-up to the April 2017 presidential elections used the metaphor of a plane with two pilots to emphasise the destabilising potential of co-habitation (Stojanovski 2017). To avoid this risk, former Prime Minister Aleksandar Vučić eventually ran for the Presidency himself, securing the position during the first round of voting, while international observers raised concerns over a tilted playing field and a lack of separation between state and party activities during the electoral campaign (Organisation for Security and Cooperation in Europe 2017). Overall, EU conditionality thus serves to stifle domestic criticism and expand the ruling elites' hold on power.

Glory

The glory mechanism surmises that ruling elites use contacts with EU and member state officials as well as formal progress in the accession negotiations to bolster their legitimacy and boost public support. This pattern already became obvious during the time in office of Boris Tadić, who served as Serbian President from 2004 to 2012. Despite a sluggish record of improving living conditions for Serbian citizens throughout his mandate, his reputation as 'Western darling' allowed him to secure voters' support for his Democratic Party (DS) multiple times up to the breaking point of the April 2012 parliamentary elections. Since the SNS arrived in power, EU-level endorsements and progress towards EU accession have continued to function as a crucial source of external legitimacy for the ruling party. Initially an offshoot of the discredited Serbian Radical Party (SRS), the SNS has been actively seeking to garner international support to build a more positive image both abroad and domestically. In March 2013, it joined the European People's Party's (EPP) group in the Council of Europe's Parliamentary Assembly (B92 2013), and was accepted as an associate member of the EPP in November 2016 (European People's Party 2016). The same EPP counts Viktor Orban's Fidesz party in its ranks and has repeatedly shielded it from all-to-vocal criticism by the European Parliament (EP) (Sedelmeier 2016).

The SNS party deliberately seeks to build a reputation of effective negotiators towards EU accession to boost its voter base. An interviewed party official described EP Rapporteur David McAllister as 'our good friend' and presented party leader Vučić's ten meetings with German Chancellor Angela Merkel over the course of three years as an endorsement of the SNS' European credentials.¹⁴ Fuelled by the desire to resolve the disputed status of Kosovo, EU and member state officials tend to play along, disregarding Serbia's problematic rule of law record for the sake of progress in the dialogue between Belgrade and Pristina.¹⁵ This very same attitude has driven opposition leaders to avoid meeting with high-ranking EU officials, whom they believe are betraying their values.¹⁶ During his visit to Serbia in April 2018, European Council President Tusk hailed President Vučić as a 'soul mate' and 'strong patriot,'

claiming that ‘to be more Serbian than him is impossible’ (Tusk 2018). Only days before the publication of the EU’s latest rather critical report on Serbia’s progress towards EU accession (European Commission 2018b), Angela Merkel praised Vučić’s ‘very good reform record’ in a joint press conference (Merkel 2018). Since public endorsements resonate much more widely with citizens than the detailed reports issued by the EU, these instances have allowed the SNS to deflect domestic criticism of its actions, enabling a further consolidation of its dominant position (Kmezić 2017).

In sum, our analysis of decoupling in Serbia contains evidence for the operation of all three proposed linkages between EU conditionality and state capture. State capture is not connected to any particular party or network but has instead persisted over time. Given the regular replacement of governing elites, Serbia therefore illustrates well our concept of ‘state capture trap’ and the adverse effects of EU accession policy. In the following section, we discuss to what extent these findings may be generalisable beyond the Serbian case.

Beyond Serbia: money, power, glory in the Western Balkans and Eastern Europe

A comprehensive tracing of the three mechanisms underpinning our state capture model in additional countries is beyond the scope of this article. However, both macro-level patterns as well as case study findings from previous studies lead us to expect our findings to be relevant throughout, and more cautiously beyond, the Western Balkans region. In the absence of a direct indicator for state capture (Fazekas and Tóth 2016), we empirically demonstrate its prevalence through a series of proxy measures. For one, we observe a gap between governance effectiveness and political participation. Whereas state institutions globally preserved or even increased their level of governance effectiveness (Figure 3), levels of political participation and accountability have stagnated following initial improvements during the early 2000s (Figure 4). This discrepancy is consistent with the theoretical literature on state capture and competitive particularism, which holds that competition occurs between few oligarchic networks (or parties) at the expense of open deliberation and access to power for outsiders (Mungiu-Pippidi 2007). Furthermore, data on the level of control of corruption (Figure 5) shows that increases in government effectiveness do not correspond to a more effective fight against corruption. To the contrary: scores have stagnated or decreased, especially in those countries with decreasing levels of voice and accountability, suggesting that regional governments have increasing capacities but lack the political will to curb corruption. Overall, these macro-empirical trends confirm that following positive developments during early transition, the countries of the region remain stuck in a hybrid status quo,

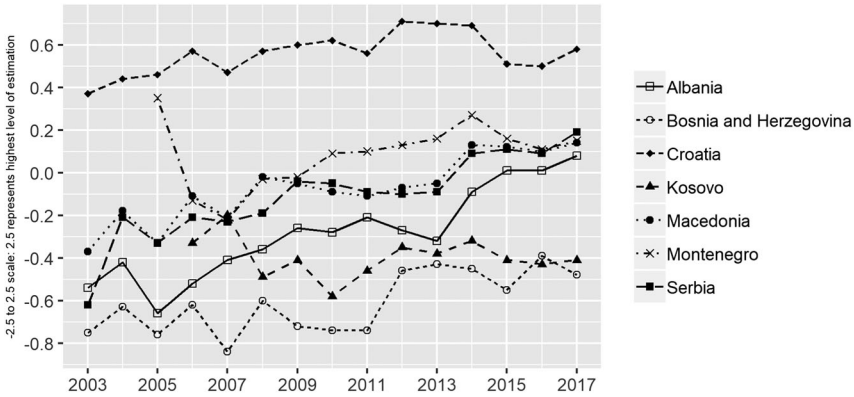


Figure 3. Government effectiveness in the Western Balkans. Source: World Bank 2017.

with limited competition and low levels of vertical accountability signalling the enduring presence of state capture.

Besides evidence for region-wide state capture, findings reported in earlier studies also provide plausible evidence that the three mechanisms are at work in other Western Balkan countries. In Macedonia, the EU criticised state capture in general terms but nonetheless continued to acknowledge the government’s efforts in the fight against corruption in the regular progress reports and to support the country’s progress towards EU accession. This approach allowed the ruling party to override the pro-democratic opposition and to boost its legitimacy in the voters’ eyes (Popetrevski 2017), signalling both the mechanisms of ‘power’ and ‘glory’. In Bosnia and Herzegovina, the EU’s conditionality policy and its continued cooperation with the ruling parties bolstered their power positions through ‘glory’ and eventually

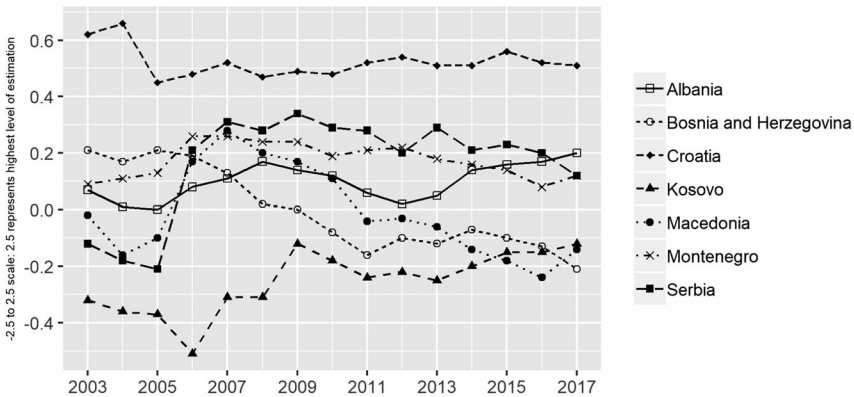


Figure 4. Voice and Accountability in the Balkans. Source: World Bank 2017.

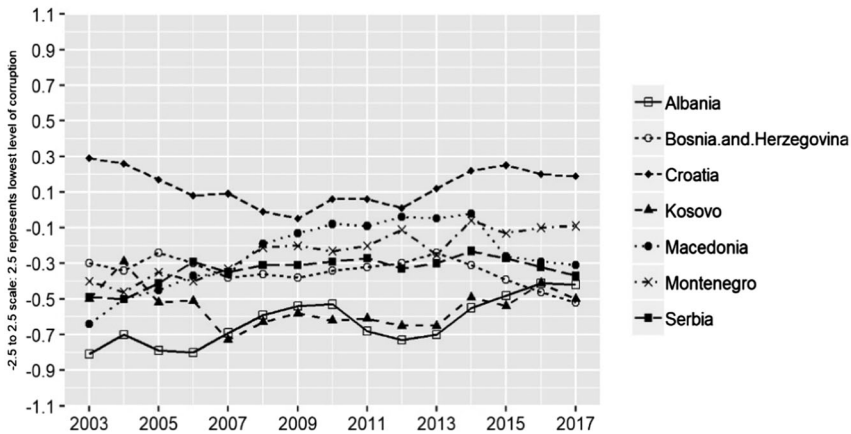


Figure 5. Control of Corruption in the Balkans. Source: World Bank 2017.

contributed to a strong legitimacy crisis of state institutions (Bojicic-Dzelilovic and Kostovicova 2013; Richter 2018). When it comes to the money mechanism, there is widespread evidence that the Republika Srpska government 'lives off EU funds' used to remunerate loyal members of clientelist networks hired as public officials (Deutsche Welle 2016). Overall, it therefore appears that our state capture model holds across the Western Balkans region.

Beyond the Western Balkans, the generalisability of our model is less clear. The phenomenon of state capture itself, despite diverging specific patterns, is prevalent across Eastern Europe both in more consolidated democracies such as the Czech Republic and in Post-Soviet countries such as Moldova (Innes 2014; Tudoroiu 2015). However, the EU's policy largely differs in these contexts, with conditionality largely absent both among member states which have successfully completed the accession process and in the European neighbourhood countries that do not have any official membership perspective. Nonetheless, we argue that certain elements of our theoretical model have explanatory power in these contexts as well. Notably, even after EU accession, the new member states have been exposed to widespread pressure from Brussels to adjust legislation at the expense of internal deliberation. This external pressure has fostered executive empowerment at the expense of the parliament and the judiciary in a way that is similar to the power mechanism described above. While we thus do not observe the same generalised weakening of state institutions as in the captured states of the Western Balkans, EU-induced executive domination has emerged as one of the drivers of democratic backsliding in the post-accession context (Grabbe 2014; Sedelmeier 2017). This suggests a different form of detrimental EU impact via the power mechanism. In the European neighbourhood, economic liberalisation in the absence of strong state institutions proved to be a

fertile ground for the emergence of state capture, suggesting the operation of the money mechanism. However, the case of Moldova demonstrates that entrenched informal power networks capture state institutions also in the absence of conditionality (Tudoroiu 2015), thus underlining the multi-causal nature of state capture that calls for an in-depth study of its roots in different empirical contexts.

Conclusion

Moving beyond the traditional dichotomy between interest- and identity-based explanations for the limited effectiveness of EU conditionality as a driver of domestic change, this article has identified state capture as the key structural reason for the observed decoupling between formal compliance and democratic performance in the Western Balkans. The presence of informal networks that capture formal institutions and impede deep democratisation explains why the EU has been able to induce partial compliance with membership criteria, but has not had a profound democratising impact in the region. We demonstrated not only that the presence of state capture inhibits the operation of conditionality as a trigger for democratic transformation, but that conditionality unintentionally enables informal networks to consolidate their power, creating a dynamic that durably undermines any progress towards sustainable democratisation. We proposed and empirically verified three distinct mechanisms through which we claim the EU accession process is strengthening informal networks and corrupt elites, which in turn block further democratisation and cement hybrid regimes.

Our findings hold important theoretical implications. First, they confirm the relevance of systematically incorporating informal domestic politics to explain the impact of EU accession conditionality. By specifying the linkages between EU conditionality and state capture, we go beyond earlier observations of so-called pathological effects of the EU's efforts to bolster the rule of law in third countries to provide a theoretical model that explains unintended negative consequences of EU conditionality. While we do not question the general relevance of external incentives, our alternative state capture model allows us to explain the observed decoupling of compliance and democracy levels, which the external incentives model fails to account for. Second, the deliberate misuse of EU conditionality by domestic ruling elites to stifle political debate and consolidate their power represents the negative mirror image in the debate on differential empowerment of reform-minded actors in the enlargement context (Dimitrova and Buzogany 2014; Wunsch 2015, 2018). It therefore highlights how crucial domestic usages of EU conditionality are to understanding the EU's eventual impact upon enlargement countries.

When it comes to practical implications, our findings suggest that the current approach towards enlargement risks enabling and reinforcing informal

networks by providing them with the resources to capture state institutions, undermine domestic mechanisms of accountability, and maintain their countries in a state of permanent hybridity. Therefore, the mere refinement and expansion of conditionality is not a promising approach to tackle democratic backsliding in the enlargement region. The EU's current reengagement in the Western Balkans region may send an important signal to boost the credibility of the membership perspective as a driver of domestic transformation, but conditionality alone will remain insufficient to achieve deep democratisation. If thorough democratic transformation still remains the EU's goal in the region, conditionality needs to be complemented with a more comprehensive and deliberate empowerment of domestic parliaments and civil society actors as a counterweight to dominant executives. Favouring domestic deliberation rather than incentive-driven compliance should go a long way in ensuring the sustainability of rule of law and democratic reforms even once the Western Balkan countries have eventually become EU members.

Notes

1. See online appendix for further details on data collection, coding procedure and reliability tests for the empirical update.
2. See online appendix for robustness checks against alternative democracy measures.
3. Interview with EU official, Directorate General for Neighbourhood and Enlargement Negotiations, November 2017.
4. See online appendix
5. See online appendix for list of interviewees.
6. Interview with Centre for Free Elections and Democracy (CeSID), September 2017.
7. Interview with Belgrade Centre for Security Policy (BCSP), April 2017.
8. Interview with Directorate General for Neighbourhood and Enlargement Negotiations (DG NEAR), November 2017.
9. *Ibid.*, December 2017.
10. Interview with BCSP and International Study and Affairs Centre, May 2018.
11. Interview with Belgrade Fund for Political Excellence (BFPE), April 2017.
12. Interview with civil society activist, September 2017.
13. Interview with Government Office for Cooperation with Civil Society, April 2017.
14. Interview with SNS party official, September 2017.
15. Interview with European External Action Service, November 2017; Balkan Investigative Reporting Network, September 2017.
16. Interview with CeSID, September 2017.

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