

**THE CASE OF THE
WESTERN BALKAN ROMA:
A LITMUS TEST FOR
NORMATIVE POWER EUROPE?**

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Abstract: Viewed increasingly as a 'normative' power, the European Union has come to dictate what is regarded as 'normal' or ethically superior behaviour and standards not only in its domestic realm, but also in its neighbourhood and beyond. This ideational dimension of the European Union's foreign policy is most apparent in enlargement policy, its most successful foreign policy tool to date. This article argues that the European Union's 'normative power' is being tested in its enlargement policy towards the Western Balkans and analyses the extent of this challenge through the Union's enlargement conditionality concerning the Roma, the most discriminated and marginalised group in the Western Balkans. By specifically focusing on the protection and promotion of the rights of the Roma in the Western Balkan countries, the article contends that despite decades of efforts that have dramatically improved the legal infrastructures of the Western Balkan states and harmonised them with the EU legislation, the overall picture is still bleak and the Roma populations in the Western Balkans continue to face discrimination in almost all spheres of life.

Keywords: *Western Balkans, European Union, Normative Power, conditionality, enlargement, Roma.*

BATI BALKAN ROMANLARI: NORMATİF GÜÇ AVRUPA'NIN TURNUSOL TESTİ?

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Öz: Gün geçtikçe daha 'normatif' bir güç olarak görülen Avrupa Birliği, sadece kendi sınırları içinde değil, aynı zamanda kendisine komşu bölgeler ve dünyada da 'normal' ya da etik olarak üstün görülen davranış ve standartlar konusunda belirleyici konumdadır. Avrupa Birliği dış politikasının bu düşünsel boyutu, en açık haliyle Birlik'in en başarılı dış politika aracı olan genişleme politikasında görülmektedir. Bu makale Avrupa Birliği'nin 'normatif gücü'nün, Batı Balkanlar'a yönelik genişleme politikası ve özellikle de bölgede en fazla ayrımcılığa uğrayan ve marjinalize edilmiş grup olan Romanlara yönelik genişleme şartlılığı ile sınındığı iddia etmektedir. Makale Batı Balkanlar'da yaşayan Romanların haklarının korunması ve geliştirilmesi konusuna odaklanarak, bölge ülkelerinin yasal altyapılarını Avrupa Birliği mevzuatı ile uyumlulaştırın ve iyileştiren sürece rağmen bölgede yaşayan Romanlara yönelik ayrımcılığın her alanda devam ettiğini savunmaktadır.

Anahtar Sözcükler: *Batı Balkanlar, Avrupa Birliği, normatif güç, şartlılık, genişleme, Romanlar.*

INTRODUCTION

The end of the Cold War marked the beginnings of a new era for the Europe Union (EU) as an international actor. Moving away from a relatively passive role, the Union gradually transformed itself into a valuable actor that has contributed greatly to the shaping of a new order in its neighbourhood and beyond.¹ In fact, it “has been actively setting the ‘rules of the game’, the norms of domestic and international behaviour that should guide European states, as well as shaping the institutional structure in which those states are increasingly embedded” (Smith, 2011: 300). While there are doubts regarding the long-term vision and capabilities of the EU in its common foreign and security policy (CFSP), its norm-setting character continues to impact the Union’s domestic politics in the form of relations between its constituent units, as well as its policy areas that have external goals and impact. The sphere of external relations and, as part of it, enlargement policy is the most obvious example of the latter.

The evolution of the EU as an international actor has followed a somewhat rocky path. In terms of its external economic relations, the Union has flourished as an effective global player on par with great powers such as the United States and China, and is the largest trade power in the world. In terms of external political relations, however, developing a ‘common’ policy to make a distinctive contribution in world politics to complement its economic power has proven to be a slow and difficult process. While co-operation between the Member States in foreign policy matters dates back to the creation of European Political Co-operation in 1970, the efforts to forge a common and effective EU level policy have been fledging, and foreign policy, in the narrow and traditional sense of the term, has remained mostly under the auspices of the Union’s Member States. As Giegerich and Wallace noted, “[t]he structures and underlying assumptions of policy-making in this field today are marked by past struggles over the balance between national sovereignty and effective capabilities”, as a result, in the sphere of foreign policy “intergovernmentalism remains the norm” (Giegerich, Wallace, 2010: 432). The predominantly intergovernmental nature of foreign policy making implies that, despite increasing capacity for action as well as internal and external demands and pressure for the EU to speak with a unitary voice in the international fora, the Union still seems haunted by a capability-expectations gap in materialising its foreign policy vision (Hill, 1993; 1998). The self-proclaimed objective of the EU to be “an anchor of stability” and spreading prosperity and democracy in its region remains far from being realised, particularly in the Southeastern part of the continent (CEU, 2008: 1). To make the situation even worse, in the last decade, the EU has been facing many challenges in the form of sharp economic downturns, widening government deficits, and high levels of debt that constitute economic and financial pressures that prevent further harmonisation of Member States’ interests and hinder the

success of the EU as an autonomous global actor (Reinhart, 2009; see also CEU, 2003). The Union's 'pull' as a new form of polity with normative qualities and power seem to be waning amid the financial crisis and its failure to present a united front in the face of the ongoing refugee crisis. These constrain not only the role of the EU as a global power, but also the success of its foreign policy tools – the most unique and successful among them, its enlargement policy. As a result, the limitations of the EU as a benign yet effective 'force for good' in its neighbourhood and beyond are becoming increasingly apparent. This is particularly the case in the Western Balkans (WB) where – despite improvements in the political situation since the early 2000s – the overall picture is still bleak.

The WB is an important region for the EU both in terms of its enlargement goals and as a theatre of operation. In the last decade, the countries of the WB² have been undertaking EU-sponsored economic and political reforms that aim at bringing them closer to the EU in line with the aim to stabilise the region through integration. Yet, despite heavy and active engagement of the EU, as the Commission's *2016 Communication on EU Enlargement Policy* puts it, most countries in the region made little progress on some major issues like the protection and promotion of minority rights, particularly in relation to the rights of Roma minorities (EC, 2016a). At the same time, the EU seems to have lost at least part of its credibility and attraction in the region as a result of its interventionist policies and inconsistent discourse.

To shed light on an important dimension of the EU's engagement in the WB within the framework of its norm-driven foreign policy, this article focuses on a basic cornerstone of EU's enlargement policy: membership conditionality regarding the protection and promotion of minority rights. In recent years, the importance of minority rights has been highlighted by the EU in its 2013/2014 Enlargement Strategy, which considered this component as a "fundamental value" that is "at the heart of the accession process" (EC, 2014a). Yet, with the new EU approach of opening Chapters 23 (Judiciary and Fundamental Rights) and 24 (Justice, Freedom and Security) in the beginning of accession negotiations, there remain challenges ahead for candidates and potential candidates, and it is becoming increasingly clear that the EU needs a new and more comprehensive approach to better support these countries in line with the new requirements.

This study builds on the idea that the EU spreads its norms through several means, among which norm diffusion through membership conditionality is a vital one. To analyse the situation in the WB countries with respect to norm diffusion in the enlargement process of the Union and to highlight the shortcomings of the EU's policies in the region, the article focuses on membership conditionality and the protection and promotion of the rights of the Roma minorities. It contends that the WB states have

been reviewing much of their domestic laws, regulations, and structures to comply with the EU standards, as a result of which the backbone that is necessary to protect the rights of the Roma minorities, the procedural diffusion of EU norms, has been materialised. However, the implementation of this ambitious legal framework, which is vital for ensuring the guarantee of all rights, is still far from being materialised.

1. CONCEPTUALISING THE EU AS A NORMATIVE POWER

The traditional definition of foreign policy involves acts decided on and implemented by government representatives acting on behalf of states in line with the assumption that “[s]tates have foreign policies; international organizations coordinate national positions” (Giegerich, Wallace, 2010: 432). While the EU’s record in terms of developing its own autonomous institutions and methods of ‘common’ foreign policy making at the European level is far from impressive, its actual foreign policy output goes beyond this narrow, state-centric traditional definition both in terms of its political and economic dimensions. The EU is a credible and effective foreign policy actor, yet its foreign policy is not limited to the aptly entitled CFSP: the Union is one of the most influential actors in world trade and environmental protection; has a strong track record in peace-building and conflict prevention; and is the largest donor of development aid in the world. This implies that EU policies that have external goals and impact contain many components of the Union’s wide policy portfolio, including a number of supposedly ‘domestic’ policies (for details, see Bretherton, Vogler, 2006).

The increasing visibility and impact of the EU as a foreign policy actor has rendered the international role and identity of the Union a very popular area of study for scholars. Numerous studies, particularly in the last two decades, offered different characterisations and depictions of the EU’s international role, contribution and identity, focusing on the different facets of its external relations – the EU as a (vanishing) mediator (Nicolaidis, 2004), a global conflict manager (Whitman, Wolff, 2012), a Kantian power (Kagan, 2004), an ethical power (Aggestam, 2008), a civilian or civilising power (Duchêne, 1972; Sjørnsen, 2006) and a quiet superpower (Moravcsik, 2002), among others. These depictions often approach the EU’s identity as a determinant of its foreign policy behaviour and “the EU’s role as an international actor and its international identity are considered a function of the significance of the EU and its member states in international affairs and of the effectiveness of its policy practice” (Sedelmeier, 2004: 125). Moreover, these various depictions of the Union’s international identity often build on a demarcation between civilian as opposed to military means and tools that the EU possesses in its foreign policy, and compare the EU to other global powers (usually in the form of nation states) in terms of its policy output and performance.

In an attempt to go beyond this simple (and at times state-centric) differentiation between civilian versus military means and capabilities, Manners, in his seminal article, turned his attention instead to the ideational power that the EU possesses. Accordingly, he described the EU as a normative power with an “ability to shape conceptions of ‘normal’ in international relations” (Manners, 2002: 239). According to him, the most important dimension of the Union’s power rested on its ability to shape the norms, standards and behaviour that are accepted to be ‘normal’ in world politics. He further explained that, as a unique type of polity created and shaped by the experiences of post-war Europe, the EU had an increasingly growing reliance on and commitment to specific norms and values in its relations with the wider world and between its constituent units, i.e., its member states (Manners, 2002).

In his work, Manners differentiated between core and minor norms which he identified respectively as peace, liberty, democracy, the rule of law and respect for human rights and fundamental freedoms; and social solidarity, anti-discrimination, sustainable development and, of particular importance in enlargement policy, good governance. These norms and principles on which the EU is built form the normative basis of the EU, inform its foreign policy vision and objectives, and predispose the Union to act in a specific manner in its relations with the wider world (Manners, 2002: 242-243). More importantly, these norms also give the EU “the ability to define what passes for ‘normal’ in world politics”, which is ultimately seen as “the greatest power of all” (Manners, 2002: 253). Building on this, Manners explained in a somewhat essentialist manner that “the most important factor shaping the international role of the EU is not what it does or what it says, but what it is” (Manners, 2002: 252).

Yet, according to Manners, its normative foundations alone do not make the EU a normative power; the spreading of EU norms is another a crucial part of the process. He explained that there are six main ways to diffuse norms: contagion, informational diffusion, procedural diffusion, transference, overt diffusion, and cultural filter. The contagion of norms takes place as a result of the “unintentional diffusion of ideas from the EU to other political actors”, for example through the EU leading as a ‘virtuous example’ (Manners, 2002: 244-245; Coombes, 1998: 237-238). In the case of informational or procedural diffusion, the EU plays a more active role in the dissemination of norms. The main difference between these two forms of diffusion is that procedural diffusion requires the formal institutionalisation of the relationship between the EU and the other actor, for example in the form of a co-operation or association agreement or as part of the EU’s enlargement process, while in the case of informational diffusion, the dispersion of norms takes place through the EU’s strategic or declaratory communications (Manners, 2002: 244). In the case of norm transference, the diffusion of norms ensues “when the EU exchanges goods, trade, aid or technical assistance with third parties through largely substantive or financial means” (Manners,

2002: 245). A good example of this is the EU's agreements with third countries, according to which the procedural and transference diffusion of norms are facilitated by conditionality (Manners, 2002: 245). Overt diffusion, on the other hand, refers to the type of diffusion that takes place where the EU, its institutions, representatives or missions are physically present on the ground, and involves the impact of EU presence, in whatever form, in the host country. Lastly, cultural filter refers to the learning or the adaptation of norms in third countries, and as such "is based on the interplay between the construction of knowledge and the creation of social and political identity by the subjects of norm diffusion" (Manners, 2002: 245; Kinnvall, 1995: 61-71). In relation to these different types of norm diffusion, Manners maintained that the crucial part of the process is "the absence of physical force in the imposition of norms" and the cultural means of diffusion which render the EU a different type of international actor (Manners, 2004: 5): the EU is a normative power because it has normative aims as well as means.

In a latter work, Manners differentiated between different meanings of normative power and explained that in order to understand the normative character of the EU, one needed to analyse not only the principles it is founded upon, but also its actions and impact (Manners, 2011). He also noted that the EU's greatest normative power rested on its ability to live (or possibly lead) by example (Manners, 2010: 36). Building on this, Tuomas Forsberg explained that the concept of normative power Europe rested not only on the EU's behaviour in accordance with acknowledged norms or its normative means of power, but also on its normative identity and interests, and the normative ends achieved (Forsberg, 2011). In this framework, he explained that the concept of normative power should be seen more of an ideal type that actors aim to attain, to which the EU comes closest to in real life. Writing on this multi-dimensional understanding of normative power, Manners (2013) himself noted that the concept of normative power referred to a multitude of things at once: a normative form of power exercised by a specific actor; a particular and ideational (i.e., non-material) form of power; and normative power as an ideal type (of actor).

Over the years, the ideas that Manners put forward in the framework of normative power Europe have heavily influenced the debates on the EU's international role and identity in both academic and policy making circles. Numerous analyses of the EU as a normative power, particularly with respect to policy areas with external impact and aims such as development aid and crisis management, were accompanied with a fine-tuning of the original assumptions by different scholars such as Diez (2013; 2005), Laïdi (2011), Tocci (2008) and Whitman (2011) as well as Manners himself (see, for example 2013, 2015). On the whole, these scholars aimed to clarify the concept and reveal the sources and reflections of the EU's normative power, building mainly on the various meanings of the term. According to some, like other international actors, the EU did not have a nature or identity in the world just because of its existence or essence

(i.e., what it is); instead the Union's 'nature' and identity are defined, produced and reproduced in its social practices. In his critique, Diez (2005) noted that normative power Europe is inherently a construct which not only denotes the EU as a specific kind of actor in international politics, but also determines the nature of the relationship the Union has with third parties – a highly asymmetrical one in the case of the WB states – the type of power it exercises, and the tools that it uses in its foreign policy. In this respect, he stated that (2005: 614) “[n]ot only is the success of this representation a precondition for other actors to agree to the norms set out by the EU; it also constructs an identity of the EU against an image of others in the ‘outside world’.” According to him, this representation of the EU as a normative power has consequences with regards to how the EU treats third states and the way in which certain standards regarding adherence to these norms are set and scrutinised by the Union: “the discourse of the EU as a normative power constructs a particular self of the EU (and it is indeed perhaps the only form of identity that most of the diverse set of actors within the EU can agree on), while it attempts to change others through the spread of particular norms” (Diez, 2005: 614). According to this, the EU is placed in a hierarchically superior position to those that desire to join the ‘European family’ and as such is ‘entitled’ to inspect and assess their progress in meeting the standards required. Taking this a step forward, in a latter article, Diez (2013: 196) proposed the replacement of normative ‘power’ with the Gramscian conception of ‘hegemony’ to better understand the complex nature “of the power relations involved in the EU’s external relations” by “draw[ing] attention to the conflation of norms and interests and the effects... of normative discourses on the identity and preferences of the actors within a normative power’s sphere of influence.” According to him, this move would ultimately restore the concept of normative power by injecting it with a critical purpose that it was supposed to have from the very beginning.

Parallel to this, a critical literature on normative power Europe has emerged in the late 2000s, which aimed to shed light on the shortcomings of the concept and some of the fallacies it contained. Echoing the words of Cooper (2003: 71-72), who defined the expansion of the EU as “[t]he most far-reaching form of imperial expansion” on grounds that it incited significant changes in the legal, economic and social structures of third states “all in the name of becoming members of the Union,” these critical voices ultimately aimed to show that the concept was not as innocent as it seemed and that it was, in many ways, an instance of “liberal imperialism”. As one of the most vocal proponents of such view, David Chandler argued that, in its enlargement policy towards particularly the WB states – the Union’s “de facto ‘empire’ to the east” (2007: 594) – the EU’s practice has been a case of asymmetric power exercise in covert terms: the EU is engaged in the region to externally regulate and manage these states through its efforts of statebuilding while at the same time denying that it is doing so. Chandler stated that this power exercise in the form of “[s]tatebuilding has enabled the European

Union to project its power in the therapeutic framework of the liberal peace and of the capacity-building and empowerment of its eastern neighbours” (2007: 594).

In view of these differing conclusions regarding the nature of the Union’s power and impact, this study argues that it is possible to rely on the concept of normative power in relation to the EU’s WB enlargement, while taking into account its limitations. The article contends that the EU’s power exercises in enlargement policy are ultimately shaped by the norms and values on which it is built and thus are not influenced by the specific interests of the EU or its constituent member states. In this respect, the ‘normative’ means (as opposed to those which rely on the use of force) and aims of the EU’s enlargement policy render the Union a unique kind of actor in the region. While the authors acknowledge that the EU has certain shortcomings and that “the technocratic and administrative legitimisation of external intervention is not beyond criticism in both normative and practical policy terms” (Chandler, 2010: 70), the EU still “represents a new kind of power in international politics” (Diez, Manners, 2007: 173) and, despite its limitations and flaws in execution, can still be labelled as a force for good in the WB.

2. EU’S NORMATIVE POWER IN THE WB AND MINORITY RIGHTS PROTECTION

Following the dissolution of Yugoslavia, the largest financial contributor to the region in the early 1990s (Palokaj, 2010) was the EU. It has also been the main international actor in the WB for over a decade (Rupnik, 2011: 18, 24). In the early 1990s, in the period of ongoing conflict, a large part of the EU’s contribution to the region was in the form of humanitarian aid. From the mid-1990s onwards, with the calming down of the situation, the Union shifted its priorities to encompass political and economic stabilisation as well as the consolidation of democracy and civil society. Countries in the region were given the prospect of EU membership as a result of which reforms were initiated that projected a fundamental change in the existing legal, political and social environment. The strict conditionality attached to the accession process led to uneven results in the region, drawing some countries closer to the EU while leading others to a stalemate.

Issues concerning minorities are key features of the EU’s conditionality clauses regarding the WB, and parallel to this, their protection and promotion have turned into pivotal issues in the enlargement discourse since the early 2000s (Panebianco, Rossi, 2004: 9). Today, all the EU-initiated political reforms in the region first and foremost target the thorough management of these issues. As part of EU membership conditionality, governments are required to adopt laws and implement policies to address a wide variety of minority-related issues (Archick, Morelli, 2014). As a key issue in the EU’s recent enlargement discourse, minority rights promotion has

experienced a slow but steady development in the early 2000s. The improvements concerning the situation of the minorities occurred parallel to the introduction of a conditionality based framework. What is called the 'Regional Approach' introduced by the General Affairs Council on 29 April 1997 (EC, 1997) associated any advancement in the relations between the EU and WB to the improvement of democratic conditions including the protection of minorities (Pippan, 2004: 224-225). The employment of the principle of conditionality in the bilateral Stabilisation and Association Processes (SAP) in 1999 was another important step (Vurmo, 2008: 21). The SAP provided a comprehensive approach towards the WB states, setting out political and economic conditions for enhanced cooperation with the EU and offering a mixture of trade concessions (Autonomous Trade Measures), economic and financial assistance mainly in the form of technical assistance (Community Assistance for Reconstruction, Development, and Stability – in short the CARDS Program), and contractual relationships (Stabilisation and Association Agreements – SAAs) (Sebastian 2008: 1-6). As the most important instrument of the SAP, the SAAs were stepping stones with frequent references to minority rights protection. SAAs set crucial criteria and priorities for the WB states, including the protection of the rights of the minorities through which certain improvements in their daily lives were made possible.

Financial instruments are also an essential part of EU conditionality in the WB. The Union funded a variety of minority-related initiatives via the European Commission, which is the institution responsible for the financial implementation of minority rights-related initiatives in the WB. Various structural aid and assistance programs have also been channelled to the region to support EU efforts to bring into question the rights of minorities. EU economic assistance is made conditional upon satisfying the Copenhagen Criteria and meeting the priorities of the Accession Partnership. Until 2000, Albania, Macedonia, and Bosnia and Herzegovina had benefited from EU funds for Central and Eastern European countries through the Programme of Community aid to the countries of Central and Eastern Europe (better known as "Poland and Hungary: Assistance for Restructuring their Economies" – in short the PHARE program): a program that was launched in 1992 originally for Poland and Hungary in order to provide assistance for restructuring their economies. To receive financial and technical support under PHARE, these WB states had to boost their reform efforts and prove that there is "a credible commitment to democratic reforms and progress in compliance with the generally recognized standards of human and minority rights" in their countries (Tatham, 2009: 319). On the other hand, the OBNOVA (meaning reconstruction, restoration in Serbo-Croatian) program which was primarily concentrated on Croatia and F.R. Yugoslavia, similar to PHARE, funded projects focused on reconstruction and rehabilitation between conflicting parties, and preventing the resurgence of ethnic hostilities.

In 2001 the WB obtained its own EU assistance program – CARDS (Community Assistance for Reconstruction, Development and Stabilisation), replacing PHARE and OBNOVA – which also functioned as the main financial instrument of the SAP. CARDS was an important breakthrough in the context of minority rights promotion as an instrument highlighting the role of minorities in the process of ensuring long-term democratic stabilisation (Ferrari, Khan, 2010: 7). It identified the protection of minority rights as a medium-term challenge to be addressed at the national and regional levels. The CARDS regional strategy for 2002-2006 considered dealing with the concerns of the minorities as a crucial requirement for the sustainable development and democratization of the region (EC, 2001: 9).

The financing of the Roma initiatives was problematic until 2006 under CARDS. Projects related to the Roma have not been made operational through activities or in budgets (Ferrari, Khan, 2010: 9). This changed in 2007 as CARDS and PHARE programs were replaced by the all-encompassing Instrument for Pre-Accession Assistance (IPA), which offered funds to candidate and non-candidate countries of the region. The main purposes of the IPA in the WB were to increase efficiency and coherence of the aid provided, and to better prepare the countries for actual membership within the EU through initiatives such as institution building, cross-border cooperation, and regional development. Minority-related issues were articulated in all activities planned under the IPA (cf. paragraphs 100 and 101 in EP, 2006: 15).

IPA consists of five distinctive components, among which Components I (Transition Assistance and Institution Building) and IV (Human Resources Development) concerned with the minorities (EC, 2015: 5; CEU, 2006: 85). In the period between 2007 and 2013, the total pre-accession funding provided amounted to EUR 11.5 billion, (Ferrari, Khan, 2010: 14) and around EUR 150 million in pre-accession assistance has been provided through IPA to support the social inclusion and integration of minorities (EC 2015, 5).

As stated in the Council Regulation establishing an Instrument for Pre-Accession Assistance, the assistance provided by the EU aims to support “the promotion and the protection of human rights and fundamental freedoms and enhanced respect for minority rights” (CEU, 2006: 85). The allocation of funding is based on the respect for human and minority rights principles on the part of the candidate countries as well as potential candidate countries (CEU, 2006: 90). Political, social and economic requirements to have access to IPA funds are in line with the Copenhagen Criteria (Ferrari, Khan, 2010: 17). At the strategic planning level of IPA, the documents refer to minorities as specific priority areas, and to alleviate their situation, projects have been developed to specifically support the rights of minorities to participate in public life (EC, 2009: 9, 11).

IPA expired by the end of 2013, heaping severe criticism due to the lack of comprehensive and consistent country-specific policies, as well as a well-structured regional policy. As a follow-up, a new regulation called IPA II has been introduced for the 2014-2020 period, which intended to overcome the problems faced in the previous period. With a determination not to repeat the mistakes of IPA, IPA II has a more strategic and targeted approach (Murati, 2015). This sectoral approach of dealing with issues closely linked to enlargement strategy such as democracy and governance, rule of law or growth and competitiveness, is intended to help the WB states reach the EU standards.

The European Agency for Reconstruction (EAR) and the European Instrument for Democracy and Human Rights (EIDHR) were two other instruments that contributed to minority rights protection in the WB (Zink, 2007). EAR was the main EU assistance program responsible for implementing most of the EU assistance to Serbia, Kosovo, Montenegro and Macedonia. In a relatively short space of time (2000-2008), EAR managed to improve the delivery of EU assistance in the aftermath of the Kosovo crisis. Handing a portfolio of almost EUR 3 billion, EAR had a number of objectives, the most important of which was the achievement of higher standards in human and minority rights. Through EAR, several training programmes were developed to introduce, train and assist the EAR staff in the inclusion of key minority issues. EIDHR, on the other hand, was created with the aim of promoting minority rights, the respect for human rights and fundamental freedoms, and the development of the rule of law in the WB, and employed conditionality in a progressive manner to provide assistance to the local population. Pursuing a bottom up strategy, EIDHR aimed at the promotion of democracy and human rights through the strengthening of civil society. Over the years, it funded several civil society projects through its country-based support schemes, and identified certain thematic priorities including the discrimination against minorities and indigenous peoples.

3. EU'S ROMA POLICY IN THE WESTERN BALKANS

Until the 1990s, issues concerning the Roma were largely absent from the political discussion surrounding the enlargement of the EU (Vermeersch, 2010: 227) and until the 2000s the Union was primarily preoccupied with the potentially destabilising effects of their westward migration rather than issues pertaining to their security and wellbeing. The accession of ten Central and Eastern European states to the EU and the consequential rise of the Roma population in the EU from 2 to 10–12 million have altered the EU's approach. This led to the internalisation of the Roma problem as their status changed from that of migrants to a minority (McGarry, 2012: 129).

Parallel to the ongoing membership process of the Central and Eastern European states, the enlargement wave expanded to include the WB. Owing to the EU accession process, the promotion of the rights of the Roma was identified as a key component of the stabilisation and democratisation of the region and a conditional requirement for achieving the ultimate goal of EU membership. The diffusion of European norms into the region was an opportunity for the Roma who turned into a huge ethnic underclass during the Yugoslav Wars, and had the lowest socio-economic status among all ethnic groups according to every statistical indicator during the post-war reconstruction years (Silverman, 1995). The EU has put in place a wide range of legal, policy, and financial instruments to support the Roma in the region, in particular their social inclusion, which became a key priority of the Accession Partnerships and European Partnerships programs. The Council of the EU adopted several measures on the promotion of the rights of the Roma to make better use of the structural funds, pre-accession instruments, and European Neighbourhood and Partnership instruments (CEU, 2015). Prompted by the desire to fulfil the EU's conditionality requirements, the WB states acknowledged the protection of their minorities as a priority issue, and expressed their commitment to the EU demands, which explicitly targeted or included Roma.

The WB states participated in several EU and non-EU projects dealing directly or indirectly with the Roma communities and their concerns. The 2005 European initiative called the *Decade of Roma Inclusion* is one of the most important of its kind. Signed by all the WB countries with the exception of Kosovo, the Decade is a Europe-wide attempt to close the socio-economic gap between the Roma and the majority populations in the signatory states. Starting as a non-EU initiative, it later became tightly linked to the EU integration process and therefore to EU conditionality and turned into a core element of EU activities on Roma-related issues (Sobotka, Vermeersch, 2012: 803).

Growing concerns since 2007 regarding human rights and particularly the rights of Roma, transformed the issue into a pivotal matter on the EU's political agenda. The Union developed a common approach for improving socio-economic conditions of Roma and implemented more broadly-defined strategies. The European Council made the issue of Roma inclusion part of its Conclusions, and invited the Commission to examine its existing policies and instruments. The Council also encouraged candidate countries to make use of all available means to improve the conditions of Roma (European Council, 2007: 14). In 2008, the European Parliament adopted a resolution called *A European Strategy for Roma* which recognised "the lack of progress in combating racial discrimination against the Roma and in defending their rights to education, employment, health and housing" in the candidate states (EP, 2008).

The austerity measures and budgetary cuts following the Euro crisis that started in 2009 undermined the achievement of the objectives set toward Roma inclusion. Although not officially abandoned, the Roma initiatives were *de facto* suspended. The effects of the Euro crisis were heavily felt by the WB Roma. The Enlargement Strategy and Main Challenges 2010-2011 Report of the Commission underlined that the Roma constituted a “particularly vulnerable minority” regarding the effects of the economic crisis (EC, 2010).

In May 2011, the Member State leaders adopted *An EU Framework for National Roma Integration Strategies up to 2020*, which aimed at encouraging the implementation of effective measures for the Roma to promote better inclusion and closing the gap in living conditions between them and the majority populations (CEU, 2011). The Framework also called on candidate and potential candidate states of the WB to develop national policies for the inclusion of Roma (Idrizi, 2011). Moreover, a 2011 European Commission Communication stated that the EU's Roma integration goals are equally relevant to those countries of the WB that are in the accession process, and that they should thus review their existing policies in line with these goals (EC, 2011b). As a first step, all states were invited to prepare national Roma integration strategies by the end of 2011. The candidate and potential candidate countries of the WB have also been invited to develop their own strategies for the integration of Roma, along with action plans for implementing those strategies (Kocze et al., 2014). The European Commission underlined the necessity of reviewing the national Roma integration strategies and Action Plans that were developed by the WB states within the framework of the 2005-2015 *Decade of Roma Inclusion*. The Commission has also announced that it will do what is necessary to improve and better coordinate the use of IPA funds towards Roma, directing these funds towards more strategic and result-oriented policies (EC, 2011b: 173).

Finally, the priority attached to the protection of minorities in the accession process is highlighted by the EU in its 2013/2014 Enlargement Strategy, which considers this component as a “fundamental value” that is “at the heart of the accession process” (EC, 2014a). As part of this new approach, the Union opens Chapters 23 and 24 – related to justice, fundamental rights, freedom, and security – at the beginning of the negotiations, which implies a more careful examination of Roma issues by the Union.

4. THE LIMITED IMPACT OF ROMA CONDITIONALITY IN THE WESTERN BALKANS

Over the past decades, the EU developed a number of policy initiatives and implemented numerous international assistance programs from which Roma in the region benefited directly or indirectly. However, the mechanisms that are used for

promoting the rights of Roma minorities have not achieved the desired level of implementation, and the requirements set by the EU are far from being met (ERIO, 2012: 5-6).

The progress in the economic, social, and political situation of the Roma is subject to governmental and non-governmental monitoring, including the annual Progress Reports of the European Commission. On the other hand, the *Roma Inclusion Index 2015* is the most recent source that offers a list of indicators and tests the progress or the lack thereof in Roma rights. Roma in the WB face very difficult living conditions, especially in the fields of education, social protection, health care, housing, and employment (Kushen, 2015). A brief analysis of EU Progress Reports, as well as non-EU documents, reveals that the Roma remain one of the most vulnerable groups in the WB and continue to face multiple, deep-seated social and economic disadvantages (ERIO, 2012: 3, 5-6). This is mainly due to the fact that EU conditionality fell short of guaranteeing the rights of the Roma minorities as it did not go beyond providing a limited diffusion of EU norms in the WB states and the creation of the necessary legal structures. According to Human Rights Watch, a significant portion of the Roma populations in the WB lives in deep poverty (New European Democracies Project, 2010: 1). As stated by the European Asylum Support Office, poverty is the most important influencing factor behind the decision of Roma in the WB to claim asylum in EU Member States (EASO, 2013). The increasing number of Roma asylum seekers indicates that the living conditions of the Roma are not getting better. According to the IPA II 2014-2020 report of the European Commission (2015), poverty rate of Roma is at average of 36% in WB countries in comparison to 11% non-Roma population. According to the *Roma Inclusion Index 2015*, in Macedonia, for example, “Roma live on 58% less income than the total population” (Kushen, 2015: 19).

A survey made on the housing situation of the Roma in the WB (Kling, 2011) as part of the UNDP/WB/EC regional Roma survey provides striking information on the situation of Roma households. According to the survey made through face to face interviews with more than 50.000 Roma and non-Roma in the WB, the average square meters per Roma individual is 13.6 m² in the WB, as compared to 27.9 m² of non-Roma. The proportion of WB Roma households which live in ruined houses or slums is 34% in comparison to 7% of non-Roma. On the other hand, 19% of Roma households do not have piped water inside their homes, compared to 7% of non-Roma.

According to the *Roma Inclusion Index 2015*, the life expectancy for Roma people is between 12 to 25 years lower than the non-Roma in Serbia, Montenegro and Macedonia (Kushen, 2015: 18). In some countries, as many as 90% of Roma live in segregated neighbourhoods (Kushen, 2015: 17), living on between 40% to 58% lesser income than the total population (Kushen, 2015: 18).

In the last two decades, Roma children have increasingly been at a disadvantage in accessing and acquiring quality education in the WB. Their situation has been highlighted by several reports, such as those produced by UNICEF (2007), the Council of Europe (2006) and the European Commission (2014b), to name a few. Roma children are excluded from mainstream schooling, segregated in special needs schools or not accepted at schools at all because they lack birth certificates or they miss registration days. Enrolment rates, retention rates and the quality of education of the Roma children are far lower than that of the non-Roma in the WB region (UNICEF, 2009: 11). Access to early childhood education among WB Roma are 0.2% in Kosovo, 3.9% in Serbia and 12% in Bosnia and Herzegovina (Council of Europe, 2006: 24). There is a huge gap between the enrolment rates of Roma and non-Roma children in primary school. This gap is greatest in Albania, Bosnia and Herzegovina and Montenegro, ranging from 45 to 50% (UNICEF, 2011: 15). Secondary education is another a major challenge for Roma, with very high drop-out rates. Only 18% of WB Roma enrol in secondary school and less than 1% attend university (Ivanov, 2006: 30). The proportion of young Roma adults completing upper-secondary general or vocational education is only about 10% (Council of Europe, 2006: 24). In Albania, “[l]ess than 50% of all Roma children go to primary schools and only about 25% have completed the primary education” (Civil Rights Defenders, 2014). “Romani leaders in the FYROM estimate that as many as ten percent of school-aged Romani children never enrol in the first grade, half of those who do drop out by the fifth grade, and only 35-40 percent finish eighth grade” (OSCE HCNM, 2000: 67). In Serbia, one in eight Roma of working age is estimated to have completed at least secondary education (De Laat, 2010: Figures 1, 2). In Bosnia and Herzegovina, “[l]ess than 35% of the Roma children regularly attend school.” In Montenegro, “76% of Roma are illiterate, 80% doesn't speak the local language” (Civil Rights Defenders, 2014).

Another connected problem is unemployment. Low skill levels resulting from low levels of education coupled with frequent discrimination have led to extremely low levels of employment. In Macedonia, 73% of Roma are unemployed (New European Democracies Project, 2010: 4). Short- and long-term unemployment levels among the Roma are significantly higher than in majority populations in the WB – two times higher than the overall unemployment rates. According to a 2011 UNDP survey, less than one-third of Roma had paid employment; among those that did, 67% were employed in unskilled or semi-skilled jobs. The number of Roma employed in the informal labour market is four times higher than that of non-Roma (UNDP, World Bank and EC, 2011).

Housing is among the most common problems of Roma, with about 90% living in households that are below national poverty lines. 45% of Roma live in households that lack basic housing amenities such as an indoor kitchen, toilet, and shower or bath,

as well as electricity. In Bosnia and Herzegovina, where the Roma is the biggest ethnic minority, 50 to 70% live in unsafe residential buildings, generally in one-room huts with no sanitary facilities and even among ruins (Krunić-Zita, 2010: 68). In Albania, only 28% of Roma have direct water supply inside their dwellings, as compared to 97% of non-Roma (ODIHR, 2014: 19).

These problems were also identified in the most recent Progress Reports of the WB states. In relation to Bosnia and Herzegovina, the 2014 Progress Report states that “[t]he Roma remained the country’s most vulnerable and disadvantaged minority” (EC, 2016b: 27). The report on Macedonia identified that prejudice and discrimination against Roma persist, particularly in the areas of employment, education and social inclusion (EC, 2016c). The Report on Montenegro, despite noting some improvement, identified similar problems in relation to the Roma population (EC, 2016d). The Reports on Serbia (EC, 2016e) and Kosovo (EC, 2016f) also note that Roma communities continue to face major challenges, notably difficult socio-economic circumstances, lack of education, weak health care, and discrimination.

CONCLUSION

This study analyses the normative power and impact of the EU in the WB regarding the promotion of the rights of Roma minorities through conditionality. It argued that the Union is a distinct kind of actor and human rights defender in both its internal and external spheres. On the other hand, the limitations of the EU as a benign yet effective force for good in its neighbourhood and beyond are becoming increasingly apparent in the WB. While the EU is successful in disseminating its norms through the mechanisms of accession conditionality, the effects of EU norms and their materialisation in the form of reforms and newly created legal structures do not help alleviate the situation of the minorities in their everyday lives. This limitation of the EU’s normative power aims and means is most apparent in the initiatives of the Union targeting the Roma populations of the WB states. As a community, Roma people are affected to a much higher degree than their non-Roma counterparts by the region’s chronic problems such as unemployment, inadequate education, and access to health services. In this respect, it is possible to conclude that despite ending the *de jure* discrimination against the Roma, the pressure by the EU on the WB governments through mechanisms of conditionality did not prevent the *de facto* discrimination and unequal treatment of the Roma populations. The statistics prove that these populations continue to face discrimination in almost all spheres of life. Consequently, beyond the procedural diffusion of norms and the creation of legal structures encouraged by the EU, conditionality mechanisms fell short of guaranteeing the rights of the Roma minorities by putting an end to their discrimination and the prejudices surrounding them.

NOTLAR

¹ For reasons of convenience, the term European Union will be used to refer to all three communities that have been established since 1952.

² This refers to Croatia (which became an EU member in July 2013), candidate states Albania, the Former Yugoslav Republic of Macedonia, Montenegro and Serbia, and potential candidate states Bosnia and Herzegovina, and Kosovo.

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