The Use and Abuse of Minority Rights: Assessing Past and Future EU Policies towards Accession Countries of Central, Eastern and South-Eastern Europe

CARTER JOHNSON*

1. Introduction

With the exception of Belarus and Russia, all Central-East, South-East, and East European countries (CSEECs) have expressed their desire to join the European Union. Eight countries from the region joined the EU1 in 2004, Romania and Bulgaria will almost certainly join in 2007, while another seven are currently under consideration.2 As those seven future-accession CSEECs strive for membership, their governments increasingly look toward directives from the EU to adjust domestic policies; minority rights continue to play a key role in this process.

The issue of protecting minorities has received a great deal of attention since 1989, and was one of a select few accession criteria made explicit by the EU in 1993. Since that period, many policy-makers and academics have begun taking a closer look at this politically sensitive area. Nevertheless, minority protection has been and remains shrouded in confusion and misunderstanding: Slovakia’s education minister was baffled in the 1990s by international criticisms of an education policy that resembled that of Ireland and Spain, or Estonian citizens exasperated by international criticisms of their citizenship laws which they deem more liberal than that of Germany, to name just two examples. This article seeks to clarify what is meant by the phrase ‘protection of minorities’ and to explore the EU’s commitment to this

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* The author is a PhD student at the University of Maryland, and the Project Coordinator of the Minorities at Risk Project (MAR). From 2000–2003, he was a fellow with the Civic Education Project at the National University of Uzbekistan and the State Pedagogical University of Moldova. The author received his MSc from the London School of Economics.

1 For the sake of simplicity, throughout this article the ‘EU’ will be used for the European Union and its predecessors, regardless of time.

2 The seven are Croatia, Serbia-Montenegro, Macedonia, Bosnia-Herzegovina, Albania, Moldova, and Ukraine. Only Croatia has formally begun membership talks; the EU has begun association negotiations with Serbia-Montenegro. E. Jansson and D. Dombey, ‘‘New dawn’ for Balkans as EU promises talks with two states’, Financial Times, 5 October 2005, p. 2. Ukraine, which is furthest from membership, has nevertheless been given tacit approval for eventual membership. ‘Ukraine told that EU door is open’, BBC News World Edition, 6 October 2005. <http://news.bbc.co.uk/2/hi/europe/4313906.stm>, visited 6 October 2005. While Turkey has also formally begun membership talks, this article will focus exclusively on the former Socialist Bloc states as they make up the vast majority of recent and future member states.
cause in order to understand which policies the future-accession countries of Europe need to implement in order to fulfill this commitment on their route to EU membership. Further, this article will challenge conventional wisdom on this issue, which claims the EU is motivated by a normative commitment to minorities, and proposes other factors instead; in particular, it identifies security concerns and fears of migration patterns.

The first criterion announced in Copenhagen in 1993 is that candidate countries demonstrate “stability of institutions guaranteeing democracy, the rule of law, human rights, and respect for and protection of minorities”. While many of the other accession criteria are either unambiguous or have an approximated understanding through an established history (e.g. adoption of the acquis communautaire or a functioning market economy), the issue of ‘minority protection’ remains novel and vague, despite the rhetorical outpourings from the EU’s organs and personnel promoting its cause. To demonstrate this position and clarify the underlying EU position on minorities protection, this article will begin by first exploring what type of minority rights were required of existing members of the Union before the recent wave of accession. It seems natural to look at the established EU-wide policies in order to ascertain what thresholds and precedents were established for other members. Second, the article will look at what forms of minority protection were (i) promoted in the most recent wave of accession countries and what were (ii) required for their acceptance in the Union. Put this way, we can view the path towards integration as linear, a path down which the new accession countries have travelled much further than the future-accession countries. What lessons can be learned from those accession countries in terms of demands made on them? What standards have been requested and what is the minimal acceptable level of minority protection for EU acceptance? By focusing on the minimal, we can separate preferences from requirements.

While the EU has established distinct criteria for potential members, this article will demonstrate that we can actually discover very few concrete policy measures specifically for the protection of minorities. In the first place, the article will demonstrate that the EU itself has lacked any common policies towards minority protection for extant member-states. In fact, as we will see from the following section, the only common and consistent policy linked to minorities found both inside the EU and its foreign policy is a broad commitment to certain human rights, such as non-discrimination. Second, the EU’s approach to minority protection in non-member states over the past 15 years has been and continues to be ad hoc measures applied inconsistently depending entirely on specific concerns related to individual countries and their minorities’ ability to mobilize.

This article will conclude by suggesting what is driving the EU’s policy of minority protection and what, therefore, the future-accession countries of Europe might expect in the future. It will suggest that ‘protection of minorities’ is not promoted across the region normatively as a good in and of itself, but rather is a tool used to

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