EU Conditionality and the Protection of Minorities in the Post-Communist Region

I. Introduction

This article explores the complex and evolving interaction between minorities’ protection within the European Union (EU), the instrument of conditionality and the shifting constellation of domestic and regional interests in the post-Communist countries. Taken together these have differently shaped and constrained the implementation and practice of minority rights protection across the region. This multilevel dynamic is examined firstly in the context of the EU accession process in Central and Eastern Europe, secondly in the context of the EU’s Stabilisation and Association Process in the Western Balkans and thirdly in the context of the European Neighbourhood Policy, with a particular focus on the countries in the EU’s Eastern neighbourhood.

Despite the evident power asymmetry between the aspiring candidates and the EU, the interaction of EU policy on minorities, conditionality and Eastern European states has not been characterized by a straightforward one-way process of progressive improvements in minority rights provision and implementation with the EU facilitating advances in the “respect for and protection of minorities”. Rather it is suggested that notwithstanding the development of the international minority rights regime since the collapse of Communist regimes in Eastern Europe, the evolution of EU policy capacities and the moves to formalize and seek compliance with minority rights norms throughout the region, the realization and practice of such provision has been far more complex and variegated.¹ This is in part due to the fact that the leverage of conditional-

¹ On international minority rights regimes, see Jennifer Jackson Preece, National Minorities and the European Nation-States System (Clarendon Press, New York, 1998) and Jennifer Gordon is a teaching fellow in East European politics at the European Institute of the London School of Economics and Political Science. The research for this article has been supported by the EU’s Framework Six Project “Human and Minority Rights in the Life Cycle of Ethnic Conflicts” (MIRICO). For further details, see <http://www.eurac.edu/Org/Minorities/MIRICO/index.htm>. This work has benefited tremendously from collaboration with Gwendolyn Sasse and James Hughes as part of the MIRICO project.
ity as an instrument to ensure compliance in the field of minority rights has been of a limited effect because of the continuing problematic surrounding international minority rights mechanisms, the EU’s own ambivalent internal position thereupon and its limited internal institutional and legal capacities in the domain of minorities’ protection. It is also due in part to endogenous shortcomings in the operationalization of the instrument of conditionality. Although the operation of conditionality has evolved over time and been applied differently in the three areas under investigation, it has not necessarily resulted in increased efficacy in the delivery of compliance, particularly in the area of minorities’ protection. Finally these two dimensions have intersected with the complex domestic settings particular to the Central Eastern European accession countries, Western Balkans and European Neighbourhood Policy (ENP) countries, in which, to differing degrees across time and space, a complex set of domestic, regional and international interests have facilitated or militated against consistent adoption, codification and implementation of minority rights provisions.

Although a number of studies have explored the EU’s impact on minorities’ protection in particular countries and subregions of the post-communist space, this article develops an original perspective in its comparison across the three subregions—Central and Eastern Europe, the Western Balkans and the eastern neighbourhood—and, while seeking to identify common trends, also sheds light on how the different elements in this complex interaction have worked differently across the different regions. I also