

The EU and Democracy Promotion in Serbia

Plan B Thesis

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Introduction

Within the growing repertoire of democratization studies, the European Union (EU) is increasingly recognized as playing a significant role in promoting democracy in the Central and East European Countries (CEEC's).¹ In establishing democratic requirements as a prerequisite for membership, some argue that the EU's accession process constitutes a unique model of democracy promotion through integration.² But just what impact does the EU accession process have on democratization in applicant countries? It has been argued that studies need to move from generalizing about the importance of the EU to explaining the more nuanced effects of the membership accession process on the democratization efforts of applicant countries.³

To address this issue, I will examine the impact of EU relations and accession conditions on Serbia's democratization. Since the overthrow of the Milosevic regime in October of 2000, Serbia has made gradual, but significant, progress towards democratization. Serbia's democratic progress is significant amongst its CEEC counterparts because of the many domestic obstacles that have challenged efforts to enact democratic reform. The most notable challenge facing Serbia's has been the corrosive legacy of the Milosevic regime, which has not only resisted democratic reforms, but has at times actively fought against it. Serbia has also been faced with severe domestic political infighting, as well as a thorny federal relationship with Montenegro, which have complicated efforts to pass a new constitution, and stalled efforts to enact democratic reforms. Yet despite these challenges, Serbia has made significant progress towards becoming a stable, democratic state.⁴

The EU has supported and facilitated Serbia's democratization in several ways.

¹ See Pridham 2001, Schreder 2002, Kubicek 2003, Pridham and Dimitrova 2004

² Dimitrova and Pridham 2004: 94

³ Dimitrova and Pridham 2004, Pridham 2005, Kubicek 2003

⁴ See Figure 1 for Serbia's democratization rates.

Following Milosevic's defeat, Serbia was invited to begin the formal accession process towards EU membership. In doing so, the EU has offered potential membership as an incentive to Serbia for implementing democratic reforms. This process has involved the setting of annual reform benchmarks, which are determined by democratization experts from the EU and Serbia, and are closely monitored through comprehensive annual reports. The EU has also offered Serbia significant annual financial support, which has been appropriated specifically to areas that promote stability and foster democratic reforms. Through the membership accession process, the EU has provided valuable guidance, structure, and economic assistance to help draw Serbia nearer to the EU, and to push forward democratic reforms.

The EU, however, has also been limited in its ability to promote democratization in Serbia. The EU has been limited in its inability to influence reform amidst Serbia's tremendous domestic challenges. This has been particularly evident in the areas of the police, military, and the judiciary, where the legacy of the Milosevic regime has made implementing reform extremely difficult. Likewise, the EU has been limited in influencing reform due to the limited impact of the SAP, which has been essentially restricted to issuing public rebukes in response to Serbia's inadequate reforms. Also, the EU has been limited in influencing reforms in areas where Serbia has not had the political will to do so, such as in regards to the ICTY requirements. The EU has been largely unable to elicit ICTY cooperation from Serbia, even when the failure to cooperate has resulted in the suspension of Serbia's continued membership negotiations.

The EU's influence on Serbia is an important puzzle in its potential to refine our understanding of the myriad dynamics that shape and limit the EU's democracy promotion through integration. Among the recent proliferation of works that examine the international context of democratization, there is an absence of literature devoted explicitly to

democratization in the former Yugoslav region.⁵ Even amidst several recent works that examine the EU and democracy promotion, there is virtually no mention of Serbia.⁶ Considering the indeterminate status Serbia's democratic future, it is of urgent importance to understand the dynamics of the EU's relations with Serbia in the midst of Serbia's democratization. Ultimately, this work is intended to contribute to the lacking democratization literature dealing with the Balkan region.

In the first section, I will review the relevant literature on the EU and democracy promotion, and establish an analytical framework with which to examine the specific case of Serbia. In the second section, I will evaluate the progress made in enacting democratic reforms in Serbia despite the many domestic challenges it faced. I will also evaluate the EU's relations with Serbia, focusing on the ways in which it has contributed to democratization, and the ways in which it has been limited in its influence.

Literature Review

In defining what democracy is, it is interesting to note that the scholar whose definition of democracy is most widely accepted does not even refer to it as democracy per se. Instead, Robert Dahl, a Sterling Professor Emeritus of Political Science at Yale, and one of the most prominent democratic scholars, refers to his notion of democracy as a "polyarchy." In his book, *Polyarchy*, Dahl argues that the requirements of democratic state are as follows:

1. Almost all adult citizens can vote
2. Almost all are eligible for public office
3. Political leaders have the right to compete for votes
4. Elections are fair and free

⁵ Pridham and Gallagher 2000

⁶ See Youngs 2002, Graeme 2002, Crawford 2003, Kubicek 2003, Pridham 2005

5. All citizens are free to form and join political parties and organizations
6. Freedom of expression on political issues
7. Diverse sources of information protected by law
8. Governmental policies depend on votes ⁷

For Dahl, at the core of democracy lie two fundamental philosophical principles, public contestation and inclusiveness.⁸ As a regime becomes more inclusive and more competitive it becomes more democratic, to a condition of “polyarchy,” which basically means an almost fully mature democratic regime.⁹ The people have the right to contest and change their government through free and fair elections. Thus the government is duly bound to uphold the laws of the land because the people hold them accountable.

This process of moving towards greater contestation and inclusiveness, as noted by Dahl, is generally considered the process of democratization. Democratization is a state’s transition towards becoming democratic, through the electing of democratic regimes, and by establishing democratic institutions. While democratization has been conceptualized in various ways, the most useful is that of Kubicek, who operationalizes democratization into three general, chronological stages. The first is the liberalization phase, in which political restrictions give way to alternative voices and groups to express themselves and organize opposition. Secondly, the transition phase represents the actual change of regime, the political shift away from authoritarianism, and the initial implementation of democratic institutions and procedures. Third is the phase known as democratic consolidation, which involves the lengthy process institutionalization, implementation, and solidification of democratic norms in society.¹⁰ According to this schematic, a democratic regime is considered consolidated when it is fully

⁷ Dahl 1971, pg. 13

⁸ Dahl 1971, pg. 4

⁹ Dahl 1971, pg. 8

¹⁰ Kubicek 2003

legitimate, in that there is little to no chance for a regression towards authoritarianism. Consequently, the democratic consolidation phase can be known to span decades.

Since democratization is more of a process than a status, it is important to be able to gauge or rate the level of democratization within a state. In this regard, Freedom House, an independent think tank that rates democratization worldwide, has developed an important methodology. Freedom House issues annual reports in which they assign each country a score from 1-7, 1 being the most free, and 7 being not free.¹¹ This score is based on an analysis of each country's political freedoms and civil liberties. The political factors include peoples' right to participate in the political process; vote in elections, run for office, and elect accountable representatives. The civil liberties include peoples' freedom of expression, rights for NGO's, and rule of law. Freedom House specifically focuses on the real life expression of these political rights and civil liberties and gauges the annual freedom index scores accordingly.¹² In addition to the annual freedom index scores, Freedom House often assigns a country a positive or negative trend in circumstances where the index score does not change, but a country demonstrates more subtle progress or regression.¹³

The Freedom House method for determining the level of democratization in a given country is distinguished by its singular attention to measuring the actual individual rights and freedoms. By focusing on the real-life application of democratically secured freedoms, Freedom House analyses cut to the very core of democratization: the movement of a country towards increased political freedom, wherein its citizens are free to pursue their beliefs and express themselves without governmental intervention or censorship. It should be noted that Freedom

¹¹ Freedom House is a non-partisan American NGO devoted to promoting liberal-democratic values throughout the world. Its definition and conceptualization of democracy are widely accepted and sourced throughout the academic literature on democratization. Its ratings have fallen under scrutiny for misrepresenting certain countries at certain times, but subsequent studies have defended it as a valuable tool for gauging democratization. www.freedomhouse.org

¹² For a complete description of Freedom House's methodology see www.freedomhouse.org

¹³ Ibid

House ratings have fallen under scrutiny for misrepresenting certain countries at certain times; however, subsequent studies have exonerated it as a valuable tool for gauging democratization.¹⁴ Overall, Freedom House statistics are generally accepted and utilized in the literature as a useful mechanism for gauging democratization.

This study will employ Freedom House's annual reports to document Serbia's democratization levels from 1991 – 2006.¹⁵ As previously mentioned, these ratings are based on a 1-7 scale, 7 being the least democratic or least free, and 1 being the most democratic and free. In tracking Serbia's yearly democratic progress, particularly the consistent status as "Not Free," one can get a sense of the stagnant state of affairs in Serbia's domestic political climate. It also becomes apparent the correlation between the overthrow of the Milosevic regime, and a marked shift towards increased democratic freedom.

Figure 1: The Democratization Rate in the former

Republic of Yugoslavia / Serbia and Montenegro¹⁶

FRY/Serbia & Montenegro	Political Rights	Civil Liberties	Trend	Status
1991-1992	6	5		Not Free
1992-1993	6	5		Not Free
1993-1994	6	6	Negative	Not Free
1994-1995	6	6		Not Free
1995-1996	6	6		Not Free
1996-1997	6	6		Not Free
1997-1998	6	6		Not Free
1998-1999	6	6		Not Free
1999-2000	5	5	Positive	Partly Free
2000-2001	4	4	Positive	Partly Free

¹⁴ for more information on this debate, see Gastil, Raymond Duncan. 1991. "The Comparative Survey of Freedom: Experiences and Suggestions." In Alex Inkeles, ed. *On Measuring Democracy*. New Brunswick, NJ. Transaction Publisher. And Piano, Aili, and Arch Puddington 2001. "The Freedom House Survey: Gains Offset Losses." *Journal of Democracy* 12, 1:5-15

¹⁵ see Figure 1 for annual Freedom House ratings

¹⁶ Rates taken from Freedom House "Freedom in the World" annual reports. www.freedomhouse.org

2001-2002	3	3	Positive	Partly Free
2002-2003	3	2	Positive	Free
2003-2004	3	2	Negative	Free
2004-2005	3	2		Free
2005-2006	3	2		Free

It should also be noted that since the year 2000, Freedom House has rated Serbia's southern province of Kosovo as a separate entity. This decision was likely made because according to the June 1999 U.N. Resolution 1244, Kosovo's legal status is that of an International Protectorate, which means it is officially governed by the United Nation Interim Administration Mission in Kosovo (UNMIK).¹⁷ Thus, while Serbia has retained de facto sovereignty over Kosovo, it has had a diminished capacity to govern there. In the context of this study, the exclusion of Kosovo from Serbia's domestic political considerations has undoubtedly impacted Serbia's Freedom House ratings. As seen in Figure 2, Kosovo's Freedom House ratings have been consistently and significantly less free than those of Serbia's. Had Kosovo been included in Serbia's analysis, its ratings would surely have scored lower in the freedom index. Ultimately, I do not question the decision of Freedom House to exclude Kosovo from Serbia's analysis; however, it needs to be considered so that a picture of Serbia's freedom is not exaggerated.

Figure 2: The Democratization Rate in the Province of Kosovo¹⁸

Kosovo	Political Rights	Civil Liberties	Trend	Status
2001-2002	6	6		Not Free
2002-2003	5	5		Partly Free
2003-2004	5	5		Partly Free

¹⁷ according to UN Resolution 1244, Kosovo is a UN protectorate, thus Serbia does not have administrative influence over Kosovo's democratization. <http://www.un.org/Docs/scres/1999/sc99.htm>. Last accessed 4/20/06.

¹⁸ Ratings as cited by Freedom House "Freedom in the World" annual reports. www.freedomhouse.org. It should be noted that the only ratings made available for Kosovo are from 2002 until present.

2004-2005	6	5	Negative	Not Free
2005-2006	6	5		Not Free

To conceptualize and measure the EU's impact on Serbia's democratization, and develop the methodology for conducting the analysis, it is necessary to examine the relevant literature. Much like the democracies of post-communist EU applicant states have evolved and progressed, so too has the academic literature that seeks to explain it. Prior to the fall of communism, the vast majority of democratization literature on democratization focused primarily on the domestic context of democratization, while international factors on democracy promotion were not viewed as particularly influential.¹⁹

The majority of democratic literature has treated the process of democratization as a process driven primarily by domestic factors and conditions.²⁰ In seeking to explain why different countries established democratic regimes in different ways and at different paces, most studies have focused on domestic factors as necessary preconditions to democratization. A useful summary of such domestic factors can be found in the work of Juan Linz and Alfred Stepan:

1. A free and lively civil society
2. An autonomous and valued political society
3. Rule of law
4. A relatively efficacious state bureaucracy
5. An institutionalized economic society

By measuring the development of these domestic conditions, domestically oriented democratization studies have largely sought to answer questions of what constitutes democracy, how the process of democratization takes place. Such studies did not completely

¹⁹ O'Donnell and Schmitter 1986, Almond and Verba 1989, Gellner 1994, Linz and Stepan 1996

²⁰ Schraeder 2002, Pridham 1991

disregard the role of international factors, however, they did not consider them of immediate importance, as described by Philippe Schmitter in 1986:

[O]ne of the firmest conclusions that emerged ... was that transitions from authoritarian rule and immediate prospects for political democracy were largely to be explained in terms of *national* forces and calculations. External actors tended to play an indirect and usually marginal role.²¹

The unique circumstance of the post communist democratic transitions prompted some scholars to reevaluate the predominance of domestic factors in determining democratization, particularly in the initial decision to pursue democratic regimes. As the cold war agendas of the West became obsolete, they began to adapt strategies of democracy promotion as a means of securing stable allies with market economies. This was particularly relevant to the EU, as it was faced with a new fleet of post communist countries that stood to become potential members. Thus democracy promotion through EU membership became the primary mechanism by which the EU sought increase security, prosperity, and allies in the post communist world.

Since this development, an increasing amount of literature begun to consider role of international factors in shaping the decision of the CEEC's towards democratic regimes.²² This influence was most apparent in the desire of the CEEC's to 'return to Europe,' whereby the quest for EU membership became a more prominent factor in driving democratization in applicant countries. Among the first to note the influence of international factors on post communist democratization was Samuel Huntington, who described the emergence of a global culture, a global capitalist economy, and institutions of global governance as playing a significant role in the decision of post communist countries to pursue democratic regimes.²³ The inclusion of international factors in their influence on democratic transitions have also enabled

²¹ O'Donnell and Schmitter 1986: 5

²² Pridham, 1991, Schmitter 1996, Whitehead 1996, Pridham 1994

²³ Huntington 1991

theorists to explain why democracies have developed in societies that experienced little if any preexisting social conditions that had been previously viewed as mandatory.²⁴

Laurence Whitehead and Phillippe Schmitter presented one of the earliest conceptual frameworks for evaluating the role of international factors in influencing democratization.²⁵ Whitehead identified three areas in which the international context has had a dramatic effect on the emerging democracies in post communist Europe; namely through contagion, control, and consent. What Huntington had previously referred to as “demonstration effects,” and yet others as diffusion, Whitehead definitively coined as “contagion.” Contagion is a rather intangible, abstract notion that implies the spread of democracy across borders as a globally accepted ideal that ‘affects the attitudes, expectations, and interpretations of the public at large.’²⁶ Control involves the forceful imposition of democracy by an outside influence, such as measures the EU could impose on a CEEC member state to further democratize.²⁷ And finally, consent is the process by which groups and actors from state in transition learn, incorporate, and then promote in a positive way democratic norms.²⁸

In the same work, Phillippe Schmitter identified a similar method of democracy promotion employed by the international community known as political conditionality.²⁹ Political conditionality “involves the linking of development aid to demands concerning human rights and (liberal) democracy in the recipient country.”³⁰ The International Monetary Fund (IMF) and the World Bank widely employed conditionality throughout the 80’s to promote market economies

²⁴ Pridham 1991, Diamond 1995

²⁵ Whitehead Schmitter 1996

²⁶ Whitehead 1996: 6

²⁷ Kubicek 2003

²⁸ Grugel 2002: 122

²⁹ Whitehead Schmitter 1996

³⁰ Sorensen 1993: 1

and democracy. More recently, however, the EU has put the concept of political conditionality at the heart of their foreign relations, particularly with the CEEC's in their aspiration to become members. In some instances, the EU's application of conditionality for membership has been referred to as democratic conditionality.³¹

In recognizing the CEEC's desire for membership, the EU formally established specific democratic standards as prerequisites for membership consideration. This was done through the 1993 drafting of the Copenhagen Criteria, which set into place a series of benchmark requirements that deal with democracy, human rights, the economic ability to join the single market, and integration into the EU's institutional framework. The 'criteria' are as follows:

1. Stability of institutions guaranteeing democracy, the rule of law, human rights and respect for the protection of minorities
2. The existence of a functioning market economy as well as the capacity to cope with competitive pressure and market forces within the Union
3. The ability to take on the obligations of membership including adherence to the aims of political, economic & monetary union ³²

In 1999, the EU developed the Stabilization and Association Process (SAP) for South East Europe as the primary mechanism for conducting the accession process with the Balkan countries.³³ This program elaborated upon the Copenhagen Criteria to include considerations regarding human rights, treatment of refugees, regional cooperation, and full cooperation with the ICTY.³⁴ In addition, the SAP agreement aims at achieving stable, market economies, the promotion of regional cooperation, and the prospect of EU accession.³⁵ The SAP process

³¹ Rupnik 2000, Pridham 2002,

³² Bull.EU 6-1993, Pt. 1.13

³³ Bull.EU 5-1999, Pt. 1.3.73.

³⁴ Bull.EU 4-1997, Pg. 2.2.1.

³⁵ Ibid

incorporates trade concessions and economic and financial assistance into a progressive partnership with the EU until their eventual membership.³⁶

The SAP is the mechanism whereby the EU encourages and monitors democratic and EU compatible institutional reform in the member state. When the SAP is initiated, a Consultative Task Force (CTF) is formed, which consists of a team of democratization experts from the EU and the applicant country.³⁷ The CTF determines the policy goals and recommendations that are contained in annual reports, known as Stabilization and Association Reports (SAR). The SAR is an annual, comprehensive evaluation of the political, economic, and social developments in the applicant country. It outlines the progress made in each of these areas, particularly in regards to the applicant country's fulfillment of the policy recommendations of the CTF.

The SAP also represents only the initial stage in the membership accession process to the EU. There is no formal contract binding the applicant country and the EU under the SAP.³⁸ There is also no set time limit that a country is involved in a SAP with the EU. The process is largely determined by the progress made by the applicant country in implementing an adequate amount of reform so as to justify consideration for the next step in the accession process, a Stabilization and Association Agreement (SAA). Consequently, should the applicant country fail to implement the reforms allocated in the SAR, the EU will document such failures in the subsequent SAR, but does not take punitive measures, such as withholding aid, or suspending the accession process altogether.³⁹

³⁶ Ibid

³⁷http://ec.europa.eu/enlargement/enlargement_process/accesion_process/how_does_a_country_join_the_eu/sap/index_en.htm. Last accessed 11/24/06

³⁸ http://ec.europa.eu/enlargement/serbia/eu_serbia_and_montenegro_relations_en.htm. Last accessed 11/24/06

³⁹ Ibid

When a certain level of the Copenhagen Criteria has been met, the applicant country enters into a Stabilization and Association Agreement (SAA). The SAA is similar to the SAP, in that the pace of progress towards membership relied upon Serbia's ability to implement the reforms as prescribed in its SARs.⁴⁰ However, the SAA represents a more formal agreement than the SAP, wherein the progress in applicant countries is more closely followed, and conditionality is directly contingent on continued membership consideration.⁴¹ The SAA is a contractual agreement, and the EU can suspend the process if the applicant country does not meet specified conditions.⁴² However, in the instance that the applicant country does not meet the SAA's conditional requirements, the process of censure is slow, and involves a series of advance warnings in SAA annual reports, followed by a period of time to allow for the proper response by the applicant country.⁴³ Should the applicant country fail to implement the needed reforms, the European Council would make the decision whether to suspend negotiations.⁴⁴ When an applicant state fulfills the requirements of the SAA, the terms of its accession into the EU are negotiated and decided upon, after which the applicant state's admission into the EU must also be approved by each member state.⁴⁵

By requiring democratization for membership, it has been argued that the EU's method constitutes a unique model of democracy promotion.⁴⁶ The EU's "integration model" for democracy promotion is distinct from other international organizations that incorporate democratic requirements for membership, because the incentive of EU membership appeals to

⁴⁰ http://ec.europa.eu/enlargement/serbia/eu_serbia_and_montenegro_relations_en.htm. Last accessed 11/24/06

⁴¹ http://europa.eu.int/comm/enlargement/serbia_montenegro/serbia_montenegro_eu_relations.htm. Last accessed 4/19/06.

⁴² <http://www.euractiv.com/en/enlargement/eu-western-balkans-relations/article-129607>. Last accessed 11/24/06

⁴³ Pridham 2002: 958

⁴⁴ Ibid.

⁴⁵ http://europa.eu/eur-lex/en/treaties/dat/EU_treaty.html. Last accessed 11/24/06

⁴⁶ Dimitrova and Pridham 2004

the applicant countries across political, economic, and social contexts.⁴⁷ Whitehead has similarly argued that the potential of EU membership:

[G]enerates power, broad-based and long-term support for the establishment of democratic institutions because it is irreversible, and sets in train a cumulative process of economic and political integration that offers incentives and reassurances to a very wide array of social forces .. it sets in motion a very complex and profound set of mutual adjustment processes, both within the incipient democracy and in its interactions with the rest of the Community, nearly all of which tend to favor democratic consolidation ... in the long run such 'democracy by convergence' may well prove the most decisive international dimension of democratization, but the EU has not yet proved the case fully.

⁴⁸

EU membership is also a distinctly salient incentive because of the long-term commitment that it represents.⁴⁹ Thus the accession process empowers the EU with powerful carrots to drive sweeping democratic reforms among its applicant states.⁵⁰

While it is increasingly agreed that the EU is playing a significant role in promoting democracy within applicant countries, it is also agreed upon that the specifics of this phenomenon are significantly “understudied.”⁵¹ Kubicek argues that the majority of studies focus on the countries in which EU influence has been most successful in promoting democracy, which has perpetuated a false notion of success; when in reality, not all states have rushed to meet the EU’s demands.⁵² Thus, Kubicek pays specific attention to what he terms the “reluctant democratizers,” which are the states that have not automatically accepted democracy on the EU’s terms.⁵³ Among those countries that Kubicek categorizes as reluctant democratizers are Slovakia, Turkey, Romania, Ukraine, and Serbia. Examining the EU’s

⁴⁷ Ibid

⁴⁸ Whitehead 1996:19

⁴⁹Dimitrova and Pridham 2004

⁵⁰ Ibid

⁵¹ Whitehead 1996, Pridham 2000, Pravda and Zielonka 2001, Schraeder 2002, Kubicek 2003, Pridham 2005

⁵² Kubicek 2003: 3

⁵³Ibid

involvement with the reluctant applicants can, according to Kubicek, yield significant conclusions into the potential and limitations of the EU in promoting democracy through the process of accession.⁵⁴ This study will focus on Serbia as a “reluctant democratizer,” and will attempt to delineate the potential and limitations of the EU’s influence on its democratization.

Pridham has called attention to the significant lack of literature dealing with the process of democratization in the Balkans.⁵⁵ He speculates that the Balkans have been bypassed in the literature perhaps because of the many challenges they present to analysts.⁵⁶ Meanwhile, the lack of attention is exacerbated by the potential of further examination into the Balkan cases to offer significant contributions towards understanding the process of democratization.⁵⁷ Yet the literature continues to largely ignore the Balkans, in particular Serbia. Among the most recent works dealing with the EU and democratization, there has been a particular focus on third world countries.⁵⁸ Moreover, within the several recent works that deal with the EU and CEEC’s, none deal explicitly with the case of Serbia.⁵⁹

In the context of EU and democracy promotion, there is the need for more studies to examine just how the EU accession process shapes and affects democratization in its applicant states.⁶⁰ Pridham notes that the tendency among scholars to combine “all external factors in one conceptual basket” has led to “an artificial distinction between the domestic and the international which has been harmful to assessing the reality where the two intermix often routinely and sometimes quite powerfully.”⁶¹ The interaction of EU accession demands with

⁵⁴ Ibid

⁵⁵ Pridham and Gallagher 2000

⁵⁶ Ibid

⁵⁷ Ibid

⁵⁸ Dimitrova and Pridham 2004: 93

⁵⁹ see Graeme 2002, Scraeder 2002, Kubicek 2003, Pridham 2005

⁶⁰ Dimitrova and Pridham 2004: 94

⁶¹ Pridham 2005: 7

domestic conditions in applicant countries constitutes a dynamic that Pridham calls “integration effects.”⁶² These effects are “felt almost immediately,” as “fragile new democracies have to undertake a crippling overload of implementing change.”⁶³ To best examine the “integration effects” on applicant countries, Pridham suggest that studies focus on a region, and within a specific time period.⁶⁴ Thus, this study will focus on Serbia, and from the period after the Milosevic regime until the present time to get the clearest notion of EU impact.

Among the many mechanisms through which the EU exhibits influence on the democratizations of its applicant countries, most prominent within the literature are the concepts of convergence and conditionality. The widespread promotion and internalization of democratic norms has been referred to as diffusion, contagion, demonstration effect, incorporation, consent, socialization, adaptation, emulation, zeitgeist, complex interdependence, and learning.⁶⁵ However, for the purpose of examining the EU’s impact on applicant countries, the most relevant incarnation of this concept is known as convergence.⁶⁶ Convergence represents the unseen manner by which prospective EU membership shapes the attitudes and policy choices of applicant countries, particularly within the political elite of these countries.⁶⁷ Yet convergence is seen as playing only a supportive role because of the intangible manner through which it influences democratization.⁶⁸ Likewise, because its influence is so subtle, it is consequently difficult to isolate convergence’s effect on democratization.⁶⁹

⁶² Pridham 2005: 3

⁶³ Pridham 2005: 2,3

⁶⁴ Pridham 2005: 4

⁶⁵ Kubicek 2003: 4

⁶⁶ Kubicek 2003, Pridham 2005

⁶⁷ Pridham 2005: 8

⁶⁸ Kubicek 2003: 5

⁶⁹ Ibid

It is therefore useful to employ Kubicek's framework for evaluating the likely impact of convergence. He establishes a series of hypotheses, which take into consideration the interaction between the EU's promotion of democratic norms, and the process whereby these norms are internalized domestically.⁷⁰ Within this context, convergence is primarily considered an "elite driven process."⁷¹ Thus it is important to consider how receptive Serbia's elites have been towards the EU, particularly in their portrayal of European integration as a positive thing. Another important consideration is the concept of "cultural match," which considers the compatibility of EU democratic norms with the existing political culture of the applicant state.⁷² This includes the ability of the political elites in applicant countries to sell the idea of joining Europe to their constituents.⁷³ These points will be considered in the evaluation of the EU's impact on Serbia's democratization through convergence.

This study will also evaluate the ways in which the EU has promoted democracy in Serbia through the use of political conditionality. In the EU's case, political conditionality is inherent in the SAP that it has initiated with Serbia, which mandates that it meet certain democratic criteria before they are considered for membership. While the concept of conditionality, as has been previously discussed, is relatively simple, measuring the impact of conditionality on democratization is quite challenging.

Assessing the impact of conditionality requires an examination of several different factors. The first measure of conditionality is in its ability to bring about a desired result. This depends on the efficacy of the conditional measures as well as the likelihood that the applicant state will implement the conditions.⁷⁴ Kubicek offers a series of considerations to evaluate the

⁷⁰ Kubicek 2003: 13

⁷¹ Ibid

⁷² Ibid

⁷³ Kubicek 2003: 14

⁷⁴ Kubicek 2003

potential compliance with conditional measures.⁷⁵ He contends that the carrot associated with conditionality must constitute a sizeable reward, in order for the elites to risk enacting democratic reforms, which thus empower their people to put them out of office.⁷⁶ Another important factor is the presence of viable alternatives, which would make them less susceptible to external pressure to change.⁷⁷

In evaluating the impact of the EU's membership accession conditions, it is necessary to examine the conditional measures in their ability to bring about intended democratic goals over time. Kubicek noted the potential for accession conditions, which are intended to bring about democratization, to result in a variety of unintended, and even un-democratic.⁷⁸ For example, in the case of Serbia, the EU's demand for cooperation with the ICTY has been stressed as a mechanism for rebuilding the rule of law, dismantling the ethno-nationalist ideologies that contributed to the and bloody collapse of Yugoslavia in the 90's, and reconciling the resultant atrocities.⁷⁹ The EU's goals regarding ICTY conditions provide the criteria by which to determine their successful implementation in Serbia.

One final dynamic required to fully evaluate the EU's impact on Serbia's democratization is to considered whether the applicant county would have likely undergone similar democratic reforms, or a similar rate of democratization, without the EU's involvement. Making such a determination can be done by considering the domestic elements that challenge democratic reform, and estimating the EU's role in spurring reform despite such elements. This is accomplished best by applying a counterfactual scenario, where the EU's domestic influence is factored out. In Serbia's case, by grouping the domestic factors that have worked for

⁷⁵ Kubicek 2003

⁷⁶ Kubicek 2003: 17

⁷⁷ Ibid

⁷⁸ Ibid

⁷⁹ Cassese 1998

democracy against those that have worked against democracy, one can get a sense for the domestic propensity for, or resistance to reform. It is also useful to examine the scope and depth of democratic reforms to identify specific reforms that would be more susceptible to such democratic resistance from domestic factors.

This study will strive to incorporate the many considerations, as delineated by the relevant literature, in evaluating the impact of EU accession conditions on Serbia's democratization. First, it will focus on Serbia's democratic transition, and the many domestic challenges it faced in its efforts to democratize. Second, it will outline EU involvement in Serbia's political progress, specifically the SAP process and how this program has influenced the pace of democratization. Third, it will identify specific areas where the EU's impact has been limited, particularly in regards to its ICTY policy. Lastly, the analysis will also evaluate specific EU policies for the manner in which they have either contributed to, or detracted from Serbia's democratization.

Analysis

In the period since the overthrow of the Milosevic regime, Serbia has taken significant steps towards democracy despite facing tremendous domestic obstacles. The most significant obstacle has been overcoming the legacy of the Milosevic regime, which was evident in virtually all areas of government, and created significant opposition to efforts to enact democratic reform. Serbia has also been challenged with severe political infighting, and a complicated federal relationship with Montenegro, both of which stymied reforms attempts, most significantly in restricting a new constitution. Despite these obstacles, Serbia has made consistent progress towards becoming a democratic state, with a legitimate parliament, free elections, freedom of expression, and respect for human rights and minorities.

Serbia's democratic transition began in October of 2000, when President Slobodan Milosevic refused to acknowledge the results of an election in which he was defeated. In

dramatic and defiant response, hordes of angry citizens seized the Parliament building demanding that Milosevic step down from office. Soon after, there were massive demonstrations throughout Serbia, and Milosevic ceded defeat to Vojislav Kostunica, who became Serbia's first ever democratically elected President.

In the year following Serbia's democratic revolution, it made progress in key areas of democratic reform. Ironically, many of these immediate improvements, such as free elections, political pluralism, and political and civil freedoms were actually inscribed in the constitution that was drafted under Milosevic.⁸⁰ It wasn't until those in power had the will to actually implement them that they took effect. Serbia's parliament was legitimate and elected through free and fair elections.⁸¹ The people in Serbia enjoyed relative freedom to express themselves and assemble, as did the media in large part.⁸² Each of these areas needed improvement, but as the foundational principles had been established, these areas have been strengthened in subsequent years.

As the adrenaline of Serbia's democratic revolution dissipated, however, the unfortunate reality of its devastated domestic conditions began to set in. These domestic challenges have come in three different areas. First, Serbia faced tremendous infighting among its key politicians, who seemed to spend more time and energy attempting to undermine each other rather than enact democratic reforms. Second, Serbia has been challenged by the pervasive legacy of the previous Milosevic regime, both in its efforts to purge the corrupt remnants of the previous regime, and in the effect that these remnants have had in stalling democratic reform. And third, Serbia faced a nearly impossible federal relationship with its southern province of Montenegro, which not only stifled any efforts to draft a new constitution, but also undermined

⁸⁰ Freedom House 2002

⁸¹ Ibid

⁸² Ibid

efforts to enact democratic reforms. The following section will review these obstacles, and highlight the democratic progress and reforms that have been accomplished in Serbia.

Serbia has faced other significant obstacles in its efforts to orchestrate democratic reforms. The coalition of 18 political parties (DOS) that united to defeat Milosevic soon after disbanded due to divergent preferences over the direction sought for Serbia's future.⁸³ Most significant was the divide between Serbia's two most preeminent politicians, Zoran Djindjic and Vojislav Kostunica.⁸⁴ Prime Minister Zoran Djindjic was Serbia's most pragmatic and pro-reform politician. Djindjic favored the urgent compliance with EU conditions, but was also known to resort to extra-legal or extra-constitutional measures to achieve them.⁸⁵ This approach stood in direct conflict with that of President Vojislav Kostunica, an academic and constitutional lawyer, who repeatedly threatened to quit the DOS if extra-legal mechanisms were employed in enacting democratic reform.⁸⁶ Kostunica's approach to reforms was to move slowly so as to preserve the rule of law.⁸⁷ However, Kostunica was also an ardent nationalist, and not only viewed the EU with reservations, but harbored a deep resentment of the ICTY.⁸⁸ Kostunica's nationalist tendencies were so pronounced, and his antipathy towards the ICTY so direct, that James Lyon, a Balkan expert with the International Crisis Group, has often referred to Kostunica as "Milosevic light."⁸⁹ The face-off between Djindjic and Kostunica was further complicated by the fact that while Kostunica was more popular, Djindjic's position as Prime Minister actually

⁸³ Pribicevic 2004: 4, Matic, Vladimir. 2004. "Serbia at the Crossroads Again." USIP Special Report #128. November, Washington D.C.

⁸⁴ Freedom in the World: "Serbia and Montenegro," Freedom House 2002 . www.freedomhouse.org

⁸⁵ Ibid

⁸⁶ Ibid

⁸⁷ Ibid

⁸⁸ Ibid

⁸⁹ As mentioned in personal communication between James Lyons and the author, May 2006.

gave him more de facto power.⁹⁰

The political infighting that stemmed from this political rivalry impinged on the efforts of the government to enact democratic reform. In the Freedom House annual reports for 2002 and 2003, they proclaimed this political infighting to be one of the most significant distractions impeding democratic reforms.⁹¹ As a result of the political infighting between Kostunica and Milosevic, the DOS coalition remained immanently in jeopardy of dissolution, and the federal government was not able to act in a unified and determined manner to implement much needed democratic reforms.⁹² In their 2002 annual report, the EU noted, “the increasingly open conflicts within the ruling coalition have seriously undermined the authority and transparency of institutions.”⁹³ According to the same report, this was not only apparent in parliament, but also impeded efforts to instigate reform in the judiciary, the military, and the police.⁹⁴

In March of 2003, the rivalry between Djindjic and Kostunica came to an unfortunate and sobering end when Djindjic was assassinated just outside the parliament building in downtown Belgrade. The assassination was orchestrated by organized crime figures from the Milosevic-era security structures.⁹⁵ As mentioned earlier, Djindjic was not only Serbia’s most capable reform-minded politician, but he was an ardent supporter of implementing the needed democratic reforms to satisfy the EU’s conditions for eventual membership. Tragically, not only was Djindjic’s assassination a sobering manifestation of the persistence of the Milosevic legacy, but it also marked the passing of one of Serbia’s only politicians that was capable and willing to

⁹⁰ Freedom in the World: “Serbia and Montenegro,” Freedom House 2003 . www.freedomhouse.org

⁹¹ Freedom in the World: “Serbia and Montenegro,” Freedom House 2002 . www.freedomhouse.org, Freedom in the World: “Serbia and Montenegro,” Freedom House 2003 . www.freedomhouse.org. Last accessed 11/18/06

⁹² Freedom in the World: “Serbia and Montenegro,” Freedom House 2002 . www.freedomhouse.org

⁹³ EU 2002 report pg. 6

⁹⁴ Ibid

⁹⁵ Freedom in the World: “Serbia and Montenegro,” Freedom House 2002 . www.freedomhouse.org,

fight it.⁹⁶

In response to the assassination, the Serbian government issued a state of emergency, and initiated a series of reprisals that yielded mixed results. Immediately following the assassination, the police undertook a massive operation called “Operation Sabre” to find those responsible, and bring them to justice.⁹⁷ On the one hand, many viewed these actions as a long-awaited crackdown on Serbia’s organized crime structures, which the government had done little about previously.⁹⁸ However, the firm response of the government was also viewed as violating civil liberties, as approximately 10,000 people taken into custody, many of which were held without legal justification, and many were subject to torture.⁹⁹ The cumulative result of the state of emergency, according to Freedom House, was to denigrate the level of freedoms and transparency in the Serbian government.¹⁰⁰ Consequently, Serbia received a downward trend annotation in their 2004 annual report.¹⁰¹

The assassination of Djindjic was a direct manifestation of another one of Serbia’s most sobering challenges, which has been to dismantle and purge the corrupt remnants of the Milosevic regime. In order to maintain his authoritarian rule, Milosevic filled the echelons of government with those loyal to him, particularly in the police, judiciary, and the military.¹⁰² The process of democratization involved purging these corrupt elite bureaucrats who had become a part of Serbia’s ruling criminal class.¹⁰³ However, those who stood to be purged naturally

⁹⁶ ICG Europe Report No. 141: “Serbia after Djindjic” March 18, 2003, pg. 3

⁹⁷ Freedom in the World: “Serbia and Montenegro,” Freedom House 2004.. www.freedomhouse.org,

⁹⁸ Ibid

⁹⁹ Ibid

¹⁰⁰ Ibid

¹⁰¹ For a complete listing of Freedom House annual ratings for Serbia, see Figure 1

¹⁰² ICG Balkans Briefing “Serbia: Military Intervention Threatens Democratic Reform,” 28 March, 2002

¹⁰³ ICG Report After Milosevic, pg. 63

viewed democratic reform as a direct threat.¹⁰⁴ As a result, these elites worked both actively and silently against democratic reforms.¹⁰⁵ In some instances, the corrupt opposition of Milosevic elites attempted to manipulate the scope and depth of reform by implicitly threatening the politicians that sought to implement them.¹⁰⁶

The area where attempts to reform have been the most important, and the most difficult has been in the police. Under the Milosevic regime, the police served as the mechanism for extending and enforcing Milosevic's brand of corrupt, authoritarian rule. The International Crisis Group (ICG), in their comprehensive report "After Milosevic," noted how the police had been involved in "political assassinations, smuggling, car theft, prostitution, extra-legal actions against the opposition and the media, as well as 'ethnic cleansing' and the actions of their special paramilitary forces in Croatia, Bosnia, and Kosovo."¹⁰⁷ In a similar rebuke, the EU reported:

The police, as an organ of law enforcement, are the most obvious illustration of the legacies of the previous regime: obsolete legislation, unclear division of competencies, oversized, lack of civilian control, connections to organized crime, and responsibility for serious human rights violations in the past decade.¹⁰⁸

Initial efforts to reform the police fell victim to the political rivalry between Kostunica and Djindjic. While Kostunica preferred to maintain the status quo regarding the police structure and leadership, Djindjic preferred to purge the elements of the Milosevic regime in exchange for newer, more compliant ones.¹⁰⁹ In their 2003 annual report for Serbia, the EU noted that the limited progress in police reform was largely the result of "the legacy of the past, coupled with the adverse affect of internal political disputes."¹¹⁰

¹⁰⁴ ICG Europe Report No. 141: "Serbia After Djindjic." March 18 2003, pg. 14

¹⁰⁵ Commission Annual Report 2002, 2003

¹⁰⁶ Ramet 2002: 358

¹⁰⁷ ICG After Milosevic pg. 42

¹⁰⁸ EU Stab 2002, pg. 10

¹⁰⁹ ICG After Milosevic, pg. 43

¹¹⁰ EU 2003, pg. 11

Serbia's efforts to reform the police have been gradual, and are yet to come to any significant resolution. In 2003, the EU that despite Serbia's "genuine commitment", and "more transparency, international involvement and promising signs of accountability to Parliament," there was ultimately "little progress" made in police reform.¹¹¹ By 2004, Serbia had failed to adopt any of the core police law recommendations suggested by the EU in 2003.¹¹² A promising Law on Police was adopted in 2005, however its implementation was frustratingly slow due to the bureaucratic demand to approve a separate Public Administration Law before the Law on Police could be adapted.¹¹³ According to the most recent EU annual report, police reform remains inadequate, as the implementation of the Law on Police has yet to bring about adequate improvements in transparency, accountability, and organization.¹¹⁴ Ultimately, the Law on Police lays out the structure for democratic control, as well as a clear legal framework for the police, it is up to Serbia to put the law into action to bring about these reforms.

Another area where efforts to enact reforms have been challenged by the legacy of the Milosevic regime has been the military. Under Milosevic, the military, or Yugoslavian National Army (JNA), became engaged in brutal civil conflicts with its former Yugoslav neighbors, as well as in Serbia's southern province of Kosovo. After Milosevic was defeated, the military was in dire need of comprehensive reform, in establishing civilian control, and in purging the numerous high-ranking officials with dangerous links to the Milosevic regime. However, efforts to enact these reforms in the military have fallen victim to the political infighting within the DOS that predominated Serbia's initial domestic political landscape, as Djindjic and Kostunica envisions distinctly different paths of reform.¹¹⁵ Moreover, efforts to reform have been met with resistance

¹¹¹ EU 2003, pg. 11

¹¹² EU 2004, pg. 44

¹¹³ EU 2005, pg. 37

¹¹⁴ EU 2006, pg. 37

¹¹⁵ EU 2005, pg. 10

from within the military itself, from Milosevic-era actors who sought to prevent reforms as a means to protect their positions of power.¹¹⁶

Despite such direct ties to the Milosevic regime, the military did make some significant initial progress. This was demonstrated in their judicial handling of an Albanian uprising in Serbia's southern Presevo Valley, an area just adjacent to Kosovo. In May of 2002, an agreement was reached to trade amnesty for militant Albanians in exchange for their weapons.¹¹⁷ In order to resolve the conflict, the Serbian government promised a series of political, social, and economic measures to improve relations with Albanians in the area.¹¹⁸ NATO rewarded Serbia's competent conduct throughout the Presevo incident by allowing Serbian military forces to reengage in the buffer zone between Serbia proper and Kosovo.¹¹⁹

Following this initial success, reform in the military came to a virtual standstill. In the EU's 2003 reports, it claimed that Serbia had failed to implement any significant reform from the 2002 recommendations, with the exception of minor adjustments in reducing compulsory service, and in strengthening contentious objection.¹²⁰ The military also became embroiled in several controversial issues, one being the refusal of President Vojislav Kostunica to dismiss Nebojsa Pavkovic as the head of the military, despite his direct links to the previous Milosevic regime.¹²¹ Also, there were troubling accusations that Serbia had sold missile, aviation, and chemical technology and equipment to Iraq.¹²²

¹¹⁶ Ibid

¹¹⁷ Freedom House 2002

¹¹⁸ Ibid

¹¹⁹ Ibid

¹²⁰ EU 2002, pg. 10

¹²¹ Freedom House 2003

¹²² ICG Report, Arming Saddam, pg. 1

In 2004, Serbia made positive steps toward military reform with the drafting of new legislation that laid out complete reorganization of the military. This important legislation laid out plans for a new defense strategy, increased transparency, and in establishing civilian control.¹²³ General Pavkovic was finally fired, along with numerous other high-ranking officials left over from the Milosevic regime.¹²⁴ Organizational changes were made to enable complete civilian control over the Army, including civilian control over finances.¹²⁵ Also, important measures were taken to reduce the possibility of abuse of weapons, and plans were made to reduce the size of the army by nearly half, from 80,000 to 50,000 personnel.¹²⁶ Progress was also made in the dismantling of the Army Commission for cooperation with the ICTY, which, contrary to its title, had done more to obstruct cooperation with the ICTY than promote it.¹²⁷

Further plans for military reform came with the new constitution that was approved in September 2006. The constitution lays out the legal framework for comprehensive military reform, not only reiterating previous reforms, but also establishing complete civilian control over the Army and its finances. However, despite the numerous pieces of legislation and constitutional provisions entailing military reform, Serbia has yet to adequately implement these reforms to substantially amend its military. According to the most recent EU annual report, the military has yet to be put completely under civilian control, committees continue to be plagued by inefficiency, and there remain far too many in power with links to the Milosevic regime that extend continued resistance to military reform.¹²⁸ The military has also failed to meet its obligations in cooperating with the ICTY, most significantly in the failure to apprehend and

¹²³ EU 2004, pg. 7

¹²⁴ EU 2004, pg. 7. Freedom House 2003

¹²⁵ EU 2004, pg. 7

¹²⁶ EU 2004, pg. 7,8

¹²⁷ EU 2004, pg. 8

¹²⁸ EU 2006, pg. 9

extradite long-sought war criminal Ratko Mladic.¹²⁹ The failure to do so has led to the full suspension of EU membership consideration for Serbia. Ultimately, efforts to reform the military have demonstrated that developing plans to reform the military are merely the first step, and that the real challenge lies in implementing the reforms and making the necessary changes.

Serbia has also struggled to properly implement reforms in its efforts to establish an independent judiciary. Upon regime change, Serbia inherited a rabidly corrupt judiciary, “that was almost completely discredited and deprofessionalized under Milosevic.”¹³⁰ Many senior members of Serbia’s judiciary had become a part of Serbia’s ruling criminal elite class, and thus had no respect for rule of law, judicial legitimacy, or human rights.¹³¹ According to EU reports, while “corruption, election fraud, political-motivated trials, and inefficiency,” was evident throughout the judiciary, the removal of judges involved in such corruption was “extremely sensitive.”¹³² According to a report issued by the American Bar Association, it was suspected that included in some mass dismissals of Milosevic-era judges were some judges that were dismissed because of their independent judicial views.¹³³ Thus the very process of removing corrupt judges was at times itself vulnerable to misuse.

In their efforts to reform the judiciary, Serbia has faced two distinct challenges. The first has been initiating structural reforms in the judiciary, which was plagued by ineffectual performance that led to a huge backlog of cases. In addition, there remained many corrupt judges from the Milosevic regime, a point only exacerbated by the fact that judges were grossly underpaid; the average salary only amounting to \$70 per month, which increased the

¹²⁹ EU 2006, pg. 5

¹³⁰ ICG After Milosevic, pg. 51

¹³¹ Ibid

¹³² EU 2002, pg. 10

¹³³ Judicial Reform Index for Serbia, American Bar Association, December 2003, pg. 26.

susceptibility for bribes.¹³⁴ The second challenge, largely a byproduct of the first series of challenges, involved restoring judicial legitimacy and independence after the Milosevic regime's abuse of the judiciary.¹³⁵ Not surprisingly, there was a severe lack of confidence in the judiciary by the Serbian public, and as well as a general lack of respect for judicial decisions by the government.¹³⁶

Despite these challenges, initial efforts towards judicial reform achieved "undeniable progress."¹³⁷ Important reforms were made to increase judges' salaries, as well as additional training for judges and prosecutors.¹³⁸ The process of removing compromised judges also continued. Most significant was a ruling made by the Constitutional Court regarding specific provisions made to certain laws that the Court not only ruled to be unconstitutional, but successfully suspended.¹³⁹ These developments helped to further establish judicial legitimacy and independence.

Much like reform efforts with the police and the military, judicial reform has most suffered from a lack of implementation. In May 2006, a comprehensive Judicial Reform Strategy was adopted, which outlined plans for full judicial independence, transparency, accountability, and efficiency. However, the EU noted that actual reform in the judiciary remains at "an early stage."¹⁴⁰ In reality, the judiciary still suffers from inefficiency, which has led to a perpetual backlog of cases.¹⁴¹ Moreover, the EU reported that judges and prosecutors are still exposed to

¹³⁴ Freedom House 2002

¹³⁵ EU 2002, pg. 10

¹³⁶ Ibid

¹³⁷ EU 2003, pg. 10

¹³⁸ EU 2003, pg. 11

¹³⁹ Ibid

¹⁴⁰ EU 2006, pg. 10

¹⁴¹ Ibid

political influence.¹⁴² Consequently, there is still much work to be done to bring Serbia's judiciary up to the standards of a strong, democratic state.

Serbia has also faced tremendous challenges in drafting and adopting a new constitution. Following its democratic revolution, Serbia actually inherited three distinctly different constitutions: Federal, Serbian, and Montenegrin. Each of these constitutions was designed by Milosevic, and was "neither intended nor designed to meet the needs of any modern, democratic state."¹⁴³ Yet while the need for Serbia to pass a new constitution was paramount, it was unable to do so because of its dysfunctional federal relationship with Montenegro.

Serbia's impracticable federation with Montenegro was the source of tremendous political gridlock, and inhibited its ability to pass a new constitution. The two were bound by a 'constitution' that dated back to the Milosevic regime, which granted Montenegro very little political power.¹⁴⁴ Not surprisingly, Montenegro had long sought independence from its union with Serbia, and viewed the Milosevic defeat as a cue to bring that about. However, Montenegro sought to do so with the political strategy of boycotting federal institutions as a mechanism of stalling reform and thus forcing a separation.¹⁴⁵ It therefore became virtually impossible for Serbia to pass federal reforms, even to remedy the constitutional arrangement that Montenegro was protesting in the first place.¹⁴⁶

Despite attempts by the EU to remedy the troubled relationship between Serbia and Montenegro, it ultimately proved to be an ill-fated quagmire that undermined Serbia's attempts to enact democratic reform. The EU made it clear that it would not endorse Serbia and

¹⁴² Ibid

¹⁴³ ICG After Milosevic, pg. 10

¹⁴⁴ ICG Europe Report No. 108: "After Milosevic" April 1 2001, pg. 55

¹⁴⁵ Commission Annual Report 2002

¹⁴⁶ Freedom in the World: "Serbia and Montenegro," Freedom House 2002 . www.freedomhouse.org

Montenegro separately as a means to pressure the two to cooperate. In March of 2002, the Belgrade Agreement set forth a much looser union between the two republics, which reduced the areas of involvement between Serbia and Montenegro to a few economic and military issues.¹⁴⁷ Soon after, however, the EU reneged on the terms of the initial deal by insisting on a much stronger federal economic system.¹⁴⁸ The new union demanded a significant effort to appease its reluctant partners, which required time and energy that should have been spent enacting democratic reforms. In November of 2004, the EU endorsed a “twin-track” policy for Serbia and Montenegro, which allowed the two republics to proceed at different rates.¹⁴⁹ Ultimately, however, the EU’s attempts to preserve the ill fated union between Serbia and Montenegro were in vain, as Montenegro gained their independence via referendum, which was held in May of 2006.¹⁵⁰

With Montenegro’s succession, Serbia’s efforts to pass a new constitution grew more focused and faced considerably less resistance.¹⁵¹ Also, Serbia’s Parliament has been since engaged in “intensive legislative activity.”¹⁵² One of the fruits of this activity has been a new Constitution, which was adopted by the Serbian Parliament on September 20th, and approved by referendum in October 2006.¹⁵³ Serbia’s new Constitution is significant because it finally replaces the constitution that had been in effect since the Milosevic regime. The new Constitution is also significant because it contains detailed provisions securing human rights, the protection of minorities, and civilian control over the military.¹⁵⁴ More importantly, the new

¹⁴⁷ Freedom in the World: “Serbia and Montenegro,” Freedom House 2003 . www.freedomhouse.org

¹⁴⁸ Ibid

¹⁴⁹ Ibid

¹⁵⁰ EU 2006, pg. 5

¹⁵¹ Ibid

¹⁵² EU 2006, pg. 6

¹⁵³ Ibid

¹⁵⁴ Ibid

Constitution makes it profoundly easier to make amendments in the future.¹⁵⁵

Serbia has faced tremendous obstacles in its efforts to enact democratic reform, yet it has made significant strides in democratization despite these challenges. It has upheld free elections, free expression, freedom of the media, freedom of religion, human rights, minority protection, and political pluralism. It has taken strains to combat the pernicious legacy of the Milosevic regime by pushing through difficult reforms in the most difficult areas; namely the police, the military, and the judiciary. Serbia's democratic institutions demonstrated resiliency following the assassination of its most important politician, Zoran Djindjic.¹⁵⁶ It has endured years of political gridlock and made difficult compromises with Montenegro, only to see it secede in the end. While there are yet important reforms needed to overcome the legacy of the Milosevic regime, and to further solidify Serbia's democratic institutions, the progress made to date provides a firm foundation from which such reforms are all the more likely to be made in the future.

The Role of the EU

The EU has been intimately involved in Serbia's democratization, yet its efforts to promote democratization through integration have yielded mixed results. By signaling its intent for Serbia to eventually become a member, the EU increased Serbia's incentives for implementing democratic reform. Through the SAP annual reports, and the recommendations of the Consultative Task Force (CTF), Serbia received valuable guidance on where to focus its efforts to democratize, as well as how to implement such reforms. The EU also provided significant financial assistance that was directed specifically at rebuilding Serbia's devastated

¹⁵⁵ Ibid

¹⁵⁶ EU 2004, pg. 1

infrastructure, and towards facilitating democratic initiatives in Serbia. The success of the EU's efforts can be seen both in Serbia's democratic progress, as well as in Serbia's eventual eligibility to enter into an SAA with the EU.

However, the EU's influence in promoting democratization in Serbia has been limited due to the Serbia's domestic challenges, the nature of the accession process, and Serbia's lack of political will to enact reforms. The EU has been limited in pushing forward democratic reforms in Serbia due to its limited sphere of influence due to the membership accession process. This has been evident in the key areas of the military, the police, and the judiciary, where Serbia's reforms have been consistently lagging. Wherein the EU's sphere of influence are limited to that of published admonishments, which have proven unsuccessful to prompt Serbia to make these changes, it has been limited in prompting democratic reform in these key areas. The EU has also been limited due to Serbia's domestic conditions, which in key areas have proved too challenging to reform, despite the incentive of EU membership, and the pressure of the SAP.

The EU has been largely unsuccessful in influencing reforms in areas where Serbia has had insufficient political will to do so. Throughout Serbia's democratic transition, the EU has required cooperation with the ICTY condition for continued membership consideration as a means for reconciliatory change in Serbia, and the entire Balkan region. However, the EU's ICTY requirements have not only been unpopular, but Serbia has offered little cooperation, and even in some instances has actually obstructed the ICTY in its investigations. Moreover, the EU's ICTY policy has to a large extent served as a catalyst to a significant shift in Serbia's domestic political landscape, as the nationalist interpretation of the ICTY requirements as a symbol of EU bias against Serbs has grown increasingly popular. In this regard, while the EU's ICTY policy has been intended to promote democracy and accountability in Serbia, the reaction to the policy has actually threatened to undermine further democratic progress.

Contributions

At the heart of EU relations with Serbia has been the formal membership accession program. At the Zagreb Summit in December 2000, the EU lifted the economic sanctions against Serbia, and offered approximately €200 million in aid for food, medicine, heating oil, and other humanitarian assistance.¹⁵⁷ Serbia's status as official candidate for membership was formalized in the initiation of its Stabilization and Association Process (SAP).¹⁵⁸

The SAP between the EU and Serbia has been intended to promote the Copenhagen Criteria, as well as increased regional cooperation and transition to a market economy.¹⁵⁹ These goals provide the basis for the commitments that Serbia must meet in order to progress towards EU membership.¹⁶⁰ These commitments are set by the Consultative Task Force (CTF), which was assigned in July 2001, and consists of democratization experts from both the EU and Serbia.¹⁶¹ Serbia's progress in meeting these commitments has been tracked through annual Stabilization and Association Reports, which provide exhaustive accounts of virtually every aspect of Serbian society: governmental, civic, regional cooperation, economic, public administration, and economic. These reports not only evaluate progress made by Serbia in these areas, but they also include the priorities for the next year as laid out by the CTF. In doing so, Serbia's post-Milosevic political evolution has been made increasingly transparent, as its progress, or lack thereof, has been documented through the SARs.

The EU's first annual report, issued in 2002, documented the progress and many

¹⁵⁷ http://www.delscg.cec.eu.int/en/eu_and_fry/bilateral_relations.htm. Last accessed 4/17/06

¹⁵⁸ Ibid

¹⁵⁹ http://ec.europa.eu/enlargement/enlargement_process/accesion_process/how_does_a_country_join_the_eu/sap/index_en.htm. Last Accessed 11/25/06

¹⁶⁰ http://ec.europa.eu/enlargement/enlargement_process/accesion_process/how_does_a_country_join_the_eu/sap/index_en.htm. Last accessed 11/25/06

¹⁶¹ http://ec.europa.eu/enlargement/serbia/eu_serbia_and_montenegro_relations_en.htm. Last accessed 11/26/06

challenges that Serbia had made in implementing reform. The EU issued a “positive overall impression,” of Serbia’s initial reforms, noting “a full-fledged strong commitment to reform, and some real progress.”¹⁶² While Serbia did make some progress in establishing voting procedures that met international standards, and in improving the efficiency and transparency of the parliament, other efforts were limited because of the tremendous domestic challenges they faced in virtually all areas of reforms.¹⁶³ Still, the EU determined the fulfilling the requirements of the SAP to be “a clear goal” of Serbian officials, and that the SAP was not only viewed as “merely a priority of foreign policy,” but also as “a vehicle for internal reform.”¹⁶⁴

Serbia’s subsequent performance in implementing democratic and EU-institutional reforms has been documented through annual reports. In 2003, Serbia’s progress effectively came to a halt, as it had failed to adequately implement literally every policy recommendation set out in the 2002 report.¹⁶⁵ However, by 2004, Serbia had begun to make progress, despite the assassination of Prime Minister Zoran Djindjic. These reforms included limited legislative activity, the establishment of the Council of Ministers, progress in decentralizing local government, and important reform in the military.¹⁶⁶ Serbia also made progress in developing its civil sector, as NGO’s began to play a more prominent role in securing human rights and protection of minorities.¹⁶⁷

Another important way that the EU has contributed to Serbia’s reform efforts has been through the application of the CTF. The CTF served as the mechanism through which the EU could advise and consult Serbia in its democratic transition, because the CTF set the priorities

¹⁶² EU 2002, pg. 1

¹⁶³ EU 2002, pg. 6,7

¹⁶⁴ EU 2002, pg. 26, 37

¹⁶⁵ EU 2003, pg. 25,26

¹⁶⁶ EU 2004, pg. 2,3,5

¹⁶⁷ EU 2004, pg. 6,7

where efforts would be most focused.¹⁶⁸ Through the CTF, the EU was empowered to apply the lessons learned from a wealth of experience with other post-communist transition countries to the case of Serbia.¹⁶⁹ One such priority that emanated from the EU's experience was the focus on establishing administrative capacity, which included not only democratic institutions in Serbia such as the Parliament and Ministerial departments, but also EU based institutions, such as the European Integration Office.¹⁷⁰ The CTF meetings also fostered cooperation between Serbia and its begrudged counterparts in the south; namely Montenegro and Kosovo. Consequently, the EU reported that the CTF served as a "major motor of the reform and coordination process throughout the Former Republic of Yugoslavia."¹⁷¹

The SAP also contributed to Serbia's democratization by providing incentives to enact political reform, as well as increased accountability and transparency of the government. As shown in Figure 4, Serbian public opinion towards EU membership has been consistently positive. Serbia's pro-EU public opinion has worked has translated into increased accountability on Serbia's politicians to satisfy the SAP requirements. Moreover, by setting annual benchmarks for reform, the SAP has become a mechanism for Serbia's politicians to push through much needed reform. This was most evident under the premiership of Zoran Djindjic, who repeatedly used the argument of satisfying SAP requirements as a means for enacting key reforms, particularly in dismantling the legacy of the Milosevic era.¹⁷²

Figure 4: Serbia's Response to question: "If Referendum with the questions 'Do you support our

¹⁶⁸ EU 2002, pg. 25

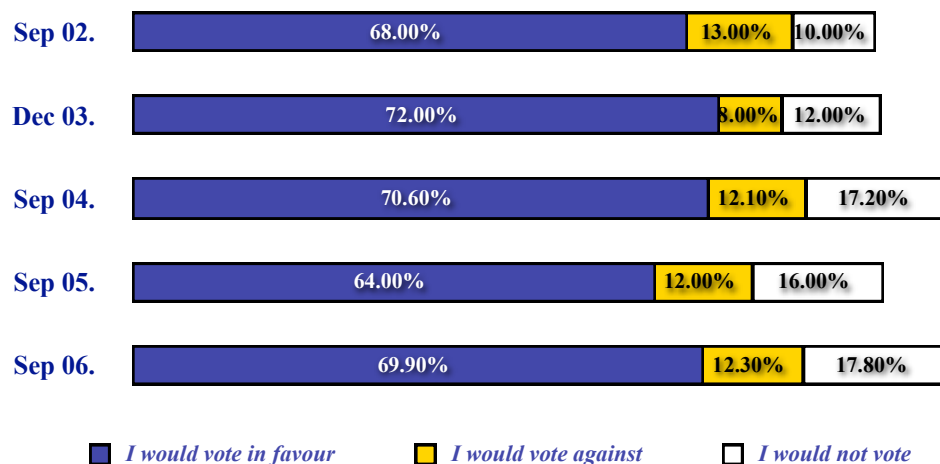
¹⁶⁹ Ibid

¹⁷⁰ Ibid

¹⁷¹ EU 2006, pg. 26

¹⁷² Matic, USIP Report, Serbia at the Crossroads, pg. 13

country's integration with the EU?' were held tomorrow, how would you vote?"¹⁷³



The SAP has also been supplemented by significant financial aid, which has been administered through the CARDS program.¹⁷⁴ The Community Assistance for Reconstruction, Development and Stabilization (CARDS) program was designed as the vehicle to provide economic assistance to the Western Balkans.¹⁷⁵ It was designed to support the SAP by providing financial assistance to specific areas that are most beneficial to economic growth, stability, and to facilitate further democratic reforms.¹⁷⁶ For instance, initial financial aid was targeted more towards supporting Serbia's weak infrastructure.

Immediately following Milosevic's defeat, the EU played an important role in maintaining stability by offering emergency financial assistance. The Milosevic regime was a corrupt kleptocracy, and left Serbia's economy utterly devastated.¹⁷⁷ Serbia's economy was decimated after a decade of hyperinflation and mismanagement destroyed the middle class, and generated

¹⁷³ Source: www.seio.sr.gov.yu. Last accessed 11/26/06

¹⁷⁴ See Figure 3 for annual CARDS Financial Assistance to Serbia

¹⁷⁵ http://ec.europa.eu/enlargement/financial_assistance/cards/index_en.htm. Last accessed 11/25/06

¹⁷⁶ Ibid

¹⁷⁷ ICG After Milosevic, pg. 56

30% unemployment rates.¹⁷⁸ In 2001, Serbia's industry was running at 37% of its 1989 level.¹⁷⁹ In addition, the 78-day NATO bombing campaign exacted approximately \$4.1 billion in damage.¹⁸⁰ Following Milosevic's defeat in October 2000, the federal government did not have enough money to secure enough heating oil for the approaching winter.¹⁸¹ At the Zagreb summit, the EU allotted Emergency aid 200 million euros towards oil and transportation and basic infrastructure so that the society would not collapse.¹⁸² Had not the EU provided this emergency financial assistance, Serbia's domestic challenges would have exponentially increased, as the struggle for impossibly scarce, yet vital resources such as heating oil would have likely reduced Serbia to a state of martial law.

Since then, the EU has contributed financial through the CARDS program to support post-conflict reconstruction and stabilization, rebuilding basic infrastructure, as well as supporting democratic initiatives in coordination with the CTF.¹⁸³ Initial CARDS financial aid was targeted at the reconstruction of basic infrastructure elements: energy, agriculture, enterprise development, health and regional/local development, and transport facilitation.¹⁸⁴ There was also an early emphasis on supporting civil society and the media.¹⁸⁵ By 2003, CARDS initiatives had been expanded to support humanitarian efforts, which assisted Serbia in dealing with its extensive population of refugees and internally displaced persons. In addition, economic assistance was targeted at supporting democratization efforts, primarily to support

¹⁷⁸ Lyon 1996

¹⁷⁹ June 2001 Fair Exchange

¹⁸⁰ ICG 2000 pg. 57

¹⁸¹ ICG Europe Report No. 108: "After Milosevic." 1 April, 2001 pg. 55

¹⁸² http://www.delscg.cec.eu.int/en/eu_and_fry/bilateral_relations.htm. Last accessed 4/17/06

¹⁸³ http://ec.europa.eu/enlargement/serbia/eu_serbia_and_montenegro_relations_en.htm. Last accessed 11/25/06

¹⁸⁴ EU 2003, pg. 50

¹⁸⁵ Ibid

Serbia's perpetually fragile institutions, such as the judiciary and the police.¹⁸⁶

Figure 3: CARDS Financial Allocation for Serbia 2000-2006 (million €)¹⁸⁷

	2000	2001	2002	2003	2004	2005	2006	Total
Serbia & Montenegro	650.5	385.5	351.6	324.3	307.9	282.5	257.5	2559.8

Another moderate success in the EU's efforts to promoting democratic reform can be seen in Serbia's eventual eligibility for a Stabilization and Association Agreement (SAA). By April 2005, the EU initiated a feasibility study to determine Serbia's eligibility to enter into a Stabilization and Association Agreement (SAA). The study reviewed the degree to which Serbia had fulfilled its political, economic, legal and administrative requirements, as prescribed by the annual SARs.¹⁸⁸ Serbia was also evaluated for its respect for democratic principles, human rights, rule of law, and for its regional cooperation.¹⁸⁹ Serbia was found to demonstrate much improved regional cooperation, respect for human rights and protection of minorities, and fair election practices.¹⁹⁰ And while Serbia was found to be competent so as to justify an SAA, it is interesting to note that the study was overwhelmingly critical; replete with instances of continued challenges and inadequate progress. According to the report, the government demonstrated lack of coordination, insufficient adherence to the Constitutional Charter of 2003, inadequate respect to rule of law, persistent corruption issues, ineffective parliamentary activity, as well as less than hoped for reform in the police, the military, and the judiciary.¹⁹¹ In addition, no progress was found in Serbia's lacking cooperation with the ICTY.¹⁹² Despite these failures, Serbia was

¹⁸⁶ Ibid

¹⁸⁷ http://ec.europa.eu/enlargement/financial_assistance/cards/statistics2000-2006_en.htm. Last accessed 11/25/06

¹⁸⁸ EU 2005 Report Feasibility Study, pg. 5

¹⁸⁹ Ibid

¹⁹⁰ Ibid

¹⁹¹ Ibid

¹⁹² EU 2005 Report, pg. 10

ultimately deemed eligible to enter into an SAA with the EU.

Limitations

The EU has also been limited in several ways in its efforts to promote democratic reform in Serbia. Despite consistent public opinion in favor of EU integration, there is little evidence that the EU has significantly impacted democratization through the notion of convergence. Also, the EU failed to assert adequate pressure or support to bring about significant change regarding a new constitution, the military, the police and the judiciary. The EU has not only been limited in evoking cooperation regarding the ICTY requirements, but its ICTY policy has had disparaging effects on Serbia's domestic political landscape in ways that undermine future democratization efforts in Serbia.

The most immediate ways in which the EU has been limited is in its ability to push forward democratic reforms through the SAP. The EU relies on the desire of the applicant country to become a member as incentive to enact democratic reform throughout the membership accession process. Also, the EU, through the SAP, is relatively limited to its ability to penalize that lack of reform by an applicant country other than through the public rebukes in the SAR. While lagging reform is likely to slow the accession process, this too relies on the desire for the applicant country for EU membership to hold influence. In the end, despite EU support, the implementation of democratic reforms lies predominantly on the applicant country. In this manner, the EU is ultimately limited to playing a primarily supportive role in promoting democratic reforms.

Such has been the case with Serbia, where efforts to enact reforms were significantly challenged by a number of factors: the legacy of the Milosevic regime, the bitter political rivalry between Kostunica and Djindjic, and the federal stalemate between Serbia and Montenegro. As discussed previously, Serbia faced tremendous challenges in its attempts to reforms the

institutions that were most affected by the legacy of the Milosevic regime; the police, military, and the judiciary. In each of these areas, Serbia's ability to implement significant reform has been challenged by the lack of resources, resistance by the remnants of the Milosevic regime, the lack of political will, or by complicated political structures that required time and energy to irradiate. Ultimately, the incentive of EU membership and consistent calls to inadequate reform in annual reports have failed to provide adequate impetus for Serbia to overcome these obstacles and implement the necessary reforms to satisfy the policy recommendations of the SAP.

The EU was distinctly limited in its ability to promote democratic reform amidst the political rivalry between Serbian President Kostunica and Prime Minister Djindjic. In fact, rather than serving as a common ground between the two, the issue of EU integration, and the means taken to satisfy the demands of the SAP were a source of fundamental disagreement between the two politicians.¹⁹³ While Djindjic was adamantly in favor of doing whatever it took to satisfy the EU's conditions, Kostunica was far less willing to concede to the EU's demands, particularly in regards to the ICTY requirements.¹⁹⁴ Following Djindjic's assassination, Kostunica has been the most predominant politician in Serbia. Not surprisingly, his views regarding the ICTY have had a dramatic impact on Serbia's progress towards EU membership, which was suspended in May 2006 for non-cooperation. Considering Kostunica's recent statements that Serbia will not accept an independent Kosovo, even if it costs Serbia its EU membership, there are yet other factors that are weightier priorities to Kostunica than progressing towards eventual EU membership.¹⁹⁵

The EU was not only limited in promoting democratic reforms amidst Serbia's prolonged

¹⁹³ Freedom House 2002

¹⁹⁴ Ibid

¹⁹⁵ http://www.setimes.com/cocoon/setimes/xhtml/en_GB/features/setimes/features/2006/08/01/feature-01. Last accessed 11/26/06

federal debacle with Montenegro, but indirectly contributed to the political stalemate that prevented reform. Recognizing the difficulty of the federal relationship between Serbia and Montenegro, the EU warned that it would not recognize either should they choose to separate, and insisted on officiating the Belgrade Agreement, which redefined the parameters of their federal relationship.¹⁹⁶ However, in hindsight, the Constitutional Charter that followed from the Belgrade Agreement was a relative failure. The EU contributed to its failure with its inconsistent approach, when it soon after insisted on increased economic ties, which inexorably complicated the negotiations.¹⁹⁷ The terms of the deal took approximately ten months to negotiate, during which time Serbia was restricted from implementing any reforms in key areas such as the police, the military, and the judiciary.¹⁹⁸ However, even upon its approval, Montenegro refused to participate, rendering the entire restructuring ineffective.¹⁹⁹ No significant resolution came until Montenegro was permitted to secede via referendum in June 2006.²⁰⁰ In hindsight, the EU's policy regarding Serbia and Montenegro ultimately served to prolong an ill-fated federal relationship that had a deleterious impact on efforts to enact democratic reforms.

The EU has also been limited in promoting reforms in the areas of the police, the military, and the judiciary. These areas are significant because they were most affected by the remnants of the Milosevic regime, where Milosevic era appointees often resisted, and even openly obstructed efforts to initiate reform. These areas are also significant because they illustrate the limitations of the EU in pushing through these difficult reforms. In each of these areas, Serbia has drafted laws and provisions to satisfy the EU's specified requirements, but has ultimately failed to adequately implement them. While the Law on Police has been drafted,

¹⁹⁶ EU 2004, pg. 2

¹⁹⁷ Freedom House 2003

¹⁹⁸ EU 2003, pg. 4

¹⁹⁹ EU 2004, pg. 2

²⁰⁰ EU 2006, pg. 3

its implementation “has been rather slow.”²⁰¹ Similarly, while provisions are in place to establish an independent judiciary, judges and prosecutors continue to be subject to political influence.²⁰² Also, despite numerous provisions, and repeated EU admonishments, Serbia has yet to establish adequate civilian oversight over the military.²⁰³

The EU’s ICTY policy reveals the limits of the accession process to engender cooperation regarding such an unpopular policy, and it also illuminates the propensity for democratic conditions to produce adverse, unintended consequences. The goal of the ICTY has been to dismantle the ethno-national ideologies that proved to be so destructive in the civil conflict of the 90’s, as well as establish the rule of law through the prosecution of those responsible for war crimes.²⁰⁴ The EU has endorsed the ICTY, and incorporated full cooperation with the ICTY into its formal relations with Serbia, including its SAP agreement.²⁰⁵

Serbia’s cooperation with the ICTY was perpetually negligent. One reason for this is that Serbs have never accepted the ICTY as legitimate institution. As noted by one scholar:

Serbia’s citizens do not see the ICTY as an international court whose task is to try persons who violated international law for war crimes, or an institution working to reconcile the peoples of the former Yugoslavia. Most people view the ICTY as an unavoidable and enforced precondition for Serbia’s full return to the world community and simply the price that Serbia has to pay. These views completely sideline the issue of the guilt of those indicted by the ICTY.²⁰⁶

Consequently, the most consistent feature to the EU’s annual reports has been the lack of ICTY cooperation. Even when Serbia has cooperated, such as in opening the Army Commission on cooperation with the ICTY, in reality there has never really been cooperation, and even in some

²⁰¹ EU 2006, pg. 37

²⁰² EU 2006, pg. 10

²⁰³ EU 2006, pg. 9

²⁰⁴ Report from the Commission on the SAP in South East Europe, *supra* note 6.

²⁰⁵ http://europa.eu.int/comm/enlargement/serbia_montenegro/serbia_montenegro_eu_relations.htm. Last accessed 4/20/06.

²⁰⁶ Bandovic 2004, 93

instances obstruction.²⁰⁷ Similarly, in 2004, when Kostunica increased efforts to encourage voluntary surrender of indicted persons to the Hague, he still remained reluctant to make arrests.²⁰⁸ In other instances of cooperation with the ICTY, politicians have employed a utilitarian justification that it was done only to assure desperately needed economic aid, which has actually served to further “galvanize nationalist and anti-Tribunal sentiments.”²⁰⁹

In recent years, the Serbian Radical Party has utilized Serbia’s growing dissatisfaction with the ICTY as a means to rise to power. During the 90’s, the SRS was the most radically nationalist party in Serbia, so much so that Milosevic utilized their presence to appear moderate to the international community.²¹⁰ The SRS’s leader, and current Hague resident, Vojislav Seselj, is known for his distinctly insipid brand of Serb nationalism.²¹¹ Traditionally, the SRS has been a peripheral player in Serbian politics, as their ultra-nationalist stances have never been embraced by mainstream Serbs. Such was the case immediately following the Milosevic overthrow; the SRS received only 23 out of 250 seats.²¹² Yet as the ruling DOS has proven willing to cooperate with the ICTY, the SRS has increasingly become the political repository for Serbs who disagree with ICTY cooperation.

In 2003, the ICTY Tribunal announced four new indictments of Serbian generals shortly before the general elections. These indictments were for relatively popular Serb Generals, such as Sreten Lukic, which made them all the more unpopular among Serbs.²¹³ The SRS capitalized on this development, touting their refusal to cooperate with the ICTY as the

²⁰⁷ EU 2002, pg. 16

²⁰⁸ CRS: Balkan Cooperation on War Crimes Issues, June 9, 2005, pg. 6

²⁰⁹ Rangelov 2004:332

²¹⁰ Woodward 1996: 342

²¹¹ Ramet 2002: 358

²¹² IFES Election Guide. www.electionguide.org. Last accessed 3/28/06.

²¹³ Beissinger 2004: 32

centerpiece of their political platform.²¹⁴ This strategy has proved to be effective, as they received 27% of votes in the 2003 parliamentary election, in which they gained a plurality with 82 out of 250 seats.²¹⁵ Shortly thereafter, in the 2004 Presidential election, the Democratic Party's Boris Tadic only narrowly beat the SRS candidate, Tomislav Nikolic, by a margin of 58% to 43%.²¹⁶

The EU's ICTY conditions have developed a destructive, self-perpetuating relationship with Serbian nationalism, where emphasis on one side elicits a greater response from the other. ICTY cooperation has met resistance from government and society, thus necessitating even more emphasis on cooperation by EU officials.²¹⁷ This cycle has only served to push the issue of ICTY cooperation to the center of EU's conditional relations with Serbia.

The EU's ICTY requirements have also demonstrated that democratic conditional measures can have adverse effects that are unintended, and that ultimately work against democratization. One of the purposes of the Tribunal, and the demand for cooperation therewith has been to promote among Serbs recognition of the horrible atrocities that Serbian leaders have been responsible for. However, as one scholar noted, "indictments and prosecutions at the Tribunal have been used as a convenient excuse for denial of even further victimization, triggering the defensive reflex of nationalism."²¹⁸ Consequently, the ICTY has primarily served the purposes of the very elements it has sought to dismantle, even so to their political empowerment.

Ultimately, Serbia's failure to cooperate with the ICTY has become the most

²¹⁴ Rangelov 2004: 333

²¹⁵ IFES Election Guide. www.electionguide.org. Last accessed 3/28/06.

²¹⁶ Ibid

²¹⁷ In each of Serbia's annual reports from the Commission, there has been consistent mention of its failure to cooperate with the ICTY conditions.

²¹⁸ Rangelov 2004: 334

consequential feature of its relations with the EU. Wherein the SAA was a contractual agreement, Serbia's failure to implement the requirements contained therein could potentially lead to the suspension of the process.²¹⁹ Unfortunately, such was the case, as after Serbia failed to apprehend and extradite long-sought ICTY fugitive Ratko Mladic by May of 2006, the EU Commission decided to indefinitely suspend further membership consideration for Serbia.²²⁰ As of November 2006, Serbia has yet to deliver Mladic as demanded by the EU, and the EU has continued to suspend membership negotiations.²²¹

Conclusion

This study finds that the EU accession process has significant potential in driving difficult democratic reforms in applicant countries. The SAP is framed in potential membership, and the process is supplemented with training, guidance, and annual reports. In the case of Serbia, the SAP played an important role in helping to push through reforms amidst an impossibly divergent domestic political sphere. It is difficult to imagine Serbia undergoing such a significant rate of democratization had not the EU been so intimately involved in their reform efforts.

While it is widely understood that the EU maintains significant leverage to induce change in applicant countries because of the desire for membership, this study finds that leverage can also stem from the demand for continued economic aid. In Serbia's case, the distant horizon for membership was often superseded by the urgent demand for economic support, which has demonstrated a salient incentive to comply with even the most controversial conditions. The controversial condition of ICTY cooperation demonstrated, perhaps most vibrantly, the powerful salience of EU membership to enact change in an applicant country.

²¹⁹ http://ec.europa.eu/enlargement/serbia/eu_serbia_and_montenegro_relations_en.htm. Last accessed 11/24/06

²²⁰ Ibid

²²¹ EU Serbia 2006 Progress Report, pg. 2

This study of Serbia also illuminates the potential limitations of the accession process in spurring difficult democratic reforms where there is a lack of political will to do so already. While reform efforts regarding the police, military, and judiciary were consistently considered inadequate according to EU annual reports, the EU's rebukes were insufficient to prompt Serbia to satisfy its requirements. Wherein the SAP merely advocated such reforms, but did not attach specific economic or membership conditions on their completion, it did not maintain significant enough leverage to pressure Serbia's politicians to tackle these difficult areas. Thus when the lack of political will to enact specific reforms is not challenged by comprehensive conditionality; it is unlikely that reform will take place.

The outlook for democratization in Serbia, as well as its prospects for eventual EU membership in the future is uncertain. While Serbia has initiated an SAA with the EU, this remains in a state of suspension due to Serbia's failure to cooperate with the ICTY. However, the future status of Kosovo is as of yet unresolved, and will provide continued room for nationalists to dominate the debate. The majority of Serbs continue to support EU membership, while the majority of Serbia's politicians have become anti-Western.²²² Hopefully, democracy in Serbia will mean that the people will have the power to assure that those who lead their country reflect their aspirations for a democratic future and eventual EU membership.

As was predicted by Kubicek and Pridham, the study of this "reluctant democratizer" has revealed significant insights into the potential strengths and limitations of the EU to impact the democratizations of applicant countries through the accession process. Serbia's unique characteristics make the examination of the EU's influence on its democratization rich with insights. Some of these are specific to the case of Serbia's democratization. Some of these conclusions elaborate on the work that has already been done. Hopefully, this case study of Serbia will emphasize the need for more attention to be placed on the understudied, "reluctant

²²² see "Presentation of Public Poll Results in Relation to European Integration Process," Government of the Republic of Serbia – Europe Integration Office. 10/05. www.seio.sr.gov.yu. Last accessed 3/28/06.

democratizers” such as Serbia.

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