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***The EU's Normative Power in Action:
Minority Rights Conditionality and the Western Balkan Roma***

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Abstract

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

Keywords: Western Balkans, European Union, Normative Power, Conditionality, Enlargement, Roma

Index

Index	4
Introduction.....	5
Conceptualizing the EU as a Normative Power.....	6
EU's Normative Power in the Western Balkans and the Minority Rights Protection.....	9
EU's Roma Policy in the Western Balkans	11
The Limited Impact of Roma Conditionality in the Western Balkans	12
Conclusion	15
References.....	16

Introduction

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

The evolution of the EU as a foreign policy actor has followed a somewhat rocky path. In terms of external economic relations, it has flourished as an effective global player on par with great powers such as the United States and China, and is the largest trade power in the world. In terms of external political relations, however, developing a common policy to represent a unique voice in the world to complement its economic power has proved to be a slow and difficult process. While co-operation between the Member States in foreign policy matters dates back to the creation of European Political Co-operation in 1970, the efforts to forge a common and effective EU level policy have been fledging, and foreign policy, in the traditional sense of the term, have remained mostly under the auspices of the Union’s Member States. As Giegerich and Wallace noted, “[t]he structures and underlying assumptions of policy-making in this field today are marked by past struggles over the balance between national sovereignty and effective capabilities”, as a result, in the sphere of foreign policy “intergovernmentalism remains the norm” (Giegerich and Wallace 2010, 432). The still predominantly intergovernmental nature of foreign policy making implies that, despite increasing capabilities and internal and external demands and pressure for the EU to speak with a unitary voice in the international fora, the Union seems haunted by a capability-expectations gap in materializing its foreign policy vision (Hill 1993, 1998). The self-proclaimed objective of the EU to be “an anchor of stability” and spreading prosperity and democracy in its region remains far from being real, particularly in the Southeastern part of the continent (CEU 2008, 1). To make the situation even worse, in the last decade, the EU has been facing many challenges in the form of sharp economic downturns, widening government deficits, and high levels of debt that constitute economic and financial pressures that prevent further harmonization of Member States’ interests and hinder the success of the EU as an autonomous global actor (Reinhart 2009; see also: CEU 2003). The Union’s ‘pull’ as a new form of polity and its normative qualities and power seem to be waning amid the ongoing financial crisis and it failed to present a united front in the face of the refugee crises. This not only constrains the role of the EU as a new type of global actor, but also the success of its unique foreign policy tools such as enlargement conditionality.

As a result of these developments, the limitations of the EU as a benign yet effective ‘force for good’ in its neighborhood and beyond, are becoming increasingly apparent. This is particularly true in the Western Balkans (WB) where – despite improvements in the political situation since the early 2000s – the overall picture is still bleak. The WB is an important region for the EU both in terms of its enlargement goals and also as a theatre of operations.

¹ For convenience, the term European Union will be used to refer to the various communities that have been established since 1951.

In the last decade, the countries of the WB² have been undertaking EU-sponsored economic and political reforms that aim at bringing them closer to the EU in line with the EU's aim to stabilize the region through integration. Yet, despite heavy and active engagement of the EU, as the Enlargement Strategy and Main Challenges 2012-2013 Report of the Commission puts it, most countries in the region made little or no progress on some major issues like the protection and promotion of minority rights (EC 2011a). At the same time, the EU seems to have lost at least part of its credibility and attraction in the region, as a result of its interventionist policies and inconsistent discourse.

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

This study builds on the idea that the EU spreads its norms through several means, among which norm diffusion through membership conditionality is a vital one. To analyze the situation in the WB countries with respect to norm diffusion in the enlargement process of the Union and to highlight the shortcomings of the EU's policies in the region, the article focuses on membership conditionality and the protection and promotion of the rights of the Roma minorities. The main line of argumentation is that the WB states have been reviewing much of their domestic laws, regulations, and structures to comply with the EU standards. As a result, the backbone that is necessary to protect the rights of the Roma minorities, the procedural diffusion of EU norms, has been materialized. However, the implementation of this ambitious legal framework, which is vital for ensuring the guarantee of all rights, is lacking.

Conceptualizing the EU as a Normative Power

The traditional definition of foreign policy involves activities decided on and implemented by government representatives acting on behalf of states in line with the assumption that “[s]tates have foreign policies; international organizations coordinate national positions” (Giegerich und Wallace 2010, 432). While the EU's achievements in terms of developing its own autonomous institutions and methods of ‘common’ foreign policy making at the European level is far from impressive, it can nevertheless be concluded that the EU's actual foreign policy output goes beyond this narrow traditional definition both in terms of its political and economic dimensions. The EU is one of the most influential actors in world trade and environmental protection, has a strong track record in peace-building and conflict prevention, and is the largest donor of development aid in the world.³

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

³ For details on the EU's external relations and position in the world, see: (Bretherton and Vogler 2006).

The increasing visibility, impact and uniqueness of the EU as a foreign policy actor has rendered the international role and identity of the Union a very popular area of study for Political Scientists and International Relations scholars alike. Numerous studies, particularly in the last two decades, offered different characterizations and depictions of the EU's international role and identity, highlighting different facets of its external relations – the EU as a (vanishing) mediator (Nicolaidis 2004), a global conflict manager (Whitman and Wolff 2012), a Kantian power (Kagan 2004), an ethical power (Aggestam 2008), civilian or civilizing power (Duchêne 1972; Sjørusen 2006) and a quiet superpower, among others (Moravcsik 2002). These analyses approach the EU's identity as a determinant of its foreign policy behavior and, parallel to this, “the EU's role as an international actor and its international identity are considered a function of the significance of the EU and its member states in international affairs and of the effectiveness of its policy practice” (Sedelmeier 2004, 125). Moreover, these various depictions of EU's international identity often build on a differentiation between civilian as opposed to military means and tools that the EU possessed in its foreign policy and compared the EU to other global powers (in the form of nation states) in terms of its policy output and performance.

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

In his article, Manners differentiated between core and minor norms which he identified respectively as peace, liberty, democracy, the rule of law and respect for human rights and fundamental freedoms; and social solidarity, anti-discrimination, sustainable development and, particularly important in the EU's enlargement policy, good governance. These norms and principles, upon the foundations of which the EU is built, formed the normative basis of the EU, informed its foreign policy vision and objectives, and predisposed the Union to act in a normative way (Manners 2002, 242-243). More importantly, these norms also gave the EU “the ability to define what passes for ‘normal’ in world politics”, which is ultimately seen as “the greatest power of all” (Manners 2002, 253). Building on this, Manners explained in a somewhat controversial (and some might say essentialist) way that “the most important factor shaping the international role of the EU is not what it does or what it says, but what it is” (Manners 2002, 252).

According to Manners, its normative foundations alone did not make the EU a normative power; the spreading of EU norms was also a crucial part of the process. He explained that there are six main ways to diffuse norms: contagion, informational diffusion, procedural diffusion, transference, overt diffusion, and the cultural filter. Contagion of norms takes place as a result of the “unintentional diffusion of ideas from the EU to other political actors”, for example through the EU leading as a ‘virtuous example’ (Manners 2002, 244-245; Coombes 1998, 237-238). In terms of informational or procedural diffusion, the EU plays a more active role in the diffusion of norms. The main difference between these two forms of diffusion is that procedural diffusion requires the formal institutionalization of the relationship between the EU and the other actor, for example in the form of a co-operation or association agreement or as part of the EU's enlargement process, while in the case of informational

diffusion, the dispersion of norms takes place through the EU's strategic or declaratory communications (Manners 2002, 244). In the case of norm transference, the diffusion of norms ensues "when the EU exchanges goods, trade, aid or technical assistance with third parties through largely substantive or financial means" (Manners 2002, 245). A good example of this is the EU's agreements with third countries, according to which the procedural and transference diffusion of norms are facilitated by conditionality (Manners 2002, 245). Overt diffusion, on the other hand, refers to the type of diffusion that takes place where the EU, its institutions, representatives or missions are present physically, and involves the impact of EU presence, in whatever form, in the host country. Lastly, the cultural filter refers to the learning or the adaptation of norms in third countries, and as such "is based on the interplay between the construction of knowledge and the creation of social and political identity by the subjects of norm diffusion" (Manners 2002, 245; Kinnvall 1995, 61-71). In relation to these different types of norm diffusion, Manner maintained that the crucial part of the process was "the absence of physical force in the imposition of norms" and the cultural means diffusion which made the EU a different type of international actor (Manners 2004, 5).

Over the years, the ideas that Manners put forward in relation to 'normative power Europe' have shaped and dominated debates on the EU's international role and identity both in academic and in policy making circles. Numerous analyses of the EU as a normative power, particularly with respect to policy areas with external impact and aims such as development aid and crisis management, were accompanied with a fine-tuning and refinement of the original assumptions by different scholars such as Diez (2013, 2005), Laïdi (2011), and Whitman (2011) as well as Manners himself. On the whole, these scholars aimed to clarify the concept and reveal the sources and reflections of the EU's normative power. In a later work, for example, Manners differentiated between different meanings of normative power and explained that in order to understand the normative character of the EU, one needed to analyze not only the principles it is founded upon but also its actions and impact (Manners 2011). He also noted that the EU's greatest normative power rested on its ability to live (or possibly lead) by example (Manners 2010, 36). In a similar vein, Thomas Forsberg explained that the concept of normative power Europe rested not only on the EU's behaviour in accordance with acknowledged norms or its normative means of power, but also on its normative identity and interests and the normative ends achieved (Forsberg 2011). In this framework, he noted that the concept of normative power should be seen more of an ideal type that actors aim to attain, to which the EU comes closest to.

Like any other international actor, the EU does not have a 'nature' or identity in the world just because of its existence or essence, or what it is, so that this 'nature' and identity are necessarily defined, produced and reproduced in its social practices. As Diez notes (2005), the EU as a normative power is inherently a construct that not only denotes the EU as a specific kind of actor in international politics, but also determines the nature of the relationship the EU has with third parties – a highly asymmetrical one, in the case of the WB states – and the tools that it uses in its foreign policy. In this respect, Diez (2005, 614) argues that discussions as to why the EU is a different kind of actor, while relevant, "ignore[s] the power that lies in the representation of the EU as a normative power as such. Not only is the success of this representation a precondition for other actors to agree to the norms set out by the EU; it also constructs an identity of the EU against an image of others in the 'outside world'." According to him, this representation of the EU as a normative power "has important implications for the way EU policies treat those others, and for the degree to which its adherence to its own norms is scrutinized within the EU. In that sense, the discourse of the EU as a normative power constructs a particular self of the EU (and it is indeed perhaps the only form of identity that most of the diverse set of actors within the EU can agree on), while it attempts to change others through the spread of particular norms" (Diez 2005, 614). In this

respect, the EU is placed in a hierarchically superior position to those that desire to join the 'European family' and as such is 'entitled' to inspect and assess their progress in meeting the standards required.

EU's Normative Power in the Western Balkans and the Minority Rights Protection

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

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

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

Financial instruments are also an essential part of the EU conditionality in the Western Balkans. The Union funded a vast of minority-related initiatives via the European Commission, which is the institution responsible for the financial implementation of minority rights-related initiatives in the WB. Various structural aid and assistance programs have also been channelled to the region to support the EU efforts to bring into question the rights of the minorities. Until 2000, Albania, Macedonia, and Bosnia and Herzegovina benefited from EU funds for Central and Eastern European countries through the Programme of Community aid

to the countries of Central and Eastern Europe (better known as “Poland and Hungary: Assistance for Restructuring their Economies” – in short the PHARE program), a program that was launched in 1992 originally for Poland and Hungary to provide assistance for restructuring their economies. In order to receive financial and technical support under PHARE, these WB States had to increase their reform efforts and prove that there is “a credible commitment to democratic reforms and progress in compliance with the generally recognized standards of human and minority rights” in their countries (Tatham 2009, 319). On the other hand the OBNOVA (means reconstruction, restoration in Serbo-Croatian) program which was primarily concentrated in Croatia and F.R. Yugoslavia similar to PHARE funded projects was dealing with reconstruction and rehabilitation between conflicting parties and preventing the resurgence of ethnic hostilities.

In 2001 the WB obtained its own EU assistance program – CARDS, replacing PHARE and OBNOVA – which also functioned as the main financial instrument of the SAP. CARDS is an important breakthrough in the context of minority rights promotion as an instrument highlighting the role of minorities in the process of ensuring long-term democratic stabilization (Ferrari and Khan 2010, 7). It identified the protection of minority rights as a medium-term challenge to be addressed at national and the regional levels. CARDS regional strategy for 2002-2006 considered dealing with the concerns of the minorities as a crucial requirement, and further conflict will ensue in case not carefully handled (EC 2001, 9). The financing of the Roma initiatives was problematic until 2006 under CARDS. Projects related to the Roma have not been made operational through activities or in budgets (Ferrari and Khan 2010, 9).

This changed as of 2007. CARDS and PHARE programs have been replaced by the all-encompassing Instrument for Pre-Accession Assistance (IPA), which offers funds to candidate and non-candidate countries of the region. The main purposes of the IPA in the WB is to increase efficiency and coherence of the aid provided, and to better prepare the countries for actual membership within the EU through initiatives such as institution building, cross-border cooperation, and regional development. Minority-related issues are articulated in all activities planned under the IPA (cf. paragraphs 100 and 101 in: EP 2006, 15).

2007–2013 Financial Perspective of the EU also created a political framework for the improvement of the social and economic position of the minorities in the region. In the period spanning 2007-2013, the total pre-accession funding amounted to EUR 11.5 billion, (Ferrari and Khan 2010, 14) and around EUR 150 million in pre-accession assistance has been provided through IPA to support the social inclusion and integration of the minorities.(EC 2015, 5) The IPA consisted of five distinctive components, among which Components I (Transition Assistance and Institution Building) and IV (Human Resources Development) concerned the minorities (CEU 2006a, 85).

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

IPA expired by the end of 2013, heaping severe criticism due to the lack of comprehensive and consistent country-specific policies, as well as a well-structured regional policy. Next, a

new regulation called IPA II is introduced for the 2014-2020 period, which intended to overcome the problems faced during IPA. With a determination not to repeat the mistakes done in IPA, IPA II consisted of a more strategic and targeted approach (Murati 2015).

The European Agency for Reconstruction (EAR) is another legal mechanism that operated until 2008 for the protection of minority rights in the WB. EAR functioned under SAP and actively pursued social projects relating to minorities in all of its programs. It was the main EU assistance program responsible for implementing most of the Community assistance to Serbia, Kosovo and Macedonia (Zink 2007).

Another EU body that employs conditionality in a progressive manner to promote minority rights in the WB is the European Instrument for Democracy and Human Rights (EIDHR). Pursuing a bottom up strategy, EIDHR aims at the promotion of democracy and human rights through the strengthening of civil society. Over the years, EIDHR funded several civil society projects through its country-based support schemes and identified certain thematic priorities such as the discrimination against minorities and indigenous peoples.

EU's Roma Policy in the Western Balkans

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

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

The WB states participated in several EU and non-EU projects dealing directly or indirectly with the Roma communities and their matters of concern. The 2005 European initiative, called the "Decade of Roma Inclusion," is one of the most important of its kind. Signed by all the WB countries – with the exception of Kosovo – the Decade is a Europe-wide attempt to close the socio-economic gap between the Roma and the majority populations in the signatory states. Starting as a non-EU initiative, later it became tightly

linked to the EU integration process and therefore to the EU conditionality and became a core element of EU activities on Roma-related issues (Sobotka and Vermeersch 2012, 803).

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

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

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

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

The Limited Impact of Roma Conditionality in the Western Balkans

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

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

The progress in the economic, social, and political situation of the Roma is subject to governmental and non-governmental monitoring, including the Annual Enlargement Progress Reports of the European Commission (EC 2015, 5). On the other hand, "The Roma Inclusion Index 2015" is the most recent source that proposes a list of indicators and test the progress or the lack thereof in Roma rights. Roma in the WB face very difficult living conditions, especially in the areas of education, social protection, health care, housing, and employment (Kushen 2015). A brief analysis of EU Progress Reports, as well as non-EU documents, reveals that the Roma remain one of the most vulnerable groups in the WB and continue to face multiple, deep-seated social and economic disadvantages (ERIO 2012, 3 and 5-6).

According to the Human Rights Watch, a significant portion of the Roma populations in the WB lives in deep poverty (New European Democracies Project 2010, 1). As stated by the European Asylum Support Office, poverty is the most important influencing factor behind the decision of Roma in the WB to claim asylum in EU Member States (EASO 2013). The increasing number of Roma asylum seekers indicates that the living conditions of the Roma are not getting better. According to the IPA II 2014-2020 report of the European Commission (2015) poverty rate of Roma is at average of 36% in Western Balkan countries in comparison to 11% non-Roma population. For instance According to the Roma Inclusion Index 2015, in Macedonia, "Roma live on 58% less income than the total population" (Kushen 2015, 19).

A survey made on the housing situation of the Roma in the WB (Kling 2011) as part of the UNDP/WB/EC regional Roma survey provides striking information on the situation of Roma households. According to the survey made through conducting face to face interviews with more than 50.000 Roma and non Roma in the Western Balkans, the average square meters per a Roma individual is 13,6 m² in the Western Balkans, as compared to 27,9 m² of non-Roma. The share of Western Balkan Roma living in households which live in the ruined houses or slums is 34% as compared to 7% of non-Roma. On the other hand 19% of Roma living in households do not have piped water inside the house as compared to 7% of non-Roma.

According to "The Roma Inclusion Index 2015", the life expectancy for Roma people is between 12 and 25 years lower than the non-Roma in Serbia, Montenegro and Macedonia (Kushen 2015, 18). In some countries, as many as 90% of Roma live in segregated neighbourhoods (Kushen 2015, 17) and live with between 40% to 58% smaller incomes than others (Kushen 2015, 18).

In the last two decades, Roma children have increasingly been at a disadvantage in accessing and acquiring quality education in the WB. Their situation has been highlighted by several reports, such as those produced by UNICEF (2007), the Council of Europe (CEU 2006b), and the European Commission (2014) to name but a few. Roma children are excluded from mainstream schooling, segregated in special needs schools or not accepted at school because they lack birth certificates or they miss registration days. Enrolment rates, retention rates and the quality of education of the Roma children are far lower than that of the non-Roma in the WB region (UNICEF 2009, 11). Access to early childhood education among WB Roma are 0.2% in Kosovo, 3.9% in Serbia and 12% in Bosnia and Herzegovina (CEU 2006b, 24). There is a huge gap between the enrolment rates of the Roma and non-Roma children in primary school. The gap in enrolment is greatest in Albania, Bosnia and Herzegovina and Montenegro, ranging from 45 to 50%. (UNICEF 2011, 15) Secondary education is also a major challenge for Roma, with very high drop-out rates. Only 18% of WB Roma enrol in secondary school and less than one per cent attend university. (Ivanov 2006, 30) The proportion of young Roma adults completing upper-secondary general or

vocational education is only about 10% (CEU 2006b, 24). In Albania, “[l]ess than 50% of all Roma children go to primary schools and only about 25% have completed the primary education.” (Civil Rights Defenders 2014) “Romani leaders in the FYROM estimate that as many as ten percent of school-aged Romani children never enroll in the first grade, half of those who do drop out by the fifth grade, and only 35-40 percent finish eighth grade.” (OSCE HCNM 2000, 67) In Serbia, one in eight Roma of working age is estimated to have completed at least secondary education (de Laat 2010, Figure 1, 2). In Bosnia and Herzegovina, “[l]ess than 35% of the Roma children regularly attend school.” In Montenegro, “76% of Roma are illiterate, 80% doesn’t speak the local language” (Civil Rights Defenders 2014).

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

Housing is among the most common problems of the Roma, with about 90 % living in households that are below national poverty lines. 45 % of Roma live in households that lack basic housing amenities such as an indoor kitchen, toilet, and shower or bath, as well as electricity. In Bosnia and Herzegovina, where the Roma is the biggest ethnic minority, 50 to 70 % live in unsafe residential buildings, generally in one-room huts with no sanitary facilities and even among ruins (Krunic-Zita 2010, 68). In Albania, only 28 % of Roma have direct water supply inside their dwellings, as compared to 97 % of non-Roma (ODIHR 2014, 19).

On Bosnia and Herzegovina, the Report states that “discrimination against the Roma minority remains widespread. Roma remain the most vulnerable minority in Bosnia and Herzegovina.”⁴ The Report on Macedonia identified that prejudice and discrimination against Roma persist, particularly in the area of employment. Further, curricula on Roma language and culture for elementary education were developed and textbooks were printed last year, but the separation of Roma in schools continues and the number of Roma children in special schools is disproportionately high.⁵ Likewise, the Report on Montenegro identified that “[o]verall, the Roma community face discrimination, especially in the field of employment, health issues and housing.” The 2014 Report on Serbia⁶ states that “the Roma continued to face difficult living conditions. Compliance with international standards on forced evictions and relocations still needs to be ensured. The school dropout rate for Roma children remains high. Despite some improvements, the Roma populations, and especially Roma women, remain the most discriminated against in the labor market. In Serbia, only 9% of Roma women work compared with 43% of Serbian women (Worldbank 2010, 8). Roma women and children are still frequently subject to family violence, which often goes unreported.”⁷ The Report on Kosovo⁸ states that Roma communities continue to face major challenges, notably difficult socio-economic circumstances, a lack of education, weak health care, and

⁴ 2014 Progress Report on Bosnia and Herzeovina, European Commission.

⁵ 2014 Progress Report on Macedonia, European Commission.

⁶ 2014 Progress Report on Serbia, European Commission.

⁷ 2014 Progress Report on Montenegro, European Commission.

⁸ 2014 Progress Report on Kosovo, European Commission.

discrimination. Regarding equal access to quality education, students from these minority communities have lower registration rates, higher drop-out rates, and poor levels of academic performance.

Conclusion

This study analyzed the normative power of the EU in the WB in promoting the rights of Roma minorities through conditionality. Mainly it argues that the EU is a distinct international actor, a human rights defender – both internally and externally. On the other hand, the limitations of the EU as a benign yet effective ‘force for good’ in its neighborhood and beyond, are becoming increasingly apparent in the WB. Examining the EU’s efforts to promote the rights of the Roma in the WB highlights the fact that, despite decades of efforts that have dramatically improved legal infrastructures and harmonized them with EU legislation, the overall picture is still bleak, and Roma populations continue to face discrimination in almost all spheres of life.

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