



Conditionality Measures in the EU: On Human Rights Violations of Migrants in the Western Balkans

Victoria Lee

M.A. in Political Science
with a Concentration in European Union Policy Studies
James Madison University

Abstract

The European Union (EU) has taken pride in its efforts to defend human rights, prioritizing them through treaties and emphasizing human rights as a requirement for third countries wishing to become EU members. The Lisbon Treaty's conditions in Article 49 and principles in Article 6(1) highlight the necessity for the guarantee of democracy, rule of law and human rights. In addition, all EU member states have signed the Charter of Fundamental Rights of the European Union, the Universal Declaration of Human Rights, and the European Convention on Human Rights. The European enlargement process integrated former Yugoslav countries Slovenia and Croatia, but there has been much concern that the European Union may be disregarding human rights violations towards migrants in the Balkans for the purpose of integration. Presently, the Balkan states with official EU candidate status are Albania, Montenegro, Serbia, and the Former Yugoslav Republic of Macedonia (FYROM). There is a specific focus on Serbia and FYROM as they lead the main path of the Western Balkans route to the EU's Schengen Area. Many human rights organizations have expressed discontent with these countries' accession processes due to the belief that they have violated the rights of migrants wishing to enter the European Union. The EU identifies itself as a promoter and defender of human rights but should further consider the use of conditionality to influence candidate countries to improve the treatment of migrants in the future.

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Introduction and Background

Although migration has long been a problem in the European Union, the increases of migrants have created new challenges for both the countries along the Western Balkans route and EU member states. From 2014 to 2015, as many as 764,000 detections of illegal border crossings were acknowledged (Frontex 2017). As of March 2016, Slovenia, Croatia, Serbia and FYROM shut their borders and left thousands displaced (BCHR, MYLA, and OXFAM 2017). EU member states such as Croatia and Slovenia have remained reluctant to receive migrants by closing routes, providing inefficient reception centers and drafting laws that criminalize social and humanitarian assistance to irregular migrants (Amnesty International 2017). Candidate countries in the Balkans such as Serbia and the FYROM, which are along the major Balkans migration route, have also participated in closures of the Western Balkan migration route, implementation of policies that discriminate on grounds of nationality, use of excessive force for border control and failed to provide sufficient refugee centers (Human Rights Watch 2017). These issues are important to condemn because the European Union has taken pride in the protection of human rights, as dictated in the European Convention on Human Rights and the Copenhagen accession criteria. Although the migration crisis is challenging, the EU is doing what it can to accept migrants in a more accommodating manner. While the European enlargement is considered one of the EU's most efficient foreign policy instruments, the human rights violations of migrants in the former Balkan states have shown a limit in the European Union's ability to uphold its democratic standards. It is necessary for the European Union to address the violation of migrants' rights in the Western Balkans route and prioritize the guarantee of human rights before allowing candidate countries to become European member states.

Problematic Conditions

Abuse of Migrants

Migrant abuse is found throughout the Balkan states as migrants risk their well-being to travel in the direction towards the European Union. Croatian police beat migrants as they forced them back into Serbian territory (Human Rights Watch A, 2017). They have also reportedly "forced migrants to strip naked and walk back over the border to Serbia" (Roberts 2017). Serbia's police officers have reportedly extorted and abused migrants, and occasionally returning them to Macedonia without providing migrants with the opportunity to determine their need for protection (Human Rights Watch, 2015) and in some cases, have also expelled groups who have been legally registered (BCHR, MYLA and OXFAM 2017). In Macedonia, police have engaged with punching, kicking, and verbal abuse towards migrants (Human Rights Watch B, 2015). Migrant abuse exposes migrants to unnecessary pain and suffering as they desperately try to reach the European Union for a better life.

Extortion of Migrants

As migrants pass through the Western Balkans route, they often encounter authorities at state borders to pass through to reach their intended destinations. Encounters with migrants can turn violent, but migrants can also be forced to pay bribes of upwards of 100 euros to police as they pass through the Balkans (RFE/RL 2015). Police can also take valuables away from migrants, including "substantial sums of money" (Milekic 2017). This practice leaves migrants with less access to purchase basic needs and denies them financial independence, often leading

them to have complete dependence upon camps or reception centers provided by the state or by humanitarian organizations that can have insufficient amounts of food, supplies and services.

Displacement of Migrants

Slovenia, Croatia, Serbia and Macedonia introduced border restrictions in 2016 as an attempt to close the Western Balkan route (Politico 2016). While some countries have allowed for limited numbers of refugees to enter, pushbacks have left many migrants restless and still make attempts to cross the borders illegally. Approximately 8,000 migrants are stranded in Macedonia and Serbia and of these 8,000, at least 1,300 are not housed in government-run facilities and “are forced to sleep rough” (BCHR, MYLA, OXFAM 2017). Migrants who enter camps and reception centers often find lack of food and basic services, while some countries have only human rights organization assistance with no governmental assistance (Amnesty International 2017). Migrants are also often returned after being denied asylum applications (Human Rights Watch 2015).

Policy Problem

Both member states and candidate countries in the Balkans are disregarding the guarantee for human rights towards migrants travelling along the Western Balkans route, despite human rights guarantees being one of the key priorities to join the European Union.

Why This Matters to the European Union

The European Union has, from its roots in the European cooperation after World War II, used legislation to uphold and emphasize its priority on human rights values. The Charter of Fundamental Rights of the European Union is the framework of the protections of the rights of citizens in the member states, establishing its consistence with the European Convention on Human Rights, which was introduced by the Council of Europe in the 1950s. With the introduction of the Copenhagen criteria in the Treaty on the European Union, any candidate country wishing to join the European Union must respect the necessary guarantee of democracy, rule of law, and human rights. The Balkans migration route has been used by asylum seekers and refugees as a route from Greece to other European countries within the Schengen zone. Despite many human rights concerns in the Balkans region, including war crimes and abuses of ethnic minorities, one of the biggest concerns are the ongoing violations of the rights of migrants crossing through the Western Balkans to enter the European Union. Balkan countries such as Slovenia and Croatia joined in 2004 and 2013 and candidate countries such as Serbia and the FYROM are working with the European Union on the process to accession. All of these countries are violating the rights of migrants attempting to cross through the Balkans to enter the European Union despite their relations or participation with the European Union. This identifies the question as to whether the European Union is still upholding their priority on human rights, or if it can, as Slovenia and Croatia are still threatening the rights of migrants despite being EU member states, or how firm they will be towards Serbia and FYROM disrespecting human rights as they await the opportunity for integration.

Policy History

The European Union’s treaties outline the fundamental priorities of the value of human rights among all member states. In regard to assisting migrants, the European Union has drafted policies to be adapted by member states to provide shelter and basic needs as well as processing

for applications. While the EU has attempted to improve the migration situation, it has been unable to encourage member state countries and countries along the Western Balkans route to adapt accommodating policies for migrants. It is important, however, to acknowledge the important sections of the Charter of Fundamental Rights of the European Union and the European Convention on Human Rights (ECHR), as they provide evidence that the EU has clearly stated its demands of member states. The following policy history seeks to identify the distinct differences between the European Union's legislation and legislation of the Balkan states on their priorities of human rights. It is also important to acknowledge that many of the abuses of migrants are a result of de facto actions in the motions to close borders and provide unlawful detention of migrants.

European Union Legislation

The Treaty on the European Union's conditions in Article 49 and principles Article 6(1) identify the essential conditions for the guarantee of democracy, rule of law, and human rights and respect for and protection of minorities (TFEU). This call to respect human rights as criteria for accession is also evident that the EU is adamant on the respect for human rights throughout all member states and future member states alike.

To create a standard asylum system throughout the European Union, the EU introduced the Common European Asylum System in 2013. The process of the asylum system was introduced to create an efficient procedure that standardized and prevent gaps in the system between other countries. The procedure would go as follows: the asylum-seeker submits an application; the asylum-seeker is provided food and housing (the Reception Conditions Directive); the asylum-seeker is fingerprinted and their information sent to the Eurodac database (Eurodac Regulation); the data of the asylum-seeker is then used to identify the EU member state responsible for the asylum application (the Dublin Regulation); the applicant is interviewed to determine refugee status, subsidiary protection, or not (Qualification Directive and Asylum Procedures Directive) and the asylum status is approved or denied (European Commission 2016). This does not necessarily guarantee the acceptance by member states to abide by the directives or regulations set by the EU due to the EU's limit on power as a result of member states' partial sovereignty.

The EU Human Rights Legislation and Treaties

The European Union possesses its own legislation on human rights but is also a signatory of other intergovernmental human rights legislations. The Charter of Fundamental Rights of the European Union, which is consistent with the European Convention on Human Rights, protects political, social, and economic rights of EU citizens and residents through law (European Commission 2018). It was adopted in 2000 but binding in EU countries since 2009 with the introduction of the Lisbon Treaty, and emphasizes the fundamental rights that are binding to EU institutions, bodies, and member state governments. The European Convention on Human Rights, introduced by the Council of Europe and serves as a leading international legal instrument to protect human rights, addresses in Article 3 that "no one shall be subjected to torture or to inhuman or degrading treatment or punishment" and Article 4 of Protocol No. 4 addresses the "prohibition of collective expulsion of aliens" (ECHR). This legislation seeks to call attention to the importance of respecting the rights of individuals and preventing the expulsion of migrants in the European Union. In the perspective towards the Balkan states

violations of human rights of migrants, it is evident that the decision-making of the governments in Croatia, Slovenia, Serbia and the FYROM goes against the EU's stance on human rights.

Member States

Croatia

Croatia's newly elected government has adopted a Draft Aliens Law that Parliament is taking into consideration as of December 2017, which intends to criminalize social and humanitarian assistance to irregular migration and to take measures towards migrants that are subject to deportation to pay the cost of their accommodation and removal from the country (Amnesty International 2017). The denial of basic needs for migrants seeking to enter the EU and to create conditions that encourage deportation of migrants asserts the disrespect for the European Convention on Human Rights and ignores the conditions to uphold human rights criteria.

Slovenia

Although Slovenia introduced the Aliens Act to integrate migrants into its member state country, it recently made amendments to the Aliens Act to deny entry to migrants arriving at borders and immediately expel migrants who enter the country irregularly without regard for proper assessment of asylum claims (Amnesty International C 2017). This decision to expel migrants is a blatant disregard for Article 4 of Protocol No. 4 of the ECHR, asserting that Slovenia is not concerned with conflicting its legislation to the standards of the European Union.

Candidate Countries

Serbia

Serbia is the country that receives the most migrants due to pushbacks from EU member states. However, despite the influx of 120,000 migrants travelling through Serbia in 2016, there is still no access to fair and individualized asylum processes for many registered asylum-seekers (Amnesty International D 2017). The insufficient capability to process migrants who are seeking asylum demonstrates the possibility of exposing migrants to being unaccounted for and therefore subject to abuse that may be left undocumented. As a candidate country for European integration, Serbia is not prioritizing human rights of migrants and therefore is not meeting the standards for the European Union for accession.

Former Yugoslav Republic of Macedonia

As the country that shares a border with Greece and one of Europe's largest recipients for migrants coming in by sea, the Former Yugoslav Republic of Macedonia is expecting to leave as many as 100,000 refugees and migrants trapped in Greece as a result of border closures (Council of Europe 2015). The FYROM's asylum procedure is determined by the Law on Asylum and Temporary Protection, which provides migrants with a 72-hour limit on a travel permit where they are required to register their intention to submit an asylum application at a local police station (UNHR 2015). However, FYROM's Criminal Procedure Code detains migrants and forces them to stay in detention camps to serve as witnesses for trial against smugglers (UNHCR 2015). The unlawful detainment of migrants for the purpose of penalizing smugglers denies migrants the right to move freely and ultimately defies their human rights as dictated by the Copenhagen criteria.

Through the identification of the policy history, it will be evident that the migration policies among both the EU member states of Slovenia and Croatia as well as accession candidates Serbia and FYROM do not align with the EU's standard asylum policy, nor adhere to EU standards for member states. This gap further supports the concern that the EU should not continue accession negotiations with Serbia or FYROM should they not address these issues in their legislation.

Political and Social Context Analysis

Because the European Union already has accession criteria and legislation outlining the importance of human rights in the EU, the EU must identify other mechanisms and instruments to resolve the human rights violations of migrants by candidate countries in the western Balkans. There is an important coordination between the European Commission, Council of the EU, the European Parliament, and the member states, as they must all participate in the decision making surrounding the accession of EU candidate countries through negotiations. Although the European enlargement is one of the EU's most powerful foreign policy tools, there are also many criticisms and setbacks due to concerns from the European Parliament and member states regarding the concerns that candidate countries disregard human rights once they become full member states, much similar to the human rights concerns in member states of Croatia and Slovenia. There is also the use of conditionality, which can be used to establish policy reform of member states and with the EU enlargement process with candidate countries to align with EU standards. Overall, the European Union institutions and member states are in favor of candidate countries joining the EU on the conditions that vital reforms are made to complete the political, economic, and social transformation of the candidate countries.

European Council

The European Council consists of all heads of state and government of the 28 member states, the European Council president, President of the European Commission, and the High Representative of the Union for Foreign Affairs. The European Council identifies the priorities and direction of the European Union in regard to the member states' national but common interests. The current President of the European Council stated in March 2017 that "the European Council [...] reaffirmed its unequivocal support for the perspective of the Western Balkans. Welcoming the progress made by the countries of the region, the European Council stresses that the EU remains committed and engaged at all levels to support them in conducting EU-oriented reforms and projects" (European Commission A 2018). This perspective of support identifies that the European Council is in favor of accession to candidate countries joining the EU, and any means of improving the human rights issues would be favorable to establish a steady accession process.

European Commission

The European Commission's role as the executive arm of the European Union institutions means that they are the primary institution that can introduce policy. Through their Directorate Generals (DGs), they take into consideration the proposals of laws. Some of the European Commission's DGs are invested in the enlargement process, and will most likely favor legislation that encourages improvement of rights of migrants in the candidate countries.

The European Neighborhood Policy (DG NEAR)

DG NEAR provides the Commission through Stabilization and Association Agreements (SAAs) and introduces annual progress reports of the candidate countries prior to accession. SAAs define the objectives candidates must meet to match the EU *acquis communautaire*. The annual reports identify that FYROM must make more effort to respect human rights of vulnerable groups, including refugees and migrants (European Commission B 2018, and that Serbia “continued to cooperate with neighbouring countries and member States... with EU support as well as the support of others” (European Commission C 2018). While the Commission acknowledges FYROM’s human rights abuses of migrants, it is concerning that Serbia’s insufficient procedures to help migrants are left unnoticed by the commission.

The European Civil Protection and Humanitarian Aid Operations (DG ECHO)

The Commission’s DG ECHO distributes humanitarian aid to the Western Balkans through their national governments, and are targeted towards the protection of unaccompanied minors, health care, food assistance and shelter (ECHO 2016). Between 2015-2016, DG ECHO has distributed approximately €25 million to the Western Balkans, with an emphasis on Serbia and FYROM for 2016 (ECHO 2016). Serbia and FYROM have received €7 million for humanitarian aid to assist with their struggles with the migration crisis (DG ECHO 2015). This participation in assistance of migrants in these candidate countries identifies the priority the European Commission has in this issue, meaning the Commission would most likely not be opposed to improving migrant situations in the Western Balkans.

Migration and Home Affairs (DG HOME)

DG HOME is invested in the issue of irregular migration and return, introducing policies that target these specific issues, particularly through action plans against migrant smuggling, which highlights full respect and protection of migrants’ human rights (European Commission D 2018). The Commission has also formally authorized negotiation of EU readmission agreements with FYROM and Serbia, as well as other Western Balkans candidate countries (European Commission D 2018). Overall, the Commission appears to be in full support of the protection of human rights and migrants, and therefore will be able to support changes to further encourage human rights in the Western Balkans.

Council of the EU

The three permanent councils in the area of migration policies are the General Affairs Council (GAC), the Foreign Affairs Council (FAC), and the Justice and Home Affairs Council (JAC), with the FAC being the most involved in the realm of migration policy. The FAC passes or rejects migration laws proposed by the Commission. The FAC also deals with matters directly related to the external strategies of the EU (Consilium A 2017). The GAC, consisting of European Affairs ministers from each of the member states, identifies general configuration of policy areas such as European Union enlargement and financial framework. GAC facilitates the setup of meetings for the European Council and will work on any dossier or type of policy area that the European Council recommends to the GAC, including developing policy to improve the overall migration policy (Consilium B 2017). Lastly, the JHA, consisting of justice and home affairs ministers from each of the member states, focuses matters of migration and asylum policies while dealing with cross-border issues, civil and criminal matters, and threats of terrorism (Consilium C 2017). The focus of the councils in relation to migration policy identifies

the potential willingness to support migration reform in the western Balkans to improve human rights issues for the future.

The High Representative for Foreign Affairs and Security Policy

The Current HR, Federica Mogherini, has reassured the European Union of her commitment to the European integration of the Western Balkan states, in particular the intentions of supporting the improvement of conditions for asylum (EEAS 2017). As her role is to reinforce international security, rule of law, and human rights and freedoms, it is highly probable that despite her role in supporting European integration, the HR will identify solutions to improve human rights abuses of migrants in candidate countries.

European Parliament

The European Parliament has several committees that focus on the overseeing migration processes within the EU and among third countries. First, the Civil Liberties, Justice and Home Affairs Committee (LIBE) identifies the issues concerning asylum, migration, handling of common borders and approach to criminal law pertaining to police, judicial cooperation and terrorism. The LIBE committee adopted a reform on the EU asylum system through a Dublin Regulation reform to enable a fairer burden among member states. The Committee on Foreign Affairs (AFET) decides on how EU funds are distributed to further promote EU values outside its borders (EPP 2017). AFET's subcommittee of Human Rights (DROI) focuses on human rights issues and has addressed human rights violations in along migration routes in the past (European Parliament A 2017). Through these committees, the European Parliament has a large role in identifying the issues along the western Balkans route and possibly address concerns of accession of candidate countries that violate human rights priorities.

Candidate Countries

Representatives of candidate countries participate in negotiations with the EU to express their intentions and initiatives. Scholars identify the importance of lobbying to represent and promote national interests and priority in EU membership. In the past, Croatia had what was considered the "best established lobbying office in Brussels" (Djurovic and Radovic 2010), and the work paid off, as Croatia was accepted into the EU in 2013. In the present day, Serbia and FYROM as well as interest groups from their countries, are investing in lobbying (Cekic 2015, 5). In particular, due to Serbia engaging in negotiations of chapters, Serbia is focusing upon "promoting an image of a serious, firm, credible and responsible EU candidate country" (Subotic 2017, 8). Although FYROM cannot begin negotiations until it has resolved its name dispute with Greece, Serbia appears to be willing to comply with EU standards to become a willing participant in the EU community as a future member state.

Human Rights Organizations

Reports from the United Nations Commissioner for Refugees (UNHCR) and Amnesty International are most vocal about the concern of violations of human rights towards migrants and have specifically addressed concerns of accession by FYROM and Serbia into the European Union, as well as having previously addressed that former candidate countries of Slovenia and Croatia were not eligible to join the EU (Amnesty International 2017). The UNHCR's status on the intergovernmental stage allows for its voice to be heard by member states of the UN. Amnesty International condemns many of the human rights violations in the western Balkans

and calls for rejection of accession into the EU. In FYROM, asylum-seekers are held in inhumane and degrading conditions to provide witness testimonies for Macedonian prosecution in criminal proceedings against smugglers (Amnesty International 2015). Amnesty International believes that there is a requirement for migrants to access asylum and be provided safe, legal routes and asylum systems (Amnesty International 2015). They also cultivate a bi-annual list of recommendations to the six-month rotating presidency to the Council of the EU to advocate for human rights priorities in Europe.

Policy Solutions

There are a series of recommendations to resolve the policy problem among the candidate countries of Serbia and FYROM to prevent similar human rights violations of Slovenia and Croatia from happening in the future:

0 Baseline Scenario

The current situation in the EU would remain the same in the context that candidate countries will remain as candidate countries and go through negotiation procedure with the EU. Although FYROM has not begun negotiations, they will be allowed to continue to wait without any form of consequences for human rights violations of migrants. However, this will overlook the human rights violations of migrants in this region.

1 Encourage Serbia and FYROM to adjust human rights violations of migrants through applying conditionality measures

Use conditionality based on promise of EU membership, but also by explicitly including certain benefits to another state to fulfill political conditions through reducing, suspending, or terminating benefits if the state violates the conditions, or promising benefits to the state should they fulfill the conditions

2 Increase speed of accession process for Serbia and FYROM

The European Union often uses itself as a mechanism for human rights, as it is believed that the enlargement of the European Union is a powerful foreign policy instrument to spread peace and stability throughout Europe. By becoming member states, Serbia and FYROM will have to comply with EU standards and will be more likely to speed up their own process with human rights on a national level.

Policy Evaluation

The policy solutions will be analyzed through identification of past policy successes and failures. The *Baseline Scenario* is left out due to the identification of its failures highlighted in the policy history section of the paper between EU-level legislation and candidate country legislation.

Encourage Serbia and FYROM through conditionality measures

Human rights conditionality applied in the current enlargement process has been taken much more seriously, particularly after “the lessons learnt from the 2004/2007 enlargements, the specific circumstances in the Western Balkans and Turkey, and the EU’s internal constitutional reform and policy developments” (Iusmen 2014, 165). According to Heather Grabbe, “the conditions for joining the EU look deceptively straightforward...these conditions seem self-evident, a set of...criteria to which no self-respecting European could object” (2002, 249). Due to the generalization of conditions for accession criteria, some of the conditions are not as clear to describe the specific standards. However, political conditionality is a strategy with both a

substantive and an operational dimension, referring to the message and the designated political criteria and to the way the instrument is operated through deadlines, thresholds, and the practice of pressure from abroad (Anastasakis 2008, 367). Conditionality may appear to be confusing to candidate countries, but the general context allows for specific requests to be made of certain countries instead of leaving out specific issues unique to a specific country. In the example of Serbia and FYROM, it can be requested by the EU to specifically identify the problems of human rights violations of migrants and the problem can be resolved through mutual cooperation of both the willingness of the candidate countries as well as the EU through funding and support. It is argued that the political conditionality of the EU is “at its best when it is linked with the carrot of membership, when it is associated with a real and credible process of accession to the European Union” (Anastasakis 2008, 368). In the past, according to Schimmelfeng, “only the major benefits coming with EU membership – such as access to the European internal market, the subsidies of the European Union’s agricultural and regional policies, military protection by the most powerful international alliance, and, most generally, full participation in the decision making of the most powerful organizations of the region – have the potential to offset domestic power costs” (Schimmelfeng 2007, 129). In a reflection by Schimmelfeng in 2011, “the EU’s conditionality appears to have been successful in locking-in democratic change, even if the former authoritarian parties subsequently returned to reformist governments, as they did in Romania and recently in Croatia” (Schimmelfeng and Sedelmeier 2011, 670). Overall, the promise of membership with conditionality appears to be feasible, as countries will want to continue to remain in good terms with the EU as they have so much to gain. By using conditionality to encourage commitment by FYROM and Serbia to human rights and readjusting their standards, there will most likely be a lot to gain for these countries. At the moment, the EU is currently involved in many domestic political developments of candidate and potential candidate countries, such as “Kosovo’s independence, Bosnia’s ethnic reconciliation, Serbia’s domestic politics, Montenegro’s state modernization, and the FYROM’s efforts for consensus politics” (Anastasakis 2008, 374). This identifies that there are a lot of stakes to lose should candidate countries become reluctant to improve their human rights stances.

Increase speed of accession process for Serbia and FYROM

The European Union has invested in a “differentiated integration” in the current accession negotiations, as this “multi-speed enlargement constitutes the EU’s solution for dealing with the kinds of problems encountered in the Western Balkans, namely ethnic rivalries, separatism, war, and lack of democratization and human rights and minority protection” (Iusmen, 2014, 166). This multi-speed enlargement is a way to proceed with caution to ensure that all conditions in the EU are complied. By increasing the speed for accession on the trust that joining the EU will automatically comply may be a considerable risk. In a reflection of Aspridis and Petrelli, “there are good reasons to expect that, given the current status of ‘partial compliance’ or ‘bounded transformation’ in Croatia, the subsequent lifting of accession conditionality in the aftermath of EU entrance, the Croatian state elites might defer continuing adaptation or even reverse the existing structures” (2012, 19). It can be acknowledged that during the Big Bang Enlargement that some EU countries have not fulfilled EU standards despite their membership status, for example Croatia and Slovenia’s new laws that are a breach of EU standards of human rights. It is evident that rushing accession, while being a good suggestion to resolve the issue, is still not a feasible policy solution to the problem of human rights of migrants in Serbia and FYROM.

Policy Recommendation

Because the goal of this policy problem is to address the human rights violations of migrants in the candidate countries of Serbia and FYROM, in alignment with critiquing the EU's standards of human rights for accession, the policy that most aligns with effectiveness is the policy solution of *encouraging Serbia and FYROM through conditionality measures*, as investing time and effort by the EU into candidate countries apply pressure required to create a subsequent approval by the EU to further engage and invest in membership in the EU. The EU cannot simply consider itself as a mechanism to promote human rights simply by accepting member states into the EU. Therefore, by allowing candidate countries to continue to receive support from the EU, conditionality measures will be the most efficient way to adjust the human rights of migrants in Serbia and FYROM.

Conclusions

The policy solution can be more quickly adopted, as Serbia and FYROM are not members of the EU yet. As candidate countries, they will be more inclined to adjust their policies to align with the EU's standards than they would be if they were already member states, such as Croatia and Slovenia. Should the EU remain with the *Base Scenario*, the EU would fail to comply with its own standards to uphold human rights as a priority. Secondly, should the EU consider a *faster accession* strategy, they may struggle with resolving more problems with new member states in addition to recent member states such as Slovenia and Croatia that are already not complying. The proposed solution of conditionality is a better solution than other alternative solutions because the EU has already been investing a lot of time and money in projects and rule of law, human rights and democracy promotion. By using conditionality, the investments made by the EU can be stopped should Serbia and FYROM refuse to cooperate with EU standards and will be less costly and risky than having to request a revoking of their membership, should the policy of a faster accession be adopted. It is apparent that the EU institutions have already acknowledged their mistakes with the Big Bang Enlargement, and therefore they are already being more cautious about the progression of negotiations with candidate countries. From this observation, the policy of conditionality will overall be the most feasible policy strategy to combat human rights violations by the candidate countries of Serbia and FYROM in the Western Balkans.

Bibliography:

Amnesty International 2017. "Croatia 2016/2017". Accessed December 12, 2017.

Amnesty International (B) 2017. "Slovenia 2016/2017". Accessed December 12, 2017.

Amnesty International (C) 2017. "Slovenia: Amendments to Aliens Act denies protection to refugees". Accessed December 12, 2017.

Amnesty International (D) 2017. "Amnesty International Report 2016/2017". Accessed December 12, 2017.

Anastasakis, Othon. 2008. "The EU's political conditionality in the Western Balkans: towards a more pragmatic approach", *Southeast European and Black Sea Studies*, 8:4, 365-377, DOI: 10.1080/14683850802556384

Aspridis, George, and Marina Petrelli. "When the EU Met the Western Balkans: Ready for the Wedding?" *SEER: Journal for Labour and Social Affairs in Eastern Europe*, vol. 15, no. 1, 2012, pp. 5–26. *JSTOR*, [JSTOR, www.jstor.org/stable/43293447](http://www.jstor.org/stable/43293447).

Belgrade Centre for Human Rights, Macedonian Young Lawyers Association and OXFAM. "A Dangerous 'Game': The Pushback of Migrants, including refugees, at Europe's Borders". 2017. Accessed December 12, 2017.

Convention for the Protection of Human Rights and Fundamental Freedoms (European Convention on Human Rights, as amended). Accessed December 12, 2017.

Council of Europe. 2016. "Human Rights of Refugees and Migrants – The Situation in the Western Balkans Report". Accessed December 12, 2017.

Djurović, Gordana, and Milivoje Radović. "Lobbying for a Faster Integration Track for the Western Balkans Region." *SEER: Journal for Labour and Social Affairs in Eastern Europe*, vol. 13, no. 2, 2010, pp. 217–226. *JSTOR*, [JSTOR, www.jstor.org/stable/43293360](http://www.jstor.org/stable/43293360).

DG ECHO. 2015. "EU boosts humanitarian funding for refugee crisis in the Western Balkans." Accessed March 5, 2018.

DG ECHO. 2016. *2016 Annual Activity Report*. Accessed March 2, 2018

Europa. 2017. "Human Rights". Accessed December 12, 2017.

European Commission. 2016. "The Common European Asylum System." Accessed December 12, 2017.

European Commission. 2018. "Why do we need the Charter?" Accessed March 2, 2018.

- European Commission A. 2018. “Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee, and the Committee of the Regions: A credible enlargement perspective for and enhanced EU engagement with the Western Balkans”. Accessed March 2, 2018.
- European Commission B. 2018. “The Former Yugoslav Republic of Macedonia 2016 Report”. Accessed March 2, 2018.
- European Commission C. 2018. “Serbia 2016 Report”. Accessed March 2, 2018.
- European Commission D. 2018. “Irregular Migration and Return”. Accessed April 5, 2018.
- The European Parliament. A 2017 “Legislative Powers.” Accessed December 8, 2017.
- EUR-Lex. 2017. “Accession criteria (Copenhagen criteria)”. Accessed December 12, 2017.
- Frontex. 2017. “Western Balkan Route”. Accessed December 12, 2017.
- Grabbe, Heather. “European Union Conditionality and the ‘Acquis Communautaire.’” *International Political Science Review / Revue Internationale De Science Politique*, vol. 23, no. 3, 2002, pp. 249–268. *JSTOR*, JSTOR, www.jstor.org/stable/1601310.
- Human Rights Watch. 2017. “World Report 2017”. Accessed December 12, 2017.
- Human Rights Watch (A). 2017. “Croatia: Asylum Seekers Forced Back to Serbia”. Accessed December 12, 2017.
- Human Rights Watch. 2015. “Serbia: Police Abusing Migrants, Asylum Seekers”. Accessed December 12, 2017.
- Human Rights Watch (B). 2015. “Macedonia: Unchecked Police Abuse of Migrants”. Accessed December 12, 2017.
- Huszka, Beáta and Zsolt Körtvélyesi. “Human Rights in the EU’s Conditionality Policy Towards Enlargement Countries in the Western Balkans”. *Intersections: East European Journal of Society and Politics*. 2017. Accessed December 12, 2017.
- Iusmen, Ingi. “European Union Human Rights Regime: from Eastern Enlargement to the Lisbon Treaty and Beyond.” *Children's Rights, Eastern Enlargement and the EU Human Rights Regime*, Manchester University Press, Manchester; New York, 2014, pp. 146–176. *JSTOR*, www.jstor.org/stable/j.ctt18mbg21.12.
- Mlekic, Sven. “Croatian Police Accused of Continuing to Beat Refugees”. 2017. Accessed December 12, 2017.
- Oliveira, Ivo. “Police fire tear gas on migrants at Greece-Macedonia border”. Politico. 2016.

Accessed December 12, 2017.

Roberts, Rachel. "European border forces 'frequently abuse' refugees and migrants, report finds". 2017. Accessed December 12, 2017.

Schimmelfeng, Frank. "European Regional Organizations, Political Conditionality, and Democratic Transformation in Eastern Europe". 2007.

Frank Schimmelfennig & Ulrich Sedelmeier (2011) Governance by conditionality: EU rule transfer to the candidate countries of Central and Eastern Europe, *Journal of European Public Policy*, 11:4, 661-679, DOI: [10.1080/1350176042000248089](https://doi.org/10.1080/1350176042000248089)

Sionaidh Douglas-Scott. "The European Union and Human Rights after the Treaty of Lisbon". *Human Rights Law Review*, Volume 11, Issue 4, 1 December 2011, Pages 645–682, <https://doi.org/10.1093/hrlr/ngr038>

Subotic, Strahinja. 2017. "Serbia's pursuit of interest in the EU". *European Policy Centre*.

STA. "Slovenia limiting refugee flow" *Slovenia Times*. 2016. Accessed December 12, 2017.

RFE/RL. "Amnesty Documents "Shameful" Abuse of Migrants in the Balkans". *Radio Free Europe Radio Liberty*. Accessed December 12, 2017.

UNHCR. 2015. *The former Yugoslav Republic of Macedonia: As a Country of Asylum*. Accessed December 12, 2017.