

# Conditionality and Compliance in the EU's Eastward Enlargement: Regional Policy and the Reform of Sub-national Government\*

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## Abstract

Studies of EU conditionality assume one basic premise: that it exists and works because there is a power asymmetry which enables the Commission to impose the adoption of the *acquis* on the CEECs as a precondition of their entry to the Union. Thus this literature posits that there are clear causal relationships in the use of conditionality to ensure policy or institutional outcomes. Existing studies of enlargement conditionality analyse its correlation with macro-level democratization and marketization. This article, however, takes a policy-tracking approach to analyse how conditionality was actually put into operation in policy-making and institution-building in the fields of regional policy and regionalization in the CEECs. The research draws on interviews conducted with officials in the Commission and in CEEC delegations in Brussels to illustrate the views of key actors, and to examine the interactions between the Commission and the candidate countries. By studying the policy process, the article demonstrates the fluid nature of conditionality, the inconsistencies in its application by the Commission over time, and the weakness of a clear-cut causal relationship between conditionality and outcome in this policy area. By charting the changes in the Commission's approach over time, and illustrating the diverse responses of the CEECs, this study confirms the need for a more nuanced approach to the concept of EU conditionality, and argues for a logic of differentiation in the study of its impact on the CEECs.

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## Introduction

The absence of alternative ideological or systemic paradigms for the Central and East European candidate countries (CEECs), other than EU membership, has tended to reinforce the widespread perception of a power asymmetry in favour of the EU during the enlargement process. This perception of power asymmetry has been strengthened by the assumption that the policy interactions and power relations between the EU and the candidates are shaped by the conditions for membership, or enlargement ‘conditionality’. Despite the importance of conditionality during the current EU enlargement, there are few theoretical discussions of the concept. Most studies tend to focus on two cumulative levels of conditionality. Firstly, they attach great salience to the broad ‘principled’ conditionality established by the ‘Copenhagen criteria’ in 1993.<sup>1</sup> Secondly, they emphasize the ‘technical’ preconditions for the CEECs to accelerate the adoption of and adaptation to the *acquis communautaire* in order to fulfil all the responsibilities of membership. There is a wide spectrum of opinions as to whether EU conditionality has had positive or negative effects on the CEECs. Grabbe argues that conditionality involves costs to the CEECs in the implementation of what is essentially a ‘moving target’ within an ‘evolving process that is highly politicized, especially on the EU side’. Thus, she views the way that conditionality has operated as a factor that has the potential to frustrate moves toward greater European integration in the medium term (Grabbe, 2001, 2002, p. 252). Smith, in contrast, takes a rule-oriented approach to stress that conditionality performs the vital task of enforcement of the ‘admission’ rules to the Union (Smith, 1998). There is a consensus among these studies that conditionality for the adoption of the *acquis* has strong causal effects in the steering of policy and institutional change in

<sup>1</sup> The Copenhagen Council of 1993 established four criteria for membership of an enlarged EU in the Presidency Conclusions 7 A (iii) (European Council, 1993):

The European Council today agreed that the associated countries in Central and Eastern Europe that so desire shall become members of the European Union. Accession will take place as soon as an associated country is able to assume the obligations of membership by satisfying the economic and political conditions required.

Membership requires that the candidate country has achieved stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities, the existence of a functioning market economy as well as the capacity to cope with competitive pressure and market forces within the Union. Membership presupposes the candidate’s ability to take on the obligations of membership including adherence to the aims of political, economic and monetary union.

The Union’s capacity to absorb new members, while maintaining the momentum of European integration, is also an important consideration in the general interest of both the Union and the candidate countries.

In the French version, the term ‘capacité’ is used throughout, including in place of ‘ability’.

the CEECs. Grabbe describes the levers of conditionality available to the Union as 'powerful tools to shape institutions in the CEECs which made policy-makers 'choose EU models because of the incentives and constraints imposed by the EU accession process' (Grabbe, 2002, p. 262).<sup>2</sup> Similarly, Schimmelfennig *et al.* have characterized the operation of EU conditionality as 'a strategy of reinforcement by reward' facilitated by material bargaining and low domestic political costs (Schimmelfennig *et al.*, 2003).

The widespread use of the term 'conditionality' suggests that there is a consensus within the EU and the Commission over its meaning, and that it is a gate-keeping mechanism embodying clearly identifiable and generally understood norms, rules and institutional configurations that are applied consistently and with some continuity over time. If it is accepted that conditionality is an implicitly coercive instrument wielded by the Commission to secure compliance with certain desired policy or institutional outcomes, then we must also accept that the features of EU conditionality, in particular its rule-based prescriptive essence, are not well defined. Ambivalence and ambiguity are evident at both levels of conditionality identified above. In the case of the Copenhagen criteria it is obvious that the political conditionality for membership was highly politicized and operationalized in a selective manner. By the time enlargement negotiations accelerated from 1997, it is doubtful that the political conditionality as laid down in the Copenhagen criteria was a significant factor in the process, as the democratization of the CEECs was generally accepted as a reality and a starting-point for the other three Copenhagen conditions. The weight of conditionality, consequently, fell on the CEECs through the obligation to adopt the 80,000 odd pages of the *acquis*. In the case of the *acquis*, however, the ambiguity of conditionality was driven less by politicization and more by the inherent structural characteristics of the *acquis* itself, and especially its unevenness. While the *acquis* is supposed to dress states with the 'technical' *accoutrements* of laws and regulations that build the capacity for them to operate effectively as new members of the Union, it is important to recognize that the pattern of detail is not uniform but is, in fact, highly uneven both across and within policy areas. Thus, where the detail in the *acquis* is 'thick' on a particular policy issue, we can reasonably expect it to provide strong leverage for the Commission to achieve particular outcomes in its interactions with the CEECs, but where the *acquis* is 'thin' we should expect the explicit leverage, and thus the formal conditionality and compliance, to be weak.

<sup>2</sup> Grabbe (2002) identifies five levers of EU conditionality: (1) access to negotiations and further stages in the accession process; (2) provision of legislative and institutional templates; (3) aid and technical assistance; (4) policy advice and twinning projects; (5) monitoring, *démarches* and public criticism.

Consequently, the logic of EU conditionality is that it is not a uniformly hard rule-based instrument, but rather is highly differentiated, its nature shifting and transforming depending on the content of the *acquis*, the policy area, the country concerned, and the political context in which it is applied. The theoretical and empirical bases of this argument are developed further in Hughes *et al.* (2004 forthcoming).

The performance tasks set for the CEECs by the Commission have not been easily devised, evaluated or benchmarked. This ambivalence and vagueness across policy areas, it is argued, have significantly weakened its impact. The argument supports Olsen's observation that the EU's effectiveness at institution-building and policy change even within the Union has varied across institutional spheres such as competition policy, monetary affairs, external and internal security, culture etc., and thus there is a need for greater sensitivity to the 'dynamics of various institutional spheres and policy sectors' (Olsen, 2001, p. 10). Moreover, Olsen also notes that clear causal relationships between the EU and domestic levels are difficult to trace since causation operates in both directions. Such processes are, he believes, best studied as 'an ecology of mutual adaptation' (Olsen, 2001, pp. 21–2). This kind of flexible method of case study, it is believed, is the most appropriate method for analysing the application of EU conditionality during enlargement.

The article distinguishes between two main categories of conditionality: between *formal* conditionality which embodies the publicly stated preconditions as set out in the broad principles of the Copenhagen criteria and the legal framework of the *acquis*, and *informal* conditionality which includes the operational pressures and recommendations applied by actors within the Commission to achieve particular outcomes during interactions with their CEEC counterparts in the course of enlargement. This is not to say that both types of conditionality are always clearly distinguishable for, as is discussed later, they often operate in conjunction. A similar distinction may be drawn between the *adoption* of the *acquis*, a largely formal process of legislative engineering, and the *adaptation* to the *acquis*, a largely informal process by which legal and institutional norms and practices are adjusted to the new ecology of enlargement.

Whereas previous studies take EU conditionality as a given fact, and proceed to test its operation as an incentive-structuring device, this analysis is concerned with the phenomenon of conditionality itself and, in the case of EU conditionality, with its inherent ill-defined opaqueness and flexibility in operation. Consequently, this definition of EU conditionality includes not only its formal statements but also the behaviour of the actors involved in its operationalization and the mechanisms by which the formal rules are transmitted.

The unevenness of the *acquis* and its reflection in the variable leverage of formal conditionality allowed the Commission and CEEC governments a great deal of flexibility of interpretation. Thus, while thinness in the *acquis* reduced the formal conditionality of enlargement, it increased the informal conditionality, giving the Commission greater scope for ambiguity in its policy recommendations to the CEECs. Similarly, while thinness of the *acquis* may have reinforced the power of the Commission to make politically determined assessments as to whether a particular candidate country had complied with the conditionality for membership, it also gave candidate countries more leeway over selecting from the menu of the *acquis* in an *à la carte* fashion.

This analysis focuses on three key issues arising from the use of conditionality and the role of the Commission as the institutional motor for enlargement. Firstly, the article examines how formal and informal conditionality has operated in practice and evaluates their effect on the Commission's capacity to ensure compliance and 'systemic convergence' with the EU by the candidates. Secondly, the focus is specifically on the role of the Commission as the key EU agent for enlargement, and with its chief responsibility for monitoring and reporting on the candidates' progress in meeting the conditions for membership. Did it act as a unified actor with a clear understanding of conditionality and with a coherent and consistent approach to its implementation in the CEECs? Thirdly, the article explores the actual policy and institutional outcomes in the CEECs as a means of demonstrating how effective conditionality was and testing how resilient the domestic institutions were in resisting conditionality and advancing endogenous structures. Thus, the concern is less with the formal hypothesizing of causal 'puzzles' between conditionality and compliance, and is focused more on evaluating the concept of EU conditionality itself, the political and institutional contexts in which it operates, how the key actors involved in the process perceived it, and its inherent limitations.

Regional policy and regionalization in the CEECs are employed as a case study of conditionality in a key policy domain.<sup>3</sup> Regional policy is one of the most important policy areas for enlargement, given its financial implications for both the Union and the new members. Consequently, it has been one of the most contentious issues in the negotiations between the EU and the CEECs. Previous analyses of the impact of eastward enlargement in the CEECs describe the formal architecture of institutional changes created by administrative and economic reforms (Mayhew, 1998; Nello and Smith, 1998; Tang, 2000). This analysis aims to explain the extent to which this architecture was designed and how it evolved in relation to enlargement conditionality. The

<sup>3</sup> Regionalization is understood here as the process by which regions are administratively and territorially configured.

article traces the developments in the Commission's approach to regional policy before and during the accession process, the domestic policy responses of the CEECs, and the interaction between the two.<sup>4</sup> This policy-tracking method reveals tensions within the Commission, and between it and candidate countries over the form that regional policy should take in the CEECs. The evidence presented here suggests that there were two opposite trends in the Commission's approach to regional policy. During the initial phase of the enlargement process, key actors within the Commission who were involved in accession preferred a particular 'model' of politically decentralized regionalization. Subsequently, conflicting signals and competing visions within the Commission as to what constituted the ideal institutional architecture for managing regional policy became more apparent. When the deadline for enlargement drew close in early 2001, there was a shift by the Commission to a more heavily centralized approach to regional policy and the management of regional funds. Of the 31 chapters of the *acquis*, the chapter on regional policy (ch. 21) was among the few controversial issues left to the latest stages of the negotiations in 2002 (the Czech Republic was the first CEEC provisionally to close the chapter in April 2002, and all the others followed by October 2002).<sup>5</sup> Moreover, it is one of the few policy areas in the enlargement process in which the Commission continued to the end to register its concerns about non-compliance.

## I. The Importance of Regional Policy in an Enlarged EU

Whereas, during the enlargement process of the 1990s, only very modest sums were expended by the EU to assist the CEECs in their adjustment to the demands of accession, when enlargement to the CEECs is completed in 2004 it will produce a sharp increase in budgetary subventions from the EU to the new members.<sup>6</sup> Considerable strains will arise from enlargement on the EU's funding of regional policy through the structural funds. Currently, the EU allocates funds on the basis of two key identifiers of regions that are 'lagging behind' and in need. Priority regions and areas (i.e. 'objective 1' regions) are identified on the basis of the NUTS II classification system. Such regions are identified as those with a per capita GDP of less than 75 per cent of the Com-

<sup>4</sup> The analysis of the role of the Commission is based on 30 interviews conducted with officials in DG Enlargement, DG Regio, Phare, the Forward Planning Unit, and candidate country delegations in Brussels in 2000–01. For studies of the impact of EU enlargement on the attitudes and norms of elites at the sub-national level in CEECs, see Hughes *et al.* (2001, 2002, 2004 forthcoming).

<sup>5</sup> See <http://www.europa.eu.int/comm/enlargement/negotiations/chapters/chap21/index.htm>.

<sup>6</sup> For example, the main cost to the EU came through the Phare programme funding commitments which expended just under €7.6 billion in 14 countries in eastern Europe and the Balkans in the period 1990–2000 (Commission, 2000b, pp. 118–19).

munity average. The sums involved are huge, as in the period 2000–06 the total budget allocations for regional policy in the EU amount to €213 billion, of which €195 billion are structural funds and 69.7 per cent of which are allocated to objective 1 regions (European Council Regulation, 1999: ch. 1, Art. 1; ch. II, Art. 3 (1), Art. 7 (1), Art. 7 (2) and annex). The vast majority of the 53 NUTS II level regions in the CEECs have per capita GDP levels well below the threshold of 75 per cent of the EU average to qualify for objective 1 funds and, with the exception of a few areas, they are likely to continue to benefit for a long period.<sup>7</sup> The enlargement of ten new members will lower the EU average GDP and will thus eliminate mathematically many (perhaps as many as 27) of the 46 regions from the existing EU-15 which qualify for structural funds under the present arrangements.

The financial implications of enlargement have been a major concern for the existing Member States, particularly with regard to the consequences for the common agricultural policy (CAP) and regional funds. The Berlin European Council in March 1999 agreed expenditure ceilings for the post-accession period which envisaged, assuming enlargement occurred in 2002, that about €40 billion would be committed to the potential new members between 2002–06 (Commission, 2001a, p. 46). The ‘big bang’ enlargement agreed at the Helsinki Council, including the ten countries of the CEEC group plus Malta and Cyprus (the ‘Helsinki Group’), has had to be managed within the Berlin expenditure ceilings (Commission 2002a, p. 2). The financial package agreed at the Copenhagen Council in December 2003 essentially adhered to the Berlin ceilings by committing €40.8 billion to the ten new Member States in 2004–06, over half of which (€21.7 billion) is to be spent on ‘structural actions’ which will largely be shaped by and benefit regional policy (Commission, 2002b). Some economic models suggest that the CEECs will, on average, benefit up to ten times more from enlargement than the EU-15 (Breuss, 2001, pp. 2, 14). In contrast, the political and economic costs of enlargement will affect the EU-15 ‘asymmetrically’, with negative impacts felt most in those countries such as Spain and Portugal that are the current major recipients of structural and cohesion funds and whose geography makes them less likely to benefit from increased trade with the CEECs. Although the new Member States will have to contribute to the EU budget while having a limited absorption capacity in the initial post-enlargement phase, the Copenhagen Council also agreed temporary budgetary ‘compensation’ to ensure that

<sup>7</sup> The conclusion of the accession negotiations has left only the capital city areas of Prague (Czech Republic) and Bratislava (Slovakia) excluded from objective 1 funding, though they will qualify for objective 3 support. Both Kozep Magyarorszag (the Budapest region in Hungary) and Slovenia will most likely be the only other regions to exceed the threshold in the near term ([http://www.europa.eu.int/comm/enlargement/negotiations/pdf/negotiations\\_report\\_to\\_ep.pdf](http://www.europa.eu.int/comm/enlargement/negotiations/pdf/negotiations_report_to_ep.pdf)).

the new members would be no worse off after joining. Even with staggering CAP funds to the new members over a ten-year period, unless the EU's regional funding is reformed or increased, the estimated financial commitment in this policy area will represent about 25 per cent of the total EU budget and will have to be sustained over a long period of time since GDP per capita in the CEECs is now and will continue to be significantly lower than the EU average. In principle, the EU can easily cope with the net financial costs of enlargement (Breuss, 2001, p. 12). The current cap placed on funding, however, which limits the combined total annual receipts from structural and cohesion funds to a maximum of 4 per cent of national GDP, is not optimum for the developmental needs of the CEECs and would slow down economic convergence (European Council Regulation, 1999: ch. III, Art. 7 (8)). The key question, therefore, that the EU will have to address with regard to regional funding reforms before the end of 2006 for the next financial perspectives (2007–13), is whether to reduce the amount of regional funds, or raise the GDP threshold at which they become available, or increase the ceiling of the EU's total budget spending beyond 1.27 per cent of GDP, or a combination of measures. The financing of regional policies could also change to a system in which each country pays or receives proportionally to its distance from the average EU per capita income level.

The important financial impacts and incentives outlined above provided both the Commission and the CEEC governments with a strong rationale to pay particular attention to the arrangements for managing regional policy during enlargement. Consequently, discussions over conditionality in regional policy centred not only on the institutional territorial-administrative configurations, but also on the actor attitudes and 'capacity' of the CEECs to access and manage the funds at central and regional levels and deliver efficiency.

## **II. A Commission Model of Regionalization?**

This research reveals that the interaction between the Commission and the CEECs over compliance with ch. 21 led to a general perception among key actors in the CEECs that the Commission was attempting to foist an EU 'model' of regionalization on them. The perception of an EU model arose in a context where many of the Commission actors involved in the technical aspects of enlargement in Phare (Pologne–Hongrie Assistance à la Restructuration des Economies), and the Commission's 'country teams', had been influenced by the ongoing debates within the Commission over the reform of structural and cohesion policy in the early 1990s. Contemporaneous with the institutional changes introduced at Maastricht, the early 1990s saw a major debate in the then EC over the issue of which institution, the Commission or Member States,



was best positioned to deliver 'value for money', while also developing norms of 'partnership' and 'subsidiarity' in the use of regional funds. For the advocates of the multi-level governance approach, the boost to regional funds from the 'Delors packages' was an attempt to empower regional actors. In practice, intergovernmentalism prevailed as the implementation of the 1993 reform followed no single model or template, with regions being more or less empowered depending on the national political institutional arrangements of Member States (Keating and Hooghe, 1996, pp. 224–6; Bache, 1998, pp. 81–90). Similarly, the procedures for structural funds are not universal; rather they vary according to the institutional arrangements for regional and local governance in each Member State and their 'own rules' (European Council Regulation No. 1260/1999). The diversity of regional and local governance in the EU, spanning the spectrum between federal and unitary states, has evolved largely on the basis of country-specific historical path dependencies, and the interaction of European, national, regional and local politics. Regional policy and the dispersion of regional funds *per se*, therefore, may not necessarily connect regional elites and networks either with each other or with EU institutions, in particular where such funding is absorbed into national government budgets.<sup>8</sup> The extent to which sub-national actors have become engaged with EU policy-making institutions, instruments and processes varies widely, both within and across Member States (Keating, 1993, pp. 302–7; Hooghe, 1995; Jeffery, 2000, p. 20; Kohler-Koch, 2002).

The Commission has repeatedly complained about its lack of power in regional policy in the Member States and criticized the weak 'partnership' between central and sub-national authorities in the operation of structural funds (Hooghe and Marks, 2001, p. 85). Although the Commission itself was riven internally by the struggle over competences and in contested visions of regional policy based on departmental interests, parts of it appropriated the concept of 'multi-level governance' to describe its overall mission in regional policy (Hooghe and Marks, 2001, pp. 85–6).<sup>9</sup> These debates over institutional reform within the EU were an immediate frame of reference for Commission officials when the drive for enlargement began in the mid-1990s.

There is evidence to suggest that Commission officials, who had been frustrated in an attempt to extend the Commission's competences in regional policy by the 1993 reform, were motivated to use enlargement conditionality to pursue their particular agenda for the implementation of regional policy in the

<sup>8</sup> In some states, structural funds are controlled by central finance ministries (as in the UK, Ireland and France). For a criticism of the 'fairy-tale character' of the structural funds which are often treated as a reimbursement for national spending rather than a genuine instrument of regional development policy, see Keating (1993, pp. 299–300).

<sup>9</sup> Note also that the Commission's *White Paper on European Governance* of 2001 declared that the Union was 'based on multi-level governance' (Commission, 2001d, p. 34).

candidate countries. The reality is that the *acquis* offered them little by way of leverage to assert conditionality, since there are few areas of the *acquis* as 'thin' as that of ch. 21 dealing with regional policy. In particular, EU law, regulations and guidelines are sparse on the institutional requirements for the implementation of regional policy. For example, the general provisions on the structural funds state: 'In application of the principle of subsidiarity, the implementation of assistance shall be the responsibility of the Member States, at the appropriate territorial level according to the arrangements specific to each Member State, and without prejudice to the powers vested in the Commission, notably for implementing the general budget of the European Communities' (European Council Regulation, 1999, Art. 8). This regulation clarifies that there is no legal stipulation as to a particular institutional or other policy model(s) of regionalization in the EU.

When the Commission assumed responsibility for enlargement in 1994, it did so with weak administrative resources for dealing with the CEECs. A new directorate general had to be established (DG Enlargement), and its staff were recruited largely from other DGs (DG Regio, DG External Affairs) and departments in national governments with relevant expertise in delivering technical and structural assistance, often at the regional level. Anecdotal evidence suggests that some of DG Enlargement's functionaries had career tracks specializing in development aid. The *modus operandi* in regional policy during enlargement was one where the Commission and private-sector consultancies employed through Phare stressed the 'partnership' between the EU, national and sub-national levels at both the programming design and implementation stages. Furthermore, the Commission's track record of involvement in the operation of structural and cohesion funds demonstrated that states with weak administrative capacity and poor control at the regional and local levels were more likely to have serious problems with the mismanagement of funds, or even with accessing them in the first place. Moreover, the Commission had become used to interacting with institutions, networks and lobbies of organized actors from sub-national authorities and interests in the operation of regional policy, despite the strengthening of the role of the Member States in this policy area after 1993.<sup>10</sup> Thus, the enlargement process from 1994 onwards became infused by a carry over of policy practices and preferences within the Commission from earlier debates about regional policy. Some actors in the Commission favoured a more inclusive approach to the participation of regional institutions in policy, and acted as if conditionality for enlargement gave them a power asymmetry *vis-à-vis* the CEECs which could be applied as a lever to ensure compliance. As one Phare official put it: 'We do

<sup>10</sup> The number of such offices grew from 100 at the end of 1995 to 150 by 1999 (Hooghe and Marks, 2001, p. 86).

not impose, but we expect candidate countries to come up with a compatible structure'.<sup>11</sup> Moreover, the Commission was caught up in the mid-1990s in the general drive by western governments and international agencies (which viewed these states as a *tabula rasa* for the implementation of policy and institutional models) for a speedy transformation in the CEECs. The weakness of the formal conditionality in this policy area, given the sparse content of the *acquis*, meant that key actors within the Commission employed informal conditionality in the pursuit of their policy objectives.

### III. Conditionality in Regional Policy

#### *The 'Capacity' Issue*

The notion of 'capacity' as part of the conditionality for membership was first stated, though not elaborated, in the Copenhagen criteria where it was linked to economic performance. After the opinions and pre-accession strategy of 1997 (see below), the 'capacity' issue was expanded wholesale to include elements such as legislation and regulation, and – in particular with regard to ch. 21 – the idea of 'regional administrative capacity'. The paradox is that, despite the financial implications and thus the critical importance of regionalization in the CEECs for the EU, and despite the Commission's use of language about institutionally embedding 'partnership' in regional policy and demanding greater regional 'capacity', the participation of the regional elites and institutions of the CEECs in the enlargement process was marginal. The Committee of the Regions repeatedly highlighted this structural flaw (European Union Committee of the Regions, 1999, 2001). The negotiations were a state monopoly with regions largely excluded. Nevertheless, as greater knowledge about candidate countries and experience of managing their differences emerged during the process of enlargement, it was to be expected that a more differentiated policy approach would evolve, and this was bound to affect, in particular, the grey area of informal influences on the CEECs emanating from the Commission.

A shift in the Commission's policy approach occurred with the publication of *Agenda 2000 – For a Stronger and Wider Union* in 1997 (Commission, 1997a). From generally ignoring the implications of its own rhetoric about the need for 'partnership', and structurally excluding the key elites and actors at the sub-national level in the negotiations on regional policy, the opinions of 1997, for the first time, identified weak regional 'administrative capacity' as a key problem for enlargement in many of the country reports (Commission, 1997b, c, d, e, f). In the opinions, and thereafter in the regular reports

<sup>11</sup> Interview with Phare official, 14 December 2000.

on candidate countries, the Commission cited ch. 21 of the *acquis* as if it provided clear 'EU standards' that were either a lever for the Commission or an incentive for the CEECs to develop regional policy and institutions. The formulaic criticism that the candidates suffered from problems of weak or inadequate 'administrative capacity' at the regional level became a mantra for the Commission. It did not, however, set explicit benchmarks for measuring progress towards an appropriate level of such 'capacity'. Thus, in regional policy, an absurd situation arose where the Commission was pursuing a form of conditionality that had a very weak legal basis in the *acquis*, and no definable benchmarks for compliance.

### *Chapter 21: Thinness in the Acquis*

The Commission's official guide to the negotiations stresses that there is no Commission model of regionalization: 'The *acquis* under Chapter 21 does not define how the specific structures for the practical management of Structural and the Cohesion Funds should be set up, but leaves it up to the Member States'. To comply with ch. 21 the candidates must have in place an 'appropriate legal framework' to implement the specific provisions for regional policy, and agree a NUTS territorial classification with the Commission (via Eurostat). They must demonstrate 'programming capacity' (design a development plan, institute procedures for multi-annual programming of budgetary expenditure, ensure the implementation of the partnership principle at the different stages, and comply with evaluation and monitoring requirements). They must also demonstrate 'administrative capacity', which means they are to 'define the tasks and responsibilities of all the bodies and institutions involved in the preparation and implementation', and ensure 'effective inter-ministerial co-ordination'. Finally, they must show sound financial and budgetary management that complies with the provisions in this area and demonstrate the 'additionality' provided by their co-financing arrangements (Commission, 2002c).

It appears that there were competing views within the Commission over whether ch. 21 entailed a 'model of regionalization' and how it should be implemented by the CEECs. The differences were within and between DGs, and views changed over time. The issue hinged on how to create and standardize regions in the CEECs at the NUTS II level, the critical level for structural funds, and whether the Commission should pressure the CEECs to install elected authorities at the regional level or government controlled administrative agencies or quangos (unelected quasi-administrative non-governmental organizations). The key question was whether regionalization was to be political or statistical. Academic scholarship on regional policy and territorial politics tended to stress the strong correlation between regional participation

in the programming of objective 1 funds, successful economic growth and development, and the strength of regional governance (Hooghe and Marks, 2001, p. 102). This correlation seems to have informed DG Enlargement's views that the 'partnership' principle in EU regional policy practices constituted best practice for the CEECs.

The three-level NUTS statistical classification system has been an important tool for the Commission in its attempts to shape and standardize regional policy, in particular given the absence of a detailed *acquis* in this policy area. The NUTS II level is the crucial one for structural funds. It provides not only the statistical information and analysis for regional development planning and programmes, but also defines the spatial level at which structural funds are directed. The existing NUTS II regions in the EU were drawn up independently, largely on the basis of designations arrived at by individual Member States and subsequently approved *pro forma* by Brussels (Horváth, 1998, pp. 63–4). The Commission refers to this EU-15 process as one based on 'gentlemen's agreements' between the Member States and Eurostat (Commission, 2001c, p. 2).

In contrast, conditionality has allowed the Commission to intervene directly in the designation of NUTS regions in the CEECs. Some attempts to manipulate the NUTS system to maximize funding opportunities were rejected by the Commission. For example, it rejected Slovenia's proposal to create two NUTS II regions which would disaggregate its wealthy capital from the rest of the country, and forced it to adopt one region for the whole country (Commission, 2001b). Furthermore, Eurostat has systematically employed NUTS categories in its interactions with the statistical offices of the candidate countries to promote a technocratic standardization (Hoich and Larisova, 1999).

Consequently, one of the reverse effects of the operation of conditionality in regional policy is that it has intensified the Commission's attempt to create a legal basis as part of the *acquis* for a standardized NUTS classification scheme for the Union as a whole. A draft regulation on NUTS regions prepared in 2001 noted that regions were conceived in the existing Member States as 'normative regions' (*sic*) which reflect 'political will', and further states that the tensions between the Commission and the National Statistical Offices, in particular during enlargement, demonstrate the need for clear guidelines on the criteria for NUTS classifications. The regulation was enacted in May 2003 after the enlargement negotiations had been concluded (Commission, 2001c, 2003).

*The Perceptions of Actors*

Interviews with regional officials in the CEECs and with CEEC delegations in Brussels reveal that there was a widespread perception among both Commission and CEEC actors involved in enlargement that the Commission was pushing for a particular model of decentralization in regional policy in the CEECs. While the candidates set their legislative machinery to work to secure rapidly the adoption of many aspects of the *acquis*, regional policy was a key area where there was open resistance to the Commission's attempts to interfere, most probably because this was a policy area where the enlargement process touched issues of territorial governance that were sensitive for political sovereignty.

Before 1998, according to a senior official in the Polish delegation in Brussels, there was no formal written exchange between the Commission and the candidate countries on the content of regional policy. The Commission's formal views were set out in the opinions of 1997 and subsequent regular reports which, while not consistent in recommending that the candidates should adopt a particular model of institutional governance at the NUTS II regional level, have commended states which made progress in developing what the Commission termed 'active' regional policy, i.e. one which involves all levels of government, establishing acceptable NUTS II regions, and building regional 'institutions'. This practice constituted an incentive structure and sent a strong signal that countries which promoted participation in regional policy and engaged in institution-building at the regional level, were making progress on accession. Initially, Hungary was top of the Commission's chart for progress on ch. 21 as the opinions singled out the 1996 Law on Regional Development and Physical Planning which established seven planning and administrative-statistical regions as the first in a candidate country to adopt 'a legal framework closely in line with the EU Structural Policy' (Commission, 1997d, p. 90). Equally, Poland's proposed development of a democratized level of regional self-government was commended for moving it towards a 'modernised regional policy closer to that of the EU' (Commission, 1997e, p. 88). At the same time, Slovakia suffered from a general EU critique of the Mečiar government as its regional self-government reform of 1996 was criticized for still leaving regional policy decisions 'overly centralised with all major decisions taken directly by the Government' (Commission, 1997g, p. 100). In the case of the Czech Republic, the Commission's verdict was even harsher, and stressed the fact that regional development initiatives in the Czech Republic were implemented via sectoral policies at the national level. The problem for the Commission was that 'there exists no elected body between the State and the communes although the constitution foresees the establishment of the so-

called territorial units of self-administration' and that the districts are 'bodies of state administration with general competencies (no self-government)'. Thus, it concluded that 'the Czech Republic has no regional policy' (Commission, 1997b, p. 83).

The Commission's preferences were also transmitted through other levers: Phare, some working papers, speeches and bilateral meetings at ministerial and expert level.<sup>12</sup> Interviewees at the CEEC missions to the EU were forthright in expressing their frustration with what was perceived to be an overly interfering approach by the Commission in regional policy. An interviewee at the Hungarian Mission explained how there was 'amazing pressure from the EU because Hungary does not have regions. We think there was no real need to set up a regional structure. We have regions – the counties. We have been trying to organize at the NUTS II level. It is driven by Structural Funds. They [the Commission] may deny this fact of imposition. Internally you can see maps though the Commission won't admit to it'.<sup>13</sup> Hungary went from chart topper to laggard within a year, as the 1998 regular report criticized its failure to develop further 'institutional and administrative capacity in regional development' (Commission, 1998a, p. 33). An interviewee at the Romanian Mission described how Commission officials pressured them to 'design NUTS II level regions, which we did not have in Romania ... because the Commission tends to favour decentralized management of funds'.<sup>14</sup> The Commission openly acknowledged its direct involvement in the design of Romania's Law on Regional Development adopted in July 1998 (Commission, 1998b, p. 38). In fact, Phare showcased its involvement in Romania's Green Paper on Regional Development (1997) which was the basis for the 1998 law, and which had tied the establishment of a number of macro regions as planning units to associations of elected county councils (Commission, 2000a, p. 63). The perception of a power asymmetry meant, as a high-ranking official at the Estonian Mission to the EU explained, that the Commission 'saw candidate countries as mice in laboratories ... anything could be asked of them'. He observed that the pressure to regionalize was 'only because of EU policy principles and in particular money channels'. He noted the key role of Phare in applying direct pressure: 'approval of a particular programme is their mode of influence, their way of interference'. While he accepted that it was in Estonia's national interest to rationalize the division of local authorities, the question of how many levels to create was one that should be left for Estonia to decide.<sup>15</sup>

Thus, when faced with a policy domain where formal conditionality was weak or virtually non-existent, the Commission relied on informal

<sup>12</sup> Interview, Polish Mission to the European Union, 28 March 2001.

<sup>13</sup> Interview, Hungarian Mission to the European Union, 15 December 2000.

<sup>14</sup> Interview, Romanian Mission to the European Union, 13 December 2000.

<sup>15</sup> Interview, Estonian Mission to the European Union, 13 December 2000.

conditionality by signalling approval for compliance in the regular reports, channelling Phare funding to promote models, and by the positive reinforcement of compliant rhetoric and behaviour through personal interactions between Commission officials and their CEEC counterparts. Commission officials are naturally defensive when charged with an attempt to impose a particular model of regionalization in the CEECs. When questioned on this issue, they tended to refer to the requirements of the *acquis* on regional administrative capacity for managing structural funds (though as was noted earlier such requirements are extremely vague in the *acquis*), while emphasizing that there is no single template for administrative reform. An official from the Slovenian team at DG Enlargement, who had chaired the negotiations over the regional chapter, was insistent that

no one has told anyone to establish regional administrations though some people in Eastern Europe have gone around suggesting that this is the case. Regions have to be naturally grown products in Eastern Europe. All the candidate countries have to do is guarantee that they can manage the Structural Funds. They could opt for decentralized organs of central administration. All that is needed is interlocutors – for the ‘partnership’ prerequisite. No schema has been proposed from Brussels. All you can say is that the candidate countries have responded to incentives.

When asked to clarify the intriguing nature of the ‘incentives’ since, if an incentive structure is to work, there must be an objective, or policy outcome envisaged, he admitted that there had been a push from the Commission for a particular template of regionalization in the CEECs: ‘Some people here in the Commission think that you can jump stages. In terms of regional policy, there are some who think it should be aimed at the sub-national level’.<sup>16</sup>

An official in the Polish team at DG Enlargement was even more explicit, and stressed that, in their work with national agencies on the introduction of public administration reforms, including civil service reform, ‘decentralization was the most important objective’.<sup>17</sup> Phare was the instrument to achieve this by providing the study work and expertise to promote institutionalization at the regional level. In the opinion of this official, had the Suchocka government survived in 1993, the Polish reform would have gone ahead much earlier under Phare’s guidance. Similarly, senior officials at DG Enlargement’s Romanian team expressed their views on regionalization in unambiguous terms: ‘We are looking for a mode of decentralized implementation. This is problematic because of the history of the country’. They stressed that the

<sup>16</sup> Interview with a senior official in the Slovenian team, DG-Enlargement, European Commission, 15 December 2000.

<sup>17</sup> Interview with a senior official in the Polish team, DG-Enlargement, European Commission, 15 December 2000.



development regions introduced in Romania in 1998 had been 'designed with the Commission'. When asked to explain the objective of the Commission's role in Romania's regionalization, an experienced official who had been transferred from DG Regio to assist with enlargement in the Romania team declared: 'We have always been looking for a mode of decentralization, but we have not found a satisfactory formula ... the search continues [since] this is *le clef d'or* for successful regionalization'.<sup>18</sup>

### *Policy Contestation within the Commission*

The Commission itself appears to have undergone a policy learning curve in the mid-to-late 1990s over enlargement, with the reform of Phare in 1997–98 an obvious demonstration of its adaptation. Changes in the Commission's approach to regional policy in the CEECs came later but were, nevertheless, part of the policy learning process. Within the Commission, the tension between conflicting policy positions and objectives became more apparent over time and as the enlargement process progressed. On the one hand, the early pressures from the Commission were driven by preferences among some key officials within DG Enlargement and DG Regio for an institutional design in the CEECs that would embed decentralization and partnership with the regions and, on the other hand, there was a belated realization that efficiency and 'value for money' concerns must impel the Commission to push for the most reliable, efficient and most easily monitored mechanism of dispersion of funds, namely central ministries. As one senior official in Phare explained: 'In the smaller countries, structures are being set up at the national level. It doesn't make sense to set up regional structures ... in Hungary, Estonia and Slovenia. However, Poland and Romania are too big to run from the centre in terms of the practical implementation of Structural Funds ... . Ten years of work in Eastern Europe has given us experience in knowing what sort of level is needed. We do have some doubts about whether the necessary administrative capacity will be in place'. The Commission official admitted that a 'top-down approach' had been imposed from Brussels in the early years of the accession process, particularly through Phare's multi-country programmes. He acknowledged that 'in the early years Phare made the mistake of telling them [the candidates] what to do ... the evaluation reports demonstrated the unsustainability of the programmes ... . Since 1997 the emphasis is on a national approach'. According to the official, the main problem by late 2000 was how to make the candidate countries assume 'ownership' of their projects to ensure their sustainability. It had become clear over time that the Commis-

<sup>18</sup> Interview with senior officials in the Romanian team, DG-Enlargement, European Commission, 12 December 2000.

sion had to differentiate more between the candidates and between large and smaller countries in particular. The Baltic States and Slovenia, for example, would not be expected to manage programmes at the sub-national level. This differentiated approach to regional policy, as the official admitted, ‘emerged over time’ and led to the closure of Phare management units and a move to a much more consolidated system. As the official put it: ‘Regional focus does not mean that everything has to be managed at the regional level. This was not made very clear in our programme in previous years ... in the Programming Instruction Guidelines’ (the researchers were refused access to these documents: authors).<sup>19</sup>

Inexperience of CEEC realities on the part of Commission officials was also partly to blame. As a senior official in ISPA observed with regard to the Commission’s role in the regionalization of Hungary: ‘Colleagues from Structural Funds [i.e. DG Regio] pushed for “regions”. They underestimated the political games and the intricacies they got involved in’.<sup>20</sup> As another Commission official explained, the regional level in Hungary was considered to be ‘highly corrupt’, as it was manipulated by the Fidesz government of Prime Minister Orbán to secure its patrimony: ‘all the Phare projects are located in the municipalities’ party structures and all the heads of the regional development councils are from the governing parties’.<sup>21</sup>

Officials in the Commission’s Forward Planning Unit accepted that a major problem with the regional dimension of enlargement was that there are ‘conflicting visions of what the requirements are for having an appropriate institutional set-up for Structural Funds’. There were, apparently, competing democratizing and technocratic visions. Many in the Commission, they observed, favoured a more decentralized approach because they saw it as the ‘more efficient way of taking into account specificity ... and the more democratic’. After the corruption scandals in the Commission in 1999, policy changed, according to these officials, to emphasize management of funds from the national level rather than the regional or local level for fear of mismanagement. Nevertheless, the view of these officials was that the 1988 reform of the structural funds ‘placed a new emphasis on decentralization as a way of elevating the position of the Commission *vis-à-vis* the Member States as well as empowering the local level. Twelve years on this has been seen to be very successful’. At the same time they recognized that the Commission’s leverage on the CEECs to develop regions had been applied ‘in heavier ways than in previous waves of enlargement’.<sup>22</sup>

<sup>19</sup> Interview with a senior official in Phare, DG-Enlargement, European Commission, 12 December 2000.

<sup>20</sup> Interview with a senior official in ISPA, DG-Regio, 14 December 2000.

<sup>21</sup> Interview with a senior official in DG-Regio, 29 March 2001.

<sup>22</sup> Interview with senior researchers in Forward Planning Unit, Office of the President, 12 December 2000.

As enlargement neared its conclusion, the Commission modified its own mantra of problems with 'regional administrative capacity' in the candidates for new ones that stressed the need for strong 'managing authority' and 'inter-ministerial coordination' in regional policy and structural funds as part of a general concern with post-accession implementation. In working documents and seminars on regional policy in February and early March 2001, the Commission clarified that, given its concerns about weak regional administrative capacity in the candidates, it wanted centralized management of funds so as to maximize efficiency, streamlining and control of expenditures. According to an official in the Polish Mission in Brussels, this policy shift caused 'a significant and noticeable dispute between our country and the Commission'.<sup>23</sup> Having introduced regional self-government, and given the great regional disparities between well-developed and under-developed regions, a general backwards shift in the organizational principle of the state to a reconcentration of power in regional policy to central ministries was a great political challenge in Poland. As an official in DG-Regio explained, the Commission was suggesting in effect that Poland 'delay their process of regionalization a bit' so that there would be 'progressive decentralization'. The Commission's concern with the 'absorption capacity' in structural funds meant that it was a case of: 'If you want to have decentralization – fine, but make sure you can use the money well. Start at the central level and progressively go where you would like to'.<sup>24</sup> In the final regular reports in 2002, candidate countries with non-existent regional government, such as Hungary, that have 'redefined' their financial management and control for structural funds and regional policy towards a heavily centralized approach, have been praised by the Commission. Poland, the candidate with the strongest and most democratized regional government level, was criticized, however, for its lack of 'vigour' in such central controls (Commission, 2002d, p. 100; 2002e, pp. 105–6). It seems that the closer the reality of enlargement the greater was the concern in the Commission to anticipate problems previously encountered in structural funds with Spain, Greece and Portugal, where regional policies and the institutional capacity to manage them, both centrally and locally, was constructed virtually from scratch and there was initial significant mismanagement of funds. For one Commission official, one of the most serious failures of the Phare programme was precisely its lack of impact on the 'organization of the state' in the CEECs: 'it has not contributed to management at the central level. We created capacity at the local level ... but errors are unavoidable and there is a learning curve during the enlargement process'.<sup>25</sup>

<sup>23</sup> Interview with a senior official, Polish Mission to the European Union, 28 March 2001; interview with a senior official in DG-Regio, 29 March 2001.

<sup>24</sup> Interview with a senior official in DG-Regio, 29 March 2001.

<sup>25</sup> Interview with a senior official in DG-Regio, 29 March 2001.

The competing visions and shifts in approach within the Commission to regional policy in the candidates reflect this learning curve. There were also genuine differences arising from the remits and opinions of the various departments of the Commission, in particular differences within and between officials in DG-Enlargement and DG-Regio over whether to promote centralized or decentralized management of regional policy in the CEECs. The process of EU enlargement confirms that the Commission has not been a unified actor in the application of conditionality. It did not have a consistent or well-defined institutional preference for regional policy during enlargement, though in some countries its actors did press for decentralization and a democratized regional variant in the early stages. The message from the Commission changed over time, not only in response to practical experience, but also depending on which officials were most engaged, which also fluctuated over time. In such a fluid situation, where the absence of formal conditionality in regional policy made benchmarking of clear and consistent rules, and evaluation of outcomes against such benchmarks, difficult to achieve, the way was open for heavy reliance on informal conditionality by the Commission. Moreover, the informal conditionality was employed in an ad hoc fashion, thus making for a strong perception in the CEECs that conditionality existed but was inconsistent.

#### **IV. The Asymmetrical Outcomes of EU Conditionality**

Given the important differences in conditionality identified above, it seems incongruous to assume the existence of a general pattern of causal links between EU conditionality and policy and compliance in the CEECs. The outcome of the interactions over regional policy appears to have been more strongly influenced by path-dependent factors in the politics of domestic transitions in the CEECs, rather than the conditionality emanating from the Commission. The most obvious connection between conditionality and regionalization is in the temporal correlation. With the exception of Poland, where regional reform was discussed as a fundamental part of the transition process from its outset in 1989–90 and the Czech Republic, where there was a constitutional commitment to regionalization established in 1993, regionalization became a salient issue in most of the CEECs only within the context of EU accession from 1996. It could be argued that the Polish and Czech cases suggest that domestic pressures for regionalization might have accumulated in the other CEECs without EU pressure, as a natural part of their transition politics. The political debates were galvanized by the Commission's opinions of 1997, the 1998 accession partnerships, and the subsequent regular reports.

The existence and impact of EU conditionality on regionalization, however, is much weaker than might have been expected. There were diverse responses in the CEECs to the demands for regionalization and NUTS II standardization emanating from the Commission. There was a strong pattern of asymmetry in the size and powers of the newly created sub-national units. Two main patterns emerged: democratic regionalization, where regional institutions are elected and have devolved powers (especially in Poland, and to a lesser extent in the Czech Republic and Slovakia), and administrative-statistical regionalization (as in Hungary) where regional institutions are essentially centrally appointed quangos, with largely advisory functions and in practice are highly politicized (Sasse *et al.*, 2002, see Table 1).

If, as is suggested, EU conditionality was weak in this policy area, both in formal terms because of the sparseness of the *acquis*, and in informal terms because of the inconsistent and ad hoc nature of its application, then there is a need to examine other factors to explain the policy and institutional outcomes in the CEECs. On balance, the evidence suggests that domestic political considerations, informed but not determined by historical experiences and legacies, played a more salient role in this policy area than a causative effect of EU conditionality. In some countries, territorial identities underpin new structures of local government (such as the counties in Hungary). In others, regional identities are bound up with ethnicity and contested boundaries, which governments are reluctant to empower through regionalization (e.g. in Romania and Slovakia where there are significant territorialized Hungarian minority populations). Some countries have drawn on their pre-communist historical experience of state and self-governing territorial administration dating from the Habsburg empire. Regionalization in Poland was driven by a domestic consensus to decentralize, and followed the Austrian and German systems of territorial administration as the model for its 1999 reform, though without adopting full-blown federalism (Illner, 2002). In the Czech Republic, despite an early constitutional commitment to regional government, an ideological polarization in the domestic politics of transition which was territorialized in a centre–regional cleavage, blocked regional reform until 2000. In response to the functional logic underlying the pressures emanating from the European Commission to establish administrative capacity at the regional level, policy-makers in some CEECs have also revived communist era planning regions as models for new regional development agencies (e.g. in Hungary). Finally, small countries such as Slovenia and the Baltic States, with weak historical traditions of regional governance and little functional need for it, and given the presence of large territorialized Russian minorities in Latvia and Estonia, have chosen to retain their centralized systems of governance. Further empirical research is needed to assess the relative importance of the different

Table 1a: Sub-National Government in the CEECs

<i>Form of Governance</i>	<i>Czech Republic</i>	<i>Estonia</i>	<i>Hungary</i>	<i>Poland</i>	<i>Slovenia</i>
Regional	14 regions with elected assemblies based on a party list system (2000)	No regional level of government	No regional level of government	16 regions (województwa) with some self-governing powers (1999), with quasi-prefects (wojewoda) appointed by PM. Elected regional assembly elects a Marshall	No regional level of government
RDA/ RDC <sup>a</sup>	1 'Regional Coordination Group' in each NUTS II region as a basis for RDCs	National RDA set up in 1997	8 RDAs based on 7 NUTS II regions confirmed in 1999	16 RDAs under Polish Agency for Regional Development	12 functional planning regions corresponding to NUTS III statistical units created in 1999, with provision for RDAs
County	77 districts with assemblies composed of delegates from local self-government authorities	15 counties. No county self-government. Governor appointed by central government for 5 years	19 counties with elected assemblies	373 districts (powiaty) including 65 urban municipalities with elected councils	No district level
State offices	Powerful and extensive system of state district offices abolished in late 2002	State administrative offices at county level to supervise legality of local government acts	State officials at local level appointed by central government and have specific powers in key policy areas	State administrative offices integrated into administration	58 deconcentrated state administrative units largely carried over from the communist system
Local government	Approx. 6,200 local governments. Mayors elected by local councils, both have a 4-year term	254 municipalities with considerable autonomy over local services. Largely dependent on national budget.	3,126 local self-governments with extensive powers over local affairs. Mayors directly elected	2,489 self-governing authorities (gminy) with elected councils. Mayor elected by local council	193 municipalities (11 urban) of varying sizes and with responsibility for local services

Table 1a (Contd): Sub-National Government in the CEECs

<i>Form of Governance</i>	<i>Czech Republic</i>	<i>Estonia</i>	<i>Hungary</i>	<i>Poland</i>	<i>Slovenia</i>
		Local councils elected for 3-year term. Mayors elected by local councils			
NUTS II regions	8 NUTS II regions created in 1998	Whole country classified as a NUTS I and NUTS II region	7 NUTS II regions created in 1999	Wojewodztwa correspond to 16 NUTS II regions	Whole country classified as a NUTS I and NUTS II region until 2006
Current state of reform	Still not clear how far state offices will withdraw from previous roles	Process of voluntary merger of local governments underway	Powerful county-based interests obstruct stronger regional government	Consolidation of wojewodztwa level continues	Further regional governance reform unlikely

Source: Authors' own data.

Note: <sup>a</sup> Regional Development Agency/Council.

Table 1b: Sub-National Government in the CEECs

<i>Form of Governance</i>	<i>Slovakia</i>	<i>Romania</i>	<i>Bulgaria</i>	<i>Latvia</i>	<i>Lithuania</i>
Regional	8 regions with elected assemblies	No regional governance tier	9 regions headed by governors appointed by central government	No regional governance tier	No regional governance tier
RDA/RDC <sup>a</sup>	Regional Co-ordinating and Monitoring Committees established at NUTS II level and regional development agencies at NUTS III level	8 Regional Development Agencies created in 1998 under National Agency for Regional Development Subordinated to Ministry of Development and Prognosis in 2000	No RDAs. A number of 'experts' appointed by regions and government to Ministry of Regional Development	No RDAs. The Regional Development Law of 2002 established a National Regional Development Council	No RDAs

Table 1b (Contd): Sub-National Government in the CEECs

<i>Form of Governance</i>	<i>Slovakia</i>	<i>Romania</i>	<i>Bulgaria</i>	<i>Latvia</i>	<i>Lithuania</i>
County	79 districts	41 counties (judets) plus Bucharest, with directly elected councils headed by presidents. Prefects appointed by the government	273 municipalities, with councils and most mayors being directly elected	Two-tier system of 26 districts and 7 cities with the combined functions of districts and municipalities	10 districts headed by governors appointed by the PM
State offices	22 branches of state administration	n/a	n/a	5 ministries are deconcentrated partly to local offices	n/a
Local government	2,875 local self-governments. Dependent on central government for funding	2688 communes, and 263 town governments, of which 84 have municipality status. Directly elected councils and mayors. Legally have similar status and powers as judets level	Almost 4,000 urban and rural councils with minimal powers	69 towns, 1 regional, and 483 rural municipalities, responsible for basic services	56 municipalities, with elected councils and indirectly elected boards headed by mayors. Some financial independence based on local income taxes
NUTS II regions	4 NUTS II regions	8 NUTS II regions	6 NUTS II regions	Whole country classified as a NUTS I and NUTS II region	Whole country classified as a NUTS I and NUTS II region
Current state of reform	Regional boundaries are highly ethnified and controversial	Strong political focus on centralized government	Further decentralization of powers likely	Further regional governance reform unlikely	New law on regional development in preparation.

*Source:* Authors' own data.

*Note:* <sup>a</sup> Regional Development Agency/Council

domestic political factors shaping regional policy during the enlargement process.

## Conclusion

Inherent in the assumption that a power asymmetry characterizes EU enlargement conditionality are the implications that it drives policy change and insti-



tution-building in the CEECs, and has a dislocating effect on the candidates' 'ownership' of change, while facilitating greater convergence than is evident in the Member States. The development of regional policy and the diverse pattern of regionalization in the CEECs demonstrates that conditionality, in practice, has been highly ambiguous in its intent and limited in its effect. The key factor that explains the divergence in the institutional outcomes in this case is that regional policy is a thin area of the *acquis* where regulatory substance is sparse and ambiguous. Thus, the leverage for the Commission to exert formal conditionality and to measure progress on compliance with the adoption and adaptation of the *acquis* is missing. Given that regional policy is a competence under EU law where the national governments have a great deal of power to decide the institutional framework and means of implementation, the Commission lacked a repertoire of legal instruments to force a particular institutional model on the candidates, even if such a uniform design existed – which it did not. The lack of leverage of formal conditionality meant that, in this policy domain, elements within the Commission resorted to informal conditionality *vis-à-vis* the CEECs to project their preferences for a model of regional decentralization in the early years of the process. In this respect, the context in which the enlargement process began is crucial. EU enlargement conditionality for the CEECs in the area of regional policy was implemented in a context of a spillover of policy contestation within the Commission, where divisions over the reform of regional policy in the Union in the early 1990s still resonated. This spillover informed the early stage of the enlargement process and strongly influenced perceptions in the candidates that there was a Commission 'model' of regionalization that initially favoured democratized regional governance. Over time, however, it has become obvious that the Commission itself has been divided. From early 2001, the Commission began to stress more systematically and proactively a clear preference for the centralized management of structural funds in the candidate countries. Thus, the asymmetrical form of regionalization in the CEECs is, in fact, a convergence with the diversity of regional governance in the Member States, and reflects the different preferences inside the Commission.

EU enlargement conditionality has been an interactive and dynamic process. By investigating how EU conditionality has operated in a key policy area during enlargement, the fluid nature of both the concept and its impact on the candidates has been demonstrated. The concept of conditionality should be seen less as a generic tool for applying pressures for rule adoption on the candidates, and more as a process which involves a tool bag of shifting prescriptive norms, and a variety of institutional formats, and which is moulded by the different perceptions and preferences of the political actors for delivering legislative and policy compliance. Where formal conditionality is weak,

the greater is the opportunity for the use of informal conditionality, and this generally reflects the debates and preferences of the key relevant actors in the Commission at any given time. Consequently, conditionality should not be analysed as a constant factor of causation but rather as a process where its strength and weakness oscillate on a case-by-case basis, with regard to the policy area, the actors involved and the candidate country.

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