



Deconstructing the Notion of EU Conditionality as a Panacea for Addressing Corruption in the Context of Enlargement

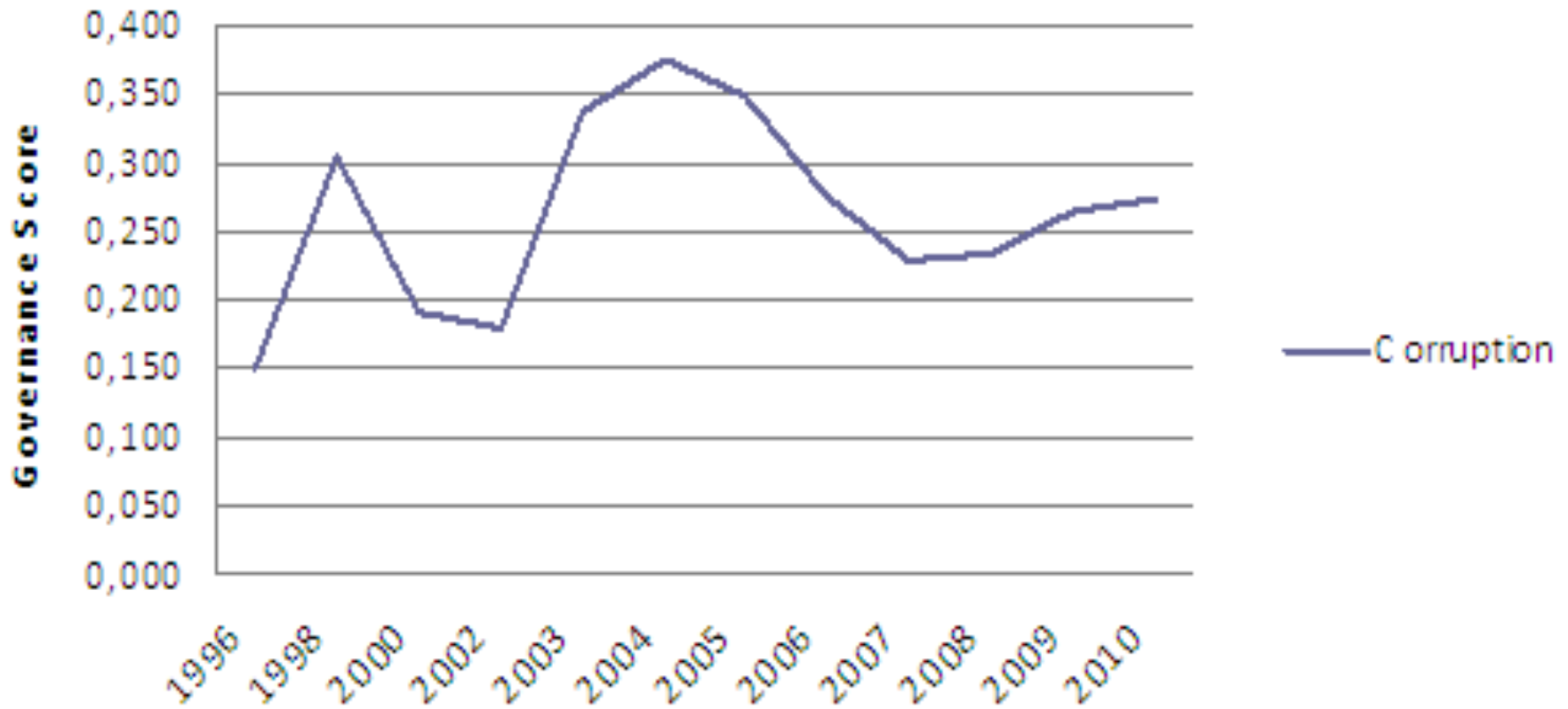
NIKOS PAPAKOSTAS

INSTITUTE OF SECURITY AND DEFENCE ANALYSIS

The Phenomenon



CEE Countries



Research Questions



- *Did the European Union do all in its power to enhance CEE countries capacity at fighting corruption in the pre-accession context through conditionality?*
- *At what extent was EU policy making and in particular the application of the principle of conditionality responsible for the backsliding of CEE countries post-accession?*

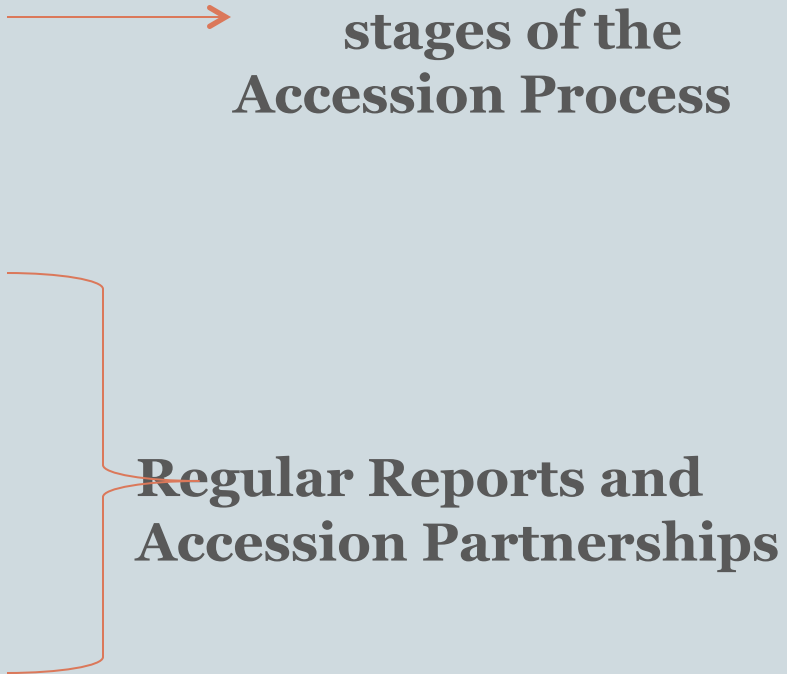
Why Conditionality?



- **The principle source of EU's normative power in the context of enlargement**
- **Its impact has been much contested in scholarly debate**
- **It can provide interesting insights on the everlasting debate on the drivers of EU policy making**

Kinds of Conditionality



- **Gatekeeping Conditionality** → **Access to further stages of the Accession Process**
 - **Benchmarking and monitoring**
 - **Provision of legislative and institutional templates**
- Regular Reports and Accession Partnerships**
- 

Conditionality's Main Source of Leverage - Asymmetry (Grabbe, 2001)



- **Strong economic incentives**
- **Lack of alternative institutional models**
- **Unconditional norm acceptance**
- **Take it or leave it – no opt-out provisions**
- **EU accession – common vision for political elites in CEE**

Applying Conditionality – Merits for addressing corruption



- **Utilizing the attractiveness of EU membership**
 - **Applying norms beyond EU competences for old MS / establishing preventive measures**
 - **Indirect leverage for addressing corruption through democratic and economic conditionality**
 - **Taking advantage of EU accession gravity for domestic political debates**

Structural Limitations at Applying Conditionality for Addressing Corruption



- **EU's delay at establishing an anti-corruption framework**
- **Late at stipulating candidates' obligations**
- **Narrow and fragmented acquis on corruption – stress on criminal law instead of prevention aspect.**
- **Lack of effective benchmarks for evaluating anti-corruption policies in MS**

Applying Conditionality – Monitoring and Benchmarking Limitations



- **Regular Reports Methodology**
 - ✦ **Systemization Deficit**
 - ✦ **Phrasing**
 - ✦ **Data collection**
 - ✦ **Law-making vs. law implementation**

Applying Conditionality – Monitoring and Benchmarking Limitations



- **Implementation Deficit**
 - ✦ Lack of ‘on the ground’ instruments
 - ✦ Lack of implication of sub-national institutions
 - ✦ Limited use of twinning programs
- **Gatekeeping**
 - ✦ Premature closing of Accession negotiations
 - ✦ Not setting post-accession conditions

Lessons Learnt: Conditionality post-2004 Enlargement – The case of Bulgaria



- **Strengthening gatekeeping conditionality**
 - **Inauguration of Cooperation and Verification Mechanism**
 - ✦ **Monitoring and Reporting post Accession**
 - ✦ **Sanctions for non-compliance**

Result of CVM and sanctions



Bulgaria 1996 - 2010



Lessons Not Learnt



- **Relying on Bulgarian governments data and statistics**
- **Non involvement of sub-national institutions and NGOs**
- **Lack of ‘on the ground’ verification and assistance**
- **Continuing stress on law making instead law implementation**

The Way Ahead – Encouraging Signs



- **Increased emphasis on fighting corruption as an accession prerequisite for SEE candidate states**
- **Improved monitoring and verification mechanisms (more extensive twinning and advising programs)**
- **Improved consistency of Regular Reports**
- **CVM**
- **New Institutions—Stockholm Program, Lisbon Treaty strengthening JHA institutional framework**

Persisting Challenges



- **MS preference for the ‘safety’ of intergovernmental policy making**
 - **Lack of a binding EU framework for addressing corruption**
 - **Lack of mechanisms for securing ratification and implementation**
 - **Loopholes and opt-out provisions in the Lisbon Treaty**

OVERALL



- **Conditionality is an efficient leverage tool**
- **Lack of political will of MS undermines**
 - **The creation of a comprehensive EU anti-corruption strategy.**
 - **The establishment of an effective framework for applying EU conditionality**
- **No notion of Europeanization – Slow top - down integration**
- **Steps already taken should not be underestimated**



Thank you for your attention!