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Europeanisation

Social Actors and the Transfer of Models in EU-27

edited by

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and

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CEFRES

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Revisiting Europeanisation: the role of social actors in the EU accession process

Elsa Tulmets

Until now, the literature on Europeanisation has emphasised the role played by norms and values promoted by the European Union (EU) in fostering reforms at the national level via a top-down process (e.g. Radaelli, 2000; Caporaso, Green-Cowles, Risse, 2001). This was also the case of scholars working on Europeanisation in the context of the Eastern enlargement of the EU (e.g. Grabbe, 2002; Schimmelfennig, Sedelmeier, 2004). However, less attention has been paid to the feedback effects of Europeanisation from domestic to EU level (which Vivien Schmidt, 2004, terms integration), to interaction mechanisms between the European and the national levels, and to the participation of social actors in processes of Europeanisation, be it in the field of internal or external policies. One of the reasons for this is that until recently participation was not given a great deal of importance at European level. It has been rediscovered due to a series of factors such as the growth of new forms of governance in areas such as social policy, the process of enlargement, and the crisis of the European Commission of 1999. In the Commission's rhetoric, the notion clearly contributes to legitimise EU policies, but critical voices already point out that these procedures of consultation and participation give rise to contradictions. Thus, participation in European policies still needs to be investigated in order to understand how Europeanisation and integration happen in practice.

It is important to consider the context of accession to the EU if we are to understand the process of Europeanisation in the new member states (NMS) and the role of

participation in the making of EU policies¹. It goes without saying that the mechanisms of pressure applied by the EU during accession, which had such a significant influence on reform processes in the candidate countries cannot be compared to the means at the EU's disposal since the 2004 enlargement to ensure compliance with EU norms. Furthermore, the capacity of the EU to secure compliance, either in relation to its member states or abroad, depends on the strength and coherence of the norms and values it promotes. One has thus to bear in mind that compliance is differential, depending not only on the issue or sector under observation, but also within each sector. Communitarised or "hard" norms are generally easier to "transfer" or "adapt"² than "soft" ones, whose definition is less precise and subject to different interpretations among the member states. In general, the role of social actors is most important in the latter case, as consultation or participation is needed to define the norms as well as to implement them. It follows that this is also where social actors can play a greater role in the definition of EU policies.

This article proposes a theoretical frame to investigate the role of social actors in the process of Europeanisation (top-down process) and of integration (bottom-up process)³. The scope of this chapter is limited to accession

¹ New member states of Eastern and Central Europe are the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Slovakia, Slovenia, who entered the EU on the 1st of May 2004, as well as Bulgaria and Romania, who acceded the EU on the 1st of January 2007.

² Policy adaptation occurs "when a program in effect elsewhere is the starting point for the design of a new program allowing for differences in institutions, culture, and historical specifics. Adaptation rejects copying every detail of a program; instead, it uses particular measure as a guide to what can be done" (Rose 1993: 31).

³ A more empirical approach is developed in Tulmets (2005a) on the basis of sectoral case studies in Estonia and Hungary during their EU accession process.

countries in the period before accession⁴. In order to understand the growing role of social actors from the candidate countries in EU policies, one has to highlight that the enlargement strategy evolved during the 1990s due to the uneven impact that EU norms and conditionality had on the countries of Central and Eastern Europe (CEECs) (part I). This caveat raises questions about the assumptions of the academic literature on Europeanisation as it has developed until now (part II).

The uneven impact of EU accession on the candidate countries

The literature on Europeanisation tends to view enlargement as a unilateral, one way process. I argue that it should instead be understood as a process of mutual adjustment. Conditionality certainly played a role in the transfer of EU norms to Eastern and Central Europe (1), but candidates gained more leeway in the phase of implementation (2).

Conditionality: a notion with variable geometry in the enlargement process

Authors working on the transformation process in Eastern and Central European Countries (CEECs) have identified three distinct analytical periods of change in these countries: 1989-1994; 1994-1998; and 1998-2004 (Chavance, Magnin, 2004: 18)⁵. These can also explain the impact of accession to the European Union (EU) on the CEECs: 1989 marks the fall of the Berlin wall, the end of the East-West divide and the first assistance

⁴ An analysis of participation after accession would require further empirical investigation in order to highlight differences in the mechanisms of pressure the EU exerts on national actors and the leeway social actors have at their disposal to influence EU policies.

⁵ Bernard Chavance and Eric Magnin name 1989-1993: the break; 1993-1997: the consolidation ; 1997-2004: the anchorage to the EU.

programmes like PHARE; in 1993-94, the EU defined the accession criteria of Copenhagen⁶ and officially launched the pre-accession strategy of Essen to support reforms in the candidate states in accordance with the model of the EU internal market; in 1997-98, the European Council of Luxembourg approved the reform of the enlargement policy as proposed by the Commission in its « Agenda 2000 » and decided to open the first accession negotiations with five countries from Eastern and Central Europe, plus Cyprus. During this third phase, emphasis was placed on the notion of participation in the preparation and implementation of reforms, after the Commission noticed that up until that point, candidates had concentrated mainly on the transposition and less on the implementation of EU legislation. Thus, social actors were asked to engage further in the enlargement process.

Thus, two key moments may be identified in the EU enlargement policy – 1994 and 1997 – as further steps in the deepening of the Europeanisation process in the CEECs. Empirical research suggests that these moments allowed for the adaptation of different EU internal modes of integration in the Eastern enlargement policy. Until 1994, the regulatory approach (negative conditionality) was preferred as a way to foster reforms in the CEECs:

⁶ At the Copenhagen Summit of 1993, the European Union laid out three criteria for accession to the EU: 1. stable institutions guaranteeing democracy, the rule of law, human rights, respect for and protection of minorities (political criteria); 2. the existence of a market economy capable of coping with competitive pressures and market forces inside the Union (economic criteria); 3. the capacity to assume the obligations of accession, and notably to subscribe to the objectives of political, economic, and monetary union (legal criteria, ability to adopt the *acquis*). A fourth criteria concerns the European Union: enlargement would occur provided that the EU has the capacity to absorb new members without endangering the momentum of European integration. Conclusions of the Copenhagen Summit, available at: http://ue.eu.int/ueDocs/cms_Data/docs/pressData/fr/ec/72922.pdf

Association agreements and financial assistance could be suspended if democratic principles and economic reforms were not respected. After EU officers noticed the inefficiency of such an approach, a logic of positive conditionality inspired by the Community method and distributive policies was added in 1994-95: the more the candidate states introduced reforms in the field of internal market, the more technical and financial assistance they got from the EU. In 1996-97, the Commission realised that reforms had been introduced formally in order to take on the *acquis* defined in the White Book of 1995 on the Internal Market (European Commission, 1995), but had not actually been implemented. Furthermore, the EU budget allocated to more advanced countries like Poland or Hungary was not even being entirely used because the insufficient institutional capacity to absorb these financial measures⁷. Neither negative nor positive conditionality, the two mechanisms of pressure that the Commission relied upon, were therefore sufficient in order to assess the implementation of accession criteria in the candidate countries. The literature on enlargement tended first to analyse the presence of conditionality in a rationalist perspective and assimilated hierarchical integration mechanisms⁸ with asymmetrical modes of governance⁹

⁷ Interviews at the European Commission (DG Enlargement), April 2003-June 2004.

⁸ Specialists of EU governance and international governance identify different ways of defining governance, which can be hierarchical, non-hierarchical and heterarchical. The first one is linked to a hierarchical conception of power controlled by a sole decision centre, the second one analyses new ways of dealing with policy without any centre of decision, the third one represents coordination mechanisms between various decision centres. The literature showed that the third type better applies to the genuine nature of the EU, at the internal as well as external levels. On the concept of governance and its various usages: Risse (2004), Eising, Kohler-Koch (2000), Smouts (1998), Joerges, Neyer (1997).

(e.g. Grabbe, 2002; Dimitrova, 2002, Schimmelfennig, Sedelmeier, 2004). It named the EU Eastern policy « governance by enlargement » and later « governance by conditionality » (Schimmelfennig, Sedelmeier, 2004), but never really looked at the participative aspect which characterised the basic notion of (heterarchical) governance¹⁰. While focusing on the issue of impact of conditionality in the CEECs, this body of literature did not identify and realise the impact of a new logic of cooperation introduced in the reform of 1997. I argue that an innovative method was introduced in 1997 with the “Agenda 2000” (European Commission, 1997) in the policy of enlargement in order to foster participation, which was missing so far in the accession strategy. This method was inspired by the non-hierarchical mode of governance developed after 1992 in the EU economic and monetary policy (Euro), which was adapted and constitutionalised in 1997 in the European Employment Strategy (Amsterdam Treaty) and officially named the “open method of coordination” (OMC)¹¹ in 2000 at the Council of Lisbon on social policy (more detail on this adaptation process: Tulmets, 2005b, 2006). With this new method, the Commission aimed to enhance discussion on the meaning of accession conditions, especially in fields where there was almost no *acquis*, such as administrative and judicial capacities. Therefore, negative and positive conditionality did not fully disappear, but were complemented by the logic of framed integration. Framing methods give priority to agreements on common references or benchmarks, to participation in the policy-making, to ownership in the phase of implementation as

⁹ While the situation is asymmetrical due to an unbalanced repartition of power, it is not hierarchical: the candidates are still free not to accept the criteria and to refuse accession.

¹⁰ For criticism in the same direction, see Dakowska (2003).

¹¹ On the OMC in internal EU policies, see for ex. De la Porte, Pochet (2002), Dehousse (2004), Sabel, Zeitlin (2008).

well as to evaluation on the basis of « naming and shaming ». Contrary to negative and positive conditionality, which appear as hierarchical methods, framed integration is based on heterarchical modes of governance in order to achieve cognitive convergence¹².

Furthermore, the impact of EU norms depends to a large degree on the sectors and norms one considers. The role played by EU norms depends if one concentrates on political conditions or on legislative ones. It also differs within sectors, depending if the norms are communitarised or not. For example, in the field of environment, there is a difference between EU directives with precise technical aims and the broader overarching goal of respecting sustainable development. Therefore, one may speak of the uneven impact of EU norms and conditionality on member and candidate countries.

Thus, the following questions emerge: What impact did conditionality exert on candidate countries, especially in fields where the *acquis* was particularly weak? Did the mode of governance introduced during the reform of 1997 and inspired by the open method of coordination (OMC) enhance the EU's ability to exert pressure on the candidate states?

The necessity of looking at implementation

In the mid-1990s, the Commission became aware that the *acquis* was being transposed into the national law of the candidate countries, but not always implemented. One of the reasons was that, due to the time constraints of the accession process, consultations with social actors were rarely taking place, be it at the level of the national

¹² On the notion of heterarchical governance, see Joerges and Neyer, 2007.

Parliaments discussing the laws or at the level of the European Commission in the drafting of evaluation reports. Furthermore, due to their communist past, many candidates did not have the necessary structures to allow consultations to take place, either because the social partners were not yet organised in associations, or because consultation procedures had not yet been institutionalised. From 1998, with the opening of the first accession negotiations onwards, the Commission insisted on the necessity of creating the necessary conditions for these consultations to take place. EU assistance projects in the framework of PHARE, and in particular the institution-building instruments TAIEX and Twinning, concentrated on the creation of branch associations or procedures for the social dialogue. Furthermore, the EU projected its norms abroad by sending experts from the member states to the candidate countries. In order to achieve a better understanding of the way EU policies work, the Commission insisted in 1999 on the necessity of “socialising” the candidates from within by allowing the candidates “most advanced in their reforms” to participate to EU committees in Brussels and in EU agencies (European Commission, 1999). The Commission also encouraged the building of professional networks, especially in sectors with a poor or almost inexistent *acquis* (especially social policies and education, but also justice and internal affairs, etc.). The European Parliament furthermore proposed that national politicians from the candidate states participate as observers in their various meetings and sessions. This logic of participation does not fit into the classical frame of transfer of norms abroad, but rather corresponds to a logic of internal socialisation into EU’s norms and values.

Thus, the following hypothesis, which stems from the literature on the open method of coordination may be explored to answer the questions above: *the less hierarchical the modes of governance, the greater the convergence on the cognitive frame, their internalisation and their implementation by*

the national actors. In order to test this hypothesis in the case of enlargement, it is essential to look not only at the decision process, as the literature generally has done so far, but also at the phase of implementation. For Pierre Muller, « the implementation process of European policies may offer new resources to actors which were until then dominated, in minority or marginal in the policy networks » (Muller, 1996: 308)¹³. Policy implementation can thus occasion a process of « appropriation of the policy programmes by national (and local) actors which take the shape of learning new norms and developing new policy options » (*ibid*)¹⁴. Therefore, the literature on Europeanisation as it developed during the period of enlargement needs to be revisited as its focuses mainly on a top-down approach and the role of “hard” norms and neglects the impact of interactions between actors around “soft” norms. The differentiated impact of the reforms will be analysed through a sociological neo-institutionalist approach (DiMaggio, Powell, 1991), drawing on the literature on Europeanisation (Lequesne, Surel, 2004; Radaelli, 2000; Caporaso, Green-Cowles, Risse, 2001) and on policy cognitive and normative frames (Surel, 2000; Rein, Schön, 1994). These will be adapted to the post-communist context in order to test the impact of the adapted form of OMC in the enlargement policy.

¹³ « Le processus de mise en œuvre des politiques européennes peut offrir de nouvelles ressources à des acteurs qui, jusque-là, occupaient une position dominée, minoritaire ou marginale dans les réseaux d'action publique », (own translation)

¹⁴ Un processus « d'appropriation du programme par les acteurs nationaux (et locaux) qui se traduit par l'apprentissage de nouvelles normes et de nouveaux répertoires d'action par ces différents acteurs », (own translation)

Revising europeanisation: The role of cognitive and action frames

When discussing Europeanisation, one thus has to differentiate between two processes:

- a top-down process which can apply to the first phase of accession where EU norms were imposed from “above” (Europeanisation); and
- a bottom-up process where EU norms are produced with the participation of the various social actors concerned by these norms (integration). We might expect that this second logic only came into play during the latter part of the accession process when enlargement was already politically agreed.

This observation is of importance for the theoretical frame developed to analyse the impact of enlargement on the candidate countries. If enlargement is not only a one way process, the literature on Europeanisation has to be adapted so that it can embrace further empirical findings. In order to do this, I combine the neo-institutionalist agenda of the literature on Europeanisation with the constructivist approach of policy analysis.

Adapting the literature on Europeanisation to analyse changes in accession countries

The analysis of political changes in Eastern Europe towards democracy was first tackled by the literature on democratic transition, which was initially developed in order to analyse political changes in Latin America. The use of this literature in the East-European context after 1989 was particularly criticised for its normative approach as it neglected external variables in the analysis of transformations. This approach for example did not consider the EC/EU as an actor of change, and it overlooked the fact that EU foreign norms and instruments were crucial incentives for reforms in the

CEECs. Therefore it did not take into account the way national actors interpreted and adapted these norms and instruments, either in anticipation of, or the actual use of EU mechanisms of adaptational pressure. After criticisms of the transition approach were raised in the mid-1990s, mainly on account of its neo-liberal background, it was then discredited by the literature on path-dependency (Dobry, 2000). Contrary to the approach of transitologists, scholars of path-dependency promoted alternatives to the neo-liberal paradigm and suggested that reform failure might be explained by the presence of (normative, institutional...) legacies of the past (Stark, Bruszt, 1998)¹⁵. Research undertaken in this field has moved the debate from « transition » to the broader « transformation » of post-communist societies. Nevertheless, it continued to focus too much on the national trajectory of reforms in order to show elements of continuity and thus neglected the role of external pressures from the EC/EU. To a certain extent, a « normalisation » of research on « post-communist states » has taken place in the academic literature during the 1990s. The tools developed for the analysis of Europeanisation¹⁶ were then used to investigate transformations in the context of candidate and accession countries (Dakowska, Neumayer, 2005; Forest, Mink,

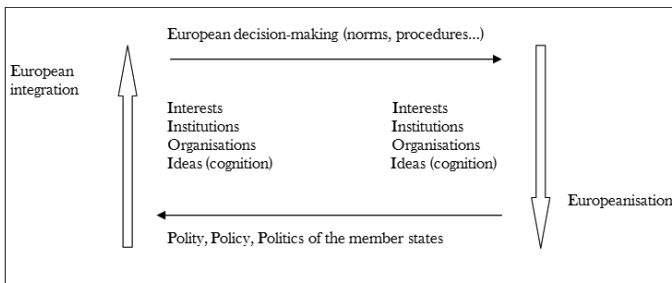
¹⁵ On the limits of this approach, see Dobry (2000).

¹⁶ Although there are various definitions of Europeanisation, the most quoted scholars of Europeanisation come to similar conclusions. James Caporaso, Maria Green-Cowles and Thomas Risse (2001: 3) define Europeanisation as « the emergence and development at the European level of distinct structures of governance », but mainly look at the way EU policies impact on the national context of the member states. Claudio Radaelli (2000 : 3,4) uses R. Ladrech,'s work to say that europeanisation is: « a process of (a) construction, (b) diffusion, (c) institutionnalization of formal and informal rules, procedures, policy paradigm, styles, 'ways of doing things', and shared beliefs and norms which are first defined and consolidates in the making of EU public policy and politics and then incorporated in the logic of domestic discourse, identities, political structures, and public policies ».

2004; Tulmets, 2003), for whom the adaptation to EU norms was at the top of their internal and external political priorities. Works on Europeanisation are a useful tool for the analysis of adaptation and non-adaptation in the candidate countries.

A neo-institutionalist perspective identifies at least three or four levels of change¹⁷: interests or preferences of the actors, formal and informal institutions, organisations and ideas¹⁸. Therefore, Europeanisation is often considered as a post-ontological step of European integration. But in order to have Europeanisation, one first needs to identify the European normative frames defined at the Community level as a *result* of European integration.

Logics of European Integration and of Europeanisation



Source: Adapted from Schmidt (2004: 189).

Depending on the sectors, it is possible to look at the impact of European norms at the various levels of preferences, institutions, organisations and cognition/behaviour of the actors. But one first needs to

¹⁷ Hecló (1994), Hall (1997) and Surel (1998) identify three levels, the three “I” of interests, institutions and ideas.

¹⁸ In a constructivist mind, when actors’ ideas change, their preferences change too as well as their behaviour, being the source of institutional and organisational reforms.

define the European norms and institutions considered as being the cause of adaptations within member or candidate states.

Cognitive and normative frames in the enlargement policy

If one wants to observe the process of policy transfer or policy adaptation at work, one needs to combine the literature on Europeanisation with a constructivist perspective, or at least to emphasise the constructivist strands of the literature on Europeanisation. The constructivist approach of policy-analysis is a useful framework to grasp the impact of enlargement policy on candidate states as well as the process of “transnationalisation” of EU internal and external policies (Hassenteufel, 2005), i.e. the export of European norms and institutions abroad. Following this approach, one needs to identify the cognitive and normative frames of the enlargement policy and the factors explaining variations in the reception and interpretation of this frame in the candidate countries.

Definition of the cognitive frame of enlargement: global and sectoral frames

The enlargement policy defined in 1993 refers to a global frame – the accession conditions – and to sectoral frames, which are set out in various documents of the Commission and the member states.

At the Summit of Copenhagen in 1993, the European Union laid out the global frame of enlargement policy by defining three criteria for EU accession: 1) stable institutions guaranteeing democracy, the rule of law, human rights, respect for and protection of minorities (political criteria); 2) the existence of a market economy capable of coping with competitive pressures and market forces inside the Union (economic criteria); 3) the capacity to assume the obligations of accession, and

notably to subscribe to the objectives of political, economic, and monetary union (legal criteria, adoption of the *acquis*).

The introduction in 1995 of a fourth, horizontal, criteria cutting across the others – the necessity of having sufficient administrative and judicial capacities – has been overlooked by the academic literature. The notion of institution-building can be identified as a paradigm shift (Hall, 1993) that took place gradually throughout the 1990s within the policy frame of EU's policy towards Central and Eastern Europe. This notion was absent in the Copenhagen criteria, and was put on the agenda in 1995. It reflects the existence of a real debate between orthodox and heterodox conceptions of the relationships between economy and politics in Europe. Until the opening of accession negotiations in 1998, the Commission promoted a liberal conception of the state, as opposed to the national economy. The idea of a more regulatory and responsible state guided the introduction of institution building in 1998. This concept aimed, on the one hand, to balance the liberalisation and privatisation of the Eastern economies, and, on the other, to reduce corruption and the lack of transparency linked to the heritage of the Communist institutional apparatus. However, it was also designed to enhance the opportunities for the participation of the social actors in the policy-making process. This debate emerged during the enunciation of the Copenhagen criteria and the first reform of PHARE in 1994–95, but gained momentum in 1997-98. It mobilised several protagonists of the DGIA of the European Commission, the SIGMA programme of the OECD, research centres and universities specialised in advising public administration. In 1997-98, the Commission realised that there was no *acquis* available in the field of horizontal institutional capacities (inter-ministerial coordination of European policies) as well as in the field of sectoral institutional capacities (social policies, education, etc.). The accession conditions defined at

Copenhagen in 1993 and further defined in Madrid in 1995 can therefore be assimilated to the *global policy frame* of the enlargement policy and refer to a certain extent to the identity of the European Union¹⁹.

Imbrication of EU's accession criteria in 1997

| Institutional vertical (in each sector) | Institutional horizontal | | | | |
|--|--------------------------|----------|---------------------------------------|---|---|
| | Political | Economic | Juridical | | |
| | | | 1 st pillar (community) | 2 nd pillar (intergovernmental) | 3 rd pillar (intergovernmental) |
| | | | | | |

Sources: own compilation from Conclusions of European Councils of Copenhagen (1993), Madrid (1995) and Luxembourg (1997).

A whole range of *sectoral frames* thus structure the global policy frame. A sectoral frame is defined as “the dominant understanding of the sector, the discipline, the profession. (...) it is not completely rational nor entirely arbitrary. It is constructed: it is a social understanding of the sector” (Jobert, Muller, 1987: 68-69)²⁰. A large range of public and private actors participate in the definition and the dissemination of the sectoral frames. In the case of enlargement, sectoral frames have been enshrined and sometimes defined in the various documents of the Commission, often in cooperation with national sectoral actors. In fields where there was no *acquis*, like minority and social policies, international organisations like the OECD, the OSCE, the Council of Europe and specialised organisations of the United Nations provided with

¹⁹ B. Jobert and P. Muller (1987 : 65) define the global policy frame as an « espace de sens qui donne à voir le monde » : « il s'agit d'une « image sociale de toute la société, c'est-à-dire une représentation globale autour de laquelle vont s'ordonner et se hiérarchiser les différentes représentations sectorielles ».

²⁰ « l'image dominante du secteur, de la discipline, de la profession. (...) il n'est ni complètement rationnel, ni complètement arbitraire. Il est construit : c'est une image sociale du secteur ».

templates and frames for the reforms in candidate countries.

What are the factors modifying the probable impact of policy frames on CEECs?

It follows from the above that a number of observations can be made on the differentiated impact of accession conditions in the candidate states:

- The acceptance and internalisation of accession conditions by candidate states depends on the coherence of the values, norms and frames to which the policy refers (cognitive frame) ;
- The acceptance depends on the procedures and integration methods mobilised by the EU to control the respect of the norms and values (action frame);
- The acceptance depends on the national and sectoral opportunity structures in the post-communist states, i.e. of the structures inherited in terms of culture and political participation (sectoral contextualisation).

a) As far as the first factor is concerned, the analysis of national adaptation may take place at different levels. The formalisation of values and norms may vary from one type of conditionality to the other, as norms are defined in a very different manner within the political, economic, juridical and institutional criteria. It is therefore possible to suppose that the degree of interpretation and internalisation may vary according to the nature of the norms and sectoral frames taken into account.

Works on the impact of EU internal policies on the national law of candidate states have highlighted following phenomena: when there is no specific juridical or organisational model, national adaptation is low; on the contrary, pressure for adaptation is higher when there is

such a European model which does not fit with the institutional past of the countries (Börzel, Risse, 2000; Schmidt, 2004). As Association agreements clearly state that accession criteria, and in particular the *acquis communautaire*, have to be respected as a condition of becoming an EU member, it is possible to apply this logic to associate and candidate countries. Therefore, variations in the internalisation of accession conditions can be explained by the degree of coherence of the model proposed. The coherent character of the norms depends itself on the presence of frames accepted by a majority of actors within a sector and considered as legitimate by the others at a certain time. If a legitimate frame exists, the norm can be considered as coherent as it promotes a precise model. On the contrary, when a norm is not coherent, there is no legitimate cognitive frame: either no model or various competitive models are present. The pressure for adaptation therefore depends on the degree of coherence of the norm.

Institutional model and mechanisms of adaptation

| EU model | Pressure to adaptation | Adaptation mechanisms | Examples |
|-------------------|------------------------|------------------------|--|
| Required models | High | Coercion | EMU (convergence criteria), environmental standards |
| Recommended model | Medium | Adaptation | Deregulation of financial services, telecommunication, electricity |
| Suggested model | Low | Mimetism | <i>Benchmarking</i> for employment policy, directives transport, minority policy, refugee policy |
| No model | Almost none | Competitive regulation | Mutual recognition of goods, external policy |

Source: Adapted from Schmidt (2004 : 196)

b) The **modes of governance and procedures (action frames)** on which the EU relies to manage and control the implementation of accession criteria represents the second factor which should be included in the analysis. It has already been demonstrated that each internal mode of governance of the EU inspired an external mode of governance in the framework of enlargement. The first

mode of governance refers to intergovernmental negotiations and to decision-making. This mode is based on compromise between the preferences of member as well as candidate countries on common values. When looking at recent typologies established by scholars of European integration (Knill, Lehmkuhl, 1999, 2002; Bulmer, Radaelli, 2004; Wallace, 2006), one can see that at least three modes of EC/EU internal integration, defined beyond classical political governance (intergovernmentalism), were progressively adapted to enlargement policy: economic governance refers to negative integration (regulation), governance by law refers to positive integration (community method) and governance by institutional knowledge to framed integration (open method of coordination (OMC)). In most cases, these modes of governance have been combined to foster simultaneous or successive convergence at different levels (Tulmets, forthcoming) and imply an adaptation of interests, organisations, institutions and cognition respectively.

Modes of governance and adaptation

| Accession criteria / modes of governance | Political | Economic | Juridical | Institutional |
|--|--|---|--|--|
| Instruments | Negotiation, diplomatic and military means | Economic agreements, assistance | Community law | Argumentation, naming and shaming, new public management |
| Declared objective | Democracy, adoption of EU values | Open market economy, trade liberalisation | Adoption of EU norms (<i>acquis</i>) | Implementation of sectoral frames |
| Adaptation | Interests | Organisations | Institutions (norms and rules) | Cognition, behaviour |

We might expect to see the highest acceptance of norms by the candidates, and thus the most effective implementation of reforms as a result of the fourth mode of governance, (institutional), since in this case norms are (ideally) discussed in advance between the Commission, the member states and the candidate states, primarily via committees. Following this logic, the more hierarchical the mode of governance, the fewer occasions there are for

discussion and thus the more limited the acceptance of the norms is likely to be. Conversely, the more the mode of governance is open and heterarchical, the greater the actors' participation and hence acceptance of the norms should be. I argue that, in order to promote the latter dynamic, the Commission applied a similar approach to the open method of coordination in the enlargement process in response to the lack of implementation in the mid 1990s. When comparing the conclusions of the Council of November and December 1997²¹ with the OMC criteria identified in the academic literature (e.g. De la Porte, Pochet, 2002; Trubek, 2005), the similarities are astonishing.

²¹ The European Council of Luxembourg is a key summit in the Eastern enlargement policy as it officially paved way to the opening of the accession negotiations in March 1998.

Comparison with the OMC in Employment (1997)

| OMC (European Employment strategy, Luxembourg, 1997) | Enlargement policy (Commission, « Agenda 2000 », 1997) |
|---|--|
| (a) European objectives | Accession criteria |
| (b) National Action Plans | Accession Partnerships National Plan for the Adoption of the <i>Acquis</i> (NPAA), Action Plan for administrative and judiciary capacities |
| (c) Annual or bi-annual policy cycles | Negotiation cycles, Programming of assistance |
| (d) Benchmarks / exchange of good or best practices | Benchmarks in the NPAA and twinning Contracts |
| (e) Participation, consultation of social partners | Consultation of social partners at the national level and participation at the Commission level |
| (f) Indicators when <i>Acquis</i> is not precise | <i>Acquis</i> lists of the Commission GDs, Twinning contracts |
| (g) Commission's Progress Reports | Regular Reports of the Commission |

Sources: Own compilation from European Council on Employment (1997), European Council (1997), European Commission (1997, 2003).

One interesting new instrument the Commission introduced from 1997 on is institutional twinning, which promotes the transfer of sectoral norms and frames in sending, for a period of about two years, experts from administrations of the member states to similar organisations in the CEECs²². But it is not possible to evaluate how candidate states reacted to the new methods and adapted their interests, institutions, organisations and cognition without considering also the role played by the national context.

c) The **national context of the post-socialist countries** represents the third factor which should be considered in

²² For a more detailed analysis on the Twinning projects and their impact on member as well as on candidate countries, see Tulmets (2005b).

the analysis of reception and internalisation of conditionality in the candidate countries and which allows for an adaptation of the literature on europeanisation to the post-communist context. As Laure Neumayer rightly states :

« le biais finaliste de la transitologie semble s'être mué en une utilisation souvent normative de la notion d'eupéanisation, qui considère l'intégration européenne comme le signe de la consolidation réussie des nouveaux régimes démocratiques, et fait de la préparation à l'adhésion l'orientation incontestée des réformes menées dans ces pays. Ce présupposé amène à négliger la tension potentielle entre voies nationales de transformation et adaptation au mode de gouvernance communautaire, faute d'analyse des jeux des acteurs avec la norme communautaire, au niveau meso-politique » (Neumayer, 2003 : 85-86).

Adherence to the *acquis* is not limited to the phase of adoption of the *acquis*, i.e. to the transposition of community laws into national law. It also includes following elements:

- policy participation which implies mechanisms of *policy-making*, i.e. of policy consultation engaging all actors concerned by the definition, implementation or evaluation of public policies ;
- implementation which for example covers the creation of systems for the collection of data, inspections and controls, public information, administrative systems offering vocational training to its staff ;
- policy enforcement which highlights aspects such as the role of independent inspections, financial and

proportionate resources as well as sanctions (fines and penalties), economic and regulative instruments, evaluations and independent jurisdictions which make sure that the *acquis* is enforced.

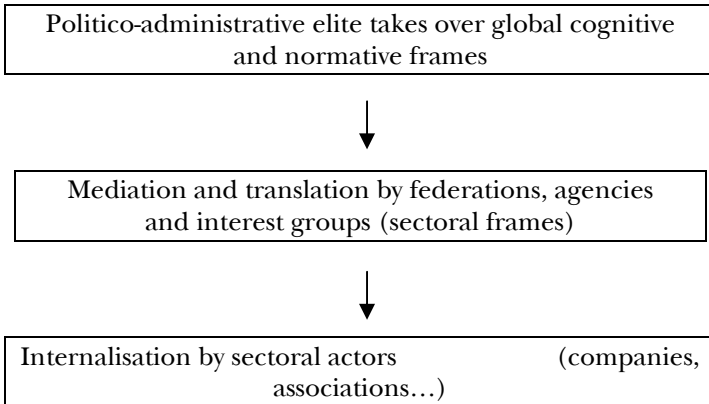
The absence of these various elements may explain the non-implementation of and the non-compliance to the norms promoted.

The most difficult part of the analysis is therefore the phase when the global frame (accession conditions) is translated to the sectoral level. Congruence between norms is easier to find if procedures were created to enhance the participation of sectoral actors in policy-making. If these actors are not consulted, non-congruence and non-implementation of reforms is higher. A group of actors – termed *mediators*²³ in the literature on policy-analysis – is generally in charge of the process of translation of the global frames to the sectoral level (meso level) through the production of sectoral frames. In order to understand how this translation takes place at the various levels of preferences, institutions, organisations and cognition, one needs to have an in-depth knowledge of power relations between the governmental and the sectoral levels. Some actors reveal themselves as veto players and oppose the preferences – and even the formulation of the preferences – of other actors. One may for example take into account the following mediators in a sectoral analysis: national federations, governmental agencies and interest groups, whose role is to make the link between the government and the sectoral interests expressed by interest groups, non-governmental

²³ For Jobert and Muller (1987: 70), mediators propose an interpretation of the global frame, they define its possible translation in the sector and formulate the sectoral references “into terms which are able to act on reality, i.e. into norms and criteria of public action” (my translation).

organisations and associations. For this reason, the participation of domestic actors in national reforms is a crucial element to take into account.

Translation process of the cognitive frame in CEECs



As far as participation is concerned, reforms may represent a window of opportunity for a range of national actors who affect the process in different ways according to their capacity for collective action (resources, organisational structure) and the type of action adopted. Participation may take place in a cooperative (corporatist form), conflict-oriented (protest) or mixed way (pluralist form) (Balme, Chabanet, 2002; Tarrow, 1995). Participation may involve political networks (political parties), interest groups (economic, professional...) or social and associative movements (NGOs, networks of activists). Windows of opportunity can emerge at various levels from the local to the international.

In the post-communist context, relations between actors of national policy-making are affected by *legacies of the past* (Dobry, 2000; Colas *et al.*, 2002). These have therefore to be included in the analysis in order to understand where veto points and divergences are situated and at which level

adaptation processes may take place to comply with EU's accession criteria (e.g. interests, organisations, institutions and cognition). For this reason, the Europeanisation approach also needs to be complemented by historical institutionalism and approaches on *path dependency* (Pierson, 2000; Thelen, 1999; Stark, Bruszt, 1998) in order to explain the absence of convergence, hybridisation processes, dysfunction as well as rejection in the phases of institutional adjustment, implementation and enforcement of norms.

Conclusion

This chapter has proposed a theoretical framework in order to look at the way Europeanisation, often defined in the academic literature as a top-down process, is at work in candidate countries and how a certain number of actors also define their role in the more bottom-up integration process. To do so, it suggests that the traditional literature on Europeanisation should be combined with the literature on policy-analysis. The chapter also adds to our understanding of the EU enlargement process by suggesting that the main internal modes of EU governance have been adapted to the field of enlargement. While the community method is the preferred means of promoting coherent norms, more flexible methods like the open method of coordination are used in contexts where norms have a low coherence. In effect, from 1997-98 on, the EU promoted "soft" law, e.g. benchmarks and principles, in order to counter-balance the imposition of "hard" laws and sometimes the lack of *acquis*. The EU therefore needed to increase the participation of social actors – here termed 'mediators' – in order to define the sectoral norms and to translate them into national systems.

Going beyond the scope of this chapter, recent empirical findings, as well as some contributions to this book, suggest that it is not possible to speak of Europeanisation

at every analytical level. The word Europeanisation is not necessary a synonym of cognitive harmonisation, but rather of organisational and institutional adaptation through the narrow pathway of legacies of the past. Therefore research still needs to be carried out in order to understand how social actors from the candidate states understand and internalise the norms promoted by the EU before formal EU accession and what kind of leeway they have to introduce the accession criteria into national law and to translate them into national policies. This research step is crucial in order to understand why, after accession, certain sectors remain difficult to reform. .

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