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Human Rights in the EU's Conditionality Policy  
Towards Albania: The Practice of Sub-committee  
Meetings

Intersections. EEJSP  
3(2): 52-68.  
DOI: 10.17356/ieejsp.v3i2.304  
<http://intersections.tk.mta.hu>

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### Abstract

EU enlargement policy is organized through a series of practices that regulate its relations with enlargement countries, including Albania, a candidate for EU membership. The aim of this contribution is modest in that it does not seek to engage in a discussion about the actual impact of EU conditionality. Instead, it takes the well-known limitations of external interference as given, and seeks to demonstrate the importance of an often-neglected institution in the process: sub-committees. These bodies bring together EU and Albanian officials and comprise a major part of the EU's engagement with enlargement countries. Imposing conditionality through sub-committee meetings, including in the field of human rights, is a practice that occupies most of the time of the European Union services working at the offices that maintain relations with Albania. However, this instrument has received scant attention in the literature.

*Keywords:* Human rights, EU, Conditionality, Albania, Sub-Committees.

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## *Introduction*

The EU has engaged in various strategies to promote human rights in Western Balkan countries such as Albania, a country that from the beginning of the post-communist transformation process in the 1990s aspired to EU membership. The EU is a normative power and the promotion of human rights norms and values has been a central element of the EU's engagement internationally (Manners, 2006), but particularly in its peripheral regions where the countries concerned have aspired to full EU membership through membership conditionality.

EU conditionality is organized through a series of institutions that regulate the EU's relations with the enlargement countries, including Albania, a candidate for EU membership. The major institution in this regard is the sub-committee, which brings together EU and Albanian officials. Sub-committees are a major part of the EU's engagement process as concerns promoting and imposing rules and values. The sub-committees review the situation in specific fields, including in the field of human rights, request further information on specific cases, press for reforms and report on progress. The sub-committee in charge of dealing with human rights is the Sub-Committee on Justice, Freedom and Security, or as better known in European Commission jargon, the JLS Sub-Committee, with 'JLS' standing for Justice, Liberty and Security. Imposing conditionality through the sub-committees, including in the field of human rights, is an undertaking that occupies most of the time of the EU services working at the offices that maintain relations with Albania and other enlargement countries.

This paper examines EU conditionality, with a specific focus on human rights in Albania. The discussion below focuses on the institution of sub-committees in general, and specifically the JLS Sub-Committee with Albania, launched in 2009, and its role in EU relations with Albania from 2009 until 2016. The aim is to assess the significance of the JLS Sub-Committee and describe the lessons that can be learned in terms of strategies directed at the transformation processes of EU foreign policy as regards human rights in enlargement countries.

The main methodological approach consists of qualitative research on the case study of Albania, with a particular focus on demonstrating the importance of the work of sub-committees. The paper assesses developments in Albania and how they relate to EU conditionality, and specifically to sub-committees. Although a lot has been written about EU conditionality, very little analysis has been generated about how sub-committees relate to EU conditionality, or to the EU's relations with enlargement countries. Examination of the EU sub-committees which, with the enlargement of the EU, have emerged as important institutions for monitoring and pushing for reforms is particularly lacking in scholarly research into EU conditionality. To the extent that EU conditionality has contributed to the processes of transformation, democratization and European accession in contemporary Albania – and the EU has clearly been engaged in these areas, with some impact – the contribution of sub-committees cannot be overlooked.

Albania has been strategically selected as a case study. The country quickly established institutional ties with the EU and has traditionally had relatively strong transnational ties. Among the sectors where there has been EU engagement with

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Albania, the issue of human rights has been considered the most likely to undergo noticeable change. The country is a crucial case in terms of the analysis of EU conditionality choices, considering that it has seen relatively drastic changes in its attitude towards transition—from a position of distance, to considering accession, to a state with real prospects of EU membership. This experience of Albania facilitates an investigation of the country's engagement with the sub-committees. The analysis of the role of the sub-committees starts with the launch of sub-committees in 2009, and ends in 2016. The analysis provided here sheds light on the unexplored relationship between sub-committees and Albania, specifically, and the politics of EU conditionality in general.

Sets of hypothetical expectations may emerge following discussions about domestic changes as a result of the work of sub-committees, among other actors: membership conditionality can lead to domestic change, but might not be sufficient by itself; the success of conditionality can also depend on the articulation of EU policies in specific settings, such as the sub-committees that facilitate change on the ground. In other words, sub-committees play an instrumental role in triggering domestic change in response to EU conditionality. Thus, the assumption that supports the analysis in this paper is that conditionality in itself does not bring about change, but the work of sub-committees is instrumental.

The paper is organized into five broad sections. In the first section, the paper examines conditionality in general. It discusses in more detail the conception of conditionality and how this applies to the EU's relations with Albania in the field of human rights. It reviews relevant literature about the concept of conditionality and its role in explaining EU–Albania relations. The second section presents an analysis of the sub-committees. The third section reviews the EU's human rights policy and EU–Albania relations. The fourth section looks to contextual developments in Albania, while the fifth section describes how these developments relate to the role of the sub-committees.

## *1. Conditionality*

As Western Balkan countries progressed to the stage of post-communist transformation, EU membership prospects moved to the top of the agendas of countries in the region, including Albania, a country that for more than four decades had lived in communist and dictatorial isolation, and which rapidly adopted a reform agenda to start climbing the ladder to EU integration. Although Albania in its post-communist years battled with long-lasting transition issues, it has been able to engage with the European integration process. The EU itself responded to the circumstances and the developments in the country, partly by establishing the Stabilisation and Association Process in 1999 that provided a European integration framework for Albania and other countries of the Western Balkans. Conditionality was put in place to encourage reforms in the field of human rights, among other areas.

Conditionality is a form of power that the EU wields, not only to induce national governments to behave in certain ways and embark on the implementation of particular measures and policies, but also to shape the institutional environment within the target states (Anastasakis and Bechev, 2003). Conditionality by itself is a

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necessary but not sufficient condition for making changes in states that aspire to obtain EU membership. Conditionality does not necessarily trigger immediate change, and may affect no change at all. Whether or not the country honours conditionality depends on a lot of factors, including the work of *sub-committees*.

Conditionality generally follows a 'top-down approach' by which the EU applies its conditions, imposing upon countries a model of governance that reflects values, norms and principles which are fundamental to the EU and its member states. The top-down approach does not cause problems in enlargement countries such as Albania because the EU is seen as a provider of benefits such as economic assistance, security, and access to trade. As a 'privileged club' it is perceived as being entitled to define the rules. Although distant, the prospect of membership tends to be attractive to both the elites and the public (Bechev and Andreev, 2005). The top-down approach emphasizes the existence of a degree of mismatch with EU requirements at the domestic level (Cowles et al., 2001). The existence of these differences or mismatches between EU policies and policies on the ground is assumed in cases of declaration or the imposition of conditionality. Where there is a mismatch between EU requirements and domestic circumstances, 'adjustment pressure', which varies from one country to another, builds up at the domestic level. Variations in adjustment pressure can be measured, among other ways, by the positions expressed in the sub-committees. Through the sub-committees, the EU affects governance, including reforms in human rights policy (Grabbe, 2001).

Conditionality effects outside of EU borders started to occur when Central and Eastern European countries, emerging from communism in the early 1990s, declared their intention to join the EU. The EU offered the prospect of membership at the Copenhagen Council in 1993, when the 'Copenhagen criteria' (or terms of conditionality) were defined (European Council, 1993).

The term 'conditionality' is used in a number of ways to describe a variety of phenomena and processes of change. Conditionality as a process describes how the EU affects political systems, society, and economies in general. Thus, the Copenhagen criteria for accession can be seen as conditions imposed upon other countries which are established to ensure that changes take place in governance that reflect the values, norms and principles upon which the EU system and its member states are constructed (Friis and Murphy, 1999). The Copenhagen criteria are the rules that define whether a country is eligible to join the EU. The criteria require that a state has the institutions to preserve democratic governance and human rights, a functioning market economy, and the ability to take on the obligations of membership. Interest in the term 'conditionality' grew as the EU called for the enlargement of its borders to East European states (Cowles et al., 2001; Olsen, 2005; Jordan, 2005). The EU started monitoring the adjustment of these countries to the EU's rules and regulations (better known as *acquis communautaire*), as well as the fulfilment of specific membership conditionality criteria concerning issues such as human rights (Sedelmeier, 2011). The Copenhagen criteria, the *acquis communautaire*, and other democracy-, human rights- and rule-of-law-related conditionality has been essential components of EU policy towards enlargement countries (Schimmelfennig, 2005); a process which continues with their application to Western Balkan countries like Albania.

Conditionality has functioned through a carrot-and-stick approach, compelling actors through the appeal of EU membership to change their policies (Barnett and Duvall, 2005; Diez et al., 2006). The impacts of this approach have occurred in Albania very much in proportion to the desire of Albania to become an EU member. Association agreements such as the Stabilisation and Association Agreement and financial assistance can be considered important carrots. The EU can also employ sticks, a process that mainly consists of withholding benefits.

Conditionality in the case of the Western Balkans, including the Albanian case, has become much more rigorous and extensive as time has passed, and has increased in importance (Pridham, 2007). The Stabilisation and Association Process and the Western Balkan countries' perspective on EU membership, including the various political criteria reflected in the annual progress reports of the European Commission, started to broaden the focus of conditionality and establish the conditionality of candidate and potential candidate states of the Western Balkans as a separate sub-field. As non-member states, the Western Balkan states do not usually have a voice in making the rules that they are required to adopt, hence the description 'top-down' process. In the case of Albania, specific conditionality has included reform of the police and the judiciary, fighting organised crime and corruption, combating trafficking in drugs, arms and human beings, and some other areas.

The EU, throughout the period of Albania's transition lasting from 1991 to the present, has been instrumental in shaping Albanian policies as regards the promotion and protection of human rights. The involvement of the EU in Albania does not represent a novel approach as the EU applied a pre-existing toolkit which included the establishment of the institution of sub-committees. The format for the sub-committees in Albania was inspired by the sub-committees created in Central and Eastern European countries that joined in 2004 and in 2007.

## *2. Sub-committees, and the Sub-Committee on Justice, Freedom and Security*

Since 1994, in each country with accession prospects there have been sub-committee meetings at a technical level, organized around specific parts of the *acquis communautaire*. These specialized sub-committees facilitate the prioritisation of reforms, shape them according to EU models, solve problems, and monitor their implementation. Sub-committees have assumed a role in monitoring the progress made by candidate countries for EU membership in terms of the adoption and implementation of the *acquis* and the implementation of agreements such as Europe Agreements or Stabilisation and Association Agreements. The Stabilisation and Association Agreement has been the framework through which the EU and Albania discuss technical and policy issues in relation to the European agenda. The Agreement's bodies included the Stabilisation and Association Council, assisted by the Stabilisation and Association Committee, as well as SAA Sub-Committees. Analytical examination of the *acquis* also takes place in the context of the sub-committees. The 2006 Stabilization and Association Agreement between the EU and Albania stipulated the establishment of sub-committees. These were launched in 2009 after the date of entry into force of the Agreement. Each Sub-Committee meeting monitors reforms

and identifies how the EU can assist in this process. Different areas are covered by sectoral meetings of sub-committees, including the committees for Justice, Freedom and Security, Innovation, Information Society, Social Policy, Education and Culture, Trade, Industry, Customs and Taxation, Internal Market, Competition, Consumer and Health Protection, Agriculture, Fisheries, Forestry, Food Safety, Transport, Environment, Energy, Regional Development, Economic and Financial Issues, and Statistics.

The sub-committees are part of *comitology* processes in the EU. The significance of these committees, however, remains a matter of dispute. One of the approaches, drawn from sociological institutionalism and constructivism, suggests that EU committees provide a forum in which national and supranational experts meet and deliberate as part of the search for the most efficient solutions to common policy problems (Pollack, 2003a). Another view derives from rational choice theory and depicts comitology committees as institutions of control designed by the EU to supervise and condition governments in the execution of their duties (Pollack, 2003b). The sub-committees are institutions, as they are socially structured within the EU construct and held regularly. The focus on sub-committees provides a basis for reviewing the specific context in which factors may causally affect actors and their doings (Sending and Neumann, 2011). Institutions become powerful as they define infrastructure and the set of tools that actors use and deploy in their interactions with each other (Sending and Neumann, 2011).

The EU's conditionality is embedded in a set of key institutions such as sub-committees that structure its relations with third states. Key among these is the JLS Sub-Committee, which is the EU's annual meeting with counterpart governments of enlargement countries in the field of human rights and related issues, officially known as the Sub-Committee on Justice, Freedom and Security. Starting in 2009, the EU and Albania have held JLS Sub-Committee meetings on an annual basis, alternately in Tirana and in Brussels. Eight rounds of the EU-Albania JLS Sub-Committee meetings have taken place as of 2016. Sub-Committee meetings have been co-chaired by the European Commission and Albanian government, and each meeting has resulted in jointly agreed minutes and a list of follow-up activities to be taken by the Albanian authorities.

All of the JLS Sub-Committee meetings that were held so far have followed a similar pattern. Some of the issues raised are of common concern. In the deliberations of the JLS Sub-Committee, the EU also takes the opportunity to submit enquiries with respect to specific and individual cases, and Albania provides oral or written clarifications about a number of those cases. Although the EU in its annual progress reports mainly focuses on general tendencies, in sub-committees it has an opportunity to refer to and submit enquiries with respect to specific individual cases of human rights violations. The EU occasionally incorporates the voice of civil society into the JLS Sub-Committee meetings with Albania, and meets with representatives of domestic NGOs.

The JLS Sub-Committee has served as the EU's special review institution for monitoring the general political and human rights situation as much as an instrument for achieving objectives in a systematic and coherent fashion. The JLS Sub-Committee's work has been based on information drawn from its own delegations, the

embassies of EU member states, and the reports of other international organisation and independent agencies. The JLS Sub-Committee exchanges information about the human rights situation in Albania, expresses EU concerns about aspects of the country's human rights record, identifies practical steps to improve the human rights situation on the ground, and discusses questions of mutual interest. It provides the space for a substantial dialogue to take place on human rights issues in Albania or in other enlargement countries where it takes place. The JLS Sub-Committee has served to guide Albania through the extensive requirements of EU conditionality and to define clearer benchmarks by identifying short- and medium-term priorities. The applicant country, after sub-committee meetings, is expected to respond by drawing up a plan for the implementation of solutions to the problems and priorities highlighted in the meetings, while also identifying the human and financial resources needed and concrete timetables for addressing each of these problems and priorities.

Each JLS Sub-Committee has so far included specific discussions about human rights developments in Albania, and noted the EU's stance on the issues raised. In the meetings, the EU has called upon the Albanian government to fully abide by its international human rights obligations. The annual JLS Sub-Committee meetings can be understood as the central method of producing positions that feed directly into processes of shaping and guiding the EU's relations with Albania in the framework of conditionality. The JLS Sub-Committee thus plays an instrumental role in change. Institutions such as the JLS Sub-Committee give observers an opportunity to identify what kind of roles are awarded to actors (e.g. the EU) within the space in which they act (Albania). The JLS Sub-Committee is the main forum at which the EU can deliver its positions and criticism about human rights issues to the Albanian government, and its key function is to facilitate follow up of the issues that have dominated the human rights agenda of Albania. It is thus a central vehicle through which the EU lays out and articulates its conditions.

Among the specific human rights issues that the JLS Sub-Committee has tackled, the implementation of recommendations by the Ombudsman, freedom of expression, the rights of children and of persons with disabilities, torture and ill-treatment in the prison system, as well as respect for and the protection of minority communities are noted. In addition, freedom of assembly and association, gender equality, anti-discrimination, and property rights have been core elements of the EU's concerns which have been voiced during the annual JLS Sub-Committee meetings with Albania.

### *3. EU human rights policy and EU-Albania relations*

The EU regards human rights as fundamental. Concern to protect human rights guides the EU's action both inside and outside its borders (EUR-Lex, 2016). The Treaty of Lisbon stipulates that the Union's action on the international scene shall be guided by the principles which have inspired its establishment, development and enlargement, and which it seeks to advance in the wider world: democracy, the rule of law, human rights and fundamental freedoms, respect for human dignity, and respect for international law (Treaty of Lisbon, 2007). The EU is perceived as an authority that protects and promotes the human rights values within its borders and

outside. Its central role as an authority on human rights matters stems in large part from the fact that it is perceived as a normative power with regard to this topic.

The EU promotes human rights abroad in a variety of ways, including through annual human rights reports, annual progress reports, human rights dialogue and consultations, financial assistance for the improvement of human rights through the European Instrument for Democracy and Human Rights, declarations and statements on human rights, initiatives of the EU High Representative and of the EU Special Representative for Human Rights, and other formats such as JLS Sub-Committee meetings (Council of the EU, 2009). Respect for human rights is incorporated into all forms of cooperation with third countries, including in agreements that regulate relations with third countries. Since 1992, a clause on 'essential elements' has been included in all agreements signed with third countries. On the basis of this clause, respect for human rights constitutes an 'essential element' of agreements (European Commission, 2001).

To see how the framework of EU human rights conditionality developed in the case of Albania, the process of the deepening of connections and of Albania's transformation is discussed in brief. The relations between Albania and the EU have progressed through a series of stages:

- Establishment of initial relations in the 1990s,
- Policy orientation of Albania towards EU membership in the early 2000s,
- Formalisation of connections through the signature of the Stabilisation and Association Agreement in 2006,
- Launch of sub-committees in 2009, and
- Award of candidate status to Albania in 2014.

The Stabilisation and Association Process, endorsed in 1999 and further enhanced in 2003, led to the adoption of a Stabilisation and Association Agreement; a contractual agreement that would lead all Western Balkan countries, including Albania, all the way to EU membership. The Agreement builds on respect for key democratic and human rights principles and is based on the implementation of reforms designed to promote the adoption of EU standards with the aim of greater integration with the EU. Albania concluded the Stabilisation and Association Agreement with the EU in 2006 which entered into force in 2009. In the same year, Albania applied for EU membership. Albania was awarded visa-free travel for its citizens to the EU in 2010.

#### *4. Changes in Albania since 2009*

Since the early years of the post-communist transformation, Albania, as one of the democratising post-communist countries of the Western Balkans, has been engaged in improving its human rights record. The aim of this engagement has been to establish functioning, democratic and professional governing institutions, to develop structures and capabilities that ensure respect for human rights, and to meet EU standards as regards human rights.

Albania's path towards democracy can be partly attributed to external factors, especially the prospect of European integration which has become the engine of Albanian transformation and has turned into a grand national strategy, a consensual goal for the entire political spectrum, and a high-ranking social priority (Elbasani,

2010). The all-dominant project is quite similar to the pre-communist desire of Albania to associate the country with the European family of nations, and to the communist appeal to unite against external enemies.

Albania was formerly a communist country, yet there existed significant popular movements which contributed to the collapse of this regime. Albanians who supported the changes pressed for democracy and respect for human rights. In this context, while Albania had support from the EU for making changes, the initiative also came from within. It was clear for Albanians from the outset that EU membership should be a key goal of their transition process. This explains the high and sustained level of popular support for EU membership in the country (87 percent of the population support EU membership) (Holman, 2013). Regarding the calculation of costs and benefits which will determine the success of conditionality, Albanian leadership remains convinced that the benefits outweigh the costs. This has translated into a strong commitment to implement the recommendations which come from the sub-committees.

Albania has been continuously insisting that it belongs to the same community of norms that exists within the EU. This has pushed the country's elite to avoid implementing policies that would endanger the country's EU membership. The work of the sub-committees matches the interventionist style of the international community in Albania, and it has been noted that Albania's problems have been solved through the mediation, supervision or intervention of various organs of the international community (Elbasani, 2009).

EU conditionality in the field of human rights has consisted of the requirement that candidate countries such as Albania have in place appropriate legislative, institutional and administrative arrangements that ensure protection of and respect for human rights. Candidate countries must have institutions, management systems and administrative arrangements which meet EU standards that effectively implement EU legislation, and, in particular, implement measures with respect to the protection of the rule of law.

Parliamentary elections were held in 2009 in Albania. The OSCE expressed the opinion that these elections did not fully realize Albania's potential for adhering to the highest standards for democratic elections. In early 2011, allegations of corruption emerged in the public arena and led the opposition Socialists to send their supporters to the streets, leading to a violent backlash on 21 January 2011 between the police and protesters in which four people were killed. The parliamentary elections in 2013, won by the Socialists, were deemed to be 'free and quite fair' by the OSCE (Abrahams, 2015).

Albania has persistently ranked lower on most conventional indices on democracy than other Central and Eastern European countries, and even lower than some of its Western Balkan neighbours. Until very recently Albania featured among the laggards of the EU accession process, and as a 'difficult democratizer' frequently located at the tail end of international rankings of successful post-communist transition (Elbasani, 2015). This has something to do with the legacy of communist destruction that has been more difficult to correct than in other countries. However, the bigger problem in Albania has been weak institutions. Influential stakeholders have expressed no interest in creating change (Abrahams, 2015), although the incentive of

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EU membership could provide external impetus and pull the country forward. The EU has inspired an outburst of activity in the field of the protection of human rights in Albania and the country has now ratified most international human rights conventions. Freedom of assembly and association has generally been respected. Freedom of thought, conscience and religion is also generally respected. An important challenge for Albania lies in the implementation of legislative and policy tools, which remains insufficient overall (European Commission, 2016; 2015; 2011; 2010; 2009). A backlog of disputes in courts (involving, among other things, property disputes, the infringement of minority rights, and freedom of expression) has constituted the main deficiencies in the Albanian human rights protection system. Nevertheless, Albania's EU integration prospects created a rare opportunity for the conversion of status from 'transition' to 'integration'. In June 2014, the country was awarded candidate status for EU membership.

The European Council of June 2014 which awarded candidate status to Albania highlighted the fact that the decision was due to Albania's fulfilment of the Copenhagen criteria, and referred to progress in the protection and promotion of human rights (Council of the EU, 2014). The EU called this the logical consequence of reform efforts (Abrahams, 2015). Candidate status was political recognition of the development of a closer relationship between the EU and an Albania on its way towards EU membership. The progress it has made with respect to human rights and fundamental freedoms has played a role in this and reinforced the EU position that the treatment of human rights is a key condition for the country's entry into the EU.

The granting of candidate status to Albania came with another to-do-list of reforms, about which the country needs to show further progress which will entitle it to open accession negotiations with the EU in the future. The prospect of negotiations has thus placed the country on a firm footing towards EU accession, and has further consolidated the framing of EU integration as the country's primary strategy for domestic change and transformation (Elbasani, 2015). The sub-committees have played a largely constructive role through the different phases of late democratization in Albania. The country has reformed its human rights protection system, enabling it to meet some of the country's contemporary obligations and challenges as regards protection and respect for human rights.

The EU has maintained a consistent or well-defined institutional preference for policies towards Albania, and a general pattern of causal links between EU conditionality and compliance in Albania is identifiable. The outcome of interactions appears to have been influenced by the conditionality emanating from the EU, and by the operationalization of the conditionality in the sub-committees. The existence and impact of EU conditionality on Albania was strong, leading to a positive response to demands for democratisation. Whereas the EU has used a wide array of instruments and channels to promote its norms and rules in Albania, the JLS Sub-Committee has created norm-conforming domestic change. Norms and values (such as human rights and fundamental freedoms) are best able to generate positive outcomes when they are structured within a cooperation and discussion framework. The work of sub-committees has gone beyond the narrow notion of 'impact' and has led to the reordering of state institutions and the emergence of new rules, procedures, norms and practices, and to new modes of bilateral interaction between the EU and Albanian

officials, instead of the unidirectional rhetoric of the EU. However, asymmetrical power relations and the promised rewards modify domestic actors' opportunity structures by providing them with the additional incentive to choose reform instead of the status quo. The sub-committees approach to facilitating joint discussions between EU and Albania, rather than accepting a clearly top-down approach, has allowed the EU to become more deeply involved in rebuilding the state.

Since the first sub-committee meeting in 2009, the EU has consistently monitored progress in the field of human rights. The discussions and the results of the sub-committee meetings feed into the preparation of the annual reports of the EU on the progress of Albania in European integration. The assessment in annual reports on the human rights situation since 2009 indicates progress, albeit with many caveats (Elbasani, 2009). The next section of this paper provides an overview of the application of conditionality with a focus on the workings of the JLS Sub-Committee.

### *5. The impact of the Sub-Committee on Justice, Freedom and Security in Albania*

Conditionality, including that applied through the sub-committees, works best when countries have a credible promise of eventual membership (Bauer et al., 2007); when the EU possesses information with credible evidence about the issues in question; and when the partner government has the corresponding capacity to engage in measures that will honour their commitments as regards respect for human rights and fundamental freedoms.

Three forms of impact can be distinguished, corresponding to different degrees of compliance with EU conditionality: adoption, enforcement, and internalization. Adoption means issuing national legislation that transposes relevant EU rules and norms into the national legal system. Enforcement consists of the implementation of adopted legislation and the establishment of formal institutions and procedures for the implementation of the new legislation. The last stage of internalization goes beyond adoption and enforcement to include socialization with EU rules and norms. The JLS Sub-Committee has helped with compliance in Albania in all three forms. With the JLS Sub-Committee, Albania has internalised some of the human rights values into its domestic policy, which in turn has enhanced its capability to implement better policies as regards respect for human rights and fundamental freedoms.

During the deepening of relations between Albania and the EU- from the establishment of initial contacts to the policy orientation of Albania towards EU human rights values, to EU involvement in the JLS Sub-Committee with Albania - there has been an increase in the intensity of conditionality, and greater infiltration of the EU into Albania's system for protecting human rights and fundamental freedoms. The operationalization of conditionality from the perspective of the sub-committees can be seen as one particular type of conditionality; one in which transition takes the form of learning, shaming and penalizing. The JLS Sub-Committee plays a special role in operationalizing conditionality in that it can identify, at an early stage, problems that are likely to lead to major problems later. It has been useful in exposing Albania to international human rights standards and best practices, and has supported change by involving officials in Albania to help foster a constituency for reform.

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The JLS Sub-Committee has acted through questioning, pressure, and discussions, compelling national actors through the appeal of EU membership to advance the country's democracy and human rights. Discussions in sub-committees go through various stages and form the basis for an analysis of the impact of EU conditionality in Albania. In order to better understand how the institution of sub-committees functions as a tool of conditionality, it is important to observe the progress along the various stages. These stages can be characterized by an increase in the intensity of conditionality. Conditionality is weakest when the articulation of an issue during a sub-committee meeting occurs as a singular event at the opening of a sub-committee. Sub-committee meetings start with opening remarks by the highest officials representing both sides. On the EU side, this is typically a director from the Enlargement Directorate of the European Commission, and on the Albanian side, the Minister or Deputy Minister for European Integration. What follows is the articulation of the positions of the EU and of the Albanian government as regards a particular human rights issue. The discussion in general concludes with Albania either accepting the approach offered by the EU, or agreeing to come back later with written information about the issue and a description of what measures will be taken.

The JLS Sub-Committee thus appears to function both as a diplomatic exercise and as leverage for human rights change in the field. There has been some follow up to JLS Sub-Committee meetings. It appears that the JLS Sub-Committees have become a means of achieving measurable and tangible results, and an effective tool for leading changes in the legislative and institutional framework. The JLS Sub-Committee has contributed to building new capacities in the government and giving rise to new institutional structures, bodies, and channels of respect and promotion for human rights in Albania. Among the notable developments in the field of human rights in Albania during the period of existence of the JLS Sub-Committee (which have been part of discussions during meetings of the JLS Sub-Committee) are the passing or amendment of human-rights-related acts such as the Law on Protection from Discrimination, the Criminal Code, the Labour Code, and the Law on Audiovisual Media. Other developments have included the establishment of the following human-rights-related institutions, as well as their strengthening in terms of material resources such as budgets and human resources: the Commissioner for the Protection from Discrimination, the national referral mechanism against trafficking in human beings, the national preventive mechanism against torture and ill-treatment, the Office of the National Anti-Trafficking Coordinator, the Commissioner for the Right to Information and Data Protection, the Agency for Support to Civil Society, the Children's Commissioner, the State Committee on Minorities, and the State Commission for Legal Aid (European Commission, 2016; 2015; 2014; 2013; 2012). The JLS Sub-Committee has also repeatedly pressed for the implementation of the recommendations of the Ombudsperson which institution has been a key to protecting human rights. Also, the JLS Sub-Committee has followed up cases of intimidation or assault against journalists and against persons and institutions belonging to minority groups, such as the Roma and the Greek. In addition, the JLS Sub-Committee has pushed the Albanian government to ratify a number of international human rights instruments, such as Protocol 16 of the European Convention on Human Rights, the Council of Europe Convention on Preventing and

Combating Violence against Women and Domestic Violence, and the European Charter for Regional and Minority Languages (European Commission, 2016; 2015; 2014; 2013; 2012).

The JLS Sub-Committee has also functioned as a confidence-building exercise, as well as a results-oriented meeting. The most vital human rights questions, even those that Albania would not want to discuss during the JLS Sub-Committees, find their way on to the agenda of the JLS Sub-Committee. The annual JLS Sub-Committee meetings symbolize the recognition of Albania as part of a wider EU system, that the problems of Albania are European challenges, and that the solutions to identified problems should be European solutions.

The JLS Sub-Committee has been an institution that put in place a practical approach to tackling the problem of transforming domestic institutions in a way that makes them capable of respecting human rights. The work undertaken in sub-committees was an important learning experience in terms of the transformation of a transitional society such as Albania. It represented an important test for a potential candidate state for EU membership in terms of its ability to plan and conduct reforms in the field of human rights. As such, it helped to rectify considerable deficiencies in Albania's governance as regards human rights. In this context, the JLS Sub-Committee appeared as a powerful force for influencing the process of democratisation in Albania. The JLS Sub-Committee caught and sustained the attention and momentum of the elite and the wider public for reform. The institution of sub-committees has also supported socialisation and the domestic empowerment of the Albanian bureaucratic elite. The JLS Sub-Committee established new constituencies which have become able to absorb EU norms and standards in the field of human rights. It has empowered the elite to undertake changes, which in turn has facilitated the impact of conditionality.

The JLS Sub-Committee offered a clear framework and a level of quality that the country could use as a standard when evaluating its development towards a modern democracy able to protect and promote human rights. In this light, the JLS Sub-Committee functioned as a check on the behaviour of institutions, particularly law enforcement structures such as the Albanian State Police as regards human rights. The working of the JLS Sub-Committee has played an important role in pushing law enforcement institutions, prosecutors' offices and judiciary to honour their commitments in this respect.

Since the launch of sub-committees in 2009, through to 2016, Albania went through different waves of reforms, featuring institutional progress and democratic consolidation, but also significant stagnation coupled with crises of order and legitimacy. The post-2009 era signalled the start of a new period when the sub-committees turned into an all-important actor, leading efforts to rebuild human rights protection structures under the conditions of a highly politicised political atmosphere and weak domestic leadership as concerned reform (Elbasani, 2009). Sub-committees are credited with having impacted institutional change in the EU candidate country of Albania, having been crucial instruments of domestic change and having vested EU conditionality with influence over domestic change.

Despite initial perceptions that the sub-committees would be purely of an operational character, through their work they turned into a critical engine for

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institutional change in Albania, with a number of limitations. Key challenges for the JLS Sub-Committee include the need to go beyond the mere recitation of well-known positions to being able to lead concrete improvements in the human rights situation on the ground. Sub-committees have served as institutions and been additional safeguards, keeping on track the major reform orientation of Albania and serving as a means to define limits to the freedom of manoeuvre of Albania. However, conditionality in the field of human rights has not had commensurate leverage, unlike in other fields where there is clear *acquis communautaire*. Finally, sub-committees are organized to last for a day or two, and, as a result, human rights issues are not discussed in detail. This is due to the stance of EU officials who prefer to highlight major features of the issues concerned, and also to the fact that the EU officials who reflect on the positions of the EU as concerns specific human rights issues in Albania may not be experts in the field of human rights.

### *Conclusions*

This paper has examined closely one aspect of conditionality of one of the enlargement countries: the role of sub-committees in shaping EU conditionality vis-à-vis Albania as it moves towards democratization and European integration. The case of Albania shows that sub-committees have had a significant role in operationalizing conditionality. By launching sub-committees with Albania in 2009, the EU engaged directly and advocated for the protection and promotion of human rights and the extension of democratic rights and fundamental freedoms.

Changes in human rights legislation and implementation were directed towards establishing the necessary basis for the functioning of law and order in Albania that would respect, protect and promote human rights. In Albania, there was a clear need for EU-initiated reforms that aimed at strengthening the rule of law, thereby securing human rights and fundamental freedoms. Conditionality has been at the core of EU policy in Albania, and the paper demonstrates that one specific instrument, sub-committees, have been an essential tool in operationalizing and facilitating the impact of this. Besides promoting the dimension of conditionality, the sub-committees have also played a role in socialization, applying pressure, networking, benchmarking and learning, although this paper has also identified a number of their shortcomings. The JLS Sub-Committee has represented a specific framework for furthering the progress of the country in terms of increasing respect for human rights. While the impact of the legislative and institutional reforms and the sustainability of changes in many cases is yet to be seen, the JLS Sub-Committee has triggered genuine compromises in Albanian politics that have led to the positive assessment by the EU that Albania meets Copenhagen criteria.

## References

- Abrahams, F. C. (2015) *Modern Albania: From dictatorship to democracy in Europe*. New York: NYU Press.  
DOI: <https://doi.org/10.18574/nyu/9780814705117.001.0001>
- Analytica (2008) *Collection of Policy Reports - The Enlargement of the EU to Balkans: Policy Reports that shaped the policies and debate on European integration of Balkans*. Skopje.
- Anastasakis, O. and D. Bechev (2003) EU conditionality in South East Europe: Bringing Commitment to the Process. *South East European Studies Programme*, European Studies Centre: University of Oxford. 1-20.
- Barnett, M. and Duvall, R. (2005) Power in International Politics. *International Organization*, 59(1): 39-75. DOI: <https://doi.org/10.1017/s0020818305050010>
- Bauer, M. W., Knill, C. and D. Pitschel (2007) Differential Europeanization in Eastern Europe: The Impact of Diverse EU Regulatory Governance Patterns. *Journal of European Integration*, 29(4): 405-423.  
DOI: <https://doi.org/10.1080/07036330701502431>
- Bechev, D. and S. Andreev (2005) Top-Down vs. Bottom-Up Aspects of the EU Institution-building Strategies in the Western Balkans. *European Studies Centre: University of Oxford. Occasional Papers*, 3(5).
- Council of the EU (2014) European Council 26/27 June 2014 Conclusions. Brussels.
- Council of the EU (2009) *EU Guidelines on Human Rights Dialogues with Non-EU Countries*. Brussels.
- Cowles, M. G., Caporaso, J. A. and T. Risse-Kappen (2001) *Transforming Europe: Europeanization and Domestic Change*. Ithaca, NY: Cornell University Press.
- Diez, T., Stetter, S. and M. Albert (2006) The European Union and Border Conflicts: The Transformative Power of Integration. *International Organization*, 60(3): 563-593. DOI: <https://doi.org/10.1017/s0020818306060218>
- EUR-Lex (2016) *Human Rights*. Brussels.  
[http://eur-lex.europa.eu/summary/chapter/human\\_rights.html?root\\_default=SUM\\_1\\_CODE\\_D%3D13,SUM\\_2\\_CODED%3D1302&locale=en](http://eur-lex.europa.eu/summary/chapter/human_rights.html?root_default=SUM_1_CODE_D%3D13,SUM_2_CODED%3D1302&locale=en) Accessed: 29-06-2017.
- Elbasani, A. (2015) Islam and Democracy at the Fringes of Europe: The Role of Useful Historical Legacies. *Politics and Religion*, 8(02): 334-357.  
DOI: <https://doi.org/10.1017/s1755048315000012>
- Elbasani, A. (2010) *Religion and Democratization in Post-Communist Albania: Is it Possible to be Islamic, Democratic and European at the Same Time?* APSA 2011 Annual Meeting Paper.

- 
- Elbasani, A. (2009) EU Administrative Conditionality and Domestic Downloading: The Limits of Europeanization in Challenging Contexts. KFG Working Paper Series No. 2.
- European Commission (2016; 2015; 2014; 2013; 2012; 2011; 2010; 2009) *Progress Report on Albania*. Commission Staff Working Documents. Brussels.
- European Commission (2001) *The European Union's Role in Promoting Human Rights and Democratisation in Third Countries*. Communication from the Commission to the Council and the European Parliament. COM (2001) 252.
- European Council (1993) *Conclusions of the Presidency*. Copenhagen: Doc/93/3, June 22.
- Friis, L. and A. Murphy (1999) The European Union and Central and Eastern Europe: Governance and Boundaries. *JCMS: Journal of Common Market Studies*, 37(2): 211-232. DOI: <https://doi.org/10.1111/1468-5965.00160>
- Grabbe, H. (2001) How Does Europeanization Affect CEE Governance? Conditionality, Diffusion and Diversity. *Journal of European public policy*, 8(6): 1013-1031. DOI: <https://doi.org/10.1080/13501760110098323>
- Holman, K. (2013) Albania Deserves EU Candidate Status. *EU Observer*, December 16, <https://euobserver.com/opinion/122466>
- Jordan, A. (2005) Policy Convergence: A Passing Fad or a New Integrating Focus in European Union Studies? *Journal of European Public Policy*, 12(5): 944-953. DOI: <https://doi.org/10.1080/13501760500161647>
- Manners, I. (2006) European Union, Normative Power and Ethical Foreign Policy. In Chandler, D. and V. Heins (eds.) *Rethinking Ethical Foreign Policy*. London: Routledge. 116-136.
- Noutcheva, G. (2009) Fake, Partial and Imposed Compliance: The Limits of the EU's Normative Power in the Western Balkans. *Journal of European Public Policy*, 16(7): 1065-1084. DOI: <https://doi.org/10.1080/13501760903226872>
- O'Brennan, J. (2011) *The EU and the Western Balkans: Stabilization and Europeanization through Enlargement*. London: Routledge.
- Olsen, J. P. (2005) *The Many Faces of Europeanisation*. ARENA Working Papers, WP 01/2. [http://www.sv.uio.no/arena/english/research/publications/arena-working-papers/2001-2010/2002/wp02\\_2.htm](http://www.sv.uio.no/arena/english/research/publications/arena-working-papers/2001-2010/2002/wp02_2.htm) Accessed: 29-06-2017.
- Pollack, M. A. (2003a) Control Mechanism or Deliberative Democracy? Two Images of Comitology. *Comparative Political Studies*, 36(1-2): 125-155. DOI: <https://doi.org/10.1177/0010414002239374>
- Pollack, M. A. (2003b) *The Engines of Integration: Delegation, Agency and Agenda Setting in the European Union*. Oxford and New York: Oxford University Press.
- Pridham, G. (2007) Change and Continuity in the EU's Political Conditionality: Aims, Approach and Priorities. *Democratisation*, 14(3): 446-471. DOI: <https://doi.org/10.1080/13510340701303303>

- 
- Schimmelfennig, F. (2005) (ed.) The EU: Promoting Liberal Democracy through Membership Conditionality. In Flockhart, T. (ed.) *Socializing Democratic Norms: The Role of International Organizations for the Construction of Europe*. Houndmills, Basingstoke: Palgrave Macmillan. 106-126.  
DOI: [https://doi.org/10.1057/9780230523067\\_6](https://doi.org/10.1057/9780230523067_6)
- Schimmelfennig, F. and U. Sedelmeier (2005) Introduction: Conceptualizing the Europeanization of Central and Eastern Europe. In Schimmelfennig, F. and U. Sedelmeier, U. (eds.) *The Europeanization of Central and Eastern Europe*. Ithaca, NY: Cornell University Press. 1-28.
- Schimmelfennig, F. and U. Sedelmeier (2004) Governance by Conditionality: EU Rule Transfer to the Candidate Countries of Central and Eastern Europe. *Journal of European Public Policy*, 11(4): 661-679.  
DOI: <https://doi.org/10.1080/1350176042000248089>
- Sedelmeier, U. (2011) Europeanisation in New Member and Candidate States. *Living Reviews in European Governance*, 6(1). DOI: <https://doi.org/10.12942/lreg-2011-1>
- Sedelmeier, U. and F. Schimmelfennig (2007) Europeanization beyond Europe. *Living Reviews in European Governance*, 2(1). DOI: <https://doi.org/10.12942/lreg-2007-1>
- Sending, O. J. and I. B. Neumann (2011) Banking on Power: How Some Practices in an International Organization Anchor Others. In Adler, E. and V. Pouliot (eds.) *International Practices*. New York: Cambridge University Press. 231-254.  
DOI: <https://doi.org/10.1017/cbo9780511862373.014>
- Smith, K. E. (2003) The Evolution and Application of EU Membership Conditionality. In Cremona, M. (ed.) *The Enlargement of the EU*. Oxford: Oxford University Press. 105-140.  
DOI: <https://doi.org/10.1093/acprof:oso/9780199260942.003.0005>
- Treaty of Lisbon (2007) *Treaty of Lisbon amending the Treaty on European Union and the Treaty establishing the European Community*. Article 21. Lisbon.