

Minority protection in the Republic of Macedonia under the Weight of EU Conditionality: Pre-accession monitoring as a mechanism of furthering compliance?

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Abstract

The debate on conditionality as a principle of enlargement has heralded pre-accession monitoring as a key mechanism of compliance with EU standards. The academic camp has paid, however, a scant attention to the relationship between monitoring and the success or failure of enlargement. Facing the next enlargement round to the Western Balkans, this research paper investigates how progress made by the Republic of Macedonia is monitored in the realm of minority protection. Aimed at unraveling the rationale behind the European Commission's approach to monitoring, the paper demonstrates that monitoring in the field of minority protection is not directly tied to accession into the EU as the final outcome of the pre-accession process. In the absence of a clear monitoring framework, monitoring activities are largely brought into play on an *ad hoc* basis, thereby allowing for the identification of two crucial shortcomings. Firstly, there is a profound lack of clarity of minority protection standards to which Macedonia needs to adhere. Secondly, inferior quality of both analysis and interpretation of indicator findings based on a random choice of issues, poorly justified conclusions, and vague recommendations is detected. These drawbacks will allow for the opportunity to develop a revised monitoring scheme aimed not only at upholding but also furthering compliance in the area of minority protection to ensure that Macedonia's multicultural model is of benefit to all ethnic groups.



1. INTRODUCTION

After a decade of successive conflicts polarized along ethnic lines by a Gordian knot of political interests, the membership prospects that the European Union (EU) gave the countries in the Western Balkans greatly contributed to keeping politics calm in the region. In light of the Yugoslav wars, the EU heralded minority protection as a prerequisite for its own enlargement. The imminent demands of the enlargement process have induced the EU to articulate more clearly its aspiration of forging democratic values and eventually adopt a set of political criteria for membership, including 'respect for and protection of minorities,' at the 1993 Copenhagen European Council. Ever since the Copenhagen declaration, the enlargement rounds have required of candidate countries to enforce diverse minority protection mechanisms aimed at improving the situation and promoting the integration of minorities into the wider society. Nonetheless, while respect for human rights as regards minorities is an explicit part of the Copenhagen criteria for accession, these have not become part of EU hard law, i.e. the *acquis communautaire*. Instead, as Gwendolyn Sasse notes, EU conditionality in the field of minority protection is "best understood as the cumulative effect of different international institutions." [2] According to her, the EU's actual policy leverage in this area has been anchored in the recommendations of the Organization for Security and Cooperation in Europe (OSCE) with its High Commissioner on National Minorities, and in the Council of Europe's (CoE) instruments such as the European Charter for Regional or Minority Languages (ECRML) and the Framework Convention for the Protection of National Minorities (FCNM). [3]

Narrowing down the focus to the enlargement policy toward the Western Balkans, the EU offered all countries in the region a clear European perspective by introducing the Stabilization and Association Process (SAP) in 1999 as a blueprint for their accession "combined with a country-to-country approach which allows for flexibility to tailor conditionality to the specific situation in the respective countries." [4] As to the field of minority protection, although the EU still upholds the weakly-formulated Copenhagen criterion of "respect for and protection of minorities," it clearly and strictly applies a radically revised conditionality policy in the field of minority protection. [5] In contrast to the first generation of EU conditionality toward the Central Eastern European (CEE) countries, Gabriel N. Toggenburg notes that the enlargement

policy toward the Western Balkans reflects a finely-tuned second-generation form of EU conditionality. He deems it highly positive that minority protection has become a much more explicit part of the second-generation conditionality agenda, whose standards are mirrored in the provisions spelled out in the FCNM. The ratification of this comprehensive legally binding document is a prerequisite for EU membership; any country aspiring to join the Union needs to comply with a wide range of specific standards. Such concrete requirements significantly increase the momentum that minority protection has gathered in the pre-accession phase of the enlargement process in the Western Balkans.

Irrespective of the specificity of the second-generation conditionality agenda, the EU still lacks a strong consultation capacity in the field of minority protection. The European Commission continuously affirms that "the Union is founded on the principles of liberty, democracy, respect for human rights and fundamental freedoms, and the rule of law," [6] but it never explicitly mentions 'respect for and protection of minorities' as part of the underlying principles. Bearing in mind that the current candidate countries in the Western Balkans still cope with improperly-resolved issues of minority protection, insufficient compliance may have serious post-accession consequences if it is not upheld throughout the entire pre-accession process, most notably through constant monitoring.

The importance of pre-accession monitoring as a key mechanism of compliance has been frequently underlined by a number of scholars in the debate on EU conditionality. These have not provided, however, an insight into the ways in which monitoring contributes to the failure or success of enlargement and how it should be carried out. In light of this shortcoming, the aim of this paper is to investigate in detail how progress made by the Republic of Macedonia in realm of minority protection is monitored during the pre-accession process and see its overall effectiveness on domestic reform. Even more importantly, it seeks to emphasize the significance of monitoring for upholding compliance with EU conditionality standards of minority protection and generate recommendations for a more credible approach to pre-accession monitoring.



1.1 Research Questions

To achieve the aforementioned objectives, the research agenda of this paper engages questions pertinent to the role of monitoring as an instrument of checking compliance with standards of EU conditionality in the area of minority protection. More specifically, it will endeavour to address the following questions: What standards of EU conditionality mirror effective minority protection in the Republic of Macedonia, what role does monitoring play in defining such standards, and how does it affect the progress towards compliance with the established standards? How does the EU monitor and enforce compliance of Macedonia with standards of minority protection and how do the EU and the candidate country interact in the overall monitoring process?

The answers of these two sets of questions will shed light on the European Commission's choices of leading the pre-accession process in minority protection, a largely contested field whose inherent ambiguity does not allow a significant amount of progress to be truly measured and interpreted with clarity. Even more importantly, it should be shown in what ways the Commission reports the progress of Macedonia as a candidate country, and whether it has used monitoring to add value to the outcome of the pre-accession process by inducing domestic reform. The paper's findings have important policy implications for the future of EU enlargement as they will allow for the opportunity to develop a revised monitoring scheme aimed not only at upholding but also at furthering Macedonia's compliance in the area of minority protection.

1.2 Research Methodology

To unravel the rationale behind EU conditionality in the Western Balkans and see how pre-accession monitoring is conducted in the field of minority protection, the research agenda of this paper is based on the case of the Republic of Macedonia. In order to test that monitoring in the field of minority protection is not directly tied to accession as the final outcome of the pre-accession process, this project will combine a conventional qualitative content analysis (QCA) and a semi-structured interview. QCA is suitable to "making replicable and valid inferences from data to their context, with the purpose of providing knowledge, new insights, a representation of facts and a practical guide to action." [7] Aiming to "attain a condensed and broad description of a phenomenon," [8] the analysis results in concepts or categories that will help

to "build up a model, conceptual system, conceptual map or categories" [9] describing monitoring as a particular phenomenon. The conventional type of QCA design is "appropriate when existing theory or research literature on a phenomenon is limited. Researchers avoid using preconceived categories, instead allowing the categories and names for categories to flow from the data, [and] immerse themselves in the data to allow new insights to emerge." [10] The conventional QCA employed in this paper focuses on the sections on *Minority Rights, Cultural Rights and the Protection of Minorities* in the European Commission's annual Progress Reports. Thereby, the analysis will proceed inductively to reconstruct the most important themes and categories pertinent to monitoring and sketch the framework of pre-accession monitoring in Macedonia. The analysis covers a time-period of six years, starting from 2005, the year in which the country acquired the candidate status, until the year of 2011, in which the latest Progress Report was issued by the European Commission.

Additionally to the qualitative content analysis, in order to appraise the tenor of attitudes toward monitoring in the pre-accession process, conclusions will be made from source material of transcripts of semi-structured interviews. Allowing both the researcher and the interviewee to interact as equal partners, the semi-structured interviews provide ample room for interventions on the part of the researcher to ask open-ended questions in order to identify the interviewees' values and feelings toward an issue that otherwise remain a matter of personal concern. Important clues on the monitoring process were provided by Barbora Zamrska, Political and Justice and Home Affairs Officer at the Delegation of the European Union to the Republic of Macedonia; Radmila Sekerinska, Chairperson of the National European Integration Council; Malinka Ristevska Jordanova, Director of the Institute for European Politics, and Saso Klekovski, Senior Adviser at the Macedonian Center for International Cooperation. This unique interviewee ensemble pointed to various institutional and political practices that are not evident in the European Commission's Progress Reports themselves but have serious impact on the processes in the real of minority protection; these interviews served as a rare opportunity to get a credible insight into the interaction between all parties involved in the pre-accession process.

The paper is organized in three comprehensive chapters. At the outset, I give a detailed insight into the



literature on use, thereby shedding light on how international relations theorists observe both the significance and the effects of EU conditionality as applied in the process of enlargement. Second, I provide a catalogue of answers on questions pertinent to monitoring, such as what purpose the process serves, what factors influence it, and how it is carried out in an ideal scenario. Third, in order to examine the EU's approach to pre-accession monitoring of progress in the field of minority protection, a qualitative content analysis of the European Commission's Progress Reports on Macedonia is conducted. Underpinning the analysis with a semi-structured interview, it shall be concluded in the final part to what extent pre-accession monitoring has been consistent in the Republic of Macedonia, what role it plays in defining minority protection standards, and whether it has been used to further Macedonia's compliance in the field of minority protection.

2. EU CONDITIONALITY AS A PRINCIPLE OF THE ENLARGEMENT PROCESS: A LITERATURE REVIEW

Since the fifth, and largest, enlargement round to Central Eastern Europe in 2004—often deemed a milestone in the history of European politics—the study of EU conditionality has gained significant momentum. It is considered a substantial principle of enlargement that came into being during the pre-accession process of the latest enlargements of the European Union, “making accession dependant on the performance of the candidate countries in a number of fields and aimed at assuring that the *acquis communautaire* be implemented fully and consistently and that the candidate countries genuinely subscribe to the principles and objectives of the EU and will be able to effectively implement them.” [11]

In the realm of international relations, the concept of EU conditionality is observed through an institutionalist perspective resting on two patterns of compliance: interest-oriented and norm-oriented. The former follows the ‘logic of consequences’ using a cost-benefit analytical approach to compliance. Thereby, states are assumed to be “rational actors that weigh the costs and benefits of alternative behavioural choices when making compliance decisions in cooperative situations.” [12] The latter is based on the ‘logic of appropriateness’ informed by processes of socialization, portraying “political action as ‘obligatory action’ and

as being rule- and identity-based.” [13] To prognosticate patterns of compliance in candidate countries and appraise the role of EU conditionality in affecting those patterns, a handful of factors that influence both the cost-benefit analysis and socialization processes of domestic elites need to be considered. Those factors exert influence either through rationalist or constructivist mechanisms. Rationalist factors, such as economic rewards, greater political power, and low-adoption costs, measure the cost-benefit balance of interest-oriented governments that “adopt EU rules if the benefits of EU rewards exceed the domestic adoption costs.” [14] According to Schimmelfennig and Sedelmeier, rationalists believe that compliance is predominantly influenced by the credibility of conditionality and the size of adoption costs. They even maintain that opening of negotiations with some states boosts the credibility of rewards for all candidate countries, showing that the EU is indeed willing to conclude negotiations. [15]

On the other side, constructivist factors such as rules, identity, and recognition influence the socialization of norm-oriented domestic political actors that adopt EU rules if they are convinced of their legitimacy. These actors want assurance that the rules that they intend to comply with are consistent with the constitutive rules and norms of the community; that these rules are shared by everyone within the community, and that there is an international consensus over the rules. Important for the success of compliance is also the question of whether the candidate identifies itself with these rules, and whether these rules have a domestic resonance. Irrespective of their different functions and characteristics, the rationalist and constructivist perspectives of compliance cannot be sharply differentiated in real-life politics because they may complement each other. [16]

Based on these theoretical insights, Geoffrey Pridham adds that the EU is not only attractive because it offers bright economic prospects but he deems it also a powerful actor exerting pressure for both democracy and integration in its supranational institutions, thereby stating that “[t]he EU possesses an institutionalized regional framework which readily transmits the kind of influences and pressures that may affect the course of democratization, deliberately or otherwise.” [17] Consequently, it seems that the very notion of EU membership itself is the most powerful incentive for emerging democracies, but other scholars maintain that domestic politics is the most decisive



factor. Pridham concludes that whereas the international influence of the EU is indeed immense, the interaction of domestic forces with this external pressure determines the outcome of conditionality.

In contrast, James Hughes, Gwendolyn Sasse, and Claire Gordon oppose the general notion of conditionality as “a powerful incentive and disciplining structure” for candidate countries; they argue that conditionality is not understood in its entirety as it is often considered “a narrowly positivist framework [...] of the transposition of the EU’s rules, norms and institutional templates” [18] to the candidate countries. Having identified numerous discrepancies in the European Commission’s application of conditionality in the CEE enlargement process, the authors could not demonstrate causal links between conditionality and outcomes. Thus, they deemed it necessary to broaden the definition of ‘EU conditionality,’ which as a process includes formal requirements imposed by the EU but also “informal pressures arising from the behaviour and perceptions of actors engaged in the political process, [offering] a deeper understanding of the enlargement process as a dynamic interaction between international incentives and rules, and domestic transition factors.” [19]

In a similar fashion, Heather Grabbe argues that no clear and definite conditionality was applied in the Eastern enlargement process. In her view, the EU did not manage to significantly improve public policy in the candidate countries due to “the diffuseness of its influence—partly owing to the diversity of its current member-states—and the uncertainties of the accession process.” [20] What cast doubt on the process even more was the fact that “the EU had no specific test of institutional change, and its assessments were based on an opaque methodological framework.” [21] Grabbe emphasizes monitoring as a key mechanism in the membership conditionality, employed through the cycle of the European Commission’s ‘Accession Partnerships’ and ‘Regular Reports’ on the readiness of each CEE candidate to become an EU member. According to her, the monitoring process, most notably through the Progress Reports, played a highly influential role in domestic policy-making, but “the language used in the Regular Reports was usually very general—like that in the Accession Partnerships—and the assessments jumped from description to prescription without a detailed analysis of the problems and how to overcome them.” [22]

Comparably, Dimitry Kochenov argues that Article 49, which is the main provision on enlargement in the Treaty on the EU, “neither says anything about conditionality nor mentions any mechanisms that the Member States or the Community Institutions could employ in order to check the candidate countries’ compliance with the Copenhagen criteria.” [23] Instead, the entire pre-accession process is conducted on the basis of different Copenhagen-related documents such as the Progress Reports, which are “very loosely rooted in the Treaties.” [24] According to Kochenov, the application of EU conditionality is not so much concerned with answering the question of whether a certain candidate country has met the necessary minimum membership requirements as much as it is focused on the monitoring of reforms in the candidate country coupled with “constant adjustment of the criteria, assessment, and responding to concrete problems [arising during] the pre-accession process.” [25] *Ergo*, he believes that monitoring has a considerable impact on the outcomes of the pre-accession process.

Keeping in mind Kochenov’s remarks on the nature of the pre-accession process, EU conditionality can be also observed as a “gradual ‘ladder-climbing’ approach, whereby the country is promoted into a higher level of institutional relationship with the EU if it meets certain criteria.” [26] Jelena Stojanovic indicates that each level of advancement is tied to political and financial rewards, but the speed of the process is contingent on how determined a candidate country is to comply with the standards. [27] The overall performance of the candidate countries is monitored throughout the entire pre-accession process in that the implementation of minority rights mechanisms is closely observed and accounted for in the European Commission’s annual Progress Reports.

In the Progress Reports, “the Commission examines and assesses progress made by each of the countries regarding the Copenhagen criteria and, in particular, the implementation and enforcement of the Union *acquis*.” [28] The Commission has the capacity to stimulate the progress towards compliance by “favourably assessing the fulfilment of conditions if the country in question is showing genuine efforts to meet the criteria set. Such an approval by the EU and prospect of moving a level up the ladder can be very powerful incentive in the process of the fulfilment of the criteria. In case of non-fulfilment, there is no promotion of relationship, but there are no sanctions either.” [29] Hence, the monitoring conducted by the Commission



plays a great role in upholding compliance of the candidate countries and serves as a basis for both the Council of Ministers and the European Council to decide whether a country will be granted the candidate status or start membership negotiations.

In light of the above review of the literature, it becomes evident that the number of studies on EU conditionality has significantly increased in the last decade. The academic camp has come to observe EU conditionality as an important framework for the study of both the compliance with EU standards and the overall success of the enlargement process. Nevertheless, while the majority of scholars repeatedly make mention of monitoring as a substantial instrument of EU conditionality, no one has given a detailed account of monitoring itself. It is in view of this shortcoming that this research project endeavours to contribute to the literature on use by focusing on monitoring as a “continuing function that aims to provide [decision makers] and main stakeholders of an ongoing process with early indications of progress, or lack thereof, in the achievement of results.” [30]

What is more intriguing in this respect is the possibility to examine the monitoring process in the cases of potential EU member states, thereby making both a distinct scholarly and a policy contribution. By conducting a detailed analysis of the monitoring procedure, this paper tests the hypothesis that monitoring in the field of minority protection is not directly tied to accession as the final outcome of the pre-accession process. In doing so, it argues that in the absence of a clear monitoring framework, all monitoring activities on the part of the EU in the candidate countries are brought into play on an *ad hoc* basis. The argument is supported by a detailed analysis of the case of Macedonia, demonstrating that monitoring in the field of minority protection is inconsistent across time and has no ties to the final outcome of the process, i.e. to accession, because the progress of the candidate countries is largely constructed. The study identifies a profound lack of clarity and specification of minority protection standards to which Macedonia needs to adhere and finds an inferior quality of both analysis and interpretation of indicator findings based on a random choice of issues, poorly justified conclusions and vague recommendations. The detected shortcomings will allow for the opportunity to tailor an enhanced monitoring scheme aimed not only at upholding but also at furthering compliance with EU standards of minority protection in the pre-accession process.

Not least, while EU conditionality is deemed to play a significant role in the enlargement process, one might easily think that the effects of EU conditionality on minority protection regimes is not as important as the effects it has on other areas of the Copenhagen criteria such as the rule of law or the existence of a functioning market economy. Such a position clearly overlooks that it was in the Balkans where the European Union gave birth to its existing foreign policy to prevent a severe war to spin out of control. In view of its previous experience in the Western Balkans, where the emergence of the modern states was preceded by genocide and expulsion, the EU clearly states in the European Security Strategy that the nearer violent and frozen conflicts are to home, the more serious their impact on European interests is. To be more specific, the EU maintains that

violent or frozen conflicts [...] threaten regional stability. They destroy human lives and social and physical infrastructures; they threaten minorities, fundamental freedoms and human rights. Conflicts can lead to extremism, terrorism and state failure. [...] Regional conflicts need political solutions but military assets and effective policing may be needed in the post conflict phase. [31]

Accordingly, it is neither in the interest of the EU that ethnic conflicts are polarized anew in its immediate neighbourhood, nor could multicultural states such as Macedonia keep politics calm without getting appropriate impetus from Brussels. In light of the importance to generate political solutions to regional conflicts, the protection of minority rights is an indispensable tool to prevent further conflicts by “encouraging domestic circumstances in which the religion, race, language and ethnicity of all peoples can be preserved and promoted within existing borders.” [32].

3. CENTRAL TENETS OF MONITORING IN AN INTERNATIONAL CONTEXT

Amid the fast evolving changes of contexts in which international organizations operate, demands for an increased credibility have become much more pronounced. Stakeholders make constant pressures for the practice of good governance, greater policy effectiveness, accountability and transparency, and delivery of tangible results. In order to meet these objectives, international organizations have repeatedly



sought to make use of monitoring as an instrument of supporting the management of policies, programs, and projects. Although scholars have ascribed great importance to monitoring in the context of EU conditionality, they have avoided giving a detailed account of it. In view of this deficiency, the main purpose of this chapter is to synthesize existing knowledge about monitoring in that it addresses the question of what exactly it is and discusses the tools and methods that are frequently used in the day-to-day practice of organizations at the local level.

Efforts to generate a unified definition of 'monitoring' have been manifold. Nonetheless, considering the distinct nature of the organizations at the global level, definitions of 'monitoring' are often narrowed down according to the organization's institutional design and daily operations. In light of this variety, what follows is a brief catalogue of the more salient definitions used by several prominent international organizations. The Organization for Economic Cooperation and Development (OECD) deems monitoring a "continuous function that uses the systematic collection of data on specified indicators, to provide management and the main stakeholders of an ongoing development intervention with indications of the extent of progress and achievement of objectives and progress in the use of allocated funds." [33] Comparably, the Guide for Monitoring and Evaluation of the United Nations International Children's Emergency Fund (UNICEF) defines monitoring as the "periodic oversight of the implementation of an activity which seeks to establish the extent to which input deliveries, work schedules, other required actions and targeted outputs are proceeding according to plan, so that timely action can be taken to correct deficiencies detected." [34] A concise definition that may be adapted for the purposes of this paper is to be found in the Project/program Monitoring and Evaluation (M&E) Guide of the International Federation of Red Cross and Red Crescent Societies (IFRC): "Monitoring is the routine collection and analysis of information to track progress against set plans and check compliance to established standards. It helps identify trends and patterns, adapt strategies and inform decisions for project/program management." [35]

Publications by various international organizations also refer to monitoring as to 'process evaluation' as it deals with the implementation process, thereby offering "opportunities at regular predetermined points to validate the logic of a program, its activities and their

implementation, and to make adjustments as needed." [36] In doing so, monitoring serves an organization as a worthwhile opportunity to:

engage beneficiaries so that they feel ownership of results being achieved and are motivated to sustain them; demonstrate achievement of development results, how they benefit the intended people, and leverage support of the beneficiaries and other stakeholders to address any operational challenges faced; nurture an inclusive and purposeful monitoring culture to make implementation and management effective [...] as well as to ease gathering of data and evidence objectively to back achievements and make decisions. [37]

At the core of the monitoring process is the measurement and assessment of an actor's performance, which is defined as progress towards and achievement of results. According to Roberto Mosse and Leigh Ellen Sontheimer, "it is critical that managers regard performance measurement as an integral part of their institution's mission." [38] What enables monitoring to furnish important clues about issues calling for attention or action as regards performance is reporting, a process by which collected and analyzed data is presented in the form of usable information. [39] It is not only deemed the most visible but also the most critical component of monitoring because irrespective of how well data may be collected, if it is not well presented, it can neither be well understood nor conveniently used. [40] According to the Red Cross Project/program Monitoring and Evaluation Guide, reporting should be relevant and useful—serving a specific purpose; it should be timely for its intended use and complete—giving insights into a sufficient amount of information for the intended purpose. Furthermore, reporting should be consistent in that it uses formats that allow comparison over time, thereby enabling progress to be tracked against indicators and other targets that have been previously set up. Not least, reporting should be simple and reliable—providing an accurate representation of the facts. [41]

As important as reporting is, the United Nations Development Program (UNDP) underlines that good monitoring is not mirrored in "merely producing reports in a prescribed format at set intervals." [42] To uphold accountability and compliance with standards established by an organization, one needs to maintain



balance between reporting and two other key components of monitoring that are interconnected and mutually supportive. The first is validation, which verifies the accuracy of the progress accounted for by "identifying additional primary and/or secondary sources to further triangulate analysis." [43] The second is participation, where monitors obtain responses by partners to progress-related issues and proposed actions, thereby helping "to build ownership for the follow-up and utilization of findings, conclusions and recommendations." [44] In doing so, the optimum balance between reporting, validation, and participation helps the monitoring process to translate into an opportunity for credible analysis and organizational learning, and for informing decisions to guide ongoing project or program implementation.

4. PRE-ACCESSION MONITORING OF COMPLIANCE WITH EU STANDARDS OF MINORITY PROTECTION IN THE REPUBLIC OF MACEDONIA *IN ACTU*

The formulation and implementation of pre-accession monitoring in the candidate countries is an endeavour involving numerous stakeholders on both ends of the process. Reflecting on the preparation of the Progress Reports as the most visible component of pre-accession monitoring, Barbora Zamrska, Political and Justice and Home Affairs Officer at the Delegation of the European Union to the Republic of Macedonia explains that the first draft of each Progress Report is written by the Delegation's staff in the candidate country in consultation with both the national government and the European Commission. In the course of the drafting process, the European Commission holds a regular briefing session with the Council of Europe and the OSCE. Once written, the draft is forwarded in May of the reporting year to the Horizontal Coordination Unit of the Enlargement Directorate-General in Brussels where the integral text is reproduced in a more diplomatic tone; the final version of the Report is then approved and published by the Commission in October or November without any radical changes to its content. [45] In general, the language of the Reports can be characterized as polite, formal and extremely cautious; the Commission obviously keeps itself at a distance from the candidate country in that it uses a very balanced and moderate vocabulary, thereby "ensuring a particular way of refined control over nuances in the meaning of words" [46] both in praising and criticizing the current state

of minority rights, cultural rights and the protection of minorities.

Bearing in mind the flexibility to tailor conditionality to the specific situation in the country, the implementation of the Ohrid Framework Agreement (OFA) during a reporting year occupies central importance in the Commission's assessment of minority protection. The Commission's position, as presented in the Progress Reports, mirrors the view of the Ohrid Framework Agreement as a "crucial guarantee of the rights of the ethnic communities in the country" [47] aspiring full membership in the European Union. The latter, having learned important lessons from its own failures to intervene in the Balkans during the nineties, proved fervently committed to bring an end to the armed conflict between Macedonian security forces and Albanian rebels in 2001 by brokering the signature of the Ohrid Framework Agreement. The OFA's transposition into Macedonia's Constitution has reaffirmed the sovereignty, integrity and unitary character of the Macedonian state and both preserved and reflected the multiethnic character of the country in its public life. [48] It introduced a new decentralization pattern giving municipalities more self-government; brought equitable representation in the security sector and in the administration and public enterprises based on non-discrimination; heralded the use of any language spoken by at least twenty percent of the country's population as an official language in certain situations; allowed for state funding for university level education in languages spoken by at least twenty percent of the population of Macedonia, and introduced a two-thirds majority vote for questions of chief interest of the state in both the Parliament and the municipalities. [49]

Taking a closer look at the content of the bulk of Progress Reports, the OFA is depicted as the most important category of Macedonia's success in the field of minority protection—it is deemed essential for the stability of the country [50] and to "foster a positive environment for further reforms." [51] The Commission shows a clear vision of the OFA by stating that "all political parties must continue to work on building consensus on ethnic-related issues, in full compliance with the letter and spirit of the Ohrid Framework Agreement." [52] However, it seems to be largely ignored that the implementation of the OFA carries the burden of decade-long ethnic intolerance between Macedonians and Albanians. The notion of dialogue woven through the text of each Report seems to be



applied only to the political elite; the Commission assesses the 10th anniversary of the OFA as “an important opportunity for enhanced dialogue between the communities in the country” [53] but does not give any indicators on which this assessment is made. Developments taking place outside of the realm of politics are not paid close attention apart from being compiled in a list of items ‘causing concern,’ including but not limited to content of the first national encyclopaedia, the urban project of Skopje 2014, and the “violent confrontation between members of the two main communities” inside the Kale fortress in Skopje. [54]

The aforementioned inconsistency makes it obvious that the Commission does not want to make any guesses as to what led to escalation, how the events developed, or assess specific causal contributions. However, refusing to give an insight into how these developments affected the communities leaves the big picture of Macedonia’s minority protection regime completely unclear. If one takes the increase in incidents as an indicator of the state institution’s inability—or failure—to adequately implement the OFA, the Commission’s overall positive assessment that “inter-ethnic relations have continued to improve” [55] can easily be brought into question. In consideration of this concern, the Reports clearly convey that the Commission’s main preoccupation has been to solely ensure that the institutional implementation of the Ohrid Framework Agreement—in terms of political dialogue and largely isolated from the broader social context—is not interrupted. The implementation of the OFA is alongside the integration of the Roma population component of the so called ‘high-level accession dialogue’ with the government of Macedonia in the field of minority protection. According to Barbora Zamrska from the EU Delegation to Macedonia, this innovation, introduced for the first time in 2012, will allow for the opportunity that both parties, i.e. the European Commission and Macedonia’s government focus on credible action by timely agreeing what key measures need to be taken in order to come closer to EU membership. It is thereby expected that, among other things, intercommunity dialogue is strengthened and the position of all ethnic communities is equally enhanced. [56]

A matter of serious concern to the Commission, as presented in the Progress Reports, is the functioning of the Secretariat for the Implementation of the Ohrid Framework Agreement (SIOFA). The Commission

highlights it as very important in the 2009 Report that a “specialized agency for protecting the rights of these minorities is set up [...] to act as an advisory body to the government on minority issues.” [57] The position of the Commission does not change much throughout the pre-accession monitoring process: The SIOFA is repeatedly assessed to lack a sound administrative capacity. The Commission clarifies its position by explaining that the SIOFA faces problems in recruiting sufficiently qualified senior staff or has low strategic planning capacities and internal control standards. [58] The Commission states that “greater efforts are needed to ensure [the Ohrid Agreement’s] effective implementation.” [59] Nonetheless, a definition of what is meant by ‘effective’ is not provided. Instead, the Commission praises the initiative of the SIOFA to prepare the government’s strategic plan for implementing the OFA over the period 2010-2012 in close cooperation with the OSCE. It is the Commission’s belief that this kind of cooperation “assigns a much greater role to the Secretariat in coordinating, promoting and monitoring implementation of the [OFA].” [60] While no explanation exists as to why noncooperation has previously been tolerated, the fact that the Commission welcomes cooperation with the OSCE in the face of the 10th anniversary of the Agreement’s signature seems to imply that such a recommendation comes in response to the national government’s failure to effectively implement the Agreement.

Cooperation with the OSCE is also seen as an avenue to success in the education system, which is explicitly criticized for having “no comprehensive policy to bridge the gap between the communities.” [61] In light of the concern that several municipalities maintain separate ethnic shifts in public schools, the Commission emphasizes in the 2009 Report that “the recommendations of the OSCE High Commissioner for National Minorities, which aim to support integration of ethnic communities through education, should be fully taken into account.” [62] What recommendations the Commission is specifically referring to remains an unanswered question. Despite the fact that all parties involved in pre-accession monitoring hold regular consultations with external organizations as relevant as the Council of Europe and the OSCE, the Commission is reluctant to give insights on this occasion into what has been recommended on the part of the OSCE and allow the public to see the concrete forms of cooperation and interaction by which Macedonia would enhance its minority protection record in the best way possible in the years to come.



With regard to the interaction between key actors in the pre-accession monitoring process, Malinka Ristevska Jordanova, Director of the Institute for European Politics in Skopje, confirms that the European Commission carefully follows the developments in the country through the involvement of the EU Delegation to Macedonia as the central coordinator between Skopje and Brussels. [63] Ristevska Jordanova underlines that debates on past achievements, ongoing programs and projects as well as future prospects are regularly held throughout a reporting year. The EU Delegation has established a unique triangle of interaction in which all parties enjoy the right to contribute to the monitoring process. These include the national government accompanied by diverse governmental agencies with their own measurements and reports, Member State representatives at the ambassadorial level who often exchange opinions on current developments in coordination with the Presidency of the Council of the EU, and an array of nongovernmental organizations, whose observations are regularly solicited and deemed highly valuable as they have considerable expertise in the field being discussed.

As for the field of minority protection, Ristevska Jordanova distinguishes external and domestic players whose activities are pertinent to the pre-accession monitoring process in the country. The former comprises sources of reports by prominent international organizations in the field, of which two were already mentioned, namely the OSCE and the CoE. The interviewee also highlighted that Macedonia has signed and ratified the UN Convention on Civil and Political Rights, so a third very important 'partner' in the monitoring process is the United Nations and its Human Rights Bodies, offering expertise and support to the different human rights monitoring mechanisms in the United Nations and implementing their mandate to "monitor State parties' compliance with their treaty obligations." [64] On the other side, domestic contributors to the monitoring process are the government and governmental agencies such as the aforementioned Secretariat for the Implementation of the Ohrid Framework Agreement (SIOFA) and the Agency for the Accomplishment of Rights of the Communities. To compare the records over time, governmental data is compared with reports circulated by nongovernmental entities. Equally important source of information are the opinions of political party leaders and partisan experts who are considered important in shaping the domestic discourse on EU enlargement. Ristevska Jordanova is convinced that the European Commission

pays particular attention to what partisan leaders publicly promote as it wants to ensure that neither the political momentum will be lost nor the general consensus broken. [65]

Touching on the fact that there is rarely an opportunity for the public to get familiar with the particularities of the Progress Reports and the monitoring process itself, Ristevska Jordanova assumes that the problem lies in the complexity of the entire process. She maintains that there are not enough 'messengers' who would be capable of communicating the process with the masses and asserts that this is primarily due to a general lack of knowledge rather than unwillingness to do so. In her opinion, domestic political actors are excessively focused on procedural trivia and issues that need to be addressed in due time as required by Brussels. As a result, the question of formulating a coherent communication strategy is given no priority. On the other hand, she believes that the need to increase and improve the overall understanding of what is presented in the Reports becomes more visible each year—those citizens who are not familiar with the diplomatic vocabulary and ambiguous institutional formulas used by the Commission tend to "have an incomplete and imbalanced picture of the pre-accession monitoring process." [66] This is particularly applicable to the non-dominant ethnic communities such as Turks, Serbs, Vlachs, and Roma.

Observing the situation of the non-dominant ethnic communities, the Commission implicitly voices criticism concerning equitable representation, one of the main pillars of the OFA. The Commission states in the 2010 Report that "the representation of the smaller communities, particularly the Turkish and Roma, in the civil service still remains low." [67] Moreover, it notes that while "the practice of recruiting high numbers of civil servants from non-majority communities irrespective of the needs of the public administration continued, [...] some of these civil servants failed to meet the selection criteria, while others were not provided with offices or equipment." [68] Seeing no improvement, the Commission's criticism of the quality of the civil servant recruitment process becomes even stronger in 2011:

The overall number of civil servants from the non-majority ethnic communities reached 30%, which is broadly in line with the demographic structure. Efforts were made to increase the representation of the smaller



communities in the civil service, notably the Roma and the Turkish community. [...] A large number of newly recruited civil servants received salaries, even though they were not assigned any tasks or responsibilities. Representation of the non-majority communities at senior level remains very low. [69]

Notwithstanding the negative tone, the Commission restates at the end of the 2011 Report that representation of the Roma and Turkish community increased, thereby giving no recommendations on how the problem should be tackled apart from a noting that "more efforts are needed in order to improve the quality of the recruitment process." [70]

A similar formula is used in assessing the situation of the Roma population. The Reports make it clear that in order to comply with the pre-accession requirements, the national authorities need to do everything in their power to improve the Roma's overall position in Macedonian society. The Commission states in the 2007 Report that Roma "continue to face very difficult living conditions and discrimination, especially in the areas of education, social protection, health care, housing and employment." [71] Little progress on Roma inclusion is reported in the following years as well. In the majority of the Reports, it is said that "the pace of implementation of the Roma Strategy and the action plans in the framework of the 2005-2015 Decade of Roma Inclusion, which had reached its halfway point, continued to slow down." [72] The Commission provides an in-depth analysis taking into account all relevant components of the institutional framework: "The commitment and cooperation of the line ministries remained low. State funds remain insufficient in the light of the challenges. No additional staff was allocated to the office of the Roma minister without portfolio or to the unit for implementation of the Roma Strategy." [73] To encourage improvement, the Commission seems to advocate an inclusive approach to reform within the framework of the Decade of Roma Inclusion but offered only general recommendations of the type of activities without describing any specific steps. Such an inconsistency clearly confirms that the pre-accession process in many instances is carried out based on the mantra of "turn a blind eye and a deaf ear every now and then, and we get on marvellously well." Shifting the focus, the Commission breaks the continuity in monitoring and limits the possibility of putting forward follow-up suggestions that

might add value to the candidate country's record of minority protection.

Shedding light on the position of the nondominant ethnic communities, Saso Klekovski, Senior Adviser at the Macedonian Center for International Cooperation is convinced that these communities will play a major role in determining the future of Macedonia's bifurcated multicultural model. [74] In his opinion, the current model lacks a strong third party that would maintain balance between Macedonians and ethnic Albanians. Above all, it is Macedonian citizens who need to abandon the outdated notion of Macedonia as their nation-state and free themselves from the misconception that the all the 'others' are their enemies. On the other hand, Albanians still need time to cure the wounds of their past within Macedonian borders prior to the signature of the Ohrid Framework Agreement and polish their positive image as constituents of the civic-oriented Macedonian state. Illustrating the Gostivar municipality's cohabitation of diverse ethnic groups, Klekovski believes that ethnic Turks will further improve their position within Macedonian society and promote multicultural values on the example of their own success in doing business and increased integration in the years to come. A main prerequisite, however, would be that all ethnic groups realize the importance of forging peaceful relations with each other in the long run. [75]

Comparably, Radmila Sekerinska, Chairperson of the National European Integration Council deems it highly important that the intercommunity dialogue does not lose the momentum it has already gathered. It is her deep-seated belief that despite some inconsistencies, minority protection issues are carefully targeted by the European Commission in the course of pre-accession monitoring. [76] She is doubtful, however, that the recently introduced 'high-level accession dialogue' will soon bring far-reaching changes to the wider Macedonian society. Although it is frequently spoken in the public of continuous improvement of the dialogue between the communities, at no time is mention made of the Strategy for Integrated Education, which is, in her opinion, ten times more important for Macedonia than the number of employees who have been given jobs according to both the requirements of the OFA and their political credo. Accordingly, attention needs to be timely and equally paid to all facets of the country's minority protection regime if both the European Commission and the na-



tional government aim to induce comprehensive domestic reform. [77]

In view of the preceding findings, the EU's involvement in brokering the Ohrid Framework Agreement as a new pattern of power distribution and social coexistence of all ethnic groups in Macedonia has made the European Commission well familiar with the country's minority protection regime. The OFA is considered to be at the heart of this regime and is steadily referred to as a roadmap to peace and stability in Macedonia. The Commission's Reports in many instances voice implicit criticism toward the catalogued weaknesses but it is also reluctant to generate recommendations that would potentially lead to improvement and sustainable reform. By simply communicating that "the spirit of the OFA needs to be upheld consistently, through a consensual approach and readiness to compromise," [78] the Commission leaves considerable room for divergent interpretations on the part of the domestic actors, thus complicating the process of obtaining useful feedback from the other end.

5. PRE-ACCESSION MONITORING OF COMPLIANCE WITH EU STANDARDS OF MINORITY PROTECTION IN THE REPUBLIC OF MACEDONIA: DISCUSSION AND RECOMMENDATIONS

The conceptualization and application of the conditionality principle in the field of minority protection as elaborated in the Commission's Progress Reports seems to form a coherent framework aimed at helping the candidate countries "to pursue necessary reforms and eliminate persisting shortfalls." [79] However, the analysis of the Reports on Macedonia allows for the opportunity to highlight two fundamental shortcomings from which the pre-accession monitoring process greatly suffers. In doing so, ample room is left for innovative solutions aimed at ensuring that the monitoring process translates into an opportunity for credible analysis and organizational learning, and for informing decisions to guide pre-accession compliance in the field of minority protection.

5.1 Lack of Clarity and Specification of Minority Protection Standards to Which the Republic of Macedonia Needs to Adhere

Putting the pieces together, the preceding analysis has identified a profound lack of clarity about the mi-

nority protection standards to which Macedonia needs to gradually adhere. No mention of a single standard of minority protection is made in the Progress Reports that could be regarded as a part of the enlargement policy towards the Western Balkans. Considering the fact that there are no provisions on minority protection *per se* in the *acquis communautaire*, the Commission has been unable to provide any standards on its part. It is more surprising, however, that the Commission does not make any reference to standards in areas of minority protection where the Council of Europe and the OSCE have expertise, although it attaches great importance to the Council of Europe's key documents and to the OSCE High Commissioner's activities on the ground. This shortcoming has urged the Commission to largely base the monitoring procedure on measurements from domestic and external sources without having a clear agenda set and a definition of objectives that would mirror effective minority protection. A question that arises in this respect is whether the Commission refuses to act outside the scope of the *acquis communautaire* and give reference to standards by external organizations only because it is unwilling to give up its central management position in the pre-accession process.

As a matter of fact, the Commission has avoided providing a detailed analysis at the outset of the pre-accession monitoring process and thus reported in the 2006 Report that there "were no major problems in the area of fundamental rights." [80] The 2007 Report follows a similar pattern in that it contains the overall conclusion that "inter-ethnic relations have improved." [81] Intriguingly enough, the later Reports convey slower progress toward compliance and are significantly broader in scope as regards issues raising concerns. Macedonia's progress reported as limited reflects in reality only what the Commission required from the country during the monitoring process. Since an ideal minority protection scheme on the basis of the Copenhagen political criteria had not been established before the initiation of the monitoring process, what was outlined in the Progress Reports became a crucial roadmap for the candidate countries during the pre-accession process. For instance, the Commission calls for the respect for and implementation of laws that have already been passed at the national level. As shown previously, the Commission deems the Ohrid Framework Agreement essential for the effective minority protection scheme of Macedonia. Nonetheless, to what extent this document reflects the provisions that spell out the objectives and principles



protected by the Framework Convention for the Protection of National Minorities is not clear. Instead, the Commission

This issue is also of concern to Malinka Ristevska Jordanova, the Director of the Institute for European Politics in Skopje. According to her, the Commission's final assessment published in the Reports is objective and realistic, but she doubts the assessment of targets and indicators that are not always agreed *a priori*. She maintains that the standards of minority protection are often bargained once the monitoring process has started. *Ergo*, the requirements tend to have a low threshold, making it uncomplicated for the Commission to conclude that the candidate countries have generally met the criteria. Nonetheless, phrases as overused as 'further progress is needed,' 'there is a need for additional efforts,' 'the administrative capacity needs to be strengthened,' or 'greater dialogue is needed to foster trust' make it difficult to ascertain when a candidate country has in fact complied with the standards. On the other end of the map, the candidate countries could conveniently interpret such nebulous phrases according to their current political needs and take them as a sign of insufficient preparedness on the part of the Commission to conduct in-depth analysis of the progress made. Consequently, the candidates might not put enough effort to establish adequate policies of minority protection, thereby slowing the momentum towards EU membership.

To prevent the negative impact of such an approach on the credibility of the European Union, the Commission needs to establish stronger institutional ties with the Council of Europe. The assessment of candidate countries in the field of minority protection should make full use of the established expertise of the CoE and employ the standards that have been already enshrined in its key documents, most notably in the FCNM; the Commission's bureaucrats should increasingly strive to base their judgments on the findings published within the FCNM's monitoring framework. Furthermore, keeping in mind that the Commission enjoys the greatest agenda-setting power in European governance, it should take the lead in seeking further improvement of the EU's own expertise on issues related to minority protection but also carefully act not to replicate structures or initiatives already launched under the auspices of the CoE. Such steps will ensure that the Commission keeps both its central position in the pre-accession process and the candidate countries

on the right track towards compliance without bringing into question their progress.

5.2 Inferior Quality of both Analysis and Interpretation of Indicator Findings

The comparison of the Commission's Reports further demonstrates inferior quality of both analysis and assessment of indicator findings. The Commission's approach to interpreting information to a great extent rests on a random choice of issues, poorly justified conclusions and vague recommendations. Whereas it is desirable to thoroughly reflect on how indicator findings are interpreted and used to inform decisions in order for decision makers to get a firm understanding of the big picture, the Commission's choice of measuring performance does not seem to be backed by a systematic discussion of the issues raising concern. Instead, the Commission shifts the focus from paragraph to paragraph and deals with particularly serious, acute problems, thus demonstrating that it is able to 'see the trees but not the forest.'

Keeping this in mind, the majority of the Reports connect the notion of successful minority protection with statistical data of formal rule adoption provided by other domestic and foreign organizations. One gets the impression that the Commission's intention is to secure the sustainability of its own powers to manage the pre-accession process by collecting, organizing, and reporting a sheer quantity of information; the quality and sustainability of initiatives or activities of certain institutions are only occasionally assessed in detail. These include only the Secretariat for the Implementation of the Ohrid Framework Agreement and the Agency for the Accomplishment of Rights of the Communities. This makes it clear beyond doubt that by extensively dealing with numeric information at the expense of meaningful feedback, the Commission is only interested in outcomes indicating formal compliance rather than processes, thus casting doubt on the consistency of the overall monitoring process over time.

To ensure a degree of rigor and a more substantial discussion of indicator findings, developed indicators need to be interpreted together with qualitative findings. Numbers providing the amount of an output give only limited implications for the result achieved. As indicated in the Performance Measurement Guidance for Compliance and Enforcement Practitioners, "[s]uch numbers need a context [as] in many instances; data from indicators provide a kind of warning light that



signals a need for deeper analysis or further investigation to understand the forces and influences that shape [a certain process]." [82] Hence, it is necessary for the Commission to look at the national context as a whole and take into account the factors which help to facilitate or prevent the adoption of new legal acts on minority protection or the implementation process of programs aiming to increase the integration of minority groups. This will create a firm basis for the improvement of dialogue in a respectful setting between the Commission on one side and governmental agencies and minority groups on the other.

Finally, the Commission's credibility in the pre-accession process should be re-established through gaining new skills and building new capacities. This does not imply acquiring new responsibilities but rather playing a role committed to establishing organizational networks and developing management capacities to credibly maintain them. A stepping stone to such an enhanced capacity would be the recruitment of experienced experts in the Delegations of the European Union to the candidate countries who would employ stronger and more transparent means of communication during the monitoring process with all relevant actors on the ground. In this sense, the Commission's bureaucrats need to look beyond Brussels' politically complex setting and hear more carefully the voice of domestic players in the candidate countries who have strong interest in accelerating the progress towards compliance in the field of minority protection.

6. CONCLUSION

The academic debate on conditionality as a principle of enlargement has heralded pre-accession monitoring as a key mechanism of compliance with EU standards. The academic intelligentsia has, nonetheless, not provided an insight into how monitoring contributes to the failure or success of enlargement and in what ways it should be carried out. It is in view of this shortcoming that this research project endeavoured to contribute to the literature on use by focusing on monitoring as part of the pre-accession phase of the enlargement process. Facing the next enlargement round to the region of the Western Balkans, this paper investigated in detail how progress made by the Republic of Macedonia is monitored in the area of minority protection.

For this study, two questions were of particular importance: What standards of EU conditionality mirror effective minority protection in the Republic of Macedonia, what role does monitoring play in defining such standards, and how does it affect the progress towards compliance with those standards? How does the EU monitor and enforce compliance of Macedonia with standards of minority protection and how do the EU and the candidate countries interact in the overall monitoring process? Combining a conventional QCA and a semi-structured interviews, this research project tested the hypothesis that monitoring in the field of minority protection is not directly tied to accession as the final outcome of the pre-accession process. By closely analyzing the European Commission's approach to monitoring in the field of minority protection, the paper demonstrated that in the absence of a clear monitoring framework, monitoring activities on the part of the EU are largely brought into play on an *ad hoc* basis, thereby allowing for the assumption that accession decisions emerge out of political compromise.

Two crucial drawbacks could be identified. Firstly, there was a profound lack of clarity and specification of minority protection standards to which Macedonia needed to comply with. Considering that there are no minority protection provisions in the *acquis communautaire*, the Commission could not provide any standards on its part, so the progress of the country was largely constructed. Even more surprisingly, the Commission did not refer to any standards in areas of minority protection where the Council of Europe and the OSCE have expertise, although it considered both the Council of Europe's key documents and the OSCE High Commissioner on National Minorities as highly important entities in the realm of minority protection. Secondly, inferior quality of both analysis and interpretation of indicator findings based on a random choice of issues, poorly justified conclusions, and vague recommendations was detected. By extensively dealing with numeric information at the expense of meaningful feedback, the Commission was only interested in outcomes indicating formal compliance rather than processes. The recommendations given in the Reports did not allow a general action plan to be recognized—it was neither indicated what could have helped to maintain progress, nor were suggestions given as to how compliance should be furthered.

Taking into account this evidence, it can be concluded that Macedonia maintains a mediocre-level progress



as regards minority protection. In fact, the limited progress of the candidate only reflects what was required by the Commission during pre-accession monitoring. What is striking is that the Commission neither encouraged progress by favourably assessing the fulfilment of conditions to encourage progress, nor it sanctioned the candidate when it seemed insufficiently compliant. In this sense, keeping in mind the definition of 'monitoring' as a routine collection and analysis of information to track progress against set plans and check compliance to established standards, thereby helping to identify trends and patterns, adapt strategies and inform decisions for ongoing processes, the Commission has come short of maintaining an optimum balance between reporting, validation, and participation to enable progress to be tracked against targets that have been previously set up.

In the light of these concerns, if compliance is intended to be not only upheld but also furthered over time, the Commission should endeavour to establish a consistent monitoring framework that will look beyond formal compliance and pay closer attention to the processes taking place at all levels in the candidate country during a reporting year. Full use should be made of the Council of Europe's expertise and standards that have been already enshrined in its key documents, most notably in the FCNM. To ensure a more substantial discussion of indicator findings, developed indicators need to be interpreted in connection with qualitative findings because numbers indicating the amount of an output give only limited implications for the result achieved. Ultimately, the Commission needs to endeavour to develop new skills that will strengthen its institutional capacity to conduct pre-accession monitoring and interact more closely with domestic actors striving to aid Macedonia's integration into the EU.

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