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The Legacy of Ethnic Nationalism in the
Accession Process

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Introduction

Since the 1990s, the EU has pursued accession as its largest and most effective foreign policy tool. After the fall of communism, the former communist states had no direction and varying degrees of political knowledge. After the sudden change end of the Cold War dynamic the EU and larger international community had to change the way they interacted with the world. Even though communism collapsed, the fears of the cold war era continued to characterize the way the international community worked. When these governments collapsed the EU saw an opportunity to completely change the trajectory of these states and eradicate the influences of the communist period, and therefore make relations within Europe more stable. This policy grew out of the international community's policies toward the Eastern European states throughout the latter half of the twentieth century. The Western states tried to destabilize the illiberal regime through an extended democratic campaign; rather than a stable enemy, Western states viewed communism as an insidious force which would encroach on their states. Facing this new dynamic from the CEEC nations, and the prospect of illiberal regimes gaining power under the new governments, the EU started using accession as a foreign policy tool, inducing states to pursue liberal transformations with the prospect of membership and foreign aid. But as the EU pursued these policies with the CEEC nations, Yugoslavia imploded and devolved into conflict, leading the EU to reconsider their role with these states. However, the incidence of war crimes necessitated the EU develop a different path to membership that included atonement for the acts of genocide and ethnic cleansing during these wars. It ultimately included complete compliance with the ICTY as the ultimate condition for membership, which ideally incentivized cooperation from the Balkan states as well as promoting liberal values within these states.

The Western Balkans, as the international community now labels the former Yugoslavian states, presents a particular challenge to the political sphere. Throughout history the international community labeled this region a powder-keg, always on the verge of conflict. The frequency of conflicts through the twentieth century only reinforced this idea, lending many to believe in their inevitability. The wars of the 1990s affected the political realm in many ways, including by highlighting the inadequacies of the international community in addressing conflict in their own backyard. Europe had no war on its soil from World War II until the 1990s, and when it did occur, the EU could not stop it. This revelation led the EU to again pursue accession as a foreign policy tool and attempt to stabilize this area permanently. This paper addressed the legacy of ethnic violence in Croatia and Serbia, as representative of the former Yugoslav region, in relation to their potential membership to the EU. Serbia and Croatia, of the Western Balkan states, had the largest roles in the ethnic conflicts of the past century and both have pursued accession in the past decade. More than the incidence of violence, however, this paper examines the influence of manufactured hatreds and the role of nationalism within these governments. This paper has six chapters, each addressing a different facet of this issue. The first three give the background of both the Balkan states and the EU and build a framework to analyze the states' current progress. The latter three analyze the progress made by Croatia and Serbia in the last decade and compare their progress, looking at each state's path in the last decade and the continuing legacy of war crimes.

The first chapter examines the history of the Western Balkan region and how its history helped form an acute sense of nationalism. Rather than looking solely at the ethnic violence of the past century, the paper examines how this violence and trends of violence build overarching nationalist myths. Since the collapse of the Ottoman and Austro-Hungarian empires in the early twentieth century conflicts in the Balkans stemmed from goals of nation-building based on ethnic homogeneity. The region's ethnic groups manipulated their own history to reinforce whichever message seems the most politically expedient. This self-definition and categorization of ethnic identity and politically motivated historical manipulation has defined regional and international relations in the last two centuries. Nationalists in both Serbia and Croatia linked events throughout history in order to justify intolerant policies and cultivate feelings of injustice which would automatically lend support to any politician making these claims. Rather than simply an area with a history of insurmountable violence and irreconcilable hatreds, the Western Balkan states have a high incidence of ethnic violence because of a larger script of manufactured and exacerbated hatreds. While the states of the former Yugoslavia have problems, the conflicts of the 1990s erupted because politicians reverted to the nationalist agendas when problems arose. The states' nationalism focuses on ethnicity as its defining factor and statehood as its end result and the power of these myths allows politicians public support. For over a century this myth underscored all political actions; in stressful times politicians could call upon lingering nationalist sentiments, and the more often this happened, the stronger they grew. The problem for democratic transition comes from the pervasiveness of the nationalist myth rather than a fundamental conflict of ethnic groups. Croatia and Serbia both transitioned after the other CEEC nations and pursued membership in the EU, which the EU extended as a way to ensure peace in Europe. The Western Balkans and the EU have a complicated relationship characterized by each group's particular nationalist myth.

The second chapter addresses the EU and how it evolved in the latter half of the twentieth century from an economic institution to a rapidly expanding international power. The institution's path helps illuminate why it wants to influence policy and why it views accession as its most powerful tool. Its history also shows the particular challenges that the institution itself creates in accession; these come from the relationships between states and the roles of the different branches. However, it also looks at how the institutional problems with the EU will ultimately impede accession. The Western Balkans and the EU have an interesting relationship—the EU now symbolizes Europe. Only European states may join the EU, but despite the EU extending the promise of membership to all of the Western Balkans, these states have complicated relationships with the West. This chapter examines the character of this particular body and analyzes its movement into foreign policy, as well as the potential repercussions of such a move. EU accession for the Balkan States has interesting implications for the role of the EU, because in committing to membership for these states, it commits itself to pursuing expansion and places commitment to democratic values above other foreign policy goals. The EU had to define and then re-define its membership criteria as different countries pursued accession, first in the context of the CEEC nations, and then in the context of the former Yugoslav states.

The third chapter details the evolution of the criteria each state must meet in order to join, the additional condition of ICTY compliance and several case studies from the CEEC

accessions. The EU's use of criteria for accession preserves the legitimacy of the process; as so many states sought to join the institution, the EU developed this criteria in order to maintain a meritocratic structure and ensure that the nations joining would have the structural framework to support integration with the other EU member states. Far from just a list of steps that states must accomplish, compliance with the Copenhagen Criteria addresses the sections of the government that ensure a liberal democracy. The Criteria carries the values of the Western World and compliance restructures the government to change the way a government can operate. The former Yugoslavian countries must comply with the criteria like the other states, but the EU also ruled that these states must fully comply with all of the ICTY's demands before accessing. The international community created the ICTY in the 1990s in order to prosecute war crimes and incidences of genocide in the Yugoslav states. The ICTY investigates incidents of war crimes and indicts the perpetrators but has no power to enforce its rulings. The EU, through mandating compliance as a condition of membership, ensures that the governments in the former Yugoslavia will turn these men over to The Hague. The relationship between the ICTY and both the Balkans and the EU defines accession. While these states have a great deal to reform within the state structure, accession hinges on ICTY compliance because the EU believes that complying with this body will indicate that the political leadership of these states has changed drastically since the wars.

The intersection of these three chapters, and how the history of each relates to the others, forms the backdrop for Serbia and Croatia's accessions to the EU. The fourth chapter looks at Croatia and the fifth looks at Serbia from the point of transition to the present. These chapters present the past decade in the context of the framework formed by the first three. The history of the EU, its emphasis on conditionality, and necessary compliance with the ICTY, intersect the political and cultural narratives in these two states to define their progress toward accession. Each chapter looks at the nation's recent history and progress toward accession, as well as continuing obstacles to membership. Particularly indicative of progress, the level of compliance with the ICTY from each government defines how much progress the state can make. More than any other criteria, ICTY compliance dictates not only eventual membership, but the amount of progress a state can make in the process itself. This causes problems for these states because the ICTY demands directly conflict with the sense of identity given by the lingering influence of nationalist myths. The final chapter concludes the paper by comparing and contrasting the progress of these two states toward accession, looking at their specific paths and the factors which differentiate them. The two states made much different progress toward the EU, in part because the nationalist myths oriented them toward Europe differently. The chapter examines what factors have influenced progress, what will continue to influence them. It also looks at what factors outside of the accession process, ICTY compliance and domestic politics may impact the future for Serbia and Croatia.

Chapter One

Manufactured History and Ethnic Conflict in the Former Yugoslavia

The Western Balkans historically earned the label as the powder-keg of Europe. However, rather than violence stemming from irreconcilable differences between ethnic groups, the periodic violence characterizing the area stemmed from political ambition. The Balkans experienced nationalist movements under the Ottoman Empire as similar movements swept the main area of Europe. The conflict between ethnic groups does not reflect an innate inability to coexist. Rather, it stems from the relentless pursuit of ethnic homogeneity in defining statehood. The ethnic nationalism which resulted from this pursuit defined statehood as the end goal which would justify their legitimacy as a people. This script underscored political action in the twentieth century and legitimized ethnic conflict. Because the people accepted the legitimacy of the script, they supported the actions of the government, which gave the government license to continue these policies. Political leaders continuously reinforced the divisive message within the nationalist script and linked it to current events, creating an overarching narrative to further their goals. This script, and the emotional currency it gained, defined domestic and international actions through the twentieth century. This script and institutional opportunities, rather than inherent ethnic differences, created the pattern of ethnic violence through the twentieth century and will continue to underwrite political decisions in the area.

The main ethnic groups in the Western Balkans, Serbs, Croats and Bosniaks (Serbo-Croat speaking Bosnian Muslims) have similar, if not identical, genetic and linguistic traits¹. In the former Yugoslavia, religious differences, in conjunction with political narratives of historical ethnogenesis, define and separate these groups. Due to these marked similarities, any attempt to market the different ethnic groups' claims to the area and, later, to encourage international powers to validate their struggles, necessitated marketing an embellished account of regional history. These political narratives evolved over time to support the most current political ambitions and reflect current political moods. Ethnicity centers on common perceptions of identity manufactured by nationalist leaders rather than factual accounts. Each group used historians and scientists to support its official propaganda and bolster its credibility while differentiating itself from the other regional groups. In both cases, nationalists defined ethnic identity through biased representations of medieval history designed to foster interethnic conflict.² Bruce Macdonald asserts that, "both Serbs and Croats have employed a form of sub-altern discourse which presents the past as a form of 'hidden history'".³ Drawing from

¹Whealey, Robert H. "Critique of the Concept of Ethnic Cleansing: The Case of Yugoslavia". *Ethnic Cleansing in Twentieth-Century Europe*. Eds. Steven Bela Vardy & T. Hunt Tooley. New York: Columbia University Press, 2003. 718

² Madgearu, Alexandru. *The Wars of the Balkan Peninsula: Their Medieval Origins*. Lanham: Scarecrow Press, 2008. 159

³ MacDonal, David Bruce. "The Importance of Being European: Narratives of East and West in Serbian and Croatian Nationalism". *Multiplicity of Nationalism in Contemporary Europe*. Eds. Ireneusz Pawel Karolewski & Andrzej Marcin Suszycki. Lanham: Lexington Books, 2010. 240

Macdonald's analysis, these histories promote a selective view of history emphasizing ancient conflict and minimizing or omitting periods of cooperation in order to justify politically advantageous conflict. Once these myths took hold of public rhetoric, political leaders could operate under the guise of historic injustice to justify aggression and ethnic intolerance.

The Balkans consistently symbolized an 'other' within Europe, something to define the West against. The former Yugoslav republics played on these residual beliefs that any conflict in the Western Balkans represented a larger, inescapable clash between fundamentally incompatible cultures. In Western thought, the religious divide between Orthodoxy and Catholicism, and the resulting 'inevitable' conflict, epitomized the larger struggle between Western civilizations and the stereotypically backwards East. Their religions oriented them in two diametrically opposite directions; the Croats toward Rome and the Serbs toward Istanbul. The division of the Church, to many observers, represents and explains why the two ethnic groups clash. Religion turned into a distinguishing feature of the conflict because the groups could not highlight many other tangible differences. The international community readily accepted the nationalists' explanations of irreconcilable differences, which perpetuated the myth domestically and internationally. Because this explanation worked, it gained power. International and regional communities alike internalized the propaganda which Serb and Croat nationalists used to morally legitimize their territorial expansion and ethnic cleansing.

Serbian nationalists played to the widespread belief in 'Serbophobia'—the historic fear, hatred, and jealousy of Serbs, which they likened to anti-Semitism—to feed hatred of Croats⁴ and justify conflict. By the 1800s, Serb nationalist theory claimed, religiously-oriented Serbophobia among Croats had turned into a more organized and systemized concept of hatred⁵. Serbian historical myth blamed Croatian nationalism for the first Yugoslavia's failure and associated Croatia with feudal traditions, religious intolerance and xenophobia. Serbian nationalists differentiated themselves to Europeans and their own people by separating their own nationalism from the, supposedly, destructive Croatian forms of clerical nationalism characterized by feudal traditions and excessive religious intolerance⁶. The same myth paints Albanian Muslims and Bosniaks, Serbo-Croat Muslims, as dangerous Islamic conspirators and Kosovo as the frontline between Christianity and Islam. Propaganda claimed Albanians had been killing Serbs for centuries and that their collaboration with the Ottomans morally removed the Albanian claim to Kosovo. Serbian nationalism targeted Bosniaks similarly, although Kosovan Albanians were treated as ethnic and linguistic aliens while Bosniaks were treated as fallen Serbs. Bosniaks descend from Slavs who converted to Islam under Ottoman rule, making them collaborators, which Serb nationalists used to legitimize a mass program of ethnic cleansing against them.⁷ Serb nationalism claimed that because the Bosniaks had accepted the religion of their conquerors, they assumed the crimes of the Ottomans. Later, Serbian Generals used these claims to justify the Serbian army's actions in Bosnia; rather than conquering land, the army liberated what was Serbian⁸.

⁴ MacDonald, David 245

⁵ MacDonald, David 245

⁶ MacDonald, David 246

⁷ MacDonald, David 244

⁸ MacDonald, David 244

Like Serbia, Croatian nationalist myth vilified other ethnic groups and looked to their medieval kingdom to validate modern-day claims to a large region of the Western Balkans. It claimed continuous autonomy by saying the *Banus* and *Sabor*, two Croatian political institutions predating the Hungarian invasion, continued to rule under the Hapsburgs⁹. The myth claims the differences between Orthodoxy and Catholicism create an unfathomable cultural divide between the East and West and that a Serb-dominated federation subjected Croatia to an Asiatic form of government.¹⁰ This emphasis on a more Western identity, due in part to Croatia's proximity to Austria and Italy, and the legacy of Hapsburg rule, helped Croatia justify its actions both to its own people and to outside audiences.

Politicians in these two states created these myths by drawing on certain events in their histories to give them emotional currency. Both the Croats and the Serbs had ancient kingdoms which they use to justify their modern claims for autonomy. The Ottomans defeated the Serbs in the 14th century and the Hungarian Empire ruled over the former Croatian lands and people until the nineteenth century. The Hapsburgs succeeded the Hungarian kings and claimed the lands south of the Danube as theirs, although the Ottomans Turks pushed them back. By the sixteenth century, the Ottoman Empire held all of the land nominally held by the Hapsburgs except a small area around Zagreb which the Austrian monarchy put under military control and called the *Vojina Krajina*. The legacy of the two kingdoms and the ethnic groups' ensuing struggles for statehood retained a central place in Croat and Serb ideology and furthered their goal of one day regaining their sovereignty.

Although each ethnic group wanted a sovereign state, they banded together and claimed a common Illyrian origin pre-dating Ottoman rule to legitimize and justify nationalist movements against the empires. This instance of manufactured kinship exemplifies the mutability of history for political ends. This theory, which empowered and unified minorities in the face of the Ottomans, did not advance their interests when the threat of a greater power receded. Unity collapsed as upholding similarities conflicted with larger political ambitions for new territory and greater regional influence. Nationalists promoted creating separate states as political expressions of ethnic identity¹¹ and the desire for sovereignty led them to redefine their identities in opposition to the other, denying any commonalities, including origin. The power vacuum which occurred after World War I exacerbated these manufactured political, religious and cultural tensions, and lent power to the ethnic groups' reshaped histories. Both Western and Balkan powers sought land to add to their nation-states, and the threat of dividing ethnic groups among separate nations united the competing regional groups again, however tenuously. Croats, Serbs and Slovenes united into one state, allowing each ethnic group to preserve its land, although under a single government ruled by the Serb King Alexander Karadjordjevic. The arrangement exacerbated problems among the ethnic groups whose latent sense of nationalism hindered the compromise necessary for a successful federal government. Religion, particularly, divided the largely Slavic population; nationalist leaders emphasized this singular difference to exacerbate separatist feeling. In addition, the hastily signed treaty which formed the new state created significant misunderstandings; the Croats believed they created a

⁹ MacDonald, David 247

¹⁰ MacDonald, David 248

¹¹ Batt, Judy. 12

Federal state while the Serbs treated the union as an annexation, abolished Croatia as a historical unit and centralized power in Belgrade.¹² This issue and the bitterness it engendered, heightened remnants of nationalist sentiment from the Ottoman days and helped strengthen arguments for separatism and ethnic homogeneity within a single state. The Serbian narrative evolved to blame Croatia for the demise of the union while Croatian nationalism sees the period as the darkest in its history because it lost autonomy to Serb-domination. However, during this time, much of the divisive rhetoric stemmed from underlying political aims. The interwar years were marked with ethnic violence due to the perceived inequality between the different populations, especially the Serb domination. This culminated in the assassination of Stejepan Radic, a Croatian nationalist and head of the Croatian Peoples Party (CPP); following the assassination Karadjordjevic abolished the constitution and renamed the country the Kingdom of Yugoslavia, installing himself as King. The country grew increasingly more authoritarian and King Alexander's assassination did not alleviate the ethnic tension and World War II altered their scale.

International intervention and political turmoil ensured that extreme nationalist attitudes remained part of the popular psyche. Residual memories of interethnic violence perpetuated a sense of injustice which nationalist politicians exploited to engender hatred and validate policy. During World War II Axis powers invaded and dismembered Yugoslavia; Germany, Italy, Albania, Hungary and Bulgaria annexed pieces of the former Yugoslavia. In the process, they created two puppet states, Croatia and Serbia which Germany and Italy occupied¹³. External powers provoked ethnic conflict in order to divide the region and more easily consolidate control. Under the cover of this greater conflict Croat and Serb nationalists saw an opportunity to regain sovereignty and used the pre-existing myths to justify redefining national boundaries along ethnic lines. War shielded these groups from external scrutiny and the violence created an atmosphere amenable to extremism. Nazi Germany established complete control within Serbia, implementing a range of brutal minority policies while in Croatia, German and Italian support brought the fascist Ustasa party to power. The regime enacted barbarous policies on minority populations in quest of a pure Croat state. Simultaneously in Serbia the Chetnik party gained prominence as it pursued a 'Greater Serbia'. This goal refers to a recreation of its historic kingdom, although many of the areas included under the old kingdom belonged to modern sovereign states.

Amid the violence and extreme nationalism surrounding this period, Josep Broz, better known as Tito, came to power as head of the Partisan movement. Tito was a member of the Communist party, a membership perhaps more politically motivated than ideologically motivated, but nevertheless manufactured equality within the ranks of his movement. After establishing himself as a successful organizer in the Austro-Hungarian military and serving as a prisoner in Russia he joined the Communist Party. The Partisans formed the military arm of the Communist Party's People's Liberation Front. Conflict between the Ustasa forces, the Serb Royalist Chetniks and the Partisans, a Communist Yugoslav force, led the Partisans to try and destabilize the powerful regimes. Faced with the atrocities of the Ustasa and Chetnik

¹² Denitch, Bogdan, *Ethnic Nationalism: The Tragic Death of Yugoslavia*. Minneapolis: University of Minnesota Press, 1994. 24

¹³ Hudson, Kate. *Breaking the South Slav Dream: The Rise and Fall of Yugoslavia*. London: Pluto Press, 2003. 29

movements, the Partisans inspired trust within the population and led to Tito's success as a leader in later years. Amid the conflict, many saw the Partisan movement as the most palatable option for the region. During the war Tito did not communicate with Stalin because the two nations lacked an established line of communication; however, he did have contact with the British, who supported the Partisan movement because of its military strength and independence from nationalist affiliations. During the conflict they supplied the movement with arms, intelligence and training. The Partisan movement's superior military skills, and Tito's collaboration with Stalin and the Soviet forces, overthrew the Ustasa regime¹⁴. Because of the Partisans' role in liberation, and Tito's perceived autonomy from soviet-style socialism, the Yugoslav people trusted his leadership, allowing him to successfully consolidate power under a new Yugoslavia.

Tito extended the inclusivity of the Yugoslav Partisan movement to the Yugoslav nation. He applied the manufactured balance of his army to the larger ethnic interests within the nation, realizing that extreme nationalism historically flared when groups, perceiving injustice, called upon memories of past discriminations to validate modern policies targeting other groups. Under the constitution the 'nations' of Yugoslavia, the 'nationalities' of Yugoslavia, and other nationalities and ethnic groups¹⁵ grouped within six republics formed the new federal state. The six 'nations' of Serbs, Croats, Slovenes, Montenegrins, Macedonians and Muslims¹⁶ gained special rights under the constitution because they lacked ethnic homelands outside of Yugoslavia, criteria which excluded the large Albanian majority in Kosovo and the Hungarian majority in Vojvodina from the same cultural and language freedoms¹⁷. The constitutional provisions for ethnic equality helped balance different interests and, originally, engender trust in the federal structure; however, they eventually turned into mechanisms for state dissolution. By giving more power to the republics the constitution created institutional mechanisms encouraging decentralization and, in establishing forums for ethnic groups to preserve their identities, it created a vehicle for ethnic groups to promote extreme nationalist views.

Tito's personality and ambitions held the federation together, at least on the surface. He recognized the importance of balancing group interests to create a viable unified state and, apart from a carefully crafted constitution, designed an elaborate propaganda machine to promote the idea of a Yugoslav identity. To ensure cohesion between historically competitive groups he promoted a new comprehensive identity, creating a sovereign state out of separate peoples to overshadow the remnants of historical propaganda. By isolating and condemning extremism from all sides he he muffled the classic triggers of resurgent separatist ambitions¹⁸. Although Tito spent a great deal of time balancing the divergent interests of nationalities and promoting an overarching Yugoslav identity, ethnic tensions occasionally threatened the apparent Yugoslav unity. Tito deal with these stressors with strong reactions, regardless of ethnic group or political agenda. The communist regime suppressed all nationalists equally¹⁹.

¹⁴ Hudson, Kate 37

¹⁵ Hudson, Kate 50

¹⁶ Hudson, Kate 50

¹⁷ Hudson, Kate 50?

¹⁸ Brown, Michael Barratt. *From Tito to Milosevic: Yugoslavia, the Lost Country*. London: The Merlin Press, 2005
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¹⁹ Denitch, Bogdan 38

Tito's international stature and role as a national hero partially allowed the programs to succeed. Internationally recognized for straddling the East and West during the Cold War, most notably in founding an allegiance of Non-Aligned Powers, gave him international and domestic credibility. The West viewed his Yugoslavia with hope because Tito pursued his own agenda rather than simply following Stalin's lead. Tito's plans to incorporate other areas of the region into a greater Balkan federation shaped both his emphasis on ethnic cooperation and the split with Stalin. Tito straddled the East and West throughout the Cold War which allowed him to trade with the West, which helped initiate rapid economic growth. This original economic success contributed to the surface-level success of Tito's communist society. A booming economy precluded critical examination of the system because the government could use profits as proof it worked. However, the system did not have the foundations to sustain itself in the long run and the foundering economy put pressure on the nation's institutionalized fault lines, exposing the problems Tito's regime masked. Ethnic nationalism gradually reemerged, exemplified in both Serbia's and Croatia's claims of national self-determination.

Reforms promoting economic and political decentralization strengthened the centrifugal tendencies of the republics, creating lasting problems within the federal structure. Throughout the 1960s and 1970s reforms gradually decentralized power. This culminated in the 1974 constitution which allotted more power to the Republics, introducing quotas and rotation systems to institutionalize equality, and giving each republic veto power over federal legislation²⁰. It also granted Vojvodina and Kosovo federal voting power and autonomy within Serbia, significantly weakening Serbia's power at the Federal level and fueling Serbian nationalism over Kosovo's loss²¹. Rather than satisfying nationalist impulses, decentralizing reforms whetted the appetites of extreme nationalists for greater autonomy. By 1974 the federal government's balance of power shifted in favor of the Republics, a trend which eventually crippled the effectiveness of Yugoslavia's national government. Tito understood that his charisma held Yugoslavia together; however, he also understood that he could not rule forever and did not believe another leader would effectively keep the state together. With this in mind he created the 1974 Constitution as a mechanism to keep the state unified after his death. He decided institutions would play his role after his death and created a rotating leadership which forced all nations to participate fairly; it proved effective until the 1990 crisis.

Tito's death in 1980 coincided with a failing economy and a shift within international policy making maintaining Yugoslavia's position of balanced relations difficult. Over time the Yugoslav economy, which depended on imports for its industrial growth, accumulated a massive deficit. Yugoslavia effectively had a dual economy, which benefitted neither the north nor the south. Slovenia and Croatia grew increasingly bitter because repayment of Yugoslavia's foreign debt meant greater numbers of their manufactured goods leaving the country as exports while the drop in world prices of the raw materials the southern republics produced meant the south's contribution dropped²². Beyond aggravating the difference between the industrial north and rural south, increased exports also led to a scarcity of goods. As Yugoslavia, like many Eastern European nations during the 1980s, sought to completely pay off

²⁰ Hudson, Kate 53

²¹ Hudson, Kate 54

²² Brown, Michael Barratt 128

its debts, it incidentally crippled its own economy. In response, the government halted excess spending, ending food subsidies, banning all imports not required in productive processes, and suspending investment for infrastructure and social services²³. The cost of essential goods rose by a third, and between 1979 and 1985 the Yugoslav currency devalued by 90 percent. Inflation and unemployment rose rapidly, and income dropped sharply²⁴. These critical economic problems drove the federal government to request International Monetary Fund (IMF) loans, which it granted on promises of macroeconomic reform. The IMF extended a large number of these loans to countries in Eastern Europe; however, the demands associated with accepting them stipulated each nation increase its exports, which drove supply too high, depressing the already low prices of these goods. Apart from increased exports, the IMF demanded reduced government spending, privatization of state industries, and open markets for goods and capital²⁵. In pursuing its goal to foster economic reform within Communist Europe, the IMF effectively crippled these nations; these policies exacerbated inflation, unemployment and general economic distress. Yugoslavia had had to rely on IMF loans because of its large amount of foreign debt, yet compliance with the IMF led to economic devastation and political turmoil.

The government decided to retain the basic economic structure and social ownership, but increase market elements and liberalize trade²⁶. Without fundamentally altering the socialist system, macroeconomic reforms only exacerbated the economy's failings; maintaining the tenets of a socialist economy while introducing free market elements doomed the system because new market apparatuses functioned independently from the larger economic structure. The reforms destabilized the Yugoslav economy, but affected each region differently, benefitting Slovenia and Croatia, the more industrialized areas, over other areas. Croatia earned the most foreign currency of the Yugoslav republics, yet under federal regulations the state redistributed ninety percent of its earnings to other areas of the state²⁷. The government used redistribution to manufacture a rough equality between the republics. Always a point of contention, the poor economy led to more vocal outcry from wealthier republics against redistribution, giving previously marginalized nationalist politicians a popular cause to help them validate their arguments for greater autonomy²⁸. The IMF reforms exacerbated and compounded secessionist tendencies in Slovenia and Croatia and contributed to the rise of traditional Serbian nationalism²⁹. Serbia, less developed than its neighbors, had comparatively higher unemployment numbers and larger internal migration issues under the IMF-sponsored reforms and wanted to remain within a federation which governed all area Serbs. The spread of educational opportunities and the influx of large numbers of people with advanced degrees into the labor market surpassed its capacity for absorption and millions had no job³⁰. Simultaneously, a large number of peasants from the countryside moved to cities and towns,

²³ Hudson, Kate 60

²⁴ Brown, Michael Barratt 128

²⁵ Brown, Michael Barratt 129

²⁶ Hudson, Kate 59

²⁷ Hudson, Kate 52

²⁸ Brown, Michael Barratt 125

²⁹ Hudson, Kate 71

³⁰ Boduszynski, Mieczyslaw. *Regime Change in the Yugoslav Successor States: Divergent Paths Toward a New Europe*. Baltimore: The Johns Hopkins Press, 2010. 175

putting additional stress on the job market. These stressors exacerbated pre-existing tendencies in Serbia toward authoritarianism and claims of victimization.

As the economy worsened Serbian nationalists resurrected the nationalist myth, focusing especially on the issue of Kosovo. Serbia lost direct control of the province under the 1974 constitution and nationalists used the emotionally charged issue to rally popular opinion. Serbs saw Kosovo as the center of their historic homeland. It holds the site of the battle where Serbia lost its sovereignty to the Ottomans, and the heart of the medieval Serbian kingdom, as well as many of the ethnic group's religious monuments³¹. Judy Batt claims that "the central place that Kosovo has come to occupy in the Serbian national myth traps the Serbs into the conviction that its 'loss' would mean 'evisceration' of the nation, undermining the core of national identity".³² This issue united the Serbs behind the nationalist message and allowed extremist leaders to portray themselves as protectors of the homeland.

Serbian nationalists claimed that the Albanian collaboration with the Ottoman Turks nullified any claim to the land the Albanian Kosovars may have. Under Tito Albanians received the right to study in their own language³³, solidifying an Albanian Kosovar identity. Especially as the economy declined, the significantly higher unemployment figures in Kosovo drove many young people to pursue higher education at Pristina University. This shift created a young intelligentsia with a strong ethnic identity and without job opportunities³⁴. At the same time, the high unemployment figures led to greater job competition, which exacerbated existing tensions between Serbs and Albanians. Serbian propagandists used stereotypical portrayals of Muslims as backwards, violent and likely to have large families to justify their claims that Albanians did not have the right to exercise any sovereignty over the territory, despite holding the prominent majority³⁵. The Albanian birthrate far exceeded the Serb; this, coupled with the propagandized stereotypes of Albanian Kosovars as backwards and violent³⁶ and economic hardship, created an atmosphere in which nationalist politicians could exploit the fears of Kosovo's Serbian population to gain a large base of support for their policies. Albanians gained prominence within the government and Serbs continued to dominate police and security services. In the 1980s, Albanians began to blame Serbs for the state of the economy and threaten them with expulsion³⁷. Kosovo's Serbs could claim legitimate discrimination, but the reports circulated by the Serb government gave an exaggerated account of Albanian offenses. Despite the increased antagonism between the two groups, the Albanian resistance to tightening Serb policies intentionally used non-violent means until the 1990s, when a younger generation made the conscious choice to shift tactics. Even then, only a small segment of the population supported the resulting violence.

In this context of growing separatist threats and extreme nationalist rhetoric from the different ethnic groups, the federal government introduced legislation to facilitate a transition to a market economy. However, the reforms, which directed federal state funding to pay the

³¹ Madgearu, Alexandru 175

³² Batt, Judy 65

³³ Boduszynski, Mieczyslaw 182

³⁴ Brown, Michael Barratt 131

³⁵ MacDonald, David 244

³⁶ MacDonald, David 243

³⁷ Brown, Michael Barratt 131

Yugoslav debt, reduced the amount of resources and goods available within the republics, and further exacerbated tensions among them. Nationalists focused on these tangible disparities and hardships, integrating them into the overarching ethnic myths in order to consolidate power. In 1990 nationalist politicians in Serbia, Croatia and Bosnia came to power on platforms focused on correcting the economic disparity between Republics, each stressing its victimization at the hands of other ethnic groups. Tudjman and Milosevic's parties came to power by exploiting widely held fears heightened by internal crisis and destabilization, and continued to justify intolerant policies this way once in power. Each built a broad base of support, reaching extreme nationalists, but also those tired of the status quo. In Serbia, Slobodan Milosevic built a broad coalition of support across Serbian society. His followers supported Yugoslavia but derided the perceived anti-Serb bias of Tito's constitutions, just as it stood for the protection of Serbs and of those suffering under the macro-economic reforms³⁸. He contended that Tito had deliberately weakened Serbia by undermining its sovereignty over Kosovo and Vojvodina³⁹, which resonated with many Serbs who felt strongly about Kosovo's importance to the Serbian identity. At the same time, the exclusively Croat bias of Franco Tudjman's government led to policies stripping the large Serbian population of its rights⁴⁰.

The federal-level discussions on political reform between Serbia, Croatia and Slovenia in the early 1990s deteriorated. Croatia and Slovenia declared sovereignty in July 1990 precipitating crisis within the 600,000 person Serb minority who opposed secession and wanted to remain within Yugoslavia. The conflict started with clashes between the Serb minority and the Croatian government and escalated as more Serbs, particularly from within the Serbian army, traveled to Croatia to fight. Rather than working to dissuade these actions, the international community's historic attitude and position toward the Balkans shaped and justified the ethnic groups' claims. The European Community (EC), the European Union's (EU) predecessor, originally supported upholding Yugoslavia's territorial integrity but shifted policy directions. Neglecting the origins of conflict—economic decline, market reforms and discussion of political reforms—and accepting nationalist governments' representations of the conflict, the EC implicitly condoned both these actions and those later committed under the same justifications. To gain recognition from the international community the former Yugoslav states used the Western rhetoric of irreconcilable differences to make the conflict appear natural, even expected⁴¹, and justify their intolerant policies.

Throughout modern history Western Balkan groups have used ethnic cleansing to further nationalist goals of ethnically homogeneous states. Both Serbs and Croats validated these policies to regional and international audiences alike with national myths of conspiracy and intolerance⁴². In the Second World War, the Ustase in Croatia expelled, detained, exterminated and converted the state's non-Croat communities. The Serbian Chetnik movement used similar policies against Muslims in Bosnia⁴³. Huge percentages of the total wartime casualties died because of ethnic hatreds rather than the side they took during the

³⁸ Brown, Michael Barratt 131

³⁹ Boduszynski, Mieczyslaw 179

⁴⁰ Boduszynski, Mieczyslaw 87

⁴¹ MacDonald, David 251

⁴² MacDonald, David 251

⁴³ Denitch, Bogdan 31

war⁴⁴. The massacres committed during the war represent the basis for charges and counter charges of past attempts at genocide and justify future attempts at ethnic cleansing for nationalists. The 1990s represents a third wave of conflict induced by the promise of statehood. Yugoslavia's dissolution brought old dreams of ethnically homogenous states to the surface and prompted conflict in the tradition of previous bids for statehood. Each ethnic group committed war crimes while simultaneously maintaining a dialogue of victimization designed to play on the sympathies of foreign observers. Serbia used images of a dangerous expansionist Islamic/Turkish 'other' to frame its attempt to create a 'Greater Serbia' including chunks of Croatia and Bosnia-Herzegovina.⁴⁵ Similarly, Croatia's rejection of Eastern Serbs and Muslims promoted a Western identity to legitimize expansion into Bosnia.⁴⁶

The Dayton Accords, signed in 1995, formally ended the conflict in Bosnia-Herzegovina. Although the international community viewed this positively, none of the parties fighting in Bosnia liked the terms of the agreement, which meant their compliance would not necessarily satisfy the international community⁴⁷. The last in a series of proposed peace settlements, the Dayton Accord lays out the political reconstruction of a young state burdened by the legacy of fifty years of Communist rule and devastated by war⁴⁸. However, while ostensibly solving the problems in Bosnia-Herzegovina, it did not answer the problem of Kosovo, which remained within the Federal Republic of Yugoslavia. When Yugoslavia revoked Kosovo's autonomy in 1990, the Kosovar Albanians boycotted all official state institutions and declared Kosovo a constituent republic, creating parallel institutions within Kosovo, which Belgrade declared illegal⁴⁹. Milosevic sent in the army and paramilitary troops, instating military rule in the province⁵⁰. This remained the status quo for the next decade. With the signing of the Dayton Accords, the Albanian population lost hope for a political solution to the crisis and radicalized. The Kosovan Liberation Army (KLA) organized and armed itself with weapons obtained from looters and sold on the black market after the dissolution of Albania⁵¹. The historically passive resistance to Serb rule shifted to encompass violence, and its campaigns led Serbia and the United States, to label it a terrorist organization. Its campaign against area Serbs led to massive internal migrations and heavy-handed Yugoslav army reprisals. The Serb army's actions then led to mass evacuations from some Kosovan Albanian villages⁵², which in turn renewed the world's focus on humanitarian issues in the area, and led to NATO involvement. To justify its March 1999 intervention, the international community argued that sovereignty implied the responsibility of the ruler to protect human rights⁵³. The full scale military operation lasted for 78 days, decimating the region.

⁴⁴ Denitch, Bogdan 31

⁴⁵ MacDonald, David 239

⁴⁶ MacDonald, David 239

⁴⁷ Caplan, Richard. "Assessing the Dayton Accord: The Structural Weaknesses of the General Framework Agreement for Peace in Bosnia and Herzegovina". *Diplomacy and Statecraft*. Vol. 11, No. 2, (July 2000), pp. 213-232. 214

⁴⁸ Caplan, Richard 216

⁴⁹ Boduszynski, Mieczyslaw 175

⁵⁰ Boduszynski, Mieczyslaw 182

⁵¹ Boduszynski, Mieczyslaw 188

⁵² Brown, Michael Barratt 156

⁵³ Brown, Michael Barratt 157

The ethnic orientation of the violence in the 1990s focused international attention on the underlying tensions encouraging ethnic division but did not fix them; ethnic homogeneity remains a goal for many extreme nationalists and, even in mainstream parties underlies decisions on foreign relations and border disputes. Despite international peacekeepers and sanctions, ethnic violence continued to threaten the position of minorities in the newly created republics. The wars served as a vehicle for manufacturing ethnically homogenous states and peace did not alter this fundamental goal. In Croatia, the government settled around 180,000 refugees in former Serb areas, repossessing Serbian properties and goods and distributing them to new Croat residents⁵⁴. The Croatian government granted these former refugees from other Yugoslav republics Croatian citizenship to permanently change the ethnic composition of certain areas. Lower officials did everything in their power to prevent ethnic Croats from returning to their homes outside Croatia and ethnic Serbs from returning to their homes in Croatia⁵⁵. Many Serbs still feel forced to leave as lower Croatian officials prevent ethnic reconciliation⁵⁶. There are documented cases of maltreatment of Croats who had attempted to help their Serb neighbors—Croats could be fired or not receive humanitarian aid even for greeting a Serb⁵⁷. Nationalism did not end with the wars; both Milosevic and Tudjman's parties enjoyed widespread support and remained in power even after condemnation from the international community. Not until the turn of the century did these two states begin to shift toward cooperating with the international community, a shift which necessitated dealing with lingering ethnic problems.

The nationalist governments in Serbia and Croatia used war to obscure their intolerant policies from international observation and to draw domestic scrutiny away from their failing economies. Using the war and the emotionally charged call to protect national sovereignty allowed both regimes to discredit any opposition. The consequences of war—refugees, international intervention and occupation—hampered democratization, rulers demonstrated that their policy goals focused on strengthening and expanding their power, even after war subsided. In Croatia the place the war assumed within national myth helped entrench President Tudjman and the Croatian Democratic Union (HDZ) in the government; they used their successful defense of Croatian sovereignty to justify anti-democratic politics and clientistic practices⁵⁸. The nationalist cause associated with the war meant the party could label opponents of the regime as anti-patriotic, or enemies of the state. It also allowed the HDZ to attract a large cross-section of society which may have supported liberalism in other circumstances⁵⁹. The focus on emotionally charged issues allowed the regime to avoid any real political discourse on either the war or state policies, and justify its neglect of political and economic reforms to outside observers. The 1995 elections were intended to capitalize on the government's popularity following the Dayton Accords but while the party returned to power with a large majority, the liberal opposition did reasonably well, collecting 45 of 127 seats⁶⁰.

⁵⁴ Ortakovski, Vladimir. *Minorities in the Balkans*. Ardsley: Transnational Publishers, 2000. 271

⁵⁵ Ortakovski, Vladimir 272

⁵⁶ Ortakovski, Vladimir 272

⁵⁷ Ortakovski, Vladimir 271

⁵⁸ Boduszynski, Mieczyslaw 75

⁵⁹ Boduszynski, Mieczyslaw 76

⁶⁰ Boduszynski, Mieczyslaw 88

The HDZ would not return these results in the next election although Tudjman himself remained popular. Without the war the government could no longer prevent the people from scrutinizing its policies. As the decade went on the middle and upper classes grew increasingly frustrated with Croatia's distance from Europe compared to other post-Communist nations. Similarly, Western nations which had tolerated the HDZ's illiberal policies as the lesser of two evils during the war started pushing for actual democratic reform. The West worked to isolate the Croatian government and bolster its civil society. By the end of the 1990s Croatia was left out of the EU accession process, NATO, the World Trade Organization (WTO) and the Partnership for Peace (PFP) program. The economic separation, in particular, helped shift public opinion away from the HDZ⁶¹. In the context of economic downturn, international pressure and a unifying opposition, the HDZ lost large amounts of support. Tudjman's death in November 1999 solidified the end of the HDZ as a nationalist party; the 2000 elections brought a coalition of liberal opposition parties to power overwhelmingly. However, this victory did not signal an unequivocal shift away from nationalism nor did it signal a wholehearted acceptance of Western values. The public divisions remained, although the power transfer gave liberal parties an opportunity to begin reform.

In Serbia, Milosevic and the Serbian Socialist Party (SPS) took control of the most important institutions of the state, created a repressive military-bureaucratic police machine, and either marginalized or co-opted opposition groups⁶². Milosevic's regime portrayed the West as alien to the essence of Serb identity and claimed Western institutions wanted to undermine Serbia's sovereignty, substantiating his position by extending support to separatist Serb movements in neighboring republics. The party conducted regular elections returning the SPS and Milosevic to power and although outside observers and the domestic opposition reported irregularities, the regime had clear support⁶³. Milosevic received a boost from his role in the Dayton Accords⁶⁴; domestically the public associated the end of war in Bosnia with the end of international sanctions and internationally, Milosevic's reputation improved because of his cooperation. However, when he arranged to have local courts nullify some of the 1996 election results protests swept the nation for months⁶⁵. The protestors, while predominantly young and educated, included older members of the population, signaling widening opposition to the regime. The protests succeeded; Milosevic had to let results stand and accede to some of the protestors' demands. While he and his party continued to hold power, this election fundamentally altered the position of the SPS within Serbia and emboldened the opposition. Popular dissatisfaction continued to grow as Serbs blamed Milosevic and the SPS for betraying Serb interests in Bosnia and for allowing the nation to fall into poverty⁶⁶. NATO's bombing of Kosovo in 1999 briefly rallied the Serbian population around its leadership; however, it soon became apparent that Milosevic had lost Kosovo to international supervision, and this, combined with ten years of economic mismanagement and the extensive destruction coming

⁶¹ Boduszynski, Mieczyslaw 105

⁶² Boduszynski, Mieczyslaw 172

⁶³ Boduszynski, Mieczyslaw 176

⁶⁴ Boduszynski, Mieczyslaw 185

⁶⁵ Boduszynski, Mieczyslaw 186

⁶⁶ Boduszynski, Mieczyslaw 187

from the NATO bombings, turned the tide against the SPS⁶⁷. In response, Milosevic's regime deepened its authoritarian tendencies. Despite the ICTY's indictment of Milosevic in 1999, he remained party president, most likely because of what party delegates stood to lose if the regime fell. Over the last two years of the 1990s the international community heavily supported the opposition, supplying resources on the condition that the opposition groups overcome their divisions and create a coherent alternative to the SPS⁶⁸. The opposition won the elections in October 2000 and replaced both the SPS and Milosevic. However, as in Croatia, the regime did not lose because of a fundamental shift in popular sentiment. Nationalism remained entrenched as a central political value and popular distrust of Western values continued. Removing him and his party from the government did not eliminate the underlying sentiments which originally brought them to power.

From the beginning, the Yugoslav problem centered on territorial division and ethnic cleansing, war and political persecution promoted these goals. While the ultimate dissolution of Yugoslavia may have been unavoidable, the causes for its failure stem from a long history of national self-determination in an ethnically diverse region. The pursuit of ethnically homogenous states facilitated by nationalist myths created lasting divisions in the social and political culture of the region. Present throughout history, these partitions manifested themselves when political, economic or social instability created a political atmosphere susceptible to the nationalist agenda. Each group's divergent recitations of history united its constituent 'state-forming' nationality and engendered mistrust between it and other ethnic groups. Politicians modified the historical narratives to shift the blame for the Yugoslavian wars to other actors; the new Western Balkan nations showed reluctance to recognize and acknowledge the substantial record of war crimes committed by their military, police and paramilitary forces, renaming the perpetrators war heroes and praising them for defending their homelands. Initially Serbian nationalist politicians' asserted that all sides sinned equally, affronting Serbia's former adversaries and international critics⁶⁹. Yet, the Bosnian, Croatian, and Kosovo-Albanian media, political leadership, and publics at large also hesitate to concede points of their victimization narratives to the Serbian enemy—including the war crimes committed by their own commanders⁷⁰. Not even a lengthy string of indictments for war crimes and acts of genocide significantly reduced public adulation of wartime military and political leaders during the 1990s⁷¹. As long as politicians monopolize public memory, perception and interpretation, they continue to represent history in their own way.

The self-identity of the ethnic communities within the Western Balkans has defined regional conflict over the past two centuries. National self-determination in ethnically homogenous lands dominated political policy and action until the twentieth century. In order to legitimize regional conflict to their members and the international community nationalist politicians manufactured narratives of historic injustices and persecution. Even during periods of cooperation these myths lie dormant, ready to excuse any period of turmoil. The recurrence

⁶⁷ Boduszynski, Mieczyslaw 188

⁶⁸ Boduszynski, Mieczyslaw 198

⁶⁹ Ingrao, Charles. "Introduction". *Confronting the Yugoslav Controversies, a Scholars' Initiative*. Eds. Charles Ingrao & Thomas A. Emmert. West Lafayette: Purdue University Press, 2009.3

⁷⁰ Ingrao, Charles 3

⁷¹ Ingrao, Charles 3

of these myths and the readiness with which politicians use ethnic stereotypes and embellished histories to gain popular support signals difficulties for the region in transitioning to be a fully functioning member state of an institution espousing democracy. The EU accession process hinges on the fundamental belief that reformed states can support democracy; however, whether the EU's mandated reforms will alter the basic character of these governments, or whether latent nationalism and ethnic turmoil will reemerge under stress, remains unanswered.

Chapter Two

The European Union: History and Evolution

Nationalist identity in the Balkans in the nineteenth and twentieth centuries figured centrally in political rhetoric; leaders and the population alike turned to indoctrinated stereotypes to explain hardships and justify intolerant policies. While both domestic and international observers point to this history as evidence of these groups' cultural aversion to peace, this explanation simplifies the complex undercurrents of conflict and ignores the impact of international intervention over and political goals. The macroscopic struggles of Western nations reflected themselves in the regional ethnic conflicts and border disputes as groups tried to win support from external actors to create ethnically homogenous states. Western Europe changed drastically in the last two hundred years—historic empires fell, nationalism re-shaped European borders and two World Wars shattered international peace. With the collapse of traditional empires, Western powers sought to retain global influence. The devastation caused by the world wars produced leadership weary of war—the European Community started pursuing economic integration in order to reduce the likelihood of future conflict. This economic union evolved into the EU over the latter part of the twentieth century with the idea that greater cooperation would create stability. It follows that the re-organization of the major Western European states through the latter half of the twentieth century influenced the trajectory of the Western Balkan region. Each major international event in the twentieth century corresponded to upheaval in the Western Balkans. These states had power, wealth and influence; whether the Yugoslav states rejected or accepted Western tenets, these ideals helped form national identities. In the Cold War, Yugoslavia straddled the boundaries of the East and West in order to gain as many benefits as possible from the divided world. However, IMF mandates and economic decline through the 1980s allowed nationalist regimes to come to power on platforms of inequality and victimization. Milosevic and Tudjman pursued sovereignty using ethnic myths and scapegoating to divide the population, leading to the conflicts throughout the 1990s. The first war on European soil since World War II, the Yugoslav wars provoked immediate responses in the European community, who saw Yugoslavia as a threat to their carefully manufactured peace. The history of the EU helps illuminate the specific obstacles facing Croatian and Serbian accession, and why the EU accession process functions the way it does.

World War II devastated most of the European Continent, leading nations to grasp for remnants of their former power. However, the sheer devastation of total war on populations, economies and morale necessitated changes in the European status quo. Nations used to standing alone had to coordinate with former competitors in order to remain relevant in the international sphere. In this atmosphere six states banded together in an economic union which eventually grew into the twenty-seven member international power known as the European Union (EU). Over time, the desirability of EU membership turned into its most valuable foreign policy tool, used to prop weak governments, facilitate democratic transition, and ensure newly democratic nations do not revert to autocracy. However, even as the EU grew in international stature, its member states continually struggled over striking a balance

between a loose union founded on trade relations between member states and a federal structure closer to the United States' model⁷². Original proponents of the latter view argued that loose economic ties would not check the rise of another Hitler or Stalin, while minimalists argued that better trade relations would most effectively prevent future wars by giving leaders an incentive to maintain the peace. In 1945 this goal topped every government's agenda and gradually, increased cooperation between European nations turned into the most accepted solution. Encouraging this trend, and trying to curb the spread of Communism, the United States offered Marshall Aid to European nations in an attempt to cement market-oriented and capitalist economic systems across Europe while establishing trade links across the Atlantic, away from the Soviet Union (USSR). Allocating these funds incentivized cooperation in Western Europe; in the same vein, the United States facilitated the creation of the Organization of Economic Cooperation and Development (OECD)⁷³, which introduced a framework to facilitate intra-state economic cooperation. Shortly after, the European states created the Council of Europe to protect the freedoms and human rights considered integral to a peace.

The EU originated with the European Coal and Steel Community (ECSC), two goods integral to any war effort at the time. Many believed creating a supranational market governing their use would reduce the likelihood of future conflicts. Following World War II the main threats to peace came from Germany and the Soviet Union (USSR); however, in light of their recent history of aggression within Europe, the more palpable threat came from Germany. Robert Schuman, the French defense minister, believed Germany needed domestication and wanted a supranational institution to control and offer a system of incentives⁷⁴. While France, especially, hesitated to tie its markets to other states, the economic devastation following World War II necessitated collaboration. The 1951 Treaty of Paris established the ECSC, creating a small supranational authority dependent on the national institutions of member states, a structure underlying the EU to this day. It further created an intergovernmental Council of Ministers to safeguard national interests, a supranational Council of Justice to enforce the law and a supranational Assembly of National Representatives to involve the citizens of Europe, albeit loosely⁷⁵. This mix of supranationalism and intergovernmentalism, a compromise between the two positions, continues to characterize internal policy. Over the years, this tension has compromised the EU's expediency and effective decision-making as it attempted to reform its original institutions and expand its influence in international affairs. The original six nations to agree to join the ECSC—France, Germany, Italy, The Netherlands, Luxembourg and Belgium—created the base of the current twenty-seven member state. However, unification led to debates over the extent of integration within the new alliance. France particularly resisted creating a Common Market under the European Economic Community (EEC) because it argued that exposing its industrial sector to pure competition within Europe would cripple its economic growth and employment⁷⁶. However, France eventually accepted a common market and German re-industrialization in return for creating

⁷² Staab, Andreas. *The European Union Explained: Institutions, Actors, Global Impact*. Bloomington: Indiana University Press, 2008. 4

⁷³ Staab, Andreas 7

⁷⁴ "Robert Schuman" Columbia Electronic Encyclopedia, 6th Edition, July 1, 2010.

⁷⁵ Staab, Andreas 8-9

⁷⁶ Staab, Andreas 9-10

the Common Agricultural Policy (CAP), a system of agricultural subsidies provided in the budget. In 1957 the Treaty of Rome created the EEC, which established the core principles that would form the basis for future extension of its powers⁷⁷. Rapid economic growth through the 1950s and 1960s bolstered the optimism surrounding the European Project. With the advent of the Korean War, a renewed drive for European integration led to a movement for reintegrating German military capabilities within the parameters of a European Defense Community, which would be controlled by a supranational authority⁷⁸. However, this movement failed in the French parliament, halting the drive for a joint political community and security umbrella. The institution remained mainly economic until the latter part of the twentieth century.

The focus of the European Community shifted to the issues of deepening, widening and completing, and the degree of national autonomy states should retain. Deepening referred to further integrating existing policies and increasing cooperation between member states, specifically the possibility of creating an economic and monetary union, including a single European currency. Widening referred to accession, at this time referring to the United Kingdom, Denmark and Ireland. Completing meant scrutinizing past treaties to ascertain whether their provisions had been enacted. This particularly referenced the European Common Market, blocked by different national regulations and standards from its creating in 1957⁷⁹. These issues continued to define European relations throughout the rest of the twentieth century as each new treaty and debated reforms created controversy over the amount of authority European institutions should have over their member states. In the 1970s, the United States abandoned the fixed exchange rate system and Arab states decreased their production of oil, precipitating a global economic crisis. The Western economies plunged into a recession, leading to increased pushes for a common currency. Rather than creating a common economic platform, the EEC asked states to keep their currency values within a narrow range⁸⁰. Because the European Commission failed to effectively address the crises, the European Community called summits. This tendency of the European Community to consider strong measures but enact far weaker policies exemplifies the problems with decision making. Unanimity prevents the international organization from enacting strong measures, which means that the European Community has evolved retroactively to global developments. However, the Thatcher government's influence led to a renewed emphasis on neo-liberalism and free trade-oriented policies, leading to the implementation of the Single European Market (SEM), which provided for the free movement of goods, people, money and services between member states. In 1985 the member states agreed to realize the single market and enacted 270 legislative measures under a six-year timeline. The Single European Act (SEA), enacted in 1986, linked the re-launching of European integration with institutional reform and a range of new policy responsibilities⁸¹. Among other policies, the SEA allowed the European Parliament to amend some legislative issues and introduced qualified majority voting, which prevented states in the European Commission from single-handedly blocking legislation. Importantly for

⁷⁷ "Treaties at a Glance" Europa: Gateway to the European Union. http://europa.eu/abc/treaties/index_en.htm

⁷⁸ Staab, Andreas 9

⁷⁹ Staab, Andreas 13

⁸⁰ Staab, Andreas 15

⁸¹ "The Single European Act" Europa: Gateway to the European Union.

http://europa.eu/legislation_summaries/institutional_affairs/treaties/treaties_singleact_en.htm

the future of enlargement, the act also introduced a procedure requiring a majority of the Members of European Parliament (MEPs) to approve new member states or conclude international agreements⁸².

After the collapse of the Soviet bloc members of the European Community saw further European integration as a safeguard against instability from the East and pushed for closer economic and monetary integration. The member states signed the Maastricht Treaty in 1993, a natural extension of the integration begun with the SEA⁸³. Most member states and political parties within Europe supported signing the treaty and few people believed it would have any difficulty passing. However, the few nations which required a referendum to pass returned a different verdict; the people of Denmark and France rejected the treaty. While the treaty passed with concessions, the views expressed by the people of Denmark and France reflected common doubts held by the people of Europe. Before the 1990s the EU had been a project for the elites; despite support for European integration from the upper echelons of society, many Europeans lacked information about the Union, making them skeptical about surrendering national autonomy. This skepticism and elite domination of EU politics continues to plague the union and characterize treaty negotiations to this day. The Maastricht Treaty did redefine the way the EU operated, giving it the ability to make coherent policies in areas other than the economy. It gave citizenship rights to all member states for the first time, introduced co-decision between the European Parliament and the European Commission, reorganized the institution's structure into three pillars and raised new policy areas to a European jurisdictional level⁸⁴. The structure defined which policies would fall under supranational authority and which would remain intergovernmental. The Common Foreign and Security Policy and Justice and Home Affairs, Pillars II and III respectively, remained subject to intergovernmental negotiations, whereas Economic Community, the first Pillar, fell under supranational authority⁸⁵. Later, the 1997 Amsterdam Treaty culminated discussion of a citizens' Europe, the role of the EU on the international stage, and the prospect of enlargement by including the 1993 Copenhagen Criteria, the basis for enlargement, in EU case law.

Beginning with the success of the ECSC, the EU turned into the chief vehicle for organizing Europe in the face of external threats. The idea of expanding the membership appealed to existing member states and potential members alike. Enlargement offered more markets, while increasing stability and security on the continent. Beginning with the UK's original application in the 1960s, the prospect of expansion incited debate over the nature of the institution. The UK gained access to the union in 1973 with Denmark and Ireland. The entrance of Denmark and the UK introduced the Euroskepticism which continues to characterize relations within the Union, and Ireland became the first problematic economy in the Union. Political stabilization did not factor into accession until the 1980s when the institution used its economic might to support Greece, Spain and Portugal's governments after

⁸² "The Single European Act"

⁸³ Franklin, Mark, Michael Marsh & Lauren McLaren. "Uncorking the Bottle: Popular Opposition to European Unification in the Wake of Maastricht". *Journal of Common Market Studies*. Vol 32, No. 4. Dec. 1994, 455-472. 455

⁸⁴ "Treaty of Maastricht on European Union". Europa: Gateway to the European Union.

http://europa.eu/legislation_summaries/economic_and_monetary_affairs/institutional_and_economic_framework/treaties_maastricht_en.htm

⁸⁵ Staab, Andreas 21

the fall of their authoritarian regimes. Greece, despite its unready economy, entered in 1981 while the 1982 Spanish Coup led to fears of destabilization and reaffirmed the idea that membership lent a crucial degree of democratic stability to struggling democracies⁸⁶; Portugal and Spain joined in 1986.

The fall of Communism in 1989 led the EU to reassess its role within the international sphere. It reordered the world, although the next wave of accession, in 1995, brought Austria, Finland and Sweden into the Union. These three nations had remained neutral during the Cold War and joined the EU once the Warsaw Pact dissolved. After four enlargements, the EU was the world's largest market with 340 million consumers and attracted 20 percent of the world's imports and exports⁸⁷. After 1995 the Union's fifteen members already stretched the institutions designed for a group of six, yet the perceived benefits of joining the EU encouraged nearly all CEEC nations to apply for membership. The Central and Eastern European nations considering accession also had a level of development far below that of Western Europe, which meant a disproportionate amount of funds from the regional development funds and the CAP would support this region. The potential integration of the Eastern bloc, guaranteed by the EU if they could meet its accession standards, brought back fears of limits of the EU's absorption capacity. The EU tried to pass reforms in order to fortify itself for enlargement; however, with the large number of drastically different states voting on single issues, many integral reforms did not pass. For all its geopolitical speech and accession agreements, at the beginning of the 1990s the EU still functioned primarily as an economic engine⁸⁸. While integrating poorer nations meant the CAP and cohesion funds would need to grow in order to smoothly integrate the new states into the Single Market, the EU did not decide on the size of the budget or its allocations. The EU financed the 2004 enlargement without additional contributions from existing member states⁸⁹ and left the financial perspective from 2000-2006 untouched. With the upcoming expansion, agriculture emerged as a large problem for the EU's structure, particularly because the Cohesion Policy needed complete overhauling to cope with so many nations with lagging economies. However, instead of reforming these policies the EU decided to stick with existing spending plans. Without reforming these crucial areas, the EU expanded to 25 nations in 2004 and 27 in 2007.

The EU promised to offer membership to all European states who wanted join and could meet its requirements; however, at twenty-seven members and with the promise of continuing accession, Europe faces growing enlargement fatigue, which has important implications for the future accession of the Western Balkans. Beginning in the 1980s but especially following the fall of Communism accession has been the EU's most important foreign policy tool, using economic viability to restructure politically unstable nations in order to create conditions able to support democracy. Through a combination of passive and active leverage, the EU shaped the trajectories of aspiring member-states. Passive leverage refers to the traction the EU has on non-member states in their domestic politics merely through its existence. Active leverage refers to deliberate EU policies toward potential member states. However, over time many EU

⁸⁶ Staab, Andreas 31

⁸⁷ Staab, Andreas 31

⁸⁸ Vachudova, Milada Anna 66

⁸⁹ Staab, Andreas 32

citizens came to associate enlargement with increased illegal immigration, international crime and unemployment⁹⁰. There are two sides to continuing expansion, both valid. One side argues that enlarging the union could cripple effective decision-making by integrating such a large and diverse group of new members. The other argues that new members teach adaptation and cooperation. In all likelihood enlargement will reinforce pre-existing voting blocs as they join various political coalitions rather than establishing new factions.

In order to join the European Union states must accept and fully integrate the *acquis communautaire*, the collection of all case laws and treaty agreements since the 1951 Treaty of Paris, into their national laws. Nations must integrate these before they can join the Union, which, in the case of the later accessions, meant restructuring the bureaucracy and legislative structure to make it compatible with EU law and policy. The EU also creates new policy instruments to address diversity between nation states. Because of the difficulty of internal reforms, the EU created new policies instead of making structural adjustments to existing programs. The potential risks of integrating an unready nation led the EU to create guidelines for applicant countries. The EU enlarges based on the 1993 Copenhagen Criteria which focuses on creating democratic institutions to guarantee key liberal democratic principles, adjusting the economy to cope with the introduction of the single market, and ensuring that the nations have the institutional capacity to implement EU law continually. The Criteria has four categories which potential states must satisfy in order to join, democracy, rule of law, human rights and respect for and protection of minorities. It also takes the protection of minority rights and regional relations into account in order to avoid importing foreign policy problems. The European Commission assesses nations' progress and submits a report to the European Parliament and the European Council, who must both agree on a candidate's membership. Parliament requires an absolute majority of votes while the Council agrees with unanimity. This means that any future accessions must have full support from all twenty-seven member states, all of whom have varying ideas of what a state should do to fulfill its requirements. The mix of supranational and intergovernmental policy means that the European Union member states have varying political stances on potential members, further complicating accession agreements. The Copenhagen Criteria apply to all states the same way, and the differences in states' accession processes come from the transition of the former Communist state and their pre-existing level of liberalism.

After Communism fell, states had to create liberal democracies from a legacy of autocracy. The absence of Communism did not mean that democratic transition would happen naturally. Many states did not have organized oppositions, and the vacuum that followed the party collapse allowed remnants of the Communist system to come to power. States making the transition to democracy fell into two categories, liberal and illiberal. The liberal pattern states, like Poland, usually had stronger economies which helped facilitate their transitions. Their democratic institutions operated as they should, the government encouraged privatization and a free market economy and their constitutions guaranteed free and fair elections, full democratic rights and recognized minorities. Illiberal regimes nominally transitioned to democracy, yet their institutions did not uphold liberal values. Election freedom varied from state to state, but generally the ruling party played a defining role in ensuring they

⁹⁰ Vachudova, Milada Anna 235

retained power. Especially in illiberal pattern states, a lack of an organized opposition to the communist party allowed the displaced regime to reclaim power in a new form and introduce change at its own pace. While the states' constitutions may nominally guarantee a full range of freedoms, the state did not grant them. Similarly, the generally poor economic conditions of these states led to states based on corrupt privatization efforts—because the same elites remained in power, the same people benefitted from privatization⁹¹. Governing elites corrupted privatization efforts as they used their power to hand out state property to economic cronies for a fraction of its worth⁹²; instead of a means to a market economy, privatization transferred positional benefits into monetary ones. As this process generates wealth for the elite, more people have an interest in maintaining the state's illiberal policies. In an effort to distract attention from corrupted economic liberalization, politicians in transition democracies often transfer blame to ethnic groups. History gives credence to assertions that the minority harbors a separatist agenda, allowing politicians to point to the emotionally charged past to validate its claims⁹³.

In the former Yugoslavia, the varying degrees of economic viability in each republic created the parameters for democratization, influencing the strategies of emerging political groups and the expectations of the masses at the time of the first multi-party elections⁹⁴. Although Croatia allowed regular and free elections and presented a face of democracy to the world, it was not a true liberal democratic state. In FRY the low levels of economic viability brought nationalist and populist political configurations to the fore and encouraged them to pursue illiberal solutions to socioeconomic decline. In Croatia, the more viable economy led to an atmosphere where liberal and illiberal groups competed for power. Both Tudjman and Milosevic headed illiberal regimes which used democratic means to gain and maintain power. In Croatia, the Tudjman regime made overtures of privatizing industry in order to comply with Western demands. However, the regime tightly controlled the organization in charge of privatization and chose party members to preside over the transition, but the nominees did little to restructure the firms for economic viability. The system generated a new class of regime-friendly entrepreneurs, typically members of the former Communist elite, with a vested interest in maintaining the system of semi-authoritarianism⁹⁵. In Serbia, corruption and criminality characterized the political regime. The Milosevic regime relied extensively on clientelism; the regime ensured that available resources went to regime insiders. This policy, similar to the policies under Tudjman, destabilized Serbia more than Croatia because of its weaker economy. The regimes' reliance on clientelism and other illiberal policies stemmed from the amount of organized opposition under communism. In Yugoslavia, apart from the central party, no party crossed the internal boundaries of the republics, and the deliberate decentralization of the government meant that any party opposition centered on the separate republics and nationalism⁹⁶. Even NGOs, trade unions and other civil associations, usually associated with healthy democracies, formed within republics, compounding the power of

⁹¹ Vachudova, Milada Anna 47

⁹² Vachudova, Milada Anna 48

⁹³ Vachudova, Milada Anna 54

⁹⁴ Boduszynski, Mieczyslaw 2

⁹⁵ Boduszynski, Mieczyslaw 110

⁹⁶ Brown, Michael Barratt 132

nationalism in political discourse, even following the dissolution of the state. The lack of any established opposition, in part, allowed Milosevic and Tudjman's regimes to stay in power while many other Eastern European nations established multi-party systems with competitive elections. In the 1990s, the presence of liberal and pro-Western parties in Croatia, although often weak and fragmented, helped keep the regime in check and served as a democratic alternative when the HDZ, Tudjman's party, collapsed at the end of the 1990s. Similarly, Serbia's absence of a unified opposition meant that subsequent elections featured illiberal parties competing for power.

The EU uses its system of passive and active leverage to combat the illiberal tendencies of former communist states like Serbia and Croatia. It hinges on the belief that the geopolitical, socio-cultural and economic benefits associated with membership outweigh fears of diminished national sovereignty and increased economic vulnerability. The desire to join creates a fundamentally asymmetrical relationship between the EU and its applicant states. Applicant states respond differently, mostly because the cost of fulfilling EU requirements varies by the character of the government. In many cases, leaders of illiberal democracies acknowledge EU membership as the chief foreign policy goal, but do not make implementing the domestic requirements of accession a top priority because it would weaken their power base⁹⁷. However, even illiberal states moved closer to accession because the electorate supported it and it offered immediate economic rewards. States within the European Free Trade Area (EFTA) but without EU membership had to accept a large portion of the *acquis communautaire*, prompting many states to join anyway. The prospect of membership multiplied the international effects of domestic policy decisions; without the prospect of losing candidacy, a government propped up by ethnic nationalism would at most compel the suspension of international aid and the withdrawal of some foreign investment⁹⁸. However, passive leverage alone did not compel change within illiberal states. Active leverage reinforces domestic change and elicits actual compliance with EU standards as candidates seek to qualify⁹⁹; moving through the pre-accession process toward membership lessens the likelihood that a state will regress¹⁰⁰.

The initial wavering of the EU and its lukewarm approach to the Eastern European enlargement made conditionality more powerful because it had not fully committed to enlargement as a principle. States must completely implement the *acquis communautaire* and resolve any issues resulting from adhering to the Copenhagen Criteria in order to join the EU. However, because the EU determines if a state makes satisfactory progress, it could theoretically postpone the accession of a state which had fulfilled all of its explicit requirements. The EU provides intermediate rewards during accession to ensure governments stay focused on domestic policy shifts but also analyzes progress annually and makes its reports public within the prospective state. Active leverage has a much weaker influence on illiberal states because rulers calculate that meeting explicit goals would negatively affect their electorate base. However, the EU offers a focal point for cooperation among opposing political parties, assists opposition elites in adopting a new economic and political agenda, and rewards

⁹⁷ Vachudova, Milada Anna 63

⁹⁸ Vachudova, Milada Anna 75

⁹⁹ Vachudova, Milada Anna 106

¹⁰⁰ Vachudova, Milada Anna 106

political parties that implement liberal policies. Also, the costs of halting the pre-accession process, once begun, motivate even illiberal parties to implement a pro-Europe political strategy. Once societies commit to reform and start instituting policies, the nature of society changes, encouraging elements which make regression to autocracy difficult. However, the importance of active leverage in the pre-accession process introduces the question of whether the domestic policies adopted and implemented as part of the negotiations on adopting the *acquis communautaire* represent deep and lasting changes within a nation's culture¹⁰¹. Once the EU accepts a state's application, it becomes a member state with full bargaining power within the EU although the EU retains a degree of leverage. States do not automatically join the Schengen area or the EMU and the European Commission retains some power to enforce the ongoing adoption of the *acquis communautaire*¹⁰².

The Western Balkan states, particularly Serbia and Croatia, face several obstacles in their quest to join the European Union. Since the last wave of Eastern European accession, European enlargement faces widespread fatigue and skepticism. While the lack of a coherent foreign policy prevented the EU from establishing a coherent enlargement project in the early 1990s, the EU pledged to use the prospect of membership to bring stability and democracy to the five states of the former Yugoslavia. The EU wants to succeed in the Balkans because of the high cost and instability associated with potential failure. Most EU member states consider accession the cornerstone of a successful stabilization policy in the Balkans¹⁰³; however, the legacy of conflict in the region means the EU will have to offer an unprecedented level of help and pursue its policy of active leverage in a less confrontational way¹⁰⁴. It cannot treat the Balkans as it treated the Eastern European states, it must offer intermediary rewards and access to the EU market in order to preserve the political viability of liberal political parties¹⁰⁵. The EU established the Stabilization and Association Process (SAP) in 1999, which allows more generous terms for aid. All five countries benefit from trade measures, and may sign a Stabilization and Association Agreement (SAA), which opens the EU market almost entirely to imports from associate members¹⁰⁶. However, the EU maintains its stringent application requirements and meritocratic approach in order to maintain its credibility. As a special requirement, the Western Balkan states cannot join the European Union without full and continuous cooperation with the International Criminal Tribunal for the Former Yugoslavia (ICTY).

Since the fall of Communism, the European Union has viewed the prospect of accession as its most viable foreign policy tool. Its successful expansions in 2004 and 2007 to include the former Eastern European states bolstered confidence in the process and reinforced the desirability of joining the union to the states remaining on the outside. The EU, while unable to solve the Balkan situation militarily in the 1990s, has extended the offer of potential membership in order to facilitate democratic transition in this historically unstable area. While it succeeded in the past, the EU now faces enlargement fatigue and structural problems.

¹⁰¹ Vachudova, Milada Anna 230

¹⁰² Vachudova, Milada Anna 239

¹⁰³ Vachudova, Milada Anna 250

¹⁰⁴ Vachudova, Milada Anna 250

¹⁰⁵ Vachudova, Milada Anna 251

¹⁰⁶ Vachudova, Milada Anna 252

Without institutional reform, many fear the EU may reach its absorption capacity where the institution stalls because it cannot make decisions. However, the EU has promised membership to any qualifying state and unilaterally believes this could solidify democratic transitions within the Balkan states, creating stability in a volatile region of Europe. In this context Croatia and Serbia pursue accession, but hampered by the character of their states and legacy of nationalism, as well as the obstacles endemic to the EU accession process itself.

Chapter Three

EU Foreign Policy: The Copenhagen Criteria and ICTY Compliance

In order to effectively shift from an economic union to an international political actor, the EU had to publish guidelines for accession. Following the EU's failure preventing and ending conflict in the Western Balkans its desire to influence the trajectory of the Central and Eastern European countries increased. However, the goal of shifting the political atmosphere across Eastern and Southern Europe by extending prospective EU membership conflicted with the potential implications of enlargement. The EU's accomplishments in the early nineties, namely the Single European Market (SEM) and the European Monetary Union (EMU), united the member states to an unprecedented degree, multiplying the potential effects of a large expansion. Accession, as a foreign policy tool, could help shape the political trajectories of foundering democracies, but the desire to use it clashed with the need to protect the EU's existing structure. The EU introduced membership conditions help protect the integrity of its structure and to measure the progress of candidates. As the number of member states increases, the capacity for effective decision-making diminishes. The difficulties faced by fifteen member states while ratifying treaties underscores the need for strict membership conditions. In 1993 not everyone believed membership would benefit both the EU and prospective members. The EU did not have a coherent expansion policy and, until the Copenhagen Criteria, harbored internal debate on whether to pursue a wider union rather than deepening institutions shared between existing member states. Prior to the disintegration of Communist Europe, the EU applied its membership requirements haphazardly. However, it could not afford to treat the CEEC nations the same way. Despite internal turmoil, political necessity led the EU to outline a guideline for accession. While the EU has clarified and expanded them since the early nineties, the Copenhagen Criteria remain the guiding principles for accession.

The 1993 European Council in Copenhagen used the principles underlying previous enlargements to inform its new standard for accession. Setting them in writing communicated the EU's intention to pursue enlargement and established clear conditions for interested countries. In 1992 the EU restated its basic conditions for membership—European Identity, democratic status, and respect for human rights¹⁰⁷. The next year, the European Council in Copenhagen confirmed the EU intended to enlarge; a position strengthened by the violence and instability in the former Yugoslav states. To combat the potential that this turmoil would spread to neighboring states Council said it would accept applications from any European nation and that membership hinged on the successful fulfillment of the Copenhagen criteria. This caveat meant countries would have to sustain a market economy, cope with European market forces and guarantee democracy, the rule of law, human rights and respect for, and protection of, minorities¹⁰⁸. Finally, the Criteria state that the country must have the ability to

¹⁰⁷ Smith, Karen E. "The Evolution and Application of EU Membership Conditionality". *The Enlargement of the European Union*. Ed. Marise Cremona. Oxford: Oxford University Press, 2003. 111

¹⁰⁸ Smith, Karen E. 113

assume the obligations of EU membership, including adhering to the goals of the economic and political union¹⁰⁹. This last condition means applicant states must implement the *acquis communautaire* fully before joining. The full body of European case law, the *acquis communautaire* consists of around 100,000 pages and 30,000 legal acts¹¹⁰. It includes all treaties, currently valid legislation, EU court verdicts, decisions made under the Common Foreign and Security Policy and Justice and Home Affairs, and soft law. Soft law includes treaty intentions and other, less explicit, measures commonly followed by member states. This third requirement forms the basis of accession negotiations. Because of the breadth and intricacy of the EU's case law, adopting the *acquis* demands applicant nations build the political and legal institutions necessary to uphold sophisticated case law. Because the case law originates from the interactions of fifteen evolved nations with firmly established democracies and market economies, upholding both the law and the intentions behind it requires an intricate network of strong democratic institutions.

In authoring the Copenhagen Criteria the EU had to ensure that accessing states would have consolidated democracies, meaning that it designed its conditions to ensure that the post-Communist states would not revert to authoritarianism. The legacy of fifty years of Communist rule presented broad challenges for the EU and the specific nations each presented particular challenges based on their own histories and experiences. A functioning democracy has five essential elements: civil society, political society, rule of law, the state apparatus and economic society. To have a consolidated democracy these five areas must all support liberal values. Civil society refers to non-state activity such as a religious presence or NGO activity, either domestic or international, in the state. States with a vibrant civil society during Communist rule allowed fewer opportunities for former regime insiders to capture the transition by transitioning to new positions of power under the new government. Similarly, political society measures the level of political opposition within a state and its ability to hold multi-party elections. States with established opposition parties prior to the fall of Communism had a greater likelihood of transitioning to a liberal democracy. A consolidated democracy cannot exist without an autonomous rule of law, so this analyzes a state's ability to make and uphold the law. Moving from an authoritarian system where state law does not constrain the elite to a system with a strong and impartial legal system presented problems for the new system. Unlike civil society and political opposition which may occur, albeit in a stunted form, under Communism, a strong legal tradition must develop after transition. The usability of the state apparatus also depends on the particular traditions of specific regimes. The blurring of the party and state under Communism increases the likelihood that its collapse will precipitate at least a partial collapse of the state. Economic society spans a wide range of criteria because modern market economies require advanced social, political and institutional framework. These did not exist under command systems, so its progress hinged on the transitional government's policies. Within Eastern Europe states followed diverse transition paths with varying degrees of liberalism. The EU meant for the Copenhagen Criteria to facilitate internal liberal reforms and promote regional stability through universally applied standards designed to bring the different states to the same level of democracy.

¹⁰⁹ Smith, Karen E. 113

¹¹⁰ "Acquis Communautaire" EUabc. <http://en.euabc.com/word/12>

The Criteria outlined the requirements for accession but left room for interpretation within the three widely defined areas. As a result, the EU has amended and clarified its position since 1993. Particularly, in its "Agenda 2000", produced in 1997, the institution took a firmer stance toward enlargement, claiming to solve European issues in newly efficient ways and allocating more resources toward applicant countries. The EU intended the agenda to ready the union, as well as the applicant states, for expansion. With this goal in mind, the agenda looked at the progress of thirteen potential member states, ranking their progress against the EU's expectations and each other. "Agenda 2000" scrutinized the applicant countries' progress and listed a variety of areas where candidates performed well or poorly. Each published 'opinion' evaluated the countries' readiness for membership against the criteria outlined in 1993¹¹¹. The Commission used the Agenda 2000 evaluations to recommend that accession negotiations begin with a select number of the CEEC nations whose progress set them apart from the other applicant nations. The Agenda spelled out the political and economic criteria in more detail and divided them into a number of indicators which later turned into subdivisions¹¹². This 'yardstick' then determined the amount of funds the EU would allocate each nation for further development. This cemented the EU's commitment to a merit-based accession process while helping to clarify the EU's specific expectations. These opinions also established the practice of evaluating the nations' progress toward completion of the set of conditions which have become the 'chapters' of accession. The Commission now reports on all candidate nations annually; the public evaluations help diminish the appearance of bias in the accession process and hold governments, particularly in illiberal pattern states, to a higher degree of accountability.

On the basis of the Council's recommendations the EU initiated a more coherent and inclusive pre-accession strategy which any state, regardless of the status of their negotiations with the EU, could hope to join¹¹³. This pre-accession strategy, designed to prepare all candidates for membership, drives accession. Establishing this process clarifies the EU's expectations during the accession process for nations which at this point had not opened negotiations. The 1993 Criteria established the three areas which must align with EU standards, but failed to outline specific areas to focus on within them, leaving the EU open to allegations of ambiguity and subjectivity in a supposedly objective process. The published opinions from "Agenda 2000" allow greater insight into what the Commission considers the essential components of a fully functioning democracy. It elaborates on the criteria by saying the constitution must guarantee democratic freedoms, political pluralism, freedom of expression and freedom of religion, that the nation must have independent judicial and constitutional authorities, stable democratic institutions permitting public authorities to function and, among other criteria, free and fair elections which recognize the role of the opposition¹¹⁴. Agenda 2000 also establishes four criteria on which the EU will assess the implementation of the *acquis*. The countries must meet the obligations set out in the Europe Agreements, implement the

¹¹¹"Europe's Agenda 2000: Strengthening and Widening". The European Commission, 1999.
http://ec.europa.eu/agenda2000/public_en.pdf 16

¹¹² Hillion, Christophe. "The Copenhagen Criteria and Their Progeny". *EU Enlargement: A Legal Approach*. Ed. Christophe Hillion. Oxford: Hart, 2004. 11

¹¹³ "Europe's Agenda 2000: Strengthening and Widening" 16

¹¹⁴ Smith, Karen E. 116

legislature associated with the single-market white paper published in 1995, support the demands of the EMU, and comply with the budgetary conditions imposed by the Stability and Growth Pact¹¹⁵.

On top of the rigorous obligations of the pre-accession process, membership demands themselves have changed. The Copenhagen Criteria have evolved over the past eighteen years¹¹⁶. The growth of the EU's legislative body partially explains the continuous escalation of accession conditions, but their mutability also stems from the adoption of Copenhagen Criteria by the European Council and Commission¹¹⁷. Once the Criteria existed, the EU institutions could alter them. Beginning with "Agenda 2000", candidate countries had to fulfill the political conditions and prove readiness to comply with the economic stipulations in order to merit opening negotiations; this assessment formed the basis of the decision to allow five CEEC countries to begin negotiations before the others. Essentially, Agenda 2000 created the inclusive idea that a nation could be eligible for accession without having opened negotiations. The remaining candidates may not have proved admissibility under the standards of the Copenhagen Criteria but continued to have the eventual promise of membership.

The Copenhagen criteria not only set the guidelines for membership but provided, for the first time, written confirmation that the CEEC countries would eventually join, provided they satisfied the requirements. The EU later reiterated its promise to allow any qualified nation to accede. Despite these affirmations, the future of the Western Balkans remained uncertain through the nineties. But, in the midst of the Kosovo crisis in 1999, the German presidency proposed a Stability Pact for South-eastern Europe which held out the prospect of accession and committed the EU to promising eventual accession for these unstable nations¹¹⁸. Due to the large number of obstacles facing the Western Balkan accession, the European Union needed to change its tactics to more emphatically support regional democracy. While the promise of the Copenhagen Criteria reaffirmed that any European state could apply for membership, the distant prospect of membership to the Western Balkan states did not compel immediate change, and the logic behind qualifying to apply did not resonate with the non-democratic forces in power in Serbia and Croatia¹¹⁹. Beginning in 1993, the EU applied the criteria for membership more stringently. Certain conditions, imposed to promote stability in the face of a potentially tumultuous accession of a record number of countries, made the preparations for joining the union much more stringent. Previously, the EU had allowed applicant nations to fully implement the *acquis* after joining; however, in the Big Bang expansion nations had to adopt the full body before they closed negotiations. The EU no longer permitted countries to opt out of treaty provisions, which it intended to help expedite policy-making and establish greater cohesiveness across the continent. This makes accession more difficult particularly because of the large body of legislation associated with the SEM and EMU. Applying particularly to the Western Balkan nations, the EU added a new membership

¹¹⁵ "Copenhagen Criteria" Country Profile. European Union; 2007, p11-11, 1/2p Copenhagen criteria.. 11

¹¹⁶ Hillion, Christophe 16

¹¹⁷ Hillion, Christophe 17

¹¹⁸ Smith, Karen E. 136

¹¹⁹ Smith, Karen E. 143

condition the same year they promised eventual accession to those states. In 1999 the Helsinki European Council added a 'good neighbor' criterion to the list of requirements of membership¹²⁰. The EU rationalized that states with bad border relations would import their conflicts into the EU, leading to messy internal conflicts. The EU, historically, has had limited success resolving international conflicts diplomatically and this clause allows it to exclude countries whose volatile international relations would complicate border relations and potentially lead to regional conflicts. While Cyprus' relationship with Turkey, a candidate nation, and inclusion in the Union proves that the EU enforces this clause with varying degrees of stringency, the EU has reiterated firmly that it will hold the Western Balkan states to this obligation. It corresponds to the similar obligations of compliance with the International Criminal Court for Yugoslavia. While the EU wants to make up for its acknowledged failure in combating aggression in the area in the 1990s, it will not allow the states to accede without assurance that they have made strides in admitting their culpability in the Yugoslav wars of the 1990s and resolving residual conflicts.

The events of the 1990s which turned accession into a foreign policy tool took Europe by surprise. Member states did not sign the Maastricht Treaty until 1993, well into the conflict in Croatia. When communism fell, the European Union had not transitioned into a multi-faceted power and still drew its strength from its economic policies and institutions. The conflict in the Western Balkans stimulated discussion on the relevancy of established military alliances and organizations, and the role of military power within a supranational institution. The end of the Cold War rendered the stated purpose of international organizations such as NATO void, and over the following decade, these international security institutions struggled to re-organize in a new political context. NATO forces started to focus on reconfiguring security patterns and its future role on the global stage while, following the Maastricht Treaty, the EU explored the idea of expanding its political and diplomatic roles. However, the Maastricht's three pillar system classified foreign policy and military action as intergovernmental policies, meaning the EU had to rely on member states' individual contributions to any military effort and could not fully commit itself to military intervention. It follows that the international response to war in Yugoslavia, especially from within Europe, heavily favored mediation or negotiation over military action; the EU subsequently adopted policies of mediation between local groups¹²¹. The international community founded its response to the Balkan Conflict on the idea that war in the Balkans, like during World War II, would come with high costs¹²². It also lent credence to widespread misunderstandings over the ethnic roots of the conflict and its incredible complexity, which convinced many of the impossibility of effective military intervention¹²³. However, a slew of journalist publications and reports from international organizations on the conflict made indifference and inaction impossible. In 1993 the United Nations convened a commission to investigate the situation, unanimously agreeing to form the

¹²⁰ Hillion, Christophe 17

¹²¹ Allcock, John B. "The International Criminal Tribunal for the Former Yugoslavia (ICTY)". *Confronting the Yugoslav Controversies, a Scholars' Initiative*. Eds. Charles Ingrao & Thomas A. Emmert. West Lafayette: Purdue University Press, 2009. 354

¹²² Allcock, John B. 354

¹²³ Allcock, John B. 355

ICTY¹²⁴. Donations to a voluntary trust supported the court, creating an unsteady flow of funding. However, once the Commission voted to form an international court, the UN disbanded its efforts and its investigation ended. The UN reasoned that the ICTY would take the place of the investigation by punishing those responsible, but the premature end of the investigation prevented the Yugoslav government from formally presenting its own evidence¹²⁵. Lacking arguments from the Serbian side, the nationalist government under Milosevic could illegitimate the final product to its people and justify its lack of cooperation with the ICTY. Later, this lent credence to the idea that the international community designed the ICTY as an instrument to punish the Serbs¹²⁶. In both Croatia and Serbia, compliance with the ICTY hampered their initial progress toward EU accession. ICTY demands clashed with the Croatian and Serbian narratives of homeland wars; the tribunal prosecuted their 'war heroes', which helped turn popular support against the idea of the ICTY. Furthermore, the tribunal's emphasis on command responsibility meant that it could potentially prosecute at the highest levels, segments of government which not enjoyed popular support, but remained in power. The nationalist governments in the 1990s saw no reason to shift their policies to align with international standards. EU membership remained too distant to incentivize real policy change. Its remoteness allowed politicians to make overtures toward qualification while simultaneously pursuing illiberal policies. Only with sustained international pressure did these countries eventually make internal policy changes to support cooperation with the tribunal. This changed in 1999 with the EU's promise of eventual membership, additional funding and the political shifts in both Serbia and Croatia. However, the Western Balkans' accession process continues to involve both familiar and unique obstacles for the EU.

The Copenhagen Criteria exists to combat general problems arising from transition without specifically addressing issues which would produce illiberal transitions. In states without an established opposition, the Communist party could redefine itself as a liberal democratic party allowing old party elites to capture and benefit from reform. Organized crime and corruption caused real problems for new democracies, impeding their path toward democracy. Yet while these arose from the complications of a Communist legacy, other issues reemerged with resurging nationalist fervor following the collapse of Communism. Historical conflicts and nationalist tendencies defined the transitions of CEEC nations and led to conflicts of varying severity between ethnic groups, creating important precedents for dealing with one of the most contentious aspects of accession for the Western Balkan states.

Unlike the Serbian and Croatian transfers of power, Hungary transitioned to democracy with pre-existing democratic opposition and civil society. Because opposing parties already existed and no sitting elected president could preempt structural decisions, Western models largely informed the debate about possible governing structures. Hungary also had pre-existing infrastructure to support a market economy. Judging by the five criteria for a consolidated democracy, it should have rivaled the Polish transition in seamlessness. However, latent Hungarian nationalism reemerged to complicate domestic policy. Once communism fell, as in many parts of Eastern Europe, ethnic groups reasserted their traditional claims to land, peoples

¹²⁴ Allcock, John B. 359

¹²⁵ Allcock, John B. 359

¹²⁶ Allcock, John B. 359

and self-determinism. In 1920 Hungary had lost two-thirds of its former territory, three-fifths of its pre-war population and one-third of its Hungarian-speaking population¹²⁷. Since that time the Hungarian nationalist rhetoric had called for upholding the rights of Hungarians living under nationalist governments in Romania, Slovakia and Serbian Vojvodina. After transition, a radical political opposition used this emotional plea to delegitimize the new political system because it did not protect the rights of all Hungarians. Some of the largest political struggles in post-Communist Hungary centered on this issue. The issue remained contentious enough in Hungarian society that radical parties could build support for extremist views; however, a combination of the wars in Croatia and Bosnia, EU pressure on minority rights, and an already established political system meant that extreme nationalists did not have as large of a base of support as they might have had the nation not had a relatively liberal experience under communist rule. The strength of other aspects of the state meant that the government could control the impact of extreme rhetoric during the 1990s, minimizing its influence on the Hungarian people. However, the issue continues to underlie domestic politics.

Latvia's transition gives another example of minority issues complicating post-Communist rule. Latvian nationalists promoted discrimination, xenophobia and intolerance against the Russian minority, yet the Russian minority acted the same way toward the Latvian majority. For most ethnic groups in Eastern Europe, nationalism and ethnicity form inextricable bonds together with the idea of statehood. Therefore, the differences in nationalist activity and influence stem from different ideas of what constitutes a nation. Latvian accession offers a case study of ethnic relations in another accessing state, and how the EU influenced it. Over the past two centuries, Latvian nationalism has defined relations with Russia. In the 19th century Latvian nationalists responded to Russian censorship and forced religious conversions with a cultural campaign designed to maintain the integrity of the Latvian identity which later created a drive for national autonomy. However, when the state achieved independence following the dissolution of the USSR its boundaries included a large ethnic Russian minority population, which precludes a purely Latvian state. Ever since, ethnic nationalism manifested in the contest between the pro-Latvian and pro-Russian parties dominated political rhetoric. To both parties the state remained the vehicle to preserve and forward the goals of their respective ethnic groups. Latvia joined the EU in the big bang accession of 2004, yet in 2006 its political parties still aligned with either the Latvian or Russian populations. The pro-Latvian party sees citizenship as a contract between the Latvian identity and the individual and insists on a platform of policies designed to subjugate ethnic Russians, while the Russian party advocates equally polarizing policies. However, recently increased support for a statist party signals a shift away from polarization.

A majority of Latvia's population supported entry into the EU in the early 1990s and considered it integral to Latvia's success as a sovereign state. Once Latvia joined the EU, the goal of the state shifted to benefit from membership as much as possible. The Latvian state, as a member, now must advance its own interests against twenty-six other entities, represent and defend the interests of its people in relation to EU policy. It must also redistribute the EU's financial support and fulfill its obligations and responsibilities toward the EU. This seems to

¹²⁷ Linz, Juan J. & Alfred Stepan. *Problems of Democratic Transition and Consolidation: Southern Europe, South America and Post-Communist Europe*. Baltimore: The Johns Hopkins University Press, 1996. 315

point to EU membership having a moderating effect on polarizing nationalism; as the importance of a strong state increases with membership, emphasis on nationalism necessarily decreases. Contrary to beliefs leading up to accession, joining the EU has not spurred an ethnic separatist backlash; while nationalism has not diminished, it now emphasizes nationalism based on the state rather than exclusive ethnic identities. The EU's successes with CEEC nations and their continued progress toward respecting minority rights after accession points to the possibility that EU demands may significantly alter the Serbian and Croatian states, in spite of their violent transition.

Accession for Croatia and Serbia, as well as other Western Balkan states, depends on their demonstrated commitment to the principles outlined in the Copenhagen Criteria as well as their absolute cooperation with the demands of the ICTY. However, apart from the obvious demands of compliance, difficult for all transitioning states, these states bring additional challenges. Initially, the EU's emphasis on cooperation with the ICTY made membership impossible. During the nineties, Serbian and Croatian nationalist rhetoric justified the wars by appealing to their populations' ethnic identity. Following this reasoning, compliance with the ICTY would mean turning national heroes over to an outsider for prosecution; however, in this national rhetoric, these men merely defended the integrity of their ethnicity. Serbs charged the ICTY with partiality, anti-Serb bias and politicization¹²⁸. The governments responsible for the conflicts of this decade used these charges to breed mistrust about the court's judgments. While to most Western observers, the ICTY operates normally within the parameters of the international community, the traditional Western belief in judicial impartiality differs from the attitude toward the legal system in the Western Balkans. Furthermore, both regimes made a concerted effort to delegitimize the ICTY; in Serbia, the population had little immediate contact with the wars, and so the Milosevic government could manipulate its perception of both the war and international responses to it. In Croatia, resistance focused on defending the regime. In any case the resistance to the ICTY which characterized relations during the 1990s did not disappear with the regime shifts in the early twenty-first century. Especially in Serbia skepticism toward the ICTY remained intact despite deposing Milosevic in 2000. The new economic bosses remained close to the old political elite. Furthermore, the new government inherited an assembly dominated by Milosevic's party, an unchanged military leadership, and entrenched social stratum occupying the top echelons of the economy, administration, judiciary and media¹²⁹. However, resistance to the international court did not stem only from manipulation by entrenched elites. Rather, the Serbs did not see Europe as integral to their identity, unlike Croats, whose national myth and religion allowed more ready acceptance of Western institutions. Furthermore the ICTY indictment of Milosevic took precedence over the Serbian indictments on charges related to economic misdemeanors; the Serbian population revolted when the ICTY extradited him before he could atone for them. To Serbs, the economic hardships they suffered under his rule had more importance than punishment for failing to live up to what they saw as a more abstract ideal¹³⁰. Only the insistence that accession hinges on ICTY compliance has changed the official policy line.

¹²⁸ Allcock, John B. 347

¹²⁹ Allcock, John B. 372

¹³⁰ Allcock, John B. 374

Even with increased compliance with the courts, the Western Balkans will face special difficulties satisfying the Copenhagen Criteria. The criteria demand that the states dramatically change their government; apart from merely implementing the body of legislation, states must build institutions capable of supporting the legislation. This, in turn, necessitates strengthening the quality of democracy within the state. For states that had nationalistic authoritarian regimes until a decade ago, rooting out corruption and disenfranchising the old elite will not happen immediately. Moreover, the new democracies must discredit the regimes which perpetuated ethnic violence, no easy task as both Tadjman and Milosevic created myths intertwining the nationalist goal with ethnic identity. These same nationalist myths incited and perpetuated the normalcy of ethnic violence, another integral criteria in the accession process. Interestingly, one that the member states themselves have no existing criteria on. This leads to another issue. In this era of enlargement fatigue within the EU, and facing complex accessions such as the Western Balkans, it stands to reason that these states may remain in the queue for some time. This then leads to the question of whether the stringent conditions applicant countries are subjected to, combined with the appearance of stalled negotiations, may create resentment in the populations and turn the sentiment against the EU. The EU, in turn, must decide which could cause the greatest amount of damage, a quick accession of potentially unready states, or a slow accession, which may potentially damage the quality of democracy or lead to resurgent nationalism or toward a more Eastern orientation. While all signs point to the accession process having benefitted the CEEC countries, the question of whether fulfilling the Copenhagen Criteria, particularly in the Western Balkan states, will create lasting change, remains.

Chapter Four

The Legacy of Homeland War Rhetoric in the Croatian Accession Process

In the past decade Croatia moved quickly through the accession process. Its national myth defined the Croat identity in terms of its relationship to the West, setting it apart from other regional ethnic groups, and justifying its actions in the 1990s. The government, even under Tudjman, had to at least pretend to comply with regulations from the West. The wars in Yugoslavia had widespread political implications both domestically and internationally. Because the conflict stemmed from competing nationalist desires for statehood, both Serbia and Croatia tried to win support from the international community. The legitimacy of the end goal for both ethnic groups—sovereignty, depended on the approval of the West. The West chose to support Croatia over Serbia initially, identifying with its European orientation and more subtle strain of virulent ethnic nationalism. The West broke relations with the state when its true intentions grew more transparent. This isolation from the international community and the economic problems it caused helped ultimately turn public support against the Tudjman regime. Croatia could not turn away from the international community as Serbia could, because it needed its acceptance for self-validation. However, this did not mean that the nationalism which led to the conflicts in the 1990s dissipated. Political leadership integrated the Homeland Wars into Croatia's nationalist myth, characterizing it as a fight for their identity and to right historic wrongs. The men who fought in the wars assumed the role of national heroes, but the ICTY demands that Croatia transfer these men to stand trial for war crimes. Croatia's pursuit of its state resulted in war crimes, ethnic cleansing and population transfers, all practices decried by the international community. The EU conditioned membership with ICTY compliance, but in order to comply with the tribunal Croatia had to confront its nationalist myth directly. ICTY compliance chafes against the essence of their nationalist goal. In their myth, the Homeland Wars epitomized the goals and values of their ethnic group and so politicians have to approach compliance delicately. The Croat people accept the nationalist myth as much as the state leaders, giving the government little incentive change. In Croatia's case, the government faced widespread criticism for some aspects of ICTY compliance, but the widespread acceptance of Europe as an integral part of the national identity allowed it leniency that the Serbian government did not have. However, Tudjman and the HDZ left a complicated legacy for the next coalition government. Their rhetorical emphasis around the homeland war shaped the war the Croatian people viewed the world and, it follows, defined how politicians could act.

Tudjman built the myth of the homeland war into the larger nationalist myth as a way to validate his policies, melding Croatian identity with the state's actions in the 1990s. Even after Tudjman died, politicians espoused this myth, knowing it would solidify their electoral base. However, the successor coalition faced an additional obstacle because it had to comply with the ICTY, whose demands required it arrest the men their national myth called defenders of the state. The Social Democratic Party (SDP) took power from the HDZ in 2000 and attempted to move the country toward Europe. At the same time the ICTY indicted three Croatian generals for allegedly committing war crimes. To turn public opinion against the new government and

regain power the HDZ equated these indictments to attacks on the dignity and legitimacy of the Homeland War, and therefore, as attacks on the essence of Croatian independence¹³¹. This rhetoric worked and public outrage led the SDP government to adopt nationalist rhetoric, openly criticize ICTY actions and cease its initial efforts at compliance. They saw the HDZ'S protests of the ICTY as proof the party would defend the legitimacy of their independence and national identity, which helped the party recover the support it had lost in the previous elections¹³².

Within the party, conflict between a moderate and extreme faction determined the HDZ's direction after regaining power. Ivo Sanader, a party member through the 1990s, emerged as the party leader in 2000, but his position remained tenuous from extremist challenges. While he emphasized more moderate policies, he appealed to nationalist sentiment to consolidate his position within the party. In particular, he reverted to Tadjman's 'homeland wars' rhetoric which labeled the Croat soldiers indicted for war crimes as heroes and defenders of the state. Until solidifying hold of the party leadership position he had to appeal to both factions within the party. He could only afford to break with the radical segment of the party after he consolidated power and gained more widespread support. Approaching the 2003 election the HDZ rhetoric suggested to many international observers that the government would revert to pursuing illiberal policies¹³³. However, once in power, the party did the opposite, orienting itself toward Europe and pursuing institutional reforms in line with EU membership requirements. This political shift made the most difference in changing Croatia's direction. The HDZ had the strongest emphasis on extreme nationalism through the 1990s, and its moderation under Sanader's leadership eliminated a great deal of the extremist presence in political institutions. After the 2003 election the HDZ eliminated its rhetoric targeting the ICTY's mission and reformed its foreign policy to align with Western goals. To form the ruling coalition the HDZ joined a number of smaller parties and representatives of national minorities, including the main party of Croatian Serbs, the Independent Democratic Serb Party (SDSS). While formed from political necessity, the example of political cooperation between Serbs and Croats in the upper levels of government helped ease tensions between the two ethnic groups¹³⁴. This gradual movement toward a moderate government allowed Croatia to move closer to EU membership.

The EU responded to this shift in political direction enthusiastically, acting swiftly to reward this movement toward democracy. The Tadjman regime's illiberal policies strained the relationship between the EU and Croatia until talks effectively ceases following the Croat military action and Dayton Accords. The EU reopened negotiations in 2000, only to close them when the new ruling coalition hesitated to comply with the ICTY. But, the marginalization of

¹³¹ Jovic, Dejan. "Croatia after Tadjman: The ICTY and Issues of Transitional Justice". *War Crimes, Conditionality and EU Integration in the Western Balkans*. Eds. Judy Batt & Jelena Obradovic-Wochnik. European Union Institute for Security Studies. Chaillot Paper No. 116. June 2009. 14

¹³² Jovic, Dejan 14

¹³³ Jovic, Dejan 15

¹³⁴ Jovic, Dejan 16

extremism under Sanader removed the largest obstacle to compliance¹³⁵. Once politicians determined that EU membership led their agenda, the international community gained traction in their demands for democratic consolidation and the EU's demonstrated willingness to freeze negotiations incentivized ICTY compliance. With EU conditionality ensuring state cooperation, ICTY indictments removed many of those who had benefitted under Tudjman, and therefore had an interest in maintaining the illiberal direction of the state. Because the ICTY uses a top-down approach to charge war criminals, indicting leaders rather than the lower level criminals, extradition to the ICTY removed some of the largest proponents of ethnic nationalism, leading to an increasingly moderate government. However, like many other post-Communist states, the new democracy does not exclude nationalism. Croatian nationalism in all its forms centered on achieving a Croat state, and the movement toward the EU came, partially, from recognition that membership would validate its sovereignty. Although the international community recognized Croatia in 1992 the government remained subject to observation and inspections. International missions remained on Croatian soil and ICTY demands took precedent over the Croatian court system. From a nationalist viewpoint, EU membership would place Croatia on the same level as the other CEEC nations, finally cementing their independence and national identity and restoring national autonomy.

The continued emphasis on nationalism led to obstacles pursuing indictments for the ICTY, a necessary condition of EU membership. The ICTY does not have the institutional capacity to implement policy and depends on the nation states' cooperation to make change. Without cooperation from the government the ICTY could not successfully pursue charges against Croat criminals in the conflicts of the 1990s. But, without strict conditionality from the EU, the Croatian government may not have pursued these arrests. The developments around the ICTY indictment of Janko Bobetko exemplify this relationship¹³⁶. Bobetko served the Croatian army as a general and the Chief of General Staff, and continued to hold prominent positions in the government until the ICTY indicted him in 2002 as a commanding officer. He refused to surrender to the court because he said it would delegitimize the entire Croatian military operation, an opinion shared by many of the Croatian people. The Croatian government declined to arrest and extradite him, leading to a standstill in the case. The ICTY cannot enforce its indictments, so the EU applies pressure in order to ensure compliance. The EU froze negotiations despite signing the SAA agreement, signaling its commitment to absolute ICTY compliance. Bobetko died, resolving this conflict, but negotiations with the EU only resumed after the state extradited Ante Gotovina to the ICTY¹³⁷. A decade after the transition, Croatia still hesitates to comply with the ICTY when its requests clash with the homeland war myth. However, mandated compliance ensures that Croatia cooperates, regardless of whether it wants to.

ICTY indictments target the ideas most central to the Croatian national identity, and the population finds it hard to accept that the world labels their heroes as criminals. Homeland War rhetoric hinders cooperation with the ICTY because of its singularity; in the 1990s the regime

¹³⁵ Hartmann, Florence. "The ICTY and EU Conditionality". War Crimes, Conditionality and EU Integration in the Western Balkans. Eds. Judy Batt & Jelena Obradovic-Wochnik. European Union Institute for Security Studies. Chaillot Paper No. 116. June 2009. 69

¹³⁶ Hartmann, Florence 69

¹³⁷ Hartmann, Florence 69

labeled Croatian participation in the war as just, defensive and cast themselves in the dual role of victim and victor. In prosecuting Croats in war crimes cases the ICTY uses the term “joint criminal act”, putting the blame on the former Croatian leadership for ethnic cleansing of the Serb population¹³⁸. While the state officially cooperates with the tribunal, the public asserts that it exhibits an anti-Croat bias by Croats and Serbs equally, when in their view, Serbs committed the vast majority of the crimes. Despite the ICTY and international condemnation of war crimes on all fronts, Croats see their actions as defensive, and therefore completely justifiable. It follows that they see ICTY indictments of Croats as an international attempt to distribute blame across the Western Balkans rather than as justice for the victims of these crimes. Moreover, Croatia’s increased cooperation with the ICTY does not translate to belief in its mission. The state did not punish high ranking officials accused of war crimes internally, continuing to treat them as defenders of the homeland¹³⁹. Indicative of the dual messages on war crimes coming from the government, the Croatian Parliament issued a special declaration telling its courts to process all possible instances of individual crimes committed during war. However, it reaffirmed the legitimacy of Croatian actions during the Balkan Wars in the same document. Additionally, Article 5 of the Declaration invited the state to fully protect and respect the defenders¹⁴⁰. In fact, the state contributes to funding and building a case for those on trial¹⁴¹. This division between rhetoric and intent deters prosecution within the state, a problem for accession. However, recent exposure of some of the illegal and immoral acts of these national heroes has tarnished the lingering characterization of the war and its soldiers, to the benefit of domestic war crimes prosecution¹⁴². The current differences between ordinary soldiers, many conscripted by the State, and members of the Croatian armed services who did not fight but reaped social and pecuniary benefits for their positions also help redirect public sentiment in favor of the ICTY. However, with its projected admission date only a few years away and problems remaining in Croatia, the EU needs to maintain pressure to ensure continued progress toward democratic transition. The Croatian people still have not seriously challenged the Homeland War myth, leading to slow progress in many areas of transitional justice, and to the question of whether the EU can continue to shape internal change after closing negotiations with Croatia.

Outside of ICTY compliance, Croatia has to adapt its government and state institutions to reflect democratic values before it may join the EU. The government institutions under Communism and Tudjman existed to support the aims of the state, which did not always translate to pursuing a liberal government system. The EU developed the Copenhagen Criteria to combat this institutional backwardness as the CEEC nations started the process. The Criteria

¹³⁸ Doric, Petar “Croatia”. Nations in Transit 2010: Democratization from Central Europe to Eurasia. Freedom House, June 29, 2010. Pp. 160-175. <http://freedomhouse.eu/images/Reports/NIT-2010-Croatia-final-final.pdf> 163. Freedom House, an independent watchdog organization, releases an annual survey publication called Nations in Transit (NIT) which looks at the democratic development in 29 countries from Central Europe and Eurasia. The 2010 report uses policies and events from 2009 to found their conclusions. The country reports follow an essay form which allows them broad analysis of the democratic change in their country of expertise.

¹³⁹ Jovic, Dejan 25

¹⁴⁰ Jovic, Dejan 20

¹⁴¹ Jovic, Dejan 25

¹⁴² Jovic, Dejan 20

mandates change in key sectors of the government to ensure that the applicant country can work effectively with other states. The European Commission releases an annual progress report for each state detailing its progress in each area of the accession process. It describes the states' relations with the EU as well as developments in each accession chapter. It also addresses compliance with the ICTY and other issues like regional cooperation which would determine eventual accession. The Commission uses these to hold governments accountable to their people and to create a tangible benchmark of progress¹⁴³. Croatia continues to fall short of EU standards in several key areas, particularly in rule of law, in part because of the way its domestic courts prosecute war crimes. The accession chapters on 'judiciary and fundamental rights', and 'justice, freedom and security' remain open as the state works on reforming the judiciary. Under Tudjman's rule, the country experienced a turnover of judges and prosecutor office personnel, as the regime fired professionals who had served during the Soviet era and replaced them with candidates based on mostly political recommendations. The personnel changes, combined with the wars and privatizations, built a judicial framework intended to keep the Tudjman regime in power¹⁴⁴. After the democratic transition, changes to the state infrastructure did not impact the courts significantly. Reforms to this sector only started after Croatia opened negotiations with the EU¹⁴⁵. Since then, Parliament passed a package of legislation designed to strengthen judicial independence, although its effects remain uncertain. It removes the power of appointment from the Ministry of Justice and introduces new procedures for selecting judges and prosecutors, but the system remains untested. The 2010 EU Progress Report¹⁴⁶ on Croatia credits the judiciary with reducing case backlog, although it has been reduced unevenly across the courts and remains high overall. It also cites the underdevelopment of court infrastructure and equipment, including systems of case management, as particular impediments to judicial efficiency. However, beyond problems with the judicial structure, independence and efficiency, all of which the recent reforms try to fix, the case backlog, particularly of war crimes trials, presents a particular challenge for the Croatian government.

The ICTY emphasis on command responsibility leaves lesser criminals to their own judicial systems. While both the EU and NGOs have noted recent improvements in the Croatian judiciary, trials *in absentia* remain high, victims receive insufficient support, and jurisprudence related to pre-trial detention and insufficiently precise indictments cripple the integrity of the judicial system in the eyes of several NGOs focused on issues of justice¹⁴⁷. Since the end of the wars, Croatian courts indict and sentence ethnic Serbs for war crimes far more often than ethnic Croats, holding many of the trials *in absentia*. The state brought most of the charges against ethnic Serbs who had fought with the JNA or in opposition to the Croatian government.

¹⁴³ "Croatia 2010 Progress Report". European Commission. SEC (2010) 1326. Brussels, 09 November 2010. http://www.mvpei.hr/custompages/static/hrv/files/101110_lzvijesce_o_napretku_HR_za_2010.pdf. The information in this report informs the remainder of the chapter.

¹⁴⁴ Doric, Petar 172

¹⁴⁵ Doric, Petar 173

¹⁴⁶ "Croatia 2010 Progress Report" 48

¹⁴⁷ Dimitrijevic, Vojin. "Domestic War Crimes Trials in Serbia, Bosnia-Herzegovina and Croatia". *War Crimes, Conditionality and EU Integration in the Western Balkans*. Eds. Judy Batt & Jelena Obradovic-Wochnik. European Union Institute for Security Studies. Chaillot Paper No. 116. June 2009. 94

Despite documented crimes implicating members of the Croatian armed services, the state prosecuted few. From 1991-2005 the state investigated 4,814 people on charges related to the conflicts of the early 1990s. It indicted 1,428, sentencing 611 people and acquitting 245; however, of those 611, only twelve fought with the Croatian armed services and the court prosecuted many *in absentia*, compromising the defendants' ability for defense¹⁴⁸. These verdicts pose particular problems for the integrity of the Croatian judiciary. Those sentenced *in absentia* have the right of a retrial, which have revealed many errors, particularly on the part of the state. Dimitrijevic continues to note that the Croatian judiciary, following EU mandates, continues to examine potentially questionable verdicts from the past decade to ensure all citizens receive just treatment. Croatia also took steps to protect witnesses in war crimes trials and remedy the misapplication of the amnesty law which the courts used to protect Croat war crimes suspects from the 1990s. However, impunity for war crimes remains an issue. Croatian courts continue to indict ethnic Serbs rather than ethnic Croats, especially in cases where a member of the Croatian security forces committed the crime or in crimes which targeted ethnic Serbs. Despite recent actions from prosecutors and the police, the 2010 Progress Report asserts that hundreds of cases remain queued for investigation and prosecution. It also maintains that problems persist in certain areas and notes a widespread underutilization of specialized war crimes courts. Another issue impeding domestic prosecution comes from the prevalence of dual citizenship. Although increasing regional cooperation has started to reduce this problem, indicted criminals could escape over the border and avoid arrest. An amendment to the Agreement on Mutual Enforcement of Sentences between the Croatian government and Bosnia and Herzegovina makes it significantly easier to convict criminals by removing the requirement that the defendant must agree to have their sentence executed in another country. Croatia also signed extradition agreements with Montenegro and Serbia to allow extradition of citizens indicted for certain serious crimes. While this does not specifically apply to war crimes, it represents a positive first step in regional cooperation and points to the possibility that more significant cooperation may happen later.

Even in cases where prosecution tries a case local courts have trouble convicting defendants, partly because many of the people responsible for crimes in the 1990s hold positions of power either locally or nationally. Because of the continued emphasis on these wars and their participants as defenders of the Croat identity, witnesses risk violence and persecution from both the defendant and the general population. Additionally, the prevalence of organized crime connections with members of the former regime deters most civilians from testifying. When courts do convict on war crimes charges, the convicted have lighter sentences than those convicted for the equivalent crime not classified as a war crime. The nation has insufficient legal representation for victims and lacks pressure to address the crimes committed against Croatian Serbs. In part, this stems from their underrepresentation among the population. Because of their absence from the population, the government does not face internal pressure to address the crimes committed against them. This failure of addressing crimes committed against ethnic Serbs in Croatia extends to other areas of transitional justice. A number of issues now arise due to the exodus of so many people after government persecution in 1995. Recently, the SDSS returned many of these issues to the Parliamentary

¹⁴⁸ Dimitrijevic, Vojin 92

agenda, particularly restoring property rights for Serbs who fled during the 1990s¹⁴⁹. While the Croatian state funds property restitution for anything destroyed during the wars, regardless of ownership, it has not restored property rights to people who lost tenancy rights in court proceedings. Because the state owned these properties the Croatian courts could void peoples' tenancy after extended absences¹⁵⁰. During the war this primarily affected the ethnic Serbs forced to flee their homes. The gap in the progress made toward ICTY compliance and the progress toward domestic justice hints at future problems in the legal atmosphere within the nation. Croatia will access within the next several years, meaning the EU will not have same level of pressure on the state. Once Croatia joins the EU, its main foreign policy goal, it may slow down reforms of various domestic policies, including in the area of transitional justice, a sensitive area due to the continued influence of nationalism and national myth in political rhetoric.

The legacy of an entitled class under communism and its continued influence in the state creates problems for efficiency and good governance. The privileges of the elite class and its culpability in many corruption and war crimes cases create obstacles to change. In order to shift the state character, the lack of accountability and reluctance to purge the holdover elite from the Tadjman years must end. His regime functioned on a reward structure based on the remnants of the Communist party system. Croatia transitioned to democracy in a similar way to its transition to autocracy from Communism, leaving the party structure essentially intact but introducing new leadership. The government retained its structure with few high level officials leaving their positions after 2000. Because the structure of the Tadjman government benefitted elites, the next government inherited a class used to the benefits of corruption, there. The hesitancy on the part of the judiciary, police and government to prosecute corruption stems from how much power the old elite still has. Because of the limited turnover between governments, many of the officials in positions to combat corruption could benefit from, or have benefitted from, corruption. The same reluctance of the court to prosecute former Croatian military members and ethnic Croats during war crimes trials characterizes every aspect of the rule of law. In order to align itself with EU standards, Croatia introduced legislation and policy reforms designed to reduce corruption in all areas. The state, under pressure from the EU, has started moving against corruption, but in many cases the legal transformations have not created change. The Progress Report notes that in 2009 the state tried to create a better judicial framework for implementing anticorruption policy. However, even with better legislation and consultation, reform has not topped the political agenda. Croatia has a poor record of producing results in this area. However, it reports that the government has not tested the recently reformed legal and administrative structures in practice and that corruption continues to hamper the effective workings of the government. The courts need better capability to handle the larger number and complexity of cases. The administrative capacity of State bodies involved in fighting corruption needs improvement, and the state continues to lack a culture of political accountability for cases coming to light. In terms of preventing corruption, measures remain weak or not operational. While the state has paid corruption more attention than usual, it remains a problem, especially in the higher levels of

¹⁴⁹ Jovic, Dejan 26

¹⁵⁰ Jovic, Dejan 26

government. In October 2009 the opposition rejected the state prosecutor's yearly report on the grounds that it used statistical data to hide the paths of crime and corruption and that all investigations ended at the doors of state institutions¹⁵¹. This reflects the views of the Croatian people who believe the worst corruption occurs in public companies, government administration and courts on all levels¹⁵². The Croatian media publishes articles on corruption scandals, but few scandals result in state investigations or convictions. This combination of public awareness of both the corruption and the government's failure to act on clear evidence creates disillusionment with the effectiveness and integrity of the government. For instance, prosecutors took five years to investigate the 'Kamioni' (trucks) scandal implicating the Ministry of Defense in buying trucks from one foreign company over another because the first offer included a bribe to cover higher prices for lower-end military technology. Many believe investigators delayed in order to allow the former Minister of Defense a quiet exit; however, the eventual start of this investigation and others against the Vice President, and officials involved in corrupt highway construction projects have sent messages to the public that things may improve¹⁵³.

Croatia stands to join the EU within the next two years, and its drastic transformation over the past decade explains why. While the state has not met accession standards fully and remains untested in several critical areas, the drastic changes made by the government reflect its desire and commitment to the values of the West. However, in looking at Croatia now, the state has neither completed reforms in the judiciary nor eradicated corruption, which characterizes every aspect of government. This has huge implications for future progress in the area, as the judiciary and a non-biased infrastructure determine a state's effectiveness. Combating the legacy of war crimes remains difficult because elements of the old regime have retained their influence. The hesitancy in trying these crimes, coupled with the sustained influence of the nationalist myth, point to a continued nationalist legacy which could complicate membership in the EU. Negotiations with the EU have almost concluded, signaling that despite lingering problems, Croatia will soon join the EU. This leads to questions about how the EU will deal with institutional problems from a member state when it no longer has membership on which to condition change.

¹⁵¹ Doric, Petar 174

¹⁵² Doric, Petar 173

¹⁵³ Doric, Petar 175

Chapter Five

Lingering Obstacles to Serbia's Westward Movement

Croatia and Serbia represent different points in the accession process. Croatia progressed through the accession process quickly once the government prioritized membership and made reform its goal. Serbia has faced more difficulties in changing the tenor of the government and the public attitude toward reform, leaving it farther behind in the accession process. Serbia's continued reluctance to comply with the ICTY, lingering nationalist sentiment and government hesitancy to commit to EU policy hindered its progress through the last decade. While Serbia claims to align itself with the West, its government has not made a strong enough political commitment. In part this comes from the legacy of nationalism and the ethnically-centered myth which continues to characterize Serbia's policies and government. The people have not come to terms with their successive defeats in pursuit of the nationalist agenda—an agenda they see as integral to their identity. They feel victimized by the international community because the way they view themselves and their actions does not align with the way the world views them. Serbia, like other Western Balkan states, sees itself as a defensive actor standing up for its national integrity. The nationalist myth set Serbia apart from the West, simultaneously allowing Milosevic to delegitimize its institutions and justify his lack of cooperation with the ICTY. Milosevic's indictment in 1999 did not shift the political or social culture, allowing illiberal parties to heavily influence domestic politics and, by extension, Serbia's relations with the international community. As in Croatia, the legacy of the Milosevic era characterized all state institutions in Serbia but it has made slow progress reforming these five areas of society. Residual nationalist tendencies characterize slow structural reform as well as the state tendency to shirk responsibility for the 1990s.

Much of Serbia's reluctance to cooperate with the international community stems from the legacy of Milosevic-era nationalism in the minds and attitudes of the Serbian people. The Milosevic regime justified the fighting by portraying the other states as aggressors and portraying Serbia in a defensive role. This characterization appealed to the Serb people but created a cognitive dissonance between what they heard about the war and what they believed about their role. Serbia's historic skepticism of the international community aided the political elite in guiding popular opinion and discourse to accept their own interpretation of events. Milosevic built a culture of denial by emphasizing invisible threats to Serbs and Kosovo's centrality in the Serb identity to make the 1990s appear as a seamless continuation of past struggles. As the international community increasingly marginalized Serbia, domestic politicians explained it with pre-existing nationalist myths of victimization and anti-Serb bias. While EU membership hinges on the Serbian government raising awareness about its role in the Yugoslav wars, political discourse distorts the meaning of facts. The government has to admit what happened, but it explains or justifies them to align them with the nationalist worldview. This allows the Serb people to reconcile fact and ideology and the Serb politicians to maintain legitimacy. To admit only the facts would discredit their ideology and implicate the government in criminal actions. Because of the crossover between Milosevic's regime and the transition government, many people have a great deal to lose if they admit the government's

complicity in war crimes. Because nationalist myth painted Serbs as perpetual victims, the population can easily fall into this role again. Political actors continue to propagate this deep skepticism of the ICTY, making it incredibly difficult to dismantle these concepts. The sole responsibility for the war crimes committed in the 1990s does not lie with Serbia, but it has to accept its role before joining the EU.

The government sees compliance with the ICTY and larger international community as traitorous to the spirit of the Serbian people. Although many international observers believed that Milosevic's extradition signaled the beginning of a political shift similar to Croatia's, Serbia's unsteady compliance with the ICTY, assisting only under heavy pressure from the international community, has complicated its progress toward membership over the past decade. Additionally, within Serbia the legacy of international intervention in its internal affairs created lasting tension between the EU and the Serbian government. While the Serbian government now professes commitment to meeting its obligations, many wonder whether it will follow through with its promises. In order to fully comply with ICTY demands the Serbian government must arrest the Bosnian Serb General Ratko Mladic and the Croatian Serb leader Goran Hadzic. The ICTY charged Mladic, the former Chief of Staff of the Bosnian Serb Army, with command responsibility for the 1992-1995 Siege of Sarajevo and Srebrenica Massacre. Hadzic, the former President of the Serbian Krajina, faces war crimes charges for his alleged involvement in the removal and murder of thousands of Croatian citizens from the Serbian breakaway region. While the EU stated it would not allow Serbia to join without turning these men over to the ICTY, political conditionality only works when the applicant nation wants to succeed. Serbia has to place EU integration before all other items on its political agenda, a priority shift taking much longer to happen than it did in Croatia. Even now compliance stems more from a practical desire for membership than a belief in the ICTY mission. Founded on the Western ideals of international justice and freedom, the ICTY has a mission to prosecute the leaders responsible for war crimes of the 1990s. While EU conditionality incentivizes compliance with the tribunal it cannot force Serbia to internalize its values. Serbian cooperation seems to stem from a desire to curry favor with the EU rather than a belief in its mission. This hesitancy to adopt traditional democratic ideals signals a larger problem in Serbia's accession process and begs the question whether the EU will judge Serbia solely on its actions or if it will incorporate Serbia's motives in its judgment.

As in Croatia, political transitions require willingness from the government. Following the transition, the public continued to support illiberal and nationalist policies, rejecting Milosevic, but not his ideology. The Serbian government oscillated through periods of compliance and non-compliance for the better part of the decade as it attempted to reconcile EU mandated reforms with publically approved policy. Following Milosevic's extradition in 2001, the lack of a unified opposition meant no single party could command popular attention and a number of illiberal parties stood poised to gain power, buoyed by popular support. The dichotomy between liberalism and illiberalism continues to characterize Serbian politics. As Serbia moves toward the EU, extremist forces reacted violently, signaling their commitment to extreme nationalism. In 2003, members of the security forces under Milosevic joined with members of organized crime rings to assassinate Zoran Djindjic, the Serbian Prime Minister, the

day after he took a position as a war crimes prosecutor¹⁵⁴. While this served as an impetus for moving against extremism in Croatia and began to have the same effect in Serbia, reminding politicians of the consequences of straying too far from the nationalist agenda. Zoran Zivkovic, the leader of the next government, promised to combat extremism, but the fallout from the assassination and other domestic problems stopped his government from delivering on its promises. From 2004 until it lost power in 2007, the government under Vojislav Kostunica and the Democratic Party of Serbia (DSS), in coalition with the Democratic Party (DS), resisted compliance with the ICTY¹⁵⁵. Kostunica served as President until 2003 and then won elections for Prime Minister. While the government promised to deliver certain criminals to The Hague and implement reforms to meet EU standards, it did not follow through. These promises encouraged the international community initially, but as time went on the government continued to fail to deliver on its promises and Kostunica grew increasingly nationalistic¹⁵⁶.

As EU membership gained importance to the Serbian leadership, it had to start addressing its history. The government has a difficult time complying with the ICTY because their foreign policy goal of EU membership mandates it, but neither the public nor politicians support it. The EU uses conditionality to eradicate illiberal tendencies of government. While it applied strict conditionality with Croatia, refusing to proceed with negotiations until it satisfied the ICTY, it has a more lenient relationship with Serbia. The ICTY claims that Serbia still fails to meet its standards. Because the international community saw Serbia as an instigator and aggressor during the 1990s, Serbia's engagement with the international community directly correlates to its level of cooperation with the ICTY. The EU and international aid organizations pressured Serbia to comply with the ICTY, making it politically expedient for the Kostunica government to make arrests¹⁵⁷. His government hesitated to comply as long as he could escape tangible negative consequences. The EU, by delaying negotiations with Croatia, demonstrated its willingness to halt accession and by April 2005 Serbia transferred 14 people to The Hague. As a reward for its progress the EU proposed opening SAA negotiations, only to find that Serbia stopped cooperating with the ICTY¹⁵⁸. Despite this, the EU opened negotiations, lowering the standard for Serbia's actions and setting the precedent for flexibility in judging Serbia's progress¹⁵⁹. In 2006 the EU suspended negotiations due to Serbia's continued failure to comply but in 2007 announced that once Serbia again demonstrated its commitment to the mission of the ICTY, they would resume. Later in 2007, following two transfers to The Hague, negotiations resumed.

Serbia's increased willingness to comply with the ICTY comes from the change in government which replaced Kostunica in favor of Boris Tadic, President of Serbia since 2004 and leader of the DS. In 2008, the arrest of Radovan Karadzic signaled some change within Serbia. The ICTY charged Karadzic, the former Bosnian-Serb president, with allegedly committing war crimes during the Siege of Sarajevo. While a fugitive, the Serbian people saw him as a heroic figure similar to Mladic and Hadzic. The Serbian nationalist myth surrounding

¹⁵⁴Jovic, Dejan 18

¹⁵⁵Obradovic-Wochnik, Jelena 32

¹⁵⁶Obradovic-Wochnik, Jelena 32

¹⁵⁷Hartmann, Florence 72

¹⁵⁸Hartmann, Florence 72

¹⁵⁹Hartmann, Florence 74

the 1990s wars labeled these men as defenders of the Serb people. They turned into symbols of the Serbian cause, and their flight from the ICTY signaled an ideological protest in defense of Serbia's actions in the 1990s¹⁶⁰. These ideas and endemic suspicion of the ICTY meant that arrests made for its indictments usually created resentment and anger among the Serb people, regardless of the facts presented in the case. But arresting Karadzic did not create the usual backlash. After the arrest the public learned that Karadzic had spent his years as a fugitive specializing in alternative medicine in a private clinic in Belgrade. He worked and lived openly, and when the details of his life came to light, their disconnect from the typical imagery surrounding a war hero may have led to the change in public opinion¹⁶¹. For many years the EU's emphasis on conditionality, and the state's failure to arrest Mladic and Karadzic, excluded Serbia from membership and the benefits associated with it. The Serb people accepted this as long as they could believe that these men hid because of the strength of their belief in the Serb nation; most had assumed the fugitives fled to eliminate any possibility of involvement with the West¹⁶². The truth about these years clashed with the myth and dispelled the aura of heroism surrounding him. Since the beginning of the 1990s Serbian officials shifted the blame for its actions to others, often focusing on potential conspiracies between international actors. Politicians, the media and even inditees of the courts could convince the Serbian people of their victimhood because of the frequency of these claims in the preceding decades. Karadzic undermined his own myth and this time the Serb people could not blame an external source, and therefore had to confront the truth.

The change in public sentiment surrounding Karadzic's trial may indicate a large trend toward willingness to cooperate with the ICTY. However, the political system must also undergo this shift in order to affect change. Just as the willingness to accept Karadzic's indictment came from a fundamental shift within Serbia, the political willingness to wholeheartedly pursue EU policy and comply with the ICTY must originate from a legitimate Serbian party. The qualities of Serbia's mainstream parties reflect a wider dynamic of life in Serbia. The Serbian Radical Party (SRS) relies on the tactic of discrediting international institutions and dissuading open discussions about the 1990s to retain power. It says the ICTY has an anti-Serb bias, implicating Serbs over other ethnic groups and relying on questionable evidence¹⁶³. The party holds partial responsibility for at least some of the actions condemned by the tribunal. But it perpetuates suspicion of international institutions for more reasons than just retaining power, it plays into the overarching rhetoric separating Serbia from the West. Its strategy of confronting accusations of war crimes through discrediting the institution, does not address the evidence. Rather than presenting contradictory evidence in response to allegations, the SRS typically labels them untrue. Although the SRS represents the extreme end of the political spectrum, its position resonates with a large part of the Serbian population. While the SRS blatantly uses nationalist rhetoric, other political parties reflect these central values but mask them in open discourse.

¹⁶⁰ Obradovic-Wochnik, Jelena 45

¹⁶¹ Obradovic-Wochnik, Jelena 45

¹⁶² Obradovic-Wochnik, Jelena 46

¹⁶³ Obradovic-Wochnik, Jelena 38

Former Prime Minister Kostunica's party, the Democratic Party of Serbia (DSS) emphasizes its commitment to democratic principles but its reactions to specific events shows it holds the same ideas as the seemingly more radical parties. Although it presents as a pro-European party on key matters of cooperation the party reneged on its promises by both failing to extradite war criminals on schedule and by not engaging in critical debates about the extraditions that did take place. It did not deny facts, but its refusal to engage in any talks about the past and engage the public in open discussions about Serbian culpability signals its true position on the subject. As the party in power after 2003, the DSS had to make the arrests requested by the ICTY. With the exception of high profile cases like Radovan Karadzic and Stojan Zupljanin, the arrests all took place quietly with minimum media coverage within Serbia¹⁶⁴. Kostunica's regime through action and rhetoric implied to the Serbian people that the mutual agreement with the EU meant Serbia had to hand over its heroes in exchange for empty promises. His regime went through the motions of compliance but did not believe in the necessity of these actions or in the reasoning behind the ICTY indictments. Rather than focusing on the actions of the indicted and their logical implications, the Serbian government under Kostunica attacked the legitimacy of the ICTY as an institution and exploited the well-defined sense of victimhood within the Serbian people, the result of decades of finely tuned nationalist propaganda. Rather than condemning Karadzic after his arrest, Kostunica questioned the legitimacy of the ICTY and Tadic's government for fearing to criticize it. He said that Serbia should not have to send Serbs to The Hague because it has acquitted others who committed war crimes against Serbs¹⁶⁵. The party's stress on victimization and shifting the blame onto others when faced with difficult decisions mimics the tactics of more extreme parties, as well as of the Milosevic regime.

The international community can easily target the SRS, DSS, and SPS for discrediting the ICTY and devaluating it among the Serbian people, but these parties succeed because of the Serbian people's underlying beliefs. While the government includes pro-European, democratic parties, they have no public trust. While external observers see these parties as democratizing influences, internally the public sees them as foreign-funded 'mercenaries' linked to NGOs and therefore, implausible political parties¹⁶⁶. In Croatia, the state could shift its political orientation because the movement came from the nationalists. Liberal parties within Serbia, despite their demonstrated commitment to consolidating democracy and shedding light on the crimes of the 1990s, will never create change. And this change has to happen for Serbia to seriously vie for membership in the EU. In Croatia the political atmosphere changed when the HDZ party changed its party direction from extremism to moderation and began complying with international standards. Because this movement originated within Croatia, the government could transition to a pro-European stance with public backing. For this to happen in Serbia, the state needs a party of Serb nationalists with a moderate bent and pre-existing support to start talking about war crimes, otherwise extremists can discredit the subject matter and those who bring it up by appealing to latent nationalism centered on the 1990s wars¹⁶⁷.

¹⁶⁴ Obradovic-Wochnik, Jelena 38

¹⁶⁵ Obradovic-Wochnik, Jelena 38

¹⁶⁶ Obradovic-Wochnik, Jelena 40

¹⁶⁷ Obradovic-Wochnik, Jelena 40

Tadic's party, the Democratic Party (DS) has the greatest opportunity to shift popular opinion in favor of the international community; popular with the Serb people, it has a pro-European stance and distances itself from Milosevic's legacy. However, to date, its attempts to address war crimes have been mediocre. By not challenging Kostunica's views while part of his coalition government implicitly allowed the government to default on its promises to the international community. However, the DS had little control over compliance because in the coalition Kostunica's party retained control of the security sector. The Serbian security sector, long suspected by the international community of having a prominent role in committing war crimes in Bosnia, links to organized crime, and a role in the 2003 assassination, had the responsibility for tracking down ICTY indictees. Because Serbia did not reform this sector in the years after Milosevic's fall from power, many in the international community suspect that the organization continues to house those loyal to the former regime who deliberately undermine the ICTY mission. These suspicions increased when the international community discovered Ratko Mladic held a military pension through 2002 and members of the *Ministarstvo Unutrasnjih Poslova*—Ministry of Internal Affairs (MUP)—helped protect him from detection¹⁶⁸. The security sector's relative autonomy and continued loyalty to the old regime makes producing results for the ICTY difficult for even the pro-democratic parties. Despite this complication, Tadic has an opportunity to start legitimate political rhetoric opposing extreme nationalism. However, over the past decade his engagement with these issues has not satisfactorily addressed the legacy of Milosevic's nationalist rhetoric. The public continues to view war crimes as fabrications and the ICTY as an instrument of public blackmail¹⁶⁹. He had difficulty engaging the segments of the population open to discourse, namely the young and democratically oriented. That Tadic did not encourage open discourse marginalized and delegitimized NGOs and the public who wanted to start exploring war crimes issues¹⁷⁰. He remains in a precarious position, as Serbian nationalism continues to underlie political discourse. While he supports European Integration and works on complying with the ICTY, he has to balance these goals with the Serbian people's overarching nationalist convictions in order to retain power.

This balance remains integral to pursuing effective policies in Serbia. While a public sentiment changed over the past few years, the Serb people still have difficulty facing their past. A decade after NATO's intervention in Kosovo, the Serb people have started to accept defeat rather than just blaming the past on Milosevic. To do this they have to admit that the state committed atrocities for the idea of a sovereign Serbia. This admission counters the impulse of the Serbian people based on the nationalist myth engrained in their sense of identity. The Parliamentary action surrounding the Srebrenica Massacre exemplifies the parliamentary division between nationalism and liberalism, as well as the fundamental beliefs polarizing the government, even in 2010. Since 2005 Parliament has attempted to pass a declaration condemning the Srebrenica Massacre, but could not agree on the text¹⁷¹. Its text

¹⁶⁸ Obradovic-Wochnik, Jelena 30

¹⁶⁹ Obradovic-Wochnik, Jelena 40

¹⁷⁰ Obradovic-Wochnik, Jelena 41

¹⁷¹ Obradovic-Wochnik, Jelena. "Serbia's Srebrenica Declaration: A Small Step, but in the Right Direction". ISS Opinion. European Union Institute for Security Studies. August 2010. 1
http://www.iss.europa.eu/nc/actualites/analysisbooks/select_category/28/article/serbias-srebrenica-

condemns the war crimes committed in Srebrenica, although it does not describe the events as genocide, and promises that Serbia will support all institutions prosecuting war crimes¹⁷². Although the declaration passed overwhelmingly in 2010, the SRS walked out of Parliament before voting started, and the debate turned so contentious that the ruling coalition reminded the delegates that Serbia would benefit from the declaration¹⁷³. Eventually the opposition agreed to pass it on the condition that Parliament would issue a counter-declaration condemning all acts of aggression committed against the Serbs. The reaction within Serbia exemplifies the public ideas underlying political debate. Following its publication many in Serbia including the media and some of the political elite condemned it for going too far. This comes from the continued influence of the Milosevic denials and justifications of the events they could not explain away. Despite the reaction from the public and the media and the compromises made within the text, Serbia's leadership finally succeeded in making a public statement on the issue.

Because of the long, halting progress, it seems as though the EU will consider reworking the idea of full compliance. Now, almost twenty years after war started in the Balkans, the ICTY has not completed its mission. Until this point full compliance meant that Serbia had to deliver every ICTY indictee to The Hague. As this appears increasingly unlikely and Serbia remains volatile, the EU may reconsider what Serbia has to do in order to join. This has important consequences for the legacy of war crimes—if the EU admits Serbia without demanding it apprehend the remaining fugitives, it sends an implicit message about the place of war crimes and justice relative to political necessity. Proceeding with this step means that the EU has lost yet another tool to coerce Serbia into compliance. Although every step of the process depends on Serbia's compliance, the SAA agreement signals a firm commitment to accession.

Although directional changes in the Serbian government have occurred since Tadic took power, these have not affected the state's stance toward Kosovo. Despite remaining unresolved for most of the decade, its status has not lost importance to either side. Serbia has not had direct control of the province since the NATO airstrikes in 1999-2000, but nominal control satisfied its role as a central component of the Serb national identity. The place Kosovo holds within Serbia led many to believe independence would precipitate a large nationalist backlash and rejection of the West in the next election cycle. The EU had few remaining tools to sway the country toward democracy, leading the EU to sign the SAA agreement before the May elections, despite unsatisfactory reports from the ICTY¹⁷⁴. Tadic won reelection, but his moderate views do not mean he will recognize Kosovo. Because of the continued role of nationalism even moderate politicians see Kosovo as central to their state identity.

Kosovo's importance to Serbia lies in its symbolism. Like in acknowledging complicity in the war crimes issue, the Serb people have trouble acknowledging the logical conclusions of the evidence. The past two decades have redefined the Kosovo myth so now, rather than simply representing the Serbian homeland, it represents successive Serb failures and humiliation at the hands of the international community. The Serb people reflect on the way the international

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[direction/?tx_ttnews\[pS\]=1262300400&tx_ttnews\[pL\]=31535999&tx_ttnews\[arc\]=1&cHash=93b9dfd70c](#)

¹⁷² Obradovic-Wochnik, Jelena 1

¹⁷³ Obradovic-Wochnik, Jelena 2

¹⁷⁴ Hartmann, Florence 70

community took the province from them, perpetuating the cultural myth and reinforcing the province's importance. Rather than looking at the logical extension of these facts and resigning themselves to the inevitability of independence, the Serb people focus on the additional humiliation of totally losing the province. The vast majority of European states recognized Kosovo's independence but Serbia maintains it will not. This leads to three options for the future. Serbia will have to change its stance, the EU will admit a nation that does not officially recognize another potential member state, or Serbia will not join. A key minority of EU states, Spain, Greece, Slovakia, Cyprus and Romania, have refrained from recognizing these states to avoid setting a precedent for accepting declarations of independence from separatist regions. Serbia protested the declaration, insisting that it violated international law but the ICJ ruled in 2010 that existing international law did not prohibit unilateral declarations of independence. Since establishing an international protectorate in Kosovo after the NATO bombings, it had an uncertain position and future. As a state in the Western Balkans, the EU guaranteed Kosovo admission provided it could meet its accession standards. The world anticipated the declaration from Kosovo, but it forced the EU and Serbia to deal with the implications of the province's status. Although for now the Serb government has confined its reactions to a legal route, the state says recognizing Kosovo means compromising their territorial integrity. The government faces an interesting predicament because it committed itself to placing EU integration at the top of its agenda, but this directly conflicts with what Serbia sees as central to its identity. Accepting the new status quo in Kosovo and accepting responsibility for war crimes requires Serbia to rewrite its nationalist myth. It underscores Serbia's position on both, and this means that either accepting its complicity in war crimes or recognizing Kosovo would undermine the core of its identity. Kosovo's place in the Serbian myth traps them into the conviction that its loss would fatally undermine the integrity of the state and if Serbs acknowledged their full share of responsibility, they would undermine the moral basis of their claim to Kosovo¹⁷⁵. Serbia and Kosovo recently opened talks on coexistence, namely freedom of movement, regional cooperation and the rule of law. But rather than focusing on the larger issues, the talks will emphasize practical matters like border control and identifying papers¹⁷⁶. The EU Progress Report from 2010 states that Serbia continues to operate parallel government institutions and discourage Serb participation in Kosovo's 2009 municipal elections, as well as maintaining its opposition to Kosovo's regional participation unless it comes as an international protectorate¹⁷⁷. It seems as though the Tadic government will pursue coexistence without acknowledging Kosovo's new status, which leaves the question of whether the EU will allow Serbia to sidestep official recognition before accession, and what this means for the future of regional cooperation.

Outside of war crimes compliance and uncertainty over Kosovo, Serbia continues to reform other key areas of its government and infrastructure to align with EU standards¹⁷⁸. The

¹⁷⁵ Batt, Judy 65

¹⁷⁶ Lekic, Slobodan. Associated Press- Monday March 7 2011. <http://www.washingtonpost.com/wp-dyn/content/article/2011/03/07/AR2011030701048.html>

¹⁷⁷ "Serbia 2010 Progress Report" European Commission. SEC (2010) 1330. Brussels, 09 November 2010. http://ec.europa.eu/enlargement/pdf/key_documents/2010/package/sr_rapport_2010_en.pdf 18

¹⁷⁸ "Serbia 2010 Progress Report". The facts laid out in this document inform the analysis on Serbia's process in the context of the Copenhagen Criteria.

European Commission produces reports about Serbia although the state has not progressed far enough in the process for the Copenhagen Criteria to determine accession status. ICTY compliance and government willingness continues to characterize Serbia's progress whereas the final open chapters and lingering problems with the judiciary define Croatia's. Serbia continues to implement reforms, although the Serbian government does not effectively educate and engage the public about the changes it makes¹⁷⁹. The Progress Report details the government passed new packages of legislation designed to bring Serbia in line to try and fix its structural problems; now, the large number of representatives and competing political parties hampers its efficiency. As in Croatia, the legacy of autocracy and the captured regime under Milosevic have left their mark on Serbia's government and institutions. When the government changed hands, the people rejected Milosevic but not the larger structure he represented. While the leaders changed, the people with large amounts of power under Milosevic continued to hold power. Captured privatization led to short term winners with a clear interest in perpetuating illiberal policies and corruption and economic crime remain large issues for Serbia. This mostly presents itself in public procurement and large public expenditures, as well as taxation, customs and licensing, according to the 2010 Freedom House report. The report cites a corruption survey in which citizens most often reported paying bribes to gain access to services they should receive for free¹⁸⁰. This suggests that the Serb people continue to tolerate this culture of corruption. The lack of legal provisions for whistleblowers and others critiquing systemic corruption makes it more difficult to eliminate this problem which cripples government effectiveness. Illiberal policies do not benefit everyone, but they do benefit those in power, making changing them difficult. In 2010, the new Anti-Corruption Agency started work to try and prevent corruption from occurring and eliminating conflicts of interest from politics. The EU reports that the agency competently addressed these issues as well as the funding of political parties. However, it states that in investigating and prosecuting these cases, the state has made little progress, particularly with high level cases.

The EU's analysis says that the state does not have political support or mechanisms to create progress in transitional justice, hampering government effectiveness and prosecution of endemic corruption. Most obviously this refers to the justice system; Serbia lacks both a strong justice system as well as the foundation to support one. While each successive government has tried to deal with this issue, backlogged cases and inefficient enforcement of judgments continue to mire its work. The Report cites that Serbia adopted a legislative package designed to reorder the judicial system in 2008, but many of the ways the state implemented these reforms may have perpetuated the problem¹⁸¹. The 2006 Constitution stipulated that all members of the High Judicial Council, responsible for implementing the reappointment procedure for all judges, be elected by the National Assembly. The Serbian government designed the structure to ensure fair representation of judges and reduce political influence, but the election process leads many to fear continuing politicization of the judges. The legacy

¹⁷⁹ "Pesek, Sanja & Dragana Nikolajevic. "Serbia". Nations in Transit 2010: Democratization from Central Europe to Eurasia. Freedom House, June 29, 2010. Pp. 453-471. <http://freedomhouse.eu/images/Reports/NIT-2010-Croatia-final-final.pdf> 163.

¹⁸⁰ Pesek, Sanja & Dragana Nikolajevic. 469

¹⁸¹ "Serbia 2010 Progress Report" 10. This paragraph uses the information from this page.

of Milosevic's influence in all areas of society and the lack of significant judicial reform until recently meant that the court system had a significant bias, particularly in prosecuting war crimes issues. The EU reports that the judges sitting on this body do not have permanent membership, creating a high risk of political influence. The reappointment procedure this court has charge of has responsibility for reappointing all of Serbia's judges and prosecutors and reduced the overall number of judges by 20-25 percent. The EU Progress Report claims the reduction in judges and prosecutors did not come from a correct assessment of the need for a strong judiciary. The large backlog of cases remains a problem. The Constitutional Court faces a backlog of about 7,000 cases, including appeals from the judges and prosecutors not reappointed to their positions.

The problems with the judiciary also affect Serbia's progress prosecuting domestic war crimes. Serbia does not have the structural capacity to tackle these cases. The judicial restructuring reduced the number of courts and created special departments for war crimes and organized crime. While these designations create the structure to pursue prosecutions, the Serbian War Crimes Chamber receives insufficient financial and political support to do its job. Until the Serb people recognize their role in propagating war crimes, the state will not have the ability to prosecute. Apart from the tendency on all levels of government and society to remain quiet on these issues, the public attitude toward the ICTY further keeps domestic prosecutors from successfully pursuing this issue. Serbia, like other Western Balkan states, has a responsibility to prosecute its criminals. Because of the top-down approach to responsibility taken by the ICTY, it leaves most criminals to the state judiciary. This means the state must prosecute the individuals that most of the population considers innocent. The slow progress on this issue will create problems for the state in the future, but first the state has to create a functioning judicial system capable of enforcing indictments.

Serbia and Croatia are at different points in the accession process although they face similar problems. The legacy of autocracy and war crimes continue to characterize many of their institutions and make international compliance difficult. Serbia exhibits this tendency to resist cooperation with the ICTY more strongly than Croatia and it continues to define all aspects of the government. However, the state has made changes to bring its institutions in line with the EU and while this process will be difficult, it can happen. Assessing the progress toward accession in the Copenhagen Criteria highlights the difference between Croatia and Serbia; Serbia has much more to reform before they reach the point Croatia reached. In order to do this, the state must undergo a political shift within a mainstream party in order to make reform and compliance more accepted by the Serbian people. As this gradually occurs the government can more easily implement programs of reforms to liberalize the government; Kosovo will continue to figure centrally in debates over Serbia's prospect of membership, but may diminish in importance over time as Serbia continues to progress toward accession.

Chapter Six

The Effects of Accession on Extreme Nationalism in the Western Balkans: Concluding Thoughts

The EU's accession plan developed as a way to sway the former Communist nations of Eastern Europe toward the West and eradicate the remnant of illiberal governments. Most of Eastern Europe started on the path to accession in the early 1990s. Some started the process as a symbolic rejection of communism while others pursued it because of the economic and political benefits of membership. However, this trend excluded Yugoslavia because it disintegrated as other nations started moving toward democracy. Under nationalist leadership, Croatia and Slovenia seceded from Yugoslavia precipitating multiple wars based on territory and the concept of ethnicity. Yugoslavia arose out of the remnants of the Hapsburg and Ottoman Empires in the era of national self-determination following World War I. The ethnic groups within Yugoslavia chafed at living in a joint state. Already peoples with well defined national identities, this type of rhetoric came to dominate the political sphere. Each ethnic group had a separate myth to justify their bid for statehood. Under Ottoman rule the Serbs and Croats identified themselves as peoples with common origins in order to delegitimize the Ottoman claim to the region. As the empire fell, the two groups redefined their nationalist goals to pursue ethnically homogenous states. Political leaders continued to propagate these myths through the twentieth century, keeping them emotionally charged by constantly editing them to incorporate new events. Each new injustice reinforces the nationalist myth and strengthens the implicit goal. This gives politicians a seamless timeline to use to convince people to support their policies. The nationalist groups used these myths to justify conflict in the 1990s and the story of perpetual victimization allowed the governments to pursue ethnically motivated policies during the wars. While war crimes often occur during conflict, politicians in the former leadership used war as a vehicle to achieve ethnic homogeneity. Gradually the incidence of crimes occurring in Central and Eastern Europe attracted attention from media and international observers, leading to increased scrutiny and intervention. The European Union did not have the infrastructure to allow military action in former Yugoslavia, limiting its attempts at intervention to diplomacy. But the overarching nationalist interest in securing ethnically homogenous states for both Serb and Croat leaders meant diplomacy largely failed.

Even after the Dayton Accords ended conflict, the regimes remained in place and the EU hastened to extend membership to these states to destabilize the illiberal regimes in Croatia and Serbia. By the end of the decade a combination of economic distress, corruption, international isolation and inequality led both the Tudjman and Milosevic regime to collapse. While these initial political shifts signaled the opportunity for change, the nationalism which presented in such an extreme form in the 1990s remained under the surface. Another obstacle to change came from the institutional problems remaining with the two states. The regimes of the 1990s made few changes to the communist institutions, retaining the institutions and elite system. In a sense, the new nationalist regimes replaced the Communist regime, meaning that the transfer of power in 2000 did not automatically lead to democratic governance. Following the power transfer these nations faced a decision to either join the West or forsake it in favor

of illiberalism. The EU and international community wanted to attract the former Yugoslav states and influence them toward democracy permanently. Their success with the CEEC states, even those with illiberal governments, led the EU to try and recreate this with the Western Balkans in order to ensure peace. The only wars on European soil since World War II, the Yugoslavian conflicts gave the EU a considerable interest in creating stability in this region. The accession process seeks to consolidate democracy through institutional reform. The EU reasoned that no state could join without developing the infrastructure that would allow it to function in a sophisticated international organization. At the same time, pursuing the reforms to create these institutional changes permanently alters the composition and working of the government. Once a nation starts on this path it cannot revert to illiberalism easily. Outside of the Copenhagen Criteria, which define the path for all applicant nations to the EU, the Eastern European states have to comply with the ICTY. The international community decided that these states must apprehend and extradite those indicted by the ICTY, as well as cooperate with its investigations in order to accede. The international community saw compliance as integral to Serbia and Croatia's futures and the EU's emphasis on it prioritized the underlying ideals.

Both the EU and the Western Balkan states have considerable interest in accession. From the EU, enlarging to this area signals a successful departure into foreign policy and for the applicant nations, joining will validate their sovereignty. These two goals intersect, although their underlying motives do not. Serbia and Croatia see EU membership as validation of their national identities rather than as a way to consolidate democratic tradition. The EU, however, sees accession as a way to restructure illiberal regimes to promote regional stability. The political expediency of joining the EU led to a shift from extreme nationalism to a more benign state-centered form, but nationalism remains entrenched in society. Extreme nationalism no longer furthers the Serbian and Croatian policy goals. The Yugoslav wars—the epitome of extreme nationalism—created relatively homogenous states, which may explain why ICTY compliance continues to plague these governments and the EU. Nationalism remains a defining cultural tenet and although most would no longer support using violence to achieve these goals, popular support for the stated goals of the 1990s wars remain. While ethnic nationalism presented itself particularly violently in the Western Balkans, other former Communist states successfully dealt with this issue in the context of EU accession. Serbia and Croatia face serious challenges in reform, but the path of several CEEC nations indicate that the EU will likely have a moderating and liberalizing influence. Particularly relevant to the Western Balkans, Latvia's transition to democracy did not exclude nationalism; historic tensions between the ethnic Russian population and the ethnic Latvian population led to a highly charged political atmosphere. However, this did not exclude them from joining the EU and membership helped shift nationalist sentiment to a more state-centered view. Membership gave Latvia an incentive to create a unified stance; because politicians represented Latvia, internal divisions hampered their position in the international sphere. Nationalism remained as ardent as before, but rather than dividing the nation, it oriented the people toward Latvia as a nation-state. Since the fall of Communism ethnic Latvians and the ethnic Russians pursued diametrically opposite policies designed to isolate the other group. However, EU membership incentivized different behaviors; as politicians recognized the political expediency of pursuing unified policies domestic polarization decreased. The shift from political to civic nationalism does not mean that ethnic conflict will necessarily decrease; however, diminishing ethnic conflict relative

to the growing importance of macro-level cohesion necessarily leads to greater cooperation. This upper level integration may lessen the divide between the two ethnic groups throughout society. Croatia and Serbia had extreme expressions of ethnic nationalism, but Croatia's progress over the past decade, in particular, suggests that nationalism will not lead to confrontations but a reorientation around its sovereignty. Croatia pursues accession and complies with the ICTY because it sees membership in the West as part of its identity. While it may never completely distance its identity from the homeland war rhetoric, it may start to express itself more constructively.

Since the transition both Croatia and Serbia have made strides in the accession process, although Croatia has moved along much more easily. The states differ for several reasons, but it boils down to the differences in their nationalist myths and the way they complied with the ICTY. Both states' nationalist myths present statehood as the ultimate goal, have pursued illiberal policies to this end and define themselves in relation to the West, although in different ways. Through ethnic cleansing during war the two states ended up with largely homogenous populations. Although the extreme nationalism of the 1990s abated following the political transition, nationalism did not. It remained entrenched in the culture in both states, defining the political and social atmosphere and complicating policy making. While both governments started pursuing EU membership in earnest following the collapse of the Tudjman and Milosevic regimes, the stipulation that the nations comply with the ICTY led to domestic problems. Because of the central role the wars play in the nationalist myths many people in both states saw compliance as traitorous to the spirit of their people. The ICTY challenges the essence of their identities; in indicting war criminals, the ICTY demands that these states arrest the men they label as defenders of their ethnic identity. Croatia had difficulty complying with the ICTY, but put its political goals ahead of its nationalist desires and eventually the underlying myth started to shift to accept compliance. While the nationalist myth of the homeland war remains important in Croatia, its national identity defines the state in relation to the West. Because they see themselves as Western Croats place more stock in EU accession as validation of its sovereignty and of their identity. Even Tudjman, an illiberal and autocratic ruler, made an effort to make it look as though he wanted to work with the West. Although ICTY compliance threatened the way Croats viewed themselves, the larger policy goal of EU membership allowed change. The myth of the homeland war continues to hold sway over popular opinion, but the leadership pursues compliance with the ICTY to a satisfactory level.

Like Croatia, the Serbian national myth assigns the wars a central role. The Milosevic regime painted their involvement as a historic struggle to maintain their territory. Because of the longstanding push for sovereignty, the public accepted this portrait of the conflict, easily redefining themselves as the victims in a long-term struggle. Croatia's myth orients it toward the West and Serbia's does the opposite, defining its people in opposition to the West. The way Milosevic portrayed the international community's involvement in these wars further hampers relations now. Because Croatia saw itself as western, their national myth does not paint Croats as victims of conspiracy from the larger international community. This allows politicians to pursue compliance with less pushback from the people. Serbia already had a culture of denial and victimhood, and Milosevic exploited this in order to explain the events of the decade. The story of Kosovo acts as a microcosm of the way that nationalists integrated the wars into the overarching myth, imbuing them with greater significance and revamping the old

myth to make it continually relevant. Kosovo, the historic homeland, always held an important place in nationalist rhetoric, symbolizing the ancient Serb kingdom. Despite having an ethnic minority in Kosovo, Serbia's control of the area gave it a sense of maintaining their sovereignty. When Kosovo rebelled, Milosevic moved forces in to ensure Serbia kept hold of the territory. After the international community's intervention in response to the conflict in Kosovo, the Milosevic regime used the bombings as proof that the international community wanted to remove Serbia's right to self-determination by removing their homeland. This fit in with the larger view presented by the regime portraying the West's condemnation of Serbian actions as an attack on their identity. The nationalist myth, because it stood so strongly against the West, separated Serbia from the international community, making it easier for authoritarian leaders to maintain power and perpetuate nationalist myths. The heightened sense of victimization present in Serbia means that the populations, and politicians, still largely see the ICTY as an international institution taking unfair advantage of Serbs. This allows the political elite to justify non-compliance. The change within Serbia will take longer than in Croatia because of the different ways the people see themselves in relation to the West. While both Serbia and Croatia have improved their records of compliance with the ICTY in response to the EU's conditions, the nationalist ideas which spurred the wars remain.

The foreign policy goal associated with accession had a dual purpose, to ensure a democratic government and to stabilize the Western Balkans. Specifically, the EU used ICTY compliance to ensure that the level of extreme nationalism which characterized the 1990s would not remain as an integral part of the system. It stands to reason that EU membership, which requires delegates to represent the state as one interest, will further create a change in the type of nationalism which presents itself. Conditioning membership with compliance with the ICTY attempts to change the way people in Serbia and Croatia looked at the wars. Rather than as an admirable defense of their homelands and ethnic identity, the international community wants to re-script them to reflect the injustices of war crimes and ethnic cleansing by enforcing punishment for the perpetrators. However, the Tudjman and Milosevic regimes so thoroughly cast them as continuations of historic injustices that the EU has trouble creating complete compliance. While both Serbia and Croatia comply with the ICTY under international pressure, the residual influence of the nationalist myths prevent the majority of these populations from reforming the dialogue surrounding the wars. The EU has not succeeded in creating full compliance with the ICTY. The EU demanded that Serbia apprehend Mladic before accession, but the likelihood of this happening decreases yearly. The time lapse, as well as the atmosphere within Serbia, suggests that the EU may never apprehend Mladic. The EU will have to decide whether they can redefine their entry standards to admit Serbia, even without complete compliance. This, in turn, asks whether the EU still considers ICTY compliance its top priority in accession, or whether, this decreases in importance as the years pass. Although neither state completely accepts the mission of the ICTY, the government attitudes now reflect a moderate stance, which may lead the EU to redefine compliance standards. Incidents which may have precipitated extreme reactions a decade ago continue to precipitate nationalist backlash, but more and more often the backlash comes in a diplomatic form. Kosovo's independence led to public outrage in Serbia but pro-Western leaders won the next election and continued pursuing EU accession. While Serbia will not recognize Kosovo's independence,

its reaction and use of legal channels to protest indicates a significant change in Serbian leadership.

The EU labeled stability in the Balkans one of its key priorities and promised the former Yugoslav states membership contingent upon their compliance. Going forward, the EU has to determine whether ICTY compliance will determine regional stability in the future or whether the progress made by these states will preclude any more large scale conflicts. In terms of conditioning accession on Serbia's ability to apprehend Mladic, the EU fears that rejecting Serbia would lead to it turning away from the West and potentially creating more problems for the international community. The EU will complete negotiations with the EU in 2011 and Croatia stands poised to join the EU soon after. Despite this progress, Croatia continues to have problems with the ICTY, pointing to a more lenient attitude toward compliance from the EU. This may point to a greater stress on the effects of the structural changes coming from adhering to the Copenhagen Criteria. Making these reforms will significantly alter the structure of the government, eventually moderating illiberal influences by changing the way politics happen. Even the continuing nationalist legacy of nationalism will not necessarily create ethnic violence. In order to pursue reform in line with the accession criteria the governments need to commit to change. In Croatia this came with an ideological shift within one of the main political parties. Because the party seen as defenders of the Croatian identity oriented itself toward the West, the public accepted its message.

The recent shift under Tadic in Serbia may signal a change similar to Croatia under Sanader, but Serbia continues to have difficulty putting membership at the top of their priority list. Serbia did not look to the West as a central feature of its identity and does not consider membership in the EU as necessary for legitimacy. With the question of Kosovo unanswered, nationalism remains an integral part of the political discourse. Going forward, many questions surround the accession of these two states, and many factors play into whether or not they will join the EU, and in what fashion. The large number of variables means that even if the EU does admit the two states, the EU may not have as significant a role in the international sphere and the connotations of membership may change. The EU still considers accession its most valuable foreign policy tool and promised accession to a large number of states. However, the institution already has issues with the budget and regional disparity, as well as efficiency. As the number of members grows, the EU's ability to make decisions falls. Each new member impedes the workings of the institution and, therefore, its effectiveness as an international body. Without structural reform, the EU may not have the ability to operate. Alongside the structural shortfalls which may impact the institution's effectiveness, public attitudes within Europe do not support further expansion. The recent financial crisis and problems, particularly with Greece, impact the mood within Europe and do not help the EU combat these problems. However, the EU continues to pursue enlargement which signals that the EU will have to work internally to ensure that it can function efficiently after several more accessions. In the meantime, the application of the Copenhagen Criteria and ICTY compliance has produced tangible results in both Serbia and Croatia. The two states will most likely both join the EU, but regardless, the reforms they pursued under the Copenhagen Criteria significantly altered the state structure, making democracy possible.

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