

# Those Who Knock on Europe's Door Must Repent? Bilateral Border Disputes and EU Enlargement

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This article explores a neglected aspect of the wider debate about EU enlargement: bilateral disputes between a member state and an applicant, where the former uses, or threatens to use its membership status to block the applicant's progress in order to resolve a bilateral dispute. Through analysis of three cases – Italy and Slovenia, Slovenia and Croatia, and Greece and Macedonia – we show that the EU's transformative power does not always flow 'outwards' towards the state seeking membership. This raises interesting questions about enlargement as a process of international bargaining between sovereign states filtered via a supranational entity formally responsible for negotiations. The cases suggest limits to the EU's transformative power in the context of disputes that are linked to the meaning and significance of borders. It is not surprising that the European Commission prefers disputes to be resolved bilaterally or via a third party.

**Keywords:** borders; European Union; enlargement; South East Europe

'Those who knock on Europe's door such as Ljubljana must make a gesture of repentance.'  
(Gianfranco Fini, quoted in *Corriere della Sera*, 1994, p. 5)

Studies of EU enlargement typically focus on the relationship between the European Commission as an agent of the member states and the applicant country. Central to EU enlargement is that member states *collectively* consider a country's application and that progress (or not) is determined by satisfying the EU's criteria as a collectivity – a process concerned with satisfying a supranational interest, not national criteria. It is then assumed that the EU's transformative power flows outwards from the member states (the 'insiders') to the applicant (the 'outsiders'). We identify a gap in the accounts offered by these existing studies, which is the impact of domestic mobilisations about the status and meaning of borders on EU enlargement.

The role and impact of bilateral disputes is a neglected aspect of analyses of the relationship between a member state and an applicant, where the former uses, or threatens to use, its membership to block membership in order to resolve a dispute. Our analysis takes three cases from South East Europe (SEE) – a region that is central both to the EU's recent history and future development. We show how the 'unfreezing' of border conflicts in four countries (Croatia, Italy, Macedonia and Slovenia) linked to the break-up of the former Yugoslavia and in the context of European integration produces outcomes that confound the usual expectations about the direction of transformative power – namely outsider adjustment. We demonstrate three other potential outcomes: *insider adjustment*, *mutual adjustment* and *stalemate*. Each of our three case studies flows from the complexities of Balkan politics but are now framed by European integration. All were triggered by Yugoslavia's break-up and demonstrate unexpected outcomes if the assumption were that

pressure flows from insiders to outsiders. The Italy–Slovenia case shows the transformative effects of European integration on the ‘insider’, the Croatia–Slovenia case demonstrates mutual adjustment, while in the Greece–Macedonia case we find stalemate.

### **Borders and European Integration**

State-building combines the dismantling of internal boundaries and the building of external ones (Bartolini, 2004; Basta, 2014; Flora, 1999). States and state-building dominated European politics for 500 years to be joined after the 1950s by European integration and both state-building and European integration have been at work in SEE from the 1990s in the context of EU enlargement (Taylor *et al.*, 2012, pp. 37–47). The EU is a geopolitical space that defines membership by norms and values, rather than language or ethnicity, and constitutes the latest phase of European state-building – the member state. Enlargement involves both boundary creation and transcendence, and as such both freezes and unfreezes territorial conflict.

European integration involves the ‘unbundling’ of territory with Europe’s borders characterised as blurred, permeable and fuzzy (e.g. Christiansen *et al.*, 2004; Friis and Murphy, 1999; Ruggie, 1993). The corollary of internal unbundling is the reinforcement of external borders, and because borders embody and signify power relationships between insiders/outside and members/non-members, the power asymmetry is assumed to be decisively in favour of the former (Grabbe, 2014). The borders of ex-Yugoslavia and the frozen conflicts these borders represent provide rich empirical material for this phenomenon. Yugoslavia’s break-up created some 5,000 km of international borders that defined new nation states and which were subsequently designated as future EU members. This border creation also led to the unfreezing of long-lasting conflicts with the potential to create further conflict (see e.g. Andreev, 2004; Bechev, 2004; Gibler, 2007; Gibler and Jaroslav, 2014; Rutherford *et al.*, 2014).

We understand borders as geopolitical delineations that embody and express complex social and political processes shaped by history: they specify the ‘inside–outside’ (Walker, 1993), ‘inclusion–exclusion’ (Linklater, 1998) and ‘how actors constitute themselves or are constituted’ (Brown, 2001, p. 119). The EU is sceptical of borders (*Deutsche Welle*, 2013), but composed of bordered nation states, it must recognise and accommodate its members’ concern with borders. The disputes examined suggest that the coexistence of borders and identities within the Westphalian state system remain the major expression of identity and statehood (Newman, 2001, p. 147). In this article, we demonstrate how debate about the meaning of borders can influence domestic political mobilisation and the direction of the EU’s transformative power.

The role and resonance of enlargement in EU integration is identified by Sandra Lavenex and Frank Schimmelfennig (2009, pp. 791–2) who write that: ‘[T]he experience of enlargement is illustrative of both the magnetic force of European integration and the transformative power of its norms on candidate countries.’ This transformative power and the diffusion of institutions and policies across borders have been linked to the interplay between instrumental, social and communicative behavioural logics and their effects (Börzel and Risse, 2012). Lykke Friis and Anna Murphy (1999) show how the EU ‘produces’ effects on members and non-members, effects that remake Europe’s boundaries

by the unbundling of territory that is inherent in EU governance (Ruggie, 1993). Friis and Murphy (1999), drawing on Michael Smith (1996), identify geopolitical, institutional/legal, transactional and cultural boundaries that can be maintained, strengthened, blurred or moved, and then consider how enlargement leads to 'outsiders' becoming 'potential insiders', then 'pre-ins' and finally 'ins' (Friis and Murphy, 1999, p. 217). Thomas Christiansen *et al.* (2004) argue that the effect of European integration is to blur boundaries, even when 'new' borders emerge as in Yugoslavia's break-up. It is easy to overstate the extent of unbundling, thereby obscuring the dynamics of complex border relationships. For example, we find that territory has been unbundled (Yugoslavia's break-up) and then re-bundled (as separate nation states) and that the EU contributes significantly to the shape of this re-bundling through enlargement.

In enlargement we would expect to find a power asymmetry with outcomes favouring the member over the non-member. This realist view of integration sees applicants ceding sovereignty in return for membership benefits and increased governing capacity (Geddes and Taylor, 2013; Mattli, 2002). Each case studied here involves a member state and an applicant state and focuses on a powerfully symbolic issue with identity overtones that have the potential to deepen a dispute, making resolution harder. EU involvement in identity politics can adversely affect pro-EU domestic forces through a loss of support or the co-opting of nationalist sentiment by governing parties. Far better is the resolution of these disputes by those most intimately involved, albeit within EU norms and politics (Kelley, 2004; Stroschein, 2012). Each country is a liberal democracy and one of the EU's achievements is resolving interstate conflict, but neither liberal democracy nor integration rules out interstate conflict. The EU's involvement is, potentially, a complicating factor because enlargement could be interpreted as an 'out' being compelled by an 'in' into making concessions to advance EU negotiations. This potentially undermines domestic political stability, stimulating anti-EU sentiment and nationalism, which are outcomes opposite to those sought by the EU. The EU places strong adaptational pressure on aspirant member states (see e.g. Börzel and Risse, 2012; Diez *et al.*, 2006; Grabbe, 2006; 2014; Schimmelfennig and Sedelmeier, 2004; Vachudova, 2005). This body of work has focused in particular on shedding new light both conceptually and empirically on the social and institutional logics at play as the EU's influence extends beyond its borders.

In their analysis of border disputes, Thomas Diez *et al.* (2006) identify four EU impacts on border disputes. The first – 'compulsory impact' – is where the EU has a direct impact, in effect determining the outcome (Diez *et al.*, 2006, p. 575). This approach has similarities with Frank Schimmelfennig and Ulrich Sedelmeier's (2004) rational incentives model, which argues that the inherent asymmetry between the EU and states seeking membership means the EU wields substantial transformative power. Thus, we would expect border disputes during enlargement to be resolved in favour of member states (insiders). Second, the 'enabling' impact encourages domestic actors to exploit both the EU's requirements and the national desire to join the EU by persuading domestic constituencies to drop national(ist) demands (Diez *et al.*, 2006, p. 578). Any long-term solution to a dispute must, therefore, involve elites and society interacting around agreed objectives (and with the applicant interacting with the EU), which is the third impact – the 'connective' (Diez *et al.*, 2006, p. 581). Connectivity raises the question of the extent of the EU's role. The fourth

impact, finally, is ‘constructive’ (Diez *et al.*, 2006, p. 584). Sustainable conflict resolution rests on the society-wide diffusion of EU norms and preferences that downgrade sovereignty and national identity politics in favour of European integration. This is, inevitably, a long-term solution.

Our analysis seeks to build upon this and develop three important insights into the meaning and status of borders in the context of EU enlargement. First, while it is abundantly evident that the EU’s transformative power has important effects in each of our three cases, we show how and why the presence and effects of EU power are strongly related to the context and logics of domestic politics. For example, EU compulsory power sends a signal to the domestic polity, but this signal may not be clearly received. The presence of compulsory power can lead to assumptions being made about the direction of transformative power that can neglect the domestic political context.

Second, we show how the EU’s approach to enlargement can combine the enabling and the connective, providing domestic political elites with powerful arguments to resist and counter domestic hostility to EU-inspired and domestically unpalatable changes perceived as damaging to the national interest. The EU’s objective, then, is for domestic elites to use both membership requirements and the attractiveness of membership to justify dropping national(ist) demands on the grounds that the benefits of the former far outweigh the benefits of the latter. ‘Enabling’ implies an arms-length relationship, whereas ‘connective’ implies a tie-in, and enlargement, especially in the Western Balkans, involves a very long process of engagement. Therefore, while the EU might prefer an arms-length relationship, extensive and intensive connectivity is inevitable. This means that the EU has a key role to play, but it is not a role that it relishes. This is shown by the EU’s *idée fixe* that border conflicts are bilateral – a polite fiction that captures the EU’s fear of being accused of gross interference in national sovereignty or of partiality in national politics, accusations that could render the EU a destabilising influence. This is, of course, the opposite of what the EU is striving to achieve.

Third, our analysis shows how, by combining the enabling and the connective dimensions, the EU’s actual aim is to downgrade sovereignty and identity politics by the creation of member states – a distinctive state-formation (Bickerton, 2012, pp. 12–5). The EU’s aim is that, over time, atavistic responses lose attractiveness and legitimacy thus neutralising their ability to sustain conflict. This article demonstrates that this aim is highly context-dependent and context dependency means it takes time to work and contexts can change. The assumed EU role is that of both passive attraction as a zone of prosperity and active attraction in the form of pressure to conform to EU norms and policies in enlargement. These can provide the leverage sufficient to overcome (or at least neutralise) domestic opposition and stimulate transformative change (Vachudova, 2005). Such a constructive impact is most likely to overcome conflict, but is very demanding and takes a long time to work. A constructive impact necessarily requires elite and societal involvement, so is vulnerable to domestic political exigencies and can be disrupted if the EU is perceived as partial or autocratic.

The working hypothesis that informs this article’s analysis is that, in each of our three cases, we would expect the EU member (the ‘insider’) to exploit compulsory power to resolve unfrozen conflict in its favour. Put another way, we expect the direction of travel of EU transformative power to be outwards from the member states (the insiders) to the

applicants (the outsiders). Our analysis shows 'unexpected' outcomes. In the Italy–Slovenia case the 'insider' (Italy) was subject to external pressure to change its approach and policy; in Croatia–Slovenia the EU, despite its assertion of bilateralism, was instrumental in facilitating a solution; and finally, in the Greece–Macedonia case neither moved from their established positions, despite the latter's desire for EU membership and the former's 'insider' status.

### **An Excellent Example of an Exception?**

The Italy–Slovenia border dispute demonstrates adaptation by the 'insider' with compulsory effects flowing towards Italy given the wider EU stake in Slovenian accession combined with important changes in Italian domestic politics.

Between Italy and Slovenia lies a 199 km land border and 29 km sea border that 'denies all the commonly known principles of border setting [and] provides the theory of political geography with an excellent example of an exception' (Klemenčič and Gosar, 2001, p. 130). The Italy–Slovenia border has also been embedded within a broader historical debate. For example, Marina Cattaruzza (2007) discusses 'the fascism of the borders' and the importance of the northeastern borders in shaping Italy's imperial ambitions during the fascist period and then subsequently as an area of international friction during the Cold War. Within the Italian political system, the sense of grievance was felt most strongly on the 'post-fascist' right of Italian politics. At the end of the Second World War, around 350,000 ethnic Italians fled Dalmazia, Fiume and Istria (many who fled died in caves, *le foibe*); their property and possessions were nationalised by Tito. The neo- and post-fascist right in Italian politics protested loudly at the 'silence' about *le foibe*, and the neglect of the official memorial day (10 February) instigated by a 2004 law.

The Treaty of Paris of February 1947 ceded to Yugoslavia Zara, the island of Pelagosa, the city of Fiume and most of the Istrian peninsula, with the 'free territory of Trieste' under UN supervision. In 1954 Yugoslavia restored Trieste to Italian control. Under the Treaty of Osimo of November 1975 between Italy and Yugoslavia, Italy renounced territorial claims on the Istrian peninsula and this was supplemented by a series of protocols (Trieste in 1980, Udine in 1982 and Ljubljana in 1988) on border-related issues (Klemenčič and Gosar, 2001). The break-up of Yugoslavia and Slovenia's declaration of independence in 1991 and speedy EU recognition, including by Italy, meant acceptance of the territorial boundaries as agreed at Paris and affirmed by the Treaty of Osimo. Left open was the question of property rights of the Italians who fled after the war, especially as Article 68 of the 1991 Slovenian constitution prohibited the buying of land by non-Slovene citizens. In addition, in 1992 a post-independence meeting held in Rome between diplomats from both countries led to an agreement to recognise and implement previous agreements.

Italy's attempts to resolve the property rights question began under the technocratic government of Carlo Azeglio Ciampi (April 1993–May 1994) and was continued by the first, short-lived Berlusconi coalition government in the final months of 1994, which included ministers from the neo-fascist Movimento Sociale Italiano–Alleanza Nazionale (MSI–AN). In October, the Italian foreign minister Antonio Martino noted that restitution of property and preferential access to the Slovene property market for exiles were issues that remained to be resolved. Martino stated that 'the situation is Europeanised, the EU has understood that our case has its merits' (*La Repubblica*, 1994).

The expectation that compulsory power would work in Italy's interests became entangled with the 'modernisation' of the neo-fascist right and the MSI's transformation into the AN in January 1995. Tensions involved in this transition were evident in a speech delivered by party leader Gianfranco Fini in the northeastern city of Trieste in October 1994 (see below). The Istrian question was sensitive for the AN, with a particular resonance in Trieste that had helped gain votes for the MSI. The AN's dilemma was that it had become a party of government in a state with a strong European identity: the nationalist line ran counter to the demands of coalition government and the need not to disturb relations with the EU. The AN rank-and-file would have preferred to veto the opening of negotiations with Slovenia until an amendment of the Slovenian constitution was made regarding foreign property rights. However, Fini 'is not the leader of a tiny nostalgic party, rather he is the second leader of a coalition government with some ambition to sooner or later become the first leader' (*Corriere della Sera*, 1994). Fini was also seeking international credibility, for example by visiting the US, and nothing was more likely to upset these efforts than a display of ultra-nationalism. The American government was also keen to see ex-Yugoslav states join the EU. Fini's dilemma was that after the democracy/fascism and liberalism/populism debate, he was now faced with another difficult choice: Europeanism or nationalism? The Slovenian issue was therefore a test of the MSI's evolution into a different and more convincingly centre-right party, the AN.

Fini's problems were evident when he spoke at a party rally in Trieste in October 1994. Introduced by a local member of parliament renowned for his hardline position, who warmed up the crowd by asking: '*Triestini*: do you believe in the friendship of the Slovenians?' To which the crowd responded 'No!'. Earlier in the day, Fini declared that the AN had broken with fascism (and by extension with extreme nationalism) and chosen democracy ('we are all children of democracy'). In his speech that night, Fini said that 'on the principle of national identity we will not accept compromises', criticising the 'semi-clandestine' accord in 1994 between the Italian and Slovene foreign ministers agreed in Aquileia that had not been presented to parliament. Fini argued that those who knock on Europe's door must make a gesture of repentance; Slovenia had to 'recognise that the lands in Istria and Dalmazia were Italian and they have to kneel before the caves [*le foibe*] into which were thrown the victims of the ethnic cleansing unleashed by Tito's followers' (*Corriere della Sera*, 1994).

The fall of the first Berlusconi government in December 1994 produced another technocratic government led by Lamberto Dini that indicated a readiness to make concessions to Slovenia to unblock bilateral relations and open the way for accession negotiations. This risked tension with the centre-right who still held a parliamentary majority at that time. The government took a dual track approach: Italy would not seek to veto talks about Slovenian accession while Slovenia would negotiate on the issue of former Italian property. This provoked hostility from the AN, with Fini insisting that the matter be brought to parliament, but this did not form part of the technocratic government's programme presented to the legislature. Fini was strongly critical of the failure to consult parliament when Under-Secretary for Foreign Affairs Susanna Agnelli announced on 4 March 1995 that the Italian government would not block the opening of accession talks with Slovenia. Dini signed the Association Treaty between Slovenia and the EU in June



1996. Slovenia was the first ex-Yugoslavian country to move decisively towards EU membership. The EU played a key role in this outcome. The 'Solana compromise' of August 1995 was proposed by Spanish Foreign Minister Javier Solana during the Spanish EU Presidency. It required that Slovenia would, within four years of the opening of accession negotiations, recognise the right of EU citizens to buy property in Slovene with that right immediately extended to EU citizens who had resided for at least three years on Slovene territory, which included the Istrian peninsula refugees. The question of compensation or restitution of property was left open.

In May 1996 the Dini government was replaced by a centre-left government led by Romano Prodi. In his autobiography, Under-Secretary for Foreign Affairs Piero Fassino wrote that Prodi had been told by US President Clinton that he expected the Italians to facilitate Slovenian accession (Fassino, 2003). Under Prodi, the Italian government made it clear that it would surrender claims for the restitution of property of those who had fled, while Fassino secured assurances from the Slovenian government that they would accept the Solana compromise. This unblocked the dispute for the Italian government, which also faced strong international pressure. Slovenian membership was strongly supported by the German government, while Slovenia was also among the first former Eastern Bloc countries to move towards joining the EU and NATO.

In this case, international pressure was placed on Italy not to block Slovenian accession, while the capacity to mobilise around the contested meaning of borders was weakened by Fini's attempts to reposition the MSI-AN as a party of government. Fini's quest for international and domestic political respectability meant that he embraced Europeanism. The technocratic governments of Dini and Prodi were very susceptible to pressure from the US, and were also strongly pro-European, which counteracted any recourse to nationalist sentiment in the context of the dispute about property rights.

### **Mutual Adjustment: The Essence of the EU Approach?**

In the Croatia-Slovenia border dispute, we see a solution based on mutual adjustment with enlargement at the core of this solution. Croatia, as an aspiring member, was subject to downwards pressure as a result of enlargement but Slovenia, as a very recent member, was inhibited in its actions coming under serious pressure to conform to EU norms and values as testimony of its 'European-ness'. In both cases, the pressure exerted by the EU balanced nationalist mobilisation in domestic politics allowing elites room to manoeuvre.

In the early-1990s Croatia and Slovenia had much in common, but after their independence bilateral relations were poor, symbolised by the dispute over the Bay of Piran (Balkan Report, 2004) that generated 'years of petty incidents and squabbles ... polarized attitudes among both the general public and political leaders in both countries' (RFE/RL News, 2009). The border dispute was generated mainly but not exclusively by Yugoslavia's break-up, which produced a new international border of 668 km whose demarcation became a powerful symbol of national politics and affected profoundly both countries' relations with the EU (Arnaut, 2002; Avbelj and Černic, 2007).

Draft proposals dating from Slovenia's declaration of independence accepted the internal Yugoslav republican boundaries as constituting the new national boundaries (*'uti possidetis juris'*), but the following year Slovenia declared sovereignty over the entire gulf (Sancin,

2010, pp. 93–111). Croatia, citing the first part of Article 15 of the UN Convention on the Law of the Sea, claimed the border should be equidistant from the shore whereas Slovenia emphasised the second part citing the principle of ‘*ex aequo et bono*’ (‘according to the right and good’ or ‘from equity and conscience’) which permits arbitrators to decide in favour of what they consider fair and equitable. A solution seemed close in July 2001 when the respective prime ministers of Slovenia and Croatia formulated the Drnovšek-Račan Agreement that proposed a 3.6 km x 12 km sea corridor (about 80 per cent of the Piran Bay) for Slovenia. This was seen by both sides as a positive contribution to EU membership as well as regularising bilateral relations between the independent republics and symbolising ‘new’ politics in the Balkans. Ominously, some Slovene parties (e.g. the Slovenian National Party and the Slovenian Democratic Party) opposed the agreement and an activist, Josko Joras, who fought for ten years to keep his house in Slovenia, attacked the agreement as ‘the latest in a series of territorial “losses”’: the 1918 loss of Carinthia to Austria, the 1945 loss of Trieste and Gorizia, the 1954 loss of Slovene ethnic territory north of the Mirna River’ (Balkan Report, 2001). Slovenia’s parliament ratified the Drnovšek-Račan Agreement, but Croatia’s never discussed it and attacked Prime Minister Račan for surrendering Croatia’s interests to Slovenia, insisting that the dispute be referred to the International Court of Justice (ICJ) at The Hague. Matters were exacerbated by Croatia’s 2003 declaration of a ‘fishing and ecological zone’ in the Adriatic Sea. Croatia’s original intention was an exclusive economic zone, but it backed down after pressure from the EU and its neighbours. Croatia’s elections were due in November 2003 and some parties (such as the Croatian Peasants’ Party and the Party of Historical Rights) stated that not declaring the ecological zone constituted a Slovenian victory. One party (the Democratic Party of Retired Persons) compared the proposal to an act of the fascist Independent State of Croatia and there was widespread public criticism of the government for failing to defend Slovenia’s sovereignty (Balkan Report, 2003).

In 2007 the Croatian and Slovenian prime ministers, Ivo Sanader and Janez Janša, agreed in principle to refer the dispute to the ICJ but this failed to neutralise the issue in domestic politics. The Bled Agreement enjoyed support from Croatia, with Slovenia less than enthusiastic, and a joint commission worked on a solution to the border dispute for eighteen months. In the 2007 Slovenian and Croatian elections bilateral border disputes (of which the Piran Bay was only one) assumed a symbolic importance out of all proportion to their strategic or geopolitical significance, becoming tied to Croatia’s EU’s accession when Slovenia’s foreign minister, Dimitri Rupel, threatened to block negotiations. A Slovenian veto was now a factor in domestic and bilateral relations, with the Slovene National Party led by Zmago Jiliničič and others, such as Dimitrij Rupel (then of the Slovenian Democratic Union) and Dušan Mramor (a former finance minister) urging a veto on negotiations with Croatia. The veto threat grew when twelve Slovenes (including the Slovenian People’s Party’s leader) were arrested by Croatian border police attempting to visit Josko Joras.

The EU, conscious of the sensitivity of the problem, insisted that this was a bilateral issue. Conflict was precipitated by Croatia submitting documents and maps (some claim this was deliberate; others that it was an oversight) to the Commission which were not marked with the disputed areas, which Slovenia interpreted as a formal claim even though



Croatia insisted the maps held no great significance. Olli Rehn, the enlargement commissioner, with the unresolved issue of Cyprus before him, warned both sides that 'the Commission views all border disputes as bilateral issues that do not belong to the accession process' (Balkan Insight, 2008a). The Croatian and Slovenian presidents, Stipe Mesic and Danilo Turk, called for dialogue, with Turk citing the Drnovšek-Račan Agreement as a possible way forward despite the hostility of nationalists in both countries. The Croats rejected the agreement in favour of third-party arbitration. In 2007, the Slovenes agreed to the proposed reference to the ICJ but subsequently backed out, and in an effort to move the process forward, the French government, then holding the EU Presidency, offered a solution. French President Nicolas Sarkozy proposed that both Slovenia and Croatia sign an agreement not to pre-judge the border issue in order to facilitate progress with enlargement; this proposal produced an extended discussion of Sarkozy's proposal at the Committee of Permanent Representatives (COREPER, which is responsible for preparing the work of the European Council comprising a forum for discussions between Permanent Representatives and their governments in an attempt to reach agreement on proposals). Of the EU's members, only Slovenia opposed the French plan and no progress was made. Slovenia agreed that membership negotiations should not be used to resolve bilateral issues, even though this is what happened, but the EU's members were unwilling to strong-arm an EU member because of the precedent this represented. Significantly, France put more pressure on Croatia than Slovenia to concede.

On 19 December 2008, Slovenia blocked the opening of new chapter negotiations with Croatia. EU members approved accession negotiations and some criticised Slovenia's 'un-European' stance. Some Croat politicians, including the president, argued that Slovenia's unilateral actions effectively made the EU responsible for finding a settlement but the Commission stuck to its position that this was a bilateral issue (Balkan Insight, 2008b). Justified as a legitimate defence of sovereign rights, Slovenia blocked the closure of further chapters with Croatia. In January, Slovenia hinted at also blocking Croatia's accession to NATO but attempts in Slovenia to mobilise a national referendum on Croatia's EU membership failed and Croatia joined NATO in April 2009. Although negotiations with Croatia continued, progress slowed and Slovenia reiterated frequently that there would be no progress until the dispute was resolved.

With Rehn's support, contacts continued at official and expert level, where a consensus developed that the only viable way forward was international arbitration, but the two sides disagreed on the form this should take (Croatia insisted on the ICJ; Slovenia on EU arbitration). Rehn refused any formal EU role but conceded the Commission would facilitate mediation: 'It is the stance of the European Commission that this is a bilateral issue ... but this issue has now become a European issue, although it is not directly connected with negotiations or Croatia's joining the EU' (Balkan Insight, 2009). Rehn proposed a five-member panel of legal experts to develop a joint statement not prejudging the dispute and build trust, and then move on to finding a settlement process.

Slovenia and Croatia saw this as a way forward, but little was achieved until Sanader's resignation as Croatia's prime minister on 1 July 2009. He was succeeded by Jadranka Kosor. After two meetings earlier in the year, the third (on 11 September in Ljubljana) settled the final details of an agreement and Kosor informed the Swedish Presidency that

the Croatian government would not prejudice the border (essentially the French proposal) and Slovenian Prime Minister Borut Pahor announced that Slovenia's veto would be lifted; arbitration would now take place under the EU's auspices but would not involve the EU (CEC, 2012). The final shape of the arbitration process was settled in Zagreb on 26 October; on 2 November the Croatian parliament approved the arbitration agreement, which was signed in Stockholm on 4 November 2009 (RFE/RL News, 2009). Despite the Slovenian government continuing to block three chapters (environment, fisheries, and foreign security and defence) a referendum approved international arbitration by 51.4 to 48.5 per cent in June 2010. The final agreement on 25 May 2011 created the five-member tribunal of international legal experts (three were to be jointly selected from a panel of five by the two governments, who would also appoint a member each) and this ad hoc tribunal was registered with the UN. It was expected to take three years to reach a settlement and its decisions would be binding. Neither the European Commission nor the EU were party to the agreement, confirming the dispute's bilateral status, but the Commission would 'provide its good offices', lauding the agreement as 'a positive political signal for the further development of the good neighbourly relations between the two countries as well as for the Western Balkans regions [sic] showing how difficult issues could be solved' (CEC, 2012, p. 1).

Croatia was subject to high levels of transformative pressure because of enlargement, but the Commission refused to allow the border dispute to be drawn into the enlargement process. Slovenia, as a recent EU member, was reluctant to assert its potential power in the border dispute. In both countries, powerful nationalist sentiments threatened disruption but were neutralised by the dominance of European integration. In this case, we see the blending of the enabling and connective to resolve the border dispute and reconstitute Croatia-Slovenia relations.

### **The Past is Another Country**

Our two previous cases show how the combination of the enabling and the connective aspects facilitated solutions to be found to contentious disputes. In both cases nationalist sentiments were neutralised (in Italy's case by the restructuring of domestic politics and in the Croatia-Slovenia case by EU norms and values) but in our third case we see how the failure to neutralise these sentiments results in stalemate.

Macedonia declared independence from Yugoslavia in September 1991. Its constitution proclaimed it the 'Republic of Macedonia' and thereafter it and Greece have been mired in a dispute over the former's name. The Greek foreign ministry argues that this name 'contravenes the fundamental principles of international law and order [and] respect for good neighbourly relations, sovereignty and territorial integrity'. Macedonia is accused of 'irredentist and territorial ambitions ... through the counterfeiting of history and usurpation of Greece's national and historical heritage'; independence was based on 'the artificial and spurious notion of the "Macedonian nation", which was cultivated systematically through the falsification of history and the exploitation of ancient Macedonia'. In these circumstances 'Greece reacted strongly to the theft of its historical heritage and the treacherous territorial and irredentist intention [of FYROM]' and blocked NATO and EU membership (Hellenic Republic, n.d.; see also REF/RL, 2011). The Macedonian government's

position was that the country's constitutional name could not be surrendered and to attempt to force this risked destabilising Macedonia and quite possibly the entire region. Many Macedonians regard the FYROM appellation ('The Former Yugoslav Republic of Macedonia') and the external imposition of a new flag and constitutional amendments 'as humiliating and insulting' (RFE/RL, 2005a; 2005b).

Macedonia's independence reflected the increasingly complicated practice of recognition (Turk, 1993). The European Community foreign ministers meeting in Brussels issued the Declaration on Yugoslavia of 16 December 1991, which concluded that prior to recognition any ex-Yugoslav state must 'adopt constitutional and political guarantees ensuring that it has no territorial claims towards a neighbouring Community State and that it will conduct no hostile propaganda activities versus a neighbouring Community State, including the denomination of a name which implies territorial claims' (ASIL, 1992, p. 1486). The Declaration outlined a process under which the Badinter Commission (the Arbitration Commission for Yugoslavia created as part of the EU peace process) would pronounce on Macedonia's request for recognition, although its opinions were not legally binding. The Badinter Commission concluded (the full reasoning is given in Opinion 6, delivered on 11 January 1992) that Macedonia 'satisfies the tests' for recognition and that, having explicitly renounced all possible territorial claims, 'use of the name "Macedonia" cannot therefore imply any territorial claim against another State' (Turk, 1993, pp. 77–80). The European Community foreign ministers meeting at Guimares on 2 May 1992 declined to recommend recognition because a name acceptable to all parties had to be found. A solution excluding 'Macedonia' was unacceptable to the Macedonian government, while inclusion of the name was unacceptable to the Greek government. Thus, 'the issue has been reduced to a contest of strength and influence between Athens and Skopje, with the former ... exercising a de facto veto of EU policy making on the question' (Rich, 1993, p. 53).

On 30 July 1992, Macedonia applied for UN membership but the application stalled for a year largely because of the internal security situation (Phillips, 2004). During 1992, international bodies such as the International Monetary Fund and the World Bank increasingly adopted the FYROM appellation which, in January 1993 (on the proposal of France, Spain and the UK), was accepted by the UN Security Council but rejected by Greece and Macedonia. Under intense pressure from the EU and NATO, both the Greek and Macedonian governments subsequently accepted this proposal. On 7 April, the Security Council recommended to the General Assembly that FYROM be granted UN membership with its 'official' name to be decided (UN, 1993a; 1993b). Greece objected to FYROM being seated under 'M' and FYROM rejected 'F'; it was eventually seated under 'T' ('The Former ...') next to Thailand. 'FYROM' was gradually accepted as the norm.

Bilateral relations were formalised by the Interim Accord of 13 September 1995. This has overtones of a Marx Brothers film, as the names of neither country were used (Greece was 'the Party of the first Part' and FYROM 'the Party of the Second Part'), but formal diplomatic relations were established, frontiers were accepted as inviolable, Macedonia abandoned the Vergina Sun as a national symbol and changed its constitution, historical and cultural patrimony would not be exploited by either side, the movement of people and goods (a trade embargo imposed by Greece in 1993 was removed under US pressure)

would be allowed, and negotiations on the name would take place under UN auspices (UN, 1995). After signing, the issue descended into stalemate despite successive bouts of negotiation because of domestic political pressures (RFE/RL, 2005b).

FYROM's admission to the UN led the former Greek foreign minister, Antonis Samaras, to defect from New Democracy, leading to the fall of the Mitsotakis government and its defeat by Andreas Papandreou's PASOK in October 1993. The new PASOK government adopted an even harder line. The Macedonian parliament accepted the UN deal (30 to 28 with 18 abstentions), but the opposition VMRO-DPMNE (Internal Macedonian Revolutionary Party-Democratic Party for Macedonian National Unity) called for a confidence vote, which the government survived. Negotiations on the name dispute continued sporadically under Article 5 of the Interim Accord, but the central problem remains Greece's concern over 'Macedonia', despite pragmatically accepting the provisional name and the proposed use of modifiers (e.g. 'Nova Makedonija', or 'Vardar Macedonia'); Greece remains opposed to the international use of 'Republic of Macedonia' and suspects that over time any qualifier will fall into disuse. The government in Skopje felt that accepting a qualifier undermines its identity; President Crvenkovski, for example, 'made clear that Macedonia will not accept anything but the name Republic of Macedonia in its dealings with the rest of the world' (RFE/RL, 2005b). Greek attempts to persuade international organisations to drop 'FYROM' failed. In March 1997, for example, when relations appeared to improve, Greek Foreign Minister Theodoros Pangalos met Macedonian President Kiro Gligorov and 'reportedly avoided any reference to Macedonia's name during nearly two hours of talks' (Naegele, 1997).

Under the Interim Accord Greece was not to obstruct FYROM's membership of international organisations but at the NATO Bucharest summit in April 2008 Greece's case for the 'non-invitation' of FYROM was accepted (NATO, 2008, paragraph 21). The June 2008 EU Council expressed its conviction that FYROM would make progress by satisfying the conditionality laid down in the enlargement process but 'a negotiated and mutually acceptable solution on the name issue remains essential' (CEC, 2008, p. 6). Thus, the name dispute became part of the enlargement process.

Greek hostility was increased by the VMRO-DPMNE's policy of '*Antikvizatzija*' ('antiquisation'), which involves grandiose public manifestations of contemporary Macedonia as the heir to the Macedonia of Philip II and Alexander the Great. The VMRO-DPMNE claims to be the inheritor of the VMRO, a nationalist resistance organisation formed in 1893. It can be described as centre-right/Christian democrat, pro-NATO and EU membership, and nationalist, drawing its support from ethnic Macedonians. After 1990, VMRO-DPMNE was the largest party but it refused to form a coalition with ethnic Albanians and boycotted the 1994 elections; in 1998 it did enter coalition with the Democratic Party of Albanians and in 1999 the VMRO-DPMNE's candidate also became president. In 2002 the VMRO-DPMNE government was defeated and in 2004 it lost the presidency. Recovery in 2006 saw the incoming government adopt the antiquisation policy, which accelerated after the NATO non-invitation. This boosted VMRO-DPMNE support in the 2008 elections, with its calls to resist external pressure (RFE/RL, 2008). In the 2008 parliamentary elections the VMRO-DPMNE electoral coalition polled 48.7 per cent of the votes cast.

In December 2006 Skopje airport was renamed 'Aleksandar Veliki' ('Alexander the Great') and several statues of Alexander and his father Philip II of Macedon were erected, culminating in the unveiling of the 22m high 'Warrior on a Horse' (an equestrian statue of Alexander the Great) in Skopje in 2011, and an even larger statue of Philip II ('Warrior with Accompanying Elements') placed opposite the same square under the 'Skopje 2014' urban renewal programme. Sports stadia, highways and airports, as well as streets and squares have all been renamed in line with this policy (RFE/RL, 2011). A government statement argued that 'we see this as an expression of our identity, a kind of nation-building exercise, and a confirmation of our statehood' (Kuzmanovski, 2009). The 'Skopje 2014' project and antiquisation 'represents for many a nationalist vision of the state that leaves little room for minorities, especially Albanians – and alienates those many Macedonians who do not share it either. The project has nothing to do with an EU future and, by gratuitously provoking Greece, is actually postponing it' (ICG, 2011, p. 23). A further provocation (from the Greek perspective) was Macedonia's decision to introduce new car licence plates with 'MK' as the national identifier. Justified as harmonisation with EU rules, Greek border officials covered the offending letters with sticky-tape (O'Connor, 2012).

Antiquisation is proving costly financially and in international sympathy. It has also been blamed for the growing nationalism and authoritarianism of the VMRO-DPMNE, which threatened to undermine the Ohrid Agreement (the August 2001 peace deal that brought an end to armed conflict and saw the Macedonian government guarantee the rights of ethnic Albanians) and worsen relations with the Albanian community and jeopardise internal stability. The name is fundamental to Macedonian identity, not at all for Albanians, but any split along ethnic lines would produce a political crisis. Albanian politicians have sought to avoid involvement while expressing disquiet at the way VMRO-DPMNE has used the dispute to strengthen its domestic popularity at the cost of progress towards the EU by refusing to compromise with Greece. Politicians have committed to putting any solution to a referendum, which also poses problems as approval requires a two-thirds majority but about 55 per cent (64 per cent outside the Albanian areas) of voters oppose a name change in return for EU membership (ICG, 2011, pp. 20–1).

The position is now one of stalemate. In November 2008 FYROM instituted proceedings against Greece at the ICJ, alleging a breach of Article 11 of the Interim Accord in blocking FYROM's NATO membership. In its judgement of 5 December 2011 the ICJ found (by 15 to 1, with only the Greek judge voting against) that Greece had breached the Interim Accord but that it could not order Greece to comply or instruct it not to repeat its actions with any other international or multinational organisation (ICJ, 2011). On 9 November 2005 the European Commission issued its Opinion on FYROM's application for membership and recommended granting candidate status, which the European Council approved in December that year. In June 2007 the European Parliament passed a resolution that, in effect, supported Macedonia – the first time an EU institution had taken a clear position – arguing 'the name issue must in no way be used as an obstacle to the opening of negotiations and EU accession' (RFE/RL, 2007).

The EU's official position is that this is a bilateral issue in which the lead is being taken by the UN and it is therefore wholly distinct and separate from enlargement (RFE/RL, 2009a). The Commission wants to avoid importing unresolved bilateral disputes into the

EU, but all 28 EU members must agree to the opening of negotiations. In October 2009, the Commission recommended opening negotiations on accession with Macedonia but this proposal was blocked by Greece. The European Council instituted the High Level Accession Dialogue (HLAD) in December 2012 to maintain progress in the face of Greece's veto. A component of the HLAD is resolving the dispute under UN auspices and negotiations took place in New York on 29–30 January and 8–9 April 2013, but there was no progress (CEC, 2013, pp. 11–12). In 2009 Dimitris Droutsas, who shared the foreign ministry portfolio with Prime Minister Papandreou, declared: 'The name issue must be solved before we can even think of opening accession negotiations with Skopje. ... We are calling this the national red line' (RFE/RL, 2009b). This remains the position. The Commission will not force the issue while Greece is restructuring its economy and thereby posing a threat to the coherence of the Eurozone, and when parties hostile to the EU-inspired austerity programme are gaining influence in domestic politics.

Here we see clear limits to the EU's transformative power and a distinct unwillingness to become involved in what is a highly sensitive issue for both countries. Neither country, nor the European Commission, possesses the resources to compel a solution and so the issue remains frozen and any solution (one side backs down or both compromise) involves high domestic political costs.

## Conclusions

Without doubt, European integration has had powerful transformative effects on both its members and its neighbours. This article has explored these transformative effects in the context of the unfreezing of border conflicts in ex-Yugoslavia to build upon and develop existing understanding of the scope and potential for transformative power. In all of our three cases, we would expect to see the EU exert considerable compulsory power because all of the 'outsiders' sought/seek EU membership. However, by emphasising the importance of the domestic context within which the meaning of borders can be mobilised, we demonstrated a wider range of possible outcomes than outsider adjustment. Our exploration of the cases suggested scope for insider adjustment, mutual adjustment and stalemate linked to the role played by domestic political actors in mobilising around the meaning of borders. The evidence presented suggests that in all three of the cases assessed in this article, borders have the potential to stimulate identity politics and nationalist opposition to the integration project that employs a political discourse decidedly not of the type sought by the EU.

The cases have three major points of comparison: first, to a greater or lesser degree, all involve the issue of identity; second, their domestic impact is to stimulate nationalist sentiments; and third, the conflicts pose major problems for elites, articulating a tension between 'national' and 'European' orientations. All three pre-date the EU, but were folded into enlargement, as part of the wider integration agenda and discourse, and are inimical to this agenda and discourse. However, they are integral to the politics of the nation state, testifying to the twin processes of boundary transcendence and creation inherent in both state-building and European integration. That these conflicts became an aspect of enlargement inevitably draws in the EU and the obvious solution is to use the power asymmetry and the applicant's desire for membership to engineer a solution that would be in favour of



the 'insider'. Noticeable, however, is the EU's reluctance to engage, reflected in its insistence that these are bilateral issues not related to enlargement. At the heart of the EU's role in border conflicts is a paradox: the power asymmetry integral to enlargement, which points to a compulsory impact, in reality limits the EU's transformative power because its assertion could destabilise both domestic politics and enlargement by stimulating illiberal domestic politics. Three other outcomes are possible: one that favours the 'outsider', one favouring the 'insider', and mutual adjustment or stalemate – two of these outcomes challenge directly the view that power resides with the 'insider'. The reorientation of the 'post-fascist' right in Italian politics and its 'choice for Europe' played an important domestic role combined with external pressure from the EU and the US. The EU's transformative power flowed inwards. In the Slovenia-Croatia case, we saw elites slowly moving away from a 'national-interest' stance (approved by substantial sections of domestic opinion) to one of compromise based on the recognition that integration offered both parties greater long-term gains. The Greece-Macedonia dispute shows clearly the inhibitions on the EU's transformative power, notably its refusal not just to compel a resolution but also to become actively involved. Each case shows the EU to be promoting a *constructive* impact, seeking to embed the 'EU way' into domestic politics to transform interstate relations. Embedding an EU identity entails a discourse and norms focused on *enabling* (linking the domestic political agenda to integration to justify extensive and invariably painful, adaption) and *connectivity* (multiplying contacts between actors over time). The resilience of the nation state (acute in the Greece-Macedonian case because of the strength of the identity dimension) pushes against the EU's active and passive leverage, which encourages movement along the road to integration and the 'obsolescence' of the bordered nation state in the EU. The EU's task is to balance these powerful tensions.

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