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**Drawing the Line:
The EU's Political Accession Criteria and the Construction of Membership**

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**DRAWING THE LINE:
THE EU'S POLITICAL ACCESSION CRITERIA
AND THE CONSTRUCTION OF MEMBERSHIP**
By Sarah Kahn-Nisser *

Abstract

In this paper I seek to explicate the ideas about EU membership embedded in the accession criteria, and in the pre-accession monitoring of Poland, Romania and Turkey. Taking four ideal-type modes of membership as my heuristic gear, I will show that the way the criteria were interpreted and implemented in the 'progress towards accession' reports, thickened the criteria and invoked a Civic-Cultural mode of membership for the EU. Two conclusions emerge: First there is a substantial degree of internal logic to the reports. The second conclusion is that the interpretation and reconstruction of the criteria, through the practice of pre-accession monitoring, entails an inherent amplification of the criteria.

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1. Introduction

The process of accession to the EU, is at once an international interaction described as conditionality, and a social constructive process through which previous outsiders become insiders (Grabbe,2002). The accession process has been extensively studied as a form of conditionality but its other aspect, the accession process as the reformulation of affinity, has largely remained neglected. Particularly, the fact that pre-accession political monitoring is based on the EU's 'fundamental values', and therefore involves continuous reconsideration of the meaning of these values, has not been systematically accounted for. This paper therefore parenthesizes the understanding of pre-accession monitoring as an incentive to democratization through conditionality, for the purpose of better understanding the kind of membership reproduced therein. It should thus be pointed out that even taken strictly as an internally concerned action, the 1993 Copenhagen criteria and the monitoring mechanism which followed, had a dual posture; It was meant to make what was quickly proving itself to be a massive, highly politicized, arduous Enlargement, more manageable and paced. The criteria and the monitoring mechanism that followed were supposed to enable the council to make informed and reasoned decisions on Enlargement. At the same time, and without prejudice to this functional aspect, they also had a constructive character. The criteria were the result of a consideration of the differences between the member state and the candidate state. The concern with difference and similarity, the need to address these questions, and indeed the answers with which the EU came up, are all important experiences in the figuration of the EU's mode of membership.

This paper sets out to explicate the kind of ideas about EU membership that stem from- and feed into- the EU's pre-accession political monitoring mechanism, and the political accession criteria on which it is based. Specifically, I will examine the concepts of membership, which are entrenched in the political section of the 'progress towards accession' reports on Turkey, and on Poland between 1998 and 2002. In my interpretation I will address two separate questions- What meaning is ascribed to membership in the EU in the various requirements, critiques and praises expressed in the reports? The second question is how may the explication of this meaning help us

to understand differences and similarities between different reports on different countries? It should immediately be clarified that this paper does not seek to explain the decisions on Enlargement. My concern is with the practice of the construction of membership criteria and pre-accession monitoring, not with the decision on whether to accept this or that country and when. This paper will uncover a substantial degree of consistency and internal logic in the EU's pre-accession monitoring mechanism. I will also show that the fulfillment of the official 1993 Copenhagen criteria is a necessary but insufficient condition to accession and that the practice of pre-accession monitoring gives rise to additional criteria.

I will begin with a concise review of some of the relevant literature on the EU's political accession criteria. I will then proceed with a brief account of the epistemological and methodological approach which inform the paper. The third section describes four ideal types of Membership Modes, which will serve as an interpretive-heuristic instrument in my inquiry. The fourth section explicates the ideas about membership embedded in the notion of accession criteria, in the specific Copenhagen political criteria, and in the pre-accession political monitoring mechanism. In the fifth section I will interpret the concepts on membership embedded in the reports. The final section will suggest some conclusions from this interpretation.

2. Conditionality, Democracy and Membership- Literature Review

The EU's political accession criteria have been studied from a variety of angles. They have been examined in terms of their effect on democratization in the candidate countries (Zaborowski,2005; Sadurski,2004; Sedelmeier,2001); they have been evaluated as a form of conditionality (Albi,2009; Pridham,2008;Schimmelfennig,2007;Grabbe,2002); they have been critiqued and praised for the commitment they exhibit, or fail to exhibit, for specific agendas, such as minorities' rights and women's rights (Sasse,2008;Anderson,2006; Vermeersch,2004); the historical evaluation of their meaning and purpose has been studied (Babb& Carruthers,2008;Phoung,2003);their degree of consistency and coherence have been examined

(Hunter & Ryan, 2009; Onis, 2004). Notwithstanding the value and importance of these studies, they do little to clarify the relation between enlargement, the accession process, and the accession criteria on one hand, and the constitution of membership and affinity on the other. Some studies suggested possible starting points, for an attempt to better understand this issue; Weiner's critical examination of the opposing rationales of enlargement and constitutionalism, concluded that the dynamism of EU norms, as demonstrated in EU constitutionalism, is stifled in enlargement which treats EU's norms as though they are static and final (Wiener, 2003:162). A related argument is that the 2004 enlargement process treated the CEEC as a homogenous bloc, and thereby failed to extend the accommodation of differences, which is typical to the EU's constitutionalism, to enlargement (Aziz, 2006:261). Many have observed that the enlargement mechanism fixes the candidate countries in a subordinate position vis-à-vis the EU (Epstein, 2008: 883; Anastasakis, 2008; Moravcsik & Vachdova, 2003: 44), and that it is in fact "the old paternalistic European cultural imperialism in disguise" (Stivachtis, 2008:87; Holman, 2004:221). It has been pointed out that EU accession conditionality is unique in that it heavily builds on the symbolic benefit of membership rather than on material benefits. (Steunenberg & Dimitrova, 2007:2) It has also been considered that there is an intimate connection between accession conditionality and the EU's self understanding as a union of values (Jileva, 2004:19; Jacobsen, 2004:48), and that the practice of enlargement constructs the meaning of the values and vice-versa. (Wiener, 2004: 191)

We know then, that far from being a mere rationalistic form of international interaction, the enlargement mechanism encircles inherent social, symbolic, and discursive aspects. Having acknowledged the "sociological" dimension of the accession criteria, there remains the need to spell out exactly how this dimension comes into play, and how it projects on European integration.

3. Interpreting Membership through Practice and Text - Epistemological and Methodological Remarks

In view of the aforesaid aim to explicate the concepts of membership which are embedded in the “progress towards accession reports”, three important questions spring to mind. The first is why is it assumed that such ideas are embedded in the reports? The second question is who put them there? And the third is how does one go about explicating them? My reply to the first question is built on H.G. Gadamer’s (1979) and Charles Taylor’s (2002) writings. Human action is conditioned upon the ability to ascribe meaning to the world around us, to “make sense” out of things in Taylor’s words. This ability is contingent upon the ideas which are available to us at a given time and place; available ideas therefore shape our understanding of the world, and our action in it. Thus, there is no action without a concept of that action, and vice-versa. Pre-accession monitoring cannot be conducted without a notion of what the EU is about and what membership in the EU entails. Monitoring, in turn, re-shapes agents’ ideas on these issues. My reply to the second question stems from the first and further clarifies it: The ideas entrenched in the reports are not the fruitages of a single agent’s solitary reflections. Rather, they are the expression of an intersubjective, commonly held, web of meaning, which is recursively constructed by- and fed into- common practices (Gibbons, 2006: 566). The explication of the common meanings of common actions, in reply to the third question, will be conducted through an assessment of the way ideal-type notions of membership, which are available to the agents of European Integration, were configured into the text and practice of the progress towards accession reports. I will also explicate the way the specific configuration of these ideal-types, projects on enlargement and the integration of new members. The purpose of the ideal-type modes of membership is heuristic, not explanatory nor critical. Because it is my purpose to understand the notions of membership the way agents conceive of it, I will not codify or operationalize neither the text nor the ideal types (Topper, 2000: 519). I will approach the text, as Taylor suggests, much like one approaches a person they wish to understand. The inquiry engages in a dialogue with the text, seeking to understand, not only the meaning of specific expressions within it, but its meaning as a whole.

To this understanding of enlargement as part of an intersubjective web of meaning, the concept of Meaningful Other (Said,1978) should be added. This concept means that the relation to aliens is part and parcel of the recursive formulation of the web of meaning. A Meaningful Other is an alien whose extraneity is woven into the web of meaning of a given community, thereby shaping the community's self understanding. Turkey is a meaningful other for the EU, and so is Eastern Europe (Strath,2003; Delanty,1995). The choice of the three case-studies was guided by a prevailing view among students of EU Enlargement, that while Turkey's candidacy is particularly complex, the Polish was arguably the least problematic one, whereas the Romanian case was somewhere in-between. The purpose of this choice is thus, to facilitate an interpretation that is sensitive to the diversity which characterizes EU Enlargement since the collapse of the soviet bloc.

It should also be clarified that the subject of interpretation is not the specific demands expressed in the reports (e.g. appoint another civilian judge to the state security court), but the reasons given for these demands (e.g. because this will ensure civilian control of the military), as the latter are telling of the perceived basis for EU membership. Through the interpretation of the rationale of accession requirement I hope to answer two questions: first, what meaning is ascribed to membership in the EU in the reasoning of the various critiques and praises expressed in the reports? The second question is how may the explication of this meaning help us to understand differences and similarities between different reports on different countries? For the sake of clarity the second question should be broken down into two sub-questions: the first is how consistent are the reports in terms of the rationales given for the requirements expressed in them, across countries and over time? And the second question is can we make sense of these differences and similarities through the elucidation of an underlying web of meaning regarding membership in the EU?

4. Modes of Membership- A Conceptual Scheme

The purpose of this paper is to interpret the conceptions of membership in the European Union, embedded in the progress towards accession reports. It should immediately be clarified that this paper does not seek to explain the decisions on Enlargement. My concern is with the practice of the construction of membership criteria and pre-accession monitoring, not with the decision on whether to accept this or that country and when. I will try to achieve this goal through an assessment of the relation between the views expressed in the reports, and four ideal-type modes of membership: Cosmopolitan, Supranational, Civic and Cultural. These four ideal types capture the prevailing ideas of membership in the western-modern web of meaning, and therefore the ideas available to the agents of European Integration. The following outline of each mode of membership is derived from the extensive theoretical literature on these concepts. However, my description suggests a reformulation focused on the specific subject of membership criteria.

I should begin by a definition of what is meant by “modes of membership”. A mode of membership is a certain way of thinking about social borders. It is a specific way of discerning between insiders and outsiders and of reasoning the basis of the commonality among insiders and the difference between them and outsiders. Membership and affinity are complex experiences which take place on the interface between community and individual. It makes little sense to speak of membership as an exclusively individual or as an exclusively collective experience. It is the experience of membership which ultimately entangles the individuals in their community and thereby constructs and maintains the community. An account of a mode of membership of individuals thus would be partial at best (Etzioni,1995: 20). Thus the following formulations of the four modes of membership intentionally suspends the (frequently overstated) differentiation between membership of individuals and membership of communities.

The Cosmopolitan mode of membership has at its base a fundamental belief in the basic commonality among all men and women. Stemming from the enlightenment notion of reason being *the* essential human trait, the Cosmopolitan community looks to that feature, and to no additional ones, in its rendition of social identity (Waldron,2000). As the community is seen to

be built upon basic human semblance, any human is a potential member of the community, and the community is on the conceptual level, limitless (Conolly,2000: 599). On the conceptual level, and not necessarily in practice, because the Cosmopolitan mode of membership takes universal inclusion not only as a prescriptive decree, but also as an ethical horizon from which practical directives may be derived. On the specific issue of membership acquirement, the regulatory directive, which would be derived from a Cosmopolitan view, is that the pre-conditions to membership should be quantitatively and qualitatively minimal, and easily attainable to all humans through their conscious choices and actions (Nussbaum,1997:4). A typical Cosmopolitan membership condition would be to refrain from direct infringement of other persons' freedoms. Originating from the age-old idea of concentric belonging and multi-faceted identity (Kymlicka,2001:205), the Supranational mode of membership owes its modern articulation to a trauma-caused suspicion of Nationalism on one hand (De-Greiff,2002:433), and a high regard of local culture on the other(Cochran,1999). Thus, rejecting at once Universalism *and* Particularism, the Supranational mode of membership builds the community not around reason, but around the freedom to express, play with, exchange, and move between cultures (De Greiff & Cronin,2002:26). This free play with identity, belonging, and spiritual goods, will fence-off, it is hoped, the menaces of Particularism (Nash,2003:507). The Supranational mode of membership seeks to preserve Particularism's utility-cultural wealth, while mitigating its hazardous chauvinism. While it is obvious that social borders would have to be highly flexible for a community to be regarded as Supranational, one need not forget that the borders *are* there. Unlimited inclusion is not an ideal, or even a relevant prospect in a Supranational mode of membership. Such a community is mainly concerned with internal relations between community members. This inward gaze entails a much greater concern with maintaining internal free exchange, than in expansion.(Sen,2002:42; Held,1995:272). In terms of membership conditions, differences between newcomers and veterans would not be considered as problematic, and would actually be valued and welcomed, to the extent, and this is crucial, that they do not impede free cultural exchange. Thus, a Supranational mode of membership is not characterized by articulated

and elaborated accession criteria, but by the single demand to actively buttress, and obviously not to interrupt, free exchange.

The Civic mode of membership is built on the idea that fraternity can, and should be constructed through a common commitment to specific political values. Constitutional Patriotism is the Civic community's focal feature. The shared dedication to fundamental freedoms and rights, and the pride of the fine political institutions that guarantee them, are the central source of solidarity (Habermas,2001:25). The rights and freedoms which form the basis of Constitutional Patriotism must not be constrained by cultural traditions and sub-group practices. This means that Constitutional Patriotism is, in the ideal type Civic mode, paramount to any other kind of collective identity. The Civic mode of membership entails the right to assert a particular cultural identity, insofar as this assertion does not compromise the commitment to political values. Membership and solidarity are confined to the designated subjects of these institutions, as they are the ones who, in their everyday practices, construct, respect, maintain, and guard the ethos of Constitutional Patriotism (Meisels,2003: 85). For Constitutional Patriotism to be sustained the community would have to have clearly defined borders, and thus, it would also have "membership tests" to be passed before inclusion in these borders may be considered (Markell,2000: 43). As proponents of civic communities are aware of the relative frailty of civic communality, and of the high commitment required of members for the community to subsist, prospective new members are treated with a certain degree of suspicion. Their commitment to the shared political practices has to be preformed prior to accession, and judged on the basis of a fairly elaborated set of criteria, which stem from the common political values (Cronin,2003: 10). The Cultural mode of membership is based on a (socially constructed) sense of primordial bonds. The community is experienced as the contemporary embodiment of an ancestry civilization, destined to be (re)united (Greenfeld,1993: 10). Unity, and consolidation of the community, are seen as manifestly, and self-evidently, right, just, and liberating (Smith,2000: 321). The features of cultural commonality are hard to spell out literally, but are identifiable to all community members (Viroli,2003:21). It is not religion, nor is it language, nor is it shared history, nor is it a

common cultural legacy, nor is it a relation to a specific territory, which each in itself form the sense of kinship among members, but a complex combination of all; A mixture of common features, traditions, practices, and attachments, experienced as the offsprings of a common past (Viroli,2003:21). Because the basis of Cultural identity is highly elusive, so too would be the criteria on the basis of which membership is established. It would not remotely resemble the structured checklist of civic performance, or the supranational protection of free exchange. The underlying rationale of the Cultural membership mode may seem at first glance opaque or arbitrary (Brubaker,1992: 14). But it would undoubtedly involve substantial references to the perceived common past and tradition, and an essentialist understanding of what the community is about.

5. The Copenhagen Accession Criteria- beyond the functional perspective

Before I interpret the specific content of the progress report, a word on the general idea of accession criteria, and the specific criteria formulated in Copenhagen, in terms of modes of membership embedded in them, is in order. The mere concept of specifying accession criteria does not, in and within itself, configure a specific mode of membership. As we have seen, all four modes of membership include implicit or explicit denotations of demands imposed on potential members. The differences between the modes of membership lie in the *kind* of criteria typical to each one of them.

The formulation of the political accession criteria can be traced back to the declaration on European identity (1973) and the conclusions of the Copenhagen council (1978). Article 4 of the declaration on European identity stated that: “The construction of a united Europe...is open to other European nations who share the same ideals and objectives”. This refers to the fundamental elements of European identity as outlined in article 1 of the declaration: “The nine... are determined to defend the principles of representative democracy, of the rule of law, of social justice...and of respect for human rights”. The conclusions of the 1978 Copenhagen council declared that:”respect for and maintenance of representative democracy and human rights in each

member state are essential elements of membership of the European communities”. Article 49 of the TEU¹ made the previous statements legally binding and stated that any European state which respects the principles set out in article 2 (liberty, democracy, human rights and fundamental freedoms, and the rule of law) may apply to join the Union. Although these early formulations of political accession criteria limit membership to those countries which respect the principles etc., it formulates extremely general principles, which may be viewed as part of the international community’s peremptory norms. Being thin and general, these formulations lay down a relatively loose understanding of what European integration is about and what participation in it entails. While the “Europeanness” may seem like a limiting criterion, previous interpretive work has shown that Europeanness was not understood as a stringent geographical category, and in fact it is not at all clear that this term has any pre-conceived, independent, and positive meaning, as an accession criterion (Moisi & Mertes, 1995: 124).

In the 1993 Copenhagen council a more elaborated set of criteria was formulated, known as the Copenhagen criteria. The literature on the Copenhagen criteria mentions two possible rationales which may have led to their formulation²: The first has to do with the deep and extensive economic and political differences between the candidate CEE countries, and the EU member states, and the need to bring the former closer to EU “standards” prior to accession (Hughes et al,2004:17;Grabbe,2002:250). The second rationale has to do with the fear that width would be achieved at the expense of depth (Schimmelfennig et al,2005: 29;Pridham,2008:424). The council was worried- the argument goes- that integration would lose momentum, and furthermore that the EU would not be able to maintain its integrative achievements thus far, as a result of the sheer diversity of an enlarged Europe.

¹ This article was altered by the Lisbon treaty. The words “and is committed to promoting them” were added, after the word “...respects...”. This is a significant change worthy of examination. But as I am trying to understand the setting in which the Copenhagen criteria were formulated, and in which Poland and Turkey’s pre-accession monitoring was conducted I brought the previous wording here.

² Some students also see the de-politicization of the accession process as a possible reason for the formulation of the criteria. However, such a reasoning still begs the question why is it important that the accession process would not be politicized, the answer to which brings us to these two possible reasons.

It should thus be pointed out that even taken strictly as an internally concerned action, the 1993 Copenhagen criteria had a dual posture; It was meant to make, what was quickly proving itself to be a massive, highly politicized, arduous Enlargement, more manageable and paced. The criteria and the monitoring mechanism that followed were supposed to enable the council to make informed and reasoned decisions on Enlargement. At the same time, and without prejudice to this functional aspect, they also had a constructive character. The criteria were the result of a consideration of the differences between the member state and the candidate state. The decision on the criteria would have had to address implicitly or explicitly such crucial questions as- what are we, the EU, about then? Who are we as a union? In what way would the candidate states need to change in order to become more like us? The concern with difference and similarity, the need to address these questions, and indeed the answers with which the council came up, are all important experiences in the figuration of the EU's mode of membership. Let us explicate then the modes of membership embedded in the criteria.

Assuming that these learnt studies of the formulation of the Copenhagen criteria got it right, the criteria are based on an underlying assumption that a further alignment of candidate countries with "European Standards" is needed; Seeing as how the CEEC were so deeply different from the member state, and seeing as how integration has achievements that should be protected, a more explicit set of accession criteria was necessary. This rationale is based on the view that difference and diversity, even within the ballpark of respecting the EU's core principles (as article 49 already required that, and was nevertheless considered insufficient), are dangerous and must be tamed and managed.

With respect to the specific political criteria denoted in Copenhagen, the formulation was that membership requires that the acceding country achieves, prior to accession: 'stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities'. While the semantic and substantive interconnection between this formulation and previous ones are noticeable, the Copenhagen criteria do represent a "thickening" of the earlier

formulations. The Copenhagen criteria substituted “*respect for-*”, with “*stability of institutions guaranteeing*”. Hence the somewhat amorphous demand for a certain predisposition towards the EU’s principles, has been replaced with a performative demand which, it should be added, needs to be performed over time, as stability is required.

Another novelty of the Copenhagen Criteria is the introduction of the minorities’ clause. This is a curious addition, since the criteria were supposedly meant to manage and tame diversity, while a concern for minorities, should logically be coupled with a general positive regard for diversity. The fact that the minorities’ clause stands in potential conceptual contradiction to some of the other criteria, has been pointed out by a number of scholars (Vermeersch,2004: 8; Mitsilegas,2002:679). While this contradiction is not irreconcilable, it does require special attention by the enforcers of the accession criteria. The Copenhagen criteria thus seem, on the one hand, to be founded on a suspicious and defensive regard for difference and diversity. They entail performance of commitment to certain political practices, over time, prior to accession, this is reminiscent of the aforementioned accession criteria of the Civic ideal type mode of membership. On the other hand, a certain degree of concern for minority protection is expressed in the criteria, which may give rise to a diversity oriented reading of it. Therefore it seems plausible that the Copenhagen criteria can be read as a basis for both a Civic and a Supranational mode of membership. However if the academic accounts of the underlying rationale of the criteria (i.e. limiting and taming diversity) are correct, there is a potential conceptual collision between these two modes. One must examine the way the criteria were interpreted in practice in order to determine whether the potential collision materialized, and if so, how it was settled.

6. Modes of Membership in the Progress towards Accession Reports

In the same decision in which the accession criteria were denoted, the commission was entrusted to produce yearly ‘progress towards accession reports’ on the candidate countries, and present them to the council. Once again it should be stressed that this was not an arbitrary or incidental decision, and that it was not, or at least not entirely, meant to be a means of imposition and

coercion. The underlying rationale of the progress reports was at least in part meant to address a genuine concern. That is the need to manage the size and complexity of the great Eastern Enlargement. So, although this paper is concerned with the second, constructive aspect of the monitoring mechanism, we must acknowledge the functional reasoning underlying it, regardless of the degree of effectiveness that the mechanism achieved in regard to this function.

Having said that, Let us address this second constructive aspect and explicate the meaning of the mechanism in such terms; the formulation of “*progress*” reports on the basis of the accession criteria, constructs EU accession as a one-way, progressive, evolutionary process, closely related to- but not synonymous of- democratization. Accession becomes, in the mechanism of the yearly progress reports, the reward, perhaps even as the ultimate goal, of democratization. The yearly reports seem to be founded on a logic in which the candidate country engages in constant efforts to measure-up to certain European political standards. It is rewarded for these efforts by the promotion along pre-accession sub-stages, and is ultimately awarded the grand prize-membership. For this logic to be coherent one more assumption needs to be explicated; The EU acts, in this mechanism, as the referee of the game, appraising praising, condemning, rewarding, and sanctioning players. The EU constructs itself as the authority with regard to democracy, rule of law etc, and in order to act as an authority it needs to see itself as somehow especially allied to these principles³. The EU would need to *own* these principles in order judge the way candidate countries comply with them. To this extent, the mechanism constructs these principles as Western-European legacies. Furthermore, for this mechanism to function, both the EU, and the candidate states need to recognize the EU’s authority with regard to these principles. While candidate states may suggest their own context-specific interpretation of these principles, the ultimate judge has to be the EU. The potential for toleration of difference is significantly weakened by this mechanism. In sum, the progress reports entails the construction of the EU as an entity affiliated with certain liberal-democratic political principles (i.e. as a union built on

³ This feature of the progress reports has been recognized by most students of enlargement, Constructivists, Institutionalists, and Realists alike. See literature review.

constitutional patriotism), and of these principles as a historic western-European legacy. If this reading of the mechanism as is persuasive, than these reports reflect, construct, and consolidate a mode of membership which is a mixture of the Civic and Cultural modes described above.

In examining the actual content of the reports, I would like to begin by addressing the interpretive approach embraced in them. In formulating the reports, and taking into account the function they were supposed to fill as described above, the highly abstract principles of the Copenhagen criteria, had to be correlated to the concrete situation in each of the candidate countries. The difficulty and precariousness of this task should not be underestimated. In facing this task an analytical approach was adopted. The analytical approach broke each phrase in the political criteria into shorter phrases, and broke each of them into practical steps required from the candidate states. The reason given in the reports for this approach, is that only such an approach would ensure: 'Equal treatment of all the candidate countries' and 'an objective assessment and comparison between countries' progress towards accession' (COM,1999a:6; 1999b:5; 1999c:6). This description of the purpose of the progress reports was repeated in all the reports on all candidate countries from 1999 onward. In effect, what this entailed was turning the abstract principles, which may be interpreted in a wide array of ways, into a uniform, supposedly universally applicable, checklist. Thereby further limiting the possibility of differentiated, context-sensitive application. Much like the way analytic content analysis betrays the text's meaning as a whole, an analytic approach to democratization, or to compliance with the accession criteria, misses both the particularities, and the larger picture in each of the candidate countries. It should be emphasized that this analytical approach requires a uniform standard for measuring compliance. Thus, the 'equal monitoring' statement invokes the notion of a common European standard which is elaborated enough to serve as the basis of the mechanism I just described, notwithstanding the fact that no such standard exists. In that account, this methodology further consolidates the Civic mode of membership. I will now turn to the interpretation of the analytic evaluation of Turkey's Romania's and Poland's progress towards accession.

6.a “*Stability of Institutions...*”

The “Stability of institutions” was not addressed explicitly and was not the title of a separate section as the other components of the political criterion. However, quite a few reports addressed the issue of the stability of the ruling coalition. The stability of the coalition in Poland was mentioned a number of times, associating it with the recently introduced constitution, as the force behind this stability. (COM, 2000a:14;2001a:15; 2002a: 20) In contrast the instability of the coalition in Romania was mentioned claiming it was “triggered by alleged delays in the reform process”. (COM,1998b:8)

The 1998 report on Turkey also mentioned the instability of the ruling coalition. Instability was mentioned in conjunction with the fact that the Turkish constitution was formulated by the army in 1982, and the fact that Turkey did very little to meet the political accession criteria, especially in terms of required constitutional reforms (COM,1998c:10).

From the outset the reports seem to advocate the establishment of a liberal-democratic constitution, which would be a source of stability and relates the issue of stability to the issue of democratic reforms (reforms bring about stability and vice-versa). This is an important point which I will address following the review of the “democracy and rule of law” section.

6.b “*...Democracy and Rule of Law...*”

Continuing along the reports’ analytic reformulation of the criteria, I will now address the sections dealing with democracy and rule of law. In order to reconstruct the underlying rationale of the meaning ascribed to the democracy and rule criterion, I will treat all the various subsections, which deal with this criterion, as one.

Some of the reports opened this section with a general evaluation. In the reports on Poland and Romania the general evaluation section simply stated that the countries achieved stability of institutions guaranteeing democracy and rule of law. (COM,1999a:12; 1999b:11; 2000b:15;

2001b:16; 2002a:20). In Turkey's case these sections mentioned and based them on the following aims as their reasons: expanding voting rights and removing restrictions on freedom of assembly in 1998 (COM,1998c:11); removing restrictions on freedom of assembly in 1999 (COM,1999c:9); removing restrictions on freedom of assembly in 2000. In that year the appointment of a deputy minister on EU affairs was mentioned positively with no reason given (COM,2000c:11-12).

The general evaluation sections were followed by 3 sub-sections dedicated to the three branches of power respectively- the parliament, the executive and the judiciary ("the judicial system").

The sections reviewing the parliaments were quite succinct. The reasons given for the issues reviewed include: representation (threshold, the diversity of parties represented in the house), curbing MP corruption, and the speed and efficiency of legislation, particularly in the context of adoption of the acquis. (COM, 1999c:9; 2000b:15; 2001a:16; 2001b:17 2001c:15; 2002a:22; 2002b:21; 2002c:22) These were mentioned following the general judgments that the Parliament functions satisfactorily in Poland's case, and that the Parliament's powers continue to be respected and the opposition plays full part in its activities, in Turkey's case. The reports on Romania stated that the Parliament both functions satisfactorily and that its powers are respected, though they did mention the frequent use of emergency ordinances as a "source for concern". The concern is reasoned by the argument that this practice undermines the separation of powers of the Legislature and the Executive (COM,1998b:8; 1999b:12; 2000b:15; 2001b:17; 2002b:21).

The Executives were surveyed more extensively and focused on mentioned the following objectives as their underlying rationale: decentralization, the professional quality of civil service personnel, and curbing corruption, in Poland's case (COM,1998a:9; 1999a:13;2000a:16; 2001a:19; 2002a: 22-23). Decentralization, reorganization of government functions and public administration towards better coordination and efficiency (especially in EU accession related issues), professional quality of civil service personnel, curbing corruption, and the accountability of the Executive before the Parliament in Romania's case (COM,1998:8; 1999b:11,12; 2000b:15; COM,2001b:17; COM,2002b:22) Decentralization (COM,2000c:13), civilian control

over the military, curbing corruption, and coordination and efficiency of acquis related reforms, in Turkey's case (COM,1998c:12; 1999c:9; 2000c:13; 2001c:16; 2002c:20).

The sections on the Judiciaries mentioned, as reasons for the requirements and praises: efficiency of the judicial procedure, professional quality of judges, and judge's training in EU law in Poland's case (COM,1998a:9;1999a:15;2000a:20; 2001a:20; 2002a:26). Reorganization of the judiciary (with a view to improving efficiency), professional quality of judges, efficiency of the judicial procedure, enforcement of judicial decisions, lack of legal certainty, the independence of the judiciary, curbing corruption, and judge's training in EU Law in Romania's case (COM,1998b:9; 1999b:12-13; 2000b:17-18; 2001b:20; 2002b:25). In Turkey's case this section was reasoned on the basis of efficiency of the judicial procedure, judges' training in EU law, the independence of the judiciary, the requirement to "modernize" the relation to juvenile delinquents, and the lack of legal certainty, as a result of inconsistencies and contradictions in Turkish legislation (which results from incomplete reforms) (COM,1999c:10;2000c:13; 2001c:17;2002c:23). A prominent issue in the reports on Turkey's was the state security courts which are: "*The only example in Europe* in which civilians can be tried by military judges". (COM,1998c:13) The need to reform the division of jurisdiction between the civil and military courts was also addressed in the reports on Romania (COM,1998b:10).

Following the review of the three branches of power, the reports address the issue of anti-corruption measures. In all three countries this amounts to the requirement for signature ratification, and implementation of various anti-corruption treaties, and the adoption of a national program for the fight against corruption, with no reason given for these requirements (COM,1998a:11; 1998b:10; 1998c:10; 1999a:15; 1999b:14; 1999c:14; 2000a:18; 2000b:19; 2000c:14....).

The reports on Turkey include an additional section titled "democracy and rule of law- the national security council". This section repeatedly states that the NSC represents an unacceptable

militaristic intervention in politics. (COM, 1998c:14;1999c:10;2000c:14; 2001c:19;2002c: 25)
The reports on Romania too addressed the issue of “demilitarization” of public authorities though not in a separate section. (COM,1998b:10; 1999b:17; 2000b:22; 2001b:20; 2002b:24)
The various demands, critiques, and praises, under the democracy and rule of law title, can be grouped into three categories, according to the norm with form their underlying rationale: The first category includes requirements that fall under the title Institutional Democracy, or Institutional Democratization. These include ensuring or improving representation, ensuring or improving separation of powers, separation of the military and the political spheres and decentralization⁴. The second category includes propositions that are directly connected to institutional and legal preparation for accession, such as prompt and efficient adoption of the acquis, and judges’ training in EU law. The third category includes fighting corruption, improvement of professional competencies of public officials (bureaucratic and judicial), modernization of certain practices, legal certainty, and efficiency of the judicial procedure and of administration. The issues in this third category are all related to Rationalization in the Weberian modern-continental sense. The combination of these three issues under the title democracy and rule of law, betokens a focus on a particular mode of democracy consolidation, which is attuned to issues that are related to Europeanization and EU-zation. The candidate states are required not only to have in place democratic constitutions, democratic institutions and so-forth. They are also required to use these institutions to expeditiously prepare for accession and to facilitate the rapid fulfillment of the other (non-political) criteria, as well as make sure that these institutions conform to a European “way of doing things”. Thus, the content ascribed to the democracy and rule of law criterion, and the reasoning on which it is based is part Civic- in that respect of certain political principles that are seen as common to the community is required, and part Cultural- in that these principles are read in a distinctly Modern-Western-European way.

⁴ For an account of the democratic signification of decentralization in the EU’s context see Loughlin (2001).

6.c “...*Human Rights and Respect for and Protection of Minorities...*”

The second sections of all progress reports dealt with human rights, minority rights and minority protection. This section too was divided into sub-section: civic and political rights; economic social and cultural rights; and minority rights and minority protection. These sections were preceded by a “general evaluation” section. I will begin by briefly reviewing the issues with which the respective sub-sections are concerned and will then continue to interpret the entire human rights sections as wholes.

The general evaluation sections focus on the accession to- and ratification of- the “major human rights conventions⁵” by Poland, Romania, and Turkey, for which no particular reason or objective was mentioned. (COM,1998a:11; 1998b:10; 1998c:18; 1999a:16; 1999b:15; 2000a:15; 2000b:19; 2000c:15; 2001a:22; 2001b:22; 2001c:22; 2002a:28; 2002b:28; 2002c:28). In Poland’s and Romania’s cases the general evaluation sections also observed that the countries continue to respect human rights and freedoms.

After having provided a “general evaluation” of the human rights situation in the candidate countries the reports go on to more elaborate reviews.

Under the subtitle “Civic and Political Rights”, the most prominent and consistent issue in the reports on Poland was the need to acknowledge, resolve, and rectify historic injustices executed by the Nazi occupation and the Communist regime. The reports encourage corrective legislation, dialogue with injured communities, collective memorial enterprises, and public debate, on these issues (COM,1998:12;1999:16; 2001:23). The issue of restitution of property confiscated by former regime also came up in the reports on Romania though it was not reviewed as

⁵ These include: The European Convention on Human Rights ; the Convention on the Elimination of all Forms of Racial Discrimination; the UN Convention on the Elimination of Discrimination against Women; the Council of Europe Framework Convention on the protection of National Minorities; International Covenant for Civil and Political Rights; the European Convention on the Exercise of Children’s Rights.

comprehensively as in the reports on Poland (COM,1999b:17;2000b:22; 2001b:27; 2002b:33). The lack of consensus and support on this issue in Romania was critically mentioned (COM,1999b:17). While the historical aspect of these issues was described (except in cases where it was emphatically obvious such as the dialogue with the Jewish community on fashioning a government policy with regard to Nazi death camps), no reason or wider aim was mentioned as the basis for monitoring these issues.

The most central issue in the Civil and Political rights section of the reports on Romania was child protection (COM,1998b:11; 1999b:15; 2000b:19-20; 2001b:23-25;2002b:29). The 1999 report opened its review of this issue with a statement which may be read as giving the rationale for this “special” monitoring: ”the system introduced in 1970 in an attempt to boost population growth was not accompanied by the requisite machinery for helping birth families...as a result many children were abandoned”. (COM,1999b:15) The section then goes on to comprehensively review the poor situation of abandoned and orphanage children in Romania and ultimately states the essential requirement that Romania: “accept that it has primary responsibility for the well-being of all children in care”(COM,1999b:16). While it is clear from the descriptions in the reports that orphan and abandoned children’s human rights were systematically violated, it should also be acknowledged that Romania is certainly not the only country that did not offer children sufficient protection of their human rights. Thus, a concern for children’s rights can only partially explain the particularly expanded monitoring of this issue in the reports on Romania. In providing an account of the history of the situation, and how it results from specific Communist concerns and policies, the reports convey the sense that the troubling situation of orphans and abandoned children in Romania, which violates their human rights, is a residue of the Communist age. It results from the communist regime’s Childcare and Childrearing philosophy, which amounts in Western-Liberal eyes, to repudiation of responsibility. The fundamental requirement is the correction of this grievance through a fundamental overhaul of the philosophy

and practice of childcare⁶ and the re-assumption of state responsibility. While the lack of sufficient protection for children did not alter the view that Romania fulfilled the political criteria, it was stated that if the authorities will not assume responsibility for the situation, Romania's position in relation to the political criteria will have to be re-examined. (COM,1999b:20) However the fact that subsequent report noted insufficient progress in this area did not lead to the realization of this threat and it was insisted that Romania "continues to respect human rights" (COM,2000b:22) In 2001 the report observed that the amalgamated progress in the field amounts to the removal of the main barriers to proper protection of children. (COM,2001b:25; 2002b:30) A similar argument applies to another issue which was insistently monitored in the reports on Romania- the decriminalization of homosexuality, which was mentioned in all the reports, though much less extensively than child protection (COM,1998b:11; 1999b:17; 2000b:21; 2001b:27; 2002b:33). While initially the specific requirement was the decriminalization of homosexuality, once this was achieved the reports brought up the rather wider issue of discrimination on the basis of sexual orientation (COM,2001b:22; 2002b:33). Much like the issue of child protection, though this requirement can readily be read as resulting from a concern for human rights, I should point out that it was not mentioned in the reports on other countries. The fact that this issue was invoked may be read as a demand to do away with the residues of historical totalitarian practices⁷, which clearly violate human rights. Romania was the only country whose policy towards homosexuals was informed by a law which had been in place since the height of the Communist era. Turkey and Poland, both of whom continued to discriminate against homosexuals, had in place more recent, (but only until the 2000 more liberal), legislation.

⁶ Students of the Child Protection reform in Romania seem to be in agreement that the situation in 1989 was in fact a result of Ceausescu's communist pro-natal policy designed to create "more workers" (Negoita,2010:101; Jacoby,2009:116; Lataianu,2003:99), and that the philosophy of child rearing in Romania in the examined period (and which the EU demanded its change) was a Communist philosophy. (Negoita,2010:100; Jacoby,2009:117; Lataianu,2003:101)

⁷ For an account of the historical dimension of this issue and how sexual discrimination legislation resulted from communist-totalitarian philosophy see Lucian and Lavinia (2005)

Another important issue in the reports on Poland is the slander and abuse law. The criticism was reasoned based on two considerations: That it impedes upon freedom of speech, and that it affords a higher degree of protection to state public officials than to citizens, which runs counter to ECtHR jurisprudence (COM,1999a:17; 2000a:19; 2001a:23; 2002a:30). It should be noted, that the fact that the slander and abuse law remained unchanged, did not change the commission's unequivocal assertion that Poland respects human rights. A similar law limiting freedom of speech with regard to public officials was also criticized in the reports on Romania, in the Romanian case pointing to the gap between this law and "European standards". (COM,1998b:11; 1999b:17; 2000b:21; 2001b:26;2002b:33) Here too, even though the law was only amended at the end of 1999, the preceding 1998-1999 reports still claimed that Romania respects human rights.

The object of protection of freedom of speech was also central in the reports on Turkey. Thus, the anti-terror law, restrictions on the use of certain terms in regard to the Kurdish issues, and the police harassment and violence towards journalists and politicians, were all criticized as obstructions of freedom of speech (COM,1998a:15;1999c:12;2000c: 15).

Another central basis for monitoring, in the reports on all countries, was protection of prisoners' and detainees' rights, mainly, the right to free legal aid, limitation of pre-trial detention, and the prevention of torture and degrading treatment. (COM,1998b:11; 1998c:15-16; 1999a:17; 1999b:17; 1999c:11-12; 2000a:20; 2000b:22 2000c:15-16; 2001a:22; 2001b:25; 2001c:21-22; 2002a:30; 2002b:31; 2002c:28-30). It should be mentioned that the reports on Poland mitigated the criticism on the occurrence of torture stating that this is not a systematic practice, and that the reports on Romania stated that while there is no evidence that torture is systematic, it is also not exceptional. The reports on Turkey observed that there is no evidence that torture is systematic, but it is common and accepted practice. It should also be underlined that no quantitative or qualitative data were brought in support of these judgments.

Freedom of religion and religious tolerance were also mentioned, as reasons for requirements and critiques, in the reports on all three countries (COM,1998b:11; 1999b:17; 1999c:13; 2000b:21; 2000c:26; 2001b:27; 2002a: 30; 2002b:33; 2002c:38), although the monitoring was much more comprehensive in Turkey's case, than in the other two countries. Furthermore, in Poland's case religious intolerance was depicted as a marginal problem, whereas in Turkey's case it was described as a fundamental predicament in Turkish society. In Romania the situation was described as insuring freedom of religion, with a minor "exception" of a law requiring congregations which are not one of the 15 official religions, to register as either religious foundations or as cultural associations, and which prohibits them from building houses of worship. (COM,2001:26) However this is described as the result of outdated legislation, not a purposeful limitation on freedom of religion.

The second sub-sections of the reports dealt with "economic, social, and cultural rights". In the reports on Poland this section opened almost every year with the requirement for a national policy for the purpose of "improvement of the treatment of women". (COM,1998a:12; 1999a:17; 2000a:20; 2001a:24; 2002a:30). The reports claimed that overt gender discrimination was common practice in Poland. Here too, Poland's failure to comply did not change the commission's yearly statement that Poland continues to respect Human rights. The reports on Romania too opened with requirements based on the need to ensure gender equality. They repeatedly mentioned the lack of assurance for equality of opportunities and equal pay between men and women, the scarcity of women in power positions, and the overall social and economic inequality of women and men (COM,1998b:11; 1999b:18; 2000b:23; 2001b:28; 2002b:34). The reports also mention that in cases of domestic violence "possibilities for legal redress are limited and the police is reluctant to intervene"(2001b:28). This did not change the statement that Romania satisfies the criteria. In Turkey's case the improvement of the "status of women" was also mentioned as a rationale for monitoring. The 1998 report praised recent legislative reforms on this issue and asserted that they will bring Turkey closer to *European standards* (COM,1998c:17). From 2000 onward the reports acknowledged the gradual further improvement

in legislation on the subject, but called for removal of discriminatory practices such as unequal pay and depriving girls of education (COM,2000c:18;2001c:28; 2002c:40).

Other issues which came up once, but were not followed up on, in the reports on Turkey, include: the mandatory Sunni religious studies for all Muslims (COM,1998c: 19); the right to give children Kurdish names (COM,2000c:18); and the need to implement in parliamentary legislation the removal of prohibition on broadcast and education in languages prohibited by law (the prohibition was removed from the constitution but the law prohibiting the public use of certain languages stood) (COM,2001c: 28). It should be noted that all these issues have to do with minorities, with impediments to the assertion of minorities' identities, and cultural oppression. The fact that these issues were acknowledged as problematic but not seriously monitored, and that no particular reason were given for their (incidental) monitoring, is telling in terms of explicating modes of membership.

The minority rights and the protection of minorities sections of the reports on Poland opened, every year, with the statement that: "Respect for, and protection of minorities are assured" (COM,1998a:13;1999a:18; 2000a:20; 2001a:24; 2002a:31). In some reports the Polish government's "constructive", "inclusive", and "sensitive" approach to minorities (namely the Jewish and the German communities) was stressed, with no reason given for this, though the reason seems quite obvious. (COM,1998a:13;2000a:21) In other reports the "decrease in the Polish public's hostility towards foreigners" was mentioned (COM,2000a:21). Incidents which may have been cause for alarm in the context of minority rights, such as "occasional discrimination and violence against the Roma", or the termination, before execution, of a government program for the improvement of the situation of the Roma, were dismissed as "not representing overt government policy" (COM,2000a:21), and as the "result of budget constraints"(COM,2002a:31). Lastly, the ratification of the COE's Framework Convention on the Protection of National Minorities was also mentioned (COM,1998 a:11; 1999a:84; 2000a:19; 2001a:24).

The minorities section of the reports on Romania stated that the situation in this regard is satisfactory but mentioned “the major exception of the Roma” (COM,1998b:11). The reports point out that the Roma are widely discriminated against (COM,1998b:11; 1999b:19; 2000b:24; 2001b:29; 2002b:35) This critique is mitigated by the observation that the discrimination is not a government policy and Romania actively protects other minorities (namely Hungarians and Germans). In any case the acknowledged poor situation of the Roma did not rebut the claim that Romania satisfies the Political criteria in all reports from 1999 on. In 2001 the report refers to the adoption of a national program for improving the conditions of the Roma and concludes that through this program Romania met the demands of the accession partnership on this issue, notwithstanding the acknowledgement that discrimination against Roma is still widespread, and that the government did not allocate the funding it committed itself to. (COM,2001b:29; 2002b:36).

Another important aim mentioned as a rationale for monitoring in the reports on Romania was the right of national minorities to education in their mother tongue in cases where there is “sufficient demand” for such education- notably German and Hungarian minorities. (COM, 1998b:11; 1999b:18; 2002b:36)

In Turkey’s context the only consistent requirements was the signature and ratification of the COE’s Framework Convention for the Protection of National Minorities (COM,1998c:19; 1999c:14;2000c:19; 2001c:29; 2002c:42). The action plan for the improvement of infrastructure in the south east, initiated by the Turks in 1999, was also mentioned in the 2001 report (COM,1999c:14;2001c:29), but its achievements (or lack of them) were not reviewed. The peaceful celebration of the Kurdish new year in 2000 was mentioned once, in an incidental manner, without accounting for its symbolic meaning or encouraging it (COM,2001c:29). The removal of the state of emergency in all provinces was mentioned after the fact but neither called for nor acclaimed. (COM, 2002c:42)

Following this brief summary of the issues with which the human rights and minority protection sections of the reports were concerned, and before explicating the mode of membership they entail, it is necessary to point out a number of features of these sections.

Firstly, it seems at first sight that the requirements, critiques and praises expressed in these sections are less consistent, in terms of their underlying rationale, among the three candidate countries than those of democracy and rule of law. However, it should be pointed out, that some of the differences between the reports on different countries are not in the issues being monitored, nor in the reason given for them, but in the commission's conclusions, in the *judgments* inferred in the reports. This is important since, as mentioned above the subject of interpretation in this inquiry is not the specific demands expressed in the reports, but the reasons given for these demands, as the latter are telling of the perceived basis for EU membership.

The second feature of these sections, which needs to be pointed out, is that it is individual-rights oriented. Thus, the reports assume a distinct reading of human rights and protection of minorities, namely a liberal-individualistic one. Notwithstanding the fact that there is a whole separate section on minorities rights (which, as has been shown, only consistently advocated the signature and ratification of the "Framework Convention for the Protection of National Minorities"), the reports do not seriously promote collective rights, or even mention or acknowledge them, in any systematic way⁸. They mainly acknowledge and condemn impositions on persons' rights as individuals. Granted, the collective rights of certain minorities are mentioned incidentally, but the reports lack a comprehensive evaluation of the rights of minority communities *as communities*, and this lack is all the more glaring in view of the fact that there is a whole separate section which is supposedly devoted to these rights. The only exceptions to this rule is in the case of the Jews and Germans in Poland, and to a certain extent sexual minorities in

⁸ Although the mentioned convention encompasses some collective minorities' rights, a genuine concern for such rights, on the EU's part, should have yielded the scrutiny of implementation and the guarantees of these rights in domestic law, on top of, and in addition to the signature and ratification of the treaty, as in the case of individual rights.

Romania. In the following interpretation I will account for these exceptions. It seems, on the face of it, that the potential contradiction introduced in Copenhagen, between diversity-sceptic Civic accession criteria and diversity-ophile minority protection was resolved through the subjection of minority rights to liberal individualistic principles.

Attention should also be drawn to the repeated phrase “European standards” in the reports on Romania Turkey. The gaps between the situation in these countries, and “European standards” were pointed out, and a call was issued for a change in practice and legislation which would bring it closer to “European standards”, virtually in every issue in the reports on Turkey and in a few issues in the reports on Romania.

In interpreting the second part of the reports in terms of the modes of membership embedded in it, it should first be noted that any account of human rights has a built-in Cosmopolitan dimension. The view that there are certain fundamental rights that any human being as such deserves is a distinct component of the idea of a universal human community. Having said that, it should also be acknowledged, that the concept of human rights, is a highly abstract ideal, which needs to be parted out into practical issues, if it is to be monitored. Thus, taking the Cosmopolitan component as the built-in background of the human rights section of the reports, there remains the need to interpret the content ascribed to it in terms of the modes of membership. In that respect, the differentiated monitoring (whatever the reason for this differentiation might be), the concern for the situation of certain minorities and not others, the concern with “Europeanization” (at least in Turkey’s case), seem to subvert an interpretation of these sections as furnishing a Cosmopolitan mode of membership. I should also point out, that the disinterest in collective rights, and protection of communal-cultural freedom, means, in terms of modes of membership that the reports cannot be seen to configure a Supranational mode.

Turning to the modes of membership which *are* evinced in these sections, let us review the justifications and reasoning which were consistently the bases of the monitoring requirements

across countries. These include: Signature and ratification of human rights treaties (this is a practical requirement, with no justification given), and providing constitutional guarantees for human rights, in the general evaluation section; protection of human dignity, of religious freedom and of freedom of expression in the civic and political rights section; assurance of gender equality in the social economic and cultural rights section; and signature and ratification of the COE's Framework Convention for the Protection of National Minorities (with no justification given), and the material betterment of the situation of minorities in the minorities' rights and minorities protection section.

In reviewing the country specific issues, which were not consistently monitored across countries, it should be pointed out that some of these were justified on the basis of specific European historical significance; Such is the demand for correction of past injustices executed by despotic regimes, and the encouragement of continuously improving Poles-Germans-Jews relations in Poland. Such is also the demand to correct the wrongdoings of the Communist regime in Romania, on the issues of Child care and Sexual-orientation discrimination. The other group of inconsistencies among countries has to do not with the justifications and underlying rationales of the requirements, but with the judgment of the situation: such is the repeated claim that Poland and Romania continue to respect human rights and to protect minorities despite evidence to the contrary, and while sometimes similar situations in Turkey lead to the latter's condemnation. Such is also the observation that in Poland and Romania torture is not systematic, while the reports are inconclusive on this issue in Turkey; the deeming of religious intolerance a marginal problem in Poland and Romania, and a fundamental problem in Turkey; material deprivation of minorities seen as the result of external constraints in Poland and as not resulting from government policy in Romania, and as the result of systematic policy in Turkey; and last but not least, the reference to the gap between the situation in Turkey, and European standards, in many issues, which is present to a far lesser degree in Romania's case and entirely absent in Poland's case.

Do these inequalities of the monitoring processes mean, as has been argued by some, that the EU is a Christian club, making excuses for not accepting its Muslim neighbor? Does the interpretive leap from the inconsistencies described above to the Christian club accusation not seem somewhat audacious? I would like to account first of all for the substantial degree of consistency in the specific rights which served as the basic rationale for the practical requirements, and of the insistence on the signature and ratification of (predominantly European) human rights treaties, as the embodiment of a Civic mode of membership. Hence, insofar as the monitoring is consistent it is based on a rationale which stems from Political principles and values, the common commitment to which is constructed as an important component of EU membership.

In this context, attention should be drawn to the repeated reference to the gap between the political situation in Turkey, and to a lesser extent in Romania and political “European Standards”. This reference seems to be built on the view that Turkey and Romania are not entirely European states (or else they would form a part of the *European* standard). Conjointly, the *standard* seems to refer to political practices. This shaming of Turkey and to a lesser extent of Romania, on the basis of the supposed difference between political practices therein, and supposedly common political practices in Europe, propagates the sense of pride in political institutions and practices that is typical to the Civic mode of membership. However this does not exhaust the problematique of this repeated expression, for in strictly political practical terms there is no common European standard, on some of the issue-areas in which such standard was referred to. I will further address this problematique in section 6.E below.

Thus, the Civic mode of membership embedded in the human rights sections is not the entire picture. In their particular consciousness of issues that are reminiscent of troubled European history the reports conveyed the sense that an occasional diversion from the (declared) aim for equal, objective, and comparative monitoring is justified. The resolutions of matters which carry European historical significance was axiomatically annexed to the accession criteria, taking its importance and relevance to be self-evident (after having described the historical context).

Hence, it seems plausible to argue that there is a certain Cultural component to the content the reports ascribed to the human rights and minority criterion, and thereby to the mode of membership it laid down.

6.d Additional Criteria (1): A positive disposition

Insofar as my arguments to this point are convincing, it should be acknowledge that they do not account for the “discounts” that Poland and Romania received in terms of respect for human rights and minority rights. The compound of Civic and Cultural modes of membership does not make sense of this finding. In order to make sense of it one needs to turn to an implicit additional criterion. This term refers to an issue which consistently and prominently served as a source of praise or criticism without relating it to any section of the Copenhagen criteria; namely, the candidate countries’ governments’ attitudes towards the prospect of accession, or more specifically the level of enthusiasm and anxiousness on accession that they demonstrate. In that respect, Poland was repeatedly congratulated and encouraged for the fact that: “EU accession continues to be a top priority, enjoying broad consensus”; Poland’s adoption of a special parliamentary procedure which would speed up acquis-related reforms, was too applauded, as were the repeated enthusiastic statements the Polish government made, with regard to the prospect of accession. (COM,1998a:9; 1999a:12; 2000a:15; 2001a:16;2002a:20) The same is true in the reports on Romania, which observed that: “EU integration remains an important government priority”. (COM,1998b:8; 1999b:11) The adoption of a specialized committee on EU related legislation, and a special legislation procedure to speed up acquis reforms were also commended, as were other measures taken by the executive (the establishment of an EU integration inter-ministerial committee, the effectiveness of the ministry of European Integration) to manage accession related issues. (COM,2000b:16, 2001b:17;2002b:24)

Turkey, on the other hand, was criticized for dragging its feet in meeting the accession criteria until 2001. (COM,1999c:15;2000c:10) In 2001 Turkey was commended for adopting a national program for the adoption of the acquis. (COM,2000c:14) Finally the 2002 report stated that:

Recent reforms demonstrate the determination of the majority of Turkey's political leaders to move towards further alignment with the values and standards of the European Union. These reforms were adopted under difficult political and economic circumstances, and represent a major shift in the Turkish context... The building of political consensus around these changes was prepared by an intensive public debate concerning EU accession.(COM,2002c: 17)

The Civic mode of membership depends upon the members' strong commitment to certain values. It is existentially fragile. Thus it makes sense, so to speak, that the level of enthusiasm with which prospective members regard the common values would be given due consideration in the accession process. It is, of course, not the only criterion, or even the most important criterion. But it seems that statements on the "mission of returning to Europe", complemented by special legislative measures, and broad public consensus, do help to make a case as a strong candidate, and perhaps even make up for some non-compliance. I believe this explanation of the discounts Poland received in terms of the official criteria, is superior to the Christian club thesis, not only because, unlike the latter, it relies on empirical statements rather than on inference as to the undisclosed, (and unfalsifiable), motivations behind the accession criteria. What's more, from a pragmatic point of view, it better helps us to make sense of the materials examined in this paper and of the kind of membership that these materials construct.

6.e Additional Criteria (2): The importance of being European

In this section I will consolidate and consider an important finding which runs as a leitmotif through this paper- the implicit cultural criterion of Europeaness. Rather than falling into the trap of trying to suggest a formalistic definition of the term, I propose a pragmatic understanding of it; the Europeaness criterion refers to the amalgamation of the requirements expressed in the reports, and more importantly the reasoning of these requirements, which we cannot make sense of without bringing Europe into the picture: The distinct continental reading of "democracy and rule of law", the particular concerns with human rights and minority issues which result from

traumatic events in European history, the repeated referral to a European standard (which, in certain cases, does not officially exist).

The “Europeaness” criterion is an evasive one. It was clearly designated in the declaration on European identity, then omitted in the 1978 Copenhagen council conclusions, than re-stated in article 49 TEU, then removed from the 1993 Copenhagen criteria but could be indirectly traced in the preceding text⁹. Another aspect to this evasiveness is the fact that there is no agreed meaning to it in the context of Enlargement. Is it a geographical category? Does it refer to a community constructed by a historical shared destiny? Does it refer to a certain culture characterized by certain social practices? Is it strictly a political category which refers to the shared political principles and practices of the European democracies?

The Europeaness criterion is also evasive in that identifying its operation in pre-accession monitoring is a delicate business. Notwithstanding the subtlety and intricacy of the Europeaness category, in the material examined in this paper, and in general, it should also be acknowledge that according to the paradigm of pre-accession monitoring this category should not have come into play at all (equal objective comparative monitoring etc. see relevant section above). So it seems that as attempts are made to depoliticize the Enlargement process, to manage the pace of Enlargement, and to promote democracy rule of law etc., and regardless of the degree of success of these attempts, another phenomenon unfolds. The usability of what we called the “cultural” element of the experience of EU membership, to the monitoring process becomes evident. Indeed, how can the requirement for rule of law be “operationalized”, for the purpose of equal objective comparative etc., without incorporation of European ideas about what rule of law means in practice? How can the disquiet with certain political practices, which are not explicitly

⁹ In the paragraph preceding to the one in which the criteria were formulated, it was stated that the associate CEE countries that wish to join the union, shall accede as soon as they satisfy the criteria. One interpretation can be that the Europeaness criterion was not mentioned because since the criteria refer to CEE countries, mentioning it would be a redundancy. Another possible interpretation is that the criterion was avoided on purpose so as to limit its weight in Enlargement.

addressed in the criteria, but nevertheless seem inappropriate for an EU member state, be expressed, in a way faithful to “equal objective and comparative monitoring”, without resort to an imaginary¹⁰ “European standards” and European ways of doing things? How can any sense be made of the term “progress” without recourse to a fore-had conception of the meaning *European* integration? It cannot. As the decision to conduct yearly “objective”, “comparative”, “equal”, assessments of “progress” was taken, a notion of a common style, a common attitude, common ideals and objectives was set as the yardstick for these assessments.

This brings out the need for important clarifications to be made which differentiate my argument from “Christian club” sort of claims; First the Europeaness criterion does not represent an explanation of the supposedly “preferential” treatment of European states. Quite contrastingly it is meant to capture a concern which is expressed in all the reports on all three countries, and which is only indirectly connected to Enlargement decisions. Second, the Europeaness criterion is only invoked, according to the materials presented in this paper, in addition to and directly by the political criteria. It is not a stand-alone, comprehensive view of EU membership. This is apparent from the fact that the manifestations of the Cultural mode of membership merely complement the Civic ones, and cannot be understood absent an acknowledgement of the Civic mode. We would not understand why the EU is concerned with child protection, sexual-orientation discrimination, or inter-communal appeasement, without reference to the EU’s political objectives, and to the political values which make up European commonality.

The third feature, which differentiates my argument from the Christian club thesis, is that it lacks the kind of rigid kinship claim which characterizes the latter. In the “Europeaness criterion” a country is not either European or not-European. This is apparent from the varying degrees of the use of the terms European standard (not at all in Poland, a little in Romania a lot in Turkey) a country can be very European a little European or quite not-European.

¹⁰ I am using the term imaginary in the sense Benedict Anderson ascribed to it, as in finding expression primarily in minds and hearts and not in empirical reality. This does not imply that the European Standard is false or illusionary.

In sum, the findings presented in this paper give rise to the conclusion that the “political accession criteria” are in fact not only political, in terms of the way they were put into use in the pre-accession monitoring of Poland, Romania and Turkey. The abstract criteria were given concrete meaning, through, among other things, the use of European history, style, and ideas. In that respect accession is not just about political, economic and legal reform and adaptation. The attempt to draw some conclusions for the Turkish candidacy exceeds the scope of this paper.

7. Conclusions

Previous interpretations of the “progress towards accession” reports predominantly gave rise to the conclusion that the pre-accession monitoring is inconsistent, arbitrary, discriminatory, and incoherent. In contrast, this account uncovers a substantial degree of consistency and internal logic in the same material. The reason for this disparity rests in a fundamental difference between my interpretation and the preceding ones. The previous interpretations were based on a uncritical embrace of the logic depicted in the methodological sections of the reports, in which the supposed point of departure for the monitoring was the candidate state, and its position, in terms of compliance with the accession criteria, on one hand, and the EU as a given, static entity (Wiener,2003:168), and as a passive, or at best an external disinterested evaluator on the other hand. The underlying expectation was that monitoring would push the candidate country along its structured democratization route, towards a cemented EU, and that this push would be achieved through an authoritative, proficient, impartial evaluation of each candidate country on an equal footing with the others. In this view consistent monitoring would mean consistent requirements, across countries, and over time, which represents a detailed and full breakdown of the Copenhagen criteria into practical steps, and its equal application across the board. But this expectation did not materialize. And thus the conclusion that the absence of this specific kind of consistency and logic led to the conclusion that there is no consistency and no logic, apart from the one so readily pointed out by IR scholars. That is that the monitoring process is inherently politicized and national interest driven. My argument does not refute this last claim but it does deem it partial.

My interpretation problematizes that which other interpretations took as a given, and takes the immersion of the EU in a dynamic-constructive interaction, as its starting point. In my interpretation consistent monitoring means consistency of values, aims, *raison d'être*s, which underlie the requirements, a consistent understanding of what the EU is about, and what it means to be part of it. Indeed, examined through this occidentalist¹¹ lens, the reports seem to be more consistent and to make more sense. It should immediately be clarified that this does not explain the decisions on Enlargement. My conclusions have to do with the practice of the construction of membership criteria and pre-accession monitoring, not with the decision on whether to accept this or that country and when. In this context, another significant conclusion seems to be that the fulfillment of the criteria denoted in Copenhagen (1993) represents a necessary but insufficient condition to accession. The interpretation and reconstruction of the criteria, through the practice of pre-accession monitoring, entails an inherent amplification of the criteria, most notably through the construction of the “Europeaness” and “positive disposition” criteria.

The ramifications of the findings presented in this paper should not be overstated. The conglomeration of norm constructing practices in the EU is expansive, diverse, and ever-growing. The Civic-Cultural mode of membership constructed by the practice of pre-accession monitoring would presumably be incorporated into a complex web of meaning through which EU we-ness is experienced. However, assuming that enlargement is not conducted for its own sake and that there are better and worse ways to do enlargement, I should spell out the meaning of my findings in these terms.

The Civic mode of membership is the obvious starting point for a union which has historically constructed itself around democracy, rule of law and protection of fundamental rights and freedoms. Since the Civic mode of membership is an ideal type it is not surprising that it is

¹¹ Occidentalism, contrasted with Orientalism, refers to the project of expounding the way in which interactions between Western civilization and its meaningful others, contributes to the construction of the former's self-understanding, character, and values.

supplemented by features that are typical to another mode of membership- the Cultural mode. However, the fact that pre-accession monitoring was practiced through this kind of mode of membership is, in my view, unfortunate. The Civic-Cultural mode of membership is a particularly un-reflexive and exclusionary way of thinking about social borders. Coupled with the unwarranted declaration of “equal comparative and objective monitoring”, it entails an exceptionally inflexible reading of the accession criteria.

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