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EU Rule of Law Promotion in Romania, Turkey and Serbia-Montenegro: Domestic Elites and Responsiveness to Differentiated External Influence

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The enlargement of the EU to Central and Eastern European Countries (CEEC) candidates, Turkish candidacy and the Stabilization and Association Process in the Balkans, provides researchers with intriguing opportunities for exploring the effects of international actors on democratic and rule of law reforms in a diverse group of countries. Does the ability of a hegemonic regional actor (the EU) to facilitate legislative, institutional and normative change in these countries vary radically depending on whether membership in the regional organization is a realistic and foreseeable prospect or a more uncertain and temporally distant one? How are domestic elites influenced by different structured relations between their country and the EU – accession negotiations, the existence of an "accession process" without negotiations, a contractual relationship with "potential membership" in the future – and does their perception of the fairness and legitimacy of external pressures correlate to the immediacy of full inclusion in the regional organization?

The purpose of this paper is to raise a number of theoretical and empirical questions currently being developed by the authors in this context, and to present intermediate results using data already obtained.[1] Thus, the first and the second section will introduce some theoretical aspects of the research, and the last one the empirical analysis of Romania, Turkey and Serbia-Montenegro. In addition, the conclusion will point out to the problems still open, the aspects to consider more in depth, and the additional empirical research still to be undertaken conduct, possibly with Ukraine constituting a fourth case study. The intended benefits of the research are not only conceptual, but policy-oriented. By examining how domestic elites respond to varying, comparable external incentives and pressures, we may be able to derive lessons not only about processes of democratization, but also for scholars and practitioners seeking to identify effective policy instruments. Roughly put, a finding that the prospect of inclusion in the EU's Internal Market, without full membership in EU institutions (but still backed with financial and technical aid, strong socialization opportunities, legal harmonization and enhanced political ties) is sufficient to encourage reform dynamics similar to the ones attained by the Enlargement process itself, carries important policy consequences for EU external relations and more broadly, for other regional and international drivers. Conversely, where regional strategies falling short of prospect for full and realistic EU membership are found either comparatively ineffective or only partially-effective, we may gain important insights into the determining variables of promotion activity by international actors.

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There is now a strong consensus among scholars of democratization and democracy promotion that international influences matter greatly in facilitating and supporting various aspects of democratic consolidation, and that among international influences the EU's strategy of extending the conditional prospect of full inclusion has been the most powerful agent for domestic reforms yet devised (Diamond 1995; Whitehead 1996; Smith 2001; Pravda and Zielonka 2001; Pridham 2002; Sadurski 2003; Jiri Pehe 2004; Zielonka 2004). Although other regional actors such as NATO, Council of Europe and OSCE – the latter two covering many more states than the EU – have attempted to promote democratic and rule of law reforms, they have been far less successful so far, and may benefit from deriving lessons from the EU, as might other international actors beyond the pan-European sphere (Smith 2001; Reiter 2001).

As Whitehead observed already in 1996, the role of the EU's democracy promotion strategy through enlargement is important, complex and under-researched. The accession process: "*generates powerful, broad-based and long-term support for the establishment of democratic institutions because it is irreversible, and sets in train a cumulative process of economic and political integration that offers incentives and reassurances to a very wide array of social forces…it sets in motion a very complex and profound set of mutual adjustment processes, both within the incipient democracy and in its interactions with the rest of the Community, nearly all of which tend to favour democratic consolidation…in the long run such 'democracy by convergence' may well prove the most decisive international dimension of democratization, but the EU has not yet proved the case fully*." (Whitehead, 1996, p. 19)

Indeed, the CEEC that have either joined the EU already as New member States (NMS) or are expected to do so in the next few years (Bulgaria, Romania) constitute an almost ideal environment for examining the domestic implications of externally driven promotion efforts (Falkner 2000; Pridham 2002). Yet, both integration and democratization literatures have only recently began to study this phenomenon from theoretical and empirical perspectives (Whitehead 2001; Pridham 2002; Kubicek 2003). Moreover, a growing body of political science and legal literature concerned with international norm promotion and internalization may also benefit from this research (Risse, Ropp and Sikkink 1999; Checkel 1999, 2001; Schimmelfennig 2001; Kubicek 2003; Hathaway 2002).

Since the fifth enlargements' pre-accession experience is now over a decade old – not only the end result but the entire pre-accession process (Maresceau 2001; Cremona 2003) – a large volume of documented and other data now exists for research in this field. Within the CEECs enlargement alone, we can identify four distinct phases for study: (i) "passive influence" when the democracies who are members of the regional bloc may represents a model for emulation and a

source of "contagion" (Schmitter 1995) but where no "active" promotion policies are projected; (ii) "pre-negotiation", when subject states seek an invitation to negotiate integration with the EU and have to show that they satisfy, *inter alia*, the Copenhagen democratic criteria; (iii) the period of negotiations themselves, when the subject state continue to be subjected to the Copenhagen criteria, but in parallel they have to internalize far reaching legal and institutional reforms in line with the EU's *avis*, and; (iv) continued monitoring and democratic embedding through "Europeanization" of domestic structures, once membership commences (Pridham 2002).

Furthermore, building on what it views as its most successful foreign policy strategy so far, the EU has over the last five years emulated and adapted the democracy and rule of law dimensions of its pre-accession strategy and is now applying diluted versions of this strategy in the Balkans and the new "European Neighborhood Policy" (ENP). This means that whereas in the past scholars rightly perceived the EU promotion-through-enlargement experience to be of limited broader value because it was seen as being spatially and temporally limited, today we can begin to compare variable stands of enlargement-derived strategies, across a substantial number of countries including Turkey, five Balkan countries (other than Bulgaria and Romania); Russia, Ukraine, Belarus and Moldova, three Southern Caucasus countries (Armenia, Azerbaijan and Georgia), as well as several countries in North Africa and the Middle East.

The new variations on the enlargement strategy are either "enlargement-bound" (i.e. it is envisaged that the relationship will gradually transform into one where the subject country becomes a full candidate, and eventually a member state), or "enlargement-like" (i.e. it draws heavily on enlargement concepts, instruments and policy to try to achieve similar transforming results than the ones achieved through enlargement, but without envisaging eventual full accession at this stage).
So, whereas in the past EU democracy promotion strategies divided into essentially two categories that were hardly comparable – namely, candidacy strategies and non-candidacy strategies (the latter pursued largely in Africa, Latin America and the Middle East) – today we can identify five distinct categories of structured EU-subject country relations, all exhibiting enlargement-derived features, in diminished intensity (see fig. 1).

Fig. 1: **Categories of EU-subject country relations**

Category	*Example*
Classic candidate	Romania.
Not-yet-negotiating candidate	Turkey
Potential candidate	Serbia
European neighboring countries	Ukraine
Non-European neighboring countries	Morocco

To date, there has been no attempt to conduct systematic research across these categories of relationships, and to explore how borrowing and adapting legal and institutional tools from one category might influence results in another. Related to the lack of cross-category research is the fact that it tends to produce a rather narrow definition of what constitutes promotion "strategies". By looking at the actual range of instruments used in and across existing structures, it may be possible to identify a significantly richer understanding of the various components of these strategies.

It is possible to compare the democratization effects of the various strategies because there is a common basis of comparison. As indicated, all of the strategies noted above are the progeny of the EU's decade-long experience of expansion to the CEECs (and indirectly, of the EC/EU longer-term development of "value-export" foreign policy that goes back to the 1970s) (Youngs 2004). More specifically, all these strategies are united by the EU's common definition of democracy and the rule of law (Kochenov 2004), and they all seek to achieve the same or at least substantially similar democratic and rule of law goals, using a comparable set of promotion tools – though with gradually reduced intensity. So, for example, like its strategy towards the CEECs, the EU's approach towards all five categories is one of simultaneity of democratization and marketization. Across all five the internalization of at least some portion of the *acquis communautaire* is employed as a key transforming instrument. In addition there are extensive similarities in use of conditionality, reform-supporting aid, technical assistance, socialization opportunities (such as "twinning" and partial participation of the subject country in Community programs), reporting and monitoring devices and so forth.

It is useful to compare the democratization effects of these various strategies because there are sufficient differences to be able to ascertain whether in the absence (or at least reduced presence) of

specific factors – particular material or symbolic incentives, different levels of financial or technical aid, different intensity of compliance scrutiny and so forth – there are any differences in the effectiveness of the strategy, and if so how and to what degree. The fact that EU enlargement-derived promotion strategies are no longer limited to the CEECs – with their rather unique historical and geopolitical background – but are now directed towards a substantial number of countries (some of whom constitute important "trouble spots" for the region and the world) means that research which in the past was spatially and temporally limited, now assumes a far higher value to the evolving field of democracy promotion scholarship. Since the EU is no longer pursuing enlargement-like strategies towards candidates for membership only, but is doing so vis-à-vis a substantial number of neighboring countries that have no foreseeable prospect of actual membership, there now exist concentric circles of regional democracy promotion strategies, only some of which are tied to the immediate prospect of membership.

Focus on the Rule of Law

Our focus on evaluating the impact of variable promotion strategies on democratic rule of law institutional and normative reforms stems from a number of methodological and academic considerations. First, there is a basic methodological consideration that push us in this direction. When working on the countries we chose, a focus on the rule of law only is virtually impossible. In fact, it's actually impossible to disentangle the impact of EU strategy in terms of rule of law building and democracy building. What on the contrary it's possible to do is to distinguish between the aspects of democracy very strongly related to the rule of law and those aspects that concerning the democratic arrangements. The first ones concern the basic civil and political rights, and in most of cases the social ones, as displayed by the part II of the present European Constitutional Treaty, that is very detailed on those rights. The second ones involve the basic choices related to different democratic arrangements, e.g. the choice of a majoritarian set of institutions rather than a consensual or semi-consensual one; the choice of an unitary state rather than a federal one; and so on. It's fairly easy to disentangle aspects and processes related to choices that eventually are choices within a democratic arrangements, but for the countries we're working on it's virtually impossible to distinguish an a-democratic rule of law, that is, a rule of law without rights, by a democratic rule of law , that is, *cum* rights. It does not make sense either. Thus, necessarily our focus is on the rule of law that also enriched and characterized by rights, that is a *democratic rule of law*.

Second, all the subject countries in our study are undergoing varying degrees of democratic consolidation. Linz and Stepan's seminal characterization of consolidation lists five spheres of

consolidation: the rule of law, state apparatus, and civil, political and economic societies (Linz and Stepan 1996). Among these, the rule of law is seen by some analysts as the most important (and often illusive) arena of consolidation – in which institutional and normative progress has important implications for all other spheres, and for the maturation of democracy (see also Morlino 1998). Concentrating on measuring the effectiveness of promotion efforts in this field therefore provides a more concrete area of empirical study – one where methodological problems such as problems of causality can be better addressed than more general indicators – while at the same time from an examination of rule of law reforms we can infer important conceptual and empirical lessons for broader democratic consolidation in the subject countries.

Third, as leading analysts such as Thomas Carothers have pointed out (Carothers 1998, 2003; Heller and Jensen 2004) despite the fact that the Rule of Law promotion field has rapidly expanded over the last two decades, it still faces a serious lack of knowledge at many levels of conception, operation and evaluation. In particular those concerned to promote the Rule of Law in various societies face a large "problem of knowledge" (Carothers 2003) about how Rule of Law institutions and patterns of behavior develop in different societies, and – more directly important from a promotion point of view – how such developments can be encouraged and aided. Carothers also observes that although some promoters conduct "lessons learned" exercises, these tend to be superficial, often subjective and lack systematic empirical research. By focusing on the rule of law in our conceptual and empirical research, we hope to make a significant contribution towards narrowing the "problem of knowledge".

Fourth, just as there is a large "problem of knowledge" in the field of rule of law promotion generally, there is a dearth of conceptual and empirical research regarding rule of law promotion in the context of enlargement and its derivatives. In some ways this is an even more jarring gap in research than the one Carothers laments about, and contributions in this field will help further knowledge not only on rule of law promotion abroad, but on characterizing the EU as a system of governance and as an international actor (Youngs 2004). The 1993 Copenhagen political criteria for membership asserted that respect for the rule of law is a precondition for opening accession negotiations, as are democratic institutions, adherence to human rights and ability to take on the economic responsibilities of membership in the Single Market. In the decade since the establishment of these criteria there evolved a large corpus of documentation, programs and institutions designed to promote rule of law reforms in candidate countries and beyond. There is now a substantive and identifiable EU rule of law *acquis,* as well as a history of promotion activity, institutional development and evaluation mechanisms. Yet unlike the EU's enlargement democracy, human rights and market reforms promotion strategies, which have attracted vibrant academic

interest especially over the past few years, its rule of law promotion activities have so far remained largely unstudied (Sadurski 2004; Cremona 2004). The proposed research will delve into this potentially rich but still unexplored area of inquiry.

Finally, we decided to explore when and how EU promotion activities have proven to be more or less effective in promoting rule of law reforms, because of the potential importance of these questions to current (indeed urgent) policy needs. The search is on by Western actors and domestic reformists for strategies, instruments and conditions that will encourage democracy and rule of law developments in places like the Balkans, Caucuses and Greater Middle East. This search has assumed new global importance in the post-9/11 era – where security doctrines are increasingly linked to western strategic interests in advancing economic and political liberalizations, both of which are intertwined with Rule of Law norms and institutions. The new philosophy of "comprehensive" and "preventative" security has invested the study of EU rule of law promotion activities with added policy significance. Indeed, as Richard Youngs argued in 2001, rule of law promotion may be possible even where societies, notably in the Moslem world, reject external attempts to promote pluralist democracy (Youngs 2001).

Research Questions

The proposed research raises a cluster of related questions. At the broadest level we are concerned to ascertain what, if any, causal lines can be drawn between the EU activity and successful rule of law outcomes, and what sets of strategies and conditions best facilitate EU efforts to promote rule of law institutions and norms. In this context, our research sets out to test empirically propositions that have been raised about these questions by leading analysts in the field, but whose validity has been more assumed than proven. For example, Geoffrey Pridham has posited that: "EU pressure over political conditions may indeed have immediate impacts, but it is all the more effective when the stick of conditionality is combined with the carrot of EU accession in the foreseeable future. If the latter is clouded in uncertainty, then the former is a less convincing weapon of compulsion." (G. Pridham 2002, pg. 970).

Is this an accurate view? The example of Turkey appears to contradict this view, and suggest that even where the prospect of accession is uncertain and relatively distant (optimistic estimates talk of Turkish accession in 2014-2016) EU strategies for democratic and rule of law reforms have had powerful effects. Over the past four years Turkey has witnessed profound changes in these fields, driven by Turkish-EU dynamics**.** As one commentator recently observed: "of all the case of

EU expansion, the fingerprints of the EU on domestic political reforms may be most pronounced in the Turkish case" (Kubicek 2004).

Accounting for such an anomaly is important, because if effective influence is not strictly tied to accession prospects, then it may be successfully adapted and applied in countries with little, or at least no immediate prospect of accession – a country like Serbia, for instance. After the May 2004 enlargement the number of neighboring countries that fall into this category is very substantial. More specifically (and perhaps importantly) from the more general and policy-oriented perspective of democracy and rule of law promotion scholarship, we want to ascertain whether reduced forms of incentives – i.e. no immediate prospect of accession, less aid and weaker socialization opportunities – can work, and if so to what extent, how do they impact domestic decision-makers and whether these impacts differ substantially from the experience of New Member States that have now entered the EU in the fifth enlargement round. In this context, our four case study countries – Ukraine, Romania, Turkey and Serbia – should offer important lessons, about both the role of external pressures for domestic reforms and the reaction of domestic decision-makers to these external pressures.

Since the institutional and incentive dynamics of EU influence – normative pressure, political conditionality, impact of technical aid, socialization – vary across the four subject countries we intend to study, the research will offer insights that have not been derived before. Furthermore, our focus on rule of law reforms provides an opportunity to find out whether the variable strength of promotion strategies has an expected pattern of influence – i.e. that the effects will be progressively reduced as the strategy applied gets weaker – or whether the picture is more complex and varied, with "pockets" of reform areas (judicial capacity and independence, anti-corruption measures) being differently affected within each of the subject country and, comparatively, across the three subject countries.

Thus, the key question to begin with is "what are the determinants in the development of the democratic rule of law in the four countries" and more specifically 'how much actions and strategies carried out by external actors contribute to the democratic rule of law or to opposite results". The hypotheses we test in our cases will refer to the impact of boundary removal and democratic anchoring on domestic elites who envisage a key aspect of the entrenchment/strengthening of democracy in the implementation of the rule of law within a process of region building.

By "democratic rule of law" we mean a situation where the law, which is fairly and consistently applied to all by an independent judiciary, and the laws themselves are clear, publicly known,

universal, stable, and non-retroactive. These characteristics are fundamental for any civil order, characterized by right to protect, and a basic requirement for democratic consolidation, along with other such cognate features of a constitutional order as civilian control over the military and the intelligence services and an elaborated network of other agencies of horizontal accountability that complement the judiciary. More specifically, the features of rule of law we should devote our attention include:

- The law is equally enforced toward everyone, including all state officials; no one is above the law.
- The legal state is supreme throughout the country, leaving no areas dominated by organized crime, local oligarchs, or political bosses who are above the law.
- Corruption is minimized, detected, and punished, in the political, administrative, and judicial branches of the state.
- The state bureaucracy at all levels competently, efficiently, and universally applies the laws and assumes responsibility in the event of an error.
- The police force is professional, efficient, and respectful of individuals' legally guaranteed rights and freedoms, including rights of due process.
- Citizens have equal and unhindered access to the justice system to defend their rights and to contest lawsuits between private citizens or between private citizens and public institutions.
- Criminal cases and civil and administrative lawsuits are heard and resolved expeditiously.
- The judiciary at all levels is neutral and independent from any political influence.
- Rulings of the courts are respected and enforced by other agencies of the state.
- The constitution is supreme, and is interpreted and defended by a Constitutional Court

(See O'Donnell 2004, Diamond and Morlino 2004). However, as Casper (2004) rightly suggests, the core aspects of the rule of law mainly lies in the independence of Judiciary and the fight against corruption. Thus, the priority in the empirical research should be devoted to these aspects (see also the annex on this).

When we look at the experience of those Central and Eastern European Countries involved in the pre-accession process, a key feature of the process appears to be the effective **removal of boundaries** of the nation-states involved (physical boundaries, economic, institutional, political-cultural). This phenomenon involves not only the *en bloc* acceptance and internalization of EU laws and standards in their entirety (its *acquis*), but a commitment to harmonize the country's domestic

and even foreign policy behavior with that of the EU, in the future as well. The process of "boundary removal" entails extensive limitation/containment of national sovereignty. The extensive, detailed insertion of the *acquis* into the domestic system, replaces the old domestic laws and institutions to an extraordinary extent. Hence, the process does not entail the mere "removal of boundaries" (as occurs when a country is invaded and its territory incorporated into another political entity), but is fundamentally "constructive" – there is a simultaneous process of removal of "old" national rules and institutions, with "new" community rules and institutions. The democratic credentials, prestige, laws and institutions of pre-existing community members serve as a model for countries aspiring to a closer relationship with the Community. Furthermore, a more or less detailed "path" is prepared by the Community for the aspirant country to adopt and implement.

As suggested by the experience in Central and Eastern Europe, and by the plans for a future Neighborhood Policy proposed by the Commission, "constructive removal of boundaries" can occur *incrementally* and to *different degrees*. Examples of this, that are found in the Commission's plan, include: (1) acceptance of common rules and standards as a precondition for enhanced access by third states to the Internal Market (based on free movement of goods, persons, services and capital, regulating competition, health and environmental standards); (2) market openings and participation in various EU programs; and (3) greater access to the EU labor market.

The second process that may be suggested to begin to characterize EU democracy promotion can be termed **democratic anchoring**, that is, the binding of domestic institutions and laws to supranational networks of norms and standards and the related convergence of Western European political and economic structures. The first aspect to stress is preliminary to all others: it is the promotion of bureaucracy modernization. Both EU and domestic elites have to start or continue in the modernization of bureaucracy . Without a commitment in this direction the other important elements of anchoring lack the possibility of an actual working inside the country. Those other key aspects mainly include: (1) enactment and internalization of a series of international conventions on human rights and protection of minorities; (2) submission to the jurisdiction of supranational courts (such as the European Court of Human Rights); (3) acceptance of international conventions on nuclear safety and environment; and from the EU only, (4) economic and technical help for policy convergence in a few important sectors; (5) economic and technical aid for strengthening social cohesion and finance economic growth. These aspects clarify that a sound process of democratic anchoring imply élites, even a minoritarian position, who are looking for external commitment that help the implementation of their strategy and at the same time a supranational organization ready to offer those links and the economic and practical support to make that anchoring actually working.

All this means that at the core of boundary removal and anchoring processes, we should consider placing the role of domestic elites and their beliefs and actions. As part of intensified interaction between EU and the third country democratic domestic elites are strengthened by EU incentives and perceived constraints. This reduces the internal costs of sovereignty limitation and provides tangible policy alternatives to existing domestic policy choices. An additional effect of this is the acceptance of limiting the scope and exercise of national sovereignty, for the sake of benefits derived from regional integration with the EU. Within such a process of intensified interaction, furthermore, new *fora* for elite socialization are created, where different forms of governance are learned. This appears to be a critical part of the dynamic.

A way to develop the research around boundary removal, democratic anchoring and rule of law, would be to address a few, more precise, questions about the role of **domestic elites**: What is specifically the network among domestic and international actors that is at the core of a successful democracy promotion? What are the economic and political strategies most likely to persuade international and domestic political elites to enter into this ”sovereignty containment game”? What are the specific aspects of sovereignty that are put at stake in that “game”? What processes of social learning occur in the context of “boundary removal”? How can external actors facilitate the isolation of competing elites set on non-democratic design?

If the two processes develop and the democratic elite is successful then a transformative inclusiveness may unfold. The strategy of inclusion within a regional community appears to blur the distinction between internal and external aspects of political life, and therefore facilitates “insertion” of norms, rules and institutions into domestic structures that would otherwise be rejected as being foreign or as constituting unacceptable interference in domestic affairs. At the most fundamental level, the process of community inclusion permits the regional organization (in this case the EU) to require and facilitate transforming activities within domestic systems. At the same time, it legitimizes external involvement in the eyes of domestic actors, because the distinction between “the I and Thou”, between the domestic and the external, are eroded. At the same time, the opposite result has to be envisaged. The entrenchment of domestic politics and policy terms a situation where the two main processes (boundary removal and democratic anchoring) do not unfold and the empowerment is either insufficient or absent. However, both the domestic, local democratic elites and the supranational organization are not successful in their converging strategy.

All this said, we are conscious that until now the research design emphasized the ‘how’ of the whole process of implementing a rule of law (and democracy). Boundary removal and democratic anchoring stress the best strategies or modes of democratization paths. But why should

those elites make the democratic choice and be successful on this? Why should they become convinced that rule of law (and democracy) is the best possible outcome for them? A second part of the research should address these questions and find a convincing reply for each case. Here the hypotheses that will guide the research on this are very simple: boundary removal and democratic anchoring are the key elements of a process of **region building.** Establishing a region of this kind is in the strong interests of older, established democracies, but it is also – and even more – in the deep interest of neighbor countries. Even if the region is characterized by links with different intensity and strength where some country may enjoy a greater number of advantages than other ones, there are several positive possibilities for everyone in expanding that region in terms of political and economic stability, development of import and export, getting economic aid, that is, economic growth, as well as peace and recognition of social rights. In such a virtuous game the leading role is in the hand of elites. But the support to them from people is an essential part of this process. No doubts, even if successful such a path takes time to be unfolded as we experienced in Eastern European democratization. This means that to fully understand the process we are studying we also need survey data that give support to the empirical analysis on other aspects.

Drawing upon these concepts and hypotheses, the proposed research will provide an analytical framework for understanding the rule of law (and democracy) promotion strategies developed by the EU in four paths of democratization through region building, out of the five different categories of countries noted above.

- *Democratization through "membership candidacy"*: the prospect for future EU membership exists and is developed through the Copenhagen criteria and the continuous assessment of their implementation. Within this category we find Romania.
- *Democratization through "not-yet-negotiating candidacy":* there are problems in terms of future candidacy, but a negotiation phase is a serious possibility. In this category there is Turkey.
- *Democratization through "potential candidacy"*: As part of the Stabilization and Association Process with the Balkan countries, Serbia has been designated "potential candidates" for eventual membership. Thus, the prospect of candidacy exists.
- *Democratization through "non-candidacy, structured relationships"*: where a structured relationship exists, but where there is no express or implied prospect of EU membership for the subject country. A large number of countries fall within this category making it a rather broad. The case here chosen will be Ukraine.

For each democratization path the empirical analysis will reply to the questions addressed above on the determinants in the development of the rule of law in the four countries and the related actions and strategies carried out by external actors contribute to the rule of law or vice versa.

Thus, in the four chosen cases the dependent variable will be the rule of law considered in its developments along last fifteen years. The independent variables will be given by the processes of boundary removal and democratic anchoring and its interactions with the domestic elites in the process of region building. The specific set of empirical dimensions, that are useful for detecting the indicators and will be gathered through documents and interviews (see above) in each country, is suggested in the annex of this paper. The annex give a more exhaustive list of the relevant dimensions with regards to rule of law, boundary removal and democratic anchoring, here some particularly salient dimension and the related indicators should point out as they are essential in the empirical analysis.

The key methodological problem, a recurring one in every qualitative empirical research, is how to find out empirically the causal links among the aspects described above. Through documents and interviews and making use of the empirical indicators that are relevant for each dimension in each country we will use the method well known as process-tracing (George 1979, George and Bennett 1997, and George and Bennett, 2004) that will allow to see in details the effects of the different actions, strategies and mechanisms at work.

Tabbs. 1, 2, 3, 4, 5, 6, 7, 8 about here

The empirical analysis of three cases plus one

What have been the strategies of rule of law promotion in the countries we're interested in can be seen fairly clearly by analyzing the different document the European Union issued. For Romania, Serbia Montenegro and Turkey we know also about the political decisions made and the policies carried out. Let it stressed, moreover, that the priorities that were requested by the EU were changing in the development of the process. Therefore, it's important to point out when those priorities appeared among the request wanted by the EU. It's also important to clarify when the related decisions were made. No doubt that on this the timing is an essential aspect to clarify the change of the dependent variable, and to develop every kind of explanatory analysis. It's also important that a similar analysis be carried out for the democratic installation because its

connections with the rule of law. Tabb. 1, 2, 3, 4, 5, and 6 cover all this for the three countries mentioned above and tab. 7 and 8 makes only reference to the priorities set out for Ukraine. On this last country we don't know more about what is going to happen as the related EU document was issued few months ago.

When with the guide of those tables we check what we know and what else we should know to carry out our research, the results are fairly straightforward.

First, the dimensions of the rule of law that eventually are relevant and there is data and possibilities of going into details include: administrative capacity, judicial independence, effectiveness of the court, corruption and transparency organized crime and money laundering, police powers, right to fair trial, legal redress and access to justice, treatment of prisoners and prison system (see tabs. 1, 3, 5 and also 7). On these fields and for Romania on civil service and for Turkey on property rights and enforcement of contracts there are decisions and reforms carried out following the priorities set up by the European Commission.

Second, to date we don't have a systematic knowledge on how successfully each reform was implemented. Some aspects involve arduous implementation, while others may be little more than cosmetic. The research will try to get a more in depth knowledge on this.

Third, the analysis of democracy promotion for the same countries helps to complete the picture (see tabs. 2, 4, 6, and 8), but let it be stressed that those tables have been drafted always maintaining a focus on rule of law, that is, the aspects pointed out mainly concern aspects where democracy and rule of law complement each other.

Fourth, the fact that the countries have different processes of democratic installation comes very clearly out of the differences in the items mentioned in the first column of those tables. For example, decentralization is present in Romania and Serbia Montenegro, but not in Turkey; child protection is an important problem in Romania, but less relevant in the two other countries; likewise gender equality is very relevant in Turkey, but less in Romania and Serbia; and so on. Moreover, it gives immediately the possibility of detecting the serious problems that plague Serbia and Montenegro, the intermediate position of Turkey in the path to rule of law and democracy and in a comparative perspective the better results of Romania. Specifically, for Serbia and Montenegro the research should go on trying to single out the factors that are the true obstacles for unfolding the process we hypothesized, such as deep ethnic divisions or a strong authoritarian culture shared by elites. This point is also theoretically relevant. That is, an obvious way to develop fully a research such as that envisaged in the previous pages includes the analysis of negative aspects that can either stop or enormously slow down the entire process. In our tables on Serbia and Montenegro this point emerges very clearly, but to understand what are relevant factors and its characteristics a specific in

depth is needed. This has an additional consequence for our work: no serious theoretical work can be carried out without specific analyses of the four countries. And in this perspective the choice we made of working on three/four countries rather than on the entire set of countries (e.g. all Balkan countries and other Eastern European neighbors such as Moldova and Belarus) is strongly supported.

The empirical analysis presented in the tables is not able to disclose the aspects and problems of boundary removal. The dimensions and related indicators of this process point to dimensions such as extension of the single market, preferential trading relations and market opening, migration and movement of persons, cultural cooperation, integration into transport, energy and telecommunications, investment promotion and protection, business integration, integration into the global trading system (see above and the annex 1). The key aspect is actually a gradual easing of sovereignty complemented by economic integration where of course there are differences between membership and non-membership situations, where also forms of integration are possible without membership. For Romania the various report on that country since 1997 and the Europe Agreement indicate extensive boundary removal in the aspects that are mentioned in annex 1. For Serbia and Montenegro, the reports on the possible Stabilization and Association Agreement and several other documents are much more negative in terms of achieved results, but at the same time they show how much money has been devoted to several programs that eventually are making that country strongly connected to the EU. For Turkey, again the documents show a limited process of developing free movement of goods, persons and capital and other limitations in creating a larger area of exchange. However, on the whole, in carrying out this process the key role of elite is obvious, but again this requires further field research.

Our data, however, give some evidence of the unfolding of the democratic anchoring. The different empirical aspects and dimensions suggested in the annex 1 on this process include the acceptance of regulatory structures for the market, the signing and compliance of a few international conventions, a strong cooperation to fight terrorism and other security threats, formal and actual commitment to promotion of human rights, submission to international courts, the strengthening of all forms of economic, legal and social cooperation across the borders, and from the EU side the development of social cohesion with economic and technical assistance and the providing of new sources of financing. The evidence we have (tabbs. 9, 10, 11) suggests that for all three countries there are a few decisions to modernize the bureaucracy with Serbia and Montenegro lying behind as for in other fields; there are commitments on human rights with ratification of all main international conventions and other commitment in international cooperation and other international conventions. But an important aspect that does not come out of the tables is the deep

and large involvement of governmental institutions and civil society in several programs where European Union is involved with allocation of financial resources included, as well.

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tabbs. 9, 10, 11 about here

Conclusions

In this paper we would like present and give some support to the research design we had in mind, and partially we still have in mind, that is, the very research design also deserve to be better develop. In any way, the analysis of several documents (see annex 2) on Romania, Turkey, Serbia and Montenegro, and Ukraine show that all three key empirical concepts, that is, rule of law, boundary removal and democratic anchoring can be empirically applied with good result. The differences among the countries emerged as well, although well defined empirical paths such those suggested by the labels '*democratization through "membership candidacy'* (possibly*:* Romania), 'd*emocratization through "not-yet-negotiating candidacy'* (Turkey?), '*democratization through "potential candidacy'* (Serbia?), and '*democratization through "non-candidacy, structured relationships'* (maybe: Ukraine), did not come out yet. Actually, not only would an additional analysis of the documents that we considered and other documents be very useful, particularly on the fourth country we've just added (Ukraine), but additional empirical research in the four countries with élites interviews and gathering of existing survey data. Both boundary removal and democratic anchoring, that were already confirmed by this first analysis, should receive a powerful corroboration by that field research. Let's not forget that eventually we would like understand how external action can push elite and people toward democracy and even if this is really possible as some East European case suggests while others deny.

Tab. 1: EU Rule of Law Promotion and Domestic Impact: Romania

DIMENSION	REFORMS
CIVILIAN CONTROL OF THE MILITARY	Not relevant
CIVIL SERVANT LEGISLATION	Civil Servant Statute (2003)
JUDICIAL INDEPENDENCE	Judicial System Reform Strategy (2003)
EFFECTIVENESS OF COURT	Judicial System Reform Strategy (2003)
CORRUPTION AND TRANSPARENCY	Anti-corruption policy: National Anti-corruption Prosecutor Office (NAPO) (2002) Action Plan against Corruption (2002)
ORGANIZED CRIME AND MONEY LAUNDERING	Law on Preventing Organized Crime (2003) Law on Prevention and Sanctioning of Money Laundering (2003)
POLICE POWERS	Law on Police Man Status (2002)
RIGHT TO FAIR TRIAL, LEGAL REDRESS AND ACCESS TO JUSTICE	Constitution 2003 (Art. 21; Art. 23; Art. 24)
TREATMENT OF PRISONERS/ PRISONS SYSTEM	No real (effective) reform

Tab.2: EU Democracy Promotion And Domestic Impact: Romania

Dimensions	Commission priorities	Reforms
DECENTRALISATION	Set up structures needed for regional and structural policy (1998).	Adoption of the Law on Regional Development (July 1998). Institutions and mechanisms needed for regional and structural policy have been substantially put in place (during 1999). Adoption of a new Law on Local Public Administration (March 2001).
	Provide adequate resources to the local levels of government to allow resources to match responsibilities (2001).	No
	Adopt a comprehensive strategy for the management of the on-going process of decentralisation (2003).	No
EFFECTIVENESS OF THE POLICY FORMULATION PROCESS	Enhance policy formulation, improving policy co-ordination and consultation procedures between ministries, consulting social partners and representatives from civil society, and screening all draft legislation for its budgetary implications as well as compatibility with the Europe Agreement and the *acquis communautaire* (2001).	No
	Adopt a comprehensive strategy for the reform of the policy formulation process that cover policy coordination and consultation procedures between ministries, consultation of stakeholders, screening all draft legislation for its budgetary implications and screening all draft legislation for compatibility with the Europe Agreement and the *acquis communautaire* (2003).	Establishment of the Executive Committee for European Integration (2003). Adoption of the so-called "Sunshine Law" (January 2003).
EFFECTIVENESS OF THE PARLIAMENTARY PROCESS	Reduce the reliance on ordinances, and emergency ordinances, as a legislative tool (2001).	Introduction of an internal screening procedure to limit the use of ordinances as legislative tool (February 2003).
	Clarify the circumstances under which emergency ordinances can be used (2003).	Clarification of the circumstances under which ordinances as legislative tool can be used and their entry into force has been delayed until they are formally tabled in parliament (2003 Constitutional revision).
CHILD PROTECTION SYSTEM	Continuation of the child protection reform (1998).	Legislation on the protection of children has been amended and transfers responsibility for child protection to the local administration (1998).
	Guarantee adequate budgetary provisions for the support of children in care (1999).	The transfer of budgetary allocations for childcare to the County Councils has been provided (during 2000).
	Undertake a full reform of the child care system (1999).	Adoption of a National Strategy on the Reform of the Childcare System (May 2000). Establishment of a National Agency for the Protection of Children's Rights (2000). Adoption of a revised Strategy on the Protection of Children in Need 2001-2004 (May 2001).
	Complete the reform of the child care system in accordance with the National Strategy on the Protection of Children in Need (2001).	no

	Maintain the moratorium on international adoption in place until new legislation is adopted (2001).	The moratorium on international adoption has been maintained (during 2002 and 2003).
	Develop adequate national standards for all child protection service (2003).	no
	Implement the national strategy on maternity hospitals (2003).	?
FREEDOM OF EXPRESSION (MEDIA)	Revise those sections of the Penal Code dealing with verbal outrage and offence against authorities in order to ensure that they do not inhibit legitimate freedom of expression and in order to ensure that they comply with the provisions of, and the case law related to, the European Convention on Human Rights (2001).	The crime of offence to authorities is repealed, the crime of insult will no longer be punishable with a prison sentence, and the maximum prison terms for calumny against private persons and calumny against officials are reduced (2002 revision of the Penal Code). The government submits the draft of a revised Penal Code to Parliament, if adopted by Parliament, the amendments will enable journalists to report more freely (May 2003).
PROTECTION FROM POLICE MISCONDUCT	Ensuring that an efficient system for examining complaints of police misconduct is established and functions properly (2001).	According to the Laws on the Status of the Policeman and the Organisation and Functioning of the Romanian Police, jurisdiction for prosecuting abuses by the police has been transferred from the military to the civilian court system (summer 2002).
NON DISCRIMINATION	Establish and ensure the due functioning of institutions to prevent and combat all forms of discrimination (2001).	A formal decision is taken to establish the National Council for Combating Discrimination (December 2001). A law approving the 2000 Government Ordinance on Preventing and Punishing all Forms of Discrimination enters into force (January 2002).
	Continue alignment of the *acquis* on anti-discrimination and ensure its proper implementation by making the Romanian National Council for Combating Discrimination fully operational (2003).	No
INTEGRATION OF THE ROMA MINORITY	Further efforts to integrate the Roma (1998).	Set up of an Inter-ministerial Committee for National Minorities (August 1998).
	Strengthen dialogue between the Government and the Roma community with a view to elaborating and implementing a strategy to improve economic and social conditions of the Roma (1999).	Adoption of a National Strategy for Improving the Condition of Roma (April 2001).
	Provide adequate financial support to minority programmes (1999).	No
	Provide adequate financial support and administrative capacity in order to implement the Government Strategy on the improvement of the situation of Roma (2001).	No

Tab.3: EU Rule of Law Promotion and Domestic Impact: Turkey

DIMENSIONS	REFORMS
CIVILIAN CONTROL OF THE MILITARY	Amendment of Article 118 of the Constitution increasing the number of civilian members of the National Security Council (NSC) and emphasizing the advisory nature of the body (October 2001). Repeal of the regional/provincial Gendamerie officers powers to act temporarily on behalf of the governor or prefects (2nd Harmonization Package (HP), 9 April 2002). Remove of representative of the NSC from the Board of Supervision regarding Radio and TV broadcast (6th HP, 19 July 2003). Reduction of the jurisdiction of the military courts over civilians (7th HP, 7 August 2003). Remove of NSC representative from supervisory boards of higher education and electronic media; and parliamentary full control over the military budget (May 2004 Constitutional reform).
CIVIL SERVANT LEGISLATION	Not present
JUDICIAL INDEPENDENCE	New Civil Code and Civil Procedure Code (January 2002) New Penal Code and Penal Procedure Code (August 2002) Competence revision of the State Security Court (December 2002) Constitutional amendment abolishing the SSC (May 2004)
EFFECTIVENESS OF COURT	New system of enforcement judges (May 2001) National Judicial Network Project (2001) Law on the Justice Academy (July 2003) Law to establish Juvenile Courts (January 2004)
CORRUPTION AND TRANSPARENCY	New Public Procurement Law + Public Procurement Authority (2002) Law on Public Financial Management and Control (2003)
ORGANIZED CRIME/MONEY LAUNDERING	New Law on Combating Smuggling (2003)
POLICE POWERS	Law on the prosecution of civil servants and state officials (1999) Law on Police Education (2001)
RIGHT TO FAIR TRIAL, LEGAL REDRESS AND ACCESS TO JUSTICE	The Constitutional Court recognized the ECHR as source on which courts can base decision (March 2002) The 5th HP[2] expanded right to retrial (February 2003)
TREATMENT OF PRISONERS AND DETAINEES	Prison Monitoring Boards (2001) Amendment of articles of the Law on the Administration of Prisons with regard to the provision of food and entry into prisons (2003). New curriculum for the in-service training of prisons personnel (2003)
PROPERTY RIGHTS, ENFORCEMENT OF CONTRACTS	Acknowledgment of non-Muslim foundations by the Director-General of Foundations (2003) "Return to Village and Rehabilitation Project" to address issue of Kurdish property rights (2003)

[2] From 2001 to the present, Turkey passed 7 such "harmonization packages" – responding directly to demands in the 2001 and 2003 AP and in line with its own NPAA. The Harmonization Packages (HP) entered into force as follows: 1st HP (19 February 2002); 2nd HP (9 April 2002); 3rd HP (9 August 2002); 4th HP (11 January 2003); 5th HP (4 February 2003); 6th HP (19 July 2003); 7th HP (7 August 2003)

Tab. 4: EU Democracy Promotion And Domestic Impact: Turkey

Dimensions	Reforms
POLITICAL PARTIES	Amendments to the Political Parties Law, making it more difficult for the authorities to close political parties and ban its members from subsequent participation in political life (August 1999). Amendment to Article 101 of the Law on Political Parties: while leaving the grounds for closing down a party unchanged, it makes more difficult to close a political party (2nd HP, 9 April 2002).
FREEDOM OF EXPRESSION/PRESS	The Constitutional amendment narrowed the restrictions on freedom of expression - Articles 13 and 14 - and removed constitutional prohibition on use of languages forbidden by law - Articles 26 and 28 – (October 2001). Amendment to Penal Code, reducing upper limit of punishment for "insulting" the state; amendments to Anti-Terror Law restricting scope in which propaganda could be prosecuted as a criminal offence - Article 7 – (1st HP, 19 February 2002). Amendment of the Press Law, to legalize "publishing in a language prohibited by law" (2nd HP, 9 April 2002). Amendment of Article 159 of the Penal Code to expand freedom of expression (3rd HP, 9 August 2002). Amendment of the Press Law, introducing provisions that protect the Press from being forced to disclose sources of information (4th HP, 11 January 2003). Reduction of the scope for suspending or banning cinema, video and music (6th HP, 19 July 2003). Reduction of the minimum sentence under Article 159 Penal Code (insulting the state and state institutions, threats to indivisible unity of the country) from 1 year to 6 months (7th HP, 7 August 2003). Constitutional amendment removed the article that allowed the state to seize property of media firms if they participated in publications considered to be illegal (May 2004).
FREEDOM OF ASSOCIATION	Amendment of Article 33 of the Constitution modifying rules on the right to form associations (2001). Removal of the restriction on establishing an association meant to "protect, develop or expand languages or cultures other than the Turkish language or culture or to claim that there are minorities based on racial, religious, sectarian, cultural or religious differences"; liberalization of the ability to establish student associations; abolition of articles prohibiting foreign associations from conducting activities in Turkey and Turkish associations allowed to operate abroad (2nd HP, 9 April 2002). Restriction on civil servants establishing associations was repealed, and NGO's allowed to undertake activities such as preparations for earthquakes and other natural disasters (3rd HP, 9 August 2002). Amendment of the Law on Associations enabling use of any language in non-official correspondence and allowing legal entities to be members of associations (4th HP, 11 January 2003). Replacement of prison terms with fines for offences such as failure to obtain permission for contact with foreign associations or failure to declare real estate possessions (5th HP, 4 February 2003). Different amendments to reduce restrictions and simplify procedures (7th HP, 7 August 2003).
FREEDOM OF RELIGION	Reform of property rights to allow religious minorities greater freedom. (3rd HP, August 2002). Amendment to the Law on Foundations (4th HP, January 2003).

HUMAN RIGHTS	PROTECTION FROM TORTURE	The Turkish government agreed to the publication of the Council of Europe Committee on Prevention of Torture (CPT) report (January 2001). Introduction of a general principle of proportionality into Turkish law (October 2001 Constitutional amendment). Amendment of the Civil Servants Law, allowing for the first time recourse to the State for compensation in the context of enforcement of judgments by the European Court on Human Rights (ECtHR) against civil servants responsible for cruel, inhumane or degrading treatment (2nd HP, 9 April 2002). Abolition of the "permission procedure" - i.e. need for permission from superiors to open investigations on public officials – (January 2003). Designation of investigation and prosecution of cases of torture and ill treatment "urgent matters" - aimed at expediting investigation and prosecution of torture cases - 7th HP (7 August 2003). Circular by Minister of Justice calling on public prosecutors asking them to carry out investigations about alleged torture themselves - not to delegate to police, and to consider them urgent cases – (September 29th 2003). Bylaw on Apprehension, Detention and Interrogation amended to strengthen implementation of anti-torture safeguards (January 3rd 2004). Constitutional amendment subordinates domestic law to international agreements (May 2004).
GENDER EQUALITY AND NON DISCRIMINATION	Spousal abuse made illegal (TGNA legislation of January 1998). The principle of equality between spouses is established as a basis for a family (2001 amendment of Constitutional Article 41). An amendment to Article 66 of the Constitution, no longer discriminates in case of foreign parent. Removal of possibility of reduced sentence for "honour killings" and imposition of heavier sanctions on "honour killings of children" (Penal Code amended by 6th HP, July 2003). Recognition of the principle of equal treatment in employment between persons irrespective of gender, as well as racial and ethnic origin, religion and ideology (New Labour Law of May 2003).	
MINORITY RIGHTS	Compensation for those who have incurred damages (death, injury and property damage) "from acts of terrorist organizations" (a reference to the PKK) and "from measures taken by the state in the struggle against terror" (Turkish Ministry of Justice decree of January 2004).	
ABOLITION OF DEATH PENALTY	Abolition of death penalty in all circumstances, in line with protocol 13 ECHR (Constitutional amendment of May 2004).	

Tab.5: EU Rule of Law Promotion and Domestic Impact: Serbia and Montenegro

DIMENSIONS	REFORMS
CIVILIAN CONTROL OF THE MILITARY	No longer relevant
CIVIL SERVANT LEGISLATION	Not present
JUDICIAL INDEPENDENCE	*Union:* Law on the State Court (June 2003) *Serbia:* New Serbian Law on Judges (2001) *Montenegro:* Montenegrin Law on Judges (2002)
EFFECTIVENESS OF THE COURT	*Serbia:* New administrative and appellate courts (2004) *Montenegro:* Criminal Code, Criminal Procedure Code and Law on the Public Prosecutor's Office (2003) New court of appeal as well as administrative (2004)
CORRUPTION AND TRANSPARENCY	*Serbia:* Law on financing of political parties (2003)
ORGANIZED CRIME AND MONEY LAUNDERING	*Union:* Federal Anti Money Laundering Law (2002) *Serbia:* Law on organized crime (2002) Special Prosecutor for organized crime Specialized court on organized crimes and war crimes (2003) *Montenegro*: Law on Money Laundering (2003)
POLICE POWERS	*Union:* The core police laws have still to be adopted. *Serbia:* Security Law (2002) Police Reform and Code of Police Conduct (2003) Disbanding of the Special Forces (2003) *Montenegro:* Training for women police (2003)
RIGHT TO FAIR TRIAL, LEGAL REDRESS AND ACCESS TO JUSTICE	*Union*: Constitutional Charter (2003): The whole criminal justice system was transferred to the republics. *Serbia:* Criminal Procedure Code (2002) Separate legislation for criminal justice (2003) *Montenegro:* Criminal Code and Criminal Procedure Code (2003)
TREATMENT OF PRISONERS/PRISONS SYSTEM	No real(effective) reform

Tab. 6: EU Democracy Promotion And Domestic Impact: Serbia and Montenegro

Dimensions	Commission priorities	Reforms
CONSTITUTIONAL SYSTEM	Adoption of the state-level Constitution (2002)	Signing of the Belgrade Agreement on principles of relations between Serbia and Montenegro within the state union (14 March 2002). Adoption of the Constitutional Charter (4 February 2003).
	Revision of the Serbian Constitution (2002)	No
	Revision of the Montenegrin Constitution (2002)	No
	Cooperation between the two republics to implement the Constitutional Charter (2003)	No
	Adoption of implementing laws in line with the Constitutional Charter (2003)	No
	Full respect of the Constitutional Charter (2004)	
ELECTORAL SYSTEM	Revise electoral laws at federal level (2002)	The two republican Parliaments adopt legislation for the nomination of the respective members of the State Parliament (Mid-February 2003).
	Serbia: amend regulations on parliamentary and presidential elections, including the financing of political parties, and the law on local elections (2002)	Adoption of the new Law on Local Elections (June 2002). Partial change in the Law on Election of President, retaining the controversial 50%+1 threshold requirement for the first round (November 2002). Adoption of a new Law on Financing of Political Parties (July 2003). Abolition of the threshold for parliamentary representation in the case of parties representing ethnic minorities (Early 2004).
	Montenegro: revise Election Law, in particular undemocratic party control of electoral seats and a lack of transparency in the allocation of five seats reserved for the Albanian minority, as recommended by the OSCE (2002)	No
	Serbia: complete the ongoing electoral law reform and fully implement legislation on financing of political parties (2004)	No
EFFECTIVENESS OF PARLIAMENTARY PROCESS	Improve the efficiency of parliamentary structures and make Parliamentary procedures more efficient (2002)	No
	Adopt the State Parliament's Rules of Procedures and establish its committees (2004)	
	Serbia: complete the ongoing electoral law reform (including electorate register) to bring the electoral system up to international standards notably by revising electoral laws, in line with ODIHR recommendations and fully implementing legislation on financing of political parties (2004)	
DECENTRALISATION	*Montenegro*: adopt promised decentralisation and reforms of provincial and local government (2002)	Adoption of the Law on Local Government, the Law on Financing of Local Government and the Law on Election of Mayors (July 2003).
	Serbia: implement promised decentralisation and reforms of provincial and local government (2002)	Adoption of new legislation introducing important innovations in line with Council of Europe recommendations (February 2002). The implementation of the 2002 Law on Local Government has continued, accompanied by welcome steps to improve financial autonomy (during 2003).
	Montenegro: Implement law on local government, notably by establishing the equalisation fund (2004)	

	Serbia: Adopt and implement decentralisation reform and ensure sufficient local capacities to deal with, among others, administrative and financial issues and forthcoming regional programmes (2004)	
FREEDOM OF EXPRESSION (MEDIA)	Resolve outstanding democratic issues regarding media by mid-2002 (2002)	No
	Do not delay in putting conditions in place for the full implementation of freedom of expression (2003)	Montenegro: the provisions on prison sentences for slander and libel were removed from the Criminal Code (December 2003).
	Serbia: (s.t.) depenalize slander, enforce media legislation in particular Broadcasting Law and adopt law on free access to information, in line with Council of Europe standards: (m.t.) transform Radio Television Serbia into a public service broadcaster, support development of media in line with European standards, foster professionalism of journalists and media operators (2004)	
	Montenegro: (s.t.) adopt law on access to public information in line with Council of Europe Standards; (m.t.) continue the transformation of Radio Television Montenegro into a public service broadcaster, support development of media in line with European standards, and foster professionalism of journalists and media operators (2004)	
	Kossovo: further develop freedom of expression, in particular ensure the long-term viability of the public broadcaster and its capacity to perform its role as a public service broadcaster to all communities (2004).	
ACADEMIC FREEDOM	Complete appropriate revisions of academic textbooks - particularly history and geography - before the end of the 2001-2 academic year (2002).	Work on revising school textbooks has continued (during 2003).
FREEDOM OF ASSOCIATION	Resolve outstanding issues regarding NGO status and political or religious association by mid-2002, in line with Council of Europe recommendations (2002)	No
	No further delay regarding NGO status and aspects of the right of association (2003)	No
	Serbia: (s.t.) create an environment including financial aspects), conducive for the development of NGO and civil society organisations including social partners, notably by adopting the law on associations, and a law on the legal status of foreign NGOs (2004)	
	Montenegro: (s.t.) adopt law on access to public information in line with Council of Europe Standards. Adopt strategy on cooperation between NGOs and governmental bodies (2004)	
PROTECTION FROM TORTURE	Take action, by May 2003, in relation to the January 2003 finding, by the UN Committee on torture, in relation to a 1995 pogrom in Montenegro for which no prosecutions or compensation has yet occurred (2003)	?
	Both republics have to take comprehensive and transparent action in all alleged cases of torture (2004)	
NON DISCRIMINATION LEGISLATION	Adoption and implementation of general anti-discrimination laws (2002)	An Anti-Discrimination act is in preparation by the Ministry (2003).

ABOLITION OF DEATH PENALTY	*Montenegro*: abolish death penalty (2002)	Abolition of death penalty throughout the state, replaced by terms of 40-year imprisonment (2003).
MINORITY RIGHTS	Urgently adopt and implement legislation on minority rights, including relevant changes to Criminal and other Codes in line with the Council of Europe Framework Convention for the Protection of National Minorities (2002).	Adoption of a new federal law on the protection of minorities (2002).
	Clarity on the constitutional distribution of competencies on minorities (2003).	No
	Implementation of the new constitutional arrangements in such a way as to provide for the full respect and protection of minority rights throughout the country, in line with the Council of Europe Framework Convention for the protection of national minorities (2003).	No
	Kosovo: legislation should be available in local languages (2003).	
	Ensure adequate co-operation between the State Union and Republics as regards the legislative basis and practical protection of the rights of minorities (2004).	
	Kosovo: Ensure the viability of minority communities and their non-discriminatory participation in Kosovo society, notably by establishing the necessary framework to ensure the equitable provision of public utilities and universal services (2004).	
	Completion and beginning of implementation of return strategies (2003).	Signing of the Agreement on the return of refugees with Bosnia and Herzegovina (October 2003).
	(s.t.) Ensure adequate co-operation between the State Union and Republics as regards the legislative basis and practical protection of the rights of refugees and displaced persons (2004).	
	(s.t.) Strengthen cooperation with Bosnia and Herzegovina and Croatia to enable returns (2004).	
	(s.t.) Engage in dialogue with Pristina on return of displaced persons (2004).	
	(s.t.) *Both republics*: amend legislation to repeal all discriminatory provisions (2004).	
	(s.t.) *Montenegro*: abolish legal prohibition for refugees to work and amend restrictive provisions to allow them possibility to apply for citizenship (2004).	
	(m.t.) *Both republics*: ensure full respect of their human rights, including access to health services, and easy access to personal documents; ensure right of a real choice between sustainable return and integration; facilitate integration for those who choose not to return (2004)	
	(m.t.) *Serbia*: Adopt new legislation on refugees; continue to implement the National strategy (2004).	

Tab. 7: EU Strategies of Democratic Rule of Law Promotion (Priorities): Ukraine

increase the level of procedural transparency and public support;
meet international commitments and standards for democratic elections (in particular as concerns election campaign and media coverage);
decentralize executive powers and administrative structures;
increase powers of regional and local self-governing bodies;
increase efficiency of the judiciary;
fight judiciary vulnerability to political and administrative interference from the executive branch, and to corruption;
reform the broad competences of the General Prosecutor's Office (this is one of the main points of concern expressed by the Council of Europe);
further progress towards the development of a civil service system, in particular in the areas of impartiality and integrity, and professional stability;
join the Council of Europe Group of States against corruption (GRECO).
In addition, strengthening the overall system of democratic and institutional checks and balances (president, prime minister, and parliament);

Tab.8: EU Strategies of Democracy Promotion (Priorities): Ukraine

human rights and fundamental freedoms
- fulfil all its obligations and commitments as a Member State of the Council of Europe;
- ratify the Convention relating to the Status of Refugees and its Protocol;
- guarantee in practice media freedom [3];
- implement and enforce the 2001 law on child protection, designed to bring the country into conformity with international standards regarding children's safety and quality of life [4];
- fight racism, direct and indirect discrimination, intolerance or disadvantage for members of groups such as formerly deported persons (in particular Crimean Tartars), the Roma community, immigrants with or without legal status, asylum-seekers and refugees;
- eliminate difficulties in registration and in buying and leasing property for a number of minority and non-traditional religions;
- prevent torture and ill-treatment as regards the condition of detention [5];
- ratify the Rome statute for the establishment of an International Criminal Court;
- eliminate for Ukrainian women obstacles to their full and equal participation in the labour force [6];
- improve the capacity and sustainability of non-governmental organisations;
- clear standards and criteria for obtaining the official registration, unions and their organisations require, to pursue their objectives; and complete the transition from state-controlled unions to independent and efficient unions.
regional and global stability
- end use of conventional arms sales;
- ratify the 1997 Convention on the Prohibition of the Use, Stockpiling and Transfer of Anti-Personnel Mines and on their destruction (Ottawa Conventions).
Co-operation in justice and home affairs
- deposit the instrument of ratification of the UN Convention against Trans-national Crime and its additional Protocols on smuggling and trafficking of 4 February 2004.

[3] 'Media freedom remains one of the crucial issues for political reform in Ukraine. While press freedom is guaranteed by law and the Constitution, the press has come under increasing pressure since 2003. In terms of ownership, the media landscape is characterised by a significant degree of control by national and local authorities, in particular over the electronic media. A number of NGOs have published very critical reports on Ukrainian press freedom in 2003. Privatised or newly established media are concentrated in a few hands, and often interlinked with government structures. Independent media are often weak in financial terms and reportedly face numerous difficulties in carrying out their work, with persistent interference by state organs and an environment in which laws are often open to interpretations. The condition of the media in Ukraine has attracted the attention of the Parliamentary Assembly of the Council of Europe (PACE), which in its Recommendation 1589 (2003) on Freedom of expression in the media in Europe noted that "violence continues to be a way of intimidating investigative journalists". The PACE branded as "unacceptable" the lack of progress in the investigation of crimes, such as the murder of journalist Heorhiy Gongadze' (SEC(2004) 566, p. 8).

[4] 'The UN Committee on Children's Rights in its Recommendations of September 2002 … stressed the priority that should be given to the best interests of the child and called for the integration of marginalized children' (SEC(2004) 566, p. 8).

[5] 'Torture and ill-treatment were among several concerns highlighted in the annual report (2002) of the National Human Rights Ombudsperson on the situation of human rights in Ukraine. According to the report, around 12,000 individuals alleged that they had been subjected to torture and ill-treatment in the previous years, most commonly in the context of interrogation for the purpose of eliciting a forced "confession". In its review of Ukraine's fourth periodic report in November 2001, the United Nations Committee against Torture noted many ongoing deficiencies in the penal system, including the lack of clarity regarding the time when a detained person may exercise the rights to counsel, medical examination, and contact with a family member. The 2003 monitoring report for the Council of Europe Parliamentary Assembly shared concerns expressed earlier by the European Committee for the Prevention of Torture (CPT) as regards the conditions of detention in Ukraine, and the lack of progress in numerous areas (especially concerning the ill-treatment of persons deprived of their liberty by law enforcement agencies, and overcrowding both in militia and penitentiary establishments)' (SEC(2004) 566, p. 9).

[6] 'Gender discrimination in political, economic, social, and cultural spheres is prohibited under the Ukrainian constitution and domestic laws, and Ukraine is also a signatory to relevant international conventions. However, in practice, Ukrainian women reportedly face obstacles to their full and equal participation in the labour force. In June 2002 the United Nations Committee on Elimination of Discrimination against Women credited Ukraine with adopting a new law on the prevention of domestic violence, but expressed concern about the prevalence of violence against women and the need for improved measures for prosecution and victims' services'(SEC(2004) 566, p. 9) .

Source: Commission Staff WP – ENP Country Report (SEC,2004, 566, 12.5.2004)

Tab. 9: Aspects of Democratic Anchoring in Romania

Dimensions	Anchoring
ADMINISTRATIVE CAPACITY	General Strategy Regarding the Acceleration of Public Administration Reform (2001)
ACCEPTANCE OF INTERNATIONAL CONVENTIONS	Anti-corruption policy: Stability Pact Anti-corruption Initiative sponsored by the OECD (2002) Council of Europe's Group of States against Corruption (GRECO) (2003)
HUMAN RIGHTS	ECHR (European Convention on Human Right) Protocol 1: right of property Protocol 4: freedom of movement at al. Protocol 6/7: death penalty European Convention for the Prevention of Torture Revised European Social Charter Framework Convention for National Minorities ICCPR (International Covenant on Civil and Political Rights) First and Second Optional Protocol to ICCPR (right of individual communication and death penalty) ICESCR (International Covenant on Economic, Social and Cultural Rights) CAT (Convention against Torture) CERD (Convention on the Elimination of All Form of Racial Discrimination) CEDAW (Convention on the Elimination of all form of Discrimination against Women) CRC (Convention on the rights of the Child)

Tab. 10: Aspects of Democratic Anchoring in Turkey

Dimensions	Anchoring
ADMINISTRATIVE CAPACITY	Action Plan on Enhancing Transparency and Good Governance (2002) General regulation on selection of public officials (2002) New system of management in the Ministry of Education (2002)
ACCEPTANCE OF INTERNATIONAL CONVENTIONS	Anti-corruption policy: OECD Convention on Combating Bribery of Foreign Officials (ratified in 2000) COE Civil Law Convention on Corruption (ratified in 2003) UN Convention Against Corruption (signed in 2003) Anti organized crime and money laundering policy: COE Convention on Laundering, Search and Seizure (signed in 2001) UN Convention Against Transnational Organized Crime (ratified in 2003)
HUMAN RIGHTS	Turkish government officials met with representatives of Amnesty International for the first time (February 2004). Ratification of the Convention on the Elimination of All Forms of Racial Discrimination - with reservation – (2002). Signature of the European Agreement Relating to Persons Participating in Proceedings of the European Court of Human Rights (July 2002). Ratification of International Covenant on Civil and Political Rights and International Covenant on Economic, Social and Civil Rights (4th HP, 11 January 2003). Adoption of a number of provisions to bring Turkish law into line with Convention on the Rights of the Child (4th HP, 11 January 2003). Lifting of Turkey's reservations against the UN Convention for the Elimination of All Forms of Discrimination Against Women (July 1999). Ratification of Optional Protocol to the UN Convention on the Elimination of Discrimination against Women (August 2002). ECHR (European Convention on Human Right) Protocol 1: right of property Protocol 4: freedom of movement at al. Protocol 6/7: death penalty European Convention for the Prevention of Torture European Social Charter Framework Convention for National Minorities First and Second Optional Protocol to ICCPR (right of individual communication and death penalty) CAT (Convention against Torture)

Tab. 11: Aspects of Democratic Anchoring in Serbia and Montenegro

Dimensions	Anchoring	
ADMINISTRATIVE CAPACITY	*Union:* Council for European Integration (2003) *Serbia*: public administration reform not yet developed. *Montenegro*: Law on Public Administration (June 2003); Ombudsman office (2003)	
ACCEPTANCE OF INTERNATIONAL CONVENTIONS	Anti crime and corruption policies: European Convention on the proceeds for Crime (2003) Council of Europe's Group of States against Corruption (GRECO) (2003) UN Convention for the fight against corruption (2003).	
HUMAN RIGHTS	Ratification of Framework Convention for national minorities (2002) Ratification *of* ICCPR (International Covenant on Civil and Political Rights) and of First and Second Optional Protocol to ICCPR (right of individual communication and death penalty) ICESCR (International Covenant on Economic, Social and Cultural Rights) CERD (Convention on the Elimination of All Form of Racial Discrimination) CEDAW (Convention on the Elimination of all form of Discrimination against Women) CRC (Convention on the rights of the Child) Implement the findings of the Council of Europe compatibility study in order to become a member of the organization (2002): Serbia and Montenegro joins the Council of Europe (April 2003). Ratify the European Convention on Human Rights and Fundamental Freedoms (2002): Signature and ratification of key Council of Europe conventions: European Convention on Human Rights and Fundamental Freedoms and European Convention for the Prevention of Torture (2003). Request from EU: Fulfil all short term obligations arising out of membership of the Council of Europe including uniform effective implementation of European Convention on Human Rights and Fundamental Freedoms and the European Convention for the Prevention of Torture (2004): not fulfilled yet.	
INTERNATIONAL COOPERATION	Fully implement UNSCR 1244 and the Common Document FYR-UNMIK of November 2001 (2002).	no
	Full respect and implementation of UNSCR 1244 (2003).	no
	Further development of cooperation between Belgrade and Pristina (2003).	Starting of the dialogue between Belgrade and Pristina (Vienna, 14 October 2003) in four working groups, focussing on issues of missing persons, returns, energy and transport and telecommunications.
	Full and immediate dismantling of parallel Serbian institutions and jurisdictions in Kosovo (2003).	

	(s.t.) Fully respect the UNSCR 1244 and continue dialogue with Pristina on practical issues of common interests (2004).	
	Improve cooperation with ICTY: surrender indictees to the Hague - including and particularly those currently holding elected office or military positions, provide a full cooperation on investigations, access to evidence (witnesses, documents, archives - particularly military) and, if a law is still considered necessary, adopt it immediately (2002).	Adoption of the Law on Co-operation and creation of the National Council for Co-operation (April 2002). Handover of the former Serbian President (January 2003).
	Improve co-operation with ICTY in all regards (2003).	Changes in the State Law on Co-operation repealing the controversial provision allowing for handovers of only those already indicted before the law entered into force (April 2003).
	(s.t.) Ensure full co-operation with International Criminal Tribunal for the former Yugoslavia (2004).	

Annex1: Excursus on Empirical Dimensions and Related Indicators

In this annex we list and give the rationale for the different dimensions that will show us the direction to follow for having a large list of indicators that eventually may be partially different for the four countries we're working on. Let it also be added that in some occasion we wont have indicators, but just the possibility of a reasonable assessment of what is the reality and just answering to a question on if there or not a given aspect.

Democratic Rule of law:

With regard to this dimension, the suggestions by Casper (2004) are important to provide the guidelines of the empirical research. *Judicial independence* (including appointments and career system) and the diffusion of *corruption* are the key aspects to explore firstly. In addition, the judicial capacity, the existence of non-civilian courts (military courts, State Security Courts), the degree of professionalism in applying the law, the functioning of the judiciary as well as the diffusion and presence in the territory of organized crime and practices of money laundering are other fairly important and very much related aspects. The existence of a legislation for the civil service, the effectiveness of bureaucratic institutions are a third group of features of the same phenomenon to explore, but let is be stated clearly that for the countries we are considering these features are less relevant as they imply a much more developed and established rule of law together with resources, financial ones included. Maybe those dimensions will be mostly useful to have differences emerging among the countries. Civilian control of the military and of security and intelligence forces is an additional key element to take into account.

Within a democratic rule of law, there are at least other three aspects: right to legal redress, access to justice, and fair trial provisions (including retrial). Empirically this means explore more in depth the judicial system that is a research that has to be done for assessing the rule of law. This is the actual reason why these three elements are usually rubricated under the label 'rule of law'.

It can be added that in one of his recent essays O'Donnell (2003) addressed the same question and proposed the following list where there is also a special attention to 'quality' features:

1. <u>In relation to the legal system.</u>

1.1. If it extends homogenously across the territory of the state.

1.2. Idem, across various classes, sectors, and groups.

1.3. If it enacts rules that prohibit and eventually punish discrimination against the poor, women, foreigners, and various minorities.

1.4. If it deals in a respectful and considerate manner with indigenous communities and their legal systems and culture.

2. In relation to the state and government.

2.1. If there exists a state that exercises effective and legally-bound control over its whole territory.

2.2. If there exist, and are adequately authorized and empowered, state institutions for the exercise of horizontal accountability, including in relation to cases of presumed illegal actions (or inactions) by elected officials.

2.3. If state institutions treat all individuals with due consideration and respect, and if there exist adequate mechanisms for the prevention and redress of situations that ignore this requirement.

3. In relation to courts and their auxiliary institutions.

3.1. If the judiciary is autonomous of undue influences from the executive, congress and private interests and, if this is the case, if the judiciary does not abuse its autonomy for the pursuit of narrowly defined corporate interests.

3.2. If reasonably fair and expeditious access to courts exists, differentiating by kind of courts.

3.3. If the courts recognize, and to what extent and in what kind of cases, international covenants and treaties, including those on human, gender, childhood, economic, and social, and cultural rights.

3.4. If there exist reasonably effective arrangements for the access to courts and the legal defense of the poor, illiterate or otherwise legally and materially deprived individuals and groups.

3.5. If the police and other security forces respect the rights of all individuals.

3.6. If individuals are not held in prison or subject to other ills in violation of basic rules of procedural fairness.

3.7. If the prisons are in conditions adequate to the human dignity of the inmates.

4. In relation to state institutions in general.

4.1. If they treat everyone with fairness, consideration, and respect.

4.2. If they are regulated by rules that are clear, publicly available, and properly enacted.

4.3. If there exist prompt and effective mechanisms for the prevention, discontinuance and/or redress of the violation of citizen's rights by state institutions.

Boundary Removal:

EXTENSION OF THE SINGLE MARKET. Acceptance of common rules and standards as a precondition for enhanced access by third states to the Internal Market (based on free movement of goods, persons, services and capital, regulating competition, health and environmental standards). Common standards to ensure that our neighbors can access and reap the benefits of the enlarged EU

internal market. The EU *acquis*, which has established a common market based on the free movement of goods, persons, services and capital, ensuring competition and a level playing field based on shared norms and integrating health, consumer and environmental protection, could serve as a model for countries undertaking institutional and economic reform.

PREFERENTIAL TRADING RELATIONS AND MARKET OPENING. Although countries can benefit from approximating their economic rules and structures on those of the EU before proceeding with trade liberalization, more open trade is a key component for market integration. As provided for in the Barcelona process, the free trade agreements that are already in place with the Mediterranean countries should cover more fully the goods and services sectors. Creating a more integrated market requires that our partners also conclude agreements of a similar depth among themselves, as well as with Turkey.

MIGRATION AND MOVEMENT OF PERSONS. Greater access to the EU labor market. The EU and the partner countries have a common interest in ensuring the new external border is not a barrier to trade, social and cultural interchange or regional cooperation. The impact of ageing and demographic decline, globalization and specialization means the EU and its neighbors can profit from putting in place mechanisms that allow workers to move from one territory to another where skills are needed most – although the free movement of people and labor remains the long-term objective. Significant additional opportunities for cultural and technical interchange could be facilitated by a long-stay visa policy on the part of the EU member states.

FURTHER CULTURAL COOPERATION AND ENHANCE MUTUAL UNDERSTANDING. The importance of dialogue between civilizations and the free exchange of ideas between cultures, religions, traditions and human links cannot be over-emphasized. The EU also needs to make a greater effort to create a positive image in the neighborhood and act to combat stereotypes, which affect perceptions of the neighboring countries within the EU. Exchange programmes between youth and universities, the creation of European studies courses and the opening of new Euro-information centers, 'people-to-people' activities, including professional exchange/visit programmes, activities in the field of media, training and journalists exchanges merit close consideration. Ideas circulated by the new member states should be looked upon favorably. Exchanges on a regional level regarding governance and human rights training issues have proven beneficial and should be explored further.

INTEGRATION INTO TRANSPORT, ENERGY AND TELECOMMUNICATIONS NETWORKS AND THE EUROPEAN RESEARCH AREA. Full integration into EU markets and society requires compatible and interconnected infrastructure and networks as well as harmonized regulatory environments. EU policies such as Trans-European Networks (TENs), Galileo and other research activities should draw up strategies for the Eastern and Southern neighbors. The Meda regional programme is

producing blueprints for infrastructure interconnection and regulatory approximation and harmonization in transport, energy and telecommunications (Trans-Euro-Mediterranean Networks).

The EU should encourage and support telecommunications markets in the neighboring countries, improving the availability of Internet access for business and private use and encouraging the growth of knowledge-based economies. As set out in the 6th Framework programme for Research and Technological Development (RTD), the EU should take forward the opening of the European Research Area (ERA) to integrate the scientific communities of the neighboring countries, exploit scientific results, stimulate innovation and develop human resources and research capacities.

NEW INSTRUMENTS FOR INVESTMENT PROMOTION AND PROTECTION. A stronger and more stable climate for domestic and foreign investment is critical to reducing the wealth gap that exists between the EU and its neighbors. Foreign investment can encourage reform and improved governance at the same time as contributing to the transfer of know-how and management techniques and the training of local personnel. Future agreements concluded with our neighbors could include reciprocal provisions granting companies national treatment for their operations as well to strengthen the overall framework to protect investment.

BUSINESS INTEGRATION. The EU should help to enhance business-to-business dialogue initiatives, involving EU and the neighbors' companies. The EU-Russia Industrialists Round Table process and the Business Summits with the Mediterranean countries have been useful instruments for entrepreneurs to develop practical suggestions on how to improve the investment and business climate in the neighboring countries. Regional bodies representing entrepreneurs and EU business associations in the neighboring countries are valuable partners in this area.

INTEGRATION INTO THE GLOBAL TRADING SYSTEM. WTO Membership is an integral part of a positive economic agenda and expanding trade and investment links. The EU should support a high rhythm of WTO negotiations with the applicant countries - Russia, Ukraine, Algeria, Lebanon and Syria – and continue to offer assistance to prepare for accession on acceptable terms as soon as possible.

Democratic Anchoring

BUREAUCRACY MODERNIZATION. The EU should continue in the modernization of bureaucracy and building capacities in customs, crime prevention and immigration.

REGULATORY STRUCTURES FOR THE MARKET. Common rules to ensure a more stable environment for economic activity.

ACCEPTANCE OF INTERNATIONAL CONVENTIONS ON DIFFERENT TOPICS, such as acceptance of international conventions on nuclear safety and environment and other conventions or treaties or other agreement on fighting corruption and criminal activities.

INTENSIFIED COOPERATION TO PREVENT AND COMBAT COMMON SECURITY THREATS. Cooperation, joint work and assistance to combat security threats such as terrorism and trans-national organised crime, customs and taxation fraud, nuclear and environmental hazards and communicable diseases should be prioritized. Both domestic measures and intensified bilateral and multilateral action are indispensable to fight organized crime. Particular attention should be paid to drugs trafficking, trafficking in human beings, smuggling of migrants, fraud, counterfeiting, money laundering and corruption. The EU should explore the possibilities for working ever more closely with the neighboring countries on judicial and police cooperation and the development of mutual legal assistance.

PROMOTION HUMAN RIGHTS. Enactment and internalization of a series of international conventions on human rights and protection of minorities. Shared values and mutual understanding provide the foundations for, inter alia, deeper political relations, enhanced cooperation on justice and security issues, environmental improvement and governance. The EU should contribute to the development of a flourishing civil society to promote basic liberties such as freedom of expression and association. Twinning opportunities between local government and civil society organizations and judicial cooperation should be fully utilized.

ACCEPTANCE OF INTERNATIONAL COURTS. Submission to the jurisdiction of supranational courts (such as the European Court of Human Rights).

ENHANCED ASSISTANCE, BETTER TAILORED TO NEEDS. Proximity calls for further efforts to encourage cross-border and trans-national cooperation and development, both locally and regionally. This includes the strengthening of all forms of economic, legal and social cooperation across the borders, especially between regional and local authorities and within civil society. The EU should work with the neighbors to facilitate common management of migration flows and border transit and to address trans-border organized crime, including illicit trafficking, as well as corruption, fraud, environmental, nuclear issues and communicable diseases. The EU's cooperation instruments must be sufficiently flexible to address the entire range of needs.

SOCIAL COHESION. The EU should accompany progress made in reforms with enhanced assistance to mitigate the impact of adjustment on the poor and vulnerable. The EU should ensure

adequate account of the importance of spending on education, health and social safety net provisions in their policies towards the neighboring countries.

NEW SOURCES OF FINANCE. EU technical and grant assistance is not the only means for promoting reform or catalyzing private investment. The IFIs have a key role to play in reducing poverty, helping to mitigate the social consequences of transition, assisting accelerated reform and increased investment as well as developing infrastructure and the private sector.

Annex 2: List of scrutinized documents on the four countries

Romania

- Europe Agreement (1995)
- Opinion on Romania's Application for Membership of the European Union (1997, Annex to the Opinion 1997)
- Regular Reports (1998, 1999, 2000, 2001, 2002, 2003)
- Accession Partnerships (1998, 1999, 2001, 2003)
- National Programmes for the Adoption of the Acquis (2000, 2001, 2002)
- Strategy Papers (1998, 1999, 2000, 2001, 2002, 2003)
- Phare Annual Reports (1998, 1999, 2000, 2001, 2002)

Turkey

- Ankara Agreement (1963)
- Progress Reports (November 1998; October 13, 1999)
- Regular Reports (November 8, 2000; November 13, 2001; October 9, 2002; November 5, 2003)
- Strategy Papers (1998, 1999, 2000, 2001, 2002, 2003)
- Accession Partnerships (May 2003, March 2001)
- National Programme for the Adoption of the *Acquis*
- Harmonization packages (19 February 2002, 9 April 2002, 9 August 2002, 11 January 2003, 4 February 2003, 19 July 2003, 7 August 2003)

Serbia-Montenegro

- Stabilisation and Association process for South East Europe Reports (2002, 2003, 2004)
- Stabilisation and Association Report on Serbia and Montenegro (2002, 2003, 2004)
- Proposal for a Council Decision on the principles, priorities and conditions contained in the European Partnership with Serbia and Montenegro including Kosovo as defined by the United Nations Security Council Resolution 1244 of 10 June 1999 (30 March 2004).
- European Agency for Reconstruction Annual Reports to the European Parliament and the Council (2000, 2001, 2002, 2003)
- Regional Strategy Paper 2002-2006 CARDS Assistance Programme to the Western Balkans
- Federal Republic of Yugoslavia. Country Strategy Paper 2002-2006 (DG Relex)

Ukraine

- Partnership and Cooperation Agreement between the European Communities and their Member States, and Ukraine (signed 1994, entered into force1998)
- Joint Report on the Implementation of the Partnership and Cooperation Agreement between the EU and Ukraine
- European Council Common Strategy of 11 December 1999 on Ukraine
- Country Strategy Paper 2002-2006, National Indicative Programme 2002-2003, Ukraine
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