
DISCUSSION PAPER

The enlargement of the European Union

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In November, the European Policy Centre contributed to the inquiry into enlargement of the European Union (EU) carried out by the House of Lords Select Committee on the European Union. Important decisions are about to be made on enlargement. This week, the member states' representatives will gather in the General Affairs Council and the European Council to decide on the future of aspirant countries, especially Serbia, former Yugoslav Republic of Macedonia (fYR Madeconia), and Albania which have all received by and large positive assessments by the European Commission. This contribution puts these upcoming decisions into a broader perspective, addressing:

1. experiences from the past and political developments influencing the current enlargement process;
2. lessons learnt and not learnt in terms of processes and strategies; and
3. the Copenhagen criteria and 'absorption capacity'.

1. The dynamics of the EU enlargement dossier

Enlargement has always been part of the DNA of the European Union, since its very first expansion to the United Kingdom, Ireland and Denmark in 1973. Having grown over the years from 6 to 27 member states via 6 different rounds of enlargement, the EU now has another set of countries wanting to join. The Union has made a political commitment to enlarge further to Turkey, to the countries in the Balkans, to Iceland¹ and, on the basis of Article 49 of the Treaty on the European Union, any other 'European' country may apply for membership on the basis of the Copenhagen criteria.²

But since 2005, enlargement policy has been endlessly challenged to keep a high profile on the EU's agenda and to reap successes. 'Enlargement fatigue' became a staple sentence to interpret the negative outcomes of the French and Dutch referenda on the Constitutional Treaty, despite the fact that opinion polls at the time showed that the 'no's were only marginally a reaction to the 'big bang' enlargement of 2004. The famous 'Polish plumber' had as much attention as little real impact in terms of numbers or opinion-shaping among European citizens.³

The largest EU expansion, which happened to Central and Eastern Europe (CEE), Malta and Cyprus, and saw no fewer than 10 countries become new members in 2004, followed by two more in 2007, did not hamper

the overall efficiency of EU decision-making either, not even during the five years in which it functioned on the basis of the Nice Treaty; the Lisbon Treaty was managed to be negotiated subsequently; and the new diversity within the Union was accommodated. Nonetheless, 'enlargement fatigue' has become a scapegoat for a range of deeper problems and stumbling blocks in the EU, giving a new understanding to the 'widening versus deepening' dichotomy which characterised the debate prior to the 2004 enlargement round. The accession of Bulgaria and Romania in 2007 is widely perceived as having been carried out too quickly and not preceded by adequate preparation, especially with regard to justice reforms and anti-corruption policies. Five years into their membership, the two countries continue to be subject to the Cooperation and Verification Mechanism (CVM) – an unprecedented instrument created as a means to ensure the post-accession sustainability of specific EU-driven reforms in both cases. To date, recurrent problems with corruption, organised crime and the functioning of democratic institutions in Bulgaria and Romania fuel the EU's "enlargement blues"⁴ but increasingly also mistrust among member states, as demonstrated, for instance, by the recent decision to link Bulgaria and Romania's entry into the Schengen area to their progress on the CVM.⁵

Similarly, developments in other 'new' member states have been the cause of preoccupation regarding the health of European democracy. By 2007, countries like Poland, Slovakia, Hungary, and the Czech Republic appeared to take a 'populist turn',⁶ suddenly calling into question the hitherto linear reading of democratisation: which presumed a cumulative and irreversible progression of the CEE democracies from transition to consolidation. Fast-forwarding to the present day, against the backdrop of the crisis, the incidence of threats to the EU's democratic principles and values has increased, not only in the new, but also in the older member states. Indeed, these developments need not be interpreted as consequences of enlargement. Rather, they are a manifestation of a much broader set of dynamics which is having an impact on the enlargement process. This experience has led to refining the tools and policies the EU is pursuing in the Balkans, as the next section on lessons learnt will explain.

Other issues which have been affecting the enlargement process are related to the on-going economic crisis. On the EU side, with the future of the euro – and indeed of the Union – hanging in the balance, expansion features way down the list of priorities. If anything, enlargement is now more easily politicised in the national arena of the member states, where parties with an overall populist, Eurosceptic and anti-immigration discourse can harness social discontent in the currently difficult economic context to strengthen European citizens' uneasiness about the potential consequences of further EU widening.

In the Balkans, the story is analogous to the rest of Europe. Most Balkan countries were hard hit by the economic woes in the Union – the region's main trading and investment partner. Before the crisis the Balkans growth rates stood at about 5-6%, while in 2012 they are closer to 1%.⁷ With high unemployment rates, decreasing European investment flows, declining remittances, and the exposure of the region to Greece's travails and to a troubled banking sector (half the banks of the Balkans are controlled by Greek and Italian banks)⁸, the goal of EU membership has been losing lustre among people⁹ and seems to be breeding populist – rather than pro-European or reformist – politicians in the Balkans (as seen recently in Serbia).

In this sense, rather than undermining the convergence narrative between the EU and the Balkans, these developments test the model – not unequivocally exemplary – that the Union is exporting to the region.¹⁰ They also foster the Balkan's image problem among member states, which was initially created by the particularities of the region, and was already playing a role in curbing the EU's appetite for expansion before the crisis. Anxieties related to security, unresolved statehood issues and domestic ethnic, political and economic tensions in the Balkans are at least partly responsible for the member states' 'wait and see' or 'go slow' approach to further enlargement. They have also exposed the limits of the Union's transformative power. Unlike in the economic field, the EU had no predefined recipe on how to deal effectively with the war legacies of the Balkan region. Sticky internal/bilateral issues have earned the Balkan aspirants the label of 'difficult cases', and continue to push the European Commission to resort to much ingenuity in order to keep the process going.¹¹

Overall, a combination of concerns related, on the one hand, to internal EU developments in an increasingly complex economic climate and, on the other hand, to regional and country-specific issues, has prompted the 'creeping nationalisation' of the (pre-)/accession process.¹² The Council, rather than the Commission, is increasingly setting the benchmarks and conditions for progress. In 2009, for example, when Albania submitted its application to the EU, Germany indicated that it would wait for the approval of the Bundestag before asking the Commission to formulate an opinion on Albania's application. In December 2011, when the Council needed to respond to Serbia's application for membership, to which the Commission had already given a positive – if conditional – *avis*, the Council delayed the answer to March, requesting Serbia to further fulfil the conditions set. Berlin's decision arguably reflected preoccupation over the situation in Northern Kosovo. In February 2012, Serbia's candidature was again put in jeopardy by Romania's demand to add a new condition regarding the Vlach minority in Serbia – a request that did not meet support among the other members of the General Affairs Council.

These examples illustrate that the member states are using more entry points to control the accession process, which makes the whole initiative more unpredictable. In turn, in the region, this raises doubts over the EU's commitment to enlargement, with consequences on the EU's credibility and ability to exercise leverage to promote the reforms it deems necessary for the transformation of the region.

2. Lessons learnt and not learnt

In view of these recent experiences, the EU, and most specifically the Commission, has learnt a number of lessons which have been incorporated into the EU's renewed enlargement strategy. First, the (pre-)/accession process has a much stronger focus on good governance criteria – maintenance of the rule of law, independent judiciary, efficient public administration, the fight against corruption and organised crime, civil society development, and media freedom. While there still is scope for improving policies in these fields to ensure a deep democratisation process, the shift in emphasis does represent a change in gear as a consequence of the 2004-7 enlargement rounds.¹³

Second, Croatia's negotiation process has made it evident that all the above-mentioned are difficult areas of reform, which cannot be effectively addressed in just a few months' time. For this reason, the EU now favours getting an early start on the toughest negotiation chapters – such as Chapter 23 on Judiciary and Fundamental Rights and Chapter 24 on Justice, Freedom and Security. In June 2012, Montenegro was the first country to start its EU accession talks precisely with these two chapters and, in their turn, the remaining Balkan aspirants will have to conform to the same course.

Third, in order to improve implementation, the method for applying the conditionality has become more exacting, by tying any steps forward more closely to actual results. New mechanisms were introduced, for instance: opening, intermediary and closing benchmarks; safeguard clauses to extend monitoring; more routine procedures to suspend negotiations; and the requirement for countries to demonstrate a solid record in the undertaken reforms. And the EU is now adamant about dealing with any pending issues prior to accession, when it had learnt that its leverage was most robust.

Last but not least, the EU has expanded its toolkit to include more ingenious tactics aimed at helping with internal/bilateral impasses in the region. The logic was to circumvent the big political elephants obstructing countries on their EU track by focusing short-term attention on technicalities that can instead move forward the reform agendas of such aspirants. Illustrative in this regard is the case of the former Yugoslav Republic of Macedonia, which was recognised as a candidate in 2005, was considered fit to start negotiations in 2009, but since then saw its accession negotiations repeatedly blocked by the 'name dispute' with Greece. In March 2012, the Commission launched a High Level Accession Dialogue with FYR Macedonia, which allowed the country to make good progress on a number of priorities, thereby enabling the Commission, in October 2012, to make a stronger case to start accession negotiations with Skopje notwithstanding the name issue. In other words, the Commission is trying to help in solving any issue that can provide an alibi

to continue blocking FYR Macedonia's accession talks. The Structured Dialogue on Justice with Bosnia-Herzegovina, which kicked off in June last year, is a further example of this new approach.

Other ways in which the Commission is tightening its oversight and pressure on reforms and domestic changes is through the early screening process, for instance with Albania, towards which the Commission issued a 12-point plan to help the country overcome the two-year stalemate due to polarised government-opposition relations.¹⁴ These initiatives also reveal a degree of intrusiveness in the internal affairs of these states, albeit on the basis of an understanding with the receiving country.

These strategies have achieved: i) a strengthened focus on rule of law, governance and democracy-related issues which is meant to help the Balkan states not just consolidate their democratic achievements but also become 'good' future member states and, equally important, ii) have kept the process of enlargement moving on a step-by-step basis rather than through grander initiatives. This has defused potential tensions within the Union over enlargement and has partially acted as a shield to some of the incursions and opposition on behalf of member states in the process.

However, the long-term sustainability of the Commission's newfound tactics is questionable. The member states remain able to stall enlargement at numerous stages of the process, and the number of disputes within the Balkans and between countries in the region and existing or future EU members stays high. In the previous round, such clashes did occur, for instance, between Italy and Slovenia. Also, Croatia's negotiations were blocked for a year because of a disagreement with Slovenia over the Gulf of Piran. The ground for these instances to multiply is fertile and the opportunities for them to hijack the accession process plenty. Slovenia is raising further bilateral issues with Croatia; FYR Macedonia's relations with Greece are made acrimonious by the name issue, recognition of minorities and other issues; Bulgaria too has raised a number of matters with FYR Macedonia. The ethnic mosaic of the region, which does not match with its internal borders and other unsolved consequences of the dissolution of Yugoslavia, means that these disputes have the potential to disrupt the enlargement process.¹⁵ This could be compounded by the fact that the 'regatta approach' to the Balkans' enlargement, whereby countries in the region can enter the EU at different points in time, can allow, at least in principle, every new member state to block the accession of one of its neighbours.

Central and Eastern Europe after the Cold War had a similar mosaic. But in that case, the EU sponsored an initiative through which each and all countries signed bi- and multilateral agreements with their neighbours on mutual recognition of minorities, borders and good neighbourly relations prior to starting accession negotiations. Although the Stabilisation and Association Process launched after the war for Kosovo put regional cooperation as one of its requirements for the Balkans, the enlargement process in itself is bilateral and cannot include such conditions. Furthermore, the EU itself has no common definition of a 'minority', no legislation in the field and no *acquis* on border issues – thus it does not have the leverage to change the *status quo* through the current policy formats.

Alongside this 'not learnt lesson', there is a further aspect that relates to the far broader process of EU integration. While the 2004-7 waves of enlargement did not bring what was expected or feared by some – a paralysis of the decision-making process – developments in some countries did put the spotlight on the state of democracy within the Union and the lack of tools available to monitor and influence internal developments once countries join the EU. Recent political events in Hungary and Romania have made it all too clear that democratic achievements are reversible and there is not much the EU can do when backlashes happen.

Democracy is forever work in progress. If the EU is to assimilate this lesson, it will have to become better equipped to defend its democratic construction. In the aspirant countries, the EU has yet to redress the 'executive bias' of the integration process, which still prevents crucial democratic actors, such as national parliaments and local authorities, civil society organisations and the media in the Balkans from being effectively socialised and involved in their country's EU membership effort. As seen in the case of the CEE

enlargement, whenever policy consensus occurs at the expense of politics, with little awareness or input from the grassroots of society, national leaders get a free card to put any spin they want on Brussels-related issues (and be convincing at that): shifting blame or taking credit, as it suits them. The Union must therefore continue to interfere in the domestic functioning of democracy of its future potential members, beyond economic and judicial issues, as a kind of preventive medicine against any serious EU digestion problems once these countries step inside.

Internally, the EU-wide anti-corruption reporting mechanism that will produce the first reports in 2013 or the 'justice scoreboard' proposal of Commissioner Viviane Reding to annually rank the rule of law in the member states are only the initial timid steps in building a proper strategy and capacity for action at European level. Making sure that the best democratic practices expected from the Balkan countries are also followed in the EU, including by its older as well as newer member states, will benefit the EU and its leverage on outsiders. In this regard, aside from specific issues such as corruption, the manner in which the member states learn to deal with their shared sovereignty and to manifest intra-EU cooperation and solidarity will go a long way to demonstrating what integration is about.

3. Beyond the Copenhagen criteria

The Copenhagen criteria are not the only source of EU standards for the accession of the Balkan countries; the conditions are in the *acquis*, in Council Conclusions setting higher standards and making additional requests and in the Treaty of Lisbon, which states that additional conditions for accession can be set by the EU, through the European Council. This sets the bar for accession higher than in the past (though the *acquis* is a consequence of further integration within the Union), and potentially makes it possible to raise standards further during the process. Indeed, there have been discussions in Brussels on the opportunity of changing the Copenhagen criteria. So far, such temptations have not been translated into political action: the argument proposed by Romania to add the treatment of the Vlach minority on the issues to be assessed before granting Serbia candidate status was rejected by the other EU members. It cannot be excluded, however, that such temptations may return in the future.

Changing the basic rules of the game as laid out in the Copenhagen criteria – which include the fundamental political and economic conditions relevant to each and all of the countries seeking to join the EU – is not advisable. Instead, as experience already shows, defining measurable benchmarks or concrete targets, sensitive to the specific regional or national context, can help to effectively meet the broad conditions defining at present the Union's conditionality. Alternatively, changeable considerations are likely to undermine the EU's credibility in the region, feeding speculation that conditionality is being used as an excuse to keep the door closed to new entrants after Croatia's accession in 2013. They can also make the EU a moving and elusive target, thereby eroding aspirants' commitment to the reform agenda. This was seen, for instance, in the case of Turkey, which has grown considerably less enthusiastic about joining the EU after some member states began to show cold feet on making the country's promised prospective membership real. Similarly, Romania (and to a lesser degree Bulgaria) saw a rise in frustration with the EU after the two were recently refused Schengen accession, despite the fact that both countries had fulfilled the technical criteria officially specified for entry.

Two other aspects are arguably more important than the discussion on revising the Copenhagen criteria. The first concerns the development of a more systematic and pro-active approach to uphold democratic practices and values inside the Union. The EU's experience with enlargement can provide inspiration for devising such a post-accession-type of conditionality but, ultimately, whether this sort of instrument will have teeth or even be possible will depend on the political will of the member states.

The second issue regards the EU's absorption capacity for further enlargement. Will an ever-growing EU be able to continue to function effectively? How will its current institutional and decision-making set-up have

to change in order to accommodate more and more members? A potential re-opening of the treaties in the context of economic governance reform could offer the opportunity to reflect or even act on proposals about this problem. However, should the pace of enlargement slow down considerably after Croatia (and Iceland?) or break down (with Turkey?), or else should the crisis result in 'inner' and 'outer' circles of member states, the EU might have to envisage new forms of (peripheral-type of) association for countries wishing to join. What would these arrangements look like? And will anything short of full membership ensure the economic and social modernisation, as well as democratic consolidation, normally required of new entrants?

To answer these questions, a serious and rational debate about the pros and cons of enlargement will be necessary in the member states and at the EU level. This will not only help to arrive at a successful enlargement strategy in the years to come – regardless of the timeframe for new accessions – but will also help to define the EU's future character and role as a global actor. From this perspective, the real question is not how the current situation in the EU and beyond is affecting enlargement but rather what enlargement can do to shape and solve the present context to the EU's advantage. This also means that sequencing is important and that it would be a political mistake to wait to sort out the crisis before thinking about the rest. Since the 1970s EU enlargement has been a key source of dynamism – driving economic, political and institutional change – in the Union. This is still valid. Enlargement is also the best – if not the only – way to deal with any outstanding problems on the EU's doorstep, and to deliver on the transformation of the aspiring countries. And it is also a policy field which can help maintain the EU's power of attraction in the wider region and credibility in the world.

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- 1 Turkey, which tabled its first application in 1987 to what was then the European Economic Community, was accepted as a candidate country in 1997 and started accession negotiations in 2005. The states of the Balkans were offered a prospect of accession at the Thessaloniki Summit in 2003. Of these, Croatia and the former Yugoslav Republic of Macedonia were granted candidate status in 2005; Croatia has since completed its accession negotiations in 2011 and is expected to join the EU on 1 July 2013, while FYR Macedonia has not yet started accession talks. Montenegro opened negotiations in June 2012, Serbia was recognised as a candidate country in 2012, Albania has applied for membership in 2009 and has received a qualified positive opinion from the Commission in 2012, and Bosnia-Herzegovina has a Stabilisation and Association Agreement with the EU but is still not in a position to apply for membership. Kosovo under United Nations Security Council Resolution 1244 is beginning to institutionalise relations with the EU but its membership prospects depend on its independence being recognised by all EU member states. In 2009, Iceland applied to join the EU, started accession talks in 2010, and is likely to terminate the accession process in a short period of time, after which the issue of membership will be subject to a referendum in the country.
 - 2 Copenhagen criteria, first defined in 1993 and reinforced in 1995, require countries wishing to join to have: i) stable institutions guaranteeing democracy, the rule of law, human rights, and respect for and protection of minorities; ii) a functioning market economy and the capacity to cope with competition and market forces in the EU; and iii) the ability to take on and implement effectively the obligations of membership, including adherence to the aims of political, economic and monetary union. In addition, the EU's capacity to absorb new members while maintaining the momentum of European integration is also an important consideration in the accession process.
 - 3 Special Eurobarometer Survey (2005) on the future of the Constitutional Treaty found that for only 6% of the Dutch and 3% of the French voters, enlargement was the reason to reject the new treaty. Moreover, in the case of France, people's anxiety was related to the EU's further expansion to Turkey rather than enlargement in general.
See http://ec.europa.eu/public_opinion/archives/ebs/ebs_214_en.pdf, last accessed on 12/11/2012.
 - 4 Term coined by former European Commissioner for enlargement, Olli Rehn, in the speech for the launch of "Europe's Blurred Boundaries" at the Centre for European Reform, Brussels, 11 October 2006, found at: http://europa.eu/rapid/press-release_SPEECH-06-603_en.htm?locale=en, last accessed on 9 November 2012.
 - 5 Pascouau, Yves (2012), "Schengen and solidarity: the fragile balance between mutual trust and mistrust", *EPC Policy Paper*, European Policy Centre, Brussels: July.

- 6 See, for instance, Rupnik, Jacques (2007), "Is East-Central Europe backsliding? From democracy to populist backlash", *Journal of Democracy*, Volume 18, Number 4, pp. 17-25; all contributions to this special issue of the journal are dedicated to this topic.
- 7 World Bank (2012), "South East Europe – Regular Economic Report", released in June 2012.
- 8 Bechev, Dimitar (2012), "The periphery of the periphery: the Western Balkans and the euro-crisis", *European Council on Foreign Relations*, London: June.
- 9 Gallup Balkan Monitor polls show that the popularity of the EU in the region has been declining but is still respectable, around the 50% mark at the low end. While the very rationale of joining the EU – when the Union appears economically weakened and politically fragmented – was brought into question in the accession referendum of Croatia in January 2012, the result was clearly in favour of membership even in this notoriously Eurosceptic Balkan country.
- 10 Stratulat, Corina (2012), "EU enlargement to the Balkans: the show must go on", *EPC Commentary*, European Policy Centre, Brussels: October.
- 11 Balfour Rosa (2012), "Between the past and the future: unfinished business in the EU and the Balkans", *EPC Commentary*, European Policy Centre, Brussels: June.
- 12 Hillion, Christophe (2010), "The creeping nationalisation of the enlargement process", *SIEPS Paper*, Stockholm: November.
- 13 Balfour, Rosa and Stratulat, Corina (2011), "The democratic transformation of the Balkans", *EPC Issue Paper No.66*, European Policy Centre, Brussels: November.
- 14 Stratulat, Corina and Vurmo, Gjergji (2012), "Opportunity knocks: can the EU help Albania to help itself?", *EPC Policy Brief*, European Policy Centre, Brussels: March.
- 15 Balfour, Rosa and Basic, Dijana (2010), "A bridge over troubled borders: Europeanising the Balkans", *EPC Policy Brief*, European Policy Centre, Brussels: November.

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