The Enlargement Impasse and the Necessity for its Transformation

Statement on the occasion of the start to the Slovenian Presidency of the EU Council, 1 July 2021

It is evident that no-one is happy with the current status quo in the Western Balkans. The present state of the enlargement process brings only limited benefits both to the region and the EU, with manifest dissatisfaction among the local populations in the region. Since the countries of the region are unlikely to make a sudden leap in terms of socio-economic convergence on the EU average and fully-fledged accession as member states, it is vital to work out better how the Western Balkans could progressively and conditionally access the rights and benefits of EU membership.

It is necessary to move away from some features of the precise model of accession used for the last enlargements into Central and South-Eastern Europe. To simplify, a binary 'in or out' concept has become obsolete for a region that has been pursuing EU membership already for around two decades. Our starting idea therefore is that the accession process should be unpacked into functional/sectoral and institutional elements permitting partial and progressive membership in stages. The European Policy Centre (CEP), Belgrade, and the Centre for European Policy Studies (CEPS), Brussels, have already developed independently ideas along these lines.¹

¹ These partners have already a good basis on which further proposals are to be developed: Milena Lazarević, “Away with the enlargement bogeyman – Reforming the EU Enlargement Policy for a prompter acceptance of the Western Balkans”, Discussion Paper, July 2018, CEP, Belgrade, available at: https://cep.org.rs/wp-content/uploads/2018/07/Away-with-the-Enlargement-Bogeyman_CEP-1.pdf;
There is already much progressive and partial inclusion going on, with extensive ongoing legislation to comply with the EU acquis, and association with many programmes and agencies of the EU. What is needed is an amplification of these processes of progressive and step by step integration, with incentives reanimated. For this purpose, the TEN and CEPS combine their efforts to develop a common proposal on how to break the impasse and transform the process, with the aim to accelerate the accession path of the Western Balkans concretely in ways that are still realistic in relation to the reservations over enlargement in various member states.

2. European Commission, "Enhancing the accession process - A credible EU perspective for the Western Balkans", COM(2020)57 Final, 5.2.2020

With good will, and some out-of-the-box thinking, there are real possibilities to envisage progressive and extensive integration, while still respecting the most sensitive limiting factors. The key instruments for implementing this model would be, first, an adoption by the EU of a legally precise text defining the progressive steps in the differentiated accession process, and, second, legally binding agreements with the candidate states marking the passage from step to step. Precedents for differentiated integration already exist, considering that in the previous enlargements, countries have not entered all EU’s policies at once (the European Monetary Union and the Schengen being the key examples) and they were granted transitional periods for assuming certain membership obligations. Post-accession monitoring has also been implemented in the cases of Bulgaria and Romania. These precedents should be analysed and used to develop new and improved mechanisms for the completing the Balkan EU enlargement. The analyses already conducted by CEPS and CEP Belgrade – as the lead within the TEN network – outline a number of recommendations aimed at the implementation of this approach. Yet, additional efforts need to be invested into full development of these proposals, with a sound legal, political and economic basis, as well as concrete models for the specific stages of membership and their accompanying conditionalities.

Granted, for such a change in the EU’s enlargement policy, a unanimous decision by member states is necessary, which puts into the spotlight the urgency of finding a long-term solution for the situations when unilateral interests of a single EU member state can be employed abusively to thwart the entire enlargement process, raising issues far removed for EU law or policy. For this problem to be solved, the EU would have to reframe such issues, currently dubbed ‘bilateral’, to exclude them from having effect in EU decision-making.

... followed by a more detailed, consistent, and quantified methodology

Civil society in the region has frequently warned that the existing rule-of-law negotiation framework was ineffective when it came to tackling the deeper issues of state capture and democratic backsliding in the Western Balkans. Most rule of law benchmarks tend to be quite general, often lacking specificity and adaptation to context, which creates difficulties in measuring results.⁴ Documents of the Commission largely fail to deliver clarity on several expectations outlined in its communication on the new methodology, lacking ideas on how existing measurements of progress and preparedness will be modified to enhance the process. This is problematic, particularly since one of the key reasons why the revised methodology was launched was the mistrust that some member states had of the European Commission’s assessments. How this issue is resolved is of crucial importance. Without introducing improved monitoring and assessment mechanisms, it is unrealistic to expect any significant changes or a transformative effect of the revised methodology.

We envisage two approaches to making good these deficiencies.

A first approach would be to build on the experience the SIGMA initiative of the OECD, which is already assisting the EU when it comes to measuring developments in the area of public administration reform (PAR), for which a state-of-the-art, quantified, detailed methodology was developed in 2014 (through SIGMA and DG NEAR collaboration). In addition, the WeBER project coordinated by CEP and implemented by TEN since 2015 has developed a civil-society-led PAR monitoring methodology, using a similar quantified approach, with compound indicators comprising a set of sub-indicators. This is suggestive of new monitoring methodologies that could be used in the enlargement process. The new quantitative approach would naturally need to be accompanied by a thorough qualitative approach, to ensure proper understanding of the deeper governance issues and obstacles to reform implementation. These methodologies would need to be embedded within the roadmaps on the fundamentals, as foreseen under the latest membership negotiation methodology, making them sufficiently specific and easy to monitor.

---

A second approach, which can be combined with the first one, would be to translate the Commission’s existing qualitative ratings in its annual reports into quantitative ratings on a simple but effective numerical scale. This approach can most easily be adopted in areas with developed legal acquis, where the Commission already has clear baselines for conducting its assessments, but it is also in evidence in respected international surveys in the key political and legal domains. The feasibility of this approach has been tested in the CEPS study referred to above. TEN has also been implementing a similar approach in quantifying the Commission’s qualitative assessments. Although at first sight this may seem to be a merely presentational variant, it would in fact lead to a categorical change and enhancement. It would permit aggregation and averaging, and thus a more objective and transparent basis for the processes of conditionality. Different clusters of ratings would link to specific conditionalities in the integration process.

These methodologies need to be set up in a manner to not only allow the Commission to better monitor and assess the situation on the ground, but to also make sure that reviews done by expert missions of EU member states are pursued in an objective and evidence-based manner. Improvements in that regard can also contribute to making the process more credible and convincing in the eyes of all EU member states.

With an enhanced importance given to these ratings, it would be important to have checks on their fairness, for example with monitoring by panels of independent civil society observers from both the EU and Western Balkan states.

In sum, more detailed, quantified and regionally comparable assessments would allow the Commission to make rational and well-informed decisions regarding recommendations to the EU Council and member states on progressive steps in the integration of the Western Balkan countries. The application of such methodologies would strengthen and give legitimacy to the pursuit of the differentiated integration approach to enlargement.

In the medium-term, with some investment into the full development of these broad proposals, the realities and perceptions may be transformed: not by classic accession according to the old model, but through the candidate states becoming credibly set on the path towards full access to the rights and benefits of membership at the level of the individual and the economy, alongside increasingly significant political participation of the governments in the EU’s institutions.

Signatories:

On behalf of the Think for Europe Network:

European Policy Centre – CEP, Belgrade, represented by Milena Lazarevic, Programme Director, and Strahinja Subotic, Programme Manager and Senior Researcher
European Policy Institute – EPI, Skopje, represented by Simonida Kacarska, Director
Institute for Democracy and Mediation, IDM, Tirana, represented by Sotiraj Hroni, Executive Director
Group for Legal and Political Studies, GLPS, Pristina, represented by Arbërësha Loxha Stubilla, Executive Director and a Senior Research Fellow
Foreign Policy Initiative Bosnia and Herzegovina, FPI BH, Sarajevo, represented by Anida Sabanovic, Director
Institute Alternative – IA, Podgorica, represented by Stevo Muk, President of the Governing Board

On behalf of the Centre for European Policy Studies:

Steven Blockmans, Director of Research, Centre for European Policy Studies (CEPS), Brussels
Michael Emerson, Associate Senior Research Fellow, Centre for European Policy Studies (CEPS), Brussels

This statement is a joint initiative of Think for Europe Network (TEN), a group of non-profit, independent think-tank or policy research organisations from the Western Balkans focusing on the EU integration process and committed to the evidence-based policymaking and advocacy, and Center for European Policy Studies (CEPS), a leading Brussels-based think tank and forum for debate on EU affairs.