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BEYOND WAIT-AND-SEE: THE WAY FORWARD FOR EU BALKAN POLICY

Heather Grabbe, Gerald Knaus and Daniel Korski

SUMMARY

In the midst of a huge economic crisis, European Union leaders may be tempted to put off any further decisions on enlargement. However, now that some of the Western Balkan countries have tested the EU's commitment by formally applying for membership, the wait-and-see approach is unsustainable. The EU has kept six of the countries of the Western Balkans – Albania, Bosnia-Herzegovina, Kosovo, Macedonia, Montenegro and Serbia – waiting for a decade. The EU has asked them to take on difficult and ambitious reforms to prepare them for membership. However, Balkan leaders are no longer even sure that the EU members really want them in the club. As a result, the EU's credibility is fading in the region. If it continues to hesitate about the next step, its leverage could fade too.

The EU should respond to these membership applications in a positive way while reinforcing its accession conditionality. The most realistic way to do this is to employ the EU's existing tools more fully and more effectively, and to better sequence the next steps towards accession. This would support reformers in the region without imposing any additional costs on the EU. The aim is to set out a clear, realistic and motivational programme to help the Balkan countries to get in shape for membership – which could take many years to achieve. This will strengthen governance and provide political momentum to help the region get through the current economic crisis and its political fallout.

Introduction

At the Thessaloniki European Council in June 2003, all of the EU's member states declared their “unequivocal support to the European perspective of the Western Balkan countries” and also that “the future of the Balkans is within the European Union”. The Thessaloniki declaration gave the concrete prospect of membership to Albania, Bosnia-Herzegovina, Croatia, Macedonia and Yugoslavia.¹ The EU has also invested billions of euros in financial assistance to help build states and reconstruct infrastructure, and it has deployed several military and civilian missions to help keep the peace.

This has encouraged the Balkan countries to take major steps forward. EU diplomacy was crucial in persuading Macedonia to implement the Ohrid peace agreement that stopped the armed insurgency of 2001. The EU played an important role in ensuring a smooth dissolution of the state union of Serbia and Montenegro in 2006. The signing of an association agreement with the EU helped pro-EU democrats in Serbian elections in 2008 to defeat the nationalist Radicals who had been boosted by Kosovo's declaration of independence. Citizens of three Balkan states (Macedonia, Montenegro and Serbia) achieved visa-free travel to the EU in 2009, while those of two others (Albania and Bosnia) are expected to follow shortly. The European

¹ At the time, Yugoslavia consisted of Serbia (including Kosovo) and Montenegro.

Commission has declared that Macedonia is ready to begin accession talks – although Greece vetoed giving a starting date because it objects to Macedonia’s name. Albania, Montenegro and Serbia have also submitted membership applications.

But although the EU has unanimously committed in principle to a European future for the Balkan states, it has pursued a wait-and-see policy on when they might begin accession talks. Time is now running out on this approach. For 10 years since the end of the Kosovo conflict (1999) and the Macedonian conflict (2001), the hope of EU membership has motivated reforms and reconciliation across the region, while the EU and NATO have worked in concert to keep the peace. Like the original EU members half a century ago, it is a shared vision of the future that these newly independent, fragile and still mutually suspicious countries have in common. But the EU must now decide whether to start delivering on the promise it has made. The countries are formally applying for membership, and EU leaders are hesitating about welcoming them.

Two risks

The wait-and-see policy is the result of the EU hedging between two competing risks. One risk is that the accession of weak states with unresolved disputes might damage the EU. Many policymakers in Brussels and in European capitals view the prospect of EU enlargement into the Western Balkans with alarm. Apart from Croatia – which is likely to accede in 2013 – the Western Balkan countries are among the poorest ever to have applied for EU membership. All have uncompetitive economies burdened with high unemployment. Although they have made progress on governance, some of them remain weak states. Most have also recently experienced bitter conflict and political division. Some still face disputes with their neighbours, for example Macedonia with Greece, or have unresolved constitutional and status conflicts, as in Bosnia-Herzegovina, Kosovo and Serbia. At a time when the EU is still struggling to establish new institutions under the Lisbon Treaty, some member states want to avoid further risks. Many policymakers argue that these are reasons to play for time. Without renegeing on the promise of eventual membership for the region, the implicit strategy is to move countries from one stage to the next as slowly as possible.

The other risk, however, is that postponing accession into the indefinite future will undermine recent progress on peace and stability in the region. The promise of EU integration is the political glue that until now has held the Balkans together. But the glue only holds if the promise is tangible and concrete – something that can deliver benefits to this post-war generation of politicians and their constituencies. At the moment, it seems to many in the Balkans that they are being made to wait indefinitely. Already, there are disturbing signs that the EU is losing influence across the region. It has been unable to coax Bosnian parties to agree

on even limited constitutional reforms. Its divisions over Kosovo also weaken the EU’s role. And it has been paralysed in its enlargement policy towards Macedonia as a result of the unresolved name issue. When even EU members are facing social unrest, how can the EU withdraw hope from a region with a recent history of state failure and violent conflict? Instability in the Balkans is very much Europe’s problem, no matter where the EU border lies.

No short cuts

Any realistic EU policy must address both of these risks – the risk of premature accession and the risk of excessive delay. Often the debate about these two risks is framed as a choice between a “go-fast” and a “go-slow” approach to the region’s integration into the EU. But this is a false choice. In reality, there is no longer any such thing as a “fast-track” to EU accession. Since 2004 and 2007, the accession process has become ever more demanding. There are now tougher requirements for opening and closing any chapter within the accession talks. The European Commission now demands concrete implementation, rather than just promises, to declare that a country has met its closing benchmarks. From membership application to accession, EU members have at least 75 veto points at which they have to agree unanimously that a country can advance.²

In short, no country will be able to short-cut conditionality. Even if Croatia accedes as expected, around 2013, it will have taken 10 years from its date of application and eight years from the start of accession talks. The other Western Balkan states, which lag behind Croatia in their capacity to manage a demanding reform agenda, cannot hope to start accession talks before 2012.³ So their best-case accession date already lies beyond 2020. With such a long journey ahead, the EU should think about how it can maximise its influence in the region and lock the Balkan states firmly and irrevocably onto a reform path so that they move steadily forward towards a European future and not backward into instability.

Lessons from visa liberalisation

The recent visa liberalisation in the region demonstrates clearly the mechanics of EU soft power. The EU held out an electorally attractive reward and spelled out clearly the conditions required to obtain it. The European Commission closely monitored progress and issued regular status reports. This transparency started a healthy process of regional competition. Balkan politicians worked hard to avoid the electoral cost of falling behind their neighbours. The recent

² Member states have to agree unanimously on: accepting the country’s application; granting candidate status; starting negotiations; opening and closing each of the 35-plus chapters; concluding negotiations formally; the accession treaty; and the date for joining.

³ Macedonia could theoretically begin accession talks earlier, if a solution to its bilateral dispute with Greece were found.

progress in Albania and Bosnia-Herzegovina, after first lagging behind in meeting the visa roadmap conditions, is a direct result of this pressure. It was not just a matter of holding out a distant carrot. Rather, it was a carefully structured process designed to generate the right pressures and incentives. As a result, it achieved real change in the countries' internal security policies.

There are three clear lessons from the visa liberalisation experience. First, in order to motivate difficult reforms that involve many institutions and significant investments, the EU has to set out explicit and detailed conditions with clear policy aims. Second, the EU has to offer an achievable short-term goal so that local politicians know they can show the electorate results. Third, the process must be as transparent as possible, so that the public can compare progress in different countries and civil society can put pressure on governments. This transforms a technocratic process into a political imperative, leaving little space for local leaders to make excuses or blame EU bias for their lack of progress.

Sceptics believe that the Balkan states do not have the administrative capacity to meet the challenges of EU accession. However, the visa experience shows how they can build up their administrations if sufficiently motivated. Taking on more EU policies earlier could also help to depoliticise the state bureaucracy. A sustained effort to keep up with the neighbours will require states to recruit, train and keep experts in a whole range of policy areas. That, in turn, might reduce the temptation for every new government to conduct a wholesale clear-out of the bureaucracy. In this way, a competitive and transparent access process will promote more professional, politically neutral administrations.

Questionnaire time

There are several steps in the accession process. After a country has applied for membership, the European Commission sends it a questionnaire, which includes hundreds of detailed questions about the country's institutions, policies and infrastructure. On the basis of the answers to this questionnaire, the Commission gives an *avis*, or opinion, on its membership application, which indicates when the country might be ready to start accession negotiations. After the country has candidate status, the Council of Ministers has to take another formal decision to open accession talks. The Commission then begins a process called "screening" – an exercise of comparing legislation and policies with those of the EU – in order to make long-term plans to bring applicant countries up to EU standards.

At present, each of the seven Balkan states is at a different stage of this process (see table on page 7). Croatia has candidate status, started accession negotiations in October 2005, and is expected to accede in 2013. Macedonia also has candidate status but is waiting to begin accession talks. Albania, Montenegro and Serbia have all applied for membership but have not yet been awarded candidate

status. Montenegro sent answers to its questionnaire last year and Albania did so this year; both are now waiting for the Commission to publish an *avis*. Serbia is still waiting for the Council to accept its application for membership. Meanwhile, Bosnia-Herzegovina and Kosovo have not yet applied for membership. The first thing the EU can do to begin to create the dynamic that worked in the case of visa liberalisation is to send a questionnaire to each of the three countries that has not yet received one: Bosnia-Herzegovina, Kosovo and Serbia.

The Council has not yet accepted **Serbia's** application for candidate status and sent it to the Commission because some member states insisted on awaiting further reports on Serbia's co-operation with the International Criminal Tribunal for the former Yugoslavia (ICTY). The Commission should nevertheless give Serbia a questionnaire as soon as possible. The questionnaire process, which takes up to six months to complete, constitutes a capacity-building exercise in itself. It forces the country to assess where it really stands on a range of issues, from the quality of its statistics (a crucial issue in the wake of the Greek economic crisis) to the functioning of its judiciary.

Bosnia-Herzegovina, which has not yet even submitted an application for candidate status, is a more difficult case. It remains trapped in a succession of political and constitutional crises. However, against this background, Bosnia-Herzegovina may actually benefit most from being given a questionnaire and starting the screening process early. This would give its politicians the incentive to overcome their stalemate and work on establishing a functional administration. After all, Bosnian Serb, Bosnian Croat and Bosniak politicians will all suffer politically if Bosnia falls behind the rest of the region, particularly Serbia. The visa liberalisation exercise showed that EU leverage is most effective when Bosnia is subject to exactly the same, non-negotiable conditions as its neighbours, rather than treated as a special case.

The questionnaire and screening exercises would provide Bosnia with many of the tools it needs for state building. The country would need to create administrative systems that work right across the territory – either by centralising functions at state level or by coming up with working arrangements across the inter-entity boundary line. For example, it will need a coherent statistical system for the whole country. These processes are far more likely to turn Bosnia's unwieldy constitutional structures into a working federal system than any attempt to renegotiate the constitution in isolation from the EU accession process. Once the Office of the High Representative (OHR) is closed, Bosnia-Herzegovina could formally apply for EU accession in 2011 with the answers to its questionnaire already prepared. This would allow the Commission to deal with Bosnia in parallel to Serbia, preparing its opinion on Bosnia in 2011.

Kosovo is the most difficult case of all. It cannot even begin the EU accession process because five EU member states do not recognise its independence. In the absence of the accession process, the EU – which has deployed a 1,800 person police-and-justice mission in Kosovo – risks over-emphasising rule-of-law reforms compared to other aspects of governance. The lack of a credible accession prospect for Kosovo undermines EU leverage in the country of south-eastern Europe that needs it the most.

Whatever their differences over the recognition of Kosovo, no EU country wants Serbia's progress to be held back as a result. Therefore, on condition that Serbia meets the requirements and co-operates with the international missions in Kosovo, it should be allowed to move forward in the accession process. The EU should insist on practical measures, such as requiring Serbia to recognise Kosovo customs stamps for regional trade. It should also insist that Serbia stops undermining regional co-operation – which has been a pillar of EU policy since the stabilisation process began in the Balkans in 2000 – by blocking Kosovo's participation in regional initiatives from energy to transport.

But the EU also needs a strategy for Kosovo. Whatever view is taken of its status, leaving Kosovo in limbo will cause it to fall further and further behind, generating dangerous political tensions and damaging the interests of Kosovo Serbs and Albanians alike. The EU therefore needs to turn the Stabilisation and Association Process Dialogue – its existing policy for Kosovo – into a full, status-neutral, pre-accession exercise. In concrete terms, this means the Kosovar authorities should receive a questionnaire at the same time as Serbia. That would help build administrative capacity in Kosovo, give a clear roadmap to local reformers, and strengthen the work of international organisations and donors by providing vital information in a statistics-poor environment.

Early screening

As well as immediately sending, Bosnia-Herzegovina, Kosovo and Serbia a questionnaire, the EU should within the next year also begin screening the six countries that have not yet begun the process. Screening forces applicant countries to take a long, hard look at how close they really are to the accession requirements, introducing a much-needed note of realism into their debates about what needs to be done in the years ahead. It also gives both the countries and the European Commission a detailed map of what needs to be done in each area, from food safety to rural development. It helps in devising strategies for how to use EU financial assistance and technical advice to best effect. Finally, it gives the countries a realistic picture of where they stand vis-à-vis their neighbours.

In the cases of Croatia and Turkey, the countries that opened accession talks most recently, screening started only after accession talks had begun. However, it is in the

EU's interests to begin the process in the Balkans as soon as possible. This would provide the European Commission with valuable information for preparing an *avis* on countries that don't yet have one. If Serbia hands in the answers to its questionnaire before the end of 2010, the Commission could prepare its *avis* in 2011 in parallel with the screening process. The Commission should also invite Kosovo to participate in the joint screening exercise in order to keep it on a parallel track. This is the best capacity-building mechanism the EU has at its disposal. It is not a matter of relaxing conditionality but rather of creating a more rigorous set of benchmarks to measure progress.

In order to promote the kind of regional competition that worked for visa liberalisation, all six countries would begin the process of screening together, as the Central European applicants did in 1998, rather than separately.⁴ A collective screening exercise for the Balkan countries would take around six months. The European Commission would present the whole body of EU law, known as the *acquis communautaire*, to all the countries and carry out a thorough individual assessment of each country's institutions, policies and infrastructure. This would give the Commission a detailed idea of how close each country is to meeting the accession requirements. It would therefore

How much will it cost?

At a time when the EU is pre-occupied with concerns about bailing out existing member states, it is understandably reluctant to make any commitments to states outside the EU that will have budgetary implications. Screening would require the attention of technical experts from the European Commission and member states. However, the proposals made here are budget-neutral. The Commission could issue questionnaires to Bosnia-Herzegovina, Kosovo and Serbia now and start screening all of the region's six countries in 2011 using resources it already has committed as part of its budgetary planning. For EU member states, a decision to start screening before accession negotiations would be a cost-effective way to send a positive signal to the Balkan states and help prevent the current economic crisis turning into a broader crisis of confidence about the project of EU-inspired reforms in the rest of south-eastern Europe. It would certainly cost a great deal more to send additional European diplomats, police officers and soldiers to the Balkans to deal with renewed instability.

⁴ In 1998, the EU began screening seven countries that were already negotiating together with the five countries that had not yet started negotiations.

be able to assess whether a group of countries could begin talks together in 2012. The prospect of belonging to a group of front-runners would be an added incentive for Balkan leaders to engage rapidly with the EU accession process. This would encourage them to take the screening exercise extremely seriously and would thus increase EU leverage at a moment of growing uncertainty in the region.

An institution-building exercise programme

Can the Balkan states cope with the demands of accession negotiations in the next few years? Certainly there are not yet enough well-trained and motivated civil servants and judges who could transpose, implement and enforce more than 100,000 pages of EU law. However, the negotiations themselves provide powerful incentives to build the necessary administrative capacity. The negotiations are about devising action plans to create new ministerial departments, set up new agencies, train officials, and set timetables for adopting legislation and policies. In order to enable the Balkan states to cope, the EU will therefore have to engage much earlier in improving key state functions that are vital to applying the rule of law properly.

Once a country is negotiating with the EU, the European Commission sends many more expert missions and sets up joint working-groups to guide key reforms – for example, building up competition agencies and overhauling the judiciary. This intensive technical interaction with the EU – involving action plans, training programmes and external monitoring – gives the state administration a clear sense of direction, as well as the political motivation of having a concrete plan endorsed by outside experts. Negotiating countries send draft laws to the Commission to assess their compatibility with EU legislation and best practice internationally. Over time this can have a profound transformative effect, as the Central European countries proved by using the accession process to get from post-communist uncertainty to EU standards and beyond. Following accession in 2004, the Commission found that the new members were enforcing EU law better than many of the old member states.

At the moment, only the Commission directorate-general dealing with enlargement considers the six Balkan states apart from Croatia a priority.⁵ As a result, sectoral experts in the other directorates-general often fail to engage with them. This would begin to change with the screening process, and contacts with other directorates-general would intensify further with the opening of formal accession talks.

Bilateral disputes

Bilateral disputes, especially over border issues, can prove to be a significant stumbling block in the accession process. The EU's experience with Cyprus has made it understandably allergic to importing unresolved disputes with new members. The border dispute between Slovenia and Croatia caused great irritation by blocking accession negotiations for many months. The EU should learn from these experiences. It should set a condition that if countries cannot resolve their disputes bilaterally, which is of course preferable, they should commit themselves to a binding arbitration mechanism, with resolution before accession.

Croatia could set a good precedent: it has border demarcation issues with Bosnia-Herzegovina, Montenegro and Serbia, but is now close to resolving its argument with Slovenia. The EU should take two further steps to separate bilateral disputes from the accession process. First, it should create a new chapter in the negotiations on regional co-operation that would be the only venue for discussing bilateral issues, so they cannot spill over into other chapters and thus block negotiations. Second, the EU should insert a specific clause into every future accession treaty – starting with Croatia – to prevent new members wielding a veto because of bilateral disputes. The clause should state that they will either resolve the issue amicably or accept the same arbitration mechanism that is now applied to the Slovenia-Croatia dispute.

Conclusion

These are difficult times for Western Balkan politics. The economic crisis in Greece and other EU member states will affect the already weak economies of the region and deepen the mood of uncertainty. Doubts about the future of the European project in the wake of the euro crisis could push voters further away from pro-European reformers and towards nationalist and populist politicians. Because of this, keeping the Balkan countries waiting indefinitely carries increasing risk. However, it is also difficult to interest EU leaders in the Balkans at the moment. The most realistic way forward is therefore to use the EU's existing tools more fully and effectively, and to better sequence the next steps towards accession. This would support reformers in the region without imposing any additional costs on the EU. The accession process cannot be accelerated but it can be intensified.

⁵ The European Commission is divided into departments known as Directorates-General (DGs) that can be likened to departments or ministries.

The recent experience with visa liberalisation shows that the EU still has the power to motivate serious reforms in weak states if it offers tangible incentives. This requires clear and objective conditions, close engagement at technical level by European Commission and member state experts, a clear timetable of opportunities, and transparent assessments which trigger positive competition between neighbouring countries. The same mechanisms that worked for visa liberalisation can be used to motivate wider reform in the Balkans. The EU should start by immediately sending Bosnia-Herzegovina, Kosovo and Serbia a questionnaire and by starting screening all six countries next year. By the end of 2011 – under Poland’s first EU Presidency – all the countries could have completed screening and achieved candidate status.

This is not about making concessions. Rather, it is about putting in place a fair and rigorous process that encourages Balkan countries to identify their shortcomings and devise plans to overcome them. Doing so will fulfil the commitment the EU made in Thessaloniki in 2003, as well as build on the EU’s success in the region in the last decade and avoid regression to a dangerous past.

The stages to accession: Where the Balkans stand now

	Croatia	Macedonia	Montenegro	Albania	Serbia	Bosnia-Herzegovina
Application submitted	Feb 2003	Mar 2004	Dec 2008	Apr 2009	Dec 2009	-
Council requests an opinion (avis)	Apr 2003	May 2004	Apr 2009	Nov 2009	-	-
Country receives questionnaire	Jul 2003	Oct 2004	Jul 2009	Dec 2009	-	-
Country returns questionnaire	Oct 2003	Feb 2005	Dec 2009	Apr 2010	-	-
Commission publishes avis	Apr 2004	Nov 2005	-	-	-	-
Council gives candidate status	Jun 2004	Dec 2005	-	-	-	-
Commission recommends start of talks	Dec 2004	Oct 2009	-	-	-	-
Accession talks start	Oct 2005	-	-	-	-	-
Accession talks conclude	Possibly 2011?	-	-	-	-	-
Accession	Possibly 2013?	-	-	-	-	-

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