

The EU's Enlargement Agenda - Credibility at stake?

Erwan Fouéré

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Key points

- Despite the proven success of the EU's enlargement policy over the past few years, criticism within the EU member countries has grown.
- While the European Commission's enlargement strategy for 2014-15 reaffirms the importance of placing fundamental reforms relating to rule of law, economic governance and public administration reform at the heart of the negotiation process, the latest Progress Reports present a rather bleak picture on the state of reforms in the candidate countries.
- Major efforts are required to maintain the credibility of the enlargement policy and demonstrate to an increasingly sceptical public that the transformative power of the EU continues to work. To achieve this, the EU needs to reinvigorate its strategy by adopting a more consistent and determined approach.

Recommendations

1. The EU should strengthen the benchmarking process with more interim benchmarks and the adoption of 'road maps' in all policy areas so as to better assess a country's record in legislation adopted and implementation of reforms; the visa liberalisation experience offers a good example in this respect.
2. The EU should ensure that legislation should not be deemed adopted until:
 - i) sufficient government funding is included for its implementation; (the Reports contain many examples of bodies established to oversee implementation of legislation, such as on anti-discrimination, but which are not able to function due to lack of funds); and
 - ii) an inclusive consultation process with civil society and other actors in society has been undertaken to ensure their views are taken into account.
3. The EU should ensure more systematic and inclusive cooperation with civil society; this should form an integral part of its work both at Headquarters and by the EU Delegations in the field; it should include enhanced funding for organisations at local community and grass roots level, particularly in multi-ethnic communities.

Erwan Fouéré is an Associate Senior Research Fellow at the Centre for European Policy Studies.

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4. The EU should be more pro-active in defence of media freedom, particularly in speaking out when violations against media freedom, including harassment and selective judicial proceedings against individual journalists, occur; it should provide direct financial support for investigative reporting; EU delegations should also be instructed to use their not inconsiderable budgets to support such initiatives.
5. The EU should continue to prioritise the need for sustained political dialogue, and focus greater efforts in promoting cooperation and consensus-building mechanisms between political parties and other actors in society; it should provide targeted support in particular for the youth branches of political parties.
6. The European Commission should use a more user-friendly and less bureaucratic language in the Reports; it should refrain from using the phrase “The Commission considers that the political criteria continue to be sufficiently met”, if it does not reflect reality on the ground.
7. The European Commission should engage the member states in a serious discussion on designing a mechanism where bilateral disputes can be addressed without affecting the conduct of the enlargement process itself.
8. The incoming High Representative/Vice President and Commissioner for Neighbourhood Policy and Enlargement Negotiations should undertake a joint initiative in Bosnia and Hercegovina to encourage the leadership following this month’s elections to adopt a major reform programme; it should engage with civil society to ensure an inclusive approach.
9. The European Parliament should ensure that individual MEPs are encouraged to play a more constructive role in support of the EU’s reform efforts in its enlargement strategy and promote greater respect for the democratic process in the candidate countries.

Introduction

It is a damning reflection of our times that one of the EU’s most successful foreign policy achievements has never been under so much criticism. During the recent elections for the European Parliament, populist eurosceptic parties were in the forefront of those campaigning against the EU’s enlargement agenda. Their attempts at equating further enlargement with the dangers of increased immigration from Turkey, the Western Balkans and even other EU member states were bolstered by the leaders of some long-standing member states, such as the UK, openly calling for

restrictions on freedom of movement – one of the fundamental pillars of the EU.

The statement by Commission President designate Jean-Claude Juncker that there will be no enlargement of the EU during his mandate in the next five years,¹ while it will have gone down well with the eurosceptic parties, it had the opposite effect in countries waiting to join the EU. Even if Juncker’s statement was technically correct in the sense that none of the accession negotiations currently under way are anywhere near completion, nevertheless there were many in the Balkan region who took this statement as undermining the EU’s longstanding commitment to the accession prospects of the countries from that region.

¹ Statement by Jean-Claude Juncker when presenting the political guidelines for the next Commission, Strasbourg, 15 July 2014

It took Chancellor Merkel's initiative of convening a Balkan summit in Berlin at the end of August to redress the situation. The summit brought together the leaders of all the Balkan countries and set in motion a four-year framework aimed at keeping the pressure on those countries to fulfil their reform commitments while seeking to reaffirm the EU's commitment towards the Western Balkans. The so-called 'Berlin process', which follows on previous initiatives such as the 'Brdo-Brioni process',² will continue with the next summit being hosted by Austria in 2015. Whether the Chancellor's welcome initiative receives the full backing of the other EU member states remains to be seen.

It was the European Commission's turn to take centre stage on the EU's enlargement agenda earlier this month when it presented its enlargement strategy for the coming year together with the annual Progress Reports.

Enlargement legacy of the Barroso II Commission

This being the last 'enlargement package' of the current Commission, it offers a good opportunity to examine its record over the past five years. Certainly there is much to be proud of. Accession negotiations were successfully concluded with Croatia, eight years after being launched in 2005 and after overcoming a difficult border dispute between that country and Slovenia. During the past year, negotiations were launched with both Montenegro and Serbia, Albania was granted candidate status last June, while albeit very modest progress has been made in the ongoing but painfully slow negotiations with Turkey, which were themselves launched in 2005. Finally the first step on the road to the EU was taken by Kosovo with the initialling of the Stabilisation

and Association Agreement last July, a landmark achievement in itself, considering the fact that five EU member states still do not recognise Kosovo.

Another positive development was the Commission's initiative of placing the rule of law at the heart of the accession process, in order to, using its own words "address fundamental reforms early in the enlargement process". Starting with the enlargement strategy of 2012 when this new approach was incorporated, the Commission added 'economic governance' last year, and in this year's strategy, it completed the 'trptych' by adding 'public administration reform'.

Certainly this approach makes good sense. The levels of corruption coupled with weak institutions and highly politicised public administrations are like a cancerous growth across much of the Balkan region, as well as in Turkey. It is only by tackling those fundamental weaknesses head on that successful reforms can emerge and bring lasting benefits for the countries concerned. Even if this approach makes the process more challenging for the candidate countries in that it raises the threshold at the initial phase of the negotiations, if consistently applied, it will nevertheless bring dividends in the long term. A good example of this was the visa liberalisation process for the Balkan region, which contained a comprehensive list of complex reforms together with 'road maps' that each country had to comply with.

A bleak picture

Where the Commission has been less successful, however, is in the overall impact of its enlargement strategy in promoting effective reforms in the countries concerned in the past two to three years. The latest Progress Reports

² Launched in 2010 as the 'Brdo process', (from the location where it took place outside of Ljubljana), in Slovenia, together with Croatia, and expanded in 2013 to become the 'Brdo-Brioni process', the process aims to create an informal political dialogue between the leaders of the Western Balkans and the EU. The

show a rather bleak picture, with modest progress in some countries (such as in Albania and Serbia), but clear regression in others (such as in Bosnia and Hercegovina and in Macedonia).

The Reports are eloquent in their description of all that is wrong in the Balkan region – political interference in the judiciary, lack of any political dialogue between the political parties affecting the proper functioning of the Parliament, deeply polarised societies exacerbated by heightened inter-ethnic tensions, as well as levels of corruption that have not only not diminished, but in many instances have got worse. These grave problems affect not just the system of government but they also act as a serious deterrent to foreign investment and the creation of a regulated business environment.

Even in policy areas where legislation is in place, implementation is often severely hampered due to the governments' failure to earmark sufficient funding. For example, the Report for Macedonia states that the Commission for Prevention and Protection against Discrimination, established under the 2010 Law on Anti-Discrimination continues "to have insufficient financial and human resources to properly fulfill its mandate". The sorry list goes on.

Probably the most alarming aspect of this year's assessment relates to the worsening media environment with persistent attacks on media freedom, including physical violence and intimidation as well as politically motivated judicial proceedings against individual journalists. For once, the language of the report is clear: "In some countries, a climate of fear and censorship is stoked by continuing violence and intimidation against journalists, with little success by the authorities in identifying and properly sanctioning perpetrators. Sometimes governments themselves contribute to an atmosphere which demonises as traitors journalists critical of government policy, leading to self-censorship".³ This dire situation also affects the EU's reform efforts, with government

supported media giving the general public a highly sanitised version of the main messages contained in the Progress Reports.

The two countries with the lowest grades

For the second year in a row, the most negative reports relate to the deteriorating political environment and lack of reforms in both Bosnia and Hercegovina and in Macedonia. For the latter country, the report is a clear warning that failure to address the growing concerns regarding politicisation of state institutions as well as independence of the judiciary and freedom of expression would result in the recommendation for opening negotiations to be withdrawn. (The report states "The Commission urges the authorities to take decisive action to address concerns about increased politicization and growing shortcomings with regard to the independence of the judiciary and freedom of expression so that its recommendation can be sustained in future years").

What a fall from grace for Macedonia, which just 10 years ago was seen as the success story of the entire Balkan region. The Commission's decision to maintain its recommendation for the 6th consecutive year in the expectation that it would spur a more determined effort by the government to fulfil its reform commitments has failed dismally, with further backsliding in many reforms, and failure to restore any political dialogue between the parties. This is by far the worst score card for Macedonia since the granting of candidate status in December 2005, and is a clear indictment of the current Government's populist agenda. It begs the question as to whether the declared commitment of the main governing party, VMRO-DPMNE (Internal Macedonian Revolutionary Organisation-Democratic Party for Macedonian National Unity), in power since July 2006, towards EU accession, is genuine.

³ See page 14, Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the

Committee of Regions; Enlargement Strategy and Main Challenges 2014-15, Brussels 8 October 2014. Com (2014) 700 final provisoire.

As for Bosnia and Hercegovina, the report merely repeats the wording of last year: “The country remains at a standstill in the European integration process”. Despite enormous efforts and time invested by Commissioner Füle personally, political will on the part of the country’s leaders to promote the much-needed reforms remains absent. The results of the Parliamentary elections that took place earlier this month have only confirmed the political stalemate, and do not give much hope for any movement in the country’s journey towards the EU.

It will require a more determined and more forceful effort by the EU to get the country out of the current blockage, with a greater focus on the role of civil society in the demand for change. The ‘plenums’ that brought together citizens groups from across the ethnic divide earlier in the year clamoring for change demonstrated the strength of feelings in society, and the catalyst role that could be played by civil society in the search for change. This is the right moment to encourage a new approach from the country’s leaders, just after the elections that took place earlier this month. A more ‘hands-on’ policy by the EU and its international partners such as the US, to push the leadership to take on much-needed reforms is the only way forward. This could be a test case for deploying the combined efforts of the incoming Commissioner for Neighbourhood Policy and Enlargement Negotiations, Johannes Hahn, together with the new High Representative/Vice President, Federica Mogherini.

Benchmarks and road maps

While much of the fault for this very mixed picture throughout the region lies mainly with the countries concerned and their lack of political will to promote meaningful reforms, it also raises serious questions regarding the EU’s overall strategy. The introduction of benchmarks as well as interim benchmarks in areas relating to the rule of law has helped to focus the minds of the countries concerned on what needs to be done, and acts as a pressure on these countries to

deliver. This is certainly the case once accession negotiations have started, where EU leverage is greater. For example in the case of Montenegro, the EU has set 84 interim benchmarks in the negotiation Chapters relating to Judiciary and fundamental rights (Chapter 23), and Justice, freedom and security (Chapter 24). Should there be delays by Montenegro in meeting these benchmarks, the EU could invoke the so-called clause of “overall balance” (disequilibrium clause) in the negotiating framework, which would mean delaying the pace of negotiations overall until such time as these benchmarks are met.

Whether it invokes this clause or not will be a measure of how the EU wants to maintain effective leverage in the enlargement process. It will need to be consistent in its approach, which has not always been the case in the past, with political expediency often overtaking the objective criteria. The same goes for the Commission which has erred by highlighting some important criteria such as political dialogue one year, and hardly mentioning it the following year, even though it clearly remains a major issue.

A more effective way of gauging real progress on the ground in relation to implementation of reforms would be to enhance the interim benchmarking exercise and use it consistently across many policy areas, even beyond the three pillars contained in the “new approach”. A systematic use of ‘road maps’, similar to the ones used in the visa liberalisation exercise would give clear guidance in each policy area. This would also be a useful way of comparing progress between each country. As highlighted in a document from the European Stability Initiative: “Any assessment should encourage two types of comparisons: between the situation in the accession countries and EU standards, and among accession countries. Comparisons help both fairness and the strictness of assessments.

They encourage friendly competition and mutual learning from best practice”.⁴

The Commission also needs to be clear and consequential in the language it uses in the Progress Reports. At the moment, the reports are difficult to digest, written in a rather wooden, bureaucratic language, which doesn't do justice to the political nature of the exercise. They also at times lack logic. For example, for Macedonia, the report states that “the Commission considers that the political criteria continue to be sufficiently met”,⁵ even though the content of the report is a litany of failures in almost every reform area. If the Commission needs such a statement to justify maintaining its recommendation for negotiations to open, then this practice should be replaced by other arguments such as the need to ensure stability in the country to justify the opening of accession negotiations, which would be a more correct statement reflecting the reality in the country.

More effective remedies

The Commission also needs to be more effective and more consistent in the remedies it offers. In the area of media freedom, it should be much more pro-active in helping to redress the situation. It should speak out when violations against media freedom or politically motivated judicial proceedings of individual journalists occur. It is not a bi-annual Conference bringing media from all the region to Brussels, however praiseworthy that initiative is, nor one annual prize for investigative reporting that will make a difference. Nor will media laws by themselves solve the problem; indeed they could be used as a smokescreen by governments to increase their control over media. What is needed is a change of mindset and effective control mechanisms for example to prevent abuse of government advertising in the media or the use of public funds to promote partisan interests.

Probably the best way to make governments more accountable would be for the Commission to provide direct financial support for investigative reporting throughout the region, using for example IPA (Instrument for Pre-Accession) funds for that purpose. In addition the EU delegations should be instructed to use their not inconsiderable budgets (usually between 600.000 to over €1 million per country) to support such initiatives.

Regarding the role of civil society, the welcome recognition contained in this and previous Progress Reports that “a strong civil society enhances political accountability and promotes deeper understanding of accession related reforms”, needs to be followed up more effectively. Laws should not be deemed adopted until there has been an inclusive consultation process with civil society and other actors in society depending on the subject matter of the legislation. Governments should be held accountable if they fail to properly consult with civil society in policy and decision making; it should be a specific condition established for the accession process.

There also needs to be more systematic financial support for civil society organisations, particularly at local community and grass roots level where they can have maximum impact. This is particularly important in multi-ethnic communities, where mistrust between the different ethnic groups can be more effectively addressed through integrated education projects and other confidence building measures. Delegations should be instructed to continuously engage with such organisations in an inclusive manner, so as to encourage governments to be more open to civil society. By giving the example, it can give those organisations greater confidence in their dealings with government. This is particularly important for those organisations that are being targeted and marginalised by

4 “Enlargement until 2020”, Gerald Knaus, European Stability Initiative, January 2014.

5 See page 23, Communication from the Commission to the European Parliament, the Council, the

European Economic and Social Committee and the Committee of Regions; Enlargement Strategy and Main Challenges 2014-15, Brussels 8 October 2014. Com (2014) 700 final provisoire.

governments for being openly critical of government policies.

Economic and political governance – Two Sides of the Same Coin

The Commission has announced in the Reports that it will strengthen its support for 'economic governance' and 'competitiveness' in the enlargement countries. Attending the "Western Balkans Six" Ministerial Conference about new economic governance and better connectivity in the region which took place in Belgrade on October 23rd (the first international conference with simultaneous participation of ministers from Serbia and Kosovo), Commissioner Füle together with Commission Vice President Jyri Katainen launched a new process to monitor Western Balkan countries' measures to strengthen economies, boost competitiveness, growth, investments and job creation in the framework of the EU accession process.⁶ (6).

Countries will from now on be asked to submit "National Economic Reform Programmes", while the EU will provide "more guidance for reform priorities and better targeted IPA funding. This is certainly welcome, with so many of the Balkan countries suffering from structural impediments to the proper functioning of the labour markets, unacceptably high unemployment, excessive dependence on foreign loans and low investment. Even those countries with comparatively higher growth rates are pursuing policies which have failed to promote jobs (e.g. Bosnia and Hercegovina with 2.5% GDP growth and 27.5% unemployment, Macedonia with 2.9% GDP and 29% unemployment).⁷ Practical steps to address the root causes for the depressingly high numbers of youth unemployed should be the priority.

At the same time, with 'economic governance' and 'political governance' being two sides of the same coin, greater efforts are also needed to strengthen the latter. The failure of governments to promote political dialogue and consensus building seriously undermines the reform agenda in those countries and increases the deep polarization in society. There are too many examples, many of which are reflected in the Progress reports, where governments push through legislation and even Constitutional amendments without proper consultation process with the political parties let alone with civil society. This only contributes to further alienation, divisiveness and as well as a climate of fear and growing intolerance in society, especially towards minorities.

The EU needs to reinforce its focus on proper functioning of the Parliament, regular political dialogue and the role of political parties and their youth branches where there are clearly major weaknesses yet to be addressed. The EU should provide targeted support through joint projects with specialized organisations such as the Westminster Foundation.

The European Parliament should play a more constructive and active role in this respect. Unfortunately, there have been examples of some MEPs unscrupulously defending activities (such as in the area of media freedom and human rights) of their sister parties in government in candidate countries which are at variance with the EU's reform agenda. This undermines the EU's reform effort and weakens its leverage. To quote Heather Grabbe: "The much larger role of domestic and party politics in the accession process will make it less predictable and more prone to special interest lobbying within the EU – reducing the consistency and credibility that are vital for the transformative effect to happen in the Balkans and Turkey."⁸ The Parliamentary

⁶ See http://ec.europa.eu/commission/2010-2014/fule/headlines/news/2014/10/2014/1023_en.htm.

⁷ See page 6, Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of Regions; Enlargement Strategy and Main

Challenges 2014-14, Brussels 8 October 2014.Com (2014) 700 final provisoire.

⁸ "Six lessons of Enlargement Ten years on: The EU's Transformative Power in Respect and Prospect", Heather Grabbe, *Journal of Common Market Studies*, 2014, pp 1-17.

delegations established for each candidate country should ensure that their Members and the Parliament as a whole fully respect the reform agenda set out by the EU and encourage greater respect for democratic process.

Enhanced Foreign Policy Dialogue

The Commission has also recognized the need for a more strategic relationship with the candidate and prospective candidate countries, and the benefits from greater cooperation on foreign policy issues. To this end it has proposed that the relevant Chapter 31 in the negotiating process relating to Foreign Security and Defense Policy be addressed early with the negotiating countries. This dimension has certainly gained increased importance following developments in both the Middle East and Ukraine, and Russia's more assertive foreign policy, although it could be argued that it is a measure of how far the EU still has to go in fostering a more strategic approach in its foreign policy thinking as well as greater coherence between the different institutions of the EU, that this issue warrants a specific mention in the Progress Reports. It is nevertheless a welcome initiative and will offer a valuable testing ground for the intense level of cooperation which will be required between the incoming High Representative/Vice President and the Commissioner designate for Neighbourhood Policy and Enlargement Negotiations.

A more strategic relationship will be particularly important in relation to both Serbia, and Turkey, all the more so now as the shadow of Russia looms larger across the Balkan region. As reflected in President Putin's triumphal visit to Belgrade recently, the relationship between Serbia and Russia remains imbued with deep sentiments of history and culture. While Serbia has made clear its choice for EU accession, it will be tempted in various instances to sit on the fence, as it did in relation to the sanctions

imposed by the EU against Russia, although it wasn't the only country in the Balkan region not to side with the EU in this instance. At the same time Serbia could be an important bridge from the Balkan region in relations with Russia, particularly as it prepares to assume the Chairmanship of the OSCE in 2015, adding an important dimension to future EU/Serbia relations.

With Turkey being at the forefront of the unfolding Middle East turmoil as well as its membership of NATO, a more intense EU/Turkey foreign policy dialogue can only be beneficial for both sides. As underlined in the Progress Report, "The value of such cooperation is even clearer in light of considerable challenges posed by recent developments in our joint neighborhood including the Ukraine crisis".⁹

With accession negotiations moving at a snail's pace if at all, this foreign policy dialogue, which should include regular EU/Turkey high level meetings, could also help to reinvigorate the accession process, and demonstrate to EU member states in the region, such as Cyprus, the value of intensifying the negotiations in the broader interests of stability in the region.

Bilateral Disputes

Finally, the EU will also need to understand that the credibility of the enlargement process remains in doubt so long as individual member states continue to take the accession process hostage to bilateral complaints, thereby undermining the element of fairness in the conditionality principle. The case of Cyprus in relation to Turkey, and Greece in relation to Macedonia come to mind. They are indefensible and only serve to fuel nationalist agendas which have more to do with the past than with the Europe of tomorrow. This year's Progress Reports offer no new initiatives in this respect unfortunately. In relation to the

⁹ See p. 26, of Communication from the Commission to the European Parliament, op. cit.

Greek/Macedonia dispute, the Report reflects a hint of exasperation as it notes “The failure of the Parties to this dispute to reach a compromise after 19 years of UN-mediated talks (...)”, and calls for resolute action as well as “proactive support from EU leaders”.¹⁰

The incoming Commission will need to engage more forcefully with the EU member states and underline the importance of finding alternative solutions for channeling these bilateral disputes. It must remind the member states that the Balkan region in particular offers a more complex picture than any other previous enlargement exercises. The combination of weak institutions, a lack of experience in conflict resolution and little appetite for compromise has made the issues appear even more intractable for countries to resolve on their own. This poses a serious threat to the stability of the region.

Even dispensing with the unanimity principle within the Council on enlargement issues should be considered as an option. This may appear radical for some, but continuing this practice only adds to the image of double standards on the part of the EU. There are in any case sufficient mechanisms built in to the accession negotiating process to allow individual member states to safeguard their individual interests throughout the process.

Conclusion

The incoming Commission will have a major task on its hands, not only to ensure that the transformative power of the EU, which has been so successful in previous decades, should continue to deliver, but also to convince an increasingly sceptical public on the merits of the EU's enlargement agenda. It will need to devote more time and efforts in demonstrating to the EU member states the long term dividends for the EU of promoting stability in its nearest neighbourhood, of extending the frontiers of peace and security and creating viable economic conditions in candidate countries to reduce the temptation to emigrate.

The EU also needs to understand that allowing double standards within the EU, and tolerating attacks on media and civil society such as those occurring in Hungary, greatly weakens the EU's leverage vis a vis candidate countries.

A more assertive, consistent and determined approach in pursuing the enlargement agenda over the next years will ensure that the candidate countries remain on track with their reforms. As will have been seen with previous enlargement exercises, the dividends are well worth the efforts both for the acceding countries and for the EU.

¹⁰ Ibid., p. 23.



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