



Completing
the EU Enlargement to
the Balkans:
**Dancing the
European Kolo.**
**A step to the side
or a step
forward**

**Balkans in Europe
Policy Advisory Group**

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Completing the EU Enlargement to the Balkans: Dancing the European Kolo. A step to the side or a step forward

So far, 2014 has been a year of mixed signals for the European integration of the Western Balkans. Enlargement fatigue was expressed explicitly by incoming European Commission President Jean-Claude Juncker when he stated the obvious that there will be no enlargement during his mandate and downgraded the enlargement portfolio in the new Commission. Yet, a high-profile summit of Western Balkan leaders in Berlin in August and the recent German-British initiative for Bosnia and Herzegovina signal the renewed engagement of Germany and a number of other key EU member states with the Balkans. So where does enlargement stand at this point, and what are its prospects of pushing the reform agenda in the region forward?

The current Policy Brief, prepared by the Balkans in Europe Policy Advisory Group (BiEPAG), builds on its May 2014 Policy Paper, where different scenarios for the future of the Western Balkans were analysed, coupled with a specific set of recommendations on how to reinvigorate the EU accession process in the region, with particular focus on unresolved bilateral relations and internal political dysfunction in Bosnia and Herzegovina. The aim of this Brief is to consider the latest developments related to the EU enlargement to the Western Balkans, namely the election of the new European Commission, the new initiative for the restart of Bosnia and Herzegovina's accession, the announcement of new bilateral conditions, and the on-going deterioration of regional cooperation.

New Commission

In July 2014, following the first pan-European election campaign, Jean-Claude Juncker was officially elected to succeed José Manuel Barroso as president of the new European Commission. The new Commission assumed office on 1 November 2014 and is due to serve until 2019, trying to overcome the worst European financial and economic crisis since World War II. As the Juncker Commission's motto suggests, "Europe's challenges

cannot wait”, the primary task of the new Commission will be to provide structural incentives and new policies to give a new boost for jobs, growth and investment within the European Union.

However, quite contrary to the proposed motto, the challenge of expanding the European Union further to the Western Balkans seems to be completely sidelined. The enlargement policy of the newly elected Commission can best be summarised in the words of the Commission President, who said that negotiations would continue but that “no further enlargement will take place over the next five years.” Bearing in mind Croatia’s accession negotiations, which lasted altogether eight years before full membership, it can be safely assumed that even in the best-case scenario, no enlargement is likely to occur during the mandate of the new Commission. This being said, it is easy to interpret the Commission President’s downplaying of enlargement as a political message directed to the European Union citizens who dominantly oppose further EU enlargement.

Moreover, despite the concern voiced by the Balkans in Europe Policy Advisory Group (BiEPAG) earlier this year, the new Commission abolished the position of Commissioner for Enlargement. Instead, Johannes Hahn was appointed Commissioner for European Neighbourhood Policy and Enlargement Negotiations. Although part of Commissioner Hahn’s responsibility in the upcoming period remains continuing support for pre-accession countries in their on-going EU membership negotiations, it seems that the focus of his portfolio will be shifted to the deepening of relations with EU neighbours.

Altogether, the political messages coming from Brussels since the election of the new Commission seem to point to the conclusion that the European integration of the Western Balkans is being slowed down, rather than accelerated. Thus far, the new Commission has showed that it is not prepared to engage in an open political dialogue with the EU citizens on the future of the European integration. Finally, the Commission has sent an untimely and wrong message to its Western Balkans partners, clearly undermining the credibility of the membership promise, which thus far served as the main impetus for its most successful transformative mechanism – conditionality.

New Initiatives

The current approach to enlargement - marked by the ever-expanding universe of detailed and strict conditions imposed upon the Western Balkans aspiring EU members, and by a “creeping nationalisation” of the process whereby member states favour a more hands-on approach than in previous rounds - have led to a frontloading of conditionality (giving it teeth already in the early, pre-accession phases of the process). As regards Bosnia and Herzegovina, the effort of the EU to stabilise the country and hand over responsibility for integration-related reforms to domestic political elites has failed: the country is at a complete standstill on its path towards the European Union and in the midst of the deepest political and institutional crisis since the end of the war. At the same time, the member states lack the political will to intervene in the country’s domestic affairs.

In this regard, two initiatives, both led by Germany, can be seen as a breath of fresh air. In August, a summit in Berlin brought prime ministers, foreign affairs and economy ministers from the Western Balkans and Germany together, in an effort to recommit to enlargement and highlight the need for good governance, economic development and regional cooperation,¹ key aspects also highlighted in the BiEPAG Policy Paper. The initiative is part of a process that envisages another conference, to be held in Vienna next summer, with the goal of creating a regular forum to gauge process and bring EU member states and countries of the Western Balkans together. In this sense, the conference sent a clear signal to the region, even if it offered no new details on accelerating enlargement.

Beyond the regional approach, the new British-German initiative² is trying to overcome the stagnation and drift of Bosnia and Herzegovina from the European integration-related reforms. A plan unveiled in Berlin on 5 November 2014, in an open letter from the two countries’ foreign ministers to the Bosnian people, proposes a broader agenda for reforms to be implemented in the next stages of Bosnia and Herzegovina’s European integration process in order to avoid the stalemate resulting from address-

1 http://www.auswaertiges-amt.de/cae/servlet/contentblob/684762/publication-File/195973/140828-Abschlusserkl_Konf_Westl_Balkan.pdf

2 <https://www.gov.uk/government/speeches/bosnia-herzegovina-a-new-strategic-approach>

ing intractable issues too early in the process. Namely, the main idea of the initiative is to no longer insist on the implementation of the “Sejdić-Finci” ruling of the European Court of Human Rights (ECHR) as a precondition for membership application, and to deal with it later during the accession negotiations. Instead, the initial reform agenda will focus on the very functionality of the state along the lines of socio-economic issues, rule of law, good governance and more readily resolvable institutional questions.

Although the new initiative still needs to be agreed on by other EU members, it is encouraging to see the lead in the Balkans by two strong member states. Furthermore, although it has not been publicly released, it seems that the latest initiative is synchronised with the efforts of the Austrian Foreign Ministry aimed at improving the structural dialogue with Bosnia and Herzegovina’s civil society representatives, and with the open endorsement to the European perspective of the region expressed during the on-going Italian EU presidency. Other countries, most notably Croatia, also contributed to the development of the plan in recent months and the initiative was preceded by talks with high-ranking EU and US officials in recent months. In order for the proposed readjusted sequencing of the European integration process to provide the necessary impulse to restart the reform process in Bosnia and Herzegovina it will be crucial to observe the pro-active role of both Federica Mogherini, the European Union’s new foreign policy chief, and Johannes Hahn, the new Commissioner for European Neighbourhood Policy and Enlargement Negotiations. Nonetheless, the actual outcome of the initiative now depends on the will of Bosnian political elites to comply with the specific set of interim demands proposed by Britain and Germany. If Bosnia’s leaders do not sign a written commitment to make their divided country more functional, the waiting time for a new chance might be much longer than the length of the new Commission’s mandate.

Backsliding in Regional Cooperation

The criteria formulated by the 1993 European Council in Copenhagen still remain the blueprint for accession and require any aspiring country to have stable democratic institutions, a functioning market economy and the capacity to adopt and implement the ever-larger body of EU law. However,

these conditions are supplemented with an additional politically-sensitive set of conditions for the Balkans – the so called ‘Copenhagen Plus’ criteria – to be fulfilled by the countries of the region before accession. Chief among these are the requirements of full cooperation with the International Criminal Tribunal for the Former Yugoslavia (ICTY), refugee return, the resolution of bilateral standoffs (such as the one between Greece and Macedonia over the name issue) or of statehood dilemmas (most notably for Serbia and Kosovo), and regional cooperation.

Regional cooperation is envisaged as a key factor for establishing political stability, security and economic prosperity in the Western Balkans. In this context, it is embodied in the Stabilisation and Association Process, which offers countries of the region the possibility of EU membership. At present, perhaps the most problematic issues related to the regional cooperation are to be found in the strained Greek-Macedonian relations over the acrimonious name dispute, and the uncertain development of the on-going EU mediated normalisation of relations between Serbia and Kosovo. Apart from these two outstanding issues, up until a couple of weeks ago, it seemed that the political commitment by the countries of the region to promote regional cooperation in its various forms was on track.

However, the incidents during the recent football match between Serbia and Albania, the fall-out with attacks against bakeries owned by real (and presumed) Kosovo Albanians in Serbia, and the postponement of the visit of Albanian Prime Minister to Belgrade, have created a misleading hype about Serb-Albanian relations. Finally, and only after the intervention of German Chancellor Merkel, a ‘historical’ visit of Albanian Prime Minister to Belgrade took place in November 2014. What was envisaged as an attempt to put differences aside after the football-related incidents, turned into a diplomatic row between the two countries’ prime ministers about the status of Kosovo.

This string of incidents demonstrated that despite the continuous improvement of relations, the social and political contract between Serbia and its southern neighbours (Kosovo and Albania) remains fragile – between the political elites and among the “common” people alike. Not even the fact that neither government has an election to win any time soon, and yet

much too loose from worsening relations, in particular in regard to EU accession, did not prevent the backsliding of regional cooperation. This being said, the inevitable conclusion is that in the upcoming years both parties will need to prove their sincere commitment to regional cooperation, and at the same time, the EU will need to insist on closer scrutiny of this component of the Stabilisation and Association process.

The Risk of New Vetoes over Unresolved Bilateral Disputes

With Croatia joining the EU, Croatian public officials have on numerous occasions reassured their counterparts from the Western Balkans that they will not impose additional hardships on their respective accession paths. Bearing in mind Croatia's recent experience where Slovenia, the only former Yugoslav region to join the EU, was blocking Croatia's entry talks due to the long-running border dispute, there were speculations that a similar scenario might repeat itself in the light of the outstanding border issues that Croatia has with Serbia and Montenegro respectively. In this regard, it is important to note the Croatian parliamentary declaration on promoting European values in South East Europe, and the pro-active role of the Croatian Ministry of Foreign Relations in facilitating the EU–Western Balkans dialogue.

However, in a recent interview, the Croatian Minister of Justice Orsat Miljenić signals potential shift in the policy of Croatia's unconditional support for the Europeanisation of the region. Namely, in an interview for a Croatian public radio, Miljenić said that his country would condition Serbia's progress in the EU accession talks with new indictments and trials for individuals responsible for war crimes. He stated that "Serbia must realise that this awaits them, and the sooner they begin with it, the better. It's simply like that and we won't back away."³

Although Croatian Minister of Foreign Relations Vesna Pusić, and Croatian Ambassador in Belgrade Gordan Markotić, denied the possibility of new

3 <http://www.croatiaweek.com/croatia-demanding-more-war-crimes-indictments-if-eu-entry-talks-with-serbia-are-to-advance/>

conditions for Serbia's EU membership based on bilateral issues, it remains to be seen whether Minister Miljenić's statement was in fact a signal for a change of the regional reality, in which Croatian authorities will take advantage of the accession negotiations of Serbia as a means of pressure to regulate the border between the two countries and other outstanding legacies of the recent conflict. The uncertain outcome of the upcoming presidential and parliamentary elections in Croatia, scheduled for early 2015, and expected in early 2016, respectively, might further negatively contribute to the already existing issue of bilateral conditionality.

Policy Recommendations

While the process of EU accession is continuing, thanks to the persistence of the previous commission, the current pace throws the Thessaloniki promise into doubt. Here is a list of policy recommendations in order to reinvigorate the accession of the Western Balkans, notwithstanding the need for sincere reforms in the aspiring member states.

Decisive Role of Hahn and Mogherini. The newly elected EU institutions need to ensure that enlargement continues and that the EU does not break its own promises. Ideally, both the Commissioner for European Neighbourhood Policy and Enlargement Negotiations and the High Representative for Foreign and Security Policy should be spokespersons for enlargement and also be jointly involved in mediating outstanding disputes. A close working relationship between the two is of the essence here.

Reenergizing the Enlargement Process. The 2004 enlargement process was successful because it included a large number of countries all competing to join the EU. The current gradualist process lacks this dynamic and countries are not in direct competition. Such a dynamic could be best created by beginning accession talks with all countries of the region. Short of opening accession talks with all countries, tools could be developed to identify progress in different areas that would allow for such a competition to develop.

Delivering the new Initiative for Bosnia and Herzegovina. The police reform conditionality and more recently the implementation of the

ECHR ruling in the Sejdić-Finci case have resulted in a deadlock in Bosnia, where the EU integration process is delayed for years. Britain and Germany have proposed a plan that envisages kicking back these outstanding issues for a later accession period in order to jumpstart Bosnian accession process. Main proponents of the plan should ensure the support of the rest of the member states. At the same time, the member states, and particularly Britain, should follow the recent abandoning of the Schengen visa regime for the Western Balkan countries, and thus symbolically show that they do not merely pay lip service to the enlargement of the region. In addition, the initiative has to be sustained and include clear communication to Bosnian citizens on the EU requirements and expectations.

Resolving Outstanding International and Bilateral Problems through Mediation. The successful EU engagement in Kosovo and Serbia was an example of the EU not using just the conditionality, but rather the combination of a window of opportunity and incentives to resolve a bilateral dispute. The EU should build on this success to address other such political problems in the region that hinder the completion of EU enlargement. The display of a stronger member states' initiative, noted in this Brief in the case of the British and German plan for Bosnia and Herzegovina, demonstrates a potential way of addressing the on-going bilateral disputes between candidate and member states. In particular the name dispute between Macedonia and Greece will only be resolved through a similar initiative of EU member states in coordination with the USA.

Removing Bilateral Disputes from the Accession Agenda. The Commission should lobby for member states to not pursue bilateral disputes with candidates during the accession talks. Such disputes should be resolved either through arbitration and mediation mechanisms or, in the absence of effective tools at the EU level, by a troika of EU member states mediating in these disputes.

Monitoring the State of Democracy. The EU needs to pay greater attention to the whole forest (and not just the trees) when it comes to the state of democracy. Serious backsliding in terms of democracy and freedom of the media can be observed and needs to be vigorously pursued by the EU. Noting shortfalls remind citizens of the core reason for joining the EU: a

stable and prosperous democracy governed by the rule of law. For example, the European Fundamental Rights Agency could expand its scope of work to all the candidate and potential candidate countries. In addition, the progress reports need to reflect this. Past progress reports, i.e. for Serbia and Macedonia, have undermined the credibility of the EU in pushing for democratisation. The state of democracy should not be short-changed for other reasons (such as cooperation on bilateral disputes).

Monitoring the State of Regional Cooperation. The recent worsening of Serb-Albanian relations showed that regional cooperation is not as good as it seemed, despite the frequent multilateral meetings until recently. Bearing in mind its importance for political stability, economic prosperity, and interethnic relations in the Western Balkans, the European Union should pay greater attention to the outstanding issues related to regional cooperation.

Communicating with Citizens. A very elite-centred approach of the EU in its communication with future member states has often empowered gatekeeper elites with limited genuine interest in accession. Direct communication with citizens will be essential in ensuring that elites are not let off the hook. The public nature of the letter of the German-British initiative for Bosnia is a good first step in this direction.

Keeping the Caravan Moving. There is a risk that the Western Balkans are splitting into two, the countries on the train to membership on the one side and the "Restern Balkans", the countries that have no prospect of joining soon (Bosnia and Herzegovina, Kosovo and Macedonia) on the other side. If the laggards are not helped to stay on track, the gap will grow and positive dynamics in Montenegro, Serbia, and possibly Albania, will not encourage the others but rather unfold negative, destabilizing dynamics (i.e. secessionist movements in the laggard countries).

About the Balkans in Europe Policy Advisory Group

The Balkans in Europe Policy Advisory Group (BiEPAG) is a co-operation project of the European Fund for the Balkans (EFB) and Centre for the Southeast European Studies of the University of Graz (CSEES) with the aim to promote the European integration of the Western Balkans and the consolidation of democratic, open countries in the region. BiEPAG is composed by young researchers from the Western Balkans and wider Europe that have established themselves for their knowledge and understanding of the Western Balkans and the processes that shape the region. Current members of the BiEPAG are: Florian Bieber, Arolda Elbasani, Dimitar Bechev, Dejan Jović, Marko Kmezić, Nermin Oruč, Leon Malazogu, Corina Stratulat, Milan Nič, Marija Risteska, Nenad Koprivica, Nebojša Lazarević and Vedran Džihic.

About the European Fund for the Balkans

The European Fund for the Balkans is a multi-year joint initiative of European Foundations including the Robert Bosch Stiftung, the King Baudouin Foundation, the Compagnia di San Paolo and the ERSTE Foundation. It is designed to undertake and support initiatives aimed at bringing the Western Balkans closer to the European Union through grant-giving and operational programmes. The Fund's objectives are: to encourage broader and stronger commitment to the European integration of the Western Balkan countries and societies; to strengthen the efforts undertaken by a range of stakeholders in this process also with a view to developing effective policies and practices in the region and in the EU; and to support the process of member state building as envisaged by the International Commission on the Balkans, in particular by building constituencies in the societies of Southeast Europe who will be offered an opportunity to experience and learn about Europe.

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About the Centre for Southeast European Studies, University of Graz

The Centre for Southeast European Studies was set up in November 2008 following the establishment of Southeast Europe as a strategic priority at the University of Graz in 2000. The Centre is an interdisciplinary and cross-faculty institution for research and education, established with the goal to provide space for the rich teaching and research activities at the university on and with Southeast Europe and to promote interdisciplinary collaboration. Since its establishment, the centre also aimed to provide information and documentation and to be a point of contact for media and the public interested in Southeast Europe, in terms of political, legal, economic and cultural developments. An interdisciplinary team of lawyers, historians, and political scientists working at the Centre has contributed to research on Southeast Europe, through numerous articles, monographs and other publications. In addition, the centre regularly organizes international conferences and workshops to promote cutting edge research on Southeast Europe.

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