

## The Prize is more Peace: The EU should consolidate its enlargement process

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For its contribution “to the advancement of peace and reconciliation, democracy and human rights in Europe” over six decades the European Union has been awarded the 2012 Nobel Peace Prize. This is a magnificent honour and a much-needed boost for an integration project that is bedevilled by economic crisis and deep-seated political and social unrest. The Norwegian Nobel Committee’s decision could be interpreted as a signal to breathe new life into the EU enlargement agenda, indisputably the Union’s peace project *par excellence*.

What started out as a post-World War II project to pacify erstwhile rivals France and Germany has pushed the boundaries of the zone of peace outwards so as to embrace almost the entire continent. It has seen the incorporation of post-dictatorial Greece, Spain and Portugal, and the re-unification with post-communist Central and Eastern Europe.

But the accession of Bulgaria and Romania has taken the *Schwung* out of the EU enlargement process and cast doubt on the strength of its transformative power. Accession talks with Turkey have ground to a halt, despite the Commission’s efforts to launch a positive agenda. For Bosnia-Herzegovina, pre-accession conditionality also fails to inspire; successive ‘progress reports’ by the European Commission read as ‘stagnation reports’. And for the fourth year running, the Council has been held back by Greece from taking a decision on opening accession negotiations with (the Former Yugoslav Republic of) Macedonia until the dispute over the country’s official name is resolved.

This issue is emblematic of a ‘creeping nationalisation’ in the enlargement process, i.e. the imposition of bilateral conditions by individual member states upon candidate countries. Other cases in point are the conditions set by Slovenia upon Croatia over, among others, the demarcation of maritime borders, and the demands placed on Iceland by the UK and the Netherlands to reimburse savings lost during its banking crisis.

The sovereign debt crisis and the threat of financial collapse of some EU member states have triggered fierce debate about the economic, social and political *finalité* of the Union and curbed the appetite for further enlargement. The crises have also fuelled debate in the UK

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about its future role in the EU and strengthened the resolve of countries like Switzerland and – ironically – Norway to stay outside of the Union.

Apart from the brief burst of enthusiasm that will likely accompany Croatia's imminent accession, 'enlargement fatigue' is here to stay within the EU, especially in light of widely held perceptions that most of the (potential) candidate countries are hampered by small economies, weak administrations and corrupt law-enforcement authorities. Indeed, it is not surprising the EU's general public is somewhat puzzled by the Commission's suggestion to open negotiations on a Stabilisation and Association Agreement with Kosovo, on whose status EU member states maintain different views. Similarly, the granting of candidate country status to Serbia, a country whose political leaders' antics recall a dark past, and the opening of accession negotiations with Montenegro, despite its long tradition of corruption and organised crime, are decisions that elicit incomprehension.

Adding to this sombre picture is the 'pre-accession fatigue' of the candidate countries themselves. With the image of the EU as a latter-day Eldorado fading, the political leaders of these countries may well be wondering what they are getting themselves into. Some have even declared the Union's current woes "the end of the EU dream". Whereas EU membership is still their strategic objective, the adoption of EU values and standards is primarily understood as a means to the end of modernising their countries. Yet, the EU's demands for continuous reform have begun to ring hollow, especially in the ears of political leaders who are calculating whether playing the card of (distant) EU accession will yield sufficient returns for them at the polls. Fake compliance with EU conditionality is often the result. Keeping up appearances may be politically and economically more advantageous in the short term, but is certainly detrimental to real progress in the longer run. Bulgaria and Romania are cases in point. Five years since it replaced pre-accession conditionality, the post-accession 'Cooperation and Verification Mechanism' has not delivered the desired results in terms of judicial reform and the fight against organised crime and corruption.

In spite of the European Commission's rhetoric (pushed by some EU member states) to pursue an 'AAA' enlargement policy ('strict but fair', 'first the red lines then the red carpets', 'first the performance then the applause'), lessons drawn from previous enlargement waves have yet to be put into practice. The country that is next in line for accession seems to be afflicted by the same malaise as those that entered the Union in 2007, albeit to a lesser degree: Croatia's reform of the judiciary continues to be subject to ongoing monitoring in the period between conclusion and full ratification of the Accession Treaty. It has been recognised that Chapters 23 (rule of law and human rights) and 24 (justice, freedom and security) were (again) opened too late in the accession negotiation process. Seen from this perspective, the decision to start with these most difficult chapters in the accession talks with Montenegro should be welcomed. The introduction of benchmarks in accession negotiation procedures and a greater focus on the performance track record (implementation and enforcement of approximated laws) should overcome some of the current setbacks affecting EU enlargement conditionality.

Presenting the 2012 enlargement package, Commissioner Stefan Füle said:

Our recommendations place the rule of law firmly at the centre of the accession process. To create a more stable and prosperous Europe, momentum needs to be maintained both for the merit-based enlargement process on the EU side and for reforms on the ground in the enlargement countries.

However, a major flaw of accession conditionality has been the vagueness with which the EU has attempted to flesh out some of the key pre-accession criteria. This is particularly evident for the criterion of political stability: what exactly are the criteria on stability of institutions,

democratic governance and the rule of law? As far as the 'rule of law' is concerned, there is hardly any firm *acquis* to establish whether the criterion has been met. The EU relies mainly on Council of Europe conventions, Strasbourg jurisprudence and reports from the Venice Commission. The Commission's renewed focus on the rule of law as one of the central narratives in the enlargement strategy posits that good governance is not about rubber-stamping laws but about establishing a performance track record. Arguably, this concerns only one aspect of political stability.

The interpretation of what the economic pre-accession criterion entails fares much better. Yet, whereas the definition of what constitutes a market economy is clear, the Commission's push for structural reforms in this area appears too soft. Moreover, here too, many negotiating benchmarks are set by individual member states in order to protect their own industries and markets. From the EU's perspective, one may wonder to what extent these bilaterally imposed conditions undermine the negotiating mandate of the European Commission. For (potential) candidate countries, however, the list of conditions is long and seemingly non-exhaustive.

Finally, and most tellingly, it is unclear what is meant by the 'absorption capacity' of the EU. Does this final Copenhagen criterion concern institutional aspects of the EU, budgetary aspects, the maintenance of a high level of competitiveness all over the Union, geopolitical interests of the EU and/or public acceptance in the member states?

If its enlargement policy is not to degenerate into a farce, the EU should refrain from offering diluted forms of candidate status, such as the one extended to Albania in the strategy adopted on October 10<sup>th</sup>, conditional upon completion of key measures in the areas of judicial and public administration reform and a revision of the parliamentary rules of procedure. Similarly, the EU should resist calls to lower the bar in accession negotiations so as not to lose candidate countries in the process (e.g. by compromising on Chapter 3 on financial services). The European Commission therefore needs to find new ways to consolidate the enlargement agenda, gain full support of the member states for its implementation and assure a consistent application of the pre-accession requirements. Arguably, more time, more money and greater expertise are needed to pursue the vocation recognised by the Nobel Committee.