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# **The New Instrument for Pre-Accession Assistance (IPA II): Less Accession, More Assistance?**

*Wolfgang Koeth*

## **The New Instrument for Pre-Accession Assistance (IPA II): Less Accession, More Assistance?**

**Wolfgang Koeth, EIPA Maastricht**

### *Abstract:*

*The EU enlargement engine seems to have run out of political steam. Support within the member countries for future enlargement is at all-time low, while some of the candidate countries have also seemed to put the enlargement process on the backburner. However, at least rhetorically, the EU is still committed to the enlargement process and maintains its entire enlargement tool box, such as the Instrument for Pre-Accession (IPA) – one of the most important EU external financial instruments. The new IPA regulation (IPA II), adopted in March 2014<sup>1</sup>, clearly reflects the fact that the enlargement process is on a holding pattern.*

EU enlargement has often been described as the EU's most successful foreign policy ever, as it has proved to be a highly efficient way for the EU to export its norms and values. However, if one believes that financial allocations are a good indicator for measuring the enthusiasm of the EU towards a certain policy, it clearly appears that the focus of the EU has been shifted further east and south, to the countries of the European Neighbourhood Policy (ENP)<sup>2</sup> for which no accession perspective is on the table.<sup>3</sup> This is understandable, given that the Arab uprisings and Russia's flexing of muscles have brought the EU's neighbourhood policy back to the centre of attention.

But comparing numbers alone gives only a vague indication about shifting priorities in the EU's policy agenda. A loss of momentum of enlargement policy appears rather *en filigrane* when analysing the text of the new IPA regulation (IPA II) which replaces a 2006 Council regulation<sup>4</sup> covering the period 2007-2013. In order to better appreciate the differences, we must first take a look at the previous instrument (IPA I) and its underpinning logic.

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<sup>1</sup> Regulation (EU) No 231/2014 of 11 March 2014 establishing an Instrument for Pre-accession Assistance (IPA II). Although adopted only in March 2014, the regulation is applicable as of 1.1.2014

<sup>2</sup> The ENP, set up in 2004, covers Ukraine, Belarus, Moldova, Georgia, Armenia and Azerbaijan in the East and Morocco, Algeria, Tunisia, Libya, Egypt, Israel, Palestine, Jordan, Lebanon and Syria in the East. Russia does not participate in the ENP, but can benefit from assistance under the European Neighbourhood Instrument (ENI, previously ENPI).

<sup>3</sup> Whereas the allocations for IPA have stayed roughly the same as during the 2007-2013 period (€11,5 billion, at par with allocations for the ENP), allocations for the ENP have gone up by one-third from €11,5 to €15,4 billion.

<sup>4</sup> Council Regulation (EC) No 1085/2006 of 17 July 2006 establishing an Instrument for Pre-Accession Assistance (IPA)

### ***E pluribus unum: consolidating pre-accession assistance***

When the 1<sup>st</sup> IPA regulation came into force in 2007, the EU had just concluded the most challenging enlargement rounds ever: the 2004 ‘big bang’ enlargement to 10 mostly former socialist countries of Central and Eastern Europe, followed by the accession of Romania and Bulgaria three years later. The EU had assisted the candidate countries in their required political and economic reforms through technical and financial assistance, delivered under several thematic (Phare, Sapard, Ispa) and geographical (Cards...) instruments. One of the lessons learned from the 2000-2006 period was that the different legal bases were often a source of administrative headache and not conducive to coherence; therefore, merging all these instruments into a single one would increase efficiency and effectiveness.

In addition, a 2004 report of the Court of Auditors<sup>5</sup> on preparation for managing Structural Funds (SF) recommended that there was a clear strategy to prepare candidate countries to manage Structural Funds and increased efforts to bring pre-accession assistance closer to the SF. This report influenced the future structure and management of IPA as a single instrument with five components,<sup>6</sup> three of which would only be accessible to the more advanced countries enjoying the status of a candidate country. The ‘decentralised management’ or the full responsibility of candidate countries for contracting and disbursement of these funds (with minimal oversight of the European Commission) became, as a consequence, a mandatory requirement.

Whereas, in the early days of Phare (and its sister instruments), the allocation of funds was rather demand-driven, over time the Commission insisted that they become ‘accession-driven’ or ‘acquis-driven’, meaning that funds could be spent only on areas which had been previously defined by the EU as compliant with the EU accession strategy. This created a sharp distinction between the pre-accession instrument and other external financial instruments, which remain largely needs- or demand-driven. Concretely, the EU would rather not give general support to the health or education sectors in a candidate country, as there would be no clear and direct link to the EU acquis. The closer a candidate would move towards accession, the more the focus would shift to projects in less obvious but acquis-related fields, such as data or consumer protection, metrology or regulatory compliance. The approach of the Commission therefore differed quite significantly from the approach of other donors that traditionally focused more on social and human development issues. This also had the benefit of reducing the scope for overlap with the activities of other bilateral or multilateral donors.

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<sup>5</sup> European Court of Auditors (2004) Special Report No 5/2004 on Phare support to prepare candidate countries to manage the Structural Funds

<sup>6</sup> These were 1) Assistance in transition and building of institutions; 2) Cross-border cooperation; 3) Regional development; 4) Human resources development; and 5) Rural development (IPARD). The first two components were managed by DG ELARG, whereas components III-V fell under the responsibilities of DG REGIO, DEG ECOSOC and DG AGRI respectively.

## From IPA I to IPA II

The expiration of the 2006 regulation at the end of 2013 and the resulting need to establish a new legal basis presented an opportunity for the Commission to undertake an evaluation of previous assistance and to introduce changes.

After a number of stakeholder consultations and following an ex ante evaluation,<sup>7</sup> the Commission adopted a proposal for the IPA II Regulation in December 2011,<sup>8</sup> as part of a package of external action instruments. While maintaining its general scope, existing implementation arrangements were adjusted in order to ensure that “*pre-accession assistance will be more closely linked to the enlargement priorities, and be based on a more results-oriented and strategic approach targeting key reforms in the enlargement countries*”.<sup>9</sup> This would be achieved through a number of measures that could be summed up in three main categories:

- 1) replacing the existing five IPA components through policy areas and allowing undifferentiated access for all countries;
- 2) new approaches to conferral of management to beneficiaries;
- 3) generalisation of a sector approach with the increased use of (sectoral) budget support

This article will look in detail at these three aspects. Whereas the IPA II regulation also contains a number of other features (like a renewed strategic framework and increased flexibility), these features should be directly linked to the more fundamental changes operated in the regulation. They will therefore be not analysed separately, but mentioned in their relevant context.

### ***1) Replacing the components with policy areas and allowing undifferentiated access to all countries***

As indicated above, under IPA II, the five components of the first regulation will disappear, thus giving all countries – regardless their status – access to the entire IPA toolbox. Instead of the components, assistance will be centred on *policy areas* which are largely identical to the components of the first regulation, but accessible to both candidates and potential candidates. On the side of the Commission, the management of assistance for the former components will be streamlined, as DG ELARG will repatriate its competences that were previously exercised by other DGs (with the exception of DG AGRI for the agriculture and rural development component). This arrangement will

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<sup>7</sup> GHK-Technopolis final report: Evaluation to support the preparation of pre-accession financial instruments beyond 2013 - 13 June 2011

<sup>8</sup> Proposal for a regulation on the Instrument for Pre-accession Assistance (IPA II) of 7.12.2011 COM(2011) 838 final

<sup>9</sup> DG Enlargement: 2012 annual report on Financial assistance for enlargement [http://ec.europa.eu/enlargement/pdf/key\\_documents/2013/2012\\_ipa\\_annual\\_report\\_with\\_annex\\_new\\_en.pdf](http://ec.europa.eu/enlargement/pdf/key_documents/2013/2012_ipa_annual_report_with_annex_new_en.pdf)

remain until a later (but not defined) stage in the accession process where the respective DGs (REGIO and EMPL) will get involved.<sup>10</sup>

Whereas, at first sight, the point of replacing the five components (IPA I) with five quasi identical policy areas (IPA II) might not be obvious, this change has a clear-cut logic.

First of all, the distinction between candidate countries and potential candidate had no impact on the actual amount of funds being allocated to these countries.<sup>11</sup> Secondly, obtaining the status of a candidate country became, over time, less an indicator of the candidate's actual performance in fulfilling the accession benchmarks, but more a reward for political efforts (like Serbia engaging in a dialogue with Kosovo). Also, no connection could be made between the status of a candidate and the timeframe for accession,<sup>12</sup> given that the political will of the Member States had become the main factor in determining the speed at which a candidate could travel towards its final goal of EU membership. And thirdly, the distinction often somehow became blurred, as potential candidates were always able to finance projects that would fall thematically under IPA components III-V (like agriculture or social policy) under component I (institution building).

## ***2) New approaches to conferral of management to beneficiaries***

The main motivation for introducing the five components in 2006 was to prepare candidate countries for the disbursement of EU funds after their accession – quite a relevant task given that, after becoming a member, the amount of EU funds that a new Member State will have to manage is traditionally 5-10 times higher than that which a candidate receives in pre-accession funds. Funds available to EU Member States under the Union's Structural and Agriculture Policy are managed by the beneficiaries autonomously with minimal oversight by the Commission ('shared management'). Conferral of management powers and the management of pre-accession funds were seen as a 'test run' for candidate countries – in particular for the components III-V, which mirrored in their content and methodology the three biggest financial instruments of EU structural policy.<sup>13</sup> Therefore, access to these funds was limited only to countries which: a) had the status of a candidate country, thus being, in principle, closer to accession than the potential candidates; and b) had EU accredited management bodies that were considered competent and having the capacity to manage these funds without ex ante control by the Commission. As for the remaining components (I&II),

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<sup>10</sup> DG ELARG: IPA II Roadmap for planning and programming Ref. Ares(2013)65573 - 18/01/2013

<sup>11</sup> In 2013, the per capita rate of EU assistance to Kosovo (a potential candidate) was, at €36, three times higher than that of Turkey (a candidate country since 2005) with €12 per capita. These numbers were deducted from the IPA Revised Multiannual Indicative Financial Framework 2013  
[http://ec.europa.eu/enlargement/pdf/key\\_documents/2012/package/miff\\_adopted10-10-12\\_en.pdf](http://ec.europa.eu/enlargement/pdf/key_documents/2012/package/miff_adopted10-10-12_en.pdf)

<sup>12</sup> Croatia obtained the status of a candidate country in 2004, five years after Turkey. Macedonia obtained candidate status in 2005, but has not even started accession negotiations.

<sup>13</sup> These are: the European Regional Development Fund (ERDF), the European Social Fund (ESF) and the European Agricultural Fund for Regional Development (EAFRD).

decentralised management<sup>14</sup> was seen as an objective to be achieved, but not as a precondition.

The explanatory memorandum accompanying the 2011 draft of the new IPA regulation mentions a “*more progressive, phased approach*” to the management of financial assistance, with “*fewer processes for accreditation and conferral of management powers*” meant to substantially “*reduce the cost and burden of coordination incurred by “beneficiary countries”*”, with the creation of management structures and procedures being the aim in relevant sectors in preparation for accession.<sup>15</sup> These and other implementing provisions are not part of the IPA II regulation itself, but laid down in a common implementing regulation<sup>16</sup> common to all external instruments. The fact that not only accreditation criteria for candidate countries have been relaxed, but also that other implementing rules are harmonised with those applicable to developing countries, points to a clear break with the past: preparation of candidate countries for the financial management of EU structural funds after accession does not appear to be an immediate priority any longer.

### **3) The ‘sector approach’ and sector budget support**

The *sector approach* consists of clustering EU assistance around a reduced number of strategic sectors that are identified jointly by the EU and the beneficiary, with national sectoral strategies serving as main guidance for programming.<sup>17</sup>

Towards the end of the lifespan of IPA I, there was a growing awareness among the Commission and other stakeholders that the ‘classical’ way of implementing IPA through individual stand-alone projects covering a multitude of fragmented priorities was suboptimal, as it focused more on immediate deliverables or outputs<sup>18</sup> (i.e. having computerised case management system installed in courts) rather than on achieving policy objectives (i.e. better functioning of the justice system through the decrease of the backlog of court cases as *impact* of the case management system).

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<sup>14</sup> ‘Decentralised management’ is the EU’s terminology for the management of IPA funds by the beneficiary, following the accreditation of national management bodies by the Commission. This happens in two steps: whereas in the Decentralised Implementation System (DIS), ex ante approval is still required, the Extended Decentralised Implementation System (EDIS) foresees only ex post controls by the Commission.

<sup>15</sup> Proposal for a regulation on the Instrument for Pre-accession Assistance (IPA II) of 7.12.2011 COM(2011) 838 final

<sup>16</sup> Regulation (EU) No 236/2014 of 11 March 2014 laying down common rules and procedures for the implementation of the Union's instruments for financing external action

<sup>17</sup> The EC’s official definition of the sector approach is “*a way of working together between government, donors and other key stakeholders. It is a process aiming at broadening government and national ownership over public sector policy and resource allocation decisions within the sector, increasing the coherence between policy, spending and results, and reducing transaction costs.*” (EC, 2007) [http://ec.europa.eu/europeaid/how/delivering-aid/sector-approach/documents/europeaid\\_adm\\_guidelines\\_support\\_to\\_sector\\_prog\\_sep07\\_short\\_en.pdf](http://ec.europa.eu/europeaid/how/delivering-aid/sector-approach/documents/europeaid_adm_guidelines_support_to_sector_prog_sep07_short_en.pdf)

<sup>18</sup> DG Enlargement guidance document: “Sector Approach in Pre-Accession assistance”, 18/01/2013, Ref. Ares(2013)65573

In the late 1990s, when the accession perspective of the Central and Eastern European countries became more concrete, the Commission felt that it had to give stronger guidance to beneficiaries on the selection of EU-financed programmes and projects, in order to make the assistance more ‘acquis-driven’ rather than ‘demand driven’. Projects could be financed only if they matched a defined list of priorities established by the Commission in a number of strategic documents,<sup>19</sup> thus making sure that the more immediate pre-conditions for integrating the candidate countries into the EU were met, in particular with regards to the *acquis communautaire*, or the extensive body of EU laws and rules.

This often resulted in a ‘box-ticking approach’, where both beneficiaries and the Commission more or less mechanically worked through a catalogue of short- and mid-term priorities, matching individual projects with the identified priorities.<sup>20</sup> For beneficiaries, the challenge was sometimes more about the form (giving the right title to a project) than about the content (exact project design).<sup>21</sup> In the absence of overarching sectoral strategies, these roadmaps were stand-alone documents and not aligned per se with national strategic priorities.

The insufficient link to national policy documents was perceived as a major disadvantage, but there were few options given the failure of many governments to produce reliable strategies. Where national strategies did exist, they were often the work of international consultants, financed by the donor community and therefore not owned by the national authorities. Also, in many countries, e.g. as a result of a politicised civil service which would not survive a change in government and because of a high turnover of staff, national strategies sometimes had a rather short shelf-life. As a consequence, the EU policy papers often substituted for them, assuming that, as EU accession was generally seen as a national strategic priority by the beneficiaries, all measures linked to fulfilling the EU roadmap should automatically also be national strategic priorities.

Furthermore, as stand-alone projects often addressed specific problems, they were prepared by small groups of specialists within government institutions; this also contributed to poor institutional ownership because little attempt had been made to involve a broader community of experts and show the relevance of projects to national policy agendas.

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<sup>19</sup> These were in particular: The Multiannual Indicative Planning Documents (MIPD), the Accession partnerships (for candidate countries) and European Partnerships (for potential candidates)

<sup>20</sup> Given the sheer number of ‘priorities’ contained in these documents, this term is hardly adequate: the 2008 Accession partnership for Turkey contained 142 (!) short-term and 44 mid-term priorities.

<sup>21</sup> E.g. under the previous system, a project for supporting legal education could be rejected, as education as such might not figure among the EU’s priority list. The same project, submitted as a project for improving the functioning of justice institutions (and thus the Rule of Law) through supporting legal education would more or less automatically bring it to the top of the EU’s list of priorities.

## *Looking for alternatives*

As early as 2009, the Commission being aware of these shortcomings started looking for alternatives. A possible solution was found in the so-called *sector approach*, which had enjoyed growing popularity in EU development policy over the last decade.

Sector approaches became popular in development policy in the late 1990s. They were aimed at improving aid effectiveness, in particular with regards to the delivery of public services, in line with the 2005 Paris Declaration on Aid Effectiveness. The sector approach has been used in EU Development assistance since 2007.

Under the new regulation, the departure points are thus national sectoral strategies, established by the (potential) candidates. On the basis of these national strategies, and in cooperation with the partner countries, Country Strategy Papers (CSP),<sup>22</sup> are drawn up which outline the key areas where substantial improvements are necessary to prepare the country for membership. These documents are to “*define assistance-related targets, the approach to meet them as well as tools and indicators for measuring progression and achievements*”.<sup>23</sup>

As the priorities laid out in the CSP are not supposed to change over the years (unless the *acquis* itself changes); the annual programming (as was the case under component I of IPA) should be replaced, as much as possible, by multi-annual programming. The CSP, which will also include preliminary financial allocations per year itself, thus remains valid for the entire period up to 2020 (with only one mid-term review in 2017).

The benefits of the sector approach are obvious: a closer alignment between the EU and national strategies, and a higher degree of *ownership* of the beneficiary: in particular, the latter is seen to be crucial for reaching meaningful results that do not only achieve some specific outputs (such as strategies and laws drafted), but which would also have a real *impact* on the country (due to their general acceptance and appropriate application).

Another benefit of the sector approach is increased likelihood of donor coordination: in the past, donor coordination has often been a difficult issue, as international donors traditionally have a tendency to focus on high visibility and high impact projects. This often resulted in overlaps and frictional losses, especially in countries with a high donor concentration (such as post-conflict Kosovo). As all donors are – in principle – committed to the principles of aid efficiency and ownership, they are likely to direct their funding towards the sectoral strategies of the government, thus using the same reference documents as the EU and other donors. This greatly reduces the scope of overlap.

From a content point of view, assistance under the sector approach will also, in principle, be delivered through projects; however, instead of the prevailing stand-alone

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<sup>22</sup> CSPs are already used in the countries that fall under the EU’s Neighbourhood policy and the EU development policy.

<sup>23</sup> DG Enlargement guidance document: ‘Sector Approach in Pre-Accession assistance’, 18/01/2013, Ref. Ares(2013)65573



projects (which would still be possible, but only as a last resort), projects will be clustered within *Sector Support Programmes*, with a continuous *project pipeline* that shall ensure coherence and make sure that a project is embedded into the larger strategy. But projects will not be the only way of delivering IPA: the new regulation clearly mentions (sectoral) budget support as an alternative means of delivering assistance.

### ***Sector budget support***

Sector budget support – implemented through Sector Reform Contracts – has been widely used in development assistance since the 1990s. It essentially consists of transferring funds to the accounts of the beneficiary in exchange for the commitment to implement certain policies and to meet a number of benchmarks. The idea behind budget support was to increase both, the ownership of the beneficiary (who would have the responsibility for delivering assistance) and the efficiency of aid delivery, as funds would not be channelled through a multitude of projects, but instead contribute to the general efforts of the country in a certain sector; it basically serves to finance public investment. While donors may lose some influence over individual projects, they gain quite a bit more leverage over the overall policy direction. Sector budget support is therefore less suited for fine-tuning reforms in defined areas through targeted projects. It is, on the contrary, well adapted for financing relatively unsophisticated, but large-scale development efforts, such as building schools, and hospitals or paying teachers. For this reason, it has become an instrument of choice for delivering development aid. However, although it had been mentioned as an option in the 2006 regulation, it was generally considered as unsuitable for enlargement policy, due to the impossibility to fine-tune projects according to the perceived needs. Given the weaker control mechanisms, its use has also been resisted by Member States, with one exception: in the wake of the financial crisis, €100m was allocated to Serbia in 2009 in the form of general budget support (GBS) rather than – in the absence of the sector approach – sectoral budget support (SBS) which is more favoured by stakeholders.<sup>24</sup>

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<sup>24</sup> The EU toolbox uses two kinds of budget support mechanisms: general budget support (GBS) and sector budget support (SBS). The last one is based on sector reform programmes (SRP) which allows for a higher degree of control by donors.

## **Result-oriented link to the policy agenda?**

For the Commission, the main motivation for introducing the above-mentioned changes was the necessity for *“linking pre-accession assistance more closely to the priorities of enlargement policy”* and *“a more results-oriented and strategic approach targeting key reforms in the enlargement countries”*.<sup>25</sup>

But is the present regulation the right tool to achieve these objectives? From analysing the new features under IPA II, it appears that that IPA aligns itself with other external financial instruments, like the ENPI/ENI or the Development Cooperation Instrument (DCI), taking over not only their acronyms (CSP, etc.) but also their content and concepts (sector approach, budget support, etc.). This impression is confirmed by the fact that the implementing rules for all these instruments have been harmonised under a new common implementing regulation. Thus, given that IPA is losing most of its original features, can we conclude that pre-accession assistance is becoming a sort of glorified development assistance?

This assessment may be going too far: the *acquis* is still a prominent feature under IPA, and it is unlikely that sectors without any relevance to the *acquis* will find their way into the programming documents under IPA, as it is, for example, the case under the ENPI/ENI. Also, the decentralised management of funds by the beneficiary (after having received relevant EU accreditation) is still the general objective under IPA II.

However, the sectoral approach is a significant departure from the highly prescriptive processes and procedures developed by the Commission services for the implementation of IPA I in the period 2007-13. The general direction of IPA II moving away from a strictly enlargement-driven instrument towards a more general development instrument (with references to enlargement) is clear. The sector approach, originating in EU development policy, has been widely discussed within DG Enlargement since 2009 and applied since 2012. The rationales behind the sector approach (more coherence, more ownership) are uncontroversial and integral parts of the IPA discourse.<sup>26</sup> However, the principles of ‘coherence’ and ‘ownership’ are sometimes conflicting. Ownership reflects the degree of the beneficiary’s involvement and own interest; but this does not mean, that a project with high ownership is automatically coherent with other (sectoral) policies. A particular ministry might have a high interest in a given project, be very committed to reaching the results, and be putting a lot of resources into it – but sometimes for the wrong reasons, especially if the main motivation was to gain additional competences or prestige vis-à-vis other institutions. In the past, a pro-active institution that would promote a project in a ‘bottom-up’ way often had a good chance of getting its projects approved; the Delegations generally welcomed such expressions of initiative as a token of local ownership, especially in countries where central planning capacities were low.

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<sup>25</sup> European Commission 2012 annual report on Financial assistance for enlargement

<sup>26</sup> These principles have been referred to by one DG enlargement official as “IPA’s motherhood and apple-pie”

Or, the sector approach could lead to more top-down decision-making in the identification of projects, thus potentially weakening the ownership of the immediate beneficiaries, who might feel that a project is imposed on them from the outside.

The discrepancy between target-orientation and effectiveness on one side and 'ownership' by the beneficiary on the other is a well known phenomenon. Already at an earlier stage of the accession process, the Commission had adjusted the balance between these two poles: in the early days of IPA's predecessor – the Phare instrument – assistance was demand-driven, giving the beneficiaries the possibility to submit project proposals for what they perceived as the most urgent priorities. With the 'Agenda 2000' adopted in 1999, as the accession perspective of the countries of Central and Eastern Europe became more concrete, the Commission changed its approach and made assistance 'accession-driven' and thus more strategic – but at the same time risking the weakening of local ownership. Theoretically, all candidate countries were fully committed to fulfilling the accession criteria and the requirements of the *acquis*; however, in practice, many of these countries still perceived broader social issues (health, education, etc.) as more politically pressing than compliance with the EU. Some fields, like competition or environment, came with hefty price tags for the candidates. However, with accession within reach, the countries generally accepted these 'imposed' priorities as the price to be paid for their membership.

Through the sector approach, the EC tries to mitigate this ownership/strategy dilemma by letting the beneficiary country (rather than the Commission) set the strategic priorities. But is this realistic? The need to focus on national sectoral strategies as guidance for programming can be easily understood; but it is questionable whether the beneficiary countries are sufficiently prepared for this. The reason for neglecting national strategies in the past was not out of bad will or disdain, but due to the incapability of beneficiaries to produce meaningful documents. The present system will, without doubt, put more pressure on beneficiaries to produce such documents.

This approach might work in countries with a well-developed planning system, strong institutions and a civil service that is not overly politicised, and where such strategies are developed jointly by all relevant stakeholders. In this case, the ownership of such strategies will reach across the institutions involved and beyond the following elections. But some of the (often smaller) potential candidates do not have the necessary resources or political coherence to elaborate such strategies. In these cases, strategies are sometimes borne out of the insistence of international donors (who are also among the principle consumers of such strategies) and bear the handwriting of international consultants: pleasant to read for the donors, but with little impact within the country itself.<sup>27</sup> On the other hand, if such strategies are the pure product of national politicians, there is a high possibility that broader development issues with a more concrete impact – but less relevant to the *acquis* – might figure more prominently. Finally, the potential use of (sectoral) budget support in the new regulation confirms the intention of the Commission to shift the logic of IPA from preparing for accession to more general socio-economic development issues.

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<sup>27</sup> In purely quantitative terms, some countries are doing well: Serbia has adopted a total of 106(!) sectoral strategies. But the relevance and impact of at least some of these documents (some have been drafted by outsiders and with donor money) could be questioned.

One of the lessons learned – in particular after the 2007 enlargement – was that insufficient preparation of candidate countries for the management of the EU structural and cohesion funds after accession would have severe impacts on the ability of the country to cope with the obligations and challenges of EU membership. This would, in principle, prompt the need to sharpen, and not to relax, the criteria for accreditation. However, on this issue the new regulation also goes in a different direction, by relaxing the criteria for the accreditation of management bodies and by allowing for greater flexibility. Given the failure of some existing member countries to absorb these funds, is relaxing the criteria for accreditation the right signal to (potential) candidates?

In total, the principle of increased flexibility appears to be a mixed blessing, as it provides an ‘easy way out’ for beneficiaries who fail to deliver on their own commitments within a set timeframe<sup>28</sup>.

### ***IPA II: and the winner is... realpolitik***

So why did the Commission, as a strong promoter of the enlargement process, come up with these proposals which will alleviate pressure from the (potential) candidates to deliver on compliance with the *acquis*? The answer is: pragmatism.

The message generally conveyed by the Commission to the (potential) candidates is that the speed of their accession process depends mainly on their state of preparation in fulfilling the conditions set by the EU. The EU’s 2013 enlargement strategy states that progress towards membership “*depends on the steps taken by each country to meet the established criteria, based on the principle of own merits*”.<sup>29</sup> The criteria in question were defined by the Copenhagen Summit in 1993 (the Copenhagen criteria) and further broken down in the 35 negotiation chapters. At the country level, these chapters were further divided into a catalogue of short-term and mid-term criteria to be implemented.<sup>30</sup>

But whereas the Commission has a tendency to perceive enlargement as a procedure, in which accession would be the logical outcome of the efforts of the candidates to comply with a given set of conditionalities, it is in fact a policy, where the Member States are firmly in the driver’s seat, with domestic political concerns being the main driving force.

In fact, over the last decade, the balance between the Commission and Council has gradually shifted towards the Council and the Member States, which have constantly reaffirmed their control over the enlargement process and instrumentalised enlargement for political gains, thus raising new legal and political hurdles, which creates an atmosphere of unpredictability.<sup>31</sup>

This even stronger political control of the Member States has also been acknowledged in the new regulation: whereas, in its previous version, the policy framework for assistance had been shaped by the Commission, the 2014 regulation clearly puts the Council in the

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<sup>28</sup> The 2014 common implementing regulation extended disbursement periods from 3 to 5 years (N+5)

<sup>29</sup> European Commission, Enlargement Strategy and Main Challenges 2013-2014, COM(2013) 700 final

<sup>30</sup> These are the ‘Accession Partnerships’ for the candidate countries and ‘European Partnerships’ for potential candidates.

<sup>31</sup> Christopher Hillion, ‘The Creeping Nationalisation of EU Enlargement Policy’, SIEPS 2010:6

driving seat, with an obligation only to take into “due account” the Commissions' Enlargement strategy.<sup>32</sup>

From the point of view of most of the Member States, enlargement has never been a popular enterprise anyway. With taxpayers baulking at the cost of integrating new Member States with lower living standards, and the perspective of increased migration and competition, enlargement was seen as a threat rather than an opportunity. The reason for considering the Western Balkans and Turkey as candidates was above all geopolitical (preventing Turkey from turning eastwards) and functional (stopping the conflicts in the Western Balkans). Popular, they were not. After 2008, the financial crisis reshuffled the priorities: internal problems like saving the Euro and preventing recession became more important than promoting its norms and values abroad or thinking about the EU's global role. Commitment towards the enlargement process thus came close to zero.

If enlargement was about meeting conditionalities alone, Turkey could have closed all negotiation chapters and become a member of the EU some time ago. However, given the reluctance of a majority of EU citizens that is reflected in the attitudes of their political leaders, the accession process with Turkey had been put on the backburner by the EU – it was only in late 2013, after more than three years, that another chapter of accession negotiations was opened. The political blockages imposed by EU Member States (in particular Cyprus and France) created a vicious circle: realising that it was not being treated according to its own merits, but that it had become instrumentalised in Member States' internal political debates, Turkey relaxed its efforts to comply with EU standards, since the final objective – accession – had fallen out of reach.

Also, for Macedonia/FYROM, the enlargement agenda has been taken hostage by a bilateral dispute with Greece over the name issue. For this reason, and although the Commission recommended in 2013 for the fifth year in a row opening accession negotiations with Skopje, the enlargement perspective has withered away. As a result, the government has not only relaxed its EU agenda – instead, it intensified its dangerous flirtation with nationalistic values of the past (as expressed with the bombastic kitsch project ‘Skopje 2020’), thus alienating its Albanian national minority and exacerbating the long-running hostility with Greece.

For similar reasons, Kosovo's progress towards the EU had been frozen – in spite of its efforts that were even acknowledged in a string of EC progress reports – over a period of ten years. It was only in early 2013, 10 years after Kosovo was considered a ‘potential candidate’ that the EU decided to *consider* the option of negotiating an SAA. The reason for this extended delay was not Kosovo's lack of preparedness alone – it was before all the difficulties Member States had to consider prior to entering into contractual relations with a state that is not recognised by all its members.<sup>33</sup> For Serbia, the granting of candidate country status could also be seen as a political bargaining chip

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<sup>32</sup> Whereas art. 4 of the 2006 regulation mentions the European and Accession Partnerships (which are drafted by the Commission and later endorsed by the Council) as main reference documents, the 2014 regulation (art.4) only mentions the “enlargement policy framework defined by the European Council and the Council (...)”, thus sharply reducing the room of the Commission for shaping enlargement policy)

<sup>33</sup> Kosovo is recognised as a state by only 23 out of the 28 Member States. The five ‘refusniks’ (Spain, Greece, Romania, Slovakia and Cyprus) have, until 2013, held up every formal step allowing Kosovo to get closer to the EU.

(to reward it for entering into dialogue with Kosovo) rather than recognition of efforts in meeting the accession conditionalities.<sup>34</sup>

Other countries, like Bosnia and Albania, increasingly feel that the accession prospects are too distant to justify extraordinary efforts. As a reaction, the EU's normative power, or the power to nudge countries towards wide-reaching reforms through the promise of eventually being able to join the Union, has weakened.

### ***The translation of political realities into the IPA instrument***

It is against this background that the Commission presented, in 2011, the draft IPA II regulation. Due to the general political climate, the Commission considered that, after the accession of Croatia in 2013, it seemed politically quite unrealistic that any new accessions could take place between 2014 and 2020. So the new regulation should reflect this extended timeframe.

The focus of pre-accession assistance changes the further a candidate advances on its path towards accession: the conferral of the status of a candidate country is, in principle, an implicit recognition that its overall policy stance and political governance is on track. Thus, rather than focusing – like in the early days of the accession process – on more general issues such as good governance or the rule of law, the more technical aspects relating directly to the EU acquis will get to the top of the list of priorities: regulatory issues, data and consumer protection legislation, state aid and competition rules have to be fully aligned with. To help countries to fulfil these technically- and resource-demanding tasks, the EU has financed a sophisticated tool-box, like the Twinning instrument or technical assistance projects implemented by technical consultants and financed under IPA. Through these projects, the Commission can, together with the beneficiaries, ‘fine-tune’ the measures that are necessary for acquis compliance (such as legislation, structures and technical capacities). Often, acquis compliance can come at a relatively high price for the beneficiary: waste landfills need to be closed; polluting industries must be upgraded to fulfil environmental norms, and institutions have to be created to monitor the compliance with data protection rules. Also, all national, regional and local tenders above a certain threshold have to be opened to competitors from outside the EU, thus potentially threatening the existence of non-competitive national industries. For these reasons, candidates will often be ready to take the plunge only at the very last minute before accession.

Should a candidate country come to the conclusion that it is not their own efforts that determine the accession process, but that future progress instead hinges on political considerations in the Member States, the country might be tempted to put the reform process on the backburner and rather concentrate efforts on areas that are more palpable to the average citizen, like social policies, health or the education sector. In the end, for the (potential) candidates it boils down to a cost-benefit analysis: fulfilling some parts of the acquis – such as opening its national public procurement markets to EU enterprises or complying with the strict norms of the environmental acquis – often comes at a huge price for the country. So is it worth implementing painful, expensive

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<sup>34</sup> . ‘Cooperating constructively on matters relating to Kosovo’ is one out of 175 priorities of Serbia’s accession roadmap (the 2008 European Partnership).

and/or unpopular reforms if the final objective of EU membership cannot in any case be realistically reached?

With lack of ownership of the beneficiaries, spending important funds for technical acquis-related projects that are not backed by the political will of the local administration therefore appears to bear poor value for money. The principle of ‘local ownership’, or the fact that projects are rooted in the own political will of the beneficiaries (rather than being imposed by the EU) has always taken a central position in IPA funding and the Commission routinely insisted that the beneficiary’s administrations take an active part in the identification process for new projects. The principle of ‘sector-based approach’ consists of taking national development plans – rather than the EU strategic documents – as a template for programming EU assistance. As the national strategic plans are more likely to reflect the ‘real priorities’ of the country than the EU country and regional strategy papers, this approach is likely to result in projects that enjoy a higher degree of ownership than the projects that are based on the EU priorities. However, they are also less likely to focus on the final objective – EU accession.

### ***Conclusion:***

The IPA II regulation is a textbook example of how to discretely translate the political will of the Member States into an EU legal document that will be a cornerstone of EU enlargement policy over the next seven years – without raising much controversy in a field, which, politically, is still highly controversial. It has formalised an approach that has been introduced gradually over the last years into pre-accession assistance, which consists of giving more responsibility to the (potential) candidates; thus diluting the focus on accession, as most of these countries will be tempted to put the focus on general issues of socio-economic development and good governance, rather than attacking the often complicated and less obvious technical requirements of the EU acquis. In short term, this serves both the beneficiaries and the Member States: both will be able to concentrate on more stringent political priorities that will have a more direct impact on their constituencies – the former with the satisfaction that the enlargement process is, formally, still on track; the latter with the certitude that an unpopular and controversial policy will stay on the backburner and not re-emerge on the political agenda before 2020. In the medium and long term, this might be detrimental to the stability in the Western Balkans and in Turkey: given that the perspective to join in the medium term has dwindled away, some of these countries have started relaxing their efforts to “Europeanise”.

In the current political climate, the scope for alternative approaches has been limited. In the absence of realistic alternatives, keeping the focus of IPA II on acquis compliance would have been an expensive illusion, causing frustration on all sides. However, this approach should be considered as a necessary and temporary breathing space, giving all sides time for strategic reflection. If the successor of IPA II (during the period 2021-2027) were to stick to the same approach, this would be a clear indicator that any further hopes of enlarging the EU would definitively be dropped – and that the story of the EU’s most successful foreign policy ever would come to an end.