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Away with the enlargement bogeyman

Reforming the EU Enlargement Policy for a prompter acceptance of the Western Balkans

The enlargement of the European Union to the Western Balkans is still an uncertainty, fifteen years after the countries of the region were promised a European perspective at the 2003 Thessaloniki Summit. In early 2018, a credible European perspective was reiterated for the six countries. However, the countries are still far from ready for membership and the EU is not coherent in its resolve to let them in, in spite of the many geo-strategic, political, economic and security arguments in favour of their more immediate membership. A number of them were recognised by the European Commission in its latest enlargement strategy for the region. Moreover, further enlargement to the Balkans seems to be an undesirable development for a large part of EU citizens, which may be a cause for lingering hesitation by the political leaderships of several member states. At the same time, the protracted EU association and accession process risks disappointing and alienating the citizens of the Balkan countries from idea of integration and reducing the political elites' incentives to comply with increasingly rigorous membership conditionalities. Is there a way to reconcile all these challenges and secure the region's accession in the foreseeable future, thus consolidating its European inclination, including a clear commitment to the EU's democratic values, peace and stability? This discussion paper argues that the answer to this question lies in reinventing the EU's approach to enlargement by integrating a post-accession conditionality mechanism which would ensure that these countries' governments are kept in check in a credible manner after they become EU members. The author discusses potential points of criticism that this proposal might encounter and offers a way forward for its design and implementation.

From no perspective to a credible perspective

After Croatia's accession in 2013 and until early 2018, the EU's enlargement policy towards the Western Balkans seemed "to be running on autopilot",¹ with a clear message conveyed towards the six countries that in this period the Union would not take in new members. Whereas individual countries did make progress on their accession tracks and two aspirants - that is, Montenegro and Serbia - even opened accession negotiations, between 2003 and 2018 there were no summits of heads of states and governments of all EU member states (EU-28) and the six Western Balkan

countries (WB-6). Considering that the 2003 Thessaloniki Summit not only offered "unequivocal support to the European perspective" of the region, but also spoke of preparation for ultimate membership for these countries and announced periodical summits of heads of states and governments,² the lack of follow-up summits in this period did point to reduced high level political support to see this promise through.

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Perhaps in search of new positive integration narratives in the aftermath of the Brexit referendum,³ in September 2017 President of the Commission Juncker announced a renewed focus on the Western Balkan enlargement, a promise which he saw through in February 2018 with the publication of the Commission's new enlargement strategy offering a "credible enlargement perspective" to the Balkan aspirants.⁴ Then, in May 2018, the first summit between the EU-28 and the WB-6 in 15 years took place and – despite much controversy regarding the level of ambition of the summit conclusions⁵ – it yielded a concrete "Sofia Priority Agenda" with a list of measures to beef up the region's ties and participation in specified EU policies.

1. Rosa Balfour and Corina Stratulat (eds.), "EU member states and enlargement towards the Balkans," European Policy Centre, Brussels, July 2015, available at: http://aei.pitt.edu/66050/1/pub_5832_eu_member_states_and_enlargement_towards_the_balkans.pdf, last accessed: 20 May 2018, p. xiii.
2. Declaration, EU – Western Balkans Summit, Thessaloniki, June 2003, available at: http://europa.eu/rapid/press-release_PRES-03-163_en.htm, last accessed on 28 May 2018.
3. Milena Lazarević and Sena Marić, "Brexit or Not? What Consequences for the Enlargement Policy?" European Policy Centre – CEP, Belgrade, July 2016, available at: <https://bit.ly/2sNTXUC>, last accessed on 21 May 2018.
4. European Commission, A credible enlargement perspective for and enhanced EU engagement with the Western Balkans, available at: <https://bit.ly/2EJ82Y0>, last accessed: 21 May 2018.
5. See, for example: European Western Balkans. Sofia Summit: The case for optimism or disappointment?, available at: <https://bit.ly/2sUqg39>, last accessed 27 May 2018.



The developments since the beginning of 2018 have resulted in a new “buzz” related to the Western Balkan EU enlargement, contributing to an impression that the region is back on the Union’s agenda.

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However, both the Commission’s strategy and the seemingly most enlargement-sceptical EU leader Emmanuel Macron in his summit statement effectively linked internal reform of the Union to further enlargement by emphasising that the former needs to take place first. Yet, neither has made it explicit if they were referring to a treaty change or a consolidation within the current treaty framework. Clearly, reform and consolidation in the current treaty framework may just be a goal within reach, and very concrete proposals have been presented in that regard.⁶ On the other hand, the present “dogma of realism,” in which member states and citizens want the EU to deliver without readiness for major institutional reform, makes treaty reform seem like a highly unrealistic option at the moment.⁷ Therefore, conditioning further enlargement on such a comprehensive EU reform might delay the WB enlargement for years to come.

Conditioning further enlargement on a comprehensive EU reform including treaty reform might delay the WB enlargement for years to come.

Balkan enlargement – a necessity for both sides

Some of the most persuasive reasons for the EU to admit the remaining Balkan aspirants are laid out in the aforementioned Commission’s strategy, which starts by pointing out the obvious – that the WB “are part of Europe, geographically surrounded by EU member states,” their “common heritage and history” and that theirs is “a future defined by shared opportunities and challenges.”⁸ The strategy goes on to explain that the Western Balkan’s entry into the EU is in the Union’s own interest, from a political, economic and security perspective, as it would lead to a united Europe based on common values. Despite not providing strong arguments and data to support these claims, the Commission argues that a European future is the only option for the rest of the Balkans.

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- 6. Most notably: European Commission, White paper on the future of Europe: Five scenarios, March 2017, available at: <https://bit.ly/2l24o2u>, last accessed 21 May 2018; and Janis A. Emmanouilidis, “Re-energising Europe: A package deal for the EU27 - Third NPE Report,” King Baudouin Foundation, the Bertelsmann Stiftung, Open Society Initiative for Europe, and the European Policy Centre, November 2017, available at: <https://bit.ly/2zXoROE>, last accessed on 21 May 2018.
 - 7. “Re-energising Europe: A package deal for the EU27,” p. 46.
 - 8. “A credible enlargement perspective,” op cit.

Some arguments seem to be in the background of the Commission's thinking. For example, the "stability" and "security" cards allude to the idea that without the entire Balkan region, the EU remains an unfinished peace project. Despite efforts to improve regional relations, sparks of tension still emerge between these countries. Historically, the European integration process has served as a key driver for securing peace and collaboration between the once war-torn European societies. The logic is that the Balkans need to be inside of the Union to finally cement peace in the region. Security-wise, the argument is that the fight against organised crime and terrorism will also be aided if the Balkan countries are all fully integrated into the EU's justice and home affairs policies.

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Finally, a more controversial argument in favour of accepting the region is related to the increasing presence and influence of other geo-strategic actors, which are "filling in the void" left by the lack of strong European engagement in the Western Balkans. A recently published brief of the European Commission's think tank provides concrete evidence of the growing political and economic influence of Russia, Turkey, China and the United Arab Emirates in the different WB countries,⁹ which can in the longer term be detrimental to the region's political commitment to the EU. There are increasing calls for the EU to "wake up to the new geopolitical realities," if it wishes for its strategy for the region to succeed.¹⁰ One may even argue that the EU should finally put its foot down and "claim its territory" in a manner of speaking, making it unequivocally clear that the Western Balkans belong to Europe and no one else.

Turning to the question of why EU accession is a necessity for the region, the same arguments which are valid for the EU – stability, security and economy (the last being a much more persuasive case for the WB side) – are equally pertinent for the Western Balkan countries. The Commission also enumerates the benefits for the region, ranging from promotion of democracy and the rule of law, to security, prosperity, stability and social well-being. The EU accession process has been the driving force of reforms in these countries. Over the years, EU conditionality has brought about numerous improvements in the democratic governance and rule of law structures, improvement of the economic governance processes as well as ambitious reform agendas for public administration. In parallel, in the framework of the Stabilisation and Association Agreements between each

of the six countries and the EU, the work on the harmonisation of national legislation with the EU *acquis communautaire* has progressed, gradually introducing higher standards in the economic and other policy areas. The Commission's regular annual country reports have served as important signposts for furthering EU compliant reforms.

Signs of slowdowns of reforms in the rule of law area and the erosion of democratic institutions in recent years may be interpreted as a call for more determined action on the enlargement front by the EU, with the idea of ensuring avoidance of the "Turkish scenario" in which "all sides pretend that accession is continuing, but for all intents and purposes it has stopped."¹¹ The prolonged accession process, in which the target keeps appearing farther and farther away as time goes by and where membership is not the explicit outcome arguably contributes to falling support for integration both in the aspirant countries' publics and among the political elites. It has been argued that "the absence of a clear 'reward', however, may hinder the emergence of a sustainable reform impetus in the region and seriously damage the EU's ability to guide more countries [...] into the European mainstream."¹²

Signs of slowdowns of reforms in the rule of law area and the erosion of democratic institutions in recent years may be interpreted as a call for more determined action on the enlargement front by the EU, with the idea of ensuring avoidance of the "Turkish scenario".

9. European Political Strategy Centre, "Engaging with the Western Balkans: An Investment in Europe's Security," May 2018, available at: <https://bit.ly/2xUTQLM>, last accessed on 28 May 2018, p. 3.
10. Ivan Krastev, "Europe is facing a potential crisis in the Balkans. It has to act soon," The Guardian, February 2018, available at: <https://bit.ly/2FkNDJa>, last accessed on 28 May 2018.
11. Balkans in Europe Policy Advisory Group, "The Unfulfilled Promise: Completing the Balkan Enlargement," European Fund for the Balkans, Policy Paper, May 2014, available at: <https://bit.ly/2JyeUGM>, last accessed on 28 May 2018, p. 12.
12. Dimitris Papadimitriou and Eli Gateva, "Between Enlargement-led Europeanisation and Balkan Exceptionalism: an appraisal of Bulgaria's and Romania's entry into the European Union," Hellenic Observatory Papers on Greece and Southeast Europe, April 2009, available at: <http://eprints.lse.ac.uk/24197/>, last accessed on 30 June 2018, p. 24.
13. "European Commission, Europeans' views on the priorities of the European Union, Standard Eurobarometer 88, November 2017, available at: <https://bit.ly/2fmP1Cx>, last accessed on 21 May 2018, p. 4.

Enlargement as a bogeyman

Following the “big bang” enlargement of the EU in 2004 and the two subsequent expansions in 2007 and 2013, the media and literature have increasingly referred to the phenomenon of “enlargement fatigue,” implying the growing reluctance of the EU to accept new members. Enlargement has become quite unpopular with EU member states’ publics, with only a minority of EU citizens supporting the idea of accepting new members (currently an average of 42% in favour).¹³

Although attitudes are more negative today, it is worth noting that public opinion was also negative towards the EU’s enlargement to Central and Eastern European countries in the ‘90s and early 2000s. What may be different today is that mainstream political elites in the EU are more sensitive to the anti-integrationist discourses of populist political forces, making them more reluctant to push for unpopular political decisions.

The opponents of further EU expansion have successfully shifted the focus of the enlargement discourse to the EU’s capacity to absorb new members.¹⁴ This condition was mentioned already in the Copenhagen European Council conclusions in 1993, but never really invoked in earlier enlargements. Moreover, the evident backsliding in the rule of law area in some of the “new” member states has raised suspicions over the durability of reforms conducted pre-accession, and the capacity of the EU to induce further progress in sensitive areas like democracy, human rights and rule of law, post-accession. At the same time, the EU treaty framework has not reformed in a way which would ensure efficient and enforceable mechanisms for conditioning and eventually sanctioning member states which fail to comply with the basic principles of democracy, rule of law, and fundamental rights laid out in Article 2 of the Treaty on the European Union.¹⁵

Seen from this perspective, the Western Balkan countries may seem even more frightening to Western European publics, considering the slow pace of reforms in several countries of the region, with evidenced backsliding on democratic standards.¹⁶ Moreover, the region still enjoys a largely negative public image in Western European member states, linked to the wars of the

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‘90s and reports on organised crime groups from the Balkans active in the EU.

At the same time, although attitudes are more negative today, it is worth noting that public opinion was also negative towards the EU’s enlargement to Central and Eastern European countries in the ‘90s and early 2000s, “[e]ven in Member States, where the government was among the strongest supporters of enlargement, such as Germany or Austria.”¹⁷ This means that political elites were prepared to drive the enlargement agenda despite opposition at home. What may be different today is that mainstream political elites in the EU are more sensitive to the anti-integrationist discourses of populist political forces, making them more reluctant to push for unpopular political decisions. A recent example of this trend is the failure of the General Affairs Council of the EU to agree to open accession talks with Albania and Macedonia because of opposition by three member states. The evident progress

14. Ulrich Sedelmaier, “Europe after the Eastern Enlargement of the European Union: 2004-2014,” Heinrich Boll Stiftung, June 2014, available at: <https://bit.ly/2sU5KzO>, last accessed on 21 May 2018, p. 6.

15. See, for example: Petra Bárd, Sergio Carrera, Elspeth Guild and Dimitry Kochenov, “An EU mechanism on Democracy, the Rule of Law and Fundamental Rights An EU mechanism on Democracy, the Rule of Law and Fundamental Rights”, Centre for European Policy Studies, No. 91, April 2016, available at: <https://bit.ly/2Kclg4E>, or Dimitry Kochenov and Laurent Pech, “Upholding the Rule of Law in the EU: On the Commission’s ‘Pre-Article 7 Procedure’ as a Timid Step in the Right Direction,” Fondation Robert Schuman, May 2015, available at: <https://bit.ly/2JWUZlw>, both last accessed on 28 May 2018.

16. See: Balkans for Europe Policy Advisory Group, “The Crisis of Democracy in the Western Balkans. Authoritarianism and EU Stabilitocracy,” March 2017, available at: <https://bit.ly/2xXHGBT>, last accessed on 21 May 2018.

17. “Sedelmaier, op. cit. p. 5

18. Albania has been commended for its bold reform of the judiciary, whereas the Macedonian government accepted to change the country’s name, paving the way for a historical solution of its dispute with Greece.

of these two countries (whose governments are in dire need of encouragement from the EU for the difficult reforms they are undertaking)¹⁸ was not sufficient to trigger this benign demonstration of support, which belies no imminent intention to finish the initiated negotiations. As a result, the final decision on the start of their negotiations was effectively postponed to June 2019.¹⁹

Away with bogeyman – towards a new enlargement approach

What seems to be needed, when considering the needs and constraints of the Western Balkan countries' accession processes, is a rethinking of the EU's enlargement policy. A new approach is needed to help eliminate the policy's intimidating appearance for EU member states and give political elites ammunition to mitigate the resistance of their own national publics. At the same time, this new enlargement policy should continue to insist on and support fundamental reforms as before, but with a better understanding of realities on the ground and of the need for much stronger and more imminent incentives for reforms.

The EU enlargement policy has not been one and the same since its beginning; it has changed and adapted as the EU has learned more about the difficulties and challenges of state-building, democracy and rule of law, and as it has realised that such reforms take time to be proven and become deeply embedded and irreversible. Therefore, with a bit of "outside-of-the-box" thinking, this policy could be redesigned to help move towards acceptance of new members in a shorter timeframe than the one suggested by the current approach.

At present, the enlargement policy is designed to require full compliance with all criteria before the moment of accession, except for very specific transitional periods in individual areas of EU law, which are agreed upon during accession negotiations

(for example, enforcement of the costly environmental standards). At the same time, conditions for entry have been continuously refined and made more specific and consequently more rigorous.

Not only has the extent and complexity of the EU acquis grown immensely, but the more abstruse criteria related to the functioning of the democratic institutions and economic competitiveness have been repeatedly clarified and broken down into multiple specific requirements. Furthermore, compliance is no longer assessed based mainly on legislative improvements, but through insistence on proof of a track record in the enforcement of legislation. In a way, the bar for achieving membership has been effectively raised as part of the learning curve of the enlargement policy.

There seems to be a clear necessity to redefine the enlargement policy in a way which is going to help achieve enlargement in the more immediate future.

19. For a discussion of the possible repercussions of this Council decision, see: Corina Stratulat, "Enlargement to the Balkans: Playing hardball or playing with fire?" European Policy Centre, June 2018, available at: <https://bit.ly/2N4AQy0>, last accessed on 30 June 2018.

20. The European Commission uses rather strong language to describe the state of play in the countries' democracies and economies, including describing "elements of state capture" and "uncompetitive... underdeveloped private sector". See: "A credible enlargement perspective for and enhanced EU engagement with the Western Balkans," European Commission, op. cit. p. 3.



To do away with this “bogeyman,” one solution could be to render the point of accession less formidable. Instead of immediately gaining access to almost all EU policies, access to specific benefits of membership could be made more gradual and conditional with the achievement of certain reform benchmarks.

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Another possibility is to design a tailor-made sanctioning mechanism, which would allow the EU to punish evidenced lack of progress and backsliding through an easily enforceable procedure. The most effective solution would be to combine the two, thus achieving a “carrot and stick effect,” in which countries are both incentivised to achieve progress and deterred from reneging on their promises. The entire scheme should be based on a comprehensive monitoring and reporting mechanism, which would be implemented by the European Commission. The individual elements of the proposed approach are discussed below.

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Gradual access to EU policies

At present, new EU entrants gain access to all policy areas under EU competence on the day of their accession, except for those policies for which exceptions are stipulated in the general treaty framework, such as the European Monetary Union and the Schengen Agreement. Access to these policies is obligatory for all entrants, but it requires them to demonstrate fulfilment of additional criteria, beyond those stipulated for membership in the Union. This concept demonstrates that the idea of gradual access to EU policies is not unthinkable, and offers a point of departure for discussing its extension in order to induce further EU enlargement more promptly than suggested in current political discourse.

In a revised enlargement policy, the range of policy areas and rights for which access would be delayed beyond the entry point could be extended. In addition to Schengen and Eurozone membership, one may particularly think of the policy on the freedom of movement of workers as one of the chief menaces of enlargement for EU citizens and their political

leaders. Whereas limiting free movement of labour from incoming EU members can help mitigate one of the main causes of opposition to enlargement, such a de facto ban on additional emigration from the region could prove as beneficial for these countries’ economies, too, at least in the short run. Yet, the number of thus restricted policy areas should not be too large (for example, three to four areas) and policies which are detrimental to new members’ development and economic growth should be excluded from consideration.

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A multi-tier sanctioning mechanism

The revised enlargement approach should also entail a palette of possible sanctions in case of breach of the agreed conditions of accession, that is, failure to meet or backsliding against the benchmarks. To make the proposal credible, a key to such a sanctioning mechanism would be simplicity of enforcement, which would essentially mean that it should not depend on unanimous voting by member states. A legal solution would need to be designed and eventually inserted in the countries’ accession treaties.

The mechanism should be tied to the fundamental membership criteria – particularly rule of law, economic governance and public administration reform – which are even now recognised as the key pillars of EU accession reforms. It could entail several levels, starting from softer, warning measures, such as enhanced oversight and issuing warning reports, to medium measures, such as the freezing of parts of funding within the European structural and investment (ESI) funds, to the most severe ones, such as the suspension of voting rights in the Council of the EU or even the European Council. The severity of the measures imposed would certainly depend on the gravity of breaches of agreed commitments, with warning mechanisms related to findings of lack of progress and more severe measures attached to reform backsliding.

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A credible monitoring and reporting mechanism

As mentioned above, a credible system for monitoring and reporting on the state of affairs in new member states would be the backbone of an entire new policy. For either the aspirant countries or the member states to have faith in its workings, all would need to trust the analyses and findings based on which decisions would be made.

In search of ideas for such a mechanism, it is worth looking at existing precedents. An informative case is found in the Cooperation and Verification Mechanism (CVM) for Bulgaria and Romania.²¹ The CVM was introduced for these two countries in consideration of their weaknesses in specific rule of law areas at the time when the decision on their accession was being made. In essence, the CVM introduced post-accession oversight of a kind unavailable under the framework of the EU founding treaties, such as regular monitoring of rule of law reforms by the Commission and reporting in the Council on the achievement of agreed benchmarks. Whereas member states are not subject to similar scrutiny by the Commission and their peers under the general EU treaty framework, specifying these provisions in the accession treaty of an acceding country makes them a more specific legal rule which takes precedence.

The CVM has, over the years, come under much scrutiny and criticism, which the proposal made in this paper has duly considered and addressed. It is important to emphasise, however, that the CVM was not envisaged as a mechanism with sanctioning provisions of the kind proposed here: the instrument for Bulgaria and Romania entailed limited-term safeguard clauses and was at times linked to consequences in case of non-compliance, such as the freezing of funds and the political decision by certain member states to de facto link it to Schengen membership. It is precisely this lack of “serious explicit threats” coming from “remedial and preventive sanctions” that has earned the system most criticism,²² with

claims that it has not effectuated the irreversible reforms which were its main objective. Overall, it has been argued that “the limited penalizing power of the sanctions within the CVM framework produces a weak negative incentive structure which diminishes the effectiveness of post-accession conditionality.”²³

Moreover, the lack of “accession advancement rewards” is identified as another weakness of CVM.²⁴ Essentially, once a country becomes a member, there are fewer incentives to pursue defined benchmarks. Post-accession, the rewards essentially come down to access to funding, which makes for much weaker motivation than the prospect of achieving membership. The combination of the idea of gradual access to EU policies and a multi-tier sanctioning mechanism that this paper proposes promises to neutralise both these deficiencies of the CVM for Bulgaria and Romania.

Despite its shortcomings, it is worth noting that, according to the most recent 2017 Flash Eurobarometer findings on the CVM, 72% in Romania and 70% citizens in Bulgaria agree that the EU should have a role in tackling rule of law issues covered under the CVM. Also, the majority of citizens in both countries assess the EU’s impact through the CVM as positive. Finally, large majorities (72% in Bulgaria and 69% in Romania) also believe that the CVM should continue until their countries meet the EU standards.²⁵

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21. European Commission, Cooperation and Verification Mechanism for Bulgaria and Romania, available at: <https://bit.ly/2LEeWkC>, last accessed on 29 May 2018.

22. Eli Gateva, “Post-accession conditionality – translating benchmarks into political pressure?” East European Politics, Volume 29, Issue 4, 2013, available at: <https://bit.ly/2KzYluU>, last accessed on 29 May 2018, p. 441–2.

23. Eli Gateva, as cited in Linka Toneva-Metodieva, “Beyond the Carrots and Sticks Paradigm: Rethinking the Cooperation and Verification Mechanism Experience of Bulgaria and Romania,” Perspectives on European Politics and Society, 2014, Vol. 15, No. 4, 534–551, Routledge, available at: <https://bit.ly/2IHZlBs>, last accessed on 29 May 2018, p. 538.

24. Eli Gateva, op.cit, p. 435.19. For a discussion of the possible repercussions of this Council decision, see: Corina Stratulat, “Enlargement to the Balkans: Playing hardball or playing with fire?” European Policy Centre, June 2018, available at: <https://bit.ly/2N4AQy0>, last accessed on 30 June 2018.

25. Flash Eurobarometer 445: The Cooperation and Verification Mechanism for Bulgaria and Romania – third wave, January 2017, available at: <https://bit.ly/2IF2mPI>, last accessed on 20 June 2018.

These figures suggest that the domestic public in monitored states can indeed accept and perceive such mechanisms as being in their own interest and as a positive for their countries, which is an important consideration when deciding on the introduction of such or similar mechanisms in the future.

Support system

Finally, the mechanism of the new enlargement policy should – similarly to the CVM for Bulgaria and Romania – be complemented by a set of support measures specifically designed for the fulfilment of the benchmarks. The assistance package should rely on expert peer support from member states and relevant international organisations and resource centres (for example, the Organisation for Economic Cooperation and Development) and provide rapid assistance in particularly vulnerable areas. Potentially, the support system could include a separate funding envelope for civil society in the new member states, to help maintain bottom-up civic pressure and to ensure that expertise available in the civic sector is also utilised to achieve desired policy outcomes in the monitored areas.²⁶

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A utopian idea?

Some criticism and scepticism are to be expected in response to this proposal, coming from different sides and providing various counter-arguments.

Potential opponents may say that this approach would effectively result in “second-class” membership for the Western Balkan countries, with these countries ending up locked in the first, “membership minus” stage described above, without ever reaching the higher levels of membership (i.e. access to all EU policy areas). However, this policy would in no way lead to permanent second-class membership. It would rather entail a series of stepping stones for progressing from the initial membership stage, where certain policies are not made available to the new entrants, towards the achievement of

the full rights and benefits offered by Union membership. Such a procedure for achieving full membership perfectly reflects the fact that EU integration has achieved great depths in certain areas, and that transitioning from a non-member into a full-fledged member in a day is perhaps not feasible, or even advisable, for countries with young and vulnerable democratic institutions. Successful fulfilment of specified targets would result in gradual climbing up the ladder of the rights and benefits of EU membership. This approach would not be at odds with the existing mechanisms which facilitate differentiated integration within the Union, with the understanding that those who want to do more (but are also capable of doing more) can do so.

This proposal also reflects well the fact that building a strong democracy takes time, probably longer than one generation. Rule of law is about curtailing the space of manoeuvre for those in power, keeping them in check with clear rules that are applied in the same manner to everyone in a society, regardless of political power, economic and financial influence, or good connections. It is about building resilient institutions capable of resisting political pressures. To expect that all this can be achieved in an irreversible manner in 20 to 30 years was simply wrong to begin with, and it seems that the EU leaders have come to understand this. However, the imperfections of the democracy and rule of law mechanisms of aspiring members need not be a reason to dismiss the idea of enlargement altogether. These imperfections may rather be a reason to redefine the concept of accession of new members and how their membership rights are exercised upon entry. The mechanism of previous enlargements to new democracies may have simply been inadequate, not having considered these facts of reality.

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One may also say that imposing this kind of a mechanism on new EU membership aspirants is unfair, as it asks from them more than what was asked from their predecessors. However, these “double standards” are already a part of these countries’ EU accession routines. The basic Copenhagen accession criteria have been defined and refined to such tiny details, that multiple

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26. For a discussion of the politics of civic pressure, see Milena Lazarević and Corina Stratulat, “Balkan Enlargement and the politics of civic pressure: The case of the public administration reform sector,” WeBER Policy Brief, October 2017, available at: <https://bit.ly/2KCATma>, last accessed on 28 June 2018.

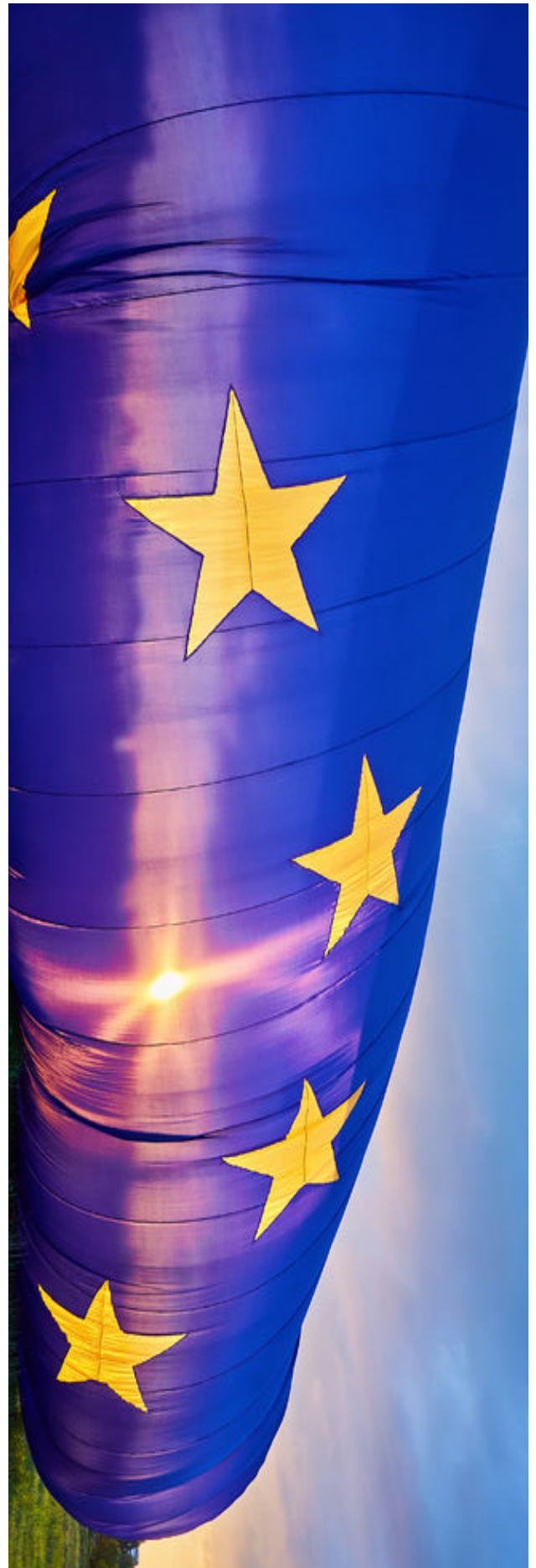
new mechanisms and specific requirements have already been introduced,²⁷ which were not explicitly defined to applicants in previous enlargements. Similarly, the prospect of entering the EU through a smaller door (as members with somewhat reduced rights) and a longer corridor (meaning that it would take them some time to achieve full access to all policy areas) seems much less unfair than keeping the region formally out of the club because circumstances in the EU are now different than they were in the late '90s and early 2000s.

The prospect of entering the EU through a smaller door and a longer corridor seems much less unfair than keeping the region formally out of the club because circumstances in the EU are now different than they were in the late '90s and early 2000s.

Finally, those who may oppose this idea could say that this proposal is politically unrealistic, as it will never pass the Orbans and Kachinskys of the EU, who might oppose it simply because they support accession of other defective democracies, or the Macrons, who insist on deep internal reform before further enlargement. Whereas one can acknowledge that, at present, introducing such a new approach to enlargement may be difficult, for the simple fact that an erosion of fundamental EU values is already in motion in some member states, one can search for ways to overcome this obstacle.

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27. One fresh example is the introduction of the managerial accountability approach in the administrations, which has become part of the Chapter 32 – financial control – agenda. Essentially, managerial accountability is an approach which requires managers in the public administration to have clear responsibilities, authority for exercising those responsibilities, as well as a sufficient degree of autonomy in their work and disposal of resources that they can focus on achievements of results, not just compliance with regulation. Whereas this was an implicit condition in the past as well, as part of public internal control introduction, nowadays it is being introduced as a highly-detailed, explicit requirement, which needs to be proven in the accession process. You can read more about managerial accountability at: SIGMA OECD, available at: <https://bit.ly/2K73lfW>, last accessed on 28 May 2018.



How can it fly?

The first question is how this new approach can technically be implemented, considering that once a country becomes an EU member, it is bound by the EU treaties and pre-accession conditionalities no longer apply. Accession treaties, however, represent an ideal venue for stipulating such specific conditions. As *lex specialis* in comparison to the basic EU treaties, the rules of accession treaties take precedence, without affecting in any manner the rights and obligations contained in the EU treaties for all existing member states. Accession treaties were the venue for stipulating the legal basis for the CVM for Romania and Bulgaria as well.

Rather than being proposed by the EU, as a sort of a harsh condition of the uncompromising EU leaders, this proposal should be put forward as a mature move by the leaders of the six countries. However, maturity can in this case only be proven if the Balkan countries show continuous progress on rule of law reforms and avoid any backsliding in the future.

The second question is how such a proposal can (or should) be made, to maximise its chances of succeeding within today's difficult political environment. To start with, this proposal should come from the Western Balkan region, not from the EU. Rather than being proposed by the EU, as a sort of a harsh condition of the uncompromising EU leaders, it should be put forward as a mature move by the leaders of the six countries. It would then come across as a sober realisation that, in light of widespread opposition to further enlargement in many EU member states, this might be the only way to move forward towards a real membership perspective, rather than just a vague "European perspective." It should be emphasised here that maturity can in this case only be proven if the Balkan countries show continuous progress on rule of law reforms and avoid any backsliding in the future.

Secondly, the civil society of the region should play an important role in the further development, discussion and eventual endorsement of such a proposal. An inclusive approach would facilitate higher legitimacy of such plans in the six countries, as well as show to the EU partners that different strata of society stand behind them and have their future roles in the implementation mapped out and agreed upon.

Furthermore, existing initiatives which focus on regional cooperation can also contribute to both defining and agreeing upon this new approach, especially if the proposal encompasses the entire region. The Berlin Process can be an important venue for discussing these new ideas, as it has become one of the main venues for showcasing that true regional cooperation beyond the constraints of daily politics is indeed possible.

Finally, the champions of such a proposal would need to communicate its benefits clearly and carefully, particularly towards those who may be the most sceptical. The Western Balkan leaders' message for the most fretful member states should be that this proposal comes as the result of true political maturity and an intention to prove that the region deserves EU membership, even if it may take some extra time to prove the track record and irreversibility of reforms. At the same time, an important message would be that a consistent and realistic promise of membership in the shorter run than suggested at present would greatly help their own efforts to push for more politically painful reforms and help to build support at home.

The leaders of the region can initiate this process as early as the next EU-WB summit in Croatia in 2020. An extensive regional debate between the region's civil societies and governments should start without delay.

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The views presented in this Paper are the sole responsibility of its author.

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