

THE ENLARGEMENT OF THE EUROPEAN UNION: SOME ASPECTS THAT DESERVE PRIORITY ATTENTION

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TEPSA BRIEFS
09/2023



TEPSA
Trans European Policy Studies Association



Co-funded by
the European Union

Abstract

The Russian invasion of Ukraine has made the enlargement file a priority. While a gradual approach is necessary to balance the ever-increasing heterogeneity of Member States as a result of further enlargement, respect of the EU's fundamental values must remain the key condition for membership. On the other hand, in order to accommodate a large number of new members, the EU must implement a number of reforms, in the first instance in the institutional domain. Only treaty changes will allow for the reforms necessary to realise such enlargement.

Introduction

At least 10 countries - mainly in the Western Balkans and Eastern Europe - are in the European Union's (EU) waiting room. Important decisions will soon have to be taken in Brussels on how to proceed in the enlargement process.

Informal consultations of EU Heads of Government, inter alia about expansion, will take place in Granada, Spain, on 6 October 2023. In mid-October, the Commission will present a progress report on enlargement. In particular, the findings on Ukraine, Moldova and Georgia are awaited. Finally, the - formal - European Council meeting of 14 and 15 December has to decide whether negotiations can start, for example, with Ukraine.

Further enlargement of the EU is a huge challenge. At present there are 27 Member States. In practice that is already a number difficult to handle: decisions often come (too) late and usually have a compromise nature. Therefore, what will happen if there are 34 or 35 Member States? Two preliminary questions need to be answered in this discussion: 1) How to organise best the participation of new countries in existing Union policies? 2) Which reforms have to be implemented to enable the EU to function properly with more Member States?

A strategic necessity

Applicant states are first of all a number of Western Balkan countries: Serbia, North Macedonia, Montenegro, Bosnia-Herzegovina, Kosovo and Albania. In addition, three countries in the 'new' Eastern Europe have applied for membership: Ukraine, Moldova and Georgia. Turkey is also a candidate, and actually has been for a long time.

Looking over the list, it is clear that many problems have to be overcome. Ukraine is a country at war. Apart from Ukraine, also Moldova and Georgia are dealing with so-called 'frozen conflicts' over areas occupied by Russia-minded authorities. Furthermore, there is a lot of political unrest in the Western Balkans. This unrest inter alia gives rise to doubts as to the political orientation of a number of governments of candidate countries (towards the West or rather towards Russia?). Moreover, Kosovo is a country whose independence is currently not recognised by all EU Member States. Türkiye, a country ruled by an authoritarian president but also an important member of the North Atlantic Treaty Organization, is a case in itself.

In addition, there are major differences to point at between existing and new Member States, with regard to the political, economic and social organisation of their respective societies.

Whereas the founding countries of the Union were still to be considered like-minded countries, more and more heterogeneity has emerged when expanding the network. This heterogeneity will only increase once the candidate Member States mentioned will accede. Such a prognosis is not an indication for a harmonious cooperation in the future. It rather poses a threat to the stability of the EU cooperation process.

Be that as it may, enlargement is in line with the overall objective of European cooperation, which is achieving peace and security on the European continent. Given more particularly the tensions between the United States and China, the – for obvious reasons – long-term disturbed relationship with Russia, and the instability in countries and areas around us (think of the Middle East, the Sub-Saharan region, Central Africa and parts of Asia), it is in our own, well-understood, strategic interest that the project will succeed.

So, in the end the challenge of enlargement is to find the right modalities to accommodate the newcomers.

That said, let the following be clear: before a country can become a 'full' member of the Union, it is not enough to endorse the Union's objectives and adopt the policies pursued so far. In addition, the EU's fundamental values – with democracy, human rights and the rule of law as central principles – must be duly respected, applied and enforced. As becomes clear when looking around, dictatorship, autocracy, arbitrariness and/or discrimination can occur when countries are governed by authorities that do not take seriously principles such as good governance, independence of the judiciary, freedom of education, freedom of expression and/or media freedom. Hence everyone will understand that it may take quite some time before these conditions are met by each of the candidate states.

A GRADUAL APPROACH

In the given circumstances, the best approach for both parties – the EU and its Member States on the one hand and the candidate countries on the other – is a gradual and differentiated enlargement. In that regard, it is to be recommended that candidate countries can start to participate already in an early stage in common policy areas reflecting mutual interests. By allowing them to take part, not only the governments concerned, but also their respective populations, will be motivated to actively work on EU membership. In parallel we – the EU and its Member States – must assist the candidate countries in the process of implementing crucial reforms.

Let us thus start to cooperate in the broad domain of 'security': foreign policy, defence, migration, judicial cooperation, but also climate and energy. An additional advantage of such an approach is that, from an EU perspective, these policy areas largely concern national competences.

Participation in areas reflecting predominantly EU competences can be discussed in a later stage. This for instance also applies to the access of new Member States (and their respective business communities) to the internal market cooperation – the space without internal borders in which goods, people, services and capital can move freely – basically the 'core' subject matter of EU cooperation. Because, certainly much time will pass before the businesses of the new countries become accustomed to the effects of principles such as free competition, liberalisation, mutual recognition and non-discrimination.

But, again, a candidate country can only become a 'full member' of the Union once the fundamental EU values, such as democracy, human rights and the rule of law, are strictly adhered to. Now, certainly we are still a long way from that goal.

THE NEED FOR EU REFORMS

Meanwhile we must ask ourselves: how should the EU organise itself to receive more members? The reference here is to the EU's 'absorption capacity'.

Many perspectives present themselves in this discussion. The financial and budgetary aspects are obviously of great importance: for the financing of EU policies, such as agriculture, and also to assure a reasonable distribution of the burdens of enlargement. What we may then observe is that Member States currently receiving large amounts of EU money, will become net contributors after enlargement.

Nonetheless, first of all the 'constitutional' - the institutional-organisational - aspects related to enlargement have to be examined, such as the composition of the institutions and the decision-making in the Council.

As far as the composition of the institutions is concerned, the question arises whether all countries have to be explicitly represented therein. This question deserves to be answered in the affirmative for those institutions whose members expressly act on behalf of their Member State or population. This actually is true for the European Council, the Council and also, of course, the European Parliament. On the contrary, such a 'representative' character applies less to the European Commission. After all, the Commission's task is to serve the EU's general interest and, in that context, to develop

proposals for the implementation of objectives that the Member States have previously set themselves. An institution exercising such an - otherwise vital - general task could also function according to a rotation system: Member States can thus alternate when it comes to the designation of members.

With regard to decision-making in the Council, it is important to note that there are still various files that require unanimity. Foreign policy is only an example. Certainly, there do exist procedural formulas facilitating a so-called 'simplified' decision-making. However, political will is needed to activate these formulas, but in practice this cannot always be counted on. So, rather a clear rule has to be formulated.

In that context, it goes without saying that a Union having - let's say - 35 Member States can only function adequately if decision-making can take place by majority, if necessary a 'strengthened' variant thereof (a 'qualified' or 'super-qualified' one, as it is called in the jargon). The only conceivable exception to this rule - where thus an approval of all Member States has to be obtained - is the admission of new Member States. Indeed, the importance of having cohesion within the group of Member States necessitates general agreement on this point.

Such an approach by the way would also mean - and this is admittedly a far-reaching proposal - that (some variant of) majority voting would have to be introduced for future treaty amendment procedures. It is clear that, if such an innovation were to be agreed, Member States that are unwilling or unable to accept the relevant changes, will not be bound by the respective provisions once they enter into force. On the other hand, those Member States could always endorse the new treaty texts later.

In any case, granting a veto power to a single Member State, in whatever policy area, is a recipe for the undermining, and, ultimately, falling apart, of the Union's structures. The EU's survival not only as an organisation, but – in a wider sense – as a global player, would be at stake.

We therefore have to rule out such a prospect in advance. Writing down the majority principle explicitly in the treaties is the best remedy in that regard. Moreover, we should not forget that in practice it rarely comes to a vote in the Council. Generally speaking, consensus is strived at in the discussions (voting as the famous ‘stick behind the door’).

THE NEED FOR TREATY AMENDMENT

It is an illusion to think that the proposed reforms can be achieved without amending the current institutional modalities, as laid down in the Treaties. The EU Treaties therefore have to be adjusted on various points.

Unfortunately, national politicians generally speaking take a reluctant stand to treaty change, since the resulting amendments have to be formally approved at national level. Politicians in that regard are concerned that the respective reforms may be rejected, either in a vote in their parliament or in the framework of a referendum involving citizens consultations.

Although such a reluctant position is comprehensible in itself, it is not acceptable. The task for politicians rather is to duly explain the course of events to their parliaments, and citizens. They will have to convince their people that, first of all, enlargement is a necessity and, in order to achieve that objective, changes in the existing treaty texts have to be made.

POLITICAL WILL

Political will at the national level is needed to handle the enlargement process properly, with all its complications. Given the ever-deteriorating geopolitical situation in Europe and beyond, we may assume that such understanding and political will exist.

In any case, a successful completion of the process to welcome more Member States, sharing our fundamental values as well as the objectives of EU cooperation, is more than worth the price to pay for achieving greater stability on the European continent [1].

[1] The text of this TEPSA Brief was finalised on 19 September 2023.

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Editing and formatting: Eva Ribera and Hugh Evans (TEPSA).

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