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Policy Brief

Overcoming enlargement deadlock: an action plan for the incoming EU leadership

Natasha Wunsch with contributions by Marko Kmezic, Corina Stratulat and Nikolaos Tzifakis

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Overcoming enlargement deadlock: an action plan for the incoming EU leadership

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About BiEPAG

The Balkans in Europe Policy Advisory Group (BiEPAG)

Is a co-operation initiative of the European Fund for the Balkans (EFB) and Centre for the Southeast European Studies of the University of Graz (CSEES) with the aim to promote the European integration of the Western Balkans and the consolidation of democratic, open countries in the region. BiEPAG is composed by prominent policy researchers from the Western Balkans and wider Europe that have established themselves for their knowledge and understanding of the Western Balkans and the processes that shape the region. Current members of the BiEPAG are: Dimitar Bechev, Florian Bieber, Blerjana Bino, Srđan Cvijić, Milica Delević, Srđan Majstorović, Natasha Wunsch, Marika Djolai, Vedran Džihić, Dejan Jović, Marko Kmezić, Jovana Marović, Milan Nič, Corina Stratulat, Dane Taleski, Nikolaos Tzifakis, Alida Vračić, Shpend Emini, Zoran Nechev, Tena Prelec and Donika Emini.
Overcoming enlargement deadlock: an action plan for the incoming EU leadership

EU enlargement policy appears to have reached a deadlock. Following years of stagnation and relative neglect, the European Commission’s attempts in 2018 to reinvigorate the EU’s engagement with the Western Balkans and to provide ‘a credible enlargement perspective’\(^1\) to the region have been thwarted by a lack of commitment on the part of (some) EU member states. The October 2019 European Council decision to once again postpone the opening of accession negotiations with Albania and North Macedonia is but the latest in a long series of delays in the enlargement process over the past years. This latest stunt has left the region reeling, with local leaders alternately endorsing a rapprochement with Russia and China\(^2\) or calling for snap elections to confirm their countries’ European path.\(^3\)

Reluctance on the part of the EU member states to endorse Skopje and Tirana’s formal progress on the road towards accession, despite the European Commission’s positive recommendation, reflects concerns over the aspirant countries’ lack of preparedness. Moreover, it mirrors growing scepticism among European citizens regarding the admission of further countries into the Union and.

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3  “Zaev: snap election should be held as soon as possible”, European Western Balkans, 19 October 2019; https://europeanwesternbalkans.com/2019/10/19/zaev-snap-election-should-be-held-as-soon-as-possible/
In the case of France, it also corresponds to a perceived opposition between the deepening and the widening of the EU. At the same time, the deterioration of the quality of democracy and the rule of law and widespread state capture across the region are realities that represent an additional hurdle to the EU institutions’ engagement for positive change.

It is in this sensitive political climate that the new EU leadership will take office by the end of the year. The EU institutions’ new leading figures will need to convince both member state leaders and their populations of the benefits of EU enlargement, while simultaneously being confronted with persistent state capture and the enduring weakness of the rule of law in the Western Balkans. Striking this delicate balance will require political skill as well as more appropriate tools to communicate with EU citizens and support domestic change among the EU aspirants.

This policy brief offers suggestions on how these important challenges may be met. It begins by laying out the background to the current situation, acknowledging the Commission’s recent efforts to boost the credibility of the Western Balkans’ membership perspective. It then points to three key obstacles to a credible EU engagement in the region. First, it singles out the member states’ opposition towards further enlargement at a time when the EU is struggling with multiple internal and external crises. Second, it points to the European citizens’ enlargement scepticism, which encourages certain national governments to resist further steps in the accession process. Third, it highlights enduring state capture in the Western Balkans as a central obstacle to a successful EU engagement in the region. On the basis of this analysis, this policy brief puts forward a series of recommendations for the EU’s incoming leadership to address some of the current shortcomings and advance towards a more constructive and transformative involvement in the Western Balkans.

From autopilot to tentative reengagement

After a lengthy period during which EU enlargement policy was on autopilot, the year 2018 seemed to bring a very welcome shift in the EU’s approach to the Western Balkans. Fifteen years after the EU member states confirmed an EU accession perspective for all Western Balkan countries at the June 2003 Thessaloniki summit, the European Commission reasserted the promise of a ‘credible enlargement perspective’ in the region. The 2018 strategy provides a rather accurate analysis of remaining problems in the region, noting in particular the ongoing weakness of the rule of law as well as ‘clear elements of state capture, including links with organised crime and corruption at all levels of government and administration.’ At the same time, it balances criticism by highlighting the EU’s willingness to step up its support for the Balkans through a series of ‘flagship initiatives.’ In addition, for the first time, it offers a tentative time horizon for accession in 2025 to frontrunners Montenegro and Serbia, despite underlining the ‘extremely ambitious’ nature of this timeline.

Yet while the Commission’s strategy appeared to send a positive signal that the EU was breaking away from its previous wait-and-see attitude towards the Western Balkans, in the follow-up the member states were unwilling to endorse the Commission’s renewed engagement in the Balkans with the same degree of enthusiasm.

6 European Commission, “A credible enlargement strategy”.
7 European Commission, “A credible enlargement strategy”, p. 3.
8 Ibid. p. 2
At the EU-Western Balkans summit in Sofia, held three months after the publication of the Commission’s strategy, the member states dealt a symbolic blow to the show of EU unity behind a renewed engagement in the Western Balkans. Both the absence of Spain from the formal part of the event and France’s explicitly enlargement-sceptic stance undermined the substantive message that the European Commission had hoped the summit would send. The weak language of the final summit declaration, which failed to endorse the Commission’s mention of a 2025 time horizon for further accessions, underscored the lack of unity behind the Commission’s desire to upgrade the Union’s engagement. In a similar vein, the June 2018 European Council disappointed those who had hoped that the summit would bring concrete progress for individual countries, a situation that has not changed until today.

The most recent summit of the Berlin process in Poznan underscored that the main divide with regards to enlargement policy runs between member states. Poland, the summit’s host country, spearheaded an initiative pushing for the swift opening of negotiations with North Macedonia and Albania. Yet all but two of the twelve supporting countries (the exceptions being Italy and Austria) had only recently entered the EU, signalling a growing division between ‘old’ and ‘new’ member states on the question of further enlargement. In contrast to this supportive group, the Netherlands stuck to its strong emphasis on full compliance with all membership criteria – the so-called ‘strict but fair’ approach – to justify its opposition to further formal progress.

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French President Emmanuel Macron has taken an even stronger enlargement-sceptic stance, declaring that an internal reform of the EU would need to precede any further admissions.\textsuperscript{12} The most recent European Council in October 2019 confirmed the gap between the Commission’s pro-enlargement position and the more sceptical stance prevalent among some of the founding member states.

**Challenge #1: Member states as gatekeepers**

Political conditionality is one of the key tools through which the EU seeks to stimulate transformation in aspiring countries. The effectiveness of conditionality relies on credibility, and the latter requires consistency on the part of the EU. Yet the growing contestation of EU enlargement and the increasing divergence in evaluations carried out by EU institutions and by several member states make the formulation of a consistent message towards the Balkans increasingly difficult. Whereas both the European Commission and the European Parliament have repeatedly called for the opening of negotiations with North Macedonia and Albania, several member states have opposed this step. This creates a tension between commitments made by the EU institutions and their ability to deliver on them.

Formally, EU member states have always had the last word when it comes to endorsing every formal step towards a new country’s accession to the Union. However, over the past years, the member states have come to play an ever more prominent role in monitoring and critically evaluating progress, often ignoring the Commission’s avis and frequently delaying or blocking progress of individual aspirants on the basis of bilateral issues or specific reform dimensions rather than the situation on the ground in these countries.\textsuperscript{13} What is more, the member states have gradually sought to strengthen their control over outcomes on the dossier.

\textsuperscript{12} Quatremer, Jean, “Union européenne : Macron franco contre l’élargissement”, Libération, 18 October 2019; https://www.liberation.fr/planete/2019/10/18/union-europeenne-macron-franco-contre-l-elargissement_1758494

The German Bundestag in particular has taken a key role in assessing progress in the region itself, rather than relying on the opinion of the Commission, and strict parliamentary scrutiny of EU affairs now also shapes national positions on enlargement in the Netherlands, Denmark, and Sweden. Meanwhile, France has introduced the possibility of a referendum on enlargement unless the government can amass a large favourable majority in the Assemblée Nationale, while the Netherlands and Austria have also been considering new constitutional requirements for ratifying future accession treaties. These mechanisms may make the process more democratic, but they also allow the member states to diverge in functional terms from the agreed standards and procedures for handling enlargement.

In addition, progress in the Western Balkans’ EU accession process has frequently been derailed not only by outstanding challenges within the region, but also by considerations linked to national politics and public opinion on enlargement in the member states. Preoccupations related, for example, to the freedom of movement of people, minorities, asylum seekers, the sustainability of welfare systems, bilateral disputes, economic prospects, border definition, and poor governance have made EU capitals increasingly assertive about which Balkan countries should advance towards accession and under which conditions. In fact, North Macedonia had seen its EU path blocked for many years previously because of its acrimonious name dispute with Greece.

Such incursions, which are becoming ever more frequent, including from direct neighbours like Croatia, as well as other issues such as, for example, the position of the five EU member states that do not recognise Kosovo’s independence, may set the bar high for the aspiring countries for good reason. But they also tie enlargement to the vagaries of domestic politics, making it an unpredictable process.

14 Ibid.
15 For example, Croatia blocked the start of negotiations on Chapters 23 and 24 with Serbia until its demands, related to war crime trials and Croatian minorities, were added to the list of requirements Serbia had to fulfil.
Conditionality only works if it is consistent and credible, as well as driven politically by the overall commitment of the EU member states, as manifested at key decision-making moments. The ongoing “creeping nationalisation”\textsuperscript{16} of enlargement has slowed down the process and weakened the policy’s leverage. It has also revealed that, despite the adoption of enlargement as a priority for the recent Austrian, Bulgarian, and Romanian Council Presidencies, the member states have lost their appetite for expansion. This has made it easier for other actors – most notably Russia – to meddle in and cosy up with countries like Serbia, Montenegro, and Bosnia-Herzegovina, frustrating the EU’s efforts to guarantee Europe’s security.

Overall, the renewed visibility and the deliberate use of their veto right by individual member states threatens the consistency and credibility of the EU’s enlargement policy. By bringing their own domestic contexts to bear on enlargement decisions, member states are undermining the agreed standards and procedures formulated at the EU level, thus undermining the merit-based nature of the enlargement policy. In particular, where progress is tied to specific domestic achievements – such as, for instance, the conclusion of the Prespa agreement putting an end to the Macedonian name dispute – failure to reward such achievements undermines the EU’s overall approach. In the case of North Macedonia, the decision of the latest European Council summit not to grant the opening of accession negotiations with the country has led the Macedonian President Stevo Pendarovski to declare that the use of the country’s new name is “on hold” until the start of membership talks.\textsuperscript{17} Since the EU played a key role in facilitating agreement between Skopje and Athens precisely in order to remove the name dispute as an obstacle to the opening of accession negotiations, failure to live up to this commitment undermines the general credibility of the EU’s conditionality and its role as an international mediator.

Challenge #2: Enlargement scepticism among EU citizens

The growing reluctance towards further enlargement on the part of the member states is mirrored by an increasingly sceptical public opinion towards the admission of new countries. According to the latest Eurobarometer that addressed the issue of enlargement, only 44% of EU citizens are in favour of admitting further countries into the Union, while 46% oppose such a move. At the level of individual member states, majorities in favour of enlargement are generally found among the recently-joined Eastern European member states, whereas opposition to further accessions comes close to or even exceeds two thirds of the population in several Western European members (e.g. 69% in Austria, 63% in Germany, 61% in France).\(^{18}\)

In the absence of strong supporters of EU enlargement, European publics are rarely if ever exposed to positive perspectives on future enlargements. Instead, the growing divergence between EU member states makes citizens in richer countries particularly apprehensive about labour competition from new entrants, whereas poorer member states fear losing part of their subsidies to newly admitted members with an even lower socio-economic performance. While the Central and Eastern European enlargement round was cast rather successfully as a ‘historical reunification of Europe’, a similarly compelling narrative for the Western Balkans is still missing.

The prominence of the Western Balkan route during the 2015 refugee crisis brought the region back into spotlight, but failed to serve as a catalyst for a broader engagement towards EU accession as a framework to jointly address external challenges.\(^{19}\)

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Preparing the ground for future accessions is crucial especially in light of the need for eventual ratification of accession treaties in all EU member states. As contestation of European integration increases, it is likely that in the future more countries will choose to link such ratification to positive referendums. The rejection by the Dutch voters of the Association Agreement with Ukraine in April 2016 showed how quickly even non-binding consultations in EU member states can threaten year-long negotiations for international agreements with third countries. A similar scenario at the closing of membership negotiations with the Western Balkans would fuel resentment in the region, undermining the sustainability of reforms as well as the credibility not only of EU enlargement, but of the EU’s broader ability to pursue a coherent foreign policy.

**Challenge #3: Lack of tools to tackle state capture**

Besides procedural issues related to the member states’ opposition and a hostile public opinion among European citizens, the weakness of the rule of law and pervasive state capture are objective reasons preventing the swift admission of the Western Balkan region into the EU. The lack of suitable tools that the EU has at its disposal to foster transformation under less-than-ideal circumstances in the Balkans challenges its ability to engage credibly with the region. Whereas political leaders in the Western Balkans remain rhetorically committed to EU accession as their main policy objective, their defence of democratic standards and civil liberties, in many cases, suggests otherwise.

This growing gap between formal compliance with European democratic standards, on the one hand, and the practice of liberal democracy on the other casts doubt upon the enduring effectiveness of the EU’s conditional-ity and calls for the development of new channels and tools.

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The Commission’s reengagement in the region is articulated around a renewed emphasis on strict conditionality, which nevertheless fails to integrate domestic partners as necessary local drivers of implementation. The Commission itself has recognised the need for societal commitment as a key precondition for successful reforms.²¹ To foster such conditions, the incoming EU leadership will need to go beyond bilateral engagement with the narrow circle of these countries’ executives and develop ways in which other domestic actors, including parliamentarians, civil society organisations, and citizens at large, can be involved to ensure adequate domestic deliberation around reforms and anchor these more firmly within the existing institutional landscape.

As recent developments in Hungary and Poland suggest, a conditionality-driven transformation cannot reach sufficient depth and lacks sustainability in the long run. Where governments comply with democratic requirements in exchange for progress in the membership negotiations, the risk is high that long-term conditions for democratic consolidation fail to be created. Instead, reforms become a technocratic endeavour and public consultation, as well as broader societal dialogue on the political direction of the country, are side-lined or fully undercut for the benefit of swift progress on the path towards EU accession.

The suggested flagship initiatives contained in the Commission’s strategy imply ever more invasive interventions on the part of the EU through ‘expert missions’ sent to detail required reforms to public administrations across the region.

Such an approach represents an upgrade in degree, but not in the nature of the EU’s engagement. Instead, they largely outline measures that target candidate country governments or aim for technical cooperation with executive bodies. In doing so, the European Commission misses the opportunity to build a bridge between EU institutions and publics who will eventually become European citizens.

²¹ European Commission, “A credible enlargement strategy”, p. 3.
Instead, it leaves the door open to executive-led transformation or, in a pessimistic scenario, the marginalisation of societal concerns by ruling elites who are eager to cement their own benefits rather than to implement changes that would benefit the broader population.

Commentators’ and analysts’ framing of 2018 as the ‘year of EU reengagement in the Western Balkans’ raised hopes across the region that the EU’s policy of ‘business as usual’ had been transformed into a more active approach, more in sync with local priorities voiced, for instance, by organisations dealing directly with vulnerable populations, and more supportive of the kind of deep societal transformation required to set the Balkan countries on a stable path towards democracy. One of the enduring shortcomings of the EU’s approach, however, has been its focus on technical details over the ‘bigger picture’ of democratic backsliding across the region. Despite the Commission’s strategy highlighting widespread state capture, EU institutions at large have remained silent on the wider trend of democratic backsliding, embodied in a rollback of the freedom of expression, including open attacks on independent media and the work of NGOs in several countries of the region. Failing to call out these tendencies confirms regional leaders in their expectations that the EU will be willing to tolerate and overlook ‘stabilitocracy’ trends, as long as the countries maintain relative stability and a formal commitment to democratic governance.

Moreover, civil society actors are becoming increasingly marginalised. While the European Commission has endorsed the crucial role that independent media play in fostering and sustaining democracy, it has also overseen a process whereby reform-minded civil society actors have become increasingly side-lined and even openly attacked by members of the political leadership.

The shrinking space for civil society is a reality across the region and weakens the societal tissue required to foster deep and durable democratisation, beyond the mostly instrumental reforms undertaken in response to EU requirements.

In sum, to be successful, the EU’s reengagement in the Western Balkans requires not only a higher degree of commitment on the part of both EU institutions and member states, but also an upgrade to the EU’s toolbox. Conditionality and strict to-do-lists alone will not result in the far-reaching reforms that political systems across the region need to meet the requirements for EU membership. Instead, EU actors should think about how they can foster wider participation even during the accession negotiations, in order to ensure that reforms adopted with a view to achieving EU membership do not remain dead letters upon the successful conclusion of accession talks.

The way forward: making EU reengagement in the Western Balkans a success

Despite initial positive signals sent by the European Commission for renewed commitment in the Western Balkans, the lack of both reform progress on the ground and formal progress on the path towards EU membership show that enlargement policy is currently in a deadlock. As the new EU leadership is about to take over, mounting scepticism among European publics and several member state governments, in addition to widespread state capture and stagnating reforms in the Balkans, are causing deep frustration among reform-minded elites and citizens in the region.
In order to overcome this situation, concerted efforts will be required to tackle both the procedural as well as the substantive obstacles to progress that lie on the Western Balkans’ road to EU accession.

**Maintain high-level engagement at member state level.**

The failure of the recent EU summit to open negotiations with either Albania or North Macedonia has left the entire region feeling neglected. Yet the line-up of incoming Council Presidencies can send a positive signal to the Western Balkans. Croatia is a natural ally and will hold the next EU-Western Balkans Summit scheduled for May 2020 in Zagreb. The following trio Presidency of Germany, Portugal, and Slovenia has also decided to make the Western Balkans one of its three key priorities. By articulating a strong and coherent message of support to the region, and undertaking concrete steps to translate these messages into actions, these member states can demonstrate that the vast majority of EU decision-makers still support a vigorous and credible membership perspective for the Western Balkans.

**Put the fight against state capture at the heart of enlargement policy.**

Both the Commission and the European Parliament have become bolder in calling out widespread state capture in the Western Balkans. Now is the time to move from analysis to action. By highlighting both specific shortcomings and involving local actors in developing solutions to drive back informal structures and privilege accountable and transparent administrations, the EU institutions can signal to Western Balkan leaders that state capture and authoritarian trends will no longer be overlooked in favour of relative stability.

**Highlight irregular progress in Serbia and Montenegro.**

The European Commission and the incoming EU leadership more generally should not hesitate to highlight the growing discrepancy between formal compliance with membership criteria and declining democratic standards in both countries.
Where political leaders fail to address persistent shortcomings, the EU should consider making use of the leverage afforded by the suspension clause related to lack of progress in the crucial chapters 23 and 24 to underline the central importance of rule of law reforms for the overall accession process. When accompanied by the right rhetoric and an engagement beyond governmental circles, this step can help reformist forces inside the countries hold their elites accountable, including for a lack of progress in EU accession negotiations that are due to government leaders prioritising private over public interests.

*Engage beyond the executive.*

To overcome the current entrenchment of state capture and the dominance of ruling parties and their leaders, it is crucial that the EU engages beyond the government. An emphasis needs to be placed on empowering parliamentarians, strengthening the independence of the judiciary, and associating relevant civil society actors in areas such as the rule of law and environmental policy, where they have expertise and can make a contribution towards the improvement of public policies. This can including making public consultations as well as meaningful debate a formal requirement for any major new laws adopted in the context of EU accession talks, and refusing laws adopted by urgent procedure that side-line domestic debate.

*Improve the communication of enlargement policy towards EU citizens.*

Enlargement policy generally flies under the radar when it comes to EU communication towards citizens in member states. This allows biases and stereotypes towards aspiring member states to develop, potentially growing reluctance towards the admission of further member states. Instead, the European Commission, especially through its local offices across the EU, should adopt more proactive communication on enlargement-related issues, both to inform the general public about this policy and the current state of play, and to encourage critical debate that will allow EU citizens to appreciate the strict monitoring by the European Commission of any and all accession candidates.
Develop closer ties with Western Balkan citizens.

Lack of local ownership and commitment to the enlargement process is one of the central challenges for the Western Balkans. The EU should seek to build support from below by engaging more directly with citizens and enhancing its own visibility on the ground.

This may include allowing Western Balkans citizens to feed into ongoing consultations at the EU level and developing a more proactive communication strategy when it comes to familiarising citizens with the benefits of membership, for instance through public events and an expansion of people-to-people programmes, particularly beyond the circles of well-educated students that already hold positive attitudes towards the EU institutions.

Strengthen civil society as a domestic check on the executive.

The European Commission in particular has a long-standing engagement with civil society actors in the region. At a time when these are coming under increased pressure from national governments, it is important that the Commission, as well as the European Parliament and member states, take a clear stand on the importance of alternative, including critical, voices during the accession negotiations. This includes supporting their local contacts in maintaining their independence and their ability to conduct effective domestic monitoring of reform efforts and hold their politicians accountable. This requires both explicit political support for independent civil society actors and an increase in funding supplied to these, in line with the increase of the EU’s overall offer to the Western Balkans.

Improve coordination between EU institutions and EU member states.

By holding more regular meetings between representatives of the European Commission, the European Parliament, and member state officials (from beyond the Brussels circles!), sceptical member states can be kept more closely informed and made aware of developments in the region. Moreover, such forums would serve to rebuild EU capitals’ trust in the Commission.
**Involve the Balkan countries in the Conference on the Future of Europe.**

The new European Commission President could extend an invitation to Balkan leaders and civil society members when discussing policy priorities relevant to both sides, such as climate change and environment, digitalisation, migration, the rule of law, or the economy.

**Open a dialogue on democracy inside the EU.**

While the EU is very active in promoting democracy abroad, recent rule of law violations among several member states have shown that key actors do not always agree on what democracy means and how it can best be protected. Engaging a deeper dialogue in this area, both between member states and in association with the Western Balkans, would facilitate a common understanding and the definition of measures to safeguard democracy and the rule of law, including beyond the accession date.
About the European Fund for the Balkans

The European Fund for the Balkans is a joint initiative of European foundations that envisions, runs and supports initiatives aimed at strengthening democracy, fostering European integration and affirming the role of the Western Balkans in addressing Europe’s emerging challenges. The up-to-date programme strategy is based on three overarching areas – Capacity Development, Policy Development and Regional Cooperation - and channelled via flagship programmes and selected projects, complemented with a set of actions arising from EFB’s regional identity as a relevant player in its fields of focus. Their synergetic effects are focussed on continuous “Europeanisation” of the policies and practices of the Western Balkans countries on their way to EU accession, through merging of the region’s social capacity building with policy platform development, and a culture of regional cooperation.

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About the Centre for Southeast European Studies, University of Graz

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

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