THE NEW ENLARGEMENT METHODOLOGY: AN OBSTACLE OR A MOTIVATION

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Introduction

In EU circles in Brussels as well as in the member states, for years there have been talks about the so-called “enlargement fatigue”. Nevertheless, the processes have continued, while the European perspective has been used as an argument to push reforms and resolve open issues in the Balkans.

The former European Commission President Jean-Claude Juncker, who had earlier proved himself to be a major proponent of enlargement, already in the early days of his mandate in 2014, had warned that “there would be no EU enlargement” during his term. While this statement was considered discouraging, it reflected the real situation on the ground and the fact that even if there was political will on a European level, none of the countries were ready for membership, within five-year term. However, during this period, steps in the enlargement process continued: Montenegro and Serbia continued their accession negotiations, Kosovo signed the Stabilization and Association Agreement, while Bosnia received the Opinion of the European Commission (albeit negative and with many conditions) regarding the application for EU candidate status.

As an encouraging element of the new structure of the European Commission, led by Ursula von der Leyen, was the commissioner’s role in enlargement issues. This position was advanced, at least in terms of its name, compared to the predecessor Johannes Hahn who had only enlargement negotiations in his portfolio. The new Commissioner of the von der Leyen Commission holds the title: Commissioner for Neighborhood and Enlargement. In this way, von der Leyen certainly wanted to send the message that the enlargement process will now be more concrete.

But the October 2019 summit marked the most serious turning point in the enlargement process, when leaders of EU member states disagreed on a decision to open accession negotiations with North Macedonia and Albania, despite the European Commission’s assessment that both countries had met all the criteria. France was considered responsible or culpable for this failure. The country’s president, Emmanuel Macron, who has always insisted there should not be further enlargement before internal EU reforms, conditioned the start of the negotiations with Skopje and Tirana, with the adoption of the new methodology in the negotiation process.

This paper will analyze the consequences of the French proposal (supported by several other countries) in the already burdened negotiation process, which is expected to become even more complex in the future.
The discussion about opening accession negotiations with North Macedonia and Albania for the first time ever reached the highest political level at the EU – the European Council. This was a result of a lack of consensus at a prior ministerial level meeting in the General Affairs Council of the Member States which discussed this issue four times within 12 months (June and October 2018, June and October 2019). The summit held on October 17 and 18 was the last chance to deliver on the promises made to North Macedonia for a decade that it will start membership negotiations once it settles its name dispute with Greece. Albania also waited for the decision after receiving confirmation that it had met all the criteria.

The lack of decision was a consequence of the categorical opposition of France (supported by the Netherlands in the case of Albania). Failure to meet the obligation on the EU side following the entry into force of the Prespa Agreement was considered by the vast majority of European leaders as a major mistake with potential consequences.

European Commission President Jean Claude Juncker called this a “grave historical mistake.” European Council President Donald Tusk also considered it “wrong” but also added that he was “embarrassed” about this issue. Tusk said North Macedonia and Albania have fulfilled their promises, but the EU unfortunately did not. The commissioner in charge of accession negotiations, Johannes Hahn, described the move in his social network account as “the EU’s failure to deliver on its promises” and demanded the member states to clarify their positions on the commitment to EU enlargement towards the Western Balkans.

These were among very few cases when EU officials were so frank and harsh. But these were the officials who had their last days in their offices. Therefore, it begs the the question whether the tone would be so harsh if the calendar was not suitable.

1 Press conference, Jean Claude Juncker and Donald Tusk at the end of the summit. 18.10.2019 Brussels
2 Press conference, Jean Claude Juncker and Donald Tusk at the end of the summit. 18.10.2019 Brussels
The big question mark about the EU credibility

In the absence of a clear decision once candidate countries meet all the criteria, the credibility of the European Union is shattered, which can no longer call on the European perspective as a motive when seeking compromises from leaders in the region.

Kosovo is also one case that proves this. Kosovo had to meet the condition of ratification of a border demarcation agreement with Montenegro for visa liberalization (which was not required by any other Western Balkan state when negotiating freedom of movement). This criteria was fulfilled in 2017 while Kosovars still do not enjoy visa liberalization because there is no political will in some EU countries.

North Macedonia was required to find a solution to the name dispute with neighboring Greece with the promise that accession negotiations would begin immediately. Macedonia made the compromise by changing its constitutional name and its Constitution in 2018.

North Macedonia, a candidate country since 2005, has been waiting for opening of accession talks for ten years as the European Commission has recommended this since 2009. It was the Greek veto that put this issue on hold until Skopje and Athens resolved the name dispute, which was the last obstacle to the country’s European journey. Today, North Macedonia is the only country in the region without any bilateral border dispute with its neighbors and with all the criteria met for the launching of negotiations with the EU. Despite this, the European Commission still has no mandate to start the work on the negotiating framework.

The next challenge for the EU now is to reach an agreement on normalizing relations between Kosovo and Serbia, which has been characterized in Brussels as historical and legally binding for both sides. The leaders of these two countries entered the process, counting on a clear European perspective promised by every interlocutor both in the EU capital and the capitals of the EU member states. But considering the new circumstances after the October 2019 summit, as well as the changes that brought the former Spanish Minister Josep Borrell to the position of High Representative, and consequently to the role of the “facilitator,” the possibility of a successful conclusion of this process on the part of the EU is very ques-
tionable. Not only does Borrell come from a state that does not recognize Kosovo, but he has also personally contributed to opposing any Brussels move that would leave the impression of treating Kosovo as a state.

French consistency in prolonging the enlargement process

French President Emmanuel Macron is considered the most responsible for the blockade created around North Macedonia and Albania. He confirmed this himself at the conclusion of the October summit.3

But what happened at the summit, to which many were surprised and disappointed, was nevertheless expected, if judged by the public position of the French head of state regarding the EU enlargement.

Emmanuel Macron was in fact consistent in his insistence that he would not allow the enlargement processes. During his first visit to the European Parliament since taking office, Macron used it to clarify his position, noting that enlargement of the European Union is not possible before the internal reforms of European institutions.4 Only few weeks later, the EU-Western Balkans summit was organized in Sofia, Bulgaria, which was held 15 years after the Thessaloniki summit when the doors of EU were formally opened for the countries of the region. Before the start of the summit, aimed at reconfirming the promises and reviving the hopes, Emmanuel Macron reiterated his position against enlargement in the current constellation.5

June 2018 was the first moment when the EU considered the possibility of opening accession negotiations with North Macedonia and Albania in the light of the historic agreement between Skopje and Athens over the name that overcame the last hurdle for Skopje to move further in the European integration processes. Also, on this occasion, France (supported by the Netherlands) blocked the decision, while the EU Council of Ministers promised to make a decision the following year, namely in 2019.6 In June 2019, on the grounds that it had limited time for consideration, the Council of Ministers promised that it would make a posi-

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3 Emmanuel Macron, press conference on October 18, 2019, Brussels
5 https://w.politico.eu/article/emmanuel-macron-pours-cold-water-balkans-eu-membership-enlargement/
tive decision at the October meeting of the same year. 7

As the decision-making moment came to a close, since this was promised through formal conclusions, the French side came up with a new idea - reconsidering the approach to the accession negotiation process.

The demand for a new methodology emerged just weeks before the key October 2019 summit. One year earlier, respectively in June and October 2018 when there was also lack of agreement to start the accession negotiations with Skopje and Tirana, the French side did not demand a change in methodology. 8

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New methodology - from idea to reality

Immediately following the failure of the October 2019 summit, the European Parliament adopted a resolution on October 24, expressing regret over the lack of a decision to open negotiations with North Macedonia. 9 The “Renew Europe” group, which includes the French president’s “En Marche” party, also voted in favor of this resolution. Thanks to “En Marche”, the political group “Renew Europe” significantly increased in the new composition of the European Parliament and was transformed into what is called a “kingmaker”. The only group to vote against the Resolution of European Parliament and submitted the draft resolution welcoming the absence of decision on opening the accession negotiations with Skopje and Tirana, was the far-right group “Identity and Democracy” (ID), part of which is Macron’s biggest political opponent, Marine le Penn. 10

The European Parliament resolution requires, inter alia, the revision and amendment of the European Commission’s enlargement strategy of February 2018. 11

In mid-November 2019, France came up with its own ideas regarding the further enlargement process of the European Union. Paris forwarded the so-called “non-paper”, an unofficial document that presents the views of this country on the process, to other states and the Commission in early November. The paper stresses the need to rethink the approach to enlargement, which implies tightening the criteria for possible membership.

ACCORDING TO THESE PROPOSALS, FRANCE WANTS THE MEMBERSHIP PROCESS TO BE BASED ON FOUR MAIN PILLARS:

> Gradual association
> Stringent conditions
> Tangible benefits
> Reversibility

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8 Press conference with European Council officials before the start of the summit, October 17, 2019
Gradual Association

According to the French proposal, the accession process would no longer be based on the simultaneous opening of a large number of thematic chapters, but rather on several successive stages, which would form a coherent policy blocks and a scheme predetermined by the European Union, taking into account the features of each candidate country.

The closing of the negotiations corresponding to the completion of each phase by the candidate country would open up the possibility of participating in EU programs, access in certain sectoral policies and, where appropriate, benefiting from some financial assistance.

In order to move on the next stage, countries would have to effectively adhere to precise criteria that would enable the adoption of the “Acquis” (EU legal framework) but also effective implementation within the framework of participation in a given policy.

Rule of law and fundamental rights would be an integral requirement from the opening of negotiations and will remain so throughout the process.

Stringent conditions

Criteria for transition from one stage to another would be set out in detail, enabling verification of adoption as well as effective and sustainable implementation of the Acquis in relation to a particular policy, and would be based largely on the sustainable and irreversible progress made in the area of rule of law. Candidate countries would be required to adapt their institutional and administrative capacities to the need for effective participation in different policies. Final membership would be decided on the basis of achievement of tangible economic and social objectives of convergence.

These criteria would come with easy and objectively verifiable indicators, which can be inspired by existing European Union indicators.

Tangible benefits

In addition to the benefits of gradually participating in EU policies, increased financial support can be provided as well. Funds from pre-accession instruments may be added, but candidate countries may also be eligible for structural funds (which are now reserved only for EU member states). Access to structural funds would gradually increase, in line with the stages that have been completed and the reforms that have been made.

Eligibility requirements for these funds should be reserved for bidders in these countries and European Union Member States to avoid adverse external impacts.

Reversibility

A principle of reversibility, at the request of France, should be established in order to address situations where the candidate country, in whole or in part, no longer meets certain criteria or ceases to fulfill the commitments it has undertaken.

The European Union’s response would be gradual. It would be proportional to the size and the seriousness of the failing observed: starting from the suspension of benefits granted, to a step backwards in the process, or even general suspension if the fundamental values of the European Union are challenged.
New stages in place of chapters in the negotiation process

According to the French document, the process of membership of a candidate country would consist of seven stages which are actually an intertwining of chapters of the existing negotiating framework (35 in total). The completion of each phase, according to the French document, would allow the respective country access to EU programs (some of which countries already have access to, such as Erasmus).

- **THE FIRST STAGE** includes rule of law, fundamental rights, justice and security (current Chapters 23 and 24).

- **THE SECOND STAGE** consists of issues related to education, research and space, youth, culture, sports, environment, transport, telecommunications and energy. In the current framework these issues are covered by Chapters 14, 15, 21, 22, 26, 25 and 27.

- **THE THIRD STAGE** includes employment, social policies, health, consumer protection and competition. These issues are currently an integral part of Chapters 19, 28, 5, 7, 8 and 20.

- **THE FOURTH STAGE** refers to economic and financial issues. In the existing framework, these are included in Chapters 4, 9, 16, 17, 18 and 32.

- **THE FIFTH STAGE** is about the internal market, agriculture and fisheries. Currently, these topics are covered in Chapters 29, 1, 2, 3, 6, 10, 11, 12 and 13.

- **THE SIXTH STAGE** implies foreign policy. The existing negotiation framework covers these areas in Chapters 30 and 31.

- **THE SEVENTH STAGE**, the final one, refers to “other issues”, which is included in the existing framework in the last Chapter - 35. The completion of this phase implies full membership. In addition to the current Chapter 35, this stage in the new proposal also includes Chapters 33 and 34 of the existing negotiation frameworks.

Obligations in the new mandate of the European Commission

France proposes to other member states of the European Union to ask the European Commission to come up with a proposal on defining the new methodology by January 2020, based on the points presented in this document. The timeframe given by Paris corresponds to the two steps that must follow after the methodology is adopted.

The first one has to do with the publication of the enlargement package which the European Commission adopts in April. The second step concerns the need for a positive decision on the opening of accession negotiations between the EU and Albania and North Macedonia, before the Zagreb summit, which will be held in May 2020.

At the October 2019 summit, when the EU failed to agree to open negotiations with the two countries, it was promised that the issue would be returned to the agenda before the Zagreb summit.
In order for the Zagreb Summit to be successful, the EU must first have a positive decision on membership negotiations with Skopje and Tirana. The last possible moment for this is the regular EU summit in March 2020.

**Consequences of the new methodology**

There are many vague elements in the French document. It says that the so-called “revised approach” of the accession process would be reflected and applied in the negotiation frameworks that the EU Council would be called upon to adopt when accession negotiations with candidate countries open. Therefore, it remains unclear whether this new methodology will only apply to those countries that are awaiting the start of the accession process (starting from North Macedonia and Albania to Kosovo and Bosnia and Herzegovina) or will it be applied and if so, how, in case of Serbia and Montenegro which are already in the process of accession negotiations with the European Union?

The only clear element is that the methodology became a reality in a very short period. It will be among the primary tasks of the new European Commission from its early days.

The enlargement process has also seen significant changes after each wave of enlargement, most notably after the 2004 enlargement. Each change implied additional criteria and a more complex process than the previous one. Therefore, the French proposal in essence, introduces no novelty, and no element that does not already exist in the negotiation frameworks. This also includes the element of reversibility that the French side considers essential, but this element is already implied by the fact that the Chapters being negotiated are only considered “temporarily closed” and can theoretically be reopened (although in practice this was never the case).

The substantial effect of the new methodology will be seen with the decline of enthusiasm for reform processes in the countries of the region. Although uneven and very slow at times, reforms in the Western Balkans have mostly occurred only for the sake of the offered European perspective. Delays in the enlargement process that will be formalized with the new methodology will only contribute to the decline of motivation to continue with reforms and resolve disagreements in a region which is still considered to have a fragile stability.
The enlargement process has undoubtedly entered a new stage, not necessarily a clear one. The inability to build consensus between EU member states on the one hand, and the real problems in relations between some countries in the region on the other hand, make the process unpredictable. But the case of North Macedonia and Albania has proven that, even when the criteria are met, the EU does not keep its promise.

There is no doubt that requests for postponement of decisions, delay further the process that is already too slow. French proposal, even if presented as an attempt to make the process clearer and more functional, already has a negative impact on EU enlargement. It has fueled frustration in the region, divisions in the EU and loss of hope among citizens who see EU integration as an element of confidence for a better future.

Since its very establishment, the EU has been reformed while no reform has ever stopped enlargement. Therefore, the need for internal reforms in the EU should not be exploited to hinder the enlargement process. The enlargement methodology has changed as well. In the case of enlargement in 2004 there were no conditions for opening Chapters but only for closing them. The conditions for opening Chapters in the accession negotiations were introduced in the case of Croatia. After Croatia, conditionality advanced one step further, with conditions for opening Chapters: interim benchmarks and closing benchmarks for negotiating Chapters.

All these changes made the process very slow. France’s latest proposal, although informally, will also be a test for the new European Commission which, like it or not, will have to deal with it. Because the Commission is at the service of the member states.

The idea that candidate countries benefit immediately from the areas in which they have closed the negotiating chapters, confirming that they have achieved full compliance with EU standards and laws in those areas without becoming a member, is a good idea. Yet again, this idea should not be used to delay the process any further.

The vast majority of EU member states are in favor of continuing enlargement and in favor of a positive decision for Albania and North Macedonia. France blocked it, and in the case of Albania, according to diplomatic sources, it had...
the support of the Netherlands and Denmark, and to some extent Spain. But in the enlargement process, decisions are made unanimously - and that is the reason there was no movement.

The enlargement process does not need much new ideas and methodologies because, if used properly, existing ones ensure that the process is successful, enabling genuine change of candidate countries and, at the same time, reversing the process of building confidence in the EU. Numerous proposals have only raised the suspicion that major states, such as France, Germany and the Netherlands, really want the EU to enlarge, but behind this is the goal of creating an enlargement alternative, in the form of a privileged partnership for the countries of the Western Balkans, which does not imply formal EU membership.

“France’s latest proposal, although informally, will also be a test for the new European Commission which, like it or not, will have to deal with it. Because the Commission is at the service of the member states.”
Recommendations

EU member states should insist that the enlargement process remains based on individual merits and that, when the criteria are met, there should be no blocking of candidate countries due to internal political situation in any EU member state.

The European Commission and the European Parliament should continue their work in the process of enlargement with added energy, no matter the outcome of new proposals such as that of France.

At the Conference on the Future of Europe, which should start soon and close in two years, the enlargement process must have a well-deserved place given the impact of enlargement on peace, stability and prosperity in Europe.

Germany also needs to be clearer on its approach towards enlargement because its position so far has been very reluctant and ambiguous.

Candidate countries and potential candidates should not lose hope, especially not use the situation created in the EU, as an excuse for lack of reforms and for resolving disputes with neighbors.

The countries in the region also have the chance to prove that they mean it when they say that reforms are primarily for the benefit of their citizens, and not just an EU requirement in the enlargement process.

Regardless of the outcome of the enlargement process, neither the EU nor the candidate countries should allow the destabilization of the region of the Western Balkans.

The EU must maintain the policy of conditionality even in the circumstances when the enlargement process is almost blocked. This conditionality can be exercised through the absorption of pre-accession EU funds.
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