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**Master's thesis**

**Legal and institutional foundations of the EU Enlargement policy:  
challenges and reform perspectives**

**ES plėtros politikos teisiniai ir instituciniai pagrindai: iššūkiai ir reformų  
perspektyvos**

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## ABSTRACT AND KEY WORDS

The work provides an understanding of the European Union enlargement process, describing both, legal and institutional basis of it. Examining the challenges of accession, with examples from the region between the member states and applicant states as well as external powers affecting the states to harden the process of accession is the next aim for the paper. This work also suggests further perspectives of potential reforms considering the challenges described.

**Keywords:** Accession, Council, Commission, European Parliament, Merit-based Process.

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## LIST OF ABBREVIATIONS

EU – European Union

EP – European Parliament

EC – European Commission

EUCO – European Council

CoEU – Council of the European Union

TEU – Treaty on European Union

IGC – Intergovernmental Conference

EEC – European Economic Community

QMV – Qualified Majority Vote

## INTRODUCTION

The **motive** of choosing the topic about legal and institutional foundations of EU enlargement policy: challenges and reform perspectives is as follows: First of all, considering the popularity of the topic and the fact that more than 10 years have passed after the last enlargement wave of European Union, also candidate states waiting for membership for quite some time provides an understanding of this process being stalled and needs further attention. Secondly, the motive is personal, as a Georgian citizen, which is a candidate state, I wanted to understand the structure of this process and discuss possible reasons of its need of reforms.

The **object** of the master's thesis is EU enlargement and analysing the legal and institutional basis of EU accession process, what challenges can be seen in this process and what reform perspectives will help to overcome those challenges.

The research is **relevant** due to several reasons. Starting with the fact that the accession negotiations are stalled with a number of several states, continuing with stating that more than a decade passed after EU's last enlargement and at the same time EU's institutions are actively discussing possible accessions with several states. Examining the challenges why the process is stagnant and suggesting reforms to gift it a new life is very relevant topic to research among scholars, EU institutions and etc.

Considering the popularity of the topic, it is thoroughly researched, but in the academic literature there is a gap – if an applicant country does not have any land border to EU, could it be seen as a challenge to the accession process. For the **novelty** part of the research I will try to describe what problems can this cause and what will be needed to overcome it.

The **importance** of this master's thesis is to determine the possible perspectives to further update the accession process of EU to ease the stalled enlargement. With the help of defining the legal and institutional foundations of the latter, describing the challenges it faces presently, suggesting the reform perspectives is very important.

The **aim** of this paper is to describe the existing process of enlargement, its institutional and legal basis, find the challenges it faces and suggest recommendations to further reforming the institutions or legal framework behind it.

The **tasks** of this master's thesis are as follows:

1. To analyse current legislation of EU enlargement process.

2. To uncover EU institutions' involvement in this process.
3. To reveal the challenges the accession process faces.
4. To suggest reforms that will deal with the challenges.

while working on the paper, I used several **research methods**. First, I used doctrinal legal method to analyse legislative norms connected to accession process, also to understand the demands and consequences of several provisions in legal articles. Secondly, I used case study research method to further address the institutions and differentiate between their responsibilities in enlargement. I also used historical legal research method to understand the changes in accession process throughout history of its existence and how it evolved. Worth mentioning Socio-legal research method, which I used to see how institutions perform beyond the legal provisions they are based on. Qualitative empirical research method is also used in this paper to see how the legal acts are applied in practice by institutions.

# 1. LEGAL FOUNDATION OF THE EUROPEAN UNION ENLARGEMENT POLICY

## 1.1 Historical background of the European Union enlargement process

EU started by rather primitive community – with 6 European countries, mainly concentrating on economy rather than politics. In 1951, the signing of the Treaty of Paris formalized the creation of the European Coal and Steel Community (ECSC). Thus, Belgium, the Federal Republic of Germany (FRG), France, Italy, Luxembourg, and the Netherlands undertook to strengthen their institutional and economic ties with the aim of greater integration, under the fundamental premise of establishing peace and promoting cooperation in the European continent.<sup>1</sup> The Community project was consolidated in subsequent years with the signing of the Treaties of Rome ... which gave rise to the European Economic Community (EEC) and the European Atomic Energy Community (EURATOM).<sup>2</sup> Member states built the EC on a solid foundation of informal economic integration stretching back to the late nineteenth century, which they now shaped in particular geographical and functional directions.<sup>3</sup> Treaty of Rome later evolved in Treaty on the Functioning of the EU. EU, as it is today, emerged from abovementioned community. Important for the paper, Treaty of Rome, in its article 237, dealt with the enlargement process of the community. This article was predecessor of article 49 in Treaty on European Union. Both articles dealt with any European country's ability to join the community/union. It can be stated that the history of the enlargement process started with Treaty of Rome and its article 237.

The first enlargement wave took place in 1973, when Denmark, Ireland and United Kingdom joined the union. The legal basis of this accession was 1972 Treaty of Accession. Norway was part of this treaty, but after the referendum held in Norway, people decided not to join the EEC. Thus, the first accession process finished with the abovementioned three countries joining the community. This enlargement was significant for several reasons. It was the first wave, member states did not have any example of what the accession demands could

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<sup>1</sup> LORCA ACRE, Aida. (2024). The evolution of the European Union enlargement policy : a historical approach to the Copenhagen criteria. 20 Years of EU Membership Paper Series, p.4 [online]. <https://www.um.edu.mt/library/oar/handle/123456789/122018>

<sup>2</sup> Ibidem p.4

<sup>3</sup> DINAN, Desmond (2014). Europe Recast: A History of European Union. Second Edition. Lynne Rienner Publisher. p.6 [Online]. <https://www.rienner.com/uploads/53aac65db9769.pdf>

include. Political accession criteria were not mentioned, except, perhaps, in the Preamble to the Treaty of Rome (1957), which expresses the desire of the founders of the EEC “to lay the foundations of an ever closer union among the peoples of Europe”; to pool “their resources to preserve and strengthen peace and liberty”; and calls “upon the other peoples of Europe who share their ideal to join in their efforts”. However, Article 237 did not establish a link between membership and the preambular reference to liberty<sup>4</sup>. In 1973, the community did not attempt to define the meaning and requirement of the values of member states.

This could be seen as the most chaotic enlargement wave throughout history which then demanded the community working for creating new and improving old legislation of accession. But it still needed 2 waves of enlargement to update the legislation about it. First, in 1981, Greece joined the community and in 1986 so did Spain and Portugal. Following these accessions, firstly community introduced the Single European Act in 1986, which itself did not include any criteria for enlargement, but it became a basis for the economic criteria later introduced in Copenhagen council meeting. The most important legislation change, however, was the Treaty on European Union 1992, known as the Maastricht treaty. With this treaty the EEC got reshaped into the union as we today refer as the European Union. All 12 members of the community signed this treaty. In connection with the enlargement, it suggested concrete values a country should respect to be able to join the EU, which are – human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities. Additionally, it suggested the process of how a third country can become member of the union.

Perhaps, the most important criteria of accession were introduced one year after the Maastricht treaty. Article 6 (1) and 49 of the TEU provided the basis for the development and subsequent entry into force of the Copenhagen Criteria during the European Council in the Danish capital (1993)<sup>5</sup>. In just two years, the policy of enlargement was set out and mobilized in a way that had not been done in more than four decades.<sup>6</sup> The approval of this set of rules

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<sup>4</sup> JANSE, Ronald (2018) The evolution of the political criteria for accession to the European Community, 1957–1973. *European Law Journal*, 24(1), p. 57 [online]. <https://doi.org/10.1111/eulj.12253>

<sup>5</sup> LORCA ACRE, Aida. (2024). The evolution of the European Union enlargement policy : a historical approach to the Copenhagen criteria. *20 Years of EU Membership Paper Series*, p.5 [online]. <https://www.um.edu.mt/library/oar/handle/123456789/122018>

<sup>6</sup> *Ibidem* p.5

governing the accession of new countries to the European Union became a milestone, not because the requirements were substantially novel, but because with its approval the European Council formalized its enlargement policy. Through these membership obligations, this institution made the acceptance of new members dependent on the fulfilment of the Copenhagen criteria.<sup>7</sup>

Continuing with the next wave of enlargement, with these much more sophisticated requirements, applications from the fourth enlargement countries (1995) - Austria, Finland and Sweden - were considered for membership. Undoubtedly, these States with strong economic and democratic trajectories became the idyllic candidates for the newly introduced criteria.<sup>8</sup> On the same year, union members (The European Council) met in Madrid, where they further discussed the Copenhagen criteria and tried to formalise the process of enlargement. This meeting also prepared the union for the next wave of, mainly referred to as the “eastern enlargement”. This enlargement was partially completed in 2004 (because ten states joined in 2004 and two did so in 2007<sup>9</sup>), but required several prior legislative amendments, including the Treaty of Amsterdam (1997) and the Treaty of Nice (2001), as the most significant.<sup>10</sup> These treaties were needed to renew the EU and its institutions to welcome 12 new members without any challenges with decision-making, for example - There was increased provision for the use of QMV in the Council<sup>11</sup>, as prior QMV rule could be either too demanding or too easy for 27 members. Concentrating mainly on enlargement, these treaties changed the framework of the union as it could be functional under up to 27 countries in the union. The “eastern enlargement” finished in 2007, with the total number of EU members being 27.

Treaty of Lisbon, which came into force in 2009, dealt with further updating article 49 of TEU. This following is not directly connected to the accession process, but it also introduced the right to leave the union (Article 50). The last wave of enlargement with a sole state finding

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<sup>7</sup> Ibidem p.8

<sup>8</sup> Ibidem p.6

<sup>9</sup> NUGENT, Neill. (2017) *The government and politics of the European Union*. 8<sup>th</sup> Edition. London, Palgrave p. 55.

<sup>10</sup> LORCA ACRE, Aida. (2024). The evolution of the European Union enlargement policy : a historical approach to the Copenhagen criteria. 20 Years of EU Membership Paper Series, p. 6. [online]. <https://www.um.edu.mt/library/oar/handle/123456789/122018>

<sup>11</sup> NUGENT, Neill. (2017) *The government and politics of the European Union*. 8<sup>th</sup> Edition. London, Palgrave p. 87.

its way in EU finished in 2013 and Croatia joined the European Union. Additionally, following the effective exit of the United Kingdom from the European Union in January 2020, the entity has kept its number of members unchanged at twenty-seven.<sup>12</sup>

Today, after the last enlargement of the union, the accession process is continuing to evolve. As there are several (9 in total, if including Georgia - as the accession process is de facto halted, Turkey – officially and excluding Kosovo – as the border disputed is yet to be dealt with, but officially, the Commission still did not prepare an opinion regarding Kosovo’s application, so the latter is mentioned as potential candidate rather than a candidate state<sup>13</sup>) candidate countries who want to join the union, the enlargement is still popular discussion among scholars, EU member states and, of course, EU institutions, such as the EC, which is mainly involved in negotiating stages as a bystander which assesses the implementation of reforms regarding accession. The Commission introduced the new enlargement methodology in 2020, for the better accession of western Balkans into the union, as in this region the enlargement process was stalled, they suggested grouping 35 chapters into six clusters. These six thematic clusters outlined in the Annex of the EC Communication are as follows: 1) Fundamentals ... 2) Internal Market ... 3) Competitiveness and Inclusive Growth ... 4) Green Agenda and Sustainable Connectivity ... 5) Resources, Agriculture and Cohesion ... 6) External Relations<sup>14</sup>. Additionally, this renewed methodology also suggested the principle of reversibility, which is a tool for institutions to stop the further process of accession if it is believed that a country no longer meets the criteria mentioned in chapters that were already closed. The negotiating stage could stop, the closed chapters could re-open and discussions could start again. It also suggested that the process and demands for joining the union should be more foreseeable, the candidate states need to know exactly what is expected for them and that is the reason why the EC should provide more detailed report of what is done and what is expected to be done. It is visible how the “old” framework could not answer today’s challenges (It can also be stated that the previous accessions later in time gave EU better understanding

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<sup>12</sup> LORCA ACRE, Aida. (2024). The evolution of the European Union enlargement policy : a historical approach to the Copenhagen criteria. 20 Years of EU Membership Paper Series, p. 6. [online]. <https://www.um.edu.mt/library/oar/handle/123456789/122018>

<sup>13</sup> European Commission. (2025). Press Release. *2025 Enlargement package shows progress towards EU membership for key enlargement partners*. [online] [https://ec.europa.eu/commission/presscorner/detail/en/ip\\_25\\_2584](https://ec.europa.eu/commission/presscorner/detail/en/ip_25_2584)

<sup>14</sup> BARGIACCHI, Paolo. (2020). The Revised Enlargement Methodology for the Western Balkans. *Regional Law Review*. p. 52. [online] [https://doi.org/10.18485/iup\\_rlr.2020.ch4](https://doi.org/10.18485/iup_rlr.2020.ch4)

of how it could be evolved) and how it needs to be improved for the next accession waves. The process of the enlargement and the framework itself is very demanding, with the oldest candidate country – Türkiye, the western Balkans and the newest candidates – Georgia, Ukraine and Moldova. It is very important for the union to have the work on improvements finished before they can think about the next wave of enlargement.

## 1.2 Treaty on European Union

The (EU) accession procedure has been regulated in the Treaty on European Union (TEU) and not the Treaty on the Functioning of the European Union, which already shows that this matter is of particular political sensitivity for the Member States.<sup>15</sup> The current legal basis for enlargement is enshrined in Article 49 TEU, which establishes the criteria for States seeking EU membership, and Article 2 TEU, which encapsulates the EU's founding values.<sup>16</sup>

These articles are interconnected as it can be seen in the texts - According to Article 49 TEU, an applicant country must be a European State, thereby imposing a geographical limitation. This requirement reflects the EU's objective from the preamble to create an 'ever closer union' among Europeans. Additionally, the applicant must respect and commit to the values outlined in Article 2 TEU.<sup>17</sup> More precisely – “Any European state which respects the values referred to in article 2”,<sup>18</sup> which are as follows – “respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities”<sup>19</sup>, can apply for the membership.

The criteria introduced in Article 49 TEU – that a third country should be European to seek membership of the union limits the scope of potential members. For example, in 1987, Türkiye and Morocco both applied for a membership of EU. While the EEC flatly rejected Morocco's application on the grounds of not being European, Turkey's application was

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<sup>15</sup> LASHYN, Serhii. (2025). The finalité of the European Union's enlargement. ERA Forum 26. p 252. [online] <https://doi.org/10.1007/s12027-025-00838-8>

<sup>16</sup> KATARZYNA MAZUR, Sylwia. (2024). On the Verge of the Next EU Enlargement. Accession Legal Framework: Conceptual Overview. Croatian Yearbook of European Law and Policy, 20(1). p. 110. [online] <https://doi.org/10.3935/cyelpl.20.2024.599>

<sup>17</sup> Ibidem. p. 111-112.

<sup>18</sup> Treaty on European Union. Article 49.

<sup>19</sup> Treaty on European Union. Article 2.

deferred in 1989. Later, Turkey received candidacy status from the European Council in 1999.<sup>20</sup> In case of Morocco, as it is in west side of Africa, council used this reasoning to decline its application. Apart of that, there was no usage of the first legal criteria for declining accession as all the other candidates/members were located in Europe.

The second legal criteria introduced in Article 49 is broader than the first one. First, in this article there are several values and principles that the EU stands on. The EU membership requires not only formal respect for the values of Article 2 TEU but also their concrete application in society.<sup>21</sup> It is rather demanding clause, but accession process should not be simple. A country applying for membership of the union should, at least, try to adhere the values within its citizens to not be rejected on spot by council as Morocco was rejected with the use of abovementioned first criteria. As time flows, these values are defined differently, their scope of reach increase and the definition changes. It can be stated that the Copenhagen criteria plays a role assessing those values in a third country wanting to join the union.

### 1.3 Copenhagen criteria

Art. 49 TEU is of great constitutional importance for the Union since it lays down the procedure for taking a decision on admitting a new member. However, for the candidate countries, Art. 49 is of surprisingly little relevance as it is the Copenhagen Criteria and the Enlargement Methodology that they need to look to when planning their accession to the Union.<sup>22</sup> Defined as a political rather legislative, The Copenhagen political criteria include several separate elements<sup>23</sup>:

1. Membership requires that the candidate country has achieved stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of

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<sup>20</sup> İPEK, Volkan and TÜRKEŞ KILIÇ, Selin. (2019). European Morocco and European Turkey: Two Identity Construction Cases on the Path to the EEC. *Turkish Journal of Middle Eastern Studies*. 6(2). p. 46. [online] <https://doi.org/10.26513/toed.607538>

<sup>21</sup> SERENA ROSSI, Lucia. (2025). ‘Concretised’, ‘Flanked’, or ‘Standalone’? Some Reflections on the Application of Article 2 TEU. *European Papers – A Journal on Law and Integration* 10(1) p. 13. [online] <https://doi.org/10.15166/2499-8249/820>

<sup>22</sup> LASHYN, Serhii. (2025). The finalité of the European Union’s enlargement. *ERA Forum* 26. p 254. [online] <https://doi.org/10.1007/s12027-025-00838-8>

<sup>23</sup> KOCHENOV, Dimitry. (2004). Behind the Copenhagen façade. The meaning and structure of the Copenhagen political criterion of democracy and the rule of law. *European Integration Online Papers*. 8(10). p. 9. [online] <https://eiop.or.at/eiop/texte/2004-010a.htm>

minorities.

2. the existence of a functioning market economy as well as the capacity to cope with competitive pressure and market forces within the Union.
3. Membership presupposes the candidate's ability to take on the obligations of membership including adherence to the aims of political, economic and monetary union.<sup>24</sup>

Additionally, the European Council decided to include another criterion - The Union's capacity to absorb new members, while maintaining the momentum of European integration<sup>25</sup>. These political criteria together shape the accession process with more concrete demands rather than a state “being European” and “respecting the values of EU”.

### 1.3.1 The Political Criterion

The first criteria of Copenhagen summit require the applicant country to have the stable governmental institutions, which can assure democracy, the rule of law, human rights and respect for and protection of minorities. It later included the territorial dispute resolution as a part of this criteria, as is seen (and not only) in the presidency conclusions of Helsinki European Council - European Council stresses the principle of peaceful settlement of disputes in accordance with the United Nations Charter and urges candidate States to make every effort to resolve any outstanding border disputes and other related issues<sup>26</sup>.

The European Council recalls that compliance with the political criteria laid down at the Copenhagen European Council is a prerequisite for the opening of accession negotiations and that compliance with all the Copenhagen criteria is the basis for accession to the Union<sup>27</sup>, meaning that it is essential for a country to satisfy this criteria in order to initiate the process of accession. As history shows, this approach was used in practice, for example: If the European Council in December 2004, on the basis of a report and a recommendation from the Commission, decides that Turkey fulfils the Copenhagen political criteria, the European Union

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<sup>24</sup> European Council. (1993). Copenhagen European Council – 21-22 June 1993. Presidency Conclusions [online] [https://www.europarl.europa.eu/enlargement/ec/cop\\_en.htm](https://www.europarl.europa.eu/enlargement/ec/cop_en.htm)

<sup>25</sup> Ibidem.

<sup>26</sup> European Council. (1999). Helsinki European Council – 10 and 11 December 1999. Presidency Conclusions [online] [https://www.europarl.europa.eu/summits/hell\\_en.htm#a](https://www.europarl.europa.eu/summits/hell_en.htm#a)

<sup>27</sup> Ibidem

will open accession negotiations with Turkey without delay<sup>28</sup>. Türkiye is not the best example for assessing how well it fulfilled the first criteria, but the negotiations for accession opened to them in 2005 as in December 2004 council meeting, EU leaders agreed that turkey fulfilled it.

To sum up the political criteria, this entails having a functioning democratic system with free and fair elections, independent judiciary, and effective mechanisms for protecting civil liberties and fundamental freedoms. Additionally, candidates must demonstrate a commitment to resolving conflicts peacefully and promoting good governance, transparency, and accountability in public administration.<sup>29</sup>

### 1.3.2 The Economic Criterion

The economic criteria focus on ensuring a functioning market economy and the capacity to withstand competitive pressures and market forces within the EU. This includes achieving macroeconomic stability, such as low inflation rates, sustainable public finances, and stable exchange rates. Candidate countries must also demonstrate the ability to implement and enforce EU competition rules, as well as to adopt the common rules and standards of the EU's internal market.<sup>30</sup>

Adhering with this criterion is assessed by the European Commission, they are mostly based on economic data and statistics, making reference to real GDP growth, inflation, the overall government budget balance, unemployment, foreign debt and foreign direct investment.<sup>31</sup> Privatisation is also an integral part of the necessary transition from a command to a market economy. The Commission has often attested to progress concerning privatisation,

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<sup>28</sup> European Council. (2002) Copenhagen European Council – 12 and 13 December 2002. Presidency Conclusions [online]

[https://www.cvce.eu/obj/conclusions\\_of\\_the\\_copenhagen\\_european\\_council\\_extract\\_concerning\\_enlargement\\_12\\_13\\_december\\_2002-en-ff7ff228-fa3b-4f89-b552-808f7eb2c5b3.html](https://www.cvce.eu/obj/conclusions_of_the_copenhagen_european_council_extract_concerning_enlargement_12_13_december_2002-en-ff7ff228-fa3b-4f89-b552-808f7eb2c5b3.html)

<sup>29</sup> BOKOVA, Bella. (2024). ). Analyzing the Copenhagen criteria and reforms in the context of Turkey's aspiration for EU membership. *International Relations and Regional Studies* 56(2) [online] p. 4-5. <https://doi.org/10.48371/ISMO.2024.56.2.014>

<sup>30</sup> BOKOVA, Bella. (2024). Analyzing the Copenhagen criteria and reforms in the context of Turkey's aspiration for EU membership. *International Relations and Regional Studies* 56(2) [online] p. 5. <https://doi.org/10.48371/ISMO.2024.56.2.014>

<sup>31</sup> MARKTLER, Tanja. (2006). The Power of the Copenhagen Criteria. *Croatian yearbook of European Law and Policy* 2(2). [online] p. 353. <https://www.cyelp.com/index.php/cyelp/article/view/23>

even though privatisation procedures were not always transparent, and bankruptcy procedures had to be improved.<sup>32</sup>

As mentioned, the capacity to cope up with competitive pressure and market forces within the union<sup>33</sup> is also one of the most significant in this criterion. The ability to fulfil this criterion depends on the existence of market economy and a stable macroeconomic framework, allowing economic agents to make decisions in a climate of predictability. It also requires a sufficient amount of human and physical capital, including infrastructure. State enterprises need to be restructured and all enterprises need to invest to improve their efficiency.<sup>34</sup> In line with this definition, the Commission has evaluated the quality of infrastructure in the applicant countries, since the quality of road, railway and port infrastructure, as well as a functioning information and telecommunications network, is very important for domestic and foreign investors.<sup>35</sup>

### 1.3.3 Institutional Capacity Criterion (Acquis Communautaire)

The third Copenhagen criterion was originally connected to the adoption of the EU's legislation – the *acquis* (The *acquis* is the body of common rights and obligations that is binding on all the EU member states.<sup>36</sup> Currently it consists of 35 chapters grouped in 6 clusters). Negotiations are based on a screening process, in the course of which national law is compared with Community law (EU law); this comparison indicates legal parallels, deviations and gaps and, consequently, the need for additional legislation.<sup>37</sup> It also checks if the policy and institutional reforms are needed to align with the EU *acquis* and EU policies. Screening

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<sup>32</sup> Ibidem. p. 353

<sup>33</sup> Commission of the European Communities. (2001). Regular Report on Bulgaria's progress towards accession. p. 33. [online]. [https://enlargement.ec.europa.eu/document/download/602a1dd6-68d4-4709-a2ed-82e1e9910908\\_en?filename=bu\\_en.pdf](https://enlargement.ec.europa.eu/document/download/602a1dd6-68d4-4709-a2ed-82e1e9910908_en?filename=bu_en.pdf)

<sup>34</sup> Ibidem. p. 33-34.

<sup>35</sup> MARKTLER, Tanja. (2006). The Power of the Copenhagen Criteria. *Croatian yearbook of European Law and Policy* 2(2). [online] p. 354. <https://www.cyelp.com/index.php/cyelp/article/view/23>

<sup>36</sup> European Commission. (n.d.). *Glossary – Acquis*. [Online] [https://enlargement.ec.europa.eu/enlargement-policy/glossary\\_en#acquis](https://enlargement.ec.europa.eu/enlargement-policy/glossary_en#acquis)

<sup>37</sup> MARKTLER, Tanja. (2006). The Power of the Copenhagen Criteria. *Croatian yearbook of European Law and Policy* 2(2). [online] p. 354. <https://www.cyelp.com/index.php/cyelp/article/view/23>

process provides a better understanding for a candidate state of what steps are necessary to take to fully satisfy the third criterion.

Most applicant countries have been successful regarding adoption of the *acquis*, whereas its implementation and enforcement are still highly insufficient and problematic. This is why the Madrid European Council in December 1995 pointed out the need to create the conditions for gradual, harmonious integration of all the candidates, particularly through adjustment of their administrative systems.<sup>38</sup> For this reason, the third criterion updated as follows - strategy will have to be intensified in order to create the conditions for the gradual, harmonious integration of those States, particularly through the development of the market economy, the adjustment of their administrative structures and the creation of a stable economic and monetary environment<sup>39</sup>. With this, basically, this criterion revised with the requirement for an applicant country to have the institutional and administrative capacity to effectively implement the *acquis* in their legislation.

Important to be noted that, as mentioned above, the 35 chapters of EU laws got regrouped in 6 clusters by the EC in 2020. Clustering chapters will allow a stronger focus on core sectors in the political dialogue and provide an improved framing for higher level political engagement.<sup>40</sup>, the Commission stated that rather than opening chapters one by one, chapters would be grouped in clusters as it will allow the most important and urgent reforms per sector to be identified.<sup>41</sup>

#### 1.3.4 EU Absorption Capacity criterion

The fourth Copenhagen criterion, as mentioned in the summit conclusions, is about the EU's capacity to integrate new members in the union "while maintaining its momentum of European integration". This criterion is somewhat odd as, in fact, it is not a criterion for

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<sup>38</sup> Ibidem. p.355

<sup>39</sup> European Council. (1995). Madrid European Council – 15 and 16 December 1995. Presidency Conclusions [online] [https://www.europarl.europa.eu/summits/mad1\\_en.htm#enlarge](https://www.europarl.europa.eu/summits/mad1_en.htm#enlarge)

<sup>40</sup> European Commission. (2020). Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions. *Enhancing the accession process – A credible EU perspective for the Western Balkans*. p. 4 [online] <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52020DC0057>

<sup>41</sup> Ibidem. p.4

prospective new members. Instead, it is a requirement for the Union itself and that only the Union can fulfil<sup>42</sup>. But what exactly is the definition of the union's absorption capacity? Emerson, Aydin, De Clerk-Sachsse and Noutcheva argue that the EU absorption capacity means as follows:

- Capacity of the goods and service markets to absorb new member states
- Capacity of the labour market to absorb new member states
- Capacity of the EU's budget to absorb new member states
- Capacity of the EU institutions to function with new member states
- Capacity of society to absorb new member states
- Capacity of the EU to assure its strategic security<sup>43</sup>

It is obvious, and the Commission of the European Communities in its communication of 2006 also states that the integration capacity of EU puts forward an approach for ensuring that Union can maintain and deepen its own development, in terms of policies and institutions, while pursuing an enlargement agenda with major challenges in the world.<sup>44</sup> In other words, EU should be careful when deciding upon the further enlargements not to overstep itself in various values it stands on, not to worsen the conditions of its member countries while trying to welcome other states in the union. The Union has to ensure it can maintain its capacity to act and decide according to a fair balance within institutions, respect budgetary limits, and implement ambitious common policies that function well and achieve their objectives.<sup>45</sup> The

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<sup>42</sup> LASHYN, Serhii. (2025). The finalité of the European Union's enlargement. ERA Forum 26. p 255. [online] <https://doi.org/10.1007/s12027-025-00838-8>

<sup>43</sup> EMERSON, Michael; AYDIN, Senem; DE CLERK-SACHE, Julia et. al. (2006). Just what is this 'absorption capacity' of the European Union. *Centre for European policy studies 113*. p. 9. [online] <https://cdn.ceps.eu/wp-content/uploads/2013/02/1381.pdf>

<sup>44</sup> Commission of the European Communities. (2006). Communication from the Commission to the European Parliament and the Council. *Enlargement Strategy and Main Challenges 2006 – 2007 Including annexed special report on the EU's capacity to integrate new members*. p. 17. [online] <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52006DC0649>

<sup>45</sup> Ibidem p. 17

EU can successfully welcome new countries provided its own development has progressed and candidate countries can fulfil their responsibilities as Member States<sup>46</sup>.

#### 1.4 Summary of the chapter

Legal foundations of the enlargement policy of EU, as can be seen clearly, has undergone various modifications and renovations till present day and it is still adjusting as the needs of each enlargement wave differs. First, when the union was only with 6 member countries, its legislation did not explicitly needed or included a clear legal provision of community enlargement, but further geopolitical changes assured that Europe, that stands together is much more powerful than divided one. With the increased demand for joining the union from various countries, overtime, the process insisted on itself that the clear legislation of accession should be created. TEU in its article 49 defines the basic requirements one should satisfy to be able to apply for joining the union, and TEU article 2 gives further understanding of one of the requirements, but complying with rather primitive demands for joining such union should not be enough. That is where the Copenhagen criteria comes in action.

Copenhagen political criterion give applicant countries an understanding what is expected from them, but the definition of this criterion is not clear. Candidate states often struggle to understand what is required from them. Especially when this one is a prerequisite of opening negotiations. The values, such as, the rule of law, guaranteeing democracy could be subjective as, for example, what level of democracy EU demands to open negotiations with states differs from time to time. The ever-changing nature of the latter could be understood with the help of diverse demands in various times and with different countries. Rather political, this criterion is created and updated for the purpose of improving EU's accession process. Its importance is also mentioned in one of the latest conferences on accession regarding Ukraine. The document states, as follows - In the case of a serious and persistent breach by Ukraine of the values on which the Union is founded, the Commission can, on its own initiative or at the duly motivated request of a Member State, recommend the suspension of negotiations and propose the conditions for eventual resumption.<sup>47</sup> As article 2 of TEU states the values that the

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<sup>46</sup> Ibidem p. 18

<sup>47</sup> Conference of accession to the European Union -Ukraine-. (2024) *General EU position*. p. 13. [online] <https://www.consilium.europa.eu/media/hzmfw1ji/public-ad00009en24.pdf>

union stands for, the first Copenhagen criterion measures candidate state's adherence to these values and with the use of reversibility, EU can even stop the negotiations and put benchmarks of reopening of the latter. As stated above, the first criterion is a prerequisite for starting the accession negotiations and the other criteria are the part of those negotiations, but the negotiating process can be stopped if EU institutions decide that there is serious backsliding from the political criterion, or adopting the acquis.

## **2. INSTITUTIONAL FOUNDATIONS OF THE EUROPEAN UNION ENLARGEMENT POLICY**

### **2.1 European Union institutions engaged in enlargement process**

The enlargement process is overlooked and controlled by various EU institutions and these institutions have a strong saying whether an applicant country can join the union or not. Main institutions involved in the process of accession are: 1. the European Council, 2. the European Commission, 3. the European Parliament and 4. the Council of the European Union. Of course, there are other institutions within the union that are engaged in the enlargement process (although, not directly), such as - Court of Justice of the European Union, various Committees, also European Court of Auditors, but they have rather secondary roles in the process and they do not explicitly decide upon the accession itself, alternatively, they have a role to control the enlargement process and assess pre/post-accession situations from afar.

This chapter will further discuss roles of each institution which are involved in decision-making and evaluation processes. Legal foundations of them also will be considered, to fully understand the nature of accession. Since these institutions are seen as mirror of the whole union and they consist of each member states' representatives, understanding their roles and functions in the accession procedure is highly important.

This chapter will also provide a clear steps of enlargement and how the institutions act from the time of the application of a third country comes through till the final accession of the applicant state in EU.

#### **2.1.1 European Parliament**

According to TEU article 49, when a third country applies for the candidacy status, “the European parliament and the national parliaments shall be notified of this application. ... after receiving the consent of the European Parliament, which shall act by a majority of its component members”<sup>48</sup>. The consent procedure gives the EP a formal veto over any accession treaty. This means that a candidate country cannot join the EU without Parliament's approval. Although this vote comes at the very end of the process — and the EP has no formal role in

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<sup>48</sup> Treaty on European Union, Article 49.

shaping negotiation mandates — it has found ways to use this leverage upstream.<sup>49</sup> Only after the European Parliament gives its consent can the Council unanimously approve the treaty draft.<sup>50</sup> Additionally, the TEU article 49 mentions a majority of its component members to decide upon the application. According to TEU article 14, “The European Parliament shall be composed of representatives of the Union’s citizens. They shall not exceed seven hundred and fifty in number, plus the President.”<sup>51</sup> This part provides an understanding what a majority quota for the abovementioned decision means, but to be precise, there are currently 720 Members of the European Parliament<sup>52</sup>. Based on these facts, the majority of votes needed, considering the article 49 TEU mentioning “majority of its component members”, is a minimum of 361 votes (until the next European Parliament elections in 2027). This is the most important role of EP through the enlargement process, but, overall, this institution is highly involved in the accession.

Budgetary powers provide another key point of influence. While the Council determines the overall ceilings of the Multiannual Financial Framework (MFF), the EP must give its formal consent. This grants it effective veto power and the ability to attach political conditions. Within the annual budget process, where the EP co-decides with the Council, it can shape how much funding is allocated to enlargement — and how that funding is structured, monitored, and targeted.<sup>53</sup> The European Parliament ... issues resolutions in response to the Commission’s country reports. It also maintains bilateral relations with the parliaments of countries in the process to discuss issues relevant to integration.<sup>54</sup>

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<sup>49</sup> JANSEN, Lien. (n. d.) . How the European Parliament can shape enlargement. [online] <https://theloop.ecpr.eu/how-the-european-parliament-can-shape-enlargement/>

<sup>50</sup> KATARZYNA MAZUR, Sylwia. (2024). On the Verge of the Next EU Enlargement. Accession Legal Framework: Conceptual Overview. *Croatian Yearbook of European Law and Policy*, 20(1). p. 119. [online] <https://doi.org/10.3935/cyelpl.20.2024.599>

<sup>51</sup> Treaty on European Union. Article 14.

<sup>52</sup> European Union. (n. d.) Elections and appointments for EU institutions. *EU institutions*. European Parliament. Composition [online] [https://european-union.europa.eu/institutions-law-budget/leadership/elections-and-appointments\\_en](https://european-union.europa.eu/institutions-law-budget/leadership/elections-and-appointments_en)

<sup>53</sup> JANSEN, Lien. (n. d.) . How the European Parliament can shape enlargement. [online] <https://theloop.ecpr.eu/how-the-european-parliament-can-shape-enlargement/>

<sup>54</sup> KATARZYNA MAZUR, Sylwia. (2024). On the Verge of the Next EU Enlargement. Accession Legal Framework: Conceptual Overview. *Croatian Yearbook of European Law and Policy*, 20(1). p. 118. [online] <https://doi.org/10.3935/cyelpl.20.2024.599>

The EP also draws on its agenda-setting and scrutiny tools to amplify its role in enlargement. Through resolutions, own-initiative reports, plenary debates, and high-profile speeches by the EP President, it can keep enlargement on the political radar and push to the fore issues that might otherwise be sidelined.<sup>55</sup>

The EP is not the primary driver of EU enlargement. But it does not have to remain in the back seat. As the EU navigates what Veronica Anghel has in this series called a strategic turn in enlargement — in which questions of security, democracy, and geopolitics are increasingly entangled — the EP’s role deserves renewed attention.<sup>56</sup>

### 2.1.2 European Commission

The EC has rather important role in accession. Before examining actual process in which the commission is involved, important to be noted that this branch of institution is seen as an executive instrument of the union. It also proposes new EU laws and is responsible to implement the decisions of other institutions.

Apart of these responsibilities, the commission is also highly involved in the enlargement process. It can be stated that the most important duty of the commission in this process, as article 49 TEU also states, – “The applicant State shall address its application to the Council, which shall act unanimously after consulting the Commission”<sup>57</sup> – is to give Council an opinion regarding a state’s membership application. For example, as is clearly seen in one of the communications (application for membership opinion) from the Commission, it describes country’s adherence to the Copenhagen political criteria, overall readiness of institutions for accession (also economic condition of applicant), discusses each of the chapter of the EU laws and in conclusion it states if it recommends the Council opening negotiations with a state.<sup>58</sup>

If and when negotiations begin, the Commission, operating within Council-approved guidelines, acts as the EU’s main negotiator, except on showpiece ministerial occasions or when particularly sensitive or difficult matters call for an inter-ministerial resolution of

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<sup>55</sup> JANSEN, Lien. (n. d.) . How the European Parliament can shape enlargement. [online] <https://theloop.ecpr.eu/how-the-european-parliament-can-shape-enlargement/>

<sup>56</sup> Ibidem.

<sup>57</sup> Treaty on European Union. Article 49.

<sup>58</sup> Commission of the European Union. (2004). Communication from the Commission. *Opinion on Croatia’s Application for Membership of the European Union*. [online] <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:52004DC0257>

differences.<sup>59</sup> It does not mean that the Commission curates the process, but it has rather privileged stance as its recommendations, reports, opinions or even non-papers are considered throughout the negotiating process. For more broad understanding, the negotiations happen in inter-governmental conferences, which is described in the further sub-chapter.

Moving forward with the additional responsibilities of this institution in enlargement, the Commission carries out a detailed examination, together with the candidate country, of each policy field (chapter), to determine how well the country is prepared. The findings by chapter are presented by the Commission to the Member States in the form of a screening report. The conclusion of this report is a recommendation of the Commission to either open negotiations directly or to require that certain conditions – opening benchmarks – should first be met<sup>60</sup>. This process of screening is used to discover gaps between EU laws and applicant's national legislation and to shape the overall negotiations.

In addition, the European Commission provides a recommendation on whether to start negotiations on the next cluster or chapter with the candidate state, or to give more time for the implementation of the provisions of EU acquis. The duration of negotiations depends on this report. As soon as the European Commission provides a satisfactory assessment of the implementation of the acquis, a report with a positive assessment is sent to the Council of the EU, which, based on the conclusions of this document, starts negotiations on the chapter with the candidate state.<sup>61</sup>

When negotiations are completed, the Commission makes a recommendation to the Council – in practice to the European Council – as to whether an applicant should be accepted for membership.<sup>62</sup> These recommendations are not binding for EUCO, but it has a rather high significance for the latter.

Additionally, the Commission also issues annual progress reports of each applicant country's progress/regress towards the accession and upholding of EU laws. For example,

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<sup>59</sup> NUGENT, Neill. (2017) *The government and politics of the European Union*. 8<sup>th</sup> Edition. London, Palgrave p. 159.

<sup>60</sup> European Commission. (n. d.). Enlargement and Eastern Neighbourhood. *Steps towards joining*. [online] [https://enlargement.ec.europa.eu/enlargement-policy/steps-towards-joining\\_en](https://enlargement.ec.europa.eu/enlargement-policy/steps-towards-joining_en)

<sup>61</sup> IHOR, Dir. (2023). Peculiarities of the negotiation process for the European Union accession. *Visegrad Journal on Human Rights*, vol. 3. p. 13. [online] <https://doi.org/10.61345/1339-7915.2023.3.2>

<sup>62</sup> NUGENT, Neill. (2017) *The government and politics of the European Union*. 8<sup>th</sup> Edition. London, Palgrave p. 159.

Since the negotiations are stalled with Türkiye, the Commission still gives a progress report of Türkiye annually.

The Communications of the Commission is also a key mechanism that it uses to further renew the enlargement processes. For example, the Commission, as mentioned above, issued Communication regarding the western Balkan countries in 2020, in which it discussed that the accession process should be more predictable “which ensures greater clarity on what the Union expects of enlargement countries at different stages of the process, and what the positive and negative consequences are of progress or lack thereof.”<sup>63</sup> The new approach could be seen as a mechanism to further address stalled accession processes in western Balkans. Satisfactory progress needs to be made on the 'Fundamentals' cluster before any of the other clusters can be opened. Member States are more involved as a result of the reform, which provides further review and monitoring possibilities throughout the process.<sup>64</sup> The new enlargement methodology suggested by the Commission introduces stricter accession process, where demands for candidate countries increase, for example, already closed chapters in negotiations could be re-opened if there is need to double-check the issues related to it.

Considering the main executive and legislative responsibilities of the European Commission, as it can be seen, it still has somewhat important tasks in the accession process.

### 2.1.3 European Council

Most important decisions relating to EU enlargement are taken at European Council meetings, usually – although not always – on the basis of recommendations from the Commission.<sup>65</sup> First of all, as article 49 TEU states – “The conditions of eligibility agreed upon by the European Council shall be taken into account.”<sup>66</sup> The EP in its briefing states – “ setting the eligibility criteria to be taken into account for the admission of a new Member State, the

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<sup>63</sup> European Commission. (2020) Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the regions. *Enhancing the accession process - A credible EU perspective for the Western Balkans*. p. 5. [online] [https://enlargement.ec.europa.eu/document/download/ef0547a9-c063-4225-b1b4-93ff9027d0c0\\_en?filename=enlargement-methodology\\_en.pdf](https://enlargement.ec.europa.eu/document/download/ef0547a9-c063-4225-b1b4-93ff9027d0c0_en?filename=enlargement-methodology_en.pdf)

<sup>64</sup> European Parliament. (2024) Briefing. *The European Council and Enlargement*. p. 3. [online] [https://www.europarl.europa.eu/RegData/etudes/BRIE/2024/762872/EPRS\\_BRI\(2024\)762872\\_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/BRIE/2024/762872/EPRS_BRI(2024)762872_EN.pdf)

<sup>65</sup> NUGENT, Neill. (2017) *The government and politics of the European Union*. 8<sup>th</sup> Edition. London, Palgrave. p. 196.

<sup>66</sup> Treaty on European Union. Article 49.

institution plays a crucial role at various stages of the enlargement process”<sup>67</sup>. Introducing the Copenhagen criteria in 1993 by the Council can be seen as a clear example of setting the eligibility criteria for applicant states.

As this institution is more political, it does not have an explicit way of deciding upon, for example, opening/closing negotiating clusters/chapters with an applicant state. In practice, however, it is the European Council that has decided on the opening and concluding of enlargement negotiations.<sup>68</sup>

This institution’s involvement in the accession process does not end here. The European Council may use its conclusions to comment on the enlargement process at various points in the process, not only when it is envisaged by the Treaties (for example, setting criteria) or when it is customary (such as opening membership negotiations).<sup>69</sup> The Council does not get involved in negotiations, but it has power to curate it from afar, with the use of its conclusions. Simply by setting the direction beforehand can influence other institutions’ involvement in the negotiations.

#### 2.1.4 Council of the European Union

The CoEU can be seen as a representative (by ministers) of each member state in the accession process. Starting with the application of membership by a third country, after the European Council gives an applicant candidacy, the negotiating processes are decided by the Council of ministers till all the way of accession, and the important part of this decision is unanimity of the council. the Council of ministers, based on the Commission’s reports decide upon whether to provisionally close the chapters and move to another. The opening of negotiations under any cluster requires the Council to agree by consensus.<sup>70</sup>

Finally, after all chapters are provisionally closed, following a positive recommendation from the Commission, an accession treaty is prepared, including any specific terms and

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<sup>67</sup> European Parliament. (2024) Briefing. *The European Council and Enlargement*. p. 1. [online] [https://www.europarl.europa.eu/RegData/etudes/BRIE/2024/762872/EPRS\\_BRI\(2024\)762872\\_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/BRIE/2024/762872/EPRS_BRI(2024)762872_EN.pdf)

<sup>68</sup> SCHRAMM, Lucas. (n. d.). EU enlargement and the critical role played by the European Council. *Loop*. [online] <https://theloop.ecpr.eu/eu-enlargement-and-the-critical-role-played-by-the-european-council/>

<sup>69</sup> European Parliament. (2024) Briefing. *The European Council and Enlargement*. p. 4. [online] [https://www.europarl.europa.eu/RegData/etudes/BRIE/2024/762872/EPRS\\_BRI\(2024\)762872\\_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/BRIE/2024/762872/EPRS_BRI(2024)762872_EN.pdf)

<sup>70</sup> European Parliament. (2024) Briefing. *The European Council and Enlargement*. p. 5. [online] [https://www.europarl.europa.eu/RegData/etudes/BRIE/2024/762872/EPRS\\_BRI\(2024\)762872\\_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/BRIE/2024/762872/EPRS_BRI(2024)762872_EN.pdf)

conditions such as transitional periods. The accession treaty needs the European Parliament's consent and the Council's unanimous approval.<sup>71</sup>

The unanimity requirement for deciding upon accession procedures could be explained by the need of gaining approval from each member states of the union separately for accepting newcomers.

The CoEU, within itself has two important institutions engaged in accessions. First, working party on enlargement and countries negotiating accession to the EU (COELA), which can be seen to be the head of the enlargement process with relations with the applicants and it mainly deals with preparation of the accession negotiations and EU negotiating position; assessment of progress made by the candidate countries in meeting the accession criteria; relations with the candidate countries within the framework of the Association Agreement; the financial instrument for Pre-Accession Assistance<sup>72</sup>.

It prepares the union's position for IGCs, is responsible for every enlargement-related report, opinions and so on. It is very important branch of CoEU and based on the work they do, the negotiations are, as can be stated, document-based.

The second important part of the CoEU is the Committee of Permanent Representatives of the Governments of the Member States to the European Union (COREPER), which, basically, represent member states' positions in the Council. As the position of the union about accession should be unanimous, this body of Council uses previous body's work, deals with inside disagreements between member states and provides one position which describes member states' unified opinion towards enlargement.

With the help of these two bodies, the CoEU can make decisions based on information they provide about the situation in applicant country and not only. They help the enlargement process to be more based, informed and firm.

#### 2.1.5 Inter-governmental conferences

IGCs are also crucial part of the accession process. Negotiations on membership with a candidate state begin after the unanimous consent of all EU member states, which is

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<sup>71</sup> European Parliament. (2024) Briefing. *The European Council and Enlargement*. p. 5. [online] [https://www.europarl.europa.eu/RegData/etudes/BRIE/2024/762872/EPRS\\_BRI\(2024\)762872\\_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/BRIE/2024/762872/EPRS_BRI(2024)762872_EN.pdf)

<sup>72</sup>Council of the European Union. (2024). *Working Party on Enlargement and Countries Negotiating Accession to the EU*. [online] <https://www.consilium.europa.eu/en/council-eu/preparatory-bodies/working-party-enlargement-countries-negotiating-accession-eu/>

highlighted in an official document of the Council of the European Union. These negotiations take place at various intergovernmental conferences between the governments of EU member states and the candidate state<sup>73</sup>, in where delegation from the European Union includes representatives of the EU Council and the European Commission, and the delegation is headed by the Minister of Foreign Affairs, who at the time of the conference chairs the EU Council, as well as the EU Commissioner responsible for enlargement policy.<sup>74</sup> On behalf of the candidate state, the delegation includes the prime minister, the minister of foreign affairs, and the person responsible for the negotiations.<sup>75</sup>

The first intergovernmental conference is an important political step that marks the official start of the negotiation process. This conference has a ceremonial character, at which representatives of EU member states and candidate states express their expectations for future negotiations.<sup>76</sup> Basically, in IGCs related to accession, decisions are made by unanimity by the heads of the states, in other words, by CoEU itself. That is why no chapter of the EU acquis is considered closed until the government of each member state of the alliance is satisfied with the progress made by the candidate state, as the negotiation process is finally concluded after the closure of each of the 35 chapters.<sup>77</sup> After closing all the chapters, the European Commission prepares a special report in which it assesses the readiness of the candidate state to undertake the obligations of EU membership. The report also provides a recommendation for ending the negotiations. This report is sent to the EU Council, which confirms the decision and appoints a final intergovernmental conference at which the accession treaty will be signed.<sup>78</sup>

IGC's are used as a main platform for enlargement process, (to be exact, for negotiations) in where the most important decisions are made by the involvement of various EU institutions.

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<sup>73</sup> IHOR, Dir. (2023). Peculiarities of the negotiation process for the European Union accession. *Visegrad Journal on Human Rights*, vol. 3. p. 12. [online] <https://doi.org/10.61345/1339-7915.2023.3.2>

<sup>74</sup>Ibidem. p. 12

<sup>75</sup> Ibidem. p. 12.

<sup>76</sup> Ibidem. p. 12.

<sup>77</sup> Ibidem. p. 13.

<sup>78</sup> Ibidem. p. 13.

## 2.2 The process of becoming an Union Member

This subchapter will introduce each step of the accession process from start to finish. This will help understanding the process better, as the legal basis of the accession itself does not define the actual step-by-step approach.

### 1. Membership application

The first step in starting the accession processes is a country addressing the union for a possible membership. As the above chapters indirectly already talked about this step, further description is unnecessary, but it should be noted that only a third country (with certain conditions) can apply for a membership, the union itself cannot legally invite a country for the start of the accession process.

### 2. Applicant receiving questionnaire

The applicant country receives a questionnaire (the number of questions may vary). It includes both simple and complex questions aimed at providing precise information about the country and its level of compliance with the accession criteria and the Union acquis.

### 3. Commission opinion

Analysing the answers to the questionnaire and gathering further information, the Commission assesses the readiness of the applicant country to move to the next step. After this, as mentioned above, the Commission issues opinion on the applicant country.

### 4. Candidate status

Decision whether to give an applicant country a candidate status, as abovementioned, is dependent on the unanimous decision of the EU Council.

### 5. Opening membership negotiations

As stated, Decisions on opening negotiations are dependent on the EU Council.

### 6. Negotiating framework

The Commission presents a draft negotiating framework to the Council. Negotiations take place in various IGCs between EU governments and the government of the candidate country. It is the longest accession step and includes several EU institutions with different responsibilities, as well as the applicant country's representatives, as stated above.

## 7. Screening

This part is defined in the EC subchapter. Further description is not necessary.

## 8. Opening of clusters

The opening of clusters of negotiations is dependent on the candidate country's preliminary fulfilment of pre-defined 'opening' benchmarks, which are monitored by the Commission with the approval (by unanimous vote) of Member States.

## 9. Closing of clusters

The closing of clusters also depends on the candidate's fulfilment of the 'closing' benchmarks, pre-defined and monitored by the Commission. The negotiations on any individual cluster can only be closed when every EU government is satisfied with the candidate country's progress in the field of that cluster. The overall negotiation process can only be concluded when every cluster has been closed.

## 10. Council vote

Following a positive recommendation from the Commission, an accession treaty is prepared, including any specific terms and conditions such as transitional periods. After the approval of the European Parliament and the Council's unanimous vote, as mentioned above, the accession treaty is ready to be signed.

## 11. Signature of the accession

The accession treaty will then be signed by all EU Member States and the candidate country. It is also often, but not always, the heads of state or government who sign the final accession treaty on behalf of their respective Member State. Once the accession treaty is signed, the candidate country becomes an 'accessing country'. This means it is expected to become an EU Member State on the date envisaged in the treaty, providing the treaty has been ratified. Accessing countries also benefit from certain privileges such as being able to attend certain meetings or comment on draft EU proposals, communications, recommendations or initiatives.

## 12. Ratification of accession treaty

The accession treaty only enters into force when it has been ratified by all EU Member States and the acceding country. The way in which accession treaties are ratified varies from one Member State to another in accordance with their respective constitutional procedures.

## 13. EU membership

All the steps of the accession process having been completed, the country will become an EU Member State from the date determined in the accession treaty.<sup>79</sup>

This is brief description of the process of accession from start (applying for membership) to end (becoming a member state). The process may seem easy, but it can last very long time depending on applicant country and overall geopolitics. The most important to be noted is that countries, which are already on the straight democratic dimensions (respect of the values which are introduced in TEU article 2) with the strong market economy which can withstand high pressure, such as Sweden or Austria were before accession, can easily (faster) join the union compared to, for example, ex-USSR countries such as Ukraine, Georgia, or countries in western Balkans.

## 2.3 Summary of the chapter

EU institutions involved in accession process and their overall obligations vary. Some of them are responsible for creating the actual policies, when others try to adhere these policies in practice. The most engaged institution in enlargement processes, in my opinion, is the EC. It is involved in each step of the accession and has strong saying in this process, considering it does not have a legal capacity to implement decisions or to move the process forward, its reports (opinions and not only) are seen as a benchmark that is used by other institutions to decide upon the accession. The EUCO has also very important stance in the accession, it decides upon the overall structure of the process and how it should be conducted, with its political conclusions, also, it has a final saying (with the Parliament) about the accession process. The CoEU (council of ministers) has rather practical role in this process. This institution is the main body of EU which decides upon if an applicant country is eligible to

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<sup>79</sup> Ibidem. p. 4-5.

move to the next step of the negotiation and actually is responsible for conducting negotiations. The actual accession negotiations takes place in various IGCs, where both – union's and applicant state's representatives are engaged. Finally, the EP, which is not explicitly involved in these processes, can be seen as a bystander in the enlargement, but considering its veto powers, its importance in this process cannot be left disregarded.

As of the actual process of enlargement, it can be described as rather simple. An applicant state, which adhere the values of the EU, implement the *acquis* and has a strong economy should not have problem to join the union, but this process is not easy as it seems to be. Sometimes it does not depend on the latter, but on overall geopolitics in the region. Further chapters will try to define these challenges, both political and legal/institutional and will also try to suggest further reforms for the sake of the union's proper enlargement.

### 3. CHALLENGES OF THE EXISTING ENLARGEMENT PROCESS

#### 3.1 Political challenges

This sub-chapter will discuss various political challenges connected to EU enlargement. Rather political in nature, but interconnected with the legal basis of the accession, considering that some of these challenges below are in connection with existing enlargement process and sometimes abused because of a gap in legal procedures to put forward separate countries' interests. This chapter will also address external influence towards applicant countries to stop the process of accession and how it reshapes the overall approach of EU to the latter. Finally, considering the theoretical possibility, it will talk about what challenges could a country with no land borders with EU member states could face in the accession process.

##### 3.1.1 Disputes between Member States and third countries

This sub-chapter will try to analyse how the bilateral disputes between member countries and applicant countries are being dealt with using the accession process and the power of veto and the requirement of unanimity for the decisions of the Councils. It will discuss latest examples from union's experience, such as disputes between Greece and North Macedonia, Bulgaria and North Macedonia and Hungary and Ukraine. The challenge of politicising the existed enlargement process by member countries will be addressed as the process of accession should strictly be merit-based.

##### 3.1.1.1 Abusing the veto power by Greece and Bulgaria towards Republic of North Macedonia

In the Western Balkans, North Macedonia stands as a prime example of a candidate state whose efforts to join the EU have been plagued by successive vetoes. It was recognised as a candidate country in December 2005, and from October 2009 onwards, the European Commission recommended the opening of accession negotiations. However, North Macedonia faced a series of vetoes: from 2009 until 2018 from Greece and from 2020 until mid-2022 from Bulgaria.<sup>80</sup>

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<sup>80</sup> CHRISTIDIS, Yorgos. (2024). Reforming EU Enlargement Decision-Making: Lessons from the Bulgarian and Greek Vetoes on North Macedonia. *Medjunarodni problemi* 76(4). p. 634. [online] <https://doi.org/10.2298/MEDJP2404633C>

Starting with Greece's using of the veto power, not to open the accession negotiations, it should be stated that in 1991, the emergence of an independent state under the name Republic of Macedonia was perceived at the time as a threat, as Greece's political establishment and its public opinion appeared certain, at large, that the Republic of Macedonia had an "irredentist ideology" bent on "usurping parts of the Greek historical heritage" and on challenging the territorial integrity of the administrative region of Macedonia (Μακεδονία) in northern Greece. A significant majority of Greeks were more than certain that the new state had irredentist pretensions towards its northern territory (Greek Macedonia).<sup>81</sup>

By the end of 1991, Athens was actively obstructing the recognition of the newly independent state, objecting to any international acceptance of its constitutional name.<sup>82</sup>

For the sake of its own interest and not considering the aims of accession, Greece has consistently blocked opening the accession negotiations with Republic of Macedonia, until the latter changed its name. Greece's opinion was based on "good neighbour" clause as it believed that if Macedonia did not change its name, it could be seen to further dispute Greece's historical lands. This dispute resolved in 2018 when the Prespa Agreement came into force, with which the official name of Macedonia became Republic of North Macedonia.

EU was seen as playing a positive role in the assumed resolution of the name dispute in the Prespa Agreement and Macedonia was to start the long overdue accession talks.<sup>83</sup> The Macedonian example indicates that the pre-accession conditionality pertaining to good neighbourly relations might severely slow down further enlargement.<sup>84</sup>

As the Greece-North Macedonian dispute resolved, further Bulgaria started abusing its veto powers towards North Macedonia not to open the accession negotiations for the latter. This dispute, however, started earlier, but it constituted when Bulgaria and Macedonia signed a bilateral Friendship Treaty in August 2017. According to the Treaty both countries were to set up an multidisciplinary committee on historical and educational issues (Joint Multidisciplinary Expert Commission on Historical and Education issues) to discuss the two countries,' 'shared history,' to 'organize celebrations of shared historical events and

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<sup>81</sup>Ibidem. p. 636.

<sup>82</sup> Ibidem. p. 637.

<sup>83</sup> ZHIDAS, Daskalovski. (2023). Geopolitical challenges and the Macedonian path to EU accession. *Medjunarodni problemi* 75(3). p. 443. [online] <https://doi.org/10.2298/MEDJP2303435D>

<sup>84</sup> Ibidem. p. 439.

personalities,’ and ‘to contribute to the objective, based on authentic and evidence-based historical sources, scientific interpretation of the historical events.’ in the Preamble there is a point about “taking account of the shared history that ties together the two countries and their peoples.” The Treaty between Sofia and Skopje was presented as a closure of the long-lasting bilateral dispute between the two neighbouring countries, which accelerate the EU accession of Macedonia.<sup>85</sup>

A joint commission was formed in 2018 to serve as a forum where controversial, historical and educational issues could be raised and discussed. However, the commission has not been able to find common ground on the historical interpretations of events and important personalities in the history of the two nations. Bulgaria put strong demands regarding the work of this body and Macedonian history in general. In the fall of 2019, it became evident that the European Commission would likely recommend the opening of accession talks for Macedonia (and Albania) at its December summit. In October 2019, Bulgaria set out a “framework position”, warning that it would block the EU accession process unless Macedonia fulfilled several demands regarding what Bulgaria perceived as “anti-Bulgarian ideology” in the country.<sup>86</sup>

Among the many stipulations, it demands that North Macedonia remove any plaque commemorating events from the Second World War that contain the phrase ‘Bulgarian fascist occupier’; that EU documents use the phrase ‘official language of the Republic of North Macedonia’ instead of ‘Macedonian language’, and if the term ‘Macedonian language’ is used, it should be clarified that ‘the linguistic norm in the Republic of North Macedonia is tied to the evolution of the Bulgarian language and its dialects in the former Yugoslav republic after their codification in 1944’. Furthermore, it states that ‘no document during the accession process shall be understood as Bulgaria’s recognition of the existence of a so-called “Macedonian language”, different from Bulgarian.’<sup>8788</sup>

A turning point seemed to appear in June 2022, when France presented a proposal for the resolution of the dispute. Bulgaria soon accepted this plan to move past the stalemate.

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<sup>85</sup> Ibidem. p. 443-444.

<sup>86</sup> Ibidem. p. 444.

<sup>87</sup> Ibidem. p. 444.

<sup>88</sup> THE SOFIA GLOBE STAFF. (2019). Bulgaria’s Cabinet announces framework position on EU accession of N Macedonia, Albania. [online] <https://sofiaglobe.com/2019/10/09/bulgarias-cabinet-announces-framework-position-on-eu-accession-of-n-macedonia-albania/>

According to this framework, Macedonia would change its constitution to acknowledge a Bulgarian minority in the country, protect minority rights, change textbooks with negative references to Bulgaria, and introduce hate speech laws into the criminal code. Yet, Skopje's EU progress would be contingent on good neighbourly relations with Sofia. The proposal gives Bulgaria the upper hand during any stage of Macedonia's accession process. This is because it now effectively has the formal right to veto any of Skopje's subsequent steps. On 24 June 2022, Bulgaria's parliament approved the lifting of the country's veto on opening EU accession talks with Macedonia. In July 2022, the EU held the first intergovernmental conference with Macedonia following the approval by the Council on 18 July 2022 of the Negotiating Frameworks for the negotiations.<sup>89</sup>

Clearly, Bulgaria uses the provision of the Friendship Agreement and the work of the interdisciplinary committee as a form of political leverage over Macedonia's accession into the EU.<sup>90</sup>

Both countries – Greece and Bulgaria abused its veto powers in Councils not to open the accession negotiations unless the applicant country meets their demands. This political abuse can be seen as one of the challenges in the enlargement process and how it dulled the overall accession for decades with no prior connection to the accession criteria. Enlargement as a policy and EU conditionality as a tool seem to have reached an exhaustion point. The slow pace of accession and the EU enlargement fatigue among some of the key European actors is a serious issue, affecting rule of law in the Western Balkans. The enlargement process still allows Member States to impose their positions regarding bilateral disputes on the Union level.<sup>91</sup>

### 3.1.1.2 Hungary and its abuse of veto power towards Ukraine

Hungary is the most worrying member state in the enlargement process<sup>92</sup>, as stated in the policy brief of the European Council on Foreign Relations. The reason is simple - it frequently uses its veto powers to blackmail the EU for its own gains.

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<sup>89</sup> ZHIDAS, Daskalovski. (2023). Geopolitical challenges and the Macedonian path to EU accession. *Medjunarodni problemi* 75(3). p. 446. [online] <https://doi.org/10.2298/MEDJP2303435D>

<sup>90</sup> Ibidem. p. 446.

<sup>91</sup> Ibidem. p. 453.

<sup>92</sup> BURAS, Piotr and MORINA, Engjellushe. (2023). Catch-27: the contradictory thinking about enlargement in the EU. *European Council on Foreign Relations, Policy brief*. p. 27. [online] <https://ecfr.eu/wp-content/uploads/2023/11/Catch-27-The-contradictory-thinking-about-enlargement-in-the-EU.pdf>

For example - Hungary's relations with Ukraine over minority issues could disrupt Ukraine's accession process. The two countries have been conducting bilateral negotiations over Hungary's ethnic minority and its language rights in Ukraine, but Hungary has already threatened to use its veto power if Ukraine does not implement enhanced policies on minority rights and language in particular.<sup>93</sup> As this was the opinion of the Council in its policy brief, Hungary, when time came, actually used its veto power to stall the accession process of Ukraine towards EU – since February, Hungary has been blocking the launch of talks on the first cluster, which covers fundamental issues and is a prerequisite for opening the others.<sup>94</sup> Hungary is still continuing to stop the opening of “fundamentals” cluster with Ukraine as of today.

Ukraine sees Hungary's focus on the Hungarian minority as a pretext for blocking accession negotiations. At the same time, it has expressed willingness to engage in dialogue on the 11 conditions presented by Hungarian Foreign Minister Péter Szijjártó during a meeting in Uzhhorod in January 2024. However, the Ukrainian government has stressed that it will continue to require knowledge of the Ukrainian language from members of minority communities, while insisting that, in the context of the ongoing war, derussification efforts must continue. It has also emphasised that it has fulfilled the European Commission's recommendations on national minorities and that current legislation permits education in the languages of EU member states. At the same time, it has been working to consolidate support within the EU and secure backing from its member states to overcome Hungary's veto.<sup>95</sup>

Hungary's position to blackmail EU with its veto powers can be dealt with TEU article 7, in which there is a defined process how EU can limit the vote of a country if there is a serious breach of article 2 values from the country in question. It still needs unanimous decision to determine the serious breach of union's values, but, of course, excluding the country in question. However, this rule still is not used against Hungary and considering the attitude towards instrumentalization of veto power by Hungary it can be stated with certainty that the latter will use its veto power in future to further stall the accession procedures with Ukraine.

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<sup>93</sup> Ibidem. p. 28.

<sup>94</sup> GIZIŃSKA, Ilona and SADECKI, Andrzej. (2025). *Hungary hardens its stance on Ukraine*. [online] <https://www.osw.waw.pl/en/publikacje/analyses/2025-03-28/hungary-hardens-its-stance-ukraine>

<sup>95</sup> Ibidem.

This, again, is a clear example how the accession processes are politicized by different countries and the challenge to return it in a merit-based dimension needs to be dealt with.

### 3.1.2 External influence to halt accession processes in EU-aspiring countries.

The EU's eastward enlargement beyond the 2004–2007 borders prompted Russia to escalate its hybrid tactics. The decision to grant Ukraine, Moldova, and Georgia candidate status in 2022–2023 caused Moscow further alarm because it regards EU accession as an extension of Western geopolitical interference.<sup>96</sup>

Starting with Georgia, important to be noted that parliamentary elections were held in October 2024. The ruling party from 2012 – Georgian Dream, once again won the elections. Leaders of the Russian Federation and its propagandists openly supported Georgian Dream both before and after the elections.<sup>97</sup> President of Georgia, Salome Zourabichvili, publicly condemned the elections as rigged ... the President asserted that acknowledging the outcome would be tantamount to 'accepting Georgia's subjugation to Russia' and described the election process as a 'Russian special operation'.<sup>98</sup> The situation in Georgia is worsening daily, considering the ongoing protest waves and overall strict position towards protesters from the executive branch of government (high fines, criminal prosecutions for protest participants and etc.).

The European Parliament strongly condemns Russia's systematic interference in democratic processes within Georgia, including through voter intimidation, vote buying and disinformation, such as the 'Global War Party' conspiracy.<sup>99</sup>

The fact that, although, in the constitution of Georgia, article 78 states the desire of country's integration in EU and North Atlantic Alliance, the government of Georgia in a briefing in 2024, 28 November, stated that it will pause the accession process to EU until 2028. In response to that, the European Parliament statement published – "We regret the Georgian

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<sup>96</sup> CENUSA, Denis. (n. d.). *Russia's hybrid warfare on EU enlargement*. [online] <https://theloop.ecpr.eu/russias-hybrid-war-on-eu-enlargement/>

<sup>97</sup> European Parliament Resolution. (2024). *Georgia's worsening democratic crisis following the recent parliamentary elections and alleged electoral fraud*. 2024/2933(RSP). [online] [https://www.europarl.europa.eu/doceo/document/TA-10-2024-0054\\_EN.html](https://www.europarl.europa.eu/doceo/document/TA-10-2024-0054_EN.html)

<sup>98</sup> Ibidem.

<sup>99</sup> Ibidem.

government's decision to pause the efforts to start the accession negotiations with the EU, as announced on 28 November by Georgian Prime Minister Irakli Kobakhidze. We recall that it was the sovereign decision of Georgia to apply for EU membership in March 2022, and that it was granted candidate status in December 2023. Instead of using this historic opportunity and moving forward with the accession process, there has been a continuous democratic backsliding in Georgia".<sup>100</sup>

Considering the fact that Georgian government turned off from the road to EU accession, which is one of the Georgia's constitutional statement, rigged elections and many more backslides and, additionally, considering Russia's occupation of Georgian regions, it is unambiguous that Russia, with its "hidden hand", controls over one of the main country in Caucasus region, which, in the recent past was seen as an aspiring country towards EU. Unfortunately, against this kind of intervention in EU-aspiring country, by Russia, or other external influence, the EU does not have effective mechanisms to oppose, since the main effective steps should be taken by the people of the country, such as changing Russian influenced government, for example. Georgia's future as a free and democratic state depends on the people of Georgia and their determination to make their voices heard despite repression, pressuring the government into concessions. Yet, it also depends on the policies that the EU will implement soon. On this score, procrastination is not a strategy. The EU needs to calibrate its approach to prevent Georgia from falling into authoritarianism and pivoting toward Russia. That requires a firmer stance toward the GD government, raising the costs for those responsible for the crackdown on demonstrators and the capture of state institutions.<sup>101</sup>

Moldova is also affected by Russia's "hidden hand". Firstly, The Transnistrian entity – a narrow strip of land of approximately 4,200 square kilometres located along the Moldovan-Ukrainian border – remains outside the control of Chişinău's authorities and has long served as a geopolitical interface for Russian interests in the region.<sup>102</sup> Occupation of territories is one

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<sup>100</sup> European Parliament Statement. (2024). *Georgian government's decision to pause its accession to the European Union*. [online]. [https://www.europarl.europa.eu/cmsdata/291565/20241129\\_Georgia\\_statement%20on%20the%20government's%20decision%20to%20pause%20the%20accession%20to%20the%20European%20Union.pdf](https://www.europarl.europa.eu/cmsdata/291565/20241129_Georgia_statement%20on%20the%20government's%20decision%20to%20pause%20the%20accession%20to%20the%20European%20Union.pdf)

<sup>101</sup> GIUASHVILI, Teona. (2025). The European Union's Strategic Test in Georgia. *Ifri Memos*. p. 8. [online] <https://www.ifri.org/en/memos/european-unions-strategic-test-georgia>

<sup>102</sup> CARA, Eugen. (2025). The Prospects of Moldova's EU Accession With or Without a Defined Status of the Transnistrian Region. *SCEEUS Guest Report NO. 2*. p. 4. [online] [https://www.ui.se/globalassets/ui.se-eng/publications/other-publications/the-prospects-of-moldovas-eu-accession\\_eugen-cara\\_guest-report\\_2025.pdf](https://www.ui.se/globalassets/ui.se-eng/publications/other-publications/the-prospects-of-moldovas-eu-accession_eugen-cara_guest-report_2025.pdf)

of the tactic used by Russia to try to take control over the whole country and to refrain certain countries to join various regional or global organizations, for example, because of “good neighbour clause” addition in EU accession process, Moldova becoming actual member of the EU is questionable. Russia’s dominance in the existing negotiation formats for the Transnistrian settlement process, exerting influence through its own vote and via Tiraspol, has hindered meaningful progress. Given Moldova’s European Integration path and the shifting geopolitical context, there is a growing imperative to reconfigure the existing dialogue formats and upgrade the role of the EU from observer to mediator, to ensure a balanced and effective negotiation process.<sup>103</sup> Russia’s political and military influence would be a significant obstacle, and Moscow would seek to undermine Moldova’s EU aspirations. It is natural to assume that, in a scenario where Russia perceives a loss of influence over Moldova, it will seek to escalate the situation as much as possible.<sup>104</sup>

Territorial dispute with Russia is not the only obstacle for Moldova towards his integration to EU. Beyond information warfare, Russia exerts economic pressure on Moldova through its control over energy supplies and trade routes. Moldova’s heavy reliance on Russian natural gas has made it vulnerable to price hikes and supply disruptions, impacting the country’s economy and creating social discontent. Furthermore, Russia has imposed trade restrictions on Moldovan agricultural products, exacerbating economic hardship and fuelling resentment against the government. These economically driven pressures aim to weaken Moldova’s resolve in pursuing its European aspirations and create conditions conducive to political instability.<sup>105</sup>

Considering these pressures on Moldova by Russia, it continues advancement to EU – “Today, Moldova has reached an important milestone on its EU accession path with the completion of the bilateral screening with the European Commission. The bilateral screening began in July 2024, and the rapid completion was made possible by Moldova’s dedication,

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<sup>103</sup> Ibidem.

<sup>104</sup> Ibidem.

<sup>105</sup> PRESS ROOM. (2025). *Kremlin Intensifies Hybrid Warfare Tactics to Obstruct Moldova’s European Union Accession*. [online] <https://disa.org/kremlin-intensifies-hybrid-warfare-tactics-to-obstruct-moldovas-european-union-accession/>

professionalism and motivation to deliver on reforms, align with EU standards, and join the EU family”<sup>106</sup> – stated in the news article on the European Commission’s official website.

The latter are two different cases of Russia’s interference in the EU-aspiring countries. Moldova, on the one hand, continues advancing towards EU accession, on the other hand, Georgia seems to be trapped by Russia’s influence. The challenge described is strictly governed by external actors of third country (Russia) towards weak applicant states.

### 3.1.3 Is having no direct border to European Union problem for enlargement process?

Considering the EU enlargement history, the union mainly expanded with the neighbouring countries, although, there were couple exceptions, such as accession of Cyprus and Malta. These two may not be the best example of the exception, considering that they are in island with only maritime borders with neighbours. Additionally, Greece was also isolated with no actual land border with the EU members, but geographically it is very close to Italy, one of the founders of EU.

The actual problematic aspects separated (from EU members) applicant countries could potentially face are as follows: problems with economic integration, as no actual borders with members could mean challenges with connecting trade and transport routes. Additionally, the latter may also cause migration to become more challenging.

It should be stated that, as article 49 TEU mentions, EU member can become a European state, it already geographically limits the scope of further members, but there are countries within the Europe, which still do not have explicit land border connection to the member states. Furthermore, there is a potential member state (EU candidate country) with the mentioned obstacle – Georgia.

Considering the fact of stalled (frozen) negotiations with Türkiye for decades (as Türkiye could be the one country connecting EU and Georgia by land), Georgia has a potential to become an EU member state before Türkiye, considering that it received candidacy status in 2023. The abovementioned shifts of Georgia’s EU accession are also important to be noted. Overall, as mentioned many times by various EU institutions in their official or formal documents, the hope that the shift from EU accession will finally be finished, considering Georgian peoples’ pro-European stance and continuous protests against pro-Russian

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<sup>106</sup> European Commission. (2025). *Moldova successfully completes its screening process. News Article*. [online] [https://enlargement.ec.europa.eu/news/moldova-successfully-completes-its-screening-process-2025-09-22\\_en](https://enlargement.ec.europa.eu/news/moldova-successfully-completes-its-screening-process-2025-09-22_en)

government, it can be stated that the time will come to address abovementioned problematic aspect in EU accession by scholars.

It should also be stated that having no actual direct land border with EU member states does not mean that the membership application should be declined, as there is no legal or political demand to have one, rather it will provide further challenges for the union to compensate this obstacle with greater attention to economic integration of a newcomer country. Also, for the sake of migration, the union could need additional measures to undertake politically, theoretically, with non-member countries which are neighbours to the newcomer.

Considering the issues of Republic of Ireland after Brexit, important to be noted several: Ireland and United Kingdoms had a land border between Northern Ireland and Republic of Ireland. When the United Kingdoms was in EU, Ireland did not have the problem of connecting with EU countries through Northern Ireland, but, after Brexit there was expectations that several policies would become harder to overcome. These policies were, for example, customs. As EU suggests open borders between its member states, as soon as Britain left the union, problem of goods moving between UK and Ireland arose. These were introduction of new customs policies between them, which increased prices for import/export as the main trading partner in several markets for Ireland was UK. Additionally, the migration between these countries got harder as EU itself has laws about the freedom of movement of workers (as well as goods (both are part of EU *acquis*)) and UK, leaving the union, can be stated, that changed the spectre of this policies, as it would be harder for each of the states' citizens to cross the border. As clearly seen in this example, the Republic of Ireland faced several problems after losing the land border to the EU. Considering this example, problems in several policies, even between an ex-member and EU member state, arose.

The challenges connected to Georgia are only theoretical and does not need much to take much attention towards it, but, most importantly, if Georgia joins the EU, geopolitical stability will also be under question, as its biggest non-EU neighbour is Russia, which has historically, as abovementioned (but with narrow description), contradicted EU and is still trying to reinstate the borders of the Soviet Union under its hand. It should be stated that Russia's main enemy in this process in region is EU. Also, the free movement of goods could face resistance and even exclude the possibility to use land routes to transport goods to EU members, concentrating fully with aerial and naval transportations.

### 3.2 Enlargement fatigue within the European Union

The meaning of enlargement fatigue has been widely popularised through the media. It was defined simply as a reason for the unwillingness of some of the Union members to admit new countries or as a symptom that the willingness was fading.<sup>107</sup> However, the enlargement fatigue is not that simple to define. It also refers to one of the Copenhagen summit criterion – the capacity of the union to absorb new members. After the 2004 and 2007, sometimes referred as, the “big bang” enlargement, EU officials stated that the union will not be able to enlarge for couple of years, for example – “Certainly we need to pace ourselves after last year's Big Bang, when ten new members joined the Union. But it would be irresponsible to disrupt a valuable process that is helping to build stable and effective partners in the most unstable parts of Europe,”<sup>108</sup> Or “Further accessions are likely to occur in the medium to long term, given the present state of pre-accession preparations.”<sup>109</sup> After the 2004 enlargement, in 2007 two more states joined the union but, in academic articles, it is discussed as one wave of enlargement.

It can be stated that the reason for stalled process of enlargement after the “big bang” was that most of the new members were not fully ready for accession, nevertheless, EU still decided to let them join the union. This fact further became problematic, EU could not start new accession processes until it made sure the newcomers would keep up with the old members. Worth mentioning that enlargement fatigue ... is as old as EU enlargement itself<sup>110</sup>, and, also, it started after France refused UK membership to the union. This happened even before the first wave of accession in EU.

Additionally, after its big bang enlargement, the EU has changed significantly, both in terms of policy content and institutional set-up, and this new EU has decided to relate to its new members with instruments that mean less than accession. The accession countries

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<sup>107</sup> SZOŁUCHA, Anna. (2010). The EU and Enlargement Fatigue: Why has the European Union not been able to counter enlargement fatigue?. *Journal of contemporary European research* 6(1). p. 2. [online] <https://doi.org/10.30950/jcer.v6i1.124>

<sup>108</sup> European Commission. (2005) *Speech to the European Policy Center*. p. 2. [online] [https://ec.europa.eu/commission/presscorner/api/files/document/print/en/speech\\_05\\_362/SPEECH\\_05\\_362\\_EN.pdf](https://ec.europa.eu/commission/presscorner/api/files/document/print/en/speech_05_362/SPEECH_05_362_EN.pdf)

<sup>109</sup> European Commission. (2006) Memo. Questions and answers on the Union's enlargement strategy and its integration capacity. p. 1. [online] [https://ec.europa.eu/commission/presscorner/api/files/document/print/en/memo\\_06\\_413/MEMO\\_06\\_413\\_EN.pdf](https://ec.europa.eu/commission/presscorner/api/files/document/print/en/memo_06_413/MEMO_06_413_EN.pdf)

<sup>110</sup> ERDOĞAN, Seven. (2025). From Neighbors to Potential Members: Is the War in Ukraine a Critical Juncture for the European Union's Enlargement Policy?. *Journal of Political Sciences* 34(1). p. 32. [online] <https://doi.org/10.26650/siyasal.2025.34.1476602>

(including Türkiye and the Western Balkans) have been negatively affected by their exposure to the EU operating under the influence of enlargement fatigue. ... Because of the continuing stalemate in the accession process, progress reports became stagnation reports. They have also been officially renamed as “country reports.”<sup>111</sup>

Furthermore, starting with Türkiye, which is the oldest candidate country with frozen accession processes nowadays, and considering the situation in western Balkans, as mentioned above, for example, in the case of North Macedonia, which was not even successful to open accession negotiations for nearly 20 years and if excluding the last enlargement wave of Croatia joining the union, it is clear that the EU’s enlargement fatigue is indeed one of the main challenge within the union.

That is why the 2020 new enlargement methodology was introduced for specifically western Balkans by the Commission and adopted by the Council. It could be seen to further address the enlargement fatigue and suggest new methods of overcoming it. Main revisions in this methodology is as follows – “For the accession process to regain credibility on both sides and deliver to its full potential, it needs to rest on solid trust, mutual confidence and clear commitments on both sides”<sup>112</sup> – on the one hand applicant states (mainly concentrated on western Balkans) would implement the *acquis* more credibly, on the other hand EU would ensure more merit-based process with less politization.

Secondly, “both sides should show more leadership and live up to their respective commitments in public, while coming in more directly on matters of concern ... it is time to put the political nature of the process front and centre and ensure stronger steering and high-level engagement from the Member States”<sup>113</sup>, meaning that member states should better engage into the actual accession processes, for example, with monitoring the situation on site (candidate country). The Commission should also define the further expectations from candidate states in their annual reports. Finally, the Council should control the integration process strongly.

Thirdly, “In order to inject further dynamism into the negotiating process and to foster cross-fertilisation of efforts beyond individual chapters, the negotiating chapters will be

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<sup>111</sup> Ibidem. p. 32-33.

<sup>112</sup> European Commission Communication. (2020). *Enhancing the accession process - A credible EU perspective for the Western Balkans*. p. 2. [online] <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52020DC0057>

<sup>113</sup> Ibidem. p. 3.

organised in thematic clusters”<sup>114</sup>, meaning that, as mentioned above several times, the chapters of acquis will be grouped in thematic clusters and, for example, Fundamentals cluster, which opens first in negotiations should be closed last. It will further help to identify the most important places an applicant needs to work on with the screening reports’ help, per sector.

Finally, the Commission suggested “process that is more predictable and which ensures greater clarity on what the Union expects of enlargement countries at different stages of the process, and what the positive and negative consequences are of progress or lack thereof”<sup>115</sup>, by introducing mechanisms to make the accession process more merit-based, with concrete expectations of negative and positive actions from candidate countries. It also introduced process of re-opening already closed chapters if needs to and the EC’s requirement to define the conditions of accession broadly, but completely.

The new enlargement methodology described above was, as mentioned, for western Balkan countries, but it can be said that it will be used for new applicant states, such as Moldova, Ukraine or Georgia. The revision further addressed and tried to end the enlargement fatigue within the union. The proactive step from the EU needs to be appreciated, but if it has positive consequences for accession fatigue, the time will tell.

This latter was not the latest try from the union to address fatigue. The most important, but mainly, political decision EU made towards enlargement is giving Moldova, Georgia and Ukraine (which is still in war with Russia) candidate countries. The war in Ukraine served as a catalyst, prompting the EU to take urgent action and reaction.

The EU has demonstrated that, when necessary, it can act with great speed.<sup>116</sup> As a result, the EU was under the obligation of making decisions to boost the long-forgotten accession processes of the Western Balkans.<sup>117</sup>

Beyond this critical institutional shift is the predominance of a long fatigue in the enlargement sphere before its revival after the war in Ukraine. It would be the first time for the EU to manage two enlargement rounds, namely the Western Balkans and the Associated Trio,

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<sup>114</sup> Ibidem. p. 4.

<sup>115</sup> Ibidem. p. 5

<sup>116</sup> ERDOĞAN, Seven. (2025). From Neighbors to Potential Members: Is the War in Ukraine a Critical Juncture for the European Union’s Enlargement Policy?. *Journal of Political Sciences* 34(1). p. 34. [online] <https://doi.org/10.26650/siyasal.2025.34.1476602>

<sup>117</sup> Ibidem. p. 35.

which include two regions with diverse historical, societal and geopolitical influences.<sup>118</sup> It can be seen as a serious challenge for the union, and it still is questionable will it end the enlargement fatigue or not.

3.3 Technical challenge – How can a third country adopt nearly 100 000 pages of legislation (EU *acquis*) practically and not only on paper

The EU *acquis* is the full body of the EU laws, which is divided into 35 chapters. It is said by scholars that among the other criteria of Copenhagen, this one is the easiest to fulfil, as incorporating laws into national legislations needs only the will of legislators in applicant state.

The requirement is not that simple. Before discussing the challenges, first, analysing the consistence of it will help understanding the situation better. As provided in the EU's official website, the negotiating chapters consists of as follows – 1. Free movement of goods; 2. Freedom of movement for workers; 3. Right of establishment and freedom to provide services; 4. Free movement of capital; 5. Public procurement; 6. Company law; 7. Intellectual property law; 8. Competition policy; 9. Financial services; 10. Information society and media; 11. Agriculture and rural development; 12. Food safety, veterinary and phytosanitary policy; 13. Fisheries; 14. Transport policy; 15. Energy; 16. Taxation; 17. Economic and monetary policy; 18. Statistics; 19. Social policy and employment; 20. Enterprise and industrial policy; 21. Trans-European networks; 22. Regional policy and coordination of structural instruments; 23. Judiciary and fundamental rights; 24. Justice, freedom and security; 25. Science and research. 26. Education and culture; 27. Environment and climate change; 28. Consumer and health protection; 29. Customs union; 30. External relations; 31. Foreign, security and defence policy; 32. Financial control; 33. Financial and budgetary provisions; 34. Institutions; 35. Other issues.<sup>119</sup> The laws basically cover majority parts of legislation starting with judiciary rights and ending with fisheries laws. Firstly, before negotiations start with acceding country, the Commission makes a screening report of applicant country's legislation to find out if some of the laws in candidate country already match with the EU legislation. This is the first step that in practice assesses which chapters are in synchrony with applicant state legislation, if there

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<sup>118</sup> Ibidem. p. 37.

<sup>119</sup> European Commission. (n. d.). *Chapters of the acquis*. [online] [https://enlargement.ec.europa.eu/enlargement-policy/conditions-membership/chapters-acquis\\_en](https://enlargement.ec.europa.eu/enlargement-policy/conditions-membership/chapters-acquis_en)

are any gaps that a country needs to work on and which chapters need throughout effort to be implemented. In the screening stage the number of rules to be adopted, theoretically, decreases.

The third Copenhagen criteria does not only demand the legislation to be implemented, but it also demands the institutional capacity of an applicant state to be in order. As the 2025 Commission Communication states – “stable institutions are essential for compliance with the EU acquis across all policy areas, including the management of the substantial financial assistance the EU provides.”<sup>120</sup>

Additionally, the abovementioned enlargement methodology adopted in 2020 is of a great help for EU, which suggested using clusters to group similar chapters together. Negotiations on each cluster will be opened as a whole – after fulfilling the opening benchmarks - rather than on an individual chapter basis. As a result of the screening process, carried out per cluster, priorities for accelerated integration and key reforms will be agreed between the EU and the candidate country. When these priorities have been sufficiently addressed, the cluster (covering all associated chapters) is opened without further conditions and closing benchmarks are set for each chapter.<sup>121</sup>

Also, as mentioned above, if annual reports or any other assessment of facts base that there is a regression in either application of the rules or overall change of them, the negotiations could be going back to previous stages and open already closed clusters (chapters) for reassessment.

Finally, building institutional capacity is of a hard work for solely for candidate countries, that is why EU is financially assisting the latter in this work. For example, concentrated mainly to the wester Balkan countries’ assistance, the 2025 Communication stated - “The IPA III programming for the period 2025-2027 focuses on a policy-driven approach. This aligns with the Reform and Growth Facility for the Western Balkans, ensuring that the EU’s bilateral support is both strategic and impactful. The IPA III multi-country programme is set to drive the implementation of the Western Balkans Growth Plan, reinforcing the EU’s commitment to

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<sup>120</sup> European Commission Communication. (2025). *2025 Communication on EU enlargement policy*. p. 7. [online] [https://enlargement.ec.europa.eu/document/download/eb69a890-40d6-4696-801e-612d51709fdd\\_en?filename=2025%20Communication%20on%20EU%20Enlargement%20Policy.pdf](https://enlargement.ec.europa.eu/document/download/eb69a890-40d6-4696-801e-612d51709fdd_en?filename=2025%20Communication%20on%20EU%20Enlargement%20Policy.pdf)

<sup>121</sup> European Commission Communication. (2020). *Enhancing the accession process - A credible EU perspective for the Western Balkans*. p. 4. [online] <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52020DC0057>

this region. This approach guarantees that all initiatives work in tandem with the efforts of individual countries, thereby maximising the effectiveness and reach of the EU's support."<sup>122</sup>

The actual challenging part of the third Copenhagen criteria is capacity of institutions to implement the laws in practice.

First, the country which does not already have any of these rules in its system, just by incorporating them into the legislation will cause greater uncertainty as no actual institutions will exist to implement these changes. Even with EU's financial assistance, in practice it is often when candidate countries waste the funds provided and not actually creating the institutional basis.

Secondly, if all laws are incorporated at the same time, it will certainly overload the system of both economy (as clearly seen in the chapter composition, some of the laws, and not a few, is connected to economic changes) and justice. For this not to be another burden, in negotiating stage, EU can and does, in practice, allow overtime implementation of some of the legislation.

The existing challenges of EU *acquis* implementation, even so, there are a few mechanisms to overcome them, are still current. Many countries which, historically, do not follow the European path and does not have strong democratic system, still face the law incorporation difficulty. Changing the legislation is very easy, but using the changes in practice is the main part, which is still hard to achieve, considering that, in the accession process, checking institutional capacity to implement rules and laws of EU is main concern.

### 3.4 Distribution of European Union budget – Challenge of the next enlargement wave

Treaty on the Functioning of the European Union (Hereinafter – TFEU) in its article 174 deals with the union's harmonious development. In particular, "the Union shall aim at reducing disparities between the levels of development of the various regions and the backwardness of the least favoured regions."<sup>123</sup> It aims to promote balanced development across the EU by strengthening economic, social and territorial cohesion ... It focuses on overcoming structural

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<sup>122</sup> European Commission Communication. (2025). *2025 Communication on EU enlargement policy*. p. 19. [online] [https://enlargement.ec.europa.eu/document/download/eb69a890-40d6-4696-801e-612d51709fdd\\_en?filename=2025%20Communication%20on%20EU%20Enlargement%20Policy.pdf](https://enlargement.ec.europa.eu/document/download/eb69a890-40d6-4696-801e-612d51709fdd_en?filename=2025%20Communication%20on%20EU%20Enlargement%20Policy.pdf)

<sup>123</sup> Treaty on the Functioning of the European Union. Article 174.

weaknesses and building long-term resilience. The policy places a further focus on less-developed regions, rural areas, regions undergoing industrial transition or at risk of economic stagnation, and areas facing natural or demographic challenges<sup>124</sup>, or as article 176 TFEU states – “The European Regional Development Fund is intended to help to redress the main regional imbalances in the Union through participation in the development and structural adjustment of regions whose development is lagging behind and in the conversion of declining industrial regions.”<sup>125</sup>

For the achievement of the aims mentioned in TFEU article 174, the union created various funds, such as – European Regional Development Fund (ERDF); European Social Fund (ESF) and the Cohesion Fund (CF). the latter was established in 1994 to further strengthen the cohesion of the EU via funding investment projects related to the fields of environment and transport infrastructure.<sup>126</sup> From 1989 to 2023, the EU invested €1 040 billion through its cohesion policy, while an additional €392 billion has been allocated for the 2021-2027 programme period. It is the largest regional development policy of its kind in the world, and accounts for around one third of the EU budget. It is often described as a cornerstone of EU integration.<sup>127</sup>

As mentioned in one of the regulation (see footnote) regarding funds of EU, article 108, there are 3 categories of regions in the EU - “Resources from the ERDF and ESF+ for the Investment for jobs and growth goal shall be allocated among the following three categories of NUTS level 2 regions:

- (a) less developed regions, whose GDP per capita is less than 75 % of the average GDP per capita of the EU-27 (‘less developed regions’);
- (b) transition regions, whose GDP per capita is between 75 % and 100 % of the average GDP per capita of the EU-27 (‘transition regions’);

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<sup>124</sup> European Court of Auditors. (2025). *Review 04/2025: The Future of EU Cohesion Policy: Drawing lessons from the past*. p. 4. [online] [https://www.eca.europa.eu/ECAPublications/RV-2025-04/RV-2025-04\\_EN.pdf](https://www.eca.europa.eu/ECAPublications/RV-2025-04/RV-2025-04_EN.pdf).

<sup>125</sup> Treaty on the Functioning of the European Union. Article 176.

<sup>126</sup> ALEXOPOULOS, Angelos; KOSTARAKOS, Ilias; MYLONAKIS, Christos et al. (2025). *The heterogeneous causal effects of the EU's Cohesion Fund*. p. 8. [online] <https://doi.org/10.48550/arXiv.2504.13223>

<sup>127</sup> European Court of Auditors. (2025). *Review 04/2025: The Future of EU Cohesion Policy: Drawing lessons from the past*. p. 4. [online] [https://www.eca.europa.eu/ECAPublications/RV-2025-04/RV-2025-04\\_EN.pdf](https://www.eca.europa.eu/ECAPublications/RV-2025-04/RV-2025-04_EN.pdf).

(c) more developed regions, whose GDP per capita is above 100 % of the average GDP per capita of the EU-27 ('more developed regions')"<sup>128</sup>

This division is further used to allocate funds for the institutions from member states based on their placement in these groups.

As the goal of the cohesion policy is greater contribution from EU to least-developed regions of the union, the challenge of the next enlargement of EU is obvious. The EU, performing accession processes in 10 candidate countries from couple different regions around Europe (Western and Eastern Balkans, Caucasia) and these regions, most probably will be on the first group of regions because of their GDP per capita, if they successfully join the union, Also considering the size of, for example, Ukraine, which is basically the second biggest country in Europe after Russia (by land), stands in front of very challenging situation. While the financial implications per se may not determine the decision on the next enlargement, since this is above all driven by geostrategic and security concerns, they will influence it.<sup>129</sup> Continuing with, Ukraine has by far the biggest population of the candidate countries<sup>130</sup> and a large agricultural sector with very fertile soil. Assuming it had been an EU member at the start of the current MFF in 2021, its population would have represented nine percent of an enlarged EU, and its utilised agricultural area would have been larger than that of Germany and Poland combined. At the same time, its GDP would have accounted for just 1%.<sup>131</sup>

Additionally, after-war effect will most likely further reduce this already drastic number. The accession of a number of poorer countries will increase medium-term economic divergences in the EU and require an adjustment of the contributions to the EU budget by the incumbent member states to compensate.<sup>132</sup>

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<sup>128</sup> Regulation 2021/1060 of the European Parliament and of the Council of 24 June 2021 on laying down common provisions on the European Regional Development Fund, the European Social Fund Plus, the Cohesion Fund, the Just Transition Fund and the European Maritime, Fisheries and Aquaculture Fund and financial rules for those and for the Asylum, Migration and Integration Fund, the Internal Security Fund and the Instrument for Financial Support for Border Management and Visa Policy. L 231/159, 2021, p. 87.

<sup>129</sup> LINDNER, Johannes; NGUYEN, Thu and HANSUM, Romy. (2023). What does it cost? Financial implications of the next enlargement. *Hertie School Jacques Delors Centre*. p. 3. [online] [https://www.delorscentre.eu/fileadmin/2\\_Research/1\\_About\\_our\\_research/2\\_Research\\_centres/6\\_Jacques\\_Delors\\_Centre/Publications/20231213\\_LindnerNguyenHansum\\_Enlargement.pdf](https://www.delorscentre.eu/fileadmin/2_Research/1_About_our_research/2_Research_centres/6_Jacques_Delors_Centre/Publications/20231213_LindnerNguyenHansum_Enlargement.pdf)

<sup>130</sup> If Turkey is excluded (as negotiations are frozen with them).

<sup>131</sup> Ibidem. p. 3-4.

<sup>132</sup> Ibidem. p. 10.

Important to be discussed the EC's proposal of 2028-2034 EU budget. the proposal puts strong emphasis on support for enlargement candidates and especially Ukraine. The Commission proposes a new Ukraine Facility worth €100bn (in 2025 prices), positioned outside the MFF ceilings, to provide support for pre-accession support and post-war reconstruction. Support for other candidate countries is also set to rise.<sup>133</sup>

In conclusion, the next wave of enlargement, if it happens simultaneously as 2004 and 2007 accessions, will cause serious challenge to EU's economy. This problem needs to be discussed further, as the more developed countries within the union already are "taking care of" newcomers and further pressure over them will, theoretically, cause more problems than they would likely want to handle.

### 3.5 Summary of the chapter

This chapter addressed EU enlargement challenges in political, economic and legislation perspectives. It is important to note that, in addition to EU member states, which, as described, abuse veto powers for their gains in bilateral disputes with applicant countries, EU accession process also faces challenges from outside of the union. Secondly, theoretical challenge of a candidate not having direct borders with the EU member states, might seem not relevant today, but has a potential to become a problem for successful accession. The demand to have direct land borders, although is not mentioned in accession requirements, but is of a barrier towards joining in the union and needs further attention.

Apart from these, the EU enlargement fatigue is a cornerstone challenge this process faces. Since already 12 years have passed after the last enlargement wave, some of the candidate countries are in a "waiting room" for decades and, overall, there are 10 candidate states seeking membership to EU. The enlargement fatigue, regardless number of changes in EU's approach towards it, is still rapidly discussed. There are also problems in the third Copenhagen criterion, *acquis* implementation by candidate states, which, can be stated that mainly depends on the latter, but EU still has major role in the process of financially assisting applicants for institutional readiness. Finally, the delicate challenge is believed to be the division of EU budget between member states, which will be problematic in next enlargement

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<sup>133</sup> HANSUM, Romy; LINDNER, Johannes; REDEKER, Nils et al. (2025). Ripe for Reform – What's in the EU Budget Proposal and What Should Come Next. *Hertie School Policy Brief* p. 7. [online] [https://www.delorscentre.eu/fileadmin/2\\_Research/1\\_About\\_our\\_research/2\\_Research\\_centres/6\\_Jacques\\_Delors\\_Centre/Publications/20250731\\_Policy\\_Brief\\_Ripe\\_for\\_Reform\\_Hansum\\_Lindner\\_Redeker\\_Rubio.pdf](https://www.delorscentre.eu/fileadmin/2_Research/1_About_our_research/2_Research_centres/6_Jacques_Delors_Centre/Publications/20250731_Policy_Brief_Ripe_for_Reform_Hansum_Lindner_Redeker_Rubio.pdf)

waves, considering the economic situation in applicant countries. This aspect suggests that accession decisions, although is not dependant on the economic situation in countries as no actual requirement is mentioned as criterion connected with it, will probably have a political influence on accession decisions.

Overall, there are quite a few challenges EU enlargement faces nowadays and, although, some of them are outside of EU's control, the union still has an obligation towards itself to try to overcome them.

## 4. FURTHER REFORM PERSPECTIVES OF THE EUROPEAN UNION ENLARGEMENT PROCESS

### 4.1 Changing the unanimity requirement for decision-making

The policy areas still decided by unanimity also generally touch more critical parts of national sovereignty – such as foreign policy, defence, tax or the EU budget.<sup>134</sup> Important to be stated that this sub-chapter refers to decisions about the enlargement process, not of the other decisions of councils. First, current unanimity requirement for decisions about accessions should be described in detail. The chapters above already mentioned it, but not in sequence.

Accession decisions in which the Councils are involved:

1<sup>st</sup> decision - The European Council, by unanimity, decides whether to give an applicant state candidate status and open accession process.

2<sup>nd</sup> decision - The Council of the European Union decides, also by unanimity, to open negotiations to candidate state (by adopting negotiating framework and opening the fundamentals cluster).

3<sup>rd</sup> decision(s) - The Council of the European Union decides, also by unanimity, to open and close the negotiating clusters and chapters, one by one.

4<sup>th</sup> decision - The Council of the European Union, again, by unanimity, decides if the negotiating step is completed.

5<sup>th</sup> decision - The Council of the European Union, by unanimity, to sign the accession treaty.

6<sup>th</sup> decision – The European Council, by unanimity, adopts the final decision to admit new member state into the union.

(also to be noted, that between fifth and sixth decision, national parliaments of member states should ratify the accession treaty).

As stated in the sub-chapter 3.1.1, the unanimity requirement for decision-making in enlargement process is abused by various member states for their bilateral disputes' sake. The EU accession process is increasingly being influenced by the political will of Member States over the past decade, rather than the Commission. This has resulted in making the accession

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<sup>134</sup> COSTA, Olivier; SCHWARZER, Daniela; BERÈS, Pervenche et al. (2023). Sailing on High Seas: Reforming and Enlarging the EU for the 21<sup>st</sup> Century. *Report of the Franco-German working group on EU institutional reform*. p. 21. [online] <https://www.auswaertiges-amt.de/resource/blob/2617206/4d0e0010ffcd8c0079e21329b9bbb3332/230919-rfaa-deu-fra-bericht-data.pdf>

process overly politicised, less effective ... Member States' increasing involvement (including political decisions not connected to accession criteria and excluding merit-based involvement) in the accession process have included setting new benchmarks for the negotiations process, and even blocking candidate states' progress through the stages, for reasons unrelated to EU membership conditions.<sup>135</sup> The veto power used by Bulgaria and previously by Greece ... should present a warning—both for new candidate states and the EU itself—that the current enlargement policy and accession process are overly politicised and can be blocked at any time for no reason properly linked to the Copenhagen criteria ... new candidate states, who may face countless obstacles if there is no unanimity in the Council. Hungary has already demonstrated this by refusing to agree to several sanctions against Russia following its invasion of Ukraine and blocking Ukraine's EU accession process if the EU does not give it access to EU funds over its own issues with backsliding on the rule of law.<sup>136</sup>

The qualified majority vote (hereinafter QMV) system is defined in TEU article 16, which states – “a qualified majority shall be defined as at least 55 % of the members of the Council, comprising at least fifteen of them and representing Member States comprising at least 65 % of the population of the Union. A blocking minority must include at least four Council members, failing which the qualified majority shall be deemed attained.”<sup>137</sup> It is stricter than simple majority and, more importantly, cannot be revoked even with only one country, despite its population. Important to be noted that on average over 80 % of decisions taken by QMV in the Council are still taken by consensus, with no vote, and thus no loser. By contrast, acting in policy areas decided by unanimity has become more and more difficult. Some decisions are blocked by vetoes unconnected to the policy decision at hand and linked to other negotiations.<sup>138</sup> The use of QMV has always been seen as the most obvious solution for overcoming blockages in the Council.<sup>139</sup>

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<sup>135</sup> HOXHAI, Andi. (2025). How to make EU enlargement a fairer and merit-based process: A legal and policy analysis. *European Law Journal* 30(4). p. 585-586. [online] <https://doi.org/10.1111/eulj.12543>

<sup>136</sup> Ibidem. p. 586.

<sup>137</sup> Treaty on European Union. Article 16.

<sup>138</sup> COSTA, Olivier; SCHWARZER, Daniela; BERÈS, Pervenche et al. (2023). Sailing on High Seas: Reforming and Enlarging the EU for the 21<sup>st</sup> Century. *Report of the Franco-German working group on EU institutional reform*. p. 20. [online] <https://www.auswaertiges-amt.de/resource/blob/2617206/4d0e0010ffcd8c0079e21329bbbb3332/230919-rfaa-deu-fra-bericht-data.pdf>

<sup>139</sup> Ibidem. p. 21.

The reform perspective suggested should be introduced in all the decisions of the councils except the 6<sup>th</sup> one in the list above. The reason for this could be seen in problematic cases mentioned above, when member states abuse their veto power throughout the accession unanimity requirement, including QMV in all stages, except the last one could potentially ease the political approach. QMV would make the accession process fairer and more effective, compared to the current format of unanimous voting at all stages of the accession process. As it stands, all Member States are provided with an easy excuse to halt accession talks and impose new conditions unrelated to the Copenhagen criteria and Article 49 TEU, rendering the EU unable to demonstrate its commitment to merit-based enlargement.<sup>140</sup> The adoption of QMV on the EU accession process would speed up accession talks and maintain a positive momentum in the overall accession process. This approach will ensure that those candidate states that meet the criteria are moved forward in a fair and merit-based accession process.<sup>141</sup> This suggested reform does not mean that the principle of consensus should not be considered in the accession talks. QMV is an instrument best used sparingly ... striving for consensus should still be the main goal and QMV only used as a last resort.<sup>142</sup>

To be more precise, this paper is considering the opinions of Franco-German working group (see in footnotes) and as stated in their report, validating each negotiation chapter should be moved to QMV to streamline the enlargement process but the final ratification of an accession treaty would remain under unanimity.<sup>143</sup> This is because the final ratification of treaties by member state parliaments and the European Council's final decision is not only in touch with the enlargement process's technical side, it concludes the accession and, for example, assessing how the EU acquis is implemented and if a state should go to the next step is dependent on the latter's performance. The Council's final decision is more political, and, without any doubt, it should need to be implemented by unanimity, as the consequence of enlarging the union has effects over all the other member states in EU politically, culturally and economically and they should decide over who joins the union.

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<sup>140</sup> HOXHAI, Andi. (2025). How to make EU enlargement a fairer and merit-based process: A legal and policy analysis. *European Law Journal* 30(4). p. 587. [online] <https://doi.org/10.1111/eulj.12543>

<sup>141</sup> Ibidem. p. 587.

<sup>142</sup> COSTA, Olivier; SCHWARZER, Daniela; BERÈS, Pervenche et al. (2023). Sailing on High Seas: Reforming and Enlarging the EU for the 21<sup>st</sup> Century. *Report of the Franco-German working group on EU institutional reform*. p. 21. [online] <https://www.auswaertiges-amt.de/resource/blob/2617206/4d0e0010ffcd8c0079e21329bbbb3332/230919-rfaa-deu-fra-bericht-data.pdf>

<sup>143</sup> Ibidem. p. 21.

#### 4.2 Additional safeguards on democracy and rule of law for future EU member states

The existing process of safeguarding TEU article 2 values of the union is described in TEU article 7, introducing the following system – “The European Council, acting by unanimity on a proposal by one third of the Member States or by the Commission and after obtaining the consent of the European Parliament, may determine the existence of a serious and persistent breach by a Member State of the values referred to in Article 2, after inviting the Member State in question to submit its observations. ... Where a determination under paragraph 2 has been made, the Council, acting by a qualified majority, may decide to suspend certain of the rights deriving from the application of the Treaties to the Member State in question, including the voting rights of the representative of the government of that Member State in the Council.”<sup>144</sup> Unlike the first paragraph of the article mentioned, which talks about the prevention of potential breaches of article 2 values, the following paragraphs deal with the actual breaches of the values by member state and describes how union can respond it.

First, proposal from member states or EC is needed, Then, the unanimous decision of the EUCO is needed, excluded the vote of the state in question. Additionally, consent from the EP is also crucial part of the determination of facts and finally, when the Council decides that the union’s values are breached, using the QMV system, it can decide upon the measures that could be taken against the member in question. These measures can be suspending rights of vote in the council of the member state or any other rights suspension. But this article does not allow commission to kick the member out of the union. In connection to the accession process, as clearly seen above, how important is even using one vote as veto in councils, this mechanism seems helpful to be used against veto abusers, but it is rarely activated.

Interesting in this article is 1. The unanimity requirement of the Council to determine the breach of values such as rule of law or democracy in member states and 2. The QMV requirement to sanction those members who are in a breach of these values. The unanimity requirement could be seen more political decision in EUCO rather than legal, but to determine the breach of the union values the process should be strictly merit-based, where the involvement of reports should play a majority role and the votes should be based on the reports in which there would be explanation how the member state breaches the values. This could be

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<sup>144</sup> Treaty on European Union. Article 7.

successful with the help of other institutions, such as Court of Justice of EU. Treaties offer a possibility for Member States to initiate such actions directly based on Article 259 TFEU, which contains the following rule: ‘A Member State which considers that another Member State has failed to fulfil an obligation (or bundle of obligations) under the Treaties may bring the matter before the Court of Justice of the European Union.’<sup>145</sup> It can be stated that all member states are obliged to adhere the values introduced in article 2 TEU and with the help of the court, determining the actual breach of abovementioned will help to get the process in merit-based dimension, the council’s unanimous vote against a state will not be further needed. The court will determine the breach. Potentially, it could work, but it needs a hard precedent. Finally, the court could decide upon how the state in question can be sanctioned.

#### 4.3 A two-step accession process (Join EU single market first, union membership later)

This sub-chapter will further discuss the prospects of introducing a two-step accession process in EU enlargement, first of which will be joining the EU single market and as a suggestion, the applicant, for example, will need to complete the first Copenhagen criteria and secondly, adopt the legislation about the EU economy as product safety provisions and all interconnected legal acts to the market economy, not to cause disruption in the EU market, and the second step will be the actual integration in the union. Single market is the cornerstone of the economic interest of enlargement, and this issue has been reflected in the accession process.<sup>146</sup>

The proposal is as follows - first, entry into the EU Single Market within 5 years (interim objective and medium-term reward) after launching accession talks with the EU and thereby becoming EU Members; second, entry into the bloc within 10 years (long-term goal).<sup>147,148</sup> It should be noted that the first Copenhagen criterion is, as abovementioned, a prerequisite for actually starting the negotiations of accessions. Even any partial integration into the single

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<sup>145</sup> SCHEPPELE, Kim Lane; KOCHENOV, Dimitry Vladimirovich and GRABOWSKA-MOROZ Barbara. (2020). EU Values Are Law, after All: Enforcing EU Values through Systemic Infringement Actions by the European Commission and the Member States of the European Union. *Yearbook of European Law* 39. p. 95. [online] <https://doi.org/10.1093/yel/yeaa012>

<sup>146</sup> OGNJANOSKA, Lepasava. (2022). Reinforcing the EU Enlargement Policy Towards Western Balkans: Access to the Single Market as a Credible Goal. *European Papers* 7(2). p. 837. [online] <https://doi.org/10.15166/2499-8249/600>

<sup>147</sup> HOXHAI, Andi. (2025). How to make EU enlargement a fairer and merit-based process: A legal and policy analysis. *European Law Journal* 30(4). p. 585. [online] <https://doi.org/10.1111/eulj.12543>

<sup>148</sup> These time frames are introduced by Andi Hoxhaj, in this work it is conditional.

market as a basic form of accession would require adherence to rule of law and democratic principles. Stronger instruments, as outlined in the rule of law section, are thus necessary before any enlargement takes place.<sup>149</sup> As suggested by the 2020 new enlargement methodology (the regression consequences), safeguards should be put in place such that any countries that do not respect EU fundamental values, or backslide on the rule of law and democratic norms, should be suspended from the EU Single Market<sup>150</sup>. This will assure the continuing compliance with the first Copenhagen criteria after a country joins the EU single market.

The positive consequence of this reform could be seen as follows – stalled accession process (the enlargement fatigue within the union) would, theoretically, be taken care of with introducing strict timeframe of enlargement. Additionally, offering access to the single market as an intermediary goal could serve as a strong incentive and inspire real reforms, while at the same time it would also enhance the accession process and the EU leverage in the region. Credible accession perspective is the key incentive and driver of transformation in the region.<sup>151</sup>

Greater economic integration with the EU could in fact spur deepening of regional economic integration. While this option may be feared as second-class membership, it is certainly better than the actual status quo and the ongoing uncertainty of the process which is not delivering. To maintain the focus on the democracy and rule of law promotion, which are also the main engines of economic integration, gaining access to the single market should be made conditional upon progress in terms of these criteria as well.<sup>152</sup>

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<sup>149</sup> COSTA, Olivier; SCHWARZER, Daniela; BERÈS, Pervenche et al. (2023). Sailing on High Seas: Reforming and Enlarging the EU for the 21<sup>st</sup> Century. *Report of the Franco-German working group on EU institutional reform*. p. 38. [online] <https://www.auswaertiges-amt.de/resource/blob/2617206/4d0e0010ffcd8c0079e21329bbbb3332/230919-rfaa-deu-fra-bericht-data.pdf>

<sup>150</sup> HOXHAI, Andi. (2025). How to make EU enlargement a fairer and merit-based process: A legal and policy analysis. *European Law Journal* 30(4). p. 585. [online] <https://doi.org/10.1111/eulj.12543>

<sup>151</sup> OGNJANOSKA, Laposava. (2022). Reinforcing the EU Enlargement Policy Towards Western Balkans: Access to the Single Market as a Credible Goal. *European Papers* 7(2). p. 855. [online] <https://doi.org/10.15166/2499-8249/600>

<sup>152</sup> Ibidem. p. 855.

#### 4.4 Institutional capacity of the union after further enlargement

As mentioned above, with the history of the union, the changes occurred to prepare the EU for “the big bang” enlargement so the union could function with 27 member states. But the further accession processes conducted gives an understanding that one day the existing model will need to be changed. The prospect of an enlargement round has always given rise to concerns that accessions will make EU governance, and especially legislative decision-making, more difficult. Such concerns have arisen primarily from the fact that enlargements mean there is the prospect of more national needs and preferences having to be satisfied, or at least accommodated, if agreements are to be reached.<sup>153</sup> The EU has evolved during the decades to welcome a growing number of new Member States; nonetheless, the EU institutional setting and decision-making mechanisms will probably need to further adapt to include, in a near future, the current Candidate Countries, as its infrastructure was not originally crafted to accommodate such a large number of Member States. Major challenges concerning the EU parliamentary representativity, the role of the Commission and the Council, voting and decision-making processes, the budgetary allocation and its potential reform will have to face the increasingly diversified and opposite national interests.<sup>154</sup> if the Union does not make the strategically effective and correct moves, she will remain at best static if not dissolved due to the constant economic and geopolitical pressure derived from the rising regional powers. That will lead her to fall behind, to be absorbed in internal matters that merely reach the borders of a simple Economic and Customs Union without any further political and cultural unification between the member states and finally, no geopolitical projection of power<sup>155</sup>, that is why it is very important to renew majority of systems in EU to get the union ready for the next enlargement wave. It will include, for example, different number of members in EP, Commission, Councils, etc. Also, the representation rules in institutions could potentially need to be reviewed.

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<sup>153</sup> NEILL, Nugent. (2016). Enlargements and Their Impact on EU Governance and Decision-Making. *Journal of Contemporary European Research* 12(1). p. 425. [Online] DOI:[10.30950/jcer.v12i1.689](https://doi.org/10.30950/jcer.v12i1.689)

<sup>154</sup> GIANNOPOULOU, Spyridoula. (2025). A Union in Transition: Reforming Institutions and Embracing Enlargement for Strategic Resilience. *HAPSc Policy Briefs Series*, 6(1). p. 149. [online] <https://ejournals.epublishing.ekt.gr/index.php/hapscpbs/article/view/43199/31287>

<sup>155</sup> *Ibidem*. p. 149.

#### 4.5 Summary of the chapter

Suggested reforms of EU enlargement theoretically could deal with the challenges, which are dependent on the union, introduced in previous chapter. First of all, introducing the QMV in accession processes for decision-making on councils' meetings can deal with the abusing of veto power from member countries to their own interests, unrelated with actual enlargement policy, considering the fact that the principle of consensus will still be goal in the decisions and that the final response towards acceding countries would still need the unanimity. This all will return the merit-based charm to the enlargement and reduce politicalization of this process. Additionally, the breach of EU's fundamental values by member states and consequently, the use of TFEU 259, with a precedent, could potentially do the work of article 7 TEU, as the latter is rarely used to suspend council vote rights and, in this way, defend accession process. This will help the process to move into merit-based dimension rather than decide in council meeting with unanimity to state a fact of breaching EU fundamental values.

Moving further, introducing the two-step accession process could be of a positive consequence and hopefully end the decades of EU enlargement exhaustion, as well as the process of accession will be "caged" in time frame and 20-30 or more years of uncertainty for some applicant countries would end. Finally, it is important to renew the institutions and policies to welcome the next member states, because, as stated in first chapter, the union is functional up to 27 members in this existing framework and adding further members will exhaust its functionality.

## CONCLUSIONS

To summarise the work above, first of all worth mentioning the legal foundation of the EU enlargement process. As stated beforehand, main legal provision about accession is in TEU article 49, but it does not introduce full requirements of joining the union, rather it provides several key factors to be considered. Apart of introducing 2 conditions a state should comply with (1. A state being European, 2. A state adhering the values of article 2 TEU), it also provides EUCO's responsibility to further present the conditions of eligibility, which should also be considered in accession processes. These conditions are introduced as Copenhagen criteria and, rather political, it is also based on article 49 and is very important part of legal basis of enlargement.

Secondly, institutions involved in the accession process play exceedingly important roles. They are seen as representatives of EU member states. Starting with EUCO, which shapes the enlargement process with its conditions of eligibility, apart of that, it also is involved in actual decision-making process both, at the start of accession and at the end of it. Continuing with CoEU, which decides upon negotiations and whether or not to close chapters of EU acquis is the most engaged institution in the enlargement process. EC is also crucially important for accession, as its communications provide pivotal information for decision-makers and with its annual reports help acceding countries understanding their requirements. As for EP, which seems not to be highly important and engaged in accession, actually has veto power to which can be used at the end of the process, additionally, its resolutions, reports or even its members' official speeches can maintain the enlargement process in political control. Finally IGC's are seen as the main zone for one of the most important part of accession – the negotiations are done in these conferences. History shows how long can state accession to EU continue and all the institutions abovementioned have their specific roles in this process, some of them are seen as curators, others are engaged in actual processes.

There are several challenges worth mentioning in EU enlargement at present. First of all, political challenges – practice shows that a merit-based process of accession can be used by member states for their bilateral dispute resolution, as member states have the power of veto at any step of the accession. This is under the control of EU, but there are political challenges outside the union's influence – EU aspiring countries often need to go against external powers in their way to accession in the union, for example, Russia, as seen in abovementioned

examples, is always trying to interfere in the enlargement process of EU by abusing its powers in EU candidate states. Continuing with current challenges of accession, worth mentioning EU enlargement fatigue. Considering the fact that over a decade passed after the last enlargement wave, additionally, there are several EU candidate countries in the waiting list for more than 20 years with a little progress, this challenge is one of the most important to overcome. EU, introducing the 2020 enlargement methodology was seen to try to overcome the fatigue, but reality shows that until the process will be back to merit-based dimension, the enlargement fatigue will always be a problem. Implementing the EU acquis in practice and not only in legislative papers by EU candidate states is also a major challenge. The longest stage of accession is negotiating part, in which candidate countries adopt EU laws and policies in their legislations, but historically, the institutional capacity to do so is hard to incorporate. That is why EU is funding applicant states for better integration, but it still stays challenging part. Finally, the distribution of EU budget (after the next enlargement), as a part of the enlargement exhaustion problem, will be hard to overcome considering 9 candidate states (potential members) with weak economies and large civilian populations.

As for the EU enlargement reform perspectives, this paper suggests following: introducing QMV system in councils, excluding the last decision of EUCO will potentially deal with abusing use of veto powers by member states and help the accession to go back in merit-based dimension. Additionally, considering the stalled usage of article 7 TEU for excluding vote rights in councils for breaching EU founding values, I suggest to have a precedent of using TFEU article 259 with this aim, rather than unanimous decision needed for determining the fact, the Court of Justice of EU will move the determination to merit-based dimension. The EU fatigue also deserves broad attention. That is why suggesting a two-step accession to the union will, first of all, put the enlargement process in strict time period and also will help adopting EU acquis by candidate states with them joining the EU single market first and EU itself later. Finally, as discussed above, the union now is functionable up to 27 members and considering the 9 candidate states in line for joining the union, additionally, potential candidate state – Kosovo wanting to also join, there will be necessity to renew the institutions and policies so the EU will not burnout and will be able to stay functional.

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## SUMMARY

### **Guram Mekoshkishvili**

The enlargement of the EU has very long history as it counts couple decades of life. Throughout this time, the union members, firstly, tried to reflect the process in EU legislation and are continuing to evolve the process itself even today. Rather merit-based, this process is also greatly dependent on achieving political criteria introduced by the European Council.

Involvement of various EU bodies in the accession process provides an understanding of the importance of the latter. Furthermore, the requirement of unanimity for decision making also underlines how delicate this process is for member states. As stated, enlargement is merit-based and dependent on conditionality. Unfortunately, there are quite some instances where the member states abused the abovementioned and used this process for their personal gains via EU institutions. Also, the stalled process of accession in western Balkans and the fact that the last enlargement wave occurred 12 years ago undermines the severity of the situation around it. The EU, via renewed enlargement methodology, other Commission communications and, overall, institutional-based opinions/reports, try to address the enlargement fatigue within the union, but till now outcome is blurred. The implementation of *acquis*, further division of EU budget, the abuse of accession veto powers by member states and overall geopolitical situation in the region demands the union further reforms.

Suggested in this paper, there is description couple perspectives for further updating the enlargement process. First of all, introducing QMV in accession decision-making (excluding final decision of the European Council) could address the institutionalization of the enlargement process by member states and secondly, offering applicant states two-step accession, with time frame predetermined, firstly joining in the EU single market and, after that, in the union itself, would potentially end the enlargement fatigue, help better implement the EU *acquis* and of strengthening the competitive economy, as well as, save candidate states from decades of uncertainty. Additionally, new method to adhere the EU values within the union and further updating the framework to welcome new members is also an important for its normal functionality. Finally, the need to renew institutions and policies to prepare EU for next enlargement wave is crucial reform to be done.