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EU Enlargement Strategy 2020 – Paving the Way for Differentiated Integration?

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In early October the European Commission presented the annual Enlargement Strategy for 2020¹, providing a regular overview of the EU integration progress of the six Western Balkans (WB6) (potential) candidates for EU membership and Turkey. As outlined in the Strategy: «A **credible enlargement policy** is a geostrategic investment in **peace, stability, security and economic growth in the whole of Europe**. Built on **strict but fair conditionality and the principle of own merits**, it continues to drive forward transformation and modernisation in the partner countries in an overall challenging environment. Political will and determination by the partner countries remain key to success»² (original emphasis). In addition to regular assessment, this year's document is to a certain extent different and more important than usual. Firstly, it comes as a part of larger package to revamp and bring more dynamism to the process of enlargement after years of enlargement fatigue and deadlocked process. Secondly, it is also a sign that the EU wants and urgently needs to be more prominently involved in the Western Balkans, especially after the outbreak of the COVID crisis³, by anticipating more robust investment engagement in the region. It could be argued that this line of documents is building on the realisation that the time has come to (re)visit Western Balkan integration and to start developing a more reliable process of integration, which will take time but would also represent the gradual inclusion of the Western Balkan countries in EU policies in the absence of full membership.

Back in 2018 the European Commission anticipated possible WB enlargement for 2025, stressing that the EU's enlargement policy must be part and parcel of the larger strategy to strengthen the Union by 2025 and reiterating the well established approach of credible commitments and a reward system for reform achievements⁴. However, as evaluated by the Commission at the time, only Montenegro and Serbia would have the possibility of concluding the whole process by 2025, with no projection given for remaining four candidates – North Macedonia, Albania, Bosnia and Hercegovina and Kosovo (*), none of which had even opened negotiations at the time. The opening of

¹ European Commission, *2020 Communication on EU enlargement policy*, 6.10.2020 COM(2020) 660 final.

² *Ibid.*, 19.

³ On the EU and Western Balkan in COVID times see further: Laura Montanari, *I Balcani occidentali e l'Unione europea ai tempi del Covid-19*, OSORIN, 2020. Available at: https://www.osorin.it/uploads/model_4/files/38_item_2.pdf?v=1595847427.

⁴ See further: European Commission, *A credible enlargement perspective for and enhanced EU engagement with the Western Balkans*, 6.2.2018 COM(2018) 65 final.

negotiations with Northern Macedonia and Albania in March 2020 was a major development⁵, after the expected opening of negotiations was blocked in late 2019.

In November 2019 the French government came up with the Non-Paper on Reforming the European Union accession process. This document stressed that the process should be based on four principles – gradual association; stringent conditions; tangible benefits; reversibility. The main idea was replacing the large number (35) of thematic chapters with several successive stages with the clear idea that «the closing of negotiations corresponding to each stage completed by the country would open up the possibility to participate in EU programmes, to be involved in certain sectoral policies and, where appropriate, to benefit from certain targeted finance», thus clearly opening the doors for the differentiated EU integration of the Balkan countries but still stressing that «the final objective would be full and complete accession»⁶.

Following the proposals for revamping the process, the Commission came up with the new Enlargement methodology in February 2020, with the idea of bringing more dynamism into the negotiating process. The Commission proposed grouping the negotiating chapters in six thematic clusters: fundamentals; internal market; competitiveness and inclusive growth; green agenda and sustainable connectivity; resources, agriculture and cohesion; external relations. It envisages a more credible process, involving a stronger political steer and the greater involvement of member states, greater predictability of the process (hence six clusters) including enhanced clarity on the conditions and benchmarks to must be achieved, which should result in the gradual “phasing in” of candidates in EU policies and increased access to funding throughout the process, but would also include rolling back in the case of stagnation or backsliding in prospective members⁷. The new methodology would also mean less opportunities to block the advancement of the process before the opening and closing of each of the current 35 negotiation chapters. As was recently argued: «Deeper political stocktaking should occur on eight occasions during negotiations (once interim benchmarks are met on fundamental reforms (chapters 23 and 24), before opening each of six clusters, and once overall negotiations are technically ready to close). This would be the major change in the approach leading to more focused and timed reform process pressing Government in the candidate countries to deliver tangible reforms. This should also prevent member states of introducing new conditionality once stocking is finished and clusters are opened»⁸. However, in spite of the new methodology it is expected that enlargement fatigue will continue to dominate the process in upcoming decade.

This is even more the case, bearing in mind the consequences that the COVID crisis and its mitigation will have on the Union itself. In the midst of the COVID crisis, after an initial lack of EU solidarity with candidate countries, including a ban on the

⁵ Council of the European Union, *Council conclusions on enlargement and stabilisation and association process – Albania and the Republic of North Macedonia*, 25.3.2020, 7002/20.

⁶ Available at: <https://images.politico.eu/wp-content/uploads/2019/11/Enlargement-nonpaper.pdf>.

⁷ European Commission, *Enhancing the accession process - A credible EU perspective for the Western Balkans*, 5.2.2020, COM(2020) 57 final.

⁸ Vladimir Medjak, *New Methodology for Running EU Accession Negotiations*, 2020. Available at: <https://tiranaobservatory.com/2020/03/24/new-methodology-for-running-eu-accession-negotiation>.

export of medical equipment, the EU has, however, lifted this ban⁹ and engaged more prominently to help the countries of the Western Balkan region with the purchase and transport of medical supplies. This engagement was further strengthened by mobilising (up to) €3.3 billion for the region to help with the consequences¹⁰, although the majority of the package is still pending as of November 2020.

The Enlargement Strategy is, as every year, accompanied by country reports for each of seven (potential) candidates. The Strategy is supplemented by additional communications on *An Economic and Investment Plan for the Balkans*¹¹ as well as accompanying *Guidelines for the Implementation of the Green Agenda for the Western Balkans*¹², marking a clear division between the WB6 and Turkey within the process. The Investment Plan indicates the Commission's proposal for an Instrument for Pre-Accession Assistance (IPA III) amounting over €14 billion for 2021-2027, of which the «lion's share is destined for the Western Balkans»¹³, with priorities articulated as ten investment flagships.

Reporting this year also reflects the proposals of the enhanced approach to the accession process. The novelty is that this year, the Commission has assessed the overall balance in the accession negotiations with both Montenegro and Serbia in order to propose ways ahead. In general, the Strategy assesses that: «Democratic systems in the Western Balkans are still not functioning properly due to strong political polarisation, in some cases limited space for the oppositions' democratic control function, and opposition boycotts of elections and parliamentary work»¹⁴. In addition, the «slow pace of change in judicial culture continues throughout the Western Balkan region without sufficient commitment to the principle of judicial independence and respect for court decisions. In particular, public authorities should refrain from any interference in ongoing cases and from issuing public comments, which risk undermining court decisions»¹⁵.

Importantly, it was underlined by the Commission that «even in the context of **emergency measures taken during the COVID-19 crisis**, Parliaments should continue to have the power to control executive action and should play a role in overseeing the state of emergency, including the decision if the state of emergency should be extended. The dissolution or suspension of parliament may adversely impact on this power»¹⁶. This was particularly the case in Serbia where Parliament was

⁹ See further: Montanari, supra note 2.

¹⁰ European Commission, *2020 Communication on EU enlargement policy*, COM(2020) 660 final, 3.

¹¹ European Commission, *An Economic and Investment Plan for the Western Balkans*, 6.10.2020, COM(2020) 641 final.

¹² European Commission, *Guidelines for the Implementation of the Green Agenda for the Western Balkans*, 6.10.2020, SWD(2020) 223 final.

¹³ European Commission, *An Economic and Investment Plan for the Western Balkans*, COM(2020) 641 final, 5.

¹⁴ European Commission, *2020 Communication on EU enlargement policy*, COM(2020) 660 final, 10.

¹⁵ *Ibid.*, 5.

¹⁶ *Ibid.*, 11.

suspended for over forty days without the opportunity to sanction emergency decrees adopted by the government¹⁷.

For the current Enlargement frontrunner, **Montenegro**, the Commission assesses that «an overall balance between progress under the rule of law chapters, on the one hand, as well as progress in the accession negotiations across chapters, on the other, is ensured», also concluding that Montenegro «has come a long way in reforming its legal and institutional framework in the area of rule of law with further results in most areas»¹⁸. For **Serbia** it was underlined that «the Serbian government continued to declare EU membership as its strategic goal. However, there is a need to place more emphasis on objective and positive unambiguous communication on the EU, which is Serbia's main political and economic partner»¹⁹. Serbia's progress on rule of law and the normalisation of relations with Kosovo is underlined as essential, and «will continue to determine the overall pace of the accession negotiations»²⁰. By this the Commission clearly restated that finding the solution for relations with Kosovo is at the heart of Serbian aspirations to join. In this overall very critical assessment of Serbian progress, the slow progress in rule of law reforms and the low level of alignment with EU foreign policy were particularly highlighted.

Bearing in mind recent decisions to open negotiations with **North Macedonia** and **Albania**, findings are mostly positive with some key areas for reform underlined. **Bosnia and Hercegovina** is still waiting for the green light on its candidacy application, with 14 key priorities defined by the Commission and supported by the Council in December still remaining to be addressed²¹. Given that on the one hand that these relate to fundamental improvements in the «legislative and institutional framework, including at constitutional level where necessary»²² just in order to open negotiations, and that on the other the country's political system is in continued deadlock, it is expected that Bosnia and Hercegovina will continue to lag behind in the process compared to the other candidates. Finally, **Kosovo(*)**, also considered a potential candidate, was assessed to have made limited progress in EU-related reforms with the visa liberalisation process still pending in the Council since 2018, leaving this potential candidate, still unrecognised by five EU member states, the only one yet to have travel liberalised for its residents.

Finally, in terms of **Turkish** accession, it was concluded that «Turkey has continued to move further away from the European Union with serious backsliding in the areas of democracy, rule of law, fundamental rights and the independence of the judiciary»²³. However, it was underlined that the country remains a «key partner for the

¹⁷ See further: Marko Milenković, *Responses to the COVID-19 Crisis in Serbia – Democracy and the Rule of Law on Ventilators?*, in *Percorsi Costituzionali* 2/2019, 441-468.

¹⁸ European Commission, *2020 Communication on EU enlargement policy*, COM(2020) 660 final, 20.

¹⁹ *Ibid.*, 21.

²⁰ *Ibid.*, 21.

²¹ See further: *Ibid.*, 24.

²² *Ibid.*, 24.

²³ *Ibid.*, 4.

European Union in essential areas of joint interest, such as migration, counter-terrorism, economy, trade, energy and transport»²⁴. Interestingly, after more than thirty years of economic transition in the WB region, it is the Commission's opinion that «only Turkey is a functioning market economy, despite serious concerns in this regard, and has a good level of preparation as regards the capacity to cope with competitive pressures»²⁵. The Commission also recognises that in June 2019 negotiations between the country and the EU came to a standstill, with no further possibility of opening or closing chapters at this point.

As already outlined, the time has come to (re)visit Western Balkan integration in the context of the European Union's (prolonged) crisis and enlargement fatigue, and recent Enlargement Strategy and preceding documents open the door just for that. The Enlargement Strategy points to the overall slow progress of reforms across the policy spectrum in practically all candidate countries. Therefore, debate on future (non)membership options for the region, which would still allow for a transformative power of the Union and its strong presence in the region, must be continued. Furthermore, it should be followed by concrete proposals and actions on the side of the EU, and the strategic framework for 2020 analysed above is a positive move in that direction.

Dicembre 2020

²⁴ *Ibid.*, 20.

²⁵ *Ibid.*, 14.