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Research Report

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SWP Comments, No. 18/2009

Provided in Cooperation with:

Stiftung Wissenschaft und Politik (SWP), German Institute for International and Security Affairs, Berlin

Suggested Citation: Lippert, Barbara (2009) : The EU's enlargement policy: Ways out of the impasse, SWP Comments, No. 18/2009, Stiftung Wissenschaft und Politik (SWP), Berlin

This Version is available at:

<https://hdl.handle.net/10419/256093>

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The EU's Enlargement Policy

Ways out of the Impasse

Barbara Lippert

The enlargement policy of the European Union (EU) has reached an impasse both politically and conceptually. The accession of Cyprus, Bulgaria and Romania is now considered a warning against the overhasty admission of new members. Accession negotiations with Croatia and Turkey have been dragging on for four years – and the end is still not in sight. The development of an Eastern Partnership with the six post-Soviet states will give the EU a breathing-space and postpone any further promises of accession. Even applications which were expected, such as Montenegro's and Albania's or most recently Iceland's, met with annoyance or a merely businesslike reaction from member states. Few of them now still see these accession wishes as proof of the vitality and attractiveness of the EU. Enlargement, once regarded by member states as part of the active advancement of the EU, has reached its limits. Notwithstanding this, new applications set the negotiation machinery in motion as if automatically. This is one of the causes of the malaise of enlargement policy which needs to be fundamentally rethought, especially in view of possible new interactive structures such as an "E3" consisting of the EU, Turkey and Russia.

There are many indications that the EU's enlargement policy no longer works and that neither candidate countries nor members are convinced of it. The processes keep running smoothly thanks to the Commission which controls the administrative-technical processes. But member states' political interest is vague and on the wane – or has already turned into its opposite. Germany in particular, which so far was among the supporters of every enlargement, is drifting into the sceptics' camp. With France and the Benelux countries, four other founding states of the European

Community (EC) as well as Austria make up the hard core. On the other side are the enlargement proponents: the United Kingdom, Sweden, Spain and the new EU states in Central and Eastern Europe. Another sign of the deadlocked situation is that the EU population, which is often diagnosed as being enlargement-weary, is divided into two roughly equal-sized camps. And all positions are becoming increasingly polarised and entrenched.

The Enlargement Doctrine

The primary experience of the EC with a strong accession candidate, the UK, decisively shaped the development of the EC's accession procedure. Since the first enlargement of 1973 the "enlargement doctrine" has consisted of four main components:

- ▶ the values and political system of the candidate country must be compatible with those of the EU when the application is lodged;
- ▶ the candidate country must adopt the *Acquis communautaire* (the total body of common rights and obligations of the EU) prior to accession;
- ▶ the EU only makes technical adjustments and does not institute far-reaching policy and institutional reforms;
- ▶ status differences between old and new member states (e.g. in representation in the organs of the EU and in voting rights) are out of the question.

Apart from temporary transitional arrangements, accession has therefore always meant full membership. Interested EU actors pursued their ambitions to reform and "deepen" the Union but did so outside of accession conferences and parallel to them – they did not firmly link the time-frame and content of the two processes. This was because a linkage would have immediately stirred up the differences and latent conflicts between the member states and subsequently could have blocked both the enlargement and the deepening processes. As such, there never existed a coordinated, concerted double strategy of consolidation and enlargement. Rather, for decades enlargement policy was an object of projection for the most varied ideas on the development of the EU, with both inter-governmentalists and those in favour of extending the Union's supranationality using it to further their respective interests. This explains why the proponents of enlargement could ultimately always achieve agreement with their opponents and the sceptics. Until recently the EU member

states came up with package deals to take account of their respective preferences and interests, but now they are entering a phase in which enlargement is no longer seen as a window of opportunity. Unlike previous enlargements, where it was sufficient to tailor solutions from case to case, the emphasis is now on opening up new latitude for the special interests of individual actors.

Symptoms of Crisis

It is symptomatic that member states now thrash out bilateral problems with a candidate country in the scope of the accession negotiations and assume veto positions. This can be illustrated by relevant cases such as Greece in its name dispute with Macedonia, Slovenia in its border dispute with Croatia and Cyprus in many conflicts with Turkey. In the talks with Turkey, France is blocking the opening of certain chapters which only make sense in connection with accession, such as the chapter on economic and monetary policy. Negotiating on this chapter could prejudice the decision in favour of Turkey's membership, which Paris rejects.

On the one hand, the current accession negotiations herald a relaxation of the enlargement doctrine. In the framework of negotiations with Turkey, for example, the option has been raised of making safeguard clauses and specific arrangements permanently available (in terms of freedom of movement of workers, structural policy and agricultural policy). That would open the door to a category of junior or partial membership (graded rights to participation in the organs of the EU, in decision and policy-making), which is still completely foreign to the Treaties. On the other hand, the EU is extending its possibilities of more sharply controlling the accession negotiations and intervening in them more deeply. Since the member states have recently been setting the benchmarks for the opening and closing of negotiation chapters formally and unanimously, they have the

option of slowing down and blocking negotiations at any time.

The EU's options for resolving the impasse are all fraught with difficulties because the twenty-seven will neither say a collective "no" nor a unanimous "yes" (plus the European Parliament) to the next round of accessions (with the possible exception of Croatia). Moreover, the EU did not want to pursue the most straightforward path – that of amending the Treaty article on the admission of new members such that application could only take place upon the EU's invitation, for example, or by restricting the circle of candidates. Independent of the Lisbon Treaty coming into force, the instrument of amending primary law will now be unavailable for years. This further limits the possibilities of developing workable and legally watertight solutions involving part-membership or even a modularisation of integration (SWP-Comment 17/2007) that would hold up to scrutiny in the European Court of Justice and offer ways of coping with the numerous new members and their deficits. Equal rights and duties for all member states will thus remain the rule.

A Change of Strategy

A weighty argument against continuing today's muddling through approach is that the EU is losing political credibility in a significant way and thus forfeiting influence as an international actor. The outside world has always perceived enlargement policy as a subset of foreign policy, and since 1989 and the Maastricht Treaty also as part of its security policy. The EU's constant claims since eastward enlargement that enlargement is the most successful instrument of its foreign policy have today become part of the problem. The expansion of the EU on the European continent is perceived as the embodiment of the EU's rise to be a regional, if not global player. But if enlargement grinds to a halt, as is the case now, this will be regarded as evidence of the weakness of the EU. The Union can find its way out of this partially

self-imposed quandary by changing course in its enlargement policy and beefing up its foreign and security policy.

First of all, the EU must break with its own procedural routine in enlargement policy. This means no longer dealing with new accession applications in a purely mechanical way. The European Council or the Council of the European Union should first examine whether or not the EU is politically willing and able to admit a candidate within two or three years. If not, the Council should at least defer dealing with the application – but not, as is the case with Turkey, half-heartedly open negotiations and play for time. The Council should then give a political assessment of the applicant's maturity for accession. Where the political and economic Copenhagen criteria are obviously not adequately fulfilled, it should reject the application. In this way the Council would be forced to take on more political responsibility instead of passing the buck to the Commission. The accession negotiations could be shortened considerably if a clear distinction were made between the pre-accession phase, which lasts for years, and the short negotiation phase, which would set the seal on the country's accession rather than preparing it, as is the case now. The same could apply where the Commission prepares its first opinion (as it is doing now for Iceland and Montenegro) and comes to the recommendation not to open direct negotiations, and the Council endorses this assessment. A new application can be lodged, but the message to the countries of the Western Balkans is that a sufficient degree of maturity is required at the time of application and that basic qualifications (e.g. absence of conflicts with neighbouring states) cannot just be fulfilled in the course of negotiations. The proposed strict interpretation of the prospects for accession would at first plunge candidate countries into a motivation crisis. The EU would maintain its political and material assistance and Europeanisation programmes in the pre-accession phase, with conditions

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ISSN 1861-1761

Translation by Will Firth

(English version of
SWP-Aktuell 46/09)

The translation and publication of this comments was made possible through the generous support of BP Europe and the collaboration of the Forum Ebenhausen

attached, but it would emphasise that the candidate had to do its homework. Croatia should only be allowed to become a member when it has fulfilled all the criteria and when there are no strings attached with regard to other candidates and their accession. The EU ought to continue negotiations with Ankara for the time being – or decide to suspend them for reasons directly to do with Turkey (viz. Cypriot access to Turkish harbours). Of course, the EU could also wait till it runs out of negotiation chapters due to the vetoes of individual EU states, but such cynical tactics are not conducive to political credibility and the constructive search for alternatives. Finally, Ankara could itself relinquish the goal of membership and explore new avenues for relations with the EU, ideally together with Brussels.

In order to recontextualise relations with Turkey, the EU needs a more effective and strategically oriented foreign and security policy. The reappointment of the Commission and the innovations of the Lisbon Treaty could be starting points for this. The Enlargement Commissioner should then only be responsible for the regular negotiations. Everything else would fall into the responsibility of the High Representative of the Union for Foreign Affairs and Security Policy who wears two hats (from Council and Commission) and would also take part in the work of the European Council. Pre-accession policy would gain a stronger foreign and security-policy component because today the EU uses this policy mainly to pursue stability goals, not integration objectives.

Outlook

The EU is not and will never be synonymous with Europe because it is only one part of the continent. It has no strategic vision for the political order of Europe as a whole under the conditions of an EU membership of Turkey and, theoretically, Ukraine. One possible future scenario could consist of closer ties between the EU

(successively joined by the countries of the Western Balkans and EFTA), Turkey and Russia, who share a common neighbourhood in between. The EU could work towards an E3 dialogue format including the EU, Turkey and Russia since these three key actors are mutually interdependent (e.g. in the fields of energy policy and economic modernisation) and also share some parallel interests (regional stability), although they also have competing geopolitical visions, for example vis-à-vis Eastern Europe. Turkey's status as a regional power would be enhanced by the E3 format and it would remain closely connected to the EU economically and politically as well as through the transatlantic nexus. The E3 could cooperate in searching for solutions to the conflicts in the South Caucasus without becoming trapped in Russia's exclusive-sphere-of-influence approach. It would also be a useful forum for dealing with their different strategies for Central Asia. However, all this would require a degree of effectiveness, coherence and increased resources which would amount to a quantum leap in the EU's foreign and security policy.

The incoming guard of the EU's foreign policy actors should recognise these challenges and not simply carry on where Solana, Ferrero-Waldner, Rehn and the rotating EU Presidency left off. Of all the EU states, it will be up to Germany and France to initiate a change in enlargement policy and lay the foundations for ambitious, pan-European political order-building.