



# **ADVANTAGES OF EU ENLARGEMENT – WHAT COULD THE APPLICANT COUNTRIES LEARN FROM THE EU; WHAT COULD THE EU LEARN FROM THE APPLICANT COUNTRIES?**

(International Public discussion among politicians  
and public opinion makers)

Sofia, 26-27<sup>th</sup> of February 2016





## **MAXIMIZING THE INTEGRATION CAPACITY OF THE EUROPEAN UNION: LESSONS AND PROSPECTS FOR ENLARGEMENT AND BEYOND (MAXCAP)**

APRIL 1<sup>ST</sup>, 2013 – MARCH 31, 2016

The 'big bang enlargement' of the European Union (EU) has nurtured vivid debates among both academics and practitioners about the consequences of 'an ever larger Union' for the EU's integration capacity. The research project MAXCAP will start with a critical analysis of the effects of the 2004-2007 enlargement on stability, democracy and prosperity of candidate countries, on the one hand, and the EU's institutions, on the other. We will then investigate how the EU can maximize its integration capacity for current and future enlargements. Adopting an inter-disciplinary and mixed methods approach that combines desk research, in-depth interviews and Q-methodology, MAXCAP will

- a) explain the effects of the EU's integration modes and strategies on democracy and socio-economic development in the new members, candidates and neighbourhood countries;
- b) inquire into the relationship between the widening and deepening of the EU by establishing conditions for effective decision-making and implementation in an enlarged EU;
- c) identify the social limits to the EU's integration capacity related to citizens' perceptions of the last and future enlargements;
- d) study the EU's current and past negotiation strategies in the context of enlargement and investigate to what extent they need to be adjusted to changing conditions in the EU and the candidate countries;
- e) examine how the EU employs different modes of integrating countries with highly diverse economic powers, democratic qualities of governance, and institutional capacities and
- f) assess whether alternative models, such as the European Neighbourhood Policy, can be successful in bringing countries closer to the EU.

MAXCAP which features a nine-partner consortium of academic, policy, dissemination and management excellence will create new and strengthen existing links within and between the academic and the policy world on matters relating to the current and future enlargement of the EU.

## MAXCAP PARTNER INSTITUTIONS:



Freie Universität Berlin (FUB) (coordinating institution)

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## Advantages of EU enlargement – what could the applicant countries learn from the EU; what could the EU learn from the applicant countries?

(International Public discussion among politicians and public opinion makers)

<b>Thursday 25<sup>th</sup> of February:</b>		
<b>ARRIVALS – ACCOMMODATION IN THE GRAND HOTEL SOFIA</b>		
18.30	Welcome reception and dinner by the Representation of the EU in Sofia for the foreign participants	
<b>Friday 26<sup>th</sup> of February, First day:</b>		
9.30-9.30	Registration of the participants	
9.30	Opening address by Ms Dzhema Grazdanova, Chairperson of the Foreign Policy Committee of the Bulgarian Parliament	
9.40	Address by the EC's high level Representative	
9.50	Address by Prof. Anastas Gerdjikov, Rector of St. Kl. Ohridski University of Sofia	
10.00	General presentation of the findings of the MAXCAP project as recommendations for the EU's enlargement strategy and priorities	
<b>10.30–10.45</b>		
10.45	'Rule of Law Integration Capacity in the Western Balkans'- Adam Fagan & Indraneel Sircar, LSE, & Queen Mary University of London	
11.05	Three view points of Albania	
11.35	Three view points of Bosnia and Herzegoviana	
12.05	What do the citizens want? Why does it matter? - Antoaneta Dimitrova & Elitsa Kartenska, Leiden University	
12.25-13.00	GENERAL DISCUSSION	
<b>13.00-14.00</b>		
14.00	Integrating Eastern Members States through the Cohesion Policy: Conflicting Goals, Uncertain Outcomes <i>Georgi Medve-Balint</i> , Central European University	
14.20	Three view points of FYR Macedonia	
14.50	Three view points of Montenegro	
<b>15.20</b>		<i>Coffee break</i>
15.45	The Effect of the Eastern Enlargement on the Decision-making capacity of the EU - Dimitar Toshkov, Leiden University	
16.15	Three view points of Serbia	
16.45	Three view points of Turkey	
17.15	The Rule of Law Enhancement in Bulgaria and Romania after Their Accession to the EU – <i>Georgi Dimitrov, Kaloyan Haralampiev, Stoycho Stoychev</i> , Sofia University	
17.35	GENERAL DISCUSSION	
18.00	End of session	
<b>18.30</b>	<i>Welcome dinner by the Rector of SU "St. Kl. Ohridski", At the Eagles panorama restaurant</i>	
<b>Saturday 27<sup>th</sup> of February, Second day:</b>		
9.00	Opinions of renowned Bulgarian NGOs in the field of regional and international relations	
9.40	Opinion on the debate by the Bulgarian Foreign Minister: major priorities of the EU's enlargement to the South-East Europe	
9.50	FINAL COMMENTS OF THE PARTICIPANTS	
<b>10.30</b>		<i>Coffee break</i>
11.00	Summary of the public debate on enlargement policy lessons by a MAXCAP team member	
11.40	CONCLUDING DISCUSSION	
12.00	End of the conference	
12.20	<i>Lunch</i>	
<b>13.00</b>	<b>DEPARTURES</b>	

## SUMMARIES OF THE MAXCAP PRESENTATIONS

### INTEGRATING THE EASTERN MEMBER STATES THROUGH THE COHESION POLICY: CONFLICTING GOALS, UNCERTAIN OUTCOMES

*Gergő Medve-Bálint and Dorothee Bohle, Central European University, Budapest, Hungary*

By representing more than one third of the total budget of the EU, the Cohesion Policy is the most important direct integrative instrument of the European Union. Its role is even more significant in the Eastern member states because they are the greatest beneficiaries of the funds.<sup>1</sup> Because of its regional orientation, the policy was also expected to strengthen subnational administrations against the central state. With respect to the Eastern members, the potential effects of the funds therefore appear in an institutional and in a territorial dimension. The institutional dimension refers to the anticipated shift of powers from the central government to the regional and local levels while the territorial dimension entails the reduction in regional disparities.

The Cohesion Policy has not evolved in isolation from broader socio-economic goals that the EU has pursued – from the competitiveness agenda that emerged in the 1990s to the recent fiscal consolidation agenda. Our paper argues that this has led to a tension in the Cohesion Policy between conflicting goals, which has increasingly undermined some of its very aims. In concrete, we argue three points.

First, the increasing emphasis on growth and competitiveness rather than redistribution and coherence has come at the expense of territorial convergence and development. This has been reinforced by the eligibility criteria for funding, which did not allow for a substantial differentiation among the regions according to their internal developmental positions.

Second, as an unintended consequence, the EU's "competitive solidarity" approach has also contributed to undermining another goal of Cohesion policies, namely decentralization and the empowerment of local actors vis-à-vis the nation state.

Finally, we also note that a specific characteristic of the Cohesion Policy might have contributed to leaving the regions more vulnerable. In essence, the co-financing requirements of the EU-funded projects place a financial burden on those local governments that are successful at funding applications. In order to guarantee the implementation of the EU projects, local governments tend to rely on external financing such as loans or bonds by which they gradually become indebted.

### WHAT DO CITIZENS WANT? WHY DOES IT MATTER?

*Antoaneta Dimitrova and Elitsa Kortenska, Leiden University, Netherlands*

Public opinion in the oldest EU member states has been less and less positive towards potential future EU enlargements since 2013. Even though accession negotiations are an intergovernmental process, which does not, in principle, need the approval of citizens, there are good reasons to consider citizens' perceptions as a

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<sup>1</sup> In the 2014-2020 programming period, the eleven Eastern member states, which in 2015 represented 20.3 percent of the EU's population, receive 50.4 percent of the total budget of the Cohesion Policy. Source: the authors' own calculation based on Eurostat data (population) and European Structural and Investment Funds Open Data Platform (<https://cohesiondata.ec.europa.eu/>, accessed on 3 December 2015).

constraint for future enlargement. The politicization of the process of European integration in the EU, visible in developments such as the increased use of referenda for approval of treaties, (most recently the Association Treaty with Ukraine in the Netherlands) means that governments will negotiate in the shadow of future potential rejection of accession treaties. This makes the EU's membership perspective less credible in the eyes of applicants, which in turn is likely to weaken their efforts to reform and prepare for EU membership. This may create problems for enlargement even in the short term, as the EU's current enlargement strategy puts a great emphasis on the credibility of candidates as future EU members. To increase the credibility of candidates and the enlargement process itself, the EU and the European Commission have made several strategy updates and changes in recent years that have strengthened reform conditionality and monitoring even further. Political elites in candidate and aspirant states, however, may not have the short and medium term incentives to conduct difficult reforms, when the EU's credibility is low, due to, among others, the abovementioned public opinion trends. One way to escape from this vicious circle of mutual lack of credibility is to seek to persuade citizens via public debates, along the lines of existing discourses. There are a number of arguments and emotional responses that resonate with citizens of candidate and existing member states, which can both enable and constrain future political debates. Our presentation sketches some of the key discourses about enlargement in Serbia, FYROM, Bulgaria, Poland, the Netherlands and Germany.

## **INCREASING EXTERNAL INTEGRATION CAPACITY IN THE RULE OF LAW IN THE WESTERN BALKANS**

*Adam Fagan and Indraneel Sircar, Queen Mary University of London, UK*

Improving the rule of law in the Western Balkans against the backdrop of EU integration requires the co-operation of the EU, domestic governments, and a wide array of societal actors. For example, minority protection regimes developed by the EU and domestic governments need to be more sensitive to how different forms of marginalisation intersect, such as gender, ethnicity, and rural / urban divides. Moreover, there is no consistent standard for minority protection across the EU, and not all members are signatories of the Framework Convention for the Protection of National Minorities (FCNM), so there are no mechanisms for sanctioning insufficient minority protection by the EU.

On the other hand, current integration strategies show that the EU has learnt lessons from previous rounds of Eastern enlargement. This is evident in the 'new approach' of confirming a strong track record of implementation before closing chapters of the *acquis* related to the rule of law. There is also explicit conditionality related to marginalised groups, which was not the case during previous Eastern enlargement. The EU has also learnt other lessons related to the development of the rule of law more generally: 1) favouring twinning and inter-linked assistance instead of short-term grants; 2) better mechanisms to understand the situation on the ground (e.g., peer review missions); 3) creating institutions for structured dialogue between domestic and EU officials related to the rule of law; and 4) involvement of societal actors throughout the integration process.

However, the prevailing EU approach of 'firewalling' the judiciary from other branches of authority without sufficient transparency and accountability has led to the danger of unchecked 'judicial supremacy'. This unintended consequence of EU-led rule-of-law reform can be addressed by building mechanisms for accountability

and transparency concomitantly with independent and impartial institutions. Laws and by-laws spelling out conflict of interest for public officials need to be implemented, and transparency of the work in the judiciary (including judicial and prosecutorial councils) needs to be improved to allow societal actors to play an effective watchdog role. However, technical fixes alone are not sufficient – reforms need to be introduced at the behest of domestic practitioners intent on progressive democratic change.

## **THE EFFECTS OF THE EASTERN ENLARGEMENT ON THE DECISION-MAKING CAPACITY OF THE EUROPEAN UNION**

*Dimiter Toshkov, Leiden University, The Netherlands*

This paper investigates the impact of the Eastern enlargement on the decision-making capacity of the European Union. On the basis of new data on the number and types of legal acts produced by the EU (1994-2014) and on the time between the proposal and adoption of legislative acts (1994-2012), the paper argues that enlargement has had a rather limited impact on legislative production and duration, and that it is extremely hard to disentangle this impact from other contemporaneous institutional and socio-economic developments. On the basis of analyses of expert-based country positions in EU negotiations and on voting data from the Council of Ministers of the EU, it is argued that enlargement has possibly added a new dimension of contestation in EU legislative decision-making, but one that concerns a relatively small share of all negotiations in few policy fields like Environment. The paper also reviews secondary sources on the more visible influence of enlargement on the modes and culture of EU decision-making and its effects on the organizational aspects of the main EU institutions. The paper also presents a detailed qualitative overview of the major challenges and responses the EU has had in the period 2004-2013, but finds little indications that the accession of the post-communist countries has left a direct and significant imprint on the major developments that shaped the course of European integration since 2004. All in all, there is no evidence that the Eastern enlargement has led to the institutional gridlock, loss of problem-solving capacity and inability to manage that the public, many politicians, and some academics as well have feared.

## **THE RULE OF LAW ENHANCEMENT IN BULGARIA AND ROMANIA AFTER THEIR ACCESSION TO THE EU**

*Georgi Dimitrov, Kaloyan Haralampiev, Stoycho Stoychev, Sofia University, Bulgaria*

This presentation provides a thorough overview of the Cooperation and Verification Mechanism of the European Commission as an instrument for post-accession conditionality of the European Union – it presents the origins of this innovative political approach to the then newest EU-member states, summarizes the findings of a comprehensive study of the EC's reports for the period 2007-2012 as a political evaluation based on the monitoring of the progress of the two countries in their anti-corruption fight and rule of law promotion, analyzes the reasons for the inability of CVM to achieve its own goals and, finally, proposes some ideas about the eventual improvement of this mechanism through which the rule of law enhancement in Bulgaria and Romania could become radically more effective.

Adopting the jargon of the EC reports, we assert that the CVM presents a “mixed picture”. There are some undoubted positive results: it is used as a tool for political pressure for radical reforms in the judicial system; it facilitates the domestic debate on the necessity of a result-oriented fight against corruption; it successfully highlights the political opposition to reforms among all parties.

On the other hand, the implementation of *the mechanism is somewhat successful insofar as it has not completely failed*. The CVM is mostly a monitoring instrument that registers the transformations/shifts in the resistance against reforms and it legitimizes before the EU the persistent imitation of reforms by the national governments manifested in the partial fulfillment of fruitless, ill-targeted measures. The institutional design of CVM makes it helpless because it does not concern the routine interactions between the local governments and the EC in the course of implementing the set of EU policies.

## TENTATIVE PRELIMINARY ORIENTATIONS FOR THE INTERNATIONAL POLICY DEBATE

### A BRIEF OVERVIEW OF THE PROJECT

The ‘big bang enlargement’ of the European Union (EU) has nurtured vivid debates among both academics and practitioners about the consequences of ‘an ever larger Union’ for the EU’s integration capacity. The research results from MAXCAP project provide a critical analysis of the effects of the 2004–2007 enlargement on stability, democracy and prosperity of candidate countries, on the one hand, and the EU’s institutions, on the other. The goal is to offer expert policy recommendations how the EU can maximize its integration capacity for current and future enlargements. MAXCAP which features a nine-partner consortium of academic, policy, dissemination and management excellence tries to strengthen existing links within and between the academic and the policy world on matters relating to the enlargement of the EU. A major venue for maintaining this dialogue is a series of public events where the empirically identified issues of enlargement policy could be discussed openly by experts and stake-holders. The concluding event is a conference will proceed under the title:

**“Advantages of the EU enlargement – what could the applicant countries learn from the EU; what could the EU learn from the applicant countries?”** (International Public discussion among public opinion and policy makers)

#### KEY FINDINGS TO BE DISCUSSED:

At this point of time only a very tentative list of topics could be offered based on the preliminary results achieved so far<sup>2</sup>. These are as follows:

- At present the enlargement process has been postponed but it will necessarily continue for the benefit of both the applicant countries and the EU itself. Yet the current phase of the process must be used to better prepare the candidate states for the rights and obligations of full-fledged membership in the EU.
- Among the highest priorities of the enlargement policies is the need to radically improve the impact of the

<sup>2</sup> For details see the MAXCAP Newsletter N° 5 which presents the results reported at the mid-term conference ([http://maxcap-project.eu/sites/default/files/simplenews-attachments/maxcap\\_newsletter\\_no.\\_5.pdf](http://maxcap-project.eu/sites/default/files/simplenews-attachments/maxcap_newsletter_no._5.pdf)).

EU on local rule of law enforcement which includes large-scale and deep going judicial reforms because the latter would create the safeguard institutional instrumentarium for the competitive market economy and the consolidation of democracy.

- Since this radical normative and institutional restructuring will redefine the power balance and the patterns for national policy making the Europeanization processes often face governmental reluctance and resentment. Hence, the success of enlargement policies depends fundamentally on the broad and sustained public support. The latter implies a need for reorientation of the political approach towards the EU accession. The sustainable public support is a matter of specific, well-targeted EU enlargement policies.
- Facing the nationally specific but generally decreasing popularity of the EU enlargement a new communication policy is needed in accord with the dynamics of the national public opinions and public discourses because these tell quite diverse stories in each one of the European societies.
- Aiming at the increased popularity of the enlargement and at making it less dependent on political party elites the Europeanization should improve and broaden the Non-state actors'/civil society structures' involvement in actual policy making, the preparation for the EU accession included.
- The shifts in enlargement policy making imply an urgent necessity for re-evaluation and rethinking of the structure and priorities of fiscal policies.
- So far the enlargement process has traditionally prioritized the economic liberalization, at least predominantly, which by default could not be that largely popular among the majority of the European citizens. The new orientation towards earning wider public support that will effectively counteract against the rise of anti-EU nationalisms imply a necessity of a heavy stake on policies for qualitative improvement of social capital through specific programs in education, health care and social security to foster in-country social cohesion and to make the Europeanization irreversible.

Although the listed above key thematic accents are provisional and could be changed by shortening, additions or amendments they nevertheless provide a clear overall idea of the results the research work carried out under MAXCAP project and the consequent policy recommendations which should be publicly debated.

## REINVIGORATING THE ENLARGEMENT PROCESS AND STRENGTHENING THE EU'S INTEGRATION CAPACITY: INSIGHTS FROM MAXCAP

(excerpts from the Policy Brief № 2)

### THE GOOD NEWS ABOUT ENLARGEMENT

*The EU political system has not suffered from enlargement.* We find evidence that the political integration of the Central and Eastern European countries (CEEC) has not undermined the EU's capacity to adopt and implement EU law. The process of institutional EU enlargement has progressed slowly but steadily. Notwithstanding strong fluctuations in enlargement events from year to year, new members have generally been able to integrate further, e.g. in the Euro and Schengen areas. Candidate countries have moved closer to membership or deepened their integration with the EU.

Moreover, enlargement has not thwarted the institutional reform of the EU; nor has it disrupted the EU's capacity to make decisions, establish binding rules, and implement them effectively. Contrary to initial fears of many policy-makers, media and academic commentators, there is no evidence that the Eastern enlargement has led to institutional gridlock of the decision-making machinery or to a loss of problem-solving capacity. Enlargement has had a rather limited impact on the production of legislation and on the duration of the decision-making process. There is also little evidence that enlargement has weakened the EU legal system. The larger and more diverse membership has not led to an increased use of non-binding soft law at the expense of hard, binding legislation.

## THE BAD (OR AT LEAST SOBERING) NEWS ABOUT ENLARGEMENT

*The public perception and political debate are not acknowledging the positive effects of enlargement – quite on the contrary.* In spite of the described smooth institutional transition and overall welfare gains, public opinion has become increasingly skeptical of further enlargement. At the same time, public support for further enlargement varies strongly depending on the non-member state in question. While public opinion results are not encouraging for future enlargements, MAXCAP research into citizens' perceptions of enlargement offers more nuanced findings. . . . [The research] reveals that citizens are often critical of enlargement as an EU policy because they would like to be informed better and in a more timely manner and to be more involved in enlargement decisions and steps. Last but not least, a significant finding in the six country studies is that in old, new and candidate states alike citizens expect enlargement to be a rule-based, objective process and to proceed according to clear criteria. In new member states and candidates, the view that enlargement should bring better governance is coupled with disappointment in national politicians and their reluctance to improve rule of law, combat corruption and provide open access to institutions and services.

*The EU lacks tools to shape developmental outcomes in a positive way.* The way the EU managed the economic integration of the CEEC during the Eastern enlargement was primarily about preventing large-scale economic collapse in an ad-hoc manner. The EU did not have tools at hand that would have helped these economies to match the domestic developmental needs with the requirements of honoring the rules of the single market. Longer-term positive effects of EU interventions on catch up growth or on the broad-based distribution of the benefits of market integration within the Central and East European economies are questionable. The vulnerabilities of CEE economies to fluctuations in the single market are high and large sections of the societies in the CEEC could not benefit from economic integration. The EU has weak capacity to anticipate and alleviate developmental gridlocks in these countries. The enduring crisis in the weaker economies of the Southern peripheries of the EU has already shown the weakness of the way the EU used to manage competitive asymmetries during the Southern enlargement.

The EU lacks tools to 'lock-in' political change. Political institutional change in the new member states is not necessarily set in stone. In the absence of supportive domestic coalitions, weaknesses of democratic quality and governance capacity are difficult to redress in accession negotiations or by post-accession sanctioning. Furthermore, the mere transfer of rule of law institutions during accession negotiations is not sufficient to ensure effective implementation after accession. Cases where domestic improvements have been achieved suggest that the EU can only foster change together with civil society and broad societal mobilization.

## **KEY RECOMMENDATIONS. THE EU SHOULD:**

### **Open up the debate on enlargement**

- Inform the public in current candidates and the member states about the rationale, process and progress in ongoing enlargement negotiations.
- Open the public debate on enlargement early enough and before accession (should be done by national governments and not only by the European Commission).
- Encourage debates in national parliaments and with citizens of member states and candidate states on key issues arising in ongoing accession negotiations.
- Highlight not only economic effects of enlargement but ideals and the vision behind enlargement choices and the importance of enlargement for stability, security and better governance on the continent.

### **Increase the efficiency of pre-accession policies to foster inclusive development**

- Facilitate the development and monitoring of impact assessments that help the candidates to identify potential negative economic and social consequences of compliance with the internal market acquis at the level of sectors and territorial units.
- Include a broad range of state and non-state actors from the candidate countries (e.g. business associations, trade unions) when assessing the economic and social costs of integration with the internal market and remedial measures.

### **Increase the efficiency of policies to enforce the rule of law**

- Ensure that the focus of current pre-accession measures is not exclusively on professionalizing judges and recruitment and training, at the expense of paying insufficient attention to democratic accountability.
- Ensure the structural inclusion of reform-minded civil society organizations in post-accession tools aimed at monitoring rule of law enforcement. Make established NGOs a regular partner in the discussion between the Commission and the candidate states' governments.

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