

The Process of EU Accession: What will it bring to Southeast Europe?

by

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Introduction: The state of play

Ten new members will join the European Union on 1 May 2004 to great fanfare. European leaders will make grand speeches about the re-unification of Europe after the artificial divisions of the 20th century. It will certainly be a great moment in European history when the rich country club becomes a truly continental Union. But this enlargement will leave outside the Union many European countries which see joining the EU as a fast-track to prosperity and stability.

Another four countries are already knocking on the EU's door, and more will start demanding entry over the next few years, particularly from South-Eastern Europe (SEE). At the front of the queue are Bulgaria and Romania. These two countries have completed the easy chapters in their entry talks, and their governments hope to finish negotiations in 2004. But the hardest issues will only go on the table later this year, and the EU wants to see them tackle corruption, economic reform and inefficient state bureaucracies before it will consider them to be ready. Romania and Bulgaria have set themselves a target-date of 2007 for accession, but they may have to wait a year or two longer if other wannabes are nearly ready to join by then. The EU prefers to take in groups of countries, rather than cranking up the accession machinery several years in a row.

The EU has officially offered the Western Balkan countries and Turkey the prospect of eventual membership – but it has made no such promise to the other countries on its new, expanded borders. Belarus is too authoritarian, Moldova too poor, Ukraine too large and Russia too scary for the EU to contemplate membership even in the distant future.

Croatia has a good chance of catching up with Bulgaria and Romania quickly, but it probably cannot finish the whole accession process before about 2009. Zagreb lodged an official application for membership in 2003, and the Commission will deliver its response – including a recommendation on when Croatia should start negotiations – in Spring 2004. Croatia's economy and public administration are in good shape in comparison with Bulgaria and Romania. But the government in Zagreb has other conditions to meet before it can start negotiations, the most important being the handover of indicted war criminal General Ante Gotovina to the International Criminal Tribunal in the Hague.

However, EU officials are pouring cold water on the hopes of some Macedonian and Serbian politicians to submit applications for membership soon. Both countries have to resolve the question of their final status – as well as achieving greater political and

economic stability – before the EU can think seriously about starting an accession process, say officials in Brussels.

Turkey – the EU's longest-standing applicant – is also hoping to inch closer to membership in 2004. The EU will reconsider Turkey's bid to join in December. If Ankara can show consistent improvements in respecting human rights, treating the minority Kurds, and keeping the military out of politics, the EU will probably allow Turkey to start accession talks in 2005. Those negotiations could last many years, however, because none of the 25 members is keen on Turkey joining rapidly. The country would bring in problems that are on a completely different scale from the other wannabes. Turkey has a large and rapidly growing population that might well exceed Germany's soon after accession. It also has a large farm sector that would swamp the Common Agricultural Policy. And then there is the question of Islam. Turkey frightens many Europeans because it would be a giant in the EU, and one with a largely Muslim population.

Even if the wannabes do their utmost to be ready in the next few years, there is no guarantee that the EU will enlarge again soon. The Union is getting more and more exacting in its requirements. Moreover, the Union may be in no fit state to accept more applicants for several years after 2004. Many of the current 15 members are wondering if they have already bitten off more than they can chew. The Union will suffer a lengthy digestion period after it absorbs the first ten. Once the full impact of enlargement on the Union's institutions and policies becomes clear, the 25 members may have little appetite for another round. Their plates are already full with the Inter-governmental Conference that will finalize the EU's new constitutional treaty in Spring 2004. Towards the end of the year they will start the next course of negotiations about the Union's budget. Both of these debates will provoke soul-searching about the nature of the Union, and whether it should set geographical limits to its expansion.

This paper considers how the accession process might work for SEE, what impact it is likely to have on the SEE candidates, and what lessons both the EU and SEE countries can draw from the process that led to the 2004 enlargement to Central and Eastern Europe (CEE).

1 The accession process

The stages in the accession process

The EU first set out accession criteria to join in 1993, specifically for the post-communist countries to meet. For several years after these conditions were first set, it was not clear exactly which elements of the political and economic conditions had to be fulfilled for an

applicant to be admitted to which benefits. But by the end of the 1990s, a rough progression had emerged of stages in the accession process:

- Privileged trade access and additional aid.
- Signing and implementation of an enhanced form of association agreement (Europe Agreements for the Central and East European countries, Stabilization and Association Agreements for South-Eastern European countries).
- Opening of negotiations, which has been explicitly dependent on a candidate's meeting the democracy and human rights conditions since 1999.
- Opening and closing of the 31 chapters in negotiations.
- Signing of an accession treaty.
- Ratification of the accession treaty by national parliaments and the European Parliament, and referenda in some countries.
- Entry as a full member.

What comes after a positive assessment from the EU?

The first hurdle that any wannabe member-state has to jump is having its candidacy for membership accepted by the EU. The Union can turn a cold shoulder immediately, as it did to Morocco and initially to Turkey. A would-be candidate needs to be fairly sure of getting a warm reception from the EU, as a premature application can turn member-states against the idea of accepting it. For example, Croatia got a favourable reception in 2003 when it applied, but the same country would probably have received a frosty response had it applied just two years earlier. The EU member-states are easily scared by a country that says it wants to join but is far from having the basic requirements of political stability, territorial security and economic growth in place.

Once the EU has favourably responded to an application, the European Council (comprising the heads of government) asks the European Commission to draw up an 'opinion' or *avis* on the country's application; Croatia's opinion will appear in Spring 2004, a year or so after it lodged its application. This document sets out the Commission's assessment of the country's suitability as an EU member, and usually recommends whether or not the EU should begin negotiations with the country in the near future. Croatia will probably get a favourable opinion and a recommendation for negotiations to start in 2005. The Commission will then begin a process called 'screening', in which Commission officials go through the country's legislation to assess its compatibility with EU law and point out major discrepancies.

The opening of negotiations is usually greeted with celebration in the applicant country. Turkey has been waiting for that moment for nearly four decades. But, in fact, the start of negotiations is one of the hardest parts of the process to manage politically, because it is the moment when political realities begin to sink in. The political classes, the business community and the public begin to realize what EU accession is all about. Not all of the news they receive will be welcome. The conditions for accession may look innocuous and welcome on first reading, but they contain stringent requirements which demand unpopular measures.

The conditions for accession

The EU set four conditions for membership at the Copenhagen European Council in 1993:

'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 minorities, the existence of a functioning market economy as well as the capacity to cope with competitive pressure and market forces within the Union. Membership presupposes the candidate's ability to take on the obligations of membership including adherence to the aims of political, economic and monetary union. The Union's capacity to absorb new members, while maintaining the momentum of European integration, is also an important consideration in the general interest of both the Union and the candidate countries.'

These conditions were designed to minimize the risk of new entrants becoming politically unstable and economically burdensome to the existing EU. They were thus formulated as much to reassure reluctant member-states as to guide the candidates, and this dual purpose of the conditionality has continued to play an important role in the politics of accession within the EU. The fourth condition reflects the member-states' anxieties about the impact that enlargement might have on EU institutions and policies because of the increase in numbers and diversity, apart from the specific problems that CEE members might bring in. It is a condition for enlargement, whereas the others are conditions for entry.

All of the accession conditions are general and vague, leaving a lot of room for the EU to interpret them. As the EU has elaborated what constitutes meeting the accession conditions, it has progressively widened the detailed criteria for membership, as new conditions have been added and old ones redefined. Moreover, new issues of concern arise, so the EU has added specific requirements for individual countries, such as the closing down of nuclear power plants in Bulgaria, Lithuania, Slovakia, and improving the treatment of children in state care in Romania.

It is very difficult to pinpoint exactly when each of the accession conditions has been met, giving the European Commission a degree of discretion in reporting on the candidates' progress. The Copenhagen conditions do not provide a check-list of clear objectives;

neither do they specify the means to achieve the stated goals. They are not like the conditions set by the IMF, where there are quantitative targets for macroeconomic performance.

The first two Copenhagen conditions require definitions of what constitutes a 'democracy', a 'market economy' and 'the capacity to cope with competitive pressure and market forces', all highly debatable and slippery concepts. The EU has never provided an explicit definition of any of them, although there are implicit assumptions about their content in the Commission's opinions on the CEE candidates' readiness for membership (published in 1997) and the annual reports it has published on the candidates' progress since 1998.

The third condition, on the 'obligations of membership' is also open to interpretation. In previous enlargements, these were held to lie solely in the implementation of the '*acquis communautaire*', which amounts to 80,000 pages of legislative texts already, but it keeps growing as the EU develops new policies and issues new directives, declarations and jurisprudence. For the CEE enlargement, the *acquis* was defined more broadly as "all the real and potential rights and obligations of the EU system and its institutional framework" (Gialdino 1995).

This formulation is also open to minimalist and maximalist interpretations, and these in turn affect the demands made on CEE applicants. So far, the EU has generally presented a maximalist interpretation to the applicants. Candidates cannot have opt-outs on monetary union, Schengen or defence policy, even though member-states like Britain, Ireland and Denmark have them.

Moreover, the conditions are a moving target as the EU's agenda gets more detailed and more demanding because the Union itself develops new policies and responsibilities during the period while the candidates are preparing themselves for membership. Since it set the accession conditions in 1993, the EU has added new policy areas to its activities, such as justice and home affairs, and the Schengen area of passport-free travel; a common foreign and security policy, with a defence identity; and a common currency. All of these developments add to the requirements that the candidates have to meet before accession. The CEE countries had no possibility of negotiating opt-outs like those applying to some member-states on Schengen and monetary union. The candidates also have to take on the EU's 'soft law' of non-binding resolutions and recommendations.

Aspirant members have to become like the EU in certain areas viewed as essential to the future functioning of the EU. Regulatory alignment with the Single Market – which involves the removal of all trade barriers and meeting EU product and process standards – is non-negotiable, and it was the first set of priorities presented to the CEE candidates by the EU. But is it appropriate for all the SEE countries?

Ultimately, an applicant is ready to join when member-states are convinced that the new member will behave like a good citizen in the EU. A potential member-state has to show a certain style of operation – in its public policy-making and state administration – that looks familiar to member-states if it is to be acceptable. A country's capacity to implement and enforce EU-inspired legislation effectively is an increasingly important part of meeting the conditions too.

The *acquis* is divided into 31 different 'chapters' for the purpose of negotiations. Because progress in closing the chapters is one of the few clearly measurable parts of the process, candidate countries have concentrated their efforts on getting chapters provisionally closed, and opening new ones, in order to demonstrate their progress. But closing chapters does not necessarily guarantee an earlier date for accession. Moreover, provisionally closed chapters can be re-opened later in negotiations, so the deal is not final until the accession treaty is signed.

What will the conditions be for SEE countries?

Over the years ahead, the EU is likely to add further refinements to its accession conditions. It will undoubtedly add more requirements to the list, as its own policies develop after the 2004 enlargement, and in order to tackle particular problems posed by SEE candidates.

For future aspirants to membership, implementation and enforcement will be key. The Union is getting more and more fussy about compliance with its standards, and it will become even more exacting once the imperfections of the new members become apparent. Some of them will have trouble meeting the promises they made in negotiations, although others – like Estonia and Hungary – will probably be considerably better at implementing laws and enforcing regulations than Greece or Italy are. But a 25-member Union will be harder to govern than one of 15, so standards will matter more. To keep the EU functioning, the Commission will no longer be able to turn a blind eye to member-states' misdemeanours in implementing single market rules, and the Council will demand that all countries guard their external borders more effectively. That will raise the stakes for potential members too.

The EU is likely to change the basis for accession negotiations from promises of future behaviour to evidence of implementation. This likely change is partly the result of the difficulties experienced by the EU in getting the CEE candidates to prepare themselves fully for membership. In addition, Turkey is likely to start negotiations in the next few years, and many member-states are concerned that such a large candidate should prove its

ability to enforce EU laws over a sustained period. That will change the basis of negotiations for all other candidates too.

The EU may well elaborate additional conditions for SEE candidates, as it has already done for Bulgaria, Romania and Croatia – the last on the handover of indicted war criminal General Ante Gotovina to the International Criminal Tribunal in the Hague. In addition to similar demands on other countries for ICTY compliance, the EU is likely to demand improvements in governance; reductions in levels of corruption, organized crime and trafficking; and more substantive policies for the protection of minorities, particularly the Roma.

2 The transformative effect of the accession process

Joining the EU requires a profound transformation of a country's laws, institutions, policies and orientations. Gaining entry to the Union is much more difficult and complex than is joining NATO, which essentially requires political commitment and changes to the armed forces. It is also much more difficult to join the EU now than it was for poor countries like Greece, Ireland, Portugal and Spain in the 1970s and 1980s. The EU itself was less complex before the creation of the Single Market and the establishment of a common currency, so membership then required fewer adjustments. Moreover, in past enlargements, the EU allowed the candidates to negotiate long transitional periods and it provided much more aid to them after accession than it has offered to the current applicants. It was partly the experience of relatively expensive previous enlargements and very slow adaptation by poorer countries like Greece that led to such tight conditions for the CEE countries.

EU membership now requires changes to a huge range of policies, and the reshaping of many of a country's public institutions. The EU's members have developed some form of coordination, harmonization or common rules in almost every area of public policy – although the extent of harmonization varies greatly. Its effects range very widely, from the creation of market regulators to civil service reform, from border controls to hygiene standards in abattoirs. Moreover, the political and economic conditions are new in this enlargement, so the EU has an influence in CEE domestic politics that goes beyond the Union's remit for its current member-states (see Grabbe 1999).

The EU and its member-states are already involved in shaping political institutions too, through the creation of new agencies and new coordination procedures within and between government agencies, as well as in transferring policies. The EU has had an impact on the reform of the civil service, public procurement, budgetary procedures, and regional self-government. The accession process puts direct pressure on three sets of relations between different parts of the state: the relationship between the executive and

legislature; the emergence of a privileged accession team in the executive; and the relationship between central and regional governments (see Grabbe 2001).

The stability of democratic institutions is one of the three general conditions for accession, and the EU has promoted the involvement of political institutions beyond the executive to implement and enforce the *acquis*. Yet, at the same time, the incentives and constraints created by the accession process support the emergence of a core national executive at the expense of other branches and levels of government – including the legislature and regional actors. The way the accession process is structured encourages the emergence of a strong, central team to manage it, because the conditionality is based on implementing a vast array of legislation and procedural rules in order to comply with EU standards, which in turn depend on reporting from the centre of government to Brussels.

This creates an ‘executive bias’ in the accession process, because of the structure of negotiations and the fact that EU actors mostly see the process of adopting EU norms as an administrative exercise. This bias can in turn exacerbate statist tendencies in applicant countries – as happened in CEE – which were already evident owing to the previous decades of state socialism. If the EU continues with this approach, it could erode public support and involvement in European integration. Negotiations between bureaucracies do not necessarily contribute to the development of shared values as a basis for new structures of government. This has implications for the future behaviour of the applicants as member-states: ‘EU standards’ were frequently invoked as a means of legitimizing institutional frameworks in CEE, but the administrative bias of the accession process sometimes had the effect of impeding the development of a wider debate on forms of governance.

The EU has become yet another actor in party competition. Pressures from the EU interact with domestic debates about both policies and governance. The interaction between EU pressures and domestic processes can be seen clearly in centre-regional relations as well, where there is ‘triadic engagement’ between the EU, national governments and sub-national administration (Hughes et al. 2001). That engagement between Brussels and regional governments can appear threatening to countries that are sensitive to any potential threat to their territorial integrity.

An appeal to ‘Europe’ is a constant feature of the domestic debate in CEE (see Fowler, 2001, on Hungary), as in SEE. All sides and all political parties make this appeal, yet the EU is a confusing model, as political actors can point to the very different examples of how different member-states run their affairs and implement EU policies. The EU’s own diversity thus undermines its effort to export a single model of governance, and the accession process itself presents conflicting demands. This provides ammunition for many different sides in domestic political battles.

Finally, the EU is currently unable to provide models in some of the areas where SEE candidate countries might need them most. When it comes to the most sensitive and difficult issues in the region, such as the status and treatment of minorities, human rights, corruption, organized crime, the EU is agnostic. Although potential members have to meet the political conditions, the EU has no democratic *acquis* on which to draw to provide guidance to the candidates. The member-states are themselves diverse in their policies on issues like provision of bilingual education for the children of ethnic minorities, or on tackling corruption in the public sector. Although the members form part of a community of nations and share norms on what is and is not acceptable behaviour on the part of the state, the trickiest dilemmas of democracy cannot be solved by drawing on a codified guidance set down in EU law.

3 Lessons from the 2004 Central and East European accession process

Accession as a motivation to stick to reforms

The most important effect of the prospect of EU membership is its role as an anchor to the reform process. The drive to join the EU has been one of the most powerful incentives for undertaking major reforms in the region. Through the tasks set annually by the European Commission, the EU ensures consistent external pressure on successive governments, helping to ensure continuity of reform efforts. The reform anchor role offered by the credible prospect of membership has been reinforced by tangible benefits linked to progress in reforms, such as additional aid, trade access and political support.

Can these benefits be used to guide SEE countries during a long period of difficult and painful reforms? Only if the EU gives countries a clear timetable for receipt of benefits. When prospects for EU membership recede, it is more difficult to overcome domestic political opposition to difficult reforms by justifying hard choices in the name of EU requirements. For Bulgaria and Romania, the 2004 enlargement will be a stark reminder of their exclusion, which will make it harder for politicians in these countries to argue for more EU-inspired policy changes that are painful to implement. Slower reform has a direct negative impact on performance, and it also has an adverse impact on foreign direct investment. Investors feel more confident about putting their money into a country if it has been given the EU's seal of approval.

When other CEE countries apply to join, they are also likely to find that progress towards EU membership helps to encourage reforms, while loss of support for the reform process is detrimental to FDI inflows. Consequently, a loss of reform momentum seems likely to damage FDI receipts, and may well exacerbate a vicious circle of reduced investment and

slower reform. So putting in an application may not be a good idea if there are likely to be many disappointments and long years before membership.

Accession requirements are not the same as development needs

Future aspirants need to recognize the opportunity costs of EU accession preparations. For countries that are unlikely to join the EU within the next ten to twenty years, it is unlikely to be optimal to expend enormous efforts in meeting EU standards and harmonizing with EU policies designed for established market economies, if this is at the cost of more immediate policies to establish sustainable economic growth. EU policies are often cumbersome to administer and implement. For countries that are likely to join soon, the overall benefits of EU membership certainly outweigh the short-term costs of sub-optimal policies and regulatory regimes. But countries that have little hope of meeting the conditions in full for many years might be better advised to use the eventual prospect of membership as an incentive to undertake basic reforms, rather than concentrating on the detail of EU policy models. The EU needs to develop a 'core *acquis*' which can be used to guide reforms, rather than presenting its rules and regulations as a monolith.

The EU accession process has essentially based on the model for previous enlargements, rather than being designed specifically to assist and encourage transition economies. As a result, the structure of incentives and constraints that it imposes on economic and regulatory policies may be inappropriate for countries facing acute development and/or reconstruction problems. EU policy-makers tend to assume that accession and transition require the same policies. However, although many accession-related policies are also required for successful economic transformation, applicants have to take on numerous EU policies that were developed for advanced, industrialized economies. They were not designed for countries in transition, and they often require a complex institutional structure for implementation that is little developed in many parts of South-Eastern Europe.

The experience of Bulgaria and Romania over the past decade carries important lessons for the rest of the region. The accession process does not guarantee economic success or underwrite governmental programmes. It can help to anchor reforms, but there are other pre-requisites that the EU cannot provide: particularly important are the institutional capacity to implement laws and regulations, and a political consensus that provides continuity across changes of government. The EU helps governments to overcome opposition to unpopular measures, but EU has few sanctions that can be applied to unwilling governments: it can only encourage, not coerce. Future aspirants will find that they can only use an application to join the EU as a route to economic success if they already have both widespread political support for the necessary reforms and also adequate institutional resources to implement the measures demanded by the EU. The EU is no panacea for weak institutions and a lack of political consensus.

Conclusions

The European Union has politically committed itself to bringing in all of South-Eastern Europe – but not on a defined timetable. The Stabilization and Association Agreements signed between the EU and the countries of the region give all of the Balkans the prospect of eventual accession. However, that could happen within five years for Croatia, but it is likely to take well over a decade for Albania. And the exact timing of accession hangs not just on the preparations of would-be members; it also depends greatly on how the EU itself develops after its 2004 enlargement to ten new countries.

The logic behind south-eastern accession is compelling for most EU policy-makers: it makes sense geographically for the EU to include the territory lying between Hungary and Greece, and between Italy and Bulgaria; historically and culturally, the Balkans has always been considered European; and in geo-political terms, the EU has largely taken responsibility for the whole region already. Moreover, there are few reasons for EU members to fear the eventual accession of fairly small countries. The debate in the EU about Balkan enlargement is consequently far less fraught than are discussions about large countries like Turkey or Ukraine as potential members.

However, although South-Eastern Europe is much easier to absorb than Turkey, that does not mean the EU will expand quickly in that direction. As the EU has developed a fully fledged accession policy over the past 14 years, it has set ever more stringent conditions for joining. These conditions cover most aspects of the political institutions and economy of potential member-states. They require wannabe members to build elaborate institutional frameworks, undertake radical reforms of their economies and change many of their laws. The EU's rules and regulations are also very expensive to implement. Poor countries with rickety public administrations and unstable political systems cannot meet these conditions quickly, even if they are small and close to the EU.

Both the EU and potential SEE candidates need to think through the process very carefully, and not assume that it will have the same transformative effect as it did in Central and Eastern Europe if the extra-EU conditions of political consensus and economic growth are not in place first. The accession process carries costs as well as benefits, and where these fall depends greatly on how it is managed. The issue of EU accession is thus not a yes/no question: "Will we get in or won't we?". Rather, it is a long and uncertain process that has clear stages, but a variable timetable. The process has been profoundly transformative for the political systems, economies and legal frameworks of most of the countries that have joined. The more appropriate question is thus: "What effect will trying to join have on us?".

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