

# The prospects of the EU enlargement to Western Balkans, AD 2011

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THE PROSPECTS OF THE EU ENLARGEMENT  
TO WESTERN BALKANS, AD 2011

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## Main findings

The future EU enlargement to the Western Balkans will most likely be different from its past experiences accommodating new member states:

It will most probably proceed in a case-by-case fashion, in which one country at a time is accepted rather than continue with its traditional group-based enlargement. Croatia may set a precedent for the future in this case;

- The EU is not enthusiastic to proceed with enlargement to the Western Balkans, although it will most likely be keen to keep its promises in that respect, namely to bring the region's countries into the mainstream of European integration for reasons of stability;
- The speed of future enlargements will mostly depend on the candidates' internal capacities to build effective administrations, solve or at least diminish the intensity of bilateral conflicts, and indeed, to convince their populations about the prospects of EU accession;
- An assessment of the candidates' abilities to take over the *acquis communautaire* in the most difficult areas of agriculture and justice indicate that their membership may not be likely before 2020, hence it would come about under the post-2020 multiannual financial framework. The European Commission's progress reports on the candidates were used as a background for analysing their potential for change. The areas of agriculture and justice were chosen as the most difficult for the candidates to adopt, thus indicating the most reliable time perspective for their EU accession.
- Croatia's successful conclusion to its accession talks with the EU should be used as a case for a public awareness campaign, mainly for EU public opinion about the benefits and prospects of EU enlargement.
- There are no miracle fixes for the Western Balkans, and the EU would most likely continue its pre-accession strategies of financial and administrative support for candidate countries.
- The EU should adopt a more proactive specific strategy towards the Western Balkans aimed at long-term influencing the local elites, media structures and basic democratic patterns.

## Introduction

Today there are five officially-recognized candidates to join the European Union: Iceland, three countries from the Western Balkans—Croatia, the former Yugoslav Republic of Macedonia (Macedonia)<sup>1</sup> and Montenegro—and Turkey. Croatia concluded the accession negotiations in June 2011 and following ratifications in all member states is expected to join the EU by July 2013. For its part, Turkey has been continuously working on its accession bid for a number of years already. Its negotiations started in 2005 and have since stalled because of bilateral issues over Cyprus. Most recently, in October 2011 the European Commission recommended opening accession negotiations with Montenegro<sup>2</sup>. This would upgrade the country status *vis à vis* the EU. Also, for Serbia the Commission proposed to granting it officially-recognized candidate status and subsequently opening the accession negotiations as soon as it solves its bilateral problems with Kosovo, in line with the provisions of the Stabilization and Association Process. Assuming the Council heeds the Commission's recommendation, Serbia will soon join the club of candidates. There now remain three potential candidates from the region: Bosnia and Herzegovina, Albania and Kosovo. To sum, as far as the Western Balkans are concerned, we would now have four candidates (Croatia, Montenegro, Macedonia and Serbia), and three more to come in the future. Combined, they represent only a small fraction of the total EU27 economy at just about 1%. Their relative share of the population is somewhat bigger at 4.6% as compared to the EU27's more than 500 million people.

The European Union already underwent a big-bang enlargement in 2004–2007, expanding its economy by 7.5%, absorbing a relatively less-developed region and growing its population by as much as 26%. The sheer size of this experience, particularly in terms of the population, does in fact weigh over the course of today's EU efforts to enlarge further.

As such, the weight of the EU enlargement to the Western Balkans in either economic or demographic terms should not be heavy. From this perspective, the Western Balkans' membership in the EU is not even remotely comparable to the most recent 2004–2007 enlargement. Yet, in political terms the issues at stake are at least as high as they were previously: regional stability, neighbourly relations, prospects of stability and development, and the memories of recent wars and humane tragedies.

The purpose of this paper is to assess the course and chances of further EU enlargement to the Western Balkans as of 2011, when Croatia has concluded its accession negotiations and Serbia is about to get candidate status with an option to open its accession negotiations relatively soon thereafter, even if this may not prove easy for Belgrade. At the same time, the EU has been entirely focused on its vital internal problems with sovereign debts and eurozone management. It may look that Serbia can forget about the promises of the Thessaloniki European Council summit offered in 2003 to the Western Balkans to "become an integral part of the EU, once they meet the established criteria".<sup>3</sup> Croatia's story, though, gives the impression of a happy ending by

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<sup>1</sup> For reasons of brevity and simplicity, the name "Macedonia" will be used throughout the text without prejudice to the ongoing negotiations about the future name of the state.

<sup>2</sup> European Commission, *Enlargement Strategy and Progress Reports 2011*, [http://ec.europa.eu/enlargement/press\\_corner/key-documents/reports\\_oct\\_2011\\_en.htm](http://ec.europa.eu/enlargement/press_corner/key-documents/reports_oct_2011_en.htm) (accessed 13 October 2011).

<sup>3</sup> European Council, *Presidency Conclusions*, Thessaloniki 19-20 June 2003, 11638/03, p. 12.



2013, even if it has taken longer than expected and has bumped into bilateral problems (with Slovenia) that seem a natural part of any enlargement process so far.

In the most general terms, the EU enlargements have so far served to clear at least partially and remove the hottest steam from a number of bilateral issues between European states, including Slovak-Hungarian, Polish-Lithuanian, Polish-German or Czech-Slovak. The issues derived in history are of course not resolved by the integration process itself, but they tend to linger and there are hopes they become irrelevant with time. The same hope has been extended to the Western Balkans. Time goes by but the regions experience renewed bilateral tensions again and again, as in summer 2011 when local clashes between Serbia and Kosovo were the most recent example.

On one hand, the European Union seems to be tired with enlargement, and the very prospect of it does not seem to do the trick for the Western Balkans as it had for Central and Eastern Europe. The concept of Europeanization, so nicely working for the latter region, may be at risk this time around. At least it seems a reasonable assumption to think about the future of the Western Balkans' accession to the EU as a qualitatively different process from previous ones. In particular, the Croatian example may set a precedent, and future enlargements may rather occur as a series of individual accessions rather than any big-bang or even a group one. With that strategy, the European Union may have stronger individual leverage over prospective candidates and members than if accession takes place in a group. As a consequence of that, the process of the Western Balkans getting closer to the European Union would undoubtedly take quite a long time. That may not be the only braking force in the process. The candidates themselves do not show much zeal in their preparation processes. A detailed analysis of their problems in two areas—traditionally the most difficult areas for all countries acceding to the EU, agriculture and justice—are presented in this paper and indicate that the process may indeed last for a fairly long time. In some cases, we should think well beyond 2020 and after the next multi-annual financial framework for 2014–2020, which the EU is bracing itself for negotiations in 2012.

### **EU readiness for further enlargement**

The basic problem of the EU enlargement efforts goes back to its historical experiences with accepting new members. As early as in the 1960s and 1970s, the tone of the discussions around enlargement (whether to accept the United Kingdom, Denmark, Ireland, and, unsuccessfully, Norway) was set around the dilemma between deepening and widening. In other words, the decision was about to what extent the current (at any time before enlargement) level of the integration process between the participating states was going to be seen as satisfactory to everybody after the accession of the new members.

Today, the same problem has been entangled within the nod of the 2004–2007 enlargements and has been combined with the process of EU internal institutional change through the Constitution and Lisbon treaties. Before those treaties, the Amsterdam and the Nice treaties were not perceived as satisfactory for the member states at the time, although the respective treaties opened the way to begin and conclude the negotiations. So in total, the most recent enlargement effort by the EU has produced a whole series of treaty changes spanning a long period of time (almost 14 years) from 1995, the year the Amsterdam treaty negotiations began, to the end of 2009 with the entry into force of the Lisbon treaty.

The most recent treaty changes were necessary to mention here for one fundamental reason: the institutional related amendments of both the Constitution and Lisbon treaties were also meant in part to end the endless quarrels about the new entrants' participation in the core of power-sharing in the EU. The voting method in the Council was changed from a weighted votes system to a double majority in which both elements of a majority (a sheer number of the participating states and their populations) are no longer arbitrarily set (negotiated) but are objective, obvious numbers. The European Commission was to become smaller than the number of the member states and thus more effective. The decision-making procedures were limited in number and co-decision was made the ordinary procedure. In a nutshell, even if Council voting and the size of the Commission reforms were postponed until 2014, any further enlargement should not provoke serious political obstacles since the most difficult problems no longer include uncertainties about the newcomers' share of power in the EU.

Yet, following the 2004–2007 expansion to embrace the countries of Central and Eastern Europe, the EU has grown to 27 and enlargement fatigue has appeared. This was not really due to any substantial problems in the operation of the EU's internal machinery, which proved to be working surprisingly well for and with the 27 members.<sup>4</sup> It also was not initially caused by the economic problems of the enlarged single market, at least not before August 2008 when the international crisis hit. To the contrary, as predicted the primary effect of the biggest enlargement ever was a substantial growth in trade and GDP, including enlargement-related additional growth of 1.75 percentage point of GDP among the new member states for the years 2000–2008.<sup>5</sup>

Enlargement fatigue is an attitude towards the process that sees its burdens, risks, costs and uncertainties rather than economic and political benefits, enhanced freedoms and improved security. It amounts to a certain hesitation more in the general public than elsewhere and therefore sometimes gets reflected politically in questions about the limits or ultimate borders of the EU, what it means to be European both overall and especially in the external border regions, and what in fact Europe is (with Europe intellectually reduced to the EU only, of course)?<sup>6</sup>

Those questions have always remained open and valid for the whole process of European integration. They resurfaced, however, to the public's attention when the EU expanded in recent times. In fact, if we count all recent enlargements to include those in 1995 (Austria, Finland and Sweden) we can see more than a doubling of the number of members from 12 to 27 in a span of less than 12 years. The uncertainty about the process grew with the quality of the challenge and the lack of public discussion about the integration process in general and the enlargement process in particular.<sup>7</sup>

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<sup>4</sup> M. Andreas, *How does the Council work (or not)?*, in: D. Guillaume (ed.), *After the annus horribilis: a review of the EU institutions*, European Policy Centre, EPC Working Paper, No. 20, January 2006, [www.epc.eu/TEWN/pdf/251965810\\_EPC%2022.pdf](http://www.epc.eu/TEWN/pdf/251965810_EPC%2022.pdf) (accessed 24 July 2011).

<sup>5</sup> See: M. Kałużyńska, K. Smyk, J. Wiśniewski, *5 lat Polski w Unii Europejskiej*, UKIE, Warszawa 2009.

<sup>6</sup> D. Devrim, E. Schulz, *Enlargement Fatigue in the European Union: From Enlargement to Many Unions*, Real Instituto Elcano, Working Paper 13/2009, 10.3.2009, [www.realinstitutoelcano.org/wps/wcm/connect/99cc28804f018b15ae7bee3170baead1/WP13-2009\\_Devrim-Schulz\\_Enlargement\\_European\\_Union.pdf?MOD=AJPERES&CACHEID=99cc28804f018b15ae7bee3170baead1](http://www.realinstitutoelcano.org/wps/wcm/connect/99cc28804f018b15ae7bee3170baead1/WP13-2009_Devrim-Schulz_Enlargement_European_Union.pdf?MOD=AJPERES&CACHEID=99cc28804f018b15ae7bee3170baead1) (accessed 24 July 2011).

<sup>7</sup> L. Tsoukalis, "The Shattering of Illusions—And What Next?," *Journal of Common Market Studies*, 2011, Vol. 49, Annual Review, pp. 19-44.

Clearly, enlargement fatigue has been linked to the recent troubles with institutional change, namely the Constitution and Lisbon treaties. Their problematic ratification, with negative referenda in France, the Netherlands (Constitutional) and, initially, Ireland (Lisbon) not only exacerbated the public uncertainty but also related the enlargement process to a much broader set of dilemmas about the ultimate future shape of the European Union—its *finalité politique*.<sup>8</sup> Those are purely political in nature and not always politically easy to respond to as demonstrated in the discussions triggered by Joschka Fischer, the then German Foreign Minister, that turned out to be fairly restrained given their profound meanings and not really continued later.<sup>9</sup>

The general attitude towards enlargement varies across the EU. Yet, in August 2011 the Eurobarometer has reported a continuous general drop in public support towards further enlargement across the EU.<sup>10</sup> Among the most supportive were the new member states (particularly Poland, 69%, Hungary, 65%, and Romania, 64%), while the old member states were most negative (particularly 72% of Austrians and 71% of Germans in opposition). The trend seems to be worsening rather quickly across the EU and also among the new member states, which are among the group where a drop in support is the strongest: Estonia (down 17% to 44%), Slovenia, Cyprus and Luxembourg (down 11% to 55%, 49% and 29%, respectively), and the Czech Republic (down 10% to 47%). What is interesting is the support for further EU enlargement also dropped in countries that either were traditionally supportive of Western Balkans EU membership or because of their regional position could be perceived as natural allies of the future members. Apart from those already mentioned (Slovenia, Cyprus, Czech Republic), we have to pinpoint the changes in Bulgaria (down 8% to 58%), Greece (down 3% to 46%) and Slovakia (down 8% to 60%).

The growing generally negative attitude towards enlargement seems to be also based on a lack of political will amongst EU member state politicians to shoulder the challenge the way it was taken up by the German elites during the 2004–2007 enlargement. Clearly, the process lacks a political leader from within and relies almost entirely on bureaucratic support from the European Commission and political inertia. Those should never be underestimated in the European Union given its political logic and the role of its institutions in the process of enlargement, which hardly have changed over time. Yet, no process of this level of political magnitude and significance can be done against public opinion or even without its tacit support won over by political activities. Hence, the most worrying sign from this perspective might be the drop in the number of countries where majorities are still in favour of EU enlargement, from 17 reported in 2010<sup>11</sup> to 14 in 2011, since the process has been continued from 2008. Moreover, the trend seems to sympathise instead with future EU membership for more

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<sup>8</sup> J.-C. Piris, "An EU architect calls for two-speed union," *Financial Times*, 3 November 2011.

<sup>9</sup> J. Fischer, *From Confederacy to Federation: Thoughts on Finality of European Integration*, speech at the Humboldt University, Berlin, 12 May 2000; see also: L. Jesień (ed.), *The Borders and Limits of European Integration*, Tischner European University, Kraków 2006.

<sup>10</sup> *Public opinion in the European Union*, Standard Eurobarometer 75, spring 2011, Fieldwork: May 2011, Publication: August 2011, p. 56–57, [http://ec.europa.eu/public\\_opinion/archives/eb/eb75/eb75\\_publ\\_en.pdf](http://ec.europa.eu/public_opinion/archives/eb/eb75/eb75_publ_en.pdf), Tables: [http://ec.europa.eu/public\\_opinion/archives/eb/eb75/eb75\\_anx\\_full\\_fr.pdf](http://ec.europa.eu/public_opinion/archives/eb/eb75/eb75_anx_full_fr.pdf), p. 65 (accessed 19 September 2011).

<sup>11</sup> *Public opinion in the European Union*, Standard Eurobarometer 74, Spring 2011, Fieldwork: November 2010, Publication: February 2011, p. 62–63, [http://ec.europa.eu/public\\_opinion/archives/eb/eb74/eb74\\_publ\\_en.pdf](http://ec.europa.eu/public_opinion/archives/eb/eb74/eb74_publ_en.pdf) (accessed 19 September 2011).

affluent countries (Switzerland, Norway, Iceland, and, to a lesser extent, also Croatia), over less affluent states from the Western Balkans.

### The candidates, their achievements and readiness

In the short term we can assume that Croatia will soon join the European Union, of course provided the ratification of its accession treaty will proceed smoothly among the member states. This assumption needs to be noted here given the scope of uncertainties about enlargement amongst the public in the EU. However, we can relatively safely assume Croatia will join the EU by July 2013 as scheduled.

The remaining candidates vary a lot with regard to their economies and development potential, with Iceland clearly the most developed even if suffering from the current crisis. Given public opinion's changing preferences, it might be useful to have a brief look at a comparison of basic economic data from the candidate countries as compared to the EU27. Clearly, Croatia stands out as the most-developed country among the candidates, with Turkey second in line, based on a GDP per capita indicator. Still, all other candidates have much smaller economies and are thus prone to much more rapid change and may show more flexibility in their abilities to catch up than in the case of Turkey, a country with 78 million people compared to 82 million Germans, 66 million French and around 60 million each in the United Kingdom and Italy.

**Table 1: Basic economic data about the EU candidates, 2009**

		GDP (mln EUR)	GDP per capita (EUR)	GDP per capita (% EU27)	GDP growth rate (%)	General government deficit (-) / surplus (+)	General government debt (% of GDP)
Candidates	Croatia	45 379	10 246	43.06	-5.8	-4.1	35.3
	Iceland	8 692	27 226	114.42	-6.8	-9.1	87.8
	Montenegro	2 981	4 720	19.84	-5.7	-3.5	n.a.
	Macedonia	6 676	3 300	13.87	-0.8	-2.7	24.1
	Serbia	29 963	4 220	17.73	-3.0	-4.1	31.3
	Turkey	441 600	6 142	25.81	-4.7	-6.7	45.4
Future candidates	Albania	8 500	2 661	11.18	3.3	5.5	n.a.
	Bosnia and Herzegovina	12 268	3 192	13.41	-2.9	-4.4	21.8
	Kosovo	3 902	1 790	7.52	n.a.	n.a.	n.a.
	EU 27	11 785 500	23 795	100.00	-4.2	-6.8	74.0

Source: Eurostat, 2011.

In the longer-term perspectives of Western Balkans accession, it needs to be pointed out that only Turkey may carry weight economically for the EU with its economy more than four times larger than the Western Balkan candidates' economies combined (€110 billion). Still, its accession talks have been protracted and repetitively stalled mainly by disputes about and with Cyprus. Without going into detail, we can relatively safely assume that the Turkish EU membership prospects depend largely on solving this question and proceeding to engage public opinion in order to clear up hesitations about the democratization process of the country.

While the December 2011 European Council is supposed to review the Western Balkans' prospects for accession, Croatia's accession negotiations have recently concluded. This provides an excellent opportunity if it is not overshadowed by the euro crisis to tackle the issue anew and provide a bit of political impetus to it. Specifically, Serbia's accession is going to be helped by the recent arrest of Ratko Mladić in May 2011 and his subsequent transfer to the International Criminal Tribunal for the former Yugoslavia (ICTY) at The Hague, which should open new prospects for the country's way towards the EU.

In order to estimate the Western Balkans' prospects for accession to the EU, we need tools to gauge their relative efforts and achievements. To do so, we can use the Progress Reports the European Commission prepared in order to periodically review developments in candidate and prospective candidate countries. Croatia is the one country in the region to have concluded accession negotiations. It has, by the same token, been recognized as successfully passing its initial transformation and adaptation period. Hence, it could be used as a benchmark. In other words, we would like to measure the future prospects of the Western Balkans countries on the benchmark set by Croatia, as reviewed by a series of Progress Reports for Croatia and other regional candidates and future candidates. In order to limit the size of this report, we have narrowed down the scope of the *acquis communautaire* transposition to just two areas, but perhaps the most controversial and therefore most difficult ones: agriculture and the combined areas of justice, freedom, and security. The first is probably the largest chunk of the legal *acquis* and one of the heaviest financially. Both areas are among the last to close during the accession negotiations. The second has proven to be one of the most difficult for the countries in the region so far, and thus is being looked at carefully by the EU member states as a litmus test of the candidates' preparations.<sup>12</sup> Also after accession, the area of justice, freedom and security happens to be problematic for new member states, as seen by the problems Bulgaria and Romania have had in joining Schengen.

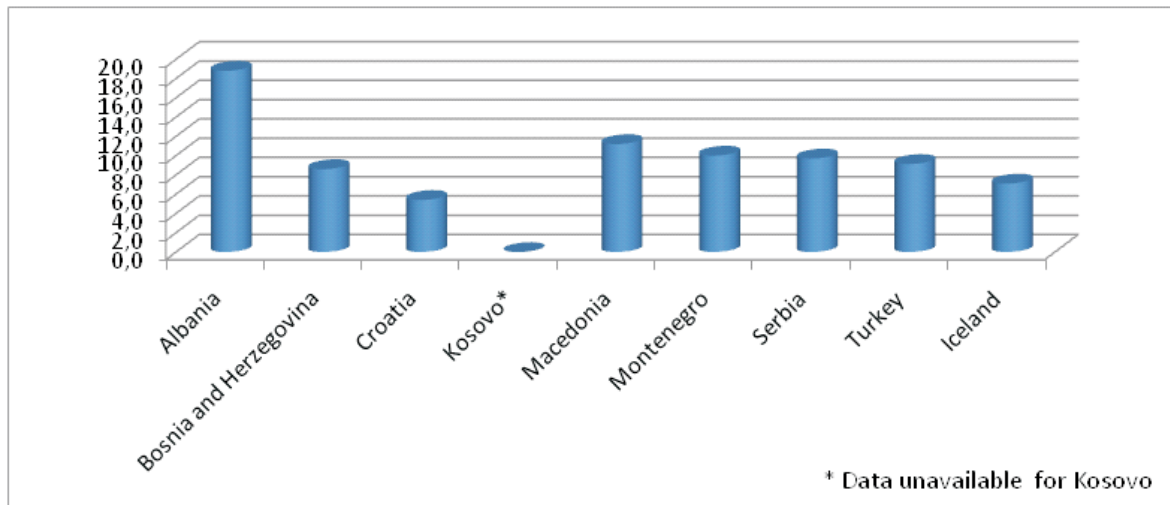
### Case of agriculture and rural development

The area of agriculture and rural development covers rules and regulations to be implemented by candidate countries in order to be a part of the Common Agricultural Policy (CAP) in the future. This policy receives more than 40% of the EU budget and therefore is one of two largest single expenditure items.

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<sup>12</sup> The comparative cases of agriculture and justice, freedom and security developments by the Western Balkan countries were prepared by Tomasz Żornaczuk.

Figure 1: Share of agriculture in EU candidate countries (% of GDP in added value, 2009)



Source: European Commission, *Progress Reports 2011*, data for 2009.

As is clearly seen from the graph on the share of agriculture in EU candidate countries, this area represents an important part of their economy, from roughly 10% to almost 20% of their total GDP. Yet, the key problem for the candidates is their administrative capacity to deal with this EU policy. Most important, they have to set up a set of necessary agencies dedicated to run the policy domestically, including a payment agency, Integrated Administration and Control System (IACS) and a land parcel identification system (LPIS). They also have to prepare for the integration of their agriculture into the common market organisation (CMO), which has a set of rules governing the production and marketing of foodstuffs. In accession negotiations in recent years, including those with Croatia, the chapter on agriculture and rural development was among the last chapters to be opened and among the very last to be closed. It is, therefore, considered a very difficult area for all candidates.

At the beginning of the negotiation in October 2005, Croatia had no operational payment agency, although the legal framework to establish one had already been adopted. The responsibility for the implementation of market-and-structural support measures was entrusted to the Ministry of Agriculture, Forestry and Water Management. The Commission recommended setting up the pre-accession SAPARD agency as a first step. Croatia had no IACS, but the regulations for setting up the system also were already in place. The large majority of Croatia's agriculture markets, in terms of their internal organisation, were not in line with EU common-market organisations. Key elements such as market intervention mechanisms, quotas, price reporting and monitoring did not exist. Hence, the year 2005 may serve as the beginning of the Croatia benchmark for a comparison of preparations by other candidates.

Before the screening process started, the Commission's progress report from October 2005 stated that there had been some progress with regard to preparations for establishing a paying agency, but Croatia experienced delays at this stage. There had been only limited progress in the preparation for the IACS, while no development had been reported for common-market organization. A lack of development was also noted in the Commission's next report from 2006, but the SAPARD agency had been established. Although in the following year's report the EC noted some progress under this chapter, there had been no considerable improvement as far as common-market

organization was concerned. According to the 2008 report, the preparations for establishing the IACS were still at an early stage.

In October 2009, the Commission noted that Croatia had adopted legislation on the establishment of a paying agency. The report also estimated the country had reached a good level of legal alignment in the area of agriculture and rural development. On this note, the EU opened the agriculture chapter for negotiations with Croatia. A year later, the 2010 report marked good progress in all three key issues of this chapter as Croatia had adopted the plan for the establishment of both the paying agency and the IACS, as well as an action plan for harmonization with the common-market organization. The Commission called for efforts to make a paying agency, IACS and a common-market-organization system fully operational before the accession. The chapter was provisionally closed in April 2011, two months before the end of the accession negotiations.

To sum up the Croatian benchmark in agriculture, it took a good six years of intensive preparations to get ready to be a part of the common agriculture policy. It's characteristic of the process that Croatia experienced some delays along the road.

Reporting in 2010 on the Former Yugoslav Republic of Macedonia (hereafter referred to as **Macedonia**), the Commission noted progress towards setting up an IACS since the basis for land parcel identification had already been established. A paying agency—established in 2008 as the Agency for Financial Support for Agriculture and Rural Development—was described in the report as further strengthened by well-trained and highly motivated staff, although their number was not yet sufficient. Regarding the common-market organization, harmonization of legislation with the *acquis* had started although progress was judged to be limited. Otherwise, in its conclusions the Commission stated that Macedonia's progress in the scope of agriculture was good and that the policy is gradually being aligned with EU requirements.

As far as **Montenegro** is concerned, the country has been at a very early stage in terms of planning and preparation for alignment with EU standards for agriculture and rural development as none of the three key elements are under construction. The Commission recommended it undertake considerable and sustainable efforts in order to adjust to the *acquis*.

According to the 2010 report, **Serbia** established the Directorate for Agrarian Payments, which is planned to become a pre-accession payment agency. The legal basis for the establishment of a paying agency was adopted in May 2009 under the Law on Agriculture and Rural Development. Otherwise, the national strategy and programme for agriculture and rural development have not been adopted. However, the last two reports stated that Serbia was advancing well in the area.

As for **Albania**, the Commission report from 2010 notes that it will need considerable and sustainable efforts to align to EU standards for agriculture and rural development. This comes despite the fact that at the end of 2008 Albania established its payment agency. An action to establish IACS was lacking. The previous report also noted that the agriculture sector in Albania remained weak.

In **Bosnia and Herzegovina** there is no real strategy for alignment with EU standards for the field. There has been a state-level strategic plan for harmonizing agriculture, food and rural development, but its implementation has not started. Therefore, the preparation for adoption of the *acquis* in this field remains at a very early

stage. The country does not have a ministry at the federal level responsible for agriculture and rural development. According to the Dayton Agreement of 1995, these domains are under the competence of two entities: the Federation of Bosnia and Herzegovina and the Serbian Republic (not to be confused with the Republic of Serbia). There is no progress in establishing such a ministry at a central level.

**Kosovo** in general is at the stage of state-building, and this applies also to the field of agriculture and rural development. In the 2010 report, the Commission noted only limited legislative progress, concluding that the implementation of laws remained the main challenge as the country's administrative capacity continued to be weak.

On the basis of this one can conclude that in the area of agriculture and rural development in Autumn 2010, Western Balkans countries were advanced as follows:

- Macedonia was at the stage Croatia reached in 2009/2010;
- Montenegro was less advanced than Croatia was in 2005;
- Serbia was in a similar position to Croatia in 2005;
- Albania was in a similar or slightly weaker position than Croatia was in 2005;
- Bosnia and Herzegovina was at a far earlier stage than Croatia was in 2005;
- Kosovo was at a far earlier stage than Croatia was in 2005.

In general, with the exception of Macedonia, all other countries therefore lag Croatia by at least five years, while those years constitute for Croatia the most intensive period of accession negotiations. The time for bargaining over accession terms is by the nature of the enlargement process the most intensive one from the point of view of legal transposition and practical preparations.

### Case of justice, freedom and security

The region is an important route for drug trafficking and in some cases for drug production as well as corruption and these are widely regarded as their most important challenges. Candidate countries' abilities to deal with these problems will clearly affect their prospects for EU accession. In a nutshell, this area is one of the most important litmus tests for the proper operation of public administration and thus the candidates' capabilities to introduce and enforce European legislation.

The area of justice, freedom and security includes 10 difficult sub-fields: migration, asylum, visas, border control and the Schengen system, judicial cooperation in criminal and civil matters, police and customs cooperation, and the fights against organised crime, terrorism, drugs and counterfeiting of money. As this area is composed of a broad spectrum of key elements of justice and home affairs, it has been one of the last chapters to be closed in talks with Croatia and hence is currently considered to be one of the most difficult for negotiations with the EU, notably for countries of the region.

The accession negotiations with **Croatia** started in October 2005, and in June 2006 the Commission published the report on Croatia. At the time, the Croatian legislation on migration only to a limited degree complied with EU requirements and needed to be significantly amended. Some preparations were ongoing and included the migration strategy that was pending adoption by the parliament. As for asylum, the country guaranteed basic rights for asylum seekers. Further amendments were needed for participation in the Dublin and Eurodac system facilitating asylum proceedings. As far as visa policy was concerned, Croatia needed substantial amendments of its



legislation, although some preparations were already under way. Because of the long external border, the border control part of the *acquis* was a particular challenge for Croatia. The implementation of a border-management strategy had begun but an action plan to significantly upgrade it in many areas was missing. The Croatian legislation was not aligned with EU standards for judicial cooperation in civil matters, although most of the *acquis* would apply directly and did not require further modification of Croatian law. As for judicial cooperation in criminal matters, the country was already party to some international conventions and agreements but significant improvements were needed. Police cooperation between Croatia and the EU needed to be developed, and the agreement on cooperation between Croatia and Europol still had to be ratified. The country was at an advanced stage in fighting most types of organised crime as well as terrorism. Many of the instruments for the fight against drugs, including the National Strategy for Combating Drugs Abuse, were in place. Some legislation for customs cooperation was in place and the system of customs administration needed a further upgrade. Croatia had a high degree of alignment to laws against money counterfeiting.

In subsequent reports, the Commission duly noted the progress and weaknesses in steps taken along the way by Croatian authorities. The most difficult sub-fields for Croatia proved to be finding a coherent strategy for dealing with migration, external border management and equipment at border checkpoints and judicial cooperation in criminal and civil matters.

In 2010, the Commission concluded that Croatia's asylum legislation had been fully aligned with the *acquis*. As for border controls, the roadmaps for establishing the SIRENE (Supplementary Information Request at the National Entry) office and the national system for the Schengen Information System (SIS II) have been adopted. Visa policy was developed so that legislation on visa stickers, databases and procedures for issuing travel documents for aliens were aligned. Necessary instruments were implemented for migration policy. As for police cooperation and the fight against organised crime, a Europol National Unit has been established at the Ministry of Interior. Also important, the special police office for fighting corruption and organised crime has become fully operational and new plans to combat terrorism and drug abuse were adopted. Croatia has improved cooperation with Eurojust by appointing a liaison officer. More than 90% of requests for recognition/enforcement of decisions by foreign courts have been dealt with within a year. The law to enable implementation of the European arrest warrant was in place. Croatia transposed the most recent EU legislation on the protection of the euro against counterfeiting. Consequently, in December 2010 Croatia closed talks with the EU in that chapter.

In the 2010 report on **Macedonia**, the Commission stated that the country largely met the *acquis* requirements in the fight against drugs and was well advanced in combating terrorism. The EC noted further developments in a central database for aliens, covering asylum, migrations and visa as well as amendments to the law on asylum. The national visa system was fully functional. Therefore the EC concluded that the country was advanced in the area of asylum and well advanced in migration and visa policy. Preparations on external borders and in the Schengen area were advanced, and at this stage Macedonia maintained good cooperation with Frontex on the basis of the working agreement and the strategy for integrated border management was upgraded. Despite numerous shortcomings, the Commission evaluated that the country was advanced in police cooperation and the fight against organized crime. Preparations were on track for customs cooperation. The agreement with Eurojust entered into force,

and as for judicial cooperation in civil and criminal matters, Macedonia was moderately advanced. Some instruments in the fight against counterfeiting of the euro remained weak. Macedonia's preparations for alignment with EU standards in the areas covered by this chapter were well on track, according to the Commission.

As for **Montenegro**, the Commission judged that only basic elements of the legal framework of the area were in place and that the country would have to make considerable and sustainable efforts to align it with the *acquis* in the medium term. The approach and structure introduced for the migration legislation were generally in line with EU standards as were laws on irregular migration. The implementation of the new legislation remained weak. The main elements of the regulations on asylum were transposed from the *acquis*. Visa policy continued to improve, but there was no electronic database and the capacities for issuing visas were limited. Regulations for external borders and Schengen were broadly in place, including an integrated border-management strategy, but the implementation remained weak. Montenegro had cooperated with Frontex. As for judicial cooperation, the legislative framework was not complete and ratifications of some important international instruments were lacking. Cooperation with Eurojust was not yet established. The implementation of legislation to enhance police cooperation and the fight against organized crime was poor. Montenegro was a country of origin and transit point for organized crime activities and remained one of the main Balkan traffic routes for drugs. The fight against terrorism broadly aligned with international regulations but was not yet fully in line with the *acquis*. The country still needed to prepare for the implementation of some key instruments for customs cooperation. Montenegro fully complied with EU standards against counterfeiting of the euro, which was legal tender in the country.

According to the Commission, **Serbia** in 2010 was moderately advanced on a range of areas covered by the *acquis*. Visa policy was developed but capacities for issuing visas were weak because in some cases there was limited access to databases. Some important instruments of asylum policy and implementation of migration management strategy were lacking. Measures for fighting terrorism were slightly improved. Although the Commission marked good progress in combating drugs, the implementation of a national strategy and action plan to fight drugs was weak and Serbia remained one of the main Balkan trafficking routes. Police reform continued. An action plan to fight organized crime was adopted and cooperation with Eurojust improved. A body for implementation of integrated border management has been established. Data exchange with Frontex was regular. Control at the border with Kosovo remained weak.

The Commission estimated in its report from 2010 that **Albania** would have to make considerable and sustained efforts to align with the *acquis* in the medium term. Irregular migration from Albania remained a challenge, although a number of regulations were in place. Although there were shortcomings in the asylum policy, the law has been adopted and was generally in line with EU standards and a reception centre was fully operational. Many aspects of visa policy were not in line with the *acquis*. A visa information system has been set up. The border-management system was in general compatible with EU standards but needed upgrading. A new law on enhancing judicial cooperation was adopted and was largely in line with the *acquis*, but needed to be implemented. Many relevant international instruments worked well. The legal framework for police cooperation and the fight against organized crime was enhanced but the operational agreement with Europol was missing. Sustained actions

were needed to dispel the general association of Albania with many types of organised crime. A counter-terrorism strategy was not adopted and its instruments were not well developed. The country continued to be one of the main Balkan traffic routes for drugs. A new strategy to fight drugs was needed. Many laws on the protection of the euro against counterfeiting were not in place.

According to the Commission, **Bosnia and Herzegovina** in 2010 continued to enhance its visa policy, which was nevertheless weak. The country adopted regulations needed for implementation of the law on asylum. Preparations in the scope of migration were advanced. Although preparations in the area of border management also advanced, there were numerous gaps. A working agreement with Frontex was being implemented. Drug-related illegal activities remained one of the most widespread forms of organised crime, and Bosnia and Herzegovina remained a transit country for drugs on one of the main Balkan routes to Western Europe. Police cooperation and the fight against organised crime, drugs trafficking and terrorism were at early stages.

In 2010, the Commission reported that **Kosovo** had no visa policy. The implementation of an integrated border management strategy was weak. Borders in the north of the country were under EULEX control. Implementation of laws on asylum and preparations of migration policy were at an early stage. The country remained one of the main Balkan routes for drug trafficking and became a growing producer of drugs. Apart from a broad spectrum of weaknesses, clear political will to fight organised crime was lacking. In the area of police cooperation and the fight against organised crime, drugs and terrorism, Kosovo is at an early stage.

On the basis of this review of preparations among the Western Balkan countries it should be concluded that in Autumn 2010, in the scope of justice, freedom and security:

- Macedonia was well advanced in some areas and similar to Croatia's position in 2010. In other areas, the country was at the stage Croatia reached in 2008 or 2009, although Macedonia developed some particular elements of these policies better than Croatia did at that time.
- Montenegro was in most of the areas in a similar or slightly weaker position than Croatia was in 2005, but a few particular elements of some policies were more advanced than for Croatia at that time. One element (euro protection) was fully in line with EU standards.
- Serbia was in most areas in a similar or slightly stronger position compared to Croatia in 2005. One interesting reason for this is that Croatia had to develop a number of aspects of regional cooperation for which Serbia was a key country and, by default, Serbia also profited from the advancement of Croatia.
- Albania was in a weaker position compared to Croatia in 2005, although there were a few elements that were better developed than in Croatia at that time, and those worked well.
- Bosnia and Herzegovina was at a far earlier stage than Croatia was in 2005.
- Kosovo was at a far earlier stage than Croatia was in 2005. Kosovo is at the stage of institution-building and does not control its entire territory, and therefore the situation is not comparable.

In sum, a comparison of the developments of other Western Balkans countries with Croatia in the field of justice, freedom and security corroborates those of agriculture and rural development. The countries lag substantially behind Croatia, with

the notable exceptions of Montenegro (with a relatively weaker administration in general, as it still is a new state) and Macedonia. It seems that the gap with Croatia is somewhat larger than is for agriculture and may require seven or eight years of intensive transposition and implementation efforts.

### Prospects of EU enlargement

As has been noted, the Western Balkans' economies do not weigh much compared to the EU27, so the economic impact of their future EU membership will not have a heavy impact on the EU. Yet, the political meaning of their future weighs a lot for the EU in general. Clearly, the prospect of EU accession brings with itself a renewed promise of stability in the region. Its prosperity is to be enhanced together with a better legal framework and closer links to the economic powerhouse of the EU's 500-million-people-strong internal market. Needless to say, the Western Balkans' participation in the European Union would bring to fruition the long overdue prospect of the post-World War II reunification of Europe. Provided that the region's countries do not remove the perspective of EU accession from their domestic political agendas, there is no reason why the EU should abandon the project of bringing the Western Balkans into it. The ultimate road still is long and may prove bumpy. Yet, even if at any time any of the region's countries turns undemocratic, the ultimate objective of EU membership should not be abandoned by the EU, while various aspects of relations with such a country could be suspended and enlargement proceedings stalled until the country re-embraces the EU values of democracy, human rights, rule of law and a market economy. After all, the EU is about peaceful reconciliation and living together, and the European nations and Western Balkans nations are going to be there for good. The EU will not be fully European without the Western Balkans' full political and economic membership, even if this may come about after a time with long transitional periods for their phased-in participation in various sensitive policies.

Therefore, the EU should maintain its strategy towards the region. It should keep its doors open to them and repeat the promise of it as frequently as needed without abandoning the principles that have governed the process so far. The EU should maintain equal treatment for all the countries in the region, including Kosovo and Serbia. In particular, the process should be governed by clearly established criteria, following the Copenhagen criteria of 1993, which helped the countries of Central and Eastern Europe.

The EU is going to continue with its 2006 strategy of the 3Cs: consolidation, conditionality and communication.<sup>13</sup> The consolidation of the EU approach means that it intends to maintain the promises and commitments it has undertaken so far, including those of a European perspective for all the Western Balkan countries. Any progress along this way, however, is going to be conditional upon individual achievements, legal changes and their implementation on the ground. The main tool for conditionality is the Commission's monitoring of events on the spot. The Commission can on a regular basis see and assess change, as it has already done so frequently in the past, including the political, economic and legal (*acquis communautaire*) criteria for membership. In order to better measure the changes, the Commission employs benchmarks. They are

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<sup>13</sup> A. Brown, M. Attenborough, *EU Enlargement: the Western Balkans*, House of Commons Library, Research Paper 07/27, 14 March 2007.

measurable and linked to key segments of the EU legal system. They may be strategies and action plans, but also particular legislative measures or institutions of administration and judicial system. The pre-accession assistance is focused to achieve a better transposition of the EU legislation and its practical implementation in order to transform the region's countries into fully functioning market economies.<sup>14</sup>

The process will not be easy, though, as has been proven. There is an element of persistent regional political instability, with some countries unable to either create or maintain their state administration (Montenegro, Kosovo) and other countries that have difficulties forming a central government or central administration (Bosnia and Herzegovina). Various countries have mutual border disputes grounded in recent, sometimes violent conflicts. This, however, used to be a fruitful ground for the process to begin in the distant past of the European integration, as witnessed by the Franco-German cooperation for creation of the European Coal and Steel Community. Still, this time around, nationalist attitudes and legacies prevail in various segments of the region's societies. Those may even be healthy if put to work to strengthen the respective states and their traditions, but not for use against their neighbours. On this basis, the countries lack sufficient focus and motivation to see the process of European integration and their participation in it as a necessary part of historical justice and reconciliation. Consequently, their transformation process, as required by the *acquis communautaire*, is lukewarm and half-heartedly supported. The necessary momentum for state, administration and judicial changes has not yet existed to underpin the approximation effort. It does not help that the states' structures are half working and produce unacceptably high levels of corruption. The Western Balkan countries lack a broader vision of their place in a united Europe, why they really want to join the EU, and how much political and strategic effort they are ready to make in order to get there.

On the other side, European Union member states do not embrace EU enlargement to the Western Balkans as part of a broad vision for the European integration process. Somehow, the Western Balkans have slipped into being a notion of a necessary reunification of the continent, which was so prevalent at the time of the proceedings with the 2004–2007 enlargement. As a consequence, these days the process relies almost entirely on bureaucratic support triggered in 2003 with the Thessaloniki promises of a European perspective for the Western Balkans. The European Commission contributes its needed part of the job, but the essential political backup by the member states has been lacking. Hence, the EU does not really know why it is attempting to enlarge into the Western Balkans, apart from the overused argument of regional stability, true as it may stand.

That is why, if the EU wants the Western Balkan countries to remain on their transformation path as directed by the *acquis communautaire*, it needs to continue repeating that it is open for them to join in time, provided the necessary conditions have been satisfactorily met. Pre-accession assistance has effectively been tried out on the former candidate countries of Central and Eastern Europe and should remain on offer to the Western Balkans. After all, there is an overriding logic in offering pre-accession assistance modelled on the operation of the most important redistribution policies of the EU—the common agriculture and cohesion policies. This way, the candidates gradually

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<sup>14</sup> European Commission, *Enlargement Strategy and Main Challenges 2006–2007, Special Report on the EU's Capacity to Integrate New Members*, COM(2006) 649, Brussels, 8 November 2006, p. 6.

acquire the necessary human and administrative know-how in order to better absorb the policies and funds after accession.

What to do with Kosovo is, and is going to remain the most sensitive issue of the region. In the mid-term perspective, most probably Kosovo will continue having difficulties running the state and its administration and economy. Moreover, its relations with Serbia are going to remain thorny. Given this, the European Union could concentrate more on technical issues than political ones and could encourage the Kosovo government to gradually approximate its legislation to the *acquis communautaire*. The current EU aid programmes for Kosovo will most likely be continued as well as the EULEX Kosovo mission and the Instrument for Pre-Accession Assistance (IPA).

Kosovo is both an indispensable part of the region and a necessary party to the enlargement process. But its consolidation, recognition and ultimately its stability may take many years if not decades. At a point in time, when Serbia or Albania get closer towards EU membership, an imaginative and workable solution for Kosovo may be needed, such as a kind of very loose confederation.

Bosnia and Herzegovina represent a similar problem for EU enlargement to the Western Balkans. Since EU membership presupposes impartial and effective public administration and the rule of law, this country has its main problems precisely with the operation of its political and administrative structures. While the problem is directly inherited from war times, finding a solution to it has long been recognized as a fundamental precondition for joining the European Union.

Another problem of EU enlargement to the region is Macedonia and the protracted issue of its name, which remains sensitive for Greece. The EU position on the matter is going to continue to be difficult since Greece is an EU member state and enlargement proceedings require unanimity. From this procedural perspective, the Macedonia problem is similar to the Turkey membership perspective, which depends to a large degree on Cyprus. It may sound banal to advise that both countries' enlargement strategies should take into account ways to solve the bilateral problems. But in fact, the history of EU enlargement is full of such bilateral issues, and any success in the process has always depended on all sides being able to deal with them, such as the most recent case in which Slovenia blocked Croatia's membership.

In any case, the accession of Croatia should constitute a good example, following the earlier membership of Slovenia in 2004, for other Western Balkan countries. This may prove specifically true for Serbia, provided that Croatia relentlessly continue to reform even after signing the accession treaty through the ratification period and already inside the European Union. Clearly, Croatia may become the next litmus test for EU member states' abilities to control each other as to their abilities to implement common commitments, agreed rules and standards required amongst them. The operation of the euro, public debts and the Schengen system will remain crucial for the overall credibility of the EU as a whole and for all its member states with regard to the ability of the newcomers to continue their reform efforts. This kind of example, if properly established, may prove extraordinarily important for countries such as Serbia that seem hesitant about the direction of reforms and general strategies.

So, all things considered, when could we expect the Western Balkans countries to join the EU? Clearly, the answer cannot be straightforward since too much depends on the fairly unpredictable progress that must be done by the candidates themselves.

The enlargement process so far has demonstrated that the candidates have to be assessed individually and on their own achievements. Therefore, regional association may play a lesser role in the future as Croatia may set an example for a new enlargement precedent in which future accessions will be individual—one by one—rather than in groups as has been the case so far, such as with the 2004 wave of 10 new countries being the biggest new group.

The best bet for a new, prospective member state seems to be Montenegro, a country that has existed as a sovereign state only since 2006. As early as 2010 it was an officially recognized EU candidate. But even in this case the process may well last for seven to 10 years. Serbia may perhaps start its accession negotiations before the end of 2012, and it could have a chance to join the EU as early as after 2020, provided a solution for the Kosovo issue is going to be found to clear its way forward. The other candidates' prospects seem much more remote and uncertain.

Given this cautious perspective, it seems reasonable to think of a long-run EU strategy for building up and keeping political momentum for enlargement to the Western Balkans. A focus on the interests of individual Western Balkans countries to join the EU may be essential. The Croatia example may have a certain demonstration effect, as it proves that things can be done and the EU does stick to its promises. A good opportunity to draw public awareness would come at the time Croatia signs the accession treaty, which should take place in December 2011 under the Polish presidency. A kind of renewed solemn declaration by all the EU member states and the Western Balkans countries regarding their future European perspectives may prove useful.

### **Conclusion and recommendations**

The European Union has long promised to enlarge to the Western Balkans, but the process has proven to be much more difficult and longer than was the case for Central and Eastern Europe. Assuming the accession of Croatia is going to happen as scheduled in 2013, the next in line could be Montenegro and perhaps Macedonia, provided the latter country aptly solves its bilateral issues with Greece. Still, the accession of these countries most likely will not happen by the end of the next EU multi-annual financial framework 2014–2020. After that may come Serbia. Yet, the very duration of Serbia's accession process, combined with the necessity to deal with ghosts of the past and temptations to cooperate closer with Russia as well as the still prolonged and protracted accession negotiations of Turkey may strategically alter Belgrade's will and the prospects for entering the European Union. The cases of Albania, Bosnia and Herzegovina as well as Kosovo are even more difficult to assess. A pivotal element of this Balkan puzzle may again be Kosovo. Provided an imaginative political solution is tried at the time when Serbia is closer to the EU—for example, a kind of very loose confederation of two countries—then Kosovo's prospects may look more favourably. Also, working up a viable solution for these two countries may shed some positive light on Bosnia and Herzegovina's future as well. Albania's prospects seem to entirely depend on its own internal capacity to reform, change and alter its patterns of development to be more in line to the *acquis communautaire* and general values of the European Union.

This realistic picture makes more pertinent the question of what the EU could and should do in order to keep the process of regional adaptation and consequently how to stabilize it along the lines of the external Europeanization process. As has been noted frequently, the EU has already tried everything. It remains a non-state actor, however influential and powerful, constrained in the ways and means it can exert influence over external partners. It maintains its links with the Western Balkans based on treaties and financial assistance, with conditionality attached. The prospect of membership remains open and valid. Croatia has refreshed it, following Slovenia's entry. Still, the region remains mired in old-way thinking with tensions recurring here and there. The EU should, of course, continue the open doors policy based on the fulfilment of clearly established criteria, conditions and benchmarks. The Copenhagen criteria coupled with regular analysis and reporting on the candidates' progress, or indeed lack of it, are excellent administrative and policy instruments. The EU should stick to that.

It seems, the EU should not count any longer on the internal strategic commitment of the Western Balkans to adapt itself to the general European mould, as was the case in the past with Central and Eastern Europe, specifically. It should, perhaps, adopt a more proactive strategy aimed over the long term at influencing local elites, media structures and basic democratic patterns. In this respect, the newly talked about instrument, the European Endowment for Democracy (EED), may prove much more useful than the old approach based on structural adaptation co-financed by the EU pre-accession instruments modelled on the EU's internal structural action. While the EED has been talked about for supporting the long-term effects of the Arab spring, it may be useful also for continuing the democratization of the Western Balkans.

The EED initiative may also serve as a springboard for the Visegrád Four group composed of Poland, Czech Republic, Slovakia and Hungary. Some of those countries show traditionally greater interest in Western Balkans. With the established tools for enlargement currently largely in Brussels and not really delivering, the V4 relies now only on the small Visegrád+ programme of its Visegrád Fund, and lacks a larger Western Balkans' dedicated instrument for activity in the region. The EED may serve as one.

In the short run, Croatia's accession will require some public information and awareness campaigns amongst EU member states in order to secure the safe ratification of the accession treaty. The EU may use the signature ceremony of the Croatian accession treaty to springboard the process. Later on, it could speed up the ratification proceedings.









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