

EU enlargement

By Ian Bond

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Since the UK, Ireland and Denmark joined the European Economic Community in 1973, it has grown from a common market of nine countries with a population of 257 million to a Union of 28 countries with a population of 504 million. The EU's GDP has increased more than five times in the process. Three more countries, including Turkey with its population of 76 million, are in accession negotiations. Four more Balkan countries could start accession negotiations in the next few years; and a number of Eastern Partnership countries, including Ukraine, have clearly expressed political aspirations to join the EU.

The UK has traditionally been a champion of enlargement, often as an alternative to increased integration among the existing members of the Union. But it is not clear whether this is still true, not least because of increased concern about the impact of the free movement of labour in an enlarged Union. The UK is worried about mass migration in a Union where the GDP per capita of the poorest recent accession country (Bulgaria) in purchasing power parity terms is less than 40 per cent of that of the EU15. With a number of other member-states, particularly in Western and Southern Europe, unenthusiastic about further enlargement, has the EU grown as much as it is going to (barring a few small countries in South-East Europe)? Or would the EU and the UK benefit from giving the enlargement process new impetus?

Because future rounds of enlargement are likely to include mostly poorer countries in Eastern and South-Eastern Europe (with the possible exceptions of Iceland and Norway – neither showing much interest in joining the EU at present), this paper concentrates on the impact of the enlargements of 2004 and later, and possible future enlargements to include the remaining countries of the Balkans (Albania, Bosnia and Herzegovina, Kosovo, Macedonia, Montenegro and Serbia), Turkey and those Eastern Partnership countries which have signed Association Agreements this year (Georgia, Moldova and Ukraine).

Impact of enlargement on the national interest

In 2001, the CER wrote of the on-going process of taking in the former Communist states of Central Europe:

“By 2010, the European Union could cover another third of the map of Europe, with 25 members and nearly half a billion people. It will move from being a rich country club to a continental union. Taking in the ten central European candidates will be the Union’s greatest contribution to the continent’s stability, security and prosperity in the coming decades.”¹

That judgement still stands: the accession of the states of central and Eastern Europe, as well as Cyprus and Malta, has contributed to Europe’s well-being, notwithstanding the economic crisis of the last five years.

It is of course impossible to say definitively what would have happened if there had been no enlargement. But looking at countries which emerged from Communist rule in the late 1980s and early 1990s but did not immediately start down the path to EU membership, it is reasonable to say that they have been less stable, secure and prosperous than those who have so far become EU members. The economy of Poland, for example, was only 20 per cent larger than that of Ukraine in 1990, but by 2012 it was three times larger.² Latvia and Estonia, with large populations of Russian-speakers who are not citizens of the countries, might easily have faced the sort of ethnic tensions which affected Moldova (with its separatist Transnistrian enclave) or most of the states which emerged from Yugoslavia; but a combination of EU encouragement to improve the situation of minority groups ahead of accession, coupled with freedom of movement (within the Schengen area) for non-citizens, have largely prevented such problems arising.

To the extent that the UK’s interests are served by having stable, secure and prosperous neighbours, therefore, EU enlargement has had a positive impact on UK interests. More concretely, the UK benefited from an increase in exports to the applicant countries before 2004, as they opened their markets in the run-up to accession: according to the House of Commons Select Committee on Trade and Industry, UK exports doubled between 1997 and 2005.³ And despite the often hostile reaction of the British press and public opinion to migration from the EU since 2004, the effects on the British economy have in fact been positive. Migrants tend to be younger on average than the native population; they often take jobs that the indigenous population is unwilling to do or unqualified for; a greater proportion of them are in employment; and a lower proportion of them draw benefits.⁴

There is no obvious reason to change the balance between the roles of member-states and of the EU institutions in the enlargement process. Unanimous agreement is currently required for the accession of a new member, which allows an existing member-state to block for bilateral political reasons (Slovenia held up Croatia’s accession negotiations for a year over a border dispute, for example). An argument could be made for shifting to some version of qualified majority voting (perhaps “consensus minus one) for future enlargements so that (for example) Cyprus could not on its own block Turkey’s progress; but in practice existing member-states would be unlikely to over-rule one country on an issue of (apparently) fundamental national interest. The leading role of the Commission in the negotiating process is vital, however, to minimise the extent to which member-states can pursue their purely national interests and to ensure that all applicants are treated fairly.

Exercise of Competence

The key question in this area is the effectiveness of conditionality, not only before but after accession. The Copenhagen Criteria were broadly effective in ensuring that the post-Communist states of Central Europe, most of which had little or no experience of democratic government before 1989, adhered to the principles of democracy, the rule of law, human rights and the protection of minorities. As noted above, the provisions on protection of minorities had some impact on Latvia and Estonia, and also on Slovakia, which, under pressure from the EU, reversed earlier restrictive measures against its Hungarian minority.

The EU had a problem, however, with countries which did not meet the Copenhagen criteria in full, or were slow to implement changes. This led to the accession of Bulgaria and Romania being delayed, so that they were only able to join the EU in 2007; and even then, they were not fully ready. The Commission seems to have concluded that keeping Bulgaria and Romania in the EU’s ‘waiting room’ indefinitely was less likely to bring about reform than letting them join the Union. But in order to maintain the pressure for progress in areas such as judicial reform and the fight against corruption and organised crime, the Commission set up a Co-operation and Verification Mechanism (CVM) for each of the countries.

1: Heather Grabbe, ‘Profiting from EU enlargement’, The Centre for European Reform, June 2001.

2: Simon Tilford, ‘Poland and Ukraine: a tale of two economies’, The Centre for European Reform, March 31st 2014.

3: House of Commons Select Committee on Trade and Industry ‘Eleventh Report’, October 9th 2007, <http://www.publications.parliament.uk/pa/cm200607/cmselect/cmtrdind/592/59207.htm>.

4: John Springford, ‘Is immigration a reason for Britain to leave the EU?’, The Centre for European Reform, October 1st 2013.

Seven years after Bulgaria and Romania acceded to the EU, the CVMs are still in place, and progress is still patchy. The Commission's January 2014 progress report to the European Parliament and the Council on Bulgaria concludes: "Since the Commission's last report in July 2012 Bulgaria has taken a few steps forward. There has been some degree of improvements in appointment procedures, some useful managerial steps by the Prosecutor General and some progress by the Supreme Judicial Council on the workload issue. However, overall progress has been not yet sufficient, and fragile."⁵ The January 2014 progress report on Romania noted similar problems: "This assessment shows that Romania has made progress in many areas since the previous CVM reports. The track record of the key judicial and integrity institutions has remained positive. Necessary and long awaited legislative changes have remained on track, and a spirit of cooperation between judicial institutions and the Ministry of Justice is helping managerial issues to be tackled.... However, concerns about judicial independence remain and there are many examples of resistance to integrity and anti-corruption measures at political and administrative levels."⁶

Surprisingly, although the final pre-accession report on Croatia raised similar concerns about the judiciary and corruption, as well as about war crimes trials, the Commission did not propose a CVM for Croatia. Despite the weaknesses of the mechanism, and in particular the lack of effective sanctions for failure to carry out the Commission's recommendations, it would have been better to have some formal mechanism to encourage Croatia to continue the reform process.

The EU opened accession negotiations with Serbia on January 21st 2014. In another attempt to ensure that applicant countries take serious steps to tackle judicial reform and corruption issues well before accession, the EU's negotiating framework 'front-loaded' work on freedom, security and justice. In an introductory statement, the EU side stated:

"The Negotiating Framework takes particular account of the experience acquired in relation to the negotiating chapters on judiciary and fundamental rights and to justice, freedom and security. Both chapters will be tackled early in the negotiations to allow maximum time to establish the necessary legislation, institutions and solid track records of implementation before the negotiations are closed."⁷

It will be essential for the EU to take a firm line, both

with Serbia, Montenegro (already subject to the same frontloading) and other applicants to ensure that these steps are carried out. There will otherwise be a serious risk that rather than importing EU standards of governance and the rule of law, new member-states will export their own problems. This should be a particular concern to the UK in relation to financial services: a combination of weak enforcement of anti-money laundering regulations in some member-states and the free movement of capital inside the EU already enables dubiously acquired money to be recycled through London.

The various approaches taken to conditionality pre-accession have also failed to address the question of what to do when countries regress after accession. This challenge first arose in 2000 when the far-right Freedom Party (FPÖ) became part of a coalition government in Austria; other EU countries brought in a partial ban on bilateral ministerial and ambassadorial contacts (lifted after nine months) on the basis that the admission of the FPÖ into government legitimised the extreme right in Europe. Since then issues have arisen in the case of Hungary. The Council of Europe and NGOs have accused the Fidesz government of Prime Minister Viktor Orban of taking steps which undermine democracy. The NGO 'Freedom House' said in June 2014: "Hungary's multiyear governance decline, reflected in every Nations in Transit indicator, remains the most poignant reminder that democratization in post-Communist Europe is neither complete nor irreversible."⁸ The Commission has been able to use EU law to launch infringement procedures against Hungary in some areas (the government dismissed a number of judges by arbitrarily lowering their retirement age, which was contrary to EU legislation on age discrimination, for example). But other areas seemed to be beyond the EU's reach.

Following the problems with the Freedom Party, the EU gained a new tool to use with existing member-states in the form of Article 7 of the Treaty on European Union (TEU), which establishes a complex procedure for suspending a member-state's voting rights if the Council determines "the existence of a serious and persistent breach by a Member State of the [EU's] values". Although the Commission has suggested that this could be used against Hungary, it is very much a last resort, and it is not clear whether European leaders would be willing to take action against one of their number. But it is also unclear whether the Commission is legally able or politically willing to use infringement procedures against member-states not only for breaches of specific

5: 'Report from the Commission to the European Parliament and the Council On Progress in Bulgaria under the Co-operation and Verification Mechanism', European Commission document COM(2014) 36 final, January 22nd 2014.

6: 'Report from the Commission to the European Parliament and the Council On Progress in Romania under the Co-operation and Verification Mechanism', European Commission document COM(2014) 37 final, January 22nd 2014.

7: 'General EU Position: Ministerial meeting opening the Intergovernmental Conference on the Accession of Serbia to the European Union (Brussels, 21st January 2014)', European Commission document AD1/14, January 21st 2014.

8: 'Nations in Transit 2014: Eurasia's Rupture with Democracy', Freedom House, June 2014.

EU law but also for failure to abide by the Copenhagen criteria (which, by definition, do not apply to states once they have joined the Union) or of the EU's values of "respect for human dignity, freedom, democracy,

equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities" as set out in Article 2 TEU.

Future Options and Challenges

For the moment, the EU enlargement process seems to have run out of steam. The Union has turned inwards as a result of the economic slump. The Eurozone crisis has created institutional challenges about the role of countries outside the Eurozone in the governance of the EU, and the extent to which more Eurozone integration is needed. These issues have crowded out discussion of enlargement-related institutional questions; for example, the possibility of implementing the Lisbon Treaty provision reducing the size of the Commission (without which the Commission will grow larger and more unwieldy with every new member-state). The crisis has also created political challenges to further enlargement, particularly in the form of anti-EU and especially anti-immigrant political movements in a number of major member-states. Although accession negotiations are on-going with Serbia and with Montenegro and the General Affairs Council on June 24th 2014 agreed to open negotiations with Albania, progress is likely to take some time.

With the possible exception of tiny Montenegro, with its population of 630,000, all the current applicants are likely to make very slow progress towards membership. Serbia's accession process is linked to its relationship with Kosovo and to Kosovo's relationship with the EU; though the two sides have made significant progress, this is still a difficult area. Five EU member-states do not recognise Kosovo. This has not precluded the EU from signing a Stabilisation and Association Agreement with Kosovo (since this does not require ratification by member-states); but it would prevent full membership. Even if the problem of non-recognition of Kosovo by existing member-states can be overcome, some countries will be wary of admitting Serbia without cast-iron guarantees that it would not block Kosovo's progress towards membership.

The Commission itself says that Bosnia and Herzegovina is "at a standstill in the European integration process".⁹ The biggest immediate obstacle to progress is the country's failure to find a way to amend its post-conflict constitution to end the effective prohibition on minorities (including citizens of Jewish or Roma origin) holding office. The European Court of Human Rights ruled against Bosnia and Herzegovina in 2009 in the so-called Sejdic-Finci case; the Commission has warned that

the lack of reform will result in reduced EU assistance. The Commission is also concerned about the rule of law, corruption and organised crime, freedom of expression and discrimination. With all these problems, and a seeming lack of political will even to attempt to solve them, Bosnia is likely to fall even further behind other Balkan countries on the road to EU membership.

Macedonia's accession process is stalled by the dispute with Greece over its name. After more than 20 years of deadlock, it is hard to see how this is to be solved, since neither side has shown the political will to compromise.

Turkey poses huge and growing challenges to the enlargement process. Internally, its compliance with standards of human rights and political freedoms is deteriorating; externally, it remains at loggerheads with Cyprus; and a number of major member-states, including Germany and France, are still opposed to it becoming a member of the EU in the foreseeable future. Despite its economic progress (nominal GDP per capita is already above that of Bulgaria and Romania), Turkey is generally seen as too big and too poor for the EU to absorb; and implicitly or explicitly some member-states are reluctant to extend EU membership to a primarily Muslim country of over 70 million people. The most that seems to be on offer to Ankara for the foreseeable future is some sort of half-way house: German Chancellor Angela Merkel has spoken of a "privileged partnership" for Turkey, falling short of membership.

Looking beyond the existing and potential candidate countries, the EU has to decide what to do with the countries of the Eastern Partnership. Armenia, Azerbaijan and Belarus are less of an issue: none has expressed a wish to join the EU, and the human rights records of Belarus and Azerbaijan disqualify them anyway. But Georgia, Moldova and Ukraine are much harder to dismiss. All three have clear political aspirations to join the EU eventually. So far the EU has given little or no hope to any of them that this will be possible. There is no mention of a membership perspective in the Association Agreements which the three countries are due to sign in the near future. The most the EU has been able to offer Ukraine is a statement that the Association Agreement "does not constitute the final goal in EU-Ukraine co-operation".¹⁰

9: "Communication from the Commission to the European Parliament and the Council: Enlargement strategy and main challenges 2013-2014"; European Commission document COM(2013) 700 final, October 16th 2013.

10: "Council Conclusions on Ukraine, Foreign Affairs Council meeting, Brussels, 10th February 2014"; EU press release.

Stefan Füle, the EU's Commissioner for enlargement, has said several times that the offer of membership is the best tool the EU has for transforming Eastern Partnership countries. President of the European Council Herman Van Rompuy told the Munich Security Conference in February 2014: "The future of Ukraine belongs with the European Union". But few member-states have been willing to say publicly that they support eventual membership for Eastern Partnership countries. Although there are practical concerns for some about the EU's capacity to absorb Ukraine in particular, a country of more than 40 million people with a GDP per capita only 55 per cent that of Bulgaria, the real issue for many EU countries is lack of enthusiasm for pushing enlargement in the face of Russia's obvious opposition to closer relations between Eastern Partnership countries and the Union.

The EU finds it hard to take a geopolitical view of its region, but this is one case where it should. Russia has shown by its actions that it would prefer the countries that lie between it and the EU to be weak and dependent on Moscow. That would be inimical to EU interests in having stable, prosperous and democratic neighbours. Georgia, Moldova and Ukraine all face a long and difficult path to reform their economic and political systems. The prospect of EU membership, however distant, would provide an incentive for all these countries to make progress, to become richer countries and therefore bigger markets for the EU and to be contributors to European security.

In the past, the UK might have been among those suggesting membership for Ukraine and others, but that seems no longer to be the case: the Foreign Secretary told the House of Commons on March 4th 2014: "Any possibility of EU membership [for Ukraine] is too distant to be a realistic possibility in the foreseeable future".¹¹

The Prime Minister has also suggested that UK support for future enlargement will be conditional on putting constraints on the free movement of labour for new member-states – which would change a fundamental component of the single market. In an op-ed for the *Financial Times* in November 2013 he wrote: "Bringing new countries in to give them peace and prosperity remains one of the EU's greatest strengths. It will be many years, perhaps a decade, before another country joins. It cannot be done on the same basis as it was in the past. We must put in place new arrangements that will slow full access to each other's labour markets until we can be sure it will not cause vast migrations."¹² This is both an economic mistake (because the demography of the EU means that many Western European countries will require more workers in future) and a political one (making it easier for countries which have traditionally opposed enlargement to form tactical alliances with the UK against the admission of new members).

The UK should rediscover its enthusiasm for enlargement. It is in the UK's interest, as well as that of other member-states, that the EU's doors remain open and that the world's largest market and area of democracy continues to grow.

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Additional information

Further CER views on EU enlargement can be found in:

'The Eastern Partnership: The road from Vilnius leads to ...?'; an insight of December 2013 by Ian Bond

'Turkey's Twitter generation is its European future'; an insight of June 2013 by Heather Grabbe

'Is Turkey our partner now?'; a bulletin article of November 2011 by Katinka Barysch

To view all of our submissions to the review of the balance of competences, visit our website:
www.cer.org.uk/publications/reviewcompetences

¹¹: Hansard for March 4th 2014, col 780.

¹²: David Cameron, 'Free movement within Europe needs to be less free', *Financial Times*, November 26th 2013.