

## Enhancing the accession process – A credible EU perspective for the Western Balkans

### I) Introduction

The European Union and its Member States have consistently, since the Feira and Thessaloniki Summits in 2000 and 2003, expressed their **unequivocal support for the European perspective of the Western Balkans**. The Council conclusions adopted at the General Affairs Council in June 2019 has also reaffirmed *“its commitment to enlargement, which remains a key policy of the European Union, in line with the renewed consensus on enlargement approved by the European Council on 14 and 15 December 2006 and subsequent Council conclusions.”* At the Council in November 2019, there was a common understanding of the usefulness of examining the effectiveness of the accession negotiation process.

This **firm, merit-based prospect of full EU membership** for the Western Balkans is in the Union's very own political, security and economic interest. In times of increasing global challenges and divisions, it remains more than ever a **geostrategic investment** in a stable, strong and united Europe. A credible accession perspective is the key incentive and driver of transformation in the region and thus enhances our collective security and prosperity. It is a key tool to promote democracy, rule of law and the respect for fundamental rights, which are also the main engines of economic integration and the essential anchor for fostering regional reconciliation and stability. Maintaining and enhancing this policy is thus indispensable for the **EU's credibility, for the EU's success and for the EU's influence in the region and beyond** - especially at times of heightened geopolitical competition.

However, it is also clear that the **effectiveness of the overall accession process and of its implementation must be improved further**. While the strategic direction of the policy remains more valid than ever, it must get much better traction on the ground.

Despite successive reforms, such as the new approach on the rule of law, the focus on the fundamentals and the improvements under the Commission's 2018 Western Balkans Strategy<sup>1</sup>, the process needs to be better equipped to deal with **structural weaknesses** in the countries, in particular in the area of the fundamentals.

It is of major importance to **build more trust among all stakeholders** and to enhance the **accession process and make it more effective**. It has to become **more predictable, more credible** - based on objective criteria and rigorous positive and negative conditionality, and reversibility - **more dynamic and subject to stronger political steering**.

**This Communication sets out the Commission's concrete proposals** for strengthening the whole accession process. Their overall aim is to enhance credibility and trust on both sides and yield better results on the ground. The proposed changes can be accommodated within existing negotiating frameworks, ensuring a level playing field in the region. This means that the negotiating frameworks for Serbia and Montenegro will not be amended but the proposed changes could be accommodated within the existing frameworks with the agreement of these two countries.

A core objective of the European Union's engagement with the Western Balkans is to prepare them to meet all the requirements of membership. This includes supporting **fundamental**

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<sup>1</sup> A credible enlargement perspective for and enhanced EU engagement with the Western Balkans, COM(2018) 65 final

**democratic, rule of law and economic reforms** and alignment with core European values. This will in turn foster solid and accelerated **economic growth and social convergence**.

Furthermore, for the accession process to be more effective, **strategic communication** will be instrumental. It is critical to raise awareness in the region of the opportunities closer integration and reforms entail, and to tackle malign third country influence. This also requires more credible efforts by the countries themselves. The public political commitment of their authorities to the strategic goal of EU accession will be assessed more clearly in the annual reports.

This policy approach will thus be the cornerstone of a **forward-looking agenda**. This agenda will support the transformation of the Western Balkans into functioning market economies able to integrate fully into the EU's single market, to create jobs and entrepreneurial opportunities, to improve the business and investment climate, underline the rule of law and to stop the brain drain from the region. These reforms are essential to boost the economies of the Balkans and to anchor them to the EU markets by accelerating the necessary convergence with the EU. The Commission will particularly consider how to bring forward investment and socio-economic integration, enhance access to the EU single market, strengthen connectivity as well as embrace the opportunities of the green economy. The Commission will present a Communication in this regard before the May 2020 Zagreb Summit.

## II) **Reinvigorating the accession process**

### a) **More credibility**

For the accession process to regain credibility on both sides and deliver to its full potential, it needs to rest on solid **trust, mutual confidence and clear commitments on both sides**.

It means the **Western Balkans leaders must deliver more credibly on their commitment** to implement the fundamental reforms required, whether on rule of law, fighting corruption, the economy or ensuring the proper functioning of democratic institutions and public administration, and foreign policy alignment. EU Member States and citizens have legitimate concerns and need to be reassured of the unequivocal political will of the countries, proven by structural, tangible reforms. Western Balkans leaders must also show further efforts to strengthen regional cooperation and good neighbourly relations to bring stability and prosperity to their citizens, while giving confidence to the EU that the region is addressing the legacy of its past.

This also means the **European Union delivers on its unwavering commitment to a merit-based process**. When partner countries meet the objective criteria and the established objective conditions, the Member States shall agree to move forward to the next stage of the process. All parties must abstain from misusing outstanding issues in the EU accession process. In the same vein, Member States and institutions must speak with one voice in the region, sending clear signals of support and encouragement, and speaking clearly and honestly on shortcomings when they occur.

Credibility should be reinforced through an **even stronger focus on the fundamental reforms** essential for success on the EU path. These fundamentals will become even more central in the accession negotiations. **Negotiations on the fundamentals will be opened first and closed last** and progress on these will determine the overall pace of negotiations. Negotiations on the fundamentals will be guided by:

- A **roadmap for the rule of law** chapters equivalent to the previous action plans will constitute the opening benchmark. Interim benchmarks will continue to be set. No other chapter will be provisionally closed before these benchmarks are met.
- A **roadmap on the functioning of democratic institutions** and public administration reform.
- A **stronger link with the economic reform programme** process to help the countries meet the economic criteria.

The Commission will also further strengthen measures on the rule of law and institution-building. Results on these reforms will be a requirement for deeper sectoral integration and progress overall. In addition, anti-corruption work will be mainstreamed through a strong focus in relevant chapters. Support to regional cooperation will continue unabated. All efforts need to be undertaken to resolve bilateral disputes, with a particular emphasis on the EU-facilitated dialogue between Belgrade and Pristina, which should be concluded with a comprehensive, legally binding normalisation agreement.

#### **b) A stronger political steer**

Accession to the European Union is a process requiring and supporting fundamental reform and political and economic change in the countries aspiring to join, and also to demonstrate the ability to **take on the shared responsibilities** as a Member State of the EU. It is not moving on autopilot but must reflect **an active societal choice** on their part to reach and respect the highest European standards and values. Equally, the commitment of the Member States to share a common future with the Western Balkans as full members of the Union is a significant political and not simply technical undertaking.

This means both sides should **show more leadership** and live up to their respective commitments in public, while coming in more directly on matters of concern. Given what is at stake, it is time to **put the political nature of the process front and centre** and ensure stronger steering and high-level engagement from the Member States.

This should include creating new opportunities for **high level political and policy dialogue** with the countries, **through regular EU-Western Balkans summits and intensified ministerial contacts**, especially in areas where alignment is progressing well and key criteria are being met. Such increased engagement could lead to the countries participating as **observers** in key European Union meetings on matters of substantial importance to them.

It will be important to ensure that **all bodies under the Stabilisation and Association Agreement (SAA) focus much more on the key political issues and reforms**, and allow for a real political dialogue. Inter-Governmental Conferences (IGCs) should provide for stronger political steering of the accession negotiations process.

**Member States will be invited to contribute more systematically to the accession process**, including via monitoring on the ground through their experts, through direct contributions to the annual reports and through sectoral expertise. Member States will also have the opportunity to review and monitor overall progress more regularly.

**The Commission will continue to take stock of overall progress in negotiations. It will propose in its annual enlargement package the way ahead** for the following year in greater reform detail, for approval by Member States, **including proposals for corrective measures**.

**Country-specific IGCs should take place after publication of the Commission's annual package of reports on each country and provide the fora for political dialogue on reforms**,

take stock of the overall accession process, and set out the planning for the year ahead, including opening and closing of chapters / clusters of chapters and possible corrective measures. All sides will have to ensure representation in the IGC at the **appropriate level to allow for a productive political dialogue**.

**The Stabilisation and Association Councils** will also provide an important and complimentary moment for political dialogue on reforms. In addition they can allow together with the Stabilisation and Association Committees and sub-committees, **stronger monitoring of progress and address aspects of accelerated integration** in the respective clusters (see below).

Deeper political stocktaking should occur at key moments of each partner's accession process, for example, once interim benchmarks are met on fundamental reforms, at each time when the Council decides whether the conditions for opening a cluster are met, and once overall negotiations are technically ready to close.

### c) A more dynamic process

In order to inject further dynamism into the negotiating process and to foster cross-fertilisation of efforts beyond individual chapters, the **negotiating chapters will be organised in thematic clusters**. These clusters follow broad themes such as good governance, internal market, economic competitiveness and connectivity.

Clustering chapters will allow a **stronger focus on core sectors in the political dialogue** and provide an improved framing for higher level political engagement. It will allow the **most important and urgent reforms per sector to be identified**. This will give overall reform processes more traction on the ground, by better incentivizing sectoral reforms in the interests of citizens and business.

**Negotiations on each cluster will be opened as a whole – after fulfilling the opening benchmarks** - rather than on an individual chapter basis. As a result of the screening process, carried out per cluster, priorities for accelerated integration and key reforms will be agreed between the EU and the candidate country. When these priorities have been sufficiently addressed, the cluster (covering all associated chapters) is opened without further conditions and closing benchmarks are set for each chapter. Where important reforms will already have been implemented before opening, the timeframe between opening the cluster and closing individual chapters should be limited, preferably within a year fully dependent on the progress of the reforms, with the focus on remaining measures needed to ensure full alignment.

The **clusters will be aligned with SAA sub-committees**, so that progress in the cluster can be monitored and specific measures of accelerated alignment taken under the SAA structures. This will allow for targeted dialogues and identification of **opportunities for accelerated alignment** and integration in all EU policy areas, with clear benefits for European Union and candidate countries.

To inject more dynamism in the **negotiations with Serbia and Montenegro**, work on chapters can also be organised around clusters, while respecting the existing negotiating frameworks and with the agreement of these countries. This will also allow more political focus on key sectors and build political momentum in the countries around key issues for alignment. The possibility of engaging in an exercise to identify areas of interest for accelerated sectoral alignment and integration will be offered, with common roadmaps to be agreed and followed-up in the SAA structures.

#### d) Predictability, positive and negative conditionality

There are strong calls from Member States, as well as from Western Balkans countries for a process that is more predictable and which ensures **greater clarity on what the Union expects** of enlargement countries at different stages of the process, and what the **positive and negative consequences** are of progress or lack thereof.

The Commission will use the **enlargement package to check the compliance** of the candidates with the acquis and **provide clearer guidance** on specific reform priorities and alignment criteria as well as expectations for next steps in the process. A stronger political steer and refocused IGCs will increase predictability, with clearer planning for the year ahead. The political actors in the countries will thus have a clearer indication of what must be done to move ahead. This will include an indication of what clusters / chapters could potentially be opened or closed and, where relevant, which conditions would still need to be met for this to happen.

**The core element of the merit-based accession process is its conditionality.** However, in order to achieve that, **conditions must be clear** from the outset. It is important that candidate countries know the benchmarks against which their performance will be measured and that Member States share a clear understanding of what exactly is requested from the candidates. **The Commission will better define the conditions set for candidates** to progress, in particular through its annual reports. These conditions must be objective, precise, detailed, strict and verifiable. The Commission will also use third party indicators where relevant to provide Member States with the broadest possible base for their decisions.

By providing **clear and tangible incentives of direct interest to citizens, the EU can encourage real political will** and reward results arising from demanding reforms and the process of political, economic and societal change. **If countries move on reform priorities agreed in the negotiations sufficiently, this should lead to:**

- Closer integration of the country with the European Union, work for accelerated integration and “phasing-in” to individual EU policies, markets and EU programmes.
- Increased funding and investments – including through a performance-based and reform-oriented Instrument for Pre-accession support and closer cooperation with IFIs to leverage support.

These measures should help, through the use of EU Funds, to create a strong European preference that is WTO-compatible, while creating a strong local economy.

While reform progress needs to be incentivised and rewarded more tangibly, there is equally a need for **more decisive measures proportionally sanctioning any serious or prolonged stagnation or even backsliding** in reform implementation and meeting the requirements of the accession process.

Such decisions to halt or even reverse the process should be informed by the **annual assessment by the Commission** in its enlargement package on the overall balance in accession negotiations and the extent to which fundamental reforms, in particular on the rule of law are being implemented, Member States will continue to be able to contribute to this process by signalling to the Commission any stagnation or serious backsliding in the reform process.

In serious cases, the Commission can make proposals at any time on its own or at the duly motivated request of a Member State in order to ensure a quick response to the situation through ~~simplified procedures, including reversed qualified majority voting in Council proceedings.~~

**The EU could address potential problems in several ways:**

- Member States could decide that negotiations can be put on hold in certain areas, or in

the most serious cases, suspended overall. Already closed chapters could be re-opened or reset if issues need to be reassessed.

- The scope and intensity of EU funding could be adjusted downward, with the exception of support to civil society.
- Benefits of closer integration, e.g. access to EU programmes, unilateral concessions for market access could be paused or withdrawn.

Predictability and conditionality will also be enhanced through **greater transparency**. To ensure sustainability of reforms and facilitate monitoring of implementation, all key reforms in the countries should be carried out in a fully transparent and inclusive way, with key stakeholder involvement. For its part, the European Union should endeavour to make the process more transparent, with wider publication of key documents.

The Commission will also continue its communication and information activities, including in EU Member States, where it is primarily for Member States to inform their citizens and provide them with the facts about the strategic opportunities and challenges of the process.

A table setting out the proposed clusters of chapters is attached in annex. Chapter 34 "*Institutions*" and chapter 35 "*Other issues*" will be handled separately.

**Technical annex: clusters of negotiating chapters**

<b>1. Fundamentals</b>	23 – Judiciary and fundamental rights, 24 – Justice, Freedom and Security; Economic criteria Functioning of democratic institutions Public administration reform; 5 - Public procurement, 18 – Statistics, 32 - Financial control.
<b>2. Internal Market</b>	1 - Free movement of goods 2 - Freedom of movement for workers 3 - Right of establishment and freedom to provide services 4 - Free movement of capital 6 - Company law 7 - Intellectual property law 8 - Competition policy 9 - Financial services 28 - Consumer and health protection
<b>3. Competitiveness and inclusive growth</b>	10 - Information society and media 16 – Taxation 17 - Economic and monetary policy 19 - Social policy and employment 20 - Enterprise and industrial policy 25 - Science and research 26 - Education and culture 29 - Customs union
<b>4. Green agenda and sustainable connectivity</b>	14 - Transport policy 15 – Energy 21 - Trans-European networks 27 - Environment and climate change
<b>5. Resources, agriculture and cohesion</b>	11 - Agriculture and rural development 12 - Food safety, veterinary and phytosanitary policy 13 – Fisheries 22 - Regional policy & coordination of structural instruments 33 - Financial & budgetary provisions
<b>6. External relations</b>	30 - External relations 31 - Foreign, security & defence policy