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2012-2013 ENLARGEMENT STRATEGY AND THE WESTERN BALKANS: UNEVEN PROGRESS ON THE PATH TO THE EU

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Introduction

The European Commission (EC) presented its 2012-13 Enlargement Strategy¹ accompanied with the annual reports assessing the performance of candidate and potential candidate states in meeting the criteria laid down by the European Union (EU). In the current context where member states seem preoccupied with finding a panacea to EU's economic woes and engage in intensive soul-searching to forge stronger economic governance further enlargement seems to rank down in EU policy-makers' list of priorities. In this context, the enlargement strategy is an attempt by the Commission to maintain the EU's role as a driver for reform in the aspirant countries. The Commission's focus in this year's enlargement strategy is on the rule of law. Given the regions' deficiencies in the fight against corruption and organized crime and the lessons learnt from Bulgaria and Romania's premature accession which continue to be subject to EU monitoring five years after accession, the Commission has rightly placed its emphasis on the rule of law.

Regional reconciliation and good neighborly relations have been identified as a key challenge in the region. The Commission has made it clear once again that the aspirant countries need to resolve their outstanding disputes with their neighbors, to avoid bilateral issues hinder their prospects of EU membership, yet another lesson learnt from the unilateral Greek Cypriot accession to the EU which perpetuated the division of Cyprus.

The third area underlined in Commission's enlargement strategy was strengthening the economies of aspirant states and increasing their participation in the transforming European economic governance. The global financial crisis and the sovereign debt crisis in the Eurozone have put economic governance in the heart of the intra-EU debate. At a time in which the EU is trying to address the deficiencies in the Economic and Monetary Union by strengthening the European Central Bank's grip over Eurozone's troubled banks, keeping the candidate states up to date with the evolving economic and political architecture is crucial.

The progress reports reveal that the Western Balkan states' performance in meeting the EU criteria has been uneven. The balance sheet of Croatia, Montenegro, Macedonia, Albania and Kosovo has been overall positive: Croatia which will officially join the 27-member block in July 2013 has continued to progress on its path towards the EU, Montenegro which has officially started its accession talks in June 2012 in accordance with the Commission's new approach prioritizing the judiciary and fundamental rights and justice, freedom and security issues needs to step up its efforts in establishing a strong track record in the fight against corruption and organized crime. Albania's politicians have managed to reach an agreement to overcome the deadlock in the

¹ European Commission's "Enlargement Strategy and Main Challenges 2012-2013" could be found at <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2012:0600:FIN:EN:PDF>

parliament paving the way for undertaking the key reforms to fulfill most of the 12 priorities. The reforms undertaken in the framework of the High-Level Accession Dialogue (HLAD) with Macedonia have been welcomed by the Commission. Serbia's balance sheet however has been mixed. The Commission while recognizing the positive developments, has asked for more progress in the Belgrade-Pristina dialogue and tangible results as regards the normalization of relations between Serbia and its breakaway region now recognized by more than 90 countries. Bosnia has received a rather negative assessment from the Commission. According to the Commission, Bosnia's squabbling politicians have wasted yet another year, unable to reconcile their differences and agree on the key reforms which will enable the entry into force of the Stabilization and Association Agreement -an initial step required for submitting a membership application to the EU.

Against this background, the Commission has proposed to grant candidate status to Albania provided that the country takes the relevant measures to satisfy the remaining priorities. The Commission has called for the opening of accession negotiations with Macedonia for the fourth time and made it clear that the opening of accession negotiations could create the necessary conditions for finding a mutually acceptable solution to the name dispute between Athens and Skopje. The fact that the Commission has linked the opening of accession negotiations to the resolution of the name dispute is quite significant as it has been openly acknowledged that the country's EU membership prospects should not be hindered by the ongoing dispute with its neighbor. The Commission has given green light to start negotiations for a Stabilization and Association Agreement with Kosovo despite the persisting disagreements between member states over Kosovo's status. This signifies that the lack of a common EU stance on the country's status, which has been perceived to prevent the country from establishing contractual relations with the EU, will not hinder the country's European integration at this early stage.

The fact that Croatia is set to join the EU on 1 July 2013, Montenegro has started accession talks with the EU, Serbia has been rewarded with EU candidacy as well as the multitude of tailor-made dialogues launched to address the countries' specific challenges, combined with Commission's recommendations to start accession talks with Macedonia, grant Albania the status of a candidate country and the fact that the Commission has spelled out the prospect of negotiating a Stabilisation and Association Agreement (SAA) with Kosovo, suggests that the enlargement policy is still working. This however, does not mean that the progress towards the EU has been uniform among the regional states. The current article aims to analyze the latest developments in the Western Balkan countries and present the findings of the Commission's Enlargement Strategy. It will be argued that despite the current debate about the enlargement fatigue and the effects of the sovereign debt crisis coupled with the claims that the EU is losing its power of attraction, the enlargement policy is still a driver for change in the Western Balkans.

Western Balkan countries' 2012 progress reports in a nutshell

Croatia: 10 tasks should be implemented prior to accession

Croatia, which is officially set to become the 28th member of the EU on 1 July 2013, has continued to satisfy the EU requirements, however the Commission has identified ten key tasks that Croatia needs to fulfill prior to accession. Croatia's performance in fulfilling the ten tasks which fall in the scope of the chapters on competition policy, judiciary and fundamental rights and justice, freedom and security will be assessed by the Commission's comprehensive monitoring report due in spring 2013. In the meanwhile, the Commission has underlined that the member states' completion of the ratification of Croatia's accession treaty should be finalized by 31 June 2013. So far, 13 member states have ratified the accession treaty. The dispute over the debt of Ljubljanska Banka stands as a major stumbling block Croatia needs to overcome to accede to the EU. For Croatia's northern neighbor Slovenia, an EU member since 2004, has made it clear that it will not ratify Croatia's Accession Treaty until the bank row is resolved in accordance with international treaties. It is not the first time Slovenia has threatened to veto its southern neighbor's EU integration prospects, as one might recall Slovenia had blocked Croatia's accession negotiations for almost a year between 2008 and 2009 over a border dispute until the parties reached an understanding to refer the issue to international arbitration. Therefore, to avoid another delay in its membership date Zagreb should try to reach an understanding with Ljubljana.

Montenegro: need for a solid track record in the fight against corruption and organized crime

Montenegro which started accession talks with the EU in June has continued to successfully fulfill the political criteria. The screening process aimed at comparing Montenegro's legislation with that of the EU which is expected to be finalized by summer 2013. Montenegro's accession talks will be carried out in accordance with the new approach introduced by the Commission in October 2011 prioritizing judiciary and fundamental rights as well as justice, freedom and security issues. The Commission, while welcoming the progress in Montenegro, has underlined that Podgorica will need to establish an irreversible track record in the fight against corruption and organized crime especially in tackling the high profile corruption cases.

Macedonia: the Commission proposes the launch of accession talks for the 4th time and calls for the name dispute to be tackled early in the negotiations

This year's progress report stands as one of the most positive EC progress reports for Macedonia to date. Macedonia has made progress on its path to the EU, despite the fact that its Euro-Atlantic integration process has come to a virtual halt due to the Greek veto in the Council of Ministers over the name dispute. Brussels has stated that Macedonia continues to successfully meet the political criteria and welcomed the reforms undertaken in the framework of the HLAD launched in March. Recognizing the efforts made by Skopje, the Commission this year has once again recommended starting accession negotiations with Macedonia just like it has done for the past three years. However, in contrast to its previous recommendations, the Commission in its 2012 Enlargement Strategy has openly recognized that the launch of accession talks could

contribute to creating the favorable conditions for the resolution of the name dispute. The Commission has stated that the name dispute should be tackled early in the negotiation process and confirmed its readiness to submit a negotiating framework for the resolution of the name dispute. The Commission has also warned for the perils of not moving to the next stage of the accession process by stating that the fragile intra-ethnic balance as well as the EU's credibility is at stake. It remains to be seen whether this year's recommendation for opening the accession negotiations with Macedonia will be instrumental in overcoming the Greek veto in the Council of Ministers.

Serbia: progress needed in the normalization of relations with Kosovo

Serbia, which was granted candidate status in March, has been moving forward in fulfilling the political criteria and the prerequisites of the Stabilization and Association process. However, the Commission has called for a reinvigorated reform momentum and more progress in the sole key priority identified for the launch of accession negotiations namely; visible and sustainable improvement of relations between Serbia and Kosovo and the eventual normalization of relations with Kosovo. The Commission has called on both Belgrade and Pristina to improve their relations so that each could continue on their respective paths to the EU without hindering the other.

Moreover, Brussels has called on the parties to address the situation in the north of the Ibar river while respecting the territorial integrity of Kosovo and keeping in mind the specific needs of the local population. The Commission has made it clear that Serbia's progress on its path to the EU, will be closely correlated to the progress made in the Belgrade-Pristina dialogue. Therefore, if Serbia wants to proceed in its way towards the European Union, the Serbian leadership will need to show that they take the Belgrade-Pristina dialogue seriously.

Albania: Commission gives green light for granting candidate status

One of the biggest winners in this year's enlargement package has been Albania. In contrast to the previous couple of years in which Albania has been target of EU criticisms due to the paralysis caused by the rivalry between Prime Minister Sali Berisha and the leader of the main opposition party Edi Rama following the opposition's boycott of the parliament after the 2009 parliamentary elections, Albania has received a rather positive assessment this year. The Commission has welcomed the intra-party agreement reached in November 2011 paving the way for the adoption of key reforms and stated that Tirana has made progress in meeting majority of the twelve priorities laid down by the Commission's *avis* dated November 2010 regarding Albania's bid for EU membership.

The Commission has acknowledged that Tirana has fulfilled the priorities on ensuring the proper functioning of the parliament, adoption of the laws requiring reinforced majority, appointment of an ombudsman, ensuring an orderly hearing and voting process for key institutions, reform of the electoral code in line with OSCE-ODIHR recommendations; has made good progress in meeting the priorities on the reform of public administration and improving the treatment of detainees and has taken steps to fulfill the priorities regarding the law on administrative courts, lifting of immunities of high-level public officials and judges, increase of seizures of criminal assets, adoption of

a strategy on property reform and amendments to the criminal code strengthening sanctions for domestic violence. In line with the progress, the Commission recommended granting Albania the status of a candidate country provided that the remaining priorities regarding the judicial and public administration reform as well as the revision of parliamentary rules of procedures are met.

Despite receiving green light to be granted candidate status from the Commission, Tirana needs to step up its efforts in the fight against organized crime and corruption, enhancing the independence and efficiency of judicial institutions and holding of elections in accordance with international standards. In that vein, conduct of the 2013 parliamentary elections will serve as a litmus paper testing the country's readiness to start accession negotiations.

Bosnia and Herzegovina: on the way to become a permanent laggard?

The Commission in a strong-worded progress report criticized Bosnia over the "limited progress" made with regards to meeting the political criteria. The Commission's report does not come as a surprise after the Bosnian leadership has missed the official deadline to submit a proposal to amend the constitution in accordance with the European Court of Human Rights' (ECtHR) Sejdic-Finci ruling. The ambitious rhetoric that followed the formation of the state-level government overcoming a 16-month-long political impasse has not been matched with the adoption of the long-awaited reforms. In June, the Commission launched the High-Level Dialogue on the Accession Process (HLDAP) offering Bosnia a viable roadmap that would enable the country to submit an application for EU membership by end of this year provided that key conditions are met, however the Bosnian political leadership has failed to keep up with the deadlines.

Bosnia needs to amend its constitution to comply with the ECtHR's Sejdic-Finci vs. Bosnia ruling making top level governing posts available for people from ethnic groups other than the three major ethnicities namely; Bosniaks, Serbs and Croats. The Bosnian leadership needs to focus on the implementation of the State Aid law and amending the constitution in line with the ECtHR decision in order to submit a realistic membership application by end of this year.

Kosovo: negotiations for an SAA agreement in sight

Kosovo has been the biggest winner in this year's enlargement package. The Commission has presented the findings of the feasibility study for a SAA launched in March 2012 which confirmed that despite the lack of a common approach on Kosovo's status with 5 out of 27 member states (namely; Slovakia, Romania, Spain, Greece and the Greek Cypriot Administration of Southern Cyprus) not recognizing the independence of the country, there is no legal obstacle for Kosovo to start negotiations for the eventual signature of an SAA with the EU provided that the short-term priorities regarding the rule of law, public administration, protection of minorities and trade are met. The Commission's recommendation to start negotiations on an SAA with Kosovo is quite significant, for it rules out the possibility that non-recognition by some member states will hinder the country's EU integration process at its early stages. Nonetheless, the problem of non-recognition by some member states is likely to become more significant as Kosovo moves closer to membership.

Conclusion:

The 2012-13 Enlargement strategy revealed that the degree of progress towards meeting the EU requirements varied among the regional states. While Croatia, Macedonia, Albania and Kosovo have been on the winning side, Montenegro has been called to accelerate its efforts in fighting corruption and organized crime, Serbia has received a mixed reaction with the Commission underscoring the need for a normalization of the relations with Kosovo. Bosnia and Herzegovina has been on the losing side due to the inability to amend the constitution allowing ethnic minorities to compete for top level governing posts. It remains to be seen whether the Commission's recommendation to open accession negotiations with Macedonia will manage to create the long-awaited breakthrough in the Council of Ministers.

This year's progress reports on the Western Balkans point to the fact that despite the rather unfavorable environment in the Eurozone, the EU is still willing to maintain its role as a driver for transformation in the region. This was evident in the Commission's changing methodology diversifying the instruments at its disposal to address the specific challenges in each country. This has been the logic behind initiatives such as the HLAD with Macedonia and the HLDAP as well as the structural dialogue on Justice with Bosnia and Herzegovina. All these developments point to the fact that despite the negative notions the EU has come to be associated with as a result of the sovereign debt crisis, enlargement is still alive in the Western Balkans.