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Widening and Deepening? Preparing the EU for the Integration of new Member States

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While the debates on the internal reforms necessary for EU enlargement have been going on for three decades, Russia's war against Ukraine, in addition to the conclusions of the Conference on the Future of Europe, recently led the EU, and especially France and Germany, to subject these stakes to a process of intense reconsideration. The recent results published by the Franco-German working group of experts on EU institutional reforms should undeniably be considered as an important step for gathering valuable ideas and for confronting viewpoints. From a historical perspective, we can distinguish between three different approaches: (1) prioritising deepening as a precondition for widening, (2) enlarging the EU in a first step and tackling internal reforms (deepening) afterwards, and (3) endeavouring to address both challenges concurrently. Given the current discourse regarding the EU's institutional reforms, deepening before widening becomes a central approach to follow. However, two distinct strategies emerge, the first of which is comprehensive EU reform, including far-reaching treaty modifications elaborated through a convention. This strategy has garnered support in various instances, such as the speech delivered by French President Macron during the closing ceremony of the Conference on the Future of Europe, as well as the coalition agreement (7 December 2021) adopted by the governing parties in Germany, which advocates for a convention tasked with drafting a European constitution. In contrast, the second strategy opts to avoid broad deliberations on reform, focusing instead on limited, incremental changes within the

existing treaty framework. Following this second strategy, numerous EU member states expressed their opposition to treaty amendments soon after the conclusion of the Conference on the Future of Europe. While the German Government initially favoured the first strategy, German Foreign Minister Baerbock finally lent her support to more minor reforms and Chancellor Scholz cautioned against controversial and time-consuming debates regarding institutional issues.

More encompassing reforms would be desirable in order to overcome institutional stalemates in the EU's current governance structure. However, the most likely scenario is a limited reform approach that avoids treaty amendments and conventional procedure. When contemplating potential reforms, five key areas emerge in the current discourse: (1) institutional reforms, (2) budgetary reforms, (3) policy reforms, (4) reforms seeking to safeguard the EU's fundamental values, with particular emphasis on the rule of law, and (5) reforms aimed at strengthening the democratic accountability of the EU institutions.

More efficient institutions

Concerning institutional reforms, the most intensively discussed issue is the extension of qualified majority voting (QMV). There is a wide consensus that the unanimity principle would hardly work within an enlarged Union, given that each new member state would effectively become a new potential player with

the power to veto decisions. In addition, such an extension of QMV can be achieved without comprehensive treaty revisions. According to [Art. 48.7 of the Treaty on European Union \(TEU\)](#) (known as the *passerelle clauses*), the European Council can extend the scope of QMV via a unanimous decision, without convoking a Convention and/or an Intergovernmental Conference.¹ This procedure could also be applied to the EU's Common Foreign and Security Policy (CFSP), with the exception of decisions involving military implications or defence matters. The extension of QMV is therefore considered a necessary and urgent reform that can be implemented through a simplified procedure. However, concerning its scope, it is likely that a similar dynamic witnessed during intergovernmental conferences in Maastricht, Amsterdam, Nice and Lisbon may unfold, namely a broad consensus on the need for extended QMV in general, while simultaneously encountering national vetoes pertaining to concrete policy areas. Consequently, the question at hand will not be so much whether an extension of QMV will occur, but rather to what degree the EU can extend QVM using the *passerelle clauses* and whether such an extension will suffice to address the challenges of future round(s) of enlargement.

A second reform easy to implement without treaty amendments involves the reduction of the number of commissioners. Most member states and experts acknowledge that the current Commission of 27 members is already problematic, and a Commission comprising 35 members would be dysfunctional. It was for this reason that the Treaty of Lisbon introduced [Art. 17.5](#), stipulating that “the Commission shall consist of a number of members [...] corresponding to two thirds of the number of Member States, unless the European Council, acting unanimously, decides to alter this number”. Since the current practice of appointing one commissioner per state is contingent upon the latter exception rule, a return to the original rule of the Treaty of Lisbon or an alternative rule could be implemented without necessitating any treaty amendment.

A reformed budget and new own resources

A second important area of reform for further enlargement concerns the budget. A future enlargement encompassing the Western Balkan countries, Ukraine, Moldova, and potentially Georgia would also require a reform of the EU's budgetary system. Similarly, Agenda 2000, consisting of a comprehensive reform of agricultural, structural and cohesion policy, as well as the system of own resources, was considered a key prerequisite for the EU's eastern enlargement in 2004 and 2007. The main reform challenges relate to the areas of agricultural, structural and cohesion policy on the expenditure side, and to the system of own resources on the income side. With regard to agricultural policy, the existing system would have to be fundamentally reformed, given the significant agricultural sector in Ukraine. As for structural and cohesion policy, it will be crucial to determine the extent to which reconstruction efforts in Ukraine should be financed from the regular budget or covered by a specialised programme similar to [NextGenerationEU](#). Concerning own resources, the EU is required to make adaptations in terms of both the quantity of own resources, considering that all new member states would become net receivers, and the decision-making procedures associated with them. The unanimity principle for determining own resources is unlikely to be effective in an enlarged Union. On the other hand, transitioning to majority decisions poses other types of challenges. For instance, the German Constitutional Court requires the approval of the *Bundestag* (German federal parliament) whenever national budget resources are transferred to the EU level. Therefore, an introduction of majority decisions appears unlikely. Another scenario is based on future own “real” EU resources, potentially achieved through granting the EU the right to levy taxes. Considering the protracted negotiations involved in the formulation of Agenda 2000, the EU and its member states should commence the process of budget reform at the earliest opportunity.

¹ According to Art. 48.7 TEU, the national parliaments only possess a right of objection. However, if this right is not exercised within six months, the European Council can adopt such a decision without any further ratification procedure.

Policy-specific reforms and their implementation within the framework of differentiated integration

Alongside institutional and budgetary issues, the EU should also look to reform certain policy domains. Within this context, particular attention is dedicated to asylum policy, Economic and Monetary Union (EMU) and the CFSP. However, apart from the institutional implications, the reforms under discussion are not directly related to enlargement. These issues retain a high level of importance even within the current EU framework. In the realm of asylum policy and EMU, it is important to note that the new member states are unlikely to become part of EMU or the Schengen area immediately. Consequently, the process of enlargement will not directly affect policies regarding freedom, security and justice.

The EU should therefore also rely on the mechanism of differentiated integration. In the past, differentiation in the context of enlargement was primarily employed as a transitional solution. This was particularly evident in cases concerning EMU and the Schengen area. Furthermore, there were temporary exceptions within the “core” of EU integration, namely the internal market (with regard to the free movement of workers). Such differentiations are expected to be applied also in future enlargement rounds. Another possibility of differentiated integration is “partial membership” of candidate countries in specific policy areas. This idea was initially outlined in Balladur’s model of a Europe consisting of concentric circles during the 1990s. Within the current EU system, such forms of sectoral integration for candidate countries already exist, as exemplified by the Energy Community aiming to integrate the Western Balkan states, Moldova, Ukraine and Georgia into the EU energy market. However, a challenge posed by this model is that candidate countries may consider this to be a permanent solution that impedes full membership. Moreover, further differentiation would lead the EU to deviate from the model of a unitary understanding of integration. Consequently, such a model of “partial membership” should be combined with a clear road map for the further enlargement process to increase its acceptance in the candidate countries.

Strengthening compliance with the EU’s fundamental values and the rule of law

The phenomenon of democratic backsliding in certain member states, coupled with limited success in implementing reforms in candidate countries, has brought the question of compliance with the EU’s fundamental values, particularly the rule of law, to the forefront of the EU policy agenda. Above all, it has become increasingly evident that the successful completion of chapters related to democracy and the rule of law within the accession process does not guarantee sustained adherence to these fundamental values. This is even more important given that the [Art. 7 TEU](#) procedure has so far proven largely ineffective when member states violating these principles mutually protect each other. Against this backdrop, the EU has implemented various successful measures in recent years, employing a combination of different approaches. These include the introduction of a rule-of-law conditionality mechanism to protect the EU budget, linking the allocation of funds from the NextGenerationEU fund to compliance with the rule of law, the issuance of new annual reports on the rule of law, and the proactive application of infringement procedures in cases related to rule of law violations. Further reforms could thus be enacted without necessitating treaty amendments.

The prospect of reforming the Art. 7 procedure, in particular the introduction of majority voting for sanctions, remains unrealistic since such an amendment could only be implemented unanimously by a treaty amendment. However, there is room for creative proceedings within the current system. For instance, the first stage of the Art. 7 procedure could be leveraged as a minimum measure, in the course of which the Council, following consultations with the European Parliament, can ascertain by a 4/5 majority that there is a clear risk of a severe breach of the values outlined in [Art. 2 TEU](#) by a member state. Such a determination would, at the very least, be a highly symbolic step.

The democratic accountability of the EU institutions

Despite the continuous expansion of the European Parliament's powers over the past decade and the introduction of new instruments such as the European Citizens' Initiative and the so-called early warning mechanism to involve national parliaments in the EU legislative procedure, demands for enhanced democratic participation at the EU level persist. Moreover, an increased number of new member states might also weaken the EU's democratic accountability.

Consequently, numerous proposals aiming to improve the democratic legitimacy of the EU have emerged in recent years, including trans-European lists for European elections, a binding *Spitzenkandidaten* (lead candidates) model and the introduction of European referenda and European citizens' conventions, among others. Furthermore, in order to engage the candidate countries more in the EU's democratic proceedings, the latter should think about new ways of involving candidate countries in the decision-making process. For instance, the candidate countries could be accorded observer status in the European Parliament. Such observers existed in the European Parliament for the countries of the 2004 enlargement round during the transitional period between the signing of the accession treaties and formal accession.

All of these reform proposals have been subjected to critical discussion. On the one hand, this opposition stems from the perception that these proposals tend to diminish the influence of member states. On the other hand, they are associated with divergent notions of democracy (e.g. direct vs. representative democracy). Against this backdrop, it would be important to engage in a discourse regarding a shared European understanding of democracy, even though diverse national interpretations of democracy will likely persist.

Conclusion: a holistic reform approach

When considering the internal reforms necessary for EU enlargement, it becomes apparent that many of these reforms could be implemented without the need for comprehensive treaty revision. Given the experience of the previous comprehensive treaty reform, which spanned nearly one decade and led to a profound constitutional crisis, member states have displayed a strong inclination to favour incremental reforms over a conventional process.

Nevertheless, it is crucial to be aware of the challenges associated with such incremental reforms. One key risk is that certain solutions may be dismissed, only because they would require treaty amendments. In addition, dividing the necessary reforms into separate individual measures, each implemented through different procedures, implies the danger of isolated consideration and treatment. This, in turn, hinders the possibility of comprehensive package deals encompassing multiple policy areas and linking policy reforms with institutional reforms. In the past, however, such overarching package deals have proven to be "the engine of integration". The most prominent example is the link between the introduction of QMV and the internal market brought about by the Single European Act.

With this in mind, both the EU institutions and the member states, if they opt for reforms without comprehensive treaty amendments, should strive to approach the various individual measures holistically rather than in isolation – as part of a pooled and coordinated process. If the potential of incremental reforms can be combined with the potential of comprehensive cross-sector package deals, an overall package could emerge that effectively addresses the internal reforms required for EU enlargement. France and Germany should maintain the momentum created by the Franco-German working group of experts and lay the groundwork for future measures with a certain level of ambition to overcome not only their own differences, but also the other members' nationalist viewpoints.

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