

METHODOLOGY OF THE EU ENLARGEMENT: A CRITICAL APPRAISAL*

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Introduction

The aim of this article is to analyze the new methodological features of the enlargement process of the European Union. The outcomes of the process are less than certain with respect both to the date it will finally happen and the changes it will bring about in the Union and the candidate countries. However, certain new features of the process as compared to previous enlargements are quite evident. The uniqueness of the challenge of the enlargement is reflected in the number of countries involved in the process as well as in the differences in the level of their economic, social, and political development as compared to the Union's level since the profoundness of their transformation will require a qualitatively new response from the Union. This could reflect a new philosophy or methodology of the enlargement, a new set of principles or approaches governing the modalities of enlargement. Therefore, this article will try to assess whether a new kind of enlargement methodology has really been developed and, if so, what are its main principles and do they form a coherent set or logic of enlargement? Then, the implications of this supposedly new methodology will be assessed with regard to the candidate countries in terms of its benefits and possible risks.

The article is divided into two parts. The first is devoted to the explanation of four new principles in the on-going EU enlargement. It notes substantial differences in its logic as compared to previous enlargements and draws some conclusions about the rationales and implications of the new principles to the institutional balance of power within EU institutions. The new principles are: conditionality, increasing asymmetry, complexity, and differentiation. They form a consistent control logic which in a positive sense, provides guidelines for the candidate countries and, in a negative sense, delays the enlargement, thus responding to the fear of the dilution of the EU *acquis*. Within the limits of the member states' aim to postpone the enlargement, the European Commission was able to monopolize the relationship with the candidate countries and increased its power considerably. The second part provides an assessment of some of the implications to the candidate countries of the new enlargement methodology, in particular to the national political consensus in these countries. It concludes that the national political consensus in the candidate countries may perhaps be diluted because the new methodological tools are asymmetrical and aim at the preservation of a national political consensus on enlargement only in the EU member countries. This, in turn, challenges the whole enlargement process.

* I am grateful to the European Integration Studies Center of the University of Bonn (ZEI) for the possibilities to spend almost two months of 'splendid isolation' in Bonn. This article is a result of it. I would like to thank Dr. Marcus Wenig and Dr. Peter A. Zervakis (ZEI) for the encouragement and comments provided and Žygimantas Pavilionis from the Lithuanian Mission to the EU in Brussels who commented on some of the proposals contained in this article. I am particularly grateful to Ramūnas Vilpišauskas from the Institute of International Relations and Political Science of the University of Vilnius who commented extensively on the text and with whom many arguments surrounding EU enlargement were debated.

This article will use a whole range of interdisciplinary tools ranging from comparative analysis and international relations theory to the specific theories of economic and political integration as well as insights from economic history. Many arguments in this article are supported and illustrated by empirical evidence derived mainly from the experience, first of all, of Lithuania and, to a lesser extent, of the other Baltic countries in dealing with the EU. It could be valuable in itself because most previous studies on EU enlargement drew heavily on the experience of the Visegrad countries: Poland, Hungary, and the Czech Republic. However, since the Union applies standard instruments and principles of enlargement to all candidate countries which face similar transition problems, there are enough reasons to believe that the main conclusions apply to all the candidates.

I. New principles of the methodology of enlargement

This enlargement process in many respects obviously differs from the previous ones. Since it is still continuing, no final conclusions on its outcome and implications as well as on the differences with previous enlargements can be made now. It is clearly much more difficult since so many different countries have embarked on it. The difference in the development of the candidate countries and most EU countries is also one of its particular features. However, this paper will not analyze the different initial situations, but rather the difference in the approach adopted by the EU towards this enlargement.

The basis for investigating the peculiarities of the methodology and instruments of the EU enlargement will be the classical method of enlargement elaborated by Christopher Preston.¹ He describes it as “a constant pattern both to the formal accession procedures adopted, and to the implicit assumptions and principles which have shaped the expectations of the participants and the progress of negotiations.”² Preston identifies six principles of the classical enlargement method: (1) Applicants must accept the *acquis communautaire* in full. No permanent opt-outs are available; (2) Accession negotiations focus exclusively on the practicalities of the applicants taking on the *acquis*; (3) The problems arising from the increased diversity of an enlarged Union are addressed by creating new policy instruments to overlay existing ones, rather than fundamentally reforming the existing inadequacies of the instruments; (4) New members are integrated into the EU’s Institutional structures on the basis of limited adaptation, facilitated by the promise of a more fundamental review after enlargement; (5) The Union prefers to negotiate with groups of states that have close relations with each other; (6) Existing member states use the enlargement process to pursue their own interests and collectively to externalize internal problems.

The author concludes that the development of EU policy towards the associated Central and East European (CEE) countries until 1995, including the Copenhagen criteria, the pre-accession strategy, and the White Article, suggests that the basic principles of the classical method were retained. This paper will look at the further development of the EU policy to determine whether this conclusion is still valid.

¹Christopher Preston, *Enlargement and Integration in the European Union* (London: Routledge, 1997).

² *Ibid.*, p. 9.

I.1. New methodology: four principles

One specific feature of the new method of enlargement is its **complexity**. Previous enlargements, except the first one, were basically devised as a two-stage process starting with a kind of association and ending with negotiations. But now an intermediate stage with many specific instruments between association and negotiations was created. Its aim was to establish an additional gate to negotiations, allowing the EU to control the process better. The role of the gate keeper was naturally given to the European Commission. Generalizing the argument further, the enlargement process is becoming more complex, having more and more stages with more and more possibilities to control access to each stage.

One implication of this tendency to make the enlargement more complicated and sophisticated is the possibility to differentiate between the countries involved. The fifth principle of the classical method of enlargement is that the EU prefers to negotiate with groups of countries. The experience of this enlargement, however, allow us to amend this principle by adding the importance of **differentiation**. To ensure the possibility to differentiate, the process was expanded into more stages and, what is even more important, a whole set of conditions was developed and made flexible according to the political situation in the EU.

Conditionality could, therefore, be regarded as the third specific feature of the process and the backbone of its new methodology. While it was to a certain extent present in previous enlargements, three new features of the conditionality principle emerged. (1) The conditions which in the previous enlargements were limited to the principle of the inviolability of the *acquis* were extended further. The famous Copenhagen criteria are the best example of this extension. (2) As the conditions were not fixed, there was a tendency to create new and more detailed conditions as in the Accession Partnership. (3) Even initially set conditions were made so flexible that their content could be constantly adjusted to the needs of a particular situation. In other words, the initial conditions were cultivated both extensively and intensively. They were enlarged in scope and changed by extending and concretizing them further.

These three features contributed to the growing **asymmetry** in the relationship between the candidate countries and the EU as the instruments based on contractual (more or less mutual) obligations were gradually replaced by instruments based on unilateral obligations. This feature and tendency is clearly demonstrated by the shift from the Europe Agreements to the White Book on law approximation, and finally to the Accession Partnerships.

These four new features or principles of enlargement will be considered in greater detail.

The more complex character of enlargement in terms of the new stages in the development of the relationship does not require much supporting evidence. The second feature, differentiation, is also quite obvious. However, one should provide arguments for the statement about the link between the complexity, the differentiation, and the conditionality. The conditionality argument is also quite obvious. However, further explanation is needed to explain its changing nature. The argument on asymmetry, while

again obvious, requires further elaboration, in particular with regard to the claim that the asymmetry is growing.

II.2. Conditionality: from guidance to differentiation

Conditionality is the core element of the methodology of this enlargement. While it is not a new phenomenon in the EU's external relations and foreign policy,³ the specific application of the conditionality principle towards the CEE candidate countries requires particular attention.

Its development could be traced in the Europe Agreements signed with the first Central European countries in 1991. However, the role of conditionality was reinforced and made explicit by the establishment of the Copenhagen criteria. Looking at these criteria, it is striking how vague and flexible they are.⁴ Take, for example, the second condition concerning the functioning of the market economy. It is at best an ideal type explaining the basic idea about the method of how welfare is created and that it is created by economic agents free to react to the demands of consumers. The Commission only afterwards, in its 1998 Progress Reports developed six sub-criteria concretizing its content,⁵ but they pose even more questions than answers. Market economies even in the European Union can be quite different, not to mention in other developed and developing states.⁶ Therefore, it is not surprising that this criterion was made a decisive one in determining the 1997 and 1998 recommendations of the Commission. A second observation is that the Copenhagen criteria are stricter than the requirements put before the applicant countries in the previous enlargements. While the first two could be well attributed to the particular features of the new applicant countries, namely, to the political, economic, and social transformation they were undergoing, the Copenhagen criteria relate to the adoption of the *acquis*.⁷ The ability to take obligations of the *acquis* and not the necessity to take over the whole *acquis* before accession is formally required. However, the Progress Reports of the Commission tend to interpret the criterion in the latter sense. Therefore, as some observers rightly noted, "for the first time in the case of Central Europe, the Union is requiring countries to take over the *acquis* before the negotiation starts."⁸

The principle aim of these conditions was not only to provide needed guidance to the associated countries but also to build up an additional barrier or filter enabling the

³ Steven Weber, "European Union Conditionality," *Politics and Institutions in an Integrated Europe* [ed. by Barry Eichengreen, Jeffrey Frieden, Jurgen von Hagen] (Berlin, Heidelberg, New York: Springer, 1995).

⁴ This evaluation is shared by many experts. See, for example, H.Grabbe, "The EU's Enlargement Strategy," *The Baltic Dimension of European Integration* [ed. by O.Grobel, Atis Lejins] (Riga, 1996), p.50; Alan Meyhew, *Recreating Europe: The European Union's Policy towards Central and Eastern Europe*, (Cambridge: Cambridge University Press, 1998), p. 162.

⁵ They are provided in all regular reports of the Commission published to date.

⁶ Meyhew, *Recreating Europe*, p. 162.

⁷ In its 1999 Report the Commission referred to it as the third criterion, the previous two merging into one economic criterion.

⁸ Meyhew, *Recreating Europe*, p. 369.

Union to remove the claims of those countries for early membership from the agenda of the Union as well as ensuring better control of the process through differentiation. This aim played an essential role in 1997 when the Commission recommended that only five countries begin negotiations as well as in 1998 when the decision not to enlarge the first group was justified by the Copenhagen criteria. The 1999 Commission's Report recommending the start of negotiations with all the candidate countries satisfying only the political criterion again demonstrated the limitations of the Copenhagen conditions. However, they still provided a sufficient basis for justifying the refusal to take Turkey on board.

II.2.1 External extension of the conditions

The role of the Copenhagen criteria was somehow limited in the Commission's recommendations of 1999 largely because a number of other conditions were developed to replace them. First, the Commission proposed the introduction of the 'differentiation' principle in the negotiations phase. It gives the Commission the right to use conditionality before opening different chapters of negotiation and even to propose different chapters for different countries depending of their so called 'preparedness'. Second, a new set of conditions, based on the conclusions of the Commission's evaluation of the progress in each country, was established through a new instrument, the Accession Partnerships. These documents contain short and medium term priorities for candidate countries. They, it should be stressed, are unilateral documents of the Union adopted by the Council after the proposal of the Commission. The candidate countries are only consulted before their adoption and then should mirror these priorities in their national programs of the adoption of the *acquis*. These programs specify the measures planned to implement the priorities of the Accession Partnership (AP) for a particular country. The AP is the basis for distributing EU assistance to the candidate countries.

Since the principle aim of the established conditions is not to guide the candidates but rather to control the process by differentiating between them, the conditions were not only extended, but also made very flexible. It is impossible to say, as it was noted above, whether flexibility was a result of a conscious attempt to have a large room for interpretation. It is at least clear that it was used by the Commission and by the Union in general as an additional instrument of differentiation. Therefore, it could be noted that the development of conditionality was driven by rather different forces within the Union. While in the case of the association agreements the interests of certain sectors or interest groups played a major role in determining the content of the conditions, the further development of conditionality reflected in the Copenhagen criteria and their subsequent interpretation by the Commission have been largely driven by a mixture of state foreign policy and EU foreign policy preferences.⁹

II.2.2. Internal extension of the conditions: a case study of the Commission's Progress Reports on Lithuania

⁹ Ulrich Sedelmeier, "The EU's Association Policy Towards Central and Eastern Europe: Political and Economic Rationales in Conflict," *Sussex European Institute Working Report*, 7 (1994); Weber, *Conditionality*.

The changing nature of the conditions established by the European Council in Copenhagen could be demonstrated by analyzing the three consequent Commission's reports released in 1997, 1998, and 1999. Since it is impossible to make careful comparative evaluations of all the reports of all the countries, I will only discuss the reports on Lithuania's progress towards accession which are particularly suitable since Lithuania was denied access to negotiations in 1997 and 1998.

The decision to exclude certain countries from the group of countries invited to negotiate in 1997 provoked many controversies. In reaction to this, the Luxembourg European Council decided to launch an accession process with all the candidate countries and thus soften the negative reaction of those who were left outside. However, the decision to differentiate resulted in many attempts to analyze the opinions of the Commission and to assess whether there contained serious arguments justifying the decisions made. The selection of Poland, Hungary, and the Czech Republic was very obvious. These countries were well ahead of the others in a number of fields. They started the preparation for membership earlier and their efforts in the economic reform were recognized by their admission to the OECD. Slovakia was excluded for clear political reasons. The choice of Estonia and Slovenia was less obvious. While Slovenia was well ahead of all the other candidate countries in its relative economic development, its particular efforts aimed at the EU membership in terms of the adoption of the *acquis* were rather modest and comparable to the efforts of Latvia, Lithuania, and some other countries left outside. The Commission recognized this fact in its subsequent reports in 1998 and 1999. The difference in the preparedness of Estonia with respect to the other Baltic states was again not very obvious. In the best case, Estonia was slightly ahead of the other Baltic countries in terms of economic development.¹⁰

The comparative analysis of the Commission's reports can not provide very clear and convincing arguments to support the choices made. There is no justification for the argument that only five countries had passed the line. The reports themselves have been written using different basis for evaluation and evaluation techniques.¹¹ Instead of clear methodology, the Commission used certain approaches which favored certain countries and discriminated against others. It seems that the conclusions were made from the general impression about and the trust in a country rather than from the careful examination of its internal preparation. The principle of "the last ship in the convoy" meaning that the general progress was evaluated according to the failure to complete one or another reform, not compensated by rapid progress in other spheres further distorted

¹⁰ Sven Arnsward, "The Politics of Integration of the Baltic States into the EU - Phases and Instruments," *The European Union and the Baltic States* [ed. by Mathias Jopp, Sven Arnsward] (Institut für Europäische Politik and the Finnish Institute of International Affairs, 1998), p. 76.

¹¹ For example, the data on a percentage of administrated prices in the consumer price index basket, in itself an important indicator of the price liberalization, were used selectively and can be found only in some reports. It is unclear how the level of privatization was assessed. In some cases the share of the GDP generated by the private sector is used as the main indicator of the success or failure of privatization. In other cases the ratio of enterprises earmarked for privatization and enterprises actually privatized is used as a basis for evaluation (see Jonas Čičinskas, Progress Report: Discussion in Lithuania?, *Lithuanian Foreign Policy Review*, 2 (1998), 125.

the general picture.¹² Later comments made by those who had been involved in making the decision suggest, for instance, that the decisions on Slovenia and Estonia made in 1997 were primarily based on geopolitical considerations.¹³ This is not bad in itself, but the decision was presented as a rational choice based on the Copenhagen criteria.

Candidate countries left outside the negotiations in 1997 were looking very much forward to their possible positive reevaluation in the progress report of 1998. However, it concluded that still none of the left outside the negotiations countries could satisfy the criteria. In order to justify this decision the Commission used formulations of a strikingly Byzantine complexity. While in 1997 the Commission simply stated that “Lithuania has made considerable progress in the creation of market economy.” but it “would face serious difficulties in coping with competitive pressure and market forces within the Union in the medium term,” in 1998 it reported that “the sustained implementation of the remaining reform agenda would complete the establishment of a functioning market economy, and enable Lithuania to make progress necessary to cope with competitive pressure and market forces within the Union in the medium term.”¹⁴ These formulations as well as the concrete analysis in the 1998 Report suggest that the Commission added a new criterion related to sustainability of reforms.¹⁵ A similar formulation, although a little bit more positive, was used for Latvia. The 1998 Report stated that “Latvia had continued to make progress in establishing a market economy and was well on the way to being able to cope with competitive pressure and market forces within the Union in the medium term.”¹⁶ Afterwards, unofficially, it was made clear that there was still not enough political will from the EU side to enlarge the group of negotiating countries.

In 1999 the Commission finally recommended that all countries satisfying the political criterion start negotiations. However, it was again stated that “Lithuania has continued to make progress in establishing a functioning market economy and is on the way to being able to cope with competitive pressure and market forces within the Union in the medium term provided it completes the remaining reform agenda.” The principal additional argument this time was about how Lithuania reacted to the Russian crisis. In addition to that, the level of analysis of the Commission shifted from macro-economic to micro-economic. Issues related to productivity and profitability of companies become the focus of the economic part of the Commission’s report on Lithuania.¹⁷

¹² Ibid, p. 123.

¹³ Mayhew, *Recreating Europe*, p. 176; Arnsward, *Politics of Integration*, p. 76.

¹⁴ European Commission, *Agenda 2000 - Summary and conclusions of the opinions of Commission concerning the Applications for Membership to the European Union by the candidate Countries* (DOC/97/8, Brussels, July 15, 1997); European Commission, *Regular Report from the Commission on Progress towards Accession, Lithuania*, 1998.

¹⁵ This view was shared by many EU member countries diplomats residing in Vilnius and Brussels.

¹⁶ European Commission, *Regular Report from the Commission on Progress towards Accession, Latvia*, 1998.

¹⁷ Europos Komitetas prie LRV [European Committee under the Government of Lithuania], *Europos Komisijos antrojo Reguliaraus pranešimo apie Lietuvos pažangą siekiant narystės ES analizė. Santrauka* [The Analysis of the Second Regular Report of the European Commission on Lithuania’s Progress towards Accession. Summary] (Vilnius, October 22, 1999), p. 7.

While this overview of the Commission's arguments is far from being comprehensive, it should be sufficient to demonstrate the changing content of the initial Copenhagen criteria. Being vague and flexible, they allow a very wide range of interpretation and adjustment which is being made in reaction to the political situation in the Union.¹⁸ It should be acknowledged, however, that gradually the Commission tends to use more transparent procedures as well as clearer methodologies in assessing the progress made by the candidate countries.¹⁹

II.3. From the association to the accession partnerships: growing asymmetry

The extensive and intensive growth of conditionality related to EU membership has been accompanied by the growth of asymmetry in the process. This could be well noted in the development of the Union's instruments used in the pre-accession phase. The first main instrument devised to prepare the CEE countries for accession was the Europe agreements signed with the 10 CEE candidate countries in the period from 1991 to 1996. While at the beginning of the process these agreements were conceived rather as an alternative to membership, starting from the Copenhagen decisions they assumed the role of the principle instrument driving all pre-accession activities. These agreements by the very nature of the concept implied commitments from both sides. The associated countries agreed to open gradually their markets for EU industrial goods, to speed up their law approximation with the *acquis*, and to pursue their democracy and market oriented reforms. The Union, in turn, recognized their ultimate wish to become members of the EU, opened immediately its market for their industrial goods, and undertook to provide them assistance in pursuing reforms aimed at democracy, prosperity, and ultimate membership in the EU. These agreements were criticized for the lack of commitment from the EU side to open its markets for textiles, steel, and coal as well as for agricultural products. However, they still marked a new stage of contractual relationships between the EU and the candidate countries.

The Europe agreements still form the legal base for relations between the EU and the candidate countries. However, their importance decreased when new pre-accession instruments were subsequently created. The pre-accession strategy adopted in Essen marked an attempt by the Union to provide clearer concrete guidance for the associated countries. The main new element of this guidance was the White Book on the approximation of law adopted in 1995. Its status was different and somehow unclear. It was presented to the candidate countries as a set of non-mandatory recommendations, an on-going guide to the harmonization of laws. However, it was made clear that the associated countries should change their national programs to include the law approximation. In the White Book itself and in later documents of the Union it was

¹⁸ While it is obvious to most decision-makers directly involved in this process from both the Union and the candidate countries, the still continuing rhetoric about the so-called objective criteria and an objective evaluation of the criteria demonstrate, among other things, a widening gap between the decision-making elite and the general public.

¹⁹ For example, in the 1999 Regular Report the administrative capacities of the candidate countries were assessed using a consistent and uniform set of criteria elaborated by SIGMA.

repeatedly stated that the associated countries are free to decide on their own national priorities.

The White Book was then followed by the Accession Partnerships proposed within the package of *Agenda 2000*. The idea behind them was to further tighten up and direct the preparation process in the candidate countries. This time there was neither an indication of mutual obligations as in the Europe Agreements, nor the choice left in the White Article. The Accession Partnerships contain priorities for the candidate countries established on the basis of the Commission's evaluation. While originally the partnerships were supposed to be Commission's guidance documents, it was decided later that the Council should adopt them instead upon the Commission's recommendation thus leaving the door open for the member countries to express their preferences. The first Accession Partnerships were adopted in spring 1998.²⁰ The candidate countries then had to submit their national programs for the adoption of the *acquis*. In this case, the only room for maneuver was additional priorities and measures. Otherwise, the candidate countries were supposed to follow the AP priorities. The Union's assistance, previously at least formally distributed according to the national priorities of the candidate countries, was now clearly tied to the priorities. Another instrument aimed at ensuring the "compliance" of candidates with the priorities of the AP was the regular reports of the Commission. The regular reports provided an assessment of national programs of the adoption of the *acquis*. Starting from the 1999 Regular Report, the Commission also provides an assessment whether these priorities have been fulfilled and to what extent.

Therefore, the accession partnerships which are considered by the Union as the main instrument of accession radically altered the nature of the relationship between the Union and the candidate countries. The contractual relations foreseen in the Europe Agreements were replaced by unilateral instruments putting all the obligations and the burden of adjustment on the applicants. One could still argue that the Union assumes the obligation to provide aid to the applicants on the basis of the AP. However, the amount of this aid and its destination is decided unilaterally by the Union. Moreover, the amount of this aid is far lower than the financial resources the candidate countries require.²¹ Another argument against the conclusion made above could be the consultation procedure with the candidate countries used in 1998 and 1999. However, as again the case of Lithuania shows, the Commission tends to take on new priorities, but refuses to

²⁰ For example, *Council Decisions of 30 March 1998 on the Principles, Priorities, Intermediate Objectives and Conditions Contained in the Accession Partnership with the Republic of Lithuania* (98/265/EC, OJ L 121/31, April 23, 1998).

²¹ Mayhew, *Recreating Europe*, p. 361. Lithuania's example could well illustrate the point. According to the Lithuanian National Program of the Adoption of the *Acquis*, the financial resources required to implement measures contained in it amount to approximately 4 billion litas (1 billion euro) only in the short term period or in the year 2000. Even taking into account the fact that many of the measures should be implemented independently of the requirements of the EU, as, for example, the most costly reforms related to land reform and the improvement of the transport infrastructure, EU support is very low even in its range. In 1998 the PHARE support amounted to around 40 million euro. In 1999, taking into account the new instruments of SAPARD and ISPA, it would reach some 100 million Euro. See Governmental Commission for European Integration, *Lithuania's EU Accession Program (National Program for the Adoption of the Acquis)* (Vilnius, May 1999).

remove priorities or correct them. In addition, there is a tendency to formulate the priorities in a more strict and demanding form.²²

II.4. The role of the Commission within an institutional framework of the EU: towards a monopolization of the relationship

The role of the Commission in the enlargement process developed in parallel to the development of the methodology of enlargement. In the earliest stages of development the Commission acted as the main generator of ideas and as the promoter of the case of enlargement trying to overcome the unwillingness of some member states to undertake serious steps forward. Although in certain periods the most active states, such as Germany or the Nordic countries, led the process, the Commission always was the main protagonist of this exercise. At the same time, the Commission almost monopolized this relationship. This is probably the most important development related to enlargement within the institutional system in the overall institutional balance of power in the EU. Moreover, the desire of the Commission to monopolize the relationship was motivated by the wish to increase its competencies and power within the institutional system and therefore was in line with the general logic of institutional development within the EU system. Furthermore, this was only possible in the context of the general lack of a strong common will for enlargement and the difficulties in finding a consensus among the member states.

The increasing role of the Commission in the enlargement process could be seen in the development of the methodology and the process of enlargement itself. While even the periodization of the short history of the relations between the Union and the candidate countries would be based on the dates of the European Council meetings, the European Council and the member states played a leading role in designing the shape of the enlargement only at certain critical periods, especially at the initial stages of the development. While the European Commission designed the concept of the Europe Agreements and influenced the historic decision made at Copenhagen, the role of the member states was crucial in determining the countries chosen as well as in pushing the Commission to take more concrete steps in the pre-accession strategy than were adopted in Essen. It gave the process more concrete targets in terms of negotiation dates as demonstrated in the Madrid Council. While the Commission brought new fresh ideas to the enlargement through *Agenda 2000*, the idea of differentiation was stipulated by the member states, particularly Germany,²³ and the decision of the Luxembourg Council to start the accession process with everybody was again designed and pushed through by

²² *Uniting Europe*, 72 (October 25, 1999).

²³ Arnsward, *Politics of Integrating*, p.81. The role of Germany and the position of Chancellor Helmut Kohl promoting the membership of Poland, Hungary, and the Czech Republic and at the same time neglecting other candidate countries provoked quite harsh comments from some candidate countries. See, for example, the article by then Lithuanian Minister for European Affairs Laima Andrikiene, "Aš jus myliu, bet niekam nesakykite [I Love You, but Don't Tell Anyone about It]," *Lietuvos aidas*, October 29, 1997.

two small member states of the Union, Denmark and Sweden.²⁴ It should also be noted in this respect that Germany's interests always played a major role in the enlargement process. However, as far as the Baltic states and Lithuania in particular are concerned, despite the numerous official statements by German politicians and other officials about Germany being the advocate of the Baltic states²⁵ this never came true and Germany never played the role it claimed. Instead, it seems that Germany was in favor of a kind of 'intermediate' status of the Baltic states. The main preoccupation of Germany has always been the Visegrad countries and Poland in particular.

The situation, however, changed after the Luxembourg summit. Calls for stricter conditionality and the tools designed to control it, namely, the Commission's regular reports on the progress of the candidate countries as well as the accession partnerships, provided the Commission with the principal role in the enlargement or accession process. Through these two closely linked instruments, reinforced by the traditional Commission's role in the distribution of pre-accession aid, the Commission emerged as the single most important actor in the process. This is especially valid for the second group countries in the last two years. Its role remained more balanced through the counter weight of the member countries with respect to the first group of countries because they engaged in negotiations. Since the primary preoccupation of these countries was the process of negotiations and the member states continued to play a major role there, the Commission was not able to exercise its influence to the same extent as towards the second group of countries.

Of course, the role of the Commission can not be exaggerated. The Commission recommendations made in 1998 and 1999 on the start of negotiations with the second group of countries clearly show that it adjusted to the political will of the member countries. However, within the limits of major geopolitical decisions which are reserved to the member countries, the Commission's powers have increased considerably.

The Commission's proposals in 1999 for the further development of the accession strategy clearly demonstrate the desire of the Commission to extend its competencies even further. The proposal to introduce the principle of "differentiation" into the negotiations process, while motivated by the need to link the negotiation and preparation processes and to provide a more coherent 'level playing field' in fact increased the Commission's powers considerably. The Commission will have the right to decide how many and what chapters are to be opened with the candidate countries. The decision on the opening of different chapters will be taken after hearing the Commission's preliminary opinion on the readiness of a candidate country to negotiate.²⁶ After all, the Commission proposed to review chapters already provisionally closed in the negotiations with the first group of countries. This means that the role the Commission played vis-à-vis the second group of candidate countries will be extended to the first group of countries.

²⁴ Lykke Friis, "The End of the Beginning' of Eastern Enlargement - Luxembourg Summit and Agenda-Setting," <http://eiop.or.at/texte/1998-007a.htm> (1998).

²⁵ Examples are provided in Hans-Dieter Lucas, "United Germany, the Baltic States and the Baltic Sea Region," *The European Union* [ed. by Jopp, Arnswald].

²⁶ European Commission, *Composite Article*, 1999.

These proposals of the European Commission were endorsed by the European Council in Helsinki in December 1999. The question that arises in this context is why the member countries accepted this increase in the Commission's competencies. It is even more striking in the context in the last few years of the EU's general institutional development which was marked by a certain shift in the opposite direction. The major steps undertaken within the EU towards new policies were initiated by and placed under the strict control of the member states. This applies to the major achievement of the last ten years, namely the economic and monetary union, as well as to the closer cooperation and integration in the sphere of justice and home affairs reflected in the Treaty of Amsterdam and in recent decisions of the European Council in Tampere.²⁷ This trend is further exposed by the severe blow the Commission experienced after it was forced to resign after supposed mismanagement in Spring 1999.

Two main reasons might explain this apparent paradox. The first is the lack among the member countries of a coherent political will to enlarge. The other reason is the quite divergent geopolitical interests of the member states making the choice about different candidate countries more difficult. The development of the EU policy towards the candidate countries presented above shows the rather skeptical attitude of most member states towards enlargement and, consequently, less will to provide new impetus to the process. This change of attitude is well marked and could be explained by the diminished support among the population of the EU member states towards enlargement. Therefore, within the strict limits of choices excluding every initiative which could make the process faster and more inclusive, the member states allowed the Commission to play the major role in ensuring better control of the process. This control, as explained earlier, was exercised through a number of new instruments characterized by stronger conditionality, more complexity, and growing differentiation and asymmetry.

Almost all the changes in the methodology of enlargement were motivated by so-called objectivity and not the politicization of the process. Therefore, all the candidate countries who felt that they were in a strong position in terms of their preparedness for membership did not oppose these developments, but even supported them. The politicization of the process was conceived as a synonym for postponing the process and for introducing other new unfair rules for the game. The other side of the coin was rarely noticed and is largely related to two factors. The first is the very strict limits imposed by the member states on every Commission initiative. The Commission has the right to do anything to make the process more complex, more conditional, and therefore less speedy. Another factor is the preferences of the Commission itself which were largely overlooked while evaluating the calls for a more objective process.

While it is quite obvious to everybody that the member states have their own preferences which largely shape the process of European integration, the fact that the Commission itself as well as other institutions have their own preferences, while being recognized, is largely overlooked.²⁸ However, the Commission has its own preferences

²⁷ European Council, *Presidency Conclusions* (Tampere, October 15-16, 1999). For a similar argument concerning the increasing role of the member states see "Survey on the European Union," *The Economist*, October 23, 1999.

²⁸ This could at least be partially explained by the fact that the theoretical discussions on the nature and dynamics of European integration could be characterized by the rising influence of the intergovernmental

which usually are expressed in two ways. First, being the guardian of the legal order in the Union, the Commission is keen to develop further European integration and prevent any attempt to dilute what has been already achieved. Second, the Commission, originally designed as the future technocratic government of the Union, is keen to expand its role and competencies. How do these two preferences of the Commission shape the enlargement process?

The mentioned developments suggest that within the limits of choices desirable for the member states, the Commission managed to increase substantially its role and competencies in this particular field of European integration. The Commission succeeded in almost monopolizing relationship with the candidate countries by imposing priorities and even methods of work. Developments with regard to another 'classic' preference are not so obvious and require certain elaboration.

This preference of the Commission resulted in an approach to the candidate states which emphasized the gradualism of the process and discriminated against some candidate countries. As it was demonstrated earlier, a subtle change in the content of the Copenhagen criteria against which the conclusions on the performance of the candidate countries were made, allowed the Commission to keep the process of accession under strict control. As a short case study on Lithuania demonstrated, the Commission uses the analysis and Byzantine style conclusions as tools to avoid any radical changes. It prefers gradual changes with respect to the status of the candidate countries.

This should not be, however, exaggerated, and there is no intention to say that the whole analysis of the Commission is biased. However, our purpose is to show the latent logic of the actions of the Commission and to explain certain differences in the content of the analysis made and the final conclusions.

The general assessment and explanation of the institutional balance of power within the Union and its changes are well beyond the aim and scope of this article. However, it seems that the development of EU policy towards the CEE candidate countries and the new features of the methodology of enlargement provide an interesting case study of the institutional development of the Union. It would support the thesis that the member states remain the single most important actor and their basic interests and political determine the outcomes of European integration. However, in cases when these interests are divergent and the political will is obscure, or, rather, when there is a considerable gap between the long and short term interests of the member countries as well as a gap between long term EU foreign policy interests and short term interests of influential interest groups, as in the case of this enlargement, the supranational actors, and the Commission in particular, are able to exploit the situation by increasing their own

approach which questions different functional or neo-functional theories. The former relies heavily on the reconstruction of basic historic facts and the original motivation of key decision makers in the process of European integration and argues that empirical evidence supports better its basic propositions. See, for example, Alan S. Milward, *The European Rescue of the Nation State* (London: Routledge, 1994) and, in particular, Andrew Moravcsik, *The Choice for Europe. Social Purpose and State Power from Messina to Maastricht* (Ithaca, New York: Cornell University Press, 1998). For a general account of recent research on the nature of the dynamics of European integration providing a rather more balanced picture see Tom Risse-Kappen, "Exploring the Nature of the Beast: International Relations Theory and Comparative Analysis Meet the European Union," *Journal of Common Market Studies*, 34, 1 (1996).

competence offering themselves as seemingly impartial mediators bridging the divergent interests.

II.5. Conditionality, differentiation, complexity, and asymmetry: the logic of control

As demonstrated by the developments in the EU methodology, increasing complexity, stronger conditionality, and the asymmetry of the process are the driving forces of this enlargement. The EU and the European Commission, in particular, justify these changes by the necessity to guide the candidate countries and to provide important incentives to reform as well as being a firm policy anchor. This is certainly true. Undoubtedly, the Union has succeeded in bringing more discipline and coherence to the reforms undertaken by the applicants. However, the development of the process, which is more and more influenced and accordingly shaped by a different logic of action aimed at postponing further enlargement, substantially distorts officially declared motives and logic of action. This distortion may result in a number of intended and unintended consequences which may put the whole enlargement exercise at a certain risk.

III. National consensus and enlargement: why the fear of dilution of the Union may result in a risk of dilution in the candidate countries

The enlargement process should satisfy the interests of both the Union and the applicant countries. In order to be successful it should ensure that both sides reach a consensus and are happy about the final outcome. In other words, enlargement should, very simply, bring a result. The aspiring countries should finally join the European Union. Otherwise the enlargement fails. Formally, it means that the accession treaties are signed and properly ratified after successful referenda.

The consensus is the key concept here. The history of European integration shows that integration was first and foremost motivated by the desire to keep the broad political consensus achieved after the Second World War which is endangered by the growing incapacity of the national state to control the economic conditions deeply influenced by growing economic interdependence. Since this broad national political consensus was based on the national state assuming greater responsibilities in the economic and social sphere and economic growth became the main test against which the political capabilities of the governments were evaluated, the national governments devised an original mechanism of European Communities allowing them to regain some control of their own fate.²⁹ There are still disagreements about the role of different political and interest groups which regard European integration as a new stage in human development signaling an end to the nation state as an organizational form of society. However, the role of national political consensus is stressed under both approaches.

European integration has developed into a complex web of institutionalized decision making processes which are allowed to cope with the increasing complexity created by ever increasing mutual dependency. European integration, in turn, helped to preserve the original homogeneity of the national consensus. It is still very difficult to say whether and to what extent the convergence in the modes of decision-making,

²⁹ Milward, *European Rescue*, p. 2-21.

interest representation, and the relationship between the states and the markets has taken place, but it is almost sure that at least a certain degree of homogeneity was ensured.³⁰

The candidate countries, as it was obvious from the very beginning of the enlargement process, differ very much from most EU countries. Moreover, they have embarked on a painful process of transformation which was further complicated by the fact that it had three dimensions: economic, political, and socio-cultural. This transition has been already completed in some areas. Some countries obviously were able to complete it earlier than others. However, in all the candidate countries new institutions and practices are less consolidated than in the EU countries and the national consensus is consequently much more fragile. Therefore, even more efforts are required from the governments of these states to keep this national fragile national consensus while developing new policies or adjusting old ones. As the famous Balcerowicz's trajectory of public support for reforms shows, radical and painful reforms can be politically feasible only in a quite short period of time when expectations related to the long term future outweigh short term sacrifices.³¹ Transformation has already resulted in economic growth in most candidate countries making other reforms more feasible and sustainable. However, a cost-benefit analysis of accession to the Union reveals that benefits are unevenly distributed across time and emerge at various stages of the accession process.³² The costs of compliance tend to be mostly short-term and the benefits might only be long-term.³³ This was already mentioned in the example of Lithuania's EU Accession Program.³⁴ In most cases the short-term interests of the candidate countries and the Union are not the same even assuming that the long-term interests basically coincide.

On the other hand, the analysis of the new features of this enlargement has demonstrated to what extent the governments of the candidate countries have lost control of their own agenda and priorities of action which are now set in the accession partnerships and closely monitored and even enforced by different instruments starting from the regular reports on progress and ending with the screening of the *acquis* exercise as well as by the means of the control of the assistance. Strategies of accession adopted in the candidate countries largely follow indications and priorities provided by the Union since the room for maneuvering has been constantly shrinking in line with the tendency towards a more conditional and asymmetric methodology or philosophy of enlargement.³⁵

³⁰ "Introduction," *Adjusting to Europe: the impact of the European Union on national institutions and policies* [ed. by Yves Meny, Pierre Muller, Jean-Louis Quermonne] (London: Routledge, 1996).

³¹ Leszek Balcerowicz, *Socialism, capitalism, transformation* (Budapest: CEU Press, 1995).

³² J. Gacs, Michael Wyzan, *The Time Pattern of Costs and Benefits of EU Accession*, (Luxembourg, IIASA, Interim Report, May 1999) p. in quoted in Ramūnas Vilpišauskas, Guoda Steponavičienė, *Winners and Losers of EU Integration in Central Eastern Europe. The Case of the Baltic States*. Economic Part, Draft (Vilnius: Lithuanian Free Market Institute, October 1999), p.3.

³³ Vilpišauskas, Steponavičienė, *Winners and Losers*.

³⁴ See footnote 21.

³⁵ See, for example, Republic of Poland, *National Strategy for Integration* (Warsaw: Government of Poland, January 1997); *Lithuania's EU Accession Program*.

The argument used to justify this situation is largely about necessary guidance. This was explained earlier, but since not only the conclusion but also the reasoning behind it is important, let me provide one of the best examples of such reasoning:

The importance of criteria [conditions in general] is perhaps less to differentiate between candidates, than to give various performance anchors to domestic policy in the associated countries. Governments can sell bad-tasting medicine to the voters if it is part of a strategy leading to the goal of membership of the European Union. If there are no objectives set by the Union, the selling of such policies is more difficult.³⁶

Indeed, many governments in the candidate countries use this argument to promote reforms related to the accession. However, this situation may result in two unintended consequences both of which could lead to the failure of the enlargement. The first obvious risk is that the EU is presented as a scapegoat for unpopular decisions. This may result and has already resulted in diminished public support for EU membership in some countries. However, the second risk is much greater. Given that (1) the costs of adjustment are very high in the short-term, (2) there are differences in the short-term interests between the candidate countries and the Union, combined with (3) still decreasing possibilities of the governments to control their own agendas and national policy making process, the national political consensus is endangered. The governments could be no longer able to fulfill their primary responsibility of assuring national consensus and, consequently, the political, economic, and social stability of their respective countries.

In other words, while the whole development of EU policy towards the CEE countries and the methodology of the EU enlargement is based on a two-level game³⁷ and largely driven by domestic concerns, the current methodology of EU enlargement largely ignores the fact of and denies the possibility for the candidate countries to play a two-level game. Therefore the domestic concerns of the candidate countries are not reflected in it. It could then be argued that the EU has always been a regime-setter and that every enlargement of the Union starting from the first one has been asymmetrical³⁸. However, in the case of the on-going enlargement, the asymmetry and rigidity of the EU is far greater even though there is an obvious need for greater flexibility given the differences between the EU and the candidate countries. and “reflects the distaste for eastern enlargement in some quarters within the EU.”³⁹

This scenario is obviously a pessimistic one and there are many factors which can reduce the possibility of this ever happening. However, under certain circumstances the risks are higher.

The first variable is the economic situation in the candidate countries. If the economies continue to grow, the possibilities to maintain the national consensus on the fundamentals of reforms including the very goal of the membership in the EU are more certain. However, if there is an economic recession, which could be caused not by

³⁶ Mayhew, *Recreating Europe*, p. 376

³⁷ R.D.Putnam, “Diplomacy and Domestic Policy: The Logic of Two-Level Games,” *International Organization*, 42 (1988), pp. 427-460.

³⁸ Alasdair R. Young, Helen Wallace, *Regulatory Politics in the Enlarging European Union: Weighing Civic and Producer Interests* (Manchester: Manchester University Press forthcoming), p. 124.

³⁹ *Ibid*, p. 156.

internal structural problems but by external shocks such as a Russian crisis, the risk of dilution of the national consensus is higher. Two observations are necessary. First, the whole process of European integration was heavily dependent on the rates of economic growth. Since (1) the economic growth and an associated increase in a material well-being has become a basis of a national consensus and the main source of legitimacy for national governments in post-war Western Europe and (2) it was consciously created as one of the very fundamentals or *raison d'être* of the European integration itself, the slow-down of economic growth was largely followed by a slow-down of European integration.⁴⁰ Second, the risk of the dilution of the national consensus could be further exaggerated by an attempt to attribute the consequences of these external shocks to the structural problems of the given country. The Commission's 1999 progress reports on the progress of candidate countries could serve as an example of such an attempt. While the effect of the external shock caused by the almost simultaneous crises in Asia and Russia combined with a certain slow-down of the economic growth in the Union could be considered as an excellent methodological tool to evaluate the performance of the candidate countries in these circumstances, the tendency to make governments responsible for the results of this crisis contributed to the attribution of the consequences of external shock to domestic problems.⁴¹

The second variable is the size of country including the relative size of its economy. First, small countries are more vulnerable to the pressure from the Union or from the European Commission, in particular. Therefore, their freedom of action is more limited. Second, the relative adjustment costs with respect to the Union are higher. Since most of the burden comes in the form of pressure associated with an increasing amount of legislation which has to be brought in line with the *acquis* or new legislation required by the EU which should then be properly enforced, the institutional framework of the state and the national budget which mostly carry out this burden are overloaded. To put it in very simple terms, Lithuania and Poland, for example, have the same amount of the *acquis* to transpose and implement. More or less the same amount of human as well as financial resources is required in both cases. Third and the most controversial thing is about interests. The long term interests of the Union and candidate countries should coincide. A number of arguments have been made and a number of studies have been undertaken to demonstrate that EU enlargement into Central and Eastern Europe will be beneficial for both sides. The security and stability will be better ensured and the larger

⁴⁰ For similar arguments, see Milward, *European Rescue*; Allan Williams, *European Communities* (London, 1990).

⁴¹ European Commission, *Composite Article. Regular Report from the Commission on Progress toward Accession by each of the candidate countries*, October 13, 1999. III. Progress. Economic criteria, p.1. On the basis of this criterion the Commission made the conclusion that, for example, Lithuania can not still be regarded as a functioning market economy since "macro-economic stability was preserved even though it has been made more vulnerable partly as a result of the policy response to the Russian crisis. The government's attempts to dampen the negative external shock led to a serious deterioration of the fiscal and external balances to levels that may become unsustainable" (European Commission, *Regular Report from the Commission on Progress towards Accession. Lithuania. October 13, 1999. Criteria for Membership. Economic criteria. General Evaluation*, p. 1). Our purpose here is not to discuss the question of what policy response could have been regarded as positive. Our point here is to demonstrate the linkage made and to point out the political risks involved in making such a linkage.

common market will foster economic growth throughout the enlarged Union. However, fewer attempts have been made to investigate the question of the possible divergence of short-term interests. It seems that in certain cases the divergence of these interests is quite obvious, for example, nuclear energy in the candidate countries. While nuclear energy continues to be a very important factor in the economic growth of certain candidate countries, such as Lithuania, Slovakia, and Bulgaria, the EU has been exercising extraordinary pressure on those countries to close their nuclear power plants. This again shows that small states are less capable to defend their interests than larger ones.

Conclusions and solutions: avoiding the dilution on both sides

The main conclusion of this article is that because of the different nature of the enlargement the EU developed a new methodology. The new methodology is based on four new principles: complexity, differentiation, conditionality, and asymmetry, which together form a single logic of control. This logic largely aims at slowing down the process of enlargement because of the justified fear of the dilution of the Union. In the context of this fear and the general lack of political will in the member states to enlarge, the European Commission managed to extend her own competencies in this sphere and almost monopolized relations with the candidate countries. This opened the process to the preferences of the Commission in addition to those of the member states and thus reinforced the rigidity of the methodology of enlargement. This logic was further challenged on the basis of the importance of the national consensus. It was argued that the candidate countries were largely deprived of all means to incorporate their own preferences into the process thus imposing on them danger of dilution that the Union is trying to avoid in its own backyard. The risk of dilution in the candidate countries, it was argued, is based on (1) the time pattern of the accession costs and benefits indicating that the costs of adjustment are very high in the short-term, (2) a certain divergence of the short-term interests between the candidate countries and the Union, and (3) the still decreasing possibilities of the governments to control their own agendas and national policy making process. Certain variables contributing to the risk of dilution were then identified. It was argued that the smaller the country and the higher uncertainties related to the economic growth, the higher risks of a breach of national political consensus.

The results of this inquiry into the new features of the methodology of the EU enlargement clearly suggest the need to make certain corrections to the process. These suggestions could be grouped into three basic categories. First, the process should be made more fair. The differentiation should not be turned into discrimination as is sometimes happening now. The Union should be very careful to avoid any overplay, in particular with regard to smaller countries. Second, the process should not be focused only on the candidate countries but also on the Union and thus become more mutual. There should be an attempt to make the process, especially the accession partnerships more symmetrical. The burdens of change should also be divided more equally. The third suggestion is to introduce more flexibility into the process to counter the increasing rigidity demonstrated by the growing complexity and conditionality. This suggests a certain politicization of the process. However, it does not mean that preferences should be given to all the divergent geopolitical and economic interests of the member countries. The logic of objectivity and its institutional embodiment, the Commission, should be at

the center of the process. However, I would suggest that the member states should assume much closer supervision of the Commission in its undertakings towards the candidate countries.

Summarizing the point, it is necessary to say, that this particular process of enlargement has become particularly rigid and asymmetrical. The risk is that this rigidity may endanger its final results. What should be done is to a certain respect to reverse it back in terms of methodology. The Union as a pace-setter, therefore, should return to the original, still very limited, mutuality. It is not to say that the process should be entirely symmetrical. However, a different balance should be found to avoid the risk of dilution on both sides.