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CROATIA, MACEDONIA AND THE EU: Setting the Bar too High?

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The outcome of the European Council in December 2009, when the EU Heads of state will gather, could result in a significant step forward towards EU integration for Croatia and Macedonia. It could also represent an important signal for other Western Balkan countries. Critical issues in both countries touch upon cross-cutting concerns such as inter-ethnic coexistence and bilateral disputes which delay EU integration. Citizens in the Western Balkans closely watch developments towards European integration for the region's two most advanced countries. While a significant step forward – such as opening EU accession negotiations with Macedonia – would be a positive sign, on the other hand, any further deadlock after the December Council meeting could have unfavourable consequences for the region as a whole.

A new drive for Macedonia and Croatia in 2010?

Macedonia

In its 2009 progress report on Macedonia, for the first time, the European Commission has recommended the start of negotiations for EU membership on the basis of progress made in a number of key areas. This has been the most positive recommendation that Macedonia has received from the Commission since it became a candidate for entry in 2005.

In the second half of 2009, the Macedonian government intensified its endeavours to fulfil the benchmarks set by the European Commission in February 2008, and has indeed

succeeded in doing so.¹ However, considerable challenges remain. According to the European Commission, increased efforts are still needed in a number of areas, including ensuring the transparency, professionalism and independence of public administration, the independence and impartiality of the judiciary, as well as measures regarding the financial framework for municipalities. Corruption remains prevalent and continues to be a serious problem in many areas and continued good-governance efforts are needed, in particular towards the implementation of the legal framework. The Commission's recommendation to open accession negotiations is an important step forward. However, it will be up to the European Council in December 2009 to give the green light to Macedonia.

A further complication is that of the sour relationship between Macedonia and Greece over the use of the term "Macedonia". Since the sovereignty of the Republic of Macedonia was achieved in 1991, Greece has claimed that the official name 'Republic of Macedonia' implies an unspoken territorial claim towards the Greek northern region, which is also called Macedonia. Although the bilateral dispute between Greece and Macedonia has not in fact been used by Greece as

1. Benchmarks: 1) constructive, inclusive dialogue in framework of democratic institutions; 2) implementation Police Law; 3) implementation judicial reforms; 4) implementation anti-corruption legislation; 5) no political interference in recruitment of civil servants; 6) reduction of impediments to employment creation; 7) enhancing general business climate; 8) implementation of Presidential and Local Elections in 2009 in compliance with Electoral Code.

a political pawn against Macedonia's EU membership process so far, it has certainly succeeded in delaying Macedonia's entry to membership of NATO. Similar delaying actions by Greece with respect to steps to further EU integration are likely. Indeed, Greece threatened that it would veto the opening of accession negotiations if there is no "breakthrough"² on the name issue before the European Council meets this December. However, on the positive side, the formation of a new government in Greece in September 2009 under the Socialist George Papandreou seems to present new opportunities: for example, recently both sides showed a new cooperative attitude towards the UN-brokered negotiations. Though there have been many moments when a solution to the name issue seemed to be close in the past, right now, the circumstances for finally settling the 18-year-old conflict seem to be more propitious than ever before.

Should EU and NATO integration – an objective shared by ethnic Albanian Macedonians and Slav Macedonians – be delayed indefinitely, both the prevailing fragile relations and the division between the two communities risk worsening

Nonetheless, the impact on Macedonia itself of a possible Greek veto at this stage should not be taken lightly. The 2009 Commission progress report argues that Macedonia has improved on its reform process over the last year and is now ready to begin accession negotiations, so a Greek veto would mean significant damage to the already diminishing EU credibility. As a consequence of both, the virtual Greek veto during the 2008 NATO summit and the threat of a Greek veto on opening EU negotiations until the name issue is settled, the mood of both the people and the political elite of Macedonia has been characterised by an increasing sense of victimisation, which has opened the space for nationalist politics to come to the forefront. The non-interference on the issue by the EU has led to the suspicion by the majority of citizens in Macedonia that the EU simply does not take their voice into consideration.³ Should EU and NATO integration – an objective shared by ethnic Albanian Macedonians and Slav Macedonians – be delayed indefinitely, both the prevailing fragile relations and the division between the two communities risk worsening. Since the name dispute is of little concern for ethnic Albanians, it is questionable how long their patience would last in the event of further delays.

Lingering ethnic divisions

A number of illustrative incidents show that inter-ethnic relations between Slav Macedonians and Albanian Mac-

edonians are still fragile. In September 2009, controversial articles on Albanians and Albanian history published in an encyclopaedia by the Macedonian Academy of Science and Arts provoked angry reactions and uproar among the Albanian sections of society. Many critics claimed that this first encyclopaedia of Macedonia since its independence in 1991 was anti-Albanian. Nonetheless, however worrying in itself, the encyclopaedia incident demonstrates that society in Macedonia has matured and pursues conflict resolution on such delicate matters within a democratic and peaceful debate – rather than through violence as in the past. Indeed, according to the 2009 Gallup Balkan Monitor, over 40% of ethnic Macedonians and Albanians believe that the relations between both ethnic groups were better than five years ago. However, what is (or should be) of considerable concern for Europe, is that among all the Western Balkan countries surveyed in this Monitor, it is in Macedonia where people fear war the most,

with 31% believing that there will *certainly* or *probably* be an armed conflict in the region within the next five years. In this regard, EU membership is seen as a critical factor in prevention of war: 84% of Macedonians were reportedly convinced that EU accession is needed for peace in the region.

The Ohrid Framework Agreement of 2001 that set the groundwork for improving the rights of ethnic Albanians in Macedonia tackled the legitimate grievances of Albanians, but in a way which the Macedonian majority perceived as being at its own expense. While nearly three-quarters (72%) of Albanians think that the Ohrid Agreement provided a good long-term solution for the ethnic tensions, only just over one third (39%) of Slav Macedonians hold that view.⁴ Addressing the complaints of the Albanian community in the absence of parallel measures to reassure the ethnic Macedonian majority that would have supported its fragile identity has led to criticism of the Ohrid agreement as being incomplete. The perception of an unjust agreement among ethnic Macedonians therefore still lingers on. The feeling of Macedonians of their very identity being threatened has to be seen in the broader context of other countries that challenge its identity, such as Bulgaria, which questions the existence of a Macedonian language as well as by and Serbia, which denies the autonomy of its church.

Croatia's progress towards membership

After almost one year of suspension of its talks with the EU due to a maritime border dispute between Slovenia and Croatia, Croatia resumed its membership negotiations on 2nd October 2009. Just soon after former Croatian Prime Minister Ivo Sanader stepped down and Jadranka Kosor took his place, the Croatian and Slovenian governments agreed upon the terms for settling their border row and effectively

2. "Macedonian PM Dampens Name Hopes", in: BalkanInsight, 25 November 2009.

3. Eurobarometer 71, National Report FYROM, Spring 2009.

4. 2009 Gallup Balkan Monitor, Insights and Perceptions: Voices of the Balkans, 2009.

unblocked the accession talks. With the Lisbon Treaty finally ratified and the last political stumbling block removed, the remainder of the accession negotiations is solely dependent on Croatia's performance.

Of 33 chapters under discussion, 15 are provisionally closed, while 13 remain open in ongoing negotiations. Of five chapters not yet opened, three are still blocked by Slovenia. Two problematic chapters have yet to be tackled by the Croatian government: the competition chapter is dependent in large part on progress in restructuring the steel and shipyard sector. While privatisation tenders have been issued for the ship building enterprises, efforts to restructure the steel industry are still insufficient. The chapter on judiciary and fundamental rights remains blocked by the UK, the Netherlands, Finland, Belgium and Denmark, as a consequence of Croatia not having delivered documents requested by the ICTY in The Hague. It is looking increasingly probable, however, after renewed signs of political goodwill on the part of Croatia, that this chapter will be unblocked. Consequently, according to various EU sources, negotiations could be completed in the first half of 2010. Indeed, EU funds for Croatian membership have already been earmarked for January 2012.

The current enlargement round emphasises the fight against corruption and the politicisation of the judiciary as a consequence of the premature accession of Bulgaria and Romania. Having tightened the respective criteria considerably, it is no longer sufficient to enact laws in order to align national legislation with the *acquis*: it is now implementation of EU standards (and monitoring of implementation), which form critical new and strongly-emphasised EU benchmarks.

Against this background, the achievement of real progress in depoliticising the judiciary as well as in the fight against corruption is crucial for the success of the accession negotiations of Croatia and Macedonia. In terms of depoliticisation of the judiciary, following three professional killings in Zagreb city centre in October 2008, the Croatian government took several steps towards strengthening both the police and the judiciary in fighting organised crime. While the political will of former Prime Minister Ivo Sanader was often doubted, his successor Jadranka Kosor is known to be a keen reformist - although lacking sometimes the full support from her own party ranks. Despite initiating an impressive series of crack-downs on high-level corruption, it is still difficult to estimate whether this development will prove sustainable and irreversible.

Whilst it is clear that these actions are mainly motivated by pressure from the population and catalysed by the EU monitoring process, an important improvement is that of increased public awareness of corruption as one of Croatia's main problems. As a result of this growing understanding, the political logic has changed: Croatian politicians now compete in fighting organised crime and corruption - although sometimes with more rhetoric than ability.

Nonetheless, success in unblocking negotiations could be in vain if there is no consensus among the Croatian population in the accession referendum. According to the 2009 Gallup poll, Croatians are extremely dissatisfied, with 84% of its population being of the opinion that the country is heading in the wrong direction – the most negative assessment in all Southeast-European countries. Virtual EU accession referendums in Croatia fail to get the required majority of votes and support for EU-integration is constantly hitting record lows.⁵ This is firstly due to a comparatively high level of distrust among the Croatian population towards domestic political institutions, which translates into distrust towards European institutions. Secondly, more recent factors include frustrations following the imposition of a solution to the Slovenian-Croatian border conflict, and the worsening economic climate in the wake of the crisis.

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The Wider Focus: Repercussions on EU-Integration dynamics in the region

In the past, ambiguities deriving from some EU Member States' reservations concerning future enlargements have been detrimental to the credibility of the EU enlargement policy in itself, and furthermore, have reduced the transformative power of the EU. For the countries in the region, troubled relations among neighbours, questions of unsettled nation- and statehood as well as inter-ethnic conflicts remain of considerable concern, fostering a sense of uncertainty regarding the political future of the countries.

Citizens as well as politicians are carefully watching Croatia and Macedonia's progress towards EU integration. While a substantial step forward in the integration process of both countries could have a positive impact, any potentially indefinite delay to integration could both undermine the achievements already reached and have harmful consequences for other Western Balkan countries. The "nationalist" dispute between Macedonia and Greece thus has consequences which go beyond the narrower confines of a purely bilateral issue, and which risk weakening the EU's strategy for stabilising the region through enlargement and integration.

Fortunately, the end of 2009 marks a moment of opportunity for the EU integration of the Western Balkans. 2009 has been a successful year for the integration process for a number of the region's countries: for example, substantial progress was made towards visa liberalisation for three countries of the re-

5. Eurobarometer 71, Public Opinion in the European Union, National Report, Croatia, Spring 2009.

gion (Macedonia, Montenegro and Serbia); in early 2009, Albania submitted its membership application; and most probably Serbia will do the same before the year ends. With the Lisbon Treaty ratified, there are thus no remaining institutional barriers to the EU enlargement process. The agreement on arbitration of the bilateral dispute between Croatia and Slovenia could serve as window of opportunity for the resolution of the name-related dispute between Macedonia and Greece.

Macedonia: A model of inter-ethnic coexistence for the region?

Progress achieved in Macedonia towards inter-ethnic coexistence provides an example for the region. Even though EU efforts have not always been successful in contexts of inter-ethnic divisions, since the end of the ethnic Albanian insurgency in Macedonia in 2001, international engagement has certainly advanced the integration of Albanians into political life. Macedonia has put an inter-ethnic power-sharing agreement in place which is much more functional than the Dayton agreement adopted by Bosnia and Herzegovina.

Even though the issue over the name of Macedonia is of little concern to most ethnic Albanians, as noted earlier, it has nonetheless brought tensions to inter-ethnic relations in Mac-

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edonia and risks becoming a potential basis for dividing the different ethnic communities. Despite the fact that both Slav Macedonians and Albanians have the common goal of EU and NATO integration, the percentage of those supporting the EU path and the sacrifices they are ready to bring, differ substantially: According to the 2009 Gallup Balkan Monitor, whilst 84% of Macedonian Albanians approved of their country joining the EU, the figure is much lower for Slav Macedonians, at 57%. In order to join NATO and the EU, 67% of the Albanian part of the population would even give up the country's name in the dispute with Greece - a move which 95% of the Slav Macedonians would in principle oppose.

The dangers of the divisions over the name issue are illustrated by the fact that the deputy leader of the Albanian coalition party of the government DUI (Democratic Union for Integration), Rafiz Aliti, has already openly threatened that the "Albanians will radicalize" and that they will join NATO and the EU with or without Slav Macedonians.⁶ However unrealistic

this threat might be in practical terms, some fear that Albanian Macedonians might connect demands for cultural autonomy with demands for territorial autonomy. Furthermore, any referendum discussed by politicians in Macedonia on the name issue might have a domino effect and lead the Albanian politicians to seek a second referendum on a more federalist state structure. At the same time, on the other hand, should these developments take place, they might also increase the international pressure on Greece to back down on the name issue, despite the high feelings generated around it within Greece.

A further delay in opening the accession negotiations might have negative consequences not only for inter-ethnic relations in Macedonia, but also for Kosovo and Bosnia Herzegovina, where antagonisms between ethnic communities are disproportionally greater. Whereas the Dayton agreement ending the war in Bosnia and Herzegovina has become a synonym for a failing state, Macedonia has been a relatively successful example of a functioning state. In the event of further delays in the EU integration process, the approach of state- and nation-building based on citizenship (following the logic of the Ohrid Framework Agreement) might be undermined.

EU Membership cannot be a Panacea for inter-ethnic relations – But it could help

At the same time, an overly optimistic endorsement of EU accession as a universal remedy would be a misjudgement. According to proponents of EU accession 'as-fast-as-possible', improving living standards reinforces Albanian loyalty to the Macedonian state while simultaneously mitigating "the Albanian question" because intra-EU borders lose

their separation effect. This in turn enables Albanians in bordering countries to retain close contacts without the need to form a unitary state. Indeed, it is likely that Macedonia's EU accession would probably generate a higher degree of wealth, firstly as a mere consequence of substantial financial inflows from the EU budget and secondly due to increasing competitiveness as a part of the EU single market. However, even after EU accession it is up to Macedonian politicians to determine how this surplus wealth is distributed. Given the strong *clientelism* evident in both ethnic party systems and the prevalence of political corruption, it is far from certain that a larger budget would simply "trickle down" to poorer parts of society.

Most importantly, however, importing ethnic divisions into the EU would not help in proactively negotiating a solution. Rather, the EU would lose its most effective incentive in pressuring leaders to refrain from the logic of nationalist mobilisation. A similar dynamic can be observed in the case of the new EU Member States from the 2004 enlargement round which exhibit regress in areas, where they were pressured more effectively by Brussels during accession negotiations. With political and diplomatic mechanisms to discipline new Member States still lacking, importing a looming conflict into the EU could have detrimental effects for its resolution.

6. Trajkovska, M., Albanians exert pressure over name, in: Dnevnik, 3 November 2009, translation by BBC Monitoring European.

Bilateral disputes in the Western Balkans

The inconsistencies in the EU's enlargement policy are first and foremost a consequence of the structure of its polity. While the Commission acts as a supra-national institution, Member States in the Council are bound by the logic of their domestic functions and have to act unanimously with respect to enlargement. Calls for an arbitrating role of the EU in the Macedonian-Greece name conflict therefore miss the point, which is that since Greece and Slovenia are EU members, the EU *itself* is involved as a party in those conflicts – not just as a bystander.

The only alternative to EU brokering is building up diplomatic pressure by Member States. So far, however, EU members have been unwilling to put serious pressure on either Greece or Slovenia to soften their positions and at least, in the case of Macedonia, to enable accession talks to begin; and in the case of Croatia, to unblock the negotiations. Furthermore, the present candidate countries find themselves in a much less conducive international environment in comparison to their 2004 predecessors: instead of having a strongly pro-active agent such as Germany in the case of Eastern enlargement, most EU members are still cautious, partly because of the rather negative examples of Bulgaria and Romania and partly because of the current economic and financial crisis. Hence, for now, time is on the side of those who want to put the stops on enlargement.

As a consequence of the many unsettled problems of former Yugoslav successor states, it can be expected that similar bilateral conflicts will come to the surface in the future. In order to prevent this, there are ongoing efforts between Croatia and Montenegro to find solutions to open border questions. Similar endeavours are necessary with Serbia and especially with Bosnia and Herzegovina where Croatian construction plans of the Pelješac-bridge, connecting the exclave around Dubrovnik with the Croatian mainland, are strongly contested by Bosnian authorities. Macedonia has already solved a decade-long bilateral problem by signing and ratifying the border demarcation agreement with Kosovo in October 2009. An important exercise towards reaching a basic understanding of such issues - and a measure that should be supported by the EU - would be the joint examination of the common history of the region, with a view to avoiding references that affront national sensibilities of other countries.

It is certainly clear that the name dispute between Macedonia and Greece has, to a certain extent, undermined the EU's credibility in Macedonia, as the bilateral dispute centres on an element that has little to do with the accession criteria itself. Indeed, in the 2009 Enlargement Strategy Paper, the Commission recommends a separation of the accession path from bilateral disputes. The fact that an issue of such nature can become a reason for delaying EU integration could lead to a general loss of EU credibility in neighbouring countries and might, in the long, run even reverse progress already made.

The EU's primary interest in Southeast-European enlargement is the stabilization of the region. Yet it is somewhat ironic that in the current political climate, no constructive impulses can be expected from within the EU as long as this goal is not under immediate threat. Therefore, the beginning of accession negotiations would not only be an important

signal for Macedonia, but for the region in general. In any case, rather than making the resolution of the name dispute a condition for giving Macedonia a date for the start of the negotiations, it would be advisable to make it a condition for the eventual beginning of accession negotiations or the final membership. Should Greece and Macedonia reach a compromise on their pending bilateral dispute before December the opening of accession negotiations can be expected.

Process towards entry

Therefore, provided that Macedonia gets the green light from the EU Council in December 2009, the Commission will start the so called *screening* of national legislation and institutional framework, assigning the alignments of Macedonian laws and institutions with the EU *acquis* in 2010. Once the screening is finished – a process that on average takes from six to eight months – the screening report will be submitted to the Member States so that they can prepare their positions for the negotiation chapters. This process would also take about six months - therefore Macedonia, in the best-case scenario, could expect to start negotiations in 2011. The screening process leaves a time span that is long enough to reinforce efforts and find a solution in the name dispute. Receiving a date for negotiations would force the political elites in Macedonia to focus on the reforms, regardless of the relations with Greece.

Avoiding the temptation of Nationalism

In the event of a worst-case scenario in which the European Council does not grant a date for accession negotiations, the Macedonian political elite and especially the respective party leaders should exercise restraint. After the NATO summit in Bucharest in April 2008, when Macedonia's NATO membership was delayed, a process of erecting monuments from ancient times and renaming facilities taken from Alexander the Great's dynasty took place in Macedonia. This time, Macedonia should resist the temptation of reinforcing the "*antiqueization*" process and offending Greek sensibilities. Macedonia should continue on its reform path, as long as it moves along this track, it could meet most accession requirements even before the formal opening of negotiations. Macedonia should not respond to a Greek veto by playing the victim and resorting to a nationalistic discourse, but should rather concentrate on lobbying Member States, especially the Spanish presidency, in order to bring Macedonia high up on the EU agenda. In a similar vein, politicians on both sides should resist resorting to mobilisation of national sentiment in order to generate legitimacy for a tougher political line. The renewed willingness to negotiate since the change of government in Athens is a step in the right direction. The Macedonian government should also continue to show readiness to solve the name dispute, reversing the Macedonian government's decision to rename its airport after Alexander the Great.

In this respect, an agreement on how to solve the bilateral dispute between Croatia and Slovenia could create a supportive dynamic for the bilateral dispute between Macedonia and Greece. In the former case, however, a solution was only possible, because Croatia gave in. Given the magnitude of the questions at stake, this was much easier for the Croatian government, than it would be for any Macedonian government. Slovenia's relative success in enforcing a solution will without a doubt encour-

age the Greek side to retain an inflexible negotiation strategy. The success of Slovenia and possibly Greece in enforcing their conditions on their weaker neighbours might at the same time backfire, as Croatia as well as Macedonia might be put off as possible future coalition partners in intra-EU bargaining.

This episode will inflict long lasting wounds on the relations of the countries involved, but the two Western Balkan accession candidates will become EU members sooner or later. Countries now ruthlessly trying to push through their national interest should not forget that one day they will have to deal with their adversaries at eye level – if not today, then tomorrow.

What can the Western Balkans expect from the Spanish Presidency?

The Western Balkans consists of heterogeneous countries, where application of a one-size-fits-all strategy is doomed to fail. Therefore the Copenhagen criteria, now enshrined as *values* in the Lisbon Treaty, are replenished with individual country specific conditions, or *benchmarks*. Against this background, the answer to the question for the EU's role in the Western Balkans must include long-term commitment and country specific, tailor-made policies. This in turn means, that EU conditionality,

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as the EU-term for the exchange principle 'do ut des' can only work in countries where politicians have liberal-democratic goals in the first place.

Spain takes over the rotating presidency at a difficult time. Now that the Lisbon Treaty has been ratified a new institutional equilibrium has to be found between the stronger 'Foreign Minister' Lady Catherine Ashton, the new commissioner for enlargement Stefan Fule and the President of the European Council Herman Van Rompuy. Still, the presidency should make the most of its leverage by putting forward an ambitious programme and providing fresh impulses.

Furthermore, in addition to setting a date for Macedonian entry negotiations, the Spanish presidency should play a supportive role in putting Bosnia and Herzegovina and Albania on the visa white list, provided the two countries fulfil all necessary criteria, and should also start a visa dialogue with Kosovo aimed at establishing a roadmap for visa facilitation and liberalisation. Should the commission present its proposal in time, the presidency could make big progress in this area during its term.

With a view to the name conflict between Macedonia and Greece, EU Member States should keep in mind the potentially disruptive effects on Macedonian inter-ethnic relations and pressure Greece not to overburden its smaller neighbour.

As a consequence of the premature enlargement round in 2007, the Spanish presidency should further put forward the establishment of a functioning post-accession conditionality. This would be a necessary response to clear evidence of regression in some new Member States, especially in areas like de-politicisation of the bureaucracy. With a view to the countries of the Western Balkans with far bigger problems in these areas, there should be institutional procedures to allow EU institutions more effectively pressure member governments in terms of reforms.

Spain, so far, has not shown much interest in the Western Balkan countries and has not been active in proposing priorities for its EU presidency in this ambit. However, the Spanish presidency offers a number of opportunities for the enlargement process. Spain, as a traditionally pro-enlargement and pro-deepening country, has the potential to push forward EU integration in the Western Balkans. In order to reverse the prevailing negative discourse on enlargement in the EU, Spain should seek allies in other Member States which are also in favour of future enlargement. By giving clear support to a more deeply integrated EU and to the continuity of enlargement, Spain could become a trusted mentor among like-minded members, especially now that the uncertainty on the Lisbon Treaty has been lifted.

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