



MAXCAP OVERVIEW

Maximizing the Integration Capacity of the European Union



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ABOUT THE PROJECT

The project Maximizing the integration capacity of the European Union: Lessons and prospects for enlargement and beyond (MAXCAP) was funded by the EU's 7th Framework Programme for Research, technological development and demonstration, and was implemented from April 1st, 2013 to March 31, 2016.

The project focuses on delivering critical analysis of the effects of the enlargement policy on the stability, democracy and prosperity of candidate countries, on the one hand, and the EU's institutions, on the other. The aim of the project is to investigate how the EU can maximize its integration capacity for current and future enlargements and give concrete policy recommendations.

MAXCAP is implemented by a nine-partner consortium of academic, policy, dissemination and management excellence that aimed to create new and strengthen existing links within and between the academic and the policy world on matters relating to the current and future enlargement of the EU.

The project was led by Freie Universität Berlin in coordination with Leiden University, and BCSDN's role was to bring the perspective of civil society and practitioners from Western Balkan countries. The other project partners are The London School of Economics and Political Science (LSE), ETH Zurich, Sabanci University (SU), European University Institute (EUI), Central European University (CEU) and Sofia University (SU-BG).

What is integration capacity of the EU?

**MAIN RESEARCH FINDINGS:
Enlargement Policy Insights
in Brief**

Internal integration capacity

the preparedness of the EU to enlarge.
It improves the EU's ability to help
nonmember countries prepare for
closer integration.

COMPONENTS: policy-making capacity (decision-making capacity, implementation capacity, and financial stability), public support, and institutional reform.

External integration capacity

the preparedness of nonmembers to integrate with the EU.

COMPONENTS: policy-making capacity (decision-making capacity, implementation capacity, and financial stability), public support, and institutional reform.

EU PUBLIC OPINION IS GETTING INCREASINGLY HOSTILE TOWARDS THE POSSIBILITY OF EU ENLARGEMENT IN THE FUTURE

According to the most recent surveys of EU public opinion, there is a considerable “enlargement fatigue” among the EU citizens. The growing literature explaining public attitudes towards enlargement finds that utilitarian (interest-based) and identity factors are influential and are complemented by the impact of media framing and cues provided by political parties. There is a significant gap in EU enlargement attitudes and evaluations between the elites and the general public. This can be partly explained by existing discontinuity between interest-based, national-level justifications of the last EU enlargement and EU-level justifications based on common norms and values.

SOURCE: *Working Paper No.2 “The ‘Old’ and the ‘New’ Europeans: Analyses of Public Opinion on EU Enlargement in Review”*

ONLINE: http://www.maxcap-project.eu/system/files/maxcap_wp_02.pdf

AUTHORS: *Dimitar Toshkov, Elitsa Kortenska, Antoaneta Dimitrova, Adam Fagan*

EU INTEGRATION HAS BROUGHT PROGRESS IN THE POLITICAL CHANGE IN POST-COMMUNIST COUNTRIES. HOWEVER DISPARITIES STILL PERSIST IN DEMOCRATIC QUALITY AND GOVERNANCE CAPACITY BETWEEN “OLD” AND “NEW” MEMBER STATES

Political change in post-communist countries after the end of the Cold War shows overall progress, which is more pronounced and less diverse with regard to democracy than governance capacity. Still, there are significant disparities in democratic quality and governance capacity that mark a rift between the “old” member states in Western Europe and the “new” member states and candidate countries in Eastern Europe, which becomes even more pronounced when the Eastern neighbours of the EU are included in the analysis.

SOURCE: *Coming Together or Drifting Apart? Political Change in New Member States, Accession Candidates, and Eastern Neighbourhood Countries*

ONLINE: http://www.maxcap-project.eu/system/files/working_paper_3.pdf

AUTHOR: Tanja Börzel

SOME EXPLANATIONS ABOUT THE VARIATIONS IN PUBLIC SUPPORT TO TURKEY'S EU ACCESSION

The attitudes of European individuals towards Turkey's accession can be grouped under two dimensions: utilitarian (interest-based) and normative. Utilitarian concerns are significant in older EU members that are relatively richer. The norm-based factors are not significant in the new EU member states; CE countries do not seem to perceive Turkey's accession problematic due to cultural, historical or religious factors. The most important country-level factor affecting the level of turco-scepticism seems to be the level of Turkish migrants in its population. In member states where Turkish migrants are not visibly present, the norm-based ideational factors matter less. Very importantly, the findings suggest the ideational concerns are very much influenced by national politics and domestic political structure.

SOURCE: "Explaining Variation in Public Support to Turkey's EU Accession, Turco-skepticism in Europe: A Multi-Level Analysis"

ONLINE: http://www.maxcap-project.eu/system/files/maxcap_wp_04_0.pdf

AUTHORS: Emre Hatipoğlu, Meltem Müftüler-Baç, Ekrem Karakoç

ENLARGEMENT HAS NOT IMPAIRED DECISION-MAKING CAPACITY OF THE EU

Analysing number and types of legal acts produced by the EU (1994-2014) and on the time between the proposal and adoption of legislative acts (1994-2012), the research suggests that enlargement has had a rather limited impact on legislative production. Analysis of policy positions of member states in EU negotiations and voting data in the Council, suggests that enlargement has possibly added a new

dimension of contestation in EU legislative decision-making, however such new conflicts concern a relatively small share of negotiations, in few issue areas like environmental policy.

SOURCE: *“The Effects of the Eastern Enlargement on the Decision-Making Capacity of the European Union”*

ONLINE: http://www.maxcap-project.eu/system/files/maxcap_wp_05_0.pdf

AUTHOR: *Dimitar Toshkov*

ENLARGEMENT HAS NOT WEAKENED THE EU’S LEGAL SYSTEM AND THE FUNCTIONING OF THE EU

Enlargement has not impaired the functioning of the EU either. The new member states have largely integrated themselves into existing coalitions, despite some distinct policy preferences from old member states in a few policy areas such as environmental or asylum policy. The new member states have also quickly converged towards normal levels of exemptions and opt-outs (especially if compared to Southern member states, which are most similar in wealth and capacity to the Eastern members). Eastern enlargement has not led to a deterioration of compliance with EU law. To the contrary, the new member states have on average a better transposition record than both the old member states and the new member states of earlier enlargement rounds. Moreover, efficient transposition does not come at the price of weak implementation. Except for the area of social policy, the new member states do not lag behind the old member states in practical implementation.

SOURCE: *Beyond Uniform Integration? Researching the Effects of Enlargement on the EU's Legal System*

ONLINE: http://www.maxcap-project.eu/system/files/maxcap_wp_08.pdf

AUTHORS: *Asya Zhelyazkova, Tanja A. Börzel, Frank Schimmelfennig, Ulrich Sedelmeier*

SOURCE: *Larger and More Law Abiding? The Impact of Enlargement on Compliance in the European Union*

ONLINE: http://www.maxcap-project.eu/system/files/maxcap_wp_19.pdf

AUTHORS: *Tanja A. Börzel, Ulrich Sedelmeier*

EU STILL HAS THE TRANSFORMATIVE POWER IN ENLARGEMENT COUNTRIES, BUT LACKS THE ABILITY TO PREVENT BACKSLIDING

Analysis of the modes of political integration, it has evolved through an incremental process of “learning by doing” and the EU accession conditionality has been the single most important mode of political integration. This holds for current candidates despite the more unfavourable conditions in terms of lower EU attractiveness and higher domestic adjustment costs, on the one hand, and the continuous lack of a political acquis, on the other. However, the analysis proves the EU has been reluctant and inconsistent in applying conditionality. On the other hand, the findings indicate that political institutional change in the new member states is not necessarily set in stone, and EU lacks the ability to ‘lock-in’ political change and prevent backsliding.

SOURCE: *Building Sand Castles? How the EU Seeks to Support the Political Integration of its New Members, Accession Candidates and Eastern Neighbours,*

ONLINE: http://www.maxcap-project.eu/system/files/maxcap_wp_09_4.pdf

AUTHOR: *Tanja Börzel*

LESSONS FROM BULGARIA AND ROMANIA: EU'S STRATEGY IN IMPROVING DEMOCRATIC GOVERNANCE AND RULE OF LAW THAT MAKES CIVIL SOCIETY ITS PERMANENT PARTNER HAS A BETTER CHANCE OF SUCCESS

Analysis of EU's efforts for political integration of the post-communist states that joined in the 2004-2007 enlargement, point to limitations of the EU's approach in the areas of democratic governance and rule of law. Focusing especially on the tools and modes of integration used specifically in the cases of Bulgaria and Romania the findings of the research indicates that EU can only achieve change together with civil society actors and broad societal mobilization.

SOURCE: *The Effectiveness and Limitations of Political Integration in Central and Eastern European Member States: Lessons from Bulgaria and Romania*

ONLINE: http://www.maxcap-project.eu/system/files/maxcap_wp_10.pdf

AUTHOR: *Antoaneta Dimitrova*

Comparing discourses about EU enlargement among citizens in six different European countries of the old (Netherlands and Germany), new (Poland and Bulgaria) and EU candidate states (FYR Macedonia, Serbia) gives an insight to key assumptions, arguments, emotional responses, perceptions and expectations about the past and the possible future enlargements.

The discourses give several insights:

- When there is support for enlargement, found in idealistic discourses in The Netherlands and Poland, it is based not only on enlargement's perceived utility for citizens or countries, but on idealistic motivation, stressing common European values.
- In older member states, rejection of enlargement is motivated by scepticism regarding economic benefits of enlargement. Next to the perceived economic threat from CEE migrants, a strong theme in The Netherlands is also – and this is new – a perception that citizens have not been consulted about enlargement.

- Some groups of discourses approve of enlargement only if it would bring better governance and occur according to objective criteria.
- Only in one country, Germany, there is clear realization by some citizens of the positive link between enlargement and Europe's strengthened global role.
- Security and stability arguments albeit focusing on the situation in the Balkans, can be found in Bulgarian discourses among respondents who favour future enlargement as a tool for overcoming old conflicts in South East Europe.
- Citizens in most countries support enlargement as a rule-driven, objective process that brings improvements in institutions and governance.
- Similarly, citizens in candidate states unite around expectations that if and when their countries join, the EU would bring not only some material benefits – above all jobs – but also better governance and impartial, impersonal institutions.

SOURCE: *Comparing Discourses about Past and Future EU Enlargements: Core Arguments and Cleavages*

ONLINE: http://www.maxcap-project.eu/system/files/maxcap_wp_13_2.pdf

AUTHORS: *Antoaneta Dimitrova, Elitsa Kortenska, Bernard Steunenberg*

EU'S EFFORTS FOR STRENGTHENING JUDICIAL INDEPENDENCE IN ENLARGEMENT COUNTRIES MIGHT HAVE UNINTENDED CONSEQUENCES

In its efforts to strengthen the rule of law and generate judicial reform in the candidate and potential candidate states of the Western Balkans, the EU has invested a lot in ensuring 'quality, independence and efficiency' of the judiciary. Analysis of the EU's approach, in practice is based on ensuring the robustness of formal institutions and processes, suggests that although there is evidence of success, it generates sub-optimal outputs; a combination of unintended consequences and unrealized effects. This is due largely to the fact that the EU adopts a somewhat 'Archimedean' approach, namely the creation of new separate judicial bodies that stand above politics and are separate to existing judicial institutions and processes as a means of breaking political interference.

SOURCE: *Unintended Consequences of EU Conditionality on (Potential) Candidates*

ONLINE: http://www.maxcap-project.eu/system/files/maxcap_wp14_final_0.pdf

AUTHORS: *Adam Fagan, Indraneel Sircar, Antoaneta Dimitrova, Elitsa Kortenska*

EU STRATEGIES TO INTEGRATE LESS DEVELOPED ECONOMIES AFFECT DIFFERENTLY THE LOCAL DEVELOPMENT

A comparison of the evolution of the automotive sectors in four European countries (Poland, Ukraine, Romania, and Turkey), shows that different EU modes of integration create very different constraints and opportunities for developmental pathways. The shallow mode of integration used for countries lacking a (credible) membership perspective (combination of trade liberalization and selective rule imposition with very little assistance) results in rather divergent developmental pathways for the EU 'outsiders' – depending on the stronger or weaker capacities of the domestic public and private actors. In contrast, the deep mode of integration used for would-be member states created more opportunities for convergence towards competitive industries, even in countries with weak initial domestic capacities. The insights imply that encompassing deep integration may

yield not only superior developmental results, but may also increase the potential for further economic integration.

SOURCE: *The Developmental Impact of the EU Integration Regime: Insights from the Automotive Industry in Europe's Peripheries*

ONLINE: http://www.maxcap-project.eu/system/files/maxcap_wp_16.pdf
László Bruszt, Julia Langbein, Višnja Vukov, Emre Bayram, Olga Markiewicz

Analysing to what extent the process of judicial reform in Turkey in the last 15 years, have been driven by the political conditionality of the EU and its credibility, and the domestic costs of adaptation, shows that while EU accession process mattered greatly for the Turkish political transformation, it has been by no means the sole determinant of political changes. There are multiple factors shaping Turkey's initial compliance with the EU's political norms, and later their reversal including political costs of adaptation and veto players. Significantly, the EU's lack of credibility combined with increased domestic material costs of judicial reforms at home triggered the backsliding and the reversal of judicial reforms in Turkey.

SOURCE: *Judicial Reform in Turkey and the EU's Political Conditionality: (Mis)Fit between Domestic Preferences and EU Demands*

ONLINE: http://www.maxcap-project.eu/system/files/maxcap_wp_18.pdf

AUTHOR: Meltem Müftüler-Baç

Enlargement Policy Recommendations

POLICY BRIEF REINVIGORATING THE ENLARGEMENT PROCESS AND STRENGTHENING THE EU'S INTEGRATION CAPACITY: INSIGHTS FROM MAXCAP¹

KEY RECOMMENDATIONS

The EU should:

Open up the debate on enlargement

- Inform the public in current candidates and the member states about the rationale, process and progress in ongoing enlargement negotiations.
- Open the public debate on enlargement early enough and before accession (should be done by national governments and not only by the European Commission).
- Encourage debates in national parliaments and with citizens of member states and candidate states on key issues arising in ongoing accession negotiations.
- Highlight not only economic effects of enlargement but ideals and the vision behind enlargement choices and the importance of enlargement for stability, security and better governance on the continent.

¹ The brief draws upon the findings of the EU-funded research consortium “Maximizing the integration capacity of the European Union: Lessons of and prospects for enlargement and beyond” (MAXCAP) (<http://maxcap-project.eu>). The MAXCAP Policy Task Force for this policy brief included Tanja Börzel, László Bruszt, Antoaneta Dimitrova, Adam Fagan, Julia Langbein, Ulrich Sedelmeier and Asya Zhelyazkova.

Increase the efficiency of pre-accession policies to foster inclusive development

- Facilitate the development and monitoring of impact assessments that help the candidates to identify potential negative economic and social consequences of compliance with the internal market acquis at the level of sectors and territorial units.
- Include a broad range of state and non-state actors from the candidate countries (e.g. business associations, trade unions) when assessing the economic and social costs of integration with the internal market and remedial measures.

Increase the efficiency of policies to enforce the rule of law

- Ensure that the focus of current pre-accession measures is not exclusively on professionalizing judges and recruitment and training, at the expense of paying insufficient attention to democratic accountability.
- Ensure the structural inclusion of reform-minded civil society organizations in post-accession tools aimed at monitoring rule of law enforcement. Make established NGOs a regular partner in the discussion between the Commission and the candidate states' governments.

The 'big-bang enlargement' of the European Union (EU) has nurtured vivid debates among academics, practitioners and EU citizens about the consequences of 'an ever larger Union' for the EU's integration capacity. Over the past two years, MAXCAP has examined whether the Eastern enlargement of 2004 and 2007 has limited the EU's internal capacity to enlarge further and its external capacity to support the political and economic integration of non-members.² These questions have not lost relevance, quite to the contrary.

Current internal and external challenges for the EU range from solving the refugee crisis to growing public contestation about EU politics, cumbersome accession negotiations with Western Balkan countries and Turkey as well as an

² Schimmelfennig, F. (2014) 'Enlargement and Integration Capacity – A Framework for Analysis', MAXCAP Working Paper No. 1, Berlin: Freie Universität Berlin.

unstable neighbourhood. MAXCAP's first Policy Brief³ presented our recommendations for the EU policy towards the Eastern neighbourhood countries. Our second Policy Brief puts emphasis on the policy implications of our interim research findings for the EU's approach to support political and economic change in current and potential candidate countries so as to avoid disintegrative tendencies in the post-accession period.⁴

The good news about enlargement

The EU political system has not suffered from enlargement. We find evidence that the political integration of the Central and Eastern European countries (CEEC) has not undermined the EU's capacity to adopt and implement EU law. The process of institutional EU enlargement has progressed slowly but steadily. Notwithstanding strong fluctuations in enlargement events from year to year, new members have generally been able to integrate further, e.g. in the Euro and Schengen areas. Candidate countries have moved closer to membership or deepened their integration with the EU.

Moreover, enlargement has not thwarted the institutional reform of the EU; nor has it disrupted the EU's capacity to make decisions, establish binding rules, and implement them effectively. Contrary to initial fears of many policy-makers, media and academic commentators, there is no evidence that the Eastern enlargement has led to institutional gridlock of the decision-making machinery or to a loss of problem-solving capacity.⁵ Enlargement has had a rather limited impact on the production of legislation and on the duration of the decision-making process. There is also little evidence that enlargement has weakened the EU legal system. The larger and more diverse membership has not led to an increased use of non-binding soft law at the expense of hard, binding legislation. Enlargement has induced a greater use of differentiated integration – where legislation is not uniformly binding on the entire membership – but such differentiation has only

3 MAXCAP Policy Task Force (2015) '10 Years of the ENP – The Way Forward with the EaP', MAXCAP Policy Brief No. 1, August 2015, Berlin: Freie Universität Berlin

4 For a summary of our interim scientific findings see Schimmelfennig, F.; Börzel, T.; Kortenska, E.; Langbein, J. and Toshkov, D. (2015) 'Enlargement and the Integration Capacity of the EU – Interim Scientific Results', MAXCAP Report No. 1, Berlin: Freie Universität Berlin.

5 Toshkov, D. (2014) 'The Effects of the Eastern Enlargement on the Decision-Making Capacity of the European Union', MAXCAP Working Paper No. 5, Berlin: Freie Universität Berlin

been temporary. Finally, the new members have not increased problems with national implementation of EU law. On the contrary, non-compliance in the enlarged EU has decreased. At the institutional level, the EU thus appears to have been capable of absorbing the intake of a large number of new member states without a loss in its internal integration capacity to enlarge further. On the one hand, these somewhat surprising developments can be explained by institutionalized tendencies in the EU to find mutually beneficial solutions that accommodate the preferences and capacities of all member states. The recent European refugee crisis is a clear example for such a tendency, where the new member states were convinced to withdraw their resistance to accepting refugees within their territories. On the other hand, the observed positive trend does not imply that the new member states comply equally well with all policy areas. It remains to be seen to what extent the new member states comply with decisions that they initially did not support. Recent findings show the new EU member states experienced more problems implementing the EU Justice and Home Affairs directives than most of the 'old' member states.⁶ Ongoing MAXCAP research is working on substantiating these claims.⁷

Eastern enlargement has not deepened economic divergence between old and new members. During the 2004 and 2007 Eastern enlargement, the EU did not leave developmental outcomes of economic integration to the power of the market. EU accession, of which the regulatory integration with the EU internal market was an important part, increased economic and political interdependence between the CEEC and the EU insiders. The latter were forced to prevent the marginalization and destabilization of weaker economies in Central and Eastern Europe (CEE). This could have increased the risks of non-compliance on the part of the CEEC in the post-accession period, endangered the functioning of the internal market and reduced the welfare gains for the EU insiders. The EU, and particularly the European Commission, developed capacities and tools to anticipate and alleviate such major negative developmental consequences of rule transfer during the Eastern enlargement.⁸ The way the EU has managed the economic

6 Zhelyazkova, A. (2014) 'From Selective Integration into Selective Implementation', *European Journal of Political Research* 53(4): 727-746.

7 MAXCAP's next policy brief will discuss the implications of the refugee crisis for our findings about the effect of enlargement on the EU's internal decision-making capacity, and will present recommendations on how to improve rule enforcement in certain policy areas.

8 Bruszt, L. and Langbein, J. (2015) 'Development by Stealth. Governing Market Integration in the Eastern Peripheries of the European Union', Paper presented at the European Union Studies Association Conference, Boston, 5-7 March.

integration has helped to bring in the fledgling market economies from Central and Eastern Europe afloat into the strongest regional market in the globe, and to turn their markets into important export destinations and production platforms for EU insiders. Overall, the CEEC managed to upgrade their production profiles, albeit to varying degrees.⁹

The bad (or at least sobering) news about enlargement

The public perception and political debate are not acknowledging the positive effects of enlargement – quite on the contrary. In spite of the described smooth institutional transition and overall welfare gains, public opinion has become increasingly sceptical of further enlargement. At the same time, public support for further enlargement varies strongly depending on the non-member state in question.¹⁰ While public opinion results are not encouraging for future enlargements, MAXCAP research into citizens' perceptions of enlargement offers more nuanced findings.¹¹ We researched how citizens view the Eastern enlargements and potential future enlargements in the old member states, such as Germany and the Netherlands, the 2004 and 2007 entrants (Poland and Bulgaria) as well as candidate states, such as Serbia and FYR Macedonia. We find that future enlargements are not a priori rejected in the Netherlands and Germany, even though these member states are currently seen as the most critical and reluctant to support future enlargements. In both countries, we find idealistic and supportive discourses, which refer to enlargement enhancing the EU's global role and the EU as a community of democratic values. The research also sheds light on attitudes that are more sceptical. It reveals that citizens are often critical of enlargement as an EU policy because they would like to be informed better and in a more timely manner and to be more involved in enlargement decisions and steps. Last but not least, a significant finding in the six country studies is that in old, new and candidate states alike citizens expect enlargement to be a

9 Bruszt, L. and Vukov, V. (Forthcoming) 'Varieties of Backyard Management: EU Integration and the Evolution of Economic State Capacities in the Southern and Eastern Peripheries of Europe', in P. L. Gales and D. King (eds), *Restructuring European States*, Oxford: Oxford University Press.

10 Toshkov, D.; Kortenska, E.; Dimitrova, D. and Fagan, A. (2014) 'The "Old" and the "New" Europeans: Analyses of Public Opinion on EU Enlargement in Review', MAXCAP Working Paper No. 2, Berlin: Freie Universität Berlin.

11 Dimitrova, A.; Kortenska, E. and Steunenberg, B. (2015) 'Comparing Discourses about Past and Future EU Enlargements: Core Arguments and Cleavages', MAXCAP Working Paper No. 13, Berlin: Freie Universität Berlin.

rule-based, objective process and to proceed according to clear criteria. In new member states and candidates, the view that enlargement should bring better governance is coupled with disappointment in national politicians and their reluctance to improve rule of law, combat corruption and provide open access to institutions and services.

The EU lacks tools to shape developmental outcomes in a positive way. The way the EU managed the economic integration of the CEEC during the Eastern enlargement was primarily about preventing large-scale economic collapse in an ad-hoc manner. The EU did not have tools at hand that would have helped these economies to match the domestic developmental needs with the requirements of honouring the rules of the single market.¹² Longer-term positive effects of EU interventions on catch up growth or on the broad-based distribution of the benefits of market integration within the Central and East European economies are questionable. The vulnerabilities of CEE economies to fluctuations in the single market are high and large sections of the societies in the CEEC could not benefit from economic integration. The EU has weak capacity to anticipate and alleviate developmental gridlocks in these countries. The enduring crisis in the weaker economies of the Southern peripheries of the EU has already shown the weakness of the way the EU used to manage competitive asymmetries during the Southern enlargement. In the new member states of Central and Eastern Europe, it is a growth of economic nationalism, undermining democratic quality, which signals the weakness of the same strategy.¹³

The EU lacks tools to 'lock-in' political change. Political institutional change in the new member states is not necessarily set in stone.¹⁴ Preliminary findings on the ability of the EU to 'lock-in' political change and prevent backsliding support this assessment. In the absence of supportive domestic coalitions, weaknesses of democratic quality and governance capacity are difficult to redress in accession

12 Bruszt, L. and Langbein, J. (2015) 'Development by Stealth. Governing Market Integration in the Eastern Peripheries of the European Union', Paper presented at the European Union Studies Association Conference, Boston, 5-7 March.

13 MAXCAP researchers are currently examining the effectiveness of post-accession tools the EU has available to mitigate competitive asymmetries and foster social cohesion within and across its member states. So far, our preliminary findings imply that the governance of structural funds needs major reforms: the transfers from the EU do not help to reduce developmental disparities; they serve more as free rents in the hands of central governments. We will present our findings and policy recommendations towards the end of the project in March 2016.

14 Börzel, T. (2014) 'Coming Together or Drifting Apart? Political Change in New Member States, Accession Candidates, and Eastern Neighbourhood Countries', MAXCAP Working Paper No. 3, Berlin: Freie Universität Berlin

negotiations or by post-accession sanctioning.¹⁵ Victor Orbán's agenda to build an 'illiberal democracy' in Hungary and the EU's inactivity in this respect is the most popular example for this phenomenon, albeit not the only one. Furthermore, the mere transfer of rule of law institutions during accession negotiations is not sufficient to ensure effective implementation after accession. Cases where domestic improvements have been achieved suggest that the EU can only foster change together with civil society and broad societal mobilization. In the post-accession period, the EU lacks effective strategies to address implementation deficits due to the absence of specific prescriptions regarding legal and institutional changes in this area.¹⁶

Recommendations to strengthen the integration capacity of the EU

Open up the debate on enlargement. In the candidate countries, the EU's enlargement policy should provide channels for citizen participation. Civil society programs and instruments, such as the ones used in the context of the Western Balkans, are useful and important. Above all, the EU should seek for tools to empower citizens in their push for reforming their own governments. Consultations and negotiations on difficult reforms should include citizens' representatives and NGOs as equal partners rather than in optional consultation after the fact.

In the member states, the EU should inform the population and civil society better about the rationale and progress of enlargement negotiations. This should be above all the task of member state governments, which are and will remain key veto players in enlargement negotiations. The information campaign and debates on enlargement should not be left for the last moment when accession treaties have already been prepared. Instead, governments should inform the public and parliaments of key decisions taken in the Council of Ministers on negotiation chapters. In this way, the justified impression of many citizens that they have not been informed or involved in a process which will ultimately affect them all, will be avoided. In past enlargements, discussion of the candidates and

15 Börzel, T. (2015) 'Building Sand Castles? How the EU Seeks to Support the Political Integration of its New Members, Accession Candidates and Eastern Neighbours', MAXCAP Working Paper No. 9, Berlin: Freie Universität Berlin.

16 Dimitrova, A. (2015) 'The Effectiveness and Limitations of Political Integration in Central and Eastern European Member States: Lessons from Bulgaria and Romania', MAXCAP Working Paper No. 10, Berlin: Freie Universität Berlin; Fagan, A. and Sircar, I. (2015) 'Judicial Independence in the Western Balkans: Is the EU's "New Approach" Changing Judicial Practices?', MAXCAP Working Paper No. 11, Berlin: Freie Universität Berlin.

their readiness came only at the end when citizens rightly perceived that they were being faced with faits accomplis and that their opposition or support would hardly matter. Parliamentary debates on ongoing accession negotiations have been very scarce as well. Regular debates in parliament and public discussions can create at least the opportunity for citizens to be better informed about the logic, progress and crucial steps of accession negotiations.

Next to national governments, European parties could play a role in opening up the debate on enlargement. European parties could play a key role in ‘Europeanizing’ the public discourse in this respect. Enlargement should not be presented only as a source of potential economic gains or losses, either. The ideals and vision behind enlargement choices, the importance of enlargement for stability and security and for improving governance in Europe should be communicated and discussed with citizens.

Increase the efficiency of pre-accession policies to foster inclusive development.

In the pre-accession period, the EU should not limit itself solely to ad-hoc negative developmental strategies aimed at preventing economic collapse of candidate countries. Such an approach to governing market integration might fuel disintegrative tendencies in the post-accession period. The EU should develop more activist pre-accession policies that aim at improving the match between the requirements of implementing the uniform EU rules and local developmental needs. There is a need to create developmental capacities both at the level of the EU and in the new member states to anticipate and manage the developmental consequences of rule transfer at the level of local economies, sectors and territorial units. More activist pre-accession policies could include, among other tools, the introduction of impact assessments that investigate the potential negative economic and social effects of compliance with the EU internal market acquis on key sectors and/ or territorial units in the candidate countries’ economies. Impact assessments should also describe how negative economic and social effects could be mitigated and the range of beneficiaries extended through changes in the capacities of domestic actors and institutions, and/or EU funds or co-financing measures by the European Bank for Reconstruction and Development, the European Investment Bank or International Finance Institutions. The European Commission and the national governments of the candidate country should involve local actors, such as firms, business associations and trade unions in the writing of sectoral and/or regional impact assessments and in the monitoring of their enforcement.

Develop (more) effective mechanisms to enforce the rule of law. The rule of law has become a priority area of strengthening external integration capacity after the 2004 and 2007 enlargements. First, however, the absence of specific prescriptions regarding legal and institutional changes, plus the lack of substantive consensus across the EU makes policy objectives in the area of judicial reform unclear. This undermines effective conditionality and capacity-building. Second, the EU still tends to over-emphasize judicial independence without concomitant measures to strengthen checks and balances between the executive, legislature, and judiciary during accession negotiations with current candidates. There needs to be greater recognition of the fact that EU assistance and conditionality around strengthening judicial independence and training can engender unintended consequences. For instance, it can make the judiciary too powerful, unaccountable, and even discredit the rule of law in the eyes of the public. Whilst there is no suggestion here that judicial autonomy is not important and that better training is not desirable, there is a very fine balance to be struck between autonomy and accountability. Finally, the EU should aim to ensure the structural inclusion of reform-minded civil society organizations and other societal actors (education institutions, trade unions, think tanks) in negotiations and monitoring especially with regard to areas that require broad societal consensus for reform, such as rule of law.

POLICY BRIEF. WHAT DO CITIZENS' OPINIONS AND PERCEPTIONS MEAN FOR EU ENLARGEMENT?

Introduction

In many of the EU member states, majorities of citizens express opposition to further EU enlargement when surveyed in standard public opinion polls. Such deep and widespread opposition can undermine the credibility of the accession negotiations with current and potential candidate countries and represents a threat to future enlargements in view of ratification requirements for accession treaties and possible referenda. It is therefore important to understand the sources of public opposition and identify potential channels for influencing citizens' perceptions, evaluations, attitudes and opinions.

A large academic literature exists that identifies structural, individual and polity-level correlates of opposition to enlargement, the most important of these being socio-economic status, attachment to national identity, perceived economic threats and political cues. Some recent studies, however, have shown that identity effects can be muted when expectations of economic support are mobilized at the same time.¹⁷ Therefore, the ways in which citizens' arguments, responses and perceptions are combined in different discourses represent more than the sum of their attitudes and can reveal possible ways to proceed with enlargement in the future.

In short, in this policy brief we address the problems of 1) understanding the structure of citizen attitudes and evaluations of EU enlargement and 2) finding possible ways to influence these attitudes and evaluations.

Evidence and analysis

First, let us briefly document the state of public attitudes to future enlargements. Based on the most recent available representative survey of all EU citizens¹⁸, 49% declare that they are against 'Further enlargement of the EU to include other countries in future years', 39% are in favour, and 12% express no opinion. These figures have remained relatively stable since 2012. The extent of support or opposition differs significantly across the EU member states. A majority (more than 50% of all survey respondents) is against further enlargement in Belgium, the Czech Republic, Denmark, Germany, Greece, France, Italy, Luxembourg, The Netherlands, Austria, Finland and the UK (12 countries). In addition, in Cyprus and Portugal there is net opposition (but without a majority). Further enlargement enjoys the support of majorities in Bulgaria, Spain, Croatia, Latvia, Lithuania, Hungary, Malta, Poland, Romania and Slovenia (10 countries, 9 of which have joined in 2004 or after). There is also net support (but without a majority) in Estonia, Ireland, Slovakia and Sweden.¹⁹

17 Kuhn, T. and Stoeckel, F. (2014) 'When European Integration Becomes Costly: The Euro Crisis and Public Support for European Economic Governance', *Journal of European Public Policy* 21(4): 626-41.

18 Standard Eurobarometer 83 (Spring 2015), with fieldwork from May 2015, available at: http://ec.europa.eu/public_opinion/archives/eb/eb83/eb83_anx_en.pdf.

19 This general picture is also consistent with qualitative evidence from focus groups collected for Eurobarometer in 2014 (p.4 and p.8 of the summary report 'The Promise of the EU' in particular), available at: http://ec.europa.eu/public_opinion/archives/quali/ql_6437_sum_en.pdf.

These aggregate numbers are indicative of the scale of the problem. However, they conceal that the individual survey responses might be sensitive to the exact wording of the survey question and exist only as “a projection of an extremely complex set of other values and specific premises upon the EU’s future”²⁰). To address this, the MAXCAP team conducted a large-scale empirical data-collection and analysis that identified citizen discourses on EU enlargement. Our six country selection for this analysis included two ‘old’ member states from Western Europe (Germany and The Netherlands), two recent member states from Eastern Europe (Poland and Bulgaria) and two candidate states from the Western Balkans (Serbia and FYROM).²¹

In addition, we complemented the original data collection and discourse analysis based on Q methodology with analyses of the determinants of EU enlargement opposition based on existing standard public opinion surveys and an analysis of factors determining attitudes²² to the candidacy of Turkey.²³

We find that the consequences of the 2004-2007 enlargement are still being absorbed by citizens. In the last decade, citizens in new and old member states have gotten to know each other as labour migrants, but little dialogue has taken place to give enlargement a broader meaning than the widening of the internal market. The results of public opinion analyses and the discourse analyses clearly indicate that if future enlargements were to happen at all, they should be much better communicated and broadly debated.

Individual attitudes to future EU enlargements have both utilitarian and normative/identity dimensions. Furthermore, national political, economic and discursive

20 Dimitrov, G.; Haralampiev, K. and Stoychev, S. (2014) ‘Contextual Policy Reading of Public Opinion Data and Recent Trends in Attitudes towards European Integration’, MAXCAP Working Paper No. 6, Berlin: Freie Universität, available at: http://maxcap-project.eu/system/files/maxcap_wp_6_0.pdf.

21 For details see Dimitrova, A. L. and Kortenska, E. (2015) ‘Understanding Enlargement: Discourses in Six Countries’, Paper presented at 14th Biennial Conference European Union Studies Association (EUSA), Boston, 5-7 March, available at: <https://eustudies.org/conference/papers/download/184> and Dimitrova, A.; Kortenska, E. and Steunenber, B. (2015) ‘Comparing Discourses about Past and Future Enlargement: Core Cleavages and Arguments’, MAXCAP Working Paper No. 13, Berlin: Freie Universität, available at: http://maxcap-project.eu/system/files/maxcap_wp_13_2.pdf.

22 oshkov, D.; Kortenska, E.; Dimitrova, A. and Fagan, A. (2014) ‘The ‘Old’ and the ‘New’ Europeans: Analyses of Public Opinion on EU Enlargement in Review’, MAXCAP Working Paper No. 2, Berlin: Freie Universität, http://maxcap-project.eu/system/files/maxcap_wp_02.pdf.

23 Hatipoglu, E.; Müftüleri-Baç, M. and Karakoç, E. (2014) ‘Explaining Variation in Public Support to Turkey’s EU Accession, Turco-skepticism in Europe: A Multi-Level Analysis’, MAXCAP Working Paper No. 4, Berlin: Freie Universität, available at: http://maxcap-project.eu/system/files/maxcap_wp_04_0.pdf.

sive contexts matter for the overall level of opposition and mediate the effects of some individual-level factors. Pro/contra EU enlargement attitudes can therefore be seen as a construct of diverse and multifaceted relationships of a number of components.²⁴

Examining underlying motivations as expressed in discourses, we found that citizens oppose enlargement because they feel they have not been informed and consulted about it. Citizen discourses across the board in our six countries suggest that citizens expect more information and timely involvement in discussions on enlargement. We suggest that citizens, even sceptical ones, do not close the door on future enlargements, but seek more deliberation on how and if they would happen. Finding channels to discuss and deliberate the merits of candidate countries and enlargement in the member states may alleviate some of the public scepticism on the issue.

A number of the discourses supporting enlargement that we have identified refer to European identity and to a community of ideals and norms such as democracy and good governance. Normative arguments would resonate with some voters in The Netherlands, Poland and Germany. Furthermore, there are bridging discourses and connecting arguments among the citizens of the 'old' (The Netherlands and Germany), 'new' (Poland and Bulgaria) and candidate states (FYROM and Serbia) depicting the EU as a source of better governance, or as a community of ideals. Citizens of candidate states in particular expect the EU and the enlargement process to be a source of economic opportunities, but also, remarkably, of better governance in terms of rule of law, impartial institutions and lack of corruption.

Next to the positive discourses we have identified, there are also bridging discourses sceptical of future enlargement and European integration, which can undoubtedly be mobilized by opponents to enlargement. Sceptical and negative discourses are relatively few in number, but they reject both enlargement and European integration in general. There are also those who reject the accession of specific countries only, while not fully rejecting enlargement. As public opinion surveys, discourses analyses and the separate analysis we have made show, Turkey is a special and especially disputed case. The analysis of factors determining opposition to potential Turkish membership highlights the importance

24 Dimitrov, G.; Haralampiev, K. and Stoychev, S. (2014) 'Contextual Policy Reading of Public Opinion Data and Recent Trends in Attitudes towards European Integration', MAXCAP Working Paper No. 6, Berlin: Freie Universität, available at: http://maxcap-project.eu/system/files/maxcap_wp_6_0.pdf.

of determinants such as national political contexts and the size and presence of the Turkish migrant population driving turco-scepticism in the member states.²⁵

Finally, we note that more research is needed to examine the ways in which the politically relevant opinions of people – part of different discourses on EU enlargement and integration – can be influenced (if at all), for example, with different policy frames, emotional or normative appeals vs. rational argumentation and fact provision.

Policy implications and recommendations

KEY RECOMMENDATIONS

The EU should:

Anticipate politicisation and public debate regarding future enlargements

- It is clear that it will be difficult to sustain the credibility of enlargement negotiations and of enlargement as such in the face of deep and wide-spread public opposition to future EU expansion. The possibility of future referenda on accession treaties diminishes the EU's credibility in enlargement negotiations, if governments do not engage more actively in debates on enlargement.
- To proceed with enlargement, EU institutions and member state elites need to gain a deeper understanding in the conditions under which citizens may approve the accession of new member states.

25 Hatipoglu, E.; Müftüler-Baç, M. and Karakoç, E. (2014) 'Explaining Variation in Public Support to Turkey's EU Accession, Turco-skepticism in Europe: A Multi-Level Analysis', MAXCAP Working Paper No. 4, Berlin: Freie Universität, available at: http://maxcap-project.eu/system/files/maxcap_wp_04_0.pdf.

Open up the public debate and engage with citizens

- An open political and societal debate on enlargement should be encouraged, especially in the older member states, to alleviate the objections and doubts of those citizens who feel they have not been consulted on enlargement. Consultations and parliamentary debates should take place during enlargement negotiations and not only at the stage of ratification of Accession Treaties. Finding opportunities to discuss and deliberate the merits of candidate countries and enlargement may alleviate some of the public scepticism on the issue.
- Member state governments and opposition should seek to use existing media and establish new channels for consultation with domestic stakeholders, civil society and citizens such as open consultations, citizens' conferences and social media events.

Make the case for enlargement in the member states

- Governments of critical member states, such as The Netherlands, must be prepared to back up increased conditionality towards applicant and candidate states with their own willingness to make the case for enlargement to their citizens.
- Discussing the membership of forerunners such as Serbia and Montenegro with citizens does not have to be a losing proposition because of the downward trend in public opinion. As our analysis shows, there are a number of possible lines of justification and understanding what enlargement has been and should be about.

Stress values, shared community, clear rules and good governance

- Framing enlargement in terms of shared values and identity will resonate with some citizens in various member states who disagree with enlargement on utilitarian or geopolitical grounds.
- A commitment to an enlargement process based on clear rules and the fulfilment of enlargement criteria and conditions will resonate with citizens in various member states and in candidate countries,

which support the governance reforms the Union requires and the EU's strengthened conditionality.

Support development in the candidate states

- Support development and economic growth in candidate and aspirant states to answer the expectations and hopes of citizens who support enlargement on utilitarian grounds.

Research Parameters

To reveal the understandings, expectations and motivations behind citizens' attitudes to past and future enlargements, we have employed Q methodology, a reconstructive methodology in which interpretation of qualitative results is constrained by statistical analysis. Q methodology, in contrast to surveys, does not use pre-defined questions sorting subject's responses along established political categories or parts of the political spectrum. Instead, this approach allows citizens to define the domain – in this case the EU enlargement – in communication and in their own terms. The method combines focus groups and individual interviews with a statistical analytical approach to produce a set of factors, or discourses, for each country. While the results of the Q method analysis are not statistically representative for the wider country population, they illustrate, elaborate and clarify the attitudes expressed in mass surveys.

We have used the standard steps of Q methodology in combination with political discourse analysis, resulting in a research design that involves two stages of fieldwork with different sets of respondents, analysis, centroid factor extraction and interpretation. Altogether, a total of 241 citizens participated in 24 focus groups followed by a second stage of individual interviews of about 40 citizens per country in 70 locations across the six countries. A total of 500 respondents participated in the two fieldwork stages. A broad variety of respondents have been selected for both stages, ensuring that different social and educational backgrounds, gender and age and localities – from capital cities to small villages – have been represented. The group discussions as well as the individual interviews have been conducted in the respective national languages and later translated with minimal editing.

The collected Q sorts – distribution of 64 statements, rank-ordered according to levels of disagreements (-6) and agreement (+6) – have been analysed by means of centroid factor analysis for every country and interpreted according to the statistical results. In contrast to the usual approach to factor analysis, in Q method, analyses correlate persons' viewpoints. The resulting rotated factors we have subsequently interpreted to resolve internal contradictions or remove repetitions. The final sets of factors are generalizations of points of view, narratives or, as referred to above, discourses.

POLICY BRIEF. CONSOLIDATING AND REVITALIZING ENLARGEMENT: FURTHER INSIGHTS FROM MAXCAP

KEY RECOMMENDATIONS

The EU should:

- The EU needs to develop more effective and more flexible instruments for preventing democratic backsliding among its member states. The current Article 7 sanctions are not sufficiently credible because of the near-unanimity requirement. Post-accession sanctions should combine the codification of a democracy and good governance acquis, impartial assessment (e.g. by the Venice Commission or the European Court of Justice), and a range of limited, preferably financial sanctions.
- The EU needs to deepen its mode of economic integration and develop mechanisms to anticipate and alleviate negative consequences of rules transfer as it expands trade liberalization and regulatory alignment to the Eastern Partnership countries.
- The EU's structural and regional policies need to be reoriented to create better preconditions for investment and growth in more backward regions of the new member states.

- EU member state governments and institutions should approach and engage citizens and grassroots movements directly in an open and fact-based dialogue at the early stages of an enlargement process. Communication and debate should emphasize common European values and principles including the rule of law, which are shared throughout the member states.
- The ‘New Approach’ matches well with citizens’ core concerns about enlargement but needs to work more bottom-up in cooperation with civil society organizations and monitor potential unintended effects of new institutions designed to strengthen the judiciary but actually providing new venues for political manipulation.
- The same is true for the use of the post-accession Cooperation and Verification Mechanism in Bulgaria and Romania. In addition, the EU should avoid measures that undermine the legitimacy of the CVM – such as the questionable issue-linkage with Schengen accession that some member states made to attach material incentives to the CVM.

Introduction

Over the past three years, MAXCAP has analyzed the internal and external integration capacity of the EU in relation to the 2004 and 2007 enlargements. Internal integration capacity refers to the capacity of the EU to integrate new member states into its political, legal, and economic system, to avoid disruption, and further cohesion in the EU. External integration capacity, in turn, denotes the capacity of the EU to integrate non-member states by strengthening their ability to become members, by aligning their institutions and policies with those of the EU and by promoting stability in its neighbourhood.

This policy brief builds on and complements MAXCAP’s Policy Brief No. 2.²⁶ We identify three sets of findings on the state of EU integration capacity and general

²⁶ MAXCAP Policy Task Force (2016) ‘Reinvigorating the Enlargement Process and Strengthening the EU’s Integration Capacity: Insights from MAXCAP’, MAXCAP Policy Brief No. 2, Berlin: Freie Universität Berlin.

policy recommendations. First, internal integration capacity has proven strong at the organizational level of the EU. Second, and at the same time, political and economic cohesion and convergence at the level of member states (and beyond) has been more limited and unbalanced. Third, external integration capacity has weakened.

The focus of the policy brief is to describe which EU strategies and policies have worked well and less well in the past (or have had unintended effects) – and should either be maintained, applied more broadly, or reconsidered. It is an important caveat that we can generally not claim with confidence that policies, which worked in one context, will also work in another context – or that untried policies will work better than failed policies. But we can at least point to issues and areas, in which policy reform is needed.

Institutional integration capacity

Internal integration capacity at the level of EU institutions and policies has proven strong. According to our findings, the EU's new member states have not disrupted, but integrated themselves successfully, into the EU's political and legal systems. There is no evidence that Eastern enlargement has led to institutional gridlock and loss of decision-making capacity. Whereas there is some evidence that the new member states have distinct preferences from the older member states in a few policy areas, they are seldom able to act as a cohesive group, let alone derail the decision-making process.²⁷ Nor has Eastern enlargement led to a deterioration of compliance with EU law. To the contrary, the Central and Eastern European new member states have on average a better compliance record than both the old member states and the new member states in earlier enlargement rounds. This fact is best explained by the legacy of accession conditionality.²⁸ Moreover, efficient transposition does not come at the price of weak implementation with regard to practical application of EU law on the ground. Except for the area of social policy, the new member states do not lag behind the old member

27 Toshkov, D. (2015) 'The Effects of the Eastern Enlargement on the Decision-Making Capacity of the European Union', MAXCAP Working Paper No. 5, Berlin: Freie Universität Berlin.

28 Sedelmeier, U. and Börzel, T. (forthcoming) 'Compliance with European Union Law in the New Member States after the Eastern Enlargement', MAXCAP Working Paper No. 19, Berlin: Freie Universität Berlin.

states in practical implementation.²⁹ Finally, the new member states have converged towards normal levels of differentiated integration in the EU – especially when compared to the benchmark of the Southern member states, which are most similar in wealth and capacity to the Eastern members.³⁰ We conclude that, with regard to the EU’s institutions of decision-making, legal integration, and policy implementation, there is no identifiable need for reforms to enhance the integration capacity of the EU.

Political and economic integration capacity

Cohesion and convergence among EU member states and beyond has been limited and unbalanced. This is true for both the broader political and economic integration.

Political integration

Whereas democracy and governance effectiveness have improved overall in Eastern Europe, the countries of Central Europe, Southeast Europe, and Post-Soviet Europe have been moving on distinct paths and unable to catch up with the old member states. EU accession conditionality has had a positive impact on the political development of candidate countries. Unless the EU offers membership, however, it does not produce any systematic effects in its neighbouring countries. Moreover, the EU’s capacity to improve democracy and governance effectiveness weakens again, once candidate countries become members.³¹

In addition to maintaining the credibility of accession conditionality in the candidate countries (see below), the EU needs to do two things. On the one hand, it should signal to non-candidate countries that they have a general accession perspective – even if it is distant. On the other hand, the EU should develop more

29 Zhelyazkova, A.; Kaya, C. and Schrama, R. (forthcoming) ‘Notified and Substantive Compliance with EU Law in Enlarged Europe: Evidence from Four Policy Areas’, MAXCAP Working Paper No. 21, Berlin: Freie Universität Berlin.

30 Schimmelfennig, F. and Winzen, T. (forthcoming) ‘Eastern Enlargement and Differentiated Integration: Towards Normalization’, MAXCAP Working Paper No. 20, Berlin: Freie Universität Berlin.

31 Börzel, T. and Schimmelfennig, F. (forthcoming) ‘Coming Together or Drifting Apart? The EU’s Political Integration Capacity in Eastern Europe’, MAXCAP Working Paper No. 22, Berlin: Freie Universität Berlin.

effective and more flexible instruments for preventing democratic backsliding among its member states. The current Article 7 sanctions are not sufficiently credible because of the near-unanimity requirement in the European Council and party-politically motivated protection of illiberal governments in the European Parliament.³² Whether the newly established rule-of-law mechanism will be effective remains to be seen. Accession conditionality derives its credibility from clear legal foundations, an apolitical, technocratic assessment mechanism, and tangible incentives. Post-accession conditionality could build on the same model and combine the codification of a democracy and good governance acquis beyond the general principles listed in the Treaty, impartial assessment (e.g. by the Venice Commission or the European Court of Justice), and a range of limited, preferably financial sanctions to be decided by a qualified majority.

The Cooperation and Verification Mechanism (CVM), a post-accession instrument to promote judicial reform and the fights against corruption and organized crime in Bulgaria and Romania, has been useful but of limited effect. Our research suggests that its impact has been most noticeable when preventing or reducing assaults on existing institutional achievements. Moreover, it provided a platform for committed domestic actors to instigate domestic debate and exert pressure for reforms. At the same time, the institutional focus of the CVM is insufficient to address problems, such as corruption, which are deeply rooted in society. We therefore propose a stronger orientation of the CVM towards the support of civil society. Finally, since the power of the CVM relies primarily on the legitimacy of the EU as an institution, measures that undermine the legitimacy are detrimental to its impact – such as the selective use of the CVM towards Bulgaria and Romania, the questionable issue-linkage with Schengen accession that some member states made to attach material incentives to the CVM.³³

Economic integration

Regarding the EU's economic integration capacity, our findings are equally ambivalent. The EU has created opportunities for trade, investment, and regulatory improvement but at the same time exposed the weaker economies of the East to market pressures on non-competitive industries and backward re-

32 Sedelmeier, U. (forthcoming) 'Protecting Democracy inside the European Union? The Party Politics of Sanctioning Backsliding in the European Parliament', MAXCAP Working Paper No. 27, Berlin: Freie Universität Berlin.

33 Dimitrov, G.; Haralampiev, K. and Stoychev, S. (forthcoming) 'The Adventure of the CVM in Bulgaria and Romania', MAXCAP Working Paper No. 26, Berlin: Freie Universität Berlin.

gions.³⁴ Somewhat surprisingly, convergence to EU requirements of efficient judiciary increases the chances of social convergence. The successful transfer of EU rules has also had a positive effect on Foreign Direct Investment (FDI), and labor productivity. As a combined effect of improved institutional conditions and the changing investment strategies of the largest European multinational firms, the strongest economies of Eastern and Central Europe have converged to the core countries at the level of the structure of their production and export. In the Eastern neighbourhood, however, such assistance has not been forthcoming. As long as governments in this region could pick and choose the extent and areas of integration, as they could under the initial European Neighbourhood Policy, this lack of support was less problematic than it is under the comprehensive free trade regime of the Eastern Partnership. In order to avoid destabilizing non-member countries further economically – and, ultimately, politically – the EU needs to deepen its mode of economic integration and develop mechanisms to anticipate and alleviate negative consequences of rule transfer.³⁵

Not all is well in the new member states either. In the absence of post-accession policies that could address the developmental problems of the Eastern new members in a European context, economic convergence is based primarily on the availability of cheap highly skilled labour, preventing any considerable convergence to the core countries at the level of consumption.³⁶ While the EU's cohesion funds have contributed to the new members' wealth, they also increased the gap between more and less advanced regions as well as the gap between the central state and local governments. This has resulted in part from the increasing focus of Cohesion Policy on efficient spending and the cofinancing requirements.³⁷ The EU's structural and regional policies thus need to be redirected to create better preconditions for investments and growth in more backward regions. This would imply a reduction of co-financing requirements and a revival of the decentralization agenda.

34 Langbein, J.; Bruszt, L.; Markiewicz, O. and Vukov, V. (2016) 'Integrating Peripheries: Developmental Agency of the State and Transnational Market Integration in Europe', MAXCAP Deliverable D5.5.

35 Bruszt, L. and Langbein, J. (forthcoming) 'Varieties of Dis-embedded Liberalism. EU Integration Strategies in the Eastern Peripheries of Europe', MAXCAP Working Paper No. 23, Berlin: Freie Universität Berlin.

36 Bruszt, L. and Vukov, V. (2015) 'Transnationalizing States in Europe's Peripheries: European Integration and the Evolution of Economic State Capacities in the Southern and Eastern Peripheries of Europe', *Journal of Comparative Economic Studies* 10 (March 2015): 69-92.

37 Medve-Bálint, G.; Šćepanović, V.; Bohle, D. (2016) 'More Integrated but also more Divided: Intended and Unintended Consequences of Foreign Direct Investment and the Cohesion Policy in Eastern Europe', MAXCAP Deliverable 1.6.

Enlargement Strategy

At a time when the EU faces new geopolitical challenges as a result of the Ukrainian crisis and the refugee crisis, the enlargement process has largely stalled in the Western Balkans, Turkey, and beyond as a result of weak credibility of the membership perspective.

Public opinion and discourses

Public opinion in the member states has become increasingly unfavourable to future enlargements of the EU. Negative public opinion in the EU member states is a major limiting factor of any future enlargement. It reduces the credibility of the EU's membership promise – in particular, if old member states raise the possibility of putting accession treaties to a referendum. As a result, non-member states cannot be sure to join even if they comply with the accession conditions. This uncertainty about being ultimately rewarded for reforms with membership will diminish the non-members' readiness to engage in reform.

The previous absence of an open and fact-based political and public debate on Eastern enlargement, especially in the older member states, has contributed to fuelling anti-immigrant and Euro-sceptic sentiments; the lack of deliberation and consultation about the process seems to be one of the major concerns of citizens in the member states. Elite communication on enlargement has focused too much on material costs and benefits, whereas pro-European discourses based on common values, ideals and identities have remained in the background.

The analysis of citizens' perceptions and understandings in six member and candidate states about the process of enlargement presents a far more nuanced and optimistic picture than public opinion surveys, as a number of the discourses we find contain supportive arguments for enlargement. Analyses of public discourse show that there are a number of enabling discourses that politicians in favour of enlargement can use to communicate with citizens. A large group of discourses contain arguments suggesting that citizens would accept enlargement if it was objective, rule driven and transparent. The emphasis on impersonal and non-corrupt institutions emerges when citizens define their own expectations from enlargement in the discourse analyses. These expectations can be inter-

preted as support for the EU's new enlargement strategy with its stronger conditionality and emphasis on rule of law.³⁸

Our analyses suggest that EU member state governments and institutions should approach and engage citizens and grass-roots movements directly in an open and fact-based dialogue at the early stages of enlargement process. They should seek a bridging rhetoric that would speak to citizens beyond economic and personal benefits and gains, since those are uncertain and change rapidly. Rather emphasis in rhetoric should be placed on the shared and common European values, ideals, principles, norms and rules when communicating and debating future steps towards widening.

The New Approach and judicial reform

The EU's enlargement strategy has been adapted time and again to changing circumstances of enlargement and lessons learned from earlier accession processes. An important recent innovation has been the 'new approach' with its focus on the rule of law and judicial reform. Whereas the new approach addresses weaknesses of previous enlargement rounds, and addresses core citizens' concerns about the candidate countries, our research shows that it can also lead to unintended consequences. New, relatively autonomous bodies tasked with training and regulating the activities of judges may unintentionally enable new forms of political manipulation to occur and reinforce conservative practices that serve to undermine the reputation of the judiciary.³⁹ Simply supporting judicial councils and academies will not necessarily improve judicial practice and deliver more 'independent' judgements. Rather, continual monitoring of and intervention in the new institutions is likely to be necessary.

In addition, the 'new approach' suffers from sticking to the old top-down, intergovernmental channel of accession conditionality. Whereas it is true that strengthening the rule of law requires governance capacity, namely robust state and intermediary institutions able to tackle corruption, civil society has a crucial role to play in driving reform and transforming legal norms and practice is incontestable.

38 Dimitrova, A.; Kortenska, E. and Steunenberg, B. (2015) 'Unintended Consequences of EU Conditionality on (Potential) Candidates', MAXCAP Working Paper No. 13, Berlin: Freie Universität Berlin. Kortenska, E. (2016) 'The Limits of EU Enlargement Linked to Citizens' Perceptions of Past and Future Enlargements', MAXCAP Deliverable 3.6.

39 Fagan, A. (forthcoming) 'Judicial Reform in Serbia and Bosnia-Herzegovina: Is EU Support and Assistance Augmenting Independence?', MAXCAP Working Paper No. 23, Berlin: Freie Universität Berlin.

Civil society actors need to be brought into such institutions and to participate in policy development and implementation. This holds not only for the Western Balkans but also for the Eastern Partnership countries.⁴⁰

Given their capacities and expertise, civil society actors are strongest in the role of monitoring EU integration processes related to anti-corruption. The EU should also encourage synergies and coalition building amongst local CSOs. The competition for similar donor sources often discourages the cooperation among local CSOs, but this should be changed to reflect a more co-operative guiding principle. The EU and other international donors should further encourage grassroots CSOs to develop alternative sources of funding and ensure that formal and informal anti-corruption networks have a greater geographic spread, particularly in rural areas.⁴¹

New geopolitical challenges

Even with a more credible membership promise and an improved strategy for strengthening the rule of law, the willingness of elites and the capacity of states to reform appear too weak in many (potential) candidate countries to move decisively towards EU membership. The changing geopolitical situation in the region should therefore be seen as an opportunity to reconsider the EU's overall strategy. Challenges such as the Ukraine crisis or the refugee crisis could motivate a more security-oriented strategy with a focus on strengthening the EU's borders and making lasting agreements on migration, energy and other vital security issues. This scenario would require a mainstreaming and acceleration of enlargement policy as one of the EU's responses to the current migration crisis.⁴²

40 Fagan, A.; Börzel, T.; Hafner-Ademi, T.; Lebanidze, B.; Sircar, I. and Stojanoska, B. (2016) 'Societal Actors, State Building and the Rule of Law in the Western Balkans and the Neighbourhood: How Can the EU's Instruments and Strategies Be Strengthened?', MAXCAP Deliverable D5.4.

41 Ibid

42 Dimitrova, A. (2016) 'The EU's Evolving Enlargement Strategies: Does Tougher Conditionality Open the Door for Further Enlargement?', MAXCAP Deliverable 4.4.



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