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## The Spanish Presidency of the Council of the EU and enlargement

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### Abstract

This Policy Paper<sup>1</sup> focuses on the EU's enlargement policy, providing insights into the policy and the many challenges it poses for the candidate countries and for both the member states and the EU itself, while also assessing the current developments under the Spanish Presidency of the Council of the EU.

Up until a year ago, EU enlargement seemed to be part of the history of European integration. At a time when the enlargement policy was practically on hold, with little to no developments regarding the Western Balkan candidate countries, the sudden Ukrainian request for EU membership (February 2022) during the Russian invasion endowed the EU's enlargement policy with mediatic prominence, fostering debate among member states and EU institutions as well as regaining some traction in the academic debate.<sup>2</sup>

Starting out with six founding states in 1951, the number of EU members has grown almost five-fold and now stands at 27 after seven rounds of enlargement (between 1973 and 2013). Enlargement has always been part of the EU's historical mission to unite the continent, contributing to maintaining peace and prosperity among its members. Furthermore, the EU continues to be considered 'the best club in Europe' and its power of attraction has remained, as recently demonstrated with the receipt of several accession requests in 2022 (Ukraine, Moldova, Georgia and Kosovo). In 2023 the EU celebrates 50 years since the first enlargement round, correspondingly reflecting how enlargement stands out as one of the EU's longest-standing policies.

On the other hand, the Central and Eastern European round of enlargement in 2004-07 almost doubled the number of EU members and also made opinion-forming, decision-making and the capacity for action more difficult. The process also challenged the willingness to pursue other accession rounds and raised questions about the limits of

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<sup>2</sup> See Max Bergmann, Otto Svendsen & Sissy Martine (2023), 'The European Union's Enlargement Conundrum Assessing EU Enlargement Policy and Policy Options for Ukraine and the United States', May; "Report of the Franco-German Working Group on EU Institutional Reform – Sailing on high-seas: reforming and enlarging the EU for the 21<sup>st</sup> century", September 2023; and Göran von Sydow & Valentin Kreilinger (Eds) (2023), 'Fit for 35? Reforming the Politics and Institutions of the EU for an Enlarged Union', September.

enlargement, specifically as regards just how many more states the EU is able to accommodate and what is actually at stake. The EU is already facing deviation, disintegration and segregation among member states and the prospective accession of a country such as Turkey –a large, non-Christian state with an increasingly authoritarian regime backsliding on human rights– would probably generate more problems and/or deepen those already existing.

### (1) Not just conditionality: the many challenges to the EU's enlargement policy

The EU is the most multifaceted and deepened multilateral regional organisation and, hence, its membership process is also elaborate. While no candidate country seems to particularly approve of this process –including Spain, after its own long and difficult accession–, after joining the EU no new member state attempts to change it because, ultimately, it benefits the existing member states.

Taking into account the characteristics of the first enlargement as well as the historical circumstances, a negotiating procedure was drawn up designed to prioritise existing structures rather than provide a welcome to new member states. Ever since, the bilateral format of negotiations has been based on a formula that protects the rules of the EU and the interests of its member states. This also ensures each round of enlargement follows similar and predictable negotiating processes. These enlargement rounds have, therefore, conformed to the classical EU method, with negotiations focusing exclusively on each candidate's adoption of the *acquis communautaire* with only transition periods and temporary derogations eligible for negotiation. No substantial alteration to this method is foreseen despite the recent talks held in Brussels, specifically to discuss a non-binary (two-sided) approach to enlargement and to accelerate integration in the run-up to accession. In fact, the EU provides blueprints for pretty much everything; the Western Balkan countries have been waiting for almost two decades and Turkey even longer, Russia maintains close ties with these countries and everything seems to be taking too long. The recently-created European Political Community is portrayed as the 'wider Europe' and meant to complement and not substitute EU expansion even if candidate states view the initiative as a potential 'waiting room for enlargement' and declare it must never serve as a substitute for full EU membership.

In addition to the domestic difficulties of the respective candidate countries, the EU's enlargement policy, member states and even European public opinion pose obstacles to states seeking to join the EU.

The first problem derives from the complexity of the accession process itself, which spans several stages following the initial delivery of the accession request. On the basis of the Commission's Opinion, the Council decides whether or not to grant candidate status and begin negotiations; these do not start immediately and contain two components: diplomatic meetings and technical meetings. Its current configuration involves the negotiation of 35 chapters (each corresponding to different areas of the *acquis communautaire*, such as the environment, social policy and employment, science and research, and financial and budgetary provisions). Even when the negotiation of a chapter is closed at the technical level, no chapter is ever deemed concluded without

political approval, which means the negotiations are only fully completed by a European Council decision following the resolution of the last technical issues and every member state providing its political approval. Meanwhile, candidate states carry out internal reforms with a view to meeting the accession criteria and the future implementation of the *acquis*. After reaching an agreement, the European Parliament must also issue its approval. Furthermore, even after all the parties have signed the accession treaty, each member state must still ratify the agreement individually. This conveys the complexity of the accession process, the many steps that require completion coupled with the many different actors and procedures. Hence, even the granting of candidate status does not in fact guarantee membership.

The second problem stems from the accession criteria. Although there have been no major reforms to the enlargement policy, with the most substantial arising from the introduction of the Copenhagen Criteria in 1993 (complemented by the 1995 Madrid European Council decision), the following represent the essential requirements any candidate must fulfil on the way to becoming a member state (and continue to fulfil thereafter), including: political criteria (especially, stable institutions able to guarantee democracy, the rule of law and respect for human rights and the protection of minorities); economic criteria (a functioning market economy alongside the ability to cope with competitive pressures and markets); and the administrative and institutional capacity to assume the obligations arising from the status of member state and to implement the *acquis communautaire*. In addition, the Lisbon Treaty imposes the requirement for European states to not only respect the EU's fundamental values (Article 2) but also promote them (Article 49) as a condition for application. There is broad recognition that the preparations for the accession of Bulgaria and Romania in 2007 were inadequate and, as a result, these two states are subject to the Cooperation and Verification Mechanism (CVM), an unprecedented instrument specifically designed as a transitional measure to assist these countries in remedying the shortcomings of judicial reform, corruption and organised crime (in the case of Bulgaria). This has discouraged the acceleration of enlargement processes and dissuaded any enlargement without full compliance, thereby facilitating the recourse to the option of suspending negotiations, as is already the case with Turkey.

The third problem comes with the stipulation for a unanimous vote. Enlargement is a policy that requires *unanimous voting because* this directly impacts on every area of the EU. Therefore, the accession of any state is potentially held 'hostage' by each individual member state. In these negotiations, member states, on the one hand, strive not to lose any of the benefits currently enjoyed (eg, the amount of European funding, the number of European Parliament members) and, whenever possible, to obtain other benefits or leverages. Essentially, what does each member state gain from approving each accession? What benefits will this bring to each individual country?

The fourth problem concerns European public opinion. Despite a considerable increase in the support for further EU enlargement in the coming years, this came at a time (June-July 2022) when enlargement was widely spoken about due to the accession requests from Ukraine, Moldova and Georgia some months earlier. Nevertheless, while on average 57% of EU citizens are in favour of further enlargement –up 10 percentage points since winter 2021-22–, support ranges from 81% in Lithuania and 72% in Spain

to just minority support in Austria (33%) and France (40%), which suggests mixed opinions on the subject.<sup>3</sup> Attention to the current Israeli-Palestinian conflict may also divert attention from Ukraine and, eventually, lead to less public support.

Finally, an additional (and never predictable) potential problem stems from internal issues, whether caused by internal or external factors such as the financial and economic crises, refugees, the pandemic, the war in Ukraine, the crisis in the Middle East, and also from the demand side of the domestic politics in each member state. The EU focuses on addressing its internal problems, which leaves other issues off the agenda, especially enlargement, that has never been a priority. Member states adopt the same approach, especially when dealing with domestic problems, elections and/or political crises.

## (2) The Spanish EU Council Presidency and the prospects of enlargement

This last example matches the Spanish case, where the General Election held on 23 July –coinciding with the first month of the Presidency (July-December 2023)– has conditioned the situation, although not significantly and mostly regarding timing: at first, the Prime Minister, Pedro Sánchez, postponed going to the European Parliament (EP) to present the Presidency's priorities in June because the date coincided with election campaigning; and it was only actually in September that the Spanish government began debriefing EP committees on the priorities of the Spanish Presidency.<sup>4</sup> Following the election results, Spain's parliament, the *Cortes Generales*, only confirmed Pedro Sánchez as Prime Minister on 16 November. Still, that has not impacted on either the way the Spanish government is running the Presidency or produced changes either to the priority orders or their respective level of importance to the Spanish EU Council Presidency. Furthermore, this also does not change the fact that Spain does not recognise one of the potential EU enlargement candidates: Kosovo.

In one way, this slow start might also be a metaphor for the slow-moving pace the EU has shown over time towards its enlargement policy. Yet, on the very first day of the Spanish Presidency, Pedro Sánchez visited Kyiv and expressed support for the country 'for as long as it takes' and 'regardless of the price to be paid', mostly focusing on Russia's aggression against Ukraine. Specifically on enlargement, when referring to the candidate status he proclaimed that 'nobody deserves it more than Ukraine', nonetheless adding that 'it is not an easy process, especially with an ongoing war. Becoming a member state requires changes, reforms and sacrifices', concluding on the optimistic note that 'in due course, you [Ukraine] will be granted access to our Union'.<sup>5</sup> This may be perceived as mostly a symbolical gesture.

The Spanish Presidency is taking place in the run-up to the European Parliamentary elections scheduled for June 2024 and the subsequent appointment of a new European

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<sup>3</sup> European Commission (2022), 'Standard Eurobarometer No. 97', p. 20-21.

<sup>4</sup> 'Spanish Presidency debriefs EP committees on priorities', 8/IX/2023; and 'The Spanish Government presents the priorities of the Presidency of the Council of the EU to the European Parliament', 5/IX/2023.

<sup>5</sup> 'Pedro Sánchez: "Europe will be by Ukraine's side for as long as it takes"', 1/VII/2023.

Commission. As a result, Spain is engaged with finishing the negotiations over a large number of legislative processes and has established four priorities for its term, including the reindustrialisation of the EU, the green transition, social and economic justice, and strengthening European unity.<sup>6</sup> Within these, enlargement is nowhere to be found.

Notwithstanding this, enlargement has also been under discussion. Thus far, during this Presidency, the EU enlargement was first (and possibly one of the few times) discussed at political level at the informal meeting of EU heads of state or government held in Granada. Following that meeting, which took place on 6 October, the Granada Declaration conveys the usual EU narrative regarding its enlargement policy, that deems enlargement ‘a geo-strategic investment in peace, security, stability and prosperity’ and a ‘driver for improving the economic and social conditions of European citizens, reducing disparities between countries’, while it ‘must foster the values on which the Union is founded’. Adding a second dimension to the same narrative, the declaration highlights that ‘both the EU and future member states need to be ready’ for the prospect of further Union enlargement, which includes aspiring members stepping up their reform efforts in line with the merit-based nature of the accession process and the EU undertaking the necessary internal reforms.<sup>7</sup> Hence, nothing really new came from the declaration and it essentially follows a long line of political declarations with near nonpractical effects.

Despite the European Council (Brussels, 23-24 June 2022) previously confirming that the futures of Ukraine, Moldova and Georgia lie within the EU, its ‘full and unequivocal commitment’ to the EU membership prospects of the Western Balkans, even calling for the acceleration of the accession process –while, at the same time, stressing the importance of reforms, notably in the rule of law–,<sup>8</sup> the Granada Declaration is a clear and renewed example of how member states continue to publicly support enlargement on the one hand while stressing EU rules and failing to move forward. This has been repeated across most enlargement rounds (with the exception of the first and the EFTA rounds), including that of Spain, where political values started to be overridden by considerations about economic costs.

Nevertheless, Spain still follows the same pattern. Although the declaration states that ‘Spain is committed to advancing the accession process of the candidate countries during its rotating Presidency of the Council of the EU’, that will be done ‘ensuring realistic and clear prospects in line with the Copenhagen criteria’.<sup>9</sup> The dilemma arises from how Russia’s war of aggression in Ukraine changed the context of the EU enlargement policy bringing geopolitics back to the table. Russia’s exercise of neo-imperial control in the former Soviet Union countries leaves the EU’s Eastern neighbourhood and Western Balkan countries in vulnerable positions that call into question fundamental principles of a rules-based international order and deeply challenge EU values, while potentially also affecting their dependence on geopolitical powers such as China and Turkey. This raises the question of whether EU enlargement should be conceived of and executed as a geopolitical expansion towards a more

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<sup>6</sup> Spanish Presidency – Council of the European Union, ‘Priorities’.

<sup>7</sup> ‘The Granada declaration’, 6/X/2023.

<sup>8</sup> European Council (2022), 23-24/VI/2022.

<sup>9</sup> ‘The European Union, an ever-expanding community’.

decisive role in the regional arena in opposition to continuing to place considerable emphasis on conditionality. However, as the European Parliament's rapporteur Nacho Sánchez Amor explained: 'in the current challenging times, values and principles, which are at the core of any EU accession process, cannot come second to any geopolitical contingency'.<sup>10</sup>

However, the Council had already previously been discussing the revised enlargement methodology, adopted in February 2020 aiming to reinvigorate the accession process by making it 'more predictable, more credible, more dynamic', while also 'subject to stronger political steering, based on objective criteria and rigorous positive and negative conditionality', and, if needed, 'reversibility'. Questions of frontloading certain benefits of the accession process and making the enlargement path more beneficial for the candidates are correspondingly on the agenda alongside other less favourable options for candidates, such as membership-light, multi-level membership and a phased accession process.<sup>11</sup>

According to the recommendations of the Real Instituto Elcano to the Spanish Presidency, it is important to advance the enlargement policy with a sincere and realistic approach (point 9), that it should work on variable alliances seeking consensus on areas that will become priorities for the future of Europe but where there is no strategic position, such as the case of enlargement; arguing that the Spanish Presidency should sustain the momentum in the enlargement policy (also in line with other recommendations),<sup>12</sup> but not at all cost, and carried out in a realistic (but also positive) approach, which takes into account the progress that each accession candidate country has hitherto made and the implications that enlargement holds for Spain, specifically in terms of cohesion funds and agricultural policy.<sup>13</sup>

After the European Commission adopted its 2023 Enlargement Package –providing a detailed assessment of the state of play and the progress made by the candidates and potential candidates on their respective paths towards the EU– namely recommending that the Council should open accession negotiations with Ukraine and Moldova, which have undertaken significant reform efforts despite the full-scale Russian aggression in the former, and the destabilisation efforts against its democracy in the latter.<sup>14</sup> With the Commission having reported positively on the progress that these two candidate countries have made, the Spanish Presidency may work towards a decision of the European Council at its 14-15 December meeting to open accession negotiations with

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<sup>10</sup> European Parliament – Committee on Foreign Affairs (2022), *Report on the 2021 Commission Report on Turkey*, Rapporteur Nacho Sánchez Amor, 18/V/2022.

<sup>11</sup> European Commission (2020), 'A more credible, dynamic, predictable and political EU accession process – Commission lays out its proposals', press release, Brussels, 5/II/2020.

<sup>12</sup> Frank Schimmelfennig (2023), 'The Spanish Presidency should maintain momentum in EU enlargement'; and Nicoletta Pirozzi, Richard Youngs & Ilke Toygür, 'The Spanish Presidency of the EU Council: going South, pushing forward enlargement and reforms', in *Recommendations from members of the TEPSA network to the incoming Spanish presidency, July-December 2023*.

<sup>13</sup> 'Un decálogo de cara a la Presidencia española del Consejo de la UE 2023', 30/VI/2023.

<sup>14</sup> European Commission (2023), 'Commission adopts 2023 Enlargement package, recommends to open negotiations with Ukraine and Moldova, to grant candidate status to Georgia and to open accession negotiations with BiH, once the necessary degree of compliance is achieved', press release, Brussels, 8/XI/2023.

these two countries. If successful, this will represent another political and symbolic gesture regarding the candidate countries but not an assurance of effective EU accession any time soon. Aside from the problems posed, the topic of EU enlargement will only be on the Spanish Presidency agenda for a short period of time (equating to its six-month duration) but will remain on the EU's agenda for the next decade. And one should also recall that Spain itself does not hold any good memories of its own accession negotiations.