

MACEDONIA'S EU ACCESSION – NEGOTIATION OR STAGNATION?

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Introduction

Several days after the last visit of EU Enlargement Commissioner Olli Rehn to Macedonia, the Macedonian media did not hesitate to declare the visit as «the black Thursday of the Macedonian political elite»¹ due to the heavy criticism of the political climate in the country. Just one year ago, Macedonia was still celebrating the granting of the candidate status with optimistic prognosis of a date for starting accession negotiations by the end of 2006. In the mean time, Macedonia witnessed a successful election process, change of government, but also a failure to complete the Commission's short term priorities which serves as a remainder of the weakness of the institutional system.

While «implementing reforms of the police and judiciary, the fight against corruption, and full implementation of the Stabilisation and Association Agreement»², remain the long-lasting stepping stones of Macedonia's accession negotiations aspirations, the change of government delivered a new serious problem of lack of political dialogue and increased tensions between majority and opposition parties. Although the Commission clearly stated that «it is important that reform efforts be sustained in the period ahead on the basis of co-operation and political consensus»³, the political elites have further deepened the problem and so far have failed to comply with EU demands.

On the other hand, the government has targeted the first half of 2008 as a date for starting accession negotiations and has been enhancing the institutional design and the administrative capacity in order to be able to start the screening process. The failure to get a date for accession negotiations also derives from the slow pace of public administration reform which appears to have been overwhelmed by the election process and political turmoil. In this sense, as the Commission stated, «independence and professionalism of the administration, as well as administrative capacity»⁴ are positioned as the most important reform benchmarks that ought to provide bases for accession negotiations.

¹ Na premierot Gruevski mu gori pod nozete, «Utrinski Vesnik», 13th February 2007

² Commission Communication- Enlargement Strategy and Main Challenges 2006 – 2007-COM (2006)649 of 8.11.2006, p. 11

³ Ivi.

⁴ Ibidem, p.35

Hence, this article will centre on the current state of the Macedonian EU accession process and it will analyse two crucial reform segments necessary in the pursuit of a date for opening accession negotiations. Firstly, the paper will focus on the political criteria, the problem of political dialogue and the factors that influence the problem. Here, I argue that Macedonia is facing its first significant breach of EU conditionality which is not per se dependant on the institutional system, but rather on political elite behaviour. I further conclude that the problem of political elites not being able to provide political consensus will be short lived and can not continue on a mid term bases due to external and internal constraints. Secondly, the paper will focus on the public administration reform. Here, I advocate that a successful negotiation process for Macedonia will be depending on the ability to apply an institutional approach and redefinition of decision making within the intra-institutional hierarchy.

Infringing of conditionality

The aftermath of the 2006 parliamentary elections has witnessed change of power and the creation of a new center-right government based on the coalition between VRMO-DPMNE and the Democratic Party of the Albanians (DPA). The decision not to include the coalition of the Democratic Union for Integration (DUI) and the Party for Democratic Prosperity (PDP) as part of the government sparked a rift which resulted with both DUI and PDP leaving the Parliament and was based on DUI's stance that due to the number of their coalition MP's (16 contrary to 11 DPA MP's), they are the representatives of the majority of the Albanian electorate and therefore they should be part of the government having in mind the multi-ethnic character of the state. This confrontation has increased the tension within the party system and has prevented the government to provide consensus on a number of crucial reforms. The last six months of political communication have witnessed countless accusations on majority-opposition lines with the former blaming the opposition for obstructing the reform process, and the latter accusing the majority for disregarding the opposition and breaching the Ohrid Framework Agreement. It is clear that such a sentiment is severely damaging the country's accession performance due to lack of consensus in the Parliament and it prolongs reforms due to inefficient parliamentary work.

The EU standpoint on this situation has been very vivid, and the Commission has been very clear that the development of the political dialogue will be a strict condition for future progress of the accession process. In this sense, the 2006 Commission Progress Report stated that «a constructive dialogue between all parties will be essential to adopting and implementing important political reforms and related legislation. The implementation of the Ohrid Framework Agreement remains essential to foster a positive environment for further reforms.»⁵ The Commission has been also strict in defining the political criteria as the basic prerequisites for a credible negotiation process: «the Union expects negotiating countries to comply with the political criteria and to work towards higher standards throughout the negotiations. The results of dialogue with the countries on their success in addressing issues under the political criteria will be fed into the negotiation process.»⁶ Furthermore, during the last six months the diplomatic activities

⁵ European Commission, Republic of Macedonia 2006 Progress Report of 8.11.2006, p.8

⁶ Commission Communication- Enlargement Strategy and Main Challenges 2006 – 2007-COM (2006)649 of 8.11.2006, p.6

of the EU and member states representatives have been increasingly focusing on imposing this conditionality to government and party officials.⁷

Thus, the Macedonian accession agenda is facing a serious conditionality problem which can not be directly connected to the institutional system, but rather to political elite's behaviour which already has been characterized by European Parliament member Beer as «not understandable.»⁸ The major problem occurs from the tradition of political communication outside the institutions. The so called Mavrovo⁹ meetings have been a precise reflection of such arrangements which are detaching political leaders from the institutions and are providing non-accountable grounds for party-bargaining. Such arrangements have put a lot of pressure on the Parliament which seems to be stuck in political debates which fail to provide consensus and are shrinking the necessary time for adoption of the acquis. The result of this process has been a rapid deterioration of the level of public support to the Parliament¹⁰ and a production of political tensions centred around several points i.e. demands for constitutional amendments striving for a clear consensual model, the functioning of the Committee for inter-ethnic relations, drafting a law providing benefits for the former KLA fighters, wider use of the Albanian language and the design of the new Parliamentary rules of procedures.

However, I argue that such irrational stance by the political elites can not last on a long term bases without baring the consequences of elite's loosing legitimacy or a serious stop of the EU integration process. Here, I stress that the factors pushing for positive resolution are both external and internal. On one hand, it becomes very apparent that any significant progress towards accession negotiations must include a policy of complete fulfilment of the political criteria. Regarding this, «the Helsinki European Council in December 1999 made it clear that democracy is *the* prerequisite for beginning negotiations on EU membership.»¹¹ In addition, as Rehn puts it, «rigorous conditionality combined with the incentive of a credible EU perspective provides the EU with a strong leverage for reforms in the candidate countries.»¹² Furthermore, conditionality is «essentially an exercise of power by the actor that is using conditionality; the *demandeur* is in a position of relative weakness, particularly if the benefit on offer is especially desired».¹³ Having in mind that a date for beginning of accession negotiations is an extremely important prerogative and the fact that «the EU from the perspective of a candidate country is a key agent of globalisation»¹⁴, but also assuming that the Macedonian political scene is dictated by rational actors, the

⁷ Regarding this, the seriousness of the problem has been stressed by the EU Enlargement Commissioner Olli Rehn during his visit to Skopje on 8.2.2007 where he marked the situation as “alarming”

⁸ A. Beer, Reformskiot motor se zaglavi, «Dnevnik», 16th Fenruary 2007

⁹ Such meetings have been organized since 2002 by the EU and US representatives in the holiday resort of Mavrovo, where the leaderships of the major political parties have been urged to show progress in the political dialogue on major political problems.

¹⁰ Thus, the latest public opinion poll conducted by the Institute for Democracy in January 19-21 2007 shows that 30% of the population considers the work of the Parliament unsatisfactory. Further 35% of the population thinks that the Parliament is totally dependent on the political elites and the government.

¹¹ K. E. Smith, The Evolution and Application of EU Membership Conditionality, in The Enlargement of the European Union, edited by M. Cremona, Oxford, Oxford University Press, 2003, p. 114

¹² O. Rehn, Europe's Next Frontiers, Baden-Baden, Nomos Verlagsgesellschaft, 2006, p. 21

¹³ K. E. Smith, op. cit., p.108

¹⁴ Z. Gille, Global Force, Connections, or Vision: The Three Meanings of Europe in Postsocialism. «University of Illinois EUC Working Papers», No. 2, Vol. IV, 2004, p.1

prospect of being excluded from accession negotiations should overcome the crisis. Another important external asset that can not be excluded is the regional context. As Rehn argues, Macedonia «is the only functioning multi-ethnic state in the Balkans, which is an important signal to the other countries that such a model can work.»¹⁵ Given that the functioning of this model is a major stability factor, it is clear that in the wake of the process of determination of the final status of Kosovo the country can not afford a long lasting political crisis. A very important incentive also will be the favourable political situation in the EU in the first half of 2008 during the Slovenian presidency of the Council, whereby Slovenia has already declared that the start of accession negotiations with Macedonia will be one of the presidency's priorities.¹⁶

On the other hand, political actors in Macedonia seem to be cornered also on the domestic front since there is a high public expectancy from the EU integration process which is often seen as the principal factor for progress. In this sense, «the accession process is seen as a very important catalyst of certain problems of the socio-political platform [...] there is a sense especially among the young population that the EU integration process is a process that will be solving existential problems.»¹⁷ Having this in mind, the lack of consensus is contrary to the basic commitments of the political elites. This argument can be further explained if one considers the two basic domestic conditions for a successful accession process i.e. favourable public opinion and the pro-integration character of the party system. Firstly, regarding public opinion, the theory of political system starts from the premise that political subjects suffer certain constraints (outputs) if they refuse to comply (inputs) with the expectations and demands of the public opinion. In this sense the political elites can not take mid-term and long-term policy decisions that will be confronting popular consent, without losing legitimacy.¹⁸ In Macedonia's case, the latest public opinion polls reveal a staggering 88% support for the country's EU membership while 50% of the population sees the integration process as the main contributor for the improvement of their living standards.¹⁹

Secondly, if we analyse the pro-integration sentiment of the party system we can trace a similar pattern. According to Beichelt, «the ability for integration at the level of party systems is determined by the quality and the quantity of the aspiration for integration of particular parties.»²⁰ Having this in mind, all the parliamentary parties in Macedonia have strong pro-integration positions and the party system hardly has any significant euro-sceptic parties. Considering what has been said, it becomes obvious that any mid-term decisions by the political elites that would infringe the EU demands for enhancement of the political dialogue would result with a serious losing of legitimacy. Very recent developments on the political scene show that such a scenario has been grasped with the latest government effort to create parliamentary working groups that will discuss the major problems that stand between the majority and opposition. Future scenarios would more likely project a political agreement on consensus in the

¹⁵ O. Rehn, op.c it., p. 68

¹⁶ So Slovenecko edro kon Brisel, «Dnevnik», 20th January 2007

¹⁷ I. Damjanovski, N. Markovic, D. Taleski, V. Bozinovski, Istrazivanje za ocekivanja na mladite vo Republika Makedonija, Skopje, Fondacija Friedrich Ebert, 2006, p. 31

¹⁸ G. A. Almond, B. G. Powell, R. J. Mundt, Comparative Politics. A Theoretical Framework. 2nd edition, New York, Harper Collins, 1996

¹⁹ Research conducted by the Institute for Democracy "Societas Civilis"- Skopje in January 26-29 2007

²⁰ T. Beichelt, Evropskata unija po prosiruvanjeto na istok, Skopje, Fondacija Konrad Adenauer, 2005, p. 138

Parliament, rather than a formation of a grand coalition due to ideological confrontations and conflicts between the two Albanian opposing parties.

Institutional approach towards effective implementation

Arguably the most important task that Macedonia faces regarding its EU accession process is the public administration reform and the mammoth process of adoption, application and enforcement of EU law. Although meeting the political criteria is evidently the basic prerequisite, the actual verification of the beginning of accession negotiations will be based on the rather technical advancement of the country. As early as December 1995, the Madrid European Council stated that «gradual, harmonious integration»²¹ of an applicant state requires that it has adjusted its administrative structures. Furthermore, the Feira European Council (June 2000) added that «in addition to finding solutions to negotiating issues, progress in the negotiations depends on incorporation by candidate states of the *acquis* in national legislation and especially on their capacity to effectively implement and enforce it»²². On the contrary, the low level of effective implementation reflects the weak administrative capacity of the Macedonian administration and the need of gradual reinforcement²³. What 2006 has shown is the inability of the institutions to show consistency in the involvement in the integration process on one hand; and failure to overcome the burden of an election process. In the first case the rather positive achievement of professional involvement and dedication in the process of answering of the European Commission's questionnaire (which resulted with a positive *avis*), ended with a period of decreased administrative motivation. On the other hand, the election process obviously wasted precious time for reforms and created some sort of a vacuum which can be seen by the rather limited performance in meeting the short-term criteria of the European Commission's *avis*.²⁴

At this moment it appears that there is a need of identification of a new force that will provide motivation and speed up the administrative engine. Such reinforcement needs to answer the European Council demands for «accelerating the pace of reforms in key areas and for the implementation of the priorities identified in the European Partnership in order to progress towards the goal of moving ahead in the accession process.»²⁵ In this sense, a positive step has been taken with the projection of an internal deadline for a date for beginning of accession negotiations (set at the first half of 2008). Such a decision brings short-term focusing on the priorities and provides an added internal pressure and mobilisation of capacities.

²¹ Presidency Conclusions, European Council in Madrid, 15-16 December 1995, p. 13

²² Presidency Conclusions, European Council in Santa Maria de Feira, 19-20 June 2000, p.4

²³ Regarding this, the 2006 Commission Progress Report (p. 9) further criticized the decision by the new government to impose politically motivated changes at top and middle management levels

²⁴ An example of political obstruction is the adoption of the new Police Law which has been marked by the Commission as a key priority of the European Partnership. Although the Commission insisted that the Law is adopted before the start of the election process, the Government explicitly stated that it won't pursue such an agenda, which apparently resulted with serious delays of the implementation of the reform.

²⁵ Presidency Conclusions, European Council in Brussels, 14-15 December 2006, p.4

The enhancement of this type of arrangement is necessary at this stage if we have in mind the apparent toughening of the entry requirements. Following the debate on the absorption capacity of the EU and the future of enlargement, the latest Commission Enlargement Strategy stresses the importance of the principle of strict conditionality i.e. «rigorous conditionality is applied to all candidate and potential candidate countries. Any new steps in the accession process depend on each country's progress in making political and economic reforms.»²⁶ This pattern which Grabbe calls «the process of Europeanization through rigorous conditionality»²⁷, has been further strengthened by the Brussels European Council (December 2006) which concluded that «difficult issues such as administrative and judicial reforms and the fight against corruption will be addressed at an early stage. Furthermore, the results of the political and economic dialogues will be fed into the accession negotiations.»²⁸

Having in mind what has been previously said, in order to provide a date for beginning of accession negotiations, the public administration reform needs to be accelerated on short-term bases. The toughening of the accession requirements which puts accent on *acquis* implementation in reality increases the scope of the monitoring lenses on the public administration. As Smith puts it, «determining whether the *acquis* is being implemented and enforced, however, is even more difficult: the key criterion is having the administrative and judicial capacity to apply it.»²⁹ Here, I argue that in order to meet this requirement, the Macedonian political system needs not only to strengthen the reform in two key areas i.e. inter-institutional coordination and human resources, but also to imply an institutional approach in providing effective implementation capacity.³⁰

The first section, i.e. inter-institutional coordination has witnessed a gradual process of reform. A key asset has been the process of answering of the Commission's membership application questionnaire which has significantly increased the range of coordination and participation of different administrative agents. The decision to promote the Sector for European Integration into a higher level of Secretariat for European Issues has further strengthened the coordinating authority of this institution which now has started to implement a new organisational system that is supposed to provide more efficient coordination. Concerning the preparations for accession negotiations, the structure for negotiations based on 35 working groups has already been prepared. Another positive step that should also be noted is the grasping of the need to include non-governmental factors in the process of enforcement of EU rules, or as Inotai suggests: «this has to be a two-way process, consisting of a top-down approach directed by the national legislation and a bottom-up process driven by the activities and absorption capacity of citizens,

²⁶ Commission Communication- Enlargement Strategy and Main Challenges 2006 – 2007-COM (2006)649 of 8.11.2006, pp.3

²⁷ H. Grabbe, *The EU's Transformative Power. Europeanization through Conditionality in Central and Eastern Europe*, Basingstoke, Palgrave Macmillan, 2006

²⁸ Presidency Conclusions, European Council in Brussels, 14-15 December 2006, p.3

²⁹ K. E. Smith, *op. cit.*, p. 117

³⁰ For more on the institutional approach for effective implementation capacity see: P. Nicolaidis, *Enlargement of the EU and Effective Implementation of Community Rules An Integration-Based Approach*. «EIPA Working Papers», 99, W04, 1999 and P. Nicolaidis, *Preparing for Accession to the European Union: How to Establish Capacity for Effective and Credible Application of EU Rules*, in *The Enlargement of the European Union*, edited by M. Cremona, Oxford, Oxford University Press, 2003

business, and other organizations.»³¹ In this context, the government has initiated an agenda that involves increased cooperation with the academic institutions and the NGO sector.

As the European Commission has stated: «the situation regarding the training of civil servants has continued to improve.»³² The current legal and institutional arrangement that is comprised of the Law on Civil Servants, the Civil Servants Agency and the National System for the Coordination of Training of Civil Servants, has been boosted by the adoption of an Action Plan that provides an agenda for the creation of a functional human resources management system. With a steady pace of reforms and continuous implementation of TAIEX and Twinning Projects, it is realistic to expect that the public administration will provide minimum human resources able to cope with the initial phase of the accession negotiations. However, the efficient utilization of such human potential to a large extent will depend on its allocation within the institutional design, as well as the level of coordination in the framework of the relevant administrative agencies. The lack of such coordination throughout the process of adjustment of administrative structures provides difficulties in meeting the priorities of the enlargement agenda in a timely manner.³³

Therefore, I would argue that an increased enforcement of the intra-institutional system of decision making will provide much better performance in the implementation of the *acquis*. According to Nicolaides, «it will be easier for the candidate countries to demonstrate to the EU a credible commitment to apply the *acquis communautaire* if they delegate that task to sufficiently empowered and accountable institutions which both have considerable decision making independence and are subject to specific performance obligations.»³⁴ In this sense, the quality of implementation is highly dependant on the level of autonomy and independence in decision making on the side of the involved agents which appears to be a problem in the Macedonian case. On the other hand, effective implementation capacity (without wasting significant resources) could be further enhanced by a second approach to the inter-institutional decision making procedure that should be based on well defined rules and a conduct of narrowing of the space for creative interpretation of rules by the domestic implementing agencies. This statement goes in line with the theory of Nicolaides who argues that «strict enforcement, for example, can in principle be successfully pursued with the aid of intelligent procedures, even without having too many resources at one's disposal. Successful enforcement is as much the outcome of a well-designed system as of availability of resources.»³⁵ Such a model would be much more efficient if the inputs are strengthened with an identification of desired outputs in the image of performance indicators. Such «performance targets have a dual function: they make agencies both independent (because they reduce their

³¹ A. Inotai, *The Eastern Enlargements of the European Union*, in *The Enlargement of the European Union*, edited by M. Cremona, Oxford, Oxford University Press, 2003, p. 94

³² European Commission, *Republic of Macedonia 2006 Progress Report* of 8.11.2006, p. 9

³³ Regarding this the Commission in its 2006 Progress Report (p. 6) has been critical on the progress in the implementation of the Stabilisation and Association Agreement, especially on the failure to meet the obligations related to telecom liberalization and intellectual property

³⁴ P. Nicolaides, *Preparing for Accession to the European Union: How to Establish Capacity for Effective and Credible Application of EU Rules*, cit., p. 67

³⁵ *Idem*, *Enlargement of the EU and Effective Implementation of Community Rules An Integration-Based Approach*, cit., p.4

discretion) and accountable (because they set criteria for evaluating what is or is not achieved).»³⁶ Finally, these indicators can also be perceived as incentives which can avoid political pressure and enhance political neutrality.

Conclusion

2007 has already been targeted as the most important year for the Macedonian Euro-Atlantic aspirations as the country faces NATO membership invitation and a decision for the beginning of accession negotiations for EU membership. However, the start of the year witnessed a serious setback with an ongoing political crisis where the political parties fail to provide grounds for stable political dialogue and consensus regarding the country's EU integration agenda. As this article argues, such political behaviour has resulted with a serious breach of EU conditionality regarding the political criteria and threatens to cause stagnation of the country's accession process. However, the article implies that due to external and internal pressure on political parties this political turmoil can not last on a mid term bases without political elites losing their legitimacy.

On the other hand, arguably the most important reform process in the wake of accession negotiations is the enhancement of the administrative capacity. The article has argued an institutional approach towards new concepts of intra-institutional decision making as a modality in providing professionalism, merit and accountability of the public administration. Nevertheless, the ability of the public administration to respond to acquis demands is still limited to the stability of the political sphere and in this sense whether accession negotiations start eventually will depend on the ability of the political actors to provide consensus.

Regarding the above stated criteria and factual situation, it is clear that the quantity and the scope of the conditionality imposed by the EU to the Republic of Macedonia, remains a challenge not just on the level of implementation but also at the level of the possible sacrifice and trade off by the political elites between long term priorities such as EU integration and short term political rating.

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³⁶ *Ibidem*, p. 20

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