



JUNE 2024

# Unblocking decision-making in EU enlargement

## Qualified Majority Voting as a way forward?

The EU enlargement process has been bogged down for at least the past decade. While the new geopolitical landscape and urgency created following Russia's invasion of Ukraine has brought EU enlargement back to the fore, bottlenecks remain in the EU enlargement decision-making process. This paper contributes to the debate on how to reform EU decision-making on EU enlargement so as to make it more effective and, by extension, so that the EU regains its credibility in its neighbourhood and beyond. The analysis explores the limits of unanimity in the EU accession negotiations, especially when individual Member States obstruct the process over bilateral issues unrelated to the formal membership criteria. To streamline EU enlargement, this briefing explores the potential of qualified majority voting (QMV) at key intermediary stages of the accession process. If the EU is serious about its ambition to be a geopolitical actor, considering the political, legal and institutional implications of QMV in EU enlargement will be key.

### 1. Introduction<sup>1</sup>

With the opening of accession negotiations with Ukraine and Moldova, EU enlargement is back at the centre of EU policy-making. The renewed momentum on enlargement is part of the EU's response to the geopolitical challenges stemming from the Russian invasion of Ukraine. The EU sees this process as a vital

way to reinforce its security and leverage on the global scene. Largely considered as suspended since the “big bang” enlargement round of 2004/2007, after which only Croatia joined in 2013, renewed impetus with Moldova and Ukraine (and to a lesser extent, Georgia) has also created spillover effects to the Western Balkans. Accession negotiations were opened with Albania and North Macedonia, and most recently with Bosnia and Herzegovina.

At the same time, 20 years since the EU's 2003 Thessaloniki promise of a European perspective for the Western Balkans, citizens and governments alike have low expectations that the new momentum will translate into EU membership at any time soon. If the candidates

<sup>1</sup> The authors would like to thank the officials interviewed and the participants in the closed-door workshop on “Moving towards QMV in (the preliminary stages of) EU enlargement?”, organised by the Clingendael Institute in The Hague on 14 March 2024, for their insights. The authors are also grateful to Steven Blockmans, Christophe Hillion, Saskia Hollander, Camille van Hees and Nicolai von Ondarza, for their constructive feedback on an earlier version of this paper.

in the Western Balkans do not manage to make substantive progress on the EU's accession criteria, or the EU fails to reward potential progress, there is a clear risk of further frustration.

The new Eastern candidates may also run into barriers in their EU accession path.<sup>2</sup> Although the Hungarian Prime Minister Viktor Orbán's threat to veto the opening of accession negotiations with Ukraine did not become a reality at the December 2023 European Council, Hungary or others could still block the process in the future. This has happened in the past with North Macedonia and Albania, for whom the opening of the accession negotiations was blocked by Bulgaria and Greece.

All in all, the new accession momentum is fragile. A shift in the geopolitical context, for example if the Russian war of aggression against Ukraine turns into a long-term simmering conflict, could make the EU return to its default position of the past years: reverting enlargement to a purely technical process devoid of a shared political *finalité*. Elections in 2024 in several EU Member States coupled with the European Parliament elections in June could also negatively impact the enlargement momentum, since polls project a substantial rise of radical-right political forces with anti-EU integration agendas, and in the case of the European Parliament elections, this has indeed been witnessed.<sup>3</sup>

To try to uphold momentum on enlargement, discussions at the EU level on how to make decision-making more effective are considering removing a factor that has contributed to delays in the EU enlargement process and an

undermining of the EU's credibility, causing frustration among current aspiring members. That factor is the unanimity requirement, which means that all Member States must agree on even the smallest step that candidate countries have to take before their accession process can move forward. This situation has on occasions led to blockades on candidates' progress on their accession path for reasons often disconnected from the formal Copenhagen criteria.

Calls for streamlining the EU decision-making process and making it more effective and efficient are becoming stronger by the day. Moving from unanimity to qualified majority voting (QMV), at least in the intermediary stages of the accession process, is also increasingly part of this debate.<sup>4</sup> This is in line with research that has shown that the costs associated with reaching unanimity in EU foreign policy are likely to increase over time, especially regarding the timeliness of EU actions and the external recognition of the EU as a global actor.<sup>5</sup> Some experts argue that "without qualified majority voting, EU enlargement has no future".<sup>6</sup> The political discussion was also launched in the Council, in January 2024, when Germany and Slovenia presented a non-public non-paper on the topic, proposing to move to QMV on opening negotiation clusters.

---

2 Wouter Zweers, "[The Eastern trio's path to the EU: fast-track or slow lane?](#)" Clingendael Spectator, February 27, 2024.

3 René Cuperus and Saskia Hollander, "[Beyond the EU enlargement paradox - Optimising opportunities and minimising risks](#)," Clingendael Institute, March 14, 2024, 22; Kevin Cunningham, Simon Hix with Susi Dennison, Imogen Learmonth, "[Protected: A sharp right turn: A forecast for the 2024 European Parliament elections](#)", European Council on Foreign Relations, Policy brief, January 2024.

---

4 Such intermediary stages include especially decisions within the accession negotiations phase, e.g. on the opening and/or closing of chapters and clusters and assessing the fulfilment of benchmarks.

5 Cecilia Navarra, Lenka Jancova and Isabelle Ioannides, "[Qualified majority voting in common foreign and security policy - A cost of non-Europe report](#)," EPRS, European Parliament, August 2023.

6 Srdjan Svijic and Zoran Nechev, "[Without qualified majority voting EU enlargement has no future](#)," EURACTIV op-ed, June 22, 2022. One of the co-authors of the referenced op-ed is also a co-author of this analysis. For other studies, see: J. Mintel, N. von Ondarza, "[More EU Decisions by Qualified Majority Voting – but How? Legal and political options for extending qualified majority voting](#)," SWP comment 2022/C61, 19 October 2022; Nikola Dimitrov, Isabelle Ioannides, Zoran Nechev et al., "[It's a Package Deal! Reforming and Enlarging the EU in a Contested World](#)," Institute for Human Sciences, June 2023.

While there are several variations, the most prominent proposal to make decision-making on EU enlargement more effective is that Member States only retain a veto at key accession negotiation milestone moments, such as the formal opening of accession negotiations at the beginning of the process, and the decision on the accession treaty at the end of the negotiations.<sup>7,8</sup> However, questions remain about the impact of the use of QMV on policy-making dynamics, potential risks, as well as its political and legal feasibility. In order to feed the political and policy discussions on future EU enlargement, this paper presents a concise analysis of these questions.

In section 2, the briefing analyses the effects of the unanimity requirement in EU enlargement in the past few years. Section 3 discusses the current decision-making dynamics and procedures on enlargement in the Council. Section 4 introduces several options to alter decision-making procedures in the Council, including several variations with a form of QMV. Sections 5 and 6 respectively analyse the legal and political feasibility of altering decision-making procedures on enlargement, whereas section 7 discusses the expected effects of moving towards some form of QMV in the intermediate stages of enlargement. The paper finally draws some conclusions on how to move forward on EU enlargement.

## 2. Unanimity as a barrier to an effective EU enlargement policy

Historically, EU accession has always been a process controlled by the Member States. While the transposition of the *acquis*

*communautaire* is a technical process, Council decisions on the accession of new members have always been governed by politics and national interests. For example, the French President Charles de Gaulle twice vetoed the UK's membership of the EU in 1963 and 1967. Spain's accession to the EU was delayed by France, which feared that Spain's accession would negatively affect farmers' livelihoods in its southern regions. It was only after a political agreement between the then Spanish President González and the German Federal Chancellor Kohl, who subsequently supported the Spanish case, as well as the common agricultural policy (CAP) reform agreement, that the French President Mitterrand changed his position.<sup>9</sup> An example of the reverse situation is the accession of Bulgaria and Romania, which technically did not meet all *acquis* standards in 2007, but the Council considered that further delaying their accession was politically unfeasible as the date had already been set.

Since the application of the Lisbon Treaty, in 2009, incremental adjustments to the EU's enlargement approach have provided more opportunities for Member States to control candidate countries' progress by using their veto power.<sup>10</sup> The negotiation frameworks for Croatia and Turkey introduced chapters 23 (on the judiciary and fundamental rights) and 24 (on the rule of law) and related opening and closing benchmarks, while those for Montenegro and Serbia added related intermediary benchmarks.<sup>11</sup> The 2020 revised EU enlargement methodology may have reduced the number of

7 This variation has been proposed in several studies, among which: Franco-German Expert group on EU reform, "[Sailing on High Seas: Reforming and Enlarging the EU for the 21st Century](#)," 2023, 21; and Srđjan Svijic and Adnan Cerimagic, "[Rebuilding Our House Of Cards: With More Glue](#)", IDSCS, 2020, 9.

8 At the December 2023 European Council, the decision to open accession negotiations with Ukraine was taken by consensus (no party blocks a decision) rather than unanimity (all parties are required to support a decision). This is an unprecedented step and the consequences thereof for future similar decisions are as yet unclear.

9 Charles Powell, "[The Long Road to Europe: Spain and the European Community, 1957-1986](#)," Elcano Royal Institute, June 11, 2015, 22.

10 Zweers et al., "[The EU as a promoter of democracy or 'stabilitocracy' in the Western Balkans?](#)," Clingendael Report, February 8, 2022, 15; Toby Vogel, "[Beyond Enlargement, Why the EU's Western Balkans Policy Needs a Reset](#)," Friedrich Ebert Stiftung, April 2018, 16; James Ker-Lindsay et al. (edited special journal), "[The National Politics of EU Enlargement in the Western Balkans](#)," Southeast European and Black Sea Studies, Volume 17, Issue 4 (Dec 2017).

11 European Commission, "[Negotiating Framework for Croatia](#)," 2005; European Commission, "[Enlargement Strategy and Main Challenges 2011-2012](#)," 2011.

opportunities for Member States to use their veto, as it grouped the negotiation chapters into six clusters. Still, the process at large became more demanding. Negotiations in the area of fundamentals,<sup>12</sup> which include rule of law prerogatives, are to be opened first and closed last and progress on the fundamentals will determine the overall pace of negotiations, as reflected in the negotiation frameworks for North Macedonia and Albania, which also introduced requirements for developing various roadmaps.<sup>13</sup>

These developments coincided with Member States' increased scepticism towards further enlargement as well as a necessity for the EU to properly digest its 2004-2007 'big bang' enlargement round. As such, the occasions available to Member States to potentially use a veto have increased, as has Member State willingness to do so. Such politicisation of the enlargement process has in turn undermined the supposed predictability of the process and its effectiveness.

The most obvious case is North Macedonia. The country received candidate status in 2005, one year after Croatia. While the latter celebrated its tenth EU membership anniversary last year, Skopje is far from joining the EU. The country was kept in the waiting room for 14 years over the name dispute with Greece. When the dispute was finally resolved and Macedonia added the geographic qualifier

"North" to its name, the promise of starting accession talks was broken. First, it was France that demanded a new enlargement methodology before giving a green light. Then Bulgaria repeatedly misused its veto power over bilateral issues unrelated to the Copenhagen criteria. Sofia targeted exactly what was a *sine qua non* condition for North Macedonia to accept the name change under the Prespa Agreement – the Macedonian language and identity, adding insult to injury. As a result, recent polls show that only about one third of the Macedonian citizens believe that the EU is serious about enlargement.<sup>14</sup>

Although opening accession negotiations has now been decided, North Macedonia is the first candidate country in the history of enlargement that needs an additional Intergovernmental Conference (IGC) – conditional upon constitutional amendments – "to complete this accession negotiations opening phase".<sup>15</sup> Additional vetoes from Bulgaria, for instance on the issue of history and language, cannot be ruled out in the future. Another example is Greece, which is refusing to greenlight the opening of negotiations on the fundamentals cluster with Albania over a bilateral political conflict.<sup>16</sup>

In recent years, other cases have also shown that Member States using their veto power over bilateral issues irrelevant to the Copenhagen criteria has negatively impacted the credibility and predictability of EU accession. The numerous adaptations to strengthen rule of law conditionality have made meeting rule of law requirements harder for candidates, something that has been instrumentalised by Member States hesitant to move forward with enlargement. In that sense, changes in rule of law requirements have as a side effect exacerbated

---

12 According to the new methodology, the fundamentals cluster includes Economic criteria, the Functioning of democratic institutions, and Public administration reform. The cluster comprises chapters 23 (Judiciary & fundamental rights), 24 (Justice, Freedom & Security), 5 (Public procurement), 18 (Statistics), and 32 (Financial control).

13 Ministerial meeting of the intergovernmental conference completing the opening of the negotiations on the accession of North Macedonia to the European Union, "General EU position"; Nechev et al., "Revitalizing North Macedonia's European perspective in 2020: what you need to know about changes, progress and challenges in EU accession policy," Institute for Democracy Societas Civilis – Skopje, September 20, 2020,<sup>15</sup>; European Commission, "Remarks by Commissioner Olivér Várhegyi at the press conference on the revised enlargement methodology," February 5, 2020.

---

14 [Western Balkans Regional Poll](#), International Republican Institute, 14 May 2024.

15 [Council conclusions on North Macedonia and Albania](#), 11440/22, 18 July 2022, 3.

16 Alice Taylor and Sarantis Michalopoulos, "Greece pressures Albania to show 'way out' of bilateral crisis," EURACTIV, November 13, 2023.

the issue of bilateral blockades. Negative effects specifically for the candidate countries include:

- Candidate countries cannot trust that reform efforts will be rewarded, as there is no certainty whether steps towards resolving bilateral issues will be considered sufficient for Member States raising barriers. There is a clear power asymmetry in the relationship, which allows Member States to dictate the pace of accession based on their domestic interests.
- Domestic discussions on EU accession and diplomatic efforts in the candidate country concentrate on bilateral issues, taking most of the attention away from actual reform efforts and the transformative objectives of the EU enlargement process.
- Conditionality and the merit-based nature of the accession process are compromised, as candidate governments are tempted to undertake undemocratic steps in order to fulfil bilateral requirements, leading to a regress in democratic performance.<sup>17</sup>
- *Enlargement fatigue* arises, meaning a loss in trust and/or aspiration among citizens in candidate countries that their country will ever become an EU member, which negatively affects domestic political dynamics and increases citizens' political apathy.

The integration of bilateral issues in North Macedonia's EU negotiation framework has set a dangerous precedent for the *bilateralisation* of the process in the years to come.<sup>18</sup> For example, while not blocking the formal opening of accession negotiations with Ukraine, Hungary has threatened to block the next steps, questioning the added value

of Ukraine's accession to the EU and bringing minority issues into the discussion.<sup>19</sup> There is a clear case to be made for overcoming these problems outside the context of enlargement. At the same time, the decision to open accession negotiations with Ukraine has shown that the politicisation of the process is not always a negative thing. In fact, it could be positive when the EU institutions and its Member States have a clear political vision on the future of enlargement.

### 3. Current decision-making on EU enlargement

While EU enlargement is an interinstitutional process, decision-making on progress in the EU accession negotiations rests with the Council. Council decisions on moving forward with the accession process of candidate countries are the result of the positions of Member States (preferences) and the use of unanimity (legal practice).

During the EU enlargement process, the European Commission and the European Parliament play a supporting role during the intermediary steps of EU enlargement. The Commission is engaged in the preparation of candidate states for accession and, based on its assessment of the progress made, it provides the Council with screening reports on whether or not to move forward on each of the candidates' accession path. For its part, the European Parliament participates in this preparation through its oversight, budgetary and legislative roles.

Nevertheless, it is the Council alone that decides whether or not a candidate country will advance on its accession process, that is, if it fulfils the requirements for opening or closing chapters, and meets benchmarks or other required intermediary steps. Procedures for accession are laid down solemnly in negotiation frameworks

---

17 For a striking illustration, see Michael Martens, "[North Macedonia: Corruption in the name of the EU](#)," FAZ, October 18, 2023.

18 The Austrian Minister for Europe, Karoline Edtstadler, in her official statement at the first North Macedonia IGC, called for the focus of accession negotiations to remain on alignment with the EU *acquis*, expressed regrets that a solution to bilateral issues was used as a benchmark for progress in the accession process with the country, and stressed that "this procedure must not have any precedent effect". See: Karoline Edtstadler, "[@k\\_edtstadler](#)," X, July 19, 2022.

---

19 Justin Spike, "[Hungary's Orbán says negotiations on Ukraine's future EU membership should not move forward](#)," AP news, November 10, 2023.

between the EU and individual candidates, including on decision-making, established at the beginning of the accession negotiations phase. These stipulate that decisions shall be taken by unanimity. For example, the negotiation frameworks for Albania and North Macedonia stipulate that the Council, acting by unanimity, will establish and assess opening benchmarks, interim benchmarks, closing benchmarks for all chapters/clusters, and decide on the provisional closure of individual chapters and the fundamentals cluster.<sup>20</sup>

Council decisions on accession are prepared by the Working Party on Enlargement and Countries Negotiating Accession to the EU (COELA) of the Council, convening diplomats from the Member States' permanent representations to the EU. They coordinate their positions with the Member State embassies within the candidate countries and the responsible departments at the Ministries of Foreign Affairs. Discussions in COELA take the form of consensus-seeking; Member States blocking steps forward over a lack of progress in the candidate country usually informally engage in coalition formation to avoid isolated positions.

If, in principle, an agreement is found in the COELA working group, or if it proves impossible to find an agreement, the file moves to COREPER II, convening Member States' representatives at the Ambassador level. After agreement in COREPER II, it moves to the General Affairs Council (GAC), convening the ministers responsible for European Affairs. Finally, endorsement takes place in the European Council, where the 27 heads of state or government convene.

Those Member States blocking progress in the EU enlargement process over bilateral concerns also seek to garner support but are

often not successful. Bulgaria's position on North Macedonia was for example clearly isolated, leading to pressure from other Member States to resolve it through other means. Several Member State leaders communicated publicly about the fact that they would have liked to see the blockade resolved, voicing their frustration with the state of affairs. The Prime Minister of the Netherlands, Mark Rutte, for example, argued on the doorstep of the Brdo pri Kranju Western Balkans Summit of 6 October 2021 that he "is really not happy with the fact that the accession talks with North Macedonia are still blocked", and that the Netherlands "will try and do everything it can do" to unblock the situation.<sup>21</sup>

The Czech Republic and Slovakia at first refused to endorse the Council conclusions over this issue, but in the end Bulgaria's insistence prevailed. The European Council in its conclusions embraced the Bulgarian veto by insisting on changing the Macedonian Constitution, with ensuing negative effects as described earlier in this paper. In the case of the bilateral dispute between Greece and Albania, the European Commission's spokesperson called on Greece "not to raise bilateral issues to the Union level, such as in the accession process".<sup>22</sup> Germany's Chancellor Olaf Scholz aligned with the Commission's position just hours before the EU-Western Balkans Summit that took place last December.<sup>23</sup> In all of these cases, in the end the Council was not able to overcome *bilateralisation* outside the realm of the accession process.

---

20 Ministerial meeting of the intergovernmental conference completing the opening of the negotiations on the accession of North Macedonia to the European Union, "General EU position".

---

21 X, "tweet by @NLatEU", October 6, 2021.

22 "Do not raise bilateral issues to EU level," says Stano as Greece does not agree to Albania's EU accession process, Euronews Albania, December 12, 2023.

23 Vassilis Nedos, "Berlin backs Albania's EU bid despite Athens' opposition over jailed mayor", Kathimerini, December 14, 2023.



#### 4. The alternative: Qualified majority voting in (the intermediary stages of) the accession process

Moving towards QMV could positively affect the predictability of the accession process. There are several possible decision-making models in which QMV would play a role:

1. Introducing QMV at each step of the accession procedure;
2. Introducing QMV only when opening and closing individual negotiation chapters/ clusters and establishing opening, interim and closing benchmarks, but not for decisions on opening and closing the accession negotiations;
3. Introducing QMV only for opening negotiation clusters (excluding the fundamentals cluster) and establishing opening benchmarks, as initiated in the German-Slovenian non-paper;
4. Any combination or variation of the options listed above.

The 2023 Franco-German expert report on EU reforms notes that the final decision on the actual accession of a Member State should continue to be taken using ‘double unanimity’ by all Member States at the level of the European Council and through the ratification of the accession treaty at the national level.<sup>24</sup> As the European Parliament notes in a report from 2021, this offers “a) reassurance to current members that they will not be obliged to accept new members without their explicit consent; and b) recognition for the successful candidate country because all existing members will have accepted it into the ‘club’”.<sup>25</sup> As such, of the options above, option 1 is not recommended, and as the next section will show, it is also unrealistic from a legal perspective.

24 “[Sailing on high seas: Reforming and Enlarging the EU for the 21st century](#)”, Report of the Franco-German working group on the EU institutional reform, September 19, 2023, 39.

25 European Parliament Committee on Constitutional Affairs, “[Working document on overcoming the deadlock of unanimity voting](#),” April 28, 2021.

While political discussion is now mostly on option 3, option 2 seems to have the most merit in order to streamline the process.

Besides defining the specific decision-making moments during which QMV could be applied, variations also exist with regard to the type of majority that could be required. The options, inspired by discussions on introducing QMV in the Common Foreign and Security Policy (CFSP) context, include:

1. Qualified Majority: This constitutes 55% of the Member States, representing 65% of the EU population (Art. 16(4) Treaty on European Union - TEU);
2. Super Qualified Majority: This would constitute 72% of the Member States, representing 65% of the population, if the proposal is not coming from the Commission or the HR/VP (Art. 238 of the Treaty on the Functioning of the EU - TFEU);
3. Super Qualified Majority+: meaning unanimity among all Member States minus two or three.

For EU enlargement, options 2 or 3 may be more politically acceptable for hesitant EU Member States than option 1. However, there are no signs at the moment that the political discussion is heading in that direction.

Several alternatives to alter decision-making on EU enlargement are also worth noting. One such option which draws inspiration from the CFSP area (provided in Art. 31(1), Title V TEU) is referred to as ‘constructive abstention’ since it entails Member States abstaining from a vote taken in the Council configurations, in the interest of not blocking an EU common action/statement. The same article stipulates that the Member State abstaining in a vote may qualify its abstention by making a formal declaration. In that case, even though it is not obliged to apply the decision, the abstaining Member State will accept that the decision commits the Union. If the abstention is qualified by at least one third of the Member States comprising at least one third of the population of the Union, the decision shall not be adopted.

It is hard to imagine how in the EU enlargement context a Member State would not be obliged to apply a decision by the Council, given that enlargement concerns the Union at large. However, the idea of allowing for the use of ‘simple’ abstention is worth exploring. While until recently this was considered impossible, the European Council meeting in December 2023 where Hungary did not join the decision on opening accession negotiations with Ukraine provides a precedent on the use of abstention.

Another option is that the Council devises an emergency brake procedure as in Art. 31(2) TEU, in which a Member State intending to block a certain decision needs to substantiate its position, after which the Council can reconsider the decision. This would help to substantiate whether the reasons for blocking a decision are in line with the formal Copenhagen criteria or whether the issue should be moved up to the EUCO for a decision by unanimity.

Yet another alternative would be to reduce the number of decision-making moments instead of altering the decision-making procedures. Member States could, for example, entrust the Commission with a more substantial part of the accession negotiations, and as such lessen the number of political decision moments during which a veto can be cast. The cluster approach from the 2020 revision of the enlargement methodology goes in this direction. It is unclear whether any of these alternatives are currently being considered in the Council, although in interviews for this briefing some Member State officials signalled their openness to these ideas.

## 5. Legal feasibility of moving towards QMV in the intermediary stages of EU enlargement<sup>26</sup>

The Treaty on European Union hardly provides guidelines when it comes to decision-making on EU enlargement. Article 49, in Title VI of the TEU,

which governs EU enlargement, only sets out the general contours of the beginning and the end of the enlargement process, stipulating that “the applicant State shall address its application to the Council, which shall act unanimously after consulting the Commission and after receiving the consent of the European Parliament, which shall act by a majority of its component members”.<sup>27</sup> Legally, this article does not address the intermediary steps in the enlargement process. Equally, Article 49 points to the fact that accession negotiations are not a standard form of EU policy-making but rather constitute an intergovernmental negotiation process between the EU Member States and a third country, and this process is intended to arrive at an accession treaty between these parties.

Decision-making procedures for the negotiations phase of EU accession, that is, the intermediary steps in EU enlargement, are not laid down in EU primary or secondary law but are determined among the Member States in the European Council conclusions. There are no general guidelines or a codebook in which procedures have been agreed upon in general terms, as unanimity is inherently the guiding principle for negotiations on international treaties, of which EU accession negotiations are also part. Thus, the use of unanimity is legal practice rather than a prerequisite in intermediary steps.<sup>28</sup> Given this legal situation, options exist to insert QMV into the decision-making process on the intermediary steps of EU enlargement without a need for Treaty change, for which there is no political appetite in the EU. As such, in legal terms, enlargement is the policy area in which the EU can introduce QMV most easily.

For negotiation processes with individual candidate countries, decision-making procedures are explicitly stipulated in the negotiation frameworks that are established at the beginning of the accession negotiations phase. These negotiation frameworks

<sup>26</sup> The legal services of the Council and the European Parliament have been consulted for the drafting of this section.

<sup>27</sup> EUR-LEX, [Consolidated version of the Treaty on European Union TITLE VI - FINAL PROVISIONS Article 49](#).

<sup>28</sup> Interview with an expert from the EU institutions, March 12, 2024.



outline the general principles governing the negotiations, the exact substance of these negotiations, and the negotiating procedures. In the latter section, for each and every step in the process, the negotiation frameworks note that the Council shall act on the basis of unanimity, with the exception of decisions on the reversibility of the accession process following potential backsliding in the candidate country. In such cases, reversibility procedures can be unblocked through reversed QMV.<sup>29</sup>

It is precisely the negotiation procedures that are part of the negotiation frameworks with individual candidates that should be amended if Member States were to decide to introduce QMV in parts of the process.<sup>30</sup> The parallel introduction of a stricter QMV threshold in the form of super-QMV and super-QMV+ could mitigate some of the concerns raised by more sceptical Member States. As things stand, the negotiation frameworks for candidate countries that have already been established, comprising Serbia, Montenegro, North Macedonia, and Albania, would require modifications. Such amendments are not without precedent, as both Serbia and Montenegro accepted the EU's revised enlargement methodology in 2020, integrating the newly introduced cluster approach into their own ongoing negotiations. Given that it may smoothen and perhaps even expedite their accession path, it would be unlikely that

candidate countries reject a new approach that would integrate a form of QMV into the process.

By revising the accession methodology and negotiation frameworks with individual candidates, the changes in the decision-making process could take effect for all those that are currently undertaking EU negotiations. For candidates formally engaged in negotiations but with no established negotiation frameworks, the new frameworks could introduce modified decision-making procedures from the outset. This applies to Ukraine, Moldova and Bosnia and Herzegovina, but also to other (prospective) candidates that have not yet entered into the negotiations phase, namely Georgia and Kosovo.

The legal context of EU enlargement renders the discussion on decision-making procedures in this field relatively separate from the discussions on EU internal reforms. Successive enlargement rounds led to the adoption of the Treaty of Lisbon, which adapted the EU institutions and decision-making processes to allow for the integration of new Member States without a Treaty change. Equally, the Treaty of Lisbon introduced substantive changes to the composition and work of the main EU institutions whose stated aim was to ensure that enlargement would not compromise efficient and accountable policy-making with the accession of new Member States. The withdrawal of the United Kingdom from the EU has in a way also facilitated the integration of smaller new countries into the EU, especially in terms of the European Parliament's configuration.<sup>31</sup>

It is also important to note that the so-called *passerelle clauses*, often discussed in the context of the CFSP, are not applicable when it comes to EU enlargement. The general *passerelle clause* (Art. 48(7) TEU) stipulates that "the European Council may adopt a decision authorising the Council to act by a qualified majority" in areas

---

29 In terms of reversibility as prescribed in the revised accession methodology, in the case of Montenegro and Serbia (for sanctions/suspension in the case of a serious breach), a proposal can be submitted by the Commission or one third of the Member States (at least 9) and must be adopted by the Council with QMV (at least 15 out of 27). According to the proposed new methodology that will be applied to other candidates, proposals can be submitted by the Commission or just one Member State and adopted through simplified procedures (14 out of 27), including reverse QMV (the proposal can be turned down with QMV-15 out of 27). See: the negotiation framework with North Macedonia, Ministerial meeting of the intergovernmental conference completing the opening of the negotiations on the accession of North Macedonia to the European Union, "[General EU position](#)". Also see ICSDS, "[The new EU Enlargement Methodology: Enhancing The Accession Process](#)," 2020.

30 Interview with an expert from the EU institutions, March 12, 2024.

---

31 This is only the case for smaller new members. If Ukraine became a member, it would surpass the ceiling set in the treaties on the maximum number of MEPs in the European Parliament.

currently decided upon by unanimity.<sup>32</sup> However, it only applies to Title V of the TEU, which covers EU external action and the CFSP, and the TFEU, but not Title VI of the TEU of which Article 49 on enlargement is part. The EU also boasts so-called “specific *passerelle clauses*”, but these do not cover EU enlargement either.

Overall, at least in legal terms, the specific intergovernmental context in which EU enlargement takes place would likely facilitate moving towards QMV and may even render it easier than in other EU policy fields. Obviously, the question is more about political will than about legal barriers.

## 6. Political feasibility of moving towards QMV

Politically, moving towards QMV in EU enlargement is not without certain barriers. Support for the idea has not only been voiced by experts but also by Member States. Germany and Slovenia have submitted a non-paper to the General Affairs Council on 29 January 2024 proposing to introduce QMV in certain intermediate stages of EU accession negotiations. This proposal aims to make decision-making in the Council more efficient and the EU accession process more credible for candidate countries. Specifically, the German-Slovenian non-paper proposes a switch to QMV for opening negotiations on clusters, which entails three steps: to establish opening benchmarks and share them with the candidate country, to assess whether these opening benchmarks have been met, and to adopt a draft common position for an IGC. As there are six clusters, this proposal entails that there would be 18 occasions in which QMV would replace unanimity. As part of this initiative, QMV would correspond to the majority stipulated under Article 16(4) TEU: at least 55% of the Council’s members and representing at least 65% of the Union’s population.

---

32 EUR-LEX, “[Consolidated version of the Treaty on European Union - TITLE VI: FINAL PROVISIONS - Article 48](#)”.

While it is too early in the debate to make an informed assessment of the prevailing positions in the Council, up to 15 additional Member States are said to support the German-Slovenian initiative.<sup>33</sup> These include the Czech Republic, Estonia, Finland, Latvia, Lithuania, Portugal, Romania, Spain and Sweden. Others, including some but not all members from the “friends of the Western Balkans” group (including Austria, Greece, Italy, Croatia, Slovakia), would have also indicated a more positive stance toward the initiative.

Those Member States who in past years held more reserved positions on enlargement do not support the German-Slovenian initiative. The Netherlands has indicated that it is cautious about the proposal.<sup>34</sup> Interviews conducted for this briefing indicate that France has also remained astray from this initiative as it considers the timing inappropriate and would rather wait until the political implications of the outcomes of the European elections are fully clear. Visegrád Group members Hungary and Poland are also said to be critical of the idea.<sup>35</sup>

It will be relevant to delve deeper into the position of other prominent coalitions of Member States on related topics, such as the “friends of QMV in the EU CFSP” group (including Belgium, Finland, France, Germany, Italy, Luxembourg, the Netherlands, Romania and Spain). Sympathies and antipathies among Member States on QMV in the intermediary steps of EU enlargement may largely align in those terms. Despite Slovenia being one of the initiators of the non-paper on QMV in enlargement, other small and some medium-sized countries may be reluctant to support the possibility of using QMV for enlargement as this could open a Pandora’s box on decision-making on other dossiers. But much of this discussion is linked to perceived

---

33 Interview with an EU expert, April 11, 2024.

34 Kamerstuk 21 501-02, “[Brief van de Minister van Buitenlandse Zaken over de Raad Algemene Zaken en Raad Buitenlandse Zaken](#),” February 15, 2024.

35 Jana Juzová et al., “[The perception of Visegrad group on enlargement in light of the Russian war on Ukraine](#),” Visegrad Fund, June 20, 2023, 7.

risks of QMV linked to the sacrifice the EU would make on a) the democratic legitimacy of the decision-making process; b) the unity of the EU (coherence and speaking with one voice) and by extension on the EU's perceived leverage on the global scene. Questions arise as to whether these two factors could weigh more heavily with a war raging on the EU's eastern border and instability throughout its southern neighbourhood and with an increasing far-right hold in recent elections in the Member States.

Nevertheless, attitudes may also diverge depending on the intermediary step in the enlargement process that is at stake. Deciding on opening negotiation clusters/chapters through QMV may seem a less controversial issue for Member States, as indicated by the German-Slovenian proposal. Closing negotiation chapters through QMV, however, may raise more eyebrows. The argument here is that, given that the final step of the EU enlargement process is an accession treaty that is decided by unanimity, predetermining the final decision on enlargement by closing chapters through QMV at earlier stages could backfire at the end of the process. This implies that those Member States that would have vetoed or abstained from the closing of chapters that was closed anyway through QMV, could veto the accession treaty altogether at the end of the EU enlargement process and block the process.<sup>36</sup> However, given that the accession process itself is the best reform tool available, there are clear benefits for blocking issues to be tackled in parallel while the merit-based accession process driven by reforms continues. Bilateral blocking issues, which are unrelated to the Copenhagen criteria and the accession chapters, would be negotiated outside of the enlargement context.

Attitudes may also diverge as a result of Member State positions on other EU internal reforms. For some Member States, introducing QMV in enlargement may only be feasible if it is part of a broader package deal that would change

decision-making procedures also in other fields, such as the CFSP, or the EU budget or tax policy. In this case, the feasibility of moving towards QMV in the intermediary steps of EU enlargement would be closely linked to progress made in the EU's general internal reform discussions in light of future enlargement, even if the legal context for such reforms differs. The German-Slovenian non-paper, however, suggests that changes in decision-making on enlargement should be made as soon as possible. That would indicate that at least these Member States deem it possible to adjust the accession process regardless of other EU internal reforms.

When it comes to the EU institutions, the European Parliament has recently adopted a resolution stating that “qualified majority voting should be implemented in areas such as the start of EU accession negotiations, the opening and closing of individual negotiation clusters and sanctioning of backtracking”.<sup>37</sup> This is the fourth recent resolution of the European Parliament endorsing QMV in EU enlargement, demonstrating that cross-party agreement at European level can be possible.<sup>38</sup> However, attitudes in the European Parliament on enlargement in general and on this particular topic could shift after the European elections in June 2024 depending on the new political configuration and the number of seats (and power) that non-EU enlargement-friendly parties obtain.

All in all, currently the discussion on QMV in EU enlargement is arguably at an inception phase, without a clear majority in favour or against.

---

<sup>36</sup> Interview with an expert from the EU institutions, March 25, 2024.

---

<sup>37</sup> European Parliament, [resolution of 29 February 2024 on deepening EU integration in view of future enlargement \(2023/2114\(INI\)\)](#).

<sup>38</sup> See European Parliament resolution of 29 February 2024 on [Deepening EU integration in view of future enlargement](#); European Parliament resolution of 13 December 2023 on [30 years of Copenhagen criteria - giving further impetus to EU enlargement policy](#); European Parliament resolution of 22 November 2023 on [proposals of the European Parliament for the amendment of the Treaties](#); European Parliament recommendation of 23 November 2022 concerning [the new EU strategy for enlargement](#).

However, as unanimity will be needed to make the change towards any form of QMV in EU enlargement, it is clear that it will be a difficult endeavour. For some Member States, their ability to maintain leverage on bilateral issues will be dominant in their considerations; for others, their ability to oversee formal accession criteria will prevail; and yet others may resist the move to QMV for reasons unrelated to the EU enlargement process per se.

## 7. Future dynamics of decision-making in the Council

Transitioning to QMV during the intermediate stages of EU accession seems to imply that the opening and closing of clusters and chapters will consistently be decided by a vote, but that is not likely to be the case. In practice, both in the Council and its preparatory bodies, consensus-seeking would remain the norm, as research on other policy areas where QMV applies, indicates.<sup>39</sup> The underlying assumption is that Member States prefer not to outvote other Member States, recognising that they may find themselves in a similar situation in the future and would, in that case, appreciate that their concerns are considered (and even taken on board).<sup>40</sup> On enlargement, QMV would also work best if it is never actually used, but would rather reduce the options for bilateral blockades.

Importantly, instead of only focusing on the outcome of decisions, it would be useful to shift attention to the discussions leading to a Council decision. Such a practice would imply a shift in the common strategic culture in the Council and the nurturing of a collective understanding for joint challenges, especially in view of the now recognised geopolitical value of EU enlargement. While the Council will continue to be the key political actor in deciding on enlargement, it

should avoid the situation that its decision-making processes are politicised. The spirit of reaching decisions and allowing the EU to act coherently and effectively should be brought back into the Council.<sup>41</sup>

It is legitimate to ask what would actually change in terms of decision-making on EU enlargement. QMV may potentially help to unblock decisions in those cases where an individual Member State is using or threatening to use its veto power over a bilateral issue not related to the formal accession criteria. In such cases, other Member States may decide to push ahead with a vote. As Member States usually do not want to be part of a losing minority, this may lead the blocking Member State to backtrack or use the option of an abstention. This means that, at least theoretically, bilateral issues could be sidelined.

At the same time, Member States could deliberately conflate bilateral issues not related to the accession criteria with assessments of progress on the accession criteria. In other words, a Member State embroiled in a bilateral dispute with a candidate country might argue that the candidate has not fulfilled formal reform requirements. There are ample opportunities to do so, as a candidate country does not usually fully fulfil the requirements before a decision on the next steps in the accession process is taken. As such, also if a Member State is 'hiding' behind formal reform progress, it will be more difficult for other Member States to press ahead with a vote, and consensus-seeking will rather remain the norm. Conditionality towards candidates to fulfil reform requirements, for example, to fulfil all interim benchmarks on rule of law reforms, will in such a scenario be equivalent to today's situation in which unanimity remains the norm. Overall, moving towards QMV is likely to slightly decrease

39 Häge, F. M., "Coalition Building and Consensus in the Council of the European Union", *British Journal of Political Science*, 43(3), July 2013, 481-504.

40 Mattila, M., *Voting and Coalitions in the Council after the Enlargement*, in D. Naurin and H. Wallace (eds), *Unveiling the Council of the European Union: Games Governments Play in Brussels*, Palgrave Macmillan, 2008, 23-35.

41 In closed-door events, Member State diplomats have suggested that this could be facilitated through rigorous rules of procedures whereby the President of the European Council would mediate conflicts between Member States or with the rotating Presidency of the Council of the EU taking over such a mediation role. Such steps could be considered in addition to decision-making adjustments.

the power of individual Member States seeking to block progress in EU accession over bilateral issues, but will probably not completely remove bilateral issues from the equation.

An important question persists regarding the potential impact of moving towards QMV on bilateral issues. One challenge would be that bilateral issues between Member States and candidates remain unresolved throughout the negotiations. The EU has negative experiences with importing bilateral conflicts, for instance, the border issue between Croatia and Slovenia. As such, other potential models to resolve bilateral issues outside the framework of the EU accession negotiations should be found. Those could include the EU facilitating bilateral dialogues between the Member State and the candidate country or international arbitration mechanisms. As double unanimity will remain the norm for decisions on the final accession treaty, bilateral issues will likely re-emerge towards the end of the negotiation process if not resolved through other means.

In a similar vein, another challenge of moving towards QMV involves the weakened ability of national parliaments to control EU accession negotiations, where this is necessary. In theory, if reform processes are not entirely concluded but are still approved due to a form of QMV in the negotiations, it is foreseeable that national parliaments would seek to reclaim control by vetoing at the conclusion of the process. This could result in challenging political discussions towards the end of the process.

## Moving forward on EU enlargement

In principle, candidate countries dictate the speed of accession through the pace of their reform processes, on the basis of which the EU makes decisions on moving forward in the process. That is assuming that the EU enlargement process is technical. However, politics have increasingly moved centre stage in the tumultuous geopolitical context. Bilateral blockades between certain Member States with specific candidate countries have unduly politicised the accession process in past years.

This has led to delays for candidates, such as North Macedonia and Albania, and can be expected to also affect the Eastern candidates on their EU integration trajectory. To make the enlargement momentum concrete, reforms to the decision-making process to facilitate enlargement need to follow.

As this paper has shown, introducing QMV in the intermediate stages of EU enlargement could contribute to resolving deadlocks. It bears the potential of changing the dynamic of the negotiations as the majority of Member States will have the possibility to outvote bilateral blockades, even if in practice consensus-seeking is and will remain the predominant method for decision-making. The current accession methodology was adopted in 2020 with the idea to streamline the accession procedures through enhanced political steering. Moving towards QMV could operationalise the commitment enshrined within the revised accession methodology not to misuse outstanding bilateral issues in the accession process.

This paper has demonstrated that there are straightforward legal possibilities for adjusting decision-making in the intermediate stages of EU enlargement. Introducing QMV in the enlargement process does not require Treaty change and, at least legally speaking, there is no link with other EU internal reform discussions. Politically, the German-Slovenian non-paper proposal to introduce QMV on opening negotiation clusters has kickstarted the debate in the Council and is gaining ground. While the proposed change could be a good first step to test the waters, moving towards QMV to also establish and adopt positions on interim benchmarks and potentially even closing benchmarks would have more impact in terms of making decision-making in EU accession more effective.

Member States are torn between those which outrightly support QMV and those which are hesitant. The cleavages are fluid, however, since it is still early days in the debate on EU internal reforms. Political risks raised include leaving the most crucial and divisive issues on a country's

accession path to the end of the process, where unanimity will continue to be the rule. There are also concerns about the potential weakening of the role of national parliaments. Questions are raised as to the need to shift the Council culture from one of focusing on the outcome of decisions to one that concentrates on the process and discussions leading to decisions.

Ultimately, improvements in EU decision-making procedures are only effective if combined with Member States' political will. As geopolitical imperatives are now dominating EU debates on speeding up the EU accession of the Western Balkans, and effectively engaging in the process with new candidates in the East, the EU has a clear interest in streamlining the accession process. Moving towards QMV in the intermediate stages of EU enlargement may not be a silver bullet for all the challenges that enlargement faces, but it could contribute to a restoration of the predictability of the EU enlargement process, the credibility of the accession perspective in the candidate countries, and ultimately, the EU's ambition to be a geopolitical actor.



### About the Clingendael Institute

Clingendael – the Netherlands Institute of International Relations – is a leading think tank and academy on international affairs. Through our analyses, training and public debate we aim to inspire and equip governments, businesses, and civil society in order to contribute to a secure, sustainable and just world.

www.clingendael.org  
info@clingendael.org  
+31 70 324 53 84

✉ @clingendaelorg  
f The Clingendael Institute  
in The Clingendael Institute  
📷 clingendael\_institute  
▶ Clingendael Institute  
📧 Newsletter

### About the authors

**Wouter Zweers** is a research fellow at Clingendael's EU & Global Affairs Unit. His research revolves around the external dimension of EU policy making, with a special focus on EU enlargement and the Eastern dimension of the European Neighbourhood Policy. Wouter coordinates Clingendael's 'Balkan Hub', a project in which the Institute engages with think tanks from the Western Balkans in joint research and events. Furthermore, he co-runs the secretariat of the Russia and Eastern Europe Knowledge Alliance (REKA), a Dutch network of experts and practitioners dedicated to enhance knowledge about Eastern Europe in The Netherlands. Wouter holds a BA in European Studies from the University of Amsterdam and an MA in International Public Management and Policy from the Erasmus University Rotterdam.

**Dr Isabelle Ioannides** is a Senior Research Fellow (non-resident) in the Programme for Southeast Europe at the Hellenic Foundation for Foreign and European Policy (ELIAMEP), where she publishes on the Western Balkans, Cyprus, EU enlargement, and peace and security issues. She is also a Europe's Futures Fellow of the ERSTE Foundation. She is currently employed as a Senior Policy Analyst in the Directorate for Impact Assessment and Foresight at the European Parliamentary Research Service (EPRS), where she is responsible for preparing ex-post evaluations of EU external policies, programmes, instruments and international agreements, at the request of Parliamentary committees. The content of this article is the sole responsibility of the author and any opinions expressed herein should not be taken to represent an official position of the European Parliament.

**Zoran Nechev** (PhD candidate, Institute for European Studies, Vrije Universiteit Brussel) specialises in EU-Western Balkans relations, external dimensions of justice and home affairs, corrosive capital and external (malign) influences. He heads the Center for EU integration of the Institute for Democracy 'Societas Civilis' (IDSCS), a think tank organisation from North Macedonia. Since July 2021, Nechev is an associate fellow at Deutsche Gesellschaft für Auswärtige Politik (DGAP). He is a Europe's Futures Fellow 2021/22 of the Erste Foundation at the Institut für die Wissenschaften vom Menschen (IWM) in Vienna.

**Nikola Dimitrov** is the president of the Balkan Center for Constructive Policies – Solution. He previously served as Minister of Foreign Affairs for North Macedonia from 31 May 2017 to 30 August 2020. He also served as Deputy Minister of Foreign Affairs in 2000 and ambassador to the United States and then the Netherlands. He obtained a Master of Law Degree at the University of Cambridge in 1998, graduating from the Faculty of Law at the University of "Ss. Cyril and Methodius" in Skopje. Dimitrov is a council member of the ECFR and a member of the Balkans in Europe Policy Advisory Group (BiEPAG).