

A view from Georgia



# Sailing on High Seas: Reforming and Enlarging the EU for the 21<sup>st</sup> Century - A View from Georgia

Commentary on the report of the Franco- German working group on EU institutional reform

ECONOMIC POLICY RESEARCH CENTER



10/2023

## Sailing on High Seas: Reforming and Enlarging the EU for the 21st Century – A view from Georgia

Commentary on the report of the Franco-German working group on EU institutional reforms.

*This commentary is mostly focused on the significance of the proposed recommendations from Georgia's foreign policy and its priority of the European integration.*

**Context:** The issue of institutional reform and enlargement has been a hot topic ever since the start of the Russian full-scale aggression of Ukraine. Today, Brussels is unequivocal in its commitment to enlargement, as the geopolitical context, with the war in Ukraine at the EU's borders, makes it inevitable. But when it comes to the question of how to proceed with this project, which will change the economic, social and political face of the Union, the answers vary greatly from one European capital to another. In this context, the commissioning of the document by the German and French governments (the report was mandated by Laurence Boone, French Secretary of State for European Affairs and Anna Lührmann, German Minister for Europe and Climate) underlines the aspiration of both parties to orient the ongoing debates and to reach a common position on enlargement, the changes it implies and the evolution of the Union's environment.

**General Assessment:** Predictably, in addition to its stated objectives the report reflects some of the trends historically of importance for France and Germany in their approaches to the European Union and which were discernible long before the start of Russia's full-scale aggression against Ukraine in February 2022. By considering the ensemble of proposed measures we can distinguish two main logics behind the reform proposals, which could be described as the "German line" and the "French line". Namely, "federalization" tendency of the European Union long supported by Germany (suppression of 'one country- one commissioner' principle in the European Commission, change of seats allocation principle in the European Parliament, QMV instead of Unanimity etc.) and "l'europe à plusieurs vitesses" concept dear to France (the report envisages four distinct tiers of membership, the last two falling outside the EU altogether:

an inner circle whose members could have even closer ties than those that bind the existing EU; the EU itself; associate membership (internal market only); and the looser, less demanding circle of the new European Political Community).

At this stage, it is difficult to predict whether the recommendations contained in the report will be taken on board and eventually implemented by the Union, and even before that whether they will be accepted and subsequently proposed to the comembers of the Union by the governments of France and Germany, particularly in the case of those recommendations whose implementation will require a revision of the European Union treaties, but also for a number of proposed reforms which have been traditionally unpopular among Central and Eastern European countries (these countries, traditionally more in favor of an enlarged Europe than Paris and Berlin, are weary of the dominant Franco-German dialectic which might create a convenient pretext for putting enlargement off the agenda once again).

The report explicitly states that accession of new members into the Union itself remains merit-based depending on progress in candidate countries but sets 2030 as a decisive deadline for the readiness for the enlargement of the Union, as well as for the implementation of the proposed measures (designed to make the acceptance of new member states possible).

From the Georgian perspective the main question is to know whether the proposed reforms will actually be a step towards the acceptance of new members states and not an end in itself which will possibly delay or even prevent the long-sought enlargement of the Union of 27 states.

Some of the key decisions on enlargement and reform are expected to be made at the EU summit in December 2023.

If, for the first time, the EU succeeds in expanding (enlargement) and deepening (integration) at the same time, this will be beneficial for both the aspirant countries and the current member states, and, above all, for the political construction of the European Union.

*Below are some of the reform proposals we considered important to outline, along with the relevant comments.*

## 1 General evaluation of the Franco-German report

The General assessment from the Georgian point of view could be defined as moderately positive with several caveats, especially regarding the recommendations necessitating EU treaty revisions which increases the risk of a protracted process with an uncertain outcome (the risk of failure of national ratification being particularly high due to the volatile political climate in a number of member states, both in Western & Eastern Europe).

One of the two key observations of the report, that the inclusion of new Member States is a geostrategic imperative of the Union, is clearly in line with the foreign policy priorities of Georgia, i.e. the continuous approximation and the full membership of the EU. The

report's recommendations are aimed at achieving three distinct goals: to increase the EU's capacity to act, getting the EU ready for the enlargement, and strengthening the rule of law and the EU's democratic legitimacy. While all of these objectives are in line with Georgia's foreign policy goals, some of the proposed measures (if adopted) significantly complicate Georgia's prospects of joining the Union as a member state and eliminate Tbilisi despite the level of progress it will be able to make in other areas.

Per authors of the report, to be eligible for accession candidate countries must meet a number of criteria, the first three out of six being - 'Fundamentals first' principle (Copenhagen Criteria), 'Geopolitical' principle (alignment with the EU's CFSP and the principles of the UN Charter) and the 'Conflict resolution' principle. If, despite the difficulties (esp. concerning 'Copenhagen Criteria'), Georgia can reasonably expect the first two principles to be met, the third, that of "Conflict Resolution", will fundamentally compromise the country's prospects. As a country occupied by Russia, it is imperative for Georgia to dissociate its Euro-Atlantic integration objectives from dependence on Russian benevolence (the decoupling of the Russian occupation from the foreign policy objectives has been one of the main features of Georgia's foreign policy for the past decades) - the occupying power being vehemently opposed to any rapprochement between Georgia and the West, and employing all necessary levers (including military aggression) to keep Georgia out of the Euro-Atlantic integration loop.

## 2 The connection of the further enlargement of the EU with the various reforms of the European Institutions

Per the authors of the report, the EU in its current state is not ready to welcome new members, either 'institutionally or politically'. The report therefore advocates a reform of the Union that would precede or coincide with enlargement, in line, in this respect, with what both Paris and Berlin are advocating. However, whether it precedes or coincides with enlargement, the slowdown in reforms will drag out the accession process, increasing the likelihood of yet another (indefinite) postponement. Consequently, the coupling of EU enlargement with its internal reforms (with all the challenges that implies) might constitute an additional risk factor for prospects of EU membership aspiring countries such as Georgia or Ukraine.

## 3 Proposed time frames of reforms of the EU and the next enlargement wave.

The proposed reforms of the European institutions and the next round of enlargement are interconnected and mutually influential priorities. The proposed timetable (in the short term before the 2024 European elections and in the medium term after the elections of 2024-2029) is consistent with the planned enlargement process (if the mutual commitment of the EU and candidate countries to prepare for further enlargement by

2030 is declared in December 2023), but it is less likely that all of the proposed reforms will be approved.

The EU initiative and the principled decision on 2030 represent a significant change in approach to enlargement, although the report does not set 2030 as the accession date for new members, but as the deadline for the readiness of the EU and candidate countries. Georgia, somewhat sidelined but still a member of the "associated trio" with a granted "European perspective" (and possible candidate status by the end of 2023), has every chance of being ready to join the Union by 2030 unless the retention of the "conflict resolution" principle eliminates the country's application for membership.

#### 4 Improvement of procedures for the application of sanctions (Article 7 of the Treaty on EU) for violations of the fundamental principles of the EU

A step forward for being more reactive and efficient while dealing with the challenges from both the member states and aspirant countries (with varying degrees of advancement towards the membership), e.g. the better protection of the rule of law (which is both a non-negotiable constitutional principle for the Union's functioning and a precondition for accession to the EU). This is medium-term measure planned to be implemented during the next institutional cycle (2024-29). The refining of the Article 7 (both by lowering the threshold of application from the unanimity minus one to majority of four fifths at the European Council and by adopting principle of an automatic response) paired with the strengthening of the budget conditionality would considerably increase the efficiency of the EU to push defiant governments to abide by the mutually agreed rule of law principles. A positive development from the Georgian perspective, although likely to be problematic to be implemented: requiring TEU revision.

#### 5 Reduction and non-increase in the number of EP deputies

Although only the current member states are affected by this possible change, it is rather a positive development from Georgia's point of view, as it is in line with the logic of enlargement - the preparation of European institutions for enlargement removes institutional obstacles and reduces potential frictions. Furthermore, the adoption of the "Cambridge formula" for the allocation of seats in the EP will probably benefit Georgia (a country with a modest demography) in the event of eventual accession, by striking the right balance between the right of each member state to be represented and the need to reduce demographic distortions.

#### 6 Expansion of the format of the Trio of Chairs to the Five – Presidency of the European Council

Once again, this is a prospective measure that only concerns member states. The logic behind this change is understandable (longer-term agenda-setting and better

coordination between decision-making rounds). The problematic nature of the Council Presidency has been particularly noticeable in the wake of the EU's latest enlargement to 27 member states. The question of the stability and continuity of the European Council's work is constantly raised in this situation, where, under the current system, one member state would hold the Presidency at intervals of up to 14 years. Preparations for enlargement, which might bring the number of member states to over 30, require adequate measures to pave the way for a stable and effective rotating Council presidency.

## 7 Changes in the European Commission - Reduction of the number of EC collegium members

This is probably one of the most problematic recommendations which is difficult to see implemented, despite the obvious need to improve the Commission's coherence and efficiency, particularly in the context of enlargement. As the supranational institution and the executive arm of the European Union (made up of unelected Commissioners), the European Commission is the source of constant political speculation in the internal political milieu of the member states, and at the same time the place where member states most expect to defend their interests. Changing the "one member - one state - one commissioner" principle would be particularly problematic for two key reasons: 1. the unshakeable attachment of member states to the principle of national representation; 2. the risk of exacerbating the Commission's chronic lack of legitimacy and acceptance of its decisions by member states (governments, national legislatures, the general public).

## 8 Approval of decisions by a Qualified Majority Voting (QMV) instead of Unanimity

The adoption of this measure designed to revitalize the Union's decision-making process is rendered problematic by the member states' long-standing practice of using the principle of unanimous voting in the European Council as the most potent tool in the internal power struggle. At the same time, EU member states (with Germany leading the way Germany) increasingly agree that the Union should be able to react more quickly to an escalating international situation.

As far as the candidate countries are concerned, the area in which the introduction of qualified majority voting would represent progress is the enlargement process, thus preventing certain states from blocking progress towards accession in order to force candidate countries to make concessions or on the basis of their differing geopolitical positions (e.g. Hungary).

Finally, the potential need to revise the EU Treaty (unless the use of passerelle clause) and subsequent national ratifications for the adoption of such measure represents significant obstacle to the implementation of this change, given Member States' attachment to the principle of consensus, seen as a key measure to ensure respect for their respective national interests.

## 9 Changing the principles of EU budget formation

This is probably the least discussed part of the report's proposals, but one of the thorniest issues that will come to the fore as soon as the accession of the new states ceases to be a remote possibility. It is already clear that the principles of budget formation currently in force in the EU will not be appropriate when the Union expands from 27 to over 30 members (the EU's already overstretched budget being one of the most frequently debated topics in Brussels and beyond). At the center of the current debates and the report recommendations is the principle of “juste retour” which used to guide the EU budget formation for decades up to this day. The undermining of this principle by pretexting the enlargement will almost certainly bolster anti-enlargement tendencies risking to derail the accession process indefinitely.

## 10 Options for changing the founding treaties of the EU

There are number of proposed reforms which do not require treaty changes, but, curiously, for the changes that do require it, the authors of the report are proposing to avoid mechanisms which are making changes more politically feasible (passerelle clauses, emergency powers, use of enhanced cooperation etc.) and are opting for the more challenging way of treaty revisions justifying that with the reasons of “democratic legitimacy, transparency, coherence and ambition of change” (with all the unforeseen and unpredictable political obstacles which are highly likely to appear) – Option 1 through Convention and Option 2 through Intergovernmental Conference (IGC) – the difference between the two being negligible, those 2 options will be the most risky for the candidate countries prospects of accession – the history of revision of EU treaties is unequivocal: unintended consequences are almost certain.

One of exit strategies (which includes 3 options out of 6) from potential quagmire the authors are proposing is the linking (inclusion) of the founding documents changes in treaties of accessions, thus creating a “package deal” more like to get agreement from both the pro-deepening (pro-integration) and the pro-enlargement camps in the European Council. By the same logic, National parliaments (or citizens via a referendum in countries requiring it) would only have to vote once for both operations - revisions and accessions at the same time. While there is a certain effort of flexibility the intrinsic logic of connection between a number (more or less popular) EU reforms with the accession process clearly risks to undermine the latter.

As a last resort (option 6) the authors are proposing treaty revisions through a supplementary reform treaty i.e. by coalition of the willing States where the changes will concern only the States accepting the changes. For example, in case of adoption of the new EU budget Only the Member States party to this new supplementary treaty would benefit from the proposed changes (meaning the need to draft two distinct budgets) – etc. It is clear that this option will add an enormous additional complexity to the EU legal system, institutions and their functioning.



Besides the highly risky options of ordinary revisions, it emerges that all the alternative options proposed by the authors of the recommendations for revising the EU's founding documents will affect the accession process - whether by establishing a direct correlation between the two, or by adding further complexity to the operation of the Union's institutions. In this situation, it would be advisable for the candidate countries to opt for solutions that would not add an additional burden for the Member States and the EU institutions, apart from the treaty changes directly and strictly related to the accession process.

## 11 Introduction of four levels of integration in EU (inner circle, EU, associated members, ENP)

If the introduction of different levels of integration in the Union is a necessity to avoid the "cost of inaction" recognized by the EU (reflecting a long-standing conviction of the antagonism between the postulates of deeper integration and the admission of new members, including in France which, in May 2023, joined Spain, Ireland, Belgium, the Netherlands and Denmark to form the so-called Atlantic Group - an informal group of countries expressing concerns about the prospect of enlargement and making them conditional on EU institutional/budgetary reform), the concept of the four circles of integration contained in the report - "phased accession" or access to the single market, but without membership and with limited participation in various EU institutions – might raise doubts regarding to the conditions of accession that will ultimately be offered to the aspirant countries.

## 12 Revision of principles of EU enlargement policy and Georgia

In the case of Georgia, the consequences of the introduction of the new principle of accession is unequivocal: without modification of the "conflict resolution" principle as a precondition for eligibility for accession, Georgia would not be able to join the Union as a member state. At this stage, it is unclear whether the EU intends to use compliance with this principle as a means of pressuring applicant countries into making relevant concessions, but in Georgia's case, such concessions are hard to imagine - Georgia is not in conflict with any other EU member or country with European aspirations that might be susceptible to being influenced by Brussels into making mutual concessions. Georgia is occupied by revisionist and aggressive Russia, which is hardly open to any compromise especially one which will facilitate Georgia's European integration.



## Conclusion

On the one hand, the opening of the debate on EU reforms is an encouraging sign for the candidate countries, as it proves that EU member states are ready for enlargement and seriously intend to accept new members, thus going beyond the symbolic and political gesture expressed in the context of a full-scale war at the Union's gates. On the other hand, it is becoming increasingly clear that, given the complexity, scope and scale of the proposed reforms (should they be accepted and initiated), they could become an excuse for postponing the enlargement decision in the future, and for delaying forward motion in the candidate countries' accession process.

*Zaza Shengelia, is a Senior Fellow at Economic Policy Research Center*



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