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# **EUROPE: THE DRIVING FORCE**

**The Eastern Enlargement of European Union**



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**INTRODUCTION.**

The three European Communities eventually became the European Union through the Treaty of Maastricht (1993) and since their creation by the Treaty of Paris (1951) and the Treaty of Rome (1957) they were enriched little by little by the addition of a growing number of States. Denmark, Ireland and United Kingdom (1973) progressively joined the six founding States (Italy, Germany, France,

Holland, Belgium and Luxembourg). Greece joined in 1985, Portugal and Spain in 1986 and Austria, Finland and Sweden in 1995.

The enlargement process has never stopped since and after the Fall of the Berlin Wall, the collapse of USSR and the end of the Cold War it has found a natural directrix towards Eastern Europe becoming one of the most ambitious projects of the European Union history.

Looking into the present time it is possible to say that now it is time to shift the Union's border to the East. This time the picture is completely different compared to the last two European Union enlargements. The Enlargements facing European Union today poses a unique bet, since they are without precedents in terms of aim and diversity: the number of candidates; the area (with an increase of 34 per cent) and population (with an increase of 105 million); the different historical and cultural heritage and the different legal systems.

Europe is now a moving, driving force (if I could use an image I would choose a travelling train) in a stage of transformation<sup>1</sup>. I would like, through this research to give a projection of the European Union dynamism by analysing the actual European Union Enlargement in a historical-juridical-geographical perspective.

## **1. HISTORICAL DEVELOPMENT OF NEW ENLARGEMENT.**

**The precedent enlargements.** The European process of unification and integration began with six countries (Belgium, Federal Republic of Germany, Italy, Luxembourg, the Netherlands, France) and has lived different enlargement phases.

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<sup>1</sup> Cfr.: Günter Verheugen speech/03/107, Enlargement seminar with UK Parliamentarians, London, 04/03/2003.

Great Britain, Ireland and Denmark became part of European Union in 1973, Greece in 1981, Spain and Portugal in 1986, Sweden, Austria and Finland in 1995. Each one of these enlargements has had different modalities and characteristics.

**The Enlargement to the Central Eastern European Countries.** The fifth enlargement of European Union is an historical step in the building Europe. The project is ambitious: reuniting the continent that history split in two.

Since 1989, due to the extreme changes in Central Eastern Europe, Poland, Czechoslovakia, Hungary and successively also Bulgaria, Romania, the Balkanian Countries and Slovenia have tried to get closer to the Community with the aim of becoming part of it as soon as possible. In fact, soon after the fall of the Berlin Wall, the European Community made a "must" to rapidly establish diplomatic relations with the Eastern European Countries. During the Paris Summit in July 1989, G24<sup>2</sup>, belonging to the OCSE area, appointed the agreed mandate to coordinate the programme of economic assistance to the Commission, especially to favour Poland and Hungary (PHARE). The European institutions and their member States, in order to encourage a social change and the economic progress of the Eastern European Countries, have signed with these Countries European Agreements under the form of association pacts under the clause 238 EC Treaty. The European Agreements have represented the first step towards the full title of membership of these countries. Since the financial conclusions drawn by European Council of Edinburgh (December 1992) it has been possible to find a clear reference to the membership of Central Eastern Countries. Although this perspective had been mentioned in general terms in Edinburgh, in the next European Council of Copenhagen, the Head of

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<sup>2</sup> The twelve member States, the six countries belonging to EFTA, USA, Canada, Japan, New Zeland, Australia and Turkey.

States and the government of the twelve laid the foundation of the enlargement process and expressed the favour to the right of application of the Central Eastern European Countries. They fixed the conditions which each Candidate State would have had to fulfil in order to become, a full right, part of the Union: the Agreement will take place as soon as the associated country member will be able to face all the commitments involved, satisfying the political and economic conditions required'. As stated in Copenhagen, membership requires the candidate country to achieve:

- Stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities;
- The existence of a functioning market economy as well as the capacity to cope with competitive pressure and market forces within the Union;
- The ability to take on the obligations of membership including adherence to the aims of political, economic and monetary union (the *acquis communautaire*)<sup>3</sup>.

There is also a further condition to put in the enlargement process: the ability of the European Union to annex new member States without compromising the dynamics of the process of integration. A pre-Agreement strategy was designed next, with the presence of the six leaders of the Central Eastern European countries (Poland, Bulgaria, Hungary, the Czech Republic, the Slovak Republic, Romania), during the European Council of Essen (December 1994). This strategy added to the already ratified agreements a structural dialog between these countries and the Union by the means of periodic meetings at administration level. The need to create the pre-requirements for a gradual and balanced integration of the associated

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<sup>3</sup> *Acquis communautaire* corresponds to the common platform of rights and obligations which bind the Member States in the context of European Union. It is in the constant evolution. For further close examinations refer to chapter 2 of the present work.

countries was confirmed at the European Council of Madrid (December 1995) when the steps, which would have led to the next enlargement of the Union, were defined.

Six months later, during the European Council of Florence (21/22 June 1996) with the Madrid conclusions as starting point, it was decided, on the bases of the Commission Communication and of their own results, to establish that Central and Eastern European Countries could be part of the first session of negotiations. Keeping in mind the different points and taking in to consideration the political repercussions caused by the acceptance of different negotiation sessions, a precise timetable of negotiations with the Central Eastern European Countries was set up, in order to make the initial talks coincide with the beginning of negotiations with Malta and Cyprus; this meaning six months after the conclusion of the intergovernmental conference.

The European Council of Amsterdam (June 1997) closed the intergovernmental conference adopting the Amsterdam Treaty and it opened the path to the starting process of the European Union enlargement in accordance with the Council of Madrid conclusions. In this perspective the Commission adopted a communication named Agenda 2000 on July 15. The communication explained in detail the application form of Central Eastern European Countries.

The document of the Agenda 2000 Commission represented an action programme with which the European Union wanted to strengthen the communitarian policies and to adopt a new financial scheme for the period 2002 – 2006, keeping in mind the enlargement perspective. The challenge of the Union Enlargement to ten of the Central Eastern European Countries (Bulgaria, Estonia, Hungary, Latvia, Lithuania, Poland, the Czech Republic, Slovenia, the Slovak Republic, Romania) and Cyprus was a fundamental motivation for the reforms started in the Agenda 2000 frame. In order to favour the

adoption of the *acquis* and to make the integration of new members as easier as possible, the Commission would stipulate partnership adhesions; through them all the ways assistance to Central Eastern European Countries would converge into the unique frame. These agreement formulas were based on three fundamental points:

- Specific efforts by the candidates about democracy, macroeconomic policies and nuclear security;
- A national program for the adoption of the *acquis* within precise timetable;
- Mobilization of all the union resources to support the candidate countries preparations (PHARE programs).

With all this in mind, during the Luxembourg summit (December 1997), the European Union started, based on the Commission opinions, the membership process concerning all the countries that wished to be part of it. The EU offer at this stage interested Cyprus and the Central Eastern European Countries. During the European Council the institution of a European Conference for the European Union member States and the European Candidate Countries with adequate membership requirements had been instituted. The European Conference met for the first time in London on March 1998 and only Turkey, among all the candidate negotiations countries, sent no representatives. From what emerged during the European Conference and what had been decided in the process began on March 30 1998 with the creation of the specific framework (integration negotiations), tightly linked to the candidates ability to respect all the obligations of a member State of the European Union and to execute the *acquis communautaire* at the date of accession, particularly for the measure needed to extend the Union Market, which will have to be immediately realized.

The accession negotiation began on March 31, 1998<sup>4</sup> as a bilateral intergovernmental conference: meetings were planned every six months and every month from June 1999 at ambassador level. Through these meetings it was possible to do the screening of each country's detailed situation according the *acquis communautaire* and to the second and third pillar. The negotiations focus specifically on the terms under which candidates adopt, implement and enforce the *acquis communautaire*. After the launch of accession negotiations with Cyprus, Estonia, Hungary, Poland, the Czech Republic, and Slovenia, the European Council of Cardiff (June 1998) could take note that seven chapters of *acquis communautaire* had already been object of screening and that at the same time the analytical exam of the *acquis* had began for Bulgaria, Latvia, Lithuania, the Slovak Republic and Romania.

The stake of Agenda 2000 reforms, approved during the summit of Berlin in 1997, is the most important among the new union trends defined in 1999. In this summit was underlined the importance of PHARE program. The European Council of Helsinki (December 1999) puts an end to a decade of projects, actions and efforts to find innovative and effective solutions to the common challenges that the Europe of fifteen must face considering the realization of the future enlargement of European union to East. During the works the European Council adopted the Declaration for the millennium, which stresses the importance of the enlargement process started in Luxembourg in December 1996 to establish prosperity and stability to the entire European continent. Thanks to the Helsinki Council the will to proceed towards the future enlargement of Union is reinforced. Such will which took aback disbelievers and detractors, is the result of a determination of all the institutions (Council, Parliament,

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<sup>4</sup> The Countries were Cyprus, Estonia, Hungary, Poland, the Czech Republic and Slovenia.

Commission), In February 2000 it was decided to organize a bilateral intergovernmental conference in view of the beginning of the negotiation with Bulgaria, Latvia, Lithuania, Malta, the Slovak Republic and Romania, on the accession conditions of the European Union and also on the revision of the treaties. The negotiations with Malta, Bulgaria, Latvia, Lithuania, the Slovak Republic and Romania officially begun on 15<sup>th</sup> February 2000. In December 2000 the Council of Nice has reconfirmed the historical importance of European enlargement process and the political priority, which may determine its success. It welcomed the evaluation by steps of the accession negotiations with the Candidate Countries and it approved the necessary institutional changes to make The Union able to receive, from the end of 2002, the Countries which will be ready, allowing them to be part of the 2004 European elections.

**2002: a crucially important year for the Enlargement process.** 2002 was a crucial year for the enlargement process<sup>5</sup>. The Gothenburg and Laeken Councils have drawn out important guidelines for the remainder process. In particular the results of the considerations expressed in the Nice Council have been put together in a report presented during the European Council of Gothenburg (June 2001) where the appreciation of the efforts by the candidate was expressed and where it was asked to accelerate the reforms and to implement the administrative structures in order to be part of the European Union as soon as possible.

The European Council in Laeken for the first time names the countries expected to be able to conclude negotiations by the end of 2002. This includes all the countries under negotiation except Bulgaria and Romania.

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<sup>5</sup> Cfr.: Günter verheugen speech/02/104, Plenary session of European Parliament, 13/02/2003.

The Brussels European Council endorses the Commission's findings and recommendations of the regular reports and the Strategy Paper of October 2002, according to which Cyprus, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, the Slovak Republic and Slovenia fulfil the political criteria and will be able to fulfil the economic criteria and to assume the obligations of membership from the beginning of 2004. They will therefore be able to conclude accession negotiations before the end of 2002.

The European Council of Copenhagen was a fundamental step in the history of European Union enlargement process. "With the decisions in Copenhagen, we closed one of the darkest and most blood-stained chapters of European history. We closed a century ravaged by war and conflict. We bid a final farewell to the Europe of the Yalta Conference and the Cold War", said Danish Prime Minister Anders Fogh Rasmussen, when he addressed the European Parliament after chairing the Copenhagen summit. "At the same time, we opened the door to a new era of European history. An era blessed by freedom, peace, growth and prosperity. The Copenhagen Summit marked a pinnacle in the history of European co-operation, a triumph for freedom and democracy, and a gate to a better future for all our peoples." Agreement was reached at the Copenhagen summit on a declaration about "One Europe" which will be annexed to the Accession Treaty. The text, to appear above the signatures of the 15 current EU member States and the ten new member States, reads: "Today is a great moment for Europe. We have today concluded accession negotiations between the European Union and Cyprus, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovakia and Slovenia. 75 million people will be welcomed as new citizens of the European Union."

**The 2003 European Union is an enlarged Union.** The European Parliament voted to approve the accession of ten new

member States during its Strasbourg Plenary session of 07-10 April 2003. In particular, 09 April 2003 was the enlargement-voting day.

The atmosphere in the European Parliament plenary session was special. The importance of 09 April 2003 vote in the history of European Union is evident analysing the different interventions of European Parliament Members during the debate about the conclusion of the enlargement negotiations.

The debate was focused on the situation in the individual applicant states with the intervention of each reporter. At the conclusion the European Parliament has given its assent to the accession of all ten countries with which accession negotiations have been concluded. Parliament voted ten separate resolutions on each individual country as well as a non-legislative resolution. The accession of any new country requires the assent of Parliament voting by an absolute majority (i.e. 314 out of 626 votes). Only then the Accession Treaty can be signed and ratified.

The current member states and the ten candidate states signed the Accession Treaty in Athens on 16 April. Undoubtedly a historic moment in the development of the European Union took place in Athens: The leaders of each of the 15 European Union member states and the 10 future members were represented by their head of state or government, or by both. Each was supposed to speak for a maximum of three minutes before signing the treaty.

The accession treaty is the bulkiest in European Union history, running to 4,900 pages. Even its full title has 44 words. Teams of legal translators from all candidate countries have worked for months in Brussels on the draft, which is now available in all the 21 languages of the enlarged European Union. It has been formatted in such a way as to be exactly 4,900 pages long in each language. It is binding on all signatories.

However, some countries have included unilateral declarations. For example, Poland, a staunchly Catholic country, has declared that European Union accession will not hamper the regulation of matters of moral importance or relating to the protection of human life.

The accession treaty came into force on 1 May, 2004, when all 10 countries are set to formally join the European Union. In all 15 existing EU members, the treaty will be ratified by parliament. It is important to underline that the treaty ratification in the acceding countries will take place on the basis of popular referenda.

Practically, for the ten newcomers, it is the start of what has been described as a "dress rehearsal" for membership in May next year. Over the next twelve months, future Member States will send politicians and ambassadors as "observers" to Brussels and Strasbourg. A chance to see for themselves how the Union really works.

So what does all this mean in practice? It means that now we are in an enlarged European Union<sup>6</sup>.

**The second phase of the Eastern Enlargement of European Union (Romania and Bulgaria).** The horizon time frame for the European Union enlargement will stop in 2007 with the possible entry of Romania and Bulgaria.

The final decision was taken at the Bruxelles Summit in October 2002: Bulgaria and Romania, the two poorest countries of the ex-Soviet bloc will not accede to the Union in 2004 like the remaining ten candidates. The admission is foreseen for January 1<sup>st</sup>, 2007.

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<sup>6</sup> If one candidate country fails to ratify the treaty, it will still enter into force - but that particular country will then stay out of the EU. In the unlikely case that one EU country fails to ratify the treaty, it would become null and void.

## **2. THE CANDIDATE STATES TRANSFORMATION AND TRANSITION OF CONSTITUTIONS IN THE ENLARGEMENT PERSPECTIVE.**

The basic legal provision for extending the membership is to be found in Article 0 of the Union Treaty: 'Any European State may apply to become a Member of the Union. It shall address its application to the Council, which shall act unanimously after consulting the Commission and after receiving the assent of the European Parliament, which shall act by an absolute majority of its component members. The conditions of admission and the adjustments to the Treaties on which the Union is founded, which such admission entails, shall be the subject of an agreement between the Member States and the Applicant State. This agreement shall be submitted for ratification by all the contracting States in accordance with their respective constitutional requirements'. This text has remained unchanged since Article 237 of the original EEC Treaty, except for the reference to the assent of the European Parliament which was added by the Single European Act in 1986. The coming into force of the Amsterdam Treaty will bring a further modification, for it will change the first sentence of Article 0 to read: 'Any European State which respects the principles in Article F may apply to become a member of the Union'. This introduces respect of the principles on which the Union is founded as one of the conditions, not just of membership, but even of application for membership; Article F says 'the Union is founded on the principles of liberty, democracy, respect for human rights and fundamental freedoms, and the rule of law'. These bases involve that a future member of EU must distinguish itself by the form of State based on the success of the principles of pluralist democracy in the framework of the rule of law and on the success of the human rights.

In this crucial moment in the process of enlargement, are the candidate Countries independent democratic States under the rule of law? Which were the transformations and the transitions of constitutions in the candidate States in the enlargement perspective?

Before the end of XX century, the countries of Central and Eastern Europe lived deep changes that have redesigned their legal organisation after more than 50 years. Such changes came with the setting of new constitutional orders, which signed the passage from a previous organisation, a "socialist" communist regime, to pluralist democratic principles in the frame of the rule of law and the declaration of the rights and freedom of the individual.

The changes which involved Eastern Countries in the 80s, especially but not only after the end of this period, reinforced and addressed themselves towards a precise objective, they gave life to a democratic transition. In some cases the course was longer – but with better guarantees for a faster stability like in Poland and Hungary- in others it was quicker<sup>7</sup>.

It is the rule of law (condition, as we know, for a real democracy and necessary to guarantee the basis for an economy of trade) that has represented in the past the border line which divided Western Europe to Eastern Europe, the countries with a "classic democracy to the "socialist" one and it is the measure of the difficulty and of the originality that have characterized the transition to democracy of the Eastern Countries, called then to face radical transformations in their political system and at the same time in their economic systems.

The "socialist type of State" (communist regime) was characterized therefore by a series of common principles also in the

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<sup>7</sup> "Ten years in Poland, ten months in Hungary, ten weeks in RDT, ten days in Cecoslovacchia" it was sad approximately to indicate the time past until the 1999 events to obtain in these countries the first fundamental changes. (a cura di) GANINO M., VENTURINI G., L'Europa di domani: verso l'allargamento dell'Unione – Europe tomorrow: towards the enlargement of the Union, Giuffrè editore, Milano, 2002.

structure and in the functioning of the State governing bodies, very different to the democratic type of State.

Nowadays, less than ten years from the USSR fall, the new constitutional texts welcome the principles of the liberal constitutionalism. The routes chosen to come to the change were different, so were the persons that followed them, the starting and arrival points of these processes. The process of creation of the new constitution in the Central Eastern European countries has its own features from country to country because of the particularity of local political realities. There are also great differences from one democratic regime to another: some are presidential, some parliamentary, some are combinations of both, others are bipartite or multipartite and there are also differences in the nature and importance of the parties. The common objectives to the different processes of change were the transition to democracy and the achievement of the necessary institutional stability for the consolidation of democracy. If the States that will become EU members on May 2004 have not yet completed their role to democracy, they have already given in the sufficient guarantees requested by the Union and so the process appears irreversible. This as a result of the entire course undertaken from Application to accession to the EU membership.

The Central Eastern European Countries have not forecasted specific procedures to entry into European Union yet. However most recent constitutions (like the 1997 Polish one) foresee not only a constitutional foundation to the accession with a specific procedure, but also they consider the application of their own legal system about the national law.

It is now the time for jurisprudence to stop and look into the present times.

### **3. THE GEOGRAPHICAL CHALLENGES INVOLVED IN THE FIFTH ENLARGEMENT OF EUROPEAN UNION.**

I chose, as a subject of my research, to speak about this actual happening: the "Eastern Enlargement" of European Union. From the beginning I had a problem: it is impossible writing a thesis without using adjectives! It is very difficult to involve the cardinal points in a continent (Europe) that has not well-defined borders. Europe is a geographical problem: Europe today has a hypothetical natural personality. It is at the same time a place, an area, a political entity.

Since the beginning Europe has existed with a peculiarity: its nucleus is quite easy to identify but its borders are difficult to define. The most appropriate geometric shape should be that of an angle with well-defined vertices, but it doesn't close as a triangle as the third side is indefinable. By the use of geography it maybe possible to explain the continuous enlargement process. That characterises European Union History.

Geographically speaking Europe has beginning but its end is undefined: it is an open space, an area, a wholeness of places with shifty limits.

The simplest look towards Europe probably wideness on the map of States and now it ends by coinciding with the European Union. So, does Europe coincide with European Union? Jacques Lèvy gives a most fascinating answer: "Europe becomes one, not by wiping its own places, but by putting them into movement". How does one put places in movement? No theory can explain such an abstract reality better than reality itself: the answer to look for is in Strasbourg, Gorizia, Kaliningrad. In other words where the places limits, real or suppose ones, were, are and will be "borders". Each frontier separates and joins: borders represent division, lack of communication, the crash and the closing in on one side, linking,

communication, relating and the exchange on the other. It is to overcome the limits /economical, political, juridical, geographical,...) that a European Union was born keeping in constant enlargement in order to be able to draw a Europe that is a driving force.

## **CONCLUSION.**

Analysing the history of European Union and the history of Central Eastern European Countries we have the dimension of the transformation idea. Deep changes in the past half-century involved the European Union on one hand and Central Eastern European Countries on the other. The relevance of transformation process is evident in the constitutional transitions and also at that moment, every day in the ex socialist countries constitutional modifications are discussed in the European Union membership perspective.

In this study I have been trying to analyse the historical development of European Union Eastern Enlargement and in the candidate States the transformation and the transition of constitutions and the geographical nature of Europe essentially because the history, the constitutions and the geography appear normally like a certainty ("that happened", "history claimed that", "that provides the constitution", "geographically...") and immutability. In this enlargement in particular European Union also changes what appears immutably static and it moves towards the its future and people of Europe can perceive this movement involving all the different sectors of everyday life.

What will Europe be like? Honestly I should attach a white paper to this work: now this Europe that is a moving driving force, is facing an infinite number of possibilities.

Besides future enlargements of European Union, there is also a wider debate on the future Europe. We can look into the new European law, the future institutional mechanism, the protection of human rights, into the different relations between now and future European Member State, into the borders changes and in this way try to imagine the future Europe.

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