



## Factsheet ENLARGEMENT OF THE EUROPEAN UNION

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Russia's war of aggression against Ukraine and Ukraine's subsequent application for membership have brought a new focus on enlargement in political discussions in the European Union. In its Enlargement Package of November 2023, the European Commission recommends starting negotiations with Ukraine and Moldova, once the remaining pre-conditions have been fulfilled (four for Ukraine and three for Moldova) and granting candidate status to Georgia (with nine pre-conditions). In addition, if last obstacles stemming from individual member states' concerns are removed, the EU can start negotiations with Albania and North Macedonia and continue negotiations with Montenegro and Serbia, in the latter cases focusing on currently open chapters and clusters and relevant benchmarks. The accompanying Commission Communication to the Council and European Parliament contains not only specific country recommendations, but also general strategic ones that characterize enlargement as geo-strategic investment for the EU. Defining accession as a merit-based process, the Commission also recognizes the need to respond to the geopolitical dynamics and to maintain the momentum of the enlargement process. These documents are in line with the European Council's statements from the informal summit in Versailles in March 2022 and the conclusions of the informal summit in Granada in October 2023 both setting enlargement firmly on the EU's agenda. Without a similar level of political commitment, but providing a strong impulse for further debates, a speech by Charles Michel, the European Council President, delivered at the Bled strategic forum in late August 2023 provoked strong reactions by suggesting that to preserve its credibility the EU must get ready to welcome new members by 2030.

The Commission's Enlargement package of this year does not, however, address the institutional or policy reform in the European Union that would be necessary to make accession of another six to eight countries possible. Such reforms have preceded every previous round of enlargement and have been especially important before the start of the 2004-2007 enlargement to the East.

The 2004-2007 Eastern enlargement triggered three rounds of treaty change and substantial institutional and policy reform that was already outlined in 1997 in the Commission's Agenda 2000 document. In terms of decision-making, the Treaty of Amsterdam (1997) introduced extensions of co-decision while the treaty of Nice (2001) addressed voting weights in the Council. Both intergovernmental conferences preceding Amsterdam and Nice treaties dealt with the size and composition of the Commission and European Parliament, weighing of votes in the Council and extension of qualified majority

voting (QMV). Further changes were triggered by the Declaration by the Laeken European Council from December 2001 that started the long process of the Convention on the Future of Europe and negotiations of the constitutional treaty that, after failed ratification, became the Treaty of Lisbon (2009). The process of arriving at these treaty changes clearly indicated the limits of renegotiation of complex bargains under unanimity, especially given that member states and institutions take the opportunity to reopen all bargains and reach (perceived) improvement in their competences and influence on decision making. There is no doubt that the current momentum to re-start enlargement brings the same issues and dynamics back.

While in 1997-1998 the EU opened the door in principle to 12 new members, the coming year will see decisions that could in principle add 8 new members, one of which, Ukraine, would be a large member state in terms of population, while the rest would be small member states. The challenges the new candidates present to the EU's institutions and policies have to do with the number of potential accession states, but even more so with the situation of one candidate. The political and geopolitical rationale to open a path to enlargement for Ukraine, a country defending the values of the Union against an aggressor, is strong and compelling, but matched in magnitude by the obstacles that the state of war and size of the country present for the Union.

Reforms in EU decision-making and policies are imperative if the new start of enlargement is to lead to actual accession of new member states. Debates on institutional change provide opportunities for current member states to address long standing issues of concern to them, but also create risks of new deadlock, as the policies and institutions to be reformed are highly sensitive.

Internal discussions about the institutional changes that would be needed to open the way for potential enlargement have already been initiated under the Swedish Presidency in the first half of 2023. Working documents of the Swedish presidency suggested that member states should focus on a low-key reform programme that explored what changes could be made in key areas such as Common Foreign and Security Policy, Common Security and Defense Policy, among others, that would not require Treaty change. The key approach that seems to have emerged in these discussions, as well as in the statement by the so-called group 'Friends of Qualified Majority Voting' (in which the Netherlands is also a member) is seeking 'pragmatic solutions'. An extensive study by the European Parliament Research Service from August 2023 has made a further contribution to the discussion by clarifying possibilities of proceeding with less use of unanimity, presenting an inventory of all the options of extending the use of Qualified Majority Voting in foreign policy in the existing treaties. The use of constructive abstention and passerelle clause certainly presents possibilities for circumventing deadlock in individual policy measures but does not inspire confidence for decision-making in an enlarged Union.

More far-reaching proposals have emerged in a Franco-German report released in September 2023. The report is authored by experts and academics, but, as subsequent political statements have shown, can be seen to reflect, to a considerable extent, the views of the respective governments. The report examines a number of far-reaching reform options and presents scenarios for institutional reform. Most important are the proposals regarding decision making in the Council. They refer to unanimity vs QMV and voting weights.

On unanimity: the report suggests that all remaining policy decisions should be transferred from unanimity to QMV. The proposed pathway is use of the passerelle clause, where possible. Where not possible, further negotiation is to be facilitated by dividing policies into packages and negotiating these sequentially. Transition to QMV in CFSP would require an ordinary treaty change. A 'sovereignty safety net' is proposed for cases when member states find they face being outvoted on a decision that affects their vital national interests.

On voting shares: to alleviate concerns of smaller to medium member states adjustment of their share is suggested, from 55% of member states representing 65% of the population (current rule) to 60% of the member states representing 60% of the population. A super majority to be introduced for the most 'sovereignty critical' decisions, consisting of unanimity minus one member state. Such changes would clearly require the negotiation of a treaty change. Constitutional decisions should remain under unanimity.

The questions regarding the size of the Commission and European Parliament are put on the table again, revisiting discussions from Amsterdam and Nice. The Franco-German report proposed some institutional solutions that can be achieved with or without treaty change:

- The European Parliament to stick to the current limit of 751 or even fewer MEPs, combined with a new system of seat allocation. According to the report, such a decision can be taken, based on article 14 92) TEU, by the European Council by unanimity without treaty reform.
- The European Commission to be reformed by either reducing the size of the College of Commissioners or introducing hierarchical differences between lead Commissioners and other Commissioners.

The first political discussions of these proposals have taken place at the conference entitled 'A larger, stronger Union – making the European Union fit for enlargement and future members fit for accession' organized at the invitation of German Foreign Minister Annalena Baerbock by the German Federal Foreign Office on 2 November 2023. Foreign Ministers of EU member states and the aspirant and candidate countries as well as civil society representatives were invited to the forum.

The key aspects of the debate as presented by Baerbock in Berlin are:

- The decision for enlargement to take place has in principle been taken.
- Enlargement would contribute to EU sovereignty in a dramatic and threatening geopolitical situation.
- The key question is how the EU will reform to prepare for enlargement.

Foreign Minister Baerbock's speech presented the Franco-German proposals emphasizing that qualified majority voting, specifically in foreign policy and financial issues should become the norm, to avoid the risk of obstruction in a union 'with 36 vetoes'. She noted that ongoing discussions among groups of states and experts were taking place, looking

at solutions to alleviate small states' concerns about being outvoted, advocating a system of yellow and red cards. The upcoming Belgian Presidency is asked to develop a roadmap for EU internal reforms, identifying specific priorities in the reforms to be undertaken together with the European Commission and European Parliament.

Based on oral reports from the Berlin conference, reform proposals related to unanimity are so far finding opposition from several member states governments, among them the government of Hungary and the (outgoing) government of Poland. No consensus is in sight regarding extension of qualified majority voting to foreign policy or other remaining policy areas or further institutional guarantees for the respect of rule of law that have also been part of reform discussion.

Further notable developments regarding institutional reforms in the EU are the plenary debate of the European Parliament of 22 November 2023 discussing the Proposals from the European Parliament for the Amendment of the Treaties. In line with the logic that seeks increase of competences and decision-making power through treaty reform, the EP proposals refer to, among others, a bicameral system, equal co-decision rights on the budget between EP and Council, decrease of unanimity, more transparency of Council decisions, Commission president to be nominated by EP majority. The European Parliament calls the European Council to call a Convention for the revision of the treaties in December 2023.

Importantly, at least three other policy areas will require fundamental reforms to be negotiated and put in place if accession of Ukraine and the other current candidates is to be feasible. These are the Common Agricultural Policy (CAP), cohesion policy and closely related to both, the budget. Transfers under the CAP to Ukraine, given its size and agricultural sector would not be sustainable at current rates and the same goes for structural and cohesion policies. Accession of current candidates without revision of structural and cohesion policies would make most existing member states net contributors to the budget, which would not be politically acceptable or economically feasible. The EU's budget is already under pressure from rising financial needs related to the need to upgrade European defense and procurement, to continue supporting Ukraine against the Russian aggression and address borders and migration problems. Most member states have not expressed any interest to increase their financial contribution to the budget to tackle even these challenges.

Ultimately, it is policy reforms that would open the way to enlargement. Therefore, it is the policy reforms discussion that member states would need to prepare with great care with respect to their national positions, potential improvements under renegotiation and the overall picture for the Union. At the same time, narrow and specific considerations regarding, for example, fiscal aspects of the CAP should be weighed against the larger geopolitical situation and potentially rising defense costs. At this time the possibility exists that a Russia emerging victorious from the Ukraine invasion would extend its appetites towards the territory of EU member states such as the Baltics. The EU and the Netherlands, as one of its founding members, is therefore at a turning point where refusal to consider enlargement and reforms would not bring stability, but further challenges and costs.

