

## *Hearings of European Commissioners-designate*

# Johannes Hahn

## *European Neighbourhood Policy and Enlargement Negotiations*

Hearing due to be held on Tuesday 30 September at 13.30 hours.



*Johannes Hahn, Austria.*

**EP Committee responsible for the Hearing**  
Foreign Affairs (AFET)

### **Biography**

Born in 1957, Johannes Hahn studied law, philosophy, German literature and journalism. He worked for Austrian business federations before entering politics. He was a Member of the Vienna Regional Parliament from 1996 to 2003 – during which time he was also local leader of the Peoples' Party (ÖVP) – before joining the regional government (2003-2006), he then became Federal Minister for Science and Research from 2007 to 2010. He was Commissioner for regional policy in the outgoing Commission.

*This is one of a set of Briefings designed to give Members of the European Parliament an overview of major issues of interest in the context of the hearings of the Commissioners-designate. A full set of such Briefings can be found at:*

[http://epthinktank.eu/commissioner\\_hearings](http://epthinktank.eu/commissioner_hearings)

## Background to the European Neighbourhood Policy (ENP)

After the 2004 enlargement of the EU, the ENP was devised as an **alternative to full membership** for the EU's new neighbourhood (often referred to as 'enlargement lite'). The ENP is aimed at avoiding the emergence of new divisions between the enlarged EU and the EU's new neighbours – and instead strengthen prosperity, stability and the security of all. It seeks to address at regional level some of the global threats set out in the European Security Strategy. Since the entry into force of the Treaty of Lisbon in 2009, Article 8 TEU provides the legal basis for the EU's **special relationship** with neighbouring countries focusing on **political association** and **economic integration** and clarifies the conditionality ('founded on the values of the Union') underlying this relationship. The article opens up the possibility of concluding international agreements such as **association agreements** (AAs), including the possibility of a **deep and comprehensive free trade area** (DCFTA) with WTO members.

The ENP currently encompasses 16 countries and territories in two regional areas. Six former Soviet republics – Armenia, Azerbaijan, Belarus, Georgia, Moldova and Ukraine – to the east and in the Southern Caucasus are grouped in the **Eastern dimension**. Nine countries and territories located around the southern shore of the Mediterranean – Algeria, Egypt, Israel, Jordan, Lebanon, Libya, Morocco, the Palestinian territories, Syria and Tunisia – make up the **Southern dimension**. Relations with the EU are primarily organised bilaterally, based on action plans tailored to individual countries and a common set of tools, such as the ENP's main financial instrument (European Neighbourhood Instrument, ENI), visa facilitation and sectoral cooperation such as in the field of energy. A multilateral track was added to encourage regional integration: since 2009 the countries of the Eastern dimension are assembled in the **Eastern Partnership** (EaP), which features **EuroNest** as its parliamentary dimension. Since 2008, the southern neighbours are part of the **Euro-Mediterranean Partnership** (Euromed) and its regional structure, the Union for the Mediterranean (UfM) which continues the 1995 Barcelona Process.

### Treaty base and EP competence

Article 8 TEU on a special relationship with the EU's neighbouring countries; the EP acts as co-legislator for the European Neighbourhood Instrument (ENI) adopted under Article 212(2) TFEU; EP consent is required for association agreements (AAs) that may include a deep and comprehensive free trade area (DCFTA) concluded under Article 217 TFEU.

## Major recent developments in ENP

### *Eastern dimension*

Over the past five years, the division of EaP countries between fast-track countries (Georgia, Moldova and Ukraine with strong European aspirations), slower (Armenia and Azerbaijan) and slow track (Belarus) countries has deepened. In 2013, the EU integration model clashed with a new Russian integration model embodied in the Eurasian Customs Union currently consisting of Russia, Belarus and Kazakhstan. DCFTAs, which the EU negotiated with Armenia, Georgia, Moldova and Ukraine, were scheduled to be signed in late 2013. However, concluding DCFTAs with the EU was considered incompatible with the countries' future membership in the Eurasian Customs Union.

In effect, these countries were compelled to make a choice between the two competing models. What the EU conceived as an instrument to encourage democratic reforms and economic integration was perceived by Russia as a zero-sum-game inevitably entailing a

loss of its geopolitical sphere of influence. Following Russian economic pressure exerted on Armenia, Georgia, Moldova and Ukraine to dissuade them from initialling their **DCFTAs** with the EU, only Georgia and Moldova initialled their agreements at the November 2013 **Vilnius summit**. Armenia decided not to do so, and rather to join the customs union with Russia. A similar refusal by the former Ukrainian government divided the country into pro-European and pro-Russian forces. The provisional Jazenjuk government signed the DCFTA's political provisions on 21 March 2014, President Poroshenko the remaining provisions on 27 June 2014, when the DCFTAs with Georgia and Moldova were also signed. In September, the European Parliament voted in favour of conclusion of the Ukraine agreement.

#### *Southern dimension*

The 2011 **Arab Spring uprisings** in Tunisia and Egypt and civil war in Libya ousted autocratic rulers who had secured stability in the region through repressive practices, and gave way to highly volatile political and security situations. The on-going civil war in Syria has led to large numbers of Syrian refugees being hosted among others by Jordan and Lebanon, with destabilising effects for the whole region. As a response to the sweeping changes, the ENP was revised and **EU task forces** for Tunisia, Jordan and Egypt were convened to lay down a basic framework for cooperation on the reform process. As the 2013 Court of Auditors report on EU cooperation with Egypt suggests, the effectiveness of EU support was largely hampered by instability on the ground.

The 'three Ms' approach to the region, which offers **market access, mobility, and money** to support democratic transitions in the Arab world, has translated into the Council's approval in 2011 to launch negotiations for **DCFTAs** with Egypt, Jordan, Morocco and Tunisia. Negotiations have started with Morocco, but talks with Jordan and Tunisia are still at a preparatory stage. A first industry-specific Agreement on Conformity Assessment and Acceptance (ACAA) with Israel entered into force in 2013, with others still under negotiation. A **mobility partnership** with Tunisia was established in 2014. Morocco is negotiating a **visa facilitation agreement** with the EU and a mobility partnership was established in June 2013. An agreement on reciprocal liberalisation measures on agricultural and fishery products was concluded in March 2012. A memorandum of understanding was signed on energy supply with Algeria in July 2013. In terms of financial resources, the **SPRING** (Support for Partnership Reform and Inclusive Growth) programme and a new **Civil Society Facility** were made available. In 2013, the **European Endowment for Democracy** (EED) was set up to foster civil society involvement in the reform processes in both ENP dimensions.

#### *Continuous strategy overhaul*

In 2010, the Commission communication on 'Taking Stock of the European Neighbourhood Policy' introduced the '**more for more**' principle which is based on incentives and differentiation. In 2011, in the wake of the Arab Spring uprisings, three Commission communications on 'A partnership for democracy and shared prosperity with the Southern Mediterranean', on 'A dialogue for migration, mobility and security with the southern Mediterranean countries' and on 'A new response to a changing neighbourhood' were designed to further adjust the ENP to new realities, with a focus on the promotion of **deep and sustainable democracy**. Since the implementation of the revised ENP strategy has yielded only mixed results, the ENP is again at a crossroads, as evidenced by the 2013 Communication on 'European Neighbourhood Policy: Working towards a Stronger Partnership'.

## European Parliament

The Parliament has passed non-legislative resolutions on the ENP's review and the Eastern and Southern dimensions separately, the EP's position on the 2012 ENP progress reports, asset recovery to Arab Spring countries in transition, individual countries such as Ukraine and the situation in Libya and Syria. It has adopted recommendations *inter alia* on negotiations on AAs/DCTFAs (Armenia, Azerbaijan, Georgia, Moldova, Ukraine), a framework agreement (Libya), an agreement on liberalisation of trade in agriculture and fishery products (Morocco), EU policy (Belarus) and strategy (South Caucasus, Black Sea).

In its 2014 resolution on assessing and setting priorities for EU relations with the EaP countries, the EP called on the Commission to draft a **green paper on the post-Vilnius future of the EaP**. It asked the Commission and the EEAS to reflect on the EaP's future bilateral and multilateral priorities and called on the EU to adopt a **common strategy towards Russia**. It stressed the need for investing in immediate **progress for citizens** (visa-free regime, support for youth and civil society empowerment) and emphasised the need to insert an **energy security clause** in every agreement with EaP countries to guarantee full respect for EU energy market legislation.

In December 2013, the EP adopted at first reading the **European Neighbourhood Instrument** (ENI) for 2014-20, which supersedes the European Neighbourhood and Partnership Instrument (ENPI) for 2007-13. It has a financial envelope of **€15.4 billion** over seven years. The ENI builds on the '**more for more**' principle and reflects the ENP's key elements: an incentive-based approach and differentiation. More resources (10% of the ENI budget) will be allocated to better performers in the process of reforming towards deep and sustainable democracy and respect for human rights.

## Main priorities and challenges ahead

Acknowledging that '(i)nstability in our wider neighbourhood is at an all-time high', the June 2014 European Council conclusions identify a strong partnership with the EU's neighbourhood to promote stability, prosperity and democracy as a main foreign policy priority. Therefore the ENP's key priorities will consist of **support for peace, stability and the democratic transition processes** in the Eastern and Southern neighbourhoods, including the adoption of a common strategy for Russia, as well as the **implementation of the DCFTAs** with Georgia, Moldova and Ukraine, once they have been ratified, and pursuing on-going negotiations on DCFTAs. An important task will be to implement the ENP's principle of differentiation and to ensure that the policy will be relevant and effective for all partners involved, including those seeking an EU membership perspective and those less enthusiastic about deepening relations with the EU beyond trade and strongly hostile to EU conditionality, which critics say the EU has often applied inconsistently to ENP countries in the past.

Given the ENP countries' heterogeneity, commentators suggest that the ENP be governed by '**variable geometry**' and that a multi-level approach be adopted, which includes systematic engagement with regional fora. Against the backdrop of a revival of Pan-Arabic and Pan-Islamic trends, the ENP, it is argued, has too 'Eurocentric' and unrealistic a vision of future EU engagement with this region.

Analysts concur that the absence from the ENP of an **EU membership perspective**, despite its being modelled to a great extent on enlargement policy, deprives the ENP policy of its effectiveness, with some critics hinting at the large gap between its

objectives and outcome. Given the lack of membership prospects, experts have raised doubts as to whether the EU can, without this leverage, manage to resolve **frozen conflicts** in its neighbourhood as it did in the conflict between Serbia and Kosovo. It has therefore been argued that for the EaP countries the association process should be considered the first step towards EU membership. There is broad agreement among analysts that the ENP's incentives and modest financial means do not match the **adjustment costs** incurred in alignment with the EU *acquis*. This makes the EU offer unattractive compared with competing third country offers with 'no political strings attached'.

As for the ENP's **geographical scope**, policy analysts suggest including all neighbouring regions in the ENP framework. Given fierce **geopolitical competition** from major third countries like Russia and the Gulf countries, experts argue that the EU needs to shape a **new strategic approach** by extending the current geographic definition of the EU's neighbourhood to a broader region of strategic relevance to Europe.

### Background on Enlargement negotiations

The main objective of enlargement is to spread **peace, stability and prosperity** across Europe by extending the EU integration process to other European countries which are willing to adhere to and promote the EU's core values and principles, as enshrined in Article 2 TEU. Moreover, enlargement enhances the EU's political and economic power as a global actor and thus EU Member States' joint ability to face common challenges as a bloc.

In the recent past, the enlargement process has proved to be one of the most effective tools to bring the EU's **transformative power** to bear. The perspective of EU membership has provided significant incentives for candidate countries to launch political, institutional, economic and social reforms with a view to fulfilling the 1993 **Copenhagen criteria**, and has yielded tangible results *inter alia* in terms of GDP per capita growth. The debate on striking a balance between deepening EU integration and further enlargement has brought to the fore the concept of the EU's **integration capacity**. The 2006 renewed consensus on enlargement makes this a consideration to be taken into account for future enlargement. Given their history of conflicts, Western Balkan countries must meet the additional conditions of the **Stabilisation and Association Process** relating to regional cooperation and good neighbourly relations.

#### Treaty base and EP competence

Article 49 TEU establishes how states may apply for EU membership in conjunction with Article 2 TEU setting out the EU's core values; EP consent is required for the accession of new members. As for the financial dimension of accession, the EP acts as co-legislator for the Instrument for Pre-accession Assistance (IPA) adopted under Article 212(2) TFEU; EP consent is required for stabilisation and association agreements (SAAs) concluded under Article 217 TFEU.

### Major recent developments

During the last parliamentary term, the momentum of previous enlargements was not maintained. Only one country, **Croatia**, joined the EU, in July 2013. Following a historic agreement reached in the EU-facilitated dialogue between **Serbia** and **Kosovo** on the normalisation of their relations in April 2013, accession negotiations started with Serbia in January 2014. In May 2014, negotiations on a Stability and Association Agreement (SAA) between **Kosovo** and the EU were concluded. **Montenegro** entered accession negotiations with the EU in June 2012. Only one negotiating chapter (on regional policy) was opened with **Turkey** in November 2013 and a readmission agreement was signed in December 2013. **Albania**'s status was upgraded to candidate country in June 2014. In

May 2013, accession talks with **Iceland** were put on hold by the country's new coalition government, which is strongly opposed to EU accession.

*The rule of law at the heart of the accession process*

Deeply rooting the **rule of law** in (potential) candidate countries, and making reforms irreversible prior to accession, has been placed at the heart of the accession process, to take into account some lessons from the 2007 enlargement process. A **Cooperation and Verification Mechanism** (CVM) for Bulgaria and Romania was established to continue monitoring progress after accession in areas such as judicial reform, the fight against corruption and, for Bulgaria, against organised crime. The most recent CVM progress reports indicate that post-accession mechanisms tend to achieve only slow progress.

Therefore, accession negotiations now address fundamentals first and *inter alia* start negotiations at an early stage on **chapter 23** relating to **judicial reform and fundamental rights** and **chapter 24** on **justice, freedom and security**. These two chapters are opened on the basis of action plans, and interim benchmarks are systematically used to monitor progress. Tackling these chapters early in the negotiations allows more time to ensure a **solid track record of implementation** before negotiations are concluded. The new approach was endorsed in the December 2013 Council conclusions on enlargement and has been applied for the first time for Montenegro.

*Controversy surrounding the visa-free regime for the Western Balkan countries*

Visa-free travel to the Schengen area, granted to citizens of the former Yugoslav Republic of Macedonia, Montenegro and Serbia in 2009, and to citizens of Albania, and Bosnia and Herzegovina in 2010, as a tool to incentivise reforms and to intensify people-to-people contacts – was questioned as the lifting of the visa obligation resulted in rising asylum applications from Western Balkan citizens. As a response to abuses of the **visa-free regime** and upon the request of several Member States, the Commission established a post-visa liberalisation monitoring mechanism in January 2011.

## European Parliament

During the last parliamentary term, the EP passed resolutions on the Commission's annual progress reports on Albania, Bosnia and Herzegovina, the Former Yugoslav Republic of Macedonia, Iceland, Kosovo, Montenegro, Serbia and Turkey. Its November 2012 resolution on enlargement stressed *inter alia* the importance of:

- intensifying the monitoring of progress in the accession process, to achieve a **high degree of preparedness** of candidate countries;
- a more **merit-based, benchmark-driven** and **transparent** accession process;
- ensuring all forms of **freedom of expression**, as well as fighting **corruption** and **organised crime** effectively;
- assessing early the EU's **integration capacity** in respect of every candidate country;
- assessing Member States' continuing compliance with the EU's fundamental values and their commitments on the functioning of democratic institutions and the rule of law. The EP also called on the Commission to submit a **proposal for a monitoring mechanism** based on Article 7 TEU and Article 258 TFEU.

In September 2013, the EP adopted first-reading amendments to Regulation 539/2001, which lists the countries whose nationals require a visa and those who are exempt, concerning the introduction of a last resort **visa waiver suspension mechanism**. The final vote (328 in favour, 257 against, 46 abstentions) reflects the highly controversial nature of the measure.

According to the most recent European Asylum Support Office (EASO) quarterly asylum report, in the fourth quarter of 2013 the EU+ (EU28, Norway and Switzerland) recorded 23 445 asylum applications from Western Balkan citizens. For the ninth consecutive quarter, they remained the largest group of asylum applicants, with Serbia accounting for the largest share, at 37%. More than 97% of all first-line decisions issued in the fourth quarter of 2013 on applications by West Balkan citizens had a negative outcome.

In March 2014, the EP adopted at first reading the **Instrument for Pre-Accession Assistance** (IPA II), part of the EU's external financial instruments package for 2014-20. The IPA II has a financial envelope of **€11.7 billion** over seven years, and aims to establish a closer link between the enlargement strategy and priorities for assistance. It focuses on a limited number of policy areas and sectors and has incentive measures and performance indicators to gauge progress, with the best performers being granted a '**performance reward**' and the funds of under-performers adjusted.

The EP's main concern was to step up the instrument's **effectiveness** and **flexibility** regarding the rapid use of its funds under unforeseen circumstances. **Enhanced EP scrutiny** has been achieved through delegated acts (Article 290 TFEU), a mid-term review of the instrument's annexes, and a strategic dialogue with the Commission on work on the multiannual programming documents.

### Main priorities and challenges ahead

A major challenge over coming years will be to counter the current trend of **two-tier enlargement** with frontrunners and laggards moving in opposite directions. Advancing the preparedness for accession of all (potential) candidates in a number of key areas defined by the Commission – such as economic governance and competitiveness, the functioning of institutions guaranteeing democracy, the rule of law, and fundamental rights – will remain a **general priority**. At the same time, **country-specific challenges** relating to major issues that have blocked progress so far must be tackled.

In the case of **Kosovo** – which Cyprus, Greece, Romania, Slovakia and Spain do not recognise as an independent country – its international status remains a challenge to final membership. In the **Former Yugoslav Republic of Macedonia**, the long-standing dispute with Greece over the country's official name requires a solution to overcome the present deadlock. In **Bosnia and Herzegovina**, the lack of political buy-in from its leadership has brought the country's European integration process to a standstill. The entry into force of an SAA has been blocked, as the country is lagging behind in fulfilling key preconditions, such as the implementation of the Sejdić-Finci judgment. **Turkey's** refusal to apply to Cyprus the Additional Protocol to the Ankara Association Agreement remains a key obstacle to the opening of several blocked chapters and to the provisional closure of any chapter. In the framework of the 'positive agenda' launched in 2012, the Commission has worked towards opening chapters 23 and 24.

Growing **enlargement fatigue** among EU citizens is a serious concern. According to a 2013 Eurobarometer survey, a majority of respondents in 15 Member States (52%) was against further enlargement (compared to ten in 2010), while a majority of respondents in 13 Member States (37%) were in favour (compared to 17 in 2010). Support for EU enlargement has remained robust among Member States which joined the Union in the past decade and non-euro area countries, while opposition is strongest in the older member States and euro area countries, led by Austria (76%), France (70%), Germany (69%), Finland (65%), the Netherlands (64%), Luxembourg (64%) and Italy (59%).

Enhancing the accession procedure's **credibility** and bringing the **benefits of enlargement** closer to the citizens has been identified by Štefan Füle, outgoing Commissioner for enlargement and European neighbourhood policy, as a key priority for future enlargement policy. Time will show whether the statement of Commission President-elect, Jean-Claude Juncker, that, while on-going negotiations would continue, '**no further enlargement will take place over the next five years**', will have an influence in reducing enlargement fatigue.

The slow pace of the accession process may be one reason for mounting **accession fatigue** in some candidate countries such as Turkey, which creates a serious risk of backsliding on reform efforts. In 2013, only 44% of Turkish respondents were positive about their country joining the EU, compared to 73% in 2004.

Proponents of enlargement point to the significant **cost of non-enlargement** in terms of the risk of a 'vacuum' building up that could rapidly be filled by other regional or extra-regional players, of conflicts flaring up again, of an increase in instability, migration pressure and legal uncertainty and of a loss of business for EU companies.

### Further reading

[Challenges for European Foreign Policy in 2014. The EU's extended neighbourhood](#) / FRIDE, G. Grevi and D. Keohane (eds.), 2014.

[Eastern Partnership Five Years On: Time for a New Strategy?](#) / Vít Borčány, Association for International Affairs, May 2014.

[On the slow train to nowhere? the European Union, enlargement fatigue and the Western Balkans](#) / J. O'Brennan, European Foreign Affairs Review, Vol. 19(2), 2014, pp. 221-241.

[The European Union's Mediterranean Policies after the Arab Spring: Can the Leopard Change its Spots?](#) / T. Behr, Amsterdam Law Forum, Vol. 4(2), 2012, pp. 76-88.

[The Western Balkans and EU enlargement: ensuring progress on the rule of law](#) / R. Grant and A. Patterson, Wilton Park, September 2013.

[Time to Reset the European Neighbourhood Policy](#) / S. Lehne, Carnegie Europe, 4 February 2014.

[What Borders for the EU: What Relations with a Variable Geometry Neighbourhood?](#) / J.-F. Drevet, Jacques Delors Institute, policy paper 97, September 2013.

[2004-2014: bilan d'une décennie d'élargissements](#) / Fondation Robert Schuman, question d'Europe n° 311, 28 April 2014.

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[eprs@ep.europa.eu](mailto:eprs@ep.europa.eu)

<http://www.eprs.ep.parl.union.eu> (intranet)

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