

2016 Enlargement package Prospects for the Western Balkans

SUMMARY

In November 2016, the European Commission presented its annual enlargement package, consisting of a communication that takes stock of the implementation of the 2015 multiannual strategy and a set of reports on the Western Balkan countries and on Turkey in their capacity of candidates or potential candidates for EU membership. Since 2015, the Commission has been applying a new reporting methodology aimed at enhanced transparency and comparability among the aspirant countries. In 2016, it shifted the timeframe for publishing the next enlargement package from the autumn of 2017 to the spring of 2018, to better align it with the release of the economic reform programmes and the increased focus on economic governance.

In 2016, the Commission continued prioritising complex and long-term reforms as part of its 'fundamentals first' approach. Its main message was that enlargement policy continued to deliver results and promote reforms, albeit slowly and unevenly. The EU's reconfirmed commitment to the Western Balkan countries' accession processes was duly reflected in the Slovak Presidency programme, which stressed the importance of enlargement policy for the EU's own political and economic stability.

Amidst a host of increasing complexities and declining public support, concerns have been raised that enlargement policy might be side-lined. Thus, while the EU needs to keep up momentum, a significant part of the responsibility rests with the countries themselves. The region needs political will to keep reforms on the agenda and deliver results. In this context, regional cooperation and good neighbourly relations are once again brought to the fore as an indispensable means of re-energising common reform priorities and maximising the benefits for the region.



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Annual enlargement reports: new aspects

Over the years, the EU's enlargement policy and requirements towards current and potential candidate countries have [changed](#), and so has the process of reporting on their progress. Most recently, in 2015 and 2016, the European Commission introduced several changes to the approach to enlargement. While further adjustments [are not ruled out](#), the focus in the coming years will remain on the so-called 'fundamentals'.

In 2015, instead of an annual strategy, the Commission published a [multiannual enlargement strategy](#) to cover its five-year mandate. Subsequent [communications](#) are to take stock of developments in the reporting period and follow up on its implementation.

As part of its [new reporting methodology](#), the Commission placed a stronger emphasis on the state of play, and harmonised the assessment scales, making it easier to gauge a country's readiness for EU accession and compare it with other countries over time. The reports included clearer recommendations for priority actions to be carried out within a year, making it easier to track their implementation. Attention shifted to a set of priority areas, known as 'fundamentals first': rule of law (judiciary, corruption and organised crime); fundamental rights (freedom of expression); economic criteria; and public administration reform. Progress assessments placed particular emphasis on implementation and on the track record linked to concrete results in each area.

The Commission further highlighted the importance of regional cooperation, the connectivity agenda and the migration crisis, while keeping its focus on civil society (introduced in 2014) as a part of the political criteria. Its 2014-2020 [Guidelines](#) for EU support to civil society in enlargement countries introduced the creation of an [enabling environment for civil society](#) development as a priority in the enlargement process.

In 2016, the cycle of annual reports was shifted from autumn to spring, thus the next reports will be published in spring 2018. This will help streamline the reporting process, but also harmonise it with the calendar year and the release of the [economic reform programmes](#) defining the structural reform agenda.

The 2016 enlargement package: main 'fundamentals first' messages

Echoing President Jean-Claude Juncker's [2014 Commission inaugural statement](#), which put a five-year halt on enlargement, the 2015 multiannual enlargement strategy stated that the aspirant countries face challenges, 'such that none will be ready to join the EU during the mandate of the current Commission'. Nevertheless, when presenting the 2016 package, Commissioner for European Neighbourhood Policy and Enlargement Negotiations, Johannes Hahn, [stated](#) that the EU membership prospect remains a major factor for stability and transformation in the region, and that the enlargement process is an 'irreplaceable tool' for supporting and guiding political and economic reforms. The EU thus confirmed its continued support for reforms, stressing that they must be a top priority of the aspirant countries and that the credibility of the process must be improved.

In 2016, the country reports preserved their focus on the 'fundamentals', and the overall message was that the enlargement policy continues to deliver results. Previously recognised challenges remained, and reforms had advanced, albeit mostly slightly. Unlike Turkey, whose 2016 report often mentioned the word 'backsliding', the Western Balkans presented, according to the Centre for European Policy Studies, a ['mixed'](#) picture, with 'modest, if not decidedly negative assessments' regarding their reform processes. While

naming Albania as 2016's [winner](#) for its significant reform efforts concerning the rule of law, think-tank Oxford Analytica remarked that reforms elsewhere had not been as pronounced. Montenegro, the '[leader](#)' in the accession process, continued to be a steady achiever and had fully aligned itself with the EU's foreign policy positions. Serbia's progress was rated 'remarkable', as it had held credible elections, opened key negotiation chapters with the EU, and shown a constructive attitude both to regional cooperation (including the EU-led dialogue with Pristina) and the migration crisis. Bosnia and Herzegovina (BiH) took important steps that brought it nearer to candidate status. Least favourably, FYR Macedonia was deemed '[a captured state](#)' for its inefficient and corrupt institutions, compromised democratic process and divisive political culture.

Figure 1 – 'Fundamentals first': level of preparation and progress



AL = Albania, BA = Bosnia and Herzegovina, MK = FYR Macedonia, XK = Kosovo, ME = Montenegro, RS = Serbia

Source: EPRS, 2016.

Rule of law: judiciary – Albania in the spotlight

The [state of play](#) in the rule of law area is a common concern for the region. Efforts have been made to modernise the legal frameworks and infrastructure, but the implementation and administration of justice remain inefficient and inconsistent. The judiciary's independence and accountability need to be ensured across the region.

In 2016, Albania was the [top achiever](#) in this area, and its [2016 report](#) focused on the judicial system. After overcoming political polarisation, it adopted constitutional amendments by unanimity. It passed a set of key laws providing for the institutional overhaul of the judiciary, preparing the ground for a deep and comprehensive justice system reform. It also adopted the 'vetting law', banning criminal offenders from taking up posts as judges, prosecutors, or legal advisors. The opposition challenged the law's constitutionality before the [Constitutional Court](#), which in turn requested an [amicus curiae brief](#) from the Venice Commission. In December 2016, the latter found the vetting law to be compliant with international conventions; days later the Albanian court also ruled in its [favour](#). Work continues on the adoption of 40 related legislative acts.

In July 2016, Serbia opened chapters 23 and 24 (judiciary and fundamental rights) and started working on action plans for related reforms. It still faces [big challenges](#), and the report's recommendations include adopting a law on free legal aid, amending constitutional provisions related to recruitment and career management in line with European standards, and reducing the backlog of court cases. Throughout 2016, Montenegro's agenda also focused on [rule of law reforms](#); the pace of its accession negotiations will be dependent on the achievement of tangible results, particularly in

fighting corruption and organised crime. Kosovo, although at an early stage, took positive steps by amending its constitution and secondary legislation necessary to implement the 2015 justice package laws, and adopting related strategic documents. It also fulfilled the [obligation](#) to establish Specialist Chambers and a Specialist Prosecution Office for investigating allegations of international crimes committed during and after the 1999 conflict. The mandate of the [EU Rule of Law Mission](#) was extended until June 2018. As for BiH, it still needs an action plan to implement its 2014-2018 justice sector reform strategy.

FYR Macedonia was in the least favourable position. Its [domestic crisis](#) exposed, among other things, recurrent political interference in the work of the judiciary. The [2016 report](#) stressed that democracy and rule of law had constantly been challenged. The shortcomings brought to light by a [wiretapping scandal](#) were not addressed adequately, and further undermined the credibility of the judicial system. The newly established [Special Prosecutor](#) faced multiple obstacles, and no progress was made on the recommendations from 2015 or on previously identified outstanding issues.

Corruption – 'prevalent in many areas' and a 'serious problem'

The aspirant countries countered corruption and organised crime with formal measures: strengthening legal frameworks, creating new institutions and adopting strategies. However, one sentence, found in all six reports, conveyed the main message: '*corruption remains prevalent in many areas and continues to be a serious problem*'. The EU places high importance on tangible results; it therefore insists on establishing a track record of investigations, prosecutions and court rulings in both high and low-level corruption cases.

Albania passed a new law on whistle-blower protection and destroyed cannabis plantations, but its track record of final convictions remained low. In November 2016, the EU launched an [anti-corruption project](#) in the country, described as 'the biggest of its kind' in the region, to assist the government administration in preparing for EU membership. BiH adopted a 2016-2019 anti-corruption strategy and a related action plan, but its efforts have not yet translated into concrete results.

FYR Macedonia had a strong track record of investigations, prosecutions and convictions on corruption offences committed by lower-level officials, and a very weak one for higher-ranking officials. There was no proper follow-up to the 2015 wiretapping scandal, which had raised serious allegations of high-level political corruption.

Kosovo strengthened its institutional capacities with a new multi-disciplinary investigative team and a tracking mechanism for cases involving high-level corruption and organised crime, but its preparation is still at an early stage. In Montenegro, an independent Anti-Corruption Agency with administrative investigation powers started work in 2016. Still, the track record for investigations and convictions, in particular for high-level cases, remains limited. In Serbia, anti-corruption efforts have yet to yield meaningful results, and institutions do not serve as a credible deterrent. Adoption of a new law on the Anti-Corruption Agency and amendments to the criminal code are still pending.

Freedom of expression: a 'no progress' area

The reports found that, while fundamental rights are broadly enshrined in the legislation, they are not strictly abided by in practice. Freedom of expression is an area of particular concern, where none of the countries made any progress in 2016. Although the situation varies by country, the general trend is worrisome and deteriorating. Political

independence of public broadcasters, media financing, transparency of media ownership and exposure of journalists to threats and pressure are shared concerns across the region.

In Albania, despite the 'no progress' grade, the overall environment was assessed as 'conducive to the freedom of expression', whereas in Serbia it was deemed 'not conducive' to the full exercise of this right. Serbia has not fully implemented its media legislation and the privatisation of the state media outlets has not led to greater transparency of ownership or funding sources. The reports also highlighted the increased number of threats against journalists in Kosovo and the high number of defamation cases in Montenegro. Montenegro needs to achieve overall alignment with the case law of the European Court of Human Rights and [resolve cases of attacks](#) on journalists, including the trial for the [murder](#) of journalist Dusko Jovanovic in 2004. BiH needs to finalise the reform of its public broadcasting system, including ensuring its financial stability, harmonising relevant-entity broadcasting legislation with the state-level law, and securing the political neutrality of broadcasters' managing boards. In FYR Macedonia, which has the region's [worst media freedom record](#), the situation of the media remains a serious challenge, especially in the current political climate. A lot needs to be done to meet the ['urgent reform priorities'](#) identified by the Commission in 2015, among them the need to ensure balanced reporting and full transparency of government advertising.

Public administration reform (PAR) – uneven progress

Carrying out public administration reform and improving the functioning of democratic institutions is another shared challenge, addressed by the countries with varied success. Montenegro and Serbia adopted relevant strategic documents and programmes, and new laws on salaries and administrative procedures. Kosovo made good progress by adopting a comprehensive public financial management strategy and a law on general administrative procedures. However, the public administration continues to lack professionalism and efficiency due to non-merit-based recruitment practices. In BiH, the reform is at an early stage and has even seen some backsliding. FYR Macedonia is delaying the adoption of a comprehensive 2017-2022 PAR strategy. In 2016, EU financial assistance to this country was cut significantly due to the lack of political commitment to deliver on reforms in public financial management.

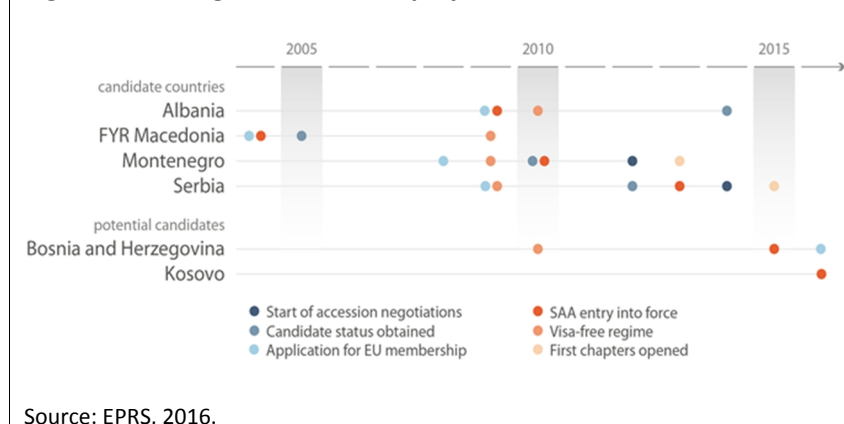
Economic situation – mixed results

The Western Balkans also face multiple structural economic and social issues, among them [high unemployment](#) (particularly among youth). In general, the economic situation was assessed as gradually improving, with stronger growth, higher investment and more jobs created by the private sector. The ongoing ['Berlin process'](#) and the Western Balkans Six initiative created economic opportunities, mainly through connectivity projects, but challenges still abound and are directly affected by weaknesses in the rule of law, which degrade the investment climate and hamper the private sector.

FYR Macedonia scores best in this area, although it did not achieve any progress in 2016. Montenegro managed to strengthen its financial and labour markets and improve its business environment. Serbia also got a positive assessment, mainly for tackling the budget deficit and restructuring its state-owned enterprises. Kosovo and BiH were ranked as making the slowest advance to a functioning market economy. BiH made some progress on its reform agenda, and agreed upon a [three-year reform programme](#) with the IMF. However, its public sector remains inefficient and its private sector is developing slowly. Kosovo's economic landscape is defined by trade deficits, a weak production base, reliance on remittances, a large informal economy and high unemployment.

Country highlights and expected developments

Figure 2 – Enlargement state of play



Each country has reached a specific point in its relations with the EU and has its own conditions to meet before it can move forward. Delivering on the priority reforms is closely interlinked with the domestic context.

Albania: pending launch of EU accession negotiations

Rule of law aside, in 2016 Albania achieved progress on all five of its key priorities, and created a board on European integration to improve coordination in view of the future opening of accession negotiations. It was commended for its full alignment with the EU's foreign policy positions, its constructive and proactive role in regional cooperation, and its positive economic steps. All of the above led the Commission to recommend [opening](#) accession negotiations with Albania, which the latter expects to happen in 2017. This move might, however, be delayed, as it is tied to tangible progress regarding justice reform and the fight against corruption, and to holding free and fair general elections in 2017.

Bosnia and Herzegovina – awaiting candidate status?

In 2014, the EU adopted a 'renewed approach' to BiH, which prioritised socio-economic issues over blocking factors like the [Sejdić-Finci case](#), and thus gave BiH's accession efforts fresh impetus. Key developments ensued: the country's leaders committed to a socio-economic reform agenda; the stabilisation and association agreement (SAA) entered into force; and a Stabilisation and Association Parliamentary Committee was established in 2015, but is yet to adopt rules of procedures. The [BiH 2016 report](#) acknowledged some progress on the reform agenda, and noted that the country had come closer to receiving EU candidate status. It applied formally for EU membership in February 2016, and in August its Council of Ministers approved a coordination mechanism on EU matters. The protocol on adapting the SAA to take into account Croatia's EU accession was initialled in July. This led the Council of the EU to ask the Commission for an opinion on BiH's membership application. In December 2016, BiH was handed over 3 000 questions on its policy, state of democracy and judiciary, which, in Commissioner Hahn's words, marked the end of a very successful year for the country's EU accession bid. This is the final step before the European Council grants BiH candidate status, which might happen [by 2018](#).

Some less positive events took place as well, and the report has been [criticised](#) for only mentioning them briefly. Most notably, in defiance of the Constitutional Court, Republika Srpska held a [referendum](#) in September 2016 and stated it would hold [another one](#) on independence in 2018. Developments such as growing nationalism and related political rhetoric are counterproductive to the country's EU prospects.

The former Yugoslav Republic of Macedonia – ongoing political crisis

While the country's active role in the migration crisis and in regional initiatives was seen as positive, its [domestic political crisis](#) was deemed 'disconcerting'. Parliamentary elections, postponed twice, took place in December 2016 after two tumultuous crisis-ridden years, yet uncertainty and volatility remain. In a [joint statement](#), EU High Representative/Commission Vice-President, Federica Mogherini, and Commissioner Hahn said that the EU expects a new government to be formed swiftly and to press ahead with the urgent reform priorities. The [EP delegation](#) to the International Election Observation Mission highlighted the need to provide support to the Special Prosecutor, improve the accuracy of the electoral roll and enhance the media climate in the long run. The Commission would renew its recommendation for a start of accession talks, provided the country acts on the urgent reform priorities, honours the Przino agreement and holds credible elections. It also needs to resolve its 'name issue' as a matter of urgency.

Kosovo – pending visa liberalisation

Kosovo's [2016 report](#) shows that although many EU-related reforms are at an 'early stage', having been hindered by a generally polarised political climate, some important developments have nevertheless taken place. In April 2016, Kosovo's SAA entered into force, establishing contractual ties between it and the EU. As Kosovo had delivered on wide-ranging rule-of-law reforms, in May 2016 the Commission formally proposed its transfer to the Schengen visa-free list. For this to happen, Kosovo must overcome the political blockage, ratify the [border deal](#) with Montenegro, and improve its track record in fighting corruption and organised crime. In December, the government offered the opposition to join forces, in order to end the deadlock over the contested border deal, by reviewing once more the work of the current government commission on the issue.

In November 2016, Kosovo also launched a [European reform agenda](#) to guide reforms as per the requirements of the SAA. The agenda outlines priority actions in three '[key areas](#)': good governance and rule of law, competitiveness and investment climate, and employment and education. Kosovo remains committed to normalising its relations with Serbia and implementing the agreements reached in the EU-facilitated dialogue. There has been some progress regarding freedom of movement on the [Mitrovica bridge](#) and the [justice agreement](#). In December 2016, Kosovo also got its [own telephone code](#).

Montenegro – steady progress and more chapters opened

In 2016, Montenegro continued to make steady [progress](#) on its key foreign policy priorities: EU and NATO accession. Following its 2015 invitation to join NATO, in May 2016 the country signed the accession protocol, which is being ratified by NATO members. The pace of EU accession negotiations continues to be driven by tangible results. Most chapters, the [latest two](#) in December, have been opened. In October 2016, credible parliamentary [elections](#) were held under a revised legal framework and the government allegedly improved its cooperation with civil society. Montenegro continued to be a constructive regional player and ratified its border agreements with BiH and Kosovo.

Serbia – overall positive assessment

The Serbian government is [generally satisfied](#) with the 2016 report, which acknowledges its efforts in handling its ambitious political and economic reform agenda. Serbia has already opened six negotiating chapters, including Chapter 35 on Kosovo, and rule of law chapters 23 and 24. In December 2016, it opened two instead of three new chapters, since that on education and culture had initially been [blocked](#) and later unblocked by Croatia. [More chapters](#) are expected to be opened in 2017. Serbia is commended for its

constructive approach to the migration crisis and regional cooperation, and for its commitment to normalising relations with Kosovo. On the other hand, the report notes a drop in support for EU foreign policy, including for sanctions against Russia.

Challenges and prospects

The enlargement process will continue to evolve, but the Western Balkans face the daunting task of meeting complex requirements amidst domestic political challenges, unresolved bilateral disputes and public reluctance to enlargement both [within the EU](#) and [the region](#). They have also to address the possibly detrimental long-term implications of an eventful 2016, when the UK referendum and that of the [Dutch](#) against Ukraine's association agreement created a new context, further challenging their EU prospects. In these circumstances, as a London School of Economics [article](#) points out, the EU needs more than ever to 're-assert its commitment' to the integration of the Western Balkans and keep enlargement and its benefits visible. The region's security and stability is in the EU's own interest, as highlighted recently by former Commissioner Štefan Füle, who warned that a [distancing of the EU](#) might encourage other 'geopolitical players' to seek influence there. The 2016 [Slovak Presidency programme](#) recognised this need and sought to maintain the momentum of the accession process and achieve concrete progress in the candidate countries. The EU path of the Western Balkans is one of the points of focus for 2017, listed by the High Representative on her [blog](#).

The EU is prompted to reconsider its strategy for the region and increase its efforts, while at the same time the difficult context requires ever stronger local ownership and political commitment, including more active engagement of civil society. EU integration is an overarching and unifying goal for the region. Thus, while nationalist rhetoric and refusal to cooperate tend towards instability, cooperation is the means not only to revive the region [economically](#), but also to address the legacy of past conflicts and lingering bilateral issues. One recent attempt at enhancing regional cooperation for a mutually beneficial purpose is the set-up of the [WB6 Advocacy Group](#), an initiative of regional think-tanks aimed at accelerating and facilitating EU integration. The group encourages [advocacy efforts](#) and ideas on how to highlight arguments for faster EU accession, address the EU 'enlargement fatigue' and contribute to developing a positive perception of the region.

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