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*Ludger Kühnhardt*

## **The Constitutional Crisis of the European Union**

Talking about the European Constitution in January 2004 means to talk about one of the biggest crisis the European Union has been confronted with in the almost fifty years of its existence. After the failure of the EU summit of December 12<sup>th</sup> and 13<sup>th</sup> 2003 to conclude the process of finalizing the first European Constitution one can only hope that this crisis will end as practically as all other EU crises have ended, namely by way of finding compromises and – at the end – by strengthening the order of the EU. Of course, we all know that if there is a light at the end of the tunnel, there are always some people around who try to prolong the tunnel instead of reaching the light, and thus one has to remain cautious at this point of time.

During 2003, the European Union has drafted a constitutional treaty after a very impressive process of work in the Constitutional Convention chaired by former French president Valerie Giscard d'Estaing with the involvement of all member state governments, all member state parliaments, the European Parliament, the European Commission and all the other EU institutions, including the candidate countries. What was even more impressive than this creative process of constitution building was the fact that the draft for the constitutional treaty was agreed upon without even a formal vote in the Constitutional Convention. All members of the convention accepted the constitutional draft, which they had worked out over a process of sixteen months or so. All the more it is disastrous that the Heads of Government were unable to subscribe to this result, which I think is the best one you can

get at this point in the history of European integration. If they fail to find compromises and consent until mid-2004, I think we will not see a European Constitution within the next political generation.

As usual, success has many fathers and mothers while normally this is not the case with failure. In case of failure everybody tends to point to the others as being responsible, but I'm afraid to say that in this case also failure has a good number of fathers and mothers. I do not support all that „Poland bashing” or „FrancoGerman bashing” we can hear nowadays across Europe. The EU is confronted with a threefold crisis: a crisis of confidence, a crisis of leadership, and, maybe the worst of all, a crisis of perspective about the whole process of European integration, if you like a crisis of „esprit européenne”. What does that mean? European Spirit basically means, in my view, that Europe can not develop and grow and be strengthened if only one or two out of fifteen or soon out of twenty-five countries are allowed to define what is in the European interest, while the others have just to follow. European Spirit can not work if the EU commits itself fundamentally to be a community of law as the key to overcome the history of antagonisms we have experienced in the nineteenth and twentieth century while some countries think that, if need be, this European law is not binding for them. And European Spirit means to develop projects together instead of thinking most of the time how one can prevent decisions from being taken by one coalition or another, because one is afraid of certain constellations, coalitions and circumstances in the EU.

I think all of this has happened one way or the other during the past year and a half. This sort of disruption of the „European Spirit” is also related to the big shock waves transatlantic relations have gone through during the Iraq crisis and the „cold war” inside the West. It is true time and again: the state of European integration is bad if the state of transatlantic relations is not in good shape. That is part of the experience Europe has always had from the very beginning and we will have to recognize this link again and again in the future.

The draft European Constitution has achieved a couple of remarkable results. The mandate of the Constitutional Convention was rather limited. I

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only say this because nowadays very often one hears – all across those who have been involved in the failure in Brussels – that it might be too early for a constitution, that the expectations were too high, etc. I clearly say the opposite: The mandate of the Constitutional Convention was extremely limited; the expectations were pretty low key; and the result which the Constitutional Convention has brought about, is very much in line with its mandate, but also with the expectations that existed. Having said this, I think the Convention has achieved enormous progress. I just give you a couple of points. One can always criticise the results in detail, which is a good sign, but the basic patterns the constitution has agreed upon will bring more transparency into the legal structure of the EU.

First, the pillar construction as we have seen it since the Treaty of Maastricht will come to an end and the EU will be based on one treaty alone.

Second, the European Union is going to get full legal personality, which has implications for the global role of Europe, including for the actions of the EU in the United Nations.

Third, the European Union would redesign the order of competencies and also facilitate the processes of law making in the EU.

Fourth, the draft constitution includes mechanisms which will strengthen the so-called subsidiary principle, which will give more rights and autonomy to national and regional levels and sometimes even the city level, including an early warning mechanism.

Fifth, the constitutional treaty will create a European Foreign Minister which most people would see as the necessary prerequisite for improving the foreign and security policy performance of the EU.

Sixth, in order to strengthen the overall performance of the institutions, the Constitutional Convention has proposed to create a permanent President of the European Council – which means that the six-monthly rotating presidency would be abandoned for the sake of having a more permanent presidency of the EU Council.

Seventh, the Commission would be strengthened by way of the development of its future election mechanism: the Commission President shall be

appointed on the basis of two patterns. On the one hand, the majority of the European Council would have to appoint him and, on the other hand, the majority of the European Parliament – the next being elected on June 13<sup>th</sup> 2004 – would have to appoint the Commission President.

I think these are the most important results of the work of the Constitutional Convention in order to bring more transparency, democracy, efficiency and legitimacy into the EU. Well, and then the failure in Brussels. A big party in June 2004 at the steps of the capitol in Rome in memory of March 25<sup>th</sup> 1957, when the Treaties of Rome were signed, is obviously not going to happen this year. Why is this so and how can the EU get out of this situation?

To analyse the current crisis beyond daily politics, we are experiencing inside the European Union a structural change of the very effect and mechanism of European integration. All candidate countries have experienced over the past decade that the EU is interfering into each and every aspect of political and public life in order to make each candidate country reform in a direction that it finally exists in the line with the *aquis communautaire*. The EU has been imposing reforms and changes. For the traditional EU member states, that was never the dominant experience. In the past, the founding members of the fifties – the French and the Germans in the first place – always thought: EU means that together we come up with ideas, projects, institutional structures and we build up „Brussels”, we construct Europe from the top, we compromise on certain things, but we want to bring „Europe” forward.

Since the Treaty of Maastricht and the introduction of the common currency also the so-called biggest countries of the EU have to experience that „the Empire strikes back”. The EU impacts their political, economic and social life rather voluntarily as they have given up, for instance, fiscal sovereignty in order to enable a common currency to come about, but the consequence is that you do not need central national banks any longer. Eighty percent of all EU legislation is conducted in Brussels and some people ask: why do we still need a Minister of Economic Affairs in our countries? With the introduction of a Foreign Minister the question will follow suit: why do

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we still need National Foreign Ministries any longer? And so on. As the consequence, the effect of integration goes beyond constructing a new level in multi-level system of European governance; the impact of the EU upon the internal structures of member states on all levels, from financial matters to all matters of pride, power and political bargain has grown enormously.

The consequence of this trend – and the bigger the country, the stronger the resistance: it is still psychologically difficult, to accept this trend, because there has been no experience of dealing with so far. France and Germany have been debating structural reforms for a good number of years and both have come up with very limited results compared to others who have often been perceived to be in the periphery of Europe but who do much better in reforming and adapting also to EU standards; take the Portuguese, the Irish, the Finnish. As a consequence, many people outside of France and Germany feel that the attitude of France and Germany towards further developing the EU has changed critically from being an engine of enabling further progress as has been the case for many decades into a situation where they have become rather vetoing powers; vetoing Austria before the new government had even worked for a day, vetoing US policies towards Iraq, vetoing the implementation of the legally approved mechanisms to implement the stability pact, vetoing further financial support towards new member states and finally trying to bring about a voting mechanism for the European Council which prevents coalitions led by smaller countries and poorer countries to overrun the two or three biggest in the EU. This has been the perception in many places outside Berlin and Paris, which has led to the current credibility crisis. On the one hand, of course, you have also a combination of countries inside the EU, which have benefited very much from the transfer of fiscal resources over the past twenty years, like Spain. They do not want to give up that privilege as a consequence of EU enlargement. The new member states, on the other hand, are still missing the experience of being flexible, learning how to compromise, realising that the EU is not just there to transfer money; they are in the midst of a steady learning process. Finally, the big controversy inside Europe about Iraq (what I call „the internal Cold War of the West”), has contributed very much to the breakdown of trust and confidence in very many places all across the continent.

Along with these developments, over the past ten or fifteen years a change of the structure of leadership has been experienced in many European countries: from being pro- European and trying to enable European developments along the line of what has started in Maastricht – namely the transfer of sovereignty – to a much more national perspective, a domestic, sometimes very myopic and parochial agenda.

The historic role of Germany has also changed: unification, as seen from the perspective of 2004, has rather weakened Germany than strengthened it; strategically, economically, and also as far as the ability of the country is concerned to play the role of an honourable broker which is pushing forward compromises by way of compromising itself. We had very abnormal debates in Germany about a „new normalcy”, which made me very nervous because I always sensed some „Sonderbewusstsein” or even tendencies towards a „Sonderweg”, not only on Iraq. The consequence is, as seen from the outside, that many people in other EU countries are wondering: How about Germany? How reliable it still is? How much it remains committed to continue with solidarity and in developing European policies, including an acceptable deal on the weighing of votes in the European Council?

The European Union, and before it the European Community and even before the European Economic Community, have experienced various methods of how to resolve a fundamental crisis. The first model was the way in which the problem of security was resolved when the project of a European Defense Community failed ratification in the French National Assembly in 1954: henceforward, European security was organized through transatlantic solidarity. This experience will not help to resolve the constitutional crisis of 2004. The second model comes close to a nightmare: after two Fouchet plans on political union were rejected by the Heads of government of the EEC in the early 1960s, the issue of „finalité politique” was taken off the European agenda for almost three decades. This could happen with the idea of a European constitution if compromises fail during the next ten months.

Such a will to compromise worked as the third model to deal with crisis in the mid-1960s after France withdrew from the EEC institutions after a big controversy on agricultural policies. Diplomats worked very hard in the

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cause of the next eight or nine months, and draw France back to the EEC table, on the basis of what was called the „Luxembourg Compromise”; this was a diplomatic compromise, face-saving for everybody, not the best of results in order to facilitate EEC decisions, but it worked. Everybody came back to the table at the basis of a compromise, which I would also favour for getting out of the current constitutional crisis.

I say so, because models four and five of European experiences how to overcome crises cannot work. Model four: the Maastricht Treaty itself was object of a crisis because the Danes said „no”. The EC had to invent legal tricks how to make them say ultimately „yes”. A whole set of „opting-out clauses” were invented for Denmark, and in the second referendum the Danes said „yes”. This sort of playing-around, using almost tricks and creating an „Europe á la carte” where everybody can choose what is convenient for his country, can not work with a constitution. In fact the experience with such a wrong way was one of the driving forces to bring about a constitution, which is binding for all. Model five, I think, can also not work: in 1970 the Werner-Plan was presented by the Finance Minister of Luxembourg to implement a European Currency. After the oil crisis of 1973, every government retreated to national decision-making on monetary policies, fiscal policies, and labour market policies. Soon, the Werner-plan was dead. About ten years later, Helmut Schmidt, the German Chancellor, and Giscard d’Estaing, the French President, started the process again by saying: let’s start from scratch by building up a European monetary snake, then an monetary system, co-ordinate our policies, and then in the end of it we will get a currency instead of starting with it as speedy as Werner had proposed in 1970. In 2002, which is 32 years after the Werner plan we got the EURO. Gradual processes do not work in order to create a coherent constitution for the EU. It is like being pregnant: Either the EU will get a real constitution now or it will not have one. Not getting a EU constitution in 2004 would of course not mean that the EU would die. But it would mean that the EU would remain based on an extremely confusing system of different treaties and a lack of transparency, which leads to frustrating academic debates about the legitimacy of the whole process. In the political world, it would lead to further endless interlocking, interblocking and con-

fusing situations which will weaken the potential of the European Union in a dramatic way.

The current draft of this constitutional treaty is, I think, the best the EU can get in the lifetime of this current political generation. All countries have to compromise on the issue of weighing the votes in the European Council. The debates of the past months remind me of the Vienna Congress but they had nothing to do with an „esprit européenne”, which can only come about if Europe begins to debate what is really substantial for the future of Europe, for instance to continue the debate about European identity in an inclusive way. Following enlargement, the EU will include more orthodox countries than ever and will broaden from being basically the representative of Latin Christianity to also stretching out to orthodox Christianity; with the membership of Turkey it will also have a Muslim country, another one, Bosnia, is also knocking at the door. Thus an inclusive debate about European values and identity is essential. This is much more important for the future of the EU than just sticking to the technicalities voting mechanisms in EU institutions.

What is also more important is to facilitate the preconditions for realising the ambition of the EU to become the leading innovative power on the globe by the year 2010 as was proposed by the summit meeting in Lisbon in 2000. A lot has to be done here on all sides to really focus or to refocus the perspective of the EU towards future-oriented developments, not only sticking to re-organising our pension systems and health-care systems but re-launching mechanisms in all our societies which are really future-oriented, including a children-friendly environment.

What is also more important for the EU than voting quotas is the need to re-activate transatlantic ties. Both the EU and the US need a new transatlantic project, similar to the one, which has defined transatlantic relations for fifty years during the Cold War, where it was the basic idea to preserve freedom together. There were many „family quarrels” during this long period of time, but at the end, the transatlantic Alliance succeeded. Today the EU and the US need a common perspective how to develop strategies and policies towards the Greater Middle East. They need to do so not in an an-

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tagonistic way, but in a way, which is driven by the ability for a system-opening and co-operative transformation of the Greater Middle East. That is the main issue, which will define the future of transatlantic relations.

And last but not least, the EU will have to start a big debate among all of us, and even this discussion here is part of it, what a Europe based on a common constitution would mean in terms of „constitutionalism”. There cannot be a working constitution without a working constitutionalism, without some form of European patriotisms adding to our national identities and our national patriotisms. That again has to do with the search for a common identity, an identity as to who we are, not in defining ourselves against others, but in positively defining what Europe wants to be. If we see for instance how the US is now rallying the whole society behind the idea that they got to Mars within the next thirty years – I don’t want to suggest that Europe has to go to Mars in the next thirty years, but I do think it is important for us to contemplate about the perspectives of European integration in a perspective of thirty, forty years to fascinate the young generation of Europeans like the students who are studying here in Rouse at BRIE.

*Harald Kindermann*

## **Bulgaria and Romania on the Eve of their EU Membership**

Bulgaria and Romania are not a burden for the EU, because the states are rather invested, and therefore everyone would expect a benefit; if this were not the case we would not support it. One of the benefits is a very clear one: The big division in our world is one between two parts: those who are producing stability, who are acting for stability and others who are a threat to stability. And now, the new future is that those who are producing stability are lining and are forming new institutions like the EU, like NATO and other ones, were just to tackle the others who are a threat to stability. And that is much more important than the division between Orthodox and Catholics, the east and the west, developed and undeveloped. That is all important, but the main division is producing stability or threatening stability. And if you look to Romania and Bulgaria, the answer is very simple: both are producing stability for three simple reasons: first, they have no ethnic conflicts, which is very important in our world. Second, they were not involved in the war following the former Yugoslavia and third, they have no border problems. This is a big asset in our world. A lot of countries don't have it. And therefore we think that Bulgaria and Romania will be a benefit for the Union, and for Germany because they are helping to produce stability something that is especially important in the Balkans.

Before turning to the more detailed problems allow me to come back to the preceding discussion. Mr. Kühnhardt was asked: Are the new candidates, the founding members, willing to give up sovereignty? I totally agree with his answer: there is not that classic idea of sovereignty, because we have it

not in our hands. The answer might not exactly seem to fit to the question, because you can stick to your sovereignty in the political process even if you have no chance to have to keep in entirely. This is the problem that we have to discuss now. In the political process we perceive some countries, movements, people, parties, feelings to return to old traditional ideas of sovereignty. This is without any impact on your real capabilities, because you have no chance to keep up this idea of sovereignty.

In addition here is another problem also with the new candidates that I would like to stress, because we are here in Rouse: it is the idea of regional co-operation. Regional co-operation is very important for the European Union, but unfortunately, to be frank, it's not very popular among the candidates Romania and Bulgaria. Regional cooperation is important in two respects. First the benefit of being a member of the Union you experience most strongly in relation to your close neighbours. Of course you concentrate maybe as Bulgaria or Romania on France, Germany, the UK and on Brussels, but you are living most closely with your neighbours. The biggest benefit of being a member of the EU is that you have better relations to your neighbours. Professor Kühnhardt mentioned our friends in Luxembourg. They feel so happy in the Union because they have so close regional co-operation they are benefiting from. Therefore one of the central demands of the European Union in all the processes of negotiation for enlargement was to stress regional co-operation.

If you have a look at the policies of the EU, you will have the strong impression that enlargements are only made in packages. There was only one exception that was Greece, but this for very different reasons. Maybe there will be another exception with Turkey. But normally there are packages, and this package we are dealing with here is Romania and Bulgaria. This makes sense; because the Union has the idea that enlargement is also to strengthen the regional co-operation. If you look at the investors it's very simple. The Bulgarian market of eight million is definitely too small for big investors. This maybe undiplomatic, but here I'm not talking as an ambassador. I think this here is a network promoting discussion and therefore allowing me to be more as an academic. The market is too small, and Romania with twenty million is much bigger. But if you take nearly thirty mil-

lion, you have a market that will attract investors. And therefore, what the BRIE is doing here is very important. Some minutes ago I learned that in the communist era there was a close co-operation of the countries, of course in a totally different framework. Nevertheless there was a time when the border was open, there was a lot of exchange of students and others, and unfortunately, a lot of this has been lost. We definitely have to re-establish it. Every time I hear news about the border control here at the Danube's bridge, I'm a little bit concerned.

By this we come to the traffic lines. Unfortunately Bulgaria and Romania are victims of the war in former Yugoslavia because by that war a lot of traffic lines were interrupted. Let me take a look at Bulgaria. Sofia you can seriously only reach by scheduled and not by charter flights. Cheap charter flights only go to the Black Sea, but the regular flights to Sofia are expensive. As a result there is not this broad contact in all parts of the society as we experience for example with our Polish neighbours. Therefore building up traffic lines, railways and roads is one major benefit for Romania and Bulgaria from the EU. Only if we have these traffic lines we have the contact of all parts of society, young people, and political parties. Germans, you know, like to take their own car. And it is very simple to go to our neighbours for a coffee, e.g. to France, Belgium and the Netherlands, to cities like Maastricht or Lüttich, or, if you live close to Poland from Görlitz or Frankfurt to the other side. But here this is not possible. And therefore all the contexts are coming to a very small channel; and we are missing really a wide context. And for this we need better traffic lines. Therefore, please address your governments, address your political class, and address your investors to make better efforts.

Well, I would like to deal more with the hard facts, the risks and the problems and less with the bright future. I just mentioned before if we did not have the idea that there will be a bright future we would not promote it. Otherwise we would risk our wealth and our stability. And therefore, that we are promoting the accession of Bulgaria and Romania is the best proof that we really have the idea it would benefit you and us. But let me come back to the problems. One problem is that we are concentrating a little too much on the political process and the negotiations. But we are dealing less

with the perspectives and the demands of the investors. Let me say it in these words: negotiation in the EU means that we have chapters, and there are negotiations in these chapters and then they are closed. As diplomats, we are paid to solve these problems. Justice, police, crime are examples where there are a lot of negotiations just now and of course this means better stable conditions for investment. And there are a lot of other operations in this framework too; there is help and assistance. But all of this can't fulfil completely the demands of the investors. The EU means, the final decision is not made by the political class. The final decision - and now I'm speaking only on prosperity and economic issues - is made by investors and the business people. And here you sometimes find the following idea, even in discussions with high representatives: There should be a high ranking delegation led by a prominent figure, the chancellor, the minister of economy, who will visit Romania and Bulgaria in the first days of March, and this will promote our business. This is not quite wrong. Of course it helps if a minister or the chancellor brings some business people to Romania and Bulgaria. We can show them the country, we can organise meetings. Of course, the embassy is very much engaged in producing more information, making more contacts. But in our system, no chancellor, no president, no minister can make any decision on investment. He can only invite investors to come with him, to see the country. He can give him some advice and tell him that he will get our support. But the final decision is made by the investor. As a result I would like more people to concentrate a little bit more on the decision of the investors to come or not to come, to invest or not to invest.

Our investors are looking to the facts, sometimes they are wrong, and sometimes they are right. As for example, organised crime is definitely a great risk. You can negotiate it with EU representatives, but I was informed by investors in Germany that they are looking what just happened in Sofia: four people were killed by the mafia close to a tower. Therefore investors asked me if they should really open an office in this area where four people just had been killed.

Competition is one of the central principles of the European Union. Of course, competition means that you need a ground for this. Therefore the

European Union helps with programs, and we will continue to do so. European Union means that your problems are our problems. Definitely we are interested in a strong Romania, we are interested in a strong Bulgaria because if we are really living close together their problems are our problems. As professor Kühnhardt mentioned, we have partially given up our sovereignty to the European Union, and we gave a part of us to your country, to your people and your government. We definitely will be help and assistance. Allow me one critical point. There will be a lot of help, but the time of luxury programs will very soon be over.

Allow me one last point: We are talking about development, the speed of development. If you look at the speed of development, you make a very interesting experience. Of course, your point of reference is what you personally have done before. If I'm going to the fitness centre and if I speed up in my running, the reference is what I have done before, and not what the young guy of twenty years does who is like a turbo running on the other machine. My reference is my own status. Before serving in Bulgaria I served in Saudi Arabia for four years. Saudi Arabia is a very special issue. The Saudis are modernising their country just now. And the Saudis have the idea that never in history they have gone so far in their history as just now. And they are right. But in comparison with Dubai or Asia they are not speeding up. In the eye of the investor - and this is a consequence of the globalisation - the investor is not forced as before to invest in his own country. For a long time there were fiscal and other restrictions that you definitely did'nt get the chance - only the very big shots - to invest outside your own country. But globalisation means that if you are now prepared as a German investor to invest one hundred million Euro you look from where you get offers. You are getting offers from your neighbour cities, you are getting offers from the old members of the Union, and from the new members of the Union, but at the same time from Malaysia and from China. And this is definitely part of globalisation that the comparison is not only in your peer group as in your own region. The comparison is made also by regions and economies far away as East Asia. This will be one problem of the European Union, not only of Bulgaria, not only of Romania. We have to look at our reforms and what we are doing, concentrating a little bit on

us, but at the same time looking at what's going on in the US, looking at what's going on in East Asia. They are competitors in all business areas. In the EU, of course, one aim is to promote stability, is to promote Peace, but economic welfare is one of the founding principles of the Union, by a very simple reason. The collapse of East Germany was because of human rights and political issues. But there was another simple reason: people were missing money in their pockets for their private lives. To give people an economic standard and to solve social issues is one of the central principles of the Union. And this cannot be produced alone by the political class, this must be produced by business people, be produced by young people, their skills, offering good techniques in order to be employed. And therefore the Union needs - and it looks a little bit like a contradiction - close co-operation with our neighbours, regional co-operation, and at the same moment we have to look as a Union what's happening in Texas, and what's happening in China.

*Emil Mintchev*

## **Bulgaria and Romania at 2007 in the EU – Difficult Tasks Ahead**

At the signing ceremony of the EU Accession Treaties by the 10 new EU members in April 2003 in Thessaloniki there were not only happy faces to be seen. The Prime ministers of Bulgaria and Romania congratulated their colleagues from the 10 candidate countries with mixed feelings. The biggest enlargement in the EU history was already a fact, but only 10 of the 12 candidate countries with which the European Commission started negotiations managed to reach the goal successfully.

Bulgaria and Romania failed in their endeavour, but nevertheless retain the reassurance that in 2007, the newly enlarged EU is willing to welcome the two countries as the next two new members. Although this reassurance was officially proclaimed once more during the EU Summit in Rome at the end of 2003 considerable efforts together with good political climate and timing are necessary in order to see this promised welcome becoming real in 2007. Both countries face difficult tasks ahead for which they should be responsible, particularly in fostering a positive development in the first years after 2004 EU enlargement to create the favourable environment for their entry.

### ***From Helsinki 1999 to Copenhagen 2002***

The two countries belong to the so-called Helsinki group of candidates, which entered the negotiation process in March 2000. Four of them Latvia, Lithuania, Slovakia and Malta succeeded to close the gap with the Luxem-

bourg group of candidates, which started negotiations in 1998. Bulgaria and Romania could not manage this, due to different factors, stemming mainly from their considerably lower level of economic and social reforms at the time of their invitation to join the group of EU candidate countries in starting the negotiation process – the EU Helsinki summit at the end of 1999. Both countries were quite far from fulfilling the Copenhagen criteria for membership and were invited mainly because of their behaviour during the Kosovo crisis.

The invitation was a push for speedier reforms, while the negotiation process set the necessary framework to catch hold with the rest of the candidates and discover the areas where extra efforts were needed. The Commission country reports produced every autumn provided the objective “state of the art” needed to get a realistic view about their achievements and shortcomings on the way toward a full membership. Thus, as the regular Commission reports were published in autumn 2002, Bulgaria and Romania had to swallow the bitter pill that the so called 10+2 division among the candidates countries was final, leaving no chances to enter the union with the other ten candidates in 2004.

In the same time they were pleased with their achievements making the assurance of 2007 as the entry date possible. Especially the Bulgarian successes were remarkable, the report stated that the country has already established a functioning market economy and should be able in a middle term to sustain the competition within the EU, provided a successful continuation of the reforms. The country managed to open all 31 negotiation chapters and to close 26 of them. Romania was in a slightly worse shape than its southern neighbour with opening only 27 chapters and closing provisionally 13, managing to close the gap at the end of 2003 by opening all chapters and closing 22 of them. Nevertheless, the Commission report in 2003 stated that the country is still not functioning market economy. Moreover, in 2002 the Romanian citizens were granted the right to travel without visas in the EU Shengen area like the citizens of all other candidate countries involved in the negotiation process.

For sure a number of shortcomings were mentioned in the last reports like inadequacy in the public administration and in the judicial system, where both countries should have to make considerable efforts. Again the critics toward Romania were stronger, like the necessity to improve the law adaptation and implementation procedures, to enforce profound reforms in the judicial system and in public administration, to increase the fight against inflation and improve the macroeconomic data.

### ***The roadmap and the Accession Partnership***

The mixed feelings were somehow muted at the Copenhagen EU summit in December 2002, where both countries were once more reassured about their membership perspective in 2007. So they got not only a clear time horizon, but also a roadmap with all the benchmarks until 2007 to be reached in order to make the 2007 accession a reality. Bulgaria and Romania were promised also additional financial assistance from the EU pre-accession funds. Substantial increases are expected in the framework of the PHARE (assistance of the public administration and judicial system), SAPARD (assistance for structure improvement in the agrarian sector) and IPSA (assistance for infrastructure improvement in the environment and transport) programmes. In March 2003 a revised Accession Partnership document was published by the Commission to complement the roadmaps for Bulgaria and Romania. Taken together the roadmap and the Accession Partnership are going to be the main tools guiding both countries' efforts for meeting the target date for accession – 2007.

The purpose is to set out in a single framework the priority areas for further activities as identified in the Commission report and the financial means for helping to implement these priorities. The revised Accession Partnership provides also the basis for a number of policy instruments to be used to help both countries in their preparations for membership, like the pre-accession fiscal surveillance procedure, the pre-accession Economic programme, the pre-accession pact on organized crime as well as the so called National Development Plans, the Rural Developments Plans and sectoral

plans necessary for the participation in the Structural Funds after membership and for the implementation of ISPA and SAPARD before accession.

The Accession Partnership further develops the short and medium term issues identified in the roadmap, identifying priorities that it is realistic to expect that the two countries can complete or take forward substantially over the period 2003-2004.

The main priorities, as identified for each of the two countries, relate to their abilities to take on the obligations of meeting the Copenhagen criteria. The Copenhagen EU summit in December 2002 stressed again the importance of judicial and administrative reform to help bring forward Bulgaria's and Romania's overall preparation for membership.

In the case of Bulgaria both in the roadmap and in the Accession Partnership, the Commission report stressed again that the country continues to fulfil the political criteria and is a functioning market economy. However, it is not yet able to cope with the competitive pressure and the market forces within the Union. As for Romania, the report highlighted that the country continues to fulfil the political criteria, and although it has registered progress towards becoming a functioning market economy, it does not meet the Copenhagen economic criteria.

Bulgaria and Romania do not yet fully meet the *acquis* criteria. In order to prepare successfully for membership, the two countries need to continue their efforts to transpose, implement and enforce the *acquis*. They also need to continue the reform of the public administration and judiciary in order to have the necessary administrative and judicial capacity for this. The roadmaps provide benchmarks against which Bulgaria's and Romania's progress can be monitored. These cover both alignment of legislation and development of administrative capacity.

So among the immediate tasks ahead in the field of the political criteria for Bulgaria, a preparation of a fully comprehensive public administration reform strategy, including an action plan, in 2003 is envisaged. For Romania in the same field more has to be done: a revision of the 1999 law on civil

servants, an introduction of the necessary secondary legislation and establishment of implementation mechanisms and structures.

In the judicial field Bulgaria needs to continue the reform of the judicial system by reducing the excessive length of the court procedures and ensuring the implementation of fundamental rights in penal cases and also to continue to implement the National Anti-corruption Strategy. In the same field, Romania needs to ensure full independence of the judiciary, enhance the professionalism of the judiciary, improve the administration of courts and step up the fight against corruption. In the human rights field, Bulgaria is advised to improve living conditions in the mental health care system and to speed up the implementation of the Roma Framework Programme. Romania needs to improve the reform of the child-care system and also to improve the situation of Roma.

In the economic field, Bulgaria is advised to maintain the high degree of macroeconomic stability achieved over recent years and to make further efforts in the privatisation programme, in developing small and medium-sized enterprises and in reforming customs and tax administrations. Romania should continue to reduce the rate of inflation, to improve the budgetary procedures and the management of public expenditures and to advance significantly the privatisation of the banking sector.

### ***2007- some initial doubts***

A comparison between the two roadmaps and the two Accession Partnership documents reveal a significant volume of immediate tasks to be done in 2003-2004. The implementation of these tasks will be subject to close monitoring from which the EU financial assistance will depend. The target date for joining the EU is the same for both countries, but Romania needs to invest much more effort to catch up with Bulgaria and to meet the Copenhagen and Madrid criteria. For the sake of preventing the divergence from the 10+2 group to a 10+1+1 group, leaving Romania in isolation, a compromise was arranged giving Romania the chance to retain its perspectives and Bulgaria some more time to prepare better for the challenges of

the full membership. Additional financial assistance will make this preparatory period more acceptable not only for the governments, but also for the general public in both countries. There are but some developments real or hypothetical, internal or external, which can cast a shadow over the so well calculated timetable

The public opinion in both countries is not immune against some euro-sceptical feelings like the situation in some other candidate countries has indicated. Consequently, in Bulgaria there is a considerable opposition on all levels against the decision of the government to close four of the six reactors of the nuclear power plant in Kozlodui by the end of 2006. First the parliament voted in favour of a linkage between the closure of the reactors and the EU accession of Bulgaria. Then the High Administrative Court proclaimed the closure illegal. The government is under pressure to ask the EU Commission for renegotiation on this issue.

Both countries have to conclude the negotiations until the end of 2004 and sign the Accession Treaty in 2005 in order to become full members on January 1<sup>st</sup> 2007<sup>1</sup>. This schedule is quite manageable for Bulgaria but there appear some doubts about Romania. Having in mind that a very important chapters are still negotiated and also some recent critics from the European Parliament and the Europaen Commission, it seems a very risky prognosis. Both countries advocated for having the same negotiation and admission procedures like the other 10 candidates and to end all technicalities for the accession during the mandate of the Prodi Commission. But the time is already running out for such considerations. The fate of the 13<sup>th</sup> candidate country Turkey is not yet decided. One more country, Croatia applied during the Greek presidency for a candidate status. If the Commission decides to start negotiations with the two newcomers on the waiting list, an establishment of a new group of four candidates might be the result with certain delay for the accession of Bulgaria and Romania as a repercussion.

The year 2007 could also be overshadowed by some problems within the newly enlarged EU. Bringing 10 new members in the Union needs for sure

an adaptation period during which certain turbulences are going to be something unexceptional. It is quite possible that the 25 put aside for some time new accessions for the sake of rearranging the newly enlarged union and making it function better. The divisions between the 15 recent EU members on the eve and during the war in Iraq indicated that deviations in national interests are quite able to undermine any far reaching project like the EU Common Foreign and Security Policy.

For their support for the American policy toward Iraq, Bulgaria and Romania even received the reprimand of French president Chirac in a much harsher tone than expected, raising the fears that too independent behaviour on a hot political issue may ruin years of substantial efforts toward creating a mutual trust and a common value system. In the lessons learned after Iraq, the conclusion that deep divisions on vital issues concerning the future of the EU, between old and new, small and big EU members are not only possible, but also probable and may endanger any roadmap and any timetable, also applies fully to the issue concerning the accession of Bulgaria and Romania in 2007. That is why a full compliance with the roadmaps and Accession Partnership is the only argument that counts for both countries in the years until 2007 and the only tool to ensure their future EU membership.

1. At the end of September 2004 Bulgaria has already ended its negotiations and Romania closed all the chapters besides three.

*Rafael Biermann*

## **The European Perspective for the Western Balkans – Tabooing the Unpleasant**

Looking at the Balkans from the viewpoint of Brussels, a three-fold differentiation is today necessary. Romania and Bulgaria, the countries of the Eastern Balkans, which were not drawn into the four succession wars of former Yugoslavia 1990 to 1999, enjoy the advantage of fifteen years of peaceful transition. Thus, they are today at the doorstep of EU and NATO, even though at least three years later than their competitors from Central Eastern Europe, due both to the ambivalence of regime change in both countries in 1989/90 (a revolution – or just a coup d'état?) and to the slower pace of reform since then. As concerns the in Brussels so-called “Western Balkans”, Slovenia has to be singled out. It has only briefly in 1991 experienced the aggression by the People's Army and then succeeded to escape the fate of its Southern neighbors. Thus, it is today an inspiring transformation model for its Balkan neighbors, able to transfer unique enlargement experience and, after 1 May 2004, experience as a newcomer in the Union – provided that it does not any longer strive to detach itself from the “Balkans” but recognizes its common history and culture also with this part of its neighborhood.

The other four former republics of former socialist Yugoslavia – Croatia, Serbia and Montenegro (including Kosovo), Macedonia and Bosnia – are at present playing in another league, together with Albania. In fact, the decade of horrendous war crimes, expulsion and nationalist sentiment implies at least a loss of ten years; maybe much more, given the three inhibiting legacies of Ottoman rule (up to 1913), Yugoslav and Enverist Communism (up

to 1991) and nationalist-chauvinist rule throughout the 1990s, all of them causing a lack of democratic and civic culture, a receptivity for authoritarian tendencies and an overall economic backwardness.

Thus, it is self-evident that this part of South Eastern Europe had to be put on a separate track by Brussels completely different from the enlargement track for Central Eastern Europe. This track, founded in the wake of the Kosovo air campaign in spring 1999 in the framework of the Stability Pact for South Eastern Europe, is called “Stabilisation and Association Process” (SAP). There is a distinct contractual relationship – the so called “Stabilisation and Association Agreements” – distinct from the “Europe” or “Association Agreements” signed in the early 1990s by the present accession countries; and there is a distinct financial instrument, the CARDS program (“Community Assistance for Reconstruction and Development”), separate from the PHARE program for Central Eastern Europe, which dates back to 1991 and was after Dayton 1996 originally widened to include the “Western Balkan” countries under the “Regional Approach” of the EU (together with the OBNOVA assistance program). The European Union invented these new categories in 1999, with a two-fold message: South Eastern Europe deserved and badly needed a tailor-made EU approach and the relationship was finally elevated to this new level; but at the same time this EU approach, deliberately not transferring the terms from the current accession process to the “Western Balkans”, signalled a minor relationship not as ambitious as with Poland, Hungary and the others yet.

The terms are revealing in another respect. They talk about association, which implies rapprochement towards the Union as in the case of the current accession candidates; but they also talk about stabilisation, where actually in politics still the emphasis is on. Since internal and external stability – for example concerning inter-ethnic relations, a consolidated democratic culture and rule of law – is a prerequisite for eventual EU membership, the EU is still in most countries focusing its assistance on stabilization projects like refugee return or minority integration which are deemed vital before starting accession negotiations in earnest.

It is likewise revealing that the Commission avoided introducing the term “candidate” for the “Western Balkan” countries; they are called “potential candidates” (since the Feira European Council of June 2000). This ambiguity reflects a subtle, still ongoing conflict among the members and inside the Commission dating back to the time of the Kosovo war whether those war-torn countries of former Yugoslavia should really be offered an integration perspective or not. The counter arguments are forceful, and they have even become stronger, with the impression of the Kosovo war fading away. It is a peculiar mixture of the “powder keg” perception of the Balkans, of reality-based “Balkan fatigue”, of a fear of “Balkanization” of the Union losing its capacity to act combined with the growing uneasiness about the accession process and perspective in general, which motivates hesitancy and doubts. If push comes to shove, a fate like Turkey's is not wholly impossible. Do we really want Bosnia or Albania inside the European Union? Can we raise a new image of those countries in Western Europe, thus overcoming a general uneasiness nurtured by recurrent news about widespread corruption and organized crime, irresponsible leadership and small weapons circulation in many societies, if not new warfare like in the Presevo Valley (Southern Serbia) in 2000 and in Macedonia in 2001?

Up to now, no polls have been commissioned on whether the “Western Balkan” countries should also have an accession perspective. The predisposition in most EU populations seems to be outright negative. The fact that the Balkan countries actually have an accession perspective is known only in some very narrow expert circles. Politicians in Western Europe do not talk about this, well aware about the strange mixture of anxieties and fatalist acceptance that is accompanying the first round of Eastern enlargement in 2004. It is a happenstance that no referenda had to be called on whether the populations of France, Germany and others agree with the accession of Poland, Romania and others. However, the experience with the first round of Eastern enlargement will have a significant impact on the accession perspective of all those in the waiting line.

Conditionality is a catchword not only of this enlargement process, but also of all future ones. The governments of the “Western Balkan” countries are quite right when pointing out that their conditions for entering the Union

are even stricter than those for the countries of Central Eastern Europe. The Copenhagen criteria of June 1993 were the guiding principles for the individual transformation processes, for adopting the Aquis communautaire and for the yearly reports of the Commission. For the countries of the “Western Balkans” there are two additional sets of criteria: the first one is the willingness to engage in and stimulate regional cooperation, not as an addendum but in earnest, based on the simple but undeniable truth that whoever has strained relations and unsolved territorial, minority or other disputes with his neighbors or is not even fully communicating with them is importing instability into the Union. A Union of 27 members will not be able to afford obstruction due to unresolved conflicts. There can be no exception, as enlargement itself already implies a major complication in decision-making. Practical reconciliation among the Balkan countries is therefore a prerequisite for EU membership, and it is even more important due to the legacy of the succession wars and the precarious interdependence of the region, in terms of ethnic composition, small markets as well as common heritage and culture.

There is another set of criteria, which people tend to forget. The European Union made financial assistance and political cooperation with the Union in the framework of the “Regional Approach” in 1996 dependent on what was called “the conditionality criteria” of April 1997. When the SAP was set up in 1999, Brussels decided to keep these criteria in a kind of doorstep function, guiding the SAP until the countries enter the enlargement process and thus become eligible for the Copenhagen criteria. These criteria have to be fulfilled before negotiations on an SAA can start. They concentrate on political conditions, including the readiness to comply with the Dayton Accords in all aspects: refugee return, full cooperation with the International Criminal Tribunal on Former Yugoslavia in The Hague, territorial integrity of the statehood of Bosnia and Herzegovina, etc.

This already points to a remarkable difference between the twelve accession countries entering the Union 2004/7 and the “Western Balkan” countries. For the twelve acceding countries to comply with the economic criteria of Copenhagen (market economy and capacity to withstand the pressures of the EU Internal Market) was most difficult to achieve. The politi-

cal criteria were fulfilled, according to the yearly reports, by most of the countries pretty early in 1997/8, except for Slovakia, Romania and Bulgaria. Democracy, tolerance, free and democratic elections, rule of law, minority rights and good neighbourly relations were features early on. This is profoundly different for the “Western Balkan” countries. The political criteria will be most difficult to fulfil, as in the case of Turkey. Attributing full minority rights, not only on paper but in practice, for Serbs in Krajina and Slavonia, building trusting, good neighborly relations among former enemies like Croatia and Serbia, raising multi-ethnic tolerance among Serbs and Albanians or Albanian and Slav Macedonians, overcoming still existing stereotypes of one another and wilfully extraditing those to The Hague who inflicted horrendous war crimes – this will take years to come true, if at all.

It is under these circumstances hardly astounding that the road to membership for the “Western Balkan” countries is all but clear. At present, most of the countries of the SAP wrestle with the problem of how to get into SAA negotiations with the Commission. But Croatia, already implementing its SAA, is pressing for answers to those questions which will rise to dominance in a few years time and which have not been answered by the Commission: How do you get from the SAP into the enlargement process? Do you have to fully implement the SAA before being a full candidate? Will there be a pause of uncertain time length between SAA implementation and the start of accession negotiations? There is no road map today. Indeed, there is a missing link, which psychologically devaluates what is the most potential transformation incentive throughout the region: the EU perspective.

Besides conditionality, self differentiation is an important guiding principle, which we already know from Eastern enlargement as the “regatta principle”: All have started the process at the same time, but progress, i.e. political rapprochement towards the Union and financial assistance, primarily depends on the speed and determination of internal reform. There is no automatism, no group-think (at least not in theory, as the experience of this enlargement round cautions). Individuality prevails. And if you look at how differently the countries of the region have progressed since 1999 you can

draw a correlation between internal transformation and EU rapprochement. Surely, the gap between the first and the last boats of the regatta have significantly widened, much to the mischief of Brussels, which is again and again confronted with backdrops and obstructionist policies threatening the derail the overall process.

It is now appropriate to move to an assessment of where the individual countries of the region are moving at present in the SAP. Given the crucial geostrategic significance of Croatia and Serbia and the recent elections both countries have to be in the limelight.

Macedonia was the first to sign a Stabilisation and Association Agreement, precariously in April 2001 during the fighting between the Macedonian NLA and the Georgievski government. Already at that time some people were questioning the wisdom of signing a agreement with a country that actually is in the midst of a civil war (even if the use of the term was politically incorrect) and obviously far away from any internal stability qualifying it for EU accession negotiations. Thus, it is hardly surprising that Macedonia has had dramatic problems implementing the SAA. It is still coping with the repercussions of its internal struggle, mainly by implementing the Ohrid Framework Agreement. The more principal issue concerning the deep estrangement of Albanian and Slav Macedonians and thus the overall viability of this state has been put aside, for now. The net psychological effect in Western Europe of the warfare and of the way the Macedonian government dealt with it was a profound disillusionment. The events in Macedonia were not only a reminder of the continual potential of violence in the region but also a warning not to confuse peaceful ethnic co-existence on the surface with inter-ethnic harmony on the societal level. There surely was a lack of substantial, in-depth analysis of inter-ethnic relations in Macedonia before, in politics as well as in research.

Anyway, four years after signing the SAA, Macedonia has hardly started to implement this agreement, which foresees a timeframe of ten years for implementation, with a review in 2006. The forthcoming application for EU membership in spring 2004, motivated by a similar move from Croatia and

by domestic reasons, will not accelerate the process. The case of Macedonia has strengthened the arguments of the sceptics in Brussels.

Albania has in January 2003 started the negotiations and is still negotiating, much longer than Macedonia, which needed only six months. Brussels wants to avoid rushing into an agreement where paper and reality are too far apart. The record of negotiations with Macedonia and Croatia motivated this move, but also Albania's own recent story with the EU, which is a very mixed one, full of drawbacks and uncertainties. The Feasibility Study for Albania was drawn up by the Commission already in 1999, not least in order to honour Tirana's responsible approach during the Kosovo crisis and its stabilization since the "Pyramid scandal" of 1997. However, the recommendation at the end of the Study was negative: starting SAA negotiations with the EU was deemed to be too early. Since then, the start of negotiations was postponed again and again, with several bilateral commissions trying to overcome the obstacles. The EU approach remains one of hesitancy, half-hearted progress and sudden, difficult to explain leap forwards. The major structural deficiencies of Albania like organized crime, lack of the rule of law and antagonizing political disputes between the two major parties are more deeply rooted in society than expected.

Bosnia and Herzegovina's outlook is probably even worse. For a long time it risked to fall back in the regatta, far behind all others. The Prodi Commission designed a special roadmap with detailed legislative acts to be enacted before even a Feasibility Study could be designed. Despite not having fulfilled all the obligations from the roadmap, the Commission is now determined to move forward. The Study was drafted, the recommendations are positive, negotiations are in view. However, one major hurdle remains, which is absolutely crucial for any sincere negotiation: As long as BiH is not truly a functioning statehood and the entities (or even the Muslim-Croat Federation) do not wholeheartedly identify with their common state and act accordingly, the EU will have difficulties to find a responsible negotiating partner not only able to work out internally the necessary negotiating positions on all chapters of the Acquis but even more to implement the SAA throughout the country. That the "entities" in BiH still keep two (or rather three) armies is a telling signal of how the different ethnically oriented

leaderships think. The criterion of a functioning statehood needs to be viewed as an absolute pre-requisite for any substantial progress in terms of EU membership and communicated as such.

Croatia's relations with the Union have been mixed since independence in 1991. Recognition was a result more of massive German pressure and Serb conquest than of wholehearted support by the other EU members. The nationalist rhetoric, the ambivalent stance towards the integrity of Bosnia and the shadowy deals with Slobodan Milosevic made Franjo Tudjman an uneasy partner from the beginning. The "war in the war" among Croats and Muslims in Herzegovina 1993/4, the experience of EU administration in Mostar and then the unilateral reconquest of Slavonia and Krajina in 1995 resulted in a complete isolation of Croatia in Europe and a stalling of almost all EU cooperation and assistance up to the death of Tudjman and the elections in 2000. Since then, the EU relations with Croatia have boomed. SAA negotiations already started during the Zagreb summit in late 2000, ending with an agreement in May 2001 having an implementation time-frame of only six years.

Expecting the elections in late 2003, the Racan government pushed forward with an implementation plan, which aspired to adopt most of the *Acquis communautaire* as agreed upon in the SAA already in the first three years. This has been accomplished, though the return of Serb refugees, the piling up of unsettled law suits and the half-hearted cooperation with The Hague (Bobetko, Gotovina) is a reminder that Croatia, with a GNP per capita three times even of Bulgaria and Romania, will also have most problems with the political criteria.

Since the application for EU membership of May 2003 and the subsequently answered questionnaire of the EU Commission the pivotal questions remains whether Zagreb can, as aspired, catch up with Bulgaria and Romania. This is an extremely ambitious agenda, not least set by Croatian domestic politics. The alternative, as it is feared, might be to wait for an indefinite time until accession negotiations start, given the fact that the Union will hardly start the whole procedure of negotiations, signing of the Accession Protocol and ratification in all Member States just for one country.

The effect of the elections in Croatia of November 2003 is difficult to estimate in this respect. At first sight, surely this was a drawback for Croatia as old stereotypes were awakened and new suspicion arose with the HDZ coming back to power. The pivotal question for Brussels is: Is the HDZ after Tudjman a sufficiently reformed and rejuvenated party, which fits into the mainstream of European politics, or how much old ballast is this party still carrying with it? We have a new, clearly democratic and European oriented party leadership under Ivo Sanader, which is determined to even accelerate the rapprochement towards the EU as its top priority. Brussels will wait and see whether the new government can really deliver on its promises, e.g. concerning cooperation with The Hague, given the strong veteran links inside the party. The first signs are positive. The government has established a very close contact with Brussels. But problems will surely arise inside the coalition government as well as inside the HDZ. Given the extremely narrow, self-imposed timeframe for EU accession, any irritation on the domestic front might cause a crucial timelag. The litmus test surely will be the HDZ policy concerning the reintegration of the Serbs, the policy towards the Herzegovinian HDZ and the cooperation with the ICTY.

Croatia is now awaiting the Avis of the Commission. This will have to respond to the Croatian aspirations as well as probably conceptually fill the missing link between the SAP and the enlargement process. It might, though, be that the Prodi Commission tries to leave this issue open for its successor, which anyway will draw its own conclusions after a policy review, slowing down the process for some month. On the other hand, the increasing probability that Romania might not be able to finish its negotiations until end-2005 as envisioned, thus making necessary two different accession dates for Bulgaria (January 2007) and Romania increases the chance for Croatia to catch still the train of Romania. It is hardly imaginable to let Croatia wait for others like Turkey or Serbia.

For Serbia and Montenegro has once again become the source of headache for the region as well as for Brussels, especially since the parliamentary elections in Serbia in December 2003. After rapidly being re-integrated into the international community, including the Stability Pact and the SAP in late 2000 after Milosevics ouster, euphoria far surpassed reality. Despite

sectoral progress e.g. in reforming the banking system, overall reform progress in qualifying for eventual EU membership has just been marginal. The ease about finally being able to draw back this core state of the “Western Balkans” into the mainstream of European politics already under the late Djindjic began to be supplanted by growing frustration about the lack of distinct progress in democratisation and reconciliation. Thus, the progress reached after two years of work in the “Joint Consultative Task Force” between the Commission and the government of SiM still did not allow writing the Feasibility Study as the stepping-stone for SAA negotiations. Several times Xavier Solana rhetorically alluded to the start of negotiations soon, but then withdrew tacitly.

What is the reason? It is two-fold. Firstly, we again have a state viability problem. The future of the federation between Serbia and Montenegro and of the Serbian “province” Kosovo (under international law) is completely unclear. In 2006 the Montenegrin government is, according to the constitutional charter of the state union, allowed to put forward a referendum on independence of Montenegro, a move that was foreclosed by Chris Patten in 2003 through power negotiation in Belgrade and Podgorica. Both parties are already positioning for this final test of will.

Even if Serbia and Montenegro stay together, this is hardly a sufficiently functioning state. Indeed, the differences are much more profound than the commonalities. Montenegro has introduced the Euro, Serbia keeps the Dinar; Montenegro and Serbia have separate toll, tax and education systems, Montenegro keeps its own Foreign Ministry and so on. The joint constitutional structure is weak and divided. The government of SiM is in many respects paralysed due to subtle power struggles between both republics. Similarly, status negotiations for Kosovo are still postponed by the international community as priority is put on the “standards before status” formula. However, that Kosovo’s status will not look like today’s “transitional” status is self-evident. As long as the European Union simply does not know who is its partner in future, as long the EU will hesitate to get into an agreement with Belgrade. Particularly, without a functioning internal common market negotiations with the EU, which deal mainly with economics, hardly make sense.

Secondly, the murder of Djindjic had a profound negative effect on EU rapprochement for the country. Surely, at first sympathy and compassion ran high in Western Europe. But as time passed by, the bonus of the Westernized, German speaking, eloquent Djindjic dwindled and Serbia became just another of the faceless, Balkan-image countries with a government of a Zoran Zivkovic who was hardly known before by anyone in the West and proved to be a weak transition figure (despite some strides to purge the mafiotic structures that killed Djindjic). The shocking revelation that organized crime was still so firmly anchored in this society contributed to the loss of image, as did the constitutional crisis, with four rounds of fruitless elections for a president of Serbia.

The elections of 28 December 2003 in Serbia were the climax of this process of disillusionment. Not only did the Serbian Radical Party of indicted war criminal Vojislav Seselj get most of the votes; not only were Milosevic and Sejsel both re-elected, appallingly being allowed to head the lists of candidates for their respective parties. But the “democratic” forces are so deeply divided, which is not least a heritage of the personal power struggle between Djindjic and Kostunica the years before, that a cooperation of Zivkovics DS and Kostunicas DSS appears out of sight, leaving as one possibility even the prospect of a minority government under Kostunica tolerated by Milosevics socialists.

These developments pose very serious questions. Serbian politics and society are hardly fit for EU membership, even for starting SAA negotiations. Serbia now drives further wedges into the union with Montenegro and complicates the search for a negotiated solution for Kosovo. In Brussels mere perplexity prevails. What to do with this core state of the Balkans in terms of EU rapprochement? Are we back to square one? How can we help Serbia transform into a truly democratic, Western oriented, viable and stable country, with a consolidated identity, a factor of regional stability?

What we can expect is that in Montenegro those forces willing to detach from Serbia will gain ground. The vote for the Serbian Radical Party and for Milosevics Socialists by almost half of the Serbian population was very well registered in Montenegro. Their argument for divorcing from Serbia

will gain more understanding in the West. In Kosovo the mood will be similar. Constructive negotiations between a Kostunica and a Rexhepi government are hardly to imagine. More instability has to be expected. The European Union will be inclined to see how domestic politics in Serbia will unfold. Serious SAA negotiations will hardly start with Serbia and Montenegro before 2006.

Thus, the gaps will increase: between Bulgaria and Romania, between Croatia and Serbia, with hardly any other country of the region in sight to make rapid progress similar to Croatia. Historic dividing lines prove to be long lasting. The questionmarks have increased dramatically in recent months. To avoid a situation where Croatia follows Slovenia, the new EU external border is simply pushed one further state south and others like Serbia or Bosnia fall back into renewed factual isolation, will need a lot of statesmanship. The road into the Union will be all but smooth for the countries of the "Western Balkans". More headaches are sure to come. Constant dedication and an approach combining tactical flexibility with firmness on principles will be crucial for eventual success.

The **Bulgarian-Romanian Interuniversity Europe Center (BRIE)** encompasses two programs, European Studies in Rousse (Bulgaria) and Business Informatics in Giurgiu (Romania). This unique project at the Danube bridge between the two countries is the farthest-reaching example of cross-border cooperation in education and research in South Eastern Europe. At the end of 2000, the project was initiated by the German Rector`s Conference with assistance from the Center for European Integration Studies (ZEI). The German Federal Ministry for Education and Research and the Hertie Foundation promote the BRIE project as a part of the Stability Pact for South Eastern Europe.

**BRIE-Paper** already published:

- 1 (2004) Walter Schwimmer  
The Role of the Council of Europe in Building One Europe
- 2 (2004) Erhard Busek  
4<sup>th</sup> Anniversary of the Stability Pact for South Eastern Europe
- 3 (2004) Emil Mintchev (ed.)  
The European Perspectives of South Eastern Europe.  
Documentation of the 6<sup>th</sup> Conference of the Network  
of European Studies in South Eastern Europe