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The Decision-Making Capacity of the European Union After the Fifth Enlargement

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On May 1 2004, Cyprus, Malta and eight Central European countries joined the European Union (EU). This accession concluded a long adjustment and accession process, which began with the fall of the Berlin wall in November, 1989, was continued by the conclusion of eight association agreements (1991-1996), took on a completely new direction with the opening of the membership perspective by the European Council in Copenhagen (1993) and entered into the final phase with the initiation of accession negotiations (1998 and 2000). The course of the Central European transformation processes can only be evaluated as an outstanding success in view of the almost insoluble dilemmas with which the post-socialist Eastern and Central European States were faced post-1989 (Offe 1991). Within a few years, competitive market economies, functioning administrative structures and stable democratic orders were built and numerous ethnic and border conflicts defused (Elster et al. 1999). This is also credit to the fifteen-year old partnership, pre-accession and accession strategies of the European Union. The EU was able to support the stabilization and reorientation of the post-socialist countries of Central and Eastern Europe effectively through the opening of an accession perspective. The membership perspective has proved to be the EU's most effective foreign policy.

However, there is still the question as to whether eastern enlargement of the EU does not overstrain the EU. Can the EU manage the change "from a plush club of 15 like-minded nations into a street bazaar of countries differing in wealth, stature and outlook?" (New York Times 11.3.04). Undoubtedly, the variety of interests and ideological differences within the Union will increase due to the fifth enlargement. Interests, ideas and identities developed relatively independently of each other within the framework of nation states, now determine the European Union's capacity. If it should not succeed in handling this heterogeneity, then the foreign and security advantages of the enlargement could

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have been bought, possibly by a reduced commitment to European rules, by an inferior decision-making ability of EU organizations and by the renunciation of a further political deepening. Numerous conflicts prior to the official accession in May 2004 point in this direction: In Spring 2003, the Iraq war led to a split in foreign policy between the polemically so-called *old* and *new Europe*. In 2005, the ratification of the European constitutional treaty, which had been elaborated by the European Convention in 2002-2003, failed. Simultaneously, the first conflicts emerged concerning the EU budget slated for 2007-2013.

Such disputes are partially unavoidable due to the accompaniments of an enlargement. Up until now every enlargement has been followed by a post-negotiation phase, in which the new member states emphasize their political and financial interests. However, the fifth EU enlargement differs fundamentally in some aspects from previous enlargement rounds: more countries than ever before have joined; these countries are mostly small; they are much poorer than previous accession countries and the experiences, economic interests and foreign policy of Central European countries differ in many aspects from those of its previous members.

Therefore the enlarged Union now faces the challenge of maintaining its capacity to act with 25 member states possessing different experiences, interests, ideologies and identities. In the following paragraphs, three facets of this challenge and ways to overcome them are discussed. Firstly it concerns the maintenance of the central *club goods* of an integrated Europe – especially the internal market, competition rules and different social, environmental and hygienic standards. This involves the ability of the Union to commit its members to common rules (*commitment capability*). The accession countries had to convert the EU rules into national law and rules prior to accession in order to ensure a homogeneous legal and administrative basis in Europe. Secondly, the decision-making ability of the EU had to be assured despite the increasing heterogeneity of its members. This goal should be achieved through a reform of the decision-making processes, voting procedures and the redistributive policies of the EU (*decision-making ability*). Thirdly, the ability of the Union for further political integration, despite more diverse interests, ideas and identities, is at stake (*deepening ability*). In sections II-IV, EU strategies for maintaining its capability for action are discussed in three dimensions. In the following section however, the challenges connected with the enlargement will be analysed from an institutional perspective.

I. The Fifth EU Enlargement. A challenge for the homogeneity and impact of a social field

The EU can be understood to be a regional club, which provides certain club goods (above all the removal of inner borders for the free movement of people, goods, services and capital; merger and subsidy controls, internal and external security and stable exchange rates for the members of the Euro zone)[1] and reimburses the relative losers of these liberalization policies with limited compensations (especially by agricultural and regional policies).

The EU can provide these club goods because it is more than an international regime, i.e. an international bargaining arena, in which decisions are made with the approval of all member states. The unique world-wide position of the EU in the field of international relations arises from its dense network of intergovernmental agreements and negotiation arenas, and from the existence of a relatively independent supranational apparatus (Gehring 2000; 2002). With this, the EU is in a position to advance its supranational regulation structures partially and even against the explicit interests of member states (Héritier 2001b). This is lesser consequence of its charismatic leaders than the result of its organizations, i.e. social systems, which consist of decisions and reproduce themselves by decisions (Luhmann 1997: 847). Above all, due to the right of initiative of the Commission and its bureaucratic initiative (Bach 1999) and the rule-setting power of the European Court of Justice, the EU is more than an intergovernmental negotiation system. On the basis of the functional specialization and the autonomy of the different EU organisations, however, it is not useful to consider the entire EU as one single decision-making system (Gehring 2000).

The EU, therefore, will be analysed as a social field (Fligstein et al. 2002; Stone Sweet et al. 2001). In neo-institutional theories, the concept of a field was used to design the institutionalized, i.e. regulated, environment of organizations (Scott 1995). Examples of such fields are industries, regions, large technical systems as well as professions, since these fields are characterized by rules of appropriateness and interpretation which shape the operations of many different (not only economic) organizations. Organizational fields and isomorphic pres-

1 Club goods are public goods and services, which are characterized by a certain rivalry between potential users and the possibility to exclude potentially interested consumers of these goods. Rivalry means, that through the acceptance of a further club member either the benefit of club goods is lessened (for example by the *overcrowding* of the club) or that the costs increase (for example through transfer payments). By the possibility of excluding non-members from using the club goods, it is guaranteed that each club member contributes to the resultant costs and does not behave like a free rider (Cornes/ Sandler 1996).

sures exerted through them contribute to the standardization of organizational strategies. This standardization is not primarily the result of efficiency considerations, but the consequence of imitation, normative pressure and coercion (DiMaggio/Powell 1991). Social fields can therefore be defined as local social orders, which are characterized by relatively unified patterns of perception, interpretation, regulation and action and which are populated by individual actors, organisations and regulatory bodies (for example employer or employee associations, regional economic agencies, technical standardization authorities or educational departments).

The EU's social field is characterized firstly by its relative autonomy towards its constituent units, the member states, secondly by the density, the relative homogeneity and the relatively high possibility to enforce European rules in its member states (coercive isomorphism), thirdly by the considerable decision-making ability of a supranational organization and fourthly by a clear separation between insiders and outsiders.

Firstly: The relative autonomy of the European social field towards its member states is, in the temporal dimension, a consequence of previous decisions, to which present governments are, also bound (Pierson 1998). In the social dimension, the relative autonomy of the EU is based on the qualified voting majority, and more recently on the open method of coordination. In the substantial dimension, a relative independence towards the interests of its constituent units, the nation states, is made possible by overt and covert forms of institutionalization (Héritier 2001b). On the basis of its relative independence, the EU can overcome some obstacles, which normally impede international cooperation and agreements: costs of infringements and transparency are increased since the violation of EU rules is monitored and sanctioned in a (relatively) efficient way by supranational actors such as the Commission or the European Court of Justice. This increases the credibility of international agreements and impedes free rider strategies. Also, adequate solutions for complex problems can be developed, since the EU comprises a multiplicity of relatively independent bargaining arenas under limited political supervision (Pollack 1997).

Secondly: a social field consists of institutions, organizations and social actors (Fligstein/Stone Sweet 2002: 1211). "An 'institution' can be viewed as a relatively stable collection of practices and rules defining appropriate behavior for specific groups of actors in specific situations" (March/Olsen 1998: 948). In the case of the EU, these rule sets are known as the Community *Acquis*. If necessary, these rules can be enforced by infringement procedures. By the end of 2002, 2356 such infringements were counted. A central goal of the EU therefore is the preservation of a homogeneous institutional framework, because this homogeneity is – given the heterogeneity of national rules – the central raison

d'être of the EU (above all in the field of the internal market and environmental competition rules).

Thirdly, the stability and further integration of the EU depends essentially on supranational *organizations*. Organizations such as the European Commission, the Council, the European Court of Justice, and the Parliament and the European Central Bank are crucial for the decision-making capability of the EU. Their interaction and links with the organizations of its member states are shaped by EU legislation.

Fourthly, like any other social field, the EU is limited. These boundaries have functional, political and cognitive implications (Thelen 2003): The specialization on one domain allows for the production of specific goods (which also may be relevant for outsiders as it is in the case of maintaining peace in Europe). The respective club goods – for example the Common European market – are in general reserved for members. Non-members are excluded. Max Weber analysed this as processes of social closure. In general, club members will also develop a distinct identity, i.e. they will understand themselves to be a unit and will differentiate themselves from others through specific patterns of self-representation and representation of the others.

With the accession of ten new member states, the boundaries between insiders and outsiders have shifted; the social field of the EU and its regulatory structure have been enlarged (Schimmelfennig/Sedelmeier 2002). This raises the question, whether and how the previous club goods can be preserved, and whether or how the production of future club goods will be affected. Theoretically, two different and complementary ways of dealing with the heterogeneity of national interests, ideas and identities can be distinguished: At first, the anticipated external complexity arising from the integration of ten new member states is reduced before the integration. This can be done by a homogenisation of legal and administrative structures of the candidate countries. In the second case, the internal "requisite variety" (Ashby 1958), the ability of the EU to deal with increased heterogeneity is increased (for example through more flexible organizational structures or through internal differentiation strategies in the sense of different *core or pioneer groups*). In the following paragraphs, it will be shown, that in the initial stages of the Eastern enlargement, the EU tried on one hand to secure the obligatory power of the community legislation, thus homogenising the administrative and legal structures of the accession countries. On the other hand, it tried to take into account the increasing variety of national interests, ideas and identities through reforms of the European policies, organizations and decision-making procedures. In this aspect, the EU was only partially successful. Even more risky is the fact that the accession negotiations may have also damaged the soft, non-contractual foundations for closer political cooperation.

In order to demonstrate this, we will analyse in the following paragraphs the object, process and results of the accession negotiations.

II. The expansion of the regulatory structures of the European field

With the enlargement of the social field, the EU is faced with the challenge of guaranteeing the enforceability and relative uniformity of European rules. An enlargement should not destroy the crucial club goods of the EU – especially the regulation of competition conditions and the abolition of the internal borders of labour, capital, goods and services. Otherwise, previous club members may not vote for the adoption of new club members. It is, therefore, a basic prerequisite of EU enlargement, to guarantee the transposition of previously-developed regulatory structures to the new member states as well. This challenge was formulated in the accession criteria[2] agreed in Copenhagen in 1993 (Friis/Murphy 1999). These criteria were the central reference point of the accession process (Smith 2003); they were designed to guarantee the compatibility of administrative, economic and political structures of the new member states with those of other EU member states. The fulfilment of the political, economic and administrative criteria formulated in Copenhagen was required before the accession; therefore the accession was based on the principle of ex-ante conditionality.[3] This implies that candidate countries had to accept the rules, which have been developed in decades of negotiations by wealthy western countries under completely different conditions. Therefore, it may be doubted if all of them are really useful for the post-socialist transformation countries of Central and Eastern Europe.

2 In Copenhagen, the following political, economic and administrative accession criteria were agreed: "Membership requires that the candidate country has achieved stability of institutions guaranteeing democracy, the rule of law, human rights and respect for the protection of minorities, the existence of a functioning market economy as well as the capacity to cope with competitive pressure and market forces within the Union. Membership presupposes the candidate's ability to take on the obligations of membership including adherence to the aims of political, economic and monetary union. The Union's capacity to absorb new members, while maintaining the momentum of European integration, is also an important consideration in the general interest of both the Union and candidate countries." (Conclusions of the European Council in Copenhagen; 21/22 June 1993)

3 Checkel (2000: 3) defines the concept of conditionality as "mutual arrangement by which a government takes, or promises to take, certain policy actions, in support of which an international institution will provide specified amounts of assistance." Ex-ante conditionality here means that accession countries must adopt the common right of present possession prior to accession. The viability of a strict conditionality in the field of development policy is increasingly questioned (Killick 1998), amongst others, because external conditions, which are against the interests of local elites are hardly ever respected.

In the following paragraphs, the normal course of enlargement processes will be reconstructed, because the accession of ten South and Central European countries followed a tried and tested pattern. Accession processes are in no way the exception for the EEC/EC/EU. In its 47-year history, there has been only five years (1957-1960, 1974), in which a no membership application was handled. Subsequently, the specificities and the organization of the accession negotiations for the fifth enlargement of the EU will be elaborated.

1. The normal pattern of an enlargement

An enlargement consists of different phases, in which the decision regarding accession is set in stone by a step-by-step process. On no account is this decision made at the moment of the signature of the accession contract by the heads of state or prime ministers or with the ratification of the contract by all the countries involved. And it is not only made during the accession talks. Rather the opening of such negotiations is already a clear signal that a successful conclusion can be expected, if the country does not withdraw its membership application or allows it to become suspended (as in Switzerland, Norway and Malta). Until now the accession of a country has only twice been vetoed (by De Gaulle in 1963 and 1967). With opening talks, the political prerequisites for joining are regarded as essentially having been fulfilled. This explains the fact that the time period from membership proposal to opening talks was in many cases longer than the actual talks themselves.

Even if up until now all five official accession rounds (the GDR joined as a result of reunification without separate talks) proceeded differently and took different time spans (Preston 1997), essentially seven phases can be distinguished (Table 1):

1. Rapprochement to the EU: normally a phase precedes the membership application, in which the country seeking membership draws itself closer to the EU/EG (with southern expansion, through democratization of the countries, with eastern expansion through the transformation processes following the breakdown of the socialist order and through the free trade policy of the EU).[4]

4 "The countries, with whom we negotiate, were introduced to the EU and its structures as early as the beginning of the nineties. After the fall of the *Iron Curtain* all these countries articulated the wish to move closer to west European structures as they were then seen , and the EU gladly took up this desire and agreed on the so-called Europe Agree-

2. Membership application (since 1993 in accordance with Article 49 of the EU Treaty): the decision for this step depends largely on the internal political situation of the respective country – although applications that may be hopeless in view of the current situation in the EU are rarely made. This is why Central European countries applied only after the Council in Copenhagen (1993) opened up membership prospects for them.
3. Opinion of the Commission: the Commission, on the advice of the Council, checks whether the respective country fulfils the political, economic and institutional membership criteria and recommends the opening of the accession negotiations. This phase can last from two (Norway) to 39 months (Hungary). A negative opinion (as in case of Greece) does not necessarily mean the end of the accession process. In the case of the Central and East European countries seeking membership both this and the following two phases were flanked by an extensive pre-accession strategy (European agreements, accession partnerships, pre-accession assistance, opening of Community programmes and agencies; Grabbe 1999) – a peculiarity of the fifth wave of enlargement.
4. From the recommendation of the Commission to the opening of the accession negotiations: on the basis of the Commission's opinion, the European Council may decide to open the accession negotiations. This can be decided within a month (Norway) or, in the case of the Turkey, last more than 15 years.
5. Accession negotiations: These negotiations are essentially about the adoption and implementation of the Community *acquis* and possible transitional arrangements *which must be limited in scope and duration*. The results of these negotiations are incorporated in the draft accession treaty.
6. Ratification and accession: following the conclusion of the accession negotiations, the European Council has to approve and the European Parliament has to assent to the accession treaty. The treaty must then be ratified by both member and candidate countries. In the fifth EU enlargement, a referendum was held in nine of the ten countries applying for membership (the referendum in Cyprus in April 2004 was on the United Nations plan to reunite the island, not on the enlargement) but in none of the former member states.

ments. In these Europe Agreements part of the acquis Treaty had already been anticipated. For example, the trade – with the exception of agricultural and a few other products – was already liberalised. Basically, the accession countries must already apply EUC competition law. The freedom to settle has been mutually acknowledged. The accession countries were introduced to the EU over 10 years ago" (Interview with permanent representative of Germany to the EU on 4.7.2002).

Table 1: The duration of previous enlargement processes

Countries	Application for Membership	Opinion of Commission	Opening of Negotiations	End of Negotiations	Contract of Accession	Accession	D1	D2	D3
Ireland	31.07.1961; 11.05.1967	29.09.1967	30.06.1970	22.01.1972	22.01.1972	01.01.1973	5	33	19
Denmark	10.08.1961; 11.05.1967	29.09.1967	30.06.1970	22.01.1972	22.01.1972	01.01.1973	5	33	19
United Kingdom	09.09.1961; 10.05.1967	29.09.1967	08.11.1961; 30.06.1970	29.01.1963; 22.01.1972	22.01.1972	01.01.1973	5	33	19
Norway	30.04.1962; 21.07.1967	29.09.1967	30.06.1970	22.01.1972	22.01.1972		2	33	19
Greece	12.06.1975	29.01.1976	27.07.1976	28.05.1979	28.05.1979	01.01.1981	7	6	34
Portugal	28.03.1977	19.05.1978	17.10.1978	12.06.1985	12.06.1985	01.01.1986	14	5	80
Spain	28.07.1977	29.11.1978	05.02.1979	12.06.1985	12.06.1985	01.01.1986	16	2	76
Turkey	14.04.1987	20.12.1989	03.10.2005				32	190	
Austria	17.07.1989	01.08.1991	01.02.1993	12.04.1994	12.04.1994	01.01.1995	24	18	13
Cyprus	03.07.1990	30.06.1993	30.03.1998	09.10.2002	14.04.2003	01.05.2004	36		
Malta	16.07.1990	30.06.1993; 13.10.1999	15.02.2000	09.10.2002	14.04.2003	01.05.2004	35		
Sweden	01.07.1991	31.07.1992	01.02.1993	12.04.1994	12.04.1994	01.01.1995	13	6	13
Finland	18.03.1992	04.11.1992	01.02.1993	12.04.1994	12.04.1994	01.01.1995	8	3	13
Norway	25.11.1992	24.03.1993	05.04.1993	12.04.1994	12.04.1994		4	1	12
Switzerland	26.5.1992								
Hungary	31.03.1994	16.07.1997	30.03.1998	13.12.2002	14.04.2003	01.05.2004	39	8	56
Poland	05.04.1994	16.07.1997	30.03.1998	13.12.2002	14.04.2003	01.05.2004	38	8	56
Romania	22.06.1995	16.07.1997	15.02.2000	17.12.2004	25.04.2005		25	30	58
Slovakia	27.06.1995	16.07.1997	15.02.2000	13.12.2002	14.04.2003	01.05.2004	25	30	34
Latvia	13.10.1995	16.07.1997	15.02.2000	13.12.2002	14.04.2003	01.05.2004	21	30	34
Estonia	24.11.1995	16.07.1997	30.03.1998	13.12.2002	14.04.2003	01.05.2004	20	8	56
Lithuania	08.12.1995	16.07.1997	15.02.2000	13.12.2002	14.04.2003	01.05.2004	19	30	34
Bulgaria	14.12.1995	16.07.1997	15.02.2000	17.12.2004	25.04.2005		19	31	38
Czech Rep.	17.01.1996	16.07.1997	30.03.1998	13.12.2002	14.04.2003	01.05.2004	18	8	56
Slovenia	10.06.1996	16.07.1997	30.03.1998	13.12.2002	14.04.2003	01.05.2004	13	8	56
Croatia	21.02.2003	20.04.2004					14		

Dates given in the format DD.MM.YYYY.
D1: Time period from the application for membership to the opinion of the Commission (months) – D2: Time period from the opinion of the Commission to the opening of the negotiations (months) – D3: Duration of negotiations (months)

Sources: Granell (1995), Preston (1997: 11), Avery/Cameron (1998: 25-26).

7. Talks following accession: following accession, the countries that sought to join have the same rights and opportunities as the other members. They usually use their new rights to increase their stance in the redistributive policies of the EU. This is reflected in the Common Agricultural policy and since the second wave of enlargement especially in the structural policy of the EU. The share of the structural and cohesion funds rose from 5 percent (1975) to 32 percent (2006) (Allen 2000).[5]

The entire accession process can be handled within a little more than two years (Norway), but it can also take more than eight years (Portugal, Spain) or even longer (Turkey).

The accession negations between member and candidate countries stand in the centre of the enlargement process. In the course of the previous four rounds of negotiations, a *classical enlargement method* has developed, which, in turn, (Preston 1997: 228-230) has designated as the following six principles:

> "1. Applicants accept the acquis communautaire in full. No permanent opt-outs are available.
> 2. Formal accession negotiations focus solely on the practicalities of the applicants taking on the acquis.
> 3. The problems arising from the increased diversity of an enlarged Community are addressed by the creation of new policy instruments overlaid on existing ones rather than by the fundamental reform of the latter's inadequacies.
> 4. New members are integrated into the EC's institutional structure on the basis of limited incremental adaptation, facilitated by the promise of a more fundamental review after enlargement.
> 5. The Community prefers to negotiate with groups of states that already have close relations with each other.

5 In 1958, the European Social Fund (ESF), the European Agricultural Guidance and Guarantee Fund (EAGGF) were established as core cells of European regional policies. In 1975, the European Regional Development Fund (ERDF) was set up. Following the first expansion of the EC in 1973, this was used above all to reduce net payments by the British. Since 1981 the structural funds have been used to flank the entry of Greece. The agreement of Italy and Greece for the entry of Spain and Portugal (1986) could be assured by the *Integrated Mediterranean programme*. In 1988, complementary to the Single European Act of 1987, it was agreed to double the volume of structural funds by 1993 and in particular to aim at supporting the so-called cohesion countries (Greece, Spain, Portugal, Ireland) and southern Italy. In 1993, as a concession to Spain, a cohesion fund was set up. In the same year, "The Financial Instrument for Fisheries Guidance" (FIFG) was created, alongside ESF, EAGGF and ERDF the fourth structural fund. The fourth EU enlargement in 1995 led to the adoption of a further field of application: The promotion of agriculture in arctic and sub-arctic regions. The structural funds are therefore an instrument, with which the consent of new member states for further steps towards enlargement and deepening projects can be assured.

> 6. Existing member states use the enlargement process to pursue ist own interests and collectively to externalize internal problems."

The adoption of the Community *acquis*[6] is therefore a crucial aspect of the accession negotiations. This acquis is "the product of decades of balance of interests by the current member states, not least also the product of former waves of enlargement and the balance of interests between old and new member states" (Dauderstädt 2002). The homogeneity of the European field is guaranteed by the Acquis. Even if in principle the European Union could be set up using *variable geometry*, i.e. on a set of rules, which differs from country to country, and also does this in numerous cases, the EU is not prepared to dispense with the general validity of the Acquis in accession negotiations. This also implies that the accession countries also have to implement further developments of the Acquis; it is a *moving target*: "CEE candidates are expected to meet the conditions fully, in advance, without opt-outs, and in the absence of reciprocal commitments from the EU to prepare for enlargement" (Grabbe 1999: 7). The result of the accession negotiations is, therefore, quite clear from the beginning: The candidates have to take over the current Acquis largely without exceptions. They (normally) can only negotiate derogations limited in time and scope.

In conclusion, an enlargement process comprises numerous phases, in which the political, economic and institutional capabilities of the candidate countries to assume the obligations of membership are tested. The official accession negotiations are only a part of the entire enlargement process, in which it is verified whether candidate countries are in a position to implement the European rules as a binding premise for their own decisions.

6 The acquis comprises the primary contractual law and the secondary community law of the EU "The Community *acquis* is the body of common rights and obligations which binds all the Member States together within the European Union" (http://europa.eu.int/scadplus). A comprehensive definition of this concept was first made in the statement by the Commission following Greece's application for membership. It includes the European treaties, international agreements, the legislation and the case law of the Court of Justice, declarations and resolutions as well as further legal documents of the Community. In 2001, it was estimated that there were approximately 20,000 legal documents filling 80,000 pages. Every year, some 2,500 new legal documents (i.e. about 5,000 pages) are added (KOM(2001) 645). The enlargement was not used to systemise or reduce the Acquis, even if, according to the Commission, the Acquis could be shortened by some 35,000 pages.

2. *The bureaucratic down-sizing of interest differences during the fifth enlargement*

In the accession talks with Cyprus, the Czech Republic, Estonia, Latvia, Lithuania, Malta, Hungary, Poland, Slovenia and Slovakia, which began in 1998 and 2000, the conditions under which these ten countries joined the EU in May 2004 were agreed. The accession negotiations were mainly concentrated on whether these countries would be able to transfer the Community *Acquis* into national laws and into national administration practices. The initial conditions for these negotiations differed in many ways from previous enlargement rounds. On the one hand, the Acquis was considerably larger, since in the first three accession rounds the candidate countries had not been confronted with the single market, the Euro, the removal of the border controls, the common foreign and security policy and the Judicial and police cooperation. Also the European environmental policy (in particular with regard to drinking water and sewage) had been developed since 1987. This area, which necessitates considerable investment by new members, had not played a central role in previous rounds.

On the other hand, a few years after the breakdown of communism, the democratic and market economy structures of Central and East European countries were not yet adequately consolidated. As opposed to 1995, when EFTA countries joined, on this occasion the corresponding criteria were therefore explicitly formulated (Smith 2003).

Thirdly, it was not clear whether, a few years after the breakdown of communism, the institutional structures of the Central European countries were already in a position to actually convert to community law. Therefore, the European Council of Madrid (1995) referred explicitly to the necessity that the legislation of the European Community "is implemented effectively through appropriate administrative and judicial structures". This goal should be achieved by means of a separate pre-accession phase (Grabbe 1999; Maresceau 2003), as well as by a regulary check of the progress made: from 1997 to 2003, the progress of candidate countries were therefore was checked in detail every year (at first in the Agenda 2000, then in six Regular Reports):[7] "It is an attempt to create 'perfect member states' in that higher levels of compliance are required from the new candidates rather than from existing Member States" (Mayhew 2000: 10).

Fourthly, the power relationships between the member states and the candidate countries were considerably more unbalanced than in previous membership

7 For the influence of the accession process on the political and administrative system of the new member states, compare Grabbe (2001), Lippert et al. (2001) and Schimmelfennig et al. (2003).

rounds: the economic performance of the new members is still far below that of the old member states (47 percent of the EU-15 level in 2002). Also, more and smaller countries than ever before, wanted to join the EU. Therefore, the candidate countries to a large extent had to accept the recommendations of the member states as well as the Commission: "The requirements are massive, non-negotiable, uniformly applied, and closely enforced" (Moravcsik/Vachudova 2003: 46).

In the accession negotiations, the Acquis was therefore implemented in asymmetric negotiation relationships in countries, which had just gone through a fundamental economic, political and administrative transformation and which, through extraordinary effort, had now to implement regulations which had been developed under totally different conditions over the course of half a century. This was supported by bureaucratic routines, which had been developed in previous accession processes and could be adapted to the above-mentioned challenges. In the following we will analyse the bureaucratic organization of the enlargement process and *the conversion of the Acquis under the conditions of a clear power asymmetry within the framework of an intergovernmental negotiation network, moderated by the Commission in its substantial*, social and temporal dimension.

Initially, the Acquis was divided into 31 chapters (actually 29).[8] The negotiations were based on the principle of differentiation and the possibility of catching up (European Commission 2000): Each candidate was to be assessed on the basis of its own progress. The talks with the 10 accession countries and with Bulgaria and Romania were carried out separately from each other. Therefore, altogether 12 x 29 = 348 separate negotiation processes had to be coordinated. This allowed the Commission to adopt a *divide and rule* strategy, which Friis/Jarosz-Friis (2002) describes as "ice-breaker tactics": following the development of a common negotiation position, the EU looked for a country that was ready to accept this position (for example in the case of the quality of drinking water, purchase of property by foreigners and or the limitation of the freedom of movement of labour). If it succeeded, the proposed solution would also generally be accepted by other countries since each country was afraid of not being accepted for the next membership round. A downright *chapter fetishism* devel-

8 Free movement of goods; free movement of persons; free movement of services; free movement of capital; company law; competition; agriculture; fisheries; transport; taxation; EMU; statistics; social policy; energy; industry; SMEs; science and research; education and training; telecommunication; culture and audiovisual; regional policy; environment; consumer and health protection; justice and home affairs; customs union; external relations; common foreign and security policy; financial control; financial and budgetary provisions; institutions; other. In the last two fields there were no active negotiations.

oped since the Commission also regularly published the number of provisionally closed chapters for the different countries: "All are afraid of drowning in a large group and are trying to secure a place in the first wave of new entrants by closing chapters as quickly as possible" (Friis/Jarosz-Friis 2002: 30).

Approximately 240 transitional arrangements were accepted (above all for agriculture, for subsidies, environmental regulations and taxes; see Table 2). In the interests of the previous member states, limitations were placed on freedom of movement of labour, access to national transport markets and direct payments. The interest of the accession countries was above all to regulate the acquisition of secondary residences, agricultural and forest land, to postpone the expensive investments for the treatment of urban waste water, to extend the time for the investments in oil stocks and food production. Given that initially, approximately 500 transitional arrangements were applied for and accession

Table 2: Transitional arrangements and its duration in different fields of Community Acquis

Chapter		Transitional arrangements	Transitional arrangements, multiplied by the number of countries affected	End of the transitional period
1	Free movement of goods	2	6	2008
2	Free movement of persons	1	8	2011
3	Freedom to provide services	4	15	2007
4	Free movement of capital	3	13	2016
5	Company law	1	10	
6	Competition policy	18	18	2011
7	Agriculture	15	42	2015
9	Transport policy	9	21	2010
10	Taxation	4	31	2009
13	Social policy and employment	2	5	2006
14	Energy	2	11	2009
19	Telecommunications; IT	1	1	2005
22	Environment	13	58	2015
25	Customs union	1	2	2009
	Total	76	241	

Transitional arrangements were not agreed upon in all 31 chapters.
Sources: Own figures on basis of European Commission (2003): Report on the results of the negotiations on the accession; European Commission (2003): Enlargement of the European Union. Guide to the Negotiations. Chapter by Chapter (http://europe.eu.int/comm/enlargement/negotiations); Revue Elargissement Dossier 41. Spécial Périodes transitoires (février 2004).

countries were able to obtain a surprisingly high number of exceptions. Occasionally (for example, with the limitations on the purchase of secondary residences in Malta), even permanent derogations were reached.

In two areas, accession countries had to accept painful compromises clearly felt as unfair. The freedom of movement of labour, which was postponed on the initiative of Germany and Austria in particular, for a maximum of seven years, and with direct payments within the context of the Common Agricultural Policy. Initially, new member states will receive only one quarter of the amount paid to previous member states. The new and previous member states will be on an equal footing by the year 2013. This is seen as a contradiction of the sworn negotiation principles: "Poland maintains its position that direct payments constitute a fundamental element of the acquis and are of central significance in ensuring equal competition conditions. Equal competition conditions constitute the basis for Common Market Organisations and Single Market" (Truszczyski 2002: 1).

The implementation of the acquis would not have been possible – and this applies to *the social dimension of the negotiations* – without an efficient negotiation structure. The relevant players (above all the candidate countries, the member states and the Commission, which proposes the common negotiating positions for the EU for each chapter) negotiate on four different levels (officials, permanent representatives and chief negotiators, ministers, heads of state and government). The lowest level of this negotiation system, the so-called enlargement group, has been described to us as follows:

> "In the enlargement group, which meets twice weekly, questions under what conditions do the accession countries adopt the existing Acquis. Therefore talks that take place in the group are actually always quicker and less controversial than talks about new regulations. The Commission is formally assigned to prepare the negotiations by the Council, which organises the negotiations in an intergovernmental conference. The final decision regarding the EU position in the negotiations on a particular chapter is taken by the Council. The Commission explains why it proposes the respective negotiation position to the Council. Then the Council can accept the proposal of the Commission. If the Council does not accept the proposal of the Commission, heated discussions can follow in the Council itself as to what position will be adopted during the negotiations. There were very many discussions in the Council, which were always conducted with the will of a consensual solution. There were particularly heated discussions over the question of the freedom of movement of labour (...). The role of the Council is decisive, because the Council both approves common positions and bears final responsibility for them (...). Before the Commission puts its suggestion on the table, one must know where one is going and, if necessary, steer in that direction in good time. The whole time one must be in contact with the Commission, in order to know what the Commission is preparing, and in order to be able to exert some influence (...). If the working groups cannot agree, it goes to the permanent representatives. And if they too cannot agree, it goes to the ministers and last of all to the heads of state and government, who then must try to

clarify difficult questions" (Interview with the permanent representative of the Federal Republic of Germany to the EU on 4.7.02).

This negotiation system was closely coupled with the respective national ministries:

"I act on the basis of instructions. In Berlin, the Federal Foreign Office is responsible for the coordination of the enlargement negotiations. Usually, one knows before a session which documents the Commission will present. One has already looked at them and can react accordingly. And the foreign ministry asks all the other ministries, which might be effected, for their opinion. Normally, one follows the suggestion of the specialised ministries, but sometimes, one must also act oneself and find a compromise. Therefore, the Federal Foreign Office has a very important coordination and mediatory role. On the basis of the discussions, that took place in Berlin and Bonn, the Federal Foreign Office issued an instruction, which was sent to all ministries. They then have the opportunity to comment once again" (Interview with the permanent representative of the Federal Republic of Germany on 4.7.02).

In the run-up to the official negotiations, there are numerous, often informal contacts between involved countries. The accession countries were closely meshed together and often sought direct contact with member states over contentious questions. This made extraodinary demands on the negotiation skills of the participants:

"There are contacts between Bonn and Hungary (...) not all countries place their cards on the table. The German position is very strong, but often not explicit. They sometimes sit back and refer to the Commission. Each country has its own problems and positions. First, we negotiate with the British, then with Berlin, then with Paris. In the field of environmental questions, the Swedes and Finns are also very important (...) my main task is to find out who the relevant contact person is and where compromises should be made. Who overall is obligated and who is the partner for the right compromise? It is sometimes difficult to find the right contact, with whom one can talk about compromises and can expect the same in return (...). The accession candidates coordinate their negotiation positions amongst each another (...). Although in principle the talks are held separately, we discuss the respective positions beforehand. This leads to uniform solutions, which, in principal, we did not want" (Interview with a Hungarian negotiator, 3.7.2002).

The Commission (especially the Enlargement Directorate General, founded in 1999, comprised of approximately 360 employees) played a decisive role in the preparation and coordination of the international negotiations:

"The Commission has, in my opinion, played an extremely important role in preparing the common negotiating position. It then proposes this position to the European Council. Since the Council must be unanimous in its decision, the suggestions of the Commission on negotiating positions are often accepted. Our suggestions are hardly altered" (Interview in the DG Enlargement on 4.7.02).

In the temporal dimension, the Commission could increase the pressure on the negotiations by proposing a "roadmap" in November 2000 (European Commission 2000). This timetable states which chapter should be opened, in which halfyear, and how urgently it should be dealt with in order to solve still open questions by the summit in Copenhagen (2002). The time pressure connected with this timetable was an important element in effectively controlling the (blockade) risks of the accession process. The agreements made during the course of these negotiations proved to be binding: although all agreements made up to the summit of Copenhagen (2002) were designated as preliminary, none of the negotiation partners were ready to open Pandora's box (as a Central European contact referred to it) again, i.e. the package of negotiations already wrapped up. Therefore, to a large extent, it was possible to convert Community law into national law by separating the acquis into different, manageable and relatively depoliticised tasks, by the creation of project groups and through the definition of deadlines as well as *milestones*. Directly prior to accession, the European Parliament (2004) estimated that only approximately three percent of the community rights had not been adopted.

However, the actual implementation must be assessed more sceptically. The European Parliament criticised, for example, the fact that *there is still a big gap in its implementation and enforcement in important areas*. In its last progress report, the European Commission (2003) determined that there were still considerable deficits in nine different areas (agriculture, fishing, and recognition of professional qualifications), above all in Poland. Altogether, the Commission saw 39 *areas of serious concern*. A general problem is the corruption of the administration – surely also a heritage of the socialist law, which was based on material rather than formal criteria of rationality:

"With a few notable exceptions, the perception remains that the level of corruption in the acceding countries is still high, and very high in some cases, and can affect confidence in the public administration and the judiciary, thereby affecting also the proper implementation of the *acquis*" (European Commission 2003: 8).

Also, there seems to be only a limited willingness of the Central European states to respect European competition law in all of its details. For example, in Poland, the Czech Republic and Slovakia national ship, steel, and bank industries were paid billions in subsidies without the EU being informed (DIE WELT 6.3.04).

In conclusion, the classical enlargement method could be adapted to the challenges of the fifth EU enlargement by the explicit formulation of the accession criteria, by a separate pre-accession phase and by the systematic monitoring of the implementation of the acquis. This was the prerequisite for the effective management of an enlargement process in which more countries than ever before had to implement more extensive EU legislation than ever before. Espe-

cially since the year 2000, the adoption of the entire European law within the framework of an intergovernmental bargaining system moderated by the Commission has been coordinated under considerable time pressure in such an efficient way, that a treaty of accession could be signed in spring 2003. Even if the actual adoption of the acquis had not progressed as far as its formal implementation, the enforceability of the Community legislation and therefore the central club goods of the EU could be maintained.

III. The Decision-making Capability of the EU

A successful enlargement does not only require homogeneous administrative and legal conditions in the enlarged EU. It is just as important to preserve the decision-making capability of European organisations. The large number of new, mostly smaller member states has meant that the decision-making rules and the composition of the staff, especially in the Council, in the Commission and in the Parliament, had to be checked. Since the ten new member states are considerably poorer than the previous member states, the redistributive policies of the EU must undergo a fundamental reform. This task is more urgent than ever before, as the economic differences between new and previous member countries has never been as great as with the eastern enlargement. In particular, the agricultural and structural policies, which comprise approximately 80 percent of the EU budget, must be reformed, since, on one hand, the regional differences in the EU are considerably increased by the enlargement (Heidenreich 2003) and on the other hand, the weight of agriculture is much higher in the accession countries than in the previous member states (2002: 4,0% as well as 13,2% of all the employees). There follows a short reconstruction process as to how the decision-making capability of the EU should be guaranteed by the institutional reforms introduced in Amsterdam (1997), in Nice (2000), in the proposed constitutional treaty (2002/03) and by the reform of the distributional policies of the EU.

After the European Council in 1993 had opened the membership perspective for the Central and Eastern European countries and confirmed it in 1995 in Madrid, the *Treaty of Amsterdam* (1997) was a first attempt to reform the structures and policies of the EU. However, a basic reform of the decision-making procedures and institutions was not successful (Friis/Murphy 1999).

In the same year, the Commission described the prerequisites for successful enlargement in the monumental, 1,300-page "*Agenda 2000*" (Avery/Cameron 1998: 101-139). It did not just point out the democratic, economic and institutional prerequisites, that would have to be fulfilled by the candidate countries. The reform of the agricultural and structural policies, the reform of institutional

and decision-making procedures (weight of votes in the Council of Ministers, number of commissioners, extension of the qualified majority vote), and the preparation of the corresponding financial means for the EU enlargement were just as necessary. The institutional and financial challenges associated with the enlargement were also designated in this study. There was an attempt to face the challenges in different bargaining areas enumerated in the Agenda 2000. However, in four central areas (institutional architecture, budget, agricultural policy, and structural policy), no adequate solutions were found prior to the enlargement.

A reform of the *institutional architecture of the EU* was attempted in two intergovernmental conferences (Amsterdam 1997; Nice 2000) and in the European Convention which proposed a draft treaty for a European constitution (2002/3). A major problem was the relative weight of smaller countries in the Council of Ministers and in the Parliament, the voting and decision-making procedures in the Council and in Parliament and the size and organisation of the Commission. These tasks could not be overcome by the Treaty of Nice (2001); what is more the decision-making processes in the EU have become more complex, more involved and more difficult than before (Wessels 2001; Tsebelis/Yataganas 2002). Nevertheless, the European Council of Nice decided "that strategy, together with the completion of the Intergovernmental Conference on institutional reform, will place the Union (...) in a position to welcome those new Member States". There was an attempt to resolve the remaining problems within the context of the European Convention (2002/3). The proposals of this Convention were not accepted by the European Council in December 2003 since Poland and Spain could not agree to a lesser weight of votes in the Council. When they are accepted (probably in June 2004), they have to pass different national referenda (for example in the United Kingdom). The effective working of the European organizations therefore is seriously hampered by the following problems: by the number of commissioners (30 until 11/2004, thereafter 25-27); by the numerous areas which remain subject to a unanimous vote; by the fragmentation of competences for the foreign policy of the Community, by the biannual rotation of the Presidency of the Council; by the complex voting procedure in the Council of Ministers, and by the weak position of the Commission's president.

Secondly, no agreement could be reached over the volume and structure of the future EU budget. In February, 2004 the Commission submitted a financial framework for the budget period 2006-2013 and thus opened discussions on the upcoming budgets. It suggested an increase of the EU budget from €97.3 billion (2006; 15 member states) and €120.7 billion (2006; 25 member states) to €158.5 billion (2013). This framework was rejected by five of the eleven net-paying countries as excessive; they asked for a limitation of the EU budget to 1 percent

of the European gross domestic product. Further confrontations on this subject are to be expected in the next years – without the *rules*, i.e. the institutional architecture, for the resolution of these conflicts having been agreed upon. Rule-setting and rule-utilization are not de-coupled. Therefore, a crucial criterion of consolidated political systems is not met (Elster et al. 1998: 28).

Thirdly, a basic reform of the common agricultural policy, for which approximately 45 percent of the EU budget is used, also failed. In 2002, Germany, Great Britain, the Netherlands and Sweden tried to reform the agricultural policy before the enlargement. However, this venture failed because of the resistance of France and Spain. It could only be established that the expenditure for the common agricultural policy (without development of the rural area) may undergo a yearly rise of only 1 percent until the year 2013. In June, 2003 a partial de-coupling of subsidies and production was agreed upon. However, all the fundamental problems of the European agricultural policy remain unsolved: "Budgetary limits remain problematic, the policy ignores possible developments in the World Trade Organization (WTO), and the extension of direct payments to the CEECs will further capitalize, and hence lock-in, agricultural support" (Daugbjerg/Swinbank 2004: 99).

Fourthly, the structural funds, for which approximately 34 percent (2003) of the EU budget was used, could not be reformed before the expansion. These funds are mostly used for the so-called objective-one regions. That is for regions, whose economic performance per inhabitant is under 75 percent of the European average. Also in this area, no agreement about the future volume and the future distribution criteria could be reached prior to enlargement. In February 2004, the Commission submitted a suggestion for the future design of the structural and cohesion policies, which foresaw a massive extension of regional allowances. Instead of €39 billion (2006) approximately €51 billion (2013) shall henceforth be used for the regional policies of the EU. In each case, approximately half of the means should flow into the previous and new member states during the next budgetary period. So, the predicable conflicts between the previous recipient countries and regions (above all Greece, Spain, Portugal, Ireland, South Italy, and East Germany) and the new member states should be defused and the transfers to the poorer West European regions secured. The net payers were not ready to accept this proposal.

In conclusion, the four central prerequisites for the enlargement capability of the EU had not been met at the time of the enlargement. Neither had the EU succeeded in developing an institutional architecture, which guaranteed the viability of the Commission and the Ministerial Council with 25 member states. Nor could an agreement about the future volume and funding of the EU budget be reached. Thirdly, the agricultural policy could not be reformed in a way to conform to the requests of the World Trade Organization, and avoid massive

distributional conflicts between previous and new member states. Fourthly, the European regional and structural policies could not be reformed adequately. Therefore considerable distributional conflicts are to be expected in the next years – and also conflicts about the type of rules, with whose help these conflicts are to be solved.

IV. The possibilities of a political deepening after the enlargement

Not only are the homogeneity of the European field and the viability of the EU organizations major challenges for an enlargement process, an important challenge is also to maintain the integration dynamic of the EU, the possibility to create *an ever closer union*. An enlargement also takes place in the shadow of the future, with a view of future political projects (Friis/Murphy 1999: 215). This is true in a double sense: some countries, which are rather sceptical about increased political cooperation, may favour an enlargement also as an obstacle to further integration. For other countries it is important that future projects are not blocked by individual states, even if countries with different interests, experiences, and patterns of communication are integrated. In the following paragraph, a thesis will be put forward that a new balance between the new and the previous member states may also be impeded by the considerable power asymmetry during the accession negotiations.

Up until to now, the union has been astonishingly successful in dealing with the increasing internal heterogeneity (Avery/Cameron 1998: 175; Wallace 2000). It is possible, that the political deepening of the EU in the past even succeeded *because of* – and not *despite* – the enlargements, because the union was able to create a dynamic balance of enlargement and deepening (Vobruba 2003). Above all, there are five reasons why previous enlargements did not lead to a lasting obstacle for future integration steps: *Firstly*, following the Southern enlargement, the EU budget in particular was extended and therefore the possibilities of package deals and compensations were increased. *Secondly*, forthcoming enlargements normally facilitated the agreements of previous member states on fundamental deepening projects (for example, the limitations of the national veto powers, the basic principles of the Common Market and the extension of structural policies were decided prior to the third enlargement, the creation of the monetary union and the strengthening of the common foreign and security policy was decided prior to the fourth enlargement and the first steps on the way to a new institutional architecture were taken before the fifth EU enlargement). *Thirdly*, a political deepening can be facilitated also by new institutional rules and patterns of regulation – as, for example, through the expansion of the fields, in which unanimous decisions are no longer required;

through the possibility of enhanced cooperation created by the treaty of Nice (2001) or through new, open methods of regulation and coordination, which are no longer based on legal rules (Héritier 2001b). *Fourthly*, an enlargement leads to the intensification of economic exchange relationships and these could promote further steps towards political integration (for the critics of such spillover-assumptions Rosamond 2000). *Fifthly*, the social field of the EU has partially become independent of the nation-states, interests and interference. Pierson (1998) lists the following reasons for this: the autonomous activities of the EU authorities, former political decisions (path dependence), the unintended consequences of actions of EG/EU bodies and the activities of non-state players. Further integration is still possible, even if the member states themselves sometimes cannot agree on large reform projects (Héritier 2001a). After an expansion of the budget, political integration projects decided in the shadow of a further enlargement, new decision rules and the momentum of European integration processes can therefore guarantee the collective capacity of the European Union to act and make decisions after the enlargement.

However, the extent of these solutions is limited. Without a diffuse willingness to cooperate, to reach agreements and compromise, without the willingness to take into account the consequences of its own rational strategies also for the project of European integration, and without the general acceptance of the European Union, a deepening of the EU will hardly be possible. A general mistrust by the population and the political elite towards the EU, its organs and the other member states could undermine permanently the possibility for deeper political cooperation.

The enlargement negotiations may have contributed significantly to such an erosion of the soft preconditions of further political integration. Even if the enlargement method was successful in guaranteeing the implementation of the acquis and thus the relative homogeneity of the European arena, the accession negotiations could be seen primarily as a national definition of interests thus contributing to the *enlargement crisis* in the EU (Vobruba 2003). The accession negotiations are also an initiation ritual for future EU members, in which the political ideals of a *return to Europe* quickly evaporate and, simultaneously, a style of negotiations are learned, which is more oriented towards unconditional defence of national interests, and less by a common responsibility for the development of the European Union. The more strongly the European Union is integrated, the larger the economic and socio-cultural gap between new and previous member states will be, and the difficulties for future candidates to implement the *acquis* will also be greater. The accession criteria therefore will be felt as a massive invasion of national sovereignty. If additionally some member states will use their strong bargaining position during the accession negotiations to obtain concessions, which are seen as unfair and unlawful by the future members, the marked power asymmetry in the accession process can favour a (re-) nationalization of the definitions of interest and thus make further integration steps even more difficult.

It is claimed that this was one of the reasons for the sceptical attitude of the United Kingdom towards the EEC/EC/EU:

> "When the UK, Denmark, Ireland and Norway pursued accession talks in the 1960s and early 1970s, France insisted on such harsh entry conditions that the UK turned into an unsatisfied member. The consequence was years of bitter re-negotiations on the UK's budgetary contribution and overall stagnation in the integration process. Although there were also other reasons for Norway's 'no' in the 1972 referendum, the mean provisions on fisheries added to the 'no' vote" (Friis/Jarosz-Friis 2002: 8).

For a long time the Spanish EU policy was also shaped by the experiences of the accession negotiations:

> "The accession negotiations, in which the emissaries of this young (Spanish; MH) democracy were pulled across the table by the established EU powers – most of all by the French agricultural minister. So, in celebration of its EU membership, Spain had to slaughter dairy cattle, rip up vines from the earth, and scrap two thirds of its fishing fleet. 'Those are scars, which still hurt today', said one who had been present. Until the middle of the 90s, Madrid's representatives were occupied with improving grain prices, and premiums on sheep or fish quotas. For this *Reconquista*, as a club member one now had more arms at hand, among them the two-edged sword of veto and EU blockade. Therefore: *Fight*! 'This first phase has shaped our thinking and our style in the EU, Manuel Marín believes'" (DIE ZEIT 14.9.2000).

Similar to the Spaniards, the accession negotiations also seem to have been a shaping experience for the Central European countries.[9] The Czech president V. Klaus views the accession as "end the formal sovereignty of the Czech Republic which will be part of a supranational European entity that is not going to stop expanding and gaining more and more power" (1.1.2004; www.radio.cz/de). One of the leading Polish journalists comments on Poland's refusal to sign the European constitution contract as follows:

> "Whoever expresses his own national interests in *the core of Europe* and requests the reduction of his own EU contribution, cannot blame the *fringe Europeans*, if they, inex-

9 Cf. for example, the view of the Institute for European Politics (2003: 100), in which the partially very sceptic assessment of the accession negotiations in the new member countries is described. In Poland the following fears were expressed: Negative influence of membership on Polish industry; Poland will become the market of the EC; Polish agriculture will be treated unfairly; the results of the negotiations in Copenhagen are totally unfair; loss of sovereignty in the EC; sale of land to EC buyers. Within one year popular support for EC membership has fallen by 6% in all ten accession countries (from 58% in early 2003 to 52% in Autumn 2003; cf. European Commission 2004: 79). The Estonians, Latvians and Czechs are particularly sceptical about it.

perienced and unsure due to the norms enforced upon them, put forward their own interests.... in 2003, mistrust, suppressed complexes and egoisms were more valid than the European idea.... in Germany, as well as in France, one hears ever more frequently, that maybe one should not have treated the newcomers as imperially as in actual fact was the case"[10] (Adam Krzeminski in DER TAGESSPIEGEL 6.1.2004).

These experiences may have contributed to the following definition of Polish European and foreign policy as being exclusively in its own national interests – according to the motto *Nice or death*. The Polish Foreign Minister, for example, describes the failure of the European constitution as follows:

> "We transparently presented our priorities (...) We consistently defended our position (...) We failed to reach agreement among others on the issues of the vote-weighting system in the European Union Council and the preamble (...) Poland wants the Union to be a strong, efficient and effective structure. In order to achieve this, it needs decision-making procedures encouraging compromise, instead of forcing decisions (...) It will be the primary task of our country as a new member of the Union to define her position on crucial issues of the Union's development (...) The budget discussion – which is just beginning within the European Union – will be a particularly serious challenge (...) Our national interest will always be the departure point to define the Polish position" (Cimoszewicz 2004).

Therefore, the EU following enlargement, must find a new balance between the principal equality of all sovereign states involved and the different economic power, the different foreign relations, and the different demographic weight of its members.[11] Thus far, this balance between the asymmetries of equality and power asymmetries constitutive to the EU has not been re-established – and it can feared, that finding this balance has been made considerably more difficult by the strict implementation of the Community legislation, as the goodwill of the new member states has been massively strained by the accession negotiations. The accession process can therefore guarantee the formal commitment of the candidates to the implementation of the Community law, but may have damaged the possibility to deepen the EU.

10 The last statement refers to surely to the manner, in which the French President commented on the signing of a letter of solidarity for President Bush's Iraq policy: "Entrer dans l'Europe cela suppose un minimum de considération pour les autres, un minimum de concertation. Ce qu'ils ont fait n'est pas convenable, pas très bien élevé. Ils ont manqué une occasion de se tair"(Le Monde 19.2.2003).

11 Bertram (2004) describes the previous basic consensus of the EU as follows: "The major states accept limitations of their power, in order to increase the weight of the Union as a whole, the smaller states by being members will have the chance, which otherwise they would not have had, of taking part in shaping the common policy. Europe will become a community of rights, in which, on the basis of common regulations, one can succeed in reaching common decisions."

This is no argument against an accession process based on clear criteria. In contrast to cultural or geographical exclusion criteria (for example: Europe as community of western countries based on Christian value), such an orientation is clearly to be preferred (Smith 2003). It would, however, be useful to rely more strongly on discursive and participatory procedures in future enlargement rounds (Checkel 2000).

V. Summary

The supranational field of the European Union is widened by the accession of new members: new member states have to accept and adopt the regulatory patterns of this field; it has to be assured that the accession does not undermine the decision-making capability of the EU organisations, and that the accession does not impede further integration projects. The enlargement increases the heterogeneity of interests, ideas and identities, which have to be taken into consideration in the supranational decision-making processes of the EU. The question is: how the EU's capacity to act as a supra-national regulatory structure can be guaranteed? On a general level there are two options: on one hand a diminution of the external variety, and on the other hand an increase in the internal *requisite variety* of the EU (Ashby 1958). During the accession process, the EU attempted to maintain its capacity to act on the first path, that is by reducing the administrative, legal and sociocultural complexity of the candidate countries. It was expected that the accession countries would adopt the membership rules of the EU prior to accession, in order not to endanger club goods – in particular the competition rules and the common market. An (almost) complete takeover of the Community acquis was required. This could largely be guaranteed by a comprehensive accession strategy, which included accession partnerships (Grabbe 1999), pre-accession aid (Phare, ISPA, SAPARD) and accession negotiations. An important prerequisite for this was the bureaucratic organisation of accession talks.

Simultaneously, the EU's capacity to act should be guaranteed by the reform of its decision-making procedures, organizations, and policies in order to maintain *the momentum of European integration*, as it was called in the accession criteria. This has not yet succeeded. The institutional reforms introduced before the enlargement (in particular in the Treaties of Amsterdam 1997 and Nice 2001) cannot preserve completely the decision-making capacity of the EU organisations after the enlargement. The European constitutional treaty has not yet been adopted. Also, prior to the accession, the previous member states were unable to agree upon a fundamental reform of the EU budget and major redistributive policies, and agricultural and structural policies.

Another facet of the supranational capacity to act is the principal readiness of the member states to come to an agreement on further political projects such as, for example, on common foreign and security policies. Currently such willingness is hard to detect. This may be also the consequence of the extraordinarily asymmetrical accession negotiations. These could have considerably eroded the non-contractual prerequisites of European integration and the willingness of future partners to compromise and cooperate. The EU's capacity to act could therefore be maintained in the domain of the common market and the competition policy. The chances for a further political integration however, have to be viewed in a rather sceptical way.

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