

The EU and Enlargement Fatigue: Why has the European Union not been able to counter enlargement fatigue?

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Abstract

This article provides an up-to-date overview of the problems connected with European integration. It focuses on the phenomenon of 'enlargement fatigue' and examines its meaning as utilised by the media, EU officials and academics. The article argues that enlargement fatigue is not a new concept since the EU has witnessed many 'symptoms' of fatigue at multiple times in its history. The two main arguments that are often presented in order to explain why the EU has not been able to counter enlargement fatigue, namely the insufficiently tight conditionality applied to prospective members and the EU's crisis of confidence and accountability after the failed attempt to introduce the Constitutional Treaty and prolonged Lisbon Treaty ratification process, are insufficient to explain why fatigue has been so persistent a phenomenon. This article argues that the EU's failure to develop a new vision of the organisation and adjust its structural design accordingly is a reason why the Union has not dealt successfully with fatigue. Such a vision would encompass notions of "variable geometry", "avant-garde groups" and make European borders flexible and fuzzy.

Keywords

EU enlargement; enlargement fatigue; European integration; differentiated integration

ONE CONCEPT HAS DOMINATED THE DISCOURSE IN ALL MAJOR FIELDS OF EUROPEAN Union (EU) activity today. 'Enlargement fatigue' has been invoked as a reason for slowing down the enlargement process and it has forced policy-makers within the EU to seek alternatives to offering full membership to those states with candidate or potential candidate status. Fatigue means simply unwillingness to grant the EU membership to new states. The idea has also underpinned appeals for a grand institutional reform of the EU in the form of the (failed) Constitutional Treaty, a modified version of which (the Lisbon Treaty) is expected to be ratified by all member-states before the end of 2009, now that final ratification by the Czech Republic is achieved. Finally, enlargement fatigue has brought the role of domestic factors in the European arena back to the fore. Although it may be felt more strongly than about forty or fifty years ago, the phenomenon itself is not new. The Communities have witnessed earlier periods of the fatigue beginning with de Gaulle's two

vetoed against the UK's membership in the 1960s.

This article will examine why the EU has not been able to counter enlargement fatigue. In particular, it attempts to find the most appropriate definition of the concept and to analyse the two main reasons that are often given to explain why there is enlargement fatigue: (1) the insufficiently tight conditionality applied to prospective EU members in the pre-accession stage and, (2) the EU's crisis of confidence and apparent legitimacy and accountability problems connected mainly with the failed attempt to introduce the Constitutional Treaty following the French and Dutch referenda in 2005, as well as the lack of institutional capacity to admit new members. This article will then point to important weaknesses in those arguments and counter them using facts as well as theoretical approaches in order to illustrate that they are irrelevant or insufficient to explain why the EU has not been able to counter enlargement fatigue. Specifically, the EU has not dealt with fatigue because it has failed to develop a new vision of the organisation and entrench this vision in a changed structural design of Union institutions and policies, which would encompass notions of "variable geometry", "avant-garde groups", flexibility, *Europe à la carte* etc.

Enlargement fatigue – what does it mean?

The meaning of enlargement fatigue has been widely popularised through the media. It was defined simply as a reason for the unwillingness of some of the Union members to admit new countries or as a symptom that the willingness was fading. Whatever other economic, political, cultural and psychological factors may have interfered in the EU's attitudes, enlargement fatigue has always been the basic point of reference to which other reasons were attributed. The concept has been understood to refer to prospective enlargements of the EU as well as the outcomes of the two past accessions of altogether twelve new countries. The uncertain future of the former and appeals to slow down the expansion of the Union have been explained by the shortcomings of the latter.¹ The common understanding of the concept in the European media, regardless of its range or place of origin, conformed to the results of the Eurobarometer opinion polls which showed that in 2007, 49 percent of EU citizens were in favour of further enlargement while 39 percent of them were against it² (European Commission 2007). Hence, enlargement seems to be one of the most divisive issues in the contemporary European debate.

Messages from Europe's political players have been somewhat more nuanced and diverse. Although there are still clear differences between members that back the continuation of the enlargement process ('wideners') and those that prefer to invent alternatives to it and pursue a deeper integration instead ('deepeners'), which was evident at the 2008 NATO summit in Bucharest, their approaches to enlargement fatigue are mixed. In particular, new medium-size and small members may lament the fatigue because it could, most likely, pertain to the reduced inner cohesion and inability to achieve consensus in the EU reducing the chances of those countries to pursue a successful campaign for giving more weight to voluntarism and unanimity as the guiding principles of the Union (Zahradil 2006). To Poland, as the

1 The French regional paper, *La Montagne*, wrote in December 2006 that admitting new states before introducing reforms that would enable the EU to operate harmoniously constitutes a "big risk" and may further facilitate the paralysis to which the Communities are now close (BBC News 2006). The UK daily national paper, *The Guardian*, adopted a similar opinion to that of the French paper, by publishing an article saying that "the enlargement fatigue that has set in since the "big bang" (...) is no empty phrase" as the EU has now nearly 500 million people, "of whom many are confused about what their club is for" (*The Guardian* 2006).

2 Significantly, five out of the six founding members fell below the support average (with the Netherlands scoring only one percent above it). The countries most supportive of the continuing of enlargement were Poland, Lithuania, Romania and Slovenia where 67-76 percent declared that they favoured future accessions (European Commission 2007).

biggest new member, the enlargement fatigue is, paradoxically, the greatest chance to rise as an important player in the EU politics. The Polish government may find itself fighting on both fronts for the further enlargement, especially for the membership of Ukraine, and for a deeper integration as envisaged in the institutional reform of the Union which by giving more influence to the bigger states, could upgrade Warsaw to the role of regional leader. It may be expected that, if the Union succeeds in either of these two projects, Poland will gain a seat at the table of countries that have so far led the European integration. This is, however, to some extent dependent on whether Poland manages to maintain strong economic growth (4.8% volume GDP growth in 2008) and decreasing rates of unemployment (7.1% in 2008) (World Bank 2009). Furthermore, it is extremely important as to whether the governing coalition succeeds in persuading the recalcitrant opposition (mainly the conservative Law and Justice Party) to change the constitution, which is necessary before the introduction of the single European currency in Poland. These tasks seem all the more difficult as the current economic crisis unfolds and is increasingly felt by the Polish population.

The older members may perceive the enlargement fatigue as a chance to revitalise the original spirit of the Communities as a solely and somehow civilised European project evoking the importance of factors that led to the creation of the ECSC, namely geopolitical and strategic interests connected with the presumption of the unique and common European identity, first 'discovered' in the *Pan Europa* of 1923. The French President, Nicolas Sarkozy, who held the post of French Interior Minister in 2005, seemed to support this view when he famously announced that "Europe must have borders" (Browne 2005). The reluctant attitude to the 'widening' process coincides also with some strategic interests of the incumbent members, such as decent relations with Moscow and creating a counterweight to American influence in the world. Yet, these interests do not need to trigger any automatic and easily foreseen actions. They do not appear in vacuum but are influenced by and sometimes even subjected to the outcomes of the interplay of complex domestic factors and influences. The primary example of this is a draft law amending the French Constitution which, if it had been adopted in July 2008,³ would have abolished the requirement to organise referenda linked to future EU enlargement as introduced by Chirac in 2005 (introduced so as to reassure voters in France that they will be consulted on the Turkish accession) (EurActiv 2008). Eventually, however, the requirement to hold a referendum before a new country can join the Union contained in article 88-5 of the French Constitution remained in its place but was supplemented with a provision that the President is able to order a parliamentary instead of a popular vote (provided he achieves the required support in the Senate and the National Assembly) (Constitution of France 2008).

The most peculiar, however, is the definition of the fatigue as expressed by the Commission officials. The Commissioner for Enlargement, Olli Rehn, acknowledges the traditional divide between 'wideners' and 'deepeners' in the Union (Lobjakas 2007), but in all his speeches he has made a lot of effort to present enlargement as a success story and placed the responsibility for the current deadlock on the domestic politics of the members, particularly the drawbacks of unemployment and social insecurity (European Commission 2006). He insisted that 'myths' and 'misperceptions' must be dealt with since "[t]he enlargement blues could equally be called the unemployment blues, the globalisation blues, or the welfare state blues" (Rehn 2006a).

Indeed, the economy seems to be the main factor influencing enlargement fatigue – support for enlargement peaked in 2001 when the EU still enjoyed a relatively high economic growth. Simultaneously, people began to express their concerns about 'unfair' competition and the influx of cheap labour force which could hinder the EU's development after 2004. Sweden,

³ This is aimed primarily to allow Croatia to join in 2009 but it also paves the way for a swifter accession of Turkey.

Ireland and the UK opened their borders immediately to workers from Eastern Europe mostly for rather 'egoistic' reasons. In the UK, it was aimed to attract workers for usually low-paid jobs and treated as part of the British managed migration agenda. At the beginning, the government considered a large influx of workers unlikely. It was mistaken and its subsequent actions and responses failed to deal successfully with the growing popular discontent that 'foreigners were taking our jobs'. Some member-states expected such outcomes and, consequently, were inclined to introduce barriers to the employment of citizens of new members by 2011 (Barysch 2006a). Indeed, even the UK became reluctant to open its borders further new members and introduced restrictions to workers from Bulgaria and Romania following their accession to the EU in 2007.

Moreover, the manifestation of enlargement fatigue in the rejection of the Constitutional Treaty in France and the Netherlands in 2005 was to a great extent impacted by the unpopularity of national governments in these countries as well as the perception that they were increasingly impotent to tackle the pressures that arise from globalisation (Palmer 2005). Many analysts have also pointed to the perception of the EU as undemocratic and fear of further migration as reasons for the failure of the two referenda. The issue of EU enlargement to Turkey further strengthened the fears about whether the social welfare systems and employment rates in the EU's most affluent countries would survive potential strains following the Union's expansion. The French also feared that with the support of the 'atlanticist' countries in Central Europe, the EU would adopt a policy to pursue a more Anglo-Saxon vision of the free market.

The EU Commission President, José Manuel Barroso, seems to echo the wide-spread concerns about the institutional design of the EU which does not suit the requirements of the new enlarged Union attempting to shake off the yoke of the 'democratic deficit' by giving citizens a say on how they wish the EU looked and whom they want in and out. "Enlargement cannot proceed bureaucratically, or not even diplomatically", reads Barroso's statement, "[i]t has to be done democratically. And we have to win the confidence of the public opinion in Europe" (Lobjakas 2007). This statement addresses another aspect of the fatigue, namely that EU officials tend to take advantage of the plausible claim that the existing 'democratic deficit' in the EU should be eliminated and call for a popular debate about the nature of the Union (meaning – what its boundaries and religious character should be) (Rehn 2005). The end result is, however, that they enter "into an age of populism" (Grant 2006: 24). EU leaders exacerbate the already existing tensions between the somehow ideological views of citizens as to what constitutes Europe and fail to attend to the basic psychological factors such as the tendency to look backward rather than forward and the fear of change and evolving globalisation that are always at play during an enlargement process (*The Economist* 2006, May 13). A reason why there is virtually no popular debate about the benefits from the possible future Turkish accession is that, unlike the advantages, the disadvantages following from the enlargement are immediate and personal, like facing unemployment or erosion of national culture and identity. The benefits are long-term and only implicit, like future economic growth connected with the perspective of the fast-growing and young Turkish population, a stronger EU foreign policy and energy security as well as establishing a good example of cooperation with a democratic country with a Muslim population (Barysch 2007). The discussion about the Turkish accession is, therefore, frequently a proxy for debating about internal European problems.

Academics, however, seem to embrace the general view that the EU is nowadays "exhausted, leaderless and somewhat unwelcoming" (Barysch 2006b: 119), and that these are the syndromes of the enlargement fatigue. The exhaustion is a consequence of accommodating the two last enlargements, an indifferent or opposing public opinion which paired with other external challenges supposedly piles up to an unmanageable amount of work for the organisation (Barysch 2006b). Doubts are also expressed about whether the EU

can expand indefinitely, which raises debates about 'what is Europe' and creates a bipolarity within the Union between those who support versus those who oppose further enlargement (Baun 2000). Others define the phenomenon not by the tension between the 'widening' and 'deepening' camps in the EU, but by the tight link between them since it is agreed that further enlargement would weaken the Union's institutions and the solidarity among Europeans, unless the process is both preceded and followed by initiatives aimed at creating a more politically coherent and integrated Europe (Grant 2005).

More theoretical explanations presume that enlargement fatigue as contrasted with the 'enlargement rejection' is an outgrowth of the 'rhetorical entrapment' of the EU. The argument holds that the EU risks violating its own rules and ideals by refusing to admit new states into the Communities if their administrations succeed in introducing reforms that will draw their countries closer to common European standards (Hansen 2006). The entrapment is a result of the EU 'self-understanding' as an actor committed to constitutive norms and values which it has to diffuse internationally by admitting new members (O'Brennan 2006), although for material reasons it may prefer to do otherwise. The hesitance to admit new states can be then understood as a period of reflection necessary to weigh the realist and normative pros and cons of further expansion.

There is also a more concrete side of this entrapment, illustrated by three paradoxes. The "Schengen paradox" makes a close involvement of third countries in the face of deepening European integration very difficult and implies that commitment to its values accompanied by a tighter integration should necessarily be followed by future enlargements. The "insider/outsider paradox" corresponds to the intrinsically problematic position of an outsider (here related primarily to countries on the Eastern outskirts of the EU) that is *not* a part of the Union, but nevertheless undergoes effects of European integration and to a certain extent also Europeanisation (Casier 2007). The third paradox pertaining to the fatigue is that if the organisation consists of units that share its values and the possibility of admitting new members depends on the degree to which those third-parties identify with these values (Schimmelfennig and Sedelmeier 2005), then the commitment of Turks or Moroccans to the integration could be interpreted in such a way as to imply that they identify with those norms more than their German, Austrian or Dutch counterparts (Lobjakas 2007).

All in all, enlargement fatigue can therefore be defined as hesitance or unwillingness to grant the EU membership to new states as expressed in the interplay of 'wideners' and 'deepeners' in the context of an upcoming or just finalised enlargement round. The relation is, however, complicated by the fact that the phenomenon presents diverse opportunities for different member-states; it may reflect domestic rather than European considerations and on the more theoretical level, it provokes a potential conflict between strategic and value-based considerations about the enlargement.

A short history of enlargement fatigue

There is nothing in the above definition that would make the concept of enlargement fatigue an essentially time-specific notion. The link between the 'widening' and 'deepening' camps was addressed by the institutional changes entrenched in the Single European Act (SEA) of 1986 that was partly driven by the accession of Greece, Spain and Portugal. The changes to the EU pillar structure introduced by the Amsterdam Treaty were a response to the fears that the 1995 enlargement would lead to the institutional malfunction of the EU, especially in the area of the foreign affairs and defence policy. The Intergovernmental Conference (IGC) paving the way for the Nice Treaty in 2000 was to address the approaching institutional challenges of the eastern enlargement (Wallace 2007). The most recent Lisbon Treaty, and the Constitutional Treaty before it, constitutes a 'natural' follow-up of the 2004 and 2007

enlargements. It was said that the admission of twelve new members had strained the institutional capacities and the possibility of any 'real' discussion in the Union. One may go as far as to speculate that the "period of reflection" following the three failed referenda in France, the Netherlands and Ireland and which is expected to terminate when the Lisbon Treaty is ratified by all EU members, is a comfortable temporary pseudo-substitute for enlargement fatigue. It allows EU officials to postpone any questions of further enlargements until there is an agreement about how the Union is to function in the coming years. The view that it is obvious that the Communities would not be able to function *properly* without the Lisbon Treaty is treated as unquestionable. Few, however, challenge this opinion on the ground that perhaps the Treaty is not the only way to make the EU be run smoothly and democratically so as to remain open to potential new members. Sometimes it even seems that such a mode of functioning of the Union is not what 'properly' means to a great majority of its officials.

Member-states' hesitance or open hostility to enlargement are not unheard of in the history of the EU either. De Gaulle vetoed the UK's entrance twice in 1963 and 1967 as he saw it as a threat to the French leading position in the Union as well as to the mode of operation of the entire organisation due to Britain's imperial trade links and its close transatlantic relations with the USA. In 1977, François Mitterrand explicitly expressed his reluctance towards the prospects of Greek and Spanish membership and said that "[a]ccession is neither in their interest nor is it in our interest. Interim steps are desirable" (ESI 2006). In fact, today's cries of the structural incapacity to admit new members and forecasts that a further enlargement would lead to a major economic or other catastrophe inside the Union, repeat what had been said by many analysts in the mid-1990s (ESI 2006).

The conflict between strategic and value-based considerations has been so far always resolved through the 'logic of appropriateness' (Casier 2007) and a mixture of voluntary convergence and conditionality. It has always been difficult to marry realist and normative perspectives on the EU expansion but a differentiated approach to prospective members during the negotiations period has never been the case in the history of European integration. Conversely, states were grouped into sets, within which they shared similar characteristics. Romania and Bulgaria were both post-communist countries with a strategic geopolitical location in South-East Europe. With the exception of Cyprus and Malta, countries that joined in 2004 were all post-communist and experienced a triple (economic, social and political) transition. In 1995, Austria, Finland and Sweden were all relatively prosperous; in 1981 and 1986 Greece, Spain and Portugal had a legacy of right-wing dictatorships and in 1973, Ireland and Denmark joined together with the UK, since, at that time, Irish and Danish economies were more closely tied to the British market (Barnes and Barnes 2007). The only fact that could make the current period of enlargement fatigue unique is the fact that, for the first time, the EU is facing such a diversity of countries that have a potential membership prospect. From Turkey through Ukraine (although officially it is only a partner in the European Neighbourhood Policy [ENP]) to Serbia and Kosovo – all present a completely different set of challenges. Importantly, however, this factor is exogenous to European integration. The EU always seems to find a way to deal with such a large quantity of qualitative differences and chooses to deal with prospective new member countries either separately or in small groups. The uniqueness of the current period is therefore maximally reduced. This is possible thanks to various procedures and instruments of conditionality that the EU applies to prospective members.

The causes and consequences of EU conditionality

By describing different fears of member-states about further enlargements, the capacity of the EU to successfully cope with additional enlargement has been questioned on the

grounds of insufficient economic or 'ideological' (in terms of sharing European values) preparedness of candidates and pertains to the continuing inability of the Union to deal with enlargement fatigue. Such a conclusion becomes evident only if one manages to cut through the diplomatic rhetoric of the EU officials and national leaders. Having accepted the accession of a given country to the Union, they cannot 'officially' state that the given country and the organisation are unprepared for enlargement after all the transformation measures that both have gone through. Conversely, the European and domestic debates that accompany the process, but take place outside of the immediate circles of people directly involved, not only can, and often do, question the preparedness of the EU and its aspiring members, but also necessarily imply that conditionality is not sufficient to successfully eliminate the fears of enlargement. The context of this is usually diverse, includes many psychological factors and is often an automatic by-product of many political debates at the domestic level.

The main rationale behind conditionality is that the EU uses it 'as a means to export its economic and political models to volatile regions, such as the Western Balkans. The result is evident in the tremendous reforms that have been carried out in Turkey, Croatia and the rest of the Western Balkans. As European citizens, all of us benefit from having neighbours that are stable democracies and prosperous market economies' (Rehn 2007: 1).

However, in the context of enlargement fatigue, the meaning of conditionality is presented as a device, the rigorous application of which ensures that enlargement "remains a success story" (Rehn 2006b). It has focused on the preparedness of the candidates to join the EU so that the Union's smooth operation is not impeded; the Copenhagen criteria, Agenda 2000 and the *acquis* were the main reference points in this area. More frequently, however, the failures of conditionality have reverberated in broader contexts. Bulgaria is an example of this. Although fighting corruption was a pre-condition for membership, in 2008 three streams of funding were suspended because of alleged fraud and the EU's investigating agency is also considering forty five cases of alleged malpractice on the books (Miller 2008). Earlier entrants, such as Poland and Hungary, also provide examples of the failure of conditionality to be applied because although there may have been a legal harmonisation as a precondition for membership, actual implementation of parts the EU's *acquis* is often lagging; for example the requirement of the European Social Dialogue that governments should "conduct meaningful consultation with socioeconomic stakeholders" has not been adhered to (Sissenich 2007: 4). The broader contexts in response to these examples include a necessity, on the part of recent entrants and prospective members, to prove that they are worth the trust that was laid upon them by the incumbent EU member states who offered them membership, or the prospect of membership, despite the reality of enlargement fatigue fuelled by the potential improper use of EU funds or the imperfect implementation of policies which could compromise the common values and norms to which newcomers were to subscribe wholeheartedly to as a justification for their joining of the EU. If money is wasted and rules are not obeyed, it would betray the efforts that the incumbent members made in order to make enlargement possible and spread discontent about the drawbacks that further enlargement would likely create. This, in turn, could encourage a Europe-wide revival of nationalism and protectionism and make the ideal of European integration redundant. This negative scenario has not as yet materialised and it is unlikely that it will because the EU has been tightening its instruments of conditionality. Significantly, all mechanisms of conditionality from the ENP that is often treated as an instrument for pre-accession (Hayoz, Kehl and Kuster 2005), to the actual accession negotiations lean towards open-ended processes of closer integration with the Union.

Furthermore, the major development of conditionality measures give lie to the argument that the Union has not been able to counter enlargement fatigue because the conditionality

applied to candidates was too lenient to assure the harmonious operation of the EU after enlargement. The process began by the development, in 1993, of a set of requirements in the form of the Copenhagen Criteria, which proved to be much stricter than the requirements for the applicants in earlier enlargements. The EU's interpretation of the fourth criterion about the adoption of the *acquis* is a clear example of the evolving conditionality. The point stated that candidates should (theoretically) be able to accept the obligations of membership prior to their actual accession. The subsequent progress reports produced by the Commission, however, adopted a position which emphasised the fact that candidates should actually have taken over the entire *acquis* before the accession; this is more than a slight difference in interpretation (Maniokas 2004).

The need to fulfil the political criteria before negotiations start is not an empty requirement, and has been exemplified by the cases of Slovakia in 1997 and Croatia in 2005 when the EU decided not to open negotiations with them. Slovakia was excluded because of the behaviour of the government of Vladimír Mečiar, whereas, according to some EU members, the Croatian government failed to cooperate fully with the demands of the International Criminal Tribunal for the former Yugoslavia in pursuing the suspected war criminal General Ante Gotovina (Phinnemore 2006). Further developments included an option of suspending negotiations if a candidate breached basic principles of liberty, democracy, human rights and the rule of law (Pridham 2007). The number of *acquis* chapters also increased from 31 to 35 for the negotiations with Croatia and Turkey. The range of the negotiations criteria has grown as well, particularly in response to the prospects of the membership of the Western Balkan countries. Thus, they have to be committed to regional cooperation. It was also explicitly stated that they have to implement existing contractual obligations to the EU such as Stabilisation and Association Agreements and Customs Union agreement (in the case of Turkey). Additionally, the Union tends to redefine what it means to meet the criteria with the understanding that more emphasis is now put on the actual implementation of the *acquis*. Hence, the EU did not hesitate to send 'warning letters' to the governments of Bulgaria and Romania when it was dissatisfied with their implementation of judicial reforms (Phinnemore 2006).

Naturally, the stricter requirements of conditionality reduces the possibility that it may be the decisive reason why the EU has not been able to counter enlargement fatigue, but, by no means, does it eliminates such a possibility completely. In order to treat insufficient conditionality as an important reason for the failure of the EU to deal with the fatigue, it would have to be the dominant determinant of Putnam's two-level games that European politicians play in the negotiations process. *Per contra*, here the political rhetoric and high politics predominate, because the character of bargaining at the EU level is still more diplomatic than political (Leonard 2006). Candidates' talk about 'moving targets' and 'double standards' applied by the EU and member-states' preoccupation with the maintenance of the smooth operation of the Union reflects the conclusion that Heather Grabbe once made about how "the actual influence on any given policy area [in candidate countries] is often exaggerated" because the EU and candidate-state policy-makers "have a vested interest in doing so" (Wolczuk 2004: 19). Additionally, high politics and geopolitical considerations present another argument in favour of the opinion that insufficient conditionality is of minor importance as a factor of enlargement fatigue. The most famous examples of such behaviour are the EU's decision at the Helsinki summit in 1999 to invite Bulgaria and Romania to the negotiations table from early 2000 and the potential member status for Kosovo (Pridham 2007), even before the country announced independence. These explanations prove that states do not take the alleged 'shortcomings' of conditionality very seriously when they discuss enlargement. This should not be surprising since it would be illogical to present insufficient conditionality as the main reason of the fatigue, fighting something that was the own creation of these politicians.

The problem of the absorption capacity and the attempts to introduce a 'New' Treaty

Insufficient conditionality is very often presented as a part of the EU's absorption capacity together with the development of the institution's structures and policies (European Commission 2006). The two matters have been intertwined since the 2005 Enlargement Strategy Paper, in which the Union invited the Commission to cover the capacity of the EU to function effectively as well as European citizens' views on further enlargement in its special report at the same time when it produces its annual progress reports on enlargement and pre-accession process (Vakalis 2006). The EU's inability to counter enlargement fatigue is supposed to reflect two main issues of the capacity question – the EU's capacity to function after successive enlargements and the 'democratic deficit', both of which were supposedly questioned by the French, Dutch and Irish publics via their rejection of the Constitutional and the Lisbon Treaty, respectively. The failure of the first two referenda was depicted as a protest vote against the EU as an elite-led project in which there is virtually no space for public leverage on the future direction of the Union. As such, this vote contradicted some potential positive developments included in the document that could counter the pre-Lisbon Treaty absorption capacity problems that stems mainly from such institutional arrangements as: the six month rotating presidency, too many Commissioners, the unfair and complicated voting system introduced at Nice and the overlapping responsibilities of the High Representative for the Common Foreign and Security Policy and the Commissioner for External Affairs. In their first referendum in June 2008, the Irish rejected the Lisbon Treaty, which was often perceived as a reactionary vote of more conservative forces within Ireland (Sinnott 2008) or elements which had been apparently under substantial American influence. Many other sources, however, pointed to the results of the referendum as an outcome of a class vote (Lane 2008). Under the growing pressure from the other EU members as well as the Union's institutions, the people in Ireland were forced to vote again. If this fact is analysed alongside of the Lisbon developments in the area of countering democratic deficit, it illustrates Union's 'split personality'. The democratic processes in France and the Netherlands were circumvented and the democratic decision in Ireland was undermined. It is more than paradoxical that all of this happened in the name of the document which is meant to introduce more democracy in the Union and be more responsive to the concerns of its citizens (EUROPA 2009). Perhaps this should also have discouraged potential future members from joining the institution which demands from its members a disciplined and uniform action. This is arguably the direction in which the Lisbon Treaty is going. A more centralised Union with the post of the President of the European Council who will act as an external and 'one-bodied' representation of the EU does not represent any kind of 'new thinking' but an answer to the old dilemma of a 'single phone number' in the EU. The increased role of national parliaments in responding to new applications for membership would have been an important step on the way towards decentralisation had it not been aimed against further expansion of the EU. Moreover, the Lisbon Treaty allows national parliaments to participate in the democratic processes in the EU by acting as 'watchdogs' of the principle of subsidiarity. This could have ensured the democratisation of the workings of the Union if the subsidiarity principle had been a new invention of the Treaty. Since it is not, one can expect that if the function of the 'watchdog' is now clearly ascribed to a particular institution (national parliament), everybody else (including citizens, civil organisations and governments) will be silenced when they would like to begin a discussion as to what competences should be the sole responsibility of the EU (which would further centralise the Union) and which should be retained by states or shared between the members and the EU. If the above can discourage potential members, which plays well into enlargement fatigue, the Lisbon Treaty has also prepared a device that may have a dangerous impact on all EU members in case the Union continues becoming more and more centralised. This is the 'exit clause' which by providing an opportunity to secede from the Union shows the direction of action to all those who for various reasons fail to accommodate.

The frustration with the Union's inability to tackle its institutional problems in the context of enlargement fatigue has led some to assert that the EU uses the capacity argument as a loophole to deny or indefinitely postpone enlargement (O'Brien 2006), thus contributing to, rather than countering the fatigue. This view cannot be neglected but it is obviously one-sided and hence, not very reliable. One must try to assess whether the institutional reform of the EU as laid down in the Constitutional Treaty was likely to counter enlargement fatigue and whether the cry that such a reform is truly essential to prevent a major deadlock in the functioning of the Communities is justified. This latter question will be examined by analysing the effects of past enlargements.

An extensive study of the effects of enlargement by Helen Wallace (2006) supports the view that 'business as usual' is a more probable scenario than an institutional 'gridlock'. She concludes explicitly that the impact of enlargements (even big ones like the round in 2004) does not automatically mean slowing down policy implementation. To mention only two examples: the 'productivity' of the work of the European Court of Justice (ECJ) has not declined and there has been only a modest reduction in the number of legislative acts adopted by the Communities after 2004. Even in the sensitive areas of decision-making where the enlargement's influence is most visible, namely foreign policy and the Common Agricultural Policy (CAP) etc., it has to be remembered that other variables are at play as well. The speed of decision-making depends also on the overall political climate in the Union and the quality of leadership that is a function of the rotating presidency, national governments and the Commission's leadership (Grant 2006). It means that, in reality, new members are quite well-adapted to enter the Union and that institutions can cope with many strains that are put on them. Would the Constitution, then, have been of any help to counter enlargement fatigue?

The answer is somehow complicated because the 'project of the Constitution' was closely tied to the (separate) project of the adoption of the Communities to the challenges and effects of enlargements. And this link was not a creation of Eurosceptics or populists but of the very drafters of the Constitution. Giscard d'Estaing famously referred to the EU being at the crossroads in a way similar to those faced by the Founding Fathers of the United States in 1787 (2003). Significantly, in his speech he depicted a triple challenge at those crossroads. The first was the upcoming enlargement and the third was a reform of decision-making which "has, over the last decade, become too much complex and obscure" (Giscard d'Estaing 2003). Potentially, there was nothing surprising in this speech since it reflected the 'realities' of the situation in which the EU found itself in 2003. Nevertheless, by combining the needs to accommodate enlargements with institutional reform, the participants of the Convention on the Future of Europe tilted the ground for more pronounced and specific arguments made by national politicians. In the history of the European integration, this has always been the case, as was demonstrated above – 'widening' and 'deepening' processes proceeded together and this has been considered a virtue and a pride of the organisation of the integration process. It is difficult to judge to what extent a change in the rhetoric of policy-makers would have helped in countering enlargement fatigue but it would have certainly been the first step in the right direction. Justifying institutional reforms by basing them on an agreed vision of the Union and its policies and not on the need to accommodate enlargements would have been helpful to counter enlargement fatigue.

Such an approach could also help reduce the 'democratic deficit'. Although, as Zielonka (2006) predicts, more enlargements on the strategic goals are likely to follow, in the "age of referendums" the shift from diplomatic to political mode of addressing differences in outlooks inside the EU should take place (Leonard 2006). This would allow the 'externalisation' of some of the political conflicts confined so far to the domestic realms of members, which is, sooner or later, expected anyway as a result of globalisation (Gnesotto and Grevi 2006). It may also add salience to the issues discussed in the European arena so that EU citizens

could see that they have their personal stakes in the ongoing debates, which would further necessitate changes in the representation at the European level.⁴ All in all, “[p]oliticians and commentators should ... learn to see political conflict within the EU as normal, and avoid the over-blown talk of profound crisis that followed the French and Dutch Noes” (Leonard 2006: 5).

A new vision and structure of the EU can counter fatigue

It would not be an easy task to change the mode from diplomacy to politics and the emphasis from enlargement as the driving force of the Union to the pursuit of a concrete vision and function of EU's policies, but it would help counter enlargement fatigue. Christopher Preston's (1997) insightful comment helps explain why the EU has not been able to successfully deal with the fatigue. His third principle of enlargement states that “[t]he problems arising from the increased diversity of an enlarged Community are addressed by creating new policy instruments overlaid on existing ones, rather than by fundamental reform of the latter's inadequacies” (Preston 1997: 229). Significantly, Preston (1997) notices that this well-entrenched practice is an unintended consequence of the overemphasis that is put on the first two of his principles, namely that applicants must accept the *acquis* in full and that negotiations focus on the practical side of the applicant taking on the *acquis*.

The EU has not tackled enlargement fatigue because it has failed to challenge these principles. Although such initiatives as the ENP or the Schengen area exist, the main question that has determined relations between the EU and a third country is whether a given state can or cannot become a full-fledged member of the Union. The main rationale behind this approach was the will on the part of third-countries to have a say in the decision-making process that affects the functioning of these projects. This shows that as long as a strong differentiation between members and non-members exists, the EU will not be able to counter enlargement fatigue. Therefore, the Union should allow more 'variable geometry' between itself and countries from the outside of the Communities *as well as* among its members. Membership could mean a different mode and a degree of engagement for different countries. The borders in Europe could then become fuzzy and flexible. 'Avant-garde groups' in the EU will pursue the 'deepening process', certain EU countries will abstain from it, while a number of states from outside of the formal Union structures will participate in particular policy initiatives (Grant 2006).

Some analysts stress the utility of such an approach as it ensures that all strategic interests of the EU countries are assured (Brady 2005); some EU officials perceive the role of 'avant-garde groups' as pioneers that “maintain the momentum of building Europe” (Delors 2000) as a federation of nation-states. However, the main objective of allowing more flexibility in the Union would be to eliminate tensions between those who see their stakes involved in different areas than other members and they have the abilities to mobilise a necessary support to pursue their policies. This would not entail unilateralism or building of the 'coalitions of the willing' because the goals of the projects conducted by a Europe with fuzzy and flexible borders would not be a diplomatic but a political undertaking. The involvement of states would hinge more on the function that the project is to fulfil, their will and abilities to participate in it than diplomatic declarations following from the need to prove that a participant is worthy of their membership in an organisation. The vision retains some of the prepositions of the 'democratic functionalism' (Leonard 2006). The loosening of the bonds between the EU members and the emergence of many, interlinked and overlapping 'avant-garde groups' could ease future enlargements because of the flexible and malleable character of the partnership between states in the Union of a new vision (Grant 2006).

4 A response to the argument made by Moravcsik (2002).

Has the EU not provided for flexibility in the operation of its structures and thus failed to counter enlargement fatigue? The answer to this question is a partial no. Such instruments of flexibility as 'enabling clauses' (enabling willing and able members to pursue further integration), the 'case-by-case' flexibility (abstaining from voting on a decision and letting other states decide and apply the policies only to themselves) and the 'pre-defined' flexibility (mode of integration pre-defined in all its elements – usually established in IGC) began to be articulated in the early 1990s and were developed more fully with the Treaties of Amsterdam and Nice and the Constitution (Stubb 2002). The first big initiative that applied the 'flexibility clauses' was the Economic and Monetary Union (EMU), through which a 'multi-speed' Europe materialised since countries could enter the EMU if they fulfilled five criteria laid down in the Maastricht Treaty. More recently, the 'open method of coordination' (OMC) presents another challenge to the traditional, rigid method of integration (Junge 2007). The OMC is an intergovernmental method, dependent on 'peer pressure' from other member states; the Commission's role is fairly limited and the European Parliament and the Court of Justice play virtually no part in the process. Member states' policies are coordinated in areas such as education, youth, employment and social protection, i.e. areas of members' national competence. The method differs from 'soft law' in a number of respects; for instance, it is more explicit than 'soft law' in seeking the participation of social actors and involves systematic linking across policy areas. The OMC can be seen as a non-hierarchical and non-coercive mode of policy-making (Borrás and Jacobsson 2004). This design, however, presents both opportunities and challenges. It may lead to greater and tighter integration in areas to which 'usual bureaucratic channels' in the EU have a very restricted access, provided there is political will to proceed with cooperation. It may also undermine such efforts if member states choose to ignore or delay the meeting of targets. Additionally, the demarcation between decision-making and implementation is not clear, so the OMC can potentially cause problems of judicial and political accountability (Borrás and Jacobsson 2004).

On the other hand, although the 'flexibility clauses' could "become a constitutional device" (Stubb 2002: 164) in the long term, the problem regarding the countering of enlargement fatigue is that flexibility is hardly a guiding principle in negotiations with prospective members. Transition periods could be perceived by some applicants as a mere compensation for the tightening of conditionality. Yet, flexibility has to be an important device both in integration inside the EU, as well as outside of it. Developing only one dimension of it would preclude the further enlargement of the Union and lead to permanent enlargement fatigue. The definition of EU membership needs to be changed in order to counter the fatigue. As for today, there has to be a more significant gradation of 'integration levels' among the EU members to match the Union's increasing number and scope of initiatives developed in partnerships with third states. The Mediterranean Union initiative can serve as an example that the organisation is not yet ready for such a step. The original idea was to hold an international forum of states with a Mediterranean coastline. Through discussions at the EU level, it was degraded to "a mere regular summit of EU and Mediterranean countries" with a small secretariat instead of nine new agencies and a bank. Apparently, as German Chancellor Merkel admitted, it was feared that some members would protest spending common funds on projects, from which only a few could benefit (Melander 2008).

Conclusion

The EU may not be able to deal with the fatigue for years to come because all signs show that the former has not yet developed a new vision of the organisation. It has failed to contest the paradoxes and real nature and essence of the problems connected with enlargement that were determined in this article. Finally, Brussels has not acknowledged a need for more flexibility in its operation, especially in its 'internal' and 'enlargement

dimensions'. Consequently, the Union has not entrenched this vision in its institutional design. Tight conditionality and attending to the Union's absorption capacity are not sufficient to deal with enlargement fatigue, much of which was associated with cultural, economic and psychological reasons only remotely connected with the European Union. As was demonstrated above, some of the provisions of the Constitution and the Lisbon Treaty pose a serious threat of progressive centralisation of the Union and enhancing rather than countering the democratic deficit. The chance to minimise the popular fears connected with further enlargements was wasted in the two failed referenda because policy-makers too easily associated the real and possible shortcomings of enlargement with the structural overhaul. Countering of enlargement fatigue would be a challenging task and although the full story about EU enlargements is still to be told, the Union has proved in the past that for an organisation with such historical variability and so many chronic imperfections, it is still able to achieve its most important goals.

Acknowledgement

The author would like to thank Taras Kuzio and Eamonn Butler for their insights and comments on the earlier drafts and two anonymous reviewers for their useful remarks. Special thanks are extended to Stephen Hoselton who was often the first reader of my papers during the year I spent in Canada. All responsibility for shortcomings rests with the author.

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