


# Experts react: EU Enlargement and EU progress reports 2016

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*What does the future hold for EU Enlargement? Our contributors reflect on this year's European Commission reports on the progress achieved by EU candidate and potential candidate countries, framing it within the wider political and economic context of each country. (If you are interested in how this compares to last year's reports, the 2015 expert reactions are available [here](#)).*

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**Eli Gateva on Macedonia: The Commission abandoned its diplomatic tone and delivered a damning diagnosis**

*The full report on Macedonia is available [here](#)*

The European Commission presented a positive evaluation overall of the progress made by the enlargement countries in 2016, noting that enlargement policy continues to deliver results and reforms are advancing in most countries. However, there are two notable exceptions to this trend: the former Yugoslav Republic of Macedonia and Turkey.



It has been another turbulent year for Macedonia, featuring the ‘most severe political crisis’ since 2001. The crisis erupted in early 2015 when the leader of the opposition Social Democrats (SDSM) Zoran Zaev [accused](#) the VMRO-DPMNE government of operating an illegal wire-tapping programme targeting more than 20,000 citizens, including politicians and journalists. The EU’s mediation led to the Przino agreement which outlined key steps to resolve the crisis and [initially set a date for early parliamentary elections in April 2016](#). The [decision](#) of the Macedonian President Gjorge Ivanov to pardon the 56 politicians involved in the wiretapping scandal plunged the country into a new wave of political instability. Anti-government protesters took to the streets and expressed their frustration, with demonstrators covering monuments and statues with paint in what was dubbed the [Colourful Revolution](#).

The country’s political leaders failed to agree on key conditions and the early parliamentary elections scheduled first for April and then for June were called off. In August, the four main parties reached an agreement and set a date for the parliamentary elections for [11 December](#). The High Representative Federica Mogherini and Commissioner for European Neighbourhood Policy and Enlargement Negotiations Johannes Hahn welcomed this move, but [urged](#) the political parties to ‘strictly observe a credible electoral process, to allow all citizens a free choice and, after the elections, to build a government that tackles crucial reforms and works for the interests of all citizens’. The election [results](#) show a very tight contest between the two main parties and we are still to see how the aftermath will play out. A possible positive outcome is that the tight majority obtained by VMRO-DPMNE is [unlikely to prove enough](#) to abolish the Special Public Prosecutor tasked with combating the high level corruption revealed by the SDSM’s released recordings.

The Commission raised concerns about continued backsliding in the functioning of the judiciary. Furthermore, the report noted that the obstruction faced by the Special Prosecutor responsible for investigating the wiretaps and their content demonstrated ‘the need to address effectively the lack of independence of the judiciary and to prevent selective justice’. Furthermore, the report registered a lack of progress in a number of key areas including freedom of expression, the fight against corruption, and the fight against organised crime.

The Commission abandoned its diplomatic tone and delivered a damning diagnosis by stating that: ‘Democracy and rule of law have been constantly challenged, in particular due to state capture affecting the functioning of democratic institutions and key areas of society. The country suffers from a divisive political culture and a lack of capacity for compromise’.

On a positive note, the Commission praised the work of civil society in ‘supporting democratic processes and ensuring greater checks and balances’, but stressed that the environment in which civil society organisations operate has deteriorated. The report acknowledged that Macedonia is moderately prepared in its reform of the public administration and has a good level of preparation in developing a functioning market economy.

The report recognised that Macedonia continued to be affected by migration flows and noted that the country cooperated with neighbouring and EU countries. The Commission welcomed steps taken to improve good neighbourly relations, in particular the implementation of confidence-building measures with Greece. In 2009, the Commission recommended for the first time the opening of membership talks with Macedonia, but Athens has blocked the advancement of the accession process with Skopje because of the name issue. Despite renewed dialogue, a solution to the 25-year name dispute remains out of reach. The Commission has insisted that the name issue ‘needs to be resolved as a matter of urgency’.

Despite limited progress, the Commission reiterated its carefully worded message from the 2015 report that it ‘is prepared to extend its recommendation to open accession negotiations’. The recommendation is again conditional

on progress with the implementation of the Przino agreement and the 'Urgent Reform Priorities'. Furthermore, the report underlines the significance of holding credible parliamentary elections.

The strategic decision to send an encouraging message is clear. Commissioner Hahn and Members of the European Parliament have invested time and effort in mediating the political stalemate in Macedonia. However, it remains to be seen if the [outcome](#) of the recent parliamentary elections will break the political deadlock or simply reignite the political crisis.

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### **Esra Özyürek on Turkey: Was this the very last enlargement report for Turkey?**

The full report on Turkey is available [here](#)

The last report on Turkey's possible integration with the European Union is the harshest that has ever been written. The previous report, which was much milder compared to this one, was not accepted by Turkey. Turkish officials said they would return the report without reading it, and relations between Turkey and the EU have become much tenser since last year.



Last year there was still talk about possible visa liberalisation, cooperation regarding energy policy, and cooperation regarding the refugee crisis. Prior to the submission of this report, however, Turkish officials, Mr. Erdogan and Mr. Cavusoglu challenged the EU to take a decision and stop treating Turkey as a second class democracy. A few days after the release of the report, the European Parliament took a symbolic vote urging their governments to freeze Turkey's EU membership talks. An overwhelming majority of 471 to 37 MPs, displaying an agreement between conservative and progressive parties, voted to halt the process. Most likely having predicted the outcome, a few days before the vote the Turkish president Mr. Erdogan had said "this vote has no value." He had suggested that instead of insisting on membership of the EU, Turkey should join the Shanghai-5.

The reason behind the decision to freeze relations is the harsh measures taken by the Turkish government in the wake of the attempted coup in July. The European Commission's report starts by acknowledging the severity of the attempted coup, but is highly critical of the radical erosion of basic rights and freedoms in Turkey due to the country's emergency measures:

*Following the coup attempt, very extensive suspensions, dismissals, arrests and detentions took place over alleged links to the Gülen movement and involvement in the attempted coup. The measures affected the whole spectrum of society with particular impact on the judiciary, police, gendarmerie, military, civil service, local authorities, academia, teachers, lawyers, the media and the business community. Multiple institutions and private companies were shut down, their assets seized or transferred to public institutions.*

The report adds:

*While a relationship of trust and loyalty should exist between civil servants and the state and*

*measures can be taken to ensure that, any allegation of wrongdoing should be established via transparent procedures in all individual cases. Individual criminal liability can only be established with full respect for the separation of powers, the full independence of the judiciary and the right of every individual to a fair trial, including through effective access to a lawyer. Turkey should ensure that any measure is taken only to the extent strictly required to the exigencies of the situation and in all cases stands the test of necessity and proportionality.*

Now, what is at stake is the future of the controversial refugee deal between Turkey and the European Union. Mr. Erdogan repeatedly said that if the European Union does not deliver visa-liberalisation for short term travel and progress on EU-accession, he is ready to break the deal and stop guarding the Turkish borders.

As Turkey and Europe are evolving in different directions, December 2016 will be the start of a new kind of relationship. Both sides still rely on each other. Turkey does 60% of its trade with the European Union and the European Union relies on Turkey to keep 3 million refugees out of Europe. Yet, the terms of discussions will be different. The role the European Union has played in Turkey as a watchdog of human rights violations and a promoter of deeper democratisation has essentially come to an end. Among those who get on boats in search of a safer life will not only be Syrians, Iraqis, Afghans, Libyans, but also political refugees from Turkey.

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## **Jasmin Mujanović on Bosnia and Herzegovina: The report reflects a disconnect between Brussels' rhetoric and the reality in BiH**

The full report on Bosnia and Herzegovina is available [here](#)

Bosnia and Herzegovina's Progress Report is striking precisely for what it does not contain. The year saw the most direct and overt attack on the country's peace, stability, and constitutional order since the adoption of the Dayton Peace Accords: the result of the [September 25 referendum](#) held in the Republika Srpska (RS) despite a decision by the Constitutional Court to suspend it. Despite this, the report [mentions the event only once](#); "[the RS] Government organised...a referendum, ignoring the Bosnia and Herzegovina Constitutional Court decision to suspend the referendum until it decides on its constitutionality." The omission is not accidental and reflects instead a profound disconnect between Brussels' rhetoric and reality in the country.



The release of this year's report came shortly after [the European Commission's formal acceptance](#) of Bosnia and Herzegovina's EU candidate application, submitted by Sarajevo in February to great fanfare. But the exercise remains [symbolic rather than substantive](#). The country's byzantine maze of governments and parliaments are still collectively paralysed; meaningful legislative efforts have not occurred since at least 2010; corruption [remains endemic](#), while the economy is kept [artificially afloat by foreign loans](#); and local elections in October produced [another nationalist landslide](#), amid a significant resurgence in [violence](#) and [irregularity at the polls](#).

Independent observers like Freedom House more accurately reflect the facts on the ground. The organisation's [2016 report](#) noted substantial declines in both the functioning of government and the rule of law. Reporters without Borders also relegated the country [another two spots](#) in its global rankings for press freedom this year, while the Institute for Economics and Peace's [Global Peace Index](#) likewise measured a decline in stability.

These warnings find little echo in the EU's report. According to the Progress Report, the October elections were "broadly conducted in an orderly manner"; the assorted parliamentary assemblies in the country made "progress towards adopting outstanding reform priorities, in particular those stemming from the [Reform Agenda](#)"; and while

freedom of the press is limited by widespread “political pressure and intimidation towards journalists, including physical and verbal attacks,” the authors nevertheless claim “some level of preparation on freedom of expression.” Given the readily observable decline in the quality of democratic governance in both Bosnia and Herzegovina and [the region as a whole](#), one might contend that this “preparedness” primarily concerns efforts by those in power to minimise the influence of civil society.

Last year, Jessie Hronesova and Adis Merdžanović [astutely noted](#) that the similarly optimistic 2015 report was “hardly justified given the political, social, and economic developments in the country.” In light of the events of 2016, one could argue that this year’s Progress Report exists in an altogether different reality.

Yet it is imperative that Brussels understands its generous reading of the country’s politics is gravely undermining democratic governance. Genuine political and civil society reformers depend on the EU to speak truth to power in a way that local elites generally do not allow. Instead, the Commission has once again failed to meet this standard. Reality, however, [cannot be postponed indefinitely](#).

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## **Tena Prelec on Serbia: Perpetual electoral haggling is hindering real progress**

*The full report on Serbia is available [here](#)*

In the political sphere, the European Commission commended Serbia’s intensive legislative activity during the period ‘outside’ of elections, noting that the parliament’s work was suspended in March due to an [early parliamentary contest in April](#). What it does not mention, however, is that Serbia’s new government was eventually formed only in August. The ‘useful’ period during which Serbian authorities were not engaged in electoral or post-electoral haggling seems therefore rather slim.



[Once again](#), the Commission reported no progress on press freedom, highlighting remarks made by the OSCE and the Council of Europe which remained widely unaddressed: biased media coverage, undue advantage taken by incumbent parties at official events, a blurring of the distinction between state and party activities, and claims of irregularities during elections. It was furthermore noted that Civil Society Organisations continued to operate in a public and media environment that is often hostile to criticism. In terms of the protection of minorities (a thorny topic which recently resurfaced with Croatia’s blocking of Serbia’s accession process on questionable [grounds](#)) the report mentions that although this is reasonably enshrined in the legal framework, further implementation is needed. Progress was limited in the normalisation of relations with Kosovo, but momentum picked up in August with the start of the [renovations](#) on Mitrovica’s bridge. Finally, corruption remains a serious problem.

On the whole, however, this year’s report was [welcomed](#) by the Serbian press as containing an overall positive assessment of the economic developments in the country. Looking at the individual indicators, the situation looks somewhat less rosy. Although good development was reported in terms of surging exports, with good GDP growth (2.9% in the first half of 2016), inflation below target, and a reduced budget deficit; at the micro-economic level Serbia continues to struggle.

The EU highlighted that the institutional and regulatory environment for business remains weak: courts are still overburdened with unresolved cases and laws continue to be adopted by emergency procedures without proper consultations with interested parties. The informal economy is estimated to be around 20-30% of GDP, which leads to obvious losses for the government budget. Also, the state’s presence in the economy was flagged up as being still too high with little progress on the privatisation front. In the banking sector, Non-Performing Loans continue to be



a challenge, constituting about 20% of total outstanding loans. Furthermore, unemployment remains stubbornly high at 17.7% and particularly among the young, at around 40%.

Belgrade is seen as a key partner in maintaining stability in the region: EU officials are likely to put effort into avoiding a stall in the negotiations, and the overall positive tone of the progress report reflects this. However, given the clear need for improvement on a number of fronts, one cannot help but wonder whether the rumoured planning of fresh [parliamentary elections in 2017](#) (next to an already scheduled presidential ballot and municipal vote, [including in Belgrade](#)) would in any way be conducive to such progress.

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## **Krenar Gashi on Kosovo: Still far from membership, but catching up with the neighbours**

*The full report on Kosovo is available [here](#)*

This year's progress report points out, more than ever, the paradoxes that characterise Kosovo's relations with the EU: the country made significant progress towards EU membership via a Stabilisation and Association Agreement, while dealing with political turmoil and the dysfunctionality of its parliament for a good portion of 2016.



The deep polarisation that exists between Kosovo's government and opposition is a direct consequence of two unpopular policies, both of which related to the EU: the implementation of the agreements reached in the EU-facilitated dialogue between Kosovo and Serbia, and the ratification of the agreement on the demarcation of the border with Montenegro, which the EU has set as a direct condition before granting Kosovo citizens visa-free travel to the Schengen area.

In the report, Kosovo is praised for having made progress in establishing a Specialist Court and Specialist Prosecutors to investigate allegations on war crimes committed during and immediately after the 1998-99 conflict. An agreement with the Netherlands, where this 'special court' will be based, was reached. The country was also praised for having extended the mandate of the EU rule of law mission – EULEX – until mid-2018. Furthermore, it was praised for its commitments to continue the dialogue on the 'normalisation of relations' with Serbia.

The stance taken by the report when it comes to the current internal political turmoil is, however, quite ambiguous. The parliament's work was interrupted for months by the opposition parties through the use of tear-gas in the plenary sessions and staged protests that turned violent. Many MPs were arrested. The report is highly neutral on the disputes between government and opposition and merely calls for a dialogue between all parties.

Similarly to previous years, the Commission identifies a deep level of politicisation in Kosovo's state administration. Public positions are awarded to political allies and breaches of procedures are frequent. Likewise, boards of independent agencies and especially regulatory authorities are heavily politicised. In contrast to last year, however, the report notes that Kosovo has made some progress in reforming its public administration, public financial management and increasing budget transparency.

A significant improvement was noted in relation to the EU's repeated recommendation to Kosovo's authorities that the majority of judges and prosecutors should be appointed by their peers. Constitutional and legislative amendments during 2016 ensured the fulfilment of these recommendations. The accountability of judges and prosecutors, however, continues to be weak, whereas the level of professionalism and competences, especially among prosecutors, continues to be a concern for the Commission.

In terms of economic criteria, the Commission maintains that Kosovo is still at an early stage in establishing a market economy, noting some progress in enabling export-oriented businesses and some deterioration when it comes to public expenditures, particularly regarding benefits for war veterans that the government has pushed forward despite warnings by international financial institutions.

The biggest concern in the report remains education and research, a section to which the Commission has been granting more attention every year. The report concludes that public spending on education has dropped to merely 3.9% of GDP, while even more worrying is that spending on research and innovation has stayed at 0.05 % of GDP, out of which only one fifth is allocated to scientific research. Overall, this year's report on Kosovo shows once again that notwithstanding the overall enlargement climate in the Union, the country is still far from full membership, although it has been catching up with the pace of its neighbours.

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### **Petar Marković on Montenegro: Speed-wise the unchallenged champion of accession negotiations, but implementation in key areas still lacking**

The full report on Montenegro is available [here](#)

The 2016 report on Montenegro was published in the interim between the parliamentary elections on 16 October and the approval of the new government led by the new Prime Minister Duško Marković in the country's Parliament on 28 November. Presenting the Enlargement Package in Brussels on 9 November, Commissioner Hahn underlined that the steps made by the countries in the region confirm the salience of EU enlargement policy.



In his words, the prospect of EU membership “continues to drive transformation and anchor stability in the countries of Southeast Europe.” Being the second recalibrated annual country report since the Commission decided to render its reporting more precise and concrete, and having come at a point when the old government left and made space for the new one, which is assumed to be a [government of continuity](#) with the policies of the old one, this year's report is ideally suited to forecast the priority and speed of reforms that need to be undertaken.

With that in mind, what does the report say about the progress Montenegro has made? In the regional race of numbers, Montenegro is still the unchallenged champion of the accession negotiations with now 24 out of 35 chapters open (with 4 of them opened in the last reporting period). The report also cites the country's invitation to join NATO, which also occurred in this period, as a significant achievement. However, rather than the pace of chapter-openings, it is the tempo and the efficiency of reforms that dictate the pace of the provisional closure of chapters and the endpoint of the negotiating process.

In that sense, the record regarding the political criteria is mixed. While the public administration and the judiciary are ‘moderately prepared’ with *some progress* having been noted, Montenegro has delivered less on the front of other areas that the EU identified as crucial according to its “fundamentals first” approach. To start with, the democratic state of play is framed in the context of the recent elections. The Commission had hoped that the “Government of Electoral Trust” instituted across the political divide would lead to a better implementation of the reformed legislation. It seems to align itself with the OSCE/ODIHR Monitoring Mission assessment when stating that, overall, the elections were free and competitive. At the same time, however, a swift and transparent investigation into allegations of voting irregularities, the regionally unprecedented [temporary disabling of Viber and Whatsapp](#), as well as publicised arrests related to an alleged [coup attempt](#) are called for.

Moreover, the misbalance between the optimal legislative and institutional framework on the one hand, and the lack

of a track record of implementation is a common denominator of almost all areas covered by the report, but is most emphatically emphasised with regards to the fight against corruption and organised crime. Efforts to tackle corruption have improved mostly thanks to the work of the Special Prosecutor's Office, which has finally broken the glass sealing of high-level corruption cases. Conversely, while the establishment of an Anti-Corruption Agency signaled *good progress* (one qualification from the five-tier progress-assessment scale that is rarely used in this part of the Report), its track record is deemed far less impressive both in terms of actual corruption prevention (from misdemeanor penalties below the statutory minimum and little to no investigations, to failing to protect whistleblowers).

The fight against organised crime also needs to improve: from efforts now considered limited in the area of human trafficking, or even nonexistent in the area of money laundering. All the recommendations spelled out in the report are of great importance since the decision on further progress in the negotiations overall will depend on whether the interim benchmarks set in chapters 23 and 24 on the rule of law have been reached. A stark contrast from the [inaugural speech](#) by the newly elected Prime Minister, where the fight against organised crime and corruption are mentioned only once – in the context of improving the domestic conditions for attracting future foreign investors.

Freedom of expression stands out in this report, with *no progress* at all detected in the past year – a dismal fact that Montenegro shares with the rest of the [region](#) this time. We have seen no decline in smear campaigns and discrimination in state advertising in the media nor progress in the resolution of cases of attacks on journalists.

There is no doubt that reforms concerning the rule of law have been in the spotlight of all involved stakeholders and commentators. Yet, arguably, the preparedness of Montenegro to satisfy the Union's economic criteria is equally, if not more, pertinent in the long run. The Commission stresses the structural problems of high fiscal deficits and the ever more rapid growth of the public debt, coupled with a record-high unemployment rate and a growing imbalance between the amount of imported and exported goods. It echoes domestic concerns over the high expenses of new public infrastructure projects and social expenditure programmes. The combined pressure of all these factors on the sustainability of the local economy is brought into sharp focus. Consequently, immediate measures are requested.

Summarising the findings of the previous year's report, the Head of Unit for Montenegro at the DG for Neighbourhood and Enlargement Negotiations, Dirk Lange, had stated that 'If 2014 was the year of legislation, 2015 the year of institutions, then 2016 should be the year of results'. While in many areas this can be said to be true, the proverbial pinch of salt remains with respect to precisely those areas that ought to drive Montenegro forward to the EU. In stressing the shortcomings during the last year, the most recent report is a clear impetus for the new government to truly make the quantum leap from legislation to full and consistent implementation. To paraphrase Commissioner Hahn's quote, this should bring about the political transformation and the economic stabilisation called for by this year's report.

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**Andi Hoxhaj on Albania: There is a good chance of opening accession negotiations over the next year**

*The full report on Albania is available [here](#)*



This progress report was one of the most positive to date for Albania. The Commission for the first time recommended the opening of accession negotiations with Albania, with a conditional start date based on the implementation of a justice reform and in particular, the re-evaluation of judges and prosecutors, known as the [‘vetting law’](#).



Furthermore, the report emphasises that it is important for Albania to continue its efforts towards five key priorities: public administration, a functioning judiciary, fighting corruption, tackling organised crime, and protecting human rights. However, special attention should be paid in particular to the fight against corruption, organised crime and drug smuggling.

In terms of the country’s public administration, the report notes that moderate progress was made in the implementation of public administration reform and public financial management reform strategies. However, the report points out that further progress should be made towards depoliticising the country’s public administration and continuing to implement a merit-based recruitment system for civil servants to establish a more efficient, depoliticised, and professional public administration.

For the second priority of improving the judicial system, Albania’s Parliament in July 2016 adopted a [judicial package](#), which is considered crucial for opening accession talks with the EU. The Parliament amended 58 articles of the Albanian constitution and passed several laws creating new justice institutions. The report praises Albania for adopting the judicial reform. However, the report highlights that it is crucial now for Albania to show tangible progress in the implementation of the reforms. The vetting law is currently being stalled by the [Constitutional Court](#) and it may lead to a further delay in the [opening of accession negotiations](#).

The report cites some progress in Albania’s efforts to tackle corruption, praising the country’s adoption of a [law on whistle-blower protection](#), a law on the creation of a specialised anti-corruption body, and increasing the access to national electronic public registries for prosecutors and police. However, corruption remains prevalent in many sectors and continues to be a serious problem.

The report identifies that some progress was made on meeting two of last year’s recommendations – making progress on establishing a track record of investigations, prosecutions and convictions. However, there was no progress made in amending legislation on interceptions and surveillance, time limits for investigations and admissibility of evidence before court.

Furthermore, the independence and effectiveness of institutions in charge of the fight against corruption continued to be limited because of political influence and weak administrative capacity. This clearly shows that the adoption of a set of laws and establishing new institutions should not merely be a tick-box exercise to [satisfy the EU](#), but requires establishing effective, independent and accountable institutions that can break away from the token efforts that have characterised Albania’s attempts to fight corruption.

The fourth priority, organised crime, has seen some progress over the last year on identifying and destroying [cannabis plots](#). However, police and prosecutors have failed to identify criminal cartels behind drug trafficking, and efficient judicial follow-up via criminal proceedings is insufficient. The report notes that the police force was modernised and international police cooperation intensified through [Europol](#), but cooperation between Albanian police and prosecutors needs to be further strengthened so that they can dismantle criminal networks more effectively. Furthermore, the report calls for Albania to demonstrate a credible track record on freezing and confiscating illegal assets from organised crime organisations.

In terms of human rights, the report highlights that the legal framework for the protection of human rights is broadly in line with European standards. However, enforcement of human rights remains low. The report indicates that Albania should seek to address institutional and policy shortcomings in social exclusion and discrimination to develop a track record of anti-discrimination cases related to the treatment of Roma and Egyptians. Furthermore, the report finds that Albania lacks institutional mechanisms to protect the rights of the child and to tackle gender-based

and domestic violence.

Overall, the [report](#) indicates that Albania may have a good opportunity to open negotiations with the EU within a year. This will be conditional, however, on two crucial aspects. The implementation of the judicial package, in particular the re-evaluation of judges and prosecutors, and showing a sustainable track record in fighting corruption, in particular high-level corruption. But even those two aspects alone would not be enough. The EU has made it very clear that it is also fundamental for all political parties, including both the government and opposition, to work together in achieving these aims.

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