CHAPTER TWO

THE COPENHAGEN CRITERIA:
EFFORTS REQUIRED BEFORE AND AFTER ACCESSION

1. The Copenhagen criteria

Throughout its enlargements, the substantive criteria and conditional-
ity applied by the Union to applicant countries have evolved both:

- to take account of the specificity of the incoming Member States
  with a view to preserving the values, objectives and the practical
  functioning of the Union as it enlarges, as well as to guarantee its
  own continued progress on all fronts of its activities, and;
- to take account of the Union’s own stage in growth.

The same can be said of the pre-accession strategy for the fifth enlarge-
ment, the core of the pre-conditions, conditions and incentives that
programmed all relations between the Union and the candidates was
the June 1993 European Council of the famous Copenhagen criteria.¹
In 1997, the Commission set out its proposals for a strategy based
upon these criteria in its Agenda 2000 document. The Council set out
four criteria in the following terms:

The associated countries in Central and Eastern Europe that so desire
shall become members of the Union. Accession will take place as soon as
a country is able to assume the obligations of membership by satisfying
the economic and political conditions. Membership requires:

- That the candidate country has achieved stability of institutions guar-
  anteeding democracy, the rule of law, human rights and respect for and
  protection of minorities;
- The existence of a functioning market economy, as well as the capac-
  ity to cope with competitive pressures and market forces within the
  Union;

¹ European Council, Declaration of Copenhagen of 21/22 June 1993, Bull. EU
pean Councils, see L. Maurer, ‘Negotiations in Progress’ and M. Maresceau, ‘Pre-
accession’, both op. cit. Chapter 1, n. 24.
The ability to take on the obligations of membership, including adhering 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 the candidate countries.

While any possibility of an enlargement to bring in certain countries in the Balkans was beyond the Union’s sights when the Copenhagen criteria were adopted, the same pre-accession strategy tools and legal instruments as were used in the fifth enlargement – including the Copenhagen criteria – are now being successfully transposed in the same inclusive-yet-differentiating way; to the situational specificity of the Balkans under the auspices of the Stabilisation and Association Process (SAP).

The ongoing elaboration and minutiae have been worked out with the countries of South Eastern Europe and Turkey in sight. In the case of the political Copenhagen criteria in particular, pre-accession conditionality has come to mean different things for different candidates. The addition of the criteria of good neighbourliness by the December 1994 Essen European Council and the criteria of having adequate administrative capacity to apply the acquis added by the December 1995 Madrid European Council, are cases in point. They have been used as a lever to insist upon intra-regional co-operation between the applicant CEECs and huge investment in administrative and judicial capacity. Since the Treaty of Lisbon, Article 8(1) TEU provides for good neighbourliness in the Union’s relations with its neighbours. In the context of the Stabilisation and Association Process, the regional approach is one of the very first building blocks even for meeting the Copenhagen criteria and opening negotiations for a Stabilisation and Association Agreement.

1.1 The precedents for the Copenhagen criteria were already in place

As becomes increasingly evident below, the precedents for these criteria were already firmly in place. Before the actual, formal adoption of the Copenhagen criteria, however, their political and legal foundations as well as the practice of the Commission, Council and Parliament and Member States’ practice in relation to them, were clearly perceptible in the Union’s behaviour towards future members. Precedents for the Copenhagen criteria were already perceptible particularly in terms of the: