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# More Secretary than General?

Enlargement of the European Union is a question of vision.

One can easily call up the case of the United Kingdom's 1963 and 1967 applications to become member of the then European Economic Community vetoed by French President Charles de Gaulle. Although his reasons were not only vision driven but also related to economic considerations, namely France's agricultural interest, it is nevertheless puzzling that such a difficult birth as the one of the United Kingdom's accession to the EU – finally having taken place in 1973 along with Denmark and Ireland – has resulted in its sadly notorious fate in the European Union as we know it with Brexit occurring on 1 February 2020.



Political vision was not absent in the Greek, Portuguese and Spanish adhesions, either. Democracy and stability of the EU's southern borders constituted indeed keywords to the 1981 and 1986 Mediterranean accession waves.

In the 1990s, the Copenhagen criteria were elaborated in order to canalise the process into a legally foreseeable bed. Although, political vision was still a driving force behind enlargements of 1995 (Austria, Finland and Sweden), 2004 (Cyprus, the Czech Republic, Estonia, Latvia, Lithuania, Hungary, Malta, Poland, Slovakia and Slovenia), 2007 (Bulgaria and Romania) and 2013 (Croatia), the process also became *expressis verbis* merit based in order to rejoin an economic area with an undeniable wealth vector also characterised by legal values that define the very identity of the European Union as a common legal order.

What is the current vision behind the EU's enlargement policy? Is it still merit based? Who is in the driving seat? To these questions tends to provide answers the second Hungarian Presidency special edition of the *Európai Tükör/European Mirror* dedicated to the EU's enlargement policy.

Kecsmár Krisztián  
Editor-in-Chief



Boglárka Koller<sup>1</sup>  – Tibor Ördögh<sup>2</sup> 

# Rule of Law as the Hard Condition for Accession

## Analysing the Current Preparedness of the Candidates in the Fields of the Judiciary and Fundamental Rights and Justice, Freedom and Security

*The enlargement policy stands as one of the EU's most significant policies. In a changing world order and amid shifting geopolitical circumstances, it is in the vital interest of the European Union and its Member States to demonstrate progress in this policy area and to expand the Union with new members. Despite not expanding in the last ten years, the European Union's enlargement policy has undergone significant changes, resulting in increasingly stringent and evolving requirements for candidate countries. This article utilises the conceptual framework of Europeanisation to assess the current preparedness of candidate countries, with a specific focus on the 'fundamentals', including Chapters 23 and 24.*

**Keywords:** rule of law, Europeanisation, preparedness, European Union, enlargement, candidate countries

### Introduction

Ursula von der Leyen, who will conclude her first term as President of the European Commission in 2024, succinctly summarised the essence of the enlargement policy: “Enlargement is a vital policy for the European Union. Completing our Union is the natural horizon of our Union. Moreover, completing our Union has a strong economic

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and geopolitical rationale at this very moment. Past enlargements have demonstrated the enormous benefits for both the accession countries and the EU. We all win.”<sup>3</sup>

Despite the clear commitment and declaration from the current President of the Commission and the promised win–win situation for both the EU and the new members, the European Union has not admitted new members since 2013.<sup>4</sup> In fact, the British exit has resulted in a reduction in the number of member states during von der Leyen’s term in office. Furthermore, despite significant changes in the external environment of the European Union over the past decade that have notably strengthened the geopolitical arguments for enlargement, the EU has failed to complete new waves of accession in the last decade. Why has the European Union not expanded in the last decade?

The European Union’s enlargement policy has undergone significant changes in the past two decades, leading to increasingly stringent and evolving requirements for candidate countries. The progress of these candidates in meeting the accession criteria and their preparedness for EU membership is closely monitored not only by the European Commission but also by the EU Member States. The accession process is both lengthy and demanding, contributing to enlargement fatigue and a growing skepticism about the credibility of the process, particularly among the populations of most candidate countries, especially in the Western Balkans.

To restore the credibility of the enlargement process, the current Commission implemented reforms in 2020, restructuring the chapters into six thematic clusters. This revised approach places a primary emphasis on the ‘fundamentals’, encompassing the rule of law, the functioning of democratic institutions, public administration and the candidates’ economies. Enlargement negotiations now commence and conclude with a focus on these fundamentals, and progress in these key areas determines the pace of the negotiations. Chapters related to the fundamentals are initiated first and finalised last, dictating the overall negotiation timeline.<sup>5</sup>

This article utilises the conceptual framework of Europeanisation to assess the current preparedness of candidate countries, with a specific focus on the ‘fundamentals’, in particular Chapters 23 and 24. This analysis aims to provide insights into the preparedness of Western Balkan candidate states, as well as new candidates such as Ukraine, Moldova and Georgia, concerning these crucial chapters.

## **Enlargement, Europeanisation and Normative Power Europe<sup>6</sup>**

The history of the European Union is also a history of enlargements.<sup>7</sup> The 2004 and 2007 Eastern enlargements, along with Croatia’s accession in 2013, highlighted that

<sup>3</sup> VON DER LEYEN 2023.

<sup>4</sup> Ursula von der Leyen’s predecessor, Commission President Jean-Claude Juncker, announced a pause in enlargement in 2014, a position he maintained until 2017, when he recommitted to the Western Balkans enlargement (see KOLLER 2019: 15).

<sup>5</sup> European Commission 2020.

<sup>6</sup> This section relies on the arguments and conclusions of the following book chapter: KOLLER 2019: 15–29.

<sup>7</sup> ARATÓ–KOLLER 2023: 244–249, 296–308.



the pre-accession period is undoubtedly the best suitable period for the European Union to function as an external normative power<sup>8</sup> and be able to affect the political, legal and economic processes of the candidates. During this phase, the EU guides candidate countries toward the establishment of the rule of law, the guarantee of fundamental rights, media freedom, democratic functioning, public administration reforms, and the efficient functioning of the market economy. Upon becoming a full member state, the EU's role as a normative power undergoes transformation, as the states that have already joined become internal shapers of European integration, therefore the EU's impact can only be limited on the member states.<sup>9</sup>

The conceptual framework of Europeanisation may offer a suitable approach to describe the process of enlargement and the preparedness of the candidate countries. To what extent have the candidates become Europeanised during their rapprochement to the EU, aligning with its values and treaty norms of the sui generis supranational community?<sup>10</sup> For answering this question, Europeanisation provides a suitable conceptual framework.

Europeanisation is not a theory in its own right, but rather a conceptual framework for describing a complex set of integration phenomena. It became an increasingly fashionable concept in the 1990s when European integration had reached such a high level of integration that the so-called grand theories<sup>11</sup> of integration no longer provided an adequate answer for that.<sup>12</sup>

Europeanisation is a multi-layered concept with many definitions.<sup>13</sup> Ladrech defines it as “an incremental process re-orienting the direction and shape of politics to the degree that EC political and economic dynamics become part of the organizational logic of national politics and policy-making”.<sup>14</sup> Other scholars, like Bürzel applies the concept of Europeanisation to describe the impact of the European Union on the policy-making processes of the Member States, working from top-down – that is, from the Union and its institutions towards the Member States.<sup>15</sup> According to Radaelli, Europeanisation is a process that involves the “creation, diffusion, and institutionalisation of formal and informal rules”, processes, public policy models, styles and shared beliefs and norms. These are initially defined and disseminated through the decision-making processes of the European Union and later incorporated into domestic (both national and sub-national) policy discourses, structures and institutions.<sup>16</sup> Risse and his co-authors defined Europeanisation in the context of European governance. They argue that Europeanisation leads to the emergence and development of different governance

<sup>8</sup> MANNERS 2002: 235–258.

<sup>9</sup> KOLLER 2019: 15–29.

<sup>10</sup> KOLLER 2019: 15–29.

<sup>11</sup> HAAS 1958; LINDBERG 1963; HOFFMANN 1966: 862–916; TAYLOR 1982: 741–766.

<sup>12</sup> CAPORASO 2008: 25.

<sup>13</sup> KOLLER 2019: 18.

<sup>14</sup> LADRECH 1994: 69.

<sup>15</sup> BÜRZEL 1999: 574.

<sup>16</sup> RADAELLI 2003: 27–56.



structures at both national and EU levels.<sup>17</sup> Other scholars define Europeanisation simply as “national adaptation to European regional integration”.<sup>18</sup>

The 2000s witnessed a significant increase in literature on Europeanisation. The declaration of the Copenhagen criteria as conditions for accession for Central and Eastern European countries, as well as the two Mediterranean countries, has proven to be the effective means to bring the candidate states’ political systems, economies, legal systems and institutions closer to the European Union, i.e. to Europeanise them. The so-called conditionality benchmarking, largely conducted by the European Commission, has resulted in candidate countries stabilising their democracies, establishing functioning market economies, and gradually adapting their legal systems to the *acquis communautaire*. However, conditionality has not remained unchanged for the Big Bang enlargement,<sup>19</sup> since the candidate countries had to adapt to the evolving and thus changing *acquis communautaire*.<sup>20</sup>

In defining the concept of Europeanisation, a separate branch of the literature is represented by scholars that examine and typologise the external impact of the European integration process, i.e. the impact of the EU on non-member states.<sup>21</sup> These scholars argue that the European Union can be considered a normative power (NPE = Normative Power Europe) in many respects because it is capable of disseminating European norms, patterns and models outside the EU through a multi-level system of instruments.<sup>22</sup> Manners argues that the accession process itself can be interpreted as an effective instrument for asserting the normative power of the European Union. External states that are candidates for accession or aspiring candidates for membership are compelled to adapt to the EU before accession due to conditionality. They must fulfil the requirements of the European Union; otherwise, they will not be admitted to the EU. Other scholars use the term ‘enlargement Europeanisation’ to describe the external dimension of Europeanisation by stressing the external effects of European integration. In their interpretation, the European Union and its institutions, foremost the Commission can be seen as outside actors of the enlargement process which determine the processes of democratisation, economic transformation and legal harmonisation.<sup>23</sup> Their interpretation is very similar to Manners’s, but with the distinction that Manners identifies additional diffusion channels for Europeanisation beyond enlargement. These include international trade agreements, inter-regional agreements and memberships in international organisations.<sup>24</sup>

Europeanisation, therefore, poses a significant constraint on the road to full membership, which does not cease with membership but takes on a different form thereafter. The credibility of the membership pledge and the factor of time are crucial in this process.

<sup>17</sup> RISSE et al. 2001: 3.

<sup>18</sup> GRAZIANO–VINK 2008: 8–9.

<sup>19</sup> The 2004 and 2007 enlargement waves.

<sup>20</sup> GRABBE 2006: 32.

<sup>21</sup> KOLLER 2019: 19.

<sup>22</sup> MANNERS 2008: 45–60.

<sup>23</sup> GRABBE 2006; LŐRINCZNÉ BENCZE 2013; LŐRINCZNÉ BENCZE 2019: 145–159; SCHIMMELFENNIG 2010: 319–339; SCHIMMELFENNIG 2012.

<sup>24</sup> MANNERS 2002: 235–258.



If the external state, which is awaiting membership and exerting efforts to attain it, loses faith in the actual occurrence of membership or extends its temporal horizon beyond the foreseeable future, the imperative of Europeanisation will begin to weaken. In the early 2000s, a sense of enlargement fatigue and frustration with the protracted enlargement process could be felt among Central and Eastern Europeans. However, the momentum for Europeanisation eventually prevailed, leading to their actual accession with the inclusion of new members in 2004 and 2007. The Turkish accession process, however, serves as an example of the discrediting of the membership perspective, disillusionment with the accession process, and simultaneously, the loss of the power of Europeanisation.

When interpreting the concept of Europeanisation, we must also consider its multi-directionality.<sup>25</sup> Top-down Europeanisation refers to diffusion of certain institutional and policy norms from the EU level towards the political systems of the Member States and external states. On the other hand, the concept of bottom-up Europeanisation means that national political systems, and sometimes external states, can and do influence EU's functioning, policy-making and decisions. For example, top-down Europeanisation was particularly strong in the accession processes of Central and Eastern European countries. In the post-enlargement period, however, the top-down processes have been increasingly accompanied by bottom-up processes of Europeanisation, and the Central and Eastern European members increasingly tried to influence the EU's agenda and legislation on certain policy issues and to take a different position from some EU institutions or other Member States. Consequently, the adaptation phase of Europeanisation was replaced by strong emancipatory tendencies after acquiring full membership.<sup>26</sup> In general, during the accession negotiation period, the top-direction of Europeanisation is dominant, which does not exclude the possibility of advocacy. However, upon acquiring full membership, a bottom-up Europeanisation emerges.

The enlargement of the European Union also implies that, post-accession, the new, fully-fledged member states will only be subject to the 'coercive force' of Europeanisation, i.e. conditionality – Europe's normative power – to a limited extent. Therefore, deciding when to admit an external state as a member is a crucial decision for the EU institutions and the Member States. If a state joins at a time when the required level of Europeanisation is insufficient, further enlargement could jeopardise the EU's achievements. The strict entry criteria, along with their systematic monitoring by the European Commission, serve to minimise this risk.

Finally, it is necessary highlighting the three aspects of the process of accession to the European Union and the subsequent attainment of full membership. The policy aspect of European Union (*policy*) involves the operation of a range of institutions and public policy systems (*polities*) that enable the Member States to cooperate on a day-to-day basis with other EU Member States and the institutions of the European Union, and to ensure the effective policy-making and implementation. The third dimension of Europeanisation revolves around politics (*politics*), encompassing political leadership, political strategy, and acting in accordance with the values of a given state.<sup>27</sup> In the

<sup>25</sup> OLSEN 2002: 921–952.

<sup>26</sup> KOLLER 2011: 14–18.

<sup>27</sup> ARATÓ–KOLLER 2015: 377–399.



triangle of politics, policy and polity, the rapprochement to the European Union, the conditionality that accompanied the accession process, and the role of member states as full members in the political community of the European Union can be understood. Within this triangle, Europeanisation becomes an interactive process, offering an interpretative framework for political, economic, legal and institutional processes in both current and potential candidate countries. Moreover, upon their accession, it continues to provide an interpretative framework for the meaning of European Union membership.<sup>28</sup>

By organising the negotiating chapters into six thematic clusters and establishing a priority order among them, with the ‘fundamentals’ opening first and closing last, the European Commission has explicitly stated that, before initiating negotiations on any other policy field, the fundamentals – convergence with the institutional and political structure, and alignment with the values of the European Union – must be demonstrated. In other words, preparedness is primarily assessed based on these fundamentals, specifically the establishment of a Europeanised polity and political alignment to the EU.

This implies that the current top-down conditionality, communicated by the European Commission, puts *polity* in the centre. It necessitates the establishment of an institutional and democratic framework for the rule of law, which not only is imperative but will also significantly influence the candidate countries’ alignment with the European Union in specific *policy* areas. Additionally, the governments of the candidate and potential candidate countries, along with the leaders of the EU Member States, play a crucial role in the process. *Politics* stands out as a key determinant of this ongoing process.

## Preparedness of the Western Balkan countries with special focus on the rule of law

The Thessaloniki Summit<sup>29</sup> of 21 June 2003 gave the Western Balkans the hope of becoming full members of the European Union. It was a symbolic event important at the time, as it set out to support democratisation and stability in the countries, with the EU providing the opportunity to guide them to complete political transitions and to thrive as functioning democracies with the rule of law in place. However, the last twenty years have shed light on the problem of enlargement policy depending solely on the shared will of the parties, and that if one or the other party does not fully engage in cooperation, accession may be delayed. The countries of the region continue to have different levels of preparedness with regard to the Copenhagen criteria. The revised accession procedure has made the rule of law a priority, with Chapter 23 (Judiciary and Fundamental Rights) and Chapter 24 (Justice, Freedom and Security) the cornerstones. In the following, we set out to analyse the progress made in each of these areas for all the candidate countries.<sup>30</sup>

<sup>28</sup> KOLLER 2019: 23.

<sup>29</sup> European Commission 2003.

<sup>30</sup> ÖRDÖGH 2022: 12–42.



All states in the Western Balkans are grappling with a hiatus in the area of the rule of law.<sup>31</sup> Legal regulations are controversial, and their practical implementation falls short of expectations. Political influence is commonly exerted on the independence of the judiciary, and the appointment of prosecutors and judges often results from political bargaining. The financial autonomy of the branch of power is also undermined. The regulation of liberties is adequate, but there are obstacles to the exercise of rights. The right to assemble is guaranteed everywhere, mostly respected by the governments. However, physical violence is commonplace, indicating a lack of a culture of peaceful protests. Different groups face discrimination. Equality for women is not guaranteed, and they are limited in several areas. The LGBTI community is often subject to hate speech, and its rights do not meet European standards either. Minorities are frequently excluded from employment, housing, or education.

In most states, the media is pluralistic, with an appropriate institutional framework. However, they struggle with the significant influence of the political sphere, which is evident in the public sector market. Balanced information is not present in all countries, leading to the outstanding predominance of governing parties. The fight against corruption is the biggest problem in the region, as the established institutions lack adequate human and financial resources. Each special prosecutor's office finds itself regularly bumping into walls due to the scarcity of resources. Thus, the investigation of high-level corruption and accountability is pending in all countries. Politicians in governing parties are becoming untouchable. Although society perceives the presence of corruption, its elimination still awaits. In their rhetoric, individual governments consider the criteria of the rule of law important. However, in practice, they are not handled as priorities, aside from the adoption of action plans.

## *Albania*

Albania applied for membership in 2009 and was granted candidate status in 2014.<sup>32</sup> They had to wait until 2023 for the chapters to open, at which point negotiations began. According to the European Commission's opinion,<sup>33</sup> Albania has a moderate level of preparedness in terms of alignment with the EU's *acquis* and European standards in the area of justice and fundamental rights. Implementation of judicial reform has been slow. The vetting process of judges and prosecutors is proceeding well, although the pace of appeal processes needs to be accelerated in the light of the given deadline, with due regard to the quality of the proceedings. As of 6 October 2023, 57% of screening files processed had resulted in dismissal, resignation or termination of mandate. Albanian institutions need to ensure systematic judicial follow-up on screening cases involving forms of criminality. The efficiency of the judicial system and access to justice continues to be affected by delays in proceedings, increased workload, and a large backlog of cases, which remains significant. Progress has been made in filling vacant judicial positions

<sup>31</sup> ÖRDÖGH 2022: 12–42.

<sup>32</sup> VÉGH 2019: 198.

<sup>33</sup> European Commission 2023a.





with the appointment of 40 new judges who were sworn in at the Supreme Judicial Council in October 2023. The Special Anti-Corruption Structure (SPAK) has made progress, investigating several high-level cases involving two former ministers. A new Special Prosecutor General was appointed in December 2022.

Albania has adopted documents regulating fundamental rights and has acceded to relevant international instruments. However, there is a need to intensify overall efforts in implementing the legal and policy framework. As regards the protection of personal data, Albania needs to take urgent measures to prevent recurrence of serious breaches of personal data and to improve the management of personal data. Albania continues to ensure good cooperation with the European Court of Human Rights (ECHR). As of June 2023, 389 cases against Albania were pending before the ECHR. Progress has been made in the use of alternatives to detention, in particular probation services. The use of gender-responsive budgeting has continued to improve. Since January 2022, the Albanian Government has implemented a number of measures to support families, women and vulnerable groups in response to the global crisis caused by the pandemic Covid-19 as well as Russia's war against Ukraine. Financial assistance to victims of domestic violence has been significantly increased. Implementation of the law on gender equality and the National Strategy for Gender Equality has been strengthened. Some progress was also made on the rights of persons with disabilities. Discrimination against LGBTIQ<sup>34</sup> people is still very widespread in the Albanian society, especially in terms of access to healthcare, education, justice, employment and housing. Community members continue to experience physical aggression and hate speech, especially on social media. Same-sex marriage is not legally recognised in Albania.

### *Bosnia and Herzegovina*

Bosnia and Herzegovina applied for membership to the European Union in 2016 and received a positive response in December 2022. It is currently waiting for negotiations to pick up. Harmonisation in the areas of implementation of the EU acquis, European standards, justice and fundamental rights is slow, despite the efforts of the country's leadership. Limited progress has been made on the findings of the experts' report<sup>35</sup> on the rule of law.

The European Commission considers<sup>36</sup> that Bosnia and Herzegovina is lagging far behind in the area of civil justice, and has not made sufficient efforts to remedy this in the recent period. In September 2023, Bosnia and Herzegovina amended the Law on the High Judicial and Prosecutorial Council of Bosnia and Herzegovina with a view to establishing a system for controlling the asset declarations of judges and prosecutors. Compared to the version agreed with the Venice Commission, the asset control system provided for by the adopted amendments has been weakened. In addition, under the adopted amendments, personal data contained in asset declarations and supporting documents will not be accessible to external experts in charge of the controlling of the functioning and enforcement

<sup>34</sup> Lesbian, gay, bisexual, transgender, queer and intersex people.

<sup>35</sup> European Commission 2019.

<sup>36</sup> European Commission 2023b.



of the asset declaration system. The Council of Ministers has also appointed a monitoring body to oversee the implementation of the national strategy against war crimes. The Constitutional Court has suspended and annulled several legal and political acts adopted by the Republika Srpska. The mandate of two judges of the Constitutional Court expired at the end of 2022 and no replacement has been found. The Assembly of the Republika Srpska has called for the resignation of state-level constitutional judges and legalised the non-implementation of the Constitutional Court's decisions, in violation of the country's constitutional and legal framework. While the High Representative annulled these laws, the authorities of the Republika Srpska decided to implement them anyway. There has been no progress in the fight against corruption, and the necessary legislation and its implementation to ensure effective law enforcement remain lacking.

In August 2023, the Parliament amended the Law on the Ombudsman, designating the institution as the national preventive mechanism against torture and ill-treatment. In 2023, the European Court of Human Rights ruled in six cases (10 in 2022) that Bosnia and Herzegovina had violated the rights guaranteed by the European Convention on Human Rights. These violations concerned the right to a fair trial, the protection of property and the general prohibition of discrimination. This year, a further 303 new applications have been submitted to the ECHR's decision-making body, bringing the total number of applications pending before the Court to 130.

There has been a negative tendency in ensuring freedom of expression. The reintroduction of criminal sanctions for defamation in the Republika Srpska in July 2023 will severely affect civil society, limit freedom of expression and media, and represent a significant step backwards in the protection of fundamental rights. In September 2023, the Assembly of the entity passed a first reading of a draft law targeting civil society groups as foreign agents; if fully adopted, this will be another regrettable and undeniable setback. Freedom of assembly remains restricted in large parts of the country. The country urgently needs to finalise pending constitutional and electoral reforms. Significant changes are needed to ensure that all citizens can effectively exercise their right to vote and to stand for election, bringing the country's constitutional and legislative framework in line with the ECHR *Sejdić-Finci*<sup>37</sup> case law. End segregated education to ensure non-discriminatory, inclusive and quality education for all, including by overcoming the practice of "two schools under one roof". Gender-based violence, ill-treatment of detainees and inadequate protection of minorities, including Roma, remain a concern. The Gender Action Plan was adopted in October 2023. The Council of Ministers adopted the Action Plan on the Rights of LGBTIQI People in July 2022. While legislation contains provisions on hate crimes based on sexual orientation and gender identity, the prosecution of hate crimes and hate speech remains insufficient. No steps have been taken to recognise and ensure the social and economic rights of same-sex couples, including the right to family life. In March 2023, local Serbian police banned the Pride march in Banja Luka, failed to protect activists from physical attacks and failed to prosecute perpetrators.

<sup>37</sup> KEMENSZKY 2019: 229.





## *Kosovo*

Kosovo's journey has been a long one<sup>38</sup> up until its application to join the EU in December 2022. Its candidate status is still pending, partly because five Member States do not recognise it as an independent state,<sup>39</sup> and partly because the Belgrade–Pristina dialogue has not yet brought a satisfactory clarification of the relationship between the two sides.<sup>40</sup> Kosovo is lagging behind in its preparations to apply the EU *acquis*, with limited progress in the functioning of the judiciary and in investigations and prosecutions of organised crime and high-level corruption cases. Further efforts are needed to strengthen freedom of expression.

The European Commission considers<sup>41</sup> that the country has made little progress, despite an increase in the rate of effective trials, faster pace of trials and improved recruitment of judges and prosecutors. The human rights situation and the organisation of the administration of justice remain weak. The National Central Criminal Records System has been established and has been available online since December 2022, allowing the public to consult criminal records online. The government's decision to reduce the salaries of judges and prosecutors and the subsequent law on salaries raise concerns about the independence of the judiciary. In September 2022, the government submitted a bill on integrity checks for judges and prosecutors to parliament, which established an ad hoc committee to finalise constitutional amendments and relevant legislation on integrity checks for senior positions within the judiciary. Kosovo should ensure that the Venice Commission is consulted again during the process of finalising draft constitutional amendments and legislation related to judicial reform. Kosovo has made limited progress in the fight against corruption. Kosovo has adopted a new regulatory framework for the control of political parties and campaign financing, but implementation is pending, including the Law on the Prevention of Corruption Agency, the Law on Asset Declaration and the Law on Political Parties and Campaign Financing.

In general, the legal framework guarantees the protection of fundamental rights and is in line with European standards. The capacity of the authorities to monitor the implementation of fundamental rights and legislation has improved and the implementation rate of the Ombudsman's recommendations has increased. Parliament adopted the Law on Prevention and Protection against Domestic Violence and Violence against Women and Gender-Based Violence. Despite these positive developments, further efforts are needed to ensure effective implementation of fundamental rights. The government's capacity to streamline and monitor fundamental rights issues requires further improvements. Fundamental rights issues need to be placed higher on the political agenda and consequently more human and financial resources need to be allocated to the relevant institutions. Kosovo should continue its efforts to ensure equal access to institutions, quality services, employment and education for persons with disabilities. The Constitution prohibits discrimination on the basis of sexual orientation or gender. The draft

<sup>38</sup> REMÉNYI 2019: 237–252.

<sup>39</sup> Spain, Romania, Greece, Cyprus and Slovakia.

<sup>40</sup> ÖRDÖGH 2020: 227–248.

<sup>41</sup> European Commission 2023c.



Civil Code containing provisions on civil partnerships for same-sex couples has not been adopted by Parliament. Concerns remain about the use of homophobic language by public figures, political actors and the media against same-sex NGOs. Suicide rates and incidents of domestic violence among minorities have increased. As regards legal gender recognition, the process of amending the law on civil status is pending. Further training is needed for law enforcement officials, in particular on transgender rights, hate crime classification and secondary victimisation.

## *Montenegro*

Montenegro applied for candidate status in 2008, became a candidate member in 2010 and has been in accession negotiations since 2012.<sup>42</sup> On the judiciary, the European Commission considers<sup>43</sup> that the country is moderately prepared to apply the EU acquis and European standards. No progress has been made on judicial reform, which continues to face a deep institutional crisis. The level of corruption is a cause for concern and is widespread in many areas, including state structures. Limited progress has been made in the prevention of corruption and the legislative and policy framework remains to be fully modernised. Several high-profile corruption cases are under investigation. Montenegro needs a strong and clear criminal justice response. The country is meeting its obligations under international human rights conventions as regards fundamental rights. However, challenges remain in the effective implementation of legislation, in particular for the most vulnerable. The continued increase in cases of femicide and gender-based violence remains a serious concern. The full and effective protection of journalists is steadily improving, but tangible results have not yet been achieved in relation to past attacks.

The legislative and institutional framework on fundamental rights is adequate, but further efforts are needed to fully implement it. Some legislative changes are also needed, in particular in the area of non-discrimination. As in previous years, polarisation and division in society remain. The most vulnerable groups in society (including Roma and Egyptians, people with disabilities, LGBTQI people) continue to experience high levels of discrimination, hate speech and hate crime. Access to justice in administrative and judicial proceedings needs to be improved, especially for vulnerable groups.

## *North Macedonia*

North Macedonia applied for EU membership in 2004 and was granted candidate status in 2005,<sup>44</sup> but negotiations could not start due to the Greek–Macedonian name dispute and then the Bulgarian veto on North Macedonia joining the EU.

<sup>42</sup> VARGA-KOCSICSKA 2019: 164.

<sup>43</sup> European Commission 2023d.

<sup>44</sup> BRAUN 2019: 207.



According to the European Commission,<sup>45</sup> the country's judicial system is inadequate and no progress has been made in recent years. The Judicial Council should strive to protect the integrity and independence of judges and institutions and resist any outside influence. The controversial removal of the President of the Judicial Council has raised concerns about undue political influence. The adoption of a new judicial reform strategy has been delayed. Limited progress has been made in implementing human rights strategies for the judicial services. Lack of measures to address the impact of scheduled retirements has affected effectiveness. Corruption remains widespread and a cause for concern in a number of areas, which have not been addressed.

The legal framework for the protection of fundamental rights is partly aligned with the EU acquis and relevant European standards. The country continues to fulfil its general obligations in relation to fundamental rights, but legislation needs to be systematically implemented. The Penal Code on gender-based violence has been amended. Persons with disabilities continue to face direct and indirect discrimination, social exclusion and barriers. The situation in prisons remains serious. The failure to take into account the recommendations of the European Committee for the Prevention of Torture on the treatment of prisoners and convicted persons is a matter of serious concern. Conditions of detention need to be improved as a matter of urgency. Particular attention must be paid to promoting non-discrimination and to increasing the effectiveness of the fight against hate crime and hate speech. The mechanism for external oversight of the police, including the prison police, is still not fully operational, and three representatives of civil society organisations have yet to be selected by parliament. The enacted amendments to the Law on Civil Registry pave the way for resolving cases of statelessness and meeting the country's international obligations. Negative stereotypes and hate speech against LGBTIQ people are prevalent in the society. No progress has been made in implementing the ECHR judgment of January 2019 on the legal recognition of gender by amending the Law on Civil Registry. The legal framework does not allow for the formal recognition of same-sex couples. No progress has been made in investigating the attacks on the LGBTIQ support centre in 2012, 2013 and 2014.

## *Serbia*

Serbia indicated its intention to join in 2009 and was granted candidate status in 2012. Negotiations were launched in 2014, with the real chapter openings starting in 2016.<sup>46</sup> According to the European Commission,<sup>47</sup> the country's leadership has accepted some of the earlier proposals. On 9 February 2023, Serbia took an important step towards ensuring the independence and accountability of the judiciary by the timely adoption of the five laws implementing the 2022 constitutional amendments, while two implementing laws are still to be adopted: the Law on the Judicial Council and the law on the office and

<sup>45</sup> European Commission 2023e.

<sup>46</sup> ÖRDÖGH 2019a: 177.

<sup>47</sup> European Commission 2023f.



territorial jurisdiction of the public prosecution. The Venice Commission issued three opinions, which were generally positive in their assessment of the legislation, recognising the transparency of the process. Delays persist in the impartiality, accountability, efficiency and professionalism of the judiciary, access to justice and high quality training. The current system of recruitment, transfer and promotion of judges and prosecutors has not yet been reviewed to ensure that careers are fully merit-based. The situation remains a cause for concern as regards undue political pressure on the judiciary. Serbia has still not shown a real commitment to investigating and prosecuting war crimes. There continues to be public criticism of the judgements of the International Criminal Tribunal for the former Yugoslavia (ICTY). Many Serbian political parties, politicians and media continue to support convicted war criminals and provide them with a public platform.

Serbia has the legal and institutional framework to ensure adherence to fundamental rights. This framework must be implemented consistently and effectively. The Ombudsman was elected in April 2023 without cross-party support. The impartiality of the Ombudsman still needs to be ensured. There is a significant delay in recruiting additional staff for the Commissioner for Information of Public Importance and Personal Data Protection. The procedure for the implementation of the decisions of the European Court of Human Rights needs to be further regulated, including the role of the Serbian Government Representative before the Court.

Implementation of the new strategies and action plans on gender equality, anti-discrimination and Roma inclusion has started. Regarding LGBTQI rights, a Pride march took place in Belgrade in September 2023 without incident. No progress has been made on the draft law on same-sex partnerships initiated by the Ministry of Human and Minority Rights and Social Dialogue, nor on the Ombudsman's proposal to regulate the legal recognition of gender, although it was supported in the previous anti-discrimination strategy.

## **Preparedness of the newly declared candidates – Georgia, Moldova, Ukraine**

Ukraine, Moldova and Georgia have long been part of the European Neighbourhood Policy (ENP), including the Eastern Partnership, and for a long time the question of accession to the EU was not seriously considered. Nor has the European Union sought to integrate the partner countries, which have a number of political, economic and even geographical issues. However, the escalation of the Russian–Ukrainian war in 2022 has transformed world politics and fears of Russia have increased. It was for these reasons that all three countries decided to apply for EU membership. Moldova formally applied for membership on 3 March 2022, Ukraine on 28 February 2023 and Georgia on 3 March 2023. The European Commission recommended granting candidate status to Moldova and Ukraine, and at the meeting of the Heads of State and Government on 23 June 2023, these two countries were given the green light, while Georgia concluded an agreement to



carry out further tasks in order to obtain candidate status. As regards these new states, the European Council decided on 14–15 December 2023 to open accession negotiations with Ukraine and Moldova.<sup>48</sup>

## Georgia

The European Commission has identified a set of twelve priorities for reform in the country in its opinion on Georgia's application for EU membership.<sup>49</sup> These are as follows: 1. Reducing political polarisation; 2. Implementing the recommendations of the OSCE/Venice Commission; 3. Comprehensive judicial reform; 4. Fighting corruption; 5. Deoligarchisation; 6. Fighting organised crime; 7. Ensuring media freedom; 8. Strengthen the protection of human rights; 9. Enhance gender equality and consolidate efforts to combat violence against women; 10. Involve civil society in decision-making; 11. Adopt legislation to ensure that Georgian courts proactively take into account the European Court of Human Rights judgments in their deliberations; 12. Ensure the independence of the Ombudsman.

Four consecutive waves of judicial reform have improved the legal framework for the functioning, capacity and organisation of the judiciary. However, progress in implementing judicial reforms has stalled, and in some cases there have been setbacks. Public perception of the independence of the judiciary has deteriorated. A strategy for judicial reform after 2020, necessary to move forward, has not yet been adopted.

The constitutional and legislative framework guarantees in principle the independence and impartiality of the judiciary, including specific guarantees for judges.

Georgia has taken significant steps to curb corruption and participates in most anti-corruption institutions. A significant number of corruption cases involving low and mid-ranking officials have been successfully prosecuted, notably in the area of public procurement. It has a similar track record in the area of cooperation against organised crime, participating in the necessary international protocols (e.g. CEPOL). The police arrested and prosecuted 152 cyber criminals.

Concerning fundamental rights, the country has ratified the main international human rights instruments, including the European Convention on Human Rights, the UN Convention on the Rights of the Child and its Optional Protocols, the Convention on the Elimination of All Forms of Violence against Women and the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention). The legal and institutional framework governing fundamental rights is largely in place and the laws follow European and international standards. There are ongoing efforts to raise awareness of gender equality and to address existing inequalities that prevent women from fully exercising their equal rights. 19.3% of the members of parliament elected in 2021 will be women. Gender-based violence rates, including domestic violence and femicide, remain high. Women continue to face inequality in the labour market; the gender pay gap persists, with women earning on

<sup>48</sup> European Council 2023.

<sup>49</sup> European Commission 2022a.



average 36.2% less than men in 2019. More needs to be done to protect the rights of LGBTIQI people, especially in light of the events of July 2021.<sup>50</sup> The Code of Rights of the Child, which sets out the legal framework for the protection of children's rights, has been adopted. People with disabilities remain one of the most marginalised groups. The European Council granted Georgia candidate status on 15 December 2015.

## Moldova

In 2022, the European Commission prepared a report on Moldova's level of preparation, which proposed measures in nine additional areas in exchange for membership: 1. Comprehensive judicial reform; 2. Implementation of OSCE/UN Committee recommendations; 3. Fight against corruption; 4. Deoligarchisation; 5. Fight against organised crime; 6. Administrative reform; 7. Stability of public finances; 8. Involvement of civil society in decision-making; 9. Strengthening the protection of human rights.<sup>51</sup> As can be seen, a significant number of the measures relate to the rule of law, so progress in this area was required for the candidacy.

In its opinion, the Committee noted<sup>52</sup> that Moldova has succeeded in implementing reforms in the police and judiciary, but needs to step up its efforts to address political interference and trade disputes. In the judiciary, Moldova has implemented a number of judicial reforms since 2009 to ensure independence, efficiency and effectiveness. Judicial reforms are a priority in the current government's programme. Moldova has adopted a comprehensive strategy for the independence and integrity of the judicial sector for the period 2022–2025. The constitutional and legal framework of the judiciary is largely in line with European standards. Law enforcement and judicial structures have been consolidated. The constitutional amendments affecting the functioning of the judiciary entered into force in April 2022. The amendments have significantly improved the independence, accountability and efficiency of the judiciary and judicial administration, in line with the recommendations of the Council of Europe. The opinion notes that the appointment of judges and prosecutors is still not based on fully objective criteria. In addition, decisions affecting the management and leadership of the Moldovan prosecution are sometimes politically motivated, such as the removal, (temporary) replacement and arrest of the anti-corruption prosecutor in 2021. The necessary legislative framework to fight corruption is in place and a specialised body to investigate this type of cases has been set up, as confirmed by GRECO surveys.<sup>53</sup>

In the field of fundamental rights, Moldova has ratified the main international human rights instruments, including the Istanbul Convention, the European Charter for Regional or Minority Languages, the European Convention on the Exercise of Children's Rights and the European Convention on Human Rights (although it has not ratified its

<sup>50</sup> In July 2021, violent groups stormed the community centre of Pride organisers, where rainbow flags were torn apart and journalists were injured. The organisers called off that year's parade, citing the violence.

<sup>51</sup> European Commission s. a.

<sup>52</sup> European Commission 2022b.

<sup>53</sup> GRECO 2023.





12<sup>th</sup> instrument). The country has ratified the UN Convention on the Rights of the Child and two of its Optional Protocols, but not the third (on communication procedures) or the Optional Protocol to the UN Convention on the Rights of Persons with Disabilities. The capacity of institutions responsible for the protection and promotion of human rights and the implementation of existing strategies and action plans is limited, which hampers the effective protection of human rights. In particular, the National Council is seriously underperforming in preventing discrimination and ensuring equality.

Moldova has adopted a new human rights and democracy strategy for the period 2021–2024. The key priorities are gender equality/women's rights, respect for human rights in the criminal justice system, guaranteeing the integrity of electoral processes, and supporting independent media, access to information and combating disinformation. Long pending legislation on hate crimes has been adopted. More needs to be done to combat hate speech and discrimination based on sexual orientation and gender identity, as well as gender-based violence. As regards equality for women in the labour market, the legal framework no longer prohibits access to certain professions, but women continue to face de facto barriers and age discrimination. A gender pay gap persists in Moldova, with women overall earning 14.1% less than men in 2019 (the same as the EU average) and 39.6% of parliamentarians elected in 2021 being women (above the EU average). More needs to be done to protect the rights of LGBTIQ people. Employment discrimination based on sexual orientation is prohibited by law, but social discrimination persists. Pursuant to the decision of the European Council of 15 December 2023, negotiations can begin with Moldova.

## *Ukraine*

Similarly to the previously mentioned countries, for Ukraine, seven priorities were identified in the European Commission's report.<sup>54</sup> They are as follows: 1. Adopting a new law on the election of constitutional judges; 2. Electing members of the Supreme Judicial Council; 3. Stepping up the fight against corruption; 4. Stepping up the fight against money laundering; 5. Deoligarchisation; 6. Ensuring media freedom; 7. Reforming the legal framework governing the situation of national minorities.

As regards the judiciary, Ukraine has started to reform the judicial sector, with the right strategic approach. One of the cornerstones is the Supreme Judicial Council, the main body responsible for the self-governance of the judiciary. The constitutional and legislative framework guarantees the independence and impartiality of the judiciary. Judges and prosecutors are appointed in principle on the basis of merit and objective criteria, following public recruitment competitions. However, unjustified internal and external attempts to interfere in the judiciary remain a cause for concern. The judiciary is facing a serious shortage of judges, as the new examination system and integrity requirements have led to the resignation of around 2,000 judges, while the body specialised in the appointment of new judges was dissolved in 2019 and no new appointments have been made. The establishment of the Supreme Anti-Corruption Court is an important

<sup>54</sup> European Commission 2022c.



innovation in the fight against corruption in the judiciary, partly in response to pressure from civil society and partly from the international community.

The country is a member of all key international anti-corruption conventions and organisations. Following an extensive drafting process, a new national anti-corruption strategy has been developed, focusing on relevant sectors, although the final adoption by the legislature is still pending. The number of completed investigations into crimes committed by organised groups and criminal organisations has slowly increased in recent years, but remains relatively low (2021 – 499 cases; 2020 – 377 cases; 2019 – 293 cases), especially in relation to allegations of human trafficking (2021 – 45 cases; 2020 – 57 cases; 2019 – 10 cases).

The legal and institutional framework for fundamental rights is in place and laws generally adhere to the European and international standards. In 2021, Ukraine adopted a new national human rights strategy for the period up to 2023 to strengthen efforts to harmonise administrative structures and procedures, but the same is missing for the period from 2023 onwards.

Ukraine is gradually making progress towards gender equality. Women's political representation is on the rise (20.5% of parliamentarians elected in 2019 are women). The gender pay gap persists, with women overall earning 23% less than men in 2019. Ukraine has not ratified the Istanbul Convention, while gender-based violence persists. There is a growing level of tolerance of LGBTIQI people in the Ukrainian society.

Ukraine has taken various legal initiatives to improve the rights of children, ratified the UN Convention on the Rights of the Child, and supported the Paris commitments to protect children from unlawful recruitment or use by armed groups. At the same time, Ukraine has one of the highest rates of institutionalisation of children in the world (around 1.5% of all children), which is a cause for serious concern and needs to be urgently addressed. Similarly, persons with disabilities (about 6% of the population) remain under-protected. Pursuant to the decision of the European Council of 15 December 2023, negotiations can begin with Ukraine.

## Conclusions

As demonstrated in the overview of candidates' preparedness outlined in Chapters 23 and 24, it is evident that countries intending to join the European Union have been pursuing legal harmonisation with varying degrees of intensity (see Annex 1). The Western Balkan states have shown progress in recent years concerning Chapters 23 and 24, but no profound changes have taken place in any of the countries. Progress has been made in the field of justice, but each country still faces numerous problems. The situation of minorities, the disabled and women remains unsettled, indicating a lack of fundamental freedoms. The greatest lag can be identified in the fight against corruption. When comparing the group of Western Balkan states with the countries of the Eastern Partnership, it becomes clear that the latter are at an even greater disadvantage in terms of fulfilling the two chapters, and they still have a long way to go before achieving full-fledged legal harmonisation. Consequently, the process of Europeanisation is not progressing at the pace needed to achieve membership very soon. There are a number of reasons for this,





including internal political tensions and disillusionment with the European Union and its enlargement policy. The EU's enlargement perspective apparently has lost credibility over the last decade mainly due to the fact that less clear procedural rules have been laid down with unclear expectations in the examined chapters. While the European Commission has been continuously insisting on delivering results in the cluster of 'fundamentals' and necessitates legal, institutional and democratic reforms, many of the rule of law requirements are not met in most of the candidate countries. The core of the enlargement policy currently revolves around Chapters 23 and 24, where both the Western Balkans and the countries in the neighbourhood are lagging behind. At present, it seems that the process of enlargement has stalled because the 'fundamentals' dictated by the European Union have not been met, the polities of the candidate states have not been sufficiently Europeanised, therefore, the enlargement process cannot move on to wider policy areas. Although the process of top-down Europeanisation continues, and the European Commission is constantly making proposals to the candidate states on the direction of the required reforms, they are slow in implementing them or they do not implement them at all. Accordingly, the expected date of their accession is constantly being pushed back. The earlier prospect of the next wave of enlargement in 2025 has already dissipated, with French President Emmanuel Macron mentioning 2030 as the target year, which would result in a European Union of 32 or 35 members. Finally, the quickly acquired candidate status of Ukraine and Moldova and the recent decision of opening of negotiations with them show that politics is the main determinant of enlargement. As for the people in the Western Balkans, their disappointment stems from waiting several years for candidate status or the opening of negotiations, while Ukraine and Moldova were able to achieve the same in a year or less.

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Annex 1: Enlargement Countries

Country	Status	Stabilisation and Association Agreement		Accession							
		Signing	Effective from	Submitting application for membership	Enter candidate status	Start of negotiations	Number of chapters opened	Number of chapters provisionally closed	Chapters 23 and 24 opened	Chapters 23 and 24 closed	
<b>Iceland*</b>	Withdrawn candidate membership*	-	-	17.07.2009	17.06.2010.	27.06.2011.	27	11	23: 12.12.2011. 24: -	23: 12.12.2011. 24: -	
<b>Ukraine</b>	Candidate member	-	-	28.12.2022	23.06.2022.	-	-	-	-	-	
<b>Moldova</b>	Candidate member	-	-	03.03.2022	23.06.2022.	-	-	-	-	-	
<b>Georgia</b>	Candidate member	-	-	03.03.2022	15.12.2023.	-	-	-	-	-	
<b>Türkiye</b>	Candidate member	-	-	01.12.1964	14.04.1987.	12.12.1999.	18	1	-	-	
<b>Montenegro</b>	Candidate member	10.10.2005.	01.05.2010.	15.12.2008	17.12.2010.	29.06.2012.	33	3	23: 18.12.2013. 24: 18.12.2013	23: - 24: -	
<b>Serbia</b>	Candidate member	10.10.2005.	01.09.2013.	22.12.2009	01.03.2012.	21.01.2014.	22	2	23: 18.07.2016. 24: 18.07.2016.	23: - 24: -	
<b>North Macedonia</b>	Candidate member	15.04.2000.	01.04.2004.	22.03.2004	17.12.2005.	19.07.2022.	-	-	-	-	
<b>Albania</b>	Candidate member	31.01.2003.	01.05.2009.	28.04.2009	24.06.2014.	19.07.2022.	-	-	-	-	
<b>Bosnia-Herzegovina</b>	Candidate member	25.11.2005.	01.06.2015.	15.02.2016.	15.12.2022.	-	-	-	-	-	
<b>Kosovo</b>	Potential candidate member	28.10.2013.	01.04.2016.	15.12.2022.	-	-	-	-	-	-	

Note: \* The government of Iceland withdrew its candidate membership application on 12 March 2015.  
Source: Compiled by the authors based on ÖRDÖGH 2019b: 52–56; data accessed from the official website of the European Union.

Balázs Ferkelt<sup>1</sup> 

# Evaluation of Montenegro's EU Maturity in the Light of Economic Indicators<sup>2</sup>

*Montenegro submitted its EU membership application to the Council in 2008. Accession negotiations started in 2012 with the Western Balkan country. In December 2023, out of the 33 chapters opened during the negotiations, only 3 chapters were temporarily closed. The aim of the study is to examine on the basis of the European Commission's country report, the EBRD's Transition Report, the OECD's Competitiveness Report, as well as the evaluation of a wide range of macro indicators, to what extent Montenegro can be considered mature for joining the European Union based on its economic structure, performance and catch-up. In the last 15 years, the country has achieved a slow economic catch-up, but it is not yet considered mature for integration from an economic point of view. In order to meet the economic criteria for EU accession, the country still needs to implement reforms in many areas and strictly adhere to budgetary discipline.*

**Keywords:** Montenegro, European Union, enlargement, Copenhagen criteria, accession negotiations, convergence

## Introduction

Montenegro, which regained its independence in 2006, submitted its EU membership application to the Council in 2008. The EU accession negotiations started in 2012 with the Western Balkan country. Until December 2023, out of the 33 chapters opened in the negotiations, only 3 chapters were temporarily closed, which could result in a rather long series of negotiations. Parallel to the accession process, the country became a member of several international organisations, such as the UN, the OSCE, the Council of Europe, the IMF, the World Bank Group, CEFTA, the WTO and NATO, partially proving its Euro-Atlantic commitment. In addition, the country uses the common currency of the twenty-member Eurozone as the exclusive legal tender.

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The examination of the accession processes of the Western Balkan countries and the fulfilment of the political criteria are often the subject of domestic and international scientific publications, but the economic dimension is often pushed into the background. The aim of this study is to examine how mature Montenegro is for joining the European Union based on its economic structure, performance and catching up.

## Montenegro's accession process, the status of accession negotiations

The first step taken by the independent Montenegro on its way to EU integration can be considered the signing of the Stabilisation and Association Agreement (SAA) and the Interim Agreement on trade and trade-related matters on 15 October 2007 (entered into force on 1 May 2010, respectively 1 January 2008).

Montenegro submitted its application for joining the European Union to the Council of the European Union on 15 December 2008. The European Commission issued its opinion ("avis") on 9 November 2010, in which it recommended to the Council that Montenegro be granted candidate status. In its opinion, the Commission stated that the country had achieved results in the development of the stability of institutions that guarantee democracy, the rule of law, human rights, and the respect and protection of minorities, and had also achieved a certain degree of progress in the development of macroeconomic stability, while at the same time in developing a functioning market economy it still needs to take a number of actions. Based on the avis, the European Council approved the country's candidate status at its next meeting held on 16–17 December 2010.

At its meeting on 26 June 2012, the Council decided to start accession negotiations with Montenegro.<sup>3</sup> Accession negotiations began on 29 June 2012. The dynamism of the accession negotiations is clearly shown by the fact that between 2012 and 2018, 32 negotiation chapters were opened and three of them (25 science and research, 26 education and culture, 30 foreign relations) were temporarily closed.<sup>4</sup>

In the case of Montenegro, the dynamics of the accession negotiations slowed down after 2018, one of the reasons for which is to be found in the domestic political situation. On the other hand, the fact that some EU member states (Benelux states, Sweden, France) wanted to put more emphasis on the rule of law and fundamental values in the EU accession process also contributed to this. In October 2019, France vetoed the start of accession negotiations with Albania and North Macedonia. Emmanuel Macron called for a multi-step, reversible accession process. After that, the European Commission developed a new enlargement methodology, which indicated four basic principles: credibility, stronger political control, dynamism, predictability. The new methodology is characterised by the grouping of the accession chapters. The clustered chapters bring a reinforcement of the rule of law conditionalities, the negotiations will be opened and

<sup>3</sup> Council of the European Union 2012.

<sup>4</sup> European Commission 2023a.



closed with the rule of law cluster. When there is no progress in a field, it is possible to reverse the negotiations, as well. In practice, the new methodology may slow down the ongoing Western Balkans accession negotiations. Montenegro contributed to the application of the new methodology.<sup>5</sup> Chapter 33 (Competition Policy – 8) was opened on 30 June 2020, under the Croatian Council Presidency.

## Methodology of the analysis

The study examines Montenegro's integration maturity from an economic point of view based on the European Commission's country report, the EBRD's Transition Report, the OECD's Competitiveness Report, and the evaluation of a wide range of macro indicators. The evaluation of the Bertelsmann Transformation Index is not involved in the analysis. The scope of the examined indicators is as follows: the structure of the economy (the contribution of each sector to the gross value added [GVA]), GDP per capita (purchasing power parity), real GDP growth, inflation rate, government deficit/surplus, general government debt, unemployment rate, foreign trade balance, relational structure of foreign trade, current account balance. The sources of the data are the statistical time series of Eurostat, the IMF and the Statistical Office of Montenegro (MONSTAT). The time period of the analysis – depending on the availability of statistics – is the 16-year-period between 2007–2022, which includes the effects of the global financial and economic crisis of 2008–2009, the European downturn caused by the sovereign debt crisis, and the recession caused by the Covid-19 pandemic also the first consequences of the Russian–Ukrainian war.

In the literature, Viktória Endrődi-Kovács examined the economic integration maturity and economic performance of the Western Balkan countries using a similarly broad methodology.<sup>6</sup> In her study, based on the EBRD's Transition Reports, she analysed the economic performance of the Western Balkan countries in five categories: functioning market economy, competitiveness, macro stability, convergence and financing. Regarding the period between 2002–2015, she stated that not a single country in the Western Balkans, not even Croatia, could be considered fully mature for integration. Viktória Endrődi-Kovács and Oleg Tankovsky established a composite index based on which they examined the Western Balkan countries.<sup>7</sup> Examining the period between 2006 and 2019, they found in their study that – although Serbia and Montenegro made significant progress in the period under review – none of the Western Balkan states was mature for joining the European Union. Gyula Sándor Nagy and Dženita Šiljak examined the convergence of the Western Balkan countries based on seven indicators for the period 2004–2018.<sup>8</sup> They found in their analysis, that there was absolute convergence between the Western Balkan states and the EU27+1 in every analysed period except the post crisis period and that the countries converged in conditional terms in every analysed period.

<sup>5</sup> MATHEISZ 2023.

<sup>6</sup> ENDRŐDI-KOVÁCS 2019: 89–108.

<sup>7</sup> ENDRŐDI-KOVÁCS–TANKOVSKY 2022: 148–166.

<sup>8</sup> NAGY–ŠILJAK 2023: 1145–1168.





## Evaluation of the European Commission on the fulfilment of the economic criteria

The European Commission stated in its 2023 country report: “Montenegro has made limited progress and is moderately prepared in developing a functioning market economy. [...] Montenegro has made some progress and is moderately prepared to cope with competitive pressure and market forces within the EU.”<sup>9</sup> Based on the Commission’s assessment, Montenegro does not meet the economic Copenhagen criteria.

Based on the Commission’s opinion, structural reforms were also slowed down by political instability. The role of the state in the economy is still very high, which can be characterised, for example, by the number and proportion of state-owned enterprises. In some sectors, the privatisation process has not yet taken place or has been completed, and in some companies the state share has even increased (e.g. in the port of Bar). (The privatisation process took place in the banking sector, concentration has been observed in recent years, the Hungarian OTP Bank has become the market leader based on loan portfolio. In retail, three of the five largest chains are owned by Montenegrins and two by Slovenians, but in 2023 Lidl confirmed the purchase of three large locations in Montenegro, as well.) The largest owner of the national energy company, EPCG, remains the Montenegrin state. In 2020, the state airline terminated its business activity, but at the same time, with state support, the first flight of the new national airline, Air Montenegro, to Belgrade started in June 2021. According to international experience, even larger and more developed national economies than Montenegro are not able to operate their own airline profitably.

The general government spending achieves 43–44% of GDP, which is not an outlier in European comparison, but at the same time, the rate of loan repayment and interest payment is high. In addition, the large proportion of the informal sector, which according to estimates can reach up to 37.5% of GDP, is a serious problem.<sup>10</sup> This is not the first time that the government has postponed the implementation of the plan to suppress the informal economy in 2023. Although many measures have been taken to reduce corruption, its level is still high, in 2022 the country ranked 65<sup>th</sup> in Transparency International’s corruption perception index.<sup>11</sup> Corruption reaches the highest levels, in 2022 the President of the Supreme Court, who resigned in 2021, was arrested on suspicion of corruption. The public procurement market is relatively small in size, with a value of 8.74% of GDP. The number of enterprises increased by more than 10,000 to 73,358 in 2022, but at the same time the slow administration hinders the establishment of new enterprises. (80% of the enterprises established in 2022 were founded by foreign owners.)<sup>12</sup>

According to the European Commission, the Montenegrin economy is vulnerable by the high current account balance and, also due to significant loan and interest

<sup>9</sup> European Commission 2023a: 6.

<sup>10</sup> European Commission 2023a.

<sup>11</sup> Transparency International 2023.

<sup>12</sup> European Commission 2023a.



repayments, a general government deficit. The independent body responsible for fiscal discipline, the Fiscal Council, was intended to be established earlier, applications for membership were finally announced on 5 April 2023, but the first meeting still did not take place until 31 December 2023.

## EBRD's assessment of the economy of Montenegro

In the EBRD's 2022–2023 Transition Report, the transformation of 35 countries and Kosovo were evaluated based on 6 criteria, on a scale of 1–10 (previously, evaluations were carried out based on other aspects and scale systems). Montenegro's values for all 6 categories exceeded the average of the countries examined by the EBRD and, for 4 categories, the average of Southeastern Europe, as well (Table 1).

Table 1: EBRD's assessment of Montenegro and the countries of Southeastern Europe in the Transition Report 2022–2023 (on a scale of 1–10)

Category	Montenegro	Southeastern Europe	EBRD
<b>Competitive</b>	5.46	5.46	5.14
<b>Well-governed</b>	6.32	5.49	5.63
<b>Green</b>	5.77	5.56	5.62
<b>Inclusive</b>	5.37	5.42	5.25
<b>Resilient</b>	5.38	5.42	5.37
<b>Integrated</b>	6.06	5.92	5.85

Source: EBRD 2022.

In the field of competitiveness minor deteriorations have been recorded in Montenegro driven mainly by decline in labour productivity. Modest improvements have been observed in Montenegro because of greater compliance with standards aimed at tackling money laundering and the financing of terrorism and more favourable perceptions regarding corruption (Category “Well-governed”). Significant improvements have been observed, primarily on account of increases in nationally determined contributions (NDCs) in the context of the Paris Agreement (the share of renewable energy in energy production already exceeds 40%). The country has improved its carbon-pricing mechanism, as well. In the category “Resilient”, the government passed new legislation in January 2022 giving the national energy regulator greater powers to monitor the country's electricity and gas markets. New laws entered into force aligning the country's regulatory and supervisory requirements with Basel III standards and the EU's regulatory framework. The level of “Integration” improved driven by the first section of the new Bar-Boljare highway and by augmentation in mobile and fixed broadband coverage and by the development of logistical services.

Over the period 2016–2022, increase in inclusion scores have been driven primarily by greater access to internet services and digital skills. Between 2016 and 2022 in the EBRD regions, progress across all six areas has been fastest in Montenegro, Armenia, Lithuania, Estonia and Uzbekistan.



## OECD Competitiveness Outlook on Montenegro

In its 2018 and 2021 Competitiveness Outlook, the OECD examined Southeastern European countries based on 15 criteria.<sup>13</sup> According to the OECD, Montenegro has made progress between 2018 and 2021 in all the policy dimensions except the state-owned enterprises. The improvements have been first of all in the legal and regulatory environment, which forms a solid basis to improve the overall competitiveness of the economy.<sup>14</sup> In most aspects, the value of Montenegro exceeds the average of the Western Balkan countries outside the EU. The report highlights it as a positive that school participation levels are increasing, labour laws are aligned with EU standards, the science, technology and innovation (STI) policy framework has advanced significantly (smart specialisation strategy adopted), the energy sector is guided by a comprehensive energy policy, tourism destination accessibility has increased, and agro-food system regulation has improved.

In addition, the OECD has formulated quite a few recommendations e.g. improvement of investment promotion and facilitation, introduction of alternative equity-based finance, review of the effectiveness of the current state ownership arrangements and development a state ownership policy, investment in the scientific research system, strengthening of programmes for the digital transformation of the private sector and introduction of a land-use management framework.<sup>15</sup>

## Analysis of the main macro indicators of Montenegro

### *Economic structure and growth*

Three main characteristics of the economic structure of Montenegro can be highlighted based on the contribution of each economic activity to the gross value added (Table 2). The first is the higher share of agriculture, forestry and fishing than in developed countries, which can be partially explained by the importance of sea fishing, in addition to which the role of wine and olive oil production can be highlighted; the low share of industrial activities and the decisive role of tourism (to the 9.62% share of the tourism sector in the narrow sense, we must also add the impact of tourism on retail trade). Overall, the share of the service sector corresponds to the level of developed countries. Research and development activity in the economy is very low, the value of the GERD indicator achieves only 0.36%.<sup>16</sup>

<sup>13</sup> The examined aspects are as follows: access to finance, agriculture policy, anti-corruption policy, digital society, education policy, employment policy, energy policy, environment policy, investment policy and promotion, science, technology and innovation, state-owned enterprises, tax policy, tourism policy, trade policy, transport policy.

<sup>14</sup> OECD 2021.

<sup>15</sup> OECD 2021.

<sup>16</sup> European Commission 2023a.



Table 2: Contribution of economic activities to gross value added in Montenegro in 2022 (%)

Classification of activities	Share in GVA (%)	Classification of activities	Share in GVA (%)
<b>Agriculture, forestry and fishing</b>	7.27	<b>Financial and insurance activities</b>	4.76
<b>Mining and quarrying</b>	1.35	<b>Real estate activities</b>	6.47
<b>Manufacturing</b>	4.63	<b>Professional, scientific and technical activities</b>	4.46
<b>Electricity, gas</b>	3.63	<b>Administrative and support service activities</b>	2.08
<b>Water supply; sewerage, waste management</b>	2.04	<b>Public administration and defence; compulsory social security</b>	7.81
<b>Construction</b>	4.64	<b>Education</b>	5.45
<b>Wholesale and retail trade; repair of motor vehicles</b>	17.36	<b>Human health and social work activities</b>	4.93
<b>Transportation and storage</b>	5.14	<b>Arts, entertainment and recreation</b>	1.85
<b>Accommodation and food service activities</b>	9.62	<b>Other service activities</b>	1.23
<b>Information and communication</b>	5.26		

Source: Compiled by the author based on MONSTAT 2023a data.

The economic structure (especially the significant role of tourism) partially explains the trend of real GDP growth (Figure 1).

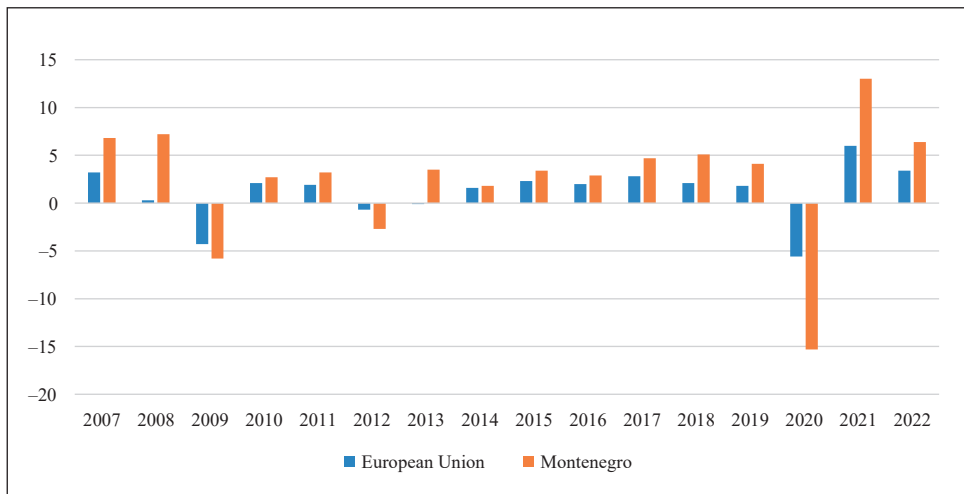


Figure 1: Real GDP growth in the European Union and Montenegro (%)

Source: Compiled by the author based on Eurostat 2023a and MONSTAT 2023a data.



In the “crisis years” of 2009, 2012 and 2020, the Montenegrin economy suffered a more severe recession than the EU (the 15.3% drop in 2020 is particularly striking), while in the other 13 years respectively showed higher growth, so it was able to slowly but steadily approach the European Union average. The real GDP growth in most of the examined years (of the crisis years in 2009 and 2020) moves together with the indicators of the tourism sector (Figure 2). In 2020, the number of tourist arrivals and tourist overnight stays dropped drastically due to the pandemic and the lockdowns. At the same time, the fact that even the 2022 tourism data will not catch up to the 2019 level can mean positive prospects for the coming years.

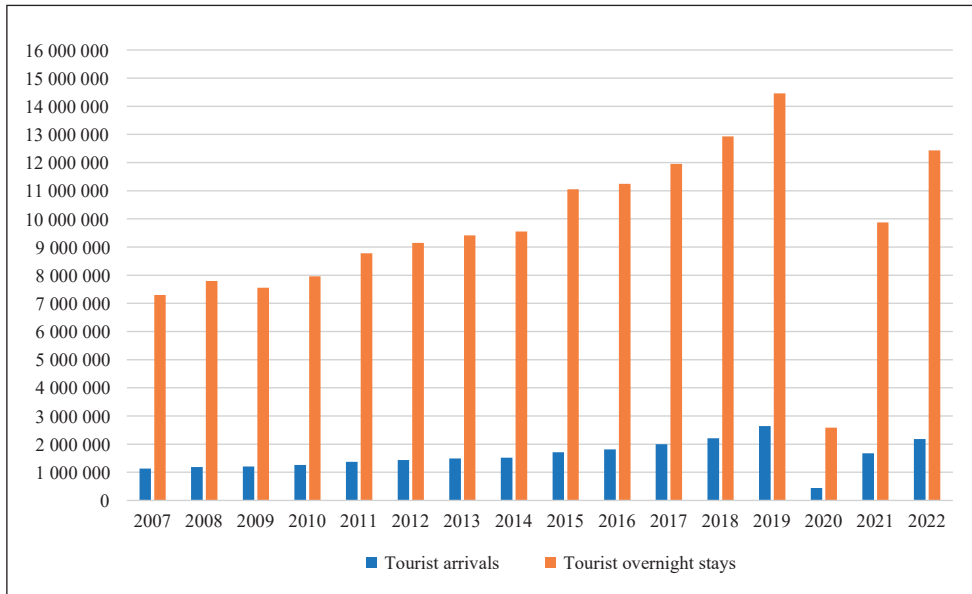


Figure 2: Tourist arrivals (number) and tourist overnight stays (night) in Montenegro 2007–2022

Source: Compiled by the author based on MONSTAT 2023b data.

Based on the GDP per capita, calculated at purchasing power parity, a slow catch-up can be observed in the examined period (Figure 3, which illustrates three Western Balkan countries, the EU member Croatia, Serbia and Montenegro, in addition to the Eastern and Central European EU member states, with the exception of the Czech Republic and Slovenia, which show exceptionally high values), which was interrupted by the 2020 recession, and the country was not even able to reach the level before the 2020 crisis until 2022.



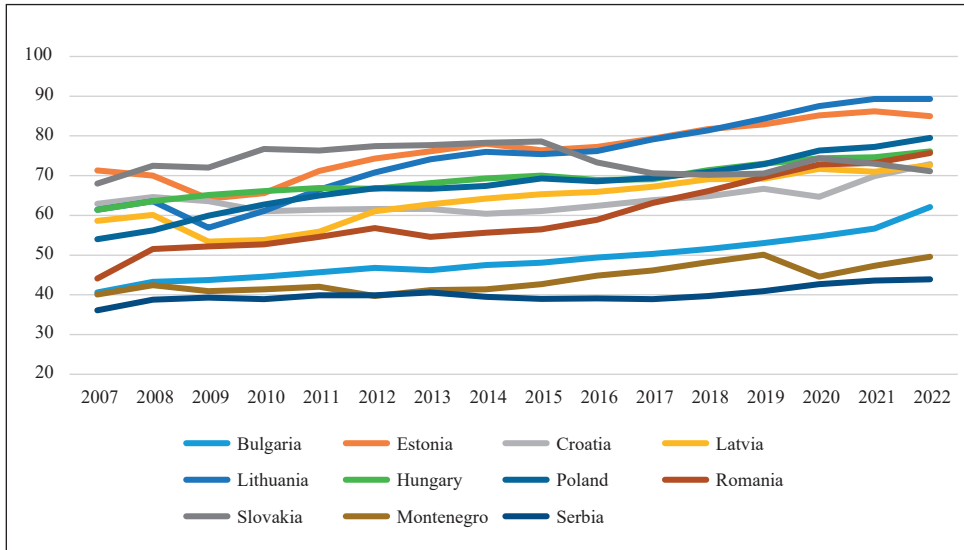


Figure 3: GDP per capita of Eastern and Central European EU member states, as well as Serbia and Montenegro, calculated at purchasing power parity in the EU27 between 2007 and 2022 (%)

Source: Compiled by the author based on Eurostat 2023b data.

At the same time, it can be observed that, based on the GDP per capita, in 2002 Montenegro exceeds the level of development of Serbia, and even the level of Romania and Bulgaria in 2007, in the year of their EU accession (the figure does not include data from 2004, but it exceeds the level of Latvia at the time of accession and is already close to the 2004 value of Lithuania and Poland.) If we had added Montenegro to the ranking of NUTS 2 regions in the EU (if Montenegro joins the EU, it will be able to form a NUTS 2 region based on the number of its population), based on the 2021 regional GDP data, it would have overtaken 5 Bulgarian, 4 Greek and 1 Croatian regions (in addition, 3 out of 4 Serbian regions) and would have only minimally fallen short of the Hungarian Northern Great Plain region.<sup>17</sup> In connection with this, it is also important to examine the development of the comparative consumer price level, in this field, with its value of 61.2% in 2022 compared to the EU average, Montenegro also exceeds the price level of Romania, Bulgaria and Poland.<sup>18</sup>

<sup>17</sup> Eurostat 2023c.

<sup>18</sup> Eurostat 2023d.



## Development of the inflation rate

The Montenegrin Statistical Office continuously harmonises its statistics in accordance with Eurostat standards, however, for some indicators, longer harmonised time series are not available. In the case of the HICP, MONSTAT publishes data from 2016 (Figure 4). During the available 7 years, despite the significantly lower price level, the inflation rate in Montenegro was higher in 3 years than in the EU and the euro area, of where there was a difference of several percentage points in 2022, at the same time, if either the EU or the Western Balkan countries are examined, the inflation rate of 11.9% is not an outlier at all.

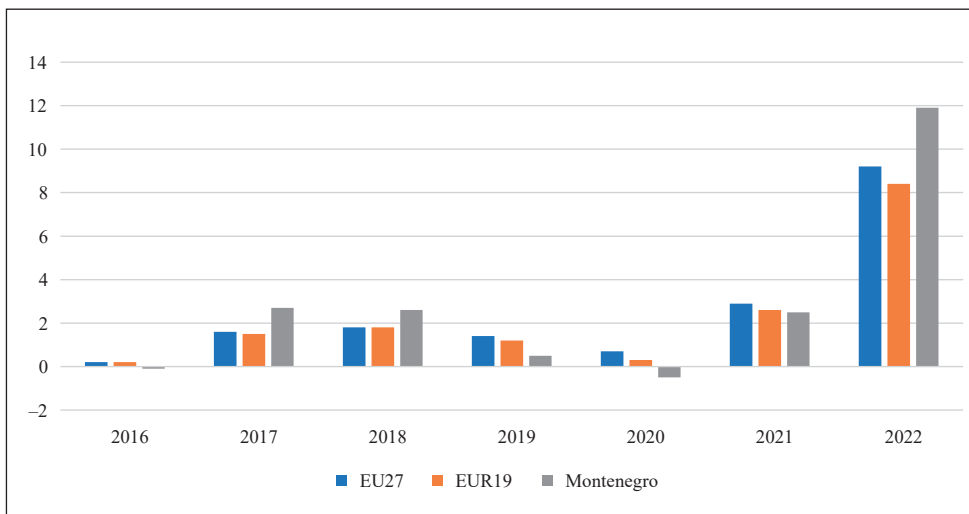


Figure 4: Evolution of the annual HICP in the EU27, EUR19 countries and Montenegro between 2016 and 2022 (%)

Source: Compiled by the author based on Eurostat 2023e data.

The fact that the country's official currency is the euro has a beneficial effect on Montenegro's inflation rate, monetary stability, and ability to attract FDI.<sup>19</sup> The Montenegrin main refinancing interest rate is the same as the 4.5% key ECB interest rate in December 2023.

## Labour market characteristics

In Montenegro, as in other Western Balkan countries outside the EU, high unemployment is typical (Figure 5). Based on the European Commission's October 2023 forecast, a further decrease is expected, the predicted value for 2023 is 13.6%.<sup>20</sup>

<sup>19</sup> BACOVIC 2019.

<sup>20</sup> European Commission 2023b.



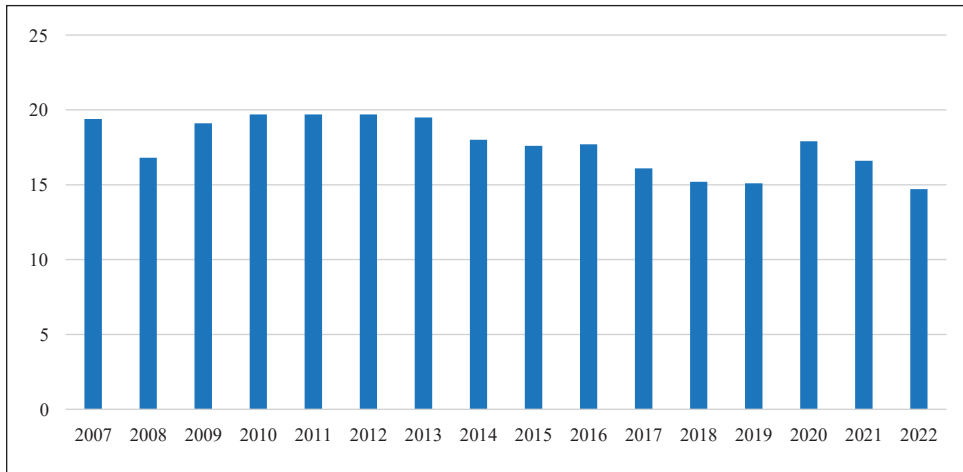


Figure 5: Evolution of the unemployment rate in Montenegro between 2016 and 2022 (%)

Source: Compiled by the author based on MONSTAT 2023c data.

The 2022 minimum wage increase did not lead to an increase in unemployment. Regarding the employment rate, there is no data available for the 20–64 age group suitable for EU comparison (MONSTAT publishes data for the 15–89 age group), the latest data published by Eurostat refers to 2020, then the employment rate achieved 55.2% (60.8% in 2019). Based on all this, we can conclude that there is still a potential workforce available in the country, especially since the rate of early school leavers is otherwise low. At the same time, it should be emphasised that the proportion of state employees is very high, in 2022, out of 223,744 employees, 22,975 people worked directly in the public administration and defence, compulsory social security sector, 16,200 in education and 14,325 in health and social care. In addition, 29,319 work permits were issued to foreigners.<sup>21</sup> As a result of all this, the Montenegrin labour market is still facing significant structural transformations.

Labour productivity in Montenegro is significantly lower than the average in the EU (27% of the EU27 average in the period 2007–2021). Lower productivity (labour productivity and total factor productivity) is influenced by insufficient technological development, quality of education, qualifications and expertise of the workforce, and inadequate management and organisation in companies.<sup>22</sup>

## Evaluation of the public finances

The high general government deficit is a constant problem in Montenegro. From 2012, with the exception of 2021, the deficit significantly exceeded the average of the EU and the Eurozone (Figure 6). In order to increase fiscal discipline, the government decided on

<sup>21</sup> MONSTAT 2023d.

<sup>22</sup> BACOVIC 2023.





the proposal of the EU to establish the Fiscal Council, but as the realisation progressed very slowly, the Council did not even hold its first meeting in 2023. For the year 2023, a deficit of less than 3% has been predicted, which is lower than previous expectations. The reasons for the lower deficit could be the relatively dynamic economic growth generated by the good tourist season and the expansion of private consumption, the significant increase in excise tax revenues, and the additional revenues of the citizenship law, which has also been criticised by the EU.<sup>23</sup> In 2022, in the year of the elections, fiscal expansion was introduced to stimulate consumption: the 9% personal income tax rate was abolished under EUR 700 per month, the net minimum wage increased from EUR 250 to EUR 450, and the health contribution for individuals was also abolished. As a result of all this, the net average wages increased from 532 to 712 euros from 2021 to 2022. The annual gross wages at purchasing power parity already exceed the Bulgarian and Slovak wage levels. On the one hand, these measures significantly reduced the expenditure side of the budget, but at the same time, thanks to the dynamically expanding consumption, they resulted in an increase in revenue that also improved the balance of the general government. At the same time, the effect of stimulating economic growth and increasing tax revenue is primarily limited to 2022 and 2023, while in the long term, the abolition of the health contribution in particular represents a serious budgetary risk.<sup>24</sup>

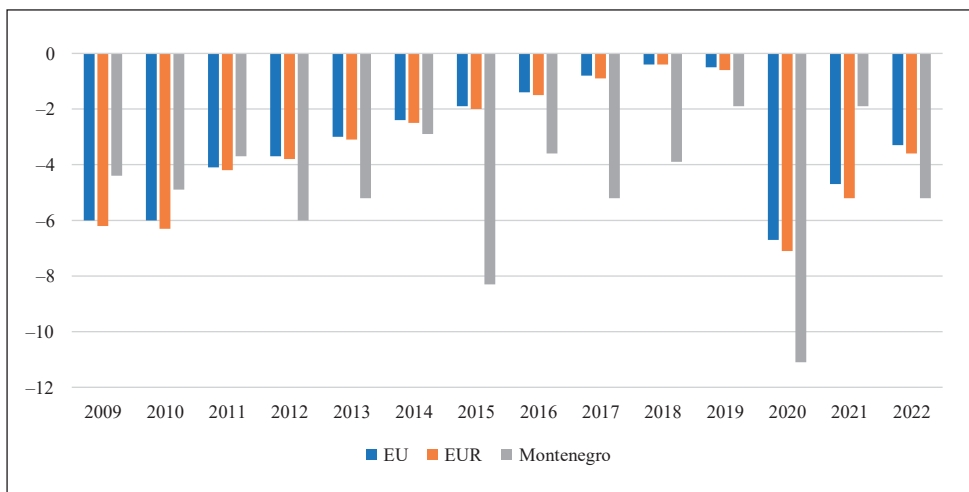


Figure 6: Government deficit/surplus (% of GDP) in Montenegro between 2009–2022

Source: Compiled by the author based on European Commission 2011, 2013, 2015, 2017, 2019, 2021, 2023 data.

Montenegro's gross government debt as a percentage of GDP showed a continuous increase between 2010 and 2020 (Figure 7). In addition to financing the high budget deficit, Montenegro's government debt is significantly burdened by the USD 944 million

<sup>23</sup> European Commission 2023b.

<sup>24</sup> WIIW 2023.



loan taken from the China Export–Import Bank in 2014 for the construction of the 41 km section of the Bar-Boljare highway. The loan is planned to cover 85% of the costs, the loan amount reached 20% of Montenegro's GDP in 2014. The highway section was built by the China Road and Bridge Corporation (CRBC) and was completed in 2022 with significant delays. In 2021 Montenegro has reached an arrangement with four Western financial institutions: Goldman Sachs, Merrill Lynch, Société Generale and Deutsche Bank to convert the loan into euros, cutting the interest rate on the loan from 2 to 0.88%. (In 2023 the country has left the agreement due to favourable market conditions.)<sup>25</sup> As of 31 December 2022, Montenegro owed China Exim Bank 701.99 million EUR.

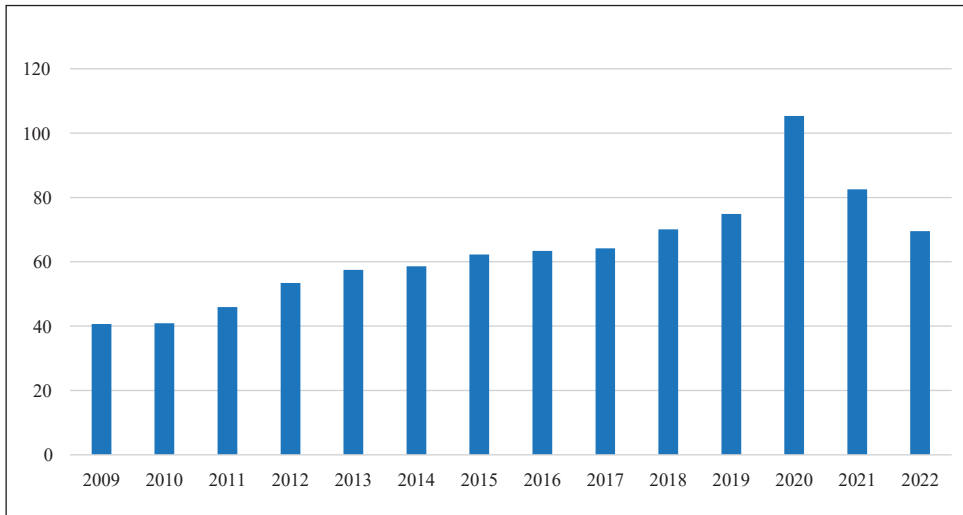


Figure 7: General government debt (% of GDP) in Montenegro between 2009–2022

Source: Compiled by the author based on European Commission 2011, 2013, 2015, 2017, 2019, 2021, 2023 data.

In 2020, in addition to the Chinese debt repayment, the 15% GDP decline caused the gross debt to exceed the value of GDP. In the same year, the country benefited from the IMF Rapid Financing Instrument in the amount of USD 83.7 million and issued government bonds in the international financial markets in the amount of EUR 750 million.<sup>26</sup> The total central government debt (excluding deposits) as of 31 December 2022 was €4,026.32 million, or 69.46% to the GDP. The total central government debt including deposits, as of the end of 2022, was €3,914.57 million or 67.53% to the GDP. The foreign debt was €3,557.56 million, or 61.37% to the GDP, while the domestic debt was €468.76 million, or 8.09% to the GDP. The value of repayment and interest payments reached 6.7% of GDP in 2022.<sup>27</sup> In 2022, the government borrowed EUR 100m from Deutsche

<sup>25</sup> SCEPANOVIC 2023.

<sup>26</sup> IMF 2020.

<sup>27</sup> Montenegro Ministry of Finance 2023.



Bank at the highest interest rate Montenegro has ever agreed to for a loan (5.9% plus a six-month Euribor rate, currently 3.3%). It is also disquieting that the country's gross external debt, which includes enterprises and individuals, exceeded 160% of the GDP even in 2022 (it reached 220% in 2020).<sup>28</sup> This is by far the highest ratio among Eastern and Central European and Western Balkan countries.

## External equilibrium: Trends in trade and current account balance

The product export volume of Montenegro is particularly low, in 2022 the export value achieved 700 million EUR, which amounts only to 13.3% of the GDP (Figure 8). The deficit in balance of trade in goods is also significant in relation to the size of the national economy, exceeding 50% of the GDP in 2022. Thanks to the tourism sector, balance of trade in services – with the exception of 2020 – shows a significant surplus, but it still does not approach the deficit of balance of trade in goods.

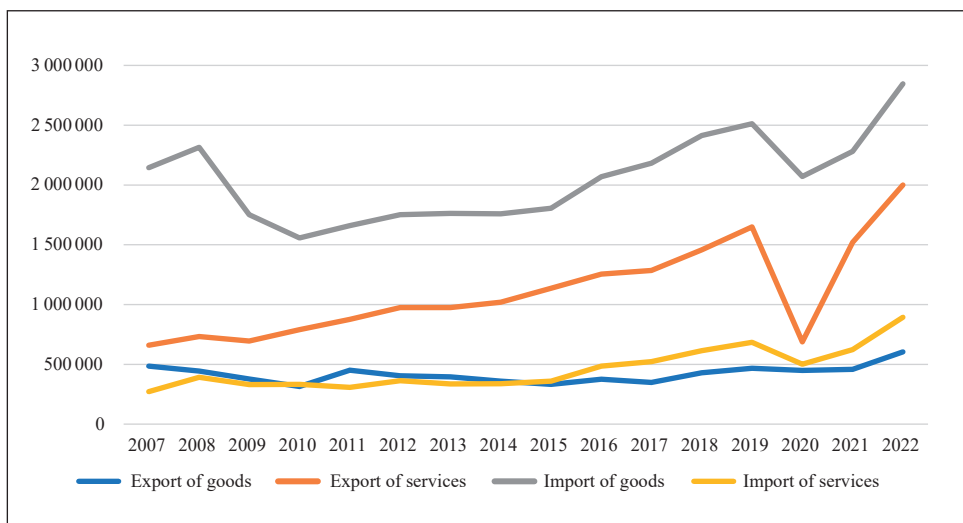


Figure 8: Export and import of goods and services of Montenegro 2007–2022 (thousand EUR)

Source: Compiled by the author based on MONSTAT 2023a data.

The overview of the most important export and import products (Table 3) reveals a picture of an economy and industry offering products with low added value.

<sup>28</sup> WIIW 2023.

Table 3: Montenegro's most important export and import products in 2022 (thousand EUR)

SITC sections	Export (thousand EUR)	SITC sections	Import (thousand EUR)
<b>68 Non-ferrous metals</b>	171,310	<b>33 Petroleum, petroleum products and related materials</b>	389,968
<b>35 Electric current</b>	170,166	<b>78 Road vehicles</b>	228,550
<b>24 Cork and wood</b>	43,204	<b>35 Electric current</b>	209,483
<b>28 Metalliferous ores and metal scrap</b>	41,745	<b>54 Medicinal and pharmaceutical products</b>	154,132
<b>54 Medicinal and pharmaceutical products</b>	33,120	<b>77 Electrical machinery, apparatus and appliances</b>	142,259
<b>33 Petroleum, petroleum products and related materials</b>	27,728	<b>68 Non-ferrous metals</b>	141,734
<b>01 Meat and meat preparations</b>	26,030	<b>01 Meat and meat preparations</b>	140,627
<b>Total export</b>	700,252	<b>Total import</b>	3,533,838

Source: Compiled by the author based on MONSTAT 2023e data.

From the point of view of trade, Montenegro shows relatively low-level integration into the internal market of the EU. Its most important export market is the group of CEFTA countries, among which Serbia is in first place, the share of the EU achieves only 30% (Table 4). (In the EU only Cyprus's intra-EU exports shows lower ratio than Montenegro.) On the import side, the EU is already ahead of the CEFTA countries with a share of 44%, in the country-level, Serbia is followed by China, Greece, Germany and Croatia.

Table 4: Montenegro's main export and import partners in 2022 (trade in goods, thousand EUR)

Country (group)	Export (thousand EUR)	Country (group)	Import (thousand EUR)
<b>CEFTA</b>	291,728	<b>EU27</b>	1,560,768
<b>EU27</b>	212,186	<b>CEFTA</b>	925,351
<b>Serbia</b>	149,447	<b>Serbia</b>	614,776
<b>Switzerland</b>	107,951	<b>China</b>	330,596
<b>Bosnia and Herzegovina</b>	90,561	<b>Greece</b>	289,142
<b>Slovenia</b>	51,072	<b>Germany</b>	272,015
<b>Luxemburg</b>	36,715	<b>Croatia</b>	214,740
<b>Total export</b>	700,252	<b>Total import</b>	3,533,838

Source: Compiled by the author based on MONSTAT 2023e data.

It is worth examining the most important partner countries for tourism exports within service exports. Most overnight stays were spent in Montenegro by travellers from the following countries: Serbia (25.5%), Russian Federation (16.4%), Bosnia and Herzegovina (9.9%), Germany (5.9%), Ukraine (4.9%), Kosovo (4.0%) and United Kingdom (3.3%).<sup>29</sup>

<sup>29</sup> MONSTAT 2023e.



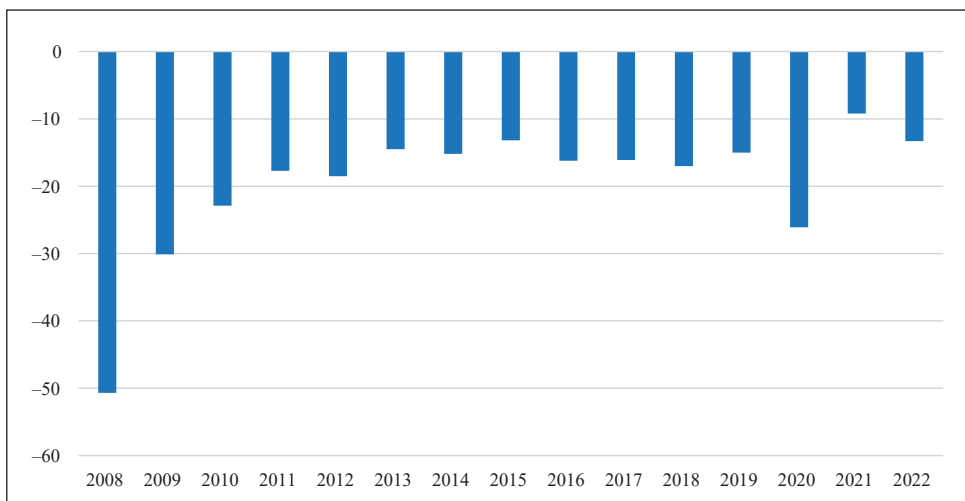


Figure 9: Evolution of Montenegro's current account balance as a % of GDP (2008–2022)

Source: Compiled by the author based on European Commission 2011, 2013, 2015, 2017, 2019, 2021, 2023 data.

The current account deficit in Montenegro is considered high in relation to the European Union and the Western Balkans (Figure 9). Despite income remittances of up to 10% of the GDP, there was only one year between 2008 and 2022 when the deficit was in the single digits in percentage of GDP. Due to the high general government and current account deficit, Montenegro is constantly characterised by twin deficits, which makes the country with the smallest population in the Western Balkans vulnerable. In the future, the export of services could be increased by developing the tourist infrastructure and the port of Bar. At the end of 2022, the proportion of productivity-enhancing investments in the invested FDI stock (5.68 billion EUR) is relatively low, an increasingly significant part is real estate investment (in 2022 it reached more than a third of all inflows), which comes from individuals, including Russian and Ukrainian investors. Overall, it can be concluded that – in contrast to several Western Balkan countries – Montenegro does not depend on Russia or Turkey from a political and economic point of view, only the credit of China Exim Bank represents a dangerous exposure. In the 2022 ranking of the Global Connectedness Index, Montenegro ranked only 101, behind all EU member states, Albania, North Macedonia and Serbia.<sup>30</sup>

## Conclusions

In summary, it can be concluded that in the last 15 years, Montenegro has achieved a slow economic catch-up, has implemented or initiated several economic reforms, and on the basis of several macro-indicators, it is reaching the lowest performing member

<sup>30</sup> DHL 2023.



states of the EU, but at the same time, it is not yet considered ready for integration from an economic point of view. The country cannot currently be classified as a functioning market economy, primarily due to the high level of role the state plays in the economy, the large proportion of the informal economy, and the low level of competition in some sectors. As a result of the consistent implementation of the initiated and planned reforms, the strengthening of budgetary discipline, and the implementation of labour market reforms, the country can be economically ready for EU accession at the beginning of the EU's next financial perspective in 2028–2029. This would give the country the chance to further catch up, to implement the planned infrastructure projects with European funding and enterprises. For Montenegro, the development of the (tourism) infrastructure, as well as the expansion and modernisation of the port of Bar, can be a turning point. However, according to the current state of the accession negotiations, it is likely that the fulfilment of the economic criteria will not be the most serious obstacle and will not hinder the accession of the country with the smallest population in the Western Balkans.

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# How Decisive Are the Copenhagen Criteria for EU Enlargement?<sup>3</sup>

*The article analyses the significance of the accession criteria in the context of recent EU enlargement negotiations, particularly during heightened geopolitical circumstances triggered by Russia's aggression against Ukraine. The accelerated EU enlargement process, evidenced by the swift membership applications from Ukraine, Moldova and Georgia, and the even quicker decision to open accession negotiations for two of them, inspires an exploration of the binding elements, specifically the Copenhagen criteria, integral to the accession negotiation process. The study aims to examine the numerical development and changes in the conditions and criteria necessary for EU membership in ten candidate and potential candidate countries. The analysis focuses on fulfilling essential conditions, with emphasis on convergence, assessed using GDP per capita and growth rates, as well as the rule of law and democracy criteria measured through the Worldwide Governance Indicators.*

**Keywords:** EU, enlargement, accession, Copenhagen criteria

## Introduction

The EU enlargement became a very hot topic in the everyday news in the past two years not only because the “EU enlargement is a driving force for long-term stability, peace and prosperity across the continent” as we can read in the EU Commission’s communication,<sup>4</sup> but because of the geopolitical significance of EU enlargement which was strengthened by the start of Russia’s war against Ukraine.<sup>5</sup> On 28 February 2022, five days after Russia launched its aggression, Ukraine submitted its application for EU membership. Moldova and Georgia applied on the 22<sup>nd</sup> of March.

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<sup>4</sup> European Commission 2023.

<sup>5</sup> STANICEK–PRZETACZNIK 2023.

Enlargement policy has increasingly appeared in the press not only because of these special geopolitical circumstances but also because the process became much faster than during the previous enlargements. The EU's communication on the membership applications of Ukraine, Moldova and Georgia created an uproar among Western Balkan countries.<sup>6</sup> Although the accession process might seem to look a lot quicker, one needs to be aware of the fact that it does not mean a quick membership. This is because, in the accession negotiation, there are binding elements a country has to keep when wishes to become a member state of the EU. These are the so-called Copenhagen criteria. This article deals with these binding criteria and how the EU holds the countries to account for these conditions.

The membership conditions (most of them are set out in the treaties on the EU, see later in the literature review section) are formulated as a quality principle to which the countries wishing to join the EU must conform. But we supposed that these conditions and criteria can be formulated as numerical conditions, too and can be measured, and if so, improvements can be seen in these numbers. We were interested if these Copenhagen criteria are met in case these countries really become members of the EU. On the other hand, if a country is far from reaching the Copenhagen criteria will its membership date be postponed.

The aim of this article is to examine how the conditions and criteria necessary for joining the EU developed and changed numerically in the ten candidate and potential candidate countries, namely Albania, Bosnia and Herzegovina, Georgia, Kosovo, Moldova, Montenegro, North Macedonia, Serbia, Turkey and Ukraine. We analysed these countries from the point of view of how well they fulfil the Copenhagen and other criteria necessary for joining the EU. The rule of law and democracy criteria can be best measured by using the Worldwide Governance Indicators.<sup>7</sup> What can still be measured relatively objectively is convergence, which requires initial GDP per capita data and growth rates in a certain period of time.

The paper is organised as follows: After the introductory part, a literature review on the most important questions of EU enlargement and accession criteria is presented. We start with assessing the length and phases of the accession process and show the recent status and historical timeline for each of the accession candidates. After this, we explain the accession criteria as well as collect and introduce the most important indexes these criteria can be measured with, still under the section *Literature review*. In the *Methodology* section, our analysis is explained and the main findings on the candidate countries' WGI scores and convergence processes are presented. The article concludes with some remarks on the EU policy.

## Literature review

To see how well joining countries fulfil the accession or Copenhagen criteria and other preconditions necessary for joining the EU, we needed to answer several questions:

<sup>6</sup> MIREL 2022.

<sup>7</sup> KAUFMANN-KRAAY 2023.



1. How long does the accession process typically take?
2. What are the phases of the accession process?
3. What are the accession criteria and did they change over time?
4. How can we assess or measure fulfilling the criteria?

### *The length of the accession process*

In December 2023, Ukraine, Moldova and Georgia received the EU approval to start accession negotiations amidst Russia's invasion of Ukraine.<sup>8</sup> However, the EU accession process is complex and lengthy, with no guaranteed swift membership neither a fast compliance with EU law.<sup>9</sup> Preliminary forecasts suggest Ukraine's negotiations could start in March 2024 first. European Council President Charles Michel envisions EU membership for Ukraine by 2030 if both sides fulfil their responsibilities, although the Ukrainian Government aims for a faster integration.<sup>10</sup>

EU accession, regulated by Article 49 of the Treaty on the European Union,<sup>11</sup> requires a candidate state to be European and uphold common values.<sup>12</sup> Membership is not automatic and involves a pre-accession period for the country to align with EU standards. The accession process duration varies historically: e.g. Austria, Finland and Sweden negotiated in two years, while in case of Croatia it lasted almost eight. The calculation of the length of the process can be different. According to Bevington (2020), on average, it takes around five years from the start of negotiations, but a Pew Research Center analysis<sup>13</sup> indicates an average of nine years for the 21 current non-founding EU members.<sup>14</sup> The timeline depends on internal and external political actions and on the time the applicant needs for legal reforms to meet the EU requirements and the way we calculate these numbers.

Figure 1 illustrates the time taken by current EU members to join. Candidacy status granted takes about 3.5 years on average for current EU members. Ukraine and Moldova achieved candidacy status approximately eleven times quicker than that of the average, taking about four months. Greece achieved candidacy in around eight months, while Malta and Ireland took the longest at 9.4 and 8.4 years, respectively.<sup>15</sup>

<sup>8</sup> European Council 2023.

<sup>9</sup> BÖRZEL–SEDELMEIER 2017: 197–215.

<sup>10</sup> BECKER 2023.

<sup>11</sup> See <https://www.legislation.gov.uk/eut/teu/article/49> and European Commission 2023.

<sup>12</sup> These are human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities (Article 2 of the Treaty on European Union, see <https://www.legislation.gov.uk/eut/teu/title/I?view=plain>).

<sup>13</sup> LEPPERT 2022.

<sup>14</sup> Rebecca Leppert calculated the total length of the accession process for each country using the exact dates of application submission and official accession. For more details on how she did her calculations see LEPPERT 2022.

<sup>15</sup> LEPPERT 2022.



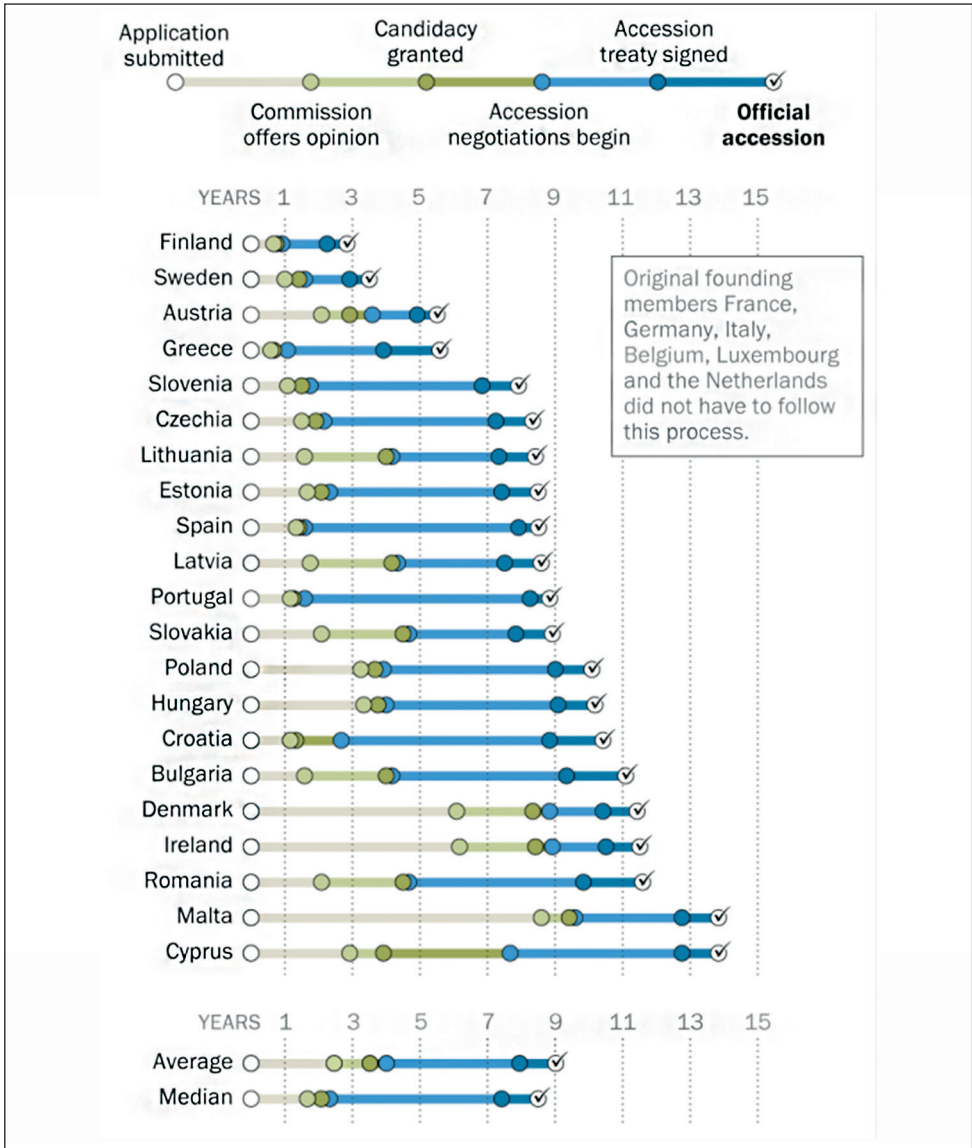


Figure 1: Amount of time each step took for current member countries to join the EU (in years)

Note: From 1967 to 1992, the European Communities served as a legal predecessor of the EU. The total length of the accession process for each country is calculated using the exact dates of application submission and official accession; all other calculations are based on the first day of the month of the first event to the first day of the month of the second event.

Source: LEPPERT 2022.



## Phases of the accession process

The process of joining the EU (accession process), broadly consists of three stages according to the European Commission:<sup>16</sup> candidate status, accession negotiations and treaty ratification. But as Leppert (2022) indicates, we can differentiate 5 different phases: 1. from the application submitted to the Commission offering opinion; 2. from the Commission's opinion to candidacy granted by the European Council; 3. from the granted candidacy to the beginning of the formal negotiations; 4. from the membership negotiations to the treaty signed; and finally 5. from the signature of the accession treaty to the official joining date (as we can see in the upper part of Figure 1). According to the changes of "Revised enlargement methodology" from a few years ago, there are nine consecutive steps.<sup>17</sup>

When a country applied for membership, it submitted the application to the Council (1), and the Commission gave its opinion (2), the country can gain official candidate status (3), but formal negotiations may not have opened yet.<sup>18</sup> Those can be opened first after the European Council unanimously grants candidacy (still step 3) based on the European Commission's recommendation. Once the conditions have been met, the accession negotiations are opened, with the agreement of all member states (4). Then the Council and the candidate country agree on a framework for accession negotiations (5), leading to formal membership negotiations, accompanied by financial and technical assistance.

Accession negotiations begin as the candidate country aligns national laws with EU rules (called the *acquis*), involving reforms for compliance with accession criteria (see later for more details). Negotiations conclude when all 35 *acquis* chapters, (covering topics like free movement of goods and workers, competition and taxation), are unanimously closed (6). Recent changes divide negotiating chapters into six thematic clusters,<sup>19</sup> and emphasise fundamentals like the rule of law and the functioning of democratic institutions. These adjustments aim to demand more from candidate countries and enhance the negotiating process.<sup>20</sup>

When the negotiations and accompanying reforms have been completed to the satisfaction of both sides (8) and after the Commission has given its opinion on the readiness of the country to become a member state (7), an accession treaty is signed (9). The treaty is not final until it receives approval from the European Parliament, the Commission and the EU Council. Once signed by representatives of every member state in the EU as well as the applicant nation, it will become legally binding. The candidate nation and each

<sup>16</sup> European Neighbourhood Policy and Enlargement Negotiations 2023.

<sup>17</sup> See European Commission 2022; STANICEK-PRZETACZNIK 2023: 5.

<sup>18</sup> These different phases have different lengths and different influences on the candidate countries' economic and political performance. Some studies show that political influence on the applicant countries can be greatest when deciding to open these accession negotiations (see e.g. HAUGHTON 2007: 233–246).

<sup>19</sup> The six thematic clusters are the following: 1. Fundamentals; 2. Internal market; 3. Competitiveness and inclusive growth; 4. Green agenda and sustainable connectivity; 5. Resources, agriculture and cohesion; 6. External relations (see European Commission 2020b; STANICEK-PRZETACZNIK 2023).

<sup>20</sup> European Commission 2020a.





member state of the EU must ratify it in accordance with their respective constitutions (parliamentary vote, referendum, etc.). The country is then an “accessing country” until the official accession date, marking its full EU membership.<sup>21</sup>

### *Accession countries today*

There are ten countries officially in the process of accession today (31 December 2023). Albania, Bosnia and Herzegovina, Kosovo, Montenegro, North Macedonia, Serbia and Turkey with the recently involved countries of Georgia, Moldova and Ukraine (see Table 1). And as we noted earlier Charles Michel expects (some of) them to be members by 2030.<sup>22</sup>

*Table 1: Status of current EU accession candidates (December 2023)*

	<b>Status</b> (date of application and candidate status if granted)	<b>Stage</b> (most important and recent milestones reached)
<b>Albania</b>	<b>Candidate country</b> <b>April 2009:</b> Application for EU membership <b>June 2014:</b> European Council grants candidate status	<b>April 2018:</b> Commission recommends opening of accession negotiations <b>June and October 2019:</b> Council postponed the decision to open negotiations <b>July 2022:</b> Start of the screening process <b>July 2023:</b> The European Commission submitted to the Council the screening report on Cluster 1 – Fundamentals, including benchmarks for opening accession negotiations on this cluster
<b>Bosnia and Herzegovina</b>	<b>Candidate country</b> <b>February 2016:</b> Application for EU membership <b>December 2022:</b> European Council grants candidate status	<b>November 2023:</b> Commission recommends opening negotiations, once the necessary degree of compliance with the membership criteria is achieved <b>December 2023:</b> European Council decides it will open accession negotiations, once the necessary degree of compliance with the membership criteria is achieved
<b>Kosovo</b>	<b>Potential candidate</b> <b>December 2022:</b> Application for EU membership	<b>July 2018:</b> Commission confirms that Kosovo has fulfilled all outstanding visa liberalisation benchmarks <b>March and April 2023:</b> Council and Parliament adopt regulation paving the way for visa liberalisation to start on 1 January 2024
<b>Montenegro</b>	<b>Candidate country</b> <b>December 2008:</b> Application for EU membership <b>December 2010:</b> European Council grants candidate status	<b>June 2012:</b> European Council decides to open accession negotiations <b>June 2020:</b> All 33 screened chapters have been opened, three of which are provisionally closed <b>June and December 2021:</b> Political Intergovernmental Conferences under the revised enlargement methodology

<sup>21</sup> See LEPPERT 2022.

<sup>22</sup> See BECKER 2023.



	<b>Status</b> (date of application and candidate status if granted)	<b>Stage</b> (most important and recent milestones reached)
<b>North Macedonia</b>	<p><b>Candidate country</b>  <b>December 2004:</b> Application for EU membership  <b>December 2005:</b> European Council grants candidate status</p>	<p><b>April 2018:</b> Commission recommends opening accession negotiations  <b>June and October 2019:</b> Council postponed the decision to open negotiations  <b>March 2020:</b> The members of the European Council endorsed the General Affairs Council’s decision to open accession negotiations with North Macedonia  <b>July 2022:</b> Start of the screening process  <b>July 2023:</b> The European Commission submitted to the Council the screening report on Cluster 1 – Fundamentals, including benchmarks for opening accession negotiations on this cluster</p>
<b>Serbia</b>	<p><b>Candidate country</b>  <b>December 2009:</b> Application for EU membership  <b>March 2012:</b> European Council grants candidate status</p>	<p><b>June 2013:</b> European Council decides to open accession negotiations  <b>June 2021:</b> Political Intergovernmental Conferences under the revised enlargement methodology  <b>December 2021:</b> 22 out of 35 screened chapters have been opened, two of which are provisionally closed</p>
<b>Turkey</b>	<p><b>Candidate country</b>  <b>1987:</b> Turkey applied to join the EEC  <b>December 1999:</b> European Council grants candidate status</p>	<p><b>December 1995:</b> Creation of Customs Union btw EU + T  <b>October 2005:</b> Accession negotiations started  <b>June 2016:</b> Last negotiation round; 16 chapters are opened, one chapter is provisionally closed  <b>June 2018:</b> Accession negotiations officially at a standstill  <b>July 2019:</b> EU–Turkey Association Council, high-level political dialogue and sectoral dialogues on economy, energy and transport suspended by the Council  <b>March 2021:</b> Launch of ‘positive agenda’</p>
<b>Ukraine</b>	<p><b>Candidate country</b>  <b>February 2022:</b> Application for EU membership  <b>June 2022:</b> European Council grants candidate status</p>	<p><b>November 2023:</b> Commission recommends opening negotiations, Ukraine included in the Enlargement Package reports for the first time  <b>December 2023:</b> European Council decides to open accession negotiations</p>
<b>Moldova</b>	<p><b>Candidate country</b>  <b>March 2022:</b> Application for EU membership  <b>June 2022:</b> European Council grants candidate status</p>	<p><b>November 2023:</b> Commission recommends opening negotiations, Moldova included in the Enlargement Package reports for the first time  <b>December 2023:</b> European Council decides to open accession negotiations</p>
<b>Georgia</b>	<p><b>Candidate country</b>  <b>March 2022:</b> Application for EU membership  <b>December 2023:</b> European Council grants candidate status on the understanding a number of steps are taken</p>	<p><b>November 2023:</b> Commission recommends candidate status on the understanding a number of steps are taken; Georgia included in the Enlargement Package reports for the first time  <b>December 2023:</b> European Council grants candidate status on the understanding a number of steps are taken</p>

Source: Compiled by the authors based on STANICEK–PRZETACZNIK 2023 and different EU factsheets and factographs.



From Figure 1 and Table 1, we can see the slowing down of the EU accession process for these ten countries over the last decade, especially if we compare the speed to the 2004 and 2007 accession countries' joining periods. In case of the Western Balkan countries, they were offered the European perspective twenty years ago at the Thessaloniki European Council on 21 June 2003.<sup>23</sup> The lower enthusiasm among EU member states for the Western Balkan enlargement can be seen in the renewed EU enlargement strategy (or revised enlargement methodology) mentioned earlier. This strategy now emphasises the “fundamentals first” approach, prioritising the rule of law, early resolution of bilateral issues, and enhanced economic governance.<sup>24</sup>

According to Aronin (2023), the EU is in the second phase of the enlargement speed, where it used the prospect of membership for the Western Balkan countries to encourage security guarantees. But in case of Central and Eastern European countries, all acceding states had an external security guarantor via NATO membership and the EU only required some institutional reforms. In case of Turkey, the EU deployed the prospect of membership to motivate difficult-to-implement democratic reform, and this serves as a reason for the very slow accession process.

There are several other reasons behind the longer joining process. A general “enlargement fatigue”, the consequences of the economic and migrant crisis, and even Brexit can be mentioned here. The accession process works today much more on an intergovernmental basis than this was the case during the large Eastern enlargement,<sup>25</sup> so member states matter in the formation of EU enlargement politics a lot.<sup>26</sup>

We shall note that the length of the accession process can be viewed not only as a negative factor, as Börzel and Sedelmeier (2017) summarise the so-called legitimacy approach of the enlargement process and the non-compliance with EU laws. Whether a country follows the EU rules depends on how much it feels connected and agrees with the EU regulation itself. The longer a country is a member of the EU, the more it tends to follow the rules automatically because it sees them as normal. Joining the EU turns countries into members who naturally follow the rules. It's like a habit. However, when more countries join the EU, it might make following the rules harder. But in some cases, if countries have some connection to the EU before full membership, like through certain agreements or aligning their laws (e.g. the EFTA countries via the EEA, or the Central and Eastern European countries because of the more prominent pre-accession legislative alignment process), it can help them get used to the rules earlier. Overall, the idea is that countries might struggle to follow the rules at first, but over time, they tend to get better at it as they become more familiar with EU laws.

<sup>23</sup> Council of the European Union 2003.

<sup>24</sup> MIŠČEVIĆ–MRAK 2017: 185–204.

<sup>25</sup> MIŠČEVIĆ–MRAK 2017: 185–204.

<sup>26</sup> TURHAN 2016: 463–477.



## Accession criteria, the so-called Copenhagen criteria

Over time, not only the EU's accession process but the accession criteria have become more complex. The criteria at the beginning of the European integration, set by the Treaty of Rome, allowed only European countries to apply for membership. The application, approved by the Council after obtaining the Commission's opinion, requires ratification by each Member State following its constitutional rules.<sup>27</sup> As the EU expanded, it developed a more complex set of criteria to ensure candidate countries are well-prepared to maximise membership benefits and minimise disadvantages.<sup>28</sup> This complexity is especially crucial in the context of admitting Central and Eastern European countries.

The so-called Copenhagen criteria (mentioned earlier), adopted at the 1993 Copenhagen European Council, are more complex and specific and needed for a more orderly accession process for a large number of countries.<sup>29</sup> The Copenhagen criteria are the following: 1. the candidate country has achieved stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities; 2. the existence of a functioning market economy as well as the capacity to cope with competitive pressure and market forces within the Union; 3. ability to take on the obligations of membership; 4. including adherence to the aims of political, economic and monetary union;<sup>30</sup> 5. the Union's capacity to absorb new members, while maintaining the momentum of European integration.

The meeting of the European Council in Madrid has added another point, the administrative capacity of the candidate countries to be strengthened. When the countries of Central and Eastern Europe joined, more emphasis was placed on the rule of law and fundamental rights, with less attention paid to the readiness of their economies. The negative consequences of this were particularly evident with the accession of Romania and Bulgaria.<sup>31</sup>

The accession of Western Balkan states is reshaping the focus of enlargement mechanisms. Initially concentrated on justice, fundamental rights and home affairs, with an emphasis on the rule of law, the new EU enlargement strategy, since 2018, places greater emphasis on economic aspects like competitiveness and development. The European Commission now prioritises addressing issues such as unemployment, creating a better business environment, boosting productivity, removing financing constraints and reducing corruption. Despite continuous development of the enlargement toolbox, there is no single quantitative methodological tool introduced to measure the fulfilment of accession criteria.<sup>32</sup>

<sup>27</sup> Treaty of Rome 1957: Article 237.

<sup>28</sup> PALÁNKAI 2010: 9–23.

<sup>29</sup> MOLNÁR 2018: 119–140.

<sup>30</sup> Criteria 3 and 4 are grouped together on the EU Glossary page ([https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=LEGISSUM:accession\\_criteria\\_copenhagen](https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=LEGISSUM:accession_criteria_copenhagen)); FONTAINE 2018: 18.

<sup>31</sup> TANKOVSKY–ENDRŐDI-KOVÁCS 2023: 3–30.

<sup>32</sup> LÓRINCZNÉ BENCZE 2020: 75–97; TANKOVSKY–ENDRŐDI-KOVÁCS 2023: 3–30.



## *Measuring criteria, indicators and indexes*

The criteria mentioned above are difficult to measure with specific indicators, as they often require complex and subjective assessment. The EU usually assesses the progress of candidate countries through annual reports and evaluations, but the process is not always easy to express in numbers or metrics.

Nevertheless, there is the notion of integration maturity,<sup>33</sup> through which authors already have tried to use specific indicators to approach and assess the performance of the candidates. According to Palánkai (2010), there are four dimensions of integration maturity: the economic, the political, the institutional and the social dimensions. In the case of economic dimensions authors<sup>34</sup> use different indicators for five different factors that are macroeconomic stability, functioning market economy, competitiveness, access to foreign finance and convergence. Macroeconomic stability can be approached by GDP growth data (e.g. from the World Development Indicators),<sup>35</sup> inflation and unemployment data and using balance of payment data, too. For the factor functioning market economy, the Bertelsmann Transformation Index or the European Bank for Reconstruction and Development transition indicators can be used as a good approach.<sup>36</sup> For measuring competitiveness, the World Economic Forum's Global Competitiveness Index can be useful and for assessing the access to foreign finance the FDI data can be used.<sup>37</sup>

On the political and social dimension of the integration maturity measurement, using the study of Schroeder (2009) we can differentiate several different indicators and indexes. For example, in the area of the rule of law, the fight against corruption could be assessed and measured by the corruption-to-GDP ratio or Transparency International's Corruption Perception Index. The institutional capacity, administrative efficiency and the performance of the judicial system can also be measured by the Bertelsmann Transformation Index, the Worldwide Governance Indicators,<sup>38</sup> the Open Budget Index or the Civil Society Index.<sup>39</sup>

However, qualitative analysis and expert opinion are often important in the evaluation, as the assessment of the Copenhagen criteria is not only about quantifiable factors but also involves a deep understanding of them. In the following section, we decided to use mainly the World Development Indicators<sup>40</sup> and the Worldwide Governance Indicators<sup>41</sup> mainly for convenience reasons.

<sup>33</sup> PALÁNKAI 2010: 9–23.

<sup>34</sup> ŠILJAK–NIELSEN 2023: 136–155; TANKOVSKY–ENDRÓDI-KOVÁCS 2023: 3–30.

<sup>35</sup> WDI 2023.

<sup>36</sup> See ŠILJAK–NIELSEN 2023: 136–155.

<sup>37</sup> For more details see TANKOVSKY–ENDRÓDI-KOVÁCS 2023: 3–30.

<sup>38</sup> KAUFMANN–KRAAY 2023.

<sup>39</sup> For more details see SCHROEDER 2009: 1–61.

<sup>40</sup> WDI 2023.

<sup>41</sup> KAUFMANN–KRAAY 2023.



## Methodology

We aim to analyse mainly the candidate countries from the point of view of how well they fulfil the Copenhagen and other criteria necessary for joining the EU. The rule of law and democracy criteria can be best measured by using the WGI territories. What can still be measured relatively objectively is convergence, which requires initial GDP per capita data and growth rates in a given period of time. Below you can clearly see that WGI territories approximate the accession criteria quite well. We will denote these areas with the two-letter abbreviations (see below).

The WGI<sup>42</sup> features six aggregate governance indicators for over 200 countries and territories over the period 1996–2022:<sup>43</sup>

- Voice and Accountability (VA)
- Political Stability and Absence of Violence/Terrorism (PS)
- Government Effectiveness (GE)
- Regulatory Quality (RQ)
- Rule of Law (RL)
- Control of Corruption (CC)

Since the above database is rather incomplete for the years before 2000, we mainly compare the previous performances of those countries that joined after 2004 and the candidate and potential candidate countries that have not yet joined. So further on we will concentrate mainly on these two groups. The examined period is from 2000 to 2022. In cross-sectional analysis, we mostly took the data of 2022 into account. When examining the convergence, we took the year 2000 as the starting point, and the growth rate was calculated using the geometric mean formula between the years 2000 and 2022.

In addition, convergence is also an important condition that can be tested with GDP per capita and economic growth data. In our sample, there were originally 52 countries that we sorted into four quartiles based on their GDP per capita in the year 2022. So the following table (Table 2) shows the countries in descending order of GDP per capita grouped in four quartiles (Q1–Q4).

We also grouped the countries as old EU members, ‘newly’ joined members (countries joined after 2004), candidates or none of the earlier groups. Candidate and potential candidate countries are at the focal point of our analysis, those are the following: from the Western Balkans Albania, Bosnia and Herzegovina, Kosovo, Montenegro, North Macedonia and Serbia; the newcomers are Georgia, Moldova and Ukraine; and finally Turkey. Countries that joined after 2004 and the candidate countries have been highlighted with different colours.

<sup>42</sup> KAUFMANN–KRAAY 2023.

<sup>43</sup> These abbreviations are also used in Table 3.



Table 2: List of countries in descending order of GDP per capita in 2022

Q1	Q2	Q3	Q4
Monaco	Belgium	Lithuania	Bosnia and Herzegovina
Luxembourg	Germany	Poland	Belarus
Ireland	Andorra	Latvia	Azerbaijan
Switzerland	France	Croatia	North Macedonia
Norway	Italy	Hungary	Georgia
Denmark	Cyprus	Turkey	Albania
Iceland	Spain	Romania	Armenia
Sweden	Slovenia	Kazakhstan	Kosovo
The Netherlands	Portugal	The Russian Federation	Moldova
The United Kingdom	Estonia	Bulgaria	Uzbekistan
Finland	Greece	Montenegro	Ukraine
Austria	The Czech Republic	Serbia	Tajikistan
San Marino	Slovakia	Turkmenistan	Kyrgyzstan

Note: Quartiles are based on GDP per capita in the year of 2022.

Source: WDI 2023.

The 10 countries that joined in 2004: Cyprus, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovakia and Slovenia. Romania and Bulgaria joined the European Union in 2007. Finally, Croatia was the last to join the community in 2013.

### *Candidate scores based on WGI territories*

The following table (Table 3) shows the WGI data of ten candidate and potential candidate members. These scores can spread between  $-2.5$  and  $+2.5$ . Since it is only a ranking, the scores can be interpreted on an ordinal scale, and so the median and average mean the same. Considering all the countries of the world, 0 means an average (median) value, and a negative score means a value worse than average (median). These countries, the ten candidate and potential candidate states are therefore not doing too badly compared to the world average, but as we will see later they are far behind the newly joined members (countries joined after 2004). Ukraine, full of negative scores, performs particularly poorly in the field of political stability. In Turkey, political stability is the second worst among the present candidates. Ukraine is in a worse situation than Turkey in terms of corruption, only Bosnia and Herzegovina's situation is slightly gloomier. In terms of the rule of law, Ukraine is the worst performer, the Balkan countries are closer to zero, which means a better position.





Table 3: WGI scores in candidate countries in 2022

Country Name	CC	GE	PS	RQ	RL	VA
Albania	-0.41	0.07	0.11	0.16	-0.17	0.14
Bosnia and Herzegovina	0.68	-1.06	-0.44	-0.16	-0.31	-0.33
Georgia	0.62	0.65	-0.44	1.03	0.17	0.01
Kosovo	-0.26	-0.19	-0.25	-0.39	-0.37	-0.06
Moldova	-0.34	-0.31	-0.67	0.10	-0.29	0.09
Montenegro	-0.12	-0.03	-0.06	0.54	-0.13	0.27
North Macedonia	-0.32	-0.08	0.12	0.45	-0.10	0.16
Serbia	-0.46	0.07	-0.17	0.14	-0.11	-0.10
Turkey	-0.47	-0.20	-1.04	-0.24	-0.46	-0.93
Ukraine	-0.63	-0.50	-2.00	-0.33	-0.92	-0.02

Source: KAUFMANN–KRAAY 2023.

The following figure (Figure 2) shows that countries joined after 2004 perform better in terms of WGI indicators. Among the candidate countries, Georgia comes closest to those joined after 2004, but it is obvious (apparent) that they perform very poorly in terms of political stability. Among these EU countries, Bulgaria performs the worst in this regard. In Figure 2, it is also clear that candidate countries reach generally lower scores than the newly joined members. It is also apparent that the countries wishing to join perform worse in terms of corruption and political stability than the newly joined members. If we were to take these indicators into account when joining, we could say that Ukraine, Turkey and even Bosnia and Herzegovina are very far from membership. They should improve their scores in many fields.

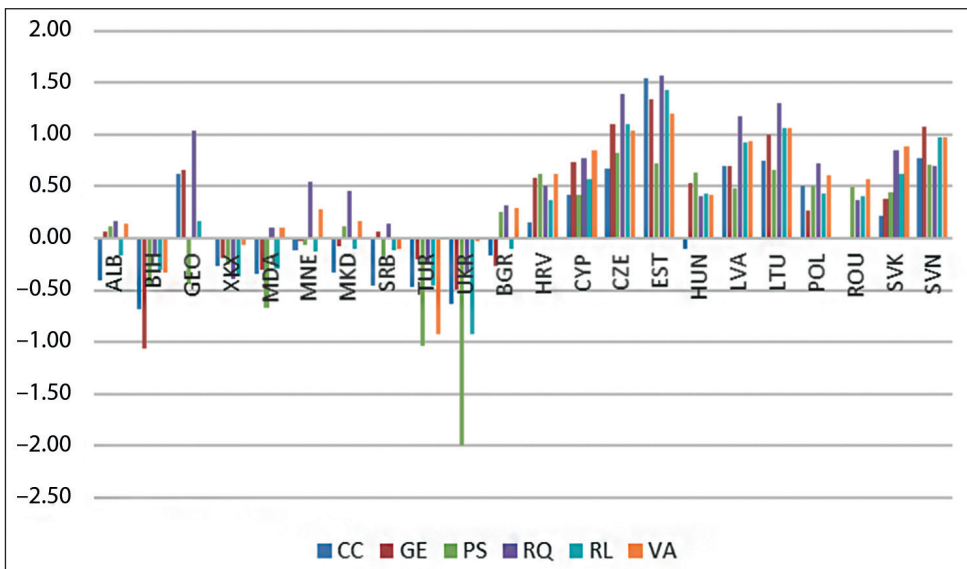


Figure 2: WGI scores in candidate and newly joined countries

Source: KAUFMANN–KRAAY 2023.



## Convergence

The following figure (Figure 3) shows that candidate countries are poorer than newly joined countries. This value (GDP per capita in 2022) is shown by the second (red) bar for each country. Among the newly joined countries, Cyprus was originally the richest and retained its leading position even with a low growth rate. Slovenia was also considered relatively rich in this group and kept its position, although many Eastern European countries came significantly closer to it. Latvia, Lithuania, Slovakia, the Czech Republic and Poland also surpassed Hungary in these last two decades.

As we know, poorer countries within a group have a greater chance of growing faster than rich countries. This is primarily the nature of capital accumulation and the marginal product of capital. We can also explain it with technological development, underdeveloped countries can copy new technologies. This is called the advantage of backwardness.<sup>44</sup> In those poorer countries that are not able to catch up even for a long period of time, there are probably fundamental institutional problems.

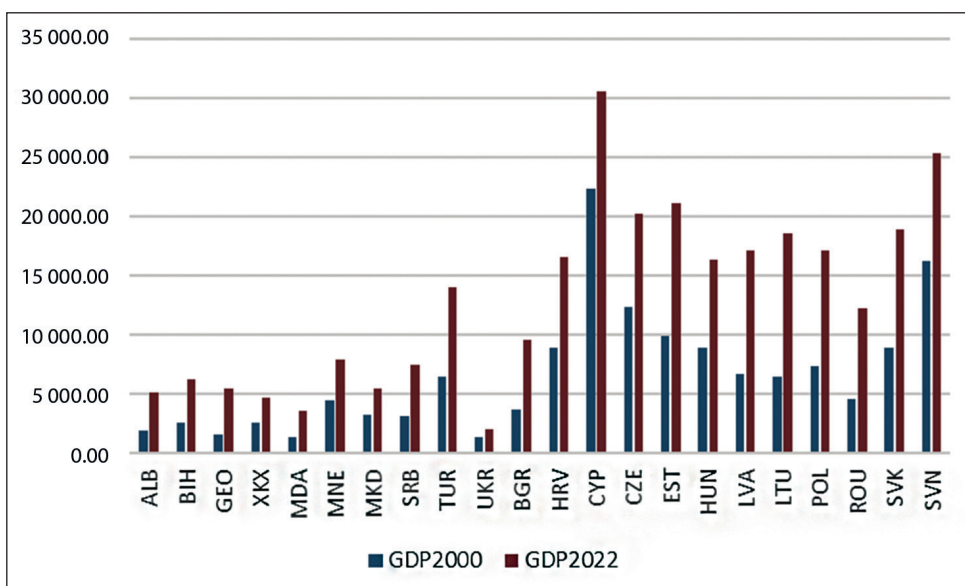


Figure 3: GDP per capita in 2000 and 2022 in candidate and newly joined countries (constant 2015 US\$)

Source: WDI 2023.

In the next figure (Figure 4), we can see the same data as the previous one, but the focus has been narrowed down to the ten candidate countries. So it is much clearer how the candidate countries started in the last two decades and how much they were able to catch up.

<sup>44</sup> SOLOW 1956: 65–94.



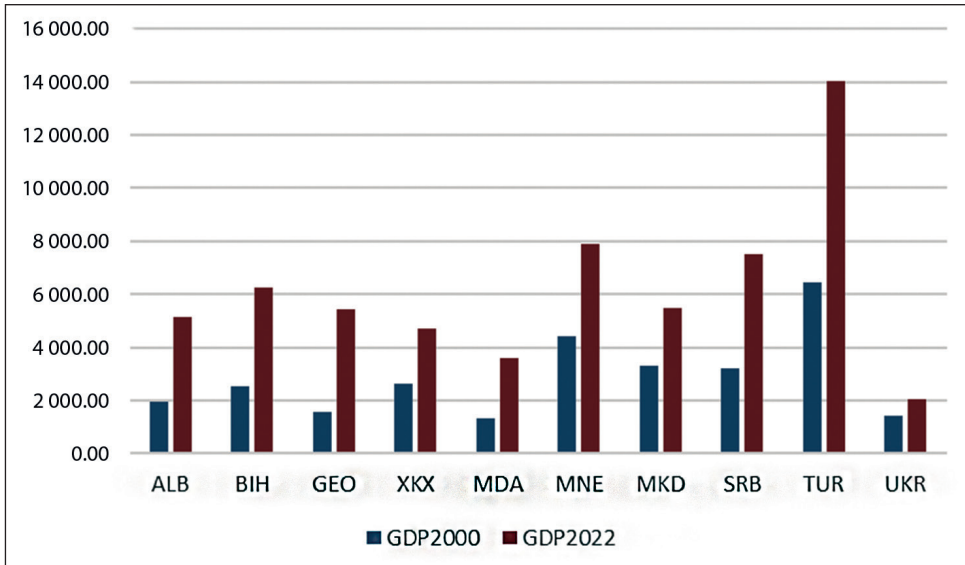


Figure 4: GDP per capita in 2000 and 2022 in candidate countries (constant 2015 US\$)

Source: WDI 2023.

Convergence within a group of countries can be examined more objectively as follows. We take a time period, which in this case is between 2000 and 2022. We take the GDP per capita in the year 2000 (the initial year), we put this variable on the horizontal axis. Using the geometric mean formula, we calculate an average growth rate for the entire period. This variable will be placed on the vertical axis. If there is convergence within the country group, it means that a negative relationship can be observed between the initial GDP per capita and the growth rate. The following figure (Figure 5) shows that there is some convergence between the newly joined countries; those countries that started from a lower level were able to grow faster. This relationship is not so clear in the case of candidate countries. Therefore, in a separate figure, let us look at the issue of convergence only for the candidate countries.

If we only focus on candidate countries, the horizontal axis can be spread more apart, so that the differences between the candidate countries are more visible (see Figure 6). So it can be seen that the initial income of Turkey is much higher than that of the other candidate countries. Among these countries, Turkey grew almost at the fastest rate, the other countries did not manage to catch up with Turkey.



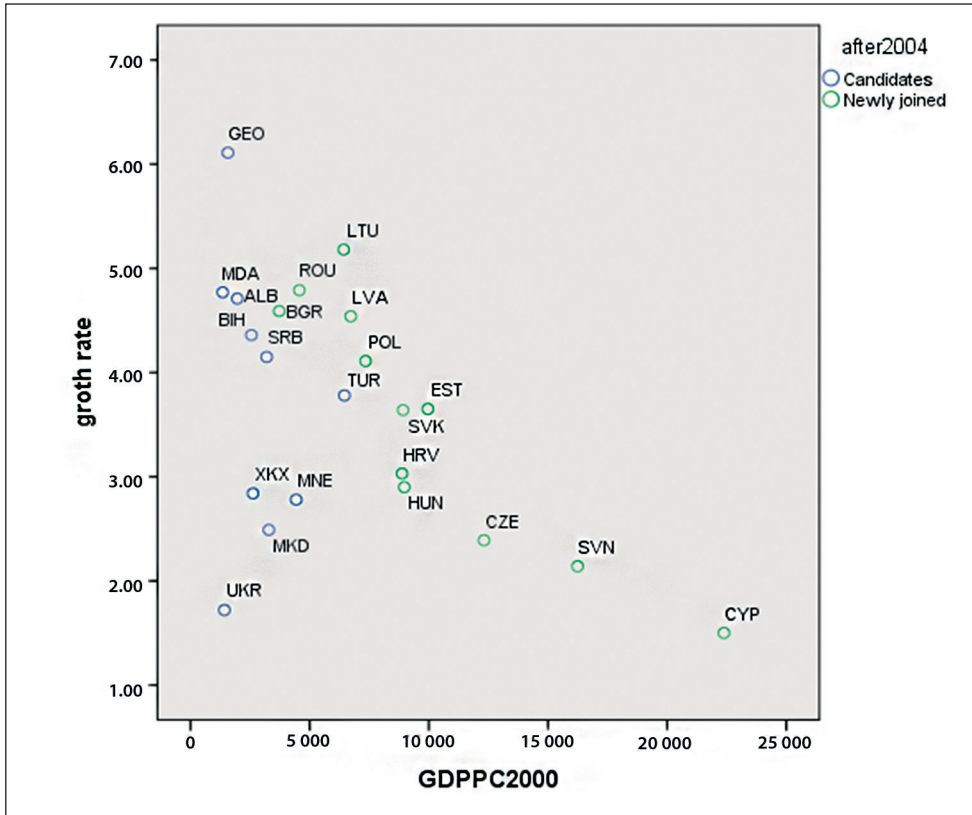


Figure 5: Convergence between candidate and newly joined countries

Source: WDI 2023.

The outlier country in the other direction is Ukraine, which was already the poorest in 2000 and managed to achieve the slowest growth rate in the examined period. Ukraine therefore lags behind the candidate countries in this respect as well, as it is struggling with fundamental problems.

Georgia also started from a very low level, but among these countries, it has been able to grow the fastest, so it was able to catch up with some of the candidate countries. With this high growth rate, Georgia was able to overtake Moldova, North Macedonia and Albania. The second richest country is Montenegro, which has a lower-than-average growth rate and was able to maintain its relative position. Serbia started at a lower level than North Macedonia, but with a higher growth rate, it was able to overtake it and catch up very closely with Montenegro.



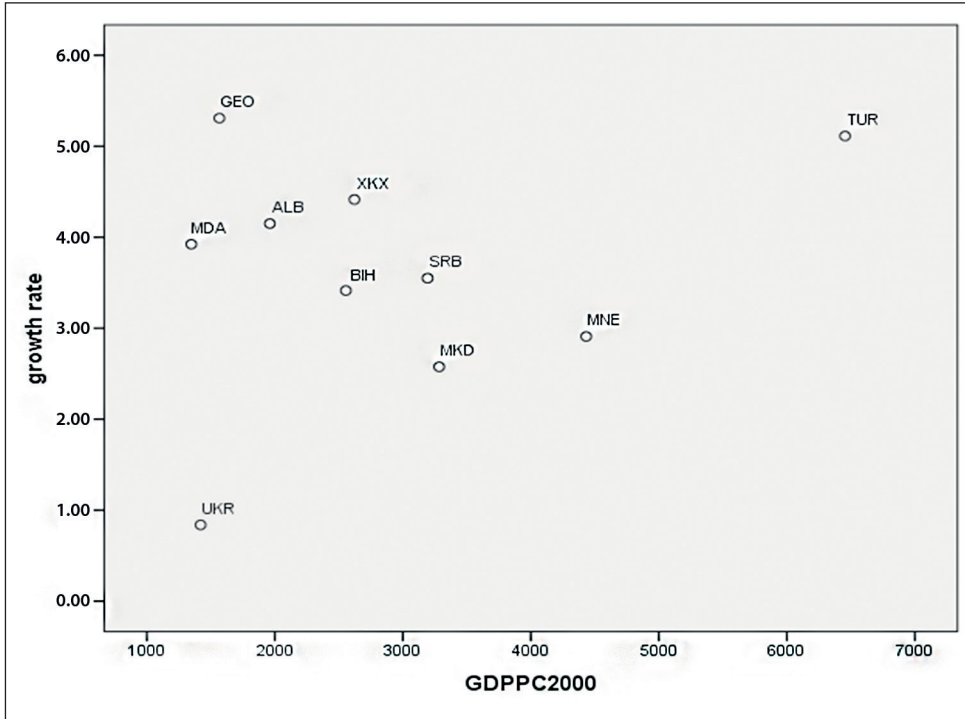


Figure 6: Convergence between only candidate countries

Source: WDI 2023.

The following figure (Figure 7) contains the GDP per capita time series. With the help of this graph, we can compare the economic growth of the newly joined and candidate countries in the last two decades. There is not much convergence visible between the two groups. The examined EU members were already more developed, and the candidates, apart from a few exceptions, were not really able to achieve greater growth. It can also be observed in detail that Ukraine is not a poor country because of the war, even in 2000 its per capita income was very low, and it was characterised by uniformly low growth. It is not that the 2022 data is an outlier, it was low throughout the examined period.



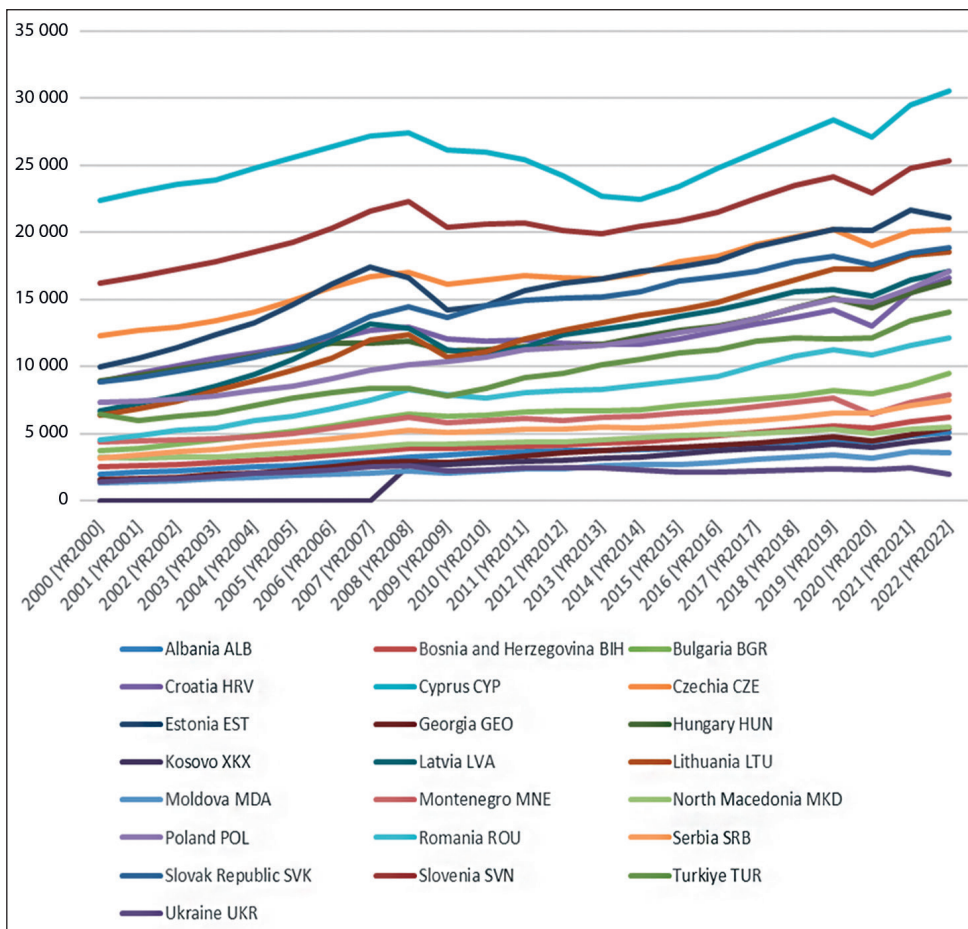


Figure 7: Convergence between candidate and newly joined countries (time series on GDP per capita between 2000 and 2022 on constant 2015 US\$)

Source: WDI 2023.

## Conclusion and further thoughts

In our article, we examined how the conditions and criteria necessary for joining the EU developed and changed numerically in the ten candidate and potential candidate countries, namely Albania, Bosnia and Herzegovina, Georgia, Kosovo, Moldova, Montenegro, North Macedonia, Serbia, Turkey and Ukraine. We analysed these countries from the point of view of how well they fulfil the Copenhagen and other criteria necessary for joining the EU. The examined indicators do not seem to matter much



in accession decisions. These results are consistent with the theory of realism from the field of international relations and intergovernmentalism from the theories of European integration.<sup>45</sup>

Realists argue that states act in pursuit of their self-interest, struggle for power and are concerned with their security.<sup>46</sup> They believe that the international system is anarchic, meaning there is no higher authority to enforce rules, and states must rely on their capabilities to ensure their survival and protect their interests.<sup>47</sup> The representatives of the intergovernmentalism approach, who drew heavily on realist assumptions about the role of the governments of the states, criticised the neofunctionalists<sup>48</sup> who predicted that further integration was inevitable and assumed that the Western European economies would expand indefinitely.<sup>49</sup> According to these theorists, the role of power and state sovereignty shape the behaviour of states, even in case of the enlargement process of the European Union.

From our analysis, it is visible that Ukraine's economic performance and economic growth over the past two decades are extremely weak. Moreover, it performs very, very poorly in the areas of democracy, rule of law and political stability. Nevertheless, the decision-makers of the Union have the intention of Ukraine becoming an EU member in the future. Turkey's economic development practically reaches the level of the newly joined countries, it has experienced rapid economic growth in recent years. However, it leaves a lot to be desired in terms of rule of law criteria and political stability. Although the latter is less objective, Turkey had to and still has to wait a long time for accession because of the objection of some countries.<sup>50</sup> Georgia has grown persistently in the last two decades, the country performed very well based on the rule of law and democracy criteria, and the only serious drawback is the lack of political stability. Georgia's membership candidate status is the most recent of the ten candidates, we are curious to see how quickly the negotiations will bring results. Montenegro and Serbia have come close to Bulgaria, the poorest EU member in terms of economic performance, they are obviously better than the other Western Balkan countries, but in terms of corruption and political stability, they are unfortunately on the same level. This can extend the accession process.

<sup>45</sup> A comprehensive summary of the theory of realism, the most important theoreticians and typology can be read in ELMAN-JENSEN 2014. For the theories of European integration see BULMER et al. 2020: 5-23.

<sup>46</sup> See MORGENTHAU 2014 [1985]: 53-59; CARR 2014 [1964]: 35-38.

<sup>47</sup> WALTZ 2014 [1979]: 103-123.

<sup>48</sup> Neofunctionalism is another explanatory theory of the European integration. The theoretical foundations are very diverse (HOOGHE-MARKS 2019: 1113-1133). It is greatly impacted by two ideas that were popular in the years immediately following World War II: pluralism and functionalism. Drawing inspiration from democratic pluralism, "neofunctionalism developed the idea that government could be disaggregated into its component group actors. Instead of making assumptions about the interests of states, as classical realists had done, neofunctionalists conceptualize the state as an arena in which societal actors operate to realize their interests" (HOOGHE-MARKS 2019: 1114).

<sup>49</sup> HOFFMANN 1966: 862-915.

<sup>50</sup> TURHAN 2016: 463-477.





We are aware that we are only in the very first step of assessing the integration maturity of the ten candidate and potential candidate countries, but as a route to further research, we could collect some important comments. In the 1950s, when there was still the European Coal and Steel Community, no rule of law criteria were examined at all; joining the EU in the 1970s was based on very soft objective rules. Today, the Copenhagen criteria, which mainly include the rule of law, democratic values, and economic and political stability, play a major role in the accession conditions.

We can view the EU enlargement process rather as a game theory problem, decision makers will engage in “the exchange (the deal)” if it is mutually beneficial for them. New countries are admitted to the EU when there is a win-win situation.<sup>51</sup> They will expand the European Union if it coincides with the interests of the community. During the decade of the 2010s, the question was whether the decision-makers really had the interests of the entire community in mind. As realists<sup>52</sup> suggest, interests are more important than rules in international relations. These interests are none other than market expansion, cheap labour and the reduction of transaction costs. The problem is that the Copenhagen criteria are difficult to grasp and measure, so compliance is difficult to account for.

In the current geostrategic environment, the enlargement of the EU and NATO is based on very similar considerations. Although there are also objective aspects each time a case-by-case (discretionary) decision is made based on the short- and long-term interests of the community. This means that political decision-makers weigh the advantages and disadvantages and decide on a case-by-case basis. We can see that currently, there are political efforts to expand the European Union to 36 members,<sup>53</sup> but the disadvantage (or risk) of this is that even the current 27 countries cannot make a unanimous decision on many questions. According to Kydland and Prescott (1982), if decision-making is based on rules, it provides a more favourable outcome in the long run due to stability and transparency. When politicians make decisions discretionally, it can undermine trust, which Kydland and Prescott (1982) call dynamic inconsistency. According to them, ad hoc decisions are therefore suboptimal in a long-run perspective.

The accession process can be viewed from a security perspective also. According to Aronin (2023), there are three different phases of the post-Cold War expansions of the EU. These are based mainly on the relationship with the external security guarantor NATO because security becomes more and more important creating a stable base for economic performance and helping to maintain the EU’s most essential values. Now it seems that in times of war, it is important for the EU to be able to expand and have greater military potential, and to represent a larger share in the world economy.

<sup>51</sup> PALÁNKAI 2010: 9–23.

<sup>52</sup> MORGENTHAU 2014 [1985]: 53–59; CARR 2014 [1964]: 35–38; WALTZ 2014 [1979]: 103–123.

<sup>53</sup> See BECKER 2023.



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# Europe Whole and Free and the Global Zeitenwende<sup>3</sup>

*It is beyond doubt that the international world order as we have known it since the 1990s is changing. In Europe the clearest wakeup call of this new context – let alone the more frequent systemic challenges in the last decades – has been the Russian aggression against Ukraine. It needs the EU to adapt to the new realities which were labelled by Olaf Scholz “Zeitenwende” in his historic speech. The essay explores this historical context in the light of evolving dynamics of European integration, emphasising the concept of a “whole and free” Europe through continuous expansion of Euro-Atlantic institutions, which was envisaged in George H. W. Bush’s also historic speech on the eve of the end of the Cold War. The essay touches upon the enduring debate on the geographical limits and institutional capacities of the European Union (EU) in relation to its position in the world order. The subsequent theoretical assessment aims to understand the challenges the EU faces, particularly in the context of potential enlargement, acknowledging the need for internal and external strength to navigate a changing geopolitical and geoeconomic environment. The essay refrains from normative statements on enlargement but asserts that a “wholer and freer” Europe could elevate the EU’s global influence, positioning it to shape the agenda of the “Zeitenwende”, and the emerging, hopefully still rule-based world order.*

**Keywords:** EU, enlargement, liberal world order

## Introduction

The “German question” have had influenced for long the security of the Transatlantic alliance and had been the cornerstone behind the development of the European integration and the hopes for a sustainable solution – including the long-pursued unification of Germany – became elevated after the promising talks of the Soviet and American leaders the years before the end of the Cold War. Great expectations led to the visit of George

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H. W. Bush to Europe and at the end of the historic year's spring, on 31 May 1989, he delivered his landmark speech in Mainz<sup>4</sup> in front of the West German political leadership as an answer for Gorbachev's "common European home"<sup>5</sup> idea. "Let Europe be whole and free"<sup>6</sup> echoed beyond Germany and meant more than a simple reform for the socialist members of the Warsaw Pact, it envisaged liberal system changes and offered an invitation to join the Liberal World Order led by the United States.<sup>7</sup> The speech was a defining moment in the history of U.S.–European relations and the transformation of the international order, followed by a series of dramatic events that year and the next, which eventually led to the fall of communism and the integration of the former Soviet bloc countries into the European Union and NATO.

Whole and free Europe has meant the continuous expansion of the Euro-Atlantic institutions and definitely strengthened the assumption in both the EU member states and the (potential) candidates that enlargement is an endemic element of European development. Of course, it has raised many questions because of the geographical limits (enlargement) and institutional capacities (functional deepening) of the EU but it has never completely disappeared from European political thoughts that finally all countries (except Russia) on the continent may be members of a single block.<sup>8</sup>

The debates have sometimes been heated, and other times slumberous, and have always been related to the position the EU intended to achieve or maintain in Europe and more broadly in the world. Bush's speech signalled the beginning of the new world order and a new historical era of post-Cold War. We cannot neglect the fact – even symbolically it is important – that practically the end of the post-Cold War era was also announced in Germany, but now by a European leader. One year after the Russian invasion in Ukraine and the start of the war, the German Chancellor Olaf Scholz addressed the Bundestag and declared what many had also raised during the year that the post-Cold War era ended. "Zeitenwende" marks a definite new start in Europe and announced a major change in Germany's defence policy, and a new cornerstone in the "German question" considering the widely accepted Euro-Atlantic logic stemming from Lord Ismay's not official "keep the Germans down" rhetoric<sup>9</sup> which outlived the Cold War.

The following essay serves as a theoretical assessment of where we are; how Europe can be "whole and free" in a changing world order. The basic assumption here is that we need to understand the complex political, economic and societal "catch 22" the EU has been facing before any scientifically valid analysis can be made on the necessary practical steps of, for instance, letting in Ukraine to the club. On the one hand, the trap here is that the enormous possible consequences of such an enlargement need a much stronger EU, internally and externally. On the other hand, the enlargement can make the EU a credible regional power which is the basis of any global ambition. The latter is connected to debates on the EU's strategic autonomy: a whole and free – let alone stable,

<sup>4</sup> See for instance GARTON ASH 2023b.

<sup>5</sup> See for instance MALCOLM 1989: 659–676.

<sup>6</sup> BUSH 1989.

<sup>7</sup> RADA 2022: 7–29.

<sup>8</sup> BILDT 2023.

<sup>9</sup> See FUHRHOP 2023; SCHREER 2023; TAUSENDFREUND 2022.





secure and prosperous – Europe is the precondition of the future of the EU which needs to navigate in a more geopolitical and geoeconomic environment. That is, the EU would theoretically be stronger if all countries on the continent could join (including Turkey, but not Russia), but to make that happen, the EU needs to be already strong mainly internally but also externally to cope with the powers who will work against regional expansion – like Russia – and who will have concerns about a more robust EU global presence – including China and maybe the U.S.<sup>10</sup>

Our following analysis does not intend to explicitly review the EU’s enlargement policy. It aims to describe the nature of the changes in the Liberal World Order and to evaluate the room for a larger, stronger and more united EU. We are not intending to bring normative statements on the usefulness of enlargement, we simply state that a whole and free Europe can put the EU on a higher shelf in global politics from where the EU may be able to influence more autonomously and effectively the agenda of the “new” – hopefully rule based – world order after the Zeitenwende.

## Zeitenwende and the Liberal World Order

You do not need to be an international relations expert to conclude that the number of (seemingly) new open conflicts and wars is alarming. Since 2022, not only has high-intensity conflict returned to Europe, but the EU also needs to face the consequences of the melting of frozen conflicts considered to be managed in its neighbourhood. The frozen conflicts have been largely kept “quiet” by the liberal world order itself. Therefore, when the order is shaking, the regional players locally price-in the change and the opportunity costs of winning, losing, or maintaining the conflict. The consequence is harsh; many conflicts other than Ukraine have turned into war since the beginning of 2022 in Nagorno-Karabakh,<sup>11</sup> Ethiopia,<sup>12</sup> Myanmar,<sup>13</sup> Niger and lately in Gaza.<sup>14</sup> The EU, and now the United States are strategically less and less inclined to be engaged. The consequences for the EU have been grave for a long time, and because of the visible challenges coming from these conflict regions, such as migration, they also create serious internal debates.<sup>15</sup> Pouring more money into the conflicts will definitely not lead to a sustainable solution. Regardless of the novelty of the intentions, the aid trap has long been a known phenomenon in international economics.<sup>16</sup>

<sup>10</sup> RADA-VARGA 2023: 3–23.

<sup>11</sup> See for instance GAVIN 2023.

<sup>12</sup> See for instance The Economist 2023.

<sup>13</sup> See for instance SUN 2023.

<sup>14</sup> See more about the arguments on the causes and consequences in BEALS-SALISBURY 2023.

<sup>15</sup> The EU leadership’s position is to manage the consequences through, for instance, the quota system, whilst some of the member states – including Hungary – insist on managing the problems beyond the borders of the EU.

<sup>16</sup> See the Rubik’s cube model of statebuilding, for instance, in PONGRÁCZ-RADA 2023: 78–94; RADA 2009: 81–114; RADA 2011: 155–163.



The “liberal world order”<sup>17</sup> is undoubtedly facing serious questions about its existence, its basic logic, and its functioning. Russia and China have been gradually pushing the boundaries in recent years, while critical voices are growing in the U.S. and even in the EU, but there is no real alternative in sight. Countries adhere to order either because it is in their direct interest (at least in the short term), or because there is nothing else to align with. An order itself reduces uncertainty, preventing the world from becoming the reality of unchecked anarchy. Paraphrasing Winston Churchill’s famous statements made in a 1947 speech during a debate in the British House of Commons,<sup>18</sup> we can say that – since various orders have been tried – from imperial expansion, through the anarchy of power-maximising states to the relative stability brought by bipolarity at the systemic level – the “liberal world order” is not perfect and not a solution in every case; in fact, it represents the worst form of the logic of an international system, except for those we have already tried.<sup>19</sup>

The world order is the frame of balance within which foreign policy motivations are optimally coordinated. If the balance is disrupted – and the Russian aggression has altered perceptions related to this balance, if not the order itself – individual actors take steps beyond the spectrum of security and well-being to enhance their position in the world order. However, these individual steps can significantly worsen the perceived prospects of other actors in terms of security and well-being, triggering new reactions. In the interaction of reactions, the logic of the world order does not change, but the perceived benefits for individual actors, in terms of both security and well-being, may turn negative.

The motivations of actors in the international system can be infinite, but analyses, narrowing down to the realist-liberal spectrum and complemented by a constructivist methodology suggest that ultimately two questions will be crucial at the end of the day: security and well-being (money). Conversely, well-being can be ensured for a country’s citizens (and we assume, even if it is too simplistic, that this is indeed the goal of leaders even in authoritarian countries if they want to stay in power in the long run) only when security exists. Security, intertwined with the question of survival, is an absolute realist category that undeniably narrows the space for manoeuvring. If there is no security, a state is more prone to make decisions stuck in the realist domain of self-help and power. In the presence of economic well-being, a state can address issues

<sup>17</sup> The world order is intangible, and impossible to be perceived empirically, so every assertion about it is abstract intuition. Pre-existing concepts form a logical order based on the rules of gravity, meaning that the interpretation of the system by major powers becomes dominant. Through the credibility of this dominant interpretation, other actors drawn toward the core of the system strengthen the order by adopting behaviours in line with the dominant interpretation. The consequence of the transcendent nature of the world order is that actors may feel a greater or lesser need to belong to the order, independent of their experiential knowledge. In liberal theories, this manifests as emphasising values in international relations and explaining international cooperation. This essay is not intending to elaborate a precise definition, or give a synopsis of the theoretic debate about the expression. To see more on the LWO read RADA 2023a: 1–15.

<sup>18</sup> Famous quotes, taken from the speech: “Many forms of Government have been tried, and will be tried in this world of sin and woe. No one pretends that democracy is perfect or all-wise. Indeed it has been said that democracy is the worst form of Government except for all those other forms that have been tried from time to time.” See Parliament Bill 1947.

<sup>19</sup> PONGRÁCZ–RADA 2023: 78–94.



characteristic of the “liberal world order” such as the continuous expansion and promotion of universally interpreted inalienable human rights. The legitimacy of the world order – meaning that its actors adhere to its rules – is derived from the balance of the order, ensuring their security, and that the creation, maintenance and development of economic well-being are tangible possibilities. However, this is a matter of perception (here the constructivist methodological logic comes into play) because it is a question of perspective (worldview)<sup>20</sup> and depends on the assessment of the leaders of states. For example, from Putin’s perspective, the enlargement of NATO is evidence of the West’s imperial expansion. In reality, NATO posed a threat primarily to Putin’s neo-Soviet imperial ambitions, not to Russia itself. Numerous studies have explored the factors leading to Putin’s decision,<sup>21</sup> but the key point is that it triggered immediate American and European reactions, thereby impacting the world order, and the chain of actions certainly disrupted the comfortable balance.

$$E_1 = \{P_{1-\infty}\} = \sim \{\text{USA; EU; C; RU; GS}\}^{22}$$

$$E_2 = \sim \{\text{USA; EU; C; RU; GS}\}$$

The formula is the same, according to the simplistic logic of liberal democracies:<sup>23</sup>

$$E_3 = \sim \{\text{Liberal democracies; authoritarian states}\}$$

$$E_1 > E_2 > E_3$$

Thus, the more simplifications and narrowing we apply, the greater the margin of error between predictions made within these limiting frameworks and reality. The leaders of states must consider a much more complex equation. Today, the balance has definitely been disrupted, evidenced by the war in Ukraine (it is rather symptom than a cause), and each actor experiences a negative deviation in terms of security and well-being. Consequently, the question of the legitimacy of the “world order” arises.<sup>24</sup> Thus, American steps taken to restore the balance of the world order, or the lack thereof, come with additional negative consequences. The “liberal world order” was established by the United States, and its balance has been overseen by Washington in recent decades. Therefore, any departure from this comes with negative consequences (perceived or real) from the perspective of the United States, which Washington immediately seeks to remedy. It is also clear that the EU has been a benefactor of the Western led liberal world order. Therefore, the balance is in the interest of the EU, which is endangered not only by revolutionary critics, such as China or Russia, but also by the (over)reaction of

<sup>20</sup> To read more about the influence of worldviews see KATZENSTEIN 2022.

<sup>21</sup> See, for instance, CANCIAN 2022.

<sup>22</sup> E: balance/world order; P: actors; P substituted: United States, EU, China, Russia, “Global South” such as India, Indonesia, African countries. Balance is sustained in the long term if  $E \geq 1$ . For the sake of a highly simplified quantification: if there is a direct security threat, it is  $-2$ , if indirect,  $-1$ ; similarly for the economy:  $-2$ ,  $-1$ ; and conversely, it can be  $+2$  and  $+1$  in all cases. If, for the world order,  $E < 0$ , then the order is questioned, and each actor exhibits self-interested behaviour to reduce its own losses or potentially realise perceived gains. Despite relative losses, only the United States has been willing to maintain the order in recent decades. Other countries will not, but there is no alternative system either, only the realist anarchy, which is certainly disadvantageous for everyone in the above logic.

<sup>23</sup> RADA-STEPPER 2023: 1–9.

<sup>24</sup> RADA 2023a: 1–15.



the United States. Believing that the EU's goal<sup>25</sup> is to manage and maintain balance, if all other major actors are changing, the EU should act accordingly. Thus, *Zeitenwende* refers to the volatility in which the EU needs to be more prepared, more independent, definitely stronger and more autonomous.

From a European perspective, the ideal world order is one in which the manoeuvring space expands, maintaining a special relationship and close alliance with the United States. The EU aims to be a status quo power, while China and Russia are seen as revisionist powers, and the United States is perceived as unpredictable.<sup>26</sup> Institutional tools for this purpose exist (NATO, G7, Transatlantic Partnership Council, etc.). Paraphrasing the words of the first Secretary-General of NATO, Lord Ismay, the strategy the EU should follow is to keep the Americans nearby, the Russians down, and the Chinese far away.<sup>27</sup> Although this may sound easy, the economic openness characteristic of the EU and the world of mutual interdependence, which is a fundamental tenet, make it a serious question of how to maintain the credibility of the American alliance when it is not in the EU's interest to unconditionally support U.S. geopolitical endeavours – even if part of the goal is to maintain an appropriate “liberal world order”. Another politically (economically) challenging dilemma is how long and how closely the EU can maintain relations with China if China acts as a challenger to the world order. It is also worth noting, not as a dilemma but as a reality, that the EU cannot ignore Russia, as it will need to cooperate with Russia after the war for both security and economic reasons. An important and non-negligible scenario is the likelihood that the United States, yielding to growing domestic anti-war sentiment,<sup>28</sup> gradually seeks to shift the costs of the Ukrainian war onto European partners, along with an increased responsibility for maintaining European security. Currently, a U.S. withdrawal is not timely, but regardless of the winner of the 2024 U.S. presidential election, Washington could easily opt for a new isolationist foreign policy direction.<sup>29</sup> This scenario could become particularly realistic in a new pivot to Asia,<sup>30</sup> guided by realist logic rather than liberal ideology.

The EU did not focus more seriously on developing independent defence capabilities in the past decade by chance, and the Lisbon Treaty provided an institutionalised opportunity for differentiated integration.<sup>31</sup> However, the existence of EU defence development and potential on paper alone does not represent genuine capability growth. The idea of EU battlegroups is nearly twenty years old, and although the first battlegroup was placed on standby in 2007, none have been deployed since.<sup>32</sup> The legally established Permanent Structured Cooperation (PESCO)<sup>33</sup> was initiated in 2017 among EU member

<sup>25</sup> We do not want to dive into debates here about the EU's decision-making mechanisms, or even touch upon the issue of unified interest.

<sup>26</sup> In some opinions, the United States is itself a revisionist power (see MENON 2022).

<sup>27</sup> See NATO Leaders s. a. This was also stated in the ECFR analysis published in the summer of 2023 (see PUGLIERIN–ZERKA 2023).

<sup>28</sup> CHATELAIN 2023.

<sup>29</sup> SIKORSKI 2023: 66–77.

<sup>30</sup> Obama–Clinton era's “Pivot to Asia” already considered China a competitor, but in line with neoliberal beliefs, the goal was for China's economic growth to bring about democratisation (see BLACKWILL s. a.).

<sup>31</sup> KOLLER 2012: 35–57.

<sup>32</sup> For further information see EEAS 2023.

<sup>33</sup> See Permanent Structured Cooperation – PESCO (s. a.).



states interested in it. Despite adopting the Strategic Compass<sup>34</sup> and establishing the European Peace Facility in 2022 the war shows that the EU would hardly be able to deter a revisionist power without support from the United States (and NATO).<sup>35</sup> In addition to creating institutional frameworks for defence capabilities, European unity must also function in practice for credibility enhancement, a necessary condition. In crucial matters for the future world order, such as cooperation with Russia after the war and relations with China, there is no unified European position, and larger EU member states pursue individual foreign policy interests, undermining the effectiveness of EU foreign policy.<sup>36</sup> Germany has been particularly scrutinised in this regard.

From the perspective of European strategic autonomy, the first comprehensive German national security strategy<sup>37</sup> presented in June 2023 can be considered a milestone, even if, according to critics, not the document itself.<sup>38</sup> In the spirit of the Scholzian “Zeitenwende”, it integrates theoretical issue-specific security challenges<sup>39</sup> with practical defence issues. The document reflects the changed political thinking observed in Europe, signalling Germany’s departure from its historical reluctance to articulate a political vision for European security. In Germany’s case, this strategic thinking and birth of some kind of strategic culture indicate the need for serious and noteworthy development, which is complemented by the development of the German military and increased defence spending. A crucial interpretation of the national security strategy is that Germany envisions the future in the current “liberal world order” and within the institutional security frameworks provided by NATO and the EU. Germany sees itself in close alliances and partnerships with the United States while envisioning a future cooperation with China. In this scenario, Germany, as Europe’s most populous and economically strongest country, acknowledges a pronounced responsibility for maintaining peace, security and prosperity in a free but increasingly multipolar international order.

The declared shift in German strategic thinking is of paramount importance for the entire EU, and a modification in the traditional European vision led by the Franco-German tandem can be anticipated. Historically, the political content of this vision was primarily determined by the French, whereas its economic content was shaped by the Germans. The evolving German political concept envisions increasing responsibility from Berlin to maintain a world order that fundamentally aligns with the peace, security, prosperity (and democracy) ensured by today’s institutional framework, an order which is gradually becoming more multilateral, with China playing an important role in it. According to the German strategic vision, this approach will be effective only when the EU can unite, prevent illegal migration, foster economic unity, and reduce efforts blocked by particular interests toward pan-European goals.<sup>40</sup>

<sup>34</sup> See EEAS s. a.

<sup>35</sup> In fact, in some ways, the U.S. presence was not enough to deter Putin.

<sup>36</sup> SIKORSKI 2023: 66–77.

<sup>37</sup> See the German National Security Strategy in The German Federal Government 2023.

<sup>38</sup> See, for instance, Atlantic Council Experts 2023.

<sup>39</sup> See more about issue-specific security complexes in MARTON et al. 2015.

<sup>40</sup> See the security strategy in The German Federal Government 2023.



## “Wholer and freer” Europe

The EU has developed into a postmodern economic and political entity that is ill prepared to cope with a world full of traditional security threats. The symbolic idiom “economic giant but political dwarf”<sup>41</sup> has changed considerably, but the EU’s economic project designed and managed under the German leadership of monetary orthodoxy, fiscal austerity, and free-flowing trade and investment implies a liberal world order. The once sacred principles of liberal economic ideology have been questioned by the geoeconomic reality.<sup>42</sup> Ursula von der Leyen referred to the ambition for change accordingly already in her early speech in 2019.<sup>43</sup> The EU has traditionally not been a political power to use its vast economic tools for political purposes to actively set the agenda of the world order. As a consequence of the pandemic and based on the grim experience with inadequate capacity to cope with the global pandemic, the European Commission became active in setting up large scale macroeconomic resilience instruments – for instance unprecedentedly massive Covid recovery fund<sup>44</sup> – and in overseeing European solidarity, whilst being more active and vocal in countering unfair competition vis-à-vis and pressure from both the United States and China.

The EU’s origin is a regional peace project and a successful regional economic project. However, to maintain the positive benefits of these processes, the EU has needed to put real money behind the political ambitions to be and remain resilient and proactive in a changing world. The global and more intense strategic competition between the United States and China may easily eat away the EU’s market share in critical industries, for instance, in innovation and technologies related to car manufacturing, green energy, AI, etc., all of which require those raw earth minerals that are also not abundant in Europe. Consequently, the EU has started to move forward towards a stronger central regulatory power within the single market to be effective outside of the EU. The International Procurement Instrument,<sup>45</sup> the Foreign Subsidies Regulation,<sup>46</sup> and the first ever independent economic security strategy<sup>47</sup> all help “weaponising” the economy and protect the EU from any external pressures and trade wars. This process also leads to less and less tolerance within the block towards individual member states. That is, the logic of a more powerful EU, which is, in turn, more stable and secure for the members, comes with a price of less independence for member states.

The literature is relatively unified regarding the fact that Russian aggression has created a geopolitical situation for the EU, which has not been experienced since the Cold War – to some extent, since World War II.<sup>48</sup> Putin’s empire-building efforts and the attempt to colonise Ukraine require the EU to be capable of politically unified thinking

<sup>41</sup> BRÖZEL 2014.

<sup>42</sup> MATTHIJS–MEUNIER 2023: 168–179.

<sup>43</sup> Her commission would be a geopolitical one (for further information see European Commission 2019).

<sup>44</sup> See European Commission 2020.

<sup>45</sup> See European Parliament 2022.

<sup>46</sup> See European Commission 2023b.

<sup>47</sup> See European Commission 2023a.

<sup>48</sup> TGA envisions the European empire as a voluntary, mutually beneficial democratic political form (see GARTON ASH 2023a: 64–75).





at least on strategic issues, because of the need of quicker decision-making. However, according to some critics,<sup>49</sup> it may potentially lead to unwanted federalisation. Even a strategically autonomous EU does not guarantee that the EU will stay out of global conflicts, even though the demand for increased security would call for remaining neutral. Due to economic interdependence and the necessity to elevate, at the very least maintain the level of well-being, the EU would not remain away from, for instance, a U.S.–China conflict.<sup>50</sup> After two years of the war in Ukraine, estimates suggest that it has cost the EU around 190 billion Euros; the sanctions against China and their global economic impacts would result in far more severe and expensive consequences.<sup>51</sup>

The return of revisionist challenges to Europe necessitates the creation of a stronger Europe, building on a more balanced transatlantic relationship and relying on a strategically autonomous and capable EU. In terms of security, it is crucial for the EU to disconnect unreliable Russian energy (and raw material) sources while gradually transitioning to green energy with the ultimate goal of climate neutrality. The EU must serve as a political force based on shared values, that provides an effective and attractive alternative to Putin's retrospective world. This alternative should be open to Western Balkan and Eastern European countries. In other words, the EU will become stronger after enlargement.

It has been a widely accepted<sup>52</sup> logical assumption that domestic strengths are the building blocks of regional, and consequently global power. A political entity that cannot control its region, or manage the problems stemming from the immediate neighbourhood will logically be occupied too much with local problems to be able to influence the global level. We note here that the evolution of the EU's foreign policy also followed this trait,<sup>53</sup> considering that the EU's most successful foreign policy tool has been the enlargement.<sup>54</sup> The goal of enlargement and similarly the neighbourhood policy of the EU has been to extend the sphere of security, stability and prosperity<sup>55</sup> to regions which can have direct consequence on the security, stability and prosperity of the members.

Regional conflicts can have global impacts, but they definitely and significantly shape a region's future, sometimes in a way that none of the directly involved players intended. The open Russian aggression practically opened the box of thoughts about a larger and stronger Europe – in some ways a postmodern regional power, or post-imperial power.<sup>56</sup> It posits that for the EU to maintain regional influence and secure a role in global affairs, akin to a form of strategic-economic autonomy, it must adopt

<sup>49</sup> See SONNICKSEN 2022: 114–133; MCGEE 2021; KUDARAUŠKAS 2023.

<sup>50</sup> Contrary to what Macron said in an interview after the Beijing summit (see ANDERLINI–CAULCUTT 2023).

<sup>51</sup> SIKORSKI 2023: 66–77.

<sup>52</sup> Michael Mazarr, the senior analyst of Rand Corporation collected arguments around the question: what makes a power great. He analysed this question mainly from the American point of view with the unhidden goal to check whether China is ready to be a great power. The EU was not explicitly part of this assessment but the logic can be applied similarly (see MAZARR 2022b: 52–63; CHARP–MAZARR 2022; MAZARR 2022a).

<sup>53</sup> GRAJEWSKI 2023.

<sup>54</sup> STANICEK 2022.

<sup>55</sup> See, for instance, Strategic Communications 2021; BURAS–MORINA 2023.

<sup>56</sup> GARTON ASH 2023a: 64–75.





characteristics reminiscent of an empire, necessitating stronger central decision-making and unity. The discussion traces the evolution of the enlargement policy, noting the onset of “enlargement fatigue” during the global financial crisis and subsequent crises (Eurozone, identity, Brexit, illegal migration and finally Covid), which prompted potential members to seek alternative options and weakened the EU’s position in its neighbourhood. This relative weakness of the EU has allowed some global players to build pillars of political and economic footholds in these very neighbourhoods. China’s Belt and Road Initiative’s expansion (e.g. Montenegro), or Russia’s open intimidation in the Eastern neighbourhood had been visible before Ukraine, too. The later example is very interesting, as the chain of events in Ukraine started with the possible EU perspective of Ukraine which is utterly incompatible with Putin’s mirageous dream about the neo-Soviet empire. The trigger of Russia’s open intervention was the outbreak of the revolution in Kyiv which ousted then President Yanukovich for cancelling the imminent Ukrainian membership in the comprehensive DCFTA program in 2013.

Assumptions clearly failed in Ukraine that the stability of the neighbourhood can be sustained if the EU membership perspective is vague as EU’s “expansion” may outrage other powers.<sup>57</sup> This realisation led to the revival of the enlargement policy and Charles Michel’s recent announcement that by 2030 the EU needs to be ready to accept the new members.<sup>58</sup> We need to note here that – even though it is qualitatively new in its way – the president of the EU did not take much risk with the announcement as it will happen after two EU elections (2024 and 2029) and after the agreement on the new budget in 2027. Michel’s speech logically followed Olaf Scholz’s announced commitment to enlargement last year in Prague,<sup>59</sup> in which the German Chancellor envisaged the future membership of Ukraine, Moldova, Georgia and the entire Western Balkans after the EU underwent to this expansion required serious reforms and deepening of the integration.

After the enlargement in the 2030s, the EU will control the whole of Europe (maybe with few exceptions like Belarus, Turkey or Armenia) and through the already existing and in some sense globally significant regulatory power<sup>60</sup> and the precedence of EU law in the new territories will make the EU resemble more of an empire with global outreach. The integration and enlargement are the processes towards a larger and stronger supra-national authority, and the postmodernity is expressed by the fact that the expansion is based on voluntary decisions of the old, as well as the new members.

The EU as a peace project and a project for economic prosperity brought stability to a historically war-ridden continent after the Second World War. And even though the different enlargement rounds happened in different geopolitical and historical environment and had different central reasons, they expanded the EU’s sphere of stability and prosperity. During each round the experts warned for the unintended negative effects and some even envisioned the internal collapse.<sup>61</sup> After the 2000s and both external and domestic challenges, the EU experienced “enlargement fatigue”<sup>62</sup> cooling the ambi-

<sup>57</sup> See Kissinger’s thought in Davos in 2023 (LOWRY 2023).

<sup>58</sup> JONES 2023.

<sup>59</sup> GEHRKE 2022.

<sup>60</sup> BRADFORD 2019.

<sup>61</sup> BILDT 2023.

<sup>62</sup> BRUNET – DURAND-OCHOA 2013.



tions in the Western Balkans. The war in Ukraine reopened the box and strengthened the discussion about the connection among a bigger Europe, stability, autonomy and the coming world order.<sup>63</sup>

## Conclusion: Putting things together and the capacities of the EU

The frontier of the EU is unquiet.<sup>64</sup> To manage it, the EU's decision-making process must be more efficient and quicker, and cooperation should be established in defence and development. In global issues, cooperation with China is inevitable, and the EU must also have strong ties with the Global South.<sup>65</sup> All of this urge important conclusions for Hungary and other EU member states, including France. Germany now aspires to a political leadership role, continuing through the EU, but Berlin will likely take visible and predictably assertive steps to achieve its goals. This may involve increasing criticism of the United States, asserting German weight in relations with France, and initiating reforms of EU institutions that, in strategic matters, will not tolerate long-term unilateralism if Berlin does not find it justified by well-founded national interests.<sup>66</sup> An example could be the future of the European energy mix and relations with Russia. The German stance falls somewhere between Washington and Budapest, which Hungary must consider but it also presents an opportunity for participation in shaping common compromises.

Thus, "Europe's real test is yet to come"<sup>67</sup> and it is an open question whether the EU is going to be able to cope with the challenges of a new world order and how resiliently it can adapt the change from a stable – yet in some ways unipolar – international system to a more competitive multipolarity. The "brave new world"<sup>68</sup> is less postmodern, more traditional in which realist reflexes may be stronger and we can even risk stating more sought for. In the new set up NATO is more robust, visible, the EU member states are stronger individually than before, Russia is slipping towards the Global South or into a vassal of China.<sup>69</sup> The reaction of the United States to the changes will also be definitive as after 2024 – actually no matter who will win in November at the presidential elections – Washington may turn back to domestic issues. An isolationist U.S. could dismiss Ukraine as a global problem and let the solution to the EU. More escalation in the South China Sea also would demand a more robust and autonomous EU defence as

<sup>63</sup> By the time of publication, the European Council (December 2023) already discussed the official opening of the accession talks with Ukraine and Moldova.

<sup>64</sup> The expression refers to the work of Wess Mitchell and Jakub Grygiel who used a very similar title to their book which analysed the strategic environment of the United States (see GRYGIEL-MITCHELL 2017).

<sup>65</sup> SCHOLZ 2023: 22–38.

<sup>66</sup> RADA 2023b: 321–336.

<sup>67</sup> SIKORSKI 2023: 66–77.

<sup>68</sup> The expression refers to Aldous Huxley's famous novel and was also used by István Gyarmati (see GYARMATI 2002: 3–18).

<sup>69</sup> Brzezinski's prediction has been shared by realist American scholars since, including John Mearsheimer.



Pentagon – no matter of the open political references about the American capacities to cover the World from Israel to Taiwan – long abandoned the goal to be able to fight two major wars simultaneously.<sup>70</sup>

Stronger defence and common strategic thinking need the EU to further deepen the integration. The signs are visible for this ambition, but the results of actual deeds are rather mixed. In theory differentiated integration<sup>71</sup> is a logical model for the future and it is reflected in the EU style “coalition of the willing” in the form of the PESCO.<sup>72</sup> The later adopted Strategic Compass and the mostly debated European Peace Facility are also important steps towards a more robust and capable EU defence but there are still many questions related to the fact that the EU has never faced major traditional security threat without the active support of the United States. The worst-case scenario is an open conflict between the United States and China. Let alone the fact that the EU would remain alone with multiple threats in the immediate neighbourhood,<sup>73</sup> any sanctions against China would contribute to the EU’s economic collapse. According to rough estimates,<sup>74</sup> the sanctions and the indirect costs of the war, plus the aid to Ukraine for the EU has piled up to more than 1% of the GDP which is enormous compared to the rather moderate budget of the EU.<sup>75</sup> Russia is a relatively small economy in the world. Any decoupling from China would result in unprecedented harshness, and it is very difficult to imagine that the EU could be neutral: either the Chinese, or the U.S. market and partnership may be lost without choosing sides.

That is, the EU’s strategic choice is to be stronger, more visible, more credible that it can independently moderate the escalation between the United States and China. To do so the EU needs to maintain close ties with both and maybe to manage the “Kissingerian realist triangle”. But first the EU needs to understand the “Zeitenwende” and provide security and prosperity in the immediate neighbourhood.

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<sup>70</sup> FARLEY 2021.

<sup>71</sup> KOLLER 2012: 35–57.

<sup>72</sup> LEBRUN 2018.

<sup>73</sup> See Russia’s Second Front in Europe.

<sup>74</sup> KILFOYLE 2023.

<sup>75</sup> Important to note that the costs are unevenly distributed in the member states, and it is not covered entirely from the EU’s budget.



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# Potential Sticking Points between EU Accession Requirements and National Interests in Serbia, with Special Reference to Geopolitical and Minority Issues

*It is worth examining the current state of Serbia's accession to the European Union in a wider socio-historical and economic-political context. The country contacted the EU on 24 November 2000, when it joined the Stabilisation and Association Process as the Federal Republic of Yugoslavia. The aim of this paper is, on the one hand, to present the impact of the EU's priorities on Serbia's domestic policy that have a major impact on cooperation between the two sides: the rule of law, fundamental rights, strengthening democratic institutions, the fight against organised crime, economic development and increased competitiveness, and the recognition of Kosovo's independence. On the other hand, this paper aims to outline the difficulties caused by geopolitical events and the obstacles to accession. While Serbia has primarily an economic interest in accession, the EU needs to take into account geo- and security policy aspects in order to maintain the stability of its own borders and those of the continent, and to preserve its position in global politics. As President-in-Office of the EU Council, Hungary will not only have the opportunity to boost the accession process of the Western Balkans, but also to put the region's concerns at the top of the EU's political agenda, in line with the criteria for accession to the EU. Geographically, Serbia is situated at the intersection of three civilisations – Western Christianity, Eastern Orthodoxy and Islam. On the one hand, as a consequence of the Austro-Hungarian Empire's influence, the presence of "Western" values is already perceptible, and on the other hand, due to the country's history, the Orthodox Christianity and Islam also strongly influence its attitude to certain socio-political issues. This dichotomy, among others, has left its mark on the country's relations with minorities, its relationship with Kosovo, and its attitude to the Russian-Ukrainian war. Successful EU accession is not just about complying with the technical rules of integration, but about commitment to and compliance with the principles of EU law.*

**Keywords:** Serbia, European Union, geopolitics, minorities, Kosovo, Russia

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## Introduction

The relationship between the Socialist Federal Republic of Yugoslavia and the European Union's predecessor started in the 1970s. After the country broke apart, however, the agreements concluded earlier terminated, and the resumption of contacts took place in October 2000, when the new democratically elected president, Vojislav Kostunica, was invited to the EU summit in Biarritz. On 24 November 2000, Kostunica signed the Stabilisation and Association Process Agreement at the Zagreb Summit. This was followed by the Thessaloniki EiT Summit in June 2003, which confirmed the EU perspective of the Western Balkan countries. Then, on 22 December 2009, Serbia submitted its application for EU membership. On 1 March 2012, the European Council granted Serbia candidate status and, on 21 January 2014, accession negotiations were opened in Brussels.

As the above description shows, it took many years for Serbia to obtain candidate status and start accession negotiations with the EU. This is partly due to internal tensions in the country, but also to the EU's enlargement fatigue. It can be established that the EU has reached its civilisational limits. The countries of the Western Balkans have different socio-economic, political, cultural and historical backgrounds from the majority of the member countries.

Methodologically, due to the complexity of the topic, I follow the principle of interdisciplinarity. In writing this paper, I took the relevant legal, sociological, statistical, demographic, political, economic and historical aspects into account. When analysing Serbia's accession prospects and its place in the enlargement policy, I have focused on an analysis of the comments contained in the accession documents, which describe the current status of political, economic and social integration.

This paper is divided into four chapters. In the first chapter, I will examine the EU accession requirements and the possibilities for meeting them, in the second the situation of national minorities in Serbia, in the third the relationship of Serbia with the European Union and Kosovo, and in the fourth chapter the country's position on Eastern and Western civilisation and the feasibility of a possible third way.

## EU accession requirements and their implementation options in Serbia

Since the opening of Serbia's accession negotiations on 21 January 2014, 22 of the 35 chapters have been opened and are the subject of a separate analysis. Two of these chapters have been temporarily closed.<sup>2</sup> The overall pace of negotiations will continue to depend mainly on progress in implementing rule of law reforms and the normalisation of relations between Serbia and Kosovo.

The European Commission (hereafter: Commission) prepares an annual report on events in the country. The assessment is based on compliance with the Copenhagen criteria, taking into account the stability of institutions guaranteeing democracy, the

<sup>2</sup> European Commission 2023: 3.



rule of law, respect for and protection of human and minority rights, a functioning market economy and the capacity to cope with competitive pressure within the EU, as well as the aspiration of legal harmonisation. On the other hand, particular emphasis is placed on the examination of the independence of the judiciary, organised crime, corruption, cooperation with the International Criminal Court in The Hague, the socio-political assessment of war crimes, free and fair elections, freedom of expression and freedom of religion.

According to the Commission's 2023 report, Serbia has not met EU requirements in some areas. In this part of the paper, I will discuss the controversial issues. According to the report, parties wishing to join the EU must align themselves with the Community's foreign, security and defence policy, participate in EU actions and apply agreed sanctions and restrictive measures.

In its resolution of 9 November 2023,<sup>3</sup> the European Parliament adopted a similar position, calling for stricter implementation of EU sanctions against Russia and expressing concern that Moscow, with the help of Serbia, China, Turkey, the United Arab Emirates and other countries, is able to circumvent EU restrictive measures and obtain Western products that can also be used in the defence industry. According to the Commission's assessment, Serbia's alignment with the EU's foreign, security and defence policy has declined compared to the previous year. The country has aligned itself with a number of EU positions on the Russia–Ukraine war in international fora (including the UN General Assembly); it condemned Russia's attack on Ukraine but is still unwilling to impose sanctions against the Russian Federation. The report also states that Serbia supports the territorial integrity of Ukraine, provides humanitarian assistance and will continue to receive refugees from Ukraine as it did in 2022.<sup>4</sup> As an aggravating circumstance, it was established that Serbia continues to maintain close political and economic relations with Russia, contrary to EU guidelines; certain statements and actions by high-ranking Serbian officials directly contradict the EU's foreign policy position, and a part of the Serbian media has started a strong pro-Russian disinformation campaign. The Serbian leadership was called upon to take urgent action to prevent the foreign manipulation of information and the distribution of anti-EU narratives. Serbia's leaders do not wish to join the sanctions because of Russia's support for its Kosovo policy as a permanent member of the UN Security Council, on the one hand, and its dependence on Russian energy resources, on the other. This view is supported by the results of a survey conducted by the Belgrade-based Institute for European Affairs<sup>5</sup> between June and September 2023.<sup>6</sup> On the question "Should Serbia join the EU regarding the introduction of sanctions against Russia?" 63.7% of respondents answered no, 15.8% yes (20.5% did not know how to respond). The EU has not opened any new negotiating chapter since 2021<sup>7</sup> due to the refusal to impose sanctions on Russia.

<sup>3</sup> European Parliament 2023b.

<sup>4</sup> European Commission 2022: 8.

<sup>5</sup> The Institute for European Affairs (formerly the Youth Commission for Education) is an organisation independent of government agencies and political parties, founded in Belgrade in 2010 by a group of young professionals.

<sup>6</sup> Institut za evropske poslove 2023.

<sup>7</sup> BOGDANOVIĆ–GAJIĆ 2023.



As in previous years' country reports, the EU says the intense political and economic pressures on the media remain a cause for concern.<sup>8</sup> They called on the Serbian leadership to take urgent steps to curb the dissemination of anti-EU narratives by the mass media and the emergence of manipulative disinformation on the Russia–Ukraine war. This is necessary because a number of Russian state-supported channels sanctioned by the EU broadcast radio and multimedia programmes in the country, including Russia Today (RT). According to the Commission's assessment, the channel also promoted military recruitment by the Wagner paramilitary group, which is prohibited by Serbian law but the Prosecutor's Office still did not investigate the case. The Commission believes that such media contents have a major impact on public opinion, not only in Serbia, but also in the region. This claim is also supported by a case study published in July 2023,<sup>9</sup> which shows that there are several pro-Russian media platforms in Serbia, including the "News Front", the content of which is often cited by other media in Serbia and Bosnia and Herzegovina. A further cause for concern is that, compared to last year, Serbia has dropped 12 places in the 2023 press freedom map of the Reporters Without Borders.<sup>10</sup> Serbia is currently ranked 91<sup>st</sup> out of 180 countries on the list.

Despite criticism from EU bodies, the Serbian Government has continued to set EU membership as a strategic goal. The pace of reforms set by the government formed in 2022, following the parliamentary and presidential elections, was negatively affected by the tragic shootings in Belgrade, Malo Orašje and Dubona in May 2023.<sup>11</sup> Following the violence, which resulted in the death of nineteen people<sup>12</sup> (including nine children), opposition parties organised a mass rally called "Serbia against violence". The protesters demanded the resignation of the government and the President of the Republic and for new elections to be held. The main source of the problem is the large number of weapons left in the hands of the civilian population after the South Slavic war in the 1990s. Following the incident, the Serbian Government announced that it will introduce stricter measures on the possession of weapons and will amend the Law on Weapons and Ammunition within a set deadline.

The events described above led to a slower than expected implementation of measures aimed at strengthening the independence and accountability of the judiciary. The Commission's 2023 and earlier<sup>13</sup> reports also noted that there is still great pressure on the work of the judiciary and the prosecution. Firstly, because press releases on ongoing investigations and trials are still mainly approved by politicians and representatives of the Ministry of the Interior, rather than by the prosecution and/or the police. Second, because government representatives, including some at the highest levels, and members of parliament continue to comment publicly on ongoing proceedings and the work of some prosecutors and judges.

In the fight against corruption, the 2023 report assesses that Serbia has made limited progress in implementing last year's recommendations. Widespread corruption

<sup>8</sup> European Commission 2018: 13.

<sup>9</sup> BREY 2023: 8.

<sup>10</sup> Reporters Without Borders 2023.

<sup>11</sup> Radio Slobodna Evropa 2023.

<sup>12</sup> European Commission 2023: 3.

<sup>13</sup> European Commission 2018: 14.



continues to be a concern. It needs a strong political will to tackle corruption issues effectively, as well as a strong criminal justice response to corruption affecting higher levels of the social hierarchy.

The Commission also mentions “limited progress” in the fight against organised crime, in particular in the detection and prevention of migrant and people smuggling. According to the report, the number of investigations and prosecutions increased; however, the number of convictions at first instance and in a final judgment fell. According to the report, cooperation with Europol is very good, particularly in the fight against arms and drug trafficking and organised crime groups. However, they pointed out to the government that the current Criminal Procedure Act allows for secret interception of communications by the Security Information Agency (BIA) and the Military Security Agency. The document called on the authorities to examine its consistency with EU practice as soon as possible.<sup>14</sup>

The report warns that Serbia continues to attack the judgments delivered by the International Criminal Court concerning the former Yugoslavia in public, including by the highest levels of the government. It is estimated that, in the last few years, the pace of processing war crime cases in Serbia has “significantly deteriorated”. The document states that there must be a real commitment to resolving cases, including those of high-profile suspects. Convicted war criminals continue to distribute hate speech in the public space. Some politicians continue to deny the genocide in Srebrenica, states the document.<sup>15</sup>

The report also stresses the importance of tracking down and investigating networks recruiting foreign fighters (especially those linked to the Russian–Ukrainian war) and prosecuting them.<sup>16</sup> The EU criticises Serbia’s visa policy, since it is not in line with legislation adopted in the EU.

EU bodies also monitor the relationship between the Serbian Government and civil society. It was established that, as in previous<sup>17</sup> years, verbal attacks on and defamation of several NGOs and their funding, including by senior officials, continued. NGOs critical of the authorities, especially in relation to the rule of law, such as the “Serbia Against Violence” movement, protests against the glorification of war criminals, and environmental protection, have come under pressure.

Serbia’s legislative and institutional framework for the respect of fundamental rights shows an improving trend. The country has adopted new strategies to combat discrimination and integrate Roma, and has developed action plans to tackle gender inequalities. According to the Equal Opportunities Commissioner’s evaluation, the situation of women in the labour market in Serbia remains unfavourable compared to that of men. The employment rate for men (aged 20–64) is 13.9 percentage points higher than for women.<sup>18</sup>

No progress has been made on the draft law on same-sex partnerships and the Ombudsman’s proposal to regulate the legal recognition of genders. Difficulties continue

<sup>14</sup> European Commission 2023: 54.

<sup>15</sup> European Commission 2023: 30.

<sup>16</sup> European Commission 2023: 63.

<sup>17</sup> European Commission 2019: 8.

<sup>18</sup> European Commission 2023: 119.



in implementing the amendments to the Civil Status Act, which would allow the inclusion of data on gender reassignment in the civil status certificate. Due to a lack of trust in institutions, cases of violence and discrimination against LGBTIQ people often remain unreported.

Chapters 23 and 24 of the Commission's report form the basis for the accession negotiations. If no progress is made in these chapters, no positive movement can be expected in the EU integration process, which could result in an even more serious setback.

As regards Serbia's economic situation, economic integration with the EU continues to remain at a high level. The EU is the country's largest trade and investment partner. In 2022, it counted for 58.7% of its total trade and 32.9% of its FDI. In 2021, Serbia's main trading partners after the EU were China (8.7% of total trade), Russia (5.8%) and Bosnia and Herzegovina (5.3%). In 2021, trade with the Central European Free Trade Agreement (CEFTA) signatories accounted for 15.8% of total exports and 4.4% of imports.<sup>19</sup> Serbia is also involved in several regional cooperation initiatives, such as the Energy Community, the Transport Community, the South-East European Cooperation Process (SEECP) and the Regional Cooperation Council.

Good neighbourly relations and regional cooperation are an essential part of Serbia's European integration process. Serbia will continue to work closely with Bosnia and Herzegovina, Croatia, Montenegro and Serbia in the framework of the Sarajevo Declaration, which aims to find appropriate solutions for the persons displaced as a result of the armed conflicts in the 1990s in the former Yugoslavia. Relations with neighbouring EU countries, especially Hungary, Romania and Bulgaria, are balanced. In June 2023, a Strategic Cooperation Council was established with Hungary, which held its first meeting and signed 12 agreements at the same time.

As far as bilateral agreements with third countries are concerned, the Partnership, Trade and Cooperation Agreement with the United Kingdom of Great Britain and Northern Ireland formally entered into force on 15 July 2021. Serbia has announced the conclusion of free trade agreements with the United Arab Emirates and Egypt. Negotiations on new bilateral investment treaties are also ongoing with South Korea, Angola and Bahrain. The EU has stipulated that any agreement negotiated by Serbia must ensure compatibility with EU law. Long-term industrial investment projects must fully comply with EU environmental rules. In the Commission's report, Brussels expressed "strategic concerns" about the agreement signed between Serbia and China in October 2023.<sup>20</sup> The EU's position is that any agreement with a third country should include sunset clauses, guaranteeing that the country can terminate the agreement when it joins the EU.

The Commission considers that Serbian law is still not fully compliant with the Stabilisation and Association Agreement. The EU deplores that the legal framework for the acquisition of real estate and agricultural land in Serbia still does not ensure equal treatment of EU citizens and Serbian citizens. In the area of public procurement, it was highlighted that intergovernmental agreements with third countries and their implementation do not follow EU principles of equal treatment, transparency,

<sup>19</sup> European Commission 2023: 84.

<sup>20</sup> European Commission 2023: 147.





non-discrimination and competition in a great part of the value of public contracts.<sup>21</sup> This prevents EU companies from participating in large infrastructure projects implemented in the country. Small and medium-sized enterprises face many challenges. For them, the main issue is the lack of even playing field compared to large companies and foreign investors. From the above, it can be concluded that the success of Serbia's EU integration, besides enhancing its economic competitiveness, depends to a large extent on its spirit of compromise in political terms.

Serbia's accession to the EU will be significantly affected by its unstable relations with Kosovo, its attitude to the Russian–Ukrainian war and its relations with China, Turkey and other third countries, as well as with NATO. I will discuss these dimensions in more detail in later sections of this paper.

## **The labyrinths of multiculturalism – The socio-economic status of national minorities**

With the emergence of the modern state, the issue of relations between national minorities and ethnic groups has become increasingly important, and went out of the exclusive competence of individual states and became the subject of attention of international organisations. A central issue was how the state could align the needs of the national minorities living on its territory with the interests of the nation that created the state. Experience showed that the benefits of European integration did not on its own resolve the mistrust between countries and between minority and majority nations, nor the homogenising aspirations of states. The EU has been confronted with the specific problems of national minorities on several occasions during its enlargement. The EU has already experienced, during the Central and Eastern Europe enlargement, the extent to which the constitutional systems of the “new” democracies were able to deal with ethnic tensions. In several cases, the EU and other international organisations had to intervene to resolve ethnic conflicts. The EU's enlargement process in the Eastern and Western Balkans has often been accused of double standards regarding the enforcement of national minority rights. While the candidate countries must guarantee the rights of national minorities living on their territory, no valid legal act applicable to earlier members was enacted.

The assessment of the national minorities' status in the country reports was criticised by several authors in the literature. Among other things, it is considered problematic that the reports: a) were cherry-picking in their coverage of minority issues; b) were characterised by numerous inconsistencies; and c) often displayed casual political considerations.<sup>22</sup>

The country reports deal with the situation of individual minority groups inconsistently, and do not apply any objective set of criteria that would make the changes that occurred to the countries during the period under observation traceable and comparable.

<sup>21</sup> European Commission 2023: 151.

<sup>22</sup> VIZI 2013: 103–104.





The accession to the EU of the Western Balkan countries, including Serbia, was no longer only made conditional on the fulfilment of the 1993 Copenhagen criteria, but other conditions were also set. In the area of national minority rights, three elements were highlighted: 1. the right to establish and maintain their own educational, cultural and religious institutions, organisations and associations; 2. adequate opportunities for minorities to use their mother tongue before the authorities and courts; 3. protection of refugees and displaced persons in areas where they live as minorities.<sup>23</sup>

As in its 2022 Country Report, the Commission also concluded in 2023 that, despite the legal obligation to take the population's ethnic composition into account, national minorities continue to be under-represented in public administration. Although the report drew parallels between the ethnic composition of the population and the under-representation of national minorities in the public administration, the document did not cover the examination of the country's demographic and population movements.

According to the 2022 Serbian census data, the country's population decreased drastically compared to 2011.<sup>24</sup> While in 2011 the country had 7,186,862 inhabitants, in 2022 only 6,647,003. This population decrease is also reflected in the number from national minorities. The most recent census data show that the ethnically diverse country is becoming more homogenised as the population declines. In numerical terms, this means that 80.64% of Serbia's population is of Serbian nationality. In the multi-ethnic Autonomous Province of Vojvodina, people belonging to the dominant ethnic group make up 68.43% of the population. The largest ethnic minority in the province is Hungarian, with 10.48%. They are followed by the Roma population with 2.35% and the Slovak minority with 2.29%.<sup>25</sup>

The Commission also pointed out that the inclusion of the country's dominant ethnic group in the integration of national minorities is key, as is the need to make minority groups open up to each other. This problem was examined in detail by the Belgrade-based Centre for Ethnic Identity Research in the volume *Participation of National Minorities in Serbia's Social and Political Life*.<sup>26</sup> It was concluded that multiculturalism in Serbia had taken a segregationist form, which did not help the social integration of national minorities. Communities organised along ethnic, linguistic and religious lines isolate themselves from each other and, at the same time, create parallel societies. As an example, the website of the Serbian Ministry of Human, Minority and Social Dialogue states that there are 24 national minorities registered in the country, 23 of which have national councils: Albanians, Ascalians, Bulgarians, Bunjevci, Bosniaks, Vlachs, Gorani-ans, Greeks, Egyptians, Hungarians, Macedonians, Germans, Poles, Roma, Romanians, Russians, Ruthenians, Slovaks, Slovenes, Ukrainians, Croats, Montenegrins and Czechs. The executive body of the Community of Jewish Communities in Serbia performs the function of the Jewish National Council.<sup>27</sup>

<sup>23</sup> Vizi 2013: 104.

<sup>24</sup> Republički zavod za statistiku 2023: 12.

<sup>25</sup> Republički zavod za statistiku 2023: 28–29, 31.

<sup>26</sup> ĐORĐEVIĆ et al. 2018: 11.

<sup>27</sup> The data can be found on the website of the “Ministarstvo za ljudska i manjinska prava i društveni dijalog” (<https://www.minljmpdd.gov.rs/lat/nacionalni-saveti-nacionalnih-manjina.php>).



Serbia is thus gradually becoming a gathering place for monocultural communities, where contact between members of national minorities is weakening. This can lead to a number of negative consequences, such as distrust of each other, the emergence of new ethnic stereotypes, an increase in the number of ethnic-based incidents and total alienation.

It is important to point out that the ethnic structure of the country was significantly influenced by the number of Serbs who migrated to Serbia from the areas affected by the South Slavic war and the number of Hungarians and other national minorities who emigrated from Vojvodina during the same period. The emigration of skilled workers due to social and economic hopelessness created a huge gap in the labour supply of Serbia, including Vojvodina. Their absence is still felt today in the advocacy capacity of national minorities. The changes in ethnic structure brought about by migration processes also had a major impact on the behaviour of the population. The changed circumstances turned into a source of tension and conflict. At the same time, the number of incidents on the grounds of nationality was also on the rise. In most cases, the authorities were slow to react, with officials often blaming staff shortages. The consequence of this is a loss of trust in state bodies among national minorities. It is important to note that, in the 2000s, Serb and Roma refugees from Kosovo were accommodated in the Hungarian settlements of Vojvodina. Newspaper articles of the time reported that these people experienced problems with integrating into their new environment with different cultural traditions and social values.<sup>28</sup> With this move, the Tadić Government violated Article 78 of the 2006 Serbian Constitution,<sup>29</sup> which prohibits the implementation of any process as a result of which the ethnic structure of areas mainly inhabited by national minorities could be artificially changed. This move led to a loss of political power for the national minorities living in isolation, including Hungarians. The assimilation processes then accelerated even more.

Serbian researchers observed that the agitation against national minorities is closely linked to Serbia's Kosovo policy. Serbia seeks to prove that it is pursuing the right minority policy, but it is not able to deal with the deflections of nationalists, exasperated by the loss of the country's territory. Far-right, extreme nationalist pressures again intensified in the country. It can be assumed that, with the independence of Kosovo, pressure on Vojvodina and national minorities in other parts of Serbia will gradually increase.

Social stability is a state interest, which can be achieved in a multi-ethnic country by fostering and strengthening relations between ethnic groups. This can be achieved through decentralisation, the use of various forms of autonomy, and the sharing of minority self-government powers between regions. In many cases, neither territorial nor personal and cultural autonomy is a complete solution for ensuring the linguistic and cultural self-government of a national minority community and the preservation of its identity. It may therefore be necessary to find a solution where elements of territorial and personal autonomy are applied simultaneously to the same nationality within

<sup>28</sup> BORSÁNYI 2005.

<sup>29</sup> Ustav Republike Srbije 2006.



a given country.<sup>30</sup> This is most appropriate when the members of the ethnic/nationality community not only live in one area, but are spatially concentrated and also dispersed within the country. If, for example, the minority language could only be used within the autonomous area, members of the minority living outside that area would not be able to exercise their rights to use their mother tongue. This could only be remedied by moving to a minority autonomous area. Not having the opportunity to use a language means self-surrender and inevitable assimilation for members of the minority. In such cases, a cooperative majority state might use personal autonomy to help members of the minority living outside its territorial autonomy to avoid forced emigration or assimilation and to preserve their identity.<sup>31</sup>

The above case, namely how the cultural and linguistic rights of national minorities living outside territorial autonomy are violated, is illustrated in the section of the Commission's report on public service broadcasting in minority languages. According to the report, the selection of programmes is still inadequate at national level, except for a few local broadcasters in Vojvodina.

The Commission is concerned that national minorities were attacked in the media by senior government officials and members of parliament. The document specifically mentions the case of the President of the National Council of the Albanian National Minority, who brought a case against a minister for using hate speech. The report reveals that, in December 2021, the Court of Appeal upheld the decision of the first instance court, dismissing the action brought by the President of the National Council of the Albanian National Minority. The case was subsequently referred to the Constitutional Court. The document also reports that, in March 2023, the Equal Opportunities Commissioner publicly reacted to a mayor's statement targeting the Roma minority, which he described as strongly discriminatory.<sup>32</sup>

In January 2023 Serbia joined the action entitled "Combating Discrimination and Promoting Diversity in Serbia".<sup>33</sup> The action is being implemented with the support of the European Union and the Council of Europe. Its objective is to provide continued support for implementing legislative and policy reforms to protect the rights of national/ethnic/linguistic minorities, to combat hate speech and hate crime, and to protect the rights of vulnerable groups in society, specifically young people, Roma and LGBTQI people.

The expected outcomes of the project include racism and hate speech being curbed, the rights of vulnerable groups protected, national minorities engaged in social dialogue and decision-making processes, and ethnic diversity being accepted.

If the Serbian Government is actually committed to EU integration, one of the prerequisites is respect for human and minority rights and good diplomatic relations with the mother countries of national minorities.

<sup>30</sup> MANZINGER-TÖRÖ 2016: 105.

<sup>31</sup> MANZINGER-TÖRÖ 2016: 105.

<sup>32</sup> European Commission 2023: 51.

<sup>33</sup> More information about the project can be found on the website of "Kancelarija Saveta Evrope u Beogradu" (<https://www.coe.int/sr/web/belgrade/combating-discrimination-and-promoting-diversity-in-serbia>).



## Europe or Kosovo?

When examining the relationship between Serbia and Kosovo, one must not ignore the historical fact that the Serbs regard this area as the cradle of their religious and spiritual culture. For the Serbian people, Kosovo is not only a territorial and political issue, but above all an entity forming integral part of their national identity. On the one hand, because the most important events in the history of the medieval Serbian state took place in the territory of today's Kosovo. On the other hand, in addition to its historical and cultural heritage, it is also important to mention Kosovo's economic importance. In the era of the medieval Serbian state, gold, silver, copper and tin were extracted on a continuous basis from the mines of Trepča, Janjevo and Novo Brdo.<sup>34</sup> Thirdly, at the time of the medieval Serbian state, the majority of the population of Kosovo was still of Slavic nationality. The changes that led to the current situation started with the expansion of the Ottoman Empire. The Albanian population in Kosovo's current territory increased steadily throughout the 20<sup>th</sup> century, while the Serb population gradually decreased. Shifting ethnic proportions played a major role in shaping the political-geographical processes of the region. The advocacy capacity of the increasingly significant and powerful Albanian community gradually increased.<sup>35</sup>

4 May 1980, the death of Josip Broz Tito, President of the Socialist Federal Republic of Yugoslavia, was the end of an era. Shortly afterwards, protests broke out in Kosovo. The Albanian majority population already demanded independence for the territory. The conflict peaked in 1989, when Slobodan Milošević came to power. The Constitution of the Federal Republic of Yugoslavia, adopted on 27 April 1992, deprived the provinces of the right to draft constitutions and laws and abolished the provinces' autonomous financial resources. The highly centralised power held all decision-making capacity in its hands. Meanwhile, in Kosovo, ethnicity-based incidents became daily occurrences and increasingly serious. The escalating situation led to bloodshed. The first public appearance of the Kosovo Liberation Army (KLA) was on 27 November 1997, in the Drenica region, considered a centre of resistance against the Serbs. From then on, the KLA exercised informal power in this area, and its entry by representatives of the Serbian state carried risks. On 22 January 1998, a Serbian municipality representative, and on 8 February 1998, four police officers were killed.<sup>36</sup> The violence brought retaliation from the Serbian police, which eventually led to an escalation of the conflict. The international community also reacted to the incident. On 5 March 1998, British Foreign Secretary Robin Cook communicated the EU position to Milošević in Belgrade: Kosovo cannot be considered an exclusively Serbian internal affair.<sup>37</sup> The Serbian President stuck to his own position, that this was a domestic matter for Serbia and indicated that he wanted to eliminate the terrorists. This meeting was followed by a series of peace talks, but the Serbian and Kosovar parties were unable to reach an agreement. So, on 24 March 1999, NATO started bombing Serbia to prevent a humanitarian disaster. During the peace talks, the

<sup>34</sup> MÁRKUSZ 2022: 62.

<sup>35</sup> REMÉNYI 2019: 238.

<sup>36</sup> MÁRKUSZ 2022: 375.

<sup>37</sup> MÁRKUSZ 2022: 376.



Serbian side wanted the UN to lead the peacekeeping mission in Kosovo rather than NATO. In parallel with the peace talks, NATO continued to bomb Serbia, putting strong pressure on the Serbian leadership. The Kumanovo Agreement was finally signed on 9 June. On 10 June, UNSC Resolution No. 1244 was adopted. The document placed Kosovo under the supervision of the international community for an indefinite period, without questioning the territorial integrity of the Federal Republic of Yugoslavia. The question of settling its status was left open.<sup>38</sup> This open possibility led to several new conflicts between the two sides until Kosovo unilaterally declared independence on 17 February 2008. Serbia has not recognised the legal effects of the declaration. It considers this secession to be an act in violation of international law. The unilateral declaration of independence also divided EU member states. To date, five of the 27 members have not recognised Kosovo's independence (Cyprus, Greece, Romania, Slovakia and Spain).

Serbia's accession to the EU is conditional on the settlement of its relations with Kosovo. The dialogue between the two sides, mediated by senior EU officials, started in March 2011 but has not yet led to any result. After initial successes, the Belgrade–Pristina dialogue stalled. The dialogue first broke down in 2015, when the two sides reached an agreement, including on the establishment of a community of Serb-majority municipalities in northern Kosovo, but this agreement created a backlash from the Kosovo opposition and population. Kosovo's Constitutional Court temporarily suspended the agreement, and later ruled that it was compatible with the constitution, with one proviso: the institution could not have executive powers.<sup>39</sup> Subsequently, in 2017, the election of Ramush Haradinaj, leader of the Alliance for the Future of Kosovo party and former guerrilla commander of the Kosovo Liberation Army as Prime Minister of Kosovo only further escalated tensions between Belgrade and Pristina. In 2018, the relationship between the two parties seemed to settle down for a short period. Serbian head of state Aleksandar Vučić and Hashim Thaci, head of state in Kosovo, did not reject the possibility of territorial revision with a view to reaching a lasting settlement of the conflict. The Serb-majority municipalities in northern Kosovo would join Serbia, while the Preševo Valley in southern Serbia would join Kosovo.<sup>40</sup> Members of the international community expressed their disapproval of the idea and indicated that they did not support it. After the unsuccessful attempt, the situation between the parties became even more tense. The move by the Kosovo Government to impose a 100% tariff on products from Serbia and Bosnia and Herzegovina created a further stir.<sup>41</sup> The immediate reason for this was Serbia's blocking Kosovo's becoming a member of Interpol. Following Haradinaj's resignation, Albin Kurti became the new Prime Minister of Kosovo in 2020. The Belgrade–Pristina dialogue again reached a dead end in autumn 2023. Kurti has insisted on *de facto* recognition of Kosovo, while the Serbian President has prioritised the creation of a community of Serb-majority municipalities. The EU proposed that these processes should run in parallel. Kurti was still not ready to accept the foundation of a community of Serb-majority municipalities. Vučić accepted the EU proposal on

<sup>38</sup> MÁRKUSZ 2022: 424.

<sup>39</sup> ÖRDÖGH 2020: 237.

<sup>40</sup> ÖRDÖGH 2021: 145.

<sup>41</sup> ÖRDÖGH 2020: 239.



parallel implementation.<sup>42</sup> Relations between Belgrade and Pristina worsened following an armed clash in northern Kosovo on 24 September 2023. Senior EU politicians called for an investigation into the matter and for the two sides to meet again as soon as possible. As the parties did not take steps to resolve the situation despite numerous appeals, the EU also outlined the prospect of imposing sanctions. The European Parliament, in its resolution of 19 October 2023<sup>43</sup> on recent developments in the dialogue between Serbia and Kosovo, including the situation of settlements in the northern part of Kosovo, condemned the Serbian leadership and called on the authorities, senior political representatives and officials to refrain from belittling rhetoric on the EU-facilitated negotiation processes, EU policies for the Western Balkans and the EU's overall enlargement process. According to the resolution, such behaviour could undermine support for EU policies and EU enlargement in general.

This suggests that the prospect of sanctions does not help to ease the tension between Belgrade and Pristina, nor encourage the parties to implement the above-mentioned agreement and promote Serbia's European integration. This is confirmed by the results of the latest survey conducted by the Serbian Ministry for European Integration. To the question if a referendum were held tomorrow on the question of whether Serbia should join the EU, 43% of respondents said yes and 32% no (13% would not vote and 12% did not know how to answer).

These data show that the percentage of Eurosceptics among Serbian citizens is high. Due to the ongoing internal political struggles in the country, the "Western" pressure on the adoption of the Ohrid Agreement and the situation in the Russian-Ukrainian war, the President of Serbia called early parliamentary elections for 17 December 2023. With early elections, Vučić wants to buy time (he can postpone the dialogue with Pristina until the new government is in place, relying on internal issues), consolidate his power and establish a stable government to achieve his political goals, suppressing Eurosceptic voices.<sup>44</sup>

As can be seen from the above, Serbia's history is closely intertwined with that of Kosovo; from the emergence of the medieval Serbian state, through the rise of the Ottoman Empire and the Austro-Hungarian Empire, to the formation of the Socialist Federal Republic of Yugoslavia and its bloody break-up, and the declaration of independence of Kosovo. Over the centuries, the Serbian state has fought many battles for that territory. Boris Tadić,<sup>45</sup> the former Serbian head of government and then head of state, who was declared a "friend of Europe", has repeatedly stated that he would never recognise Kosovo as an independent country. The fundamental dilemma facing the EU is that there is very little prospect of enlargement at present, thus it is almost impossible to motivate Serbia and Kosovo to make concessions. The distrust, the uncompromising atmosphere and the narrative of the "Evil Other" are emblematic of decades of strained

<sup>42</sup> ZSIVITY 2023a.

<sup>43</sup> European Parliament 2023a.

<sup>44</sup> ZSIVITY 2023b.

<sup>45</sup> See statement by Boris Tadić, former Serbian head of state (<https://www.hirextra.hu/2008/02/17/koszovo-fuggetlen-es-szabad/>).





relations between the two sides. At the moment, both Kurti and Vučić are playing for time and continue their political cat-and-mouse game.<sup>46</sup>

Until the outbreak of the Russian–Ukrainian war, a lasting settlement of the conflict between the two sides did not constitute a priority for the EU. The war on the continent and the crisis in the Middle East have shown that Serbia is a key and inescapable partner for the EU when it comes to stabilising the Western Balkans. On the other hand, it can also be a source of danger because of the relations it has maintained with Russia. Due to the geopolitical situation, the EU and the USA are trying to put pressure on Serbia to recognise Kosovo’s independence de facto. It is important to note that the U.S. geopolitics towards Europe have two dimensions: at the political level, it seeks to contain Chinese and Russian influence and their negative effects. The military dimension aims to strengthen NATO, encourage European partners to share economic burdens and weapons and provide training if necessary.<sup>47</sup>

The only solution to the situation between Serbia and Kosovo would be the demilitarisation of the northern Kosovo region and an increased presence of peacekeeping forces. The incidents in northern Kosovo show that paramilitary organisations not only cause internal conflicts, but can also lead to the destabilisation of the entire region. Furthermore, the lessons of the past have shown that it is unacceptable to reorganise and unify countries in the region on ethnic grounds, as this would have unforeseeable consequences, not only for the Western Balkans but also for the entire European continent.

## **On the border between East and West – Can there be a third way?**

Geographically located at the crossroads of Eastern Orthodox, Islamic and Western civilisations, Serbia is a focus of attention for major and regional powers.

The post-World War II bipolar world order and the upheaval of the balance of power after the break-up of the Soviet Union changed the perception of Yugoslavia in the West. There were no longer any Western interests regarding its survival, and the economic aid that had kept the country together dwindled. This eventually led to the break-up of Yugoslavia. The great power plays continued at the time of the South Slav crisis. The United States, the European Union and Turkey, as a member of KFOR and then as head of the organisation’s mission in Kosovo, have all played a role in the conflict. China is present because of its economic interests, while Russia is linked to China by cultural and religious roots, in addition to political and economic interests.

According to the results of a poll conducted by the KOMS, the Serbian Youth umbrella organisation in 2023, 41% of young people do not support Serbia’s accession to the EU, 36% support it and a third are undecided. 39.5% of young people think that Serbia should balance between East and West, 13.6% think that Serbia should rely on

<sup>46</sup> DŽIHIĆ 2023.

<sup>47</sup> WINOGRAD et al. 2023: 5.





the EU and the USA, and 28.2% think that Russia and China are the right foreign policy partners. If they really had to choose, 54.9% of young people would choose the East and 45.1% the West. As for the issue of the Russian–Ukrainian war, 59.2% of young people think that Serbia should not condemn or impose sanctions against Russia, while 17.1% think that the government should only impose sanctions if not doing so would have too serious consequences for Serbia.<sup>48</sup>

These data show that the majority of young people are characterised by Euroscepticism. The reasons for this are to be found in the EU accession process, which has been dragging on for years with uncertain outcomes, in the society’s prevailing values and the impact of the media on the mindset of citizens.

Relations between Serbia and Russia are mainly based on energy and security policy and cultural and religious cooperation. Russian energy companies (e.g. Gazprom, Lukoil) hold a significant share of the energy market in the Balkan countries.<sup>49</sup> Serbia is also a key military partner of Russia in the Western Balkans. Military cooperation takes the form of joint military exercises, military cooperation agreements and the purchase of Russian military equipment. Serbia is the only state in the region that does not wish to become a NATO member.<sup>50</sup> By not recognising Kosovo’s independence, Russia remained one of Serbia’s key political allies. With the outbreak of the Russian–Ukrainian war, this was complemented by the operation of pro-Russian news agencies, which seek to shape public opinion in accordance with Russian interests.<sup>51</sup> In its 2022 and 2023 Country Reports, the Commission criticised some of the Serbian media for portraying the EU and its institutions in a negative light, while publishing inaccurate information on the Russian-Ukrainian war.

China is Serbia’s second most important ally after Russia. The cooperation between the two countries is based on the relationship with the Socialist Federal Republic of Yugoslavia. Relations between the two states were intense during the South Slavic crisis. The basis for closer cooperation with China in the Western Balkans and Central and Northern Europe was laid by the “16 + 1 Initiative”, launched in 2012. The cooperation involves ten EU countries (including Slovenia and Croatia) and five non-EU countries (Serbia, Montenegro, Albania, Bosnia and Herzegovina, Macedonia). This form of cooperation, aimed at strengthening economic relations, tourism, infrastructure, energy, cultural and educational cooperation, was the basis for the region’s inclusion in the One Belt, One Road (OBOR) initiative launched by Chinese President Xi Jinping in 2013.<sup>52</sup> Among the Western Balkan countries, China considers Serbia a priority partner, with interests in several projects in the transport and energy sectors. In its 2019 study on EU–China relations, the European Commission expressed concern that while Chinese investment has contributed to economic growth in the Western Balkans, environmental and sustainable financing requirements are ignored.<sup>53</sup> Alongside the increasingly close

<sup>48</sup> STOJANOVIĆ et al. 2023: 150–152.

<sup>49</sup> VINCZE 2019: 113.

<sup>50</sup> Note: Despite Serbia’s membership and active participation in NATO’s Partnership for Peace (PfP) since December 2006, it does not intend to join NATO.

<sup>51</sup> BREY 2023: 11.

<sup>52</sup> VINCZE 2019: 115.

<sup>53</sup> European Commission 2019.



economic ties, political cooperation is also perceptible. One of the main drivers of Serbian–Chinese relations is China’s consistent policy on Kosovo. As a permanent member of the UN Security Council, China supports Serbia’s position on Kosovo. In international fora, the Serbian Government does not support initiatives that criticise China. Meanwhile, the EU is concerned about China’s penetration in the region.

Turkey’s presence in the Western Balkans has always been significant. Its relations with the region are based on shared historical background. Turkey was an active participant in peacekeeping missions during the South Slavic crisis and has close ties with Muslim communities in the Balkans. In the autumn of 2023, Turkish Major General Özkan Ulutas took over as KFOR Kosovo Mission Commander. He stated that his priority is to contribute to a constructive dialogue. He stressed that KFOR, under his command, would continue to carry out its mission “with complete impartiality and professionalism”. The piquancy of the situation is that, on the one hand, there has never been an example of Turkey taking over the command since the existence of KFOR, and on the other hand, Turkey was one of the first to recognise the independence of Kosovo, and thirdly, the current situation may provide more and more space for the expansion of its influence in the region.<sup>54</sup>

Serbia, looking for other potential economic partners, held a trilateral meeting with the leaders of Hungary and the United Arab Emirates in autumn 2023, with the aim of presenting the benefits of Serbian–Hungarian economic cooperation.

There are also statements in the Serbian media that Serbia needs to revisit its relations with the EU. “It should not seek membership, but join the European Economic Area, which consists of EU members and other European countries such as Switzerland and Norway”, said Serbian People’s Party President, Vuk Jeremić. According to him, the probability of Serbia becoming a full member of the EU in the foreseeable future is low for two reasons: 1. the acceptance of the “Franco–German” proposal was set as a condition for the continuation of accession negotiations, which is unacceptable; 2. the EU’s lack of willingness to enlarge.<sup>55</sup> Jeremić says the country should preserve its military neutrality, and joining NATO is not advisable. The country should not wage war against NATO, but should not take part in wars launched by NATO.

Jeremić’s approach is not alien to Serbian political life. Yugoslavia opted for non-alignment after World War II until its break-up. With the collapse of the socialist Eastern Bloc and the unification of Germany, Yugoslavia’s geopolitical importance disappeared. The great powers lost interest in preserving the South Slav state and left the country to its own internal conflicts.<sup>56</sup>

The above illustrates how the protection of sovereignty and territorial integrity has played a major role in the country’s history. In Serbia’s case, this is why any initiative by the EU to recognise Kosovo’s independence *de facto* is considered counterproductive. The

<sup>54</sup> ZSIVITY 2023c.

<sup>55</sup> Danas 2023.

<sup>56</sup> ŽIVOTIĆ 2009: 131.



refugee crisis, the Russian–Ukrainian war, the conflict in North Kosovo and the Middle East all point to the country’s increased geopolitical importance. It plays an important stabilising role in the Western Balkan region. It is therefore important that the EU encourages Serbia to conclude carefully considered agreements with a view to achieving EU membership. Despite having embarked on the path of European integration, the country is open to long-term cooperation with other economic and political actors that are less or not at all favoured by the EU.

## **Serbia’s EU integration in the light of the Hungarian EU Presidency in 2024**

According to the results of the opinion poll conducted in November 2023, of the Serbian voters who took part in the survey and answered the question “Do you support Serbia’s accession to the EU?” 38.8% answered yes, 32.5% no, 11.1% yes rather than no, 8.5% no rather than yes, while another 9.1% were unsure of the question. As for the relations with Russia, China and other non-EU countries, 63.4% of the respondents answered yes, 9.3% no, 13.3% yes rather than no, 6% no rather than yes the question “Do you support Serbia’s closest possible relations with Russia, China and the BRICS countries?”<sup>57</sup>

In the light of the above, it can be concluded that Hungary, as a neighbouring state of the EU and Serbia, can play a key role in keeping Serbia on the EU’s integration path. This is also in the foreign and security policy interests of Hungary and the continent.

During its EU presidency, Hungary may have the opportunity to draw attention to the geo- and security risks of the Western Balkans, including Serbia, remaining outside the EU. These risks include migration and the strengthening of China, Russia and Islamic centres of power in the region.

Based on Hungary’s own experience of accession in 2004, it can make proposals to the Commission on how to draw lessons from the previous enlargement to Central and Eastern Europe and on transitional arrangements to facilitate the integration of the Western Balkans while maintaining the competitiveness criteria for the countries concerned. In this context, the situation of the SME sector and public services can be identified as a critical area. For the latter, the development of rail transport in the Western Balkans is of pan-European importance.

Hungary has a special responsibility to take the initiative in developing an EU system for the protection of minorities, and it may use the opportunities offered by its Presidency. A system of minority protection within the EU could ensure that ethnic conflicts in the integrating Western Balkans do not undermine the security of the whole continent.

<sup>57</sup> Zsivity 2023d.



## Summary

The war between Russia and Ukraine, the armed conflicts in North Kosovo, the South Caucasus and most recently the Middle East woke the EU up of its enlargement slumber. These events highlighted both the vulnerability of the European continent to external factors and the need to assert the rights of minorities and marginalised and oppressed groups.

The only solution to the situation between Serbia and Kosovo would be the demilitarisation of the northern Kosovo region and an increased presence of peacekeeping forces. Furthermore, the state's monopoly on the use of force must not be allowed to be broken. The incidents in northern Kosovo show that paramilitary organisations not only cause internal conflicts, but can also lead to destabilisation of the entire region. It is unacceptable to reorganise and reunite countries in the region on ethnic grounds. This would have unforeseeable consequences not only for the Western Balkans region, but also for the entire European continent.

The EU leaders' prospect of sanctions against Serbia will not improve its willingness to cooperate. On the contrary, the country will look for new economic and political allies to further strengthen its presence in the region. EU enlargement can therefore be seen as a geostrategic investment in peace, security and stability. Otherwise, escalating conflicts could lead to alienation from the EU and the rise of Russia and other external actors in the region.

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Mónika Mercz<sup>1</sup>

# Common Security Policy vs. Sovereignty – What Are the Limits of a Member State’s Autonomy?

*In light of the recent war that thrust Europe into upheaval, taking a look at the European Union’s common security policy is of paramount importance. In my paper, I shall examine how essential state functions play a role in ensuring national security and sovereignty, while also taking part in the EU’s policies regarding this vital area of cooperation. My research focuses on what security entails on the level of the EU. In addition, I would like to explore what the boundaries of cooperation are, and how this policy was created. Of course, nations need each other in trying times, but does that leave no room for autonomous decisions? What are the limits, which allow no more freedom for state functions to take effect?*

**Keywords:** security policy, essential state functions, sovereignty, European Union, national security

## The EU’s current common security policy

“Inter arma enim silent lēgēs.” Nowadays, we often hear this phrase from Cicero quoted, mostly to bring necessary changes to our attention. While I cannot propose answers to the tragedy occurring not far away from Hungary, I shall propose an activity that is worthwhile and could help shape our future – reevaluating frameworks of law that govern the European Union’s (hereinafter: EU) current common security policy. Taking a look at this is of utmost importance, not just because of the current situation, but also because there is tension around the topic of sovereignty and how far the powers of the EU reach when it comes to defence policy.

In order to correctly determine how deep the metaphorical line in the sand is, I would like to start off by taking a look at the framework of the EU’s defence policy. Through my research I attempted to explore what the boundaries of cooperation are in addition to what it means to keep one’s sovereignty while being a part of an organisation such as the EU.

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## *What the common security policy looks like*

The Common Foreign and Security Policy (CFSP) of the European Union aims to preserve peace and strengthen international security in accordance with the principles of the United Nations Charter.<sup>2</sup> The Amsterdam Treaty created the office of the High Representative for the Common Foreign and Security Policy to co-ordinate and represent the EU's foreign policy. The Treaty of Lisbon created a High Representative of the Union for Foreign Affairs and Security Policy, de facto merging the post of High Representative for the Common Foreign and Security Policy and European Commissioner for External Relations and European Neighbourhood Policy.<sup>3</sup> Based on Articles 42–46 of the Treaty on European Union (TEU), the CSDP also entails a mutual defence clause amongst Member States.<sup>4</sup>

These principles set down guidelines as to how Member States should act.<sup>5</sup> The first point reinforces sovereign equality as a vital part of cooperation, and the next several contain stipulations (e.g. good faith regarding the obligations, settling their international disputes by peaceful means, refraining from the threat or use of force against the territorial integrity or political independence of any State, giving the United Nations every assistance in any action / refrain from giving assistance to any State against which the United Nations is taking preventive or enforcement action, countries which are not Members of the United Nations act in accordance with these Principles so far as may be necessary for the maintenance of international peace and security).

As part of the EU's policy, the Common Foreign and Security Policy Budget finances civilian missions, stabilisation actions as well as multilateral and bilateral non-proliferation and disarmament projects. More than ten EU Common Security and

<sup>2</sup> The Organization and its Members, in pursuit of the Purposes stated in Article 1, shall act in accordance with the following Principles.

1. The Organization is based on the principle of the sovereign equality of all its Members.
2. All Members, in order to ensure to all of them the rights and benefits resulting from membership, shall fulfill in good faith the obligations assumed by them in accordance with the present Charter.
3. All Members shall settle their international disputes by peaceful means in such a manner that international peace and security, and justice, are not endangered.
4. All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations.
5. All Members shall give the United Nations every assistance in any action it takes in accordance with the present Charter, and shall refrain from giving assistance to any state against which the United Nations is taking preventive or enforcement action.
6. The Organization shall ensure that states which are not Members of the United Nations act in accordance with these Principles so far as may be necessary for the maintenance of international peace and security.
7. Nothing contained in the present Charter shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any state or shall require the Members to submit such matters to settlement under the present Charter; but this principle shall not prejudice the application of enforcement measures under Chapter VII (United Nations Charter, Article 2).

<sup>3</sup> High Representative of the Union for Foreign Affairs and Security Policy s. a.

<sup>4</sup> Article 42, Treaty on European Union.

<sup>5</sup> Service for Foreign Policy Instruments: Common foreign and security policy.



Defence Policy civilian missions in Europe, Africa and the Middle East, with over 2,000 persons involved, have been deployed over the last 10 years.

In addition, the EU funds several activities under its budget:<sup>6</sup> Civilian Common Security and Defence Policy<sup>7</sup> missions that work towards regional and international security and stability, as well as European Union Special Representatives who promote the EU's policies and interests in troubled regions and countries and play an active role in efforts to consolidate peace and to promote stability and the rule of law.<sup>8</sup> These representatives are independent natural persons, appointed by the Council and entrusted with a mandate in relation to a particular policy issue. Currently, nine EUSRs support the work of the High Representative of the Union for Foreign Affairs and Security Policy, Josep Borrell.<sup>9</sup>

The budget also funds Non-Proliferation and Disarmament activities that contribute to the universalisation and effective implementation of international treaties, conventions and agreements addressing the proliferation of weapons of mass destruction, including their delivery mechanisms, and of conventional arms.<sup>10</sup>

The EU is currently facing increasing threats and challenges, ranging from conventional to transnational threats including hybrid threats, cyberattacks and conflict in its immediate vicinity and beyond. Unfortunately, these are not the only issues which the EU must respond to: climate change is exacerbating conflicts and instability. Until now a goal regarding the future has been that the EU must be able to act autonomously without the United States of America. This meant that the primary aim of strategic sovereignty should be protecting EU Member States and asserting common European interests. However, this is made incredibly difficult by the fact that strategic sovereignty must include the pursuit of Europe's collective defence capability in close cooperation and coordination with the EU and the North Atlantic Treaty Organization (NATO).

As for the current occurrences: EU Member States as well as European NATO partners will have to shoulder considerable costs to decouple themselves from Russia in terms of energy policy, which will leave significantly less attention and fewer resources for policy areas that are not directly related to this challenge.<sup>11</sup> The EU and NATO will have to clarify how they will adapt their respective enlargement processes under the conditions of a confrontational security order. It is primarily Sweden and Finland debating whether or not to join the alliance.<sup>12</sup> So far, there is little indication that other non-aligned EU Member States such as Ireland, Malta and Austria are also seriously reconsidering their status.<sup>13</sup>

These happenings in Europe make it necessary to redefine the goals of strategic sovereignty. The strategic autonomy of Europe has been a focal point in the discourse on European policy in recent years, with the notion of Europe's "self-assertion" being

<sup>6</sup> EU Missions and Operations 2020.

<sup>7</sup> Read more in *The Common Security and Defence Policy 2021*.

<sup>8</sup> *EEAS 2021*.

<sup>9</sup> *EU Special Representatives 2021*.

<sup>10</sup> *EEAS 2022*.

<sup>11</sup> See more in *GRESSEL 2022*.

<sup>12</sup> *ÅLANDER-PAUL 2022*.

<sup>13</sup> *VON ONDARZA – OVERHAUS 2022*.



a central aspect of the European political discourse since at least the founding of the EU with its Common Foreign and Security Policy. Despite always having been a point of discussion, it was only during Donald Trump's term as U.S. President that the question of strategic autonomy became a central theme.<sup>14</sup>

As a consequence, the debate about strategic sovereignty has been driven by disputes over definitions. These definitions include the capacity to act, which refers to the political and material preconditions for common European action in foreign, security and defence policy. It also requires political institutions inside or outside the EU to take binding decisions as quickly as possible, as well as the appropriate resources to act militarily, economically, technologically, or politically. However, the goal of having the capacity to act does not say anything about the appropriate way in which Europeans should act together.<sup>15</sup> Strategic autonomy goes beyond the mere capacity to act because, at its core, it means the ability to set one's own priorities, make decisions and implement them.<sup>16</sup> So we can see that strategic sovereignty is the most ambitious goal. It was first introduced into the debate by French President Emmanuel Macron in his Sorbonne speech in 2017,<sup>17</sup> and it requires a political construct that only the EU can offer. Although the EU is far from being a sovereign State, it is nevertheless a unique political entity that is capable of jointly exercising sovereignty across the full range of state policy.<sup>18</sup>

Thus, one can see a side-effect of this aim - strategic sovereignty has the potential to become a central narrative for the deepening of the EU. We can already see this when taking a look at how in the face of the Russian invasion of Ukraine, the Member States looked at the EU to take centre stage in providing help to refugees and protecting all its citizens. Although the EU has created institutional procedures in the form of Permanent Structured Cooperation (PESCO)<sup>19</sup> and the European Defence Fund,<sup>20</sup> it has so far barely strengthened its military capacity to act. A more effective and tangible progress has been made in the area of protection against economic coercion, technological resilience, and the projection of European economic power outside of the EU (Global Gateway).<sup>21</sup>

In this climate, the issue of national sovereignty seems to have shrunk. However, it is still one of the most pressing issues. Nevertheless, before taking a look at what sovereignty is, it is useful to illustrate how the current EU security policy came into existence.

### *History of common security policy*

It was during the past couple of years, that the EU and the European Commission have stepped up security and defence policy cooperation. There has been a Franco-German

<sup>14</sup> LIPPERT et al. 2019.

<sup>15</sup> DAMEN 2022.

<sup>16</sup> LIPPERT et al. 2019. For security related trade-offs see BIEHLER et al. 2021.

<sup>17</sup> Ouest France 2017.

<sup>18</sup> VON ONDARZA – OVERHAUS 2022.

<sup>19</sup> PESCO s. a.

<sup>20</sup> EDF 2023.

<sup>21</sup> Global Gateway 2023.



push for cooperation,<sup>22</sup> as well as the new European defence cooperation outside of formal formats.<sup>23</sup> In his 2016 State of the Union address, former European Commission President, Jean-Claude Juncker, launched<sup>24</sup> the previously mentioned European Defence Fund (EDF). It strengthened the European defence effort and implied a new role for the European Commission in the EU security and defence policy cooperation. Calle Håkansson actually argues that the European Commission's new role in defence policy blurs the traditional dichotomy between intergovernmental and supranational decision-making.<sup>25</sup>

The Commission's ambition in this field has a long history. Between the 1960s and 1980s, there were several proposals, mainly in the defence-industrial field.<sup>26</sup> In the late 1990s and early 2000s, intergovernmental development<sup>27</sup> became the central theme, and it was only with the Commission's 2009 'Defence Package',<sup>28</sup> that the Commission's new role became a viable option. The Package's two directives, combined with the 2007 European Security Research Programme<sup>29</sup> made the development of the European Defence Fund possible. By 2017 the Commission had launched its work on Military Mobility.<sup>30</sup>

These were the stepping stones, which culminated in the new order of things, after the final push was delivered by the war in Ukraine. As for the future of both the deepening of common security policy and the possible further integration, many ideas have been put forward,<sup>31</sup> but we do not know if the theories about the future of Europe are viable.

The previously held *Conference on the Future of Europe*<sup>32</sup> dealt with different topics related to how the EU may look like for the next generations. The follow up on the proposals is being discussed, with possible amendments being made to the Treaties.<sup>33</sup> The proposals made by the Conference include 326 measures for the EU institutions and Member States to follow up on nine topics: climate change and the environment; health; a stronger economy, social justice and jobs; EU in the world; values and rights, rule of law, security; digital transformation; European democracy; migration; education, culture, youth and sport.<sup>34</sup> As we can see, security is an important topic that needs changes made to it. The discussions around security included the internal security of the EU, such as the protection of Europeans from acts of terrorism and other crimes.<sup>35</sup> However, in the outcome of the *Conference on the Future of Europe* certain measures to be taken as a collective to ensure the external security, and indeed to strengthen the

<sup>22</sup> BÉRAUD-SUDREAU-PANNIER 2021: 295–310.

<sup>23</sup> BILLON-GALLAND-QUENCEZ 2018.

<sup>24</sup> European Commission 2016.

<sup>25</sup> HÅKANSSON 2021: 589–608.

<sup>26</sup> REHRL 2021.

<sup>27</sup> HADFIELD-LIGHTFOOT 2021: 487–504.

<sup>28</sup> European Commission 2009.

<sup>29</sup> BIGO et al. 2014.

<sup>30</sup> European Commission 2017.

<sup>31</sup> DARNIS 2013.

<sup>32</sup> Conference on the Future of Europe s. a.

<sup>33</sup> European Parliament 2022.

<sup>34</sup> European Commission 2022.

<sup>35</sup> Conference on the Future of Europe 2022: 20.



EU's aforementioned strategic sovereignty were also proposed. These measures are the following: "1. Its joint armed forces that shall be used for self-defence purposes and preclude aggressive military action of any kind, with a capacity to provide support in times of crises including natural catastrophes. Outside European borders it could be deployed in exceptional circumstances preferably under a legal mandate from the UN Security Council and thus in compliance with international law, and without competing with or duplicating NATO and respecting different national relationships with NATO and undertaking an assessment of EU relations with NATO in the context of the debate on the EU's strategic autonomy.

2. Playing a leading role in building the world security order after the war in Ukraine building on the recently adopted EU strategic compass.

3. Protecting its strategic research and its capacity in priority sectors such as the space sector, cybersecurity, the medical sector and the environment.

4. Strengthening the operational capabilities necessary to ensure the effectiveness of the mutual assistance clause of Art. 42.7 of the Treaty on European Union, providing adequate EU protection to any member state under attack by a third country.

5. Reflect on how to counter disinformation and propaganda in an objective and factual way."<sup>36</sup>

As for what the future holds – we cannot yet know. However, we must have a healthy dialogue about what the possible widening of the EU's powers may mean when it comes to the Member States. In order to take a look at the relationship between sovereignty and the EU's current roadmap of legal framework, I must first discuss what sovereignty is.

## Sovereignty and identity

Central to the idea of representations of sovereignty and identity politics being indicative of security discourses at work is that discourses of security are fundamentally embedded in broader discourses of international relations.<sup>37</sup> Security is so essential to the identity of any and every country, including Member States that this feature is named as part of the essential state functions. In accordance with Article 4(2) of the Treaty on European Union "[t]he Union shall respect the equality of Member States before the Treaties as well as their national identities, inherent in their fundamental structures, political and constitutional, inclusive of regional and local self-government. It shall respect their essential State functions, including ensuring the territorial integrity of the State, maintaining law and order and safeguarding national security. In particular, national security remains the sole responsibility of each Member State".

Some argue that Article 4(2) TEU provides the possibility for national constitutional Courts in occasional situations to ignore EU law on constitutional identity grounds.<sup>38</sup> This has previously happened in the PSpP decision,<sup>39</sup> and after that<sup>40</sup> more and more

<sup>36</sup> Conference on the Future of Europe 2022: 65–66.

<sup>37</sup> McDONALD 2002.

<sup>38</sup> PRESHOVA 2012: 267–298.

<sup>39</sup> CAPETA 2021.

<sup>40</sup> KÁLMÁN 2021.



decisions of national constitutional Courts echoed this sentiment.<sup>41</sup> However, the debate is still ongoing, the Court of Justice of the European Union very rarely accepting<sup>42</sup> the argument of national identity.<sup>43</sup>

But to what extent can constitutional identity matter when it comes to national security? How does this all relate to sovereignty?

### *What is constitutional identity?*

While the article I have cited not only sets down national security as the sole responsibility of each Member State, but also brings up the concept of constitutional identity, which is a point of discussion nowadays in front of many constitutional Courts. The constitutional identity and the seeds of the constitution are part of “constitutional politics”. We have to search for what reason constitutional identity is among the “four corners of the constitution”, meaning that we must start with interpreting the text itself.<sup>44</sup>

The basic political and constitutional structures of a Member State form a framework within which the issue of essential state functions can be interpreted.<sup>45</sup> The exact nature of these functions is important when it comes to the Member States’ competences in which the transfer of competences is involved in relation to EU decision-making processes.<sup>46</sup> The two components of the concept of constitutional identity should be examined separately: we need to talk about both the constitution<sup>47</sup> and identity.<sup>48</sup> This also foresees that the process of identity formation itself is called into existence by the constitution that serves as the basis of the constitutional system created by the constitutional community and at the same time embodies it,<sup>49</sup> which is inseparable from the socio-political community.<sup>50</sup> The Constitution, as a concept embodying national sovereignty, is always linked to a specific State.<sup>51</sup> Following the Parliament’ adoption of the 7<sup>th</sup> amendment to the Fundamental Law on 20 June 2018, Hungary’s constitutional identity as a constitutional value to be protected became part of the Fundamental Law. Accordingly, the protection of Hungary’s constitutional self-identity and Christian culture is now the duty of all bodies of the State.<sup>52</sup>

<sup>41</sup> See WEBER 2022; ORBÁN–SZABÓ 2022: 103–111.

<sup>42</sup> For the sake of example see the Judgment of 7 September 2022, C391/20, *Cilevičs and Others*, EU:C:2022:638, paragraph 68.

<sup>43</sup> MOUTON 2021: 399.

<sup>44</sup> SÜLYÖK 2014: 44–62.

<sup>45</sup> MANGIAMELI 2013: 151–168.

<sup>46</sup> GARBEN–GOVAERE 2017.

<sup>47</sup> According to some views, the constitution creates a new form of sovereignty that is limited from the beginning by the rights of the individual (see MÖLLERS 2009: 169–204).

<sup>48</sup> The constitution has a core that gives it its identity, which consists of immutable principles (see SCHMITT 2008: 150–155; BERNAL 2013: 348).

<sup>49</sup> TRIBL 2020: 34.

<sup>50</sup> CSINK 2015: 137.

<sup>51</sup> TRÓCSÁNYI 2014: 473–482.

<sup>52</sup> Fundamental Law of Hungary, Article R) (4) The protection of the constitutional identity and Christian culture of Hungary shall be an obligation of every organ of the State.





In examining the latest Hungarian decisions related to constitutional identity, we should pay attention to Decision 22/2016 (XII.5.) of the Constitutional Court, which names the achievements of the historical constitution as identity-forming factors.<sup>53</sup> Justice András Zs. Varga's concurring reasoning in Decision 2/2019 (III.5.) explains that identity is formed by the rejection of the Turkish occupation, the struggle for the restoration of the constitutional independence of the country that was divided into three parts in the last stage of the Austrian–Hungarian Monarchy and also by the fact that Hungary has been a member of the European Union since 1 May 2004. It also mentions EU membership as an element of constitutional self-identity.<sup>54</sup>

Decision 32/2021 (XII.20.) of the Constitutional Court states that sovereignty and constitutional identity are complementary concepts,<sup>55</sup> and only the core of sovereignty should be considered part of constitutional self-identity. According to the Constitutional Court of Hungary, the protection of constitutional identity is primarily a matter of protecting sovereignty, which is closely related to the preservation of the country's constitutional right to self-determination. Ultimately, in the case of inefficiently or incompletely enforced EU legal acts, this decision may lay the groundwork for the re-exercise of common powers by the Member States, which may simultaneously lead to the temporary inapplicability of the EU legal act.<sup>56</sup>

Despite these opinions and the tendency to want a Member State's constitutional identity to take centre stage, the question of identity is undoubtedly central to security.<sup>57</sup> Security, it is argued, tells us much about who a particular group thinks it is, particularly with regard to other groups. Notions of security are strongly associated with identity and the sets of oppositions which reflect the political processes through which States secure an identity.<sup>58</sup> Discourses of security, therefore, have inherent implications for the elaboration of the political subject (the self) and the nature of the relationship between the self and the other. In case of identity politics, the manifestation of security entails

<sup>53</sup> [65] The constitutional self-identity of Hungary is not a list of static and closed values, nevertheless many of its important components – identical with the constitutional values generally accepted today – can be highlighted as examples: freedoms, the division of powers, republic as the form of government, respect of autonomies under public law, the freedom of religion, exercising lawful authority, parliamentarism, the equality of rights, acknowledging judicial power, the protection of the nationalities living with us. These are, among others, the achievements of our historical constitution, the Fundamental Law and thus the whole Hungarian legal system are based upon.

<sup>54</sup> Constitutional Court Decision 2/2019 (III.5.) [68]–[75].

<sup>55</sup> Constitutional Court Decision 32/2021 (XII.20.) [99] As explained above, in the interpretation of the Constitutional Court, constitutional identity and sovereignty are not complementary concepts, but are interrelated in several respects. On the one hand, the safeguarding of Hungary's constitutional identity, also as a Member State within the European Union, is fundamentally made possible by its sovereignty (the safeguarding thereof). On the other hand, constitutional identity manifests itself primarily through a sovereign act, adopting the constitution. Thirdly, taking into account Hungary's historical struggles, the aspiration to safeguard the country's sovereign decision-making powers is itself part of the country's national identity and, through its recognition by the Fundamental Law, of its constitutional identity as well. Fourthly, the main features of State sovereignty recognised in international law are closely linked to Hungary's constitutional identity due to the historical characteristics of our country.

<sup>56</sup> ORBÁN–SZABÓ 2022: 103–111.

<sup>57</sup> STEPHENS–VAUGHAN–WILLIAMS 2008.

<sup>58</sup> YOUNGS 1996: 22–37; BURKE 2002: 27.





particular implications for the group in question, but also for other groups whose very existence may be conceptualised as a security threat due to their not belonging within that group.<sup>59</sup>

Now that I have set down the grounds for understanding how constitutional identity relates to security, I will take a look at a complementary concept: sovereignty.

### *What is sovereignty?*

It is difficult to escape sovereignty when discussing issues such as security: it permeates the way we talk about and think about international politics.<sup>60</sup> Discourses of security involve a judgment on which norms are to be valued in the international system, and the potential for norms concerning human rights or environmental preservation, for example, to constrain the actions of States and compete with the norm of sovereignty.<sup>61</sup>

There are two differing opinions about whether the concept of sovereignty is a good thing for States.

Sovereignty, for Realists, involves the territorial inviolability of the State from external interference, in a manner consistent with the depiction of sovereignty in the Treaty of Westphalia and the monopoly on the legitimate use of violence by the State.<sup>62</sup> This understanding of the concept is clearly related to broader Realist claims of the centrality of the state in international relations, and the reliance on self-help as a means of preserving sovereignty.<sup>63</sup> Preserving sovereignty is therefore a vital part of the Realist theory, even if classical and structural Realism differ in their opinion of why, with the former emphasising the social contract between citizens and the State.<sup>64</sup> John Mearsheimer, a Realist explicitly related state survival with the maintenance of sovereignty to the point of conflating survival and sovereignty,<sup>65</sup> which Jack Donnelly describes as common among Realist scholars.<sup>66</sup>

What Critical Security theorists think about sovereignty is that sovereignty constitutes an obstacle to the realisation of security. This stands in direct opposition to Realist claims that the best means through which security may be achieved is through the sovereign power of the State. Critical Security Studies actually reject the belief that the State is and should be the key guardian of peoples' security.<sup>67</sup> Some scholars believe that the overwhelming majority of States create insecurity rather than foster an

<sup>59</sup> SMITH 1996: 193–212.

<sup>60</sup> WALKER 1993.

<sup>61</sup> For further information see REUS-SMIT 2001: 519–538.

<sup>62</sup> MAKINDA 1998: 101–115.

<sup>63</sup> BUZAN 1983. Of course, positive sovereignty is also important for Realists as the basis for allowing an escape from the Hobbesian state of nature. The important point to note here is that negative sovereignty is particularly important in terms of the prioritisation of the state over individuals within it regarding debates concerning human rights and intervention.

<sup>64</sup> WEBER 1994.

<sup>65</sup> MEARSHEIMER 1994: 5–49.

<sup>66</sup> DONNELLY 2000: 54.

<sup>67</sup> BOOTH 1997: 106.



atmosphere within which stability can be attained, and prosperity created.<sup>68</sup> Many believe that the maintenance of internal and external sovereignty obfuscates the possibility for the victims of insecurity to be empowered.

The most interesting point, however, is that Critical Security shares with Realism a perception that sovereignty will win out over competing norms.<sup>69</sup>

To sum up, a sovereign State is one which governs itself independently of any foreign power,<sup>70</sup> and sovereignty itself is defined as a State having inviolable territorial integrity and political independence, the right to freely choose and shape its political, social and cultural system, and the obligation to fulfil its international obligations in good faith, fully and to live in peace with other States.<sup>71</sup> The internal side of state sovereignty means the ability of the State to create and apply its own legal order, as well as to exercise supreme authority over the persons and things within its territory.<sup>72</sup> The essence of external sovereignty is that the State is an independent actor in international life, there is no other authority above it, and its decisions do not depend on the approval or agreement of others.<sup>73</sup>

The closeness of the relationship between security, sovereignty and identity is such that security discourses are partially constructed by the actors' conceptions of sovereignty. Those who reject state centrism as a foundation for thinking about security, also, as a corollary, embrace "some notion of common security", which conceptualises security as being with rather than against the other.<sup>74</sup> The relationship between security, sovereignty and identity is further complicated by the fact that when national security is defined negatively, as protection against outside military threats, the sense of threat is reinforced by the doctrine of state sovereignty, which strengthens the boundary between a secure community inside and a dangerous external environment.<sup>75</sup>

## The line in the sand

To what extent can a country keep its essential state functions, its identity and its sovereignty safe in this climate of much needed cooperation? What are the lines in the sand when it comes to how far the EU can make decisions?

First of all, it is important to bear in mind that national security is different from global security. National security is enshrined in Article 4(2) TEU as an essential state function. It involves a national government working autonomously to protect its citizens from threats.<sup>76</sup> Global security is fundamentally different, as it involves

<sup>68</sup> JONES 1995: 310.

<sup>69</sup> KRAUSE-WILLIAMS 1996: 242–243.

<sup>70</sup> BOUVIER 1856.

<sup>71</sup> BACK 2002.

<sup>72</sup> CHRONOWSKI-PETRÉTEI 2020.

<sup>73</sup> KISS 2014: 313–322.

<sup>74</sup> JONES 1996: 208.

<sup>75</sup> TICKNER 1995: 189.

<sup>76</sup> About this topic see VÁRHALMI 2010.



a coalition of nations working together. Their aim is to ensure that each of them may enjoy peace and stability.<sup>77</sup>

It is beyond any doubt that without the EU, for example Hungary would not be able to protect its autonomy on a global scale. In addition, the interests of all Member States are inseparably linked.<sup>78</sup> The main institutional instrument for security is territorial defence, assured through military capabilities and with the support of international law.<sup>79</sup> This is an aspect, from which the EU is in a better position, even if it is not a State and does not have sovereignty in the classical sense of the term. Despite this, it claims strategic sovereignty, which is highly important in the current political climate.

How can we make sure that while the EU protects us, its powers do not spill over into a territory to which they do not belong?<sup>80</sup> Can we prevent infringement on the Member States' essential state functions and on their sovereignty? When it comes to further integration, maybe even becoming a federation<sup>81</sup> or halting this process and letting constitutional identities prevail,<sup>82</sup> the addition of questions regarding security complicates matters. For now, the best thing we can do is have an open dialogue about the possibilities, and propose measures as to the modalities to make sure there is improvement in the legal framework which governs relations in the EU.

As to what could be improved by the European Union, I would propose to set down more clear guidelines of cooperation. The EU is first and foremost an economic organisation, its main goal cannot be taking over essential state functions. While it can save us from global threats, we should finally set an end goal for the EU's aim: is it to become a State itself or simply to exist as a cooperation? And if it is the latter, how far can its powers go?

To sum up, I have high hopes for the Convention<sup>83</sup> to revise the Treaties, and for the subsequent changes in the area of common security policy to take place. True cooperation in its purest, most trusting form can only be achieved through clear guidelines and open dialogue about the hopes and fears of all Member States of the EU.

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<sup>77</sup> OSISANYA 2022.

<sup>78</sup> The Diplomatic Service of the European Union 2018.

<sup>79</sup> EKENGREN 2008: 267–288.

<sup>80</sup> PAVEL 2015.

<sup>81</sup> Federal Alliance of European Federalists 2022.

<sup>82</sup> CALLIESS – VAN DER SCHYFF 2020.

<sup>83</sup> European Parliament 2022.



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## Laws and treaties

United Nations Charter  
 Fundamental Law of Hungary  
 Decisions of the Constitutional Court of Hungary  
 Decision 22/2016 (XII.5.)  
 Decision 2/2019 (III.5.)  
 Decision 32/2021 (XII.20.)



Maxime Kundid<sup>1</sup>

# Bosnia and Herzegovina's Hopes of European Union Accession: A Safeguard against the Country's Implosion?

*The prospect of Bosnia and Herzegovina's accession to the European Union encapsulates a pivotal chapter in the nation's trajectory. As the country navigates the intricate path toward EU membership, it faces a myriad of challenges and opportunities that extend beyond mere geopolitical realignment. This journey involves addressing complex issues such as political stability, governance reforms, rule of law and economic development. The significance of this process lies not only in its potential to reshape Bosnia and Herzegovina's political and economic landscape but also in the broader implications for regional stability and the consolidation of European values in the Western Balkans. In this context, the journey towards EU accession for Bosnia and Herzegovina is a multifaceted endeavour, reflecting both the aspirations and complexities inherent in the pursuit of a European future.*

**Keywords:** enlargement process, Bosnia and Herzegovina, political stability, electoral system, governance reforms, border maintenance

In recent years, a major event for the country has been the decision of the European Council in December 2022 on Bosnia and Herzegovina's status as a candidate for membership of the European Union. "This candidate status should have been granted several years ago. We understand, of course, that this acceleration of the march towards the EU is taking place because of certain geopolitical circumstances"<sup>2</sup> commented Zeljka Cvijanovic, Serb member of Bosnia's tripartite presidency, on December 2022, suggesting that Bosnia and Herzegovina's candidate status involves more than just EU enlargement related issues.

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<sup>2</sup> Agence France Press 2022.

## Relations between Bosnia and Herzegovina and the European Union

Since the end of the breakup of Yugoslavia there was a constant desire to support the country in its economic and political rebuilding.

### *Post-war financial aid and political cooperation*

Following the end of the breakup of Yugoslavia in 1999, the European Union gave the countries of the Western Balkans a European perspective at the Thessaloniki Summit in 2003, declaring, that “the future of the Balkans is within the European Union”.<sup>3</sup>

A Stabilisation and Association Process (SAP) has been put in place, aimed at gradually bringing these countries closer to the European Union (EU). It provides for financial aid while the signing of Stabilisation and Association Agreement (SAA) established political and economic cooperation, as well as free trade areas with the countries concerned.

Twenty years after the Thessaloniki Summit, Croatia remains the only country in the Western Balkans to have joined the Union, leaving the feeling that the European Union and former Yugoslavia’s countries have failed to convert the enlargement ambitions. This came to a halt after the major eastward enlargements of 2004 and 2007, due to the difficulties of integrating the new member countries and the multiple political, economic, migratory and health crises.<sup>4</sup>

This slowdown in the accession of the Balkans countries is also explained by the fact that the region have grappled with obstacles hindering their journey towards European integration. For instance, countries like Serbia and Montenegro have faced criticism for democratic regression, marked by limitations on press freedom<sup>5</sup> and political opposition while unresolved conflicts among ex-Yugoslav states, such as the dispute between Serbia and Kosovo, have strained regional stability and impeded cooperation efforts.

The relationship between Bosnia and Herzegovina and the EU intensified on 21 October 2005, when the European Commission recommended to the Council the opening of negotiations on a Stabilisation and Association Agreement. Negotiations were then officially opened on 25 November 2005. In 2006, the European Commission stated in its Progress Report on Bosnia and Herzegovina, “the conclusion of these negotiations is subject to further progress on a number of priorities, in particular police reform”. In consideration, the Bosnian Government took the necessary steps the following year and the SAA was finally signed on 16 June 2008<sup>6</sup> while it entered into force only on 1 June 2015.

<sup>3</sup> European Commission 2003.

<sup>4</sup> CAMERON s. a.

<sup>5</sup> MFRF 2017.

<sup>6</sup> Council of the European Union 2008.



The EU's support was a crucial initial step in the complex process of Bosnia and Herzegovina's reconstruction, with the SAA marking a significant milestone. While the SAA has undeniably brought about positive changes, serving as a framework for political, economic and institutional reforms, it is essential to recognise that it represents just the starting point on the path toward EU membership. The agreement lays the groundwork for closer alignment with European standards and values, but the journey is ongoing and multifaceted. The EU's sustained support, both financial and strategic, remains indispensable in navigating the intricate challenges ahead and realising the long-term goal of full EU membership.

Relations further intensified in 2010 after the European Commission adopted a proposal to lift the visa requirement for citizens of Albania and Bosnia and Herzegovina wishing to travel to Schengen countries.<sup>7</sup> At the same time, Bosnia and Herzegovina also benefited from investments through the Western Balkans Investment Framework (WBIF). WBIF provided to Bosnia and Herzegovina since 2009 717 million euros of grants for investment and technical assistance.<sup>8</sup>

However, at the end of the same year, the European Commission noted that Bosnian leaders were continuing to block key reforms. Among other things, it called on the country to bring its Constitution into line with the European Convention on Human Rights and to improve the functioning of its institutions so that they can incorporate European law.<sup>9</sup>

In its progress report on Bosnia and Herzegovina, the European Commission highlighted several areas where the country falls short in meeting the requirements for European integration. One major concern is the slow pace of reforms, particularly in the areas of the rule of law, governance and public administration. The Commission criticises Bosnia and Herzegovina for its failure to effectively combat corruption and ensure the independence and efficiency of the judiciary. Additionally, the report points out deficiencies in addressing human rights issues, including discrimination against minorities and inadequate protection of fundamental freedoms.

Such conclusions follow the case of *Sejdić and Finci vs. Bosnia and Herzegovina* handed down by the European Court of Human Rights (ECHR) on December 2019 that revolves around the issue of discrimination in the country's political system. Dervo Sejdić and Jakob Finci, both members of minority groups, brought the case to the ECHR, arguing that Bosnia and Herzegovina's constitution is discriminatory by preventing them from running for certain political offices solely based on their ethnicity. The Bosnian constitution, as established in the Dayton Peace Agreement, reserves the positions of the Presidency and the House of Peoples for specific ethnic groups that effectively excludes individuals who do not identify with these three groups from holding these high-level political positions, violating principles of non-discrimination and equal political participation.

<sup>7</sup> European Commission 2010a.

<sup>8</sup> European Commission 2023.

<sup>9</sup> European Commission 2010b.



The ECHR ruled in favour of the applicants, declaring that Bosnia and Herzegovina's constitution breached Article 14 of the European Convention on Human Rights taken in conjunction with Article 3 of Protocol No. 1 ECHR as well as Article 1 of Protocol No. 12 ECHR. The court called for amendments to the constitution to ensure equal rights and opportunities for all citizens, regardless of their ethnic background.<sup>10</sup>

The Sejdić–Finci ruling prompted significant debate and pressure for constitutional reform in Bosnia and Herzegovina to address the discriminatory provisions. Despite repeated calls from the European Union at the same time, progress on implementing the necessary reforms has been slow due to political disagreements and resistance from ethno-nationalist parties.

### *Submitting the application for EU membership: A multifaceted ambition*

Bosnia and Herzegovina officially applied to join the European Union on 15 February 2016, which was seen as “the beginning of a long journey”, as noted by Johannes Hahn, European Commissioner for Enlargement at the time.<sup>11</sup>

In May 2019, the Commission issued its opinion on Bosnia and Herzegovina's application for EU membership, setting out 14 key priorities for the opening of EU accession negotiations.<sup>12</sup>

The 14 key priorities for opening accession encompass various essential areas for progress towards EU membership. These include reforms in democracy, rule of law, human rights and the economy. Among these priorities are electoral reform to ensure fairness and transparency in elections, strengthening the independence and efficiency of the judicial system, combating corruption and organised crime, as well as measures to promote media freedom and protect minority rights. These priorities aim to encourage tangible and sustainable progress in modernising and stabilising Bosnia and Herzegovina, with the goal of enhancing its European integration.

On 10 December 2019, the Council adopted conclusions on the Commission's opinion, and it took 5 years for the Commission to recommend to the Member States the opening of accession negotiations with Bosnia and Herzegovina. Nevertheless, this date does not yet mark the end of the long journey promised to Sarajevo. The positive momentum that followed the granting of candidate status resulted in high tension in the country with threats of secession from Republika Srpska and because of the war in Ukraine that had profound geopolitical implications for the EU, the Western Balkans and the enlargement process.<sup>13</sup> It has highlighted the importance of security cooperation, energy diversification, and democratic resilience within the EU, while also raising concerns about regional stability and external interference in neighbouring regions.

<sup>10</sup> European Court of Human Rights 2009.

<sup>11</sup> BACZYNSKA 2016.

<sup>12</sup> European Commission 2019.

<sup>13</sup> SWATON 2023.



December 2022 marked a milestone in Bosnia and Herzegovina's EU accession as the European Council granted the country candidate status on the condition that the country implement the steps specified in the Commission's October 2022 communication on enlargement policy to strengthen the rule of law, the fight against corruption and organised crime, migration management and fundamental rights. This "sends a strong signal to the people, but also a signal that progress is expected in the necessary reforms and that the country's institutions need to be made to function properly" said Charles Michel, President of the European Council.<sup>14</sup>

The latest event occurred in December 2023, the European Commission took a significant step forward by opening accession negotiations with Bosnia and Herzegovina. This decision marked a crucial milestone in the country's path towards EU membership, signalling a commitment to deepen cooperation and foster reforms necessary for alignment with European standards and values. However, this move was also accompanied by conditions, which will be discussed during the European Council meeting in March 2024. These conditions likely focused on the need for Bosnia and Herzegovina to accelerate reforms in key areas such as rule of law, governance and the economy, as well as to address concerns related to corruption, ethnic tensions and socio-economic disparities. The discussion at the European Council meeting will likely emphasise the importance of tangible progress and try to demonstrate political will from Bosnia and Herzegovina to advance on its European integration path. Despite the challenges ahead, the opening of accession negotiations represents a positive development, offering Bosnia and Herzegovina the opportunity to strengthen its ties with the EU and work towards a more stable, prosperous and democratic future.

## **Republika Srpska's secession threat**

The secession threat of Republika Srpska is the result of post-war ethnic tensions that have never been overcome.

To understand what is at stake in Bosnia and Herzegovina's accession to the European Union, it is important to understand the country's history, particularly in the aftermath of gaining its independence from the Socialist Federal Republic of Yugoslavia.

The Bosnian War of Independence took place from 1992 to 1995, following the breakup of Yugoslavia. The conflict primarily involved Bosnia and Herzegovina, where various ethnic groups, including Bosniaks (Bosnian Muslims), Croats and Serbs, sought control and independence.

In 1992, Bosnia and Herzegovina declared independence from Yugoslavia, triggering tensions among the ethnic groups. The Bosnian Serbs, backed by the Yugoslav Army, opposed the move and sought to establish their own entity, the "Republika Srpska". This led to widespread violence, ethnic cleansing and displacement of populations. The capital city, Sarajevo, endured a brutal siege by Bosnian Serb forces, resulting in significant civilian casualties.

<sup>14</sup> MICHEL 2023.



International efforts to intervene, such as the establishment of United Nations Safe Areas and peacekeeping missions, faced numerous challenges. The conflict also witnessed the Srebrenica massacre in 1995, where Bosnian Serb forces executed thousands of Bosniak men and boys.<sup>15</sup>

The Dayton Peace Agreement, signed in December 1995, ended the war and established a “consociational democracy”<sup>16</sup> with Bosnia and Herzegovina as a sovereign state composed of two entities, the Bosniak–Croat Federation and the Republika Srpska.

The Agreement also outlined a complex framework for peace and governance in Bosnia and Herzegovina following the devastating conflict in the region. One crucial aspect of the agreement was the establishment of the Office of the High Representative, tasked with overseeing the civilian implementation of the peace agreement. The High Representative holds significant powers, including the authority to impose legislation that he/she considers necessary if Bosnia and Herzegovina’s legislative bodies fail to do so and remove public officials deemed obstructive to peace efforts.

The war left a lasting impact on the region, with ethnic divisions and the process of post-war reconstruction presenting ongoing challenges for Bosnia and Herzegovina, particularly with a view to joining the European Union.

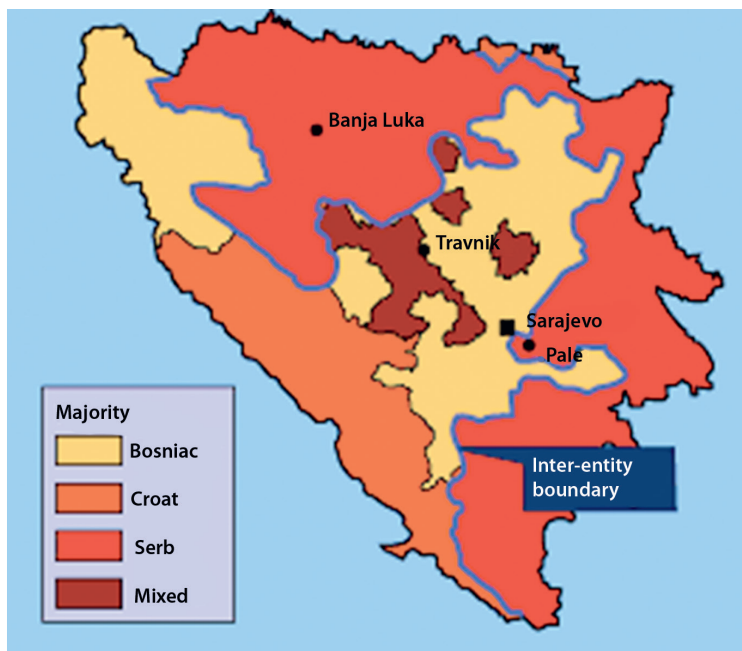


Figure 1: Ethnic repartition in 1995 after the Dayton Agreement

Source: *The Economist* 1998

<sup>15</sup> ROGEL 1998.

<sup>16</sup> TZIFAKIS 2007: 85–101.





The coexistence of distinct ethnic identities within Bosnia and Herzegovina has at times fuelled nationalist sentiments. Political rhetoric, especially during election periods, can become ethnically charged, heightening tensions and exacerbating historical grievances.

Republika Srpska called on constitutional judges to resign and adopted a law providing that decisions of the Constitutional Court would not be implemented, which calls into question the authority, integrity and unfettered functioning of the Constitutional Court and violates the country's constitutional and legal order.<sup>17</sup> At the same time, the Bosnian Serbs have reintroduced criminal sanctions for defamation, which restrict freedom of expression and media freedom, representing a significant step backwards in the protection of fundamental rights granted by the European Union.

Ethnic tensions between the three groups persist to the extent that Republika Srpska has issued threats of secession in 2016<sup>18</sup> led by President Milorad Dodik who declared in 2022: "I want to see the independence of Republika Srpska in my lifetime. Processes are speeding up, and what is happening in Sarajevo shows that Muslim political demands are impossible. We need to achieve a new structure for the country."<sup>19</sup> Such tensions run counter to the positive momentum towards EU membership that has been built up in recent years.

The potential secession of Republika Srpska has probably intensified the urgency surrounding Bosnia and Herzegovina's accession process to the European Union, underscoring the intricate geopolitical challenges at play. The EU has recognised that moving the EU integration of Bosnia and Herzegovina forward is crucial not only for fostering internal stability but also for mitigating the influence of external actors, particularly Russia.

The prospect of a fragmented Bosnia and Herzegovina aligning with divergent geopolitical interests raises red flags within the EU, necessitating a proactive approach to bolster the country's pro-European orientation. In this context, the accelerated accession process serves as a strategic imperative, reflecting the EU's commitment to counterbalance external influences and solidify its role as a stabilising force in the western Balkans.

Even if the President of the European Commission Ursula Von der Leyen recently stated that "Bosnia and Herzegovina must join the EU with the common objective of being a unified, united, and sovereign country",<sup>20</sup> it does not sound like an easy task, as part of the population is distrustful and has lost hope in joining the European Union due to the accession process taking too long. It is important to note that tensions arise when it comes to discussing potential EU membership. In a poll carried out in August 2022, over 90% of the inhabitants of the Croat-Muslim entity said they supported the country's accession to the EU, compared with 54.5% in the Serbian entity.<sup>21</sup>

On the other hand, the decision to grant candidate status to Bosnia and Herzegovina in December 2023 was not only a significant step forward for the country's European integration process but also served broader strategic objectives for the European Union.

<sup>17</sup> European Commission 2023.

<sup>18</sup> HAJDARI 2022.

<sup>19</sup> TOPIĆ 2022.

<sup>20</sup> Agence Europe 2024.

<sup>21</sup> Agence France Press 2022.



In the context of recent developments, such as the European Council's decision to grant candidate status to Ukraine and Moldova in June 2022, the decision on Bosnia was also seen as crucial for maintaining the credibility of the EU's enlargement process.<sup>22</sup>

Granting candidate status to Bosnia sent a clear message to the countries of the Western Balkans, reaffirming the EU's commitment to the region's European perspective despite ongoing challenges and setbacks. By extending a tangible pathway towards EU membership, the EU sought to incentivise reforms, promote stability, and foster closer cooperation with countries in the Western Balkans.

## **The challenges facing Bosnia and Herzegovina on the fringe of EU accession**

### *The flawed Bosnian electoral system that must get closer to European values*

Accession to the European Union is governed by Article 49 of the Treaty on European Union (TEU). To be eligible for EU membership, a country must be a European state in geographical terms, even if to date, there is no officially recognised definition of the geographical limits of Europe; respect and promote the values enshrined in Article 2 of the TEU. These values include respect for human dignity, freedom, democracy, equality, pluralism, non-discrimination, tolerance, justice, solidarity, the rule of law and human rights (including the rights of persons belonging to minorities) forming part of the very foundations of the European Union legal order.<sup>23</sup>

The accession criteria, or Copenhagen criteria (so named in reference to the European Council meeting held in Copenhagen in 1993 at which they were defined), are the essential conditions that each candidate country must meet to become an EU member state.

These criteria are political, economic and administrative, while necessitating the necessary institutional capacity to effectively implement the EU set of common rights, and ability to assume the obligations of EU membership.

Annually, based on the Progress Reports of the European Commission, the Council issues conclusions on the enlargement process and the stabilisation and association process, assessing the progress made by EU candidates and partners on their journey toward European integration.

In the most recent conclusions adopted in December 2023,<sup>24</sup> the Council acknowledged the reform initiatives undertaken by Bosnia and Herzegovina since obtaining candidate status in December 2022. However, it pointed out that overall progress remained

<sup>22</sup> JONES 2023.

<sup>23</sup> Court of Justice of the European Union 2018.

<sup>24</sup> Council of the European Union 2023.



limited, emphasising the need for increased efforts to meet the 14 key priorities set out in 2019.

Considering these priorities, Bosnia and Herzegovina is required – inter alia – to pursue additional constitutional and electoral reforms to ensure equal treatment and non-discrimination of all citizens. As a reminder, the country has a tripartite presidency at the national level, with a Bosniak, Croat and Serb member while the parliamentary structure is designed to ensure representation for all three main ethnic groups.

This unique organisation pushed the Council to urge all political entities to avoid and disavow divisive rhetoric and actions. It emphasised the importance of respecting the country's sovereignty, territorial integrity, constitutional order and international standing, warning that any action contrary to these principles would result in severe consequences.

The legislative elections of 2022 highlighted the shortcomings of the electoral system and the budget that goes with it.

These shortcomings were brought to the European Court of Human Rights by Slaven Kovačević, a political scientist and advisor to a member of the Bosnia and Herzegovina Presidency. He argued that he had not been properly represented and the court ruled in his favour, describing the country of 3.2 million inhabitants as an “ethnocracy”. As a reminder, the country's territorial composition also determines voters' rights. Only residents of the Federation of Bosnia and Herzegovina can elect Bosnian and Croat members of the House of Peoples and the Presidency. Serbian members are elected by residents of Republika Srpska, where Serbs are in the majority.

In the decision *Kovačević vs. Bosnia Herzegovina*, handed down on 29 August 2023, the ECHR recognised that ethnic representation “takes precedence over political, economic, social and philosophical considerations” in the country's political system. It was noticed that the constitution of Bosnia and Herzegovina grants political privileges only to Bosniaks, Croats and Serbs – the “constituent peoples”, while people who do not belong to these three ethnic groups cannot be elected to these two institutions.

In so doing, the Court took direct aim at the Bosnian electoral system by recognising “that there had accordingly been a breach of Article 1 of Protocol No. 12 of the Convention in relation to the applicant's complaint concerning the composition of the House of Peoples of the Parliamentary Assembly of Bosnia and Herzegovina”.<sup>25</sup>

In these circumstances, the High Representative, Christian Schmidt, took multiple actions in relation to electoral affairs with the declared aim of improving the integrity and transparency of the electoral process even though numerous irregularities had been noted and numerous appeals had been lodged.

Nevertheless, the situation in Bosnia does not seem to be changing, to the extent that the results of 2022 elections were not published until a month after the elections. The European Commission's 2023 Progress Report on the issue notes that neither before nor after the elections did the Parliament amend the election law to address outstanding recommendations by the Organization for Security and Co-operation in Europe (OSCE)

<sup>25</sup> European Court of Human Rights 2023.



and the Office for Democratic Institutions and Human Rights (ODIHR) on electoral standards, including transparency of political party financing.<sup>26</sup>

The electoral framework underwent various modifications by the High Representative, including adjustments made on election night, raising concerns about legal certainty according to the OSCE/ODIHR. Despite being generally pluralistic and efficiently organised, the elections were characterised by a lack of trust in state institutions and the use of divisive ethnic rhetoric. In preparation for the upcoming 2024 local elections, Parliament is urged to address the recommendations from both the OSCE/ODIHR to enhance the integrity of the electoral process and bolster public confidence.<sup>27</sup>

Furthermore, the Council stressed the imperative to strengthen the rule of law, emphasising that Bosnia and Herzegovina should enhance its endeavours to combat corruption and organised crime. The establishment of a credible record of investigations and convictions, especially at higher levels, is deemed essential.<sup>28</sup> In Bosnia and Herzegovina, the insidious influence of corruption on the electoral process poses a significant challenge, casting a shadow over the nation's path toward European Union accession. The infiltration of corruption into elections undermines the integrity of the democratic system and raises serious concerns about the country's commitment to the values and standards upheld by the EU. Corruption has seeped into various aspects of the electoral framework, hindering fair competition, and eroding public trust in the democratic process. Instances of bribery, fraud and manipulation compromise the legitimacy of election outcomes, creating an environment where the will of the people may be distorted, as showed the corruption scandal that shook "Snaga Naroda", one of the largest political parties of Bosnia.<sup>29</sup>

This pervasive corruption not only jeopardises the democratic principles that the EU seeks in its member states but also obstructs Bosnia and Herzegovina's progress toward EU accession.

These initial considerations demonstrate the considerable distance Bosnia still has to cover if it is to achieve membership. What seems surprising is that the country has obtained official candidate status despite these shortcomings, which are also to be found in the country's economic development and other matters. Is this simply a case of encouragement to continue reforming, or other interests that motivate the European Union to push for Bosnia's accession?

The question is worth asking, but one thing is certain: the European Union seems to be keeping a very close eye on the political instability in Bosnia and Herzegovina, which is largely the result of a flawed electoral system. In this context, the President of the Commission, Ursula von der Leyen urged the Bosnian authorities to go "as far as possible" in implementing the reforms required as "the more you [Bosnia and Herzegovina] deliver, the more convincing you are to prepare the next European Council" she stated.<sup>30</sup>

The root of the issue concerning the lack of progress in the electoral system in Bosnia lies in the Dayton Peace Agreement, characterised by a decentralised power structure

<sup>26</sup> European Commission 2023.

<sup>27</sup> OSCE 2023.

<sup>28</sup> Council of the European Union 2023.

<sup>29</sup> KOVACEVIC 2020.

<sup>30</sup> Agence Europe 2024.



and ethnic-based political representation.<sup>31</sup> Especially, it created a highly decentralised political structure, with significant powers devolved to the entities of Republika Srpska and the Federation of Bosnia and Herzegovina. This decentralisation has led to duplication of institutions and functions between the entities and the central government, resulting in bureaucratic inefficiency and hindering efforts to streamline the electoral process.

While the situation appears to be paralysed, it also suggests that neither the developments of the distant past relating to the Dayton Peace Agreement, nor more recent developments are conducive to an evolution towards a positive legitimacy independent of the High Representative. The case of Bosnia and Herzegovina also shows that democracy is difficult, if not impossible, to establish when populations are internally divided while national and international actors exploit these divisions on the international stage.<sup>32</sup>

### *Migration related issues and the border control capacity in the spotlight*

Among the many challenges facing Bosnia and Herzegovina, the control and maintenance of its borders is a palpable point of tension for a region often described as a gateway to Europe. From the onset of 2018, over 110,000 refugees and migrants have entered Bosnia and Herzegovina through the Western Balkans route, as reported by the International Organization for Migration (IOM).<sup>33</sup> Most of them have since departed the country in particular because of the unattractive conditions in the country.

Here again, the European Union has taken the lead to ensure better handling of the migration issue, as well as adequate control of its borders. Since the onset of the refugee and migrant influx in Bosnia and Herzegovina, the EU has collaborated closely with UN agencies, various humanitarian organisations, and the Bosnian authorities to address the humanitarian needs of refugees and migrants.

In 2018, the EU has allocated over 21 million euros in humanitarian aid, which is implemented by international humanitarian organisations to address the most pressing needs of refugees, asylum seekers and migrants.

EU humanitarian funding extends to cover shelter, food, water and sanitation, health services, and aids the country in enhancing its capacities for managing migration. Mental health and psychosocial support are also part of the assistance, reaching those who are not in reception centres and are sleeping outdoors. Overall, the EU has contributed nearly €145 million in assistance directly to Bosnia and Herzegovina and through implementing partners.

Bosnia and Herzegovina also participated in the EU Civil Protection Mechanism, which underscores the nation's commitment to a progressive path toward EU accession. Becoming a participating state in this mechanism demonstrates Bosnia and Herzegovina's

<sup>31</sup> AOLAIN 1998: 957–1004.

<sup>32</sup> DIJKSTRA–RAADSCHELDERS 2022: 285–311.

<sup>33</sup> European Civil Protection and Humanitarian Aid 2022.



active engagement in strengthening cooperation with EU Member States in civil protection matters. This participation showed a tangible step in aligning the country's practices with EU standards and further integrating into the broader European framework. By joining the EU Civil Protection Mechanism, Bosnia and Herzegovina signals its dedication to enhancing collaborative efforts in disaster prevention, preparedness and response, aligning itself with the values and principles central to the EU's vision.

While these advances are significant, the fact remains that Bosnia and Herzegovina faced a serious humanitarian crises in the past years, which has been accentuated by the fact that “no solution has been made available to the migrants by the state authorities because of the dysfunctionality of decision-making in the country” Josep Borrell said.<sup>34</sup>

In addition, these advances cannot mask the shortcomings within the country and a situation that is difficult to control at the borders. The entry of Croatia into the Schengen Area on January 2023 raises concerns about potential risks, particularly regarding human trafficking and the safety of migrants at the borders.<sup>35</sup>

Joining the Schengen Area entails the elimination of internal borders, and while this facilitates the free movement of people, goods and services, it heightens the risk of criminal activities, including human trafficking.

The border regions, especially those shared with non-Schengen countries, may become vulnerable points where illicit networks exploit the gaps in border controls, putting migrants at greater risk. Migrants attempting to cross borders may face increased dangers, including violence and exploitation, as they navigate their way between countries with varying levels of border security.<sup>36</sup>

There is a growing concern “in some circles”<sup>37</sup> that the European Union may leverage the accession process of Bosnia and Herzegovina to assume direct control over its borders in its interest.<sup>38</sup> This is also underscored by that fact, that the Commission adopted recommendation to the Council to authorise negotiations on an agreement between the Border and Coast Guard Agency (Frontex) and Bosnia and Herzegovina to strengthen the capacity of the country on its ability to manage migration.

The aim of the negotiations is to “increase EU funding by 60% in total between 2021 and 2024 in all areas of developing effective migration systems, including border security and returns” Commissioner for Neighbourhood and Enlargement, Olivér Várhelyi, said.<sup>39</sup>

At this date, no agreement has been signed, but the country is seeking to join the collective European security as some of the EU Member States judged Bosnia and Herzegovina as a “reliable partner in the fight against the international smuggling mafia” Austrian Interior Minister Gerhard Karner stated.<sup>40</sup>

While the EU integration process is typically seen to enhance democratic governance, economic development and regional stability, the fear exists that border control

<sup>34</sup> BORRELL 2021.

<sup>35</sup> Euronews 2023.

<sup>36</sup> RADOSAVLJEVIC 2022.

<sup>37</sup> KOKOTT 2020.

<sup>38</sup> GUIRAUDON 2023.

<sup>39</sup> European Commission 2022.

<sup>40</sup> SWATON 2023.



measures and geopolitical issues might take precedence. The EU's emphasis on secure external borders, particularly in the context of the migrant and refugee crisis, raises questions about the potential prioritisation of border control over other aspects of the accession process.

The European Commission recognised that it was a priority for Bosnia to “ensure effective coordination, at all levels, of border management and migration management capacity, as well as ensuring the functioning of the asylum system”.<sup>41</sup> It was also stated that Bosnia and Herzegovina has made strides in preparing to implement the EU *acquis* in various areas.

Additionally, advancements have been made in the management of migration and asylum matters, with the adoption of a new strategy and action plan for the years 2021–2025 in order to fill the key priority 8, which provides to ensure effective coordination, at all levels, of border management and migration.

## Conclusion

In conclusion, Bosnia and Herzegovina's journey towards EU accession appears to be underway with significant strides made in aligning with EU standards, particularly in areas such as organised electoral and migration management. The persistent political instability within the country, coupled with the complexities surrounding ethno-political dynamics, poses formidable obstacles to the accession process.

While the aspiration for EU membership remains a beacon of hope, the likelihood of realising this goal remains uncertain given the multifaceted issues at play. Achieving a harmonious convergence with EU norms and addressing internal challenges will be essential for Bosnia and Herzegovina to transform the current aspirations into tangible progress towards EU accession.

Nevertheless, it seems certain that the relationship between the EU and Bosnia and Herzegovina remains balanced insofar as Brussels keeps a very close eye on the country's political situation in the throes of Republika Srpska's secession and on the various geopolitical issues surrounding the Western Balkan region.

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<sup>41</sup> European Commission 2023.





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# Enlargement Lesson from the Schengen Zone – What can the Western Balkan Countries Learn?

In this opinion article, we aim to draw a parallel between the enlargement of the Schengen area and of the European Union itself. We will argue that both processes suffer from enlargement fatigue, and some of the impeding factors are identical.

The Schengen area is one of the most ambitious and innovative feature of the European Union. It started as an agreement between a few countries outside the formal framework of the EU, and became a core program and one of the main achievements of the integration. The abolishment of national borders and the delegation of external border controls challenge the long-established conceptions of sovereignty, territoriality and security.<sup>2</sup> At the same time the EU itself is so dynamic and so novel, it constitutes a political-economic-social-cultural system without precedent and blueprint.

When the Schengen zone was created, even the idea that one day countries from beyond the Iron Curtain could join the convention was utopian. However, history made this utopia a reality. In 2007 almost every Central and Eastern European newcomers joined the area. 2007 is also the year when Romania and Bulgaria joined the European Union with the hope of entering the Schengen area as soon as possible.

The benefits of the Schengen zone are evident from more point of view. The migration crisis of 2015 inspired many analyses to quantify the costs of losing these achievements. Even if the elimination of the Schengen borders primarily facilitates the free movement of persons, according to the estimates of various studies, trade is the biggest beneficiary of the borderless zone, ahead of the commuters and tourism. The Schengen area create trade among the members with smaller expenses and less uncertainty for exporters. It provides easier and shorter travel for passengers, higher growth potential for border regions and new job market opportunities. Quantifying all of these benefits<sup>3</sup> helps us to get a picture of the possible costs of “non-Schengen”. To see the order of magnitude, it is worth comparing it to the possible collapse of the euro, where even in the most optimistic scenario, the costs would be at least a hundredfold.<sup>4</sup> However, it is absolutely

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<sup>2</sup> ZAIOTTI 2011.

<sup>3</sup> See FELBERMAYR et al. 2018: 335–351; BÖHMER et al. 2016; DAVIS–GIFT 2014: 1541–1557.

<sup>4</sup> SCHIMMELFENNING 2018: 969–989.

important to point out that the Schengen area involves additional ideal and political benefits that are difficult to quantify. The loss of the Schengen acquis could thus endanger the European integration process itself.

Bulgaria and Romania have successfully completed the Schengen evaluation process and in November 2022, the Commission adopted a Communication on Bulgaria, Romania and Croatia calling upon the Council to take the necessary decisions without any further delay, allowing these three Member States to join the area. In a vote on 18 October 2022, MEPs reiterated their call for both countries to be admitted to the Schengen area as soon as possible, stressing that free movement is at the heart of the EU project. However, the Council opened the door only for Croatia but left Romania and Bulgaria still outside. EU national governments must unanimously decide to allow new States to enter the border-free zone and two countries did not agree.

The reasons for the two vetoing countries, Austria and the Netherlands, were not of an economic nature. Their concerns date back to the very beginning of Eastern enlargement, when “in Western Europe, fear of tanks and missiles from beyond the Iron Curtain was replaced by concern about uncontrolled immigration and cross-border crime”.<sup>5</sup> The query about the willingness and ability of poorly paid Eastern European police forces and frontier guards “to combat a trade that often gives them some share in the profits”<sup>6</sup> seems to be evergreen. The Netherlands opposed Bulgarian accession due to the country’s “deficiencies in the rule of law” and its uncertain domestic political situation. Austria’s main argument for excluding Romania and Bulgaria from Schengen is that the zone is no longer able to cope with migration from the Western Balkans. Frontex, the European Border and Coast Guard Agency reported 128,000 “irregular entries” from the Western Balkans by October 2022, a 77% increase compared to 2021. At the same time, during January–November 2023 the Western Balkan route saw the biggest annual drop among the major migratory routes, with the number of irregular crossings falling 28% compared to the same period in 2022.<sup>7</sup> Anyhow, Romania and Bulgaria are not part of this route. That is why the political leaders of these two countries think that their accession efforts are derailed due to political reasons: the Austrian and Dutch Governments are trying to win over anti-immigration voters.<sup>8</sup> “It is not right to expand a system that is currently not working in many places”, explained Austrian Interior Minister Gerhard Karner.

As Grabbe (2012) points out, it is not only the distrust towards Romania and Bulgaria, we also have to reckon with Greece. Greece is a member of the Schengen area, but has no land border with the rest of the area. It can only be accessed through seaports and airports, which are easier to control. But if Bulgaria and Romania join the zone, human traffickers would go directly from Greece to the Schengen area by land route. And in Greece we have already been disappointed once in terms of keeping the finances in order. So, how can we entrust the integrity of the Schengen zone to Greece? With the accession of Romania and Bulgaria, the two countries would connect the Eastern Mediterranean immigration route with the Western Balkan route on land. As an additional complication,

<sup>5</sup> GRABBE 2000: 520.

<sup>6</sup> GRABBE 2000: 522.

<sup>7</sup> Frontex 2023.

<sup>8</sup> THORPE 2022.



the accession of Romania and Bulgaria is inseparable, because there are no Schengen borders established between the two.

Several crucial questions arise. Is it really the failure and non-readiness of Bulgaria and Romania? Are the vetoes a reflection of Austrian and Dutch internal political pressures instead? Is it the fiasco of the whole community of the Member States not being able to agree? Does the current geopolitical context foster or hinder the extension of the Schengen zone? And last but not least, what does the current accession crisis of the Schengen area teach us about the EU enlargement capacities towards the Western Balkans?

The Western Balkans are geographically at the heart of Europe, surrounded by EU Member States. The EU seems to be fully committed to the integration of the Western Balkans, enough to quote High Representative/Vice-President Josep Borrell (“The European Union is not complete without the Western Balkans”) or President Ursula von der Leyen (“The future of the Western Balkans is in our Union”). Accession talks are underway with Montenegro and Serbia. The screening process with North Macedonia and Albania has started. Bosnia and Herzegovina and Kosovo are potential candidates for EU membership. All six countries have Stabilisation and Association Agreements with the EU. But we hardly see the light at the end of the tunnel. As High Representative Josep Borrell stated at the EU – Western Balkans Summit in December 2023, the Western Balkan enlargement is rather slow, it has to speed up. Federal Chancellor Olaf Scholz repeatedly made it clear that it is up to each country that wants to join the EU to decide how quickly that happens.

Both EU and Schengen integration can be interpreted as a Europeanisation process based on conditionality. But if the fulfilment of the conditions does not entail the reward of efforts, i.e. full membership, the political elite and population of the country might become disillusioned with the integration process and turn into Euroscepticism. An unpromising, long lasting and ever postponed enlargement process causes a huge damage, it eliminates the anchoring role of the EU and the divergent forces overcome the converging ones.

The external borders of the Member States and their protection are one of the very basic requirements of their sovereignty, and in order to transfer this, strong trust is (would be) necessary towards the other Member States. Likewise, entering into a so close partnership like EU membership with newcomers from very different economic and cultural background (would) require strong trust. Grabbe (2012) likens trust to oxygen in the EU’s bloodstream, and taking the physiological analogy further, when this trust/oxygen disappears, vital functions begin to shut down. The loss of trust between the Member States (or candidates) at the political level is accompanied by a growing distrust of each other’s institutions. Captured States, corruption and weak institutions are serious problems for a legal community like the European Union, whose members are highly interdependent and are at the mercy of each other in terms of compliance with common rules and regulations.

But who trusts (or doesn’t trust) each other? The Union, the Member States, the countries, the peoples, the Governments, the voters or the politicians? And whose interest is to expand the Schengen area or the European Union itself? As the theory of





public choice<sup>9</sup> emphasises, international agreements are not concluded by States, but by single politicians. The decisions made by international organisations are the decisions of persons influenced by their own personal motivations and lobby interests. In the same way, behind the clashing “national interests” in the Council there are the interests of the current politicians of the current Governments (and the lobby capable of influencing them). The actors of public choice theory do not make decisions based on lofty ideas, or even if it seems so, there must be very specific interests behind them. What the voters and society want, i.e. whether there is a valid social preference about the EU enlargement or about expanding the Schengen area, is highly doubtful. From this point of view, the history of the European Union is the entirety of the decisions made by people along their current interests. These interests sometimes coincide with the direction arising from rational economic benefits. Sometimes, however, other factors steer the motivations of decision-makers in other directions, which are more difficult to quantify.

Nevertheless, even if economic rationality wins, who are the winners? The market? Who are the market? The consumers, the labour force, or most probably the multinational corporations? As Berend (2016) argues, the interests of Western European corporations are inevitable, since their need for a stable and politically safeguarded European market and cheap but skilled labour force made them the largest supporters of deepening and widening the integration. The common currency or the borderless and ever-growing single market became the dominant interest of big business in the European Community since the mid-1980s, as big European corporations started to establish a dense European network of subsidiaries and value chains throughout the Community and a huge lobbying apparatus in parallel. According to Berend (2016), their interests sometimes meet the interests of the nation states who often feel powerless alone in the globalised world and look for joint solutions.

The latest news is about the chance that Romania and Bulgaria are to join the Schengen zone by air and sea by March 2024. “Our adoption in Schengen for the air and sea borders was a matter of restored trust”, said Kiril Petkov, former Prime Minister, leader of Bulgaria’s ruling pro-European We Continue the Change party.<sup>10</sup> At the same time, Austrian officials carefully said only that negotiations are continuing.<sup>11</sup>

The Western Balkan countries are far from fulfilling the membership criteria. But what if they speed up and are ready to join? How could the EU prepare to accept them? Romania and Bulgaria are fulfilling the Schengen criteria for years, and still receive pushback. If the Member States cannot enlarge the Schengen area with fellow members who satisfies all the formal expectations, how we can dream about enlarging the EU in the foreseeable future with fragile candidates? We have only possible answers. Since Jean Monnet we know that “Europe will be forged in crises, and will be the sum of the solutions adopted for those crises”. Let us see how this crisis ends up. And whose interest prevail over the others’.

<sup>9</sup> See, for example, VAUBEL 2013: 451–468.

<sup>10</sup> DUNAI 2023.

<sup>11</sup> GREENALL 2023.





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