

## **The Enlargement of the EU. A Comprehensive Review on the Relations between the EU and the Western Balkans**

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### **LECTURE 1**

#### **1. Introduction**

Hello, my name is Ezio Benedetti, and I am assistant professor and lecturer in EU Law at the Department of Social of Political Sciences of the University of Trieste. Also, I gained a valuable on the field experience in the Balkan region managing and implementing complex EU funded projects dealing with minorities' protection, public administration reform and higher education. Thanks to my over 20 years of progressive professional experience both at an academic and on the field level, I have been able to gain a valuable and solid scientific knowledge and experience in the WB6, with a specific focus on EU accession and related matters. My today's lecture is dedicated to analyse and present the main principles and rules governing the EU accession process in general terms (e.g. accession criteria and conditions), as well as to introduce and assess the EU approach towards the Western Balkans countries (e.g. stabilization and association process), with a particular focus on the current EU accession perspective of the WB6. Also, the current state of art of EU negotiations will be briefly recalled for each country.

#### **2. Goals and overview of the lecture's contents**

This lecture has three main goals and it is divided in three sections accordingly. First, it aims to provide the students with a wider perspective of the evolution and of the current principles and rules governing the EU enlargement policy. To do so, I refer to the different types of association and to the procedures to be followed for the accession of a new member to the EU. Second, it presents an exhaustive picture of the current state of art of negotiations for the WB6, and of the main issues still pending on that regard. This will be done by presenting the EU accession of the WB6 in a legal, as well as political perspective, presenting the evolution of of EU-WB6 relations from Thessaloniki 2003 to Sofia 2020. Third, it tries to assess the impact and effect of the Stabilization and Association process in the region, by highlighting the main differences characterising the WB6 enlargement with other EU accession processes completed so far (e.g. Romania and Bulgaria in 2004, Croatia 2013 etc.). To do this, particular attention is dedicated to the evolution of the Copenhagen criteria and to the application of the conditionality principle to the WB6.

The EU is today the most ambitious organization of the continent as per what concerns the level of integration of its members, simultaneously it is the most rigorous one as regarding

the accession criteria for the candidate countries. On the other hand, the organization is demonstrating a magnetic force to absorb new members and its current contours of growing up, such as the population, the economy and the territorial size, has transformed the EU in a “global player” and the largest economic block in the world. In this context, it is much more reasonable to analyze and to handle the object of this lecture in a wider context than merely focusing on the relations between the EU and the WB countries. Therefore, a background on the EU enlargement policy is needed and it must include issues such as: the deepening and evolution of the enlargement process, as well as an analysis of the current legal basis of the EU to enter into contractual relations and to conclude international agreements with third parties (e.g. non-member countries), as clearly foreseen in Art. 24 TEU, as well as in such as Art. 8 TFEU concerning the relations with the neighboring countries and in Art. 47 TEU which equips the Union with the legal personality to do so. In addition to the legal perspective, we cannot disregard the importance of the biggest enlargement of the European Union (in 2004 with ten new member states) and the impact this practice had on this enlargement process too. In this context, particularly important is the practice introduced by the European Community to the Central and Eastern European Countries (CEEC) for the conclusion of specific agreements in the form of Association Agreements which *de facto* were seen as a pre-accession bilateral instrument by the CEEC. These agreements were signed in 1991, but they were followed in 1993 by the decision taken during the Copenhagen European Council related to the political and economic criteria for membership (e.g. the Copenhagen Criteria) to be respected by each candidate country to entry in the EU as a full member. In other words, accession became officially a political goal of the EU since 1993. Today, another very similar form of agreements called Stabilization and Association Agreements (SAA-s) and a pre-accession process is applying to the six Western Balkan countries (WB6) as tool for their accession. In other words, the Stabilization and Association Process (SAP), officially launched by the EU in May 1999, accompanied exclusively by a pre-accession financial assistance is the first real step towards the establishing of closer relations between the EU and these countries. The signature of a SAA represents on itself the entry into a more advanced phase in the relationships with the EU implying increased responsibility for each country. But, in addition, the Copenhagen criteria have been revised and strengthened, allowing the EU to have a stricter control of the whole process (e.g. all 35 negotiating chapters refer to these criteria).

Another important issue that will be part of today’s lecture, is the analysis of the general EU approach towards the countries of the WB in the context of the attempt of stabilizing the region. In other words, even if the WB6 strengthened their economic and political ties with the EU since the late 90s, permanently expressing the desire to join the Euro-Atlantic structures; the regional wars which ravaged the region between 1991 and 1999 remained on the background, and most of the bilateral problems are still on the table unsolved, making the stability of the region still a mere desire rather than a solid reality. So, since 1997 the WB countries have been taken as a whole in the agenda of the EU being part of the “Regional

Approach” with clear objectives to support the creation of an area of political stability and economic prosperity by establishing and maintaining democracy, rule of law, ensuring respect for minorities and human rights, reviving economic activity. After the war in Kosovo, in the following up of the EU initiative, in June 1999 the EU launched the “Stability Pact” for the South Eastern Europe, presented as another attempt of the international community to replace the previous crisis of the region with the prospect of Euro-Atlantic integration already promised to all these countries. This “Marshall Plan” for the SEE, as the Stability pact was used to be called, aimed to foster the reconstruction of the WB6 through economic development projects receiving wide international support. It aimed also to give to that region the appropriate support and direction toward the membership in the EU and improving good-neighborly relations, in the sense that EU integration and regional cooperation should be regarded as complementary processes.

The Zagreb Summit (November 2000) and the Thessaloniki Summit (June 2003) have clearly reconfirmed the political and economic support for the WB countries to move closer to the EU, reconfirming once more the importance of the stabilization and association process.

In addition, the state of art of the relations of the EU with WB countries will be presented too. Many of these countries have indeed lost their initial enthusiasm towards the integration process. This situation is due to a number of combined factors: economic crisis, political instability, corruption and inconsistency of the political elites, strict requirements by the EU, unsolved bilateral controversies etc. In particular, a closer cooperation among the WB6 is a factor which is considered of especial importance by the EC for their common future into the EU. Not casually, the regional cooperation is proclaimed as essential in almost every document of the EU referred to the WB countries. Finally, we will briefly recall also the EU’s more recent approach to the WB6 as confirmed with the launch of Berlin Process and during the Sofia summit in 2020. This is very important since the EU reconfirmed its continuous commitment to the Western Balkans as well as the EU accession perspective of this region.

### **3. Evolution and principles/rules governing the EU enlargement policy (part 1 and 2)**

The signature of the SEA in 1986 created a new momentum for the future of the Community. If till then the community had been based only in economic cooperation as well in achieving merely economic goals, the SEA laid important foundations for social and political integration, too. In this aspect, the SEA is rightly considered as the first substantial revision of the treaties. It contains a number of important provisions amending the original treaties and also for the first time laid down provisions for political cooperation between the member states and for enlargement.

The Treaty of European Union (TEU) signed in 1993 in Maastricht, is distinguished for two main reasons: at first it is the treaty which founded the European Union and secondly it

amended the original Treaties (the founding treaties of the European Community). By creating the European Union, the member states did take in account the principles founded at the SEA moving towards in the process of further integration in social and political areas. It represents a step forward towards a deeper cooperation and integration as it will be shown by the other subsequent acts and initiatives of the member states (changes made with the Treaty of Amsterdam, 1997 and the Treaty of Nice, 2001 and the attempts to approve the Constitutional Treaty, 2004) until to changes made with the current treaty in force, the Treaty of Lisbon, 2007.

Besides the creation of the EU in the Maastricht Treaty (1993) alongside with new objectives to be achieved as an organization, the Union also showed attention to continue to enlarge its members as well as its area further. The enlargement of the year 1995 (with Austria, Finland and Sweden) brought the number of members increased from 12 to 15 and led to a more powerful EU internal market as well, but it also showed that a community with more members would necessarily be more difficult to be governed. In a EU based on three pillars where only the first pillar was subject to community competencies (falling within the scope of the Treaty of Rome), the two new pillars (the second and the third one) apparently had to be subject to changes as integration deepened. In this aspect, in the following years the measures to be taken were focused in two directions: the first one were the modifications made to the EU pillars - changes made by the Treaty of Amsterdam (1997), otherwise described as consolidating Treaty and aimed to improve processes and increase effectiveness of the EU. Secondly, there were the institutional reforms to be done in case of a new enlargement in the future; changes integrated by the Treaty of Nice (2001). These changes were rather technical but considered essential and of a significant importance to emphasize the new institutional balance in the EU. It is important to note that the institutional changes mentioned above were made in preparation of the next wave of EU enlargement in the year 2004 (with ten new members joining EU). But, regardless of the failure of the Constitutional Treaty (in 2004) which should have been the next step of reforming, the reform approach and the enlargement of the community continued. Many proposed provisions (several of them previously designed to be included in the Constitutional Treaty) were integrated into the subsequent treaty reform, namely the Treaty of Lisbon (2007). While as regarding the enlargement, in the same year 2007 Bulgaria and Romania joined the EU, while in 2013 Croatia became the 28<sup>th</sup> EU Member.

The enlargement of the European Community (later the European Union) has always been a joint act of the institutions of the community and of the relevant applicant state. Behind of the membership act stands the will of every member state, which acts twice, first by giving consent to the community institutions and then by ratification of the respective accession treaty. In other words, when discussing about enlargement process, we first of all should take in account that every treaty contained the proper provisions for such an action. The process of accession to each of the three first communities (TECSC, EEC and EURATOM Treaties) has

always been the same. In case of any application by any European state to become a party of any of these Treaties, the procedural rules to be followed were laid down in the provisions of that treaty.

Taking in account the way along which the communities developed, the acceding provisions of the Treaty constituting the European Coal and Steel Community (Art. 98 of the TECSC, signed in Paris 1951) were never used due to the fact that no any European state ever applied to join this community as the founding member states rapidly advanced their form of association by establishing in 1957 the Treaty on European Economic Community (EEC Treaty) and the Treaty establishing the European Atomic Energy Community (EURATOM Treaty), both signed in Rome 1957. Consequently, such acceding provisions of TECSC were never applied in practice. Nevertheless, the two new communities (EEC and Euratom) continued the same way of acceding for new members, both of them provided treaty provisions similar to those of TECSC for such a case and consequently the same procedures had to be followed in case of new countries wishing to accede. Furthermore, these two subsequent Treaties of Rome (EEC and Euratom) provide completely the same provision relating to for acceding new states i.e. that *“Any European State may apply to become a member of the Community. It shall address its application to the Council which, after obtaining the opinion of the Commission, shall act by means of a unanimous vote. The conditions of admission and the amendments to this Treaty necessitated thereby shall be the subject of an agreement between the Member States and the applicant State. Such agreement shall be submitted to all the contracting States for ratification in accordance with their respective constitutional rules.”* (Art. 237 of the EEC Treaty and Art. 205 of the Euratom Treaty).

Due to continuous expansion of the European Community, these treaty provisions were in fact becoming applicable in the years to come. The subsequent accession treaties of the community between 1972 and 1985<sup>1</sup>, in their Preambles were referring to the objectives of the Treaty establishing the European Economic Community and the Treaty establishing the European Atomic Energy Community such as *“to establish the foundations of an ever closer union among the European peoples, to ensure the economic and social progress of their countries by common action in eliminating the barriers which divide Europe”* and *“using of nuclear energy for peaceful achievements”* and also took into consideration *“the Article 237 of the Treaty establishing the European Economic Community and Article 205 of the Treaty*

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<sup>1</sup> See: the Treaty Accession of 1972, concerning the accession of the Kingdom of Denmark, Ireland, the Kingdom of Norway and the United Kingdom of Great Britain and Northern Ireland to the European Economic Community and to the European Atomic Energy Community (OJL 73, p. 5, 27.3.1972); the Treaty Accession of 1979, concerning the accession of the Hellenic Republic to the European Economic Community and to the European Atomic Energy Community (OJL 291, p. 9, 19.11.1979); the Treaty Accession of 1985, concerning the accession of the Kingdom of Spain and the Portuguese Republic to the European Economic Community and to the European Atomic Energy Community (OJL 302, p. 9, 15.11.1985).

*establishing the European Atomic Energy Community afford(ing) European States the opportunity of becoming members of these Communities.”*

In respect of these provisions in accession treaties their preambles also refer to the opinion obtained by the European Commission and the decision taken on the admissibility of the respective state which had applied to become a member of the Community. This working practice of the community institution as provided for by the treaty provisions was strictly respected at every enlargement wave of the community where prior to the signature of the Accession Treaty by the contracting parties the opinion of the Commission was obtained and then the decision was taken by the Council. At last, the Accession Treaty signed had to be subject of national ratification by all contracting parties according to their internal constitutional rules.

By the foundation of the European Union (EU) with the Treaty of Maastricht in 1992, the treaty regarding the decision-making process within the EU at the enlargement of EU by new members changed by involving in addition to the Council of the EU and to the European Commission the European Parliament (EP) too. According to the Treaty of Maastricht *“Any European State may apply to become a Member of the Union. It shall address its application to the Council, which shall act unanimously after consulting the Commission and after receiving the assent of the European Parliament, which shall act by an absolute majority of its component members.”*<sup>2</sup>. According to this treaty provision, subsequent EU enlargements occurred in full respect and with the involvement of three main institutions and their respective legal acts, namely Commission Opinion, EP Legislative Resolution and the Decision of the Council of EU.<sup>3</sup>

Thereafter, according to the Treaty of Lisbon (2007) the rules for the enlargement process in order to become a member of the EU were further enriched by providing that *“Any European State which respects the values referred to in Article 2 (TEU) and is committed to promoting them may apply to become a member of the Union. The European Parliament and national Parliaments shall be notified of this application. The Applicant State shall address its application to the Council, which shall act unanimously after consulting the Commission and after receiving the consent of the European Parliament, which shall act by an absolute majority of its component members. The conditions of eligibility agreed upon by the*

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<sup>2</sup> Art. O (1) of the Treaty on the European Union (Title VII – Final Provisions), signed at Maastricht 1992, OJL 191, p. 1, 29.7.1992

<sup>3</sup> See: The Accession Treaty of 1994, concerning the accession of the Kingdom of Norway, the Republic of Austria, the Republic of Finland and the Kingdom of Sweden to the European Union (OJL C 241, p. 9, 29.8.1994); the Treaty Accession Treaty of 2003, ACT concerning the conditions of accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic and the adjustments to the Treaties on which the European Union is founded (OJL 236, p. 17, 23.9.2003); the Accession Treaty of 2005, concerning the accession of the Republic of Bulgaria and Romania to the European Union (OJL 157, p. 11, 21.6.2005).

*European Council shall be taken into account.*<sup>4</sup> As it is clear from this treaty provision, in contrast to previous treaties, the application for the applicant state is now closely related to the respect for the values and principles of Article 2<sup>5</sup> of the Treaty on which the EU is founded and such an application should be notified all the national parliaments. The provisions of the Treaty of Lisbon (Article 49 TEU) were used as legal basis for the enlargement of the EU with Croatia which became EU member in 2013<sup>6</sup>.

The treaty of Lisbon, unlike all other previous treaties, has for the first time provided for the Member States the right to leave, respectively to withdraw from the Union by explicitly stating that “*Any Member State may decide to withdraw from the Union in accordance with its own constitutional requirements.*”<sup>7</sup> For once, it is clear that, unlike in the case of EU accession, no criteria apply in case of withdrawal; except that it should be done in accordance with its (internal) constitutional requirements. Such a provision has been applied in 2019-2020 during the process of UK’s withdrawal following Brexit referendum held on 2016. If discussed in the sense of legal improvements in the contents of the Treaty of Lisbon in comparison to the previous ones, it is important to point out that the previous treaties did not provide such a provision explicitly. But, mission and the basis on which the community was founded as well the principles (Article 2 of TEU) and also the previous practice created where countries not only decided against accession but even went to withdrawing from the EU it can be said that the EU (previously EC) did in fact not prohibit any possible case of withdrawal from the EU. In fact, two countries, i.e. Norway and Switzerland, have decided against accession, and one (Danish) territory, Greenland, has decided to leave the EU.

The act of joining the EU is based on the application made by an applicant state is subject to a unanimous vote at the Council, and the positive opinion of the Commission and, since the EU was founded (by the Treaty of Maastricht, 1992), in addition, the assent of EP is needed. This means that since the establishment of the EC the enlargement has been strictly subject to unanimity of all member states, at first reflected in the vote in Council and then after the signature of the accession treaty, by subjecting that treaty to ratification processes at the national parliaments of all the member states.

### **3. The legal personality of the EU and the enlargement process (i.e. the EU powers to conclude international agreements and to enter in diplomatic relations with third parties)**

<sup>4</sup> Art. 49 of the Treaty of Lisbon (TEU), OJC 202, p. 13, 7.6.2016.

<sup>5</sup> Art. 2 of the Treaty of Lisbon (TEU) provides that: “*The Union is founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities. These values are common to the Member States in a society in which pluralism, non-discrimination, tolerance, justice, solidarity and equality between women and men prevail.*”

<sup>6</sup> See: The Accession Treaty of 2012, concerning the accession of the Republic of Croatia to the European Union, OJL 112, p. 10, 24.4.2012.

<sup>7</sup> Art. 50 of the Treaty of Lisbon, TEU (Consolidated version of the Treaty on European Union, OJC 202, p. 13, 7.6.2016).

The European Union is attributed with legal personality by the Treaty of Lisbon<sup>8</sup>. Such a legal personality is attributed to the European Union by having as main target the realization of the objectives previously announced in the Treaty establishing the European Union. Thus, the EU needed to be recognized as an international legal entity in order to be able to get into contractual relations with other parties at an international level. Consequently, since the entry in force of this treaty (2009), the EU in carrying out the functions which relate to the legal personality may invoke its own treaty provisions. As for the purpose and importance of legal personality it is worth to mention that the practice translates into two specific characteristics: the capacity to contract agreements with other international actors (treaty-making power) and the capacity to entertain bilateral diplomatic relations with those international actors (active and passive right of legation).

However, on the other hand, through the provisions of the Treaty, the member states have carefully ‘recalled’ the limits of the powers of the institutions by stating that *“the fact that the European Union has a legal personality will not in any way authorize the Union to legislate or to act beyond the competences conferred upon it by the Member States in the Treaties”*<sup>9</sup>.

The issue most closely related to the legal personality discussed above is the ability of the EU to fully exercise the functions which are typical for actors in the field of international law such as the capacity to contract international agreements, and consequently to enjoy and held responsibility of the same rights and obligations and also the capacity to enter into diplomatic relations. These two characteristics drive the EU towards enjoying in the sphere of international law the same characteristics with states as widely known traditionally as subjects of international law and with other subjects of international law recently recognized as such.

As for what concerns the EU powers for the conclusion of international agreements, it is possible to say that it was the establishment of the EU by the Treaty of Maastricht which created a new space for the EU to obviously enjoy the above-mentioned attributes (treaty making power and bilateral diplomatic relations). The treaty provisions<sup>10</sup>, namely those relating to the creation of the CFSP and the JHA (later PJCCM) were the ‘new window’ used by the EU to expand its activities towards concluding international agreements, mostly in the field of the crisis management, like peace-keeping operations<sup>11</sup>.

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<sup>8</sup> Art. 47 of the Treaty of Lisbon, TEU (OJC 202, p. 13, 7.6.2016).

<sup>9</sup> Declaration No. 24 concerning Legal Personality of the European Union, attached to the Lisbon Treaty (OJC 202, p. 346, 7.6.2016).

<sup>10</sup> See: Title V – Provisions on a Common Foreign and Security Policy and Title VI – Provisions on Cooperation in the Field of Justice and Home Affairs of the Treaty of Maastricht, 1992 (OJC 191, p. 1, 29.7.1992).

<sup>11</sup> The agreement with Bosnia and Herzegovina (BiH) on the activities of the European Union Police Mission (EUPM) in BiH is an example of that approach. See OJL 293, p. 2, 29.10.2002.



On the other hand, the EU powers to enter in diplomatic relations is manifested firstly through diplomatic representations of the Union accredited into third countries and international organizations and *vice-versa*. From this point of view the EU is also trying to enhance up its diplomatic profile by creating within the Treaty of Amsterdam (1997) the position of the High Representative for CFSP and later on by the Treaty of Lisbon (2007) the European External Action Service as an assisting body of the High Representative for CFSP<sup>12</sup>. Furthermore, the Treaty of Lisbon goes beyond that by even providing further provisions for exercising Union's foreign policy, explaining that the "*Union delegations in third countries and at international organisations shall represent the Union*"<sup>13</sup>.

As mentioned above, EU over the years has made considerable progress in widening its diplomatic relations. By the entry into force of the Treaty of Lisbon (2009) the Union delegations replaced the Commission delegations active until then, and this act represented another step ahead for the EU. At present, the EU is operating globally using a total network of 139 delegations and offices which are responsible for maintaining EU relations with countries, group of countries and international organizations.

#### **4. Effects of the Accession Treaties on the acceded states**

Once the ratification process of an Accession Treaty at the national parliaments of all the member states and at the national parliament of the applicant state has been completed, the accession treaty enters into force at the date provided for in the treaty. From the time of entering into force of the accession treaty, the applicant country becomes a ordinary member of the European Union by taking over the rights and obligations provided by the treaty. In addition to the effects from membership in the European Union, there are also several political, economical and legal effects on the country having recently acceded as it accepts the conditions of admission as set out in the act of accession. We may conclude that by signing the accession treaties, the acceded states mainly renounced from competencies dealing with EC issues, mostly internal market, and it shared competencies on JHA and CFSP too.

At first, it is worth mentioning that the treaties of accession provided legal and international obligations for the acceded country. It is worth mentioning that the most contentious and sensitive issue has always been the economic one, especially the effects for the economic development of the acceded country resulting from the pressure of the free competition in their economies under the conditions of a free market economy where the 'internal market' is to be implemented with all its components and free competition is based on the quality of the services and goods for all the components of the four basic freedoms (freedom of goods,

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<sup>12</sup> See for more: Art. 27 (3) Treaty of Lisbon, TEU (OJC 202, p. 13, 7.6.2016).

<sup>13</sup> Treaty of Lisbon established Title VI - The Union's Relations with International Organizations and Third Countries and Union Delegations. (This Title is composed of Arts. 221, 222 TFEU, OJC 202, p. 47, 7.6.2016).

movement, services and capital). Another aspect of this concern is the decision-making issue and the fact that such processes are transferred to the EU institutions for many areas of former State competences, being not any more national ones and by diminishing any chances for the acceded state to affect them or take protective measures.

From this point of view, the main focus should be lie on the areas for which the Union shall have exclusive competence such as: *“customs union, the establishing of the competition rules necessary for the functioning of the internal market; monetary policy for the Member States whose currency is the euro; the conservation of marine biological resources under the common fisheries policy; common commercial policy”*<sup>14</sup>. For that division of competences the explanation provided by the treaty is most important that *“When the Treaties confer on the Union exclusive competence in a specific area, only the Union may legislate and adopt legally binding acts, the Member States being able to do so themselves only if so empowered by the Union or for the implementation of Union acts”*<sup>15</sup>.

After having founded the EU by the Treaty of Maastricht, the accession treaties signed in the following years provided certain restrictions for the acceded countries even in the area of CFSP. As mentioned above, this is an area where in fact the competencies of the EU institutions are limited. Such limitation is extended to the decision-making sphere only in certain issues where the sovereignty and the independence of the member states must be respected and should be ‘untouchable’. As regards the Area of Freedom, Security and Justice (otherwise known as PJCCM, Title V - TFBE), the signature of an accession treaty currently does not lead to the restriction of the sovereign competencies of the acceded country. In that area the will to act and adopt measures depends rather on the cooperation, coordination and collaboration between the member states and the EU institutions (namely the Commission and the Council).

## **5. Accession Criteria – The elaboration and the application of accession conditions for the WB6**

The accession conditions have significantly changed during the last 40 years or so, depending on the requirements of the Member States and the abilities on the other hand of candidate and potential candidate countries in fulfilling such conditions in order to join the EU. What remained unchanged is the geographic approach (even if its geopolitical dimension changed significantly at the end of the Cold War). A state which applies for membership must therefore satisfy the three basic conditions of the European identity, democratic status and respect of human rights. In such an approach the Commission uses an open definition of the term “European” already mentioned in previous different European documents. In fact, it is

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<sup>14</sup> Art. 3 of the Treaty of Lisbon, TFEU (OJC 202, p. 47, 7.6.2016).

<sup>15</sup> Art. 2 (1) of the Treaty of Lisbon, TFEU (OJC 202, p. 47, 7.6.2016).

possible to say that this approach combines geographical, historical, and cultural elements which all contribute to the European identity. At the other hand the Commission has foreseen the further enlargement of the Union, not putting up any limits to the enlargement processes. In other words, the EC considered that it is neither possible nor opportune to establish now the frontiers of the European Union whose contours will be shaped over many years to come.

As a matter of fact, the Commission's creativity and the Member states engagements are told to be decisive in setting up the accession criteria. In practice, candidates always have had to adapt to and accept the European Union's requirements.

As for the above and pursuing to Art. 49 TEU "*Any European State which respects the principles set out in Article 2(1) may apply to become a member of the Union..(..)*." Practically in the enlargement processes one of the first and most important criteria which should be respected by the candidate countries was the undertaking of the state's obligation to adopt the rules and objectives of the European Union referred as the *acquis communautaire*. Due to that, in the case of the first enlargement, i.e. the admission of Denmark, Ireland and the UK, the six founders of the European Communities gave their blessing to the next step of Community enlargement in so far as the applicant states did accept the Treaty's provisions and the political aims. Taking into considerations such principles the parties were "*determined in the spirit of the Treaties to construct an ever closer union among the peoples of Europe on the foundations already laid.*"<sup>16</sup> The applicants accepted the conditions set by the Member States such as *acquis communautaire*, *transnational period* and the *conditionality*.

None of these principles is foreseen in the text of Art. 49 TEU regulating the enlargement processes. The first two of them (*acquis communautaire transnational period*) are elaborated at the time of the first enlargement to be completed later by the principle of conditionality during the phase of the fifth enlargement with Central and Eastern European Countries (CEEC) in 2004.

Even though not included in the TEU, it can be argued that the existence of these principles stems from the spirit of the Treaties and is a core component of the Community method. This initial approach served as a base for the application of the same "accession conditions" in the subsequent enlargements. Due to that, there is always the candidates' duty to approximate their legislation and make it compatible with that of the EU. Additional to that, in the following enlargement the economic and political criteria played a substantial role as well.

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<sup>16</sup> Preamble of the Accession Treaty, 22 January 1972 concluded by the six Member States of the European Communities on the one side and the Kingdom of Denmark, Ireland, the Kingdom of Norway and the United Kingdom of Great Britain and Northern Ireland on the other side, OJL 72, p. 5.

On the one hand they require that the candidate state for integration guarantees democracy, rule of law, respect of human rights and minorities, and on the other hand the candidate country must establish a market economy, which can stand the competitive pressure of the common European market. Finally, the candidate country should be able to meet the obligations arising from the “*acquis communautaire*” the legislation of the European Union.

Seen *de facto*, the political requirements had not been an issue of the first enlargement, but they became of great importance in the following enlargement, even though not expressed in the respective Accession Treaties (e.g. Greece 1981 and Portugal 1986). In the current enlargement processes the economical and political conditions represent crucial elements for accession.

## **6. Accession Criteria – The Copenhagen Criteria and the evolution of accession criteria (part 1 and part 2)**

In the EU enlargement process the “Europe Agreements” known as association agreements, which have been the preparation key for the Eastern European Countries on the way of their accession have played an important role. In this respect such agreements concluded in 1991 established an assistance program named PHARE<sup>17</sup> to provide the financial support for a successful economic and political transition.

For the first time ever, the Copenhagen European Council in 1993 radically changed the political objective of the Europe Agreements by linking them to accession. These agreements together with all the other institutional instruments designed by the EU would be entirely a part of the “pre-accession strategy” confirmed by the Essen European Council in 1994. Such mechanisms became and remained the legal bases of the relations between the associated countries with the EU and its member states strengthening and elaborating the associated countries’ obligations to approximate their legislation in order to facilitate their process of becoming EU member states. As a matter of fact, at the Copenhagen European Council (held in 1993) the enlargement process of EU was formally recognized as a common objective of the Union and thus stated that the new members may join it once they are ready: “(..)..*the associated countries in Central and Eastern Europe that so desire shall become members of the European Union. Accession will take place as soon as an associated country is able to assume the obligations of membership by satisfying the economical and political conditions required.*”<sup>18</sup>

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<sup>17</sup> Poland and Hungary: Assistance for Restructuring their Economies (PHARE) was established in 1989. Such Agreements were signed firstly with Hungary, Poland and Czechoslovakia and later on with Bulgaria, Romania, Slovenia and the Baltic States.

<sup>18</sup> European Council in Copenhagen 21-22 June 1993, Conclusions of the Presidency, p. 13.

This list of accession conditions set out by the Copenhagen European Council is known as the “Copenhagen Criteria” which should be beforehand fulfilled by the candidate countries in order to start the negotiations for accession. As previously mentioned, there are several conditions such as: the institutional reforms, a functioning market economy with enterprises being able to compete in the common market, minimum political and economical standards which present *sine qua non* conditions for accession of each country pretending to join the EU. In this regard, the accession criteria actually demand to be applied more strictly and are always getting a more institutionalized character than in previous enlargements.

On the other hand, the Copenhagen Criteria consider that the enlargement is not only up to the ability of a State to fulfill the above-mentioned conditions but also to *“the Union’s capacity to absorb new members, while maintaining the momentum of European Integration is also an important consideration in the general interest of both the Union and the candidate countries.”*<sup>19</sup>.

Apart from the written criteria (Copenhagen Criteria) an important role in the EU enlargement process is currently guaranteed by the so called ‘appropriate adjustments’. These appropriate adjustments come in question time by time as the result of the developments within the EU and of the challenges ahead.

Facing and managing the enlargement with the CEEC and having regard to the EU future of the Western Balkan countries (especially after the dissolution of the SFRY) at the beginning of the nineties, the EU was directly confronted with poor situations in economies, democracies, human rights, the lack of rule of law, and the weakness in functioning of these countries’ public administration, on the one side, and with their aspiration to join the EU on the other hand. Because of that (e.g. quite different socio-political and economic situation of WB6 countries if compared to that of CEEC), the EU could not call any more that the enlargement is still based on the same criteria as they were years ago.

Taking that in account, the accession criteria are now subject to a stricter application in a manner that the candidate countries should create the conditions for their integration based on the Copenhagen criteria and pre-accession strategy defined in Essen for the CEEC through consistent adjustments of their administrative structures. In this regard “the candidates’ obligations as set out in Copenhagen have been further adopted, making accession increasingly look like a moving target, which should be adapted to different circumstances and problems. Factually such an approach set up the creation of a new breathe in the relation between the parties, the fulfilling of the Copenhagen political and economic criteria serves only as a condition of being admissible to start negotiations for accession.

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<sup>19</sup> European Council in Copenhagen, Conclusions of the Presidency, op. cit., p. 13.

In this regard “the candidates’ obligations as set out in Copenhagen have been further adopted, making accession increasingly look like a **moving target**, which should be adapted to different circumstances and problems. [...] **CONDITIONALITY**

## **7. Conclusions and Introduction to Lecture n. 2**

The 1<sup>st</sup> lecture introduced the main elements characterizing the evolution of the EU accession policy as well as the main legal principles regulating the enlargement process in general terms with a clear reference to WB6 when and if needed. This approach guaranteed a consistent approach to the evolutive nature of EU enlargements and to the particularities of the WB6 case.

The 2<sup>nd</sup> lecture will focus on the evolution of the EU’s approach towards the WB6 since the adoption of a Regional approach (SAA and Association process of WB6 to the EU). Also, it will present which are the main the main achievements and obstacles towards the EU integration of the region at the end of 2021.

## **LECTURE 2**

### **1. Goals and overview of the lecture’s contents**

This second lecture presents an exhaustive picture of the current state of art (at the end of October 2021) of EU accession negotiations for the WB6, and of the main issues still pending on that regard. Particular attention will be dedicated to analyse the progresses made by each WB6 country on its EU accession path and to the challenges and obstacles which still characterize this articulated process.

The second main goal of this lecture is to assess the impact and the effect of the Stabilization and Association process in the region, by highlighting the main differences characterising the WB6 enlargement with other EU accession processes and by individuating the main challenges which region still has ahead.

### **2. The EU approach towards the Western Balkans – the Stability Pact, the Stabilization and Association Process, the Zagreb and Thessaloniki summits (part 1, part 2, part 3)**

After the 90s the WB6 increased significantly their economic and political ties with the EU. They did so by developing an active partnership with the EU and by providing the proper support to gear their political, economic and institutional reform processes in order to bring these countries closer to the EU. Such relations were created on different bases with each country depending on the merits, the achievements, the abilities and the political will to move towards democratization and needed reforms.

In 1997 the WB6 countries have been taken as a whole in the agenda of EU, being part of the so called “*Regional Approach*”. The objectives of the regional approach were to support the creation of an area of political stability and economic prosperity by establishing and maintaining democracy and the rule of law, by ensuring respect for minorities and human rights, and by reviving economic activity. The EU Council established the political and economic conditionality for the development of these bilateral relations as well as launching the accession partnership as a new instrument to enhance the pre-accession strategy accompanied with the financial assistance<sup>20</sup>.

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In June 1999 following the EU’s initiative, the “*Stability Pact*” for South Eastern Europe was launched representing another attempt of the international community to replace the previous crises in the region with the prospect of Euro-Atlantic integration. Based on the proposal and the leading role of the German Presidency of the EU and after having taken in account the horrible previous experiences from the conflicts in Balkans, especially after the war in Kosovo, more than 40 partner countries and organizations undertook to strengthen the countries of South Eastern Europe (SEE) in their efforts to foster democracy, respect for human rights and economic prosperity in order to achieve stability in the whole region.

The Stability Pact is considered to be one of the main catalysts to consolidate peace and security in the region. “*The Marshall Plan*” for SEE, as the Stability Pact was used to be called at that time, had not as its main priority the reconstruction of the Balkans through economic development and reconstruction projects but it should give to the region a wider international support and perspective too (G8, UN, WB, etc.). It aimed to give to the region the appropriate support and direction towards the EU membership and to improve good-neighborly relations, in a sense that EU integration and regional cooperation were regarded as complementary processes.

By this point of view, the Stability Pact for South Eastern Europe was an important tool to enhance regional cooperation and to serve the restoring of peace and stability in the region. The Pact’s aim is clearly described and divided in three different working tables (Working table I - Democracy and Human Rights, Working table II - Economic Reconstruction and Development, Working table III - Security Issues). These working tables were presented as a new policy towards the region. It was a ‘turning point’ and the first serious attempt by the international community to replace the previous, reactive crisis interventions policy in Southeastern Europe with a comprehensive long term conflict prevention policy.

In addition to the above-mentioned instruments designed for the Western Balkans, in May and April 1999 the EU extended and enhanced them launching a more ambitious approach called Stabilization and Association Process (SAP), exclusively designed for the five

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<sup>20</sup> See: Luxembourg European Council, Presidency Conclusion, “Accession Partnership”, op. cit., p. 4 (para. 14).

countries of the WB6. This process went beyond the offer of “contractual relations” in the form of Trade and Cooperation Agreements (TCA) to motivating reform through the prospect of potential membership once the relevant conditions had been met.

Thus, instead of mere Cooperation Agreements through the SAP, the prospect of the Stabilization and Association Agreements in the way of leading to their eventual EU membership were offered to the group of countries of the Western Balkan: *“The Stabilization Association process combines new contractual relationships (Stabilization and Association Agreements) and an assistance program (CARDS), which helps each country to progress, at its own pace, towards the requirements of EU membership..(..).”*<sup>21</sup>.

For the first time ever, the Feira European Council held in June 2000 offered a clear EU membership perspective to SEE countries: *“The European Council confirms that its objective remains the fullest possible integration of the countries of the region into the political and economical mainstream of Europe through the Stabilization and Association process, political dialogue, liberalization to trade and cooperation in Justice and Home Affairs. All the countries concerned are potential candidates for EU membership..(..).”*<sup>22</sup>. The Accession Partnership introduced in the Agenda 2000<sup>23</sup> was foreseen to have a decisive impact and to be a crucial element of enhancing the pre-accession strategy. Its purpose has essentially been to make sure that the PHARE assistance, now included in a new “pre-accession assistance”, is directed specifically towards the candidates’ needs in their preparation for membership, as envisaged and monitored by the Commission.

The summit of EU member countries with the Western Balkan countries held in Zagreb (November, 2000) reconfirmed the political will of EU to give the new support to the Balkan countries on their way of integration as well as considering the stabilization and association process as a vital part for the region to move closer to the EU in such a manner that: *“The European Union confirms its wish to contribute to the consolidation of democracy and to give its resolute support to the process of reconciliation and cooperation between the countries concerned. It reaffirms the European perspective of the countries participating in the stabilization and association process and their status as potential candidate for membership in accordance with the Feira conclusions.”*<sup>24</sup> This summit officially endorsed for the countries part of the Stabilization and Association process new forms of financial support through the CARDS program; and, on the other hand, it clarified the evolvments and the progress to be achieved from each country toward the EU.

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<sup>21</sup> COM(2002) 163, Art. 1, para. 1.

<sup>22</sup> Santa Maria Da Feira European Council, Presidency Conclusion, 19-21 June 2000, Section V(D) External Relations, (para. 67), p. 8.

<sup>23</sup> European Commission, “Agenda 2000, For a stronger and wider Union”, “Final Recommendations”, p. 57 (par. 1).

<sup>24</sup> *The Final Declaration of the Zagreb Summit*, 24 November 2000, para. 4



Another key political passage on the path towards the EU integration of the WB6 is represented by the Thessaloniki Summit held in June 2003, which reconfirmed the European future of the Western Balkans and further enhanced their efforts towards EU integration: *“(..).effectively support(s) the European perspective of the Western Balkan countries, which will become an integral part of the EU, once they met the established criteria.”*<sup>25</sup>

In this course ‘The Thessaloniki agenda for the Western Balkans: moving towards European integration’ included as annex of the document states clearly the strengthening support of EU for the European Partnership, countries’ reforms, European integration efforts and stresses that the Stabilization Association Process remains the framework of the Western Balkan countries all the way to their future accession.

Taking into account the evolution of the process of EU enlargement to the WB6, it can be said that the current candidate countries for EU membership should not be focused only to the current written criteria as they exist, furthermore they should pay particular attention to a wider overview and to make first of all an overall self- assessment of their internal economic and political situation.

By my point of view the criteria set by the EU serve as an orientation’s path for the candidate countries, whereas they should be concentrated in making the reforms in order to make easier their path towards the EU membership. Thus, the criteria do not and cannot explain in details the weakness of every candidate country. Each one of them has its own characteristics and specifications and there is an internal task of their institutions to identify and solve them conforming to the EU recommendations. If we go back to the first enlargements of the Community, there were no written accession criteria described such as they clearly exist today. According to that, we can conclude that the EU in the recent enlargements is much more prepared, strict and unified in being able not only to put forward accession conditionalities to the aspirant and candidate countries to join the EU but as well to offer the appropriate assistance in order to make them eligible for EU membership.

### **3. Comprehensive and Comparative View on the Stabilization and Association Agreements (SAA) and on the Economic Agreements (EA) in the Western Balkans**

The Stabilization and Association Agreements (hereinafter SAA) are the mechanism used by the European Union for the countries of the Western Balkan in their path towards the membership into the European Union. In general terms, the SAAs contain provisions regarding the main components to be fulfilled by the respective countries in the process of the EU integration. That is why the SAA are often referred as the Integration Agreements which

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<sup>25</sup> Thessaloniki European Council, Presidency Conclusion, 19-20 June 2003, No 11638/03, Brussels, 1 October 2003, Section V (para.40), p.c 12.

are provided by the EU in forms of bilateral contractual agreements for each of the countries separately.

The EU has applied almost the same approach to the EU integration process, firstly to the Central and Eastern European countries and then also to those of the Western Balkans. This approach was concentrating on the most challenging issues for these countries such as: state building, rule of law, economic development, reforming the justice system and approximation of laws, regional cooperation, PAR, etc. At the same time of the signature of the SAAs, with the aim to fostering their economic development and intensifying their EU integration process, the EU took care that the provisions relating to economic issues may come in force and be applicable prior to the ratification of these agreements by all the member states. In addition to that, it is also important to note that with regard to economic issues, the EU had paid greater attention than at the beginning of the 90s with the achievements of economic and political ties with each of the Western Balkan countries and continued it with the signatures of the SAAs and also with the overall support given to this region (Western Balkans) in order to increase between them the dimensions of economic cooperation by signing Free Trade Agreements (FTA) with each other. Taking into account the aspects mentioned above, this part of our lecture will focus on analyzing the key components of both the SAAs and the Economic Agreements (EA).

As for the SAAs, the key components are:

- (a) political dialogue
- (b) regional cooperation (CEFTA, CEI etc.)
- (c) approximation of Laws, law Enforcement and competition rules
- (d) justice, freedom and security

As for the EAs the key components are:

- (a) economic cooperation among WB6 (Free Trade Agreements)
- (b) Instruments of Pre-accession Assistance (IPA funds)
- (c) Agreements facilitating free market access

Between 2002 -2006 all the Western Balkans countries had already signed a FTA with each other.

#### **4. The WB6 progress towards the EU (part 1 and part 2)**

Accession negotiations have been opened with Montenegro (2012) and Serbia (2014) only. Both these countries seem to be the front runners of this process. In March 2020, Member States agreed to open accession negotiations with North Macedonia and Albania. While Bosnia and Herzegovina (application to join the EU submitted in February 2016) and Kosovo (the SAA entered into force in April 2016) are still potential candidates only.

The EU accession process continues to be based on established criteria, fair and rigorous conditionality, and the principle of own merits. EU accession requires the implementation of complex reforms in a challenging environment; an objective which can only be achieved in the long term. For the process to move forward, accession candidates need, as a matter of priority, to deliver more swiftly genuine and sustainable results on key issues: the rule of law, justice reform, fight against corruption and organised crime, security, fundamental rights, functioning of democratic institutions and public administration reform, as well as on economic development and competitiveness. Further progress on reconciliation, good neighbourly relations and regional cooperation are also of key importance.

EC Reporting in 2020 enlargement package also reflects the proposals of the enhanced approach to the accession process. The assessments and recommendations for the partners, especially the forward-looking guidance on specific reform priorities, are even clearer and more precise. The reports provide transparency, including on the state of play of the accession negotiations and the extent to which fundamental reforms are being implemented. Comparative overviews of performance on the fundamentals are provided, as well as external indices to complement the Commission's assessments. Stronger contributions were solicited from Member States, who were consulted during the process and provided input and expertise, including through their Embassies on the ground. These reports also include assessments of the public political commitment of authorities to the strategic goal of EU accession.

Bosnia and Herzegovina has formally submitted an application for membership, while Kosovo has a SAA signed with the EU in April 2016, which generally precedes the lodging of a membership application. Montenegro and Serbia, the most advanced candidates. Serbia and Montenegro could join the European Union in 2025.<sup>[16]</sup> The European Council endorsed starting negotiations with North Macedonia and Albania on 26 March 2020, and they could join after 2025. It is a matter of fact that in December 2020 Bulgaria blocked North Macedonia's EU Accession Negotiations. Below is a table summarising the state of art of negotiations and main open issues for each country. Another table relates to open and closed acquis chapters so far.

**Table 1 - WB6 Accession Status by December 2020 (slide 9)**

State	Status	SAA	Membership Application	Candidate status	Negotiations start	Screening completed	Opened chapters	Main obstacles according to EU accession Reports according to last EC Reports (May 2020)
Albania	Candidate negotiating	1 April 2009	28 April 2009	24 June 2014	26 March 2020	NA	NA	Corruption, organised crime, politicisation of the judiciary
Bosnia and Herzegovina	Applicant	1 June 2015	15 February 2016	NA	NA	NA	NA	Constitution needs reform, little federal agreement about the future of the state.
Kosovo	Potential candidate	1 April 2016	NA	NA	NA	NA	NA	Still under an EU rule-of-law assistance mission, deep political and corruption problems, disputed status
Montenegro	Candidate negotiating	1 May 2010	15 December 2008	17 December 2010	29 June 2012	27 June 2013	3/33 of 33	Work on bringing financial and budgetary provisions in line with the acquis is still at an early stage. Problems in the judiciary
North Macedonia	Candidate negotiating	1 April 2004	22 March 2004	17 December 2005	26 March 2020	NA	NA	Disputes with Bulgaria, concerns about democracy and rule of law.
Serbia	Candidate negotiating	1 September 2013	22 December 2009	1 March 2012	21 January 2014	24 March 2015	2/18 of 34	Ongoing dispute over Kosovo, little progress in fighting corruption.

**Table 2 - Opened and Closed Negotiation Chapters for each WB6 as per December 2020 (slide 10)**

**Legenda**

- generally already applies the acquis
- no major difficulties expected
- further efforts needed
- non-acquis chapter - nothing to adopt
- considerable efforts needed
- very hard to adopt
- situation totally incompatible with EU acquis

- s – screening of the chapter
- fs – finished screening
- f – frozen chapter
- o – open chapter
- x – closed chapter

Acquis Chapter	North Macedonia	Montenegro	Serbia	Albania	Bosnia and Herzegovina	Kosovo
<b>1. Free Movement of Goods</b>	s	o	fs	s	–	
<b>2. Freedom of Movement for Workers</b>	s	o	fs	s	–	
<b>3. Right of Establishment &amp; Freedom to provide Services</b>	s	o	fs	s	–	
<b>4. Free Movement of Capital</b>	s	o	fs	s	–	
<b>5. Public Procurement</b>	s	o	o	s	–	

<b>6. Company Law</b>	–	o	o	s	–	
<b>7. Intellectual Property Law</b>	s	o	o	s	–	
<b>8. Competition Policy</b>	–	o	fs	s	–	
<b>9. Financial Services</b>	–	o	o	s	–	
<b>10. Information Society &amp; Media</b>	–	o	fs	s	–	
<b>11. Agriculture &amp; Rural Development</b>	–	o	fs	s	–	
<b>12. Food safety, Veterinary &amp; Phytosanitary Policy</b>	s	o	fs	s	–	
<b>13. Fisheries</b>	–	o	o	s	–	
<b>14. Transport Policy</b>	–	o	fs	s	–	
<b>15. Energy</b>	–	o	fs	s	–	
<b>16. Taxation</b>	–	o	fs	s	–	
<b>17. Economic &amp; Monetary Policy</b>	s	o	o	s	–	
<b>18. Statistics</b>	s	o	o	s	–	
<b>19. Social Policy &amp; Employment</b>	–	o	fs	s	–	
<b>20. Enterprise &amp; Industrial Policy</b>	s	o	o	s	–	
<b>21. Trans-European Networks</b>	–	o	fs	s	–	

<b>22. Regional Policy &amp; Coordination of Structural Instruments</b>	s	o	fs	s	—	
<b>23. Judiciary &amp; Fundamental Rights</b>	s	o	o	s	—	
<b>24. Justice, Freedom &amp; Security</b>	s	o	o	s	—	
<b>25. Science &amp; Research</b>	s	x	x	s	—	
<b>26. Education &amp; Culture</b>	s	x	x	s	—	
<b>27. Environment</b>	—	o	fs	s	—	
<b>28. Consumer &amp; Health Protection</b>	—	o	fs	s	—	
<b>29. Customs Union</b>	—	o	o	s	—	
<b>30. External Relations</b>	—	x	o	s	—	
<b>31. Foreign, Security &amp; Defence Policy</b>	—	o	fs	s	—	
<b>32. Financial Control</b>	s	o	o	s	—	
<b>33. Financial &amp; Budgetary Provisions</b>	—	o	o	s	—	
<b>34. Institutions</b>	—	—	—	—	—	
<b>35. Other Issues</b>	—	—	o	—	—	

Following the relevant impact that the 2008-2013 economic crisis had on the Eurozone and also on the enlargement process, and the related insufficient measures and weak steps forward made by each WB6 country on its path forward EU accession, in July 2014, the President of the EC at that time, Jean-Claude Juncker, announced that the EU has no plans to expand in the next five years. Juncker described Serbia and Montenegro as front-runner candidates, and projected that they would join by 2025. Following this statement and the problems faced by many countries in their relations with the EU and with neighboring countries, which did not lead to any significant advancement in these years, the expectations and the enthusiasm of most WB6 towards the EU were somehow frozen, leading the path to Euroscepticism and favoring the nationalist discourse of many politicians (perhaps we remind here that the issue of Visa liberalization for Kosovo citizens is still unsolved at the moment). So, almost 5 years passed not recording any significant step forward a new approach to the WB6, with the exception of the progresses made by several countries in the EU acquis and the signature of the SAA by Kosovo in April 2016 and the start of Serbia negotiations in 2014.

Finally, on 6 February 2018, the European Commission published its expansion plan, which covers the six Western Balkan countries. The plan envisages that all six applicants could achieve accession as members of the European Union after 2025. However, something relevant changed only with the new European Commission, under the presidency of Ursula Von Der Leyen, appointed in 2019. So that, The European Council endorsed starting negotiations with North Macedonia and Albania on 26 March 2020, and they could join after 2025.

On that regard an important EU summit was held in Sofia in May 2020. It was noteworthy that the Summit referred to 'partners' rather than states: this reflects the issue that Kosovo is only partially recognized as a state. States that did not, in 2018, recognize Kosovo include fellow Western Balkan applicant, Serbia, and other EU members: Spain, Slovakia, Cyprus, Romania, and Greece.

Also, we cannot disregard that the outbreak of the Covid-19 crisis in March 2020 impacted the EU perspectives of the Western Balkan region. So, the EU attempted to relaunch once more this process in October 2020, and the Commission adopted its Communication on EU Enlargement Policy and the 2020 Enlargement package. The EC annual reports, assessing the implementation of fundamental reforms in the Western Balkans, are presented together with clearer and more precise recommendations and guidance on the next steps for those partners, in line with the enhanced enlargement methodology. On that occasion, the EU High Representative for Foreign Affairs and Security Policy/Vice-President of the European Commission, Josep Borrell, said: "*The citizens of the Western Balkans are part of Europe and they belong in the European Union. Today's reports on the Enlargement Package provides a rigorous assessment that indicates the way forward, highlighting what has been achieved and where there is still hard work to be done.*"



Presenting the annual Enlargement Package in October 2020, EU Commissioner for Neighborhood and Enlargement, Olivér Várhelyi, commented: *“From the start of the mandate of this Commission, my aim has been to make sure both our partners in the Western Balkans and our Member States regain trust in the accession process. Our rigorous but fair assessments presented today detail where the countries stand with the reforms, with clearer guidance and recommendations on the future steps. Their dynamic implementation will speed up their progress on EU path and bring long-lasting results”.*

Another relevant step forward is represented by the Slovenian Presidency of the European Council since June 2021. The Slovenian presidency put the enlargement at the top of its agenda and talks were held during the **Brdo Meeting in October 2021**.

Hosted by the Slovenian presidency of the Council in Brdo pri Kranju, the EU-Western Balkans summit brought together **leaders** from:

- **EU member states**
- **the six Western Balkans partners**

Charles Michel, President of the European Council, chaired the summit. President Michel and Ursula von der Leyen, President of the European Commission, represented the **EU**.

During the summit, EU leaders adopted a **declaration**, with which the Western Balkans leaders have aligned themselves.

The declaration reaffirms the EU's unequivocal support for the **European perspective** of the Western Balkans. It sets out initiatives to support **connectivity** and the **green and digital transitions** in the region, and commitments in the area of **political and security cooperation**.

The declaration also refers to a range of **concrete deliverables benefiting the Western Balkans**, including:

1. **the €30 billion Economic and Investment Plan (EIP)**
2. **the pledge to boost COVID-19 vaccination rates**
3. **the path towards lower roaming costs**
4. **an Innovation Agenda for the Western Balkans**
5. **Green Lanes and Transport Community Action Plans**

The main conclusions of these meeting have been that membership is dependent on improvements in democratic standards and socio-economic reforms, but despite making progress on these issues, the door to the EU seemingly remains closed.

*"The greatest risk in the region is really a very steady and constant backsliding on the rule of law and the freedom of media,"* Majda Ruge from the European Council on Foreign Relations told Euronews. *"You basically have issues of political meddling of key states in neighbouring states, specifically Serbia and Croatia."*

The holdup in membership progress varies between each country. As membership talks stall, other nations such as China and Russia have been quick to provide investments and exert influence on countries in the region. The EU has so far offered more finance to the Western Balkans, but divisions between members mean that enlargement seems off the menu for now. The geopolitical dimension of the WB6 enlargement cannot be disregarded, as well as the interest shown in the region by global actors as Russia, USA and China are (WB6 AS GEOPOLITICAL PLAYGROUND).

Despite all these doubts and undisclosed points, the leaders reaffirmed their unequivocal support for the European perspective of the Western Balkans, which is of mutual strategic interest and remains a shared strategic choice.

The EU reconfirmed its commitment to the **enlargement process** and relevant decisions taken, based upon credible reforms by partners, fair and rigorous conditionality and the principle of own merits.

EU leaders also recalled the importance for the EU of being able to maintain and deepen its own development, ensuring its capacity to integrate new members.

The Western Balkans partners reiterated their dedication to **European values and principles** and to carrying out **necessary reforms** in the interest of their people.

## 8. Conclusions (part 1 and 2)

In conclusion, it is pretty obvious that the EU perspective of the WB6 is still actual, even if there are still several obstacles and barriers to be crossed before achieving this goal. These obstacles are present both in the EU members (scarce willingness to proceed on the integration path due to combined economic and pandemic crisis), as well as in WB6 countries (inconsistency of political elites, weakness of reforms, high level of crime and corruption, etc.) levels.

A credible enlargement policy for the WB6 is a geostrategic investment in peace, security and economic growth for the whole of Europe, more so in times of increasing global challenges and divisions. The firm and merit-based prospect of full EU membership for the Western Balkans is in the European Union's very own political, security and economic interest. The February 2020 Commission's Communication "*Enhancing the accession process – A Credible EU perspective for the Western Balkans*"<sup>26</sup>, endorsed by Member States

<sup>26</sup> [https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/enlargement-methodology\\_en.pdf](https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/enlargement-methodology_en.pdf)

in March 2020, set out concrete proposals for strengthening the accession process, by making it more predictable, more credible, more dynamic and subject to stronger political steering. The strengthened approach underlines the importance of a merit-based accession process built on trust, mutual confidence and clear commitments by the European Union and the Western Balkans, with an even stronger focus on fundamental reforms.

Credible progress in the rule of law area remains a significant challenge, which often correlates with a lack of political will. A slow pace in judicial culture continues throughout the Western Balkans region without sufficient commitment to the principle of judicial independence. The overall pace in the fight against corruption has slowed down and the track record in most partners is far from meeting the requirements for membership, whilst in the area of freedom of expression and media pluralism there has been the least progress last year.

For the first time, the Commission assesses the overall balance in the accession negotiations with both Montenegro and Serbia and proposes the way ahead. This should allow the intergovernmental conferences, which should take place after the publication of the Commission's annual package, to provide the fora for political dialogue on reforms, take stock of the overall accession process and set out the planning for the year ahead, including the opening and closing of chapters and possible corrective measures.

In the case of Albania and North Macedonia, the Commission looks forward to the first intergovernmental conferences to be convened as soon as possible after the adoption of the negotiating frameworks by the Council. The Commission confirmed further progress in the implementation of reforms in Albania and North Macedonia. Albania has already made decisive progress and is close to meeting the conditions set by the Council in view of the first intergovernmental conference.

Bosnia and Herzegovina is expected to address 14 key priorities from the Commission's Opinion on its EU membership application, with only some steps taken so far. As regards Kosovo, limited progress was made on EU related reforms and it is important that Kosovo authorities redouble their efforts to advance on the European path, including through the implementation of the Stabilisation and Association Agreement.

The Commission also adopted a comprehensive Economic and Investment Plan for the Western Balkans<sup>27</sup>, which aims to spur the long-term recovery of the region, a green and digital transition, foster economic regional cooperation, boost economic growth and support reforms required to move forward on the EU path.

Concluding it is possible to affirm that **the EU perspective of the WB6 is still actual**, Even if there are **several obstacles and barriers still to be crossed** before achieving this goal both

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<sup>27</sup> [https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/communication\\_on\\_wb\\_economic\\_and\\_investment\\_plan\\_october\\_2020\\_en.pdf](https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/communication_on_wb_economic_and_investment_plan_october_2020_en.pdf)

in the EU (scarce willingness to proceed on the integration path due to combined economic and pandemic crisis) and in WB6 (inconsistency of political elites, weakness of reforms, high levels of crime and corruption, problems with rule of law and PAR etc.).

What is crystal clear in our opinion is that a credible enlargement policy for the WB6 is a geostrategic investment in peace, security and economic growth for the whole of Europe, more so in times of increasing global challenges and divisions.

So, we cannot disregard the fact that the October 2021 Brdo EU-WB6 informal meeting of the European Council highlighted that the EU perspective must be relaunched also in a geopolitical perspective.

EU leaders adopted the **Brdo Declaration (2021)**, in many respects similar to the **Sofia Declaration (2018)** and the **Zagreb Declaration (2020)**. On a political level, the three declarations confirm the European perspective of the Western Balkans. **The EU's commitment to the enlargement process is mentioned in the Brdo Declaration**, with the caveat that countries in the region should stay on course for reforms, with **fair and rigorous conditionality to be applied** as well as assessment according to individual merits.

The declaration states that the EU is 'the region's closest partner, main investor and principal donor'.

**The strengthened approach underlines the importance of a merit-based accession process built on trust, mutual confidence and clear commitments by the European Union and the Western Balkans, with an even stronger focus on fundamental reforms**