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### **European Union and the Western Balkans**

#### **ESSAYS**

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# ESSAYS

# Liberal Neutrality and Public Holidays in the Western Balkans

ZHIDAS DASKALOVSKI

**Abstract:** *This article focuses on the question of what kind of approach should the liberal state take regarding public holidays in multicultural societies. In particular we argue that these laws deny equal status to citizens of different ethnic backgrounds and interfere with the personal choices of the citizens concerning religion. There are privileges that the laws bestows on citizens with specific ethnic backgrounds, putting members of other ethnic groups, atheists, Christians, Muslims, and Jews, in a disadvantaged position. As a result, the liberal character of the laws is violated. This article analyzes how such circumstances can be avoided by fully implementing liberal neutrality or 'passive impartiality' where the government and its institutions – the basic structures – go along in a strictly procedural way and are separated from ideas about the good life, as proclaimed and practiced by diverse societal subcultures in society. We explore how the state can be neutral in regard to culture. From the Western Balkan cases we draw conclusions on how liberal neutrality should be applied within the laws on public holidays in multicultural societies.*

**Keywords:** *liberal neutrality, multiculturalism, Balkans, Law on public holidays*

## Introduction

The liberal state does not take a position on the validity of a person's belief about what constitutes the good life – this is the liberal commitment to tolerance and the neutrality of the state. Neutrality is understood as “passive impartiality: government and its institutions – the basic structures – go along in a strictly procedural way and are separated from ideas about the good life, as proclaimed and practiced by diverse societal subcultures in society.” Can the state be neutral in regard to culture? This paper focuses on the question of what kind of approach should the liberal state take regarding public holidays in multicultural societies. Dealing with issues related to religion we will be seeking answers to questions such as: can officials refuse to honour all religious holidays? Put an-

other way, do officials have the discretion to ban the celebration of all religious holidays or are they required to permit celebrations? Thirdly, can governments select certain religious traditions to honour without honouring others? That is, how far can officials choose to honour only certain holiday seasons but not others, or can they choose to celebrate only certain traditions during certain holidays? How neutral is the state which accepts certain religious holidays at the expense of others?

In particular, we shall discuss issues related to the Laws on Public Holidays in the Western Balkan countries. We argue that these laws deny the equal status to citizens of different ethnic backgrounds and interfere with the personal choices of the citizens concerning religion. There are privileges that the laws bestows on citizens with specific ethnic backgrounds, putting members of other ethnic groups, atheists, Christians, Muslims, and Jews, at a disadvantage. As a result, the liberal character of the laws is violated. From this discussion we will draw conclusions on how liberal neutrality should be applied within the laws on public holidays in multicultural societies in principle.

## **Liberal Neutrality and Justice in Multiethnic Societies**

Modern liberalism is underpinned by the denial that there is any one way in which it is best to live. We could recall that J. S. Mill claimed that a “person’s own mode of laying his existence is best, not because it is the best in itself, but because it is his own mode” (Mill 1910: 133). The state must stay out of the individual’s autonomous construction of his/her own life plans – his/her “conception of the good.” Moreover, according to the postulates of the modern liberal theory the government must ‘treat its citizens as equals.’ The right to equal respect and concern is the founding block of Rawls’ justice as fairness (Rawls 1971). Dworkin also insists on equal respect and concern for all citizens. The government is obliged to treat those whom it governs “with concern, that is, as human beings who are capable of suffering and frustration, and with respect, that is, as human beings who are capable of forming and acting on intelligent conceptions of how their lives should be lived” (Dworkin 1978: 272). Besides, the state should not be used to “advance particularistic religious, ethnic or cultural nationalist agendas” (Abizadeh 2004: 232).

Liberalism thus, supports the idea of the neutrality of the state towards the disputed questions about the good. Such conceptions may include, for example, commitments to causes based on religious, gender, political, ethnic or other aspect of one individual’s self-perception. Liberal neutrality means that public action should disregard all differences among citizens including family loyalties, individual, national or religious affiliations, or economic position, so as to treat them all as equals. In liberal states political decisions must be, “so far as is possible, independent of any conception of the good life, or of what gives value



to life” (Dworkin 1978: 127–129). Neutrality is understood as ‘passive impartiality’ – the government and its institutions function in a strictly procedural way and are separated from ideas about the good life, as proclaimed and practiced by diverse societal subcultures in society. The governmental actions should not aim to eliminate or discourage lifestyles that are according to popular beliefs deviate or immoral. Rather, a liberal state should provide a “neutral framework within which different and potentially conflicting conceptions of the good can be pursued” (Kymlicka 1989: 883).

Liberals envisage a tolerant, inclusive society, populated by people adhering to a variety of cultural backgrounds and belief systems. The government “should be committed to tolerating the views and cultures of its people and, in general, committed to staying out of individuals’ decisions regarding the best way to lead their lives” (Heampton 1997: 173). Accordingly, individuals are left to autonomously mould, or pursue their own ideas of the good life. In public policy and law the state should be neutral towards conceptions of the good. As a result, within a liberal state, all citizens, regardless of their ethnic, religious, gender, political or other kind of affiliation are equal to freely pursue the way of life proscribed to them by their individual, religious or ethno-national characteristics.

## **Nation Building and Public Holidays**

The nation is a form of collective identification, bound together historically, that is, however, in “a process of constant mutation, reaffirmation or transformation of its character, including the redefinition of the features that bind fellow nationals together, the scope of the nation and/or its past” (Triandafyllidou 2005:180). Collective cultural identity refers “not to a uniformity of elements over generations but to a sense of continuity on the part of successive generations of a given cultural unit of population” (Smith 1991: 25). Following Brian Barry, we may take Weber’s definition of nationalism as a “common bond of sentiment whose adequate expression would be a state of its own, and which therefore normally tends to give birth to such a state”, and understand the nation as ‘a group of people bound by the ties of fellow-feeling, mutual loyalty, solidarity, a sense of common belonging and a common history, *wishing* to live together as a separate community.’ Regardless of whether the nation emerges from a pre-existing ethnic group, as the primordialist’s school of nationalism would argue, or it is awakened from its lethargy, as the perennialist’s view would sustain, or it is formed to respond to the needs of men and women in the modern era, as modernists may suggest, there seems to be an implicit agreement that there is a moment when nationhood comes into being. For a nation to be, “the people should have a sense of shared political destiny with others, a preference for being united with them politically in an independent state, and preparedness to be committed to a common political action” (Barry 1999: 287).

Every nation has a certain 'national narrative', a set of historical, cultural, economic and political experiences that are passed on to the next generation through the nation building process and family stories. Components of this 'national narrative' may include stories and legends related to the nation's origin, great heroes, enemies, past sufferings (collective and individual), memories of war, as well as its heritage related to poetry, literature and music. Nation building is ubiquitous process as any given political system operates within a certain cultural framework and nation-building is inevitably tied to a particular culture, language or history. Rarely however, do states engage in 'liberal nation-building,' nation-building that takes into consideration the interests of members of national minorities who wished to preserve their language, culture or particular aspects of it. More often than not the nation-building process aims exactly to negate the 'historical narratives' and cultural peculiarities of minority ethnic groups. The aim is to have the citizens accept a common 'national narrative' and create a nation by transforming the collective identity of a society composed of one or few ethnic groups.

Public or national holidays aid the nation-building process (Kymlicka 2001:39, 2002: 114). Hobsbawm has shown how a public holiday has a positive effect in stimulating national identities within nation-building (1983, 1991). Public holidays, celebrations of a historical or religious event, or a person, bestow the citizens with a sense of belonging to the nation. Although they may be continually reinterpreted and re-constructed public holidays are powerful symbols of nation building. Indeed, for some authors, the ordinary people's everyday practices produce the nation and national identity via sports and national holidays (Fox 2006). David McCrone and Gayle McPherson's selection of articles, focused on European national days' role in constructing and changing national identities in the second half of the twentieth century illustrated how "national days are invented, reconstructed, mobilized, and even denied for cultural and political purposes" as a changing complex to indicate "who people think they are, who others think they are (as in national stereotypes); and how national identities are made, unmade and remade" (McCrone and McPherson 2009: 8).

## **Liberal Nation Building**

Advocates of liberal nation building note that a problem needs to be corrected where within the nation-building process the state, beyond the inauguration of an official language, also typically promotes a specific culture, a way of life and history that is most likely to be that of the majority ethnic group, thereby indirectly neglecting the culture of various subgroups within the society (Kymlicka 1995). In essence, liberal states "privilege particular cultural practices and traditions. They insist on a particular language or languages as the lingua franca of state business and societal intercourse, organize their year in terms

of a particular calendar, recognize certain public holidays; prescribe what narratives are taught as history; and draw on particular cultural motifs and stories for the official symbols, insignia, flags and anthems of the state” (Levey 2011: 75). This cultural privileging, – typically, of a majority group – warrants some redress for cultural minorities, recognition through flags, the educational curriculum in schools anthems, insignia, and public holidays. Thus, the state has a duty to support minorities, because individuals within a minority culture are in an inequitable position vis-à-vis the members of the majority culture. While individuals of the majority culture take it for granted that their language and culture appear in the public domain, the persons belonging to the minority culture cannot take this for granted. What is also important is that because the reasons for adopting a policy in support of minority cultures would be independent of any conception of the good life, the policy would satisfy the constraints imposed by the principle of liberal neutrality.

Consequently, justice in liberal, ethnically heterogeneous states is provided only if the state is a polity that is shared by all citizens of the country:

*“The state which treats every citizen as an equal cannot be a nation state: it must be a co-nation state. It cannot be identified with a single favored nation but must consider the political community of all the ethnic groups living on its territory as constituting it. It should recognize all of their cultures and all of their traditions as its own”* (Kis 1996: 224–225).

A state that is ethnically diverse is more legitimate if all its citizens and not only those of the majority, consider the territory of the state their own homeland, accept the legal system of the state and their institutions, and respect the insignia of the state as their own symbols. These are ‘cultural goods’ to be jointly shared with all of the other citizens. The political community of a multicultural country will be just if:

*“it is formed from a union of ethnic groups living together. Its official symbols, holidays, its cultural goods handed down in school, and its historical remembrance will absorb something from the tradition of all the ethnic groups belonging to it, so that everyone can see the state is also theirs: likewise, everyone can see that the state is not their exclusive possession but is held jointly with the other ethnic groups forming it”* (Kis 1996: 237).

However, no state with a truly diverse society can equally recognize every minority. Liberal nation building is a matter of degree: states can be more or less liberal in their nation-building projects, rather than ‘purely liberal’ or ‘purely illiberal’.

## **Liberal Nation Building and Public Holidays**

According to the liberal nation building hypothesis laws must treat individuals with equal concern and the laws on public holidays must treat individuals of

different religion as equals which means that they should all have equal possibilities for observing religious or other holidays they deem important. When state action extends symbolic affirmation to some groups and not others in establishing the public symbols and holidays, it has a normalizing effect, suggesting that one group's language and customs are more valued than those of other groups. This would imply that liberal neutrality is violated, minority members are denied equal concern and that liberal equality is violated. If states grant symbolic endorsement to some ethno-religious groups and not others then Article 18 of the *Universal Declaration of Human Rights* which declares that "everyone has the right to freedom of thought," as well as Article 27 of the *International Covenant on Civil and Political Rights* that guarantees minorities the right to practice their own culture are dishonoured. Such an action can lead to what Galtung depicts as cultural violence. Violence has been defined and categorized by Johan Galtung as direct, structural and cultural violence (1969, 1990, 1996). In short: direct violence is harming others with intention. Structural violence is the harm done by socio-political structures and decisions that deprive someone of their access to basic needs necessary to fulfill one's full potential in life. Cultural violence is the cultural justification of direct and structural violence and involves the values and beliefs embedded in institutions which support the direct and structural violence of those institutions. It can be understood as "those aspects of culture, the symbolic sphere of our existence that can be used to justify or legitimate the use of direct or structural violence... the Stars and Stripes, crosses and crescents; flags, anthems and military parades; the ubiquitous portrait of the Leader; inflammatory speeches and posters – all these come to mind" (Galtung, 1990: 291, 1993: 106).

The questions about which days are to be free days for the public and/or which days are to be considered as public holidays respecting ethnic or religious feelings are highly important for the modern multicultural world we live in. Almost all countries around the globe are multiethnic in nature. Some, if not most of them, are also multi-faith societies. To reconcile different beliefs and cultural norms within a liberal state can be very difficult. Sometimes, despite the best intentions, the laws adopted will fail to treat all citizens equally. Some countries will offer better solutions to the policy dilemma, than others. For example, if a decision about which of the public holidays reflects the cultural norms of the majority population, it is going to affect individuals whose religion, ethnic background cultural practice, or personal beliefs, differ from the choices made for the days of rest. As a consequence, these individuals will be put in a disadvantaged position vis-à-vis the rest of the population. While the majority of the population would be enjoying the free day exactly when they would like to, other people would have to close their companies and shops on a day they see as suitable for doing business.

Consider the state's role in accommodating citizens with equal opportunities to exercise their religious freedoms under laws prohibiting businesses from opening on Sunday. Historically, in many European countries these laws are derived from the Christian heritage of these societies (Thaler 2013: 7). However, in multiethnic and multi-faith countries liberal theory's emphasis on treating all citizens as equals does not correspond well to the religious needs of all citizens within a working week giving Sunday as work-free day. A liberal state that is serious about treating its citizens as equals and being neutral between their preferences as far as their conception of the good life, religion, and life styles is concerned, should take into consideration the unequal positions in which non-Christian citizens find themselves due to such a law (Daskalovski 2002). Any nation-building process must take into consideration which days in the week are to be free. In fact, in most countries in the world, this question has already been settled: demands by members of ethno-cultural minorities make states reconsider the issue.

As we have discussed, majorities and dominant peoples are no less 'ethnic' than minorities and their preferences should be equally weighted against those of numerically smaller ethno-religious communities. This is not only a theoretical question of equal treatment of members of different segments of the population. The debates on which days of the year should be categorized as national holidays and whether the state must take equal consideration of the different ethnic and religious groups in the country when choosing the holidays have implications on policy making. Unjust policies influence ethnic and religious relations between various groups in a given state. Complex questions about various religious issues, proselytisation and state neutrality have been raised in policy discussions in India and elsewhere (Balagangadhara and De Roover 2007).

An elementary form of acknowledgement of diverse ethno-religious groups in a society is often missing in the traditional public celebration of Christmas in the Western countries. This is due to the fact that typically every public institution proceeds as if everyone does participate in the festival. No expression of awareness and acceptance that there are others in the political community who do not observe Christmas in any respect exists. To fail to do even this much is to "*treat such groups as if they were not here or as if they were mere visitors or interlopers and, therefore, do not belong here*" (Levey 2006: 363). Recently, difficult policy debates raged in North America, Western Europe and Australia over the celebration of Christmas (Levey 2006, Russo and Mawdsley 2001).

# Ethno-religious Diversity and Public Holidays in the Western Balkans

## Albania

According to data from the 2011 census Albania has about 2,800,138 residents (Albanian 2011 Census Data). Albanians are the majority with 82%, some 14% of the respondents refused to proclaim their affiliation, while the ethnic minorities, the Greeks, Roma, Macedonians, Vlach and others all have less than 1% of the share of the population. However, there are various alternative estimates of the size of the ethnic minorities in the country. For example, the Albanian Greek pressure group *Omonia* (Socio-political Organization – Democratic Union of the Greek Minority) estimates that there are some 300,000 ethnic Greeks in Albania or some 9% of the population. (Lutovska 2010).<sup>1</sup> Other reports give figures of between 60,000 and 70,000 Greeks in Albania.<sup>2</sup> Other minorities in Albania include the Vlachs/Aromanians (estimates up to 200,000) (Tanner 2004: 218); Macedonians (estimates vary between 4,000 and 150,000)<sup>3</sup>; Roma and Egyptians (estimates vary between 10,000 and 200,000)<sup>4</sup>; Serbs and Montenegrins (estimates vary between 4,000 and 30,000).<sup>5</sup>

Data on the religious make-up of the country show that 56.7 % of Albanians declare themselves as Muslim; 10.53 % as Catholics; 6.75 % as Orthodox; and 2.09 % as Bektashi Muslims. Another 2.5 % are atheists and 5.53 % are non-denominational believers. In Albania, public holidays are the following: New Year's Day (1<sup>st</sup> and 2<sup>nd</sup> of January); 14<sup>th</sup> of March (Summer Day); 22<sup>nd</sup> of March (Nevruz or Spring Day); 1<sup>st</sup> of May (Labour Day); 19<sup>th</sup> of October (Day of Beatification of Mother Teresa); 25<sup>th</sup> of December (Christmas Day); 28<sup>th</sup> of November (Independence Day); and 29<sup>th</sup> of November (Liberation Day). The following are also public holidays that do not occur on the same date every year: Catholic Easter, Orthodox Easter, and Bayram i Madh (end of Ramadan), Bayram i Vogel (Eid al-Adha – Feast of the Sacrifice). Overall in Albania the main holidays of the three main religions (Orthodox and Catholic Christians and Muslims) are equally observed with each granted two days of public holidays. However, if one is to include the Day of Beatification of Mother Teresa which obviously has

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1 See also similar estimates of the *American Hellenic Institute*: available at <http://www.unpo.org/article/1060>.

2 See [http://www.minelres.lv/reports/albania/albania\\_NGO.htm](http://www.minelres.lv/reports/albania/albania_NGO.htm).

3 See comments by Macedonian political activists in Albania: available at <http://www.vecer.com.mk/?ltemID=51F56B8CF85591428920D52ECB51CFF5>, and <http://www.dnevnik.com.mk/default-mk.asp?ltemID=F98EA1799801DA4DAEDAC6DEE49AC408&arc=1>.

4 See estimates in the following: <http://www.errc.org/cikk.php?cikk=2285>, and <http://www.greekhelsinki.gr/pdf/cedime-se-albania-roma.doc>.

5 See the reports of the Serbian association in Albania Rozafa: available at <http://www.moraca-rozafa.org/index.html>.



more meaning for the Christians of Albania than for the other religious communities and atheists, then the parity is violated on the behalf of the Christian community of the country. People who have no religious affiliation and atheists, who make up a big part of the population according to some estimates, have no special public holiday of their own but have free days from work when official religious holidays are celebrated.

The ethno-national minorities, on the other hand, have no right to celebrate special holidays and events important from their history. Thus, among the non-religious public holidays which Albania celebrates two have little if any connection to the feelings of the ethno-national minorities such as Greeks or Macedonians. These are 28<sup>th</sup> and 29<sup>th</sup> of November, (the Independence and Liberation days). Namely, on 28<sup>th</sup> of November, 1912, an assembly of eighty-three leaders from various regions of the country met in Vlorë declared Albania an independent country from the Ottoman Empire and set up a provisional government. On the other hand, November 29<sup>th</sup> is a national holiday in Albania that remembers the day in 1944 when communist partisan guerrillas liberated Albania from German occupation. Overall, more liberal nation building in Albania would also allow the members of the biggest ethnic minorities, the Greeks and the Macedonians, to celebrate different historical events that have stronger connection to their own community.

### *Bosnia and Herzegovina*

In Bosnia and Herzegovina the last census that let residents declare ethnic affiliation was conducted before the break-up of federal Yugoslavia, in 1991. At that time, the population of Bosnia and Herzegovina had 43.5% Muslims (or Bosniaks as they are known today), 31.2% Serbs, 17.4% Croats, 5.6% Yugoslavs, and 2% other. As no census has been held since 1991, today there are only estimates on the current ethnic and religious make-up of the country. Data from the *CIA World Factbook* gives a distribution of Bosniak 48%, Serb 37.1%, Croat 14.3%, other 0.6%, while the *US State Department Background Report* estimates the population of Bosnia and Herzegovina being comprised of Bosniaks, 48.3%, Serbs 34.0%, Croats 15.4%, and others 2.3%. There are no differences in the reports of these two organizations on the estimates of the religions belonging to this country. Both, the CIA and the US State Department estimate the religious break down in Bosnia and Herzegovina to be: Muslim 40%, Orthodox 31%, Roman Catholic 15%, and others 14%.

Bosnia and Herzegovina is comprised of two entities – a joint Federation of Bosnia and Herzegovina (FBiH) (mostly Bosniak and Croat) and the Republika Srpska (RS) (mostly Bosnian Serb entity) – each presiding over roughly one half of the state's territory. Such institutional and mutual animosities between the entities does not allow for a nationwide Law on Public Holidays. Each en-

tity has its own laws on public holidays. The comprehensive list of holidays is as follows: 1<sup>st</sup> and 2<sup>nd</sup> of January (New Year's Day) and 1<sup>st</sup>–2<sup>nd</sup> of May (Labour Day) as holidays in both entities; 1<sup>st</sup> of March (Independence Day) and 25<sup>th</sup> of November (Statehood Day) are celebrated only in FBiH; 9<sup>th</sup> of January (Republic Day – Dan Republike), 9<sup>th</sup> May (Victory Day or Dan pobjede na fašizmom), 21<sup>st</sup> of November (Dayton Agreement Day – Dan uspostave Opšteg okvirnog sporazuma za mir u Bosni i Hercegovini) are only celebrated in RS. The national government does not observe any religious holy days as official holidays. In fact the parliamentarians disagree on a state law on national holidays (Sadikovic 2010). Entity authorities routinely recognize religious holidays celebrated by members of the area's majority religion, with government offices closed on those days. Locally observed religious holidays include Orthodox Easter and Christmas in the RS, Catholic Easter and Christmas in the Croat part of FBiH, and Kurban Bayram (Eid al-Adha) and Ramadan Bayram (Eid al-Fitr) in the Bosniak dominated part of FBiH. The Federation Labour Law (Službene novine Federacije BiH N. 29/03) obligates any employer in the Federation to permit an employee four days off in a calendar year for the purpose of religious or traditional needs, two of which will be paid for. The RS law foresees the observance of the following religious holidays: Orthodox Christmas, Catholic Christmas, Kurban Bayram, Ramadan Bayram, Orthodox Good Friday, Orthodox Easter, and Catholic Easter. Orthodox Christians, Catholics, and Muslims have the right to excused and paid absences on these days, while those celebrating other religious holidays can choose two days a year for observance of other religious holidays (Article 7 of the Law on Holidays in RS).

From the above presentation it comes clear that in Bosnia and Herzegovina holidays are celebrated differently on entity (as defined in the Constitution) and regional bases. In the entities, attention has been given to allow for the equal treatment of the main religions as well as members of minority religions. On the other hand, the important ethno-national minorities in the various entities (Serbs in FBiH, and Croats and Bosniaks in RS) might not feel connected to the celebrations of the 9<sup>th</sup> of January (Republic Day – Dan Republike in RS) and 1<sup>st</sup> of March (Independence Day in FBiH) because these holidays present a particular ethno-political interpretation of the recent history of the country. The smaller ethnic minorities, such as Roma or Albanians, have no right to celebrate special holidays and events that are important from their own history. With relevant census data missing, estimates of the percentage of such minorities in the population of the country (and of the separate federal units) are very small indeed, less than one percent even, hardly justifying special public holidays for these ethnic groups. Although not very illiberal, in order to fulfill the standards of liberal neutrality Bosnia and Herzegovina needs to improve its nation building policies as far as public holidays laws are concerned.



## Croatia

In Croatia according to the census of 2011, the ethnic break-down of the 4,290,612 citizens was: Croat 90.4%, Serb 4.5%, other 5% (including Bosniak, Hungarian, Slovene, Czech, and Roma). However, the results of the census were disputed by minority organizations and are likely to have underestimated minority populations, particularly Serbs and Roma. (Balkan Insight 2012) The religious break down was as follows: Catholic 86.3%, Orthodox 4.4%, Muslim 1.47%, others 3.58% and atheists or agnostics 4.57%.

Public holidays in Croatia are: 1<sup>st</sup> of January (New Year's Day); 1<sup>st</sup> of May (Labour Day); 22<sup>nd</sup> of June (Anti-fascist Struggle Day); 25<sup>th</sup> of June (Statehood Day); 5<sup>th</sup> of August (Victory and Homeland Thanksgiving Day and the Day of Croatian Defenders); 8<sup>th</sup> of October (Independence Day). (Zakon o Blagdanima, Spomendanima, i Neradnim Danima u Republici Hrvatskoj in Narodne Novine) Public holidays that are religious in nature are: Easter Day and Easter Monday; 60 days after Easter (Corpus Christi); 15<sup>th</sup> of August (Assumption of Virgin Mary); 1<sup>st</sup> of November (All Saints' Day); 25<sup>th</sup> of December (Christmas Day); 26<sup>th</sup> of December (Saint Stephen); 6<sup>th</sup> of January (Epiphany). Citizens who celebrate different religious holidays have the right not to work on dates they celebrate: Christians who celebrate Christmas on January 7<sup>th</sup> per the Julian calendar, Muslims on the days of Ramadan Bayram and Kurban Bayram, and Jews on the days of Rosh Hashanah and Yom Kippur.

Despite this sensitivity in the Croatian Law towards members of religious minorities, it is clear that the public holidays that have a religious link are for the ethnic majority of the country, the Croats. Orthodox Christians, Muslims and 'others' do not have their religious holidays institutionalized as official ones. The ethno-national minorities, on the other hand, have no right to celebrate special holidays and important events from their history. For example, the Serbs, who have been historically an important ethnic community of the country, comprising some 12% of the population in the census of Croatian population of 1991, have no right to celebrate their own important historical events as public holidays. Even worse for the Serbs in Croatia, some of the current public holidays produce extremely negative feelings, as, for example, the annual celebration on 5<sup>th</sup> of August to commemorate the events in 1995 when the Croatian Army took the city of Knin during Operation Storm, which brought an end to the Republic of Serbian Krajina, a self-proclaimed Serb entity in Croatia. Moreover, both public holidays, 25<sup>th</sup> of June (Statehood Day) and 8<sup>th</sup> of October (Independence Day), celebrate Croatia's independence or secession from former Yugoslavia, i.e., in the eyes of local Serbs, events that they mostly do not see as something to be celebrated. Croatia even denies the local Serbs the right to commemorate the victims of the war (B92 2011). Considering the definition of the national

community or the conception of the relevant public space, Croatia is closer to having an illiberal nation building process.

## *Kosovo*

In Kosovo the census was undertaken in April 2011. Due to political reasons the process was largely boycotted in Serb-dominated Northern Kosovo. The Kosovo Statistics Office concluded that the overall resident population in Kosovo is 1,733,872, excluding the Serb majority municipalities in the north – Leposavic, Zubin Potok, Zvecan and Northern Mitrovica – where the census was not conducted. While there was no data on ethnic affiliation released, according to latest CIA *The World Factbook* estimated data, as of July 2009, Kosovo's population stands at 1,804,838 persons. It stated that the ethnic composition is "Albanians 88%, Serbs 7%, other 5% (Bosniak, Gorani, Roma, Turk, Ashkali, Egyptian, and Janjevci – Croats)". Similar estimates were given by the Kosovo Statistical Office in 2003. (Statistical Office of Kosovo: 2003)

In Kosovo public holidays are the following: New Year's Day (1<sup>st</sup> and 2<sup>nd</sup> of January); 17<sup>th</sup> of February (Independence Day); 9<sup>th</sup> of April (Constitution Day); 1<sup>st</sup> of May (Labour Day); 9<sup>th</sup> of May (Europe Day). (Law No. 03/L-064) Public holidays that are religious in nature are: Eid al-Fitr (the first day); Eid al-Adha (the first day); Christmas Day (Catholic – 25<sup>th</sup> of December); Christmas Day (Orthodox – 7<sup>th</sup> of January); Easter Monday, (Catholic); Easter Monday (Orthodox). Thus, in Kosovo the main holidays of the three main religions (Orthodox and Catholic Christians and Muslims) are equally observed. People who have no religious affiliation and atheists have no special public holiday of their own but are free from work days when official religious holidays are celebrated.

The ethno-national minorities on the other hand have the right to celebrate special holidays and important events from their history. Namely, Kosovo has so-called Memorial Days. These are the following: 28<sup>th</sup> of November – Day of Albanians; 12<sup>th</sup> of June (Peace Day); 6<sup>th</sup> of March (Day of Memorial and Respect for Veterans); 23<sup>rd</sup> of April (Day of Turks); 8<sup>th</sup> of April (Day of Roma); 15<sup>th</sup> of February (Day of Ashkalia); 28<sup>th</sup> of September (Day of Bosnians); 6<sup>th</sup> of May (Day of Gorans). According to the Law, other Memorial days shall be established out of two days in consultation with Serb community in Kosovo. Yet the Memorial days are not free-from-work days, they are just symbolic celebrations of Kosovo's multiethnic history. Two of the official holidays, 17<sup>th</sup> of February (commemorating Kosovo declaration of independence) and 9<sup>th</sup> of April (commemorating the adoption of the Constitution in 2009, approved on June 15, 2008), are, evidently, events celebrated by the Albanians from Kosovo. Serbs and other minorities might have fewer reasons to celebrate these events. Days important to their history are only memorial days, not celebrated by the whole country as public holidays.

## *Macedonia*

Macedonia is a country of about two million people. According to the 2002 census the population is divided into these ethnic groups: Macedonian 64.2%; Albanian 25.2%; Turkish 3.9%; Roma 2.7%; Serb 1.8%; and 'others' 2.2%. The religious break down in the country is: Macedonian Orthodox 64.7%; Muslim 33.3%; other Christian 0.37%; other and unspecified 1.63%. A very small number of Macedonians are Muslim, and a very small percentage of Albanians in Macedonia are Christian. Roma can be both Muslim and Christian; the Turks are Muslim while the Serbs are Orthodox.

According to the law on public holidays there are five national holidays in Macedonia: 24<sup>th</sup> of May, the day commemorating the work of the saints Cyril and Methodius; 2<sup>nd</sup> of August, the Ilinden Uprising Day; 8<sup>th</sup> of September, the Day of the Republic/ Independence Day; 11<sup>th</sup> of October, the Day of the uprising against the fascist occupation during World War Two; 23<sup>rd</sup> of October, the Day of the revolutionary struggle, commemorating the liberation struggle of the Internal Macedonian Revolutionary Organization; and 8<sup>th</sup> of December, the St. Kliment of Ohrid's day, the inventor of the Cyrillic alphabet. Macedonia also celebrates the following public holidays: 1<sup>st</sup> of January; 7<sup>th</sup> January; the first day of Christmas; the second day of Easter; the first day of Bayram; and 1<sup>st</sup> of May. All these holidays are celebrated by all the citizens regardless of their ethnic and religious background. So Albanians, Turks and other Muslims have a day off on the first day of Christmas just as the atheists and Orthodox Christians do, while Macedonians, Serbs and Vlachs have a free day on the first day of Ramazan Bayram (Eid al-Fitr) along with the atheists and all the Muslims (Official Gazette 2007).

On the other hand, according to the law, in Macedonia there are a number of holidays that are celebrated by a specific ethnic or regional group. Thus, all Orthodox Christians by law celebrate the day before Christmas (Christmas Eve). They are also off from work on the 19<sup>th</sup> of January when Bogojavlenie / Vodici (Epiphany) is celebrated as a public holiday for the Orthodox; on Good Friday; on the Pentecost; and on the 28<sup>th</sup> of August, the Assumption of Virgin Mary. A public holiday for all the Muslims in Macedonia is Kurban Bayram (Eid al-Adha), while Yom Kippur is a public holiday for the Jews in Macedonia. The following are public holidays for the Catholics in Macedonia: Christmas Eve; the second day of Easter (both according to the Gregorian calendar); and Solemnity of All Saints. In addition, in Macedonia there are public holidays for the members of different ethnic groups: 27<sup>th</sup> of January, St. Sava day, for the Serbs; 21<sup>st</sup> of December, for the Turks; 22<sup>nd</sup> November, the day of the Albanian alphabet, for the Albanians; 8<sup>th</sup> of April, the international Roma day, for the Roma; the 23<sup>rd</sup> of May, the National Vlach Day for the Vlachs; and 28<sup>th</sup> September, the international Bosniak day, for the Bosniaks in Macedonia.

According to the Law on Public Holidays in Macedonia all citizens celebrate the eleven national holidays. However, due to the inefficiencies of the law, in addition to these eleven free days from work, citizens get additional days of rest, their number being dependent on the religious/ethnic affiliation of the person. Thus, beyond the eleven public holidays that apply to all citizens, the Serbs, the Vlachs and the minority of Roma who are Orthodox enjoy the most free days from work (6) compared to members of other ethnic groups.<sup>6</sup> One less day of additional public holidays are endured by Macedonians who are Orthodox, as well as members of very small ethnic minorities who belong to the same religion, Montenegrins, Bulgarians, Ukrainians, Ruthenians, and Greeks. Albanians who are Catholic enjoy four additional days of public holidays, while the few Macedonians who are Catholic, as well as the small number of Croats, Slovenes, Slovaks, Poles, Czechs, Italians, Austrians living in Macedonia, can enjoy three extra days free from work to celebrate their specific holidays. Bosniaks, Turks, Roma and Albanians that are adherents of Islam have only two days of holiday in addition to the eleven national holidays granted to all citizens. Jews, Egyptians, and Macedonians that adhere to Islam, have only one additional day of public holidays, while Macedonians that are Protestant, atheists or agnostics have none. No additional public holidays are envisioned for members of the smaller ethnic groups that are not religious. On the other hand, Albanians, Turks, Vlachs, Roma, Serbs and Bosniaks that are not religious at least have one free day from work since they are meant to celebrate specific holidays of their ethnic group.

## *Montenegro*

According to the preliminary results of the 2011 Montenegrin census this country has a very diverse population in terms of ethnic affiliation (State Statistical Office of Montenegro: 2011). This small country of 620,029 citizens has 44.98% Montenegrins; 28.73% Serbs; 8.65% Bosniaks; 4.91% Albanians; 3.31% Muslims; and 1% Croats. The following religions are represented in Montenegro: Orthodox Christians 72.07%; Islam 15.97%; Muslim 3.14%; Catholic 3.44%; and 'other' 5%.<sup>7</sup> In Montenegro public holidays are the following: 1<sup>st</sup> of January (New Year's Day); 1<sup>st</sup> of May (Labour Day); 21<sup>st</sup> of May (Independence Day); 13<sup>th</sup> of July (Statehood Day). All of these holidays are celebrated two days (Article 2 of the Law on Holidays in Montenegro). Orthodox and Catholic Christmas Eve and Christmas, two days of Christmas and Easter Friday and Easter Monday, All Saints for the Catholics, 'krsna slava' / local saint day celebration' for the

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6 See Table 1 in the Appendix for more details.

7 In the 2011 census, the Government of Montenegro had both "Islam" and "Muslim" as religious categories in the census forms. The Muslim category refers to those people who consider themselves to be ethnically and religiously "Muslim."

Orthodox, as well as the Bayram holidays (three days each of Eid al-Fitr and Eid al-Adha) for the Muslims and Yom Kippur (two days) and Passover (two days) for the Jews are also celebrated as public religious holidays in Montenegro. (Zakon o svetkovanju vjerskih praznika 1993) According to this law, Orthodox Christians, Catholics and Muslims with six holidays have an advantage over the Jews as they get only four.

In addition, no public holidays are given for the ethnic minorities to celebrate their important days. On the contrary, public holidays such as Independence Day, and Statehood Day, refer mostly to historical events important to the ethnic Montenegrins, i.e. the separation of the country from former Yugoslavia. The dissolution of federal Yugoslavia is not an event for much celebration for the Montenegrin Serbs. Since celebrations of the aforementioned holidays are not a unifying factor for the country one could reasonably expect that at least some of the large ethnic minorities, such as the Serbs or the Bosniaks, would also like to have public holidays to celebrate their own important historical events.

### *Serbia*

In Serbia, according to the latest available census results from 2002, the population consists of: Serbs 82.9%; Hungarians 3.9%; Romany (Gypsy) 1.4%; Yugoslavs 1.1%; Bosniaks 1.8%; Montenegrins 0.9%; others 8% (Statistical Office of the Republic of Serbia 2003). Religions in Serbia according to the 2002 census were Serbian Orthodox 85%; Catholic 5.5%; Protestant 1.1%; Muslim 3.2%; unspecified 2.6%; other, unknown, or atheist 2.6%. In Serbia, public holidays are: 1<sup>st</sup> and 2<sup>nd</sup> of January (New Year's Day); 15<sup>th</sup> of February (Serbia National Day – Anniversary of the First Serbian Uprising in 1804); 1<sup>st</sup> of May (Labour Day) (Zakon o državnim i drugim praznicima u Republici Srbiji 2007). Official religious holidays for all citizens in Serbia are: Orthodox Christmas; Easter Friday; Easter and Easter Monday. Additionally, Christian, Muslim and Jewish employees are allowed not to work on some of their religious holidays: Jews on Yom Kippur; Muslims on the Bayram holidays (on Eid al-Fitr and Eid al-Adha); other Christians on Christmas, Easter Friday, Easter and Easter Monday. Serbian Orthodox also have an extra day to celebrate 'krsna slava' / local saint day celebration.

The law does not treat members of different religions equally; the Jews and the Serbian Orthodox are the most disadvantaged with only one day of religious holidays. Muslims have two and non-Orthodox Christians have four. Buddhists and members of other faiths are not even mentioned in the law. Moreover, no public holidays are given to celebrate important days for the ethnic minorities, some of which like the Hungarians are quite large. Serbia is far from implementing a liberal nation building process.

## *Regional Overview*

The various Laws on Public Holidays in the Balkans conflict with the liberal principle of neutrality and equality of all citizens as the adherents of various religions, members of different ethnic groups, are granted different number of free days from work. Unlike the majority, ethnic minorities in all the Western Balkan countries except Kosovo and Macedonia do not have the privilege to celebrate special holidays and events important from their history. Even in the two mentioned countries this right of the ethnic minorities is not on an equal level as to that of the ethnic majority as the number of public holidays they can take is fewer than members of majority (see Table 2 in the Appendix).

Religious equality under the laws of public holidays in the Western Balkans is also not effectuated. For example, in Macedonia a believer of Judaism or Islam is allowed only one free day during their religious festivities against the five free days the Orthodox Christians can take off for their holidays. Catholics and non-Orthodox Christians are clearly favoured in Croatia, and Serbia respectively, (Catholic) Christians are somewhat favoured in Albania, while Jews are disadvantaged in Montenegro. Only in Kosovo and Bosnia and Herzegovina are religious denominations treated equally.

What is the less problematic part of the legal provisions on public holidays in the Western Balkans is that a citizen has to be clearly identified as an affiliate of any given religion in order to be able to enjoy the right of a free day during the holidays of that ethnic/religious community. How is the employer supposed to know the ethnic religious affiliation of his/her employees? Some might want to report this personal affiliation, but others could opt to keep this information private. This is important as the foundation principle of the law which divides the population into religious segments that are allocated free days from work for observation of the community's holidays, faces a problem when a person decides to change his/her religious affiliation. These laws take religious feeling as long lasting and based on the traditional spiritual communities in the region. What, for example, if a citizen of Macedonia declares himself a Buddhist? How is he/she supposed to enjoy his/her religious feasts if the law does not mention people with such a religious membership? Maybe he/she is to take a day off as the other communities are allowed so; but if so, then which of the three religious communities mentioned in the law is he/she supposed to choose?

A better formulation of the laws would perhaps be to have a stipulation that all citizens of a given country would be allowed two, or any given number which could be agreed upon, free days from work for exercising their religious or other celebrations. In order to avoid chaos and lose of production and efficiency, the worker would be required to inform the employer as to when he/she is going to exercise this right in advance, so that the necessary preparations are made in the company for his/her substitution. Obviously in certain professions exercis-



ing this right could have the additional burden of unforeseen incidents such as medical emergencies, but in principle such a law would better suit the liberal regime a state wants to develop or sustain.

## Conclusion

Laws on Public Holidays in Western Balkan countries do not treat all citizens as equal and violate the principles of liberal equality and neutrality. The Western Balkan laws on public holidays proscribe a different number of public holidays to citizens of different ethnic and religious backgrounds violating the principles of liberal equality and neutrality. In principle prescribing religious holidays as public holidays is a delicate matter and should be treated carefully in a liberal polity. State holidays that honour religious days inevitably affect the personal choices of those citizens who do not observe them. Such circumstances can be avoided, for example, if the state decides that public holidays are not to be based on religious feasts which might be 'the right dates' for certain segments of the population but 'wrong' for other people. Granted the importance of 'holy days' for the lives of the people, the state could grant the citizens the right to celebrate religious holidays at a time they deem right. Every citizen would be given a certain amount of free days in the year which he/she would be able to use for personal, religious, or other 'holy days' by clearly announcing in advance his/her choice to his/her employer. The state could still have one or more national days, 'day of the republic', 'independence day', or similar, which would be non-working day(s) for all citizens regardless of their religious, ethno-national or other orientation. What is important is that the public holidays based on religious celebrations would be optional for the citizens to have and enjoy, and accordingly, would not affect the personal freedom of individuals. Under such circumstances we would achieve liberal neutrality, since all the preference of the citizens would be counted equally.

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## Appendix

**Table 1: Number of Public Holidays in Macedonia that apply to citizens belonging to members of a specific ethnic/religious group<sup>8</sup>**

Ethnic Group	Macedonians (Orthodox)	Macedonians (Muslim)	Macedonians (Protestant)	Macedonians (Catholic)	Albanian (Muslim)	Albanian (Catholic)	Turks (Muslim)	Roma (Muslim)
Total number of ethnic / religion specific holidays	5	1	0	3	2	4	2	2
Ethnic Group	Roma (Orthodox)	Serb (Orthodox)	Bosniak (Muslim)	Vlach (Orthodox)	Jews	Croats, Slovenes, Slovaks, Poles, Czechs, Italians, Austrians (all Catholic)	Egyptians (Muslim)	Montenegrin, Bulgarian, Ukrainian, Ruthenian, Greek (all Orthodox)
Total number of ethnic / religion specific holidays	6	6	2	6	1	3	1	5

Source: author

<sup>8</sup> According to the latest, 2002 census, besides 1,297,981 Macedonians, or 64%, of the total population, there are 509,083 or 25% Albanians, 77,959 or 4% Turks, 53,879 or 3% Roma, 35,939 or 2% Serbs and 2% others.<sup>7</sup> The vast majority of Macedonians and Serbs are Orthodox Christians, while the overwhelming majority of Albanians, Turks and Roma are Muslim. Among the Macedonians, some 15,000 are Muslim, 4,000 Catholic, and 1,000 Protestants. There are about 1,000 Orthodox and 1,000 Catholic Albanians. Among the other ethnic groups with a more significant number of believers of other religions are the Roma. Some 1,000 in the total of 54,000 Roma are Orthodox by religion. See *Census of Population, Households and Dwellings in the Republic of Macedonia, 2002*, Book 9 and Book 13, State Statistical Office: Skopje: 2007,

**Table 2: Public holidays in the Western Balkans and Liberal neutrality**

	Albania	Bosnia and Herzegovina	Croatia	Kosovo	Macedonia	Montenegro	Serbia
Policy on public holidays prerogative of	National Authorities	Sub-national Authorities	National Authorities	National Authorities	National Authorities	National Authorities	National Authorities
Religious Denominations Equality	Yes, but due to the holiday for Mother Teresa (Catholic) Christians somewhat favored	Yes	No, Catholics are favored	Yes	No, Orthodox are favored, Catholic Christians more advantaged than Muslims; Jews most disadvantaged	Yes, among Orthodox and Catholic Christians and Muslims. Jews disadvantaged	No, the Jews and the Serbian Orthodox most disadvantaged with one day of religious holidays. Muslims have two and Non-Orthodox Christians have four
Ethnic minorities	No right to celebrate special holidays and events important to their history	No right to celebrate special holidays and events important to their history on a sub-national level	No right to celebrate special holidays and events important to their history	Yes, but not on an equal level to the majority	Yes, but not on an equal level to the majority	No right to celebrate special holidays and events important to their history	No right to celebrate special holidays and events important to their history
Ethnic Majority	Yes, special holidays and events important to their history	Yes, special holidays and events important to their history	Yes, special holidays and events important to their history	Yes, special holidays and events important to their history	Yes, special holidays and events important to their history	Yes, special holidays and events important to their history	Yes, special holidays and events important to their history

Source: author

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# European Union and the Western Balkans: a Problematic Partnership?<sup>1</sup>

LADISLAV CABADA

**Abstract:** *The paper examines the principal issues of the relationship between the European Union and the Western Balkans. The analysis looks into political implications of conditionality as the prime determiner in the subject's relationship. Conditionality is being viewed as an unconditional requirement the meeting of which might constitute a prerequisite – albeit not the only one – for the admission of Western Balkan states to the EU. Drawing from an analysis of the development of relationships between the EU and the countries of the Western Balkans, the final part of the paper discusses the (un-)willingness of the EU-28 towards further enlargement as well as the challenges and risks pertaining to the potential long-term postponement of admitting the Western Balkan states into the EU.*

**Keywords:** *European Union, Western Balkans, Conditionality, Enlargement*

## The European Union and three different groups of post-Communist countries

The relationship between the European Community / European Union (EC/ EU) and the Western Balkans has been greatly influenced by the events of the early 1990 s. Those events were the breakdown of Yugoslavia that was related to the beginning of several violent conflicts as well as subsequent domestic and international crises in the region; some of those crises have not been dealt with or addressed completely by the end of 2013. The civil wars in Croatia and Bosnia and Herzegovina (in both cases, with remarkable engagement of their neighboring countries, i.e. the Federal Republic of Yugoslavia and Croatia, respectfully, for the benefit of the Serbian minority in Croatia, or for the benefit of Serbian and Croatian population in BiH), the Kosovo–Serbia conflict with

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strong engagement of the international community, the recurrent crises in Macedonia, as well as smaller-scale conflicts as the 10-day war in Slovenia or the Serbia–Montenegro constitutional conflict represent the most remarkable foundations of the Western Balkans becoming a ‘security problem’. That development destroyed completely the then promising relationship between the EC and Yugoslavia, the most liberal and most open political system of Europe’s ‘East’ with whom the EC and its member countries were building the most stable relationship until the turn of the 1980 s and 1990 s.

The Western Balkans are a set of territories in the area of former Yugoslavia (except Slovenia) and including Albania which became part of the political-geographical and security-political region as its government collapsed in 1997. In respect to strong irredentist Albanian groups in some post-Yugoslavian countries, the Western Balkans were thought of by the newly formed European Union in the late 1990 s as a structure differing so greatly from the region of post-Communist countries of the so-called East Central Europe who had begun preparing to join the EU that it had to be accepted in a manner different from the latter countries. On the other hand, the EU responded to the Western Balkans differently than it did to the East European countries (Belarus, Ukraine, Moldova) and Caucasian states (Armenia, Georgia, Azerbaijan) that had become the so-called East vector of the newly formed European Neighbourhood Policy. Unlike the East Central Europe countries that had persuaded the EU during the 1990 s on their readiness to enter and who became 10 new member states of the Union in 2004 and 2007, the plan for the Western Balkans first required the region to stabilize in terms of security as well as socially and economically, which would be followed by admission of the region to the EU. Being different to the countries from the European Neighborhood Policy group which do not possess any close perspective of becoming EU members, the Western Balkans were to be considered a region that belongs to the EU and, once its structural problems indicated above have been addressed, it will be a member.

The principal paradigmatic differences indicated above of the EU’s approach to the three groups of countries, the so-called post-Communist area – East Central Europe countries who joined the EU in 2004 and 2007, countries of the Western Balkans who are expected to join although no time frame exists, and East European and Caucasian countries with whom the EU intends to build friendly relations while preserving their status of EU non-members – has projected both into the contractual framework which the EU and post-Communist countries used to define their relations and into the mechanisms and tools which are the foundations for collaboration. Integral components of those mechanisms and tools have also been conditions which the EU recognizes as the prerequisites to strengthening or improving the status of a given country; in the case of countries striving to achieve the membership, they represent

a *condition sine qua non* of the admission to the Union. It is the conditionality as the key tool for the building and improvement of relations between the EU and the Western Balkans states that will be examined in the first part of this analysis. Let us attempt to address the differences between the EU's approach to East Central Europe countries and to the situation of the Western Balkans as well as into the challenges and risks that are bound to the (in-)consistent approach of the EU and its member states to issues related to conditionality.

The second part of the analysis explores the situation after the accession of the first state of the Western Balkans group to the EU. The accession of Croatia to the EU quite considerably changed the situation where the first, wholly positive example of Europeanization in the Western Balkans and a 'role model' and positive motivator to the other countries in the region can be recognized. Furthermore, the enlargement of the EU to a number of 28 member states has concurrently initiated a number of expert and political discussions and comments on further enlargement, including a debate on the possibility to modify the accession conditions, the impacts and risks of further enlargement and, naturally, a discussion on the time frame in which further enlargement of the EU by a single state or a larger group would be possible. The second part of the paper looks into the change of discourse on the enlargement of the EU after the admission of Croatia to the Union, as well as into the search for hints and trends related to the principal questions of *when and to which state or states* will the EU expand next.

This analysis builds on various types of sources, be they expert social science analyses, political commentaries and opinions. In this aspect – and with respect to the focus of the analysis to contemporary discussion and on the *pro futuro* projection – the paper will also contain normative and subjective opinions by the author. Deriving from the fact that normativity and subjectivity are key aspects of each political debate – even more so if that debate has considerable geopolitical and geocultural overtones – it seems impossible as well as impractical to draw from empirical analytical views. Furthermore, the framework of present-day EU offers to observe numerous injunctions and breach of legal framework, requirements and conditionality in general, which attests to overtly subjective approach towards the meeting of those conditions.

## **European Union and the Western Balkans – Genesis of a Relationship**

As indicated above, it was with consideration to the specific geopolitical status Yugoslavia had had during the bipolar conflict that this was the country that had the most promising of relations with the EC and its member states prior to 1989. Those trends would be seen more dominantly in the economic area and in the policy of accepting Yugoslavian workforce and companies in Western

markets that started in the beginning of the 1960 s. The climax may be seen in the opening of the Yugoslav north (Slovenia and Croatia) during the economic liberalization in 1967 and 1968 and in the efforts of turning Slovenia into the link between the developed West and the underdeveloped parts of Yugoslavia<sup>2</sup> (Prunk 2002: 171). The subsequent deterioration of relationships that related to the weakened position of Yugoslavia in the international system after Tito's death, the deep domestic and economic crisis in the country, accelerated by the country's inability to pay back loans to Western creditors, the technological lay back and these latter two ensuing an inclination towards the Soviet Union<sup>3</sup> did compromise Yugoslavia's position in the mental map of East Europe. On the other hand, it was that development that also contributed to strong decentralizing tendencies with a pro-European context that were observed in the 1980 s in Slovenia and, to a certain extent, in Croatia. After all, that was the time when the geocultural axis across Yugoslavia was drawn; it is reflected also today in Slovenia and Croatia currently having the status of members and the remaining post-Yugoslav countries remaining as candidates.

However, the destructive split of Yugoslavia after 1990 did completely shatter the majority of the then-existing preconditions for a nearly seamless collaboration between the EU and Yugoslavia, which had begun changing into the Western Balkans. A country which as a whole – certainly with very prominent regional disparities within itself – did show very promising economic indicators in comparison to most of the Soviet bloc countries now became a region affected by a number of structural economic problems with a very thin chance of sorting them out on its own. Perhaps even more crucial than the economic decline is the erosion of society structures, a result of the onset of nationalist ideologies and their enforcement. This refers both to material aspects of that enforcement – wars including ethnic cleansing, disruption of long-term societal relations – as well as to rather inner aspects that relate to value attitudes to liberal and democratic approaches. Therefore, the outcome of the wars in the former Yugoslav territory was both the process of emancipation of new states – which is principally regarded as unacceptable and irrational, based on the apparent dysfunction of Yugoslavia in any other than vastly undemocratic political system (be it 'socialist' or Greater Serbian dictatorship) – and primarily the disruption of stability of the societies of the newly forming states and a very prominent tendency to collective-authoritative or patron-client relationships between the individual and the government. The state itself, as a structure, has

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2 The analogy with the situation of Slovenia being the first post-Yugoslav state in the EU and its efforts to become the intermediary between the EU and the Western Balkans (which Slovenia initially refused but then went through great lengths to retake after 2004) is more than obvious and one can assume that Croatia will try and put itself into a similar position even more.

3 As Raif Dizdarević (2002: 81 and 98), a former member of the Presidency of Yugoslavia states, it was the USSR with whom Yugoslavia realized 46% of its import and export in 1980.



greatly reduced its Weberian role of the administrator of 'monopoly on legitimate violence' on its population.

We are convinced that the development indicated above is a just and sufficient reason for the position of the EU, which in its mental map transformed the post-Yugoslav territory in the late 1990s into the Western Balkans by excluding Slovenia (its incorporation in the 'Luxembourg Group' in 1997 greatly shifted the country towards its EU membership, it was even in the more promising group of East Central European states) and by including Albania which went through the clan type of formal democracy after the fall of its Stalinist regime and collapsed in 1997. On the other hand, the EU understood the Western Balkans to be an integral part of the mental map of Europe that agreed with the EU, unlike the Caucasian and East European states although their respective political leaders had many a time expressed their want for being European states (it is well worth mentioning Ukraine's dilemma of preferring the West or Russia; a similar geopolitical context applies also to the position of Georgia). The EU's incapacity since the early 1990s and the strong dependency on NATO's military powers to enforce peace in the Balkans before 2000 aimed at being replaced with active European politics with its final goal being the admission of the Western Balkans, or the countries of the region, into the EU.

However, with regards to the different situations in the Western Balkans – the unstable security, social and economical decline, situation of 'unfinished states' – the Europeanization of the territory was destined to follow an extended set of conditions that would have to be satisfied prior to admission. As Jacques Rupnik points out (2009a), the EU has had to build on the premise that in the Western Balkans, at times, we have to deal with the issues of 'unfinished states' and 'European protectorates' and that the Europeanization process itself must go hand in hand with the building of those states. Rupnik (2009 b) describes the path as leading "from protectorates to integration through nation-state building". Therefore, new topics and conditions have appeared alongside the Copenhagen criteria which are related to the issues of building the state and its democratic capacities. "State weakness has become the main challenge of the region and refers to the lack of the rule of law, flourishing organized crime and corruption, and illegitimate and non-representative institutions" (Anastasakis 2008: 371). Anastasakis states that the two basic conditions are full cooperation with the ICT and "[embracing] the basic problems of stateness". Pridham (2008: 64) takes a similar stance on the topic.

At the same it appears evident that the conditionality that had been adopted towards the countries of East Central Europe since the onset of the 1990s also became a basic tool for implementing changes; Elbasani (2013) speaks about "central policy of conditionality" in this context. Similarly, Zuokui states that "conditionality is one of the EU's most powerful instruments for dealing with

the candidate and potential candidate countries... In the Western Balkans, the EU conditionality is a multi-dimensional and multi-purpose instrument geared towards reconciliation, reconstruction and reform. Since the 1990 s, the EU had initiated a series of instruments and institutions in the Western Balkan. The main method was to endow the applicant with the EU potential candidate, implement all kinds of conditionality which based on the Copenhagen criteria, and then let these countries conduct a set of political, economic and legal reforms and constructions... The applicant would be well aware of the big carrot and wanted to accept the conditionality to perform relevant reforms” (Zuokui 2010: 82–83).

We fully agree with Zuokui when he emphasizes the big carrot of the potential membership to the EU, which should motivate the Western Balkans states to adopt the requirements raised by the Union. Nonetheless, reality would soon prove much more complicated. The EU arrived at a point where some of the conditionality aspects would not be met in respect to the public opinion in the country, that is, to the mechanism of common mobilization of electorate and social groups. First and foremost, it is necessary to mention the topic of collaboration with the International Criminal Tribunal for the former Yugoslavia (ICTY). The opportunity did show that while the EU understood the membership of each of the Western Balkan states to be a benefit so important that it almost could not be challenged, the respective populations of the Western Balkan states would often prefer other strategies and would take the general standpoint of the EU not being the sole alternative to further political development. There is not much of a difference to be seen in the aspect of conditionality being applied in its positive or negative form<sup>4</sup>. The win–win strategy which the EU has been implementing in the long run did start to fail quite quickly. As Zuokui (2010: 83) puts it, “the rational choice mechanism is the EU’s main method to inspire the Western Balkans countries’ reform motivations, but it is not enough to get successful state-building objective”. The fact can nowadays be best demonstrated in the example of Bosnia and Herzegovina, yet from a historical point of view, it applies to all Western Balkans countries.

Deriving from the experience with East Central Europe states, conditionality was expanded, which the states and societies of the Western Balkans often regard as ‘unfair’. “The next pending enlargement towards the Western Balkans (and Turkey) reproduces many of the patterns of the Central and East European enlargement experience, and introduces some new aspects to the evolving process of political conditionality... Next to the Copenhagen principles and universal Western criteria, the EU adopted an additional cluster of criteria espe-

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4 Zuokui is one of the authors who distinguished between positive and negative conditionality: “Negative conditionality means suspending or terminating benefits in reaction to non-compliance by a target state. Positive conditionality, in contrast, is characterized by the delivery of benefits as a reward for the performance of prescribed behavior” (Zuokui 2010: 83).

cially for the Western Balkans addressing the post-conflict regional challenges and reconstruction, stabilization and reform” (Anastasakis 2008: 367–368). Furthermore, the membership is far less certain than in the case of ECE states: “Yet the outcome of accession is more uncertain. The EU is strengthening its conditionality, control, and pressure on the Western Balkans during the earlier stages of the pre-association and pre-candidacy process” (Anastasakis 2008: 368). We are convinced that Croatia’s accession to the EU was the most important step that showed the other Western Balkan states that the path is indeed long, yet not never-ending, that their candidacy to membership of the EU is not the proverbial waiting for Godot as the example of Turkey might suggest.

The situation of the Western Balkan states was more complicated in comparison to East Central Europe states and, logically, it caused more concern in the EU, its member states and their societies from the impact of further enlargement post 2004 and 2007.<sup>5</sup> In this context we need to understand that the conditions set forth by the EU for the Western Balkan states did change over time, typically towards the more stringent end, yet in the general view, they shifted towards lower comprehensibility of the conditionality, i.e. towards ambiguity and higher degree of subjectivity in the interpretation of rules. This fact is also raised by many of the authors who examine the topic of EU expansion into the Western Balkans. For example, Zuokui states that “[the] EU gradually increased the scope of conditions. As a result, there were so numerous criteria added that it could even be said that a new enlargement method has been developed. A separate ‘enlargement *acquis*’ had emerged including requirements for constitutional reforms, regional cooperation, ethnic minorities’ rights, the war criminals and etc in further enlargement to the Western Balkans. The added standards increased the subjectivity of conditionality” (Zuokui 2010: 93).

Anastasakis (2008: 365–366) holds a similar opinion, yet with a more prominent inclination of the response to the stimuli of Europeanization conditions: “During the 1990 s, the EU’s political conditionality became a powerful strategy of post-communist transformation aiming at policy change, and convergence of Central and East European countries with the norms and practices of the European Union. Since 2000, its significance increased even more as a result of addressing more difficult and demanding political and post-conflict transformation in the Western Balkans. The European Union, through the prominent position of the European Commission, actively interferes in the domestic politics of the Western Balkan states, putting pressure on local elites to comply with certain designated criteria... Undoubtedly, without the EU pressure and

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5 G. Pridham holds an interesting view of the fact by reflecting on the basic differences in the nature of transformation of the states of the Western Balkans and East Central Europe: “There was a significant gap in political and economic transformation between the Western Balkans and East-Central Europe, with the former showing some similarities with difficulties of democratisation in Latin America” (Pridham 2008: 58).

political conditionality many of the required changes would have not taken place, or would have taken a longer time to happen. Yet political conditionality also generates reaction, polarization and a sense of injustice in most Western Balkans countries, especially when it touches upon nationally sensitive matters and unresolved post-conflict issues.”

Therefore, the big shift process, the “retailoring of the political and economic map of the Balkans” (Božić-Miljković 2007: 79) is lined with numerous problems that generally derive from situations where (some of) the Western Balkan states, or their societies, consider the EU’s policies towards the Western Balkans to be overtly unidirectional (after all, that experience has been analytically drawn in the case of East Central Europe states). Therefore, the Europeanization process which terminates when the country enters the EU (with the date very unclear and with a growing feeling that the moment of entering might be practically postponed forever) has been repeatedly questioned in the Western Balkans as having no alternative and being ‘neo-colonial’. “Transition fatigue and numerous challenges of pursuing market liberalization, democratization, and rule of law unavoidably raise dissatisfaction, fatigue, frustration and disappointment towards the EU and often also towards their own [Western Balkans countries – L.C.] governing political elites” (Gropas 2008: 1).

The situation in the Western Balkans is different from that of East Central Europe also in terms of the positions of individual EU member countries. While in the case of East Central Europe the positions of the EU-15 were for the most part similar, a different phenomenon is observed with the Western Balkans; Anastasakis (2008: 371) calls it “the competing or complementary interests of its member states”. The author illustrates it by Greece’s position on Macedonia, Hungary and Hungarian population in neighboring countries, or by the Netherlands and its special interests in the conditionality of the ICTY because of Srebrenica. An even more critical stance is offered by Dušan Reljić (2001) by highlighting how some of the actors in the EU misuse the Western Balkans topic for their domestic political purposes: “Member States do not hesitate to make use of the enlargement process for their domestic objectives (for instance, in the disputes between Athens and Skopje, Ljubljana and Zagreb, the Hague and Belgrade, Nicosia and Ankara, etc.). The outcome has been a ‘creeping nationalization’ of the enlargement policy, which discredits the EU’s commitments to aspirant States and undermines the transformative power of the enlargement process”. Such ‘nationalization’ within the EU is naturally in clear conflict with one of the primary requirement towards the Western Balkan countries – pressure towards mutual collaboration and coordination of activities.

The paradox and problem becomes even more prominent as the EU adopts a different stance to the Western Balkans than it had in the case of East Central Europe countries after the latest summit in Nice. While in the former situation

after the disbanding of the Luxembourg Group the cluster of countries was considered to enter as a group in a big-bang enlargement process, the case of the Western Balkans has always hinted that the accession of any group of countries on a given date must not be assumed at any point. In other words, competition is being implicitly imposed on the Western Balkan countries, which in light of historic reminiscences and strong tendencies to use nationalistic positions towards neighboring countries as well as towards domestic ethnic majorities and minorities usually contains very negative connotations.

For example, Řehořová (2011: 7) states that “compared to East Central Europe states which met the Copenhagen criteria joined the EU in 2004 and 2007, the Western Balkans did project considerable differences in the pace and time line of transformation... That was one of the reasons why since the beginning of the open discussion on the expansion of the EU into the Western Balkans, i.e. basically since 2000, the ‘regatta principle’ has been mentioned repeatedly while underlining that the accession of a group of several countries at a time cannot be assumed. Zuokui also comments on the (unhealthy) competition among the Western Balkan states in terms of conditionality: “The conditionality is also underlying the ‘regatta principle’ which is to reward the front-runner and punish the laggard.” (Zuokui 2010: 96) However, the EU has repeatedly confirmed the ‘regatta principle’, meaning that the position has not changed since 2005 when it was published in the ‘EC 2005 Enlargement Strategy Paper’<sup>6</sup>. The troublesome effect of the ‘regatta principle’ is further accelerated by the feeling that has spread greatly in the Western Balkan societies – the feeling of historic injustice, something that might be called the ‘victims of path dependency’. As Anastasakis (2008: 370) indicates, “the Western Balkan region suffers from normative contradictions... most parties feel themselves to be victims of the injustices of the other ethnic groups or states; the allegations differ completely, depending on which side is making a claim.”

The year 2000 is often considered as the initiation year of incorporation of the Western Balkan countries into the EU; it represents a sort of symbolic closure of the wartime 1990 s. “A commitment to consider future membership for the Balkans began to emerge at the Zagreb European Council in 2000 which recognized these [Western Balkans – L.C.] countries as ‘potential candidates’; while in 2003 the Thessaloniki Declaration made the proclamation that ‘the future of the Balkans is within the EU’, a phrase that has been repeated on several official occasions since” (Pridham 2008: 63). Pridham, too, clearly states that security was the key concern: “The EU’s fundamental objective for the Western Balkans was ‘to create the situation where military conflict is unthinkable’” (Pridham

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6 “There is no further enlargement with a large group of countries... in view... The Western Balkans contains smaller countries at different stages on their road towards the EU. Future enlargements will go at the pace dictated by each country’s performance in meeting the rigorous standards, to ensure the smooth absorption of new members.”

2008: 64). A semantic coincidence to that basic goal is the EU's program for the stabilization of the Western Balkans which was implemented between 2000 and 2006, the Community Assistance for Reconstruction, Development and Stabilisation (CARDS). It was superseded by the more targeted Instrument of Pre-Accession Assistance (IPA) in 2007. "The largest difference from CARDS is the distinction of potential candidates and candidate states in the method of fund allocation. In the case of potential candidates, the European Commission controls the allocation of funds... either by the European Agency for Reconstruction (EAR) or local offices of the EC representation. In the case of candidates for accession to the EU, the assistance is controlled by individual states (Řehořová 2011: 19). Therefore, the European Commission, and the EU, indicated that the worst consequences of the wars have been overcome and the Western Balkans entered the second stage of Europeanization after 2007.

On the other hand we must not overlook the fact that the IPA program is coming from a situation where the EU failed to negotiate with the Balkan states (the Western Balkans with Bulgaria and Romania) an agreement on a 'Balkan zone of free trade'. "This idea was rejected by the Croatian authorities who have seen it as an attempt to revive the type of integration similar to that in former Yugoslavia... As an alternative, it was proposed to enlarge the CEFTA agreement" (Božić-Miljković 2007: 86). This happened at the Bucharest summit of CEFTA in 2006 and was entered into force in January 2007 (Řehořová 2011: 15). It is here that the negative impact of the 'regatta principle' can be observed when Croatia had clearly preferred its leading position in the regatta to collaboration within the region. On the other hand, one cannot overlook the EU's awkward attempt to include Bulgaria and Romania into the group of Balkan countries just prior to their 'delayed' accession to the EU. It is the case of Bulgaria and Romania that is often mentioned as the reason why the EU is currently so strict in requiring that the aspects of conditionality are conformed to.<sup>7</sup>

Under the framework of the IPA programme funds have been allocated to the Western Balkan states; the overall amounts are indicated in the table below.

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7 "Advocates of a rigorous conditionality often point to the cases of Bulgaria and Romania" (Anastasakis 2008: 373). Szpata (2010) similarly states that have problems with Bulgaria and Romania caused the situation where "procedures that were formal and technical in nature... are now being blocked, and have become politicised on the member states' domestic arenas". Pridham (2008: 59-60) agrees with such position arguing that "scope of the EU's conditionality expanded from the mid-1990 s significantly beyond (somewhat bland) formal democracy criteria utilised in previous decades into areas of substantive democracy. The Copenhagen criteria as defined in 1993 covered as themes the stability of democratic institutions, the rule of law and human and minority rights. Since then, the EU has also specified the strengthening of state capacity, the independence of judiciaries, the pursuit of anti-corruption measures and the elaboration of a series of particular human and minority rights. Conditionality policy thus became more demanding and ambitious and hence conceivably more difficult to satisfy. The author suggests that the case of Bulgaria and Romania was a valuable lesson for the EU.



**Table 1: Allocation of funds within the IPA, millions of Euros**

<i>Country/ Year</i>	<b>2007</b>	<b>2008</b>	<b>2009</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>	<b>Total</b>
<i>Croatia</i>	141.2	146.0	151.2	153.6	156.5	159.7	162.9	1071.1
<i>Macedonia</i>	58.5	70.2	81.8	91.7	98.0	105.0	117.2	622.4
<i>Montenegro</i>	31.4	32.6	34.5	33.5	34.1	34.8	35.4	236.3
<i>Albania</i>	61.0	73.8	81.2	94.2	94.4	96.3	98.1	599.0
<i>Bosnia and Herzegovina</i>	62.1	74.8	89.1	105.4	107.4	109.5	111.8	660.1
<i>Serbia</i>	189.7	190.9	194.8	198.0	201.9	205.9	214.7	1395.9
<i>Kosovo</i>	68.3	184.7	106.1	67.3	68.7	70.0	73.7	638.8
Total	612.2	773.0	738.7	743.7	761.0	781.2	813.8	5217.8

Source: (Řehořová 2011: 19)

Řehořová (2011: 28) suggests that the amounts of the funds are considerably smaller than in the case of East Central Europe states in the period prior to their accession. “The gap the Western Balkan countries need to bridge with reforms is much wider than the one East Central Europe states had, yet they will have to do with much fewer funds” (Řehořová 2011: 28). Reljić (2011) takes a similar stance when he questions both the volume of funds as well as the method of dividing them: “As IPA funds are chiefly disbursed according to the population size of the beneficiary countries, Turkey (which is presently lucky to have almost Chinese levels of economic growth) receives the lion’s share of the €11.5 billion allocated for the years 2007 to 2013... In addition, a significant part of the pre-accession funds is consumed by various intermediary organizations and the engagement of expert consultants for EU countries. However, once a country enters the EU, it is ‘showered’ with money from the EU” (Reljić 2011). In this sense we can add that the author believes the winner of the regatta – Croatia – will find the economic situation much more comfortable than the other Western Balkan states, which might raise their frustration to greater levels.

Reljić and other authors maintain that the relationship between the EU and the Western Balkans, or the development in the region, has notably suffered from the global economic crisis. As Szpała (2010) mentions, annual reports assessing the progress of the Western Balkans states in their preparations for the EU membership and other analysis and documents “show that the reform process in the Balkan states has slowed down in comparison to the previous years. The main reason for this slowdown are the negative consequences of the global economic crisis on these countries.”

On the other hand, it would be too simplistic to view the global economic crisis or the general lack of funds as the only, and principal, problem of democratic transformation in the Western Balkans. It was obvious even before 2009, i.e. prior to the very start of building institutionalized relationships between the

EU and the forming group of states in the Western Balkans, that the primary problem of the Western Balkans lies in the lack of security and malfunctioning states, as was repeatedly confirmed both in political declarations and in professional analyses of European policies to the Balkans and of individual domestic policies in the region. We would like to reminisce in this context on G. Pridham's position from 2008: "The EU's fundamental objective for the Western Balkans was 'to create the situation where military conflict is unthinkable'" (Pridham 2008: 64). In a similar manner, Szpała (2010) points out the EU's effort of presenting itself to the Western Balkan states especially as the protector of security and stability: "The European Commission tries to highlight the benefits of EU enlargement to the Western Balkans especially regarding the security issues. "The Commission argues that in the process of enlargement, these countries will undergo a fundamental transformation and will cease to be a source of threat, and that the accession of the Western Balkans will put an end to the zone of instability stretching along the EU border." On the other hand, one might clearly speculate whether the countries and societies of the Western Balkans might view any such accentuation as an inadequate, surrogate solution based on the background of the lack of other benefits, especially of the financial type. Such speculation might naturally lead to the search for alternatives which might – seemingly or really – deliver more prominent benefits, even though they may be short lived.

Another problem in the relationship between the EU and the Western Balkans is the growing time gap between the promise of membership and the expected, or expectable, accession to the EU. The experience from East Central Europe clearly indicates that there might be a moment when the national societies of the candidate country cease to believe in the accession; this holds especially true when (some of) the EU member states strongly verbalize doubts on the candidates being ready to enter. In terms of the Western Balkans, it is Macedonia who is thought to be the closest to such frustration. It is a country whose public and political discourse draws from the premise that, unlike others in the Western Balkans, the state managed to stand aside from open conflict: "Macedonia was the only former Yugoslav Republic that had managed to avoid major conflict despite its extremely vulnerable position" (Matovski 2008). Greece's blocking and EU's generally reserved position to the Western Balkans might lead the Macedonian society into doubts about the process as a whole (especially in combination with some explicit stances that were heard soon after Croatia had joined the EU; these will be addressed in the final section of the paper). As Fojtík has observed, "Macedonia has been waiting as a membership candidate since 2005, which has driven it to ever increasing doubt on the relevance and credibility of the process" (Fojtík 2013).



Similar frustration from the halted transformation, including the identification of the culprit in Brussels, occurs rather often in the sensitive societies of the Western Balkans; those opinions may quickly strengthen even from the smallest of instigations. Furthermore the EU, especially prior to 2010, was performing a more complicated search for balance between the strict stance to observe the Union's conditions and the necessity to soften those requirements occasionally. The aim of that practice was to prevent more prominent loss of pro-EU opinions or even an open termination of relationship between the Union and one of the Western Balkan states. Furthermore, in the 'regatta' situation, each concession to any of the countries in the region almost automatically delivers dissatisfaction in the other states; this has a strong corrosive effect on the principle of pre-accession improvement of relationships in the region as a whole. As a result, the EU has received criticism for allowing too many concessions especially to Serbia, which is the largest and, in terms of geopolitics, the most important country of the region. For example, Batt (2008) has observed that the EU has been inconsistent with Serbia and has permitted too many compromises, with this preference to Serbia irritating the other states: "The coherence of EU policy towards Serbia has too often been compromised by a sense of guilt and the need to 'compensate' Serbia for its traumas. All that this has achieved is to diminish the credibility and undermine trust in the EU's integrity and fairness, not only in Serbia but in the Western Balkans region... The EU should stop telling Serbia it is the 'vital key' to the success of the EU's regional strategy for the Western Balkans. Serbia is indeed important, but it is not indispensable. Serbia's neighbors must no longer feel that they are held hostage to Serbia's difficulties, or held back in order to wait for Serbia."<sup>8</sup>

On the other hand, some politicians and analysts have been describing their worries that too much pressure from the EU might drive (some of) the Western Balkan states off the course to Europe. "The EU was risking conditionality overstretch. On the other hand, the stricter approach adopted by the Commission following the 2004 enlargement was being put into practice; and this was aimed at preventing or reducing conditionality failures in the future." (Pridham 2008: 65) To illustrate the very unstable pro-Europe position and its rapid disintegration, the author presents Croatia's discussion on the role of General Ante Gotovina during the military operations to restore the territorial unity of Croatia in the mid-1990 s. ICTY held that Gotovina was to be extradited as a person suspected of war crimes; however, the Croatian public and notable political persons considered him a hero of the nation. As Pridham (2008: 68) states, "negotiations with Croatia were postponed for half a year in spring 2005 because Zagreb failed to deliver the alleged war criminal Ante

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8 The topic of Serbia, a country without which no further enlargement of the EU may occur, will be discussed in the final section of this paper.

Gotovina; and there followed a sharp decline in public support in that country for the membership.”<sup>9</sup>

We believe that the EU responded to the indicated worries by applying a more flexible understanding of conditionality; on the other hand, it was led to believe that enlargement into the Western Balkans – except Croatia – was basically ruled out. That attitude did also reflect the highly negative position of the public in some EU states against the possibility of a more prominent enlargement to the Western Balkans. At the same time, a number of European officials had repeated the view stating that the mistakes committed with the accession of unprepared states, Bulgaria and Romania, must not be revived: “The EU has expressed on many occasions that it was not going to repeat the same mistakes made in Romania and Bulgaria in terms of bribery and reforms of the judicial system” (Fojtík 2013).

Szpała (2010) therefore concludes that the EU, at the turn of the decade, reviewed its position until then and decided to promote ‘consolidation instead of enlargement’. “Some Western European leaders believe that after the adoption of the Lisbon Treaty, the EU should concentrate on consolidating and solving internal disputes concerning the future of the EU project. They have called for the postponement, or even the indefinite suspension, of the enlargement process... Also public opinion in many EU-28 states (in the first place Austria, Germany, France, Finland, Belgium and the Netherlands) strongly opposes the idea of further enlargement.” It is beyond all doubt that the paradigm shift is related to the reflection on the true progress, or rather the lack of it. Pridham (2008: 58) in this context it mentions the absence of positive dynamics: “Western Balkan countries are either moving towards accession or – in most cases – are still in the early stage of an associate relationship with the EU... only one country (Croatia) in the region having so far positive dynamics where improvements in democratisation were connected to increased cooperation with external actors.”

The EU itself, or its structures, perceived the situation in a similar manner. It was in June 2011 that Štefan Füle, European Commissioner for Enlargement, criticized the enlargement apathy in the Western Balkans. He said that “it was not the enlargement fatigue, yet apathy of the political elite in the region.” He identified little progress and major challenges especially in the case of Albania, Bosnia and Herzegovina, and Kosovo. He also clearly admitted the EU playing a part in the resulting situation and expressed his beliefs that once Croatia was

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9 We are adding a byword that Gotovina was apprehended abroad in 2005 and delivered to the ICTY. He was sentenced in 2011 to 24 years of prison for a number of war crimes; however, he was cleared of all charges in an appeal hearing and released in 2012. Vachudova (2013: 2) notes that “[the] celebrations attending the recent verdict of the ICTY freeing the former general Ante Gotovina on appeal showcased the dark side of Croatian nationalism”.

admitted into the EU, the Union's credibility in the region would grow again.<sup>10</sup> The final part of this analysis will look into how much those hopes were met, how the accession of Croatia into the EU changed the situation. We will also take a general view of the current situation in the relationships between the EU and the Western Balkans, including a forecast of future development.

## **European Union and the Western Balkans after the accession of Croatia**

The accession of Croatia to the EU on 1<sup>st</sup> July, 2013 certainly was a major breakthrough in the relationship between the Union and the Western Balkans. On one hand it may be seen as evidence that the accession path does not take forever and that other states in the region may carry on believing that once they have met all the conditions, they will be admitted to the Union. However, Croatia's accession to the EU has also sparked a new round of political debate – which would often have a more pessimistic spirit – in the EU member states or in the Western Balkans on when further enlargement could be expected. The most pessimistic view could certainly be the conclusion that the regatta has found its winner and that further positions are not important. However, the EU has issued no open indication that it should in any manner change its primary position towards the Western Balkans, which is different to the Eastern Partnership states. That is, the EU still accentuates the Western Balkan states as membership candidates. In this aspect, it clearly holds that “enlargement is the EU's most effective foreign policy instrument as it was repeatedly characterised by the EC” (Reljić 2011). Nevertheless, we could be sure that further enlargement cannot be expected sooner than in the outlook of 10 years. This conclusion is based on a number of secondary concepts we noted in the latest debate on the enlargement perspectives.

We believe the first reason for the waiting is Croatia. It can be assumed that the experience of Bulgaria and Romania becoming members of the EU will guide many European countries (and their public, politicians, and media) as well as the EU's political leaders to more prudent observations of further development in Croatia. On one hand, the admission of Croatia to the EU ought to be a clear indicator of meeting all the basic transformation conditions, yet on the other, very few do believe Croatia will be in all aspects a problem-free member of the EU. Vachudova (2013: 2) observes “there are still many problems in Croatia, including high level of organised crime and the absence of efforts to encourage refugee return among Croatia's erstwhile Serbian minority.” It

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<sup>10</sup> Enlargement Procedure at Halt in the Balkans, Commissioner Füle Criticizes (“Rozšiřování na Balkáně vážne, kritizoval eurokomisař Füle”) *Novinky.cz*, 17 June 2011 (available at <http://www.novinky.cz/zahranicni/evropa/236528-rozsirovani-eu-na-balkane-vazne-kritizoval-eurokomisar-fule.html> (30 September 2013).

can also be assumed that Croatia will hardly deliver an impartial response to the developing political and constitutional crisis in Bosnia and Herzegovina; furthermore, the country's ability to resist the temptation to 'de-Europeanize' its values in the relation to the Western Balkans will be critical in general. At the same time, one must not forget the unstable situation in the country with an unemployment rate of 20% and that its external debt is constantly rising. Božić-Miljković (2007: 81) argues the problem is shared by all the states of the region; however, the problems of Serbia and Croatia are even more prominent than in the other states: Croatia's external debt amounted to nearly 100% of its GDP in 2012. A key aspect is also the stability and functionality of the state – it will be important to see whether Croatia has really and permanently shed the common trend of Balkan countries: the weak state and government institutes (Szpała 2010).

The EU naturally remains a key persona in further development. In this aspect, the first palpable signals of its approach are messages that exclude any further enlargement in the near future. Soon after Croatia joined the EU, many important stakeholders said that the Union's leading priority would be its internal consolidation, which has led to numerous speculations in both the European and West Balkan media on the postponement of further enlargement until 2025–2030.<sup>11</sup> As far as this issue is concerned, it relates to a broader discussion on the finality and potential mistakes in the development process of the Union. In the light of economic and structural problems in the Mediterranean region of the EU (Greece, Portugal, Spain and, to a certain extent, Italy) a discussion has opened on how much the enlargement of the Union to East Central Europe was the wrong strategy that has contributed to the escalation of the problem.

To represent these opinions, let us cite the remarkable analysis by A. Poltermann: "The model of EU enlargement is being challenged at the moment. The accession and convergence of South European countries in the first stage of their integration did follow the manner of a grand and not quite efficient deployment of cohesion and structural funds. After the second round of accession, the majority of those funds would be directed to the new member states in Central Europe. This generated a financial gap in the South European states which was to be covered by credit loans which the states had the opportunity to establish at extremely favorable rates due to their membership in the euro area alone. That model... did lead to extensive deindustrialization and dependence of the countries on imports and permitted their rate of debt to grow substantially. As of now, the EU has neither funds nor any other solution to address the problem of its new, economically even poorer members, Bulgaria and Romania. The Un-

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11 This is the position which the German TV station Deutsche Welle and the principal Croat media took. It does reflect a change as Szpała in 2010 assumed that enlargement of the EU with another Balkan state after Croatia would not appear until 2020.

ion's priority is to stabilize and develop the new Central Europe member states with the support of Germany" (Poltermann 2013). He therefore suggests that the enlargement to the Western Balkans is not ruled out, however, the potential new member states cannot expect one of the most fundamental benefits: the funding. The standing question then remains to what extent their membership in the EU is their sole and unconditional alternative.

Further speculation are related to the question of whether it is possible that the current regatta might result in a situation different from Serbia being the winner or a co-winner; what happens if the other Western Balkan states, regardless of their major progress (applying especially to Montenegro and Macedonia), have to wait until the most populated country of the Western Balkans is ready to join. After Croatia has entered the EU, Serbia is in terms of geopolitics the prime actor of the Western Balkans; however, it potential implicit – leaving alone the explicit – indication as the next winner of the current regatta or of its second round might instigate strong frustration, counter-reaction even, in the mentioned states as well as in the other states and societies of the Western Balkans.

Serbia has undoubtedly taken a number of positive steps and its acceptance as a candidate state in 2012 is reasonable, considering the importance of the country. On the other hand, one must not overlook the fact that it is especially for this country that the EU has repeatedly adopted a strategy of major concessions in the conditions. The situation has undergone a shift in the past two years; this might also relate to the EU's opinion that even a strict stance will not result in major aberration of the country from its declared pro-EU position. As Poltermann (2013) observes, the EU is acting more assertively towards Serbia because it has lost some of its fear of losing the 'pro-EU people' as even Serbian nationalists have declared their pro-European views lately. However, the author rather sceptically adds that the EU topic is clearly dwarfed by the 'Kosovo issue': "most of the population would choose Kosovo over the EU" (Poltermann 2013). Optimists state that it was the EU topic that turned party politics in Serbia pragmatic. As for example Vachudova (2013: 3) states, the European issue strongly affected the party politics in the country. Tomislav Nikolić, chief of the Progressive Party "proclaimed that it was his support for Serbia's integration into the EU that forced a split from the Radical Party loyal to the war criminal Vojislav Šešelj". On the other hand, no-one should underestimate or ignore the fact that many members of the former Milošević's authoritative administration made it into the contemporary Serbian 'pro-European' administrative bodies.<sup>12</sup>

In relation to the expected postponement of further enlargement of the EU by (some of) the Western Balkan states, we may assume rather moderation, instead

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12 In 2008, Tomislav Nikolić separated from the Serbian Radical Party with a "pro-European" project, the Serbian Progressive Party. When elected President, he appointed Alexander Vučić, the former Minister of Information in the Milošević administration, Secretary-general of the party. The Prime Minister, Ivica Dačić, a member of the Socialist Party, was the spokesman of the party under Milošević, etc.

of insistence, on adherence to the conditions especially for fear that some of the states, or the region as a whole, might leave the pro-EU path. It was in this context that D. Reljić mentioned in 2011 some highly negative consequences of the global economic crisis on the relationship with the Western Balkans. Reljić (2011) assumed that the deterioration of economic conditions after the outbreak of the global economic crisis strengthened historic resentment and nationalism in the Balkan societies as well as the search for an external support that would be an alternative to membership to the EU: “Accordingly, conditions are arising for a ‘second coming’ of nationalistic populism, which already fatally wounded the former Yugoslavia in the nineties. In the Western Balkans, nationalism is usually accompanied by received wisdom about ‘historic strategic alliances’ with external powers such as the US, Russia, Turkey or nowadays even China”. Anastasakis (2008: 373) also presents arguments for the occasional relaxing of political conditionality – it is in the interests of security; there primarily exists “the fear of alienating the Western Balkan states and driving them out of the European integration course”.

The major problem persisting in the Western Balkans are its dysfunctional institutions, which include the representation and executive bodies as well as the democratic institutions and their acceptance, civic and political culture and the democratic political culture of the elites. It is perhaps in this absence – regardless of all comments about the development in many states of East Central Europe – where the most striking difference between the two regions can be observed. By paradox, the only answer – illustrated by the case of Bosnia<sup>13</sup> – could be less democracy and more room for the ‘modernization oligarchy’<sup>14</sup>, a part which could and should be played by the pro-European political class (see below).

That, too, is the reason why we share the sceptic stance of Reljić (2011), who argues that the transition in the Western Balkans is failing. “The transition model proposed by the EU and other Western institutions to the would-be members from the Western Balkans has not achieved the expected results based on

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13 The political system of Bosnia and Herzegovina is blocked by extensive interpretation of the provisional constitution that was approved as an annex to the Dayton Peace Agreement. It is especially the application of the absolute veto principle by any of the three government entities that completely prevents the building of any efficient politics and application of efficient policies. Vachudova (2013: 4) states that “politics in Bosnia has been reduced to backroom deals between the leaders of the six main political parties – and these parties have been transformed into rigid, authoritarian structures that doggedly pursue personal and party agendas at great cost to the citizens.”

14 Anastasakis (2008: 366) in this aspect points out at the relation between political efficiency, democracy and the deployment of conditionality: “The instrument of EU conditionality is not always, strictly speaking, democratic, based as it is on an unequal and asymmetric relationship of imposition, pressure, control and, partly, threats... From a substantive point of view, EU political conditionality can run counter to democratization, at least in the short term when some of the prescriptions prioritize law and order instead of elections and/or civil society development. This happens, especially, in post-conflict cases” (Anastasakis 2008: 366).



the experience of Central and Eastern Europe”<sup>15</sup> It needs to be noted, though, that the culprit in this case is not the EU, but rather the absence of convinced reformers within the Balkan societies. The pro-European position of political elites tends to be pragmatic, not based on shared values, which largely holds also for the societies, as they are even more lenient in their relationship to the EU than the politicians.

Even if the criticism lost some of its edge and trust were given to the opinion that the pro-European stance of the politicians in the Western Balkans is based on their beliefs, there is a major gap between the political class and the society. Elbasani (2013) reflects on the situation as follows: “The region has moved to accumulate more ‘liberal capital’, be it individual leaders, political parties, governing majorities, social groupings and/or a public opinion predominantly favourable to the project of European integration. Such elite circles have become the turning point of change... Still, quite often in the Balkans, reformists proved too weak to pursue deep-seated change, embedded, as they were, amidst hybrid institutions and complicit old and new networks that had everything to lose from substantial reform. Moreover, the fragility of domestic reformers in the Balkans points to *structural constraints* that enable certain choices, but constrain others.” (Elbasani 2013) The author mentions as the most important limiting historical legacies to be the “totalitarian heritage, weak civil society or simply political patterns”. Rupnik (2009 b) also emphasizes the cognitive dissonance between the EU and the Western Balkans: “No wonder ‘Europeanization’ looks different when seen from Brussels and from the countries at the receiving end. This is also where enlargement fatigue within the EU meets ‘accession fatigue’ in the Balkans. The latter has two aspects: the political elites in the region sometimes using verbal commitments to EU accession as a smokescreen for business as usual. Equally, there is the erosion of popular support for EU accession.”

Serbia as well as the entire Western Balkans currently represents a problem that is so complex that its accession to the EU can hardly be expected within the next 10 years, that is, if even the basic framework of conditionality is observed. Two states, Macedonia and Montenegro, do stand apart from that general statement as they might strive to join the EU before 2020. Nonetheless it appears that the EU would prefer Serbia and its accession, i.e. the two states would be put ‘on the waiting list’. On the other hand, to postpone especially Macedonian

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15 Reljić (2011) in his analysis provides a very precise reflection on the structural context and economic reasons: “The majority of the countries in the region would need double-digit annual growth rates just to avoid lagging too far behind the EU. Instead, the economies of most countries in the region have shrunk as a result of both the recent global recession and domestic failings. Unemployment is increasing, and the prospects of there being more jobs soon are bleak... The region’s de-industrialization following the collapse of the former Yugoslavia and the ensuing wars was not reversed, and new exportable goods and services did not materialize to the necessary extent. Budget deficits, external debt and job losses have soared” (Reljić 2011).



membership to the EU ‘forever’ would be preposterous – compared to Bosnia and Herzegovina or Kosovo, the country has adopted a number of important changes that do seem the most promising. It is the case of Macedonia which we understand to be the greatest risk in terms of the potential growth of the EU-disillusion should ‘the carrot of membership’ become a goal on the distant horizon.

To summarize this analysis, let us conclude that the EU as a whole will continue the enlargement with the Western Balkan states both rhetorically as well as through collaboration tools. On the other hand it is obvious that there exist a number of strong political actors (states, institutions, ideological schools, epistemic associations, etc.) who are capable of efficiently postponing the final date of (some of the) Western Balkan states joining the EU. We agree with Zuokui (2010: 97.98) that “only rational choice methods could not solve the complicated inner conflicts in those [i.e. Western Balkans – L.C.] countries. The EU should take more long-term, positive, normative, and social interactions measures to supplest its shortcomings because the transformations and reforms of those countries in the region would be long-term and gradual” (Zuokui 2010: 97–98). Fojtík (2013) sums up that “as far as the Western Balkans are concerned, the Union still can consider its enlargement policy to be the strongest transformation tool in the aspect of international relations and it is for that reason the Union can continue using it without limitations.” Assume that the lack of limitations indicated above should not be considered absolutely strict in terms of conditionality and concurrently, it should not act as positive discrimination against any of the Western Balkan states.

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# European integration as a challenge for Bosnia and Herzegovina<sup>1</sup>

HELENA BAUEROVÁ

**Abstract:** *EU enlargement process is focused on clearly defined regions or countries (Turkey, Iceland and Western Balkans). Bosnia and Herzegovina is one of the Western Balkan Countries seeking to join the European Union. The situation is very complicated because it is difficult to find a common position in both the political elite and society. We can see consensus that means the entrance to the EU. At the same time, it is especially apparent inability of the political elite to reach agreement on partial steps that are required for entry into the EU. Political elite are quite often motivated by nationalism interests who divided BaH to three parts (Croatian, Serbian and Bosnian). Of course, it is necessary to monitor the position of the European Union. Especially after the accession of Croatia in 2013, EU has changed its attitude towards Bosnia and Herzegovina. In the following paragraphs, text analyzes the local situation of the federal units as well as on the central level of BaH and monitors the influence of EU since 1995 to 2013.*

**Keywords:** *Bosnia and Herzegovina, European Union, enlargement process, nationalism, political elite, Copenhagen criteria*

## Introduction

Bosnia and Herzegovina (BiH) is currently a potential candidate for EU membership. From the long-term perspective, we can see the gradual steps taken from the initiative of the European Union, which supports BiH in adopting reform changes. These changes are more or less being successfully implemented. In analyzing the potential accession of BiH to the EU, we need to see this problem from two different points of view. The first is based on the position of the EU and its financial, personnel and technical aid, and last but not least its willingness to help transform BiH with regard to meeting the accession rules, i.e. the

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Copenhagen criteria. The second viewpoint is the situation in BiH – to what extent and whether it at all meets the particular criteria and whether these are sustainable. The aim of this text is to examine the relationship between BiH and the EU, and ask how much EU policies affect Bosnia and Herzegovina. What is the position of the political elites of BiH and its society on EU integration? How is the EU proceeding in relation to BiH, and to what extent is the support for integration constant? This text is based on the assumption that the European Union has changed its active policy on BiH and in the year following the accession of Croatia to the EU, conditions its financial support by the completion of specific goals. The approach of BiH's political elites is still motivated more by nationalist and particularistic interests rather than their willingness to make changes that would bring BiH closer to the European community.

## **Bosnia and Herzegovina on its way to the EU**

An analysis of the relationship between BiH and the EU cannot be based on the current situation or the nature of mutual relations. The present level of talks is and always has been affected to a large degree by the internal issues within BiH, which in the early 1990s resulted in several years of ethnic conflict. Bosnia and Herzegovina (BiH) appeared on the world map as an independent state as early as in 1992, when we can also see its first contact with the European Union (EU). At the same time, these relations need to be understood as largely limited. The European Union was at the start of creating the Common Foreign and Security Policy, and the conflict in the Balkans was a test which showed to what extent the EU was in/capable of intervening in South-Eastern Europe and effectively resolving this regional conflict. In hindsight, it is evident that the dominant role in its resolution was not played by the EU, but by the international community embodied mainly by the United Nations and the strong influence of the United States of America (USA). From among European states, the resolution involved the activities of e.g. Great Britain, France and Germany. This is evidenced by plans for the resolution of the ethnic situation in BiH during the war, e.g. the Vance-Owen and Owen-Stoltenberg plans (Tesař 1999). The European Union took a more passive approach, providing mostly humanitarian aid. The EU played a more active role mainly after 1995. Before we deal with the relations between the EU and BiH, let us outline the present situation in Bosnia and Herzegovina with respect to the main issues preventing its accession to the EU.

The document that ended the Bosnian War, the Dayton Peace Agreement<sup>2</sup> (1995), is considered to be a great international compromise that brought an end to the bloodshed. On the other hand, we need to follow the ensuing

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<sup>2</sup> The Dayton Agreement will not be analyzed in detail; the following paragraphs will point out certain weak points that nowadays weaken the functioning of BiH's political system, or rather its relations with the EU and the accession talks themselves.

development and the criticism of the post-war arrangement, where the role of the EU is continually intermingled with the role of the political elites and the overall functioning of the political system. From the point of view of BiH, we need to see at least two variables. The first is connected with the constitutional arrangement of the political system, which suffers from certain drawbacks. The other is the position of the political elites and society, who have a major influence on the talks with the EU and are responsible for shaping or blocking particular changes.

If we examine the constitutional anchoring in detail, we can clearly see one group of causes that weaken BiH in its talks with the EU. The Constitution<sup>3</sup> of Bosnia and Herzegovina is based on the Dayton Peace Agreement, specifically Section Four. Currently, the constitutional arrangement of BiH is often seen as one of the main problems that damages the functionality of the country's political system (Kocjančić 2011). The functioning of the constitution in practice clearly indicates certain weak points leading to blocking of the system (see below). The discussion on constitutional reform was initiated by the international community; a further initiative, in place since 2006, is being taken by the EU. Well-known is the Prud Agreement, which calls for the harmonization of BiH's constitution with the standards of the European Convention of Human Rights and Fundamental Freedoms. In 2009, the Butmir Package of Constitutional Amendments was drawn up, which summarizes the conclusions of the Prud Agreement and reacts to the conclusion of the Stabilization and Association Agreement with the EU. Problems in accepting a new constitution are caused by the unwillingness of the political elites to reach an agreement on particular changes. Another issue seems to be the unpreparedness of international negotiators as far as local specifics that should be taken into account in the talks. At present, we can summarize the process of adopting constitutional reform as follows. When an agreement is reached between representatives of BiH and international negotiators, implementation of the reform is paradoxically hindered by the constitutional safeguards of the existing political system. No vote on a constitutional change has so far produced the majority of votes needed,<sup>4</sup> because members of the Entities take advantage of the mechanism for the protection of vital interests (the right to veto). In practice, this means that one of the constitutive nations expresses its disagreement with the constitutional change, which automatically terminates the entire approval process (see the constitutional arrangement of BiH).<sup>5</sup>

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3 For the constitution of BiH, visit: [http://www.ccbh.ba/public/down/USTAV\\_BOSNE\\_I\\_HERCEGOVINE\\_bos.pdf](http://www.ccbh.ba/public/down/USTAV_BOSNE_I_HERCEGOVINE_bos.pdf) (20 September 2013).

4 For example, use of the mechanism for the protection of vital interests, e.g. the Butmir Package was acceptable only for representatives of the Bosnian Party of Democratic Action.

5 For further information see [http://www.ccbh.ba/public/down/USTAV\\_BOSNE\\_I\\_HERCEGOVINE\\_bos.pdf](http://www.ccbh.ba/public/down/USTAV_BOSNE_I_HERCEGOVINE_bos.pdf) (20 September 2013).

Since the failure of the Butmir talks, there have been no more major negotiations on constitutional reform. Therefore, examining the progress of BiH's EU accession talks needs to take into account the existing, rather complicated political system. A major constitutional weakness is presented by the division of the country's territory into two federal parts, the so-called Entities.<sup>6</sup> In the country's political system, the Entities unequivocally outweigh the central state institutions. Moreover, the federal Entities have a different internal structure. The Republic of Serbia is largely centralized, while the Federation of Bosnia and Herzegovina is decentralized and divided into cantons. The Entities play a dominant role in the distribution of funds and the adoption of particular decisions, which often have to be respected by the central institutions. In practice, harmonization of the law within BiH faces obstacles, e.g. the existence of two ministries of agriculture in the Federation and the Republic of Serbia, and the inconsistent structure of management of the education system in the Federation, where there are six ministries of education in individual cantons and one federal ministry. In connection with the EU accession talks, the question is which level of political institutions is the appropriate partner for the EU. BiH's constitution should clearly, and in line with the principle of solidarity, divide competencies between the Entities, cantons, municipalities and all-state institutions.

Among other things, the constitutional reform should respond to the existing discriminating elements that fail to respect the European Convention on Human Rights and Fundamental Freedom. This takes us to the problem of the minorities living in BiH. Constitutional representation in government institutions is guaranteed only for the constitutive nations, i.e. Bosnian Croats, Serbs and Bosniaks. Other groups within the population, e.g. Jews or members of the Roma community, do not have such a right. The political elites should take into account the constitutional claim<sup>7</sup> and the ruling of the European Court of Human Rights and transform the constitutional system in such a way as to ensure representation for all nations living in BiH, not only the constitutive nations. At present (October 2013), a major decision was taken after the meeting of BiH's representatives and the European Commissioner for Enlargement, Štefan Füle. Representatives of BiH announced they would be willing to accept that each resident of BiH can get representation in government bodies regardless of whether or not they are a member of one of the constitutive nations. However, no deadline was set by for this decision to be approved. Discrimination of minorities is nowadays considered to be one of the main obstacles in BiH's application for EU membership, and if a compromise were found, it would mean

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6 Bosnia and Herzegovina is a federation comprised of two entities – the Federation of Bosnia and Herzegovina and the Republic of Serbia.

7 The constitution should respond to the claims known as the *Sejdić-Finčić* case, which was decided by the European Court of Human Rights (see e.g. Maršić, Marco 2007).



a breakthrough and the fulfillment of one of the conditions flowing from the Copenhagen criteria.

In the evaluation of the functioning of BiH's political system, we need to see that the central institutions have a wider range of powers than they are given by the constitution. These result from the provisions on additional responsibilities, not the constitution (Kocjančić 2011: 74). In this respect, the central federal institutions have provisional powers which they have delegated to themselves, but are not enforceable by the constitution. According to the constitution, the decisive powers lie with the Entities' institutions that decide on the flow of finances and manage the Entities. In many respects, the central institutions of BiH have to adapt to decisions taken by lower-level institutions. Unclear and to a large degree non-transparent relations between the central institutions and the Entities cause great damage to BiH. This includes particularly financial loss, which was apparent this year. In 2013, the European Union responded to BiH's unwillingness to transform the constitution and reduced the amount which BiH receives as part of the Instrument for Pre-Accession Assistance (IPA). An amount of EUR 108 million was allocated for the year 2013. According to the Commissioner for Enlargement, Stefan Füle, this amount will be reduced by more than half, to EUR 47 million, i.e. by 54% (Gardner 2013). The European Union responded, for example, to the ambiguous approval process in allocating funds, as it is conducted separately and in a different way in each federal unit. For this reason, this year the EU, for example, withheld support for two agricultural projects. The loss of these funds will considerably affect not only agriculture, but also regional development in BiH.

Apart from the system's constitutional arrangement, it is also necessary to follow the internal political problems that BiH has been facing in recent years. Recently, there has been no such thing as political stability in BiH. The last elections in 2010 showed the inability to find consensus in establishing a central government.<sup>8</sup> The government coalition fell apart after less than 6 months and the existing coalition is having a hard time finding compromises. One partial success is the passing of the census law. The historically first census after the war took place in October 2013 with the financial support of the EU. Within the context of the constitutional reform, the absence of relevant data on the composition of society is crucial. The post-war arrangement of the political system has so far been based on the census from 1991. However, it is clear that after the war these data are inaccurate. Bosnia and Herzegovina does not have reliable data concerning the size of its population, its distribution or structure. From the socio-economic standpoint, it is not possible to create socio-economic plans

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8 The formation of the central government was blocked for a long time and the government coalition was formed only 14 months later, at the turn of 2011 and 2012. For more information see [http://www.crisisgroup.org/~media/Files/europe/balkans/bosnia-herzegovina/b068-bosnias-gordian-knot-constitutional-reform](http://www.crisisgroup.org/~/media/Files/europe/balkans/bosnia-herzegovina/b068-bosnias-gordian-knot-constitutional-reform) (20 September 2013).

in line with the country's demographic development. The preliminary results of the census should be available in December 2013, and the final results in the course of 2014.

The census in BiH clearly pointed out the nationalist elements that still strongly persist in society. There was visible media pressure on residents to identify themselves with one of the ethnic groups living in BiH.<sup>9</sup> The census revived nationalism and a potential concern over further development in society. It is obvious that the census may reveal ethnically "clean" areas, e.g. the Republic of Serbia, which can increase pressure by Bosnian Serbs on demands for a greater degree of the Entity's autonomy. It is also likely that the society will consist of a majority of Bosniaks. Therefore, there could be a call for BiH to be declared a national state of Bosniaks. As for Croats, the census will most likely indicate their weak representation in the population. The census results could therefore lead to an increase in ethnic tensions, which have prevailed in BiH since the 1990 s.

Generally, it can be said that BiH's accession to the EU is to a large extent modified by certain statements and positions of the political elites; "...local politicians re-modify the European standards in line with their "Bosnian standards" built in particularistic ideological interests" (Brljavac 2012: 5). Brljavac speaks, in connection with BiH, of an ethnocratic transition (Brljavac 2011: 5). This concerns not just the role of the political elites, but also the influence of ethno-nationalist parties, which have dominated the political system since the beginning of the 1990 s. Since the early 1990 s, voters have regularly and at all levels (municipal, canton and central elections) preferred traditional, strong nationalist parties with ties to one of the constitutive nations.<sup>10</sup> The nationalism of individual constitutive nations raises questions about the relevance of a united state identity. The idea of BiH's statehood is not shared by all its residents; regularly since the end of the war, there have been tendencies to demand greater autonomy for one of the Entities. There are clear cross-border ties with neighboring Serbia and Croatia.

A number of examples of practical moves by politicians within BiH show that they are often not interested in preserving BiH as a united country and do not view European integration as important. The main force supporting the meeting of particular accession criteria is the EU, not the local interests and

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9 For example, Bošnjačka himna za podpis 2013: available at [https://www.youtube.com/watch?feature=player\\_embedded&v=dYaneeixqbs#t=80](https://www.youtube.com/watch?feature=player_embedded&v=dYaneeixqbs#t=80) (14 October 2013) and Svi smo mi Republika Srpska: available at [https://www.youtube.com/watch?feature=player\\_embedded&v=c3jllLSXXEA](https://www.youtube.com/watch?feature=player_embedded&v=c3jllLSXXEA) (14 October 2013). Especially identifying with the ethnic group of Bosniaks is not clear-cut for all residents. If they choose the Muslim ethnic group, they will be included among "others". The media campaign therefore calls on the public to register as the Bosniak ethnicity, state Islam to be their religion, and Bosnian as their language.

10 Particularly the Croatian Democratic Union (HDZ), The Party of Democratic Action (SDA), and the Serbian Democratic Party (SDS) (for more information about the party system in BiH, refer e.g. to Šedo, 2006).

reforms initiated by local politicians. From time to time, the conditions for accession to the EU are connected with particularistic interests of politicians at various levels – from central to local government. In comparison with other states in the region, it is clear that BiH has the worst position as far as the goals achieved. It can be said that the main problem of BiH in relation to European integration is the absence of political consensus; political elites are concerned with other topics and the topic of European integration has disappeared from political decision-making in BiH. Mainly at the turn of 2011 and 2012, there was the problem of establishing a central government. In 2013, we can see certain changes that have been motivated mostly by greater pressure by the EU (see the above-mentioned reduction in financial support and further in the text the role of the EU in BiH) and the integration of neighboring Croatia into the EU.

Currently, the accession of neighboring Croatia to the EU as of July 1, 2013 has an effect on BiH. The relationship between BiH and Croatia is to a large degree economically conditioned. Bosnia and Herzegovina exports eggs, meat and dairy products to neighboring Croatia. As early as at the beginning of 2013, there was a failed attempt to harmonize the standards of Bosnian products with European norms (particularly hygiene and veterinary norms applicable to the EU internal market). This also demonstrated the inability of the political elites to come to an agreement on which institutions would make the key decisions affecting this important industry. While Bosniaks preferred the central institutions, representatives of the Republic of Serbia would have preferred the Entities' institutions.

Further, it is necessary to conclude concessions, which following Croatia's accession to the EU will reset trading in the region of the Western Balkans. BiH is the only country in the region which has not taken the appropriate measures. Trading between BiH and the EU falls under the Stabilization and Association Agreement (SAA) and the provisional agreement from 2008, which has resulted in asymmetric trade liberalization in favor of BiH. Bosnia and Herzegovina has free access to the European market – customs duty applies only to select products, and BiH can export to the EU without restrictions.<sup>11</sup> Since the conclusion of SAA, no agreement has been reached and BiH has taken none of the steps necessary to meet the pre-accession obligations, i.e. the development of free trade based on bilateral agreements. On the contrary, it can be said that Bosnia and Herzegovina has deflected from the EU by imposing import duties on products from Croatia, particularly milk and meat, even though these had been liberalized prior to Croatia's accession to the EU. Levying a duty on products imported from Croatia will result in an increase in the prices of these products

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11 Except clearly defined commodities – sugar, wine, fish and baby beef, for which BiH has to pay duties when exporting to the EU: available at [http://europa.eu/rapid/press-release\\_MEMO-13-736\\_en.htm](http://europa.eu/rapid/press-release_MEMO-13-736_en.htm) (8 November 2013).

on the Bosnian market, which runs contrary to the EU's intentions. In the future, Croatia's accession to the EU could have a positive or negative effect on BiH. This will depend on whether in the following months BiH will make decisions to draw closer to the other countries in the Western Balkans. If such decisions are not made, BiH will risk a major weakening of its position within the region.

It is also necessary to observe the inter-state relations between countries of the Western Balkans. BiH currently has bilateral relations with Serbia and Montenegro as part of the EU's neighborhood policy. Particularly in the past year, BiH's relations with Serbia have warmed after the Serbian president apologized for the crimes committed in the 1990 s.<sup>12</sup> The established cooperation resonates in the issue of the return of refugees and displaced persons to the areas where they lived before the war.

In comparison with the other states in the region, Bosnia and Herzegovina has markedly lagged behind, and this is not merely a subjective evaluation from numerous sources.<sup>13</sup> The above-mentioned development clearly indicates that BiH is suffering from internal political, economic as well as social problems. This has resulted in political elites being unable to agree even on domestic political issues, often considering the problems related to the EU as of secondary importance. It is clear that all the political elites agree with accession to the EU, but are incapable of agreeing on the particular accession criteria.

The question is how Bosnian society sees its integration into the EU. Paradoxically, the majority of society sees their country's integration into the EU positively (Brljavac 2012a). We also need to follow social changes. In 2006, Bosnian society saw its accession to the EU positively. Two years later, the approval rates were down: 65% of Bosniaks, 50% of Bosnian Croats and only 34% of Bosnian Serbs believed that integration into the EU was a good thing.<sup>14</sup> All three constitutive nations see accession to the EU as beneficial, although each for their own reasons (Turčalo 2012: 6). Society positively viewed the visa liberalization. As of 2010, citizens of BiH can travel freely within the Schengen area without requiring visas. In the past several years, so-called Europhilia has been on the wane in BiH. Interest in entering the EU was aroused by the belief that the EU would be a tool for resolving problems in BiH. However, over time society has become increasingly aware that integration into the EU is not a panacea for all the ailments the country suffers from.

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12 Interview with the Serbian president, Tomislav Nikolić: available at <http://www.ceskatelevize.cz/ct24/svet/224301-srbsky-prezident-na-kolenou-omlouvam-se-za-srebrenici/> (20 May 2013).

13 See e.g. Štefan Füle 2012 or Peter Sorensen.

14 Available at [http://www.balkan-monitor.eu/files/Gallup\\_Balkan\\_Monitor-Focus\\_On\\_EU\\_Perceptions.pdf](http://www.balkan-monitor.eu/files/Gallup_Balkan_Monitor-Focus_On_EU_Perceptions.pdf) (8 November 2013) or [http://www.vpi.ba/upload/documents/eng/BiH\\_Public\\_Opinion\\_on\\_the\\_EU\\_integration\\_process\\_2009-2012.pdf](http://www.vpi.ba/upload/documents/eng/BiH_Public_Opinion_on_the_EU_integration_process_2009-2012.pdf) (8 November 2013).

## The European Union and Bosnia and Herzegovina

Another point of view is the analysis of the EU's position and its activity in BiH. The EU's active involvement in BiH after 1995 can be explained as an effort to prevent any recurrence of the escalation of the conflict in the part of Europe where it is attempting to spread the values of democracy. Since 1997, such support has been strictly economic and political, in the form of the financial tools PHARE and RENEWAL. The more active military and police presence of the EU began to develop in BiH only in connection with the conclusion of the St. Malo Agreement.<sup>15</sup> In the following years we could see the increasing role of the EU as a party with an interest in bringing BiH (countries of the Western Balkans) into the EU structures. Activities conducted by the EU overlap, as since the latter half of the 1990 s we have seen investments not only in individual states, but also the implementation of region-wide projects focused on the Western Balkans. The first such project was the Royaumont Process in 1996. Its main goal was to promote stabilization, democratization and peace building in the region. The Royaumont Process was followed by the PHARE and RENEWAL programs, which were intended to build democracy, the rule of law and develop human rights (Eralp 2012). Generally, in hindsight it can be said that since the second half of the 1990 s the EU has been a more active partner in relation to BiH and the entire Western Balkans, striving for the countries in this region to enter the EU.

The first meetings of the European Council in connection with the preparations for accession to the EU were held in Feira in 2000, and later in Thessaloniki in 2003. The Feira Summit was followed by the Stabilization and Association Process (SAP), and following the Thessaloniki Summit BiH was considered to be a potential candidate country (Juncos 2005: 91). The Commissioner for Enlargement at the time, Chris Patten, announced the Road Map for BiH, identifying 18 points that were to be fulfilled. The result was the application of the regatta principle, according to which each state striving to accede to the EU shall attempt, according to their own abilities, to achieve such a level in particular areas that would bring the state all the way to its accession to the EU. BiH was to build an economically and politically functioning state.

Since 2001, the main financial tool has been the CARDS (Community Assistance for Reconstruction, Development and Stabilization) program. A closer partnership was established in 2008, when the Stabilization and Association Agreement (SAA) was concluded. SAA was the first major pre-accession tool, as it meant the beginning of economic liberalization. At the same time, BiH began to accept funds from the multi-year Instrument for Pre-Accession Assistance (IPA) program intended for the years 2008-2013. The IPA program substantially

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<sup>15</sup> On the initiative of France and Great Britain, plans were made in 1998 to develop military capacity at the EU level.

supports cross-border cooperation and the transformation of state institutions. The last major activity which transformed BiH and brought it closer to the EU was the visa liberalization (see above) implemented at the end of 2010. Given the amount of funds invested, the EU can be considered the biggest investor in BiH.<sup>16</sup> Despite intensive talks and large investments<sup>17</sup>, it is clear that the reform steps in BiH have not met the EU's expectations. Since 2011, we have seen stagnation in the efforts to draw nearer to accession to the EU, both from the EU and BiH.

In certain periods, accession to the EU is always conditioned, on the European side, by particular reform measures. In 2005, it was reform of the police. After the war, police forces were founded separately in both federal units. The European Union demanded the unification of the police forces and comprehensive reform, which was not implemented until 2007. We have seen a similar development in the past calendar year, with the EU demanding constitutional reform with respect to observation of the human rights of minorities, referring to the Sejdić/Finci case. The resolution of the issue of minorities' rights is nowadays the main condition for the launch of BiH's EU accession talks.

The European Union does not act in BiH only as an institution providing finances and forcing the state to adopt particular reforms. Essential is the active role of the Community, which from 2003 operated police missions in the country (the European Police Mission, EUPM), and from 2004, as part of the largest military mission, the European Union Force (EUFOR) Althea.<sup>18</sup> This has led to an overlap of military and security areas in BiH, where the EU tries to maintain stability in the region of the Western Balkans. Another area is tied to the EU enlargement policy and the effort to implement democracy in BiH and create a functioning state. In this respect, we can agree with the statement by Juncos that the EU is not acting altruistically, but purely pragmatically, and wants to lower the security risks in one of the European regions (Juncos 2005: 100).

Apart from military and police cooperation, also operating in BiH is the European Union Special Representative (EUSR), whose presence led to the separation of issues connected with the country's EU integration from the agenda of the OHR<sup>19</sup> (Office of the High Representative). The EUSR nowadays acts alongside the EU's High Representative as the main mediator of EU-BiH

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16 Available at <http://www.delbih.ec.europa.eu/Default.aspx?id=15 & lang=EN> (10 September 2013).

17 In 2001-2006, the EU invested EUR 412 million within the CARDS program. For the period 2008-2013, EUR 488 million was allocated for BiH: available at <http://www.delbih.ec.europa.eu/Default.aspx?id=15 & lang=EN> (10 September 2013).

18 The European Union replaced the NATO forces which operated in the country after the end of the conflict in the 1990 s.

19 The Office of the High Representative was created after the war as an institution which, although without constitutional anchoring, was to assist with the implementation of the Dayton Agreement. Following the introduction of the so-called Bonn powers, the OHR has the right to intervene in the political system, revoke decisions, remove candidates of political parties, etc.



relations. The highest level talks between the EU and BiH are conducted as part of the High Level Dialogue on the Accession Process (HLDAP). Within HLDAP, the EU provides assistance mainly with the transition of European law to national law, thus increasing the efficiency of pre-accession assistance.

One of the tools that can be used in studying EU-BiH relations is the regular monitoring reports, which the EU has been issuing regularly since 2002.<sup>20</sup> The European Union positively evaluates the passing of two laws in 2012 that concern the transposition of European law into the legal framework of BiH. These are the State Aid Law and the Law on the Household and Population Census. Development towards integration into the EU is more noticeable at the Entity level, where success has been achieved in adopting legislative measures that are in line with the European Charter on Local Self-Government. The main reforms are aimed at delimiting the relationship between the Entities, cantons and municipalities. However, the process is moving very slowly. At the federal level, regular meetings are held regarding integration into the EU. In the Republic of Serbia, there is the so-called EU Integration Committee at the National Assembly level.

There is great criticism from the EU in connection with corruption, which is still rife in BiH, although rules have been drawn up and the Agency for the Prevention of Corruption and Coordination of the Fight against Corruption launched. There have even been special legislative measures adopted concerning the fight against corruption. However, there is insufficient political will to enforce them in practice. Corruption goes hand in hand with the high unemployment rate, which is still around 45%.<sup>21</sup> Neither in the Federation nor in Brčko did they succeed in adopting a strategic employment plan for the period 2010-2014.<sup>22</sup> The exception was the Republic of Serbia, which passed a program for the calendar year 2013.

A comprehensive view of the EU's activity and criticism directed at BiH reveals several facts. The efforts of the EU encounter local problems and the unwillingness of the political elites. Prevalent in the long run is the nationalist rhetoric, which ignores or considers any EU integration efforts as of secondary importance. Also, there is insufficient awareness of European integration in society, and the roles of the EUSR and OHR are not perceived positively. With regard to developments in the past calendar year, we can say that the EU

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20 The last report was published in October 2013: available at [http://ec.europa.eu/enlargement/pdf/key\\_documents/2013/package/ba\\_rapport\\_2013.pdf](http://ec.europa.eu/enlargement/pdf/key_documents/2013/package/ba_rapport_2013.pdf) (20 October 2013).

21 Available at <http://www.arz.gov.ba/statistika/mjesecni/default.aspx?id=1281&langTag=en-US> (10 November 2013).

22 Available at [http://www.arz.gov.ba/files/akti/strategije/Strategija\\_zaposljavanja\\_2010-2014\\_en.pdf](http://www.arz.gov.ba/files/akti/strategije/Strategija_zaposljavanja_2010-2014_en.pdf) (1 August 2013).



has substantially increased its criticism of the Bosnian elites and much more emphatically insists on the observance and achievement of particular changes. Reforms are not a priori conditioned by accession to the EU, but by the reduction in financial support, which will affect not only the Bosnian economy, but also Bosnian society.

## Conclusion

In observing the mutual relationship between the European Union and Bosnia and Herzegovina, we can see the different development stages which formed this relationship. The initial interest in BiH was motivated by the ongoing conflict, when the EU held the role of provider of humanitarian aid. More pronounced activities are connected with the post-war situation, when the EU was interested in spreading democratic principles in one of the European regions. In connection with EU integration, financial aid was first launched in the form of the PHARE and RENEWAL programs. Until the end of the 1990 s we could see a major involvement of the EU in the post-war reconstruction of the region. A more pro-integration policy was launched at the beginning of the 21st century, when the EU led a series of talks that resulted in BiH being considered as a potential candidate country (in 2000). In the following years, a dialog was held on financial support within IPA as well as discussions on the liberalization of the visa policy and the signing of readmission agreements, which in 2010 allowed citizens of BiH to travel within the Shengen area without visa requirements.

Generally, we can evaluate the EU position as active, striving for the transformation of BiH after the conflict in 1995. On the other hand, the activities of the EU have run into local problems connected primarily with a lack of will on the part of the political elites to come to an agreement on specific reform steps. If we were to point out the main problems, these would be dominated by the discrimination of minorities, which do not have the constitutional guarantee of their representation in state institutions. The European Union has responded to the Sejdić/Finci case, which the European Court of Human Rights found substantiated. The problems of minorities generally correspond with the overall necessity to transform the constitution of BiH, as it often results in blocking of the political system and the domination of the constitutive nations. In relation to the EU, no clear competences have been defined between the central institutions and those of the Entities, which makes it difficult, or rather impossible, to distribute funds provided by the EU.

A special role is played by the political elites, which often prefer nationalist interests. Strong nationalist politics often blocks the decision-making process, because the political elites take advantage of constitutional mechanisms, particularly the right to the protection of vital interests of the constitutive nations. The suggested model of non-functional decision-making could be seen in the

formation of the government coalition after the last election in 2010, or during the discussion on constitutional reform. In terms of European integration, the political elites do agree on the necessity to draw nearer to the EU; however, they disagree on what such cooperation and EU integration should look like. A retrospective analysis clearly indicates that particularistic, nationalist-tinted interests outweigh any interest in cooperating with the EU and meeting the accession criteria.

Bosnia and Herzegovina suffers from other problems that can be considered as lasting consequences of the post-war situation. These include, for example, high unemployment and corruption; the problem concerning the return of refugees and displaced persons has not yet been resolved; and the country struggles with a widespread grey economy. All these problems are supported by nationalism and society's long-term lack of interest in integration into the EU. There have been instances in the past when EU integration was perceived positively, e.g. following the visa liberalization, but in the long term Bosnian society is uninterested in European matters.

If we are to summarize the mutual relations between BiH and the EU with respect to the integration process, we arrive at three main conclusions. First, support from the EU has for a long time been constant, and BiH has definitely undergone visible concrete transformation. Only in the past year has there been a change in the EU's position, mainly certain radical steps such as the termination of financial support by IPA and the decision to cut back on financial support for the next accounting period of IPA II. An explanation for the existing position of the EU may be the accession of Croatia to the EU and possibly the transformation of the EU's enlargement policy with respect to the countries in the Western Balkans.

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# European Integration in the Western Balkans: Is Serbia on the Road to EU Accession?<sup>1</sup>

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**Abstract:** *The EU membership perspective is seen as the most promising way to transform the domestic structures and foster peace and stability in the region of the Western Balkans. Despite the fact, that the EU has become an unchallenged international actor in the region, the process of Europeanization has been slow and many obstacles still remain on the road to full membership. Serbia is taken as a typical case of slow development and resistance to change. The distrustful attitude towards foreign involvement generates a battle between the forces of reform and national protectionism and the last general election proved that nationalism continues to fuel the rhetoric of political elites. The aim of this article is to call attention to the practical and discursive constraints of the EU accession process in Serbia and contribute to the debate over the limitations of the Europeanization process. I will seek to map Serbia's path towards democratization and European integration in the light of its relations with Kosovo and cooperation with the ICTY.*

**Keywords:** *European integration, Serbia, political elites, Kosovo, ICTY*

## Introduction

Milošević's fall in 2000 meant the end of international isolation and the beginning of the negotiations for integration into the structures of the EU for Serbia. The pro-European and pro-reform policy was started up in Serbia during the first several years of its transformation, however, even then signs of it slowing down started to appear, as there was a lack of political and public consensus over the internal changes and the country's orientation in the international field. As there have been some extra conditions for the membership of Serbia set beyond the Copenhagen criteria, the process of accession is affected by an

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overwhelming number of factors influencing the pace, length, and result of the accession negotiations.

This text aims to outline the previous development of the accession process with an emphasis on the factors which substantially influence the pace of the negotiations: the Kosovo issue, cooperation with the ICTY and the changing attitude of the Serbian political elite to the EU. The performed analysis should contribute to the future orientation of Serbia and the importance of European integration for the Balkan countries.

## **Serbia and the EU: The status and problems of the accession process**

According to the policy of the EU, it is possible to maintain peaceful development in this unstable region, ravished through with several waves of ethnic conflicts, by means of economic prosperity and assistance in creating democratic institutions. In this context, the EU keeps supporting numerous programs in the region of the Western Balkans, assists in the creation of democratic institutions, creates strong political and economical ties, and shares its idea of running a democratic state with the Balkan state (Samardžija 2007: 110–111). The EU is fully aware of the costs of possible further armed conflicts on the Balkan peninsula, and is therefore willing to integrate the countries of the region into its structures and thus possibly prevent future potential conflicts in time (Matti, Plümper 2005: 54–56).

Despite the fact that the group is rather homogeneous and faces similar problems (EU 2003), the essential aspect of the accession negotiations with the countries of the Western Balkans became the principle of allowing each country to proceed at its own individual pace. The EU thus only abandoned its tradition of accepting new members in larger groups, especially because of large differences in the different phases of negotiations in which the individual countries find themselves.

In 2003, the summit in Greek Salonika granted all Western Balkan countries a potential candidate status and confirmed another goal, declared earlier, which was to bring the involved countries closer to gaining EU membership (EU 2003). The SAP added conditions for the acceptance of the countries of the Western Balkans into EU with the fulfilment of extra requirements beyond the Copenhagen Criteria, specifically full cooperation with the International Criminal Tribunal for the former Yugoslavia (ICTY) and good neighbourly relations with other countries in the region, which is a logical reaction to the history of war and persisting instability in the region (EC 2004: 5).

In 2000, almost 20 opposition parties and movements created the so-called Democratic Opposition of Serbia (DOS) whose main election programme was an election defeat of Milošević and the establishment of democracy. Opposi-



tion political parties and various NGOs emphasized the need for political, economical, and other reforms. The responsibility for the expected reforms thus remained in the hands of the DOS, whose main actors were the Democratic Party (Demokratska stranka, DS) of the Prime Minister Zoran Djindjić, and the Democratic Party of Serbia (Demokratska stranka Srbije, DSS) of Vojislav Koštunica. These parties, however, differed in their visions of the future orientation of the country, which soon led to political tension.

Prime Minister Djindjić promised to make Serbia a modern *Rechtstaat*, built upon European values and stable, transparent, and liberally-oriented institutions. Among his first tasks were social and economic reforms as well as ending the international isolation of the country and its reintegration into Europe. Djindjić declared Serbia's accession to the EU his primary goal which should be achieved within a time span of no later than ten years (Orlovic 2008: 165). Koštunica's DSS, on the other hand, defended preserving the continuity with the past regime, and stood firmly against the extradition of Serbs accused of war crimes to the International Criminal Tribunal for the former Yugoslavia (ICTY).

In the effort to open relationships with the EU and to start the accession negotiations, the Stabilisation and Association Agreement (SAA) was concluded in 2000, which, among other, also contained the possibility of future accession to the EU. It was, however, not limited by any time frame, and the quickness of accepting and signing of the SAA depended on the swiftness of the fulfilment of the political and economical criteria set out in the accession.

Most of the political elites, however, were not ready to make the necessary steps which would help them cope with their past and radically part with the previous regime and its intensely nationalist politics. Even the Serbian public itself was reluctant to admit to their country's responsibility for the consequences of the Balkan conflicts. In 2003, Zoran Djindjić was assassinated, and his death foreshadowed the end of the pro-reform politics and cooperation with the ICTY, as well as a new outbreak of nationalism and radicalism.

The issues of cooperating with the Criminal Tribunal in the Hague and of the normalization of the relationships with Kosovo quickly became the decisive criterion by which the international community started judging and condition of the readiness of Serbia to become a legitimate member of the European family. The Serbian political elite, feeling antipathy towards the Tribunal and understanding Kosovo as an integral part of Serbia, perceived the strict conditions of the EU accession, to some extent, as a continuing of the post-war sanctions from the 1990 s.

## Cooperation with the ICTY

An important part of the old Milošević's constitution was a paragraph on the prohibition of extraditing Serbian citizens. This issue became a politically sensi-

tive one immediately after the overthrowing of his regime in connection with the dispute over his extradition to the Tribunal in the Hague. Koštunica was convinced that the only way of coming to terms with the past crimes would be for trials to take place directly in Belgrade, conducted according to the laws of Serbia. He therefore established a Committee of Truth and Reconciliation which should investigate both internal and external factors leading to the Yugoslavian conflict in the 1990 s. However, the committee was criticised for its lack of efficiency and bias, and for avoiding the question of war crimes and their victims. The committee ceased its activities without producing any specific report. Under pressure from the international community, the Serbian government finally agreed with the extradition of Milošević and cooperation with the ICTY. The quality of the cooperation, however, remained at the minimum level and was quite controversial and ineffective. The reluctance of the Serbian political elite to accelerate the extradition process and increase its efficiency had a negative impact on the accession negotiations and led to repeated postponing the signing of the Stabilisation and Association Agreement (SAA) permanently.

The EU declared that the Serbian nationalist-oriented government was trying to convince the international community that it was searching for the accused without being able to substantiate its statements with any positive evidence. The entire process culminated in 2006 in the suspension of the accession interviews. The main ICTY prosecutor, Carla del Ponte, expressed her belief that the war criminals who had not been apprehended were hiding in Serbia, and accused the Serbian government of unwillingness to cooperate with her investigators.

The European Committee decided to restore the SAA negotiations following the apprehension and extradition of former Bosnia-Serbian general Zdravko Tolimir, a close cooperator of Ratko Mladić, which took place in June, 2007.

Significant progress in the cooperation with the ICTY, however, became apparent only with the election of the new pro-western government in 2008. In July 2008, this government, with Serbian authorities, successfully discovered and apprehended Radovan Karadžić, the former leader of Bosnian Serbs (Uvalić 2010: 234), and later general Ratko Mladić in May of 2011. Their apprehension was perceived as Serbia's parting with its militant past, and a token of its readiness to start more intense negotiations with the EU.

## **The Status of Kosovo**

The issue of regional cooperation, perceived by the EU as the cornerstone of the accession process, became another key question. Although Serbia was earlier criticized for the lack of cooperation with the ICTY, the most difficult obstacle in its way is presently the unresolved situation in Kosovo.

Although the EU did not make the acknowledgment of Kosovo independence as one of the conditions of Serbia's accession to the EU, resolving this

dispute is a key factor in the accession process. Regional cooperation and good neighbourly relations are one of the essential requirements of the Stabilisation and Association Process, and the failure to meet it might lead to the halting of negotiations.

Moreover, the Commission has described the relations with Kosovo as one of the most significant obstacles to Serbia's integration into the EU. Still, it considers this dispute to be solely a bilateral issue between the involved parties and acts primarily as a mediator trying to offer an acceptable compromise (EU 2013 b).

In connection with Kosovo, it is necessary to mention the passing of the new Serbian Constitution in 2006, which was timed to the term for finalizing the plan which was expected to resolve the final status of Kosovo (Ahtisaari's plan). The preamble of the new constitution is rather unusual and intentionally contradicts the plan. It says that *"the Province of Kosovo and Metohija is an integral part of the territory of Serbia, that it has the status of substantial autonomy within the sovereign state of Serbia and that from such a status the Province of Kosovo and Metohija follow the constitutional obligations of all state bodies to uphold and protect the state interests of Serbia in Kosovo and Metohija in all internal and foreign political relations"* (The National Assembly of the Republic of Serbia, 2006). This preamble puts the mentioned province into the very centre of interest of every Serbian government, whose duty is to keep Kosovo within the state of Serbia (Štěpánek 2007: 16). This leads to the fact that should the EU decide to acknowledge the independence of Kosovo, it would not be possible for Serbia to pursue its accession to the EU as it would be in contradiction to the Serbian constitution. This interpretation was subsequently confirmed by Serbian representatives themselves (Kouba 2007: 11).

The parliament of Kosovo, however, declared unilateral independence from Serbia in February of 2008, and subsequently, 22 of 27 EU member states acknowledged Kosovo as an independent state. Serbia described this measure as a unilateral, ethnically motivated secession which was entirely in contradiction to international law and could therefore become a dangerous precedent leading to the destabilization of regions in many parts of the world.

Following Serbia's application for full membership in December, 2009, quite a significant improvement in relations with Kosovo can be observed. Regular meetings of political representatives of both the countries are held, and an agreement on integrated management of the borders was concluded in 2011, which enabled police and customs officers of Kosovo to build border checkpoints along the northern border with Serbia. After Serbia was awarded the candidate status in 2012, an increase in the efforts to normalize the relations and finally resolve the situation was expected (Zafar 2012). In its report from March of 2013, the Commission recognized this trend, and acknowledged

that the continuing dialogue between Pristina and Belgrade had produced noticeable results, such as the implementation of the aforementioned agreement on integrated border management, a possibility of travelling between the two countries using regular IDs only (without passports), and an overall increase of the level of mutual cooperation (EC 2013a).

The ongoing development indicates that both sides really mean what they said concerning the resolution of the situation in Kosovo. In April 2013, a treaty acknowledging the government of Kosovo as the only one wielding power over the territory of Kosovo was signed. As a concession to the Serbian citizens of Kosovo, the treaty, on the other hand, granted a greater amount of independence to territories inhabited by them (Norman 2013). Kosovo and Serbia also exchanged ambassadors, and even though these are not ambassadors or attachés as defined by international law, it is undoubtedly a crucial step, considering that the countries had not had any mutual representatives since the war in 1998–1999 (RFE 2013). In this way, Serbia expressed that it was beginning to respect Kosovo as an equal partner, which created a promising prospect for future development. Also the Commission stated in its report from April 2013 that Serbia has made significant progress towards resolving the issue of Kosovo, and recommended commencing the accession negotiations. The Commission, however, has not approved the negotiating framework yet, and Serbia is thus still waiting for the negotiations to begin (EC 2013a: 11–13).

## **The attitudes of Serbian elites to the steps of Serbia on its way to the EU**

In Serbia, political parties have an exceptional influence and a high level of autonomy in deciding the country's orientation. Some authors even speak of Serbian "partitocracy" (Stojić 2010: 17). Therefore, the present and future nature of the country is largely determined based on the convictions and interests of the political elites, manifesting through the conduct of political parties.

As indicated previously, since the beginning of the accession negotiations, there was never a consensus concerning the country's integration into the EU and, unlike the countries of Central and Eastern Europe, the Eurosceptic parties did not only operate on the outskirts of the party system. The Serbian Radical Party, which was also the most resolute opponent of the Serbian integration to the EU, had been the largest party in the parliament until 2008.

The attitudes of the political elite towards the EU may generally be divided into two periods: between 2000 and 2008, and post-2008. During the first period, there were two groups with different visions for future development. The first was the "anti-European group", which included the Socialist Party of Serbia (SPS), which was the former Milošević's government party, and the extremely right wing and nationalist Serbian Radical Party (SRS). Both of them

promoted the idea that the EU membership was directly contradicting the national and economic interests of Serbia. They perceived the EU as a symbol of “anti-Serbian politics”, and therefore rejected the negotiations and fulfilling of the accession criteria.

The other, “pro-European”, group were the parties of the opposition movement DOS, among which the parties with the biggest say were the Democratic Party (DS), and the Democratic Party of Serbia (DSS). This group promoted a fast transformation and integration of Serbia into international institutions, above all into the EU. The difference between these two groups, however, gradually became less pronounced due to disputes among the democratic parties, and gradual softening of the Socialists’ attitudes towards European integration.

Acknowledging the independence of Kosovo by the majority of the EU member states in the beginning of 2008, however, caused a substantial change in the attitude of the Serbian elites towards the EU, and the moment thus meant the beginning of the second period, during which there occurred a significant change in the attitudes and rhetoric of the political parties. The premature parliamentary election of 2008 took place in a time of high political tension, and the very topic of the accession to the EU, connected with the issue of the independence of Kosovo, became the most important pre-election campaign topic, and the election itself was understood as a kind of an unofficial referendum on the accession to the EU. Therefore, the conflicts between pro-European and anti-European parties deepened within the political spectrum.

Unlike the majority of the member states where there is a significant pro-European economical elite, the support for broadening the integration is very low in the Serbian private sector. This is partially caused by the fact that the Serbian economy is not competitive even in areas in which it should have a relative advantage, such as in agriculture (Čavoški 2013: 9). More important than that, the Serbian private sector is dominated by companies with strong ties to the present regime that are not interested in entering a larger, liberalized market.

The Serbian political elite often describe the EU as a pure source of money and a way to a supply of finances from the pre-accession funds. A large part of this elite, though, are also aware that only full EU membership will allow further investments and prevent Serbia from further political and economical isolation.

## **The attitudes of relevant political parties**

As indicated earlier, the political parties in Serbia have an exceptionally large influence over the decision-making process, and substantially influence the integration process. Their attitudes towards the EU are significantly polarized, and the relative power of this division is obvious also from the slogans used by the parties in the election of 2008.

The DS used the slogan “For a European Serbia – Boris Tadić”, and the campaign was accompanied by the motto “Serbia in Europe, Kosovo in Serbia”. The DSS led its campaign with the slogan “15 Years of Fighting for Serbia”, and put emphasis on the conditions of integration into the structures of the EU which it expressed in its motto “The EU has to acknowledge that Kosovo is Serbian”. The SPS continued in the nationalist spirit, however with a perceptible Eurosceptic aspect. For the main slogan, it used “Rise up, Serbia”, and their mottos were slogans emphasizing the national interests. The SRS used a purely nationalist rhetoric aimed against the EU. It was “Kosovo and Metohija Are the Heart of Serbia” and it also placed a strong emphasis on the reluctance to cooperate with the ICTY. (Michalík 2010: 73)

The programmatic of the DS has changed only negligibly in terms of its content since 2008, and the party maintains a consistent attitude towards the EU. It sees specific advantages in the potential membership, and therefore it promotes a full cooperation with the EU.

The DSS had related positively to European integration until 2008, declaring in its programme that Serbia, as a European country, should closely cooperate with the EU countries, and eventually become a member state of the EU itself (DSS 2009: 11). After 2008, however, the DSS, too, changed its attitude towards the EU radically, and introduced a vision of an “economically independent and politically and militarily neutral Serbia” (The programme of the DSS).

The party declares that the price Serbia has to pay for its accession to the Union is too high, and is against the interests of the Serbian nation. In its newly approved programme, the party points out that the Serbian state is older than the European Union, and that its main interest is to protect the national identity and territorial integrity. Furthermore the party, does not view the EU as the only alternative for the future development of Serbia, and questions the economical stability, and future of the EU as a whole. Therefore, it recommends halting the negotiations on the accession of Serbia to the EU, and supports only the economical cooperation with the states of the EU.

The Serbian Radical Party is traditionally the strongest opponent of Serbia’s integration into the EU, as well as any form of cooperation with western countries. The party clearly states that “Serbia has to seek the membership of such international organizations which shall respect the Serbian national interests and the principle of non-intervention into domestic affairs of sovereign countries” (SRS 2009: 29), and is “principally against any attempts to integrate Serbia into NATO and the EU, as all Serbia’s traditional enemies are present there.” (Komšić 2007: 14)

The Socialist Party of Serbia (SPS) sees the entire West with great suspicion and, in its programme declaration, it states explicitly the following: “*The Serbian state finds itself in a subordinate role due to the growing pressure of the West that is*



*constantly being evolved towards it. Regardless of the so-called democratic change of 2000, Serbia, as an international legal entity, is the only state being requested to accept a territorial loss.*" (Prtina 2007: 89) The issue of retaining Kosovo remains one of the main parts of the SPS's programme: "Kosovo and Metohija are an integral part of the Serbian national integrity and state. The SPS considers Kosovo the most important state, national, historical, moral, and spiritual issue of the Serbian nation and the Republic of Serbia." (The programme of the SPS, 2010) The party, nevertheless, changed its Eurosceptic standpoints to a large extent, and in its programme from 2012 it points out that "Serbia is historically, geographically, and in terms of its civilization a European country which should have its place also in the European Union." (the programme of the SPS, 2010)

The party, in a very general way, expressed its perception of European integration, presenting its request for equal and democratic European integration, and, on the other hand, rejecting any integration that would mean surrendering to the western superpowers and the loss of national sovereignty." (The programme of the SPS, 2010)

The Liberal Democratic Party (LDP) is the strongest supporter of European integration and the only relevant party promoting granting full independence to Kosovo, as it claims that unresolved Kosovo is one of the biggest obstacles preventing Serbia's quick integration into the EU. The party also calls for a quick and entire fulfilment of the criteria for integration into the EU and gradual harmonisation of individual policies.

The Serbian Progressive Party (SNS), founded by a group of moderate members who separated from the Serbian Radical Party, adopted a more restrained right-wing political ideology. The leadership of the SNS underwent a substantial change in its attitude towards European integration, and this shift looks even more distinctive if compared with the previous radical Eurosceptic standpoint. The party abandoned its nationalist and anti-European rhetoric and adopted a balanced policy of cooperation with all states including the western ones. The party specifically claims that Serbia can only strengthen its position in the world if it works as a bridge between the East and the West. (The programme of the SNS 2010: 1) The SNS views the membership of the EU rather pragmatically and perceives it as a strategic partnership which may significantly influence the economic development of Serbia.

## **Alternatives to the EU**

Due to its specific political development, the attitude of Serbia to the EU membership constantly changes, and numerous discussions are led by the political scene on possible alternatives to the EU.

Although it may seem that there is no real alternative to the accession to the EU, concepts for the future of Serbia outside of the EU are quite frequent in



Serbian academic circles. In this respect, experts often question the economical sustainability of the EU, and at the same time, express their fears about the loss of sovereignty due to the membership. Among the possible alternatives for Serbia, they specifically mention strengthening relations with Russia.

Russia is perceived by the Serbian public and a part of the political elite as an honest protector of the Serbian national interests and considered the most important business partner. A significant influence for strengthening the mutual relationship comes from the Russian support of Serbian interests in Kosovo. Another common feature is the role of the Orthodox Church which strongly influences the political development in Serbia and significantly intensifies the country's orientation to Russia.

During the Yugoslavian wars, the Serbian Orthodox Church (SPC) was characterised by its strong nationalism and maintained extremist positions and views. Presently, its influence manifests especially in the issue of Kosovo and through describing Serbs as the so-called heavenly nation. It publicly claims that the "heavenly nation" could not have committed war crimes, and shapes public opinion against the Hague Tribunal as a political organization trying to discredit the Serbian nation in the eyes of the world. The effects of this myth, of course, complicate the efforts of pro-reform and pro-western governments. The SPC declares strong support especially to the DSS and its president Koštunica (Štěpánek 2007: 93–99). The SPC enjoys a strong political influence in Serbia, and it is very difficult and politically disadvantageous to hold a different opinion to the one declared by the SPC (Štěpánek 2005: 10–11).

## Conclusion

Relations between Serbia and the EU have been rather complicated and inconsistent. The accession process started with a delay of 10 years, and was also burdened with the issues of cooperation with the Criminal Tribunal in the Hague and the normalization of relations with Kosovo.

Thus, this is a unique coming together in many aspects, as Serbia and the EU do not share the opinion to the most essential issue: what actually the territory of Serbia is and where its borders are. Although the EU has not expressed any formal position on the independence of Kosovo, the majority of its member states have already acknowledged the independence, which negatively influenced the attitude of the Serbian elites towards the EU. Serbia, however, manages to successfully establish regional cooperation, aimed at maintaining effective and, most importantly, peaceful cooperation with the countries in the Western Balkans. After achieving the candidate status in 2012, Serbia has shown considerable effort in improving its relations with Kosovo.

Another factor crucially affecting the pace of the negotiations was the slow and inefficient cooperation with the ICTY. Serbia eventually managed to over-

come its lack of confidence in the ICTY, and thus removed this obstacle for further negotiations.

Serbia is extraordinary in the fact that despite reasonable advancements in the accession process, quite a large part of the political and economical elite maintains a Eurosceptic position. They see a possible alternative to the EU in strengthening their traditionally good relations with Russia, which is an important partner considering business and investment, as well as Russia's support in the issue of Kosovo. The major part of the elite, however, realizes that only the full EU membership shall prevent the international isolation of Serbia from being repeated, and shall open the door to investments from member states. European integration is then not understood and supported as a goal itself but as an aid serving to achieve economical aims. Parties understand the membership pragmatically and perceive the EU mostly as a means of obtaining funding. With the growing importance of the European integration process, we may observe relevant changes in the programme base of individual political parties, and growing attention paid to the European issue within their programmes.

Should we desire to label the position of the EU and the strategy of Brussels towards Serbia during the last ten years, there is probably no better term than "the carrot and stick policy". The EU is generally interested in stabilizing the region and preventing further conflict, which is why it promised Serbia potential membership, however, it also set up strict conditions for it. This policy proved relatively successful, e.g. when the expected compromises in the issue of Kosovo were balanced by weaker pressure on the issue of cooperation with the ICTY, the extradition of Tolimir was rewarded by resuming the negotiations on the Stabilization and Association Agreement, and the threat of Serbia's diverting from the EU was averted by its signature.

Presently, the European Union does not seem to be willing to accept new members due to its internal problems connected with the economical crisis and a certain tiredness of its overambitious process of enlargement. Still, the huge volume of financial help and positive evaluating reports of the European Commission are a sufficient motivation for Serbia to continue negotiations and efforts to achieve full EU membership.

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# Stabilization of Kosovo as a Way towards the European Union<sup>1</sup>

HANA HLAVÁČKOVÁ

**Abstract:** *Kosovo became an independent state in 2008. We have witnessed that its de iure autonomy is still not a completed process and causes problems with stabilization and integration. However, it has become a partner of the European Union in the sense that the EU is trying to stabilize the region and has its own rule of law mission established. Kosovo has become a potential candidate country. In this respect, Kosovo has received extensive development and humanitarian assistance as well as peace-building and state-building efforts from the international community itself. As many authors, politicians and NGO partners have explained, the stabilization of Kosovo is the only way to accept this country as part of the EU family. This article maps the current stabilization process and the steps being taken for Kosovo's further integration into the European Union with a focus on the efforts of the EU and reaction from Kosovo.*

**Keywords:** *Kosovo, European Union, EULEX, stabilization and association process, peace building, civil society*

## Introductory remarks

This article introduces the stabilization of Kosovo as a path to European integration. It deals with the status quo of the stabilization and association process. The main goal will be to determine what the current situation in Kosovo is. In the first part of the article, I will briefly introduce the development of Kosovo's independence, with an emphasis on the states that are against the recognition of Kosovo as a state de iure and the obstacles it presents to Kosovo. Further, the article will point out the efforts of the international community to calm and stabilize the situation in the country, with a special focus on the EU and its involvement in Kosovo. The main part of the article is about the current state

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of Kosovo and its efforts directed at European integration. I put forward the hypothesis that Kosovo views its approach to the EU as confirmation of its own independence and sovereignty. I will attempt to find answers to the question of whether Kosovo stands united on the question of its accession to the EU and what the obstacles in its further integration are.

## **The road to the independence of Kosovo**

In order to understand the complexity of the issues of Kosovo, or rather, why it is not so easy to view Kosovo as an independent state, we first need to look at the criteria that characterize a sovereign state. It is equally important to at least briefly introduce the history of Kosovo and the reasons why its internal situation continues to be unstable, and what problems it faces. The independence of a state, no matter if formed by secession or the disintegration of a larger unit, is conditioned by certain criteria. International law defines the so-called Montevideo criteria for the establishment of new states. These consist of four elements. A sovereign state must have (1) a permanent population, (2) a defined territory, (3) a government, and (4) the capacity to enter into relations with other states. The last two criteria are generally seen as requirements for gaining independence. The government has to have control of the territory and population (Cerone 2011: 344). The legality of such recognition is traditionally derived from the legality of secession. No international norms may be breached. On its way to independence, Kosovo has encountered and still struggles mainly with the inability of the international community to agree on what status Kosovo should have.

If we take a closer look at the case of Kosovo, the application of these criteria seems problematic and endless. One of the problems is the criterion of government; Kosovo still does not have an independent government with effective control or functionality. The current public authorities in Kosovo are viewed *de facto* as government, though not recognized by all inhabitants. Such is the problem with these criteria. The government controls the population and territory, at least in the southern part of the country. However, there remains an area which refuses to recognize the official institutions of the Kosovo government, or rather, the government formed by Kosovo Albanians, i.e. the northern part of Kosovo. There is also criticism that the government was not formed by independent institutions, but appointed and supported by external forces (the UN, NATO). It can be said that the Kosovo authorities themselves do not have control of the territory.

To better explain the internal friction, it is necessary to introduce the historical background. For centuries, Kosovo was inhabited primarily by two ethnic groups, ethnic Albanians and ethnic Serbs, and additionally by other minor ethnicities. Apart from the two major hostile ethnic groups of Kosovo Serbs



and Kosovo Albanians, Kosovo's population also includes Turks, Bosniaks<sup>2</sup>, Ashkalia and Egyptians.<sup>3</sup> During WWII, a large part of Kosovo was incorporated into Albania (Šanc 2008: 361).<sup>4</sup> After WWII, specifically from 1946, Kosovo was a province of Serbia, i.e. part of socialist Yugoslavia as one of the six republics that formed that state without the status of a federal republic. It could be said that it was an autonomous region within Serbia.<sup>5</sup> According to Kubo (2010: 1137), this autonomy was only formal and the decision-making powers lay mostly with the inhabitants of Serbia and Montenegro. As of 1963, the term used was Autonomous Province (e.g. Vojvodina shared the same status). Following massive demonstrations by Kosovo Albanians, the Yugoslav authorities made certain concessions, which until then had not been possible. These included mainly an increase in the number of Albanian officials, the possibility of displaying the Albanian flag, and the permission to establish a university based on the Albanian language. The question is whether without these privileges Kosovo would have achieved independence. Based on the Yugoslav constitution of 1974, Kosovo gained a high degree of autonomy within the Republic of Serbia. Kosovo thus newly had its own legal system. Serbia felt threatened and in 1989 revoked Kosovo's autonomous status (Cerone 2011: 336; Duić 2009: 146). This caused tensions and unrest among Kosovo Albanians who had lost their special privileges. Kosovo Albanians saw a chance for the restoration of their autonomy or even independence in the disintegration process which shook up Yugoslavia in the early 1990 s. They secretly held a referendum, in which Kosovo became independent, which the Serbian government obviously never acknowledged.

In 1996, the Kosovo Liberation Army, known under the abbreviation UÇK, was formed. It launched armed attacks against police stations, Serbian authorities, etc. From 1997, we speak of a civil war between UÇK and the Serbian government. There were cases of ethnic cleansing on both sides.<sup>6</sup> The situation got

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2 On the other hand, the minorities of Turks, Bosniaks, Gorani and Serbs have guaranteed representation in the Kosovo Assembly; however, they share ten seats among themselves. In close cooperation with the international community, the Kosovo authorities have created a broad legal and political framework for the integration of minorities; however, this integration often leaves out the Serbs and members of the Roma population (Visoka – Bolton 2011: 204).

3 In Kosovo, the three minorities – Roma, Ashkali and Egyptians – are referred to as “Gypsies” by Kosovo Albanians and “Cigani” by Kosovo Serbs. Ashkali and Egyptians are trying to extricate themselves from this undifferentiated reference. In official documents, these minorities are mentioned as RAE (Lichnofsky 2013: 30).

4 The history of Albanians on the Kosovo territory dates back even further in history, roughly to the 13<sup>th</sup> century. The Battle of Kosovo Field in 1389 was a clash between the Slavic population and the Ottoman Empire. (Šanc 2008: 360).

5 The area bore the official name Kosovo – Metochije. At that time, Albanian schools were reestablished, and Albanian was declared the official language

6 We need to mention a significant peace agreement which in 1995 ended the fighting in the Balkans, i.e. the war in Bosnia and Herzegovina and Croatia – the Dayton Accords. The weak point of this agreement was the fact that it failed to deal with all the related conflicts in the Balkans (Russel 2009: 488). It was a big mistake not to include Kosovo in the peace process, because it was Kosovo who initiated the

to the point where the UN adopted a resolution under Chapter VII to end the violence, investigate the reported atrocities and find a political solution. This led to the launch of Operation Allied Force, i.e. the bombardment by NATO, which resulted in the separation of the warring groups (Yannis 2009: 161). In 1999, the Security Council passed Resolution 1244 (suspending Yugoslavia's sovereignty over Kosovo), authorized the deployment of the UNMIK (UN Interim Administration Mission in Kosovo) and placed Kosovo under UN administration, turning it into a protectorate (Ingravallo 2012: 220; Ker-Lindsay – Economides 2012: 78). This resolution was criticized for its ambiguity.

The UN established the Contact Group (comprised of Great Britain, Germany, France, Italy, the USA, and Russia). At the suggestion of Germany, it was agreed that this process would be supervised by three parties – the USA, Russia and the EU. On August 1, 2007, the UN officially established the so-called “Troika”. Because the Troika was incapable of securing an agreement between Belgrade and Pristina, on December 7, 2007, the countries that at the time held positions on the UN Security Council (Great Britain, France, Belgium, Italy and Slovakia) spoke up and called for a final resolution to the situation (Weller 2008: 1225; Yannis 2009: 163). However, there was no opportunity for this, as on February 17, 2008, Kosovo unilaterally declared its independence from Serbia. In their declaration of independence, Kosovo's political elites explained that it was the wish of the entire society and that they were committed to facing the painful heritage of the past and striving for reconciliation and forgiveness. The goal of the new country would be integration into the “*Euro-Atlantic family of democracies.*”<sup>7</sup>

The declaration of independence by Kosovo was not surprising, as the circumstances had clearly foreshadowed this outcome. Perhaps all the harder was the effort of the Kosovo elites to convince the international community of the legality and legitimacy of this step.<sup>8</sup> Unequivocal supporters of Kosovo's independence were countries like the USA. Strongly against were, and still are, Serbia and Russia.<sup>9</sup> The EU does not stand united on the issue of a sovereign Kosovo. Five states did not recognize Kosovo; Cyprus, Greece, Rumania, Slovakia, and Spain did not agree with the aforementioned plan. The twenty-three states that did recognize Kosovo agreed with the implementation of the Ahtisaari Plan, i.e. that Kosovo's independence would be internationally supervised, and that

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disintegration of Yugoslavia and played a significant role in encouraging Slovenia and Croatia in their separatist tendencies, with the countries drawing inspiration from the situation in 1990.

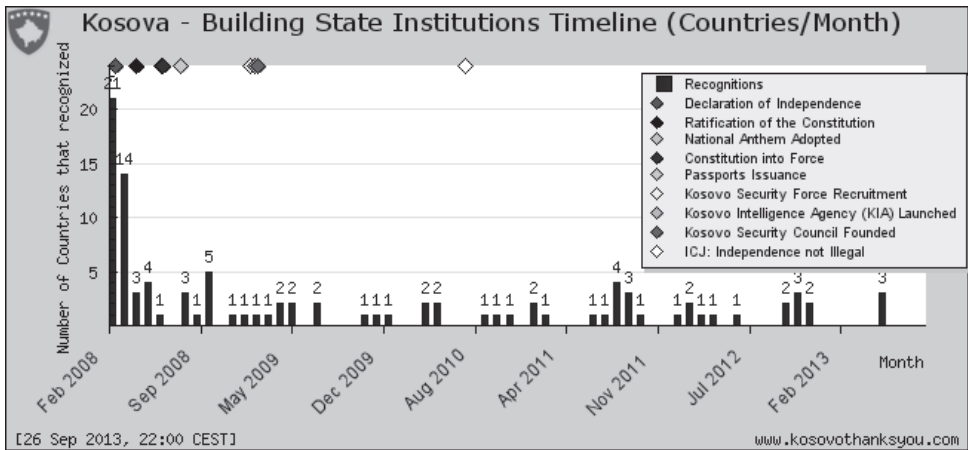
7 Kosovo Declaration of Independence (2008): available at <http://www.assembly-kosova.org/?cid=2,128,1635> (23 September 2013).

8 In the General Assembly, the independence was adopted unanimously by 109 votes. This can be seen as non-legitimate. The votes included those of virtually all non-Serb minorities. Ten Serb representatives and one Gorani boycotted the meeting (Weller 2008: 1233).

9 Russia is justifiably concerned that if it recognized Kosovo's independence, it would de facto agree to the secession of its own territories that have waged a lengthy fight for their independence, e.g. Chechnya and Dagestan.

the extensive minority rights of Serbs would also be equally supervised. An up-to-date list of countries that recognized Kosovo can be obtained from the website [kosovothanksyou.com](http://kosovothanksyou.com). The diagram below depicts the progression of the adoption of individual state symbols, such as the constitution, national anthem, national emblem, etc.

**Picture 1: Timeline of state-building**



Source: [www.kosovothanksyou.com](http://www.kosovothanksyou.com) (26 September 2013).

The United Nations General Assembly adopted a resolution on 8 October 2008 to seek an International Court of Justice advisory opinion on Kosovo’s declaration of independence, with Serbia also seeking its opinion. However, on 22 July 2010, the International Court of Justice decided that the declaration of independence of Kosovo “*did not violate any applicable rule of international law.*” From the international perspective, this was confirmation of Kosovo’s sovereignty, although Serbia and others are still against this unilateral declaration of independence (Economides – Ker-Lindsay – Papadimitriou 2010: 100).

In 2011, the General Assembly of Kosovo adopted the Resolution for Dialogue between the Republic of Kosovo and the Republic of Serbia (Assembly of the Republic of Kosovo 2011), in which they stress that the two are independent sovereign states, and that the dialog between Kosovo and Serbia is to be supervised by the EU and the USA. There has been little success in stabilizing Kosovo-Serbia relations, which are reflected not only in the northern region. One promise of possible improvement, so far the most accommodating step since the declaration of Kosovo’s independence, is the agreement between Serbia and Kosovo concluded in Brussels on April 19, 2013. This agreement constitutes the first formal and institutionalized form of interaction. The agreement expresses the openness of both sides towards negotiations on the conditions for a large-scale

devolution of northern Kosovo and its Serb population. At the same time, it opens up the way to EU membership for both countries and is a promise of stabilization of the northern part. The countries agreed to deploy the police, which despite being made up of Kosovo officers will for the peace of mind of the Serbian part of the population be led by a Serb and will reflect the ethnic issues of this area. Further, a Kosovo judiciary will be established in Northern Mitrovica, where so far there has only been a Serb judiciary; the move will involve the official appointment of Serb judges. A new election will be held for the local authority in the fall of 2013<sup>10</sup>, under the auspices of Kosovo. There was one other main point included – neither party to the agreement would prevent the other in its efforts to join the EU.<sup>11</sup> However, this could lead to speculations that the subsequent recognition of Serbia as an official candidate country is a reward for the above-mentioned agreement with Kosovo. The success of the agreement between Serbia and Kosovo is attributed to Catherine Ashton, High Representative of the EU for Foreign Affairs and Security Policy. Tied to this agreement are certain wishes of Kosovo's Prime Minister, Hashim Thaci, that Serbia would no longer prevent the recognition of Kosovo by international organizations, e.g. the UN.

## European and international engagement

Just as the conflict was portrayed in the media, international human rights and humanitarian law were violated by Serbian forces. However, this conflict cannot be viewed only one-sidedly. One of the mistakes was the belated understanding that the solution to the Kosovo question was inseparable from the problem of Yugoslavia as a whole; it was not a secondary problem.<sup>12</sup>

The obstacle to the stabilization of Kosovo is its northern part<sup>13</sup>, inhabited by a prominent Serb majority. It is an unstable area of Kosovo which faces vari-

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10 The elections were held on 3 November – 1 December 2013. The first round has already been concluded and turned out to be a fiasco. According to a statement by the European Union Election Observation Mission, established by the EU for this occasion, the elections took place peacefully in the majority of the territory. The peaceful election process was disrupted by attacks on polling stations in three places in Mitrovica (for further information, see EU EOM (2013): Kosovo municipal elections. Preliminary statement: available at [http://www.euom.eu/files/pressreleases/english/preliminary-statement-in-kosovo-05112013\\_en.pdf](http://www.euom.eu/files/pressreleases/english/preliminary-statement-in-kosovo-05112013_en.pdf) (15 November 2013).

11 Smolar, P. (2013): Serbia and Kosovo sign historic agreement. The Guardian: available at <http://www.theguardian.com/world/2013/apr/30/serbia-kosovo-historic-agreement-brussels> (21 September, 2013).

12 On the other hand, this period cannot be seen only as an ordeal for Kosovo Albanians, because there were murders and persecution committed against the Serb population by Kosovo Albanians as well. Official documents often mention the protection of the Albanian population; however, there are two sides to this coin. The European Union often overlooks this fact and views Kosovo's efforts as a fight for independence. For further information, see Genocide in Kosovo. *Pravda.ru*: available at <http://english.pravda.ru/world/europe/19-03-2004/5106-kosovo-0/> (19 October 2013).

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ous economic and political challenges. The local population is dependent on employment in the public sector and welfare assistance financed by Belgrade. On the border, barricades were removed with the exception of one on the bridge across the Ibar River. During the withdrawal of the Serb and Yugoslav troops after the bombardment, the Kosovo Serbs were driven out of all of Kosovo. The majority of them left for Serbia; the rest for northern Kosovo, where the majority of the population was already Serbian (Cerone 2011: 338). The Serbian population is supported by numerous Serbian subsidies, which result in its financial autonomy. There are inter-municipal partnerships and cross-border cooperation with Serbian institutions. The establishment of municipalities, formed predominantly by Serbs, was recognized by numerous international as well as local politicians. According to the Ahtisaari Plan, several such municipalities were to be established; however, the process of decentralization is very slow. In the context of the functioning of civil society, it is important to note that in 1999, after the aforementioned conflict, the Serbs created parallel structures in Kosovo which fulfilled the requests of the Belgrade authorities (Economides – Ker-Lindsay – Papadimitriou 2010: 99). The main goal was to thwart the efforts of the UNMIK to form an independent government in Kosovo and stabilize the country, and prevent the achievement of internal security. These parallel institutions continually thwarted any state-building efforts and the creation of stable united institutions. In 2008, these parallel institutions held parallel elections, which were later declared null and void by the UN (Visoka – Bolton 2011: 205; van der Borgh 2012: 33). This process was repeated once more in 2012. The Assembly of Kosovo responded to this by issuing a declaration in 2012, saying it considered this act to be illegal, invalid and aimed against the independence, sovereignty and territorial integrity of Kosovo.

Through the UNMIK, the UN set certain conditions for the period prior to Kosovo's final recognition, the so-called Standards before Status policy. These conditions included the existence of effective, representative and functioning democratic institutions<sup>14</sup>, the enforcement of the rule of law, freedom of move-

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14 The UNMIK formed an interim government of institutions and gradually transferred power to the new government. It was very difficult to orient oneself in this environment, because when the UNMIK was handing over power to the new government, there were three groups striving for participation in the government. The first group was the non-violent opposition movement League for a Democratic Kosovo (LDK), which emerged in 1989-1999. This movement formed a shadow parliament and government, health care and education systems, and also a parallel tax system (which included a 3 percent tax on Kosovars living abroad). This movement strove to establish an independent republic of Kosovo. The second group, the Kosovo Liberation Army (KLA), which was established during the bombardment period, began to form a parallel government in exile. For the KLA, the LDK was a political opponent. The third group claiming power was the Serbian community in Kosovo, continuing in Serbia's heritage

ment, the safe return of refugees and internally displaced persons, respect for the community's rights, the establishment of a healthy foundation for the market economy, the enforcement of property rights, normalization of the dialogue with Belgrade and the transformation of the Kosovo Protection Corps. The role and influence of the UNMIK in the region have decreased; at the recommendation of Norway's diplomat, Kai Eide, the key role was to be played by the EU (Ker-Lindsay – Economides 2012: 78).

Since their deployment in 1999, the KFOR and EULEX missions have been trying to ensure peace and calm the situation, in which they have succeeded only locally; the north of the country still resists the reforms (Ingravallo 2012: 219; Ker-Lindsay – Economides 2012: 82). The EULEX team was sent to monitor, mentor and advise Kosovo's institutions in building the rule of law. The European Union requested to take over the UNMIK Mission so that there would be only one UN mission operating in Kosovo, EULEX; however, Russia did not like the idea and blocked the decision. However, Russia agreed with the proposal of the UN General Secretary Ban Ki-Moon that EULEX was to become part of the UNMIK, not its successor.<sup>15</sup> The deployment of EULEX forces began in December 2008 and was completed and fully functional in April 2009.<sup>16</sup> This meant a rather long delay. The EU is often criticized for this, as there was no reason for the delay – the mission had a UN mandate; Kosovo had given its approval, and the mission had political legitimacy within the EU. This resulted in a loss of trust on the part of Kosovo's residents before the mission could begin to operate fully (Tzifakis 2013: 48).<sup>17</sup>

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as a state with Kosovo as its part. This group was comprised of the remnants of the previous regime (van der Borgh 2012: 32).

15 Eulex Kosovo (2013): What is EULEX: available at <http://www.eulex-kosovo.eu/en/info/whatisEulex.php> (20 November 2013).

16 Until then, the EU had not been too involved, and when it was, it did so in a way that cast a rather negative light on its activities in Kosovo. It needs to be said that the European community witnessed and failed to intervene in Milošević's so-called 'quiet ethnic cleansing' from 1989 to 1997; nor did it intervene when Milošević set up the repressive policy in the Province of Kosovo. In the eyes of Kosovo Albanians, Europe is to blame for their suffering. It did not intervene or support the USA in the bombardment of Serbia. If it did take part, it was only in a limited way in military operations. The EU was also often accused of failing to help Kosovo with its post-war recovery. That does not change the fact that from 1999 to 2008 the EU provided the largest share of aid, both financial and technical. The EU provided the most aid per capita that had ever been given to any state in history. Despite this fact, Kosovars believe that the EU bears responsibility for Kosovo's failed economic recovery, the limited productivity and competitiveness of the economy, the unsteady increase in trade, and widespread unemployment (Tzifakis 2013: 44–45).

17 Among other things, the Mission contained the Police Component, which happened to be the largest part of it. At the end of the year, it comprised 1,400 police officers who were deployed throughout Kosovo together with Kosovar policemen. The Mission encountered the biggest problems in the northern part of Kosovo. The EU has tried to be impartial in the peace-building process. It managed to do this so successfully that the police force in northern Kosovo was nicknamed the North's invisible men. The Mission received criticism from Vetëvendosje in the sense that it placed itself above the law. The EULEX leadership feared the Vetëvendosje movement would start a protest and considered arresting its leader,



Special institutions were established in Kosovo for the purposes of the EU. One of them is the EUSR (European Union Special Representative). The mandate of this post is to provide advice and support the political process, and strengthen EU political coordination in Kosovo. At the same time, the EUSR was to take part in the political leadership of EULEX and increase respect for human rights and fundamental human freedoms in Kosovo. The establishment of this institution was anchored in the Ahtisaari Plan and came in a form similar to the International Civilian Representative within the ICO (International Civilian Office), which was also to supervise the implementation of the status settlement. According to Tzifakis (2013: 46), it was a big mistake to appoint only one person to lead both these institutions. The EUSR was to operate under UN resolution 1244 and supervise the neutrality of the status. On the other hand, the ICR was to assist with building institutions and adopting the constitution, i.e. very specific tasks. At the same time, EULEX was sent to establish the necessary institutions, and the parallel (Serbian) structures stopped functioning. This appointment reduced the credibility of the EU efforts and policies in Kosovo. Since January 2012, this post has been held by Samuel Žbogar, Slovenia's former minister of foreign affairs.

The EULEX Mission has faced all kinds of criticism by the UN as well as Kosovo. For example, it supposedly does not seem to be sufficiently energetic. In its defense, we need to say that in particular processes, the mission has been quite successful.<sup>18</sup> To mention a few achievements, there was the punishment of crimes against humanity from 1998 and 1999; the last such case was the conviction of three murderers in September 2013.<sup>19</sup> Equally successful was the mission in the case of the smuggling and sale of drugs, which was uncovered by the mission and also convicted in September.<sup>20</sup> A big blow to the functioning of the mission was the murder of a EULEX staff member. A reward was offered for capturing the murderers; however, this cannot change the fact that part of the society, mainly its radicalized section, do not want the EULEX Mission in the country and resist any changes the mission promotes. These are mainly clans and organized gangs. Kosovo also has a high level of corruption, which EULEX attempts to fight.<sup>21</sup> However, the success of the EULEX mission as well as the

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Albin Kurti. Another part of the EULEX Mission is the Justice Component, which in late 2011 consisted of 420 people who helped to build and reconstruct the prison system, judiciary and prosecutors. The reconstruction manifested itself mainly through the adoption of appropriate legislation (Tzifakis 2013: 49).

18 Aliu Fatmir (2013): EULEX fights back against critics. *BalkanInsight*: available at <http://www.balkaninsight.com/en/article/eulex-fights-back-to-critics> (25 November 2013).

19 Eulex Kosovo (2013): Guilty verdicts in war crime trial: available at <http://www.eulex-kosovo.eu/en/pressreleases/0483.php> (20 November 2013).

20 Eulex Kosovo (2013): Man found guilty in drug-related case: available at <http://www.eulex-kosovo.eu/en/pressreleases/0484.php> (21 November 2013).

21 Kosovo ranks 105<sup>th</sup> out of 174 surveyed countries, the 174<sup>th</sup> being the most corrupt country. Several places behind Kosovo is Albania. The question is whether Kosovo can manage to deal with this problem



EUSR was threatened by the controversial mandate, staff and the efforts at impartiality. According to some, the EU set for itself overly ambitious goals and took upon itself long-term responsibility, which it failed to completely fulfill.<sup>22</sup>

## The current situation of the stabilization and association process in Kosovo

The European Union has been cooperating with the countries of the Western Balkans since 1997. The basic conditions for cooperation included democratic reforms, respect and the protection of human rights of minorities, freedom of speech, and free regular elections. In June 2000, the Feira European Council clearly communicated that countries of the Western Balkans were potential candidates for EU membership, which was further confirmed in November 2000 in Zagreb. This development led to closer cooperation, and in 2003 the Council stated that the future of countries in the Western Balkans was as part of the EU. In the same year, the Thessaloniki Agenda was developed for these countries with a plan for their integration (European Commission 2012: 2). In various feasibility studies, in December 2011 the Council expressed the willingness of the EU to assist with the economic and political development of Kosovo through clear European perspectives. The EU set reform priorities for Kosovo in the European Partnership published in February 2008.

The pressure on EU member states to recognize Kosovo is apparent. On 5 February 2009, the European Parliament adopted a resolution that encouraged all EU member states to recognize Kosovo. On 8 July 2010, the European Parliament adopted a resolution *welcoming “the recognition by all Member States of the independence of Kosovo”*, and stating that EU Member States should “*step up their common approach towards Kosovo*” (European Parliament 2010). The resolution rejected the possibility of a partition of Kosovo. On 29 March 2012, the European Parliament adopted a resolution that urged the five EU member states that had not recognized Kosovo’s independence to do so.

Kosovo participates in programs developed by the EU, such as the Stabilization and Association Process. Through the SAP, the EU assists with the economic and political transformation of potential EU member states. When the EU decided that Kosovo could be one of the “lucky” countries, the status of Kosovo had not been completely resolved; the SAP as a tool for the West Balkan Countries was developed in 1999. For this reason, in 2003 the EU launched the SAP Tracking Mechanism for Kosovo, which includes cooperation between the

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so that it can get closer to Europe. For more information on the Corruption Perceptions Index in 2012, go to <http://cpi.transparency.org/cpi2012/results/> (2 November 2013).

22 Karadaku Linda (2012): EULEX audit sparks recommendations, criticism. *The Southeast European Times*: available at [http://www.setimes.com/cocoon/setimes/xhtml/en\\_GB/features/setimes/features/2012/11/07/feature-02](http://www.setimes.com/cocoon/setimes/xhtml/en_GB/features/setimes/features/2012/11/07/feature-02) (16 November 2013).

UNMIK, PISG (Provisional Institutions of Self-government) and the European Commission (Duić 2009: 154; Ker-Lindsay – Economides 2012: 82; European Commission 2012: 2–5). The fact that some EU countries have not recognized the legal status of Kosovo is not a legal obstacle for the Kosovo authorities to implement the conditions set out in the Association Agreement. The country's legal status will be determined at the end of the negotiation process. However, we need to add that not even the strong international involvement in Kosovo prevents the implementation of the SAA (European Commission 2012: 4).

The EU has taken upon itself the role of leader in the Kosovo stabilization process. It holds conferences for international donors and promotes cooperation throughout the Western Balkans. The first conference dedicated to stability in the region was held in 1999, and resulted in the creation of the Stability Pact for South-eastern Europe, a project with the involvement of the West Balkan Countries, international financial institutions and some of the world's major figures. In July 2008, the European Commission organized a conference for Kosovo, which resulted in EUR 1.2 billion in pledges, including more than EUR 500 million from the Community budget (European Commission 2009: 3). A significant step towards the coordination of European assistance in Kosovo was the establishment of the Agency for Coordination of Development and European Integration in 2008.

The EU's support for Kosovo is clearly evidenced in the following figures: 50% of Kosovo's Foreign Direct Investment (FDI) comes from the EU; 11% of Kosovo's GDP is generated through exports, and over 50% through imports. This shows that Kosovo's dependence on the EU is substantial (Ker-Lindsay – Economides 2012: 83). Countries of the EU are the biggest trading partner of Kosovo. The country's socioeconomic development is important for the stability of the entire country. The report of 2009 by the European Commission assesses the situation as serious, even though Kosovo had not been affected by the financial crisis as much as other European states, because its integration into the global market is limited.

The status of Kosovo is not the main variable in the country's stabilization, at least not until it is time to deal with issues that depend on the approval of countries which have not yet recognized Kosovo. These include topics like visa-free travel to the EU. Slovakia and Greece have decided to accept Kosovo passports for humanitarian reasons, while Romania, Spain and Cyprus have rejected them; however, this has no bearing on the Schengen Agreement, as none of these countries is part of the Schengen Area, except for Spain, which will not be in opposition. In 2011, Spain recognized Kosovo as a special case, thus unblocking talks with the Commission (Ker-Lindsay – Economides 2012: 86). Problems with Kosovo's status would grow more serious if EU-Kosovo relations were to be further formalized.

The European Union also assists in the stabilization of Kosovo's economy. Already in 2000 the EU decided to grant duty-free access to the EU market for products from West Balkan Countries. Some products were exempted from this duty-free access.<sup>23</sup> Until the end of 2010, certain trade privileges had been applied to selected West Balkan Countries, including Kosovo, as part of the Stabilization and Association Process. In 2011, the agreement on unlimited duty-free access to the EU market was renewed, which will apply to Kosovo until the end of 2015.<sup>24</sup> Kosovo receives financial aid through the European Commission Funds, specifically Transition Assistance and Institution Building (IPA Component I) and Cross-border Cooperation (IPA Component II). EUR 71.4 million has been allocated for 2013. The financial aid is managed by the EU Office in Kosovo. It focuses on specific goals, such as the rule of law, justice/home affairs, private-sector economic development, public administration reform, agricultural and regional development.<sup>25</sup>

**Table 1: Extent of assistance in Kosovo**

in million EUR	2007	2008	2009	2010	2011	2012	2013
<b>IPA I (Transition Assistance and Institution Building)</b>	68	185	106	66	67	66	69
<b>IPA II (Cross-Border Cooperation)</b>	0	0	0	1	2	3	3
<b>Total</b>	68	185	106	67	69	69	72

Source: author according to Kosovo financial assistance: available at [http://ec.europa.eu/enlargement/instruments/funding-by-country/kosovo/index\\_en.htm](http://ec.europa.eu/enlargement/instruments/funding-by-country/kosovo/index_en.htm) (21 November 2013).

In February 2012, the efforts of EU institutions intensified when the Council accepted the recommendation of the Commission (2012:2) to conduct a feasibility study for *“the Stabilization and Association Agreement between the European Union and Kosovo, without prejudice to Member States’ position on status or any future decisions to be taken by the Council.”* The study was conducted with the participation of several parties, including the Kosovo authorities, 20 experts

23 For example wine, sugar, some basic products and fisheries products entering the EU under preferential tariff quotas, which was negotiated under the Stabilization and Association Agreements.

24 The European Union Office in Kosovo (2012): Autonomous Trade Measures with Kosovo re-enter into force: available at [http://eeas.europa.eu/delegations/kosovo/press\\_corner/focus/2011/120104\\_atm\\_en.htm](http://eeas.europa.eu/delegations/kosovo/press_corner/focus/2011/120104_atm_en.htm) (12 September 2013).

25 Website of the European Commission: available at [ec.europa.eu/enlargement/instruments/funding-by-country/kosovo](http://ec.europa.eu/enlargement/instruments/funding-by-country/kosovo) (12 October 2013).

from the EU Office in Pristina, international and non-government organizations. The aim was to ensure that Kosovo was prepared for the implementation of the Stabilization and Association Agreement. The study is divided into several parts – the legal aspects, aspects concerning northern Kosovo, and the dialog between Belgrade and Pristina.

On 16th October 2013, the long-awaited report by the European Commission on the state of Kosovo and its stabilization and association process was published. Overall, the report is very positive and summarizes to what extent the country meets the Copenhagen Criteria, or their individual parts, i.e. the political and economic criteria and European standards.

From among the political criteria, it was e.g. the completion of electoral reform, which was launched in 2011. At the moment, the legal grounds for reporting are rather unclear; the coordination between the Assembly and the government in selecting board members is rather poor, and there has been a failure to determine mechanisms for holding board members to account. There is a need for independent and professional managers and members on boards of institutions. The transparency of the decision process and negotiations with committees is necessary; there have been certain shortcuts and violations of the rules of procedure (insufficient time between tabling a proposal and its discussion in committee and in plenary). Ministries also need to improve their follow-up to requests from parliamentary committees.

Reforms of public administration lack a professional approach and motivation on the part of the staff. There is also political interference in the civil service. In Kosovo, the office of the Ombudsman was created, referred to as the Ombudsperson. The only thing about it is that it needs to be made more sustainable. Also, the implementation of its recommendations needs to be improved.

The cooperation between the Assembly and civil society is grounded in the Action Plan on Cooperation with Civil Society 2013-2017; however, it exists very sporadically and the views of civil society are not taken into account very much. Cooperation is usually applied on an ad hoc basis. Another weak point is public finance; the social services provided by civil society are presented as services provided by the authorities.

The judicial system requires much improvement. There have been institutional changes. The Judicial Council was established; however, there are still two vacant seats. Also, some political interference was reported in the judiciary, which undermines the impartiality and independence of judicial institutions. The capacity of this system needs to be enhanced, because there are still more than 60,000 unresolved cases from the period before December 2008. For a stunning overview of successes and failures, see the table in Annex No. 1 at the end of this article.

It is apparent that Kosovo faces problems in just about every area. One big progress is the adoption of the much needed agenda; however, there is a great problem with its implementation and observance of the appropriate legislation. The weakest areas are democracy and the rule of law, which include issues regarding corruption and organized crime, including drug trafficking in the country. Despite these lasting problems, on 28th October 2013, the European Commission initiated the Stabilization and Association Agreement, as stipulated in the aforementioned report.

## **Now, it is Kosovo's turn**

Through official documents, the European Union clears the path for the stabilization of and cooperation with Kosovo. This part of the article will attempt to show the status quo of the association process itself in Kosovo, the sentiment in Kosovo in relation to the EU and the European integration process, and not only of the country's leaders, but also that of civil society. It could be said there are efforts on the part of Kosovo to become an EU candidate country. In April 2008, Kosovo adopted the Plan for European Integration, which was later enhanced in the European Partnership Action Plan in August 2009 (European Commission 2009: 4–6). In 2002, Kosovo adopted the European currency, becoming one of the countries using the euro without being a member of the European Union. The question is how this fact will affect Kosovo's aspirations for further integration. The adoption of the euro is one of the EU's conditions, and Kosovo has already taken this step, just as Montenegro has. The ECB and the European Commission issued the following statement regarding this situation: *“unilateral introduction of the euro was not compatible with the Treaty”*. The issue is expected to be resolved through the negotiations process. The ECB has stated that the implications of unilateral euro adoption *“would be spelled out at the latest in the event of possible negotiations on EU accession.”*<sup>26</sup>

## **Opinions of authorities**

Atifete Jahjaga has been the president of Kosovo since 2011. She had previously held the post of Deputy Director of the Kosovo Police. She was the Assembly's consensus choice, as she is not affiliated with any political parties. Her leaning toward the European Union is apparent and logical. In one of her speeches, she said that *“European integration is justly understood as the only option, without an alternative, of the democratic development and advancement of Kosovo. This obligation of our convergence with the EU, we must accomplish irrespective of*

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26 ECB: available at <http://www.ecb.europa.eu/euro/intro/html/index.en.html> (15 November 2013).

*internal challenges that this reformative process is bringing with itself.*<sup>27</sup> The most significant part of a president's job description is to meet prominent figures from EU member states and confirm the position of one's country. The more meetings and mentions in the foreign press, the greater the awareness of Kosovo as an independent and developing country.

Hashim Thaci, the leader of the Democratic Party of Kosovo, has been Kosovo's Prime Minister since 2008. He is the main figure that leads the country towards European integration. In 2010, Thaci even received the Leadership Excellence Award for his "*outstanding contribution and performance as a leader, in liberating and developing Kosovo.*"<sup>28</sup> The prime minister has long opposed Serbia, and since the declaration of independence by Kosovo, Thaci has been calling on the Serbian government to recognize Kosovo and stop preventing it from having its own future and joining international organizations. For this purpose, the prime minister uses foreign media, e.g. the German press (Germany is a long-time supporter of independent Kosovo).<sup>29</sup>

The government as a whole published its agenda for the period 2011-2014, in which it declared that "*Kosovo has a clear perspective of joining the EU and this remains the highest priority of the Government. Obtaining EU membership in the shortest possible time period is the conviction and orientation of the citizens of Kosovo.*" This means that the government stands behind its prime minister and supports his efforts at drawing closer to European structures and the integration of Kosovo.<sup>30</sup> It would not make much sense to name all the individual members of the government, i.e. ministers, as their personal opinions would not change the fact that the government as a whole is steering Kosovo in the European direction.<sup>31</sup> Definitely worth mentioning is the Ministry for European Integration, headed by Vlora Çitaku. The goal of this ministry is to harmonize the policies of the Republic, align its laws with those of the Union, and bring unique European values to both citizens and government institutions.<sup>32</sup> Several special departments were established within this ministry – the Department of Coordination of the Stabilization and Association Process, Department of

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27 President of the Republic of Kosovo: available at <http://www.president-ksgov.net/?page=2,8,3076> (20 October 2013).

28 The Office of the Prime Minister: available at <http://www.kryeministri-ks.net/?page=2,104> (19 October 2013).

29 The Office of the Prime Minister. Interview of Prime Minister for Radio Deutsche Welle: available at <http://www.kryeministri-ks.net/?page=2,107,3010> (16 October 2013).

30 The Program of the Government of the Republic of Kosovo 2011-2014 [http://www.kryeministri-ks.net/repository/docs/Programi\\_i\\_Qeverise\\_eng\\_.pdf](http://www.kryeministri-ks.net/repository/docs/Programi_i_Qeverise_eng_.pdf) (19 October 2013).

31 The Office of the Prime Minister. Ministers: available at <http://www.kryeministri-ks.net/?page=2,43> (20 October 2013).

32 Republic of Kosovo's Ministry for European Integration: available at <http://www.mei-ks.net/?page=2,172> (21 October 2013).



Political Criteria, Department of Economic Criteria and Internal Market, Department of Sectoral Policies, and others. However, the website of the Ministry for European Integration includes no information regarding how its departments work, their staff and so on. This leads to the question of whether these departments really work, or whether they constitute an empty shell without any contents, apart from a description of each department's responsibilities, though without any specifics. Each department provides the same contact details for the person responsible for coordination of the implementation of the SAP. The activity of the ministry itself is one big question mark. Perhaps the only active page is the one containing information about the minister and her activities. Vlora Çitaku meets prominent European figures. It seems that the Ministry is only a PR agency; however, its activity directed at European values and European institution is more like a big bubble rather than reality.

### ***The opinion of civil society***

As is often emphasized, crucial for post-conflict reconstruction is reconciliation of the ethnicities and reintegration of the population. The success of the process is affected by power sharing, and motives for political and economic cooperation between ethnic groups that in one way or another deal with the past, particularly by means of the judiciary.

In the 1990 s, the civil society of Kosovo was polarized. Several non-governmental organizations were formed at the time, such as the Council for the Defense of Human Rights and Freedoms, and the Kosovo Helsinki Committee (Strazzari – Selenica 2013: 119). Generally, it could be said that Kosovo Albanians were drawn to associate with the newly established, independent organizations that condemned the assault on Kosovo's autonomy.

The growing strength of the organizations established by the civil society is evidenced in their growing number over the years. For example, in 1989-98 there were 65 NGOs in Kosovo, of which only five were foreign. In 2004, there were some 2,300 NGOs registered in Kosovo.<sup>33</sup> In 2008, this number rose to 4,000 and in 2010 it was almost 6,000, of which there were 481 foreign organizations (Strazzari – Selenica 2013: 125). Such numbers raise questions of how such a society functions if it is composed of so many non-governmental organizations.

Many non-governmental organizations, which were financed by foreign funds, increased the local brain drain, as many educated people who took part in the creation or implementation of projects using foreign resources were swallowed up by these organizations, and therefore did not participate in the local public sector. This led to a lack of various experts on the labor market –

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33 This huge increase was the result of a massive influx of finances, humanitarian aid and development assistance in post-war Kosovo. Many of these were never fully functional (Narten 2013: 197).



physicists, engineers, and administrative workers (Narten 2013: 198). The EU Progress Report in 2010 mentioned the situation in northern Kosovo, saying that the rule of law was not fully established there. There were problems particularly with thieves, criminal gangs, and drug trafficking. In the same year, the government of Kosovo launched the Strategy for Northern Kosovo and allocated EUR 4 million for this.

Some authors claim that there is no (organized) civil society in Kosovo. The society is controlled by several clans that create and control the non-governmental organizations and the environment that takes the place of a healthy civil society as we know it in western countries.<sup>34</sup>

The civil society in Kosovo is highly diversified. The split of interests of non-governmental organizations as well as political parties is clearly visible. Generally, it can be said that organizations established by Kosovo Albanians are clearly aimed at European integration and convergence with European standards. On the other hand, groups of Kosovo Serbs or Serbs in general are not so strictly focused on European integration. Their main interests are the position of Kosovo Serbs in society, the degree of autonomy of the areas in northern Kosovo, and participation in government. Other minority organizations do not really deal with European partnership; they are more interested in their own position in society, the use of funds and participation in government. In this respect, it is very interesting to see the results of one survey conducted by the European Union Office in Kosovo in association with the Kosovo Government Ministry for European Integration in the period May–July 2013.<sup>35</sup> Based on various parameters, the survey studied Kosovo society's awareness of the EU and its position on potential EU membership. The study also evaluated whether the aid provided to Kosovo by the EU is visible, and whether it is generally known that the particular aid comes from the EU. The survey results indicate that 84% of respondents think that it is very important for Kosovo to strengthen its relations with the EU. About 53% of respondents expressed the opinion that Kosovo should become a member of the EU as soon as possible; 62% believe this will be within five years; and 71% are of the opinion that EU membership will be a big advantage for the country. Almost 60% of the respondents stated that they would personally benefit from accession to the EU. The respondents agreed that the biggest problems in Kosovo are corruption, unemployment

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34 Kaltcheva, Tzvetomira (2008): Kosovo's Post-independence Inter-clan conflict. *HUMSEC Journal* No. 2: 113-124.

35 The European Perspective in Kosovo was based on three waves of the Survey of Awareness of the EU and European Integration among Kosovo Residents. During the years 2010, 2012 and 2013, 1,500 respondents from across 38 municipalities in Kosovo were asked 38 questions (for further information, refer to the European Union Office in Kosovo (2012): Survey of Awareness of the EU and European Integration in Kosovo: available at [http://eeas.europa.eu/delegations/kosovo/documents/press\\_corner/eupk\\_survey\\_report\\_2012.pdf](http://eeas.europa.eu/delegations/kosovo/documents/press_corner/eupk_survey_report_2012.pdf) (19 November 2013).

and the bad economic situation. The country has difficulty with the execution of integration reforms and the fulfillment of the appropriate criteria, and the country's citizens are of the opinion that awareness of the EU is insufficient. This is a very surprising conclusion, as the EU, with its efforts to assist Kosovo, both in terms of financial and technical aid, is Kosovo's biggest partner on its way to stabilization. In what areas should awareness of the EU increase? An increasing number of respondents (compared to last year) believe that the EU can help Kosovo fight corruption, crime, unemployment, and help with democracy, security and foreign affairs. On the other hand, there is the opinion that in areas like the economy, transport, agriculture, health care, education, social welfare and elections, EU aid will not be visible. If a referendum were held on accession to the EU, according to the survey 73% of respondents would vote yes, while 10% would be against it.<sup>36</sup>

The survey also covered the frequency of travel to the EU. The most frequently visited countries are Germany, Greece, Italy and Austria. Last year, the frequency of travel to France and Slovenia tripled. These data indicate a certain progress. However, the research also revealed some thought-provoking findings that should lead to a reassessment of the EU strategy in Kosovo. For example, this concerns the awareness of EU projects in the country. Only 32% of the respondents know any EU projects in Kosovo. Also, 53% of the respondents from among Kosovo Serbs believe that EU involvement in Kosovo presents a threat to local traditions. Only a slightly smaller number of Kosovo Albanians believe the same. Some data may even halt the integration process, e.g. 60% of respondents would consider moving to one of the EU member states for work, which some countries of the EU might fear and as a result intentionally slow down the integration process.<sup>37</sup>

## Concluding remarks

It is safe to assume that Kosovo views its approach to the EU as confirmation of its own independence and adequacy, particularly by fictitious institutions and in the activities of individual state representatives. I also ascertained whether Kosovo stands united on the issue of its accession to the EU. Both the Kosovo authorities as well as civil society agree that their country's future within the EU is the only possible option for them. European integration is important

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36 The European Union Office in Kosovo (2012): Survey of Awareness of the EU and European Integration in Kosovo: available at [http://eeas.europa.eu/delegations/kosovo/documents/press\\_corner/eupk\\_survey\\_report\\_2012.pdf](http://eeas.europa.eu/delegations/kosovo/documents/press_corner/eupk_survey_report_2012.pdf) (19 November 2013).

37 The European Union Office in Kosovo (2012): Survey of Awareness of the EU and European Integration in Kosovo: available at [http://eeas.europa.eu/delegations/kosovo/documents/press\\_corner/eupk\\_survey\\_report\\_2012.pdf](http://eeas.europa.eu/delegations/kosovo/documents/press_corner/eupk_survey_report_2012.pdf) (19 November 2013).

not only for the confirmation of Kosovo's sovereignty, but also for the country's stability and its further development.

The process of gaining independence in Kosovo was by no means politically, economically or socially smooth. Although the stabilization of Kosovo was assisted by many parties, with the largest participation from the European Union, in many ways the country still finds itself in a difficult situation. The Kosovo authorities are trying to work out the country's legislative framework; however, there are big problems with its implementation. There are several reasons for this. There is a lack of resources, which is caused mainly by the poor distribution of finances, financial fraud, corruption and the grey economy. Kosovo finds itself in a poor security situation; as mentioned above, this is related to drug, human and organ trafficking. All this creates a bad environment to attract foreign investors. There are also obstacles that prevent Kosovo from achieving full integration into European structures. Despite this situation, the EU has launched negotiations on the Stabilization and Association Agreement, which should bring Kosovo one step closer to its integration into European structures. Another obstacle is the still unresolved status of the country. Not only is there a difference of opinion within the EU, but also internationally there is still a large number of countries that have not recognized Kosovo. The unresolved status of Kosovo gives rise to questions about the future of this country, e.g. can it become a fully-fledged member of the EU if it is not a member of the UN?; is Kosovo's independence compatible with the EU norms, if for example Croatia was blocked by disputes with Slovenia, and each state must have its territorial issues resolved before becoming a member? However, the KosovoThanksYou website makes it appear that Kosovo is drawing near to international recognition by all states. Another problem is Kosovo's non-membership in some multilateral institutions, which is conditioned by a resolved status. Kosovo functions under the supervision of international organizations; this does not constitute independence. Neither is the civil society independent, as it is artificially created by non-governmental organizations. The question of Kosovo's future remains open, though the direction that Kosovo wants to take is clear – towards European institutions.

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## Appendix

### Kosovo's progress towards the EU

**Table 2: Political criteria**

		success	to do list
political	democracy and the rule of law	first agreement with Serbia, administrative office in Mitrovica became operational, establishment of ombudsperson, Kosovo has operational capacity of Security Force	finalize electoral reform, ensure control of budget, financial independence of Assembly, cooperation with civil society,
	human rights and the protection of minorities	create internal institutions and legal framework	not part of any international human rights instrument, corruption, nepotism, smuggling and discrimination in prison system, media challenge political pressure, orthodox churches face robberies, vandalism
	regional issues and international obligations	cooperation with ICTY in many cases	over 7000 persons still missing from conflicts, absence of cooperation with FYROM, BiH

Source: author according to the European Commission (2013): Commission Staff Working Document. Kosovo 2013 Progress Report. SWD(2013) 416 final.

**Table 3: Economic criteria**

		success	to do list
economic	the existence of a functioning market economy	established relations with IFIs (IMF, EBRD, EIB), increase of 20% in new businesses	remittances are major driver of private consumption, national accounts and economic statistics are extremely weak, high unemployment (35%)
	the capacity to cope with competitive pressure and market forces within EU	progress in education sector – 4% of GDP, economic integration with EU is significant	lack of adequate facilities and quality assurance, poor results, weak rule of law, large informal economy, underdeveloped policy framework

Source: author according to the European Commission (2013): Commission Staff Working Document. Kosovo 2013 Progress Report. SWD(2013) 416 final.



**Table 4: European standards – Internal market**

		success	to do list	
European standards	internal market	free movement of goods	standardization adopted, creation of database	lack of translation into Kosovo's official languages
		movement of persons, services and right of establishment	creation of database, business registration process has been simplified	still limited professional training programme and mutual recognition of professional qualifications
		free movement of capital	liberalized, new foreign banks entered market	need to focus on risk-based approach
		customs and taxation	establishment of Automated System for Customs Data, 11 mutual assistance agreements signed	administrative border with Serbia is still vulnerable to illicit activities, tax administration needs to modernize IT to be efficient, still informal economy - loss of taxes
		competition	Kosovo Competition Authority adopted decision on prohibited agreements on determining and raising the price of bread and flour	anti-trust and merger policy at very early stage
		public procurement	legal framework complies with EU standards and is non-discriminatory	still high level of corruption
		intellectual property law	legislative framework is aligned with acquis	need to enforce the legislation
		employment and social policies, public health policy	system of employment policy was upgraded, establishment of regional employment centers	large number of young people are unemployed, a link between the labor market and educational institutions is needed
		education and research	increase in teachers' salaries, new public university opened	pre-school education is not adequately supported, capacity at municipal levels is low, strengthen education for marginalized groups

Source: author according to the European Commission (2013): Commission Staff Working Document. Kosovo 2013 Progress Report. SWD(2013) 416 final.

**Table 5: European standards – Sectoral policies**

		success	to do list	
European standards	sectoral policies	industry and SMEs	simplification of legislation	weak implementation of SME strategy, needs to be better monitored
		agriculture and fisheries	food safety and veterinary control were amended	limited budget to control
		environment and climate change	legal framework is in place	need to strengthen implementation at local level
		transport policy	progress in aviation and railway sector	need to improve road safety
		energy	finalized privatization of electricity distribution	oil reserves are only for 4 days, low nuclear safety programme
		information society and media	law on electronic communications adopted	does not have an internet domain name, not a member of International Telecommunication Union, does not have own country code, political interference in independent commission Radio and Television Kosovo
		financial control	increased number of operational internal auditors, 48 audit committees established	consists of one or two auditors – ineffective
	statistics	good cooperation between statistical agency and other institutions	limited resources of statistical agency	

Source: author according to the European Commission (2013): Commission Staff Working Document. Kosovo 2013 Progress Report. SWD(2013) 416 final.

**Table 6: European standards – Justice, freedom and security**

		success	to do list	
European standards	justice, freedom and security	visa, border management, asylum and migration	new visa regime, central database for civil status data, six crossing points with Serbia have been open	disappearance of EUR 1.4 million from Ministry of Internal Affairs, no asylum status has been granted although there were seekers
		money-laundering	strategy for prevention adopted, 120 investigated cases	lack of enforcement
		drugs	decrease in seized quantities of heroin, cocaine, cannabis	remains transit and storage country involving local organized crime groups
		police	most trusted rule of law institution, special unit to protect cultural and religious sites	weak in the fight against corruption
		fighting organized crime and terrorism	cooperation with EULEX at operational level, police part of joint operation with EUROPOL	illegal organ transplants, sexual exploitation, cybercrimes
		protection of personal data	in early stage, establishment of Agency for Personal Data Protection	need to act independently

Source: author according to the European Commission (2013): Commission Staff Working Document. Kosovo 2013 Progress Report. SWD(2013) 416 final.

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