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The European Union New Methodology and its long-term impact on accession negotiations

by Dragan Tilev, Zoran Nechev, Vladimir Međak, Alba Çela, Donika
Emini, Nedžma Džananović, Nikola Mumin and Altin Gjeta

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Introduction

On July 15, 2019, the French President Emmanuel Macron visited Serbia¹. At that moment in time, North Macedonia was already waiting to start accession negotiations based on the fulfilment of the Copenhagen criteria and the resolution of the bilateral issue with Greece. Albania was also knocking on EU doors completing the final reforms required from her. The non-decision at the meetings of the Council of the European Union in October 2019 was a clear reflection of the state of democracy in Serbia, a country that has been negotiating since 2014². This French drive, followed by the Netherlands, towards non-decision in 2019 for North Macedonia and Albania was elaborated based on issues relating to the perceived ineffectiveness of the accession process and its potential to transform the Western

Balkan societies. Duly motivated by the happening in Serbia, the change of the rules of the game in its full potential will be felt only by those remaining Western Balkan countries that have not started the accession negotiations yet.

Following these events, the French proposed, and the European Commission picked up, a modification that would initiate the process of overhauling the accession process. Thus, on 5 February, the Commission launched the Communication on “Strengthening the accession process: A credible EU perspective for the Western Balkans”³. It was endorsed by the Council on 25th of March 2020, with the aim to drive forward the EU accession process, by making it more credible, more dynamic and predictable.

Has this been the case? What are the long-term effects of this modification? Has the methodology changed the accession pro-

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- 1 European Western Balkans, 2019, “Macron visits Belgrade: Membership possible after reforms in both EU and Serbia” Accessed 15 October 2021 <https://europeanwesternbalkans.com/2019/07/16/macron-visits-belgrade-membership-possible-after-reforms-in-both-eu-and-serbia/>
 - 2 Opening Statement of Republic of Serbia at the Intergovernmental Conference on the Accession of the Republic of Serbia to the European Union, Brussels 2014, Accessed 16 October 2021 https://www.mei.gov.rs/upload/documents/pristupni_pregovori/the_opening_statement_of_the_republic_of_serbia.pdf
 - 3 The Official Website of the European Union, 2020, Enhancing the accession process - A credible EU perspective for the Western Balkans, Accessed 10 November 2021 https://ec.europa.eu/neighbourhood-enlargement/enhancing-accession-process-credible-eu-perspective-western-balkans_en

cess for good? Is the methodology being applied even since? Are the same rules applied for the new negotiating countries as for the once already negotiating? What is current state of play in the Western Balkans? This are all question that this policy paper will examine. Based on the findings, the authors would formulate recommendation how the goals and objectives of the new methodology could be achieved and really produce the effect and have a ground-breaking impact on the democratisation and Europeanisation of the countries in the Western Balkans. This policy paper is a product of more than dozens of policy documents written by the authors on the topic.

The enlargement policy and the Western Balkans

A Nobel Prize award. Enlargement policy was for several decades a signature of unprecedented success for Europe and its safety, security and economic prosperity. Built upon fundamental democratic values that the whole World respects, the European Union became a magnet for its surrounding. Expanded structure with wide diversity of cultures, despite its complexity, became a generator for economic prosperity. History has proven that for any country it's more expensive to have a war for a day, than to invest whatever it takes in peace and safety of its citizens, which brings economic prosperity.

The Union and the World are constantly changing. After accepting thirteen new member states at the beginning of this Century, last being Croatia, European Union went through economic- financial crises (2008-2010) and migration-asylum crises (2015), had to deal with climate changes increased consequences of dramatic proportions and these days facing pandemic crises (2020-2021). At the same

time the Union was struggling with Brexit, where for the first time in its history one country (United Kingdom) decided to leave the EU. However, contrary to predicted dark scenarios and open attempts of third global players to interfere into internal Union matters, the European Union has shown how strong and innovative it can be when needed, overcoming all the crises and even developing completely new mechanisms and instruments strengthening its resilience inside the Union and on a Global scene. The process of adjusting to the new changing environment and building stronger firewalls of resilience is never-ending. Therefore, there is no other choice for the European Union than to adapt to the new rules and new environment. The Conference for the future of Europe⁴ is expected to show the way forward for all of us together. Euro-Atlantic relations need to be rebuilt and strengthened as well, making them more predictable, better coordinated and in full partnership protecting common global interests. New responses in line with contemporary

threats from Russia and China need to be defined and conducted, built together among all EU members' states and NATO alliance. Withdrawal from Afghanistan that provoked new waves of migrants is a new challenge for the Euro-Atlantic partners.

Geopolitics does not recognize mistakes. In the contemporary global World and modern democratic societies, one cannot afford geopolitical “free space,” simply because global powers with their political gravity have tendencies to almost naturally fill that free space. President of the Commission, Ursula von der Leyen, in her Political Guidelines⁵ for the Commission rightly elaborated that geopolitics must shape the policies of the new Commission. For the EU perspective on the Western Balkans, she stressed that *“We share the same continent, the same history, the same culture, and the same challenges. We will build the same future together.”* The geopolitical importance and the clear message are read in her words that *“The Western Balkans is part*

4 The Official Website of the European Union, What is the Conference on the Future of Europe?, Accessed on 10 November 2021 <https://futureu.europa.eu/pages/about>

5 Ursula von der Leyen, Political Guideline, A Union that strives for more, My agenda for Europe 2019-2024, Accessed on 10 October 2021 https://ec.europa.eu/info/sites/default/files/political-guidelines-next-commission_en_0.pdf

*of Europe - not just a road station on the Silk Road*⁶. Clearly, the Western Balkans is an internal yard and integral part of the European area. Sooner we are fully integrated into the Union, sooner the Western Balkans will become a better place to live and the European Union will become safer. Orientation of the Western Balkans towards the European Union is not only about geography, history or economy, but about building a strategic long-standing partnership, or about how we, the Western Balkans change and how the European Union changes to accept us as members of the family.

Geographical South East Europe or Western Balkans, after experiencing the taste of a war at the end of last century, has learned its lesson and turned decisively towards its roots, towards Europe (-an Union). Many experts are not talking about enlargement of the EU but rather

about reunification of the Western Balkans into Europe or the European Union. All Western Balkan countries, as part of the Process for Stabilization and Association⁷, have signed SAA's and applied for full EU membership (except Kosovo^{*8}). Montenegro and Serbia are already in accession negotiations process, North Macedonia and Albania are still waiting to be let in to start accession negotiations (North Macedonia for 17 years now), Bosnia and Herzegovina is in front of getting candidate status and Kosovo* needs wider and clearer EU support to reach the point to step up in the next phase.

After the Big bang enlargement and before 2018, Western Balkans was at the bottom of the agenda of the Union except at the moments when it was producing problems. With the document, ***"A credible enlargement perspective for and enhanced EU engagement with the Western Bal-***

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- 6 An Official Website of the European Union, 2020, State of the Union Address by President von der Leyen at the European Parliament Plenary, Accessed on 10 October 2021 https://ec.europa.eu/commission/presscorner/detail/ov/SPEECH_20_1655
- 7 An Official Website of the European Union, European Neighbourhood Policy and Enlargement Negotiations, Accessed on 11 October 2021 https://ec.europa.eu/neighbourhood-enlargement/enlargement-policy/glossary/stabilisation-and-association-process_en
- 8 *This designation is without prejudice to positions on status, and is in line with UNSC 1244 and the ICJ Opinion on the Kosovo Declaration of Independence.

kans⁹ (February 2018), the position of the Union has changed, recognizing that the Western Balkans deserves much closer attention. **Sofia¹⁰ and Zagreb¹¹ Summits (2018, 2020), Berlin process, New methodology (March 2020) “Enhancing the accession process - A credible EU perspective for the Western Balkans”¹², Decision¹³ to open accession negotiations (March 2020) with North Macedonia and Albania, Economic and investment plan¹⁴ (October, 2020)**, support during the Pandemics, all are steps in the right direction, with the aim to integrate the Western Balkans as soon as possible fully into the European Union. Unfortunately, a single member state (Bulgaria), which we all expected to be the generator for the enlargement process, with its unreasonable opposition against all other 26 member states, has

put down the whole expensive Union architecture with its achievements from the last two years. ***Credibility of the European Union is at stake***. Citizens in the countries from the Western Balkans are very disappointed by the lack of forcefulness of the EU to move forward and open accession negotiations with the country that even went that far to change its name to show its political will and commitment to the EU. What has blocked North Macedonia can block any other WB6 country too, at any stage of the negotiations. This time clearly is not about bilateral issues, it's about the Unions respect of its own values.

In order to preserve its credibility, the EU needs to hold an Intergovernmental conference with North Macedonia and Albania until the end of 2021, during the Slovenian

9 Communication from the Commission to the European Parliament, 2018, The Council, The European Economic and Social Committee and the Committee of the Regions, Accessed on 11 November 2021 https://ec.europa.eu/info/sites/default/files/communication-credible-enlargement-perspective-western-balkans_en.pdf

10 Sofia Declaration 2018, EU – Western Balkans Summit, Accessed on 13 November 2021 https://www.consilium.europa.eu/media/34776/sofia-declaration_en.pdf

11 Zagreb Declaration 2020, EU – Western Balkans Summit, Accessed on 13 November 2021 <https://www.consilium.europa.eu/media/43776/zagreb-declaration-en-06052020.pdf>

12 An Official Website of the European Union, European Neighbourhood Policy and Enlargement Negotiations, Accessed on 11 October 2021 https://ec.europa.eu/neighbourhood-enlargement/enhancing-accession-process-credible-eu-perspective-western-balkans_en#files

13 Council of the European Union, 2020, Accessed on 13 November 2021 <https://data.consilium.europa.eu/doc/document/ST-7002-2020-INIT/en/pdf>

14 Communication from the Commission to the European Parliament, 2020, The Council, The European Economic and Social Committee and the Committee of the Regions, An Economic and Investment Plan for the Western Balkans Accessed on 11 November 2021 https://ec.europa.eu/neighbourhood-enlargement/system/files/2020-10/communication_on_wb_economic_and_investment_plan_october_2020_en.pdf

Presidency. This will be a sincere sign that the adoption of the new methodology last year was not used to slow down and postpone the accession dynamics of these two countries (MKD and AL), but to place the process on firm ground and unleash the fundamental transformative power of the accession process. The Union should show all the citizens from the Western Balkans that it is capable of playing its role to keep its credibility alive and to deliver when promised something. The potential costs for the EU leaving us out, are much higher than the costs of having us in.

It is widely known that any European country which respects the EU values referred to in the Treaty of the European Union (TEU)¹⁵ and is committed to promoting them, can apply¹⁶ to become a member of the EU. More sensitive decisions of the EU are still subject to *unanimity*. Admission of new members into the EU and any decision related to EU enlargement is subject to this rule and a potential cause

for a veto. Any of the member states may exercise veto or its right to say “no” when the Council decides whether to open accession negotiations with a candidate country. The same right to block the progress in the accession negotiations can be also raised during the entire process while opening any of the six clusters or closing any of the 35 chapters.¹⁷ The dilemma about how to reform the Union with a constantly expanding number of member states in order to make it (or to keep it) functional and more efficient, while a diversity of interests is growing, is as old as the EU itself. However, the size of the Union (from 15 to 28/27) has stretched to a tipping point and almost doubled the number of members which have made the decision-making process complex and unpredictable. This dilemma, whether to proceed with the enlargement process taking in Western Balkans countries, or rather first to reform the EU making it more efficient and effective, in order to prepare for the new members, was the main reason

15 Official Journal of the EU, 2012, Consolidated version of the Treaty on European Union, Accessed 13 November 2021 https://eur-lex.europa.eu/resource.html?uri=cellar:2bf-140bf-a3f8-4ab2-b506-fd71826e6da6.0023.02/DOC_1&format=PDF

16 Official Journal of the EU, 2012, Consolidated version of the Treaty on European Union Article 49 TEU

17 The whole body of the EU law, for the purpose of accession negotiations under the new methodology has been divided in 6 clusters and 33 (35) chapters.

why France and the President Emmanuel Macron¹⁸ has postponed (2018 and 2019) the decision to open accession negotiations with North Macedonia and Albania, despite the fact that all preconditions were fully met. That was as well the reason why France suggested a new approach in accession negotiations, resulting with the Commission Communication *“Enhancing the accession process - A credible EU perspective for the Western Balkans”*, officially accepted by all 27 MS’s in March 2020. Now, the challenge is how to move forward in the times of new economic, technological, demographic and security challenges in changing geopolitical context and how to speed up the EU enlargement and the integration of the Western Balkans, to provide sustainable peace and prosperity in this region through creative mechanisms that keep the credibility of the integration process. EU integration (or unification) is not easy and certainly is not cheap.

Public support for Enlargement among the aspirant countries is still high, but we cannot say that the enthusiasm is not dropping constantly. The process itself is

alive, but it has been dragging for too long. Time is a very important factor, and when the process finds itself in a stalemate for almost two decades, people are losing their interest in the process, including the administration working on it. Every process has to have a beginning (clear path) and an end (goal). Time is a factor that influences everything and it goes together with the promises and its fulfillment. Waiting for the solutions (for too long) is not working. While waiting during the last couple of decades, Western Balkans lost a generation of young capable people and the process has created a lot of national frustrations. We have to find a solution to become EU members as soon as possible so that we do not lose another generation. We cannot afford to wait anymore.

The months before us will answer the question, whether the New Methodology is going to bring new hope for the enlargement process and for the Western Balkans, or will become a labyrinth with no exit. We all should not forget that the accession process is a two-way street and it’s a process of building brick-by-brick a strategic long-lasting partnership, based on trust.

18 Jacopo Barigazzi, EU’s Balkan breakdown reveals split among leaders, Politico, 2019 Accessed on 15 November <https://www.politico.eu/article/eus-balkan-breakdown-reveals-split-among-leaders/>

More than just a New Methodology

As mentioned before, in March 2020, the Council gave its consent to the Communication of the Commission for *“Enhancing the accession process - A credible EU perspective for the Western Balkans,”* to drive forward the EU accession process, by making it more credible, with a strong political steer, and more dynamic and predictable. When officially presenting the Communication, Commissioner Oliver Várhelyi, said: *“The European Union enlargement to the Western Balkans is a top priority for the Commission,”* announcing a three-track approach¹⁹: enhanced accession process, opening negotiations with North Macedonia and Albania and launching Economic and Development Plan for the Western Balkans. Some reactions were positive, saying that this is a new chance for a fresh beginning, while some were concerned saying that this is a recipe to make the process endless.

The New methodology for accession negotiations was a result of short but intensive political consultations between the Commission and member states and among the member states. The political agreement ended with a widest possible amalgamation of different technical elements, aiming to balance political vision with strict administrative requirements of the accession negotiations process. This new changed approach has the intention to make the process of enlargement (“political unification and territorial consolidation” of the Western Balkans into the EU) possible and realistic at the same time.

In order for the political intention to be accepted by negotiation sides, the one that defines the new approach and the one that needs to act in line with its letter and spirit, there is certainly a need that we all equally understand the magnitude of the changes and its impact, as a fundamental precondition for success. Despite the fact that many of the elements and the wording of the methodology sounds the same as before, careful reading brings us to the conclusion that the changes

19 An Official Website of the European Union, 2020, A more credible, dynamic, predictable and political EU accession process - Commission lays out its proposals, Accessed on 15 November 2021 https://ec.europa.eu/commission/presscorner/detail/en/IP_20_181

are deep and novelties substantial²⁰. In a few words, the new approach is more complex, more political and more exposed to political changes, more dynamic, more demanding and more expensive. *It's a new more powerful political tool in the hands of the Member states, to ensure protection of their collective (and national) strategic interests.*

The proposed methodology can be seen as well as a new political framework for (now more than) a technical process, which will be moved forward by political decisions as an "accession driven" gradual process, leading towards the full EU membership of all Western Balkan countries, fully respecting merit-based principle. This is the **fourth time** that the EU is **introducing new rules** in accession negotiations, starting in:

- **1998**, in line with Copenhagen (European Council, 1993²¹) and Madrid criteria (European Council, 1995²²),
- **2005**, introducing benchmark elements for Croatia ,
- **2011** (European Commission, 2011²³), strengthening benchmarks approach and focusing on the rule of law for Montenegro and Serbia, and
- **2020**, more comprehensive methodology and more political approach for North Macedonia and Albania, and the countries to follow, B&H and Kosovo*.

Considering that, on one side, the current accession negotiations process is much slower than before, and on the other side, that the EU is now functioning in a much more complex internal and external environment²⁴, change in the approach seems to be a necessity and inevitable.

20 Dragan Tilev, The New EU Enlargement Methodology, Enhancing the Enlargement Process, 2020, Accessed on 14 November 2021 <https://idscs.org.mk/en/portfolio/the-new-eu-enlargement-methodology-enhancing-the-accession-process/>

21 European Council in Copenhagen, 1993, Conclusions on the Presidency, Accessed on 12 November 2021 <https://www.consilium.europa.eu/media/21225/72921.pdf>

22 Madrid European Council, 1995, Presidency Conclusion, Accessed on 12 November 2021 https://www.europarl.europa.eu/summits/mad1_en.htm#enlarge

23 Communication from the Commission to the European Parliament and The Council, 2012, Accessed on 11 November 2021 https://ec.europa.eu/info/sites/default/files/communication-credible-enlargement-perspective-western-balkans_en.pdf<https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2012:0600:FIN:EN:PDF>

24 Dragan Tilev, Zoran Nechev, The devil is in the details: negotiating North Macedonia's European Union accession , 2020, Institute for Democracy "Societas Civilis" Skopje, Accessed on 10 October 2021, <https://idscs.org.mk/en/portfolio/the-devil-is-in-the-details-negotiating-north-macedonias-eu-accession/>

There is a new chance for the enlargement process and a new chance for us. However, Western Balkan countries are (more or less) in the process of EU integration for more than 25 years, investing constantly in it. The change of the rules is naturally raising some concerns that need to be addressed as a matter of urgency in an honest, open and friendly manner. Clarity is one of the key preconditions for success, **therefore all blind spots that still exists should be approached as a matter of urgency reaching mutual understanding of their implementation in practice.**

There are many novelties in the new Methodology, some of political and more on technical level, but four key points in the methodology deserve special attention: political commitment, dynamism, capacities and reversibility.

Political commitment as the first key point is essential for the success of the negotiation process. It has been noticed quite often during the last decade particularly, that political statements and promises do not match the implementation of the same. This goes equally for the EU and for the accession countries. Not doing what was agreed or doing very little, dragged the accession negotiations

in Montenegro and Serbia for too long, and did not give even a chance to North Macedonia and later to Albania, to open the negotiations. The new methodology is addressing this weakness through closer enhanced political steer. The main logic behind is, once politicians agree on concrete roadmaps and action plans (rule of law, public administration reforms, functioning democratic institutions, stronger links with Economic Reform Programme), first, they have to give clear public political statement (obligation), and second, they will have to keep promises and to deliver expected reforms on time through professional and depoliticized administration, in democratic and all-inclusive procedures. At the same time, all the way during negotiations, we will have to report what we have done and what not and why, thus strengthening accountability in front of our citizens and the EU, in a transparent way, offering to the media and civil society space so that they can play their important monitoring and corrective role.

To ensure political steer and credibility, as well as trust on both sides, the Commission is proposing a set of institutional mechanisms as a mix of old and new (but enhanced) structures. Regular EU-Western Balkan Summit on annual basis may

be held (so far there have been five such summits in Zagreb in 2000, in Thessalonica in 2003, in Sofia in 2018, and again in Zagreb in 2020, and the fifth in Brdo²⁵ 2021), including more frequent ministerial meetings at a sector level. Country-specific Inter-Governmental Conference (IGC) will occur on annual basis, right after the Commission will publish Enlargement package and country reports, at the high political level, to take stock of the achievements and plans for the next year, for opening new clusters, meeting determined benchmarks (opening, interim and closing benchmarks). In addition to that regular annual, but more political meetings of the Council for stabilisation and association, as well as Committee and Subcommittee meetings (where SAA association process will be blurred with accession negotiations process). These coordination bodies exist, with regular meetings once per year. What is new in the methodology is that, in addition to the SAA, these bodies will also discuss the pace of reforms and the advancement of the accession negoti-

ations process, on a high political level. Novelty also is that the representatives of the member states will be invited to closely monitor the accession process with their experts and contributions to the Commission reports. This is a very important part of the new methodology that aims to ensure constant political steer of the accession driven reforms, and even with the deeper involvement of the MS's, with meetings on a regular annual basis, in order to check regularly and consistently the implementation of the agreed commitments (credible, accountable, transparent).

However, these multi-level institutional mechanisms need to be set in the right order and with well-defined (redefined) responsibilities (terms of reference, rules of procedures), on both sides *including all SAA²⁶ joint bodies*, in order to avoid any potential for overlapping, duplication, and erosion of efficiency. There is also a need *to better clarify the role of the MSs and their representatives* on all levels, in order to avoid any misunderstanding

25 Brdo Declaration 2021, Accessed on 11 November 2021 <https://www.consilium.europa.eu/media/52280/brdo-declaration-6-october-2021-en.pdf>

26 Official Journal of the European Union, 2004, Accessed on 10 November 2021 <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ.L:2004:084:FULL&from=EN>

during the negotiations. Blending Stabilisation and Association Processes²⁷ through existing SAA bodies and newly established accession negotiation structures may be used as a platform for an open dialogue on some of the most sensitive bilateral open issues. That may defuse the tension to some extent and make more room for accelerating the accession negotiations process in all other areas. We, the EU and WB6 should also consider the possibility of *reopening and refreshing Accession partnerships*²⁸, redesigned in line with the New Methodology structure, including joint planning of key priorities and engagement of all resources, including Economic and Investment Plan-EIP²⁹, Green Agenda³⁰ and IPA III³¹ available funds, reflecting findings and priorities suggested by the Commission in its Enlargement package and Country annual reports. That may be

an excellent tool to set the priorities and clear accession negotiations agenda each year for the following short and midterm period. That will make the process more predictable and will make easier to monitor the alignment and progress over the reporting period of each of the countries concerned.

Dynamism is the second key element

that this methodology is introducing, as a potential for accelerated accession negotiations. The main novelty is a grouping of all 33 Acquis chapters (out of 35) in 6 clusters.³² The body of the Acquis is the same, although constantly evolving and increasing in quantity, but is now clustered in six logically connected groups. At first look, it seems (and it is) quite complicated, but on the other hand, it offers a chance to accelerate the process. For example, with

27 The Stabilisation and Accession Process, 2010, Accessed on 10 November 2021 http://publications.europa.eu/resource/cellar/a4d30882-b0c8-403c-8a97-d5efc0c30943.0005.02/DOC_2

28 Official Journal of the European Union, 2008, Accessed on 10 November 2021 http://publications.europa.eu/resource/cellar/c67b3246-b0d3-4cc1-8514-f7a306fb89de.0006.02/DOC_1

29 Communication from the Commission to the European Parliament and The Council, 2020, Accessed on 11 November 2021 https://ec.europa.eu/neighbourhood-enlargement/system/files/2020-10/communication_on_wb_economic_and_investment_plan_october_2020_en.pdf

30 European Commission, 2020 Commission Staff Working Document, Guidelines for the Implementation of the Green Agenda for the Western Balkans, Accessed on 12 November 2021 https://ec.europa.eu/neighbourhood-enlargement/system/files/2020-10/green_agenda_for_the_western_balkans_en.pdf

31 European Commission, 2020, Multiannual Financial Framework: IPA III Regulation, Accessed on 12 November 2021 https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/1820-Multiannual-Financial-Framework-IPA-III-Regulation_en

32 Fundamentals, Internal market, Competitiveness and inclusive growth, Green agenda and sustainable connectivity, Resources, agriculture and cohesion and External relations.

the opening of just one cluster, practically you can open up to 8-9 chapters at once. Important, if not essential precondition for this to happen, is to be very well-prepared, strategically organised in planning the process, setting the right priorities in good order, and ensuring necessary resources to be able to keep the tempo of the implementation of accepted obligations. The new approach is also opening a chance for closing chapters where the country is more advanced within a year if all benchmarks are met. Benchmarks as introduced in 2005 and enhanced in 2011 will remain, only now with Opening Benchmarks (OBM) per cluster, Interim Benchmarks (IBM) for Chapter 23 (Judiciary and Fundamental Rights) and Chapter 24 (Justice, Freedom, and Security) as a precondition for any advancement in all other clusters. As another novelty, roadmaps for the Rule of Law and Public Administration reforms-PAR as well, will be required as opening benchmarks for cluster Fundamentals (in the case of MN and SR, only roadmap for RoL was compulsory). In the end, Closing Benchmarks (CBM) will be set for all chapters.

"Fundamentals" as the heart of the renewed accession process, is the most complex and will certainly be the most difficult cluster to negotiate. This cluster

should lay down the fundament of trust and ensure a credible negotiation process. It will be first to start and last to end the accession process, which makes this cluster the longest to negotiate. It includes Chapters 23 and 24 (with Interim Benchmarks), and Chapters 5 (Public Procurement), 18 (Statistics) and 32 (Financial Control), as well as a new approach in the accession negotiations process, bringing inside this cluster, as novelty, also: Economic criteria, functioning of democratic institutions and Public administration reform. These areas are not new, they were part of the accession process before, but their introduction as part of the accession negotiations is new and still quite unclear.

The other **five clusters** (***Internal market, Competitiveness and inclusive growth, Green agenda and sustainable connectivity, Resources, agriculture and cohesion and External relations***) covering **28 chapters**, can be opened in agreed order, depending on their stage of preparedness and their level of priority. We will have to reach consent on our mutual approach and dynamism with the Commission and with the member states. Being well-prepared and choosing the right priorities will have a direct impact on the dynamism of the accession negotiations, ensuring

gradual access to EU policies (**“phasing in”**) in line with our mutual interests. This is essentially important part of the new methodology, that has not been, so far, explained well and still creates a lot of controversy when anyone tries to explain the meaning and particularly scope, procedure and implementation of this part. It is only one paragraph addressing phasing in options and even then, only in general. *This aspect of the methodology (phasing in) definitely requires much more detailed clarification and well elaborated procedure how it will work in practice.* Starting from the clusters screening reports, identification of early integration measures, phasing in to individual EU policies, the EU market and EU programmes, what will be the role of the SAA bodies in monitoring of the progress, and at the end, when and how the award funding procedure will be triggered to match a merit-based enlargement progress, performance and commitment per country. As a matter of fact, to bring closer the accession negotiations into the key areas of mutual interest (a part from Single Market)³³, EU should consider to test phasing in approach in two from the

Fundamentals related area, and those are, **European Rule of Law Mechanism** (including **Justice scoreboard**) encouraging and complementing at the same time structural reforms through phasing in into the **European Semester**. These are complex mechanisms and requires thorough preparation before being able to take full participation, therefore to begin at early stage is instrumentally beneficial for both sides.

As for the last two chapters, Chapters 34 (Institutions) and 35 (Other issues), despite the fact that this two are exceptionally important and politically very sensitive for North Macedonia in particularly, but for Albania as well, neither the Methodology nor the Draft negotiation Framework is offering any clarity how these two chapters will be approached. The Methodology says that “Chapters 34- **Institutions** and Chapter 35- **Other Issues** will be handled separately”. Draft Negotiation Frameworks for both concerned countries does not even mention these two chapters and they are not part of the **Annex to the Methodology: Cluster of negotiating chapters/themes**.

33 Dragan Tilev, Zoran Nechev, 2021, Learning from the past, preparing for the future: North Macedonia's EU accession prospects in 2021, Accessed on 20 November 2021 https://idscs.org.mk/wp-content/uploads/2021/04/webA5_Learning-from-the-past-preparing-for-the-future-North-Macedonia%E2%80%99s-EU-accession-prospects-in-2021ENG.pdf

Therefore, it remains unclear how these two important chapters will be “handled separately”?

This part of the new Commission methodology (clustering), needs to be thoroughly reviewed, clarified and explained in more details, using practical examples, even considering preparing a “Guideline for the application of the new enhanced methodology”. More details clarification of the new themes introduced into the Fundamentals cluster, like for Economic criteria, functioning of democratic institutions and Public administration reforms, including sort of explanatory screening which will be followed with bilateral screening at appropriate time. Existing **“Screening Guidelines”** (prepared for Montenegro³⁴) needs to be rewritten and aligned with the new methodology, as well as a new **“Guide to the main administrative structures required for implementing the Acquis”** (last one is from 2013³⁵, prepared for MN and SR).

Capacity is to be considered as a third key point of the methodology, which is essential for successful negotiations and reforms. The more complex, more demanding process has to be matched with mobilizing appropriate institutional capacities, from both sides. If there is a political will from both sides, then the dynamism of the process will depend on the capacities and resources available, also on both sides. Certainly no one wants to end with a good document and strong will, but with no sufficient resources (capacity) to implement it.

Planning and preparation of the bilateral screening per clusters, great number of political and technical meetings, preparing roadmaps, drafting action plans, writing many reports, not to mention the process of negotiations as such (which consists of translation, transposition and harmonization with the Acquis, implementation in practice, monitoring, enforcement, track-records, etc.), all that requires a lot

34 Internal document of the Commission in circulation (only hard copy)

35 Internal document of the Commission (2013) in circulation (only hard copy)

of experts' full time engaged into the process³⁶, repeating again, on both sides.

In order to meet the capacity requirements, the Commission (and MS's if they really want to participate in the process) may consider, as a matter of urgency, to substantially strengthen DG NEAR, Directorate dealing with Western Balkans and **all horizontal units dealing with negotiations and respective EU Delegations**. Other DG's also should have experts and adequate capacities on disposal to participate in the negotiation process in full. MS's should allow participation (step by step approach, as much as possible, for our experts in the work of the Commission bodies (there are around 322 Commission bodies in 2020³⁷, Comitology Register³⁸), and for the first time also in the work of some of the Council bodies³⁹ (there are 153 council bodies at the moment). There is no better way to strengthen our capaci-

ties to learn policy creation, *including decision-making system and process, than to become part of it as soon as possible with gradual involvement in the work of these numerous working groups and bodies.*

The Western Balkan countries, on the other side, *need as well as a matter of urgency, to rethink, redesign and reorganize all existing coordination structures*, clarify the division of responsibilities among different government levels and institutions, in line with the new methodology. To attract new generation and young people into the system, we need to open the institutional space and to assignee to them clear and concrete role to play.

Common digital platform could also be considered, for example, "Enhanced Accession Negotiations Digital Platform," run by DG NEAR in cooperation with chief negotiators and/or responsible bodies to

36 Dragan Tilev, Zoran Nechev, 2020, A job well prepared is a job half done. The screening process and the new Methodology for accession negotiations with the European Union: challenges for North Macedonia, Accessed on 21 November 2021 <https://idscs.org.mk/en/portfolio/a-job-well-prepared-is-a-job-half-done-the-screening-process-and-the-new-methodology-for-accession-negotiations-with-the-european-union-challenges-for-north-macedonia/>

37 European Commission, 2021, Report from the European Commission to the European Parliament and the Council, accessed on 15 November 2021 <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52021DC0544&from=EN>

38 European Commission, Comitology Register, Accessed on 13 November 2021, <https://ec.europa.eu/transparency/regcomitology/index.cfm?do=List.list>

39 European Council, Council Preparatory Bodies, Accessed on 12 November 2021 <https://www.consilium.europa.eu/en/council-eu/preparatory-bodies/>

run the EU integration process at national level from all the Western Balkan countries, no matter whether they are negotiating or will be negotiating in the future, where all involved sides at given stage can share relevant **acquis** that is in force during the negotiation process, negotiation guidelines, screening documents, Q&A, calendars of all relevant meetings, minutes and conclusions, reports, address books, news, accession negotiations novelties, relevant statistics, lessons learned and experience, etc. That could be an excellent platform **to establish and develop open permanent dialogue** with the civil society, think-thanks, academic society, chambers of commerce, trade unions, media and every person, including students, that in one or another way is either interested to participate or is concerned with the process and practical impact on its daily life.

And the **fourth key element in the new methodology is the reversibility, or positive and negative conditionality**. It fully makes sense to award countries with closer integration and increased funds, which are progressing in their reforms faster and advancing in accession negotiations, and

the opposite, to sanction those that are stagnating, dragging behind, slowing down or even backsliding (to put the negotiations on hold, suspension, reduced funds, no concessions for market access). Economic and investment plan, Green agenda for the Western Balkans and recently adopted IPA III Regulation are taking fully in consideration Sector approach⁴⁰ (which is already in place) and Performance Award Framework (PAF) measuring progress in the reforms against predefined indicators, yet with a novelty of not having allocated funds in advance per country, thus making more difficult planning and some certainty for multi-year funding for larger projects. Complying with the required criteria, standards and full harmonisation with the EU **acquis** (transposition, implementation, enforcement, and clear track record) is a serious challenge and requires serious approach by all sides, always keeping in mind the potential consequences.

In principle, positive and negative conditionality can be seen as incentive for harder work and advancement in the process, but what **raises serious concerns** is the **newly introduced decision-making**

40 Dragan Tilev, 2021, Instrument for Pre-accession Assistance (IPA III 2021-2027): Is IPA III a new chance to deepen the accession reforms?, Accessed on 12 November 2021 https://idsocs.org.mk/wp-content/uploads/2021/10/A5_IPA_3_Tilev.pdf

process for corrective measures, which is quite different from the one applying before. For example, in the case of Montenegro and Serbia (for corrections in the case of seriously breaching its obligations), a proposal for corrective measures can be tabled by the Commission or 1/3 of MSs (at least 9 MSs) and adopted by the Council with QMV (at list 15 out of 27), while according to the New methodology a decision making process which will apply for North Macedonia and Albania, a proposal can be placed by the Commission or just one MS (?) in duly motivated case, and adopted in a procedure of *Reverse Qualified Majority Voting- RQMV* (proposal can be turned down with QMV-15 out of 27). This is ***quite a substantial difference in decision making procedures when corrective measures are in question***, that as consequence can expand the gap between current frontrunners, Montenegro and Serbia, and countries that should start accession negotiations under the new methodology, North Macedonia and Albania. **This is in contradiction to the spirit ("equal playing field") and the letter of the New Method-**

ology (pg.6, paragraph 2).

Considering that the new proposed decision-making mechanism and rules can substantially decrease the potential for accelerating the negotiation process (one EU member state can always find a reason to block the accession negotiation, **"Someone can always say a NO"**⁴¹). In the case of North Macedonia but Albania as well, not to mention Bosnia and Herzegovina and Kosovo*, this mechanism **is a direct threat** and can put us under enormous pressure on very sensitive national issues, **not necessarily connected with the acquis**, including possible differences in interpretation of some bilateral agreements or court decisions (arbitration). One of the challenges to deal with it is how to make sure that the new methodology and the decisions that will go with it are not used (or misused) as pure abuse of the position (position of the member state against the accession country).

In addition to the New Methodology, in **May 2021**, the Council agreed⁴² also on

41 Institute for Foreign Affairs and Trade, 2020, Historical Experience and the Reunification of Europe Accessed on 12 November 2021 https://kki.hu/wp-content/uploads/2020/12/HOAL_ki-advany.pdf.pdf

42 Council of the European Union, 2021, Application of the revised enlargement methodology to the accession negotiations with Montenegro and Serbia, Accessed on 12 November 2021, <https://data.consilium.europa.eu/doc/document/ST-8536-2021-INIT/en/pdf>

the ***“Application of the revised enlargement methodology to the accession negotiations with Montenegro and Serbia”***, after both candidate countries expressed their acceptance of the new methodology. The changes have been introduced and **accommodated within the existing negotiation frameworks** in agreement with Montenegro and Serbia, at the separate official Intergovernmental accession conferences at ministerial level. In this way, existing negotiation frameworks for Montenegro and Serbia **will remain unchanged**, accommodating main features from the new methodology to certain extend⁴³, like stronger focus on reforms in the fundamental areas, stronger political steer, more dynamism, and more predictability of the accession process).

Despite the intention and political statements that the Enlargement process and accession negotiations as set by the New Methodology will **equally apply to all Western Balkan countries**, taking in consideration the abovementioned, substantial differences in detailed Negotiation Frameworks (different terms and different rules), it seems obvious that three groups

of countries have been established, **first, Montenegro and Serbia** (as most advanced countries at the moment) **second, North Macedonia and Albania** (waiting to open first IGC), followed by **Bosnia and Herzegovina** (waiting for the candidate status) and **Kosovo*** (still considering to apply for EU membership). In the text below, the authors of these study look in details the state of play in each individual country and the impact the new Methodology has, or would have in the (foreseeable) future.

The first group of countries are Montenegro and Serbia as the most advanced ones in the EU accession process. Countries which already have started the accession negotiations under a different Methodology and thus, different Negotiation frameworks. Both of them have accepted the new Methodology and certain elements became part of their accession process.

43 More detailed elaboration of the way the new methodology will apply to Montenegro and Serbia will be given within the respective parts covering these two countries

Montenegro

Montenegro began its EU accession process as a part of the State Union of Serbia and Montenegro in November 2005. This was when the negotiations over Stabilisation and Association Agreement started. After the country regained independence at the May 2006 referendum, separate SAA negotiations were initiated between the EU and Montenegro. The Stabilisation and Association Agreement was officially signed in 2007. After gaining the candidate status in 2010, accession talks were officially opened on 29 June 2012.

Montenegrin negotiating framework underlines that the process will be based on the country's own merits and the pace will depend on its progress in meeting the requirements for membership/benchmarks.⁴⁴ Even though Montenegro has so far opened all negotiating chapters, while three chapters are provisionally closed: Science and Research (25), Education and Culture (26) and International relations

(30), after more than 9 years, negotiations look stagnant. Montenegro opened its last chapter on competition policy (8)⁴⁵ in June 2020. If we consider the fact that during the previous waves of enlargement negotiations last 5-6 years on average, it is evident that the democratization is slow, reforms painful, while the dynamics of negotiations are influenced by many more factors.

According to the public opinion polls and political tendencies of the main decision-makers, there is a firm commitment in Montenegro to join the EU. From the side of the EU, Montenegrin accession is still on their agenda for future enlargement. Yet still, there exists a halt in the negotiations and the new Methodology is being presented both by the EU and the government, as the important push towards Montenegro's integration into the Union.

As stated, the political discourse in Montenegro is very much pro-accession and pro-European. The problem lies in the fact that there is a gap between the narrative

44 "Montenegro Negotiating Framework," Progovori o pregovorima, accessed September 27, 2021, <https://eupregovori.bos.rs/progovori-o-pregovorima/uploaded/Montenegro-negotiating-framework.pdf>

45 "Otvoreno posljednje neotvoreno pregovaračko poglavlje 8," EUME, accessed September 27, 2021, <https://www.eu.me/timeline/otvoreno-posljednje-neotvoreno-pregovaracko-poglavlje-8/>

and the actual results and commitment on the ground. A proactive approach is much needed, but what was expected is also a responsible way of treating the negotiation process itself. Institutional obstacles are damaging the quality of the process. There were cases that the negotiating working groups for certain chapters haven't met years back. This example alone directly violates the 4 key principles of the new Methodology – political commitment, dynamism, capacity and reversibility. Of course, it is not the example of the negotiations approach that Montenegro should follow in the future and the new Methodology, would not be new if everything was all right in the first place.

This shows a new level of political will from the side of the European Union and its institutions to dedicate themselves more to the Western Balkans region. It is definitely what the process needed and is somewhat of a fresh start for the region. As a country that is usually called the EU accession leader, Montenegro's road

towards becoming an official member state started to take somewhat of a downward spiral, especially in 2020. Freedom House Nation in transit reports for 2020⁴⁶ and 2021⁴⁷ stated that the country has transitioned from an already fragile and semi-consolidated democracy into a hybrid regime. These reports indicate serious systemic issues which are all in a way related to the lack of democratic reforms in the area of rule of law. As a country which has ambitious goals of becoming a member state by 2025⁴⁸, as announced many times by the officials, this is not a sign of progress, but a reflection of the current state of the negotiations and their consequential treatment in the previous period.

Fresh start has new implications for Montenegro too. The world has seen the turbulence of the year 2020 and Montenegro got its fair share of it. Political turmoil, which has accumulated for more than 30 years, finally culminated in the first change of the ruling structure since the fall of the

46 Ana Nenezić, Vuk Maraš, "Nations in transit Montenegro," Freedom House, 2020, <https://freedomhouse.org/country/montenegro/nations-transit/2020>

47 Jovana Marović, "Nations in transit Montenegro," Freedom House, 2020, <https://freedomhouse.org/country/montenegro/nations-transit/2021>

48 "Kordić: Imamo realnu šansu da Crna Gora 2025. godine dosegne okvir za članstvo u EU," Government of Montenegro, accessed September 21, 2021, <https://www.gov.me/clanak/237624--kordic-imamo-realnu-sansu-da-crna-gora-2025-godine-dosegne-okvir-za-clanstvo-u-eu>

communist regime. New Government was elected in December 2020, marking an end of the first phase of democratic transition and one eventful year.

This itself brings new challenges to Montenegrin society. Covid19 crisis further exposed already evident wounds of the Montenegrin economy and institutions (largest BDP fall data). Now more than ever, the country needs responsible political and economic governing.

However, when assessing the progress of these much needed potential economic, political and democratic reforms, criteria set by the negotiation standards is a good evaluation of democratic reforms regardless of the negotiation process. Even before introduction of the new Methodology it was clear that something in the negotiations had to change. Structure of the process had to change from inside and serve as a push to which Montenegro had to respond with additional effort. This has certain results but does not cover the fact that the process will be long. The reconfirmed emphasis on the rule of law chapters has put additional pressure on the

Montenegrin authorities to kick-start the long awaited and much needed process of judicial reforms, especially in the State Prosecution. Despite that, there are still numerous institutional issues concerning the Montenegrin negotiation structure itself. Adaptation of the negotiation structure was very slow. Working group for chapter 23 was re-formed only in July 2021⁴⁹ and are yet to deliver reports on fulfillment of criteria, as well as negotiation maps for each chapter.

With the current state of affairs regarding the accession negotiations, benefits of the new Methodology can already be seen. They may be limited and far less rewarding than expected, but the new Methodology does bring a new dynamic into the process. It is a cause for optimism, but it is not to be taken lightly. It exposed the evident faults which were present in the negotiation process until then. It also enhances the level of responsibility of the decision makers, institutions and politicians in the process.

Long avoided by the EU, principle of sanctions and rewards predicted by the

49 "Constitutive session of the Working Group for Chapter 23 - Judiciary and Fundamental Rights held," Government of Montenegro, accessed September 24, 2021, <https://www.gov.me/clanak/odrzana-konstitutivna-sjednica-radne-grupe-za-poglavlje-23-pravosude-i-temeljna-prava>

new Methodology might actually prove to be the crucial one when specifically addressing the accession negotiations with the Western Balkan countries and more specifically in this case, Montenegro.

There remains a certain feeling of missed opportunity because the new Methodology does not predict development or redesign of **new Action Plans for specific chapters**. With the Action plans currently in use, there is no true incentive that negotiations will be sped up by the new Methodology. This question remains open for now, but it is certainly something that can be covered and responded to sometime in the future. The new Methodology brings new dynamism and it also brings a revised approach to crucial points in the negotiations. The question still remains how the process will unfold in the future and whether the political actors will have strength, will and competence to contribute to the negotiations' finalization. This remains to be seen – will the new Methodology bring much needed fresh energy into the process or will it become an obstacle, too big for its own good.

Serbia

Serbia entered the process of EU integration in November 2000 at the Zagreb EU-WB summit, after democratic changes occurring in October 2000. It entered the process as a part of the joint state with Montenegro. In 2006 the State Union of Serbia and Montenegro dissolved, and Serbia continued the process as an independent state. In 2008, Serbia signed the Stabilisation and Association Agreement with the EU and its member states. The following year it applied for EU membership. The candidate status was received in 2012, and the accession negotiations with the EU were launched on 21 January 2014.

In the 2013 Negotiation framework of the EU for negotiations with Serbia⁵⁰, which defines the **substance and procedures of the negotiations**, the EU defined main requirements for running the process. The EU defined two main pillars that need to be monitored and improved to make progress in the negotiations. One is performing substantive reforms related to the rule

50 https://www.mei.gov.rs/upload/documents/pristupni_pregovori/neg_frame.PDF

of law (defined by chapters 23 and 24⁵¹) and “progress in dialogue with Kosovo” which will lead to legally binding agreement by the end of Serbia’s accession negotiations” monitored under chapter 35.⁵² It is evident that without any of these two pillars negotiations cannot be ended successfully. An overall balance in the progress of negotiations across chapters should be ensured. *“Should progress under these chapters significantly lag behind progress in the negotiations overall, and after having exhausted all other available measures, the Commission will on its own initiative or on the request of one third of the Member States propose to withhold its recommendations to open and/or close other negotiating chapters, and adapt the associated preparatory work, as appropriate, until this imbalance is addressed. The Council will decide by qualified majority on such a proposal and on the conditions for lifting the measures taken”* (point 24 of the Negotiation framework).

Serbia’s accession negotiations were marked with two basic features. The first, was the lack of political engagement and commitment by the EU and two, by leaving

the pace of reforms necessary for accession and thus the pace of accession to the candidate country, Serbia. At the same time, EU member states were keeping an eye that the pace does not accelerate too much, if a candidate country shows interest in that direction.

This led to Serbia focusing on chapters 23 and 24 at the beginning, demonstrating its commitment in the early phase of negotiations (2014-2016), only to switch to picking up “low hanging fruit” (issues not demanding too much political effort and risk) immediately after these chapters were opened in late 2015 and mid-2016. In this kind of a situation accession negotiations of Serbia lacked both the “pull effect” by the EU and the “push effect” by Serbia. Accession negotiations of Serbia were placed in a slow lane from the start by the EU. On average in the period 2014-2019 Serbia has opened 3 chapters per year, with 2017 as the peak of progress, when Serbia opened 6 chapters in a year on three Intergovernmental Conferences (IGC) held that year. Serbia has never opened more than 2 chapters per IGC. This restriction was not applied to Monte-

51 Today these are the backbone of the Cluster 1 Fundamentals

52 Chapter 35 is not part of any of the clusters and will be dealt separately.

negro.⁵³ After December 2019, Serbia did not open any new chapters.⁵⁴

In its Opening statement⁵⁵ made for the first Intergovernmental Conference in January 2014, Serbia stated its aim to be fully prepared to take on the obligations of EU membership by the end of 2018.

Despite this commitment, over the course of negotiations, Serbia has recorded a significant drop in the number of areas covered by the political criteria for accession. During the seven years after opening the accession negotiations, Serbia has lost the status of a free country in 2019 (now it is considered by Freedom house to be partially free⁵⁶) and has lost the status of semi-consolidated democracy in 2020 (now being considered as transitional or hybrid regime⁵⁷, and slipping further to authoritarian regimes). This was noted by the EU and member states resulting in not opening any chapters after December 2019. However, the message from EU as to why the progress is stopped was very

vague and could have been easily spined for the local audience in Serbia to issue of Kosovo* as a blocking point.

When it comes to dialogue with Kosovo*, the dialogue after the initial significant breakthrough with the 2013 Brussels Agreement, strategically speaking came to a halt, even though there were other agreements and developments after 2013. Even though both sides did not implement all that was agreed during the dialogue (since 2013), the major impediment is the longstanding refusal of the Kosovo* side to implement the main part of the 2013 Brussels agreement and establish the "Association/Community of Serb majority municipalities in Kosovo*". This problem, accompanied with a series of political crises in Kosovo*, imposition of taxes on trade in goods in 2018 and violent episodes give room for the argument that Serbia cannot be called responsible for the lack of progress in the dialogue. Consequently, chapter 35 cannot be seen as a

53 Montenegro was opening up to five chapters pre IGC. <https://www.eu.me/tok-pregovora/>

54 Until September 2021 when this paper was written.

55 The Opening Statement of the Republic of Serbia at the Intergovernmental Conference on the Accession of Serbia to the European Union, 2014, Accessed on 12 November 2021 https://www.mei.gov.rs/upload/documents/pristupni_pregovori/the_opening_statement_of_the_republic_of_serbia.pdf

56 Freedom House, Freedom in the World 2020, Serbia, Accessed on 12 November 2021 <https://freedomhouse.org/country/serbia/freedom-world/2020>

57 Freedom House, Freedom in the World 2020, Serbia, Accessed on 12 November 2021 <https://freedomhouse.org/country/serbia/nations-transit/2020>

reason for a slow progress in accession negotiations of Serbia.

By the fall of 2021 (September) Serbia has opened 18 out of 34 chapters relevant for Serbia at this point of accession negotiations⁵⁸, while only two are provisionally closed (Chapter 25 Science and Research and 26 Education and Culture). At this moment Serbia has also submitted additional nine (9) negotiation positions which are pending in the EU Council. With the introduction of the new clustering system, we can note that Serbia has already opened or submitted negotiation positions in all chapters belonging to Cluster 3 Competitiveness and inclusive growth and Cluster 4 Green agenda and sustainable connectivity. Serbia still needs to submit a negotiation position in chapter 28 Consumer and health protection. Even though some progress have been made, Serbia is still to fulfil opening benchmarks in five (5) negotiation chapters, receive Opening benchmark assessment reports (OBAR) and get the invitation from the EU

to submit negotiation positions⁵⁹.

When assessing the novelties introduced, we might see that some of them came because of and as lessons learnt from accession negotiations with Montenegro and Serbia. Namely by the lack of progress in [political and democratic] reforms and reaching membership requirements in such a long period of time, while formally making progress in the negotiations themselves. It also seems that “business as usual” approach in accession negotiations will be finally abandoned. However, this is yet to be seen in the case of Serbia. Situation in Serbia also led to some conclusions of the EU-WB Zagreb Summit Declaration of May 2020, for example by stating that *„The credibility of this commitment [to join the EU, added text] depends also on clear public communication* and the implementation of the necessary reforms”. This was the result of an unprecedented development, that an EU candidate country runs an anti-EU media campaign through tabloids being (at least) close to the Govern-

58 Serbia has opened Chapter 35 Other issues where the progress in dialogue with Kosovo* is being monitored by the EU. For this reason, Serbia has one more chapter to deal with at this moment when compared to Montenegro. Chapter 34 Institutions are not being negotiated at this point of accession negotiations with either of two countries.

59 Chapter 1 Free movement of goods, 8 Competition policy, 11 Agriculture and Rural Development, 12 Food safety, veterinary and phytosanitary policy and 22 Regional policy and coordination of structural instruments.

ment. This was also observed by reports of the European Parliament Think Tank from December 2020, and has immediately found its way into official documents. Here perhaps we might even claim that a new condition for EU accession ("clear and honest public communication on EU") has been defined, thus complementing the long-standing Copenhagen 1993 and Madrid 1995 criteria for accession.

As we have pointed out, the accession negotiations with Serbia were marked instead by a transformation of a candidate country closer to the EU level, particularly within political criteria, with a quite the contrary process, by the reduction of political and democratic freedoms, already achieved before accession negotiations started. This was noted by all international monitoring institutions like Freedom House, Reports without frontiers, Transparency International, etc. Per the new Methodology these reports will be used in future EU reporting as indicators for assessing the progress of a candidate country. The overall assessment in the Commission's annual report on Serbia in the political criteria in the period 2014-2020, remained the same 2,2 (on the 1-5 scale). The progress in economic criteria rose from 3 to 3,25 in 2020 while in the third (legal) criteria it rose from 2,88 to

3.03 in 2020. Assessments in the EC's 2021 report, remained unchanged.

Unlike Montenegro that has already opened all chapters (final chapter was opened under the new methodology in 2020) Serbia is caught by it somewhere in the middle of the process. Additionally, unlike in Montenegro where methodology will be applicable only to closing of chapters, in Serbia it will be applicable also to opening 16 remaining chapters. However, since Serbia has opened almost 50% of individual chapters in all clusters except in cluster 4 "Green agenda and sustainable connectivity", new methodology will not bring tectonic changes to mechanics/ technique of opening chapters.

Methodology itself is not aiming primarily to change the technique of negotiations (mainly sequence and substance of documents (screening report, opening/interim/ closing benchmarks, candidates negotiation position, EU common positions). The technique of negotiations is used as a tool of hitting the primary political goal, which is making a change by having more political steer, engagement and accountability (on both sides), less mimicking of fundamental reforms but making a substantial change in real life in a candidate country by implementing strategic

reforms. This change (or at least a plan for substantive changes) must be prepared and implemented, all at once, to open any chapter on the side of a candidate country. There will not be *a la carte* choosing of chapters that will be dealt with while avoiding the others. Now it is an “all-or-nothing” approach.

The new methodology could bring to Serbia a change in political surroundings. Opening of negotiation chapters will not be possible unless the entire cluster is prepared. This will lead to filling in the blanks of the patchwork of opened chapters and chapters that are prepared (negotiation position submitted or opening benchmarks fulfilled).

We can say that the new Methodology already works for Serbia. Serbia has adopted in May and early June 2021 four negotiation positions for chapters: 10 Information society and media (Serbia was invited to submit negotiation position in June 2017), 15 Energy (two benchmarks

were set in September 2015), 16 Taxation (opening benchmark was set in November 2016 which required fulfilling SAA obligation awaiting since 2009) and 19 Social policy and employment (opening benchmark was set in April 2016). With these 4 negotiation positions, Serbia is covering entire cluster 3 “Competitiveness and inclusive growth” where 5 out of 8 chapters have already been opened (2 provisionally closed)⁶⁰ and cluster 4 “Green agenda and sustainable connectivity”, where no chapter was opened but 3 out of 4 negotiation positions were submitted earlier.⁶¹ At this moment, within only a few months of the implementation of the new methodology, due to the framework created by it, Serbia is ready to open up to 7 chapters in one IGC. These chapters were lagging behind for years. This also demonstrates that problems in accession negotiations were not of technical nature but purely political. However, whether Serbia will open or not any cluster in 2021 will depend only on the assessment of EU member states of the political situation in Serbia. Their position

60 In cluster 3, Serbia has opened chapters: **17** EMU, **20** Enterprise and industrial policy, **29** Customs Union and provisionally closed chapters **25** and **26**, while negotiation positions have been submitted in chapters: **10** Information society and media, **16** Taxation and **19** Social policy and employment.

61 In cluster 4 Serbia has not opened any chapters but has submitted negotiation positions in all four chapters in this cluster: **14** Transport policy, **15** Energy, **21** Trans-European Networks and **27** Environment.

will be made on the assessment if there was sufficient progress in the rule of law area, and secondary in the dialogue with Kosovo*, and not on the preparedness of Serbia for opening individual chapters in clusters 3 and 4.

This will also demonstrate what the new methodology should bring to the EU side of the table. Namely, it will answer the question if there will be more political steer and (high level) leadership on the EU side that is lacking for at least a decade now. Will the EU push hard enough for promoting its own EU values and supporting the rule of law in the region, or will the failed “*stabilitocracy*” approach continue despite all its evident shortcomings and democratic downfall? This is yet to be demonstrated by the EU and particularly by its member states.

However, the new methodology has an inbuilt flaw that persists as a problem for 20 years now. Roadmaps and clear chain of events and steps to be taken by both sides for the accession and finalisation of the process, for individual WB countries are missing from the new methodology

as the most important missing link in this chain. This is the biggest deficiency of the new methodology. The draft of the Commission document, named “**A credible enlargement perspective for and enhanced EU engagement with the Western Balkans**”⁶² (that was in February 2018 circulating in the pro-Enlargement “underground” in Europe), had such roadmaps, at least for Serbia and Montenegro, as frontrunners. The document was silently ignored by member states and these parts were deleted from the final document. Again, the problem in the process on the EU side, is not the lack of knowledge and capacities to finalise the enlargement, but a lack of vision and courage particularly by member states. After almost 20 years after the 2003 Thessaloniki summit the process needs a timeframe for expected finalisation, or the process will become a never-ending-story kind of a process. This is a pressing issue since the moment of accession becoming a never-ending-story is now very close.

Additional issue of concern is preservation of the veto possibilities for member states in every step in the process. On average

62 Communication from the Commission to the European Parliament and The Council, 2018, Accessed on 11 November 2021 https://ec.europa.eu/info/sites/default/files/communication-credible-enlargement-perspective-western-balkans_en.pdf

(before adopting the new cluster structure) unanimity was required in 75 instances in the process. Accession is a very cumbersome process in the best of circumstances. Having so many possible blockades open too much space for national issues of EU member states to be transferred to the EU level and block the process. This issue should be dealt with by introducing (highly demanding) qualified majority voting⁶³, for intermediary steps within the process, [all steps between opening and closing the negotiations where unanimity is required by the founding treaties (article 49 TEU)].

The issue of the rule of law and the possible activation of the imbalance clause brings us to the issue of corrective measures. For Serbia they remain the same as envisaged in the original 2014 Negotiation framework [point 24]. Imposition of corrective measures and the activation of the imbalance clause requires the initiative of the Commission or of one third of member states. The Commission holds the key for initiation of these measures. However,

any member state can withhold its assent for opening or closing of a chapter, with the same effect. This has already happened in 2014, when due to the position of the German Bundestag⁶⁴, opening of other chapters had to be put on hold until chapters 23 and 24 were opened. This prevented Serbia from opening any chapters until December 2015 (22 months after opening negotiations), even though, the EU Negotiation framework stated that chapters 23 and 24 “will be tackled early in the negotiations” [point 11] which means to be opened among the first chapters, but not to be opened “as the first”, thus putting everything else on hold [as required by point 7 of the Resolution of Bundestag]. This negatively affected the initial positive spirit generated by the opening of negotiations in 2014.

During the 2021, Serbia has adopted several important negotiation positions. It has prepared amendments to the Constitution intended to give independence to the judiciary (subject to the assessment of the Venice Commission), as the most

63 This qualified majority should entail a small blocking minority (for example of four member states) similar to the Ioannina Compromise from 1994.

64 Resolution Establishing agreement between the Bundestag and the Federal Government on the application of the Republic of Serbia for accession to the European Union and on the recommendation made by the European Commission and the High Representative on 22 April 2013 that accession negotiations be opened, 27 June 2013.

important interim benchmark in chapter 23. This benchmark holds the pivotal role in the development of the rule of law that is one of the two keys for progress in accession negotiations. It is yet to be seen if this will be accepted by EU member states as a sufficient progress to accept that interim benchmarks have been fulfilled and to set closing benchmarks in chapters 23 and 24.

Serbia is also hosting the mission of the Venice Commission in the late 2021 assessing the constitutional and legal framework governing the functioning of democratic institutions in Serbia, at the request of the Parliamentary Assembly of the Council of Europe. This assessment will be the guiding document for some of the EU member states when assessing the rule of law and democracy in Serbia. At this moment (second half of 2021), officially using the imbalance clause in accession negotiations with Serbia does not seem to be an option. It is yet to be seen if Serbia will open any clusters in December 2021 or will withholding the approval by several member states occur as it happened in December 2020 and June 2021, thus leading to continuation of the blockade of negotiations.

The second group of countries are North Macedonia and Albania. The new methodology will be implemented fully in the case of these two countries. During the last decade, **North Macedonia and Albania delivered on reforms and fully deserved the decision to open accession negotiations.** The two countries did a lot in an extremely complex environment and under constant pressure.

The next step, upon the adoption of the new methodology, including how it will apply to Montenegro and Serbia, was that the Commission drafts **separate General EU position-GEUP for North Macedonia and Albania, consisting of the EU opening statement for accession negotiations, the Negotiation frameworks and adequate procedures.** These crucial documents needed to go through thorough consideration by relevant **Council bodies** (under the pressure of all interested MS's) to be adopted at the **Council level** by unanimity of all (27) MS's, in what seems to become, a very comprehensive and extremely complex new generation of negotiation frameworks.

North Macedonia

Seventeen years have passed since the day when North Macedonia submitted the Application for EU membership (March 2004), but only on 25 March 2020, the same week that we became the 30th⁶⁵ member of NATO, the Council of the EU decided unanimously that they (all Member States) are ready to open accession negotiations with us. The road to this historic moment has been unusually long⁶⁶ and unfortunately, it is still uncertain.

Despite all difficulties and obstructions, North Macedonia have faced since our independence, the country has not changed its Euro-Atlantic orientation. North Macedonia was the first country from the Western Balkan region to sign the SAA back in 2001 (initiated in 2000 in Zagreb), applying for membership in 2004, becoming

ing a candidate country in 2005 and receiving the first recommendation from the Commission for the opening of accession negotiations in 2009. That recommendation was repeated by the Commission and submitted to the Council for a decision ten (10) times from 2009 to 2019.

After several **postponements in 2018 and 2019**, because of different reasons the **Decision of the Council of the EU (March, 2020)** was reached to open accession negotiations with North Macedonia and Albania, the **Commission received the mandate** to prepare the General EU Position (GEUP), including the Negotiating Framework on the conditions under which the European Union will accept North Macedonia as its member state (the same procedure is under way for Albania as well). The European Commission has prepared **draft General EU Position (GEUP) and Negotiation Framework (NF)**, and handed over to the **German Presidency**⁶⁷ at the beginning of **July 2020, with the**

65 NATO, 2020, North Macedonia joins NATO as 30th Member, Accessed on 20 November 2021 https://www.nato.int/cps/en/natohq/news_174589.htm

66 European Commission, European Neighbourhood Policy and Enlargement Negotiations, Review on North Macedonia, Accessed on 12 November 2021 https://ec.europa.eu/neighbourhood-enlargement/enlargement-policy/negotiations-status/north-macedonia_en

67 Marie Jelenka Kirchner, Zoran Nechev, Dragan Tilev, 2020, Making Europe Strong Again in its entirety. The German EU Council Presidency 2020 and its implications for North Macedonia, Accessed on 12 November 2021 <https://idscs.org.mk/en/portfolio/making-europe-strong-again-in-its-entirety-the-german-eu-council-presidency-2020-and-its-implications-for-north-macedonia/>

aim to be adopted by the General Affairs Council (GAC), as well as confirmed by the European Council until end of 2020.

The Negotiating framework is considered to be the most important document in which EU member states determine their main negotiation positions. The Negotiation framework defines the scope and structure and key requirements⁶⁸ to be accepted and procedures and structures of negotiations. Taking into consideration the complexity and specificity of the Negotiation framework for North Macedonia (applying the new rules in line with the new revised Methodology) and the announced demands by Bulgaria (and by Greece in line with Prespa Agreement), the draft text, as expected, caused serious inconclusive discussions within COELA and COREPER, in the period between July to December. Due to **unreasonable** requirements by Bulgaria, the text of the draft Negotiation framework was not agreed, it did not reach the General Affairs Council and is still under consideration of the Council bodies

and it's Presidency. On top of that in December 2020, Bulgaria intervened, in the same negative spirit, in the Council conclusions on traditional Enlargement package and country Report, which provoked Czech and Slovakia⁶⁹ to block, because of principle reasons, the entire set of conclusions related to the Enlargement package. The whole package now, the conclusions for the Western Balkans and the Negotiation Frameworks for North Macedonia and Albania, was first handed over to Portugal (January-June 2021) and now to Slovenian (July to December 2021) Presidency. Therefore, the text of these documents is still not public.

However, from what we already know, the General EU position (GEUP) prepared by the Commission and refined by the COELA and COREPER Council bodies, to be publicly presented on the **(First Ministerial meeting opening the Intergovernmental Conference on the Accession of the Republic of North Macedonia to the European Union,** is consist of **several ele-**

68 Dragan Tilev, Zoran Nechev, 2020, The devil is in the details: negotiation North Macedonia's European Union accession, Accessed on 10 November 2021 <https://idscs.org.mk/en/portfolio/the-devil-is-in-the-details-negotiating-north-macedonias-eu-accession/>

69 European Western Balkans, 2020, The Czech Republic and Slovakia have blocked EU Council conclusions on enlargement, Accessed on 10 November 2021 <https://europeanwesternbalkans.com/2020/12/18/the-czech-republic-and-slovakia-have-blocked-eu-council-conclusions-on-enlargement/>

ments: *EU opening statement, Negotiation framework and procedure, and organization (technical) of the negotiations. This EU documents will be the first time ever where the New Methodology was transposed in full into the new generation of the Negotiation frameworks. And this will become a moment of truth, a test whether the new Methodology can really work in practice and can accelerate the accession negotiations bringing the Western Balkan countries as full fledge members into the European Union.*

EU Opening Statement for Accession Negotiations is setting the legal frame and political stage and tone of the negotiations within the Intergovernmental conference, that will remain open until the end of negotiations, finalized with initialing of the text of Accession Treaty by all sides allowing to North Macedonia becoming a full-fledged member of the European Union in line with Article 49 of the Treaty of the European Union, Copenhagen criteria, including regional cooperation and good neighborly relations, specifically recalling the importance of achieving tangible results and implement, in good faith bilateral agreements concluded with Greece and Bulgaria as well.

Negotiation Framework, defines the Principles governing the negotiations, through enhanced enlargement methodology with the pace based on our own merits and on the other side, depending on the Union's capacity to absorb new members, and full respect of all required criteria, including political and economic, as well as harmonized legislation and ability to take on the obligations of membership ("Copenhagen and Madrid criteria"), respect of the Stabilization and Association Process requirements, again stressing the importance of implementation of bilateral agreements concluded with Greece and Bulgaria, and implementation of the SAA. Common Foreign and Security Policy-CFSP alignment will be regularly monitored. In the light of more political process, member states experts will be involved directly into monitoring of the negotiations process. To ensure dynamism of the negotiations, 33 chapters are grouped in six thematic clusters (*interesting, there is no mention of Chapter 34 and Chapter 35?*), with stronger focus on core sectors, beginning negotiations with Fundamentals and closing the negotiations with that cluster. If sufficient progress, this will lead to closer integration with the EU, through accelerated integration and "phasing in" to individual EU

policies, EU market and EU programmes and Agencies, as well as increased investments and funding from the EU Budget. As stated before in this paper, the part of “phasing in” is of crucial importance and need to be clarified in details, in terms of contents and in terms of procedures.

If there is serious and persistent breach of the EU values, or no sufficient progress, or imbalanced progress, or serious or prolonged stagnation or backsliding, corrective measures could be initiated by the Commission or at the duly motivated request by a Member State (a single MS). Decisions for suspension or corrective measures can be taken with Reversed Qualified majority voting (RQMV). Reversibility of the process is also possible, as well as downsizing of the pre-accession assistance, which is reflected in the new IPA III Regulation. This is one of the most important elements of the Negotiation framework, the decision-making process, Reverse Qualified Majority Voting- RQMV, introduced only for North Macedonia and Albania, at the moment. The risk is this decision making process reflecting the New Methodology and developed in more detailed procedures in the draft Negotiation Framework for North Macedonia and Albania (we still need to see final text), is

to become a trap for the accession negotiations, and to produce further delays (slowing down the process), divisions among the countries concerned and further gaps (between Montenegro and Serbia, and North Macedonia and Albania and the rest of the Balkan countries, B&H and Kosovo”).

The **decision-making process** (to be) embedded into the Negotiation Framework(s) have **two levels**:

- **First** level that derives from **the Treaty of the EU- unanimity**, under which rule all decisions will be taken that concerns the opening and closing of the negotiations, clusters, themes and chapters (including opening, interim and closing benchmarks), and
- **Second** level of decision-making process that derives from the Council practice in implementing the Treaty, so called **RQMV- Reverse Qualified Majority Voting**, under which rule the European Commission or a member state (even one) in a duly motivated case, can initiate procedure for **corrective measures that will enter into force in 90 days automatically. The initiative can be Reversed (can be stopped) only**

with QMV within those 90 days against the initiative.

Considering that the scope of the corrective measures has been expanded, there is *a great risk that a member state can use (or misuse) this new instrument possibility to block or substantially delay the accession negotiation process*, thus making it more difficult for a country to advance faster. It has to be underlined that the new RQMV does not substitute the unanimity voting rule in accession negotiations process, but is only complementing it within the corrective measures' mechanism, under the New Methodology, on corrective measures, not as a novelty, but as a new widely extended scope under the New Methodology (and some not so clear blind spots):

- In the case of persistent breach of the core EU values (suspension), it is not very clear who will determinate what is duly motivated objective requested by one MS to initiate procedure for corrective measures under the risk that the procedure is initiated purely because of bilateral disagreement, for example, misinterpretation of the history? How

in practice the European Parliament will be involved and how that will influence the dynamism of the process?

- In the case of stagnation/backsliding or imbalanced (Rule of Law) advancement (to withhold its recommendations to open and/or close other negotiation clusters and chapters.
- In the case of not meeting important benchmarks or to implement its commitments on provisionally closed chapters (to re-opening of negotiations on the chapter-and on the cluster).
- In the case of significant backsliding in a cluster or chapter, not yet provisionally closed (to reverse previously opening of the cluster).

The Negotiation Framework also frames the **substance of the negotiations**, namely adoption and translation in Macedonian language of all the Acquis and ability to implement it correctly. Derogations are almost impossible, but transitional measures if well elaborated can be negotiated. As for our participation into the economic and monetary union and Schengen area,

separate procedures will apply, after entry into the EU.

Negotiation Framework as well sets clear **negotiating procedures**, starting with formal process of screening (explanatory and bilateral screening process), opening negotiations by clusters (six clusters), starting from the Fundamentals, using opening benchmarks (OBM) per cluster⁷⁰, interim benchmarks (IBM) for the Rule of Law chapters (23 and 24) and closing benchmarks (CBM) per chapter (for all 33 chapters). ***Special attention will be given to anti-corruption policies (at horizontal level too), indicators, track records, implementing measures and concrete results.*** All decisions on opening and closing of clusters and chapters will be taken by unanimity, as stipulated by the Treaty.

In addition, the Negotiation Framework sets procedure and organization (technical) details for smooth negotiation process, and defines the grouping of the chapters (33) and contents of the six clusters (***Chapter 34 and Chapter 35 are***

missing from the Methodology and from the Draft Negotiation Framework too).

Once negotiations are concluded, the Treaty of Accession will be signed and ratified by all involved parties in the negotiations. In North Macedonia, as stipulated by our Constitution, there has to be a Referendum on accession to the European Union conducted for the purpose of giving consent to transferring a part of its sovereignty to the EU. From that moment onward, North Macedonia will move from the status of an acceding country, to a Member State status, with all the rights and obligations that goes with it.

70 Opening benchmarks for the Fundamentals will be a Roadmap for the Rule of Law and, as a novelty in the case of MKD and AL, a Roadmap for PAR as well.

Albania

Albania signed the Stabilisation and Association Agreement in 2006 and in 2009 officially submitted its application for EU membership.⁷¹ Contrary to what was expected, during the last decade Albania did little progress in its EU integration path. This was mainly due to internal political stalemates between the government and opposition, insufficient progress in the judiciary reform, its poor record in fighting corruption and organised crime as well as democratic backsliding.⁷² In the meantime, the Junker Presidency put EU enlargement on hold.

In 2014 Albania was granted EU candidate status, but it failed for four consecutive years to get a green light by the Commission to open accession negotiations. Only in April 2018, the Commission issued an unconditional recommendation to open accession talks. Nevertheless, in contrast

to North Macedonia, **the European Council conditioned the way forward** provided Albania made tangible progress in further advancing the process of re-evaluating judges and prosecutors; finalising the establishment of the independent judicial structures as foreseen by the Constitutional reform, namely the Special Anti-Corruption and Organised Crime Structure (SPAK), National Bureau of Investigation (NBI) and Constitutional Court; strengthening the track record of proactive investigations, prosecutions and final convictions in the fight against corruption and organised crime, including at high level.⁷³

Though according to the 2019 annual Commission report Albania made significant progress in fulfilling these conditions, the European Council postponed the decision to open accession talks twice, in June and October 2019. Finally, in March 2020 all members of the European Council endorsed the General Affairs Council's decision to open accession negotiations with Albania.⁷⁴ However, the positive EU Council

71 European Commission, "European Neighbourhood Policy and Enlargement Negotiations, Albania", last modified 2021, https://ec.europa.eu/neighbourhood-enlargement/enlargement-policy/negotiations-status/albania_en.

72 European Commission, "Albania Report", 2015; 2016; 2017; 2018, *Final report*.

73 General Affairs Council, "Council conclusions on enlargement and stabilisation and association process", 26 June 2018, <https://www.consilium.europa.eu/en/meetings/gac/2018/06/26/>

74 European Commission, "Albania Report", 2020, *Final report*.

decision was conditional upon **a list of 15 priorities** roughly speared into two groups: 6 requests to be addressed before the first intergovernmental conference and the rest to be met prior to the second intergovernmental conference.⁷⁵

The EU Council concluded that prior to the first IGC Albania should:

- Approve of the electoral reform.
- Implement the electoral reform and guarantee the functioning of the High Court and the Constitutional Court.
- Establish the Special Prosecution Unit for the Fight against Corruption (SPAK) and the National Investigation Bureau (NBI) must be fully completed.
- With regard to the fight against corruption and organized crime the recommendations delineated in the action plan of the Financial Action Task Force must be implemented.
- Take measures to combat the asylum-seeking phenomenon and guarantee the repatriation of asylum-seekers whose applications are denied.

- Review the new Media Law in line with the recommendations of the Venice Commission.⁷⁶

In addition, the EU Council's conclusions stressed that the negotiating framework will be adopted on condition Albania successfully addressed key priorities such as:

- Criminal procedures against judges and prosecutors accused of criminal conduct during the vetting process. proceedings against those accused of vote buying,
- A sound track record regarding fight against corruption and organised crime at all levels, including initiation of proceedings and completion of first proceedings against high ranking public officials and politicians,
- Tangible progress regarding reform of public administration, implementation of the reform of the electoral law as well as a final decision on the lawfulness of the local elections of 30 June 2019,
- Further progress in the adoption of the

75 Tobias Ruttershoff, "The Opening of Accession Negotiations: A New Hope for Albania". *Tirana Observatory*, May 8, 2020, <https://tiranaobservatory.com/2020/05/08/the-opening-of-accession-negotiations-a-new-hope-for-albania/>

76 Council conclusions on enlargement and stabilisation and association process - Albania and the Republic of North Macedonia, Press release, March 25, 2020, <https://www.consilium.europa.eu/en/press/press-releases/2020/03/25/council-conclusions-on-enlargement-and-stabilisation-and-association-process/>

- remaining implementing legislation related to the 2017 framework law on the protection of national minorities,
- Advancement of the process of registration of properties.

The 2020 annual Commission report assessed Albania met the first set of conditions, thus it invited the Council to proceed with the first intergovernmental conference. The Council failed to do so because of issues that Bulgaria has with North Macedonia.⁷⁷ The general position of the European Council was to not decouple Albania from North Macedonia, therefore the decision to hold the first intergovernmental conference was postponed.

The 15 pre-conditions or priorities are reflected also in the draft negotiating framework for Albania as they pertain strategic systemic reforms including Justice, Public administration and Electoral Reform. Therefore the draft negotiating framework recognizes the need for the country to design and adopt **three respective roadmaps** for the same topics which will be subject to continuous evaluation by the Commission:

- Roadmap for Public Administration reform,
- Roadmap for Rule of Law chapters (23 and 24); and
- Roadmap for the functioning of democratic institutions.

One important aspect to highlight is that **the draft negotiating framework recognizes the fact that most of the pre-conditions are not singular milestones that can be clearly defined and checked as completed but processes** with significant level of complexity and longevity therefore rather than pre-conditions they are considered as quasi-permanent parts of conditionality towards Albania throughout the process.

Let's take the example of the justice reform started exactly five years ago with the unanimous vote in the Assembly. However the vetting process is still going on, the appointment of key people in new institutions is still happening slowly and some of the new institutions on the prosecution's side have just been established or staffed in the last weeks. Much more needs to be done to consider that

⁷⁷ Jacopo Barigazzi, "Bulgaria blocks EU membership talks for North Macedonia", *Politico.eu*, November 17, 2020, <https://www.politico.eu/article/bulgaria-blocks-eu-membership-talks-for-north-macedonia/>

a critical mass of steps has been completed and for the moment the Ministry of Justice has just opened consultation for the second phase of the justice reform.

This timeframe makes it clear that under the new methodology evaluation of the fundamentals, judiciary reform will feature prominently not so much as a pre-condition but as part of the roadmaps for rule of law chapters and roadmap for functioning of democratic institutions.

As argued so far, amendments of the enlargement methodology are substantial. According to the Commission their overall aim is to enhance credibility and trust on both sides and yield better results on the ground by reinvigorating the accession process, making it more predictable, more credible and dynamic, subject to stronger political steering, based on objective criteria and rigorous positive and negative conditionality, and reversibility.⁷⁸ However, there are uncertainties on how the New Methodology will affect the pace and direction of Albania's accession talks with the EU. As it stands, it looks like a double-edged sword that bares the potential of all scenarios: accelerate Albania's EU

membership, stagnate or reverse it altogether.

The last round of the EU enlargement with the Western Balkans exhibited significant flaws on both sides as far as credibility is concerned. Therefore, the New Enlargement Methodology rightly touches upon the credibility and political commitment from both parties involved in the process, with a special focus on the fundamental reforms which are deemed essential for success on the EU path. Theoretically, as the accession talks are a two-way process, a stronger, more robust political commitment from both sides would move negotiations forward. The EU is expected to deliver on its promises if Albania advances with required reforms. The New Methodology will give member states a stronger political steering and a bigger monitoring role throughout the process. This will result in closer screening and a much more positive pressure over Albania's commitment to deliver on its promises and meet EU membership criteria.

However, though this would presumably inject the required reforms in the area

⁷⁸ Andrej Zorko and Ionut Sibian, "Enhancing the accession process – A credible EU perspective for the Western Balkans", *European Economic and Social Committee*, 2020.

of rule of law, strengthening democratic institutions, and market economy, the deeply polarized political landscape in Albania is a permanent threat to the whole process. Albania has made some progress in the judiciary reform, establishing and rendering fully operational the newly created judicial institutions, but the vetting of judges and prosecutors is far from over. As the constitutional mandate of the vetting process is coming to an end, a bipartisan parliamentary voting is required to extend its term. In addition, the democratic functioning of institutions, such as the Assembly and Government, guaranteeing free and fair elections and rule of law are among the key priorities for Albania. Thereby, implementing these fundamental reforms and living up to the promises within the framework of accession talks would require a **constructive political dialogue between the government and opposition at all levels, as well as a strong and proactive civil society.**

Despite the fact that the parliamentary boycott of opposition is over, the political

environment remains highly polarized. The April 25 elections were contested and several electoral frauds were reported, some of which were even noted by the OSCE/ODHIR monitoring mission.⁷⁹ In absence of bipartisan consensus on most fundamentals, an empowered civil society may bridge the gap, but in Albania civil society remains weak, and also the revised methodology fails to fully recognise the merits of its role in the EU accession talks and ensure more funding and support.⁸⁰

Whereas, organising negotiating chapters into six thematic clusters and setting clear, opening, interim, and closing benchmarks and timeframe can impact positively Albania's accession negotiations with the EU. Clustering chapters according to thematic commonness and interconnectedness makes the process more comprehensive, corrective and incentivizing for candidate countries. According to the preliminary EU Negotiating Framework with Albania, progress under the fundamentals cluster will determine the overall pace of negotiations, and will be taken into account for the

79 OSCE/ODIHR, "ODIHR Limited Election Observation Mission", 2021, *final* report. <https://www.osce.org/odihr/elections/albania/493687>

80 Gjergji Vurmo, "A credible new accession methodology or just a face-saving exercise?", CEPS, February 12, 2020, <https://www.ceps.eu/a-credible-new-accession-methodology-or-just-a-face-saving-exercise/>

decision to open or close new clusters or chapters.⁸¹

Albania's foreign policy and its commitment to good neighborly relations is fully in line with the Stabilisation and Association Process and EU foreign and security policy. In addition, it has already made some good progress in the area of rule of law. Five years ago, it undertook a radical reform in the judiciary. More than half of judges and prosecutors are vetted and those who could not justify their income were cleansed from the system, while new institutions for the self-governance of the judiciary are created and have become operational.⁸² Thus, **Albania has ticked some important boxes so far. This may move it faster to opening new chapters and clusters and at the end if progress is made, it will lead to closer integration with the European Union and increased investments and funding.**

On the other hand, the new methodology highlights one of the biggest problems Albania has been facing in decades, its inability to establish a fully functional

democracy. Its increased focus on fundamentals acknowledges the democratic backsliding of Albania during the recent years. In 2020 Freedom House reported Albania's democratic index scored decline after more than a stable decade.⁸³ But, it remains unclear how the New Methodology will address and help overcome structural weakness of Albania's democratic system in times when its transformative power in the Western Balkans has waned. Apart from this, another concern pertaining dynamism of the EU enlargement under the new methodology is the institutional capacity of Albania to successfully and swiftly respond to the more complex and demanding process of implementation of required reforms. New Methodology does not provide substantially improved and clear mechanisms to address the issue of institutional deficiency of Albania and negotiating countries in general. Thus, these shortcomings may turn negotiating talks with the EU into a non-ending, overwhelming process.

Lastly, reversibility disguised under the term predictability, the most radical newly in-

81 Council of the EU, "Accession Negotiations with the Republic of Albania – General EU Position", *Not final*.

82 European Commission, "Albania report", *Final report*.

83 Freedom House, "Country report, Albania", 2021, <https://freedomhouse.org/country/albania/freedom-world/2021>

troduced element in the framework of the Enhanced Methodology in enlargement is more likely to slow down the EU membership path of Albania than accelerate it. In sixteen years since Albania signed the SAA, adoption in the legal approximation has been swift but implementation has gone at a snail's pace. The stringent introduced corrective measures and a more intergovernmental handling of the EU enlargement process is a make it or break it offer to candidate countries. Incentives and rewards with closer integration and increased funds may energize Albania's commitment to progress in meeting EU membership criteria. Otherwise, in case of serious breach of EU values, stagnating or backsliding, the subsequent sanctions may serve as a vehicle to break the status-quo and reset Albania's EU membership bid.

The newly introduced decision-making process for corrective measures have the inherent danger of subverting the process. Contrary to the previous EU enlargement methodology, merely a member state or the Commission itself has the power to freeze or suspend the accession talks for duly motivated reasons as well as adjust or downward the scope of funding to the negotiation country. **As Albania is prone**

to frequent political crises, the veto power of a single member state over the process renders its accession negotiations vulnerable vis-à-vis newly introduced negative conditionality.

Moreover, though Albania has no serious open issues with neighboring countries as North Macedonia, Serbia, Kosovo* and Bosnia have – **the maritime border dispute with Greece in the International Court of Justice in Hague stands as a Damocles sword over its accession talks with the EU.** A swift and fair resolution will certainly remove an important block from its EU membership path, but if the decision is delayed, it may withhold its advancement in the accession talks with the EU. Indeed this is acknowledged also in the draft framework which urges a mutually acceptable outcome of the ICJ process.

The third group is composed of **Bosnia and Herzegovina** (waiting for the candidate status) and **Kosovo*** (still considering applying for EU membership).

Bosnia and Herzegovina

The European Union has a very complex and strong presence in B&H that is not only related with the accession process.

The role is twofold as the EU takes part in both the post-conflict stabilization processes in B&H, as well as in the country's accession to its full membership. Bosnia and Herzegovina has been the actual subject of a substantial portion of the EU Common and Security Policy since its establishment⁸⁴.

Relations between the EU and Bosnia and Herzegovina have developed since the independence of the country in 1992 and the signature of the General Framework Agreement for Peace (GFAP) at Dayton/Paris in 1995. For B&H, and the Western Balkans, the Council defined on 31 May 1999 the specific conditions under the

Stabilization and Association Process that include: cooperation with the International Criminal Tribunal for the former Yugoslavia (ICTY) and regional cooperation. These conditions were integrated as fundamental elements into the Stabilization and Association Agreements.

While the scope and shape of the EU's exceptionally large presence has been reduced and significantly changed over the years, the EU still has its own military forces in B&H engaged in the ALTHEA mission, mandated by the UN Security Council since 2004. Currently, 600 troops are deployed in the country⁸⁵.

Along with the regular Delegation of the EU to B&H, the EU High Representative for Foreign and Security Policy also appointed an EU Special Representative, with the practice that one person performs both duties since 2012. Before the changes introduced in the EU foreign policy by the Lisbon Treaty, the EU had a Head of the

84 Nedžma Džananović, "Foreign Policies in Western Balkans: Alignment with the EU Common Foreign and Security Policy," Study, Global and Regional Orders (Sarajevo: Friedrich Ebert Stiftung, Foreign Policy Initiative BiH, April 2020).

85 The EUFOR Althea military operation assists on capacity building and training of the armed forces of Bosnia and Herzegovina in line with the strategic intent expressed by the defence leadership to develop operational capabilities of dual use in support of civil authorities for removing physical remnants of war or disaster relief and deployment in peace support operations overseas. Simultaneously, EUFOR retained deterrence capacity to support a safe and secure environment.

Delegation of the European Commission in B&H along with the double-hatted High Representative of the international community and an EU Special Representative performed by one person nominated by the EU. The change of role and structure of the then EC's Delegation affected the change in mandates of all three positions.

The Stabilisation and Association Agreement between Bosnia and Herzegovina and the EU was successfully negotiated by the end of 2006 and signed on 16 June 2008 in Luxembourg, along with an Interim Agreement, which regulated trade and trade-related matters in the meantime. Despite the fact that it was ratified by all EU Member States by February 2011, the SAA could not enter in force, since Bosnia and Herzegovina had not fulfilled the condition that was set on the compliance with the 2009 decision of the European Court of Human Rights (ECtHR) in the *Sejdić-Finci* case⁸⁶.

Visa liberalisation for citizens of Bosnia and Herzegovina travelling to the Schengen area has been in force since Decem-

ber 2010 and B&H continues to meet the visa liberalisation benchmarks.

The renewed approach to Bosnia and Herzegovina from 2014 re-sequenced the conditionalities in order for the country to focus on socio-economic challenges and engaged the political leaders to secure their irrevocable commitment to undertake reforms towards EU accession. Following that agreement upon a written commitment by the Presidency of Bosnia and Herzegovina in January 2015, its signature by the leaders of the 14 parliamentary parties and its endorsement by the Parliamentary Assembly, in March 2015 the Council agreed to the entry into force of the SAA, which started on 1 June 2015. With the entry into force of the SAA, Bosnia and Herzegovina opened a new chapter in its relations with the EU and confirmed its commitment to pursue EU accession.

Political and economic dialogue between the European Commission and Bosnia and Herzegovina has been taking place since 2009 under the Interim Agreement, and since 2015 under the SAA.

86 The ruling of the Court in Strasbourg requires the country to amend the Constitution in a way to remove discriminatory provisions from the electoral rules for the Presidency and the state-level House of Peoples. The implementation of this ruling is the most important of fourteen conditions B&H needs to fulfill in order to gain the candidate status.

Sector strategies are in place for environment, energy, transport and rural development, enabling IPA support in those sectors. Bosnia and Herzegovina has progressively extended its participation to EU programmes, which has been partly co-financed via IPA funds. Bosnia and Herzegovina currently take part in COSME, Creative Europe, Customs 2020, Europe for Citizens, Erasmus+, Fiscalis 2020, Horizon 2020, and the Third Programme for the Union's action in the field of health. Bosnia and Herzegovina also take part in the INTERREG programme.

Bosnia and Herzegovina applied for EU membership in February 2016 and in September 2016, the European Council invited the Commission to submit its opinion on the country's application. The Opinion has been prepared following a methodology similar to that used in previous Opinions. The Commission delivered a total of 3 897 questions covering all EU policies to Bosnia and Herzegovina. It took the country 14 months to answer the initial 3 242 questions and 8 months to reply to the 655 follow-up questions. Despite the establishment of a coordination mecha-

nism on EU matters that was supposed to create a functional synergy between the countries' different levels of government, the authorities could not agree to submit answers to 22 questions: 1 on the political criteria, 4 on regional policy, and 17 on education policies. The process stressed the internal political disagreements and conflicts of jurisdictions, but also the lack of knowledge and capacities of the lower levels of government.

In May 2019 the Commission adopted its Opinion (Avis) and accompanying analytical report. The Opinion identified 14 key priorities in the areas of democracy/functionality, rule of law, fundamental rights, and public administration reform that Bosnia and Herzegovina needs to fulfil in order to be recommended for opening EU accession negotiations.

The overview of major steps in Bosnia's relationship with the EU in more than two decades demonstrates continuity of orientation and relations despite the slow speed and country's internal disagreements. As Čepo⁸⁷ stipulates B&H's orientation towards the EU is influenced and shaped

87 Dario Čepo, "Euro:Atlantic Integrations of BiH: Shifting Gears and Reinterpreting Motives in Foreign Affairs," in *Bosnia and Herzegovina's Foreign Policy since Independence* (71-96: Palgrave Macmillan, 2019).

by three types of factors – regional integrational trends, especially in early stages; instrumentalist cost-benefit calculations and decisions, and as a product of exchanges of different groups involved. The adaptation of different approaches of the EU are not considered to be of almost any importance.

The slow pace of B&H's accession process is a clear indication of the lack of political will to prioritize but also of the fear that political elites feel about intense engagement in this process which may erode their own political power in the end. Their calculations and attempts to make the process serve their own political interests has been the main reason for B&H to lag behind the rest of the region.

The third important factor – the interaction of institutions and agents in the process is also of utmost importance and heavily influenced by the political elites. The most successful examples of negotiations and cooperation with the EU are recorded in cases in which processes were carried out by state agents independent from political elites and without veto powers. The negoti-

ating team for the SAA, back in the 00s for example, had completed its work within two years. In contrast, the mechanism of coordination established in crafting the response to the EU Questionnaire, has taken much more time for their assignment than was the case in other countries. While the sheer size of the team was significant, as it included the representatives from all levels of government, the main problem turned out to be their political affiliation and lack of knowledge and experience in the process.

From the point of view of B&H, the overall approach of the EU itself does not matter much. As the country seems to be years, if not decade away, from starting accession talks, the new methodology bears limited significance at this point. The attention of B&H is reduced to two specific features and their possible developments – the role of the EU-member states in vetting the accession and the pace of reforms and accession acceleration in Serbia and Montenegro.

While there have never before been any serious indications that neighboring Cro-

atia, an EU-member since 2013, would use its power of veto regarding B&H's accession⁸⁸, a number of existing bilateral issues, as well as the latest tensions between the two regarding Croatia's efforts to steer the process of Election Law reforms in B&H might eventually result in such an action. The threats at current phase, however, would be pointless. B&H might also face the same scenario in case of Serbia's EU membership. Considering such long-term perspectives, B&H would benefit from the EU's application of QMV in accession matters.

The second feature is the very outcome of the new methodology – if it proves to be something that will incentivize and re-energize reforms in Montenegro and Serbia, thus creating the momentum in Albania and North Macedonia, it might have positive effects. If that does not happen, whatever the EU's approach may be, the accession will simply continue to have little or no impact on B&H.

Kosovo*

As the debates sparked across the region following the New methodology highlighted the challenges of the over-politicization of the enlargement process, in Kosovo* this debate hardly triggered debates among scholars and practitioners. Kosovo* represents the epitomic case in which politicization of the EU integration process is blatant.⁸⁹ As explicitly stated in the Strategy for Western Balkans

***"Kosovo* has an opportunity for sustainable progress through implementation of the Stabilisation and Association Agreement and to advance on its European path once objective circumstances allow."*⁹⁰**

Unlike other countries in the region. Kosovo* constitutes a unique case. The ambiguous language of the EU Commission best reflects the political obstacles

88 Croatia blocked the opening of a negotiating Chapter 26 in Serbia's accession talks in December 2016. The chapter covers education and culture, and Croatia, among other issues, used this opportunity to express its concern over the lack of progress in producing textbooks for pupils from Serbia's Croat minority.

89 Group of authors, 'Reconciling Politicisation and Better Monitoring: Could Kosovo* Fall Prey to the New Methodology?', *European Western Balkans* (blog), 15 July 2021, <https://european-westernbalkans.com/2021/07/15/reconciling-politicisation-and-better-monitoring-could-kosovo-fall-pray-to-the-new-methodology/>.

90 'Strategy for the Western Balkans: EU Sets out New Flagship Initiatives and Support for the Reform-Driven Region', Text, European Commission - European Commission, accessed 19 September 2021, https://ec.europa.eu/commission/presscorner/detail/en/IP_18_561.

and constraints that Kosovo* faces in the membership path toward the EU. The circumstances which do not allow Kosovo* to have an EU perspective are purely political and directly linked to its contested statehood, hence the lack of full EU recognition.⁹¹

The lack of clear and tangible EU perspective are the key reasons behind a lukewarm impact that the new methodology – the changing of rules – has had in Kosovo*. No potential politically driven blockades that the new methodology might bring to the enlargement process, can be compared to the case of Kosovo*. Kosovo* is the case in which the EU not only denies its integration perspective but also hesitates to recognize the statehood and move the integration process before the political ‘circumstances allow’.⁹² Henceforth, translating the impact of the new methodology into a Kosovo* situation is rather a difficult exercise. Kosovo* currently holds the status of potential candidate country for EU membership.

The perception among scholars was that the change of methodology will not impact

Kosovo* since opening accession negotiations evidently will take longer to appear on the horizon. However, the impact of the new methodology and re-design of the process from chapters to phases represents multifrontal challenges for Kosovo. Evidently, the new enlargement methodology will build upon a starker political steer. The increased role of the Member States further challenges the already complicated position toward Kosovo*’s status. Strengthening the position of the Member States – which for Kosovo* are the explicit case of politicization of the enlargement – risks making the accession even less technical and more politicized. For the five EU non-recognizers this would plainly mean political obstruction and blockage of Kosovo*’s enlargement process. In this sense, it will be more challenging for Kosovo to cope separately with several Member States instead of with an all-encompassing European Commission.

Should the new Methodology be applied, Kosovo* is obliged to address each Member State to avoid potential political blockades. While addressing recognizers can be an easy task, reaching out to the

91 ‘Strategjia e Re e BE-Së: Vetëm Serbia Dhe Mali i Zi Marrin Afate Kohore’, accessed 20 September 2021, <https://www.evropaelire.org/a/strategjia-e-be-per-ballkanin/29019350.html>.

92 Interview with Expert on EU Integration - Think Tank 2, 18 August 2021.

non-recognizers (Greece, Spain, Cyprus, Romania, and Slovakia). This will make Kosovo's path toward the EU even less predictable and place even more obstacles in the future. This for Kosovo* means that the methodology can provide a perfect political justification to politically obstruct Kosovo's way to the EU.⁹³ This means that the new methodology - in addition to the energy needed to deliver on the reforms, Kosovo* needs to work proactively on addressing all member states at a bilateral diplomatic level to convince member states to approve every step and stage of Kosovo's integration process.

Dialogue with Serbia - the main political obstacle, or key precondition for advancement into the EU integration process?

Kosovo's challenges with the new methodology are multi-frontal and mostly revolve around its complex and unfinished statehood. Unresolved issues related to Kosovo* statehood pose additional challenges of politicization in the case of Kosovo*. Relations with Serbia and the ongoing process of the EU facilitated dialogue between Kosovo and Serbia are considered the main obstacles for Kosovo*⁹⁴. This since the EU has since 2011 turned a blind eye on the reform in exchange for the modest progress in the Dialogue. Regardless of the initial progress achieved in the framework of the technical dialogue in Brussels (2011-2013), followed by the 2013 Brussels Agreement in the political phase during the high-level talks,

93 Interview with Expert on EU integration - Think Tank 1, 15 August 2021.

94 Interview with Expert on EU Integration - Think Tank 2, 18 August 2021.

the political obstacles for Kosovo* in the EU integration process are still immense.⁹⁵

While many argue that the new Methodology will have no immediate impact on Kosovo*, given the ongoing process of the Dialogue between Kosovo* and Serbia it can have a detrimental impact. For instance, Chapter 35 in Serbia's accession process is designed to address the dialogue between Kosovo* and Serbia. Given the restructuring of the enlargement phases, Kosovo* will be even more challenged by the pace and the new Methodology applied in Serbia. Thus, given the outstanding issues between Kosovo* and Serbia, the dialogue will remain on hold until Serbia addresses all issues related to fundamentals and reaches the final stage of negotiations.⁹⁶ Consequently, Kosovo* will remain in stalemate and heavily depend on the political willingness of Serbia to make progress.⁹⁷ In hindsight, it is imperative for the EU and the Member States to not let the overlapping of the reforms and the dialogue, otherwise no

new methodology will be able to address the stability approach of the EU in relation to Kosovo* and Serbia open dispute.

The new methodology for Kosovo* can also be perceived as an opportunity to make steady progress on the reforms by gradually convincing the Member States that Kosovo* is genuine in delivering the reforms needed to be fulfilled in the process. By focusing on fundamentals first, Kosovo* can have the unique opportunity to avoid the bilateral issues in the region and with the EU Member States at the initial stages and work proactively in fulfilling the criteria for EU membership.

Further, a new Methodology which will give the EU and its Member States to scrutinize the process of implementing the reforms in more detail. This will push the local political elites to report correctly and not for the 'tick the box' exercise which has become a norm and way of functioning in the region and Kosovo*. This can gradually contribute to breaking the 'business as

95 'Paqartësia e BE-Së Për Kosovën Në Metodologjinë e Zgjerimit Të Bllokut Evropian', *Raporto Korrupsionin! KALLXO.Com* (blog), 20 March 2021, <https://kallxo.com/gjate/analize/paqartesia-e-be-se-per-kosoven-ne-metodologjine-e-zgjerimit-te-bllokut-evropian/>.

96 'Metodologjia e Re e Zgjerimit Të BE-Së: Çfarë Do Të Thotë Kjo Për Integrimin e Kosovës?', *Instituti D4D* (blog), accessed 20 September 2021, <https://d4d-ks.org/editorial/metodologjia-e-re-e-zgjerimit-te-se-cfare-te-thote-kjo-per-integrimin-e-kosoves/>.

97 '[Opinion] Tweaking the EU Enlargement Process - a View from Kosovo', *EUobserver*, accessed 20 September 2021, <https://euobserver.com/opinion/147417>.

usual' mode between the EU and Kosovo* while providing a unique opportunity for Kosovo* to deliver on the reforms. Furthermore, the Kosovo government can focus on the effective implementation of the European Reform Agenda and show serious dedication to the successful implementation of the Stabilisation Associations Agreement – the only contractual relation that the circumstances allow Kosovo* to sign with the EU. ⁹⁸

98 Interview with Expert on EU integration - Think Tank 1.

Conclusions

The new **EU Methodology for accession negotiations has the potential to inject new dynamism in the EU accession process of the Western Balkan countries.**

Would this be the case, or not, depends predominantly on the EU institutions and EU MS themselves, but also from the Western Balkan political leadership willingness to conduct domestic reforms and further align with EU rules and regulations. One is clear, full potential of the Methodology can be released only and when the accession negotiations start with North Macedonia and Albania.

The application of the new Methodology can be seen as a test for the EU and its institutions whether their geopolitical investment into the Western Balkans can be transposed into achievement of mutual goal of full edged membership of the Western Balkan countries into the European Union.

The biggest impact will be on the countries that are expected to start accession negotiations entirely under the new Meth-

odology, initially **North Macedonia and Albania**. For the countries which are already negotiating, **Montenegro and Serbia**, the Methodology would have **only limited impact**. Despite the numerous political statements by EU officials that the enlargement process and accession negotiations as set by the New Methodology will **equally apply to all Western Balkan countries, this is not the case as this study shows.**

Substantial differences in detailed Negotiation Frameworks reveal that based on the new Methodology, the EU has created three different groups of countries – the once that already negotiate, the ones that are expected to start accession negotiations and the once at the beginning of the accession process (Kosovo* has yet to apply for EU membership).

Reconfirming the emphasizes on the rule of law chapters is highly appreciated by all involved stakeholders, as the only way towards the EU is through the creation of genuine democratic societies with open and free market economies. Progress should be awarded, and the accession process should be time framed with a clear sequence of steps and activities on the side of the EU institutions and the Western Balkans. National issues of EU member

states must be kept out of the process, as it can be detrimental to the willingness of the new Methodology to genuinely transform and Europeanise the Balkan societies. Therefore, a ***qualified majority voting for all intermediary steps in the accession process***, between opening and closing of negotiations should be introduced.

Much more emphasizes should be placed on the ensuring gradual access to EU policies (***“phasing in”***) in line with the mutual interests of the involved parties. The lack of proper explanation of this element in the new Methodology, already created a lot of controversy when anyone tries to explain the meaning and particularly scope, procedure and implementation of this part. Bringing closer the accession negotiations into the key areas of mutual interest is important. Testing the phasing in approach in two of the Fundamentals related area - ***European Rule of Law Mechanism (including Justice scoreboard)*** and ***European Semester, a part for the Single Market***, are good areas to start with. These are complex mechanisms and requires thorough preparation before being able to take full participation, therefore to begin at early stage is instrumentally beneficial for both sides. Additional efforts should be made in

operationalizing the clustering of chapters thereby, the European Commission should consider preparing a more detailed and well elaborated Guidelines ***for the application of the new enhanced methodology***.

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Following the successful past cooperation, the **Institute for Democracy "Societas Civilis" – Skopje (IDSCS)** is the project coordinator, which, in collaboration with the **European Movement in Serbia (EMinS)**, **Platforma CiviKos** from Kosovo*, **Politikon Network** from Montenegro, **Albanian Institute for International Studies (AIIS)** from Albania, **Humanity in Action Bosnia and Herzegovina** from Bosnia and Herzegovina, **Centre for European Perspective (CEP)** from Slovenia, **Centre for Eastern Studies from Poland (OSW)**, **Institute for Foreign Affairs and Trade from Hungary (IFAT)**, the **Research Centre of the Slovak Foreign Policy Association (RC SFPA)** from Slovakia, and **EUROPEUM Institute for European Policy (EUROPEUM)** from the Czech Republic, will work in achieving the project's goals.

The project duration is 15 months, that is, from October 2020 to January 2022.

Modelling on the Think Visegrad – V4 Think Tank Platform and closely cooperating with it, this project aims to pilot an instrument for the permanent cooperation of Western

Balkan (WB) think tanks by 1) strengthening the cooperation of think tanks in V4 countries with WB think tanks/analytical institutions; 2) promoting V4 cooperation among experts / policy makers in the WB as a successful regional model open to experience sharing with countries wishing to join the EU; 3) offering V4 expertise on regional cooperation that can help strengthen regional cooperation in the Western Balkans, which represents a crucial aspect of the region's European integration; 4) providing a new platform for strengthening people-to-people links between analytical institutions, think tanks, government institutions from the V4 and the Western Balkans; 5) cultivating inter-regional cooperation between V4 and WB6 on issues of common strategic interest; and 6) encouraging the use of V4 know-how gained through Think Visegrad to help improve dialogue between the relevant state institutions in the WB countries (e.g. between the foreign ministries as well as between the WB think tanks and NGOs and the WB MFAs).

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