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TOWARDS GRADUAL INTEGRATION OF THE WESTERN BALKANS INTO THE EUROPEAN UNION: THE CASE OF SERBIA

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Abstract: This paper examined whether the revised enlargement methodology represented another step in the direction of gradual EU membership of the Western Balkans. The research problem was based on considerations that the EU enlargement domain has for years been characterized by political stagnation. The research aimed to show that a differentiated accession approach might have been beneficial for Serbia, as a front-runner membership candidate. In terms of methods, the author analyzes the concepts and the applicability of the 'three-tiered accession' and 'staged accession', having in mind the recently altered enlargement methodology. The author argues that the gradual integration would have been beneficial for two reasons: 1) validating the candidates' already achieved progress, offering tangible incentives, and potentially preventing the democratic backsliding; 2) taking the pre-scheduled accession dates off the table. Considering that the EU is unlikely to expand further, the author concludes that the gradual membership concept might apply solely to the WB, while also reassuring the Member States regarding the primacy of individual merits and excluding the speedy accessions proposals.

Keywords: Gradual Accession; Western Balkans, EU; Observer; New Enlargement Methodology; Credibility

INTRODUCTION

The enlargement domain has currently been embedded into the geopolitical priority 'A stronger Europe in the world', alongside international partnerships, trade policy, humanitarian aid, civil protection, etc. (European Commission 2019a). More specifically, 'promoting European interests and values on the global stage' ranks among four foreign-political preferences presented in the European Council's strategic agenda; however, the enlargement-related-section solely states that the "European perspective for the European states able and willing to join would be upheld" (European Council 2019). Apart from the 'borrowed' wording of article 49 of the Treaty of the European Union, nothing more regarding the enlargement domain is mentioned in that strategic document (EUR-Lex 2016).

While the Commission has established the 'Agenda 2030' for uttermost-important domains like climate, energy, and the Green Deal, no dates mention the Western Balkans (WB) membership (European Commission 2019b). Moreover, petitions to include new members by that same year have been dismissed during the 2021 EU-WB summit in Brdo, when such Slovenian proposal has been labeled "unrealistic" (Fleming and Foy 2021). Due to diverging views among Member States, that document included a single mention of the term 'enlargement' and no mention of either 'accession' or 'membership' (Brdo Declaration 2021). The disuse of the abovementioned terms and unwillingness to specify even an indicative accession period for long-ago-recognized EU candidates has added to the concerns that EU membership is unattainable. Alongside the traditional disinclination of WB authorities towards profound democratic reforms (due to high compliance costs), the aforementioned wording also illustrates the absence of strategic willingness to grant full EU membership to these candidates anytime soon (Freyburg and Richter 2010, 264). Such restrained EU stance further undermines the enlargement policy credibility and overrides an earlier strategic document that cautiously allowed for a 'potential readiness for membership' of Montenegro and Serbia by 2025 (European Commission 2018).¹

In its current form, the enlargement policy is ill-equipped to incite deeper integration with WB, although its revised methodology has opened door to a differentiated approach. Despite not introducing any new instruments, the altered approach tackles the impaired credibility and reduced effectiveness of the conditionality instrument and entire policy (Kovačević 2020, 143; Petrović and Vučković 2021, 305). Likewise, it also hints at the possibility for selective or gradual participation - 'accelerated integration and phasing-in' to EU policies and funds in a progressive fashion, on individual merits (European Commission 2020a).

Considering the abovementioned, we question whether the revised enlargement methodology represents another step in the direction of gradual EU membership of the Western Balkans, arguing that such logic might provide an adequate transition period until the candidates meet full membership conditions (if/when they do so). While the methodological revisions largely intended to provide a greater influence to the Member States, they also underlined the possibilities of differentiation through gradual integration into different domains. The author finds these developments beneficial for reinvigorating the stagnant EU enlargement policy, while also reassuring the Member States regarding the primacy of individual merits, and taking the scheduled admissions proposals off the table.

¹Despite ranking among the EU front-runners, a staggering 44% of Serbian and 34% of Macedonian poll-respondents consider EU membership unachievable (EWB 2021a).

GRADUAL INTEGRATION BETWEEN THEORY AND PRACTICE

The EU enlargement policy has been undergoing a crisis for years (Kmezić 2014, 6). Schimmelfennig (2018, 974) while referring to other authors, considers various EU crises inherent to integration processes and their functioning, relating them to phenomena like path-dependence and institutionalization, which strengthen the transformative course. The very nature of policy and institutional reform is dynamic (Acemoglu and Robinson 2013). Schimmelfennig (2018, 974) reiterates that several determinants foster path dependence and inhibit the actors from distancing from the EU matrix, among them high sunk costs (efforts to adjust policies/institutions) and exit costs (losses incurred by diverging from rules). Although that research examines internal EU crises, we find it applicable when considering the prospects for a gradual/selective integration as a means to overcome the EU enlargement domain's stagnation. Stanković (2021, 150-151) also points to Schimmelfennig's "integration through the crisis", whereby predicaments can be used for reform deepening, provided that there is a supranational capacity/willingness.² Why not also consider changes in the crisis-struck enlargement domain?

The 'differentiated reality' has obtained political support since the 2014 European Council when the 'ever closer Union' concept was endorsed through the possibility of varying integration levels for different countries (Koenig 2015, 3). Considering that the evolving nature of European integration also reflects on the enlargement domain, the author finds the differentiated integration concepts useful to draw the WB candidates closer through different speeds or levels. The multi-speed concept has been gaining more prominence, for recognizing the heterogeneity among different countries, allowing them to progress to various integration stages in different paces (Akçay and Turan 2020, 15). In the enlargement domain, those developments might result in more organizational and institutional clarity, contributing to predictability and credibility.

However - why consider anything less than the formally-uncontested full EU membership perspective of the WB? The author of this article finds it necessary due to 1) unsatisfying results of the current enlargement policy; 2) views that any new accession would require EU institutional reform or at least a largely revised enlargement approach (Palmer 2011, 103).

The two mentioned aspects form the background of the faulty EU stabilocracy approach, whereby the preservation of stability has been blended with the promotion of democracy. Smith *et al.* (2021) argue that stabilocratic elements limit the scope of democratic reforms, having in mind their essentially unstable rather than static character; that leads to 'shallow Europeanisation', where transformative activities are

²For instance, the 2008 crisis was used to initiate the two-staged deepening of Economic and Monetary Union until 2025 (Juncker 2015, 20-21).

insufficiently profound (Smith, Marković-Khaze, and Kovačević 2021, 170-171; Boerzel 2011, 8). Apart from observations that ‘achieving stability through democratization is inherently contradictory’ (which is close to Schimmelfennig observations), another problem is the likelihood of failures and non-guaranteed or incomplete success (Smith, Marković, Khaze, and Kovačević 2021, 170-171; Schimmelfennig, 973-975). Additionally, apart from the sunk costs, stabilocracy, and superficial Europeanization, veto players have an important role in the EU accession domain.³ Apart from domestic disinclination to conduct transformative reforms due to high sunk costs, various EU Member States are also skeptical regarding the WB membership prospects.

The gradual accession concept has gained more prominence in recent years. M. Kovačević refers to considerations of Pierre Mirel, who suggested a “three-tiered accession process” (Kovačević 2020, 155-156). The initial stage would envisage a greater EU oversight and cooperation in domains of rule of law and financial resources with WB governmental - and informal institutions, and their inclusion in “annual membership conferences” (Mirel 2019, 7). These gatherings resemble the annual ‘European conferences’ during the Eastern enlargement rounds, which included candidate countries (and EEA participants Switzerland, Iceland, and Norway) demonstrating a strategic prioritization of the enlargement domain. However, the fact that the EU has recently organized several EU-Western Balkan summits (Sofia 2018; Zagreb 2020; Brdo near Kranj 2021) while pledging to regularly organize them (already in 2022), is encouraging (European Council 2021).⁴

Mirel’s second tier (the first membership stage) resembles the EEA status, with complete alignment in the internal market domain and significant transformative track record across other areas, including limited participation in Council policies in domains where all standards have been met, accompanied by access to the majority of funds (Mirel 2019, 7-8). The gradual progression towards complete access to EU funds would be dictated by approximation in all remaining domains; there would be no fixed dates and the process would take as much as needed (Mirel 2019, 7-8). This transitional period would represent a good platform for gradual-but-progressive involvement in ever more aspects of EU political and economic affairs. It would also be merit-based, allowing progress primarily based on a satisfactory track record, following the revised methodology. However, this concept also raises additional questions: can there be progress without any target dates, at least indicative ones? Likewise, having in mind the EU’s tendency to blend in economic, political, and other criteria within conditionality

³Veto actors are understood as those with potential to prevent some political/other decision-making (Bursać 2015, 95).

⁴On a somewhat related note, Western Balkan subjects have been permitted to participate in the strategic Conference on the Future of Europe policy dialogues through partnerships with EU counterparts (EWB 2021b). Considering that and the aforementioned, the first tier appears to be largely applicable in the region.

logic, another question is raised: how to measure the progress adequately, as to provide a more predictable and layered accession process?

Firstly, broadly speaking, the lack of indicative membership dates is damaging. Perhaps it can even be argued that a credible strategy must contain at least some indicative deadlines. Historically, the EU accession prospects represented the primary reward and motivating factor for the costly transformative efforts. Its complete absence is thus not only discouraging but also unjust having in mind the approach during previous enlargement rounds. Still, under the stalemate circumstances, the gradual integration concept might release additional space to both sides to deepen their cooperation. Participating in the first membership stage (of trial or provisional character) doesn't incur risks to the EU like conventional membership and allows the Member States to profoundly shape the process. Perhaps there can even be a clause in the Accession Treaty regulating the trial, temporary or limited membership without political privileges, provided that it would be compatible with the *acquis*.

As regards the second aspect - evaluating the progress, we analyze the staged accession proposal to present the state of play and examine prospects for gradual integration, by converting the findings of the 2021 EU progress report for Serbia for chapters/clusters into individual grades. The staged accession concept builds upon the revised EU enlargement methodology which provided for additional differentiation. The altered methodology aims to provide an increased political engagement, deepen fundamental reforms, and bring more dynamics and predictability, more consistent and merit-based conditionality, while also transposing the previously achieved progress (Council of the EU 2020, 3). Further progress is conditioned by advances in fundamentally important aspects like rule of law, fundamental rights, the democratization of institutions, public administration reform, and economic standards; the evaluation is also subject to the overall balance clause, which also foresees sanctions in case of worsening trends or stagnation in abovementioned domains (Council of the EU 2020, 3-10).⁵

FEASIBILITY OF GRADUAL ACCESSION: THE CASE OF SERBIA

The analysis conducted by Emerson *et al.* (2021) proposed a four-stage procedure - 'staged accession' - that would result in (limited) membership during the third phase, provided that standards had been met (pp. 5-6). Conditions for the initial phase are the functioning association agreement, accepted membership application, and (minimally) moderate ratings for cluster averages, supported by increased funding

⁵According to Kovačević (2020, 153), already in 2020 the EU started reporting on the balance clause, signaling greater possibility for negative conditioning. We believe that, although the clause isn't new, it represents another tool for sharpening the conditionality principle. It reiterates the possibility to revoke or suspend negotiations in certain aspects, decrease funding to governmental institutions or limit the candidates' participation in EU policies/programs.

(access to 50% of membership resources) and political support to statehood challenges in the WB (Emerson *et al.* 2021, 5-6). Considering the current state of play, the author analyzes the second front-runner candidate - Serbia - to examine whether the staged accession might already apply.⁶ Before the adoption of the revised methodology, Serbia has opened 18/35 Chapters in its membership negotiations. Following a two-year stagnation, European Commission in 2021 recommended the formal opening of clusters 3 (Competitiveness and Inclusive Growth) and 4 (Green Agenda and Sustainable Connectivity), apart from the previously opened Chapter 1 (Fundamentals) (European Commission 2021, 3). The current state of play regarding the accession negotiations with Serbia, including the average grades, based on 2021 Progress report findings, are depicted in Table 1.

Table 1: The State of Play in Serbia's EU Accession Negotiations (Source: Compilation of the author based on EU documents)

CLUSTER Number*	CHAPTERS	Chapter Grade	Cluster Opened/ Recommended (Y/N)	Cluster Average Grade	General Cluster Average	
1.	23 - Judiciary and Fundamental Rights	2	Y	2,60	2,97	
	24 - Justice, Freedom, and Security (etc.)	2				
	5 - Public Procurement	3				
	18 - Statistics	3				
	32 - Financial Control	3				
2.	1 - Free Movement of Goods	3	N	3,23		2,97
	2 - Freedom of Movement for Workers	3				
	3 - Right of Establishment (etc.)	3				
	4 - Free Movement of Capital	3				
	6 - Company Law	4				
	7 - Intellectual Property Law	4				
	8 - Competition Policy	3				
	9 - Financial Services	3				
	28 - Consumer and Health Protection	3				
3.	10 - Information Society and Media	3	Y	3,37	2,97	
	16 - Taxation	3				
	17 - Economic and Monetary Policy	3				
	19 - Social Policy and Employment	3				
	20 - Enterprise and Industrial Policy	3				
	25 - Science and Research	4				
	26 - Education and Culture	4				
29 - Customs Union	4					
4.	14 - Transport Policy	4	Y	3,00		2,97
	15 - Energy	3				
	21 - Trans-European Networks	3				
	27 - Environment and Climate Change	2				

⁶Since Montenegro has been negotiating in all chapters/clusters, the author instead focuses on Serbia.

5.	11 - Agriculture and Rural Development	2	N	2,60	
	12 - Food Safety (etc.)	3			
	13 - Fisheries	3			
	22 - Regional Policy (etc.)	3			
	33 - Financial and Budgetary Provisions	2			
6.	30 - External Relations	3	N	3,00	
	31 - Foreign, Security and Defense Policy	3			

*Numbers stand for cluster names: (1) The Fundamentals; (2) Internal Market; (3) Competitiveness and Inclusive Growth; (4) Green Agenda and Sustainable Connectivity; (5) Resources, Agriculture, Cohesion and (6) External Relations.

Note: Grades are calculated by converting the 2021 Progress report assessment scale (page 4, footnote 2 of that document). Early-stage equals (1), some level of preparation is equivalent to (2), moderately prepared (3), good level of preparation (4), and well advanced (5). Not part of the clusters: Chapters 34 (Institutions) and Chapter 35 (Other issues/Normalization with Kosovo*).

Taking the above-presented results, Serbia seems to meet minimal requirements in clusters 2, 3, 4, and 6 for entering the initial stage, whereas clusters 1 and 5 with a 2.6 average mark might require further advancements. However, note that the first Chapter has already been opened, thus leaving the fifth Chapter (Resources, Agriculture and Cohesion) problematic, provided that the balancing clause is not invoked for Chapter 1. Considering the overall cluster average - 2.97 - Serbia appears to be near-ready to enter the initial EU accession stage. From the Chapter perspective, in the 2021 Progress report, around 67% are evaluated as 'moderately prepared' for membership (grade 3 on our scale), 18% are classified as 'good level of preparation' grade 4, with the remaining 15% grouped in 'some level of preparation' grade 2, requiring further improvements. From that perspective, Serbia seems to be 85% prepared for entering the initial accession phase.

However, taking the fundamental importance of Chapters 23 - Judiciary and Fundamental Rights and 24 - Justice, Freedom, and Security; their underdevelopment inhibits Serbia's accession efforts, regardless of the applied approach. Hypothetically, perhaps the 'clusterized' logic might somewhat divert the focus from individual chapter grades (such as 23-24) to the broader, cluster level. Nevertheless, Emerson *et al.* (2021, 6-7) envisage that certain domains might carry additional weight, or that clusters might be layered, so the evaluation itself can be differentiated. Lower grades in fundamental domains would additionally impact the overall cluster average, which would require additional institutional efforts to meet the initial stage requirements.

Other stages include, 'intermediate accession' (characterized by 3-4 ratings, raise to 75% of conventional membership funding and advanced observer status at EU bodies); 'new Member State' (mainly 5 ratings, full membership funding, full institutional partaking excluding veto rights) and 'conventional membership' (unlimited participation across policies and EU bodies), without scheduled duration or target dates (each phase can last as much as needed) (Emerson *et al.* 2021, 2). Considering that absence of membership deadlines arguably represents the policy's chief deficiency due to the EU unwillingness to set them, we consider that staged accession would reduce pressure on

EU by allowing the candidates to focus on progressing to distinctive membership stages, rather than seeking after a pre-scheduled EU entry (already discarded in Brdo).

The layered approach might unlock new possibilities for both sides by 1) overcoming the stalemate; 2) reinventing the enlargement domain in line with differentiation trends that growingly shape the European integration; 3) offering the candidates an early insight into the functioning of EU bodies, policies, and procedures;⁷ 4) allowing the Member States greater say in the accession process while safeguarding the institutional order; 5) preventing the negative spill-over from the new Member States via boundaries set by their respective levels of integration, across all domains of EU special concern.

Regarding the institutional participation, Emerson *et al.* (2021, 7-10) suggest an inclusion into the policy dialogue and a selective observer status already during the initial stage, and introduction of certain voting rights beginning from the third stage, coupled with limitations of veto-powers to older Member States, except when it comes to approval of the candidates' accession treaties (before stage 3). These aspects are consistent with the revised methodology logic which foresees earlier phasing-in to EU initiatives and intends to provide greater clarity regarding expectations from the candidates in different stages. Although current EU legislation envisages either complete membership or enhanced cooperation with third countries (including through association agreements), selective participation of non-Member States is already possible, exemplified by the EEA agreements (whose signatories implement all Schengen-related rules, while not holding decision-making powers) (Karakas 2006, 319).

Having in mind the EEA model, current EU candidates may also conclude specific policy agreements with the EU, regardless of their accession status. The Icelandic example is indicative in that regard: an EFTA participant (1970) and EEA member (1994), it joined Schengen (2001) and entered EU membership negotiations in 2010 (before revoking its accession ambitions later on) (Avery *et al.* 2011, 95). The EU-Iceland relations represent an example that a country can follow a path from a gradual integration (largely in the economic domain) towards a political integration (seeking EU membership).

⁷This element, according to the author, would be extremely justified, given that conditionality has been used in the Western Balkans' accession process before (Petrović 2021, 30).

CONCLUSION

Gradual integration concepts developed by Mirel (2019) and Emerson *et al.* (2021) propose very specific integration levels that are compatible with the revised methodology approach. They contain all the EU-required elements: the merit-based system, focusing on the fundamentals, increased credibility through greater predictability of positive and negative conditioning, and also very tangible benefits for the candidates earlier ahead of the full membership stage. Nevertheless, proposed concepts do not offer solutions to aspects like limited statehood, which constitutes a major challenge due to a blend of high costs, insufficient motives, underperforming state capacities, and bilateral conflicts (Boerzel 2011, 5). It is well attested that the EU's recent approach towards the WB has been more conducive to stabilocratic trends than to transformative processes, as part of its wider stability-democracy dilemma (Smith *et al.* 2021, 2). Considering that, we believe that any potentially revised accession model also needs to address the weak statehood and bilateral disputes to become truly comprehensive and transformative.⁸


Diverging approaches within the EU towards the enlargement policy constitute an additional challenge towards articulating or revising the WB accession model (Ker-Lindsay *et al.* 2017, 515). A common approach should be accompanied by an internal agreement regarding the limited application of veto rights in the enlargement domain. Emerson *et al.* (2021, 8) suggest the limitations of veto rights to essential situations like passing from the second to the third stage of gradual integration (that requires consent regarding the accession treaties). These mechanisms, we consider, might be supplemented by specific procedures in circumstances when non-EU-related issues, such as historical disputes, obstruct candidates' EU advancement, as in the case of North Macedonia and Bulgaria.

The gradual accession approach validates the progress achieved so far while offering additional incentives (increase of funds and institutional partaking). It enables possibilities like an observer status or limited participation in EU policies and institutions, following the achieved progress. These developments, we believe, will deter democratic and further backsliding, while motivating candidates to focus on progress through defined integration levels. Montenegro or Serbia might already be (largely) prepared to enter the initial accession stage in the majority of domains. Observer status and policy discussions would subject the candidates to greater involvement in EU domains well ahead of (full) membership, whereas increased funding would contribute to Europeanization across the board while offering a practicing platform for greater integration.

⁸Political conditionality has been essential for resolving bilateral and internal disputes for the sake of EU integration (Richter 2012). We consider that that instrument would be sharpened in case the EU demonstrated a more tangible willingness to allow gradual approximation of the WB, provided that an internal EU coherence is secured.

Such an approach would, in policy domains, make WB candidates feel more like future Member States and less like third countries. An additional reason for the WB's interest in gradual accession is the previous track record. For instance, Serbia and North Macedonia as Erasmus+ program countries already fully participate in, comparable to the Member States. Inclusion into specific policies/programs may require financial contributions from the candidates (like in Erasmus+), whereas non-EU members do not require strategic decision-making rights.

Since the EU is unlikely to expand further, a gradual membership idea wouldn't set a precedent for other (third) countries. Consequently, there is no harm in reinventing the enlargement approach, since membership aspirations are only recognized for Balkan countries. Apart from the fact that WB constitutes an enclave within the EU, the EU is by far their first trading partner, and these countries are already largely integrated with various aspects of the European market, making their status somewhat comparable to EEA participants.

In the staged accession context, candidates may express opinions and recommendations, without voting rights ahead of the political membership period (following the accession treaty). Observer and limited participation status would be less controversial to the Member States which oppose enlargement. It might even serve as an example of how actual membership is delayed until conditions are met. That logic would thus be beneficial both for the old members (which would demonstrate an objection towards speedy accession) and for the WB countries (whose subjects would reap benefits from partial integration earlier on). Additionally, the absence of political membership would also sharpen the conditionality principle and incite candidates to conduct reforms for the sake of progressing towards both increased funding and the decision-making stage. Gradual accession offers more control to the EU, some satisfaction to the candidates, and clear benefits to both sides, while not diverging from the Copenhagen and other criteria. 

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