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ACCESSION OF MONTENEGRO TO THE EUROPEAN UNION – RELEVANT ASPECTS

Summary

The study analyzes the general (European) and regional, as well as national context of the process of accession of Montenegro to the European Union. The EU is in a negative stage of its development, after Brexit, but even more since the Pandemic has seriously hampered global economy and the economy of the EU. Consequently, the general context of the EU enlargement process is to be taken into consideration when analyzing the accession of each candidate country from the Western Balkans region. Next relevant context is the regional one. Within those frameworks, national context - the case of Montenegro as candidate country is considered. Montenegro is the regional frontrunner in the accession to the EU, since thirty three screened chapters have been opened and three are provisionally closed. The question of the EU absorption capacity remains open, together with enlargement dynamic and deadlines. Enlargement process is not a priority for the Union, but it will not be abandoned. It will be performed in a longer period than it had been previously scheduled, at Thessaloniki Agenda (2003), when European future was promised to all countries in the region. Montenegro, as candidate country, has special geostrategic importance for the Union.

Key words: *Montenegro, EU Accession, Western Balkans.*

I Introduction

EU Commission published a new enlargement strategy document to reinvigorate the process. It qualified the Western Balkans EU integration as a “geostrategic investment” and put forward a best-case scenario for the accession of Serbia and Montenegro by 2025.¹ European Union (EU) membership has overwhelming support in Montenegro, a country of 600,000 people, where recent opinion polls (February 2021) show support for membership at around 80%, compared to 63% in Serbia.² EU membership is seen as a significant driver of strengthening the foreign policy capacity of small and medium-sized countries.³

However, the Union is in a negative phase of its development, especially after the outbreak of corona virus Pandemic, which added very bad momentum to the monetary and migrant crisis. Furthermore, the EU is confronted with other contemporary challenges, such as Post-Brexit consequences, migrants, terrorism, sustainable economic growth, relations with superpowers and climate change.⁴ Therefore, the general context of the EU enlargement process, namely the internal crisis within the Union should be taken into account when analyzing the accession of each candidate country from the Western Balkans region. Another relevant context is the regional framework for the accession of the

¹ European Commission, “Enhancing the accession process - A credible EU perspective for the Western Balkans”, COM (2020) 57 final, Brussels, 5 February 2020, p. 1.

² Crowcroft, Orlando, *Montenegro wants to join the EU - but will Brussels have it?*, 2021, <https://www.euronews.com/2021/02/01/montenegro-wants-to-join-the-eu-but-will-brussels-have-it. p.1.> (25.12.2021).

³ Lopandić Duško, *Mogućća Evropa i godine pred nama – ogledi i osvrti*, Beograd, 2018, p. 54.

⁴ Gasmi Gordana, “EU facing challenges: Migrants and relations with superpowers – *QUO VADIS EUROPE* after European elections in 2019”, *Strategic Streams 2019: European Elections and the Future of Europe*, (ed. By Cvetićanin N. et al.), Institute of Social Sciences Belgrade, 2020, p. 41.

Balkan countries. “Fatigue de l’Europe” is at stake, given the EU’s numerous institutional, political and economic problems, which some authors define as “multicrisis”.⁵ EU is focused at building its security and defense identity in the recurrent culmination of the migrant crisis since 2015.⁶ Consequently, the enlargement process is no longer a priority issue for the EU, as it used to be at the beginning of the XXI century. The departure of Great Britain after Brexit in 2016 was serious stroke at the EU.⁷ All those negative elements have a negative impact for candidate countries’ EU accession prospects.

The next relevant context is the regional one, i.e. Western Balkans context, to be analyzed in second part of the text. The dynamics of the accession process of these countries to the Union remains open. Montenegro is the regional frontrunner in the accession to the EU, since thirty-three screened chapters have been opened (at the time of writing this paper) and three are provisionally closed.

National context of the process of accession of Montenegro to the EU is the third part of the study. Main feature of this process is that Montenegro, as candidate country, has special geostrategic importance for the Union.

In concluding remarks, the contextual approach is applied, based on synthesis of analytical elements from the text.

II EU framework of the Union enlargement

After culmination of migrant crisis in 2015, followed by tragic terrorist attacks in France, Austria, Spain, Finland and Germany (Cologne), the Union is hit, with the rest of the world, by fatal consequences of Covid -19 Pandemic since the start of 2020 (UN Report, 2020). The migrant crisis strongly indicated

⁵ Lopandić D., *ibidem*, p. 23.

⁶ Gasmi, Zečević, “Evropski bezbednosni i odbrambeni identitet i migrantska kriza”, *Strani pravni život*, 2016/2, pp. 57 – 76. p. 58.

⁷ Gasmi G., *Quo Vadis EU? Relevantni pravni i institucionalni faktori*”, Beograd, 2016, p. 235.

the EU institutional problems,⁸ the absence of a common Union migration policy and a lack of internal solidarity among Member States. Nevertheless, that was only beginning of the multi-crisis in the EU.

Even before Pandemic, there was internal talk of Member States on repealing the Schengen Agreement, which legally symbolized a borderless space among Member States, in the situation of raising concrete and wire barriers at border crossings between those same states and in the midst of their mutual accusation of a lack of solidarity in the care of refugees. The situation was all the more aggravated given the negative security dimension of the migrant crisis, because without the transparent registration of refugees, no one can guarantee that there are no well-trained terrorists among the migrants.⁹ The Schengen Agreement (1985) is a legal reflection of the idea of free movement of people, but also a reflection of the fears of immigration and cross-border organized crime. It was signed by the Benelux countries (the Netherlands, Belgium and Luxembourg), the Federal Republic of Germany and France, which are the five founding members of the Community.¹⁰ Other countries signatories joined gradually. The Schengen agreement originally provided for a gradual suspension of controls at the internal, common borders of these countries. The Schengen Agreement was followed by the Convention on its Implementation (1990), which entered into force in 1995. Those legal documents constitute the Schengen Acquis, which since the adoption of the EU Treaty of Amsterdam (1999), has become an integral part of the *Acquis Communautaire*.¹¹ The

⁸ Macek L., *Refugee Crisis: A new East – West rift in Europe?*, 2015, Paris, Foundation Robert Schuman, www.robert-schuman.eu (28.04.2016).

⁹ Gasmi, Prlja, *European path of the Western Balkans Region – Normative Aspects and Geopolitical Factors*, 2020, UDK: 341.23 (4-672EU:497) DOI: https://doi.org/10.18485/iup_rlr.2020.ch5, Regional Law Review, 2020, Institute of Comparative Law, pp. 59-76. (29.03.2021.).

¹⁰ Ivanda Stipe, *Schengenski sporazumi i unutarinja sigurnost*, Zagreb, 2001, p. 11.

¹¹ Gasmi, Prlja, *ibidem*, 2020, p. 61.

Schengen *Acquis* gradually expanded, although it has never extended to all Member States. Namely, the UK and Ireland remained outside, as did the new members who have to pass a period of compliance with the Schengen criteria (Cyprus, Romania, Bulgaria and more recently Croatia). Cyprus is outside Schengen due to the unresolved issue of Turkey's occupation of the Northern part of the island. Non-EU countries are also signatories to Schengen (Norway and Iceland, 2001), followed by Switzerland (2008), as well as Liechtenstein.¹²

Under the existing EU migration system, asylum seekers are not treated uniformly and recognition rates in different EU countries vary. Moreover, only a very few countries, based on their geographical position, are responsible for essentially all asylum claims submitted within the EU. In order the legal framework to be more efficient, harmonised, fair and more resistant to future migratory pressures, it needs to be reformed. During summer 2019, fourteen member countries of the EU have agreed to a new "solidarity mechanism" proposed by Germany and France to allocate migrants across the bloc, but the problem is that Italy's Interior minister Matteo Salvini, whose country is at the forefront of the migrant influx in Europe, did not take part in the meeting. Italy took in almost all of the migrants rescued by humanitarian groups at Mediterranean sea until a populist coalition government took office in 2018 and immediately sought to close the nation's ports to the charity ships. Therefore, it is high time to build a future valid migration and asylum policy of the EU.¹³

At the start of Pandemic of Covid -19, internal borders in the Schengen zone were temporarily closed, but without prior coordination at the level of the EU institutions, since each

¹² Piris J.C., *The Lisbon Treaty – A legal and Political Analysis*", Cambridge: Cambridge University Press, 2010, p. 192, 193.

¹³ Wihtol De Wenden C., *A new European pact on immigration and asylum in response to the migration challenge*, 2019, European issues No 537, www.robert-schuman.eu (29.11.2021).

Member State adopted separately regulations on closing its borders. In the domain of the public health protection, the EU institutions enjoy very limited powers. The limits of their competence are legally grounded in the provisions of the Lisbon Treaty on the EU: „the Union will act only within the limits of the powers conferred on it by the Treaties” – art. 3 of the EU Treaty of Lisbon.¹⁴

However, cancellation of the Schengen zone at the early beginning of the Pandemic was done informally and without use of coordinating competences of the EU Commission, as previously foreseen in the Lisbon Treaty. The implementation of the EU coordinating competencies has proven to be delicate.¹⁵ Therefore, the Commission launched the initiative (November 2020), which would enable the Commission to declare a state of emergency in public health protection throughout the EU in order to quickly activate the emergency response mechanisms in the Union.¹⁶ Furthermore, severe border checks and travel restrictions introduced across Europe to fight new Covid-19 variants in 2021, raise questions on how the EU Commission can keep the passport-free Schengen zone open.¹⁷ Grave economic consequences appeared causing chaos to goods transport by road across Europe¹⁸.

Those facts point out to the weakness of decision-making that is based only on the national situation in the country,

¹⁴ Fairhurst John, *Law of the European Union*, England: Longman, Pearson Education L., 2010, pp. 615.

¹⁵ Gasmi, Grahovac, *ibidem*, 2021, p. 88.

¹⁶ European Commission, *Building a European Health Union: Reinforcing the EU's resilience for cross-border health threats*, Brussels, 11.11.2020, COM (2020) 724 final, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52020DC0724> (accessed on 14th February 2022).

¹⁷ Brehon, *The European Union and the Coronavirus*, 2020, Paris, Robert Schuman Foundation, *European issues*, n°553, <http://www.robertschuman.eu> (10.04.2020).

¹⁸ https://euobserver.com/economic/150957?utm_source=euobs&utm_medium=email, (17.02.2021).

especially during urgent state of affairs, such as pandemic, but in other so-called regular situations as well. Many external challenges and threats, such as: climate change, negative relations with Russia, instability in the Middle East and the Sahel, terrorist attacks, financial deregulation, the rise of China, American isolationism and the COVID-19 crisis, may prompt the EU Member States to respond more effectively.¹⁹ The Pandemic had negative effects for the three major EU cornerstones: the Schengen agreement (restrictions of mobility); the internal market, when some Member States began to restrict exports of medical equipment and medicines; and the third one: economic and monetary union.²⁰ Consequently, the enlargement process seems not to be a priority for the Union, especially during the Pandemic and bearing in mind mentioned external threats and internal challenges.

In a situation where a good global governance does not exist, the EU is faced with continuation of a strong migration pressures amidst Pandemic. Before Covid-19, the migrant crisis was the most significant problem facing the Union, according to the results of the Eurobarometer survey.²¹ The Dublin asylum system has been the most criticized by A. Merkel, the German ex- Chancellor, but also by other EU officials, as it provides the greatest pressure on the Member States that are on the frontline of the migrant flows. Article 3 of the Treaty on European Union (TEU) binds the EU, as a non-state actor, to align itself with United Nations (UN) norms, as well as to the strict observance and the development of international law, including respect for the principles of the UN Charter in its role in promoting and protecting human rights through all its actions. It is noteworthy to stress that EU leaders have announced the need to step up cooperation with countries where migrants originate or transit and agreed that

¹⁹ Gasmi, Grahovac, 2021, p. 91.

²⁰ *Ibidem*, p. 95.

²¹ White Paper by World Economic Forum, 2016, p. 3.

migration issue can only be addressed at the EU level. Consequently, EU priority in a forthcoming period is a significant strengthening of the EU's external borders.²²

There are important divisions among the Member States, but the Union helps to overcome them.²³ The proponents of a federal European state and the advocates of a confederal Europe of nation states conduct longstanding conceptual battle within the EU. Nevertheless, this battle has never denied European values, such as: rule of law, democracy, protection of human and minority rights, freedom and human dignity, pluralism, tolerance, justice, solidarity and equality between women and men, as being defined in the Art. 2 of the Lisbon Treaty²⁴. History shows that the EU is advancing in times of crises, as J. Monet once predicted, saying that crises are great unifiers.

Will the EU enlargement process regain momentum is still open question in Pandemic circumstances followed by unavoidable grave economic disturbances in EU Member States. This was the reason of adoption of the EU economic recovery plan of the Commission titled as Next generation EU (July 2020) in the form of an extraordinary budget of €750 billion over and above the EU's multi-annual budget (MFF) and the annual budgets of the Member States together.²⁵ This

²² Strengthening of EU's external borders - through the creation of a new Integrated Border Management Fund worth €9.3 billion and through a significant increase of funding of €12 billion for the decentralized agencies supporting Member States protecting EU borders, notably the European Border and Coast Guard Agency (Frontex). Eurobarometer, "European Parliament - Perceptions and expectations", [http://www.europarl.europa.eu/RegData/etudes/BRIE/2019/635542/EPRS_BRI\(2019\)635542_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/BRIE/2019/635542/EPRS_BRI(2019)635542_EN.pdf) published in March 2019 (25.06. 2021).

²³ Giuliani, 2020, p. 2.

²⁴ Consolidated version of the Treaty on European Union, TITLE I - COMMON PROVISIONS, Article 2, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A12016M002> (29.01.2022).

²⁵ Kahn S., *The Covid-19 pandemic, what lessons for the European Union?*, 2021, European issues n°617, 2021, Fondation Robert Schuman, <http://www.robert-schuman.eu> (26.01.2022).

fact is a positive signal of unified EU response to Pandemic, but on the other side, there are still some negative developments of the Union. Rejection of the EU Constitution in France and then in Netherlands (2005), the Eurozone crisis (2010-16) and Brexit (2016), which was a great stroke at the Union,²⁶ all those crises indicate a huge need for the Union to deal with its internal reforms.

New geopolitical context has marked the decrease of the EU influence in the world.²⁷ However, it did not diminish the attractiveness of the EU membership, taking into account the magnet of the concept of the welfare state (Member State), followed by benefits of full use of the EU funds. This is main driver of migration flows towards the EU as well. Some authors explain complexity of new geopolitical structure, not only by the EU common foreign and security policy weakness, but furthermore by “the failure of the great powers in general and of the multilateral system in particular, which have been unable, or unwilling, to support the necessary transitions taking place in Asia, the Maghreb, Africa and the Middle East”.²⁸

In the globalization era, the EU is left to find its own influence path. Despite all those external and internal problems, the Union is a normative power, which is mirrored in the GDPR – General Regulation on protection of personal data area²⁹ and in its competition law. Supranational feature of the EU legal system is especially valuable for small and medium Member States in protection of their interests confronted with national strategies of big Member States.³⁰ The EU is furthermore a commercial power since it has signed more than 50 trade agreements compared to 18 for Japan and 14 for the United States; and is a development aid power,

²⁶ Gasmi, 2016, p. 235; Chopin & Jamet, 2016, p. 2; Deloy, 2016, p. 2.

²⁷ Gasmi, 2020, p. 51; Kahn, 2021, p. 4.

²⁸ Dupre, 2022, p. 1.

²⁹ Prlja, Cerović, Diligenski, 2018, p. 11.

³⁰ Lopandic, 2018, p. 54.

because “the Union and the Member States account for more than half of the world's ODA”.³¹ Therefore, it can be assessed that the EU will continue to use its soft powers (diplomatic pressure, commercial benefits, etc.) in the enlargement process in the forthcoming period. This process will continue through screening the national legal systems’ of the candidate countries and their harmonization with the EU *Acquis* and through monitoring of their reforms in the field of institutional, administrative and economic capacities as well. It can be assessed that the EU enlargement process needs adequate reform to be more effective, because the EU requirements for candidate countries have become more complex and more precise than the previous twenty-four chapters required a decade ago for the accession of the countries of Central and Eastern Europe. The comparative experience of the previous EU enlargement cycles shows that candidate countries are intensely aligning their markets with the Union’s single market.³² Some authors particularly criticize the inadequate approach of the EU in the process of harmonization of the national legal systems of the countries of the region with the *Acquis Communautaire*, i.e. with EU regulations and policies – being a legal “patchwork”³³ in the sense that insufficient account is taken of local legal specificities.

III Regional context - will Western Balkans rebound its accession prospects?

The good news is that at the EU-Western Balkans Summit in Thessaloniki in June 2003, the Union promised a strategic partnership with the Western Balkan countries in their accession to the EU and their secure European future, but without a precise timetable. Due to the slow pace of the enlargement process, despite the formal progress of these

³¹ Dupre, 2022, p. 2.

³² Ceylan, 2006, p. 3.

³³ Mustafaj, 2020, p. 4.

countries towards accession, during the Bulgarian Presidency of the Council of Ministers, an EU - Western Balkans summit was held fifteen years later (May 2018, Sofia), under the striking title: „In the Western Balkans: Creating a region of growth, security and connectivity on the road to Europe." The aim of this Summit was to give fresh impetus to the integration of the Balkan countries into the Union by 2025. The horizon of future possible membership by 2025 represented a new incentive for the region to complete all necessary internal reforms. Bulgaria has included in its program of the EU Council Presidency a strategic focus on connecting the Western Balkan countries with the Union, at all levels.³⁴ The leading vision was that the EU is the best geo-strategic choice for the Western Balkans.³⁵

However, the countries of the Western Balkans (WB) do not have a common strategy aimed at improving and accelerating their accession to the EU. Hence, the regional context can only be described conditionally, from the standpoint of the specific characteristics of the region itself. The term Western Balkans refers to the grouping of countries, the term which the Union has introduced under the political designation of the region and includes Bosnia and Herzegovina, Albania, North Macedonia, Serbia and Montenegro. The WB region lacks homogeneity in economic and political terms. Partly due to the EU approach, there is a stratification of each country's political status into the so-called "in" countries (candidate countries) and on the other hand "out" ie. non-candidate countries (Bosnia & Herzegovina).³⁶

The EU operates comprehensive approval procedures that ensure new members are admitted only when they can demonstrate they will be able to play their part fully as members, namely by:

³⁴ Gasmi, Prlja, 2020, p. 60.

³⁵ Matias, 2018, <http://www.legalpoliticalstudies.org/bulgarian-presidency-council-eu-meant-western-balkans> (20.06.2018).

³⁶ Gasmi, Prlja, 2020, p. 67.

- complying with all the EU's standards and rules;
- having the consent of the EU institutions and EU Member States;
- having the consent of their citizens – as expressed through approval in their national parliaments or by referendum³⁷.

The first step for the candidate country is to meet the key criteria for accession. These were mainly defined at the European Council in Copenhagen in 1993 and are hence referred to as 'Copenhagen criteria'. Countries wishing to join need to have:

- stable institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities;
- a functioning market economy and the capacity to cope with competition and market forces in the EU;
- the ability to take on and implement effectively the obligations of membership, including adherence to the aims of political, economic and monetary union.

The EU also needs to be able to integrate new members. However, the question of the EU absorption capacity remains open, together with enlargement dynamic and deadlines. In the case of the countries of the Western Balkans additional conditions for membership, were set out in the so-called “Stabilization and Association process”, mostly relating to regional cooperation and good neighbourly relations.³⁸ Zagreb Summit in May 2020 was the following meeting between EU and WB at high level focused at renewal of accession aspirations of the region through refreshing of the EU enlargement commitments. Council conclusions of March

³⁷https://ec.europa.eu/neighbourhood-enlargement/enlargement-policy/conditions-membership_en (29.01.2022).

³⁸ Ilic- Gasmı, 2002, p. 7.

2020³⁹ defined that good neighbourly relations and regional cooperation remain essential elements of the enlargement process, as well as of the Stabilization and Association Process. Respect for human and minority rights was emphasized by the Council. Those conclusions are based on the EU Commission's Communication on "Enhancing the accession process - A credible EU perspective for the Western Balkans" of 5 February 2020⁴⁰, which established more predictable, more credible, more dynamic accession process, but also more politically monitored by the Union.

This new enlargement methodology is focused on rigorous positive and negative conditionality, which assumes that in case of violation of the rule of law and democratic principles, the EU is authorized to revert back the accession process. Furthermore, the Council repeated the importance of the EU capacity to integrate new members in line with its own development. On the other side, the EU approach offers the possibility of faster accession for Montenegro and Serbia, under condition of complying with the EU objective criteria on the rule of law, fighting corruption, the viable market economy and ensuring the proper functioning of democratic institutions and public administration, and foreign policy alignment as well. Negotiating chapters are organized in thematic clusters. These clusters follow broad themes such as good governance, internal market, economic competitiveness and connectivity. Negotiations on each cluster will be opened as a whole – after fulfilling the opening benchmarks⁴¹. Annual assessment by the Commission in the form of a progress report remains key for eventual stopping or reversing back the accession process.

In October 2021 another EU – WB Summit in Slovenia did not bring clear deadline for the accession that was desirable to

³⁹ Council of the European Union Brussels, General Affairs Council, 25 March 2020, 7002/20, Enlargement and Stabilization and Association Process.

⁴⁰ COM(2020) 57 final

⁴¹ *Ibid.*, p. 4.

be set up, especially for Serbia and Montenegro. Although the 2025 year was previously mentioned by the EU, the absence of clear timetable by the Union brought vague perception on the side of candidate countries. The Stabilization and Association process, set up by the Union as a mechanism for integrating the countries of the region into the EU,⁴² lacked the strength and momentum to accelerate the consolidation of the post-conflict WB region and assist its essential long-term stabilization. The current tensions in the region prove this assessment. All those elements indicate, in our opinion, a strong political focus of the accession where the rule of law in a candidate country is decisive in progress evaluation by the EU Commission. Furthermore, Member States gained renewed opportunity to “contribute to this process by signaling to the Commission any stagnation or serious backsliding in the reform process”⁴³.

In March 2020, at the same session the EU Council decided to assign an official candidate status to Albania and North Macedonia. Accession negotiations have not yet started, (at the time of writing this paper) due to blockage of Bulgaria related to North Macedonia. EU rules require a unanimous vote in the Council to start talks with potential new member states. This may result in inserting of bilateral open issues of the Member State and a candidate country in its accession process, causing specific pressure on that candidate country. Nevertheless, the EU (European Commission President Ursula von der Leyen) said the EU wants to start the talks with Tirana and Skopje at the same time, meaning Bulgaria’s veto of North Macedonia is impacting Albania⁴⁴. The Vienna Institute for International Economic Studies warned that “A weakening of enlargement momentum could cause setbacks to the reform

⁴² Ilić – Gasmi, 2002, p.22.

⁴³ *Ibid.*, p. 6.

⁴⁴ EU Hopes to Start Accession Talks with Albania, North Macedonia By Year's End, 28 09 2021, <https://www.rferl.org/a/macedonia-albania-eu-accession/31482691.html> (28.01.2022).

agenda in the region, and create openings for China and Russia to exert greater influence, something that is not in the EU's interests"⁴⁵.

Western Balkans is important for the Union for security reasons, which was explicitly shown during the 2015-16 migration crisis. It is less costly for the EU to invest into more developed Western Balkans, with better functioning institutions and more resources at the disposal of the state through accession process, instead of financing its peace keeping missions and to fight against spill-over effects of the region's possible destabilization. When these facts are added to the prevailing unfavorable geopolitical image of the region within the EU⁴⁶, seen as a post-conflict area with strong security challenges –a “powder keg”, due to insufficiently resolved neighborhood relations in the region, the need for a common strategy in the EU accession by different countries in the region is obvious. This phenomenon is a huge challenge in the accession process, especially given the complex problem of Kosovo.⁴⁷

There is an insufficient degree of developed regional cooperation among the countries of the region, which is to be a direct manifestation of a commitment to European integration.⁴⁸ More precisely, the Union advises the candidate countries not to ask from the EU what they are not prepared to offer each other in terms of economic cooperation, reconciliation processes and political stability.⁴⁹ Initiative for the Open Balkans that included Serbia, Albania and North

⁴⁵<https://wiiw.ac.at/press-release-eu-should-not-delay-the-start-of-accession-negotiations-with-albania-and-north-macedonia-english-pnd-68.pdf> (28.01.2022).

⁴⁶ European Policy Centre, “EU member states and enlargement towards the Balkans”, July 2015, http://aei.pitt.edu/66050/1/pub_5832_eu_member_states_and_enlargement_towards_the_balkans.pdf.

⁴⁷ Gasmi, Prlja, 2020, p. 68.

⁴⁸ Regional Cooperation Council, 2013, p. 8.

⁴⁹ Fouéré, 2015, p. 2.

Macedonia (2021) is unfinished try to enable free trade in the region through the philosophy of “transforming swords into plowshares”. The economy of scale is essential for regional cooperation, but the rest of the region is not convinced in purely economic benefits of this platform and it remains to be seen the results in near future. The region needs stronger co-operation for the joint development of the regional infrastructure, trade, cohesion policy and, in particular, bilateral relations between individual countries of the Western Balkans, which have recently deteriorated significantly. Doing so would highlight the shared common values of the Western Balkans, such as multiculturalism, natural resources, tourism capacities and cohesion.⁵⁰

French Presidency of the Council of the EU, starting from January till July 2022 does not include explicitly the accession of the Western Balkans region into the EU in its Presidency program⁵¹. Under the first priority of the six-months Presidency, titled: “A more sovereign Europe”, there is the following: “taking action for the prosperity and stability of its neighbors, particularly through its engagement in the Western Balkans and its renewed relationship with Africa”⁵². Instead of “the EU enlargement”, the expression “engagement” is applied, which is self-explanatory for current analysis of the EU official stand towards the region. Moreover, some pro-European authors in their comments about challenges of the French Presidency do not mention the enlargement process.⁵³ The assessment follows that the dynamics of the accession process of these countries to the Union remains open.⁵⁴

⁵⁰ Gasmi, Prlja, 2020, p. 70.

⁵¹ [Programme of the Presidency - French Presidency of the Council of the European Union 2022 www.europa.eu](https://www.europa.eu) (25.01.2022).

⁵² *Ibidem*.

⁵³ Maurice, 2022, p. 5.

⁵⁴ Grievesson, Grübler and Holzner, 2018, p. 6.

IV National context - Montenegro - benefits of the EU accession

In its 2015 Annual Progress Report,⁵⁵ the Union confirmed that Montenegro is a leader in the accession process compared to other candidate countries in the Western Balkans region. This is a logical consequence of the previous development phases of Montenegro since the moment of gaining independence on May 21, 2006. In the period of the joint state with Serbia (2003-2006), negotiations were conducted with the EU on the principle of the so-called double track, in order to follow the competencies of each of the republics during the negotiations. This was especially true for economic areas. After gaining independence and a successful referendum, Montenegro has been taking more intensive steps on its path to the EU since mid-2006. The Stabilization and Association Agreement with the EU was signed in October 2007. Montenegro applied for EU membership in December 2008. The EU Council invited the European Commission to submit an opinion on Montenegro's request in April 2009. Based on this, the European Commission sent a Questionnaire to Montenegro in July 2009. The Government of Montenegro responded to the Questionnaire in two phases, in December 2009 and April 2010. These are detailed reports on the situation and reforms undertaken in the legal, economic and political national system in the form of answers to hundreds of detailed questions.

In accordance with its procedure,⁵⁶ the Union ratified the bilateral Association Agreement of Montenegro in November 2009. A positive opinion of the European Commission followed in November 2010. The EU Council officially granted

⁵⁵ EU Enlargement Strategy, 2015. Montenegro 2015 Report, European Commission, SWD (2015) 210 final, Brussels, 10 November 2015, http://ec.europa.eu/enlargement/pdf/key_documents/2015/20151110_report_montenegro.pdf (29-03-2016).

⁵⁶ Gasmi, 2016, pp. 138-161.

Montenegro candidate status on December 17, 2010 at a meeting of EU heads of state and government. Negotiations on Montenegro's accession to the EU officially began in June 2012, after the Commission's 2011 recommendation was accepted by the EU Council.

In the meantime, the Union also showed goodwill towards other countries in the region, in November 2009, by abolishing visas for travel to Schengen countries. It was a gesture of political symbolism, in order to enable the citizens of these countries to feel more like members of Europe than before. Thus, the European future of the countries in the region has become more important.

In December 2014, Montenegro adopted the Program of Montenegro on Accession to the European Union for the period 2014-2018, which became the main strategic document of accession. The Strategy for Informing the Public about Montenegro's Accession to the European Union 2014-2018 (Communication Strategy) was another important strategic document. The process of Europeanization of Montenegro is taking place with the parallel strengthening of regional cooperation. For example, Montenegro signed border agreements with Kosovo and Bosnia and Herzegovina in 2015, which, together with such an agreement previously signed with Albania, sets an example for other Western Balkan countries. In addition to strategic documents, further progress in the process of Montenegro's accession to the Union depends primarily on the implementation of reforms. Implementation is considered a major challenge in the future, according to EU estimates. In the new 2021 Montenegro Progress Report⁵⁷, the EU Commission evaluates that „key judicial reforms are stagnating, and a decisive political commitment at all levels of government, parliament and judiciary is needed to unblock progress towards meeting the rule of law interim benchmarks”.

⁵⁷ EU Commission, Montenegro 2021 Report, Strasbourg, 19.10.2021 SWD(2021) 293 final/2.

The complexity of the accession process requires synergies between government circles and the civil sector in Montenegro. This is especially true concerning improving the general image of Montenegro in the EU. Besides, it is necessary to improve the level of knowledge of the EU's functioning among the citizens of Montenegro. This fact arises from the results of public opinion polls conducted in Montenegro.⁵⁸

Montenegro, as candidate country, has special geostrategic importance for the Union. This is especially true considering security interests of the EU and vice versa. Besides, according to some analysts,⁵⁹ due to the „positive discrimination effect”, small country can benefit in the decision making process in line with weighting of votes between big and small countries. Thanks to its future EU membership, Montenegro would be enabled to protect its interests and to even express its influence on concrete issues in international relations. There are furthermore strong economic benefits of future EU membership, such as better attractiveness for direct foreign investment from the EU Member States, trade integration and the use of the EU funds.⁶⁰

Majority of population (71%),⁶¹ would vote for the EU accession. Euroscepticism does not exist as an organized or structural approach in Montenegro. The Parliamentary elections resulted in a change of the ruling coalition and in December 2020, Parliament elected government of Montenegro with reduced number of ministries (12), the first government in Montenegro composed mostly of non-politically affiliated experts. The government adopted a new national Program for EU accession for the period 2021-2023. This government was given a vote of no-confidence in the Parliament in early February 2022. The administrative capacity is significantly

⁵⁸ IPSOS Strategic Marketing conducted a survey in April 2016 that showed a clear commitment of Montenegrin citizens to join the Union.

⁵⁹ Lopandić, 2018, pp. 53-55.

⁶⁰ Reiter and Stehrer, 2021, p. 20.

⁶¹ CEDEM, 2021.

weakened, since many negotiation positions remain vacant, due to the resignation or dismissal, at the time of writing.⁶² The EU gave assessment that „amendments to the Law on Civil Servants and State Employees lowered the requirements for competence, independence and merit-based recruitment of civil servants. Moreover, the recent reorganizations of public administration led to substantial staff changes, including at senior levels, jeopardizing Montenegro's capacity to retain experienced staff in EU-accession process related matters in many sectors”.⁶³ Therefore, in its Monitoring Report of 2021, SIGMA recommended that government should finalize the new public administration (PAR) Strategy and the public financial management (PFM) Reform Program and should establish functional administrative level co-ordination bodies for both strategies in the forthcoming two years.

In 2021 and at the start of 2022 the political landscape is still very polarized. Parliament should improve women's political representation. Gender-based violence and violence against children remain issues of serious concern.⁶⁴ On the economic criteria, Montenegro has made some progress and is moderately prepared in developing a functioning market economy, according to the EU estimates. The sectoral structure of the economy, in particular the share of tourism, caused the severity of the economic fallout due to the Pandemic Covid-19. By June 2020, all 33 screened chapters have been opened, three of which are provisionally closed. In October 2020, the EU Commission proposed Economic & Investment Plan to support and bring the Western Balkans closer to the EU. Regulation on the EU Instrument for Pre-Accession Assistance (IPA III) was adopted on 15 September 2021,⁶⁵ which is to enable

⁶² SIGMA/OECD, 2021, pp. 7-8.

⁶³ EU Commission, Montenegro 2021 Report, Strasbourg, 19.10.2021 SWD(2021) 293 final/2.

⁶⁴ EU Commission, Montenegro 2021 Report, Strasbourg, 19.10.2021 SWD(2021) 293 final/2.

⁶⁵ Official Journal L 330, 20.9.2021.

implementation of the Economic and Investment Plan for the whole Western Balkans, aimed at recovery of the region.

In June 2021 the first political Intergovernmental Conference under the revised enlargement methodology was held to provide political steer to the accession process. In our opinion, the EU political criteria, especially the rule of law and the functioning of democratic institutions, will have a decisive impact on the forthcoming accession process. It is the result of the EU new enlargement methodology, which was accepted by Montenegro in June 2021. In order to further the success of the future course of negotiations, it is necessary to maintain the transparency of the process, both in terms of positive results and in relation to omissions. Consequently, the population support for the accession process will remain high, which represents important signal for Europeanization of Montenegro. Furthermore, it is necessary to make additional efforts to improve the reputation and general image of Montenegro in the EU. This makes Montenegro's path to the EU stable. Besides, a positive contribution will be the intensification of engagement of Montenegro in strengthening regional cooperation. Insufficient development of administrative structures indicates the need to improve the representation of Montenegrin interests in EU Member States.⁶⁶ Hence the importance of highlighting the benefits of EU membership in the implementation of legal and economic reforms at the national level.

V Concluding remarks

Admission of new member countries in the EU is primarily an issue of political will. So, in the EU, is there the political will for enlargement⁶⁷? On the EU side, it is necessary to define

⁶⁶Sgueo, Gianluca, <https://www.scribd.com/document/281758925/Lobbying-in-the-EU-The-cost-of-a-lack-of-transparency> (28.03.2016).

⁶⁷“The uncertainty of the EU enlargement process will benefit the EU rivals and the part of the public on the West Balkans that is against membership

precisely whether there will be any enlargement and when, because the EU enlargement cannot be endlessly postponed. Many EU Member States would not fully meet the requirements for membership that are set forth to the Western Balkans countries. EU would have never evolved into such a respectable regional integration process without its enlargement⁶⁸.

There is a prevailing perception in the Western Balkans region that the Union is insufficiently engaged in concrete support to candidate countries on their path to the EU. Although Montenegro is the most successful candidate in the region, this perception is present as a result of insufficient knowledge of the way of decision-making and the functioning of the EU by the citizens of these countries. It is also a consequence of poor management of expectations in relation to the EU, which does not take into account the internal agony in which the Union has been for a long time.⁶⁹ It is therefore important to point out that the current political framework in Europe is averse to further EU enlargement. The majority in the EU Member States single out the migrant crisis, security issues, the rise of ultra-right ideologies and movements, the instability of the Eurozone and the complicated bureaucratic procedures of the EU as responsible factors during the years.⁷⁰ There are views that these problems could be exacerbated if new countries join the EU's internal structures. It seems that "Europe – Fortress" is at stake, especially in time of ongoing horrible Pandemic. However, Jean Monnet said a long time ago, that crises are also great unifiers. It remains to be seen whether this visionary thought will guide the Union and

of their respective countries in the EU. Regional cooperation does not mean that countries in the region have given up on their European path and membership in the EU."

<https://www.ifimes.org/en/researches/2021-eu-western-balkans-summit-eu-credibility-in-western-balkans-undermined/4936> (24.12.2021).

⁶⁸ *Ibid.*

⁶⁹ Gasmi, 2016, p. 287.

⁷⁰ Bertelsmann Stiftung, 2015, p. 2.

overcome the current narrow-minded approach of the EU. National support for EU accession will be reduced in proportion to the lack of the Union assistance to candidates in the Western Balkans on their path to the EU. Candidate countries (Montenegro and Serbia, who are in the negotiation procedure) are not only hostages of the EU's current institutional weaknesses and lack of solidarity among EU members, but generally see the Union as a distant and “moving target”⁷¹, taking into consideration the amount of legislative pieces to be complied with in the process of harmonization with the EU *Acquis*.

On the other side, the EU concluded that: “The priority for further overall progress in the accession negotiations - and before moving towards the provisional closure of other chapters or clusters - remains the fulfilment of the rule of law interim benchmarks set under chapters 23 and 24. In order to reach this milestone, Montenegro needs to further intensify its efforts to address the outstanding issues, including in the critical areas of freedom of expression and media freedom and fight against corruption and organized crime, without reversing earlier achievements in the judicial reform. This requires the authorities to demonstrate in practice their commitment to Montenegro's EU reform agenda”⁷².

In the complex and delicate space between the advantages of accession and the complexity of the process itself, there is a room for maneuvering the challenges of Montenegro's accession to the EU, in an optimal way. This maneuvering is to be guided by clear benefits of future EU membership: stability in Europe, multiculturalism and diversity, better attractiveness for direct foreign investment from the EU Member States, trade integration and the use of the EU funds, as well as the raising the potential of the tourism sector and natural resources. It is necessary to dispel stereotypes about

⁷¹ Gasmi, Prlja, 2020, p. 72.

⁷² EU Commission, (2021), 2021 Communication on EU Enlargement Policy, Strasbourg, 19.10.2021 COM(2021) 644 final, p. 27.

the countries of the Western Balkans and doubts on the part of the Union about the need to support their accession in order to preserve stability and prosperity. Montenegro holds the title of the most successful candidate country, and in that sense it can be expected that this trend will further continue in the EU accession process.

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