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STABILIZATION AND ASSOCIATION AGREEMENT AS A SPECIAL INSTRUMENT OF EU FOREIGN POLICY

Abstract

This paper, from the legal point of view, represents the opinion that Stabilization and Association Agreements are "relatively new" instruments in the sense of their creation and duration, but they are by their nature and their content just a modified version of association agreements which had been concluded by the European Community since 1960, especially in regard to so called "Europa agreements", concluded from 1990 to 1996. From the political point of view, the paper represents the opinion that the foreign policy of the EU after the Treaty of Lisbon is based on the principles and instruments thorough which the EEC and EC had established external relations in earlier period. What distinguishes SAA contracts from traditional international agreements is their relation to community law and legal status in EU law, as well as in the law of associated state.

In this sense, paper is divided into three parts. The first part describes the political framework which preceded and which launched the Stabilization and Association process. The second part describes the process of stabilization and association through analyses of process of association as framework for stabilization and association agreement. The third part of this paper provides a legal status of the SAA in legal order of the country of association.

***Keywords**: Stabilization and Association agreement, EU law, association country, association agreement, European Union.*

1. Political framework of the Stabilization and Association processs

Stabilization and Association agreements represent a new category of legal and political instruments through which the European Union conducts a policy of external relations towards the countries of the Western Balkans. From a legal point of view, in this paper is represented

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the opinion that Stabilization and Association Agreements are "relatively new" instruments in the sense of their creation and their duration, but they are by their nature and their content just a modified version of association agreements which had been concluded by the European Community since 1960, especially in comparison with the so called European Agreements. Their modification is a result of the intention of the European Union to encourage (newly) associating countries not only to accept the *acquis communautaire*, and in that way meets the requirements for filling accession applications, but also, before that, to make changes in their political, legal and social systems, which are necessary for the essential acceptance and implementation of the acquis. From the political point of view, this paper represents the opinion that the foreign policy of the EU after the Treaty of Lisbon is based on the principles characterized by graduality, differentiation and flexibility.

1.1. Background of EU external relations

External Relations which the EEC until the entry into force of the Treaty of Maastricht[2], in 1993, had established with third countries and international organizations, mainly have been in the function of internal achievements, and partially in the function of external economic objectives. According to these reasons, until the entry into force of the Treaty of Maastricht, external relations of the EEC, which involved external economic and external political relations[3], have been reduced mainly to the establishment of economic relations. In the beginning, the main content of these relations were limited on commercial relations established within the common commercial policy of the EEC. Later on, the EEC enriched this with the policy of cooperation and assistance towards third countries[4] , which are instrumentalised through agreements on cooperation and association signed by the EEC and third countries. Only the European Union, established by the Treaty of Maastricht, got the task to determine the content and tools for managing the common foreign policy in order "to assert its identity on the international scene".

In accordance to the Liosbon Treaty, the EU has ceased as legal entity and After the entry into force of the Treaty of Lisbon and the European Community ceased as legal entity, the mentioned powers have been transferred to the European Union and regulated by the fifth part of

[2] Treaty on European Union, signed at Maastricht on 7 Febraury 1992, *Official Journal of the European Communities, C 191, of 29 July 1992*, 1.

[3] See. B. Weidel, "Regulation or Common Position? The Impact of the Pillar Construction on the European Union's External Policy", in: S. Griller and B. Weidel (eds*), External Economic Relations and Foreign Policy in the European Union*, Springer 2002, 17.

[4] N. Moussis, *Access to European Union Law, Economics, Policies*, European Study Service 1999, 532

the TFEU called "External actions of the Union"(Articles 205 to 222).

As the most powerful instrument of policy of cooperation of the EU for dealing with the candidate and potential candidate in theory states conditionality.[5] Conditional policy for countries of Western Balkans was introduced by the European Commission in 1996. On 29 April 1997, following the Commission's report, the EU General Affairs Council adopted a Regional Approach introducing political and economic conditionality for the development of relations with countries in the region. That approach was further developed in June 1999, following the Commission's proposal of 26 May for the creation of Stabilization an Association Process (SAP) for the countries of South-Eastern Europe. The main conditions to be complied with by those countries were specified as compliance with democratic principles, human rights and rule of law, respect for and protection of minorities, market economy reforms, regional cooperation and compliance with obligations under international peace agreements.

Although the EC wished to develop a coherent foreign economic policy, it recognized that special circumstances for particular regions or countries needs for different speeds and timetables, or differentiation in progress and the conditionality to be applied. It is why differentiation is "accompanied by the logic of gradualism tied to partners' own willingness to precede with reform."[6]

Differentiation of external economic and political relations established by the European Community and accepted by the European Union is reflected in the use of different types of autonomous and conventional measures which have been undertaken toward some nonmember states or in relation with international organizations. In particular, external relations differentiation is expressed through the "offer" of different types of agreements to third countries or groups of countries from free trade agreements and association agreements, or through the possibility of using different autonomous measures: from the incentives to sanctions. Using different instruments for different countries, the Community actually led diverse and differentiated policies towards them. Regarding geopolitical sub region labeled as the Western Balkans, which includes Croatia, Bosnia and Herzegovina, Serbia, Montenegro, the European Union leads a policy of stabilization and association.

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[5] O. Anastasakis & D. Bechev, EU Conditionality in South East Europe: Bringing Commitment to the Process, South East European Programme, St Antony's College, University of Oxford, April 2003, 3, 5. available on *http://www.emins.org/sr/aktivnosti/ konferencije/solun/pdf/ ostala/conditio.pdf*

[6] S. Kahraman, *The European Neighbourhood Policy: The European Union's new Engagement Towards Wider Europe*, Perceptions, Winter 2005, 18

1.2. History of enlargement

The European Community started paying special attention to the enlargement policy for the first time after the fall of the Berlin Wall and the collapse of the so called Eastern Bloc. For the countries that emerged after these changes, or have changed their integration background, the newly established European Union has developed a special process of joining, rich by variety of economic stimulation funds, which the associated country could use to meet the criteria for membership. They were institutionalized in the so-called "European agreements", which are by their nature constituting legal contractual relations accompanied by the creation of special bodies and not including the associated countries in the work of the existing main bodies of the international organization. The associated country was not institutionally included in the European Union, nor is it included in the work of its main bodies. When the Central and South East Europe countries finally became EU member (ili joined the EU), the European agreements were replaced by the Stabilization and Association Agreement. Stabilization agreements are designed as a legal-political platform for the accession of the Western Balkans countries

The Stabilization and Association Process represents a legal and political framework for gradual establishment of partnership between third countries and the European Union, which was initially based on a combination of trade concessions (Autonomous Trade Measures - ATM), economic and financial assistance and contractual relationships through Stabilization and Association Agreement (SAA). On that way, for the first time, countries of the Western Balkans were granted status of "potential candidate" for EU membership.[7]

2. The process of Stabilization and Association

The process of stabilization and association is characterized by two processes that are partially happening at the same time and partly following one another in the country which intends to conclude the SAA. The aim of both processes is, on one hand, to stabilize the social, legal, economic and political situation in the Western Balkans and after that, to enable the Western Balkans countries to conclude SAA and to prepare them for rights and obligations arising from the special and privileged relations with the EU. Measures and actions that the third country in the period before concluding SAA undertakes to stabilization is mainly based on its internal legal and political documents, whose contents, instruments and dynamic

[7] See S. Rodin, "Requirements of EU Membership and Legal Reform in Croatia", *Politička misao*, Vol. XXXVIII (2001) No 5, 88.

determines the degree of political willingness to establish proper relations with the EU. Although the process of internal transition in chronological terms precedes association, this process takes place after the conclusion of the SAA and prolongs in parallel with the process of association.

2.1. Process of association as framework for process of stabilization and association

The concept of association itself is not defined in EU founding treaties.[8] In international relations under the term association can be understood an association of a state to international organizations through a special form of relationship that is established by international agreements.[9] In legal sense process of association is based and framed in the relevant agreement that creates mutual rights and obligations of both contracting parties. Rights and obligations of the associated third state are partially consistent with right and obligations existing in other kinds of international cooperation and international cooperation forms that lead to the memberships. However, in comparison with them, these are wider than traditional forms of trade and narrower compared to the agreements on EU accession. Reasons for entering in this kind of closer international relations should be primarily sought in willingness of countries to establish enhanced links with some organizations[10] in order to participate in they work. In case of association to EU, it means rights associated country to participate in a Union system,[11] but not the general right to take decisions. According to founding treaty, association means special long term relationship between the EU and third countries, which are characterized by "mutual rights and obligations, joint actions and special procedures." [12]

Same elements characterized also stabilization and association agreements. In terms of durability, association agreements as well as SAA are generally concluded for an indefinite time and in comparison with trade agreements they are more permanent and have a long-established character of relations between the Union and third countries. On the other hand, the SAA creates special or privileged relationship between associated countries and the EU. This is reflected through "the nature of the links established and the fact that they often span across a range of the Community's

[8] P. Eeckhout, *External Relations of the European Union, Legal and Constitutional Foundations*, OUP 2005, 103.
[9] T. Miščević, *Pridruživanje Evropskoj uniji (Association to the European Union),* Beograd 2009, 24.
[10] *Ibid.*, 26.
[11] See Case 12/86 *Demirel v Stadt Schwabish Gmund* [1987] ECR I-3719.
[12] Art. 217. TFEU. (previously Art. 310 EC Treaty)

activities."[13] Although association agreements and SAAs do not provide either full or partial membership, their special nature is reflected in the fact that they are supposed to prepare the associated countries to meet the requirements for later accession to the Union, and to establish very close relations for institutional cooperation. In economic terms, these agreements can establish a free trade area, a customs union or to provide the associating country preferential system. In that sense it can be concluded that mutual rights and obligations does not have to involve equalent and equal rights and obligations of the contracting parts. Finally, the economic nature of the SAAs is not exhausted only by provisions on trade relations between the third countries and the EU but cover social, cultural and technical cooperation. It is why the notion of "common action" does not include only common activities but also involvement of the associating country in the achievement of goals and tasks of the Union.

2.2. SAA as a kind of Association Agreements

Regarding the level of established rights and obligations of the EU with third countries and international organizations, the practice shows the existence of different types of institutional relations which, according to the content of the agreement and purpose, can be grouped into different categories.[14]

Stabilization and Association Agreements serve as a "waiting room" or preparatory phase before accession to the EU. The associated countries can count on the full membership after a transitional period when they have sufficiently harmonized their economic, political and legal system with *acquis communautaire*. SAA fall also under this category of association agreement because is giving the associating country the status of a potential candidate for accession in the EU, which after the implementation of the agreement and meeting other requirements may apply for membership in the EU. By signing the SAA the state is getting the status of a potential candidate for EU membership,[15] but it does not guarantee admission of that country in the European Union. The EU just opens this possibility.[16]

[13] I. Macleod, I. D. Hendry and S. Hyett, *The External Relations of the European Communities*, Oxford 1996, 368.
[14] *Ibid.,* 372
[15] See preamble of the SAA signed with Serbia, para. 3.
[16] See more: N. Misita, *Osnovi prava Evropske unije (Foundations of EU Law*), Sarajevo 2007, 447- 455

3. Legal status of SAA

3.1. Legal status of the SAA in internal legal order of the Republic of Serbia

From the international law point of view, the agreements on stabilization and association fall within the category of international agreements due to contracting parties, manner of conclusion and entry into force. However, they are different from traditional international agreements in the way in which they create legal effect on the contracting parties, or, by their status, which is recognized in the EU law and in domestic law of the associated country. The legal nature of the SAA has never been discussed by the ECJ, but only on the association agreements.

Concerning the status of the SAA in EU law, neither the Court of Justice nor legal theory declared precisely on the SAA as some sort of a special kind of agreement, but they did so only within the framework of SA analysis. According to case law of ECJ, SA exemplifies a sort of a mixed agreement and forms an integral part of the Community law.[17] In a third country, approved SAA forms part of internal law and binds the associated country, as the other contracting party, but the legal status depends upon domestic constitutional solutions. In general sense, in associated country the SAA has legal status of international contract (convention or agreement) whose relation toward other sources of internal law is determined by the Constitutional law. According to Art. 16(2) of Serbian's Constitution "Generally accepted rules of international law and ratified international treaties shall be an integral part of the legal system in the Republic of Serbia and applied directly." In domestic legal theory there are some doubts concerning the meaning "applied directly." [18] Is that phrase used in meaning which has in EU law in sense that differs from direct effect, or it means both.[19]

However, this interpretation may encounter obstacles in the application before the Serbian courts in cases of alleged existence of unconstitutionality of specific provisions of the Agreement, or SAA as a whole. Solutions which have been adopted in Serbian constitution in this regard are very strict and less encouraged. So, Art. 16(3) provides that "Ratified international treaties must

[17] See Case 181/73 Haegemann [1974] ECR 449, para.5; Case C - 162/96 Racke GmbH & Co v Hauptzollamt Mainz [1998] ECR I-3655, para. 46. But, R. Leal-Arcas, cites that the ECJ has never explained why an international agreement forms an integral part of EC law because that agreement has been concluded by the EC. R. Leal-Arcas, The European Court of Justice and the EC External Trade Relations: A Legal Analysis of the Court's Problems with Regard to International Agreements, Nordic Journal of International Law 72: 215–251, 2003, 237.

[18] R. Vukadinović, *Uvod u institucije i pravo Evropske unije*, Kragujevac 2014, 477 .

[19] See more about direct effect: R. Vukadinovic, 141.

be in accordance with the Constitution," while Art. 167(1), (1 and 2) of the Constitution authorizes the Constitutional court to decide on compliance of laws and other general acts with the Constitution, generally accepted rules of the international law and ratified international treaties, and "compliance of ratified international treaties with the Constitution." The mentioned provisions of the Constitution on "constitutionality" of SAA, read in conjunction with provision of Art. 4(1) of the Constitution by which unique legal system is guaranteed, can seriously jeopardize direct application and direct effect of SAA in internal legal system of Serbia. Problems in application can be caused by the articles of SAA which concern direct application of the EU law. For example, article 73(3) SAA provides "Any practices contrary to this Article shall be assessed on the basis of criteria arising from the application of the competition rules applicable in the Community, in particular from Articles 81, 82, 86 and 87 of the EC Treaty and interpretative instruments adopted by the Community institutions."[20] Taking that into consideration this and similar articles of SAA, the associated states took direct responsibility to apply not only to European Community rules on market competition, but also to the "interpretative instruments adopted by the Community institutions", the constitutionally proclaimed principle of unity of the legal system of Serbia is brought into question. In order to solve this and similar questions practice of the courts of other associated states can be used, since they faced with similar problems.[21]

The question about legal character of decisions passed by the Stabilization and Association Council is very interesting as well. According to Article 121. SAA with Serbia "The Stabilization and Association Council shall, for the purpose of attaining the objectives of this Agreement, have the power to make decisions within the scope of this Agreement in the cases provided for therein. The decisions taken shall be binding on the Parties, which shall take the measures necessary to implement taken decisions. The Stabilization and Association Council may also make appropriate recommendations. It shall draw up its decisions and recommendations by agreement between the Parties." Courts in Serbia have not declared on this matter, while as far as EU law is concerned the decisions of the Council for Stabilization and Association have been granted with the immediate effect. The ECJ held in Greece v. Commission[22] that decisions issued by the Association Council form an integral part of EC law from the moment of their entry into force. They do not necessarily require implementing measures and can make direct effect. So, in Sevince case, the Court accepted that the provisions of the Association Council decisions No. 2/76 of 1976 and No. 1/80 of 1980

[20] After Treaty of Lisbon, these articles are 101, 102, 105 and 107 TFEU

[21] For example, the Polish Constitutional Court justified the readiness (or obligation) of domestic courts to interpret national law in accordance with European community law, by the need to respect the assumed obligations from the SAA

[22] Case 30/88 Greece v. Commission, [1989]ECR 3711, para. 12.

concerning the conditions of employment were directly effective in Community countries [23]. In legal theory different viewpoints have been taken in respect to this issue. Therefore, one side[24] holds that association treaties create no supranational legal order and remain in the realm of traditional international law. According to this position acts of institutions established under Association treaties, i.e. decisions of an Association Council, do not have, as such, validity in Community law or in legal orders of Member States, but require an act of transformation by secondary Community legislation for the association agreements not to create any supranational legal order and remain in the domain of classic international law. This opinion is followed by a claim that the European Union is a creation of the international law, and in adherence to that, its country members remain "Herren von Vertraege". Due to those reasons, institutions based on the association agreement, alongside decision of the Council for Stabilization and Association as such have no legal effect in the legal order of the EU, or in the legal order of country members, but they need to be incorporated via secondary legislation.[25]

3.2. Legal status of the SAA in EU law

One could speak of the legal status of the SAA in EU law indirectly, by assuming that the SAA is a special sort of SA and that it shares its characteristics. In judicial practice of the EU, the SAs are qualified as a kind of mixed agreements that form an integral part of community law[26] and are binding to the EU and Member States.[27] In Demirel case[28] ECJ held: that "an agreement concluded by the Council under Articles 228 and 238 of

[23] Case C-192/89, S. Z. Sevince v. Staatssecretaris van Justitie, [1990] ECR I-3461; Case C-237/91, Kazim Kus v Landeshauptstadt Wiesbaden, [1992] ECR -6781; Case C-355/93, Hayryes Eroglu v Land Baden/ Wuertemberg, [1994] ECR 5113, C-98/96 Kasim Ertanir v Land Hessen, [1997] ECR I- 5179, Case C-262/96 Sema Sürül v Bundesanstalt für Arbeit [1999] ECR I-2685.

[24] A. Bleckmann, *Europarecht*, Carl Heymanns Verlag, Köln 1997, 502

[25] A. Bleckmann, 503

[26] See case 181/73, Haegeman [1974] ECR 449, paras. 3 and 4; case 12/86, Demirel [1987] ECR 3719, para. 7.

[27] See case 104/87, Hauptzollmt Mainz v Kupferberg & Cie Kg [1982] ECR 3641, paras. 2 and 4.

[28] The Demirel ruling concemed a Turkish woman whose husband had been working in Germany since 1979. She wanted to join her husband in 1984 for the purpose of family unification, but was only granted a visitor's visa. This was justified on grounds that in the Lander of Baden- Württemberg where Mr. Demirel had been employed, the amount of time that a foreign worker was required to have spent before joining his/ her family had been raised in 1982 from three to eight years. As a result of this new legislation, Mrs. Demirel was issued with an expulsion order in 1985 on the expiration of her visa. However she challenged the order by appealing to an Administrative Court in Stutgart on grounds, that the new restrictive legislation contravened the terms of the Association Agreement between Turkey and the EC. For its part, the Administrative Court referred the case to the ECJ for a preliminary ruling. The Court first established, in the light of judicial precedents, that it had the necessary authorization to interpret the provisions in question, since the Association Agreement was part of Community law. Should the Court role that the relevant provisions of the Association Agreement were directly effective, they would lake precedence over inconsistent national laws of Member States. They could then be invoked by Turkish migrant workers. However the Court denied the direct effect of the free movement provisions in the Turkey-EC Association Agreement. In the Court's view, Article 12 of the Ankara Agreement and Article 36 of the Additional Protocol were in the nature of a 'plan of action' and were not sufficiently precise and unconditional! to be directly effective

the Treaty is, as far as the Community is concerned, an act of one of the institutions of the Community within the meaning of Article 177 (1)(b), and, as from its entry into force, the provisions of such an agreement form an integral part of the Community's legal system..." [29] The binding character of the SA, ECJ explained as follows: "...Since the agreement in question is an association agreement creating special, privileged links with a non-member country which in case at least to a certain extent, take part in the Community's system, Article 238 must necessarily empower the Community to guarantee commitments towards non-member countries in all the fields covered by the Treaty..."[30] In legal theory, based on the jurisprudence of the ECJ an opinion became crystallized, according to which regardless of the fact that in the interpretation of the association agreement and primary sources of EC/EU law there are some differences,[31] it is without doubt that SAA are binding on the Community and the Member States and form an integral part of EU law. In the hierarchy of sources, "they rank below primary sources and general principles of Union law but above secondary sources."[32]

3.2.1. Direct effect

The Court of justice declared on the impact of classic agreements on association in several cases. Even though in the first case launched based on the association agreement, the Court refused the request for direct implementation of certain provisions as provided by the Association Agreement between the EU and Turkey. In the same judgment the Court took a stand according to which: "provision in an agreement concluded by the Community with non-member countries must be regarded as being directly applicable when, regard being had to its wording and the purpose and nature of the agreement itself, the provision contains a clear and precise obligation which is not subject, in its implementation or effects, to the adoption of any subsequent measure.."[33] Therefore, in Kupferberg case[34] the Court of Justice held that Art 21 of the EEC Portugal Association Agreement was directly enforceable in the national courts, and "neither the nature nor the structure of the Agreement between the EEC and Portuguese Republic may prevent a trader from relying on one of its provisions before a court in the Community..."[35] as well as, "the mere

[29] Para. 7 referring to the decision in case 181/73, Haegeman, ECR (1974) 449.
[30] Para. 9. of Demirel judgment.
[31] See para. 20 of judgment in case 270/80 Polydor Records and RSO Records Inc v Harlequin Records Shops Ltd and Simons Records Ltd [1982] ECR 329.
[32] A. Kaczorowska, *European Union Law*, Taylor & Francis, 2008, 205, 226.
[33] Demirel, para. 14.
[34] Case 104/87, Kupferberg [1982] ECR 3641
[35] *Ibid.,* para. 3.

fact that an agreement concluded by Community has established special institutional framework for consultations and negotiations between the contracting parties in relation to the implementation of the Agreement is not in itself sufficient to exclude all judicial application." [36]

The principle of the direct enforcement of such agreements has enabled the nationals of the states which are parties to such agreements to enforce the provisions against Member States of the Community.[37]

Even the provisions which cannot be directly applied can be subjected to Court consideration, if the country member undertakes an action contrary to those provisions. In such cases, the illegal action of the member state represents a foundation for launching procedure and it falls within the competence of the Court to determine breach of obligations that stem from the international contract. Thus the provisions which are not directly implemented are practically recognized their direct effect. In regard to SAA, such agreements the Court can interpret *ex ante*, in a proceeding upon their signing, or *ex post* upon its entrance into effect, based on the decision making process in previous matters. In such a case, the court of any country, faced with the interpretation issue of accession can launch procedure before the European Court, whose decision is binding"[38]

3.2.2. Interpretation of the SA

The practice of the EU Court on interpretation of association agreements as special category of mixed agreements is comprehensive and abundant. It follows the basic guidelines from the Demirel case. The EU Court first examines whether a certain provisions from the SA has direct effect, which is determined by interpreting the respective provisions. Thereby, the Court takes the assumption that the provisions of the SA have direct effect, from which it can depart, if proven that some provisions from the SA due to its nature cannot provide such effect. The cases which can serve as examples here are Kondova[39]and Gloszczuk[40] cases. In Kondova case, the EU Court examined the direct applicability of provisions on prohibition of discrimination from the SA with Bulgaria. The Court concluded that these provisions are directly applicable, but that, nevertheless, are not violated in the concrete case, thus leaving the

[36] *Ibid.,* para. 5.

[37] In Onem v Kziber case C-18/90 [1991] ECR I-199, the Court of Justice held that parts of the EEC–Morocco Cooperation Agreement are directly enforceable. See also, case C-58/93, Yousfi v Belgium [1994] ECR I-625, also, in C-13/00 Commission of the European Communities v. Ireland, [2002] ECR I-2943.

[38] See S. Rodin, *Sporazum o stabilizaciji i pridruživanju u pravnom poretku Europske zajednice i Republike Hrvatske*, Zbornik Pravnog fakulteta u Zagrebu, No. 3 and 4/2003, 593.

[39] The Queen and Secretary of State for the Home Department v Kondova [2001] ECR I-6557.

[40] The Queen and Secretary of State for the Home Department v W. Gloszczuk et E. Gloszczuk [2001] I- 6369.

prosecutor without the legal protection as provided by the SA. In the Gloszczuk case the EU Court also concluded that the provisions on the freedom of establishment as provisioned the SAA with Poland is directly applicable. As in Kondova case, the EU Court concluded that these provisions have not been breached in relation to the prosecutor. Certain authors interpret this as a political stand of the Court by which the court refuses to take over the role of an active player in the enlargement process of the EU, because effectively it denies the protection SAs provide.[41]

In that sense it is necessary to understand the contracting sides are obliged to provide physical and legal entities from the other contracting party with free access to court and administration bodies with the aim of protecting their personal and property rights. However, these guarantees do not include the right of Serbian courts to address the EU Court for interpretation purposes of the SAA in decision making process on previously mentioned matter.

4. Conclusion

The Stabilization and Association Agreement is the first step in the long path toward attaining the fully fledged membership in the European Union. With this Agreement, along with the Interim Trade Agreement, a new legal and institutional framework is being established in relations between the EU and the Republic of Serbia. The Agreement regulates relations between the Republic of Serbia and the other party, the contractor in the European Union. Even if the EU Council has postponed entrance into force of these agreements and process of opening chapters of SAA for negotiation doing slowly, faith in european future still exist.

[41] J. McMahon, A. Pedain, "With or Without Me: the ECJ Adopts a Pose of Studied Neutrality Towards EU Enlargement", *International and Comparative Law Quarterly*, tom 51, 2002, 981-989.

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SPORAZUM O STABILIZACIJI I PRIDRUŽIVANJU KAO POSEBAN INSTRUMENT SPOLJNE POLITIKE EU

Rezime

Sporazumi o stabilizaciji i pridruživanju u pravnom smislu predstavljaju "relativno nove" instrumente vodjenja spoljne politike EU. U pogledu nastanka i trajanja, kao i po pravnoj prirodi i sadržini sporazumi o stabilizaciji i pridruživanju predstavljaju samo modifikovanu verziju sporazuma koje je Evropska zajednica zaključivala sa pridruženim državama počev od 1960. godine, a posebno u odnosu na tzv. "Evropske sporazume", koje je EZ zaključivala između 1990. i 1996. godine sa državama centralne Evrope. U političkom smislu, u radu je zauzet stav da EU nakon stupanja na snagu Sporazuma iz Lisabona vodi spoljnu politiku na principima i instrumentima koje je u ranijem vremenu koristila EEZ i EZ. Međutim, ono što razlikuje sporazume o stabilizaciji i pridruživanju od tradicionalnih međunarodnih sporazuma jeste njihovo hijerarhijsko mesto u pravnom poretku pridružene države.

U tom smislu, rad je podeljen u tri dela. U prvom delu se daje prikaz političkog okvira koji prethodi procesu stabilizacije i pridruživanja. Drugi deo opisuje proces stabilizacije i pridruživanja kroz analizu procesa pridruživanja kao pravnog okvira za uspostavljanje procesa stabilizacije i pridruživanja. Treći deo rada je posvećen mestu SSP-a u pravnom poretku pridružene države.

Ključne reči: sporazum o stabilizaciji i pridruživanju, pravo EU, sporazum o pridruživanju, pridružena država, Evropska unija.