

RESEARCH ARTICLE

The fog of enlargement and the agony of accession: the European Union and Serbia in the light of a reform document

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Abstract

The 2009 public debt crisis onset triggered a fundamental constitutional transformation of the European Union (EU). What is the link between this transformation and the enlargement policy? The authors of the article seek an answer to this question. The main thesis is that the method of impersonal authoritarianism in dealing with the Eurozone crisis spilled over into the EU enlargement policy. On the one hand, we consider the systemic reasons for turning the enlargement policy into an instrument of geopolitical control of the states on the outer periphery. On the other hand, the problem is considered from the point of view of Serbia's interest as an EU membership candidate country. The authors conclude that opening space for innovation and flexibility in relations would be in the mutual interest of the EU and candidate countries. The analysis of the new enlargement policy reform proposal examines the readiness of European leaders to open the door for a new type of relations with the candidate countries that would correspond to today's European reality of the historical interregnum.

Keywords

European Union, crisis, Serbia, accession process, Monnet method, differentiated integration

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Introduction

The issue of building and maintaining unity composed of diversities is one of the fundamental issues of political, economic, and legal thought. Scholars have been learning from experience about the attempts and failures to solve this European problem for centuries. For economists looking for a cure for the contradictions in the functioning of today's European Monetary Union, the European 1930s gold standard collapse offers the crucial lesson.¹ The empirical experience on how monetary systems of successful states function tells scientists that the "Eurozone was flawed at birth."² A common currency that does not allow large economic and political differences among the member states to survive is doomed to failure.³ Looking at the same developments from the viewpoint of the accumulated empirical knowledge about the political institutions of liberal democracies, political scientists came to the conclusion that the uniform Monnet integration method that ignores the diversity of the states, and differences in their traditions, cultures, and institutions, unavoidably pushes the European decision-making system into paralysis and legitimization crisis.⁴ This conclusion led them to a common sense insight that this overstretched system had crossed the line beyond which it cannot accept new diversities without compromising further its already compromised functionality.⁵ This is particularly true for those membership candidates whose hard history made them to be too distrustful, rigid, irascible, and inflexible. In short, scholarship assures that in the situation of an existential crisis, it is illusory to expect further European Union (EU) enlargement.

And yet, despite the warnings of eminent researchers, the monetary union has managed to maintain its integrity and functionality. Moreover, the EU enlargement policy has not been abolished. The Commissioners for Enlargement and the accompanying bureaucracy have not lost their jobs. The negotiating chapters with candidate countries are still being opened and closed. How to explain this? This is the major research question that this paper aims to tackle.

The general theoretical approach that we rely upon in order to disclose the ideological constraints of the EU enlargement policy belongs to the intellectual

¹ See Y. Varoufakis, *And the Weak Suffer What They Must* (Nation Books, 2016).

² J.E. Stiglitz, *The Euro. How the Common Currency Threatens the Future of Europe* (W.W. Norton & Company, 2016), 7.

³ "The diversity of Europe had been its strength. But for a single currency to work over a region with enormous economic and political diversity is not easy. A single currency entails a fixed exchange rate among the countries and a single interest rate. Even if these are set to reflect circumstances in majority of member countries, given the economic diversity, there needs to be array of institutions that can help those nations for which the policies are not well suited. Europe failed to create such institutions." *Ibid.*, 7–8.

⁴ F.W. Scharpf, "Legitimacy intermediation in the multilevel European polity and its collapse in the Euro crisis," *Max-Planck-Institut für Gesellschaftsforschung Discussion paper, no. 12/6*, 2012.

⁵ See G. Majone, *Europe as the would-be world power* (Cambridge University Press, 2009), 112–17; V.A. Schmidt, "Re-invisioning the European Union: Identity, Democracy, Economy," *Journal of Common Market Studies* 47, (2009): 28–32.

tradition established by the Frankfurt school of critical theory.⁶ Within this general theoretical framework we build our argument regarding the EU's political nature and its relations with its member states on the ground of the classical intergovernmental theory.⁷ As for the current EU-Serbia relations the research method that we use belongs to the theory of realism in international relations.⁸

After the onset of the 2009 crisis, the EU entered an undeclared state of emergency.⁹ The historical experience, on which scientists have built their arguments and drawn their reasonable yet insufficient conclusions about the non-functionality of monetary union and the impossibility of further EU enlargement, fails to fully explain this new phenomenon. Namely, unlike previous examples of encountering states of emergency when rulers violated the existing norms in order to preserve the order, in today's EU there is no institutional way to determine who exactly made the decision to save the monetary union. In the absence of a European *demos*,¹⁰ in whose name this decision was made is equally unknown. Neither is it clear for how long the supranational legal predictability has been suspended. Who to protest against? Who to address with the request for a change of policy? There are no answers. The confused Europeans are still just helplessly watching how their democratic institutions are getting drained of their original meaning. Our major argument is that a new kind of impersonal authoritarianism, hidden under the existing, but powerless institutions of the member states' liberal democracies, has so far managed to save the monetary union from disintegration. In addition, we will argue that it is this authoritarianism, a reign of arbitrary governance, that is also responsible for preserving the enlargement policy. Instead of a process that guides the candidate countries towards meeting the strict uniform criteria for EU membership, the enlargement policy has grown into a geopolitical instrument of controlling political actors on the outer periphery of the Union.

Besides shedding light on the enlargement process from the viewpoint of the EU system crisis, this article discusses the problem from the point of view of one of the candidate countries – Serbia. What position should the authorities in Serbia

⁶ See M. Horkheimer, *Traditionelle und kritische Theorie* (Fisher Wissenschaft Verlag, Frankfurt am Mein, 1968).

⁷ See S. Hoffmann, "Obstinate or Obsolete? The Fate of the Nation-State and the Case of Western Europe," *Daedalus* 95, no. 3 (1966): 862–915.

⁸ In particular the theory of "offensive realism," See the first chapter of J.J. Mearsheimer's book, *The Tragedy of Great Power Politics*, W.W. Norton & Company, 2014, also the first chapter of his last book, *The Great Delusion*, Yale University Press, New Haven and London, 2018.

⁹ E.W. Böckenförde, "Kennt die europäische Not kein Gebot? Die Webfehler der EU und die Notwendigkeit einer neuen politischen Entscheidung," *Neue Züricher Zeitung* 21 June 2010, retrieved from: http://www.nzz.ch/nachrichten/kultur/literatur_und_kunst/kennt_die_europaei_sche_not_kein_gebot_1.6182412.html (last accessed 10 January 2016).

¹⁰ D. Grimm, "Does Europe need a Constitution?" in *The question of Europe*, P. Gowan and P. Anderson, eds., (London, New York: Verso. 1997).

and its intellectual elites take in the situation of the new European authoritarianism? We address the issue through an analysis of the proposal for the enlargement policy change, which was made by the European Commission on the initiative of the President of France, Emmanuel Macron.¹¹ We conclude that the proposal, which changes the course of the previous enlargement policy by a personal commitment of one European leader, may have the unintended consequence of adapting relations between Serbia and the EU to the new reality marked by crisis, to the benefit of both participants in the process.

European integration in depoliticisation key

Ever since the time of the French Revolution (1789–1799), in European countries the political subject has been the people, who have been repeatedly breaking their way through a dense forest of internal differences, civil unrests, and rebellions seeking a form of their collective existence. This search, which involves the question of meaning, never ends. So far, no answer has been found that is resistant to all the challenges of history. There is no form that could once and for all encompass all spheres of the elusive life of European societies. Nevertheless, the state as an organisational form always tries to move away from the unpredictable, unstable life of the people who live in it. The State-Form makes itself independent, develops its specific logic (domination, totalization, appropriation of the name of the One) to the point of forgetting in its arrogance the source from which it stems - to the point of turning against the life of the people and crushing all manifestations that do not fit into its perspective.¹²

In the decades of material prosperity in Europe in the wake of World War II, after peace had been secured, the search began for a new political form in which the state would be at the same time both surpassed and preserved. This political form should have developmental capacities making it capable of overcoming the conflict potential of the society. This search resulted in the method of European integrations authored by Jean Monnet.¹³ The famous Monnet method, namely, seemed like a solution to an old conundrum: how to permanently protect European countries from the re-examination of the world and relations between people taking place in the sphere of the political. To separate the state-form from the conflicting life of society, divisions, revolutions, revolts, wars – that was the key goal of the founding fathers of the EU.¹⁴ “The

¹¹ Address by P.E. Macron at Davos, <https://in.ambafrance.org/Address-by-Prez-Emmanuel-Macron-at-Davos>; Enhancing the accession process - A credible EU perspective for the Western Balkans, European Commission, Brussels, 5.2.2020, https://europa.eu/european-union/index_en.

¹² M. Abensour, *La Démocratie contre l'État. Marx et le moment machiavélien* (Presses Universitaires de France, Paris, 1997), 106–107. Translation quoted from: https://books.google.rs/books/about/Democracy_Against_the_State.html?id=3is2CUMhBk4C&printsec=frontcover&source=kp_read_button&redir_esc=y#v=snippet&q=arrogance&f=false (93).

¹³ J. Monnet, *Mémoires* (Paris: Fayard, 1976).

¹⁴ See B. Kovačević, *Europe's Hidden Federalism. Federal Experiences of European Integration* (Routledge, London and New York, 2017), 101–61.

process of compound polity building in the shadow of the unresolved dilemma of the community's *finalité politique*, under the mask of market integration, can be described as *hidden federalism*. From a functionalist point of view this peculiar method of integration has proven to be rather successful: by skilfully avoiding a response to the question of ultimate sources of the EU's legitimacy Europe's hidden federalisation has remarkably diminished potentials for some possible future war conflicts in Europe. This process has also led to the establishment of a common European market and monetary union as an efficient response to governance challenges in an era of ever-accelerating globalisation.¹⁵

To leave the process of integration to be decided upon by *demos* and its organisations, which, reacting to life and its unimaginable demands, freely experiment with different models of interstate cooperation, seemed like too great a risk in crisis-stricken and war-riddled Europe. Had the founding fathers accepted it, the peoples of Europe and their political leaders would have spontaneously strengthened and weakened their unity; they would have freely joined in the political ventures of regulating certain areas of social life together and withdrawn from them of their own free will. With an enriched experience, they would have experimented with supranational institutions; following the decision of the *demos*, as a never completely appeased political subject, they would have transferred competencies to the European level of authority or returned them to the member states. Thus, the space of freedom for the construction of various forms of unity between European states would have been preserved. The integration process would have included the powerful and the plebs, the rich and the poor, university professors, artists, journalists. All of them would have had to take responsibility for the unpredictable consequences of their actions in the sphere of the political.¹⁶

However, Monnet's method pushed Europe in the opposite direction: to structurally limit the space of spontaneity, experimentation, initiation, and innovation in matters of the political. A political decision of the *demos* and its representatives on customs, subsidies, public procurement, freedom of movement and residence, and currency was replaced by uniform supranational norms.¹⁷ Thus, the emerging European structure of governance was successfully separated from the cultural, historical, social, and economic differences of the peoples. The state-form, which has been striving for centuries to separate itself from the turmoil of the hectic life of society, has found a historically new and reliable ally in the technocratic architects of the Union.

¹⁵ Ibid., 4–5.

¹⁶ The term political (*fr. le politique*) is taken to mean the process of establishing people's existing together "*etre ensemble*". It denotes the very essence of a human community. The political (*fr. le politique*) is to be distinguished from politics (*la politique*) that refers to a specialised sector of social activities such as parliamentary elections, formation of governments, their control, public opinion, adopting and applying legislation, etc. More on the difference between the political and politics see M. Gauchet, *La condition politique*, Éditions Gallimard, Paris, 2005, 9–43.

¹⁷ See G. Majone, *Europe as the would be world power* (Cambridge University Press, 2009), 72–99.

Over time, the peoples of Europe themselves relinquished the autonomous search for the form of their collective existence. The intellectual and political elites of their states came to believe that the path of political re-examination of the foundations of living together, *vivre ensemble*, was over and that the magic formula had finally been found. *Demos*, the subject of the political, born in the storms of the French Revolution, turned into a powerless yet content observer. The formerly headstrong subject of revolutions, revolts, wars, and constitutional experimentations had been transformed into a passive object. By accepting the integration as a proof that further search for meaning in the sphere of the political was illusory, everyone renounced the responsibility for regulating the living together – citizens, politicians, professors, intellectuals, researchers, journalists. Governing the unpredictable, dynamic, irrational, rebellious, or obedient people was replaced by managing passive observers. The public's lively reasoning about political matters in the state has been replaced by a passive acceptance of authoritative decisions at the level of the European Community and the European Union.¹⁸

In the time of material prosperity, the EU enlargement process, of including new members, followed in the footsteps of the logic of Monet's integration method. It meant accepting impersonal rules in various areas of public life. Once these conditions had been met, countries could expect to join the European Union. Risk and uncertainty had been expelled from the technocratic path of the peoples towards a 'bright European future'. Predictability had become a decisive feature of the process aimed at lulling, restraining, and neutralising the political in the candidate countries.

The end of an era of integration and entering on a historical *interregnum*

The European project encountered an existential crisis at the peak of its success, namely shortly after the establishment of the common European currency in the first decade of the XXI century. It was triggered by an uncontrolled growth of public debt in some member states. Paradoxically, as it turned out, what really caused the crisis was actually the great success of Monnet's method, which erased the space for political experimentation.¹⁹ Namely, the economic predicament that Greece, Italy, Spain, and Portugal found themselves in required changes and innovations in the areas of fiscal and monetary policy.²⁰ However, the steps previously taken on the path to integration had eliminated the possibility to initiate, innovate, risk, and take responsibility in free determination of wages and pensions, inflation, interest rates, tariff, or non-tariff barriers. The normative standardisation of life in the EU had gone too far. The form

¹⁸ See C. Offe and U. Preuss, *Citizens in Europe – Essays on Democracy, Constitutionalism and European Integration* (Colchester: ECPR Press, 2016), 455–77.

¹⁹ Among numerous studies on this subject see for example: G. Majone, *Rethinking Union of Europe Post-Crisis* (Cambridge University Press, 2014).

²⁰ Y. Varoufakis, *And the Weak Suffer What They Must* (Nation Books, 2016), 198–237.

had become almost completely independent from the life of a decapitated society. At the same time, Monnet's method had made the decision to return to the previous stage of integration too expensive for the very countries with the biggest economic problems, such as Greece and Italy.²¹ The peoples of Europe, as former sacrosanct subjects of the political, found themselves on the floor with their hands and feet tied up. And a blindfold followed, as an insult to injury added by their academic elites, having been lulled for too long by generous European research scholarships and the blind belief that the integration process was an end in itself.²²

Those in governing positions dealt with the crisis in the only way that remained available to them in the circumstances of the rigid rules pervading every pore of the emerging supranational community – by violating those very rules. The decision on the new paralegal fiscal agreement (2012–2014)²³ was mostly influenced by Germany as the most powerful member state. This decision was implemented by different cogs of the steering mechanism at the European and national levels. It relieved the monetary union and its members from the threat of bankruptcy, chaos, and disintegration. However, the decision violated the founding treaties and national constitutions, and the Union was led into an undeclared state of emergency.²⁴

The anti-crisis measures plunged the European Union into a storm of hidden constitutional transformations. The Union began to lose some of its key features and take on new ones. Democracy has never graced the EU's political system. It was not crucial for its development and functioning indeed, since that system met the other two 'good governance' conditions; first, it had an out-put in regard to the declared purposes of integration – peace, prosperity, and security; secondly, each member state's entering and remaining in the 'system' was under the flag of voluntariness. All state systems are marked by some form and degree of compulsion. The legitimacy of such compulsion, however, is based on the democratic character of the states whose system it is. The presence and degree of democracy within a state system is proportional to its legitimacy, i.e., how acceptable it is for the people. In contrast, the crisis and the way it was resolved, and especially its duration and normalisation as part of life, turned the Union into an enforced system without democracy.

²¹ See F.W. Scharpf, No Exit from the Euro-Rescuing Trap? *Max-Planck-Institut für Gesellschaftsforschung Discussion paper, no. 14/4*, 2014.

²² J. Weiler, "Europe in Crisis – On 'Political Messianism', 'Legitimacy', and the 'Rule of Law'," *Singapore Journal of Legal Studies* (December, 2012).

²³ Treaty on Stability, Coordination and Governance in the Economic and Monetary Union, 2012/2014. <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A42012A0302%2801%29>.

²⁴ See C. Joerges, "Law and Politics in Europe's Crisis: On the History of the Impact of an Unfortunate Configuration," *EUI Working Papers, Law 2013/09*, European University Institute, Department of Law, 2013. See also E.W. Böckenförde, "Kennt die europäische Not kein Gebot? Die Webfehler der EU und die Notwendigkeit einer neuen politischen Entscheidung," *Neue Züricher Zeitung* (21 June, 2010), accessed at: http://www.nzz.ch/nachrichten/kultur/literatur_und_kunst/kennt_die_europaeische_not_kein_gebot_1.6182412.html. Also noteworthy in this context is the compendium *Kriza Evropske unije [The Crisis of the European Union]* (ed. S. Samardžić and I.R. Milosavljevic), Službeni glasnik, Belgrade, 2013.

A number of the anti-crisis measures introduced in the EU (from 2010 onwards) can be assessed from different points of view – politically-purposeful, economically-rational, legal-procedural, ethical-social, etc. Regardless of the different points of view, the general appearance of the European Union is significantly different from that of a decade and a half ago.²⁵ Great internal differentiations have appeared that can objectively be controlled only by intensified mechanisms of enforcement. For example, the differentiation between the creditor states and debtor states is kept in the regime of the so-called European Semester, which is far from procedurally transparent, let alone democratic. The differentiation between the European rich north and the poor south is reflected in the deep disputes over, for example, the next budget (2021–2027) and, more specifically, over its revenue and expenditure side.²⁶ Furthermore, there is a differentiation between the powerful and powerless, creators and recipients of strategic decisions, in regard to access to narrow, invisible circles where the anti-crisis decisions are prepared, and so on.

Observing the recent method of the crisis system functioning, and in particular its durability as a perceptible effect of the longevity of the crisis, leads to the conclusion that the Union entered on the path of an unforeseen and unintended outcome from which no way forward can be seen. Namely, there is not the slightest sign of preparations for initiating a discussion and harmonisation procedure regarding the reform of the system. We are assured of this conclusion by the only relevant political attempt of its kind so far, the document of the European Commission published in ‘Reflections and Scenarios for the EU 27 by 2025.’²⁷ And indeed, it has been four years since then, during which no one has even commented on this document. Nothing else can be expected in a system that now relies on an anti-crisis mechanism, which is growing into a permanent mechanism for governing public affairs. The effect of the measures that introduced an undeclared state of emergency is not time-limited, because there is no one to lift the factual state of emergency.

The absence of strategic priorities of the Union due to the crisis

It seems quite incredible that the EU enlargement policy is not changing in the circumstances of such changes.²⁸ Not only is this systemically illogical, given the

²⁵ See S. Samardžić, *Evropska unija: sistem u krizi [The European Union: A System in Crisis]*, Izdavačka knjižarnica Zorana Stojanovića, Sremski Karlovci, Novi Sad, 2016, 48–76.

²⁶ In its second phase, during 2020 in particular, the debate on the budgetary issues took on an additional form of internal differentiation. The leading member states have been insisting that the criterion of rule of law should be included among the conditions for the distribution and use of the budget (2021–2027) together with the Development Fund, referring primarily to Hungary and Poland. See A. Azmanova and K. Nicolaidis, “The rule of law: a simple phrase with exacting demands”, portal *Social Europe*, 27 November 2020.

²⁷ See also the Rome Declaration adopted for the 60th anniversary of the European Economic Community (25th March 2017) and, the Commission’s document concretisation delivered by the then President of the Commission J.C. Juncker in his ‘State of the Union’ address (13th September of the same year).

²⁸ See the latest EU enlargement strategy so far, “A credible enlargement perspective for and enhanced EU engagement with the Western Balkans,” European Commission, Strasbourg, 6.2.2018, COM (2018) 65 final, on the EU official website at https://europa.eu/european-union/index_en.

severe crisis of the system, but also taking into consideration the frequent statements of influential EU officials, saying that no enlargement is possible for an unknown period of time. Moreover, not only is the enlargement not on the EU agenda, but the question has been raised as to whether it is sustainable at all in its today's institutional arrangement.²⁹ The solution to this paradox – that everything is changing except the enlargement policy – lies in the *de facto* change in the function of the enlargement policy.

First of all, this policy no longer possesses the solid integrative dimension, where the enlargement of the Union is basically a spatial expansion of the integration matrix towards new candidate countries. This original function of the enlargement was replaced by a new, geopolitical one, which instead of an internal reason for integration introduces an external security reason in accordance with the new dynamics of power on a global scale and the need for a stronger consolidation into the Western system of the collective security.

Along the same lines, as another feature of the changing function of the EU enlargement that follows directly from the first one, this policy is to keep the so-called countries of the Western Balkans in the orbit of the Western security control. Given that this policy coincides with the internal crisis of the EU, which objectively limits the full membership of any country of the region, in the new conditions the Union can only opt for not formally changing the membership perspective.³⁰ This perspective is now becoming a mere factor of attracting and motivating the ruling political establishments and the EU-inclined cultural elites in those countries.

In its content, this policy has become a transmission belt of a broader geopolitical strategy. The membership perspective, which is lost in an unforeseeable future, makes sense only as a preventive action inspired by fear that the states of the so-called Western Balkans - Serbia, Montenegro, Bosnia and Hercegovina, Macedonia, and Albania - could turn their attention to geostrategically competitive destinations in the absence of a realistic EU accession policy. Not only did such destinations actually emerge, but this fact has become referential for a new kind (and phase) of competition spiced with conflict potential. Serbia is a good example

²⁹ This question was posed most directly by French President E. Macron at the world forum in Davos in 2018 when he said that Europe should find a new ambition. Saying that he was not naïve, he admitted that EU were not going to build something sufficiently ambitious as 27, offering the suggestion for a reconsolidation of France, Germany and North Europe, where those who are more ambitious should initiate strengthening ties. See Address by President E. Macron at Davos, <https://in.ambafrance.org/Address-by-Prez-Emmanuel-Macron-at-Davos>.

³⁰ See S. Samardžić and B. Kovačević, 'Evropska unija pred promenama – imperija ili diferencirana integracije: sa posebnim osvrtom na slučaj Srbije [European Union Facing Changes – Empire or Differentiated Integration: The Case Study of Serbia]', in: R. Nakarada and D. Živković (ed.), *Srbija u evropskom i globalnom kontekstu [Serbia in the European and Global Context]*, Faculty of Political Sciences, University of Belgrade, Belgrade, 2012.

of this. Its official accession policy, as a long-lasting open process, is faced with incompatible strategies of the USA and the EU on the one hand, and Russia and China on the other hand. The open accession process without a realistic goal (full membership) has opened a gap of opportunity for investments from China and Russia (infrastructure, heavy industry, energy), necessary to ensure economic growth to enter the country. The Western side is hindering this process by all means possible, without being able to provide its own investment alternative, much less likely a completion of the accession process.³¹

In such actual circumstances, the so-called Western Balkans is no longer a space for the EU's foreseeable enlargement from the Thessaloniki Agenda (2003), but is becoming, as one influential German author vividly describes it, 'a neutral zone between two large-scale systems' to be kept under EU control.³² In this sense, the 'prospect of accession' should be maintained as the strongest motivating tool for the political class, cultural drive, and the broadest sections of the population in anticipation of the European Union standard of living.

This *modus novum* of the enlargement policy has held water for just over a decade.³³ In that period, from the point of view of the ultimate goal – a full membership in the EU – the accession negotiation dynamics seemed to have been spinning its wheels. As the negotiation chapters opened, the membership perspective became realistically further away. Technically, Serbia did not fulfil the conditions for closing even the opened chapters, of which there are now slightly more than half (out of a total of 35). This is especially true for control chapters 23 and 24, which could not be reformed either inherently or as benchmarks for other chapters. On the other hand, chapter 35, which bears the innocuous title 'Other Issues', concerns nothing less than the state's renunciation of one part of its territory, which is a condition that is impossible to achieve under democratic assumptions, as a general measure of progress. To make matters even more complex, this chapter also has the status of a benchmark for all other chapters.³⁴

This reality, however, has long been overshadowed by the wider reality of the Union's inability to expand further due to its internal problems. This time-unlimited and structurally caused factual situation jeopardises the effects of intensive propaganda of the European integration as a policy without alternatives and 'the only ideological

³¹ This problem is independent of the USA and EU demands for Serbia to recognise 'Kosovo's' independence *de iure*. The only purpose of associating the recognition of independence and progress in EU accession is the additional motivation for the political class and media-cultural sector to accept the recognition conditions although the fulfilment of this condition cannot realistically affect the prospects for the EU membership.

³² See H. Münkler, *Macht in der Mitte - die Aufgabe Deutschland in Europa* (Köreber-Stiftung, Hamburg, 2015), 157–58.

³³ Its practical onset in Serbia can be associated with signing the Stabilisation and Association Agreement with the EU by the end of April 2008.

³⁴ See General position of the European Union – Negotiation framework for accession negotiations with the Republic of Serbia, Article 23, on the official website of Serbian Government.

game in town'. Awareness of that, associated with the new EU leadership ambition of French President Emanuel Macron, has fuelled the talk of a new accession methodology.

The Union in its own dilemmas

Therefore, the enlargement policy has remained the same only in the statements of some officials of the European Union, its official documents, and public addresses of political actors in the candidate countries. In the reality of the integration process, however, a great change has taken place. The governance logic, which managed to maintain the internal stability of the EU system, has spilled over to the Union's attitude towards the countries in the status of membership candidates. Predictability has disappeared. A decision in violation of the previously given promises, agreements, arrangements, has taken the place of clear and measurable criteria for membership. The objective verification of the compliance of the norms of life in the candidate countries with the European model have been pushed into the background.

Featuring highly in the regular annual reports on the progress of the accession process is the phrase 'there is some but insufficient progress,' leaving this type of document devoid of the serious objective analysis of the factual state of affairs in the candidate country. Indeed, the writers of these reports have a new task: to give the impression of processuality leading to the goal (of membership), but also to make it known that the goal is not to be hoped for in any foreseeable future. This political-psychological game does not seem to be groundless only because the candidate countries (and potential candidates) keep failing to practically refute the remark '... but insufficient.'³⁵ We all know that our countries are not regulated well and we should not be angry with those who write the reports and their principals. The latter, however, might face a major problem if someone responsible in the candidate country asked the question: what would happen if we met the conditions? Or a much more realistic question: can we change the mode of cooperation that would be more realistic for the current period of *interregnum*, since it stems from your internal problems, and not our, already known ones? Although still unquestionable, the readiness of the politicians from the Union's outer periphery to take on the role of domestic guardians of the external supranational governance mechanism has nevertheless become insufficient. The decision to admit new members is free of the former constraints of clear rules and measurable reform results. It has become arbitrary, despotic, and dependent on the mere will of those who won the election in strong member states. Stripped of the freedom to regulate the life of their societies, the political representatives of the

³⁵ This style of reporting was repeated in the latest annual report on Serbia from October 2020 (See European Commission, Serbia 2020. Report, Brussels 6. 10. 2020). The tone of the report is flattened in regard to the greatest challenge – introduction of 100% tariffs on goods from Serbia and Bosnia and Herzegovina by the 'Kosovo' authorities. The situation lasted for a year and a half (November 2018–July 2020), and these measures have practically catapulted the CEFTA agreement (CEFTA – Central European Free Trade Agreement, 2006) for the so called Western Balkans. During the entire duration of this tariff regime, the Union did not intervene with 'Kosovo' authorities, although it had mechanisms for that in its Stabilisation and Association Agreement (2013) with 'Kosovo', (see document 66–67).

EU citizens have enthusiastically seized the freedom to decide on the fate of the peoples on the outer periphery. However, years are inevitably going by and the reality is becoming more and more evident of the ‘buffer zone’ that is to turn the official EU enlargement policy into reality by completely changing its content.

The first one to catch up to the new reality of the integration process was the President of France, Emmanuel Macron. On his behalf and on behalf of other EU members, the Commission once promised the people of Macedonia that they would be returned to the path of EU accession if their political representatives changed the name of their country. Then Macron decided to break that promise. A ruler can violate the rights of its subjects and the promises given to foreigners if the changed circumstances require that, Macron’s compatriot Jean Bodin wrote many centuries ago. Who determines if the circumstances are really new? The ruler himself, Bodin replies. The fact that he cannot be limited by anything is what makes him sovereign indeed.³⁶ Although powerless to follow the logic of sovereignty in his own country shaken by the ‘yellow vests’ revolt (*gilet jaunes*),³⁷ Macron, interpreting the changed circumstances in the world, came to the conclusion that the Union does not need the disorderly Macedonian society at this moment. A similar interpretation would result in the proposal to reform the entire enlargement process, which would be translated into an initial document by the European Commission.³⁸ Namely, these countries cannot simply be rejected for clear geostrategic reasons, but they cannot be left hanging in the ‘buffer zone’ either. The assumption is that they are essentially not entitled to their own choice. On the other hand, however, they must be offered at least a reformed agenda of the current enlargement/accession policy, since the existing one already raises doubts and suspicions of even the most loyal advocates of the so-called Western Balkans’ European integration.

Does this document herald a serious reform or an empire of arbitrariness?

First of all, the document sticks to the old language of accession, although the EU does not give any prospects for its enlargement, which is supposed to be the same thing as accession only in the opposite direction. In the EU’s political vocabulary used for the countries of the ‘Western Balkans’, accession is a spell from which the EU magically derives its ‘credibility’. If this linguistic fog were dispelled, for example, if instead of accession, the expression - association, which matches reality better, was

³⁶ See Chapter 10 of Bodin’s first book on the Republic, entitled “On the true marks of sovereignty” J. Bodin, *Les six livres de la Republique* (Fayard, 1986), 298.

³⁷ https://en.wikipedia.org/wiki/Yellow_vests_protests.

³⁸ See the document: Enhancing the accession process - A credible EU perspective for the Western Balkans, European Commission, Brussels, 5.2.2020, on the European Union’s official website at https://europa.eu/european-union/index_en. The document was to be commented on by all the EU institutions, while final decision was to be made by the European Council in May 2020. This timetable was disturbed by the Covid 19 virus pandemic. The final decision on this document has not yet been made (beginning of December 2020), but this fact has no bearing on our analysis of this initially ambitious document.

used, one could believe that the Union is ready for reforming this process, and in that light, some new solutions from the document would seem more realistic. As it is, for all those who approach the relations between the EU and the countries of this region *sine ira et studio*, it is clear that something is at work here that is not marked in the official language but is much closer to the reality – accession without membership.

The text of the proposal abounds with the phrases like ‘more credibility’, ‘predictability’, and ‘merit-based prospect of full EU membership’.³⁹ In the official documents of the European Union, there are always names for what still does not exist but could be created, such as European identity, European values, citizens, democracy, etc. In this case, however, it is something that used to be there, but no longer exists today: a clear connection between the fulfilment of objective criteria for membership and the EU membership itself. In addition to the innovations that we will focus on in the following section, the proposal also brings a more serious novelty that gives Macron’s decisionist turn a formal veneer. It opens up the possibility for the political representatives of each of the member states to monitor the reform steps of the candidate countries more closely. The lost freedom of making political decisions in their own countries will return to the ruling elites of Croatia, Latvia, the Netherlands, or the Czech Republic in the area of relations with the candidate countries.

The consequences of this possibility can be the following: the role that Macron assumed in the case of Macedonia will now be more and more available to all other heads of states and governments. Depending on their own interpretation of how and whether the situation in the Union and the candidate country has changed, they will be able to get the things back to the beginning, interrupt the negotiations and resume them, accelerate or decelerate them. A political entity, humiliated in its own EU member state, unable to autonomously determine the retirement age of its citizens or education and health expenditures, will behave all the more capriciously, unpredictably and arrogantly in the only free sphere it has managed to keep to itself, in the space of the EU enlargement policy. It may so happen that some of the members decide that, for example, Serbia or Montenegro need to be admitted to the EU under an accelerated procedure. Maybe everyone else agrees. On the other hand, perhaps one or two smaller states object to it and the entire process reaches an impasse. And perhaps the EU members decide to freeze the enlargement process for the next 50 years. Thus, the decision has irrevocably moved into the sphere of despotic arbitrariness, and its consequences have become detached from the rational perception of the future of the citizens on the outer periphery of the EU.

³⁹ See the document: Enhancing the accession process - A credible EU perspective for the Western Balkans - A credible EU perspective for the Western Balkans, European Commission, Brussels, 5.2.2020. 1, https://europa.eu/european-union/index_en.

Something like a reformed offer

The document presented by the European Commission⁴⁰ is far from its final form, but as such, it was supposed to encourage public debate in Serbia, a country where the ‘path towards the EU’ is the official policy. The expediency of such a policy has never been seriously debated in the country itself, at least among experts. In regard to encouragement, the very text leaves a lot to be desired in terms of the reform. However, reasons for a broader thematic discussion can be found in what constitutes change. If we lay out before us an understanding of the state of affairs regarding Serbia’s accession to the EU, we can rightly consider an alternative path not ‘towards the European Union’ but ‘with the European Union.’

So, until ‘the EU is reformed’ (E. Macron),⁴¹ it would make perfect (common) sense if Serbia did not follow the previously traced path to the EU, because its destination has been lost in the real time and space. Instead, it would be better to work closely with the EU, including the integration dimensions of that cooperation in the areas where it is in both parties’ interest and with the intensity that adheres to the principle of the greatest possible degree of cooperation. The question is: can the Commission’s document be interpreted in this way as well? Or, more specifically, can this document be understood from the perspective of differentiated association?

In the academic literature on European integrations, the thesis of differentiated integration is examined very seriously. Back in 2009, immediately after the first signs of the structural crisis, its greatest representative and defender, Giandomenico Majone, concluded that “neither geographically nor functionally or culturally does the ‘Europe of Brussels’ coincide with, or represent, the entire continent.”⁴² In addition, the author notes that the deepening and enlargement of the European Union has reached the limit, or that the limit has already been exceeded, of the system’s capacity of internal harmonisation and homogenisation of numerous integration ventures, and that this factor (the integration model) in itself is a crisis environment.⁴³ As he asserted in a later work “size and diversity also make the Union increasingly difficult to overcome the limitations imposed by the logic of collective action.”⁴⁴

⁴⁰ European Union. Enhancing the accession process - A credible EU perspective for the Western Balkans. 5 February 2020. https://ec.europa.eu/neighbourhood-enlargement/enhancing-accession-process-credible-eu-perspective-western-balkans_en.

⁴¹ Élysée. Speech by the French President at the World Economic Forum in Switzerland, on January 24, 2018. <https://www.elysee.fr/en/emmanuel-macron/2018/01/24/speech-by-the-french-president-at-the-world-economic-forum-in-switzerland-on-january-24-2018>.

⁴² G. Majone, op. cit. 206.

⁴³ Ibid., 134–38, 208.

⁴⁴ G. Majone, *Rethinking Union of Europe Post-Crisis* (Cambridge University Press, 2014), 264.

Simply put, the principle of uniform rules (one-size-fits-all) is no longer valid. Instead, the author proposes differentiated integration, based on competition and cooperation rather than on harmonisation and unification.⁴⁵ Along with this approach, Vivien Schmidt explains the thesis of differentiated association as a better solution within the EU pan-European policy than the existing matrix of uniform association/accession.⁴⁶

Viewed from this angle, a new set of six clusters of specific areas attracts the most attention in the Commission's document. Within each of them - Core Areas, Internal Market, Competition and Inclusive Development, Green Agenda and Sustainable Connectivity, Resources, Agriculture and Cohesion, External Relations - there are specific sub-areas that sometimes do not have close functional links. The emphasis is on the proposal that individual clusters should be negotiated separately, most likely in phases, but simultaneous negotiations are also possible, and that they are all equally subject to the procedures of imposing conditions, monitoring, evaluating, rewarding, and punishing. What can be imagined as new here is the progress of negotiations in certain areas in relation to others, having in mind their functional integration in the EU system, including using numerous internal funds equally (with other member states). However, once the highest phase of inclusion (integration) in a certain area is achieved, there is no participation in the creation of corresponding policies envisaged on the part of the representatives of, for instance Serbia, which goes to show that it is the highest phase of association with, not accession to the European Union. And that is perfectly fine, but it gives rise to additional questions.

First of all, is it possible for a candidate country (Serbia) to opt for some area clusters and not for all, starting not only from its current priorities, but also from its strategic policy? If this is not possible in the field of justice and fundamental rights (within the first cluster) because it is an all-pervading condition that has the role of a general benchmark, is this possible in any of the remaining clusters? For example, in the sixth cluster – External Relations and Defence, where Serbia prefers military neutrality. Or, furthermore, that in some clusters one goes to the end of possible integration, and in some only to a certain level?⁴⁷ Could Serbia, for example, accept only the Third Energy Package of the Union, and not the first two?⁴⁸ Given that the Union

⁴⁵ See G. Majone, *Europe as the wFould-be world power* (Cambridge University Press, 2009), 215–22.

⁴⁶ See V.A. Schmidt, "Re-invisioning the European Union: Identity, Democracy, Economy," *Journal of Common Market Studies* 47, (2009): 30 ff.

⁴⁷ As member states were allowed in the Union, for example, Denmark accepted the previous conditions of the monetary union, but not Euro. Similarly, in the area of the Agreement on free movement of persons (Schengen Agreement).

⁴⁸ European Union. See Regulation 715/2009/EU and Directive 2009/73/EU.

cannot give it membership, could it subsidise agricultural production independently, or restore at least minimal tariff protection on imports of agricultural produce from the Union? Could it maintain its favourable trade agreements with other countries and groups of countries until it enters the common market – which is an almost impossible mission? We emphasise that this would be an alternative policy of Serbia's accession to the European Union, having in mind the real and long-term situation where the Union cannot enlarge, i.e., give a state its full membership.

The answer to these and similar questions depends on how a deeper layer of problems will be solved. At the level of principle it is the question of whether the EU will accept the model of differentiated integration and, at the specific level, whether the Union will firmly adhere to its quasi-enlargement policy (for candidate countries – accession without membership), or will it allow the possibility of non-compulsory differentiated accession? Judging by some highlights from the introduction to the document, where the enlargement policy for the 'Western Balkans' is based on 'geostrategic investment in a stable, strong and united Union', it will be hard for the candidate countries to wriggle out of the embrace of a total dependence.

But, if Serbia decided to look at things from the point of view of its own interests at the given time, and if the achievement of such interests followed the logic of differentiated association in the future, Serbia would have to raise all these questions and address them to the appropriate bodies of the Union. This would confirm that it seriously considers its development and its European future. At the same time, it would help the Union itself to reach an optimal model of its relations with the candidate countries in the upcoming period of its own reform.

Conclusion

In this article, the authors claim that Macron's announcement of a decisionist turn in the enlargement policy offers Serbia an opportunity, Machiavelli's *occasione*. Such an opportunity is born in a situation when the old order and the idea on which it rests is no longer a reliable guide through the reawakened life of the community. Unlike the EU member states, particularly those members of the monetary union most affected by the public debt crisis, Serbia has retained a rather wide scope of freedom for political action. The political subject, the *demos*, has not yet relinquished the search for its own form of collective existence. The question of meaning has not disappeared from the sphere of the political. Although the process of setting social life norms according to European rules has gone very far, the possibility has not been lost of re-examining these rules and adjusting them to the interests of the people. It is in that sense that the authors understand the proposal of the Commission of the European Union as an opportunity to establish a new type of relationship between Serbia and the EU. Seemingly paradoxically, due to the conditionality of Serbia's membership in the EU on requirements that can hardly be achieved without major social upheavals, such as the one on recognising the independence of 'Kosovo', both the EU and Serbia have kept room for freedom to decide about the form and degree of cooperation. This is the most important conclusion of this article.

The President of France, therefore, takes credit for lifting the technocratic curtain off the stage for experimentation, innovation, initiation, and political creativity in shaping the relations between the emerging supranational community and the states on its periphery. The leading political parties in Serbia, non-governmental organisations and the system's media met Macron's decision to stop the accession of Northern Macedonia and reform the enlargement methodology with bitterness. Feelings of betrayal, disappointment, and anger prevailed in the public sphere.⁴⁹ The most publicly visible figures of political life clutched for that curtain to prevent it from being lifted. We are going into Europe, even if the President of France does not want us! resonated from various public discussion platforms organised in Serbia immediately after Macron had presented his proposal. Nevertheless, no matter how hard they pull, the curtain is being lifted. There remains an empty political space of freedom, a stage that now needs to be filled again with knowledge, vision, imagination and common sense, but above all, with responsibility for the fate of the community weary of wars, sanctions and illusions.

Today's unskilled leaders of the people and their ideological supporters from non-governmental sector, lulled by ignorance and driven by selfish interests, are stuck in the state of bewilderment at their role of a possible theatre director. They are not up to it. They are used to having someone else directing the play. If they really try their hands at this new business, what might be expected on the stage is a debacle, chaos, and, eventually, open violence as a means of maintaining the corrupt system.

As for the major recommendation of this article it refers to the role of the Serbian academic elites. The task of the intellectual elite is to prevent this pitiful development of the EU-Serbia relation by taking a conscious step out of the comfortable position of a spectator. To get into the arena and reassume the responsibility for the city, which they once gave up dazzled by the dream of a European path, is the task of researchers and professors from Serbian universities. A theatrical play free of dogma, in addition to responsibility, also requires political ingenuity, cunning, caution, devising alternatives, knowledge, imagination, and talent of all those who decide to participate in it. To liberate, through open public debate, all spheres of social life covered by the curtain of sometimes useful and sometimes meaningless and harmful European rules; to open a space for initiating something new in order to preserve the old that has been passed on through the centuries of living together, that still holds us together and makes us a politically self-conscious people – that is the most important task of the time dedicated to this issue.

Data availability

No data are associated with this article.

⁴⁹ See for example, the tone and content of the participants in the conference of the organisation 'Serbia 21' where the declaration was adopted on 23. 11. 2019, entitled 'The Declaration on the Political Future of Modern European Serbia' at: <https://www.danas.rs/politika/potpisana-deklaracija-o-politickoj-buducnosti-moderne-evropske-srbije/>.