



**PILLAR IV
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The Next EU Enlargement “Wave” in the Western Balkans: The case of Albania

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I. ABSTRACT

The better part of the last two years has made a case for the return of the ‘Balkan question’ on top of the European Union’s agenda. The Western Balkans (WB) countries’ - Albania included – difficult road towards the consolidation of democracy and the rule of law for the scope of accession to the European Union (hereinafter the EU) has been constantly burdened with difficulties. Opposed to a region always associated with instability and autocratic pasts, a huge part of the European Union’s foreign policy has aimed at nurturing a regional and global image of a stable, positive and consolidated set of values. In present times however, mainly due to crises such as the rising populism in EU member states, terrorism threats, the ongoing Russian influence and the Islamic-authoritarian Turkish model - different from NATO’s guaranteed rule of law and democracy model - the image of the EU as a global player appears to have been put to the test. In this condition, the EU needs evidence that it is capable of solving the major problems our continent now faces and reclaiming its position as a prominent global player. On the other hand, the WB’ countries may perceive this as the most appropriate time to overcome the so-called enlargement fatigue, which for Albania would mean officially opening accession negotiations with the EU. But does the fact that the Union seems to recently have (more or less) abandoned its past “*business as usual*” approach towards a more pragmatic and encompassing enlargement strategy, guarantee a credible acceleration in the process of Albania’s future EU membership? Moreover, what other strategic tools should the EU use, in order to further promote Albania’s integration agenda?

The main scope of this article is to provide an analysis on Albania’s current state of play regarding potential EU membership, by reviewing its current achievements and remaining challenges, as well Europe’s political conditionality in the Western Balkans region.

KEY WORDS: EU enlargement agenda, European Commission, Western Balkans, rule of law, democratization, EU Enlargement Strategy.

ABBREVIATIONS:

CSOs	Civil Society Organizations
EU	European Union
MS	Member States
SAA	Stabilization and Association Agreement
WB	Western Balkans
WB 6	Western Balkans Six

II. INTRODUCTION

As previously stated, the Union seems to have stepped away from the “keep at arm’s-length” attitude with regard to Albania and the WB in general, by using a less vague wording, as well as setting 2025 as potential timeframe the Member States may increase in number. The European Commission President J.C. Juncker - in his 2017 State of the Union Speech ¹ and later in the published “*A credible enlargement perspective for and enhanced EU engagement with the Western Balkans*” Strategy ² - unlike other times, mentioned a clear time perspective for the EU accession of all of the Western Balkans countries, ultimately aiming to build a “*more democratic Europe for 2025*”.³ Bulgaria took over a six-month EU presidency in early 2018 ⁴ and more importantly, on 17 April 2018 the European Commission officially gave its recommendations to the European Council to open EU accession negotiations with Albania, which may arguably be interpreted as a momentum for potentially strengthening Albania’s European perspective.⁵ However, for the sake of this article, it is important to argue whether the Commission’s attitude provides much reason for optimism that enlargement for Albania could be achieved by 2025. First, the *political legitimacy* of accession negotiations for Albania seems to be flickering: some

¹ See European Commission President Jean-Claude Juncker, State of the Union Address, “Western Balkans Enlargement: Common Destination”, retrieved on 13 September 2017, available at https://ec.europa.eu/commission/sites/beta-political/files/western-balkans-enlargement_en.pdf

² See Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, “A credible enlargement perspective for and enhanced EU engagement with the Western Balkans”, Strasbourg, 6.2.2018 COM(2018) 65 final. Available at https://ec.europa.eu/commission/sites/beta-political/files/communication-credible-enlargement-perspective-western-balkans_en.pdf

³ *Ibid.*, pg.2 and 8.

⁴ The role of the presiding country is to, in cooperation with the European Commission, coordinate / manage the policies and activities of the European Union. With regard to accession negotiations between the EU and candidate countries such as Albania, it is the presiding country’s duty to define the agenda, alongside the calendar of decision making on the subject, thus Albania or other candidate countries can influence the dynamics of these negotiations. See also “Session II: Accelerating Reforms in View of European Perspective for the Western Balkans”, Inter-Parliamentary Conference for the Common Foreign and Security Policy (CFSP) and the Common Security and Defense Policy (CSDP), Sofia, retrieved on 15-17 February 2018. See also Speech by [Ekaterina Zaharieva](#), Deputy Prime Minister for Judicial Reform and Minister of Foreign Affairs of Bulgaria, “The Western Balkans agenda is for the whole of Europe: Our tomorrow is shared”, retrieved on 14.02.2018. Available at <https://europeanwesternbalkans.com/2018/02/14/western-balkans-agenda-whole-europe-tomorrow-shared/>

⁵ See Remarks by HR/VP Mogherini at the joint press conference with Edi Rama, Prime Minister of Albania, retrieved on 18.04.2018. Available at https://eeas.europa.eu/headquarters/headquarters-homepage/43127/remarks-hrvp-mogherini-joint-press-conference-edi-rama-prime-minister-albania_en. For further information, see also Speech by the HR/VP Mogherini at the event “Albania: Committed to the Reform” at the European Parliament”, Brussels, 20.03.2018. Available at https://eeas.europa.eu/headquarters/headquarters-homepage/41721/speech-high-representativevice-president-federica-mogherini-event-albania-committed-reform_en and “Mogherini: Albania is ready to open negotiations, maintaining and deepening reforms ahead”, available at https://eeas.europa.eu/headquarters/headquarters-homepage/43154/mogherini-albania-ready-open-negotiations-maintaining-and-deepening-reforms-ahead_en.

Member States⁶ have not expressed much enthusiasm in supporting the Commission's recommendations for opening accession negotiations, which for some may be interpreted as a signal for the direction of the upcoming Council vote in June 2018. Secondly, both the Enlargement Strategy and the Commission's 2018 Progress Report for Albania⁷ continue to point out remaining structural challenges with regard to the country's rule of law performance, impeding the latter's progress. Despite applauding the recent implementation of a comprehensive justice system reform⁸, in the 2018 Report is clearly stated that Albania needs to continue maintaining and deepening reforms to fight corruption and organized crime.⁹

Consequently, despite the Commission's official recommendation for accession negotiations and the fact that the 2018 Enlargement Strategy has *prima facie* seemingly established a new precedent - shying away from its usual diplomatic language - it is important to argue on what this Strategy should actually translate to for all parties involved: on the one hand, further aligning Albania's achievements to EU standards and on the other, cementing the EU's engagement in the Western Balkans by laying down a concrete membership perspective for each country of the region.

III. EVALUATING THE MULTIFACETED NATURE OF CURRENT EU ACCESSION MECHANISMS

For the scope of this article, this section will not dwell on describing the European Union's current accession mechanisms (the traditional political Copenhagen criteria or the conditionality policy) in detail, but rather aims to discuss the potential drawbacks they may cause to Albania's future path to EU membership.

First, the defining concepts of the one of the Copenhagen's criteria - the political one - such as democracy, rule of law, human rights and safeguards that the European Union requires that every candidate country to adhere to as a membership prerequisite, are most often mentioned in the Annual Progress Reports issued by the Commission to evaluate the progress of each aspirant country. The latest Progress Report for Albania also stresses that the EU's fundamental values include the rule of law and respect for human rights. However, these terms may perhaps be considered as vague and too broad, which in turn may serve the EU as leverage for prolongation

⁶France and Germany have recently resisted further EU enlargement. See for example <http://www.dw.com/en/frances-emmanuel-macron-calls-for-revival-of-eu-democracy/a-43415579>.

⁷ See Commission Staff Working Document, "Albania 2018 Report Accompanying the document Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions 2018 Communication on EU Enlargement Policy", SWD(2018) 151 final, Strasbourg, 17.4.2018, available at <https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/20180417-albania-report.pdf>. See also "Key findings of the 2018 Report on Albania", European Commission - Fact Sheet, Brussels, 17 April 2018. Available at http://europa.eu/rapid/press-release_MEMO-18-3403_en.htm ;

⁸ See Law No. 84/2016 On the transitional re-evaluation of judges and prosecutors in the Republic of Albania. Even without the accession negotiations open, the commission is asking Macedonia and Albania to implement reforms that front-runners Serbia and Montenegro have not yet completed.

⁹ See for example pg.40-43 of the Commission's 2018 Progress Report on Albania, *ibid*.

or perhaps halting the accession talks at any time, if needed. It is this author's opinion that the 2018 Progress Report for Albania still does not appear to present the country with a defined EU membership perspective, at least for the near future.¹⁰ Although the Report acknowledges moderate progress regarding judiciary and the public administration reforms - deemed fundamental to the achievement of good governance and the rule of law - notes the need for further advancement regarding the development of a functioning market economy and the alignment of national legislation to the *acquis communautaire* in a number of areas.¹¹ The Commission has historically chosen never to impose deadlines for the fulfillment of the Copenhagen criteria, thus not allowing for much room for Albania, or other candidate countries, to affect the timeframe or negotiate the terms of accession.¹²

Moreover, it has been demonstrated that the EU favors regional stability and self - preservation over purely legal and political requirements. This can be witnessed by the imposition of different conditional obligations for each candidate country to abide by under country-specific SAAs¹³, i.e., the principle of conditionality. For example, despite the fact that Serbia and Montenegro, two front-runners for early EU membership continue to display concerns with regard to their rule of law performance and have yet to complete related reforms¹⁴, the Commission imposed Albania with the condition to implement judiciary reforms, even though the opening of accession negotiations has yet to be green-lighted by the Council.¹⁵

The changing dynamic of the two main mechanisms for EU accession discussed above may be utilized as ammo for a few Member States to sidestep Albania's road to the EU. As evidenced by the French President Emmanuel Macron speech - just hours after the announcement on the Commission recommendations for opening negotiations - France and Germany, the two main actors in shaping EU foreign policy are focused in reforming the bloc at its current size, instead

¹⁰For further information, see for example [Marko Kmezić](http://www.biepag.eu/2018/02/08/eu-western-balkans-strategy-on-named-and-unnamed-elephants-in-the-room/), "EU Western Balkans Strategy: On Named and Unnamed Elephants in the Room", retrieved on 12.02.2018. Available at <http://www.biepag.eu/2018/02/08/eu-western-balkans-strategy-on-named-and-unnamed-elephants-in-the-room/>

¹¹ See pg.60 – 63 of the European Commission's 2018 Progress Report on Albania, *supra cit.*

¹²See for example STABILISATION AND ASSOCIATION AGREEMENT between the European Communities and their Member States, of the one part, and the Republic of Albania, of the other part, L 107/166, 28.04.2009. Available at [https://eur-lex.europa.eu/legal-content/en/TXT/PDF/?uri=CELEX:22009A0428\(02\)&rid=1](https://eur-lex.europa.eu/legal-content/en/TXT/PDF/?uri=CELEX:22009A0428(02)&rid=1)

¹³See the Stabilization and Association Agreement between the European Communities and their Member States, of the one part, and the Republic of Albania, of the other part, L 107/166, 28.04.2009. Available at [https://eur-lex.europa.eu/legal-content/en/TXT/PDF/?uri=CELEX:22009A0428\(02\)&rid=1](https://eur-lex.europa.eu/legal-content/en/TXT/PDF/?uri=CELEX:22009A0428(02)&rid=1).

¹⁴See "Key findings of the 2018 Report on Serbia", European Commission - Fact Sheet, retrieved on 17 April 2018. Available at http://europa.eu/rapid/press-release_MEMO-18-3406_en.htm

¹⁵Another good example would be the case of Croatia, when the European Union froze accession negotiations with the former, in order to force compliance with the ICTY. However, the European Union has not taken such forceful measures to ensure compliance by Albania, which suggests an inconsistent application of the principle of conditionality with serious measures taken only for those countries that the European Union wants to accede quickly. For more information, see G. Stafaj, "From Rags to Riches: Croatia and Albania's EU Accession Process through the Copenhagen Criteria and Conditionality", *Fordham International Law Journal*, Volume 37, Issue 5, 2014, Article 8.



of further expanding it.¹⁶ Thus, for the scope of this article, is premature to say whether the current reforms have sufficed for the former to “earn its EU accession stripes “or not, by the year 2025. That is why the EU could and should use additional tools at its disposal for the transformative reforms Albania needs, because let’s not forget that in order to ensure that a new strategy can deliver on its potential, it needs to include robust monitoring and enforcement systems. Reforms only count if they are implemented in a reliable and sustainable way, preferably before Albania joins the EU family. By doing so, it is not only showing a significant enhancement of its own engagement with Albania and the countries of the region, but re-inventing its leadership position in the global arena. These tools are discussed in the sections below.

IV. TIME TO RAISE THE BAR: TOWARDS A NEW ERA OF “BALKANS DIPLOMACY”

A. *Berlin Process Reloaded* (?)

The first step in the right direction would be increased economic investments and development in Albania, in order to reach the average level of economic development of EU Member States with that our countries. Despite the implementation of IPA¹⁷ in Albania and the rest of the region, the question of economic development represents an acute problem for the entire Western Balkans. The current level of economic development, with all its negative effects on the level of employment, and especially on the drain of skilled labor, the economic stagnation, i.e. lagging of the region compared to the EU Member States, is one of the generators of the political crisis in Albania. Thus far, structural development support has been reserved exclusively for the EU members. A credible integration strategy should try to provide a creative solution and provide similar treatment in the case of candidates with defining the necessary conditions for the use of this type of support. In that sense, the best proof of credibility with respect to the intentions of the Commission’s Strategy would be unequivocally stating the EU’s readiness to provide funds for the financing of accession and membership of future members (like Albania) in the next EU Multiannual Financial Framework (multi-annual EU budget).¹⁸ This move would have a positive effect of additional motivation for our country and the rest of the region to undertake all necessary reforms in order to take advantage of the opportunity.

¹⁶ *Ibid.*, see <http://www.dw.com/en/frances-emmanuel-macron-calls-for-revival-of-eu-democracy/a-43415579>

¹⁷The Instrument for Pre-accession Assistance (IPA) is the means by which the EU supports reforms in the 'enlargement countries' with financial and technical help. The IPA funds build up the capacities of the countries throughout the accession process. For the period of 2014-2020, the EU funding allocation for Albania is declared to be €649.4 million. See also https://ec.europa.eu/neighbourhood-enlargement/instruments/funding-by-country/albania_en.

¹⁸See http://ec.europa.eu/budget/mff/index_en.cfm.

Secondly, the Berlin Process¹⁹ has resulted quite successful as a regional (mainly political) cooperation initiative filling the gap of the enlargement process. However, while it has brought a positive and undeniable momentum for Albania and the rest of the “WB 6”, the author believes an addition/improvement to the Berlin process would be welcomed²⁰, in order to achieve greater regional economic convergence, by increasing the EU’s financial involvement. In such a scenario, the EU could provide cooperation and development tools which are better directed to the needs of the Balkans region (e.g. create special funds for start-up businesses, vocational training, IT-infrastructure development, etc.)

The EU must thus give priority to ideas and generate visible improvements in all the Balkan countries, aiming to make the region a more attractive economic area. May 2018 will probably give some indication on just how much the EU plans to enhance its economic and overall engagement in the region²¹, since it marks the upcoming [EU-Western Balkans summit in Sofia](#), Bulgaria. The Summit’s ultimate objective is to provide an opportunity to showcase the breadth of EU-Western Balkans relations beyond intergovernmental aspects.²²

B. The Inclusion of Albanian Civil Society

EU’s assistance in civil society organizations (CSOs) so far has substantially contributed to the transformation of the Balkans. However, striving for further inclusion of civil society in Albania - with respect to the EU’s communication with the Western Balkans - is welcomed. Consequently, the Commission should focus on improving robust communication channels with CSOs -aside from those built with state and governmental actors – especially with CSOs with a proven track record of mobilizing citizens around critical issues of justice, democracy and EU enlargement at national and regional level. The relevance of this element is further enhanced at this phase - when Albania hopes to open accession negotiations with the EU.

C. Albania’s Further Inclusion in EU’s “Business”

The European Commission must think about ways to include candidate countries like Albania in various sectoral policies and programs of the Union. Whilst it is clear that Albania would not have the opportunity to participate in the same level as the EU Member States in any type of decision-making, it is possible to predict its role in consultations about the creation and

¹⁹In short, the Berlin Process is a diplomatic initiative linked to the future enlargement of the European Union. It started with the 2014 Conference of Western Balkan States, Berlin, followed by the 2015 Vienna Summit and the 2016 Paris Summit.

²⁰For further information, see Erwan Fouéré, Steven Blockmans, “The ‘Berlin Process’ for the Western Balkans – Is it delivering?”, Centre for European Policy Studies, retrieved on 13 July 2017.

²¹ See President Tusk’ remarks following his meeting with Austrian Federal Chancellor Sebastian Kurz, 13 February 2018, available at <http://www.consilium.europa.eu/en/press/press-releases/2018/02/13/remarks-by-president-donald-tusk-after-his-meeting-with-austrian-federal-chancellor-sebastian-kurz/>

²² It is not by chance that Bulgaria will host an EU-Western Balkan summit on May 17, the 15th anniversary of a previous one in Thessaloniki, Greece, when member states first promised to take in the region.



development of common policies which would be useful and mutually beneficial. In this way, a higher level of integration of these candidate countries would be ensured in areas such as trade, infrastructure, circular migration, as well as pressing questions concerning internal security and the rule of law, or in programs that are intended for scientific research or education for EU citizens.

Moreover, the inclusion of Albanian political representatives in different EU bodies (e.g. the European Council), however modest, would contribute to a better understanding and future application of common EU policies and values by these state agents. It would also serve as a clear message to other countries in the world (e.g. Russia, China, etc.) invested in this part of Europe for different economic, strategic and/or political reasons that the Balkan candidate countries are already a “*de facto part*” of the EU and that their future membership is no longer in doubt.

V. CONCLUSIONS AND RECOMMENDATIONS

This final section provides a few concluding remarks and potential suggestions for both Albania and the EU, as follows.

A. *For Albania:*

- i. Despite the above-specified issues relating to the accession mechanisms required from the candidate countries to abide by, it is undeniable fact that for obvious reasons, Albania’s (and the other Western Balkans countries’) future is irreversibly linked to the European Union. However, almost 10 years after signing the Stabilization and Association Agreement, Albania’s current overall development is still far away from scoring a real membership perspective, due to remaining democratization challenges. The existence of a democratic system that opposes any kind of unlawful influence or corruption is of crucial importance for EU accession but as the 2018 Progress Report states, the establishment of a solid track record of proactive investigations, prosecutions and convictions in the fight against corruption, as well organized crime, have yet to be fully achieved and require further structured and consistent efforts;
- ii. In such circumstances, Albania should undertake a substantive democratic change. This can only be achieved through enhanced national leadership and displaying a clear model on the importance of the EU integration process, through addressing these issues as fast as possible. Taking into consideration that Albania’s toughest and more difficult phase on the path to European Union membership at this very moment lies in persuading the Member States’ governments of the to give their go-aheads with regard to the EU Commission’s recommendation for opening accession negotiations, it is crucial for the country’s authorities to take ownership now and deliver the required results.



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B. *For the European Union:*

- i. First, the EU should do more than simply define the timeframe and membership perspective of two leading candidates up to 2025. On the contrary, for the sake of not demotivating any of the other aspiring members from continuing with their respective reform processes, it is best if the Union follows an *individual approach* to accession for each of the candidate countries, similar to the model provided by Croatia several years ago. In the case of Albania therefore, it is necessary for the EU to determine a clear time frame for assessing its achievements and accordingly define the next stages of the accession process. This is significant also because of the commitment of the European Commission to, at a certain moment, assess the effects of EU accession in all the Western Balkans countries, which is one of the conditions for every EU enlargement;
- ii. Taking note of all that was discussed above, the EU should not unnecessarily hesitate to open accession negotiations with Albania, at maximum by the end of next year. Many challenges remain, but 2018 promises new dynamics in the enlargement process. The EU's renewed engagement, if backed with strong local determination to reform, could lead to advances on Albania and each Western Balkans country's road to membership.