

# New Momentum in EU Enlargement: Kosovo's Potential Benefits

Gjeraqina Tuhina/Augustin Palokaj



January 2018

Title: New Momentum in EU Enlargement: Kosovo's Potential Benefits

Authors: Augustin Palokaj Gjeraqina Tuhina

Published by: Kosovo Foundation for Open Society



This project was funded through a Kosovo Foundation for Open Society (KFOS) grant. The opinions, findings, conclusions or recommendations expressed herein are those of the Author(s) and do not necessarily reflect those of KFOS.



## Contents

5	Introduction
6	Developments expected in 2018, the last full year of this Commission's term
7	The European Commission's Strategy for restarting the enlargement process
8	Timelines for the most advanced countries
10	Taking its turn in the Presidency, Bulgaria makes the Balkans a priority once again
11	The contribution of member states to the enlargement strategy
12	Focus on rule of law and basic rights
13	Measuring the progress of accession candidates or potential candidates from the Western Balkan region
14	What Kosovo can gain under the new circumstances that might be created in 2018
17	Conclusions



# Introduction

If you ask a host of European Union officials and leaders of member states, 2018 is the year to reanimate the EU enlargement process for the countries of the Western Balkans. They understand that at this critical juncture, the EU must work to restore confidence in this important process, especially because this year negotiations are expected to be concluded between 27 EU states and Great Britain for the exit of the latter from the EU.

Brexit has made it an EU imperative to restore confidence in the enlargement process. For Brussels, it is also important to show that the decision of the British people to leave the EU did not mark a turning point that will ultimately lead to the bloc's dissolution.

There's also a sense of obligation at stake. The year 2018 also marks the 15th anniversary of the Thessaloniki Summit, in which the Western Balkans were given assurances on their integration into the EU. This anniversary is a suitable occasion for the EU to reaffirm this commitment, considering that 15 years later, only Croatia has managed to complete the entire path and become a member of the European Union.

Against this background, a special summit dedicated to the Western Balkans will be held in Sofia on 17 and 18 May 2018. From Thessaloniki to Sofia, a number of questions that were initially left open have more or less been addressed. Within the territory of the former Yugoslavia, first Montenegro, and then Kosovo, declared independence. Thus, in the region defined as the "Western Balkans," there are now six states that are not members of the EU, but aspire to join it. However, the issue of the EU's relations with Kosovo, as well as with two of the region's states (Bosnia-Herzegovina and Serbia), remains open. Five members of the European Union continue not to recognize Kosovo as a state, and this continues to have a major impact on the clarity regarding the so-called "European path of Kosovo."<sup>1</sup>

But in 2018, or at most one year later, the EU believes that a "legally binding agreement" will be reached in the Kosovo-Serbia dialogue, and that this will enable Kosovo to move forward along its European path. The EU, in its approach to the region, will focus primarily on priorities having to do with regional cooperation, resolving bilateral disputes, developing infrastructure, and interconnectivity. It will also require that respective countries show concrete results in the war against organized crime and corruption. Furthermore, there will be a focus on economic development, fiscal stability, and the reduction of youth unemployment, a problem linked to the educational system. The readiness of these countries for future EU accession depends on these things, and the countries' evaluations in future progress reports will also center on such topics.

Based on what the EU has previewed, together with regional expectations and expert assessments, a strategy will be approved that will identify a series of steps leading to EU membership for Montenegro and Serbia by 2025. The two candidate countries, Albania and Macedonia, will be able to obtain the Commission's recommendation to initiate ne

---

1 In mentioning Kosovo, the EU continues to be careful to avoid formulations that would imply that Kosovo is being treated as a state. This is because the EU maintains a neutral stance on Kosovo's status. Aside from always having its name accompanied by a footnote agreed upon in its dialogue with Serbia, Kosovo is mentioned in strategic documents as a "partner"; and instead of "EU integration," the more superficial term "European path" is employed in relation to Kosovo.

gotiations; and if all of the member states agree, these negotiations will proceed. Bosnia and Herzegovina, which submitted its request for EU accession two years ago, will submit its answers to the EU's questionnaire, so that the European Commission can prepare an opinion on whether the state has fulfilled the criteria for candidate status. Kosovo remains the only country that has not made any formal steps along this path. Its prime minister, Ramush Haradinaj, predicted that Kosovo will apply for candidate status this year.

A membership application would pose a challenge not only to Kosovo, but also to the European Union. But this year will also bring challenges to the enlargement process because of multiple member states, where, due to a rise in support for extreme-right parties, opposition to the process has also increased. In Austria, a far-right party has even been made a partner in the governing coalition, and it will be in charge of the portfolios wielding the most influence over EU policy. Austria will take its turn in the EU Presidency in the second half of the year, which could exacerbate the problem. Great Britain's exit from the EU will also have an effect on the Balkans, as Britain has been extremely active in supporting the European perspective of the states in the region.

This paper will analyze expected developments in the EU enlargement process this year, as well as Kosovo's prospects for benefiting concretely from the expectation that confidence in this process will be restored.

## **Developments expected in 2018, the last full year of this Commission's term**

The European Commission has entered the last full year of its term in its current composition. European elections will be held in 2019, after which a new Commission will be formed for the following five-year mandate. Judging by the words of the President of the European Commission Jean-Claude Juncker in his annual state of the union address, 2018 will be an opportunity to restore confidence in the enlargement process for the Western Balkans. "If we want more stability in our neighborhood, then we must also maintain a credible enlargement perspective for the Western Balkans. It is clear that there will be no further enlargement during the mandate of this Commission and this Parliament. No candidate is ready. But thereafter the European Union will be greater than 27 in number. Accession candidates must give the rule of law, justice, and fundamental rights utmost priority in the negotiations," said Juncker.<sup>2</sup>

Immediately after this speech the European Commission started work on drafting a strategy that is expected to be approved in February 2018. Its aim is to determine the areas to which the EU will assign the most importance in the process, as well as to set out the conditions and timelines according to which the process may be concluded with the countries that are most advanced in accession negotiations.

In the spring, specifically in April, the European Commission will also approve and publish the traditional enlargement package, accompanied by individual progress reports on the countries included in the enlargement process. Insofar as Turkey, the accession candidate

---

<sup>2</sup> Address of the President of the European Commission, Jean-Claude Juncker, before the European Parliament in Strasbourg, on 13 September 2017.



that has waited the longest, is not expected to be mentioned in the strategy to be approved in February, this state will instead be included in the enlargement package in April. The EU deliberately seeks to distinguish the Western Balkans from Turkey, because it is still unclear whether the latter should or should not become a member of the EU, whereas in the case of the Western Balkan countries, it is only a question of when, not if, they will attain this goal.<sup>3</sup>

In Sofia on 18 May, the 15th anniversary of the Thessaloniki Summit, a summit between the EU and the Western Balkans will be convened to reaffirm the EU's commitment to this region. Bulgaria, the country that is closest to the region, has identified enlargement for the Western Balkans as a priority during its turn in the office of the EU Presidency. The summit is expected to reconfirm not only the European perspective of the region, but also that the process will continue to be based on the individual merits of candidates and potential candidates for accession.

Over the summer, another summit in the framework of Berlin Process is expected to be convened in London. The British Government has offered to host this meeting to demonstrate that its exit from the EU does not mean that it will lose interest in the Western Balkans. It also seeks to show that it will continue to work with the EU in this area.

In the second half of the year, Austria, which has always been one of the greatest supporters of enlargement for the Western Balkan states, will take its turn in the EU Presidency. Now that the government also includes an extreme-right party, there is a fear that this may have a negative impact on Austria's stance toward enlargement. But diplomats say that, despite forming a coalition with the FPÖ, Prime Minister Sebastian Kurz—who, as former Minister of Foreign Affairs demonstrated a commitment to the European perspective of the Western Balkans—has ensured that there will be continuity in Austrian policy, and that EU matters will be transferred to the domain of the Chancellor's office, rather than remaining in the hands of the Minister of Foreign Affairs.<sup>4</sup>

## The European Commission's Strategy for restarting the enlargement process

The European Commission's Strategy, which is expected to be approved in February 2018, is considered to be one of the most concrete documents on the enlargement perspective of the Western Balkans that this Commission has produced during the entirety of its five-year term. However, based on drafts of this document, as well as on reactions from member states, the document might not in the end be understood to be as encouraging as the region's countries would like it to be. This has to do not only with the possible dates indicated for when each state would be able to join the EU, but also with remaining uncertainties, especially in regard to its stance on Kosovo.

The draft of this document, which may undergo changes before it is approved, makes clear that the EU will focus in the future on three issues: rule of law, the resolution of border

---

3 Based on conversations between the authors and multiple diplomats from EU member states. State and government leaders already speak publicly of an alternative for Turkey, that it be given a kind of "privileged partnership" falling short of formal EU membership.

4 Based on conversations with EU diplomats after Sebastian Kurz's first visit to Brussels as Prime Minister.

disputes among the region's states before accession to the EU, and the comprehensive normalization of relations between Kosovo and Serbia, an issue that affects not only these two countries, but also the region as a whole.

Of course, even in this draft, the term “partners” is employed in order to avoid use of the term “state.” This is entirely because of Kosovo.

“A comprehensive normalization of relations between Serbia and Kosovo, in the form of a legally binding agreement, is urgent and crucial for the European perspective of both Kosovo and Serbia, as well as of the region as a whole,”<sup>5</sup> reads an early draft of the European Commission’s strategic document. The document confirms the European perspective of the entire region as a continuous process that began with the 2003 Thessaloniki Summit, and it asserts that the EU has maintained unfailing support for the future of the region as an integral part of the EU.

Another reasonably important element that the strategy is expected to include is an insistence that the EU not “import” the border problems that exist among the region’s states. Therefore, it will insist in the future that these problems be resolved before accession to the EU. The President of the European Commission, Jean-Claude Juncker, affirmed the same line in a press conference in Brussels. “We cannot play with these issues. All disputes must be resolved before these countries join the EU,” he said.<sup>6</sup>

This issue was also included in the draft-strategy of the Commission, and is seen as part of the process of reconciliation in the region—overcoming divisions from the past with an aim toward regional cooperation. It is suggested that, before negotiations for the accession of the region’s countries are concluded, either the unresolved border issues will have been resolved through bilateral agreements, or these issues will have been submitted to the International Court of Justice or to international arbitration, with a clear obligation to accept and implement the respective decisions.<sup>7</sup> The example of Croatia and Slovenia is another reason the European Commission is insisting on this point. For a number of years Slovenia had blocked the opening of a number of negotiation chapters for Croatia’s accession, whereas Croatia has now refused to accept the decision of the Court of Arbitration, claiming that it has been contaminated and discredited by Slovenia’s allegedly impermissible influence over the arbitrators, something that Croatia claims has been proven.

## Timelines for the most advanced countries

If the European Commission insists on the first idea, then timelines indicating when the most advanced countries may join the EU—at this point, Montenegro and Serbia—will be mentioned for the first time in the strategy document. “For the first time, their accession perspective has a timeline based on a best-case scenario. With the existence of strong political will, the achievement of real reforms, and the long-term resolution of disputes with their neighbors, Montenegro and Serbia should be ready for accession in 2025,”<sup>8</sup> reads the draft.

---

5 Koha Ditore. 2 December 2017.

6 Jean-Claude Juncker at a press conference in Brussels, held jointly with the President of Slovenia, Borut Pahor, on 8 January.

7 From the draft-strategy of the European Commission, “Credible enlargement perspective for the Western Balkans.”

8 From the draft-strategy of the European Commission: “Credible enlargement perspective for the Western Balkans.”

The idea of setting timelines for only two states has generated mixed reactions from the diplomats of EU member states, but also from those of the countries of the region. Such an idea has also been viewed as dangerous, because nothing concrete is laid out for the four states that are not in the process of accession negotiations (Albania, Macedonia, Bosnia and Herzegovina, and Kosovo). On the other hand, Montenegro is not satisfied being mentioned alongside Serbia, it is far more advanced in the process—by the end of 2017, Montenegro had opened 30 out of 35 negotiation chapters. Serbia, by contrast, had opened only 12. And in addition, Montenegro is a NATO member and does not face the kind of political obstacles that Serbia faces; nor does it have doubts regarding its strategic orientation. The draft strategy is also expected to mention that the region's leaders must achieve clarity regarding the direction in which they want to go, so that there will not be any doubts about their orientation toward the EU.

If progress is made in negotiations over the issue of Macedonia's name, and if Albania fulfills various of its obligations, more concrete details on these two accession candidates may be added, but not a decision on the initiation of accession negotiations.

An early draft had left open two possibilities for what can be achieved by 2025. One of them was that "Albania, Bosnia and Herzegovina, FYROM, and Kosovo should also, by this time, be well advanced on their European path," or that "Negotiations with Albania, BiH, FYROM, and Kosovo should also, by this time, be well advanced."<sup>9</sup> There is a world of difference between these two formulations, one of which will be included in the strategy. This is because the formulation according to which, by the year 2025, "accession negotiations should be at an advanced phase," expresses a concrete goal, and would be an encouraging political sign. But if the formulation is tempered by the sentence about "progress on the European path," this would not amount to very much, because the term "European path" is a generalization, and does not obligate the EU to do anything at all.

According to the positive scenario, Montenegro and Serbia would be able to conclude accession negotiations by 2023, the treaty of accession would be signed, and the same would be ratified by the member states, in order that the two countries become members of the European Union by 2025.

"The agenda is ambitious, and it is meant to be galvanizing. All six partners from the Western Balkans must now redouble their efforts to address vital reforms and to complete their political, economic, and social transformations. Joining the EU is more than a technical process. It is the choice of a generation, based on values that each state must more actively embrace, from their foreign and regional policy to what their children learn in school," reads the draft strategy.

Whenever the European Commission's views are discussed, they must be treated with caution, and must not be presented as the views of the European Union as well. For in the enlargement process decisions are made by the member states, and with consensus in the Council. The example of Macedonia most effectively demonstrates that the views of the Commission can be completely ignored by the Council. This state, according to the assessment of the European Commission, has for the past few years fulfilled the conditions for initiating negotiations. The Commission recommended that negotiations proceed, but

9 From the draft-strategy of the European Commission, "Credible enlargement perspective for the Western Balkans."

they have still not been begun. This is because one of the member states, namely Greece, would not allow it. Nonetheless, the strategy gives reason to hope that Brussels will take the Balkan region more seriously.

## Taking its turn in the Presidency, Bulgaria makes the Balkans a priority once again

On the first day of 2018, Bulgaria took up its six-month term in the office of Presidency of the European Union. The Western Balkans ranks as one of the key priorities of the Bulgarian presidency. In a presentation of these priorities, Sofia expressed the belief that a clear European perspective for the region is essential. “The ambition of the Bulgarian Presidency is to arrive at a clear action plan for each of the countries, without raising false hopes, but with concrete steps. This is the best way to achieve peace, security, and long-term prosperity in the region,”<sup>10</sup> reads a document on the priorities of the Bulgarian presidency.

Since the first working meeting between the Bulgarian government and the European Commission in Sofia, the President of the Commission, Jean-Claude Juncker, has emphasized the importance of continuing the enlargement process for the Western Balkans. He drew attention to the fact that, without a clear European perspective, there would be a danger that we might see events that could bring us back to the 1990s, something we would not want to be repeated.<sup>11</sup>

During a presentation of Bulgarian priorities in Brussels, the Permanent Representative of Bulgaria to the European Union, Dimiter Tzantchev, drew attention to the fact that the problems with which Europe has been confronted in recent years have distracted attention away from the region, and as a result, multiple countries in the Western Balkans have “sought help in other countries.” Therefore, on his view, “this is the EU’s last chance to return its attention back to its neighbors.”<sup>12</sup> Sofia’s goal during its term at the head of the EU is to confirm that the European perspective of the Western Balkans is a reality. “Bulgaria does not want to create unrealistic expectations, but we are ready to discuss problems with the Western Balkans. Some countries are more advanced than others, but we must hold discussions with all of the countries,” exhorted Dimiter Tzantchev.

Nevertheless, in the absence of a clear commitment to the full integration of all of the countries, the Bulgarian presidency in the first half of 2018 will focus mostly on the interconnectedness of the Western Balkans, both among the countries of the region themselves and with EU member states.

The aim is to secure connections with Western Balkan countries—in regard to transportation, air, energy, education, and digitalization. Bulgaria is investing continuously in efforts toward this aim. For example, it is promoting the digital policies of the EU among the Western Balkan countries, through the gradual reduction of roaming tariffs and improvements in broadband internet access.

---

10 Document on the priorities of the Bulgarian presidency of the EU.

11 From the first joint press conference of the President of the European Commission, Jean-Claude Juncker, and the Prime Minister of Bulgaria, Bojko Borisov, in Sofia on 12 January.

12 From the presentation of the Permanent Representative of Bulgaria to the European Union on the program of the next presidency.

In Sofia on 17 May, the EU's summit with the Western Balkan countries will be held in order to reaffirm the European perspective of the region. At this summit Bulgaria will seek to offer support to the region and to reconfirm the commitment that the EU expressed 15 years ago in Thessaloniki, at a time when Bulgaria was still in the process of accession negotiations. Since that time, only Croatia has joined the EU. Other countries have made "unequal" progress in the integration process. Serbia and Montenegro are in the process of accession negotiations. Macedonia and Albania have candidate status, but have not begun negotiations, whereas Bosnia and Herzegovina and Kosovo remain in the waiting room: Bosnia has applied for candidate status, and the European Commission has begun the process of putting together its opinion on the issue, whereas Kosovo has an SAA in place.

One of the other topics that Bulgaria seeks to push for in its capacity as President during the first half of 2018, is the lifting of roaming tariffs. The elimination of such tariffs in the entire territory of the EU is considered to be the greatest achievement of recent years. Various ways of doing the same for the region's countries are now under consideration, including first lifting roaming tariffs for countries within the Western Balkans, and then lifting tariffs between the Balkans and EU countries. Interconnectedness, including first steps toward lifting roaming tariffs, will be yet another central theme to be addressed at the upcoming EU-Western Balkans summit in Sofia. According to Ambassador Tzantchev, the European Commission is now ready to support efforts aimed at eliminating roaming tariffs with the Western Balkans.

## The contribution of member states to the enlargement strategy

The call of the President of the European Commission, Jean-Claude Juncker—and of the Commission that he will lead until the fall of 2019—that the Western Balkan countries be given a clear European perspective, has won support from EU member states as well, albeit in different ways. Many of them have submitted letters containing ideas on how to improve the dynamism of the enlargement process.

A joint letter on enlargement for the Western Balkans submitted on the part of 12 EU states, as well as a joint submission on the part of Sweden and Finland, urges that the region's countries be assisted in accelerating their pathway to the EU, but, nonetheless, without concessions from Brussels on political conditionality.

Member states have concentrated their attention on the strategy of the European Commission for the Western Balkan states, to be published in February 2018. Fundamental changes in the political scene within the member states have altered the political discourse on enlargement, making it a not-so-popular topic in European public opinion. EU member states, though they are divided into groups for and against enlargement, are united in their hesitation to commit themselves to any concrete timelines for accepting new countries into the European family.

The letter that the 12 aforementioned states submitted to the European Commission clearly urges that the integration process remain "founded on progress and not on dates."<sup>13</sup>

13 "Non paper" jointly signed by Austria, the Czech Republic, Estonia, Hungary, Ireland, Italy, Latvia, Lithuania,

Therefore, among other things, it is urged that the European Commission Strategy present “best-case scenarios” for the integration of the WB6.<sup>14</sup> This could have an effect that is at once both stabilizing and encouraging. Nevertheless, these 12 states consider that collaboration with all of the Western Balkan countries is essential, despite the fact that, since Jean-Claude Juncker’s annual address, the Balkan countries that could be first to join the EU have already been identified.<sup>15</sup> These 12 EU member states believe that European policy must be implemented via a regional approach that confirms the principle of individual merit, while remaining attentive to the fact that the six Western Balkan states are at different phases of integration, and that in this context there are also leaders in the process (Serbia and Montenegro). “The focus only on specific Western Balkan countries may have negative effects, and may lead to tensions in the region,”<sup>16</sup> these states warn.

The letter in question makes reference to the 15-year period running from the Thessaloniki summit to the present day. Thus, it is also urged that the Strategy “increase and advance” the commitment of the EU to a credible European perspective for the six Western Balkan countries, while also adding “concrete and tangible layers” to European enlargement policy, so that the WB6 can be brought closer even during the pre-accession period. The joint letter contributed by Finland and Sweden takes more or less the same line. Besides this, these two states propose that the monitoring of progress called for in Chapters 23 and 24—which deal with the justice system and internal affairs, and which are two of the central chapters in the enlargement process—also be undertaken for the countries that do not yet have candidate status and have yet not begun negotiations. Other states have also submitted ideas via verbal communication with the European Commission and other EU member states.

## Focus on rule of law and basic rights

Even as it attempts to resurrect the enlargement process, the European Union will exert greater pressure to fight organized crime and corruption and to focus on the two chapters (out of a total of 35) that relate to these areas. The two chapters in the process of accession negotiations that are now considered to be most complex, and that include rule of law issues, are: Chapter 23, which deals with the judiciary and basic rights, and Chapter 24, which deals with justice, freedom, and security. With the opening of the European perspective in the region’s countries, and in light of the painful problems with which practically every Western Balkan state is confronted in the aforementioned areas, these two chapters have taken on increased importance in recent years, and their importance will only grow further as time goes on. This has been made clear at the beginning of the negotiations with Montenegro, and especially with Serbia. But the European Commission’s strategy also assigns special importance to these two chapters. Furthermore, it is also a demand of the EU member states, which are of the opinion that all of the WB6 states must undertake reforms in these areas, even before the formal initiation of the accession process.

---

Malta, Poland, Slovakia, and Slovenia.

14 The acronym WB6 (Western Balkans 6) refers to the six countries of the region: Albania, Bosnia and Herzegovina, Kosovo, Macedonia, Montenegro, and Serbia.

15 September 2017— Letter of intent of the President of the European Commission.

16 “Non paper” jointly signed by Austria, the Czech Republic, Estonia, Hungary, Ireland, Italy, Latvia, Lithuania, Malta, Poland, Slovakia, and Slovenia.



For this reason, in the letter that Sweden and Finland submitted to the European Commission, where they lay out what they expect to be included in the Strategy, it is urged that legislation covering Chapters 23 and 24 be scrutinized even in those countries that still have not begun the accession process. In this context, Sweden and Finland consider that the examination of the legislation in question (that of countries that are not in the process of accession negotiations) must be accompanied by cooperation between the WB6 countries and EU member states on institution- and capacity-building (from the Swedish-Finnish letter on the EC strategy). “The process for joining the EU must be revitalized by focusing on reforms, and not by opening new chapters,” write policymakers in Stockholm and Helsinki. An almost identical position is held by the other 12 EU member states. In a separate letter sent to the headquarters of the European Commission, these 12 states declare that the rule of law is essential for successful promotion and transformation based on EU values, norms, and standards. Close cooperation between member states and the WB6, which is advocated in the two letters and which centers on institution- and capacity-building, should be undertaken both at the level of each individual state, and at the regional level as well.

Due to prior experience, and because the EU considers these two chapters to be the central ones, the approach to the negotiating process has been updated, in order that these chapters be opened at an earlier phase in the negotiations, and in order that there would be more time to fulfill the specified criteria. Besides the criteria for opening and closing these chapters, transitional criteria have also been put in place. In the case of Serbia and Montenegro these criteria would have to be fulfilled by 2019 in order for criteria for closing the chapters to then be set out.

## **Measuring the progress of accession candidates or potential candidates from the Western Balkan region**

The European Commission has continued the practice of monitoring the progress of accession candidates—and the progress of those considered “potential candidates”—via the enlargement package and individual progress reports. Last year was the first in which no such reports were issued. This was because the Commission decided that reporting would take place in the spring rather than the fall. Instead of being released at the typical time, at the beginning of November, the progress reports are expected this year to be approved and published in April.

From now on the reports will continue to be issued annually in this part of the year. There is a specific reason for the change: The EU wants them either to be part of, or to be close to, the “spring package” of reports during the European semester in which the EU submits them to member states. These reports focus on the macroeconomic situation, finances, and budgetary issues. For the countries included in the enlargement process, the format of the progress reports will remain the same as before, including all of the negotiating chapters; but the idea is that in the future, the progress of countries in the enlargement process will be monitored in regard to economics and finances even more so than they are presently. This is because, if the current gap between these countries and EU average continues in the years to come, it will be difficult for these countries to become member states, even if they fulfill other formal conditions.

In the future, progress reports will insist more clearly on required rule-of-law reforms. In all of the region's countries, the full independence, impartiality, and efficiency of the judiciary is required, while the need for a more forceful war against corruption, money laundering, and organized crime is also essential. By monitoring the progress of the region's countries, it will be made clear to them that accession to the EU cannot be won without building strong and independent judicial institutions, working toward greater transparency in public procurement, and eliminating organized-crime networks that are still seen as powerful players in the region. Furthermore, in the war against organized crime and corruption, concrete evidence will be required, not only by way of political commitment, but also in the form of final court judgments and the confiscation of the property of those who have derived their wealth from criminal activity.<sup>17</sup> The European Commission believes that, in this way, it will both secure support for the region's countries and demonstrate to member states that there will be no concessions on political conditionality.

## What Kosovo can gain under the new circumstances that might be created in 2018

The European Union's approach towards Kosovo is the least clear in terms of countries in the region. The lack of clarity has to do primarily with the remaining disagreements within the EU regarding Kosovo's status, though ambiguities have also multiplied due to political developments within Kosovo. The year 2018 brings some possibilities for Kosovo but also some challenges that may have consequences for its future relations with Brussels.

Because each of the other states in the region may take concrete steps this year in the process of European integration, Kosovo remains the only one for which nothing tangible can be offered aside from vague talk of a "European future" or "progress on the European path." The European Commission's enlargement strategy could also mention specific timelines for when negotiations for the accession of Montenegro and Serbia may be concluded. Sometime this year Albania and Macedonia may win the recommendation of the European Commission to begin accession negotiations. Bosnia and Herzegovina, which has applied for accession, is expected finally to submit its answers to the questionnaire, and the Commission is expected to begin work on preparing its opinion for awarding candidate status. Kosovo is not expected to be able to take any concrete steps, except if it decides to submit a formal application for EU accession.

As is the case with other countries, a progress report will be approved for Kosovo. The report will identify the considerable problems that Kosovo faces in the areas of rule of law, education, environmental protection, unemployment, and more. The deterioration of relations with the EU and with the Quint countries at the end of the year, due to disagreements over the Special Court, as well as an increase in animosity in the relations between EULEX and the Kosovo authorities, might also have an effect on the content of the progress report. But the biggest challenge, both for Kosovo and for the EU, will be whether Kosovo decides to apply for candidate status for accession to the EU. Prime Minister Haradinaj mentioned the goal of achieving this status in a recent appearance. But even when the conditions are in place and the circumstances are positive, there is a procedure that must be followed in order for this to occur. And this procedure begins with the decision of the Government of Kosovo to apply for accession.

<sup>17</sup> Based on conversations with officials involved in the progress-reporting process.

The application for accession may be a test that it is necessary for Kosovo to undergo, but it also carries risks. In the EU it is difficult to find those who would encourage Kosovo to take such a step.<sup>18</sup> This is because the application might not be considered at all; it might instead be shoved into a drawer, or even rejected due to the lack of recognition by five member states.<sup>19</sup> Therefore, Kosovo without a doubt would be taking a risk with such a step, because if its application is rejected even once, many years will pass before the obstacle could be surmounted.

On the other hand, however, if Kosovo chooses not to apply, then it will continue for years to be stuck in the dilemma of whether or not it can become a candidate country while not being recognized by all member states, and it will forgo the chance of advancing in the process concretely and formally. It will also continue to watch as other countries progress, and as the gap widens between them. The possibility of applying for EU accession is the only step that Kosovo could take in the EU integration process that would be considered concrete and historic. All other formulations about the “European path” would only be word games that conceal the insurmountable obstacles that Kosovo has and would continue to have in its relations with the EU. At least Kosovars would be conscious of the position they are actually in, rather than harboring a conviction that they will soon be joining the EU.<sup>20</sup>

Political circumstances are not favorable to Kosovo. And they will become even less favorable once Great Britain leaves the EU; in fact, Britain has already lost all of its influence over EU decision-making.<sup>21</sup> The greatest problem will be the position of Spain; instead of softening this position Madrid is taking an even harsher stance. This is entirely due to its domestic situation, which has worsened following the referendum on Catalanian independence. Besides these political circumstances, there is also legal uncertainty regarding whether Kosovo can become an accession candidate and, eventually, join the EU.

At the beginning of his term, the EU Enlargement Commissioner Johannes Hahn had answered negatively to the question of whether Kosovo could be a candidate for accession to the EU without being recognized by all of the member states.<sup>22</sup> He had said at the time that, in order for this to happen, Kosovo would have to be recognized by all member states, and he had urged a focus on economic development, job creation, and implementation of the Stabilization and Association Agreement.

But there are also arguments according to which Kosovo can in fact begin the procedure for obtaining candidate status even without being recognized by all member states. In such a scenario it would be enough for states that have not recognized Kosovo to refrain from opposing a decision by the EU Council to give the European Commission a mandate for initiating the procedure.<sup>23</sup> Something similar had taken place with the Stabilization and Association Agreement; but unlike that agreement, the enlargement process proceeds by way of negotiations with the member states, rather than with the European Commission.

18 Many of the authors’ EU sources have said that “the choice is Kosovo’s to make, but it should also think about the consequences.”

19 Decisions at every step of the enlargement process, as well as decisions to initiate the procedure for awarding candidate status, are taken with the consensus of all EU member states.

20 Surveys have revealed Kosovars to be the most optimistic citizens of the region with respect to the timeline for when their country will be able to join the European Union.

21 Many European diplomats accept that London has been, without a doubt, one of the most supportive voices for Kosovo in the European Union.

22 Koha Ditore. 6 November 2015. Interview with Johannes Hahn.

23 This also represents the thinking of some government officials in Kosovo.

A study conducted by the Group for Legal and Political Studies<sup>24</sup> concluded that the legal obstacles to Kosovo's aspirations for candidate status are in fact surmountable.

"Article 49, which appears *prima facie* to impose a condition that Kosovo is not in a position to fulfill, that is, to qualify as a 'state'—would not include recognition of the state by the European Union, seeing that such a competency is not provided for in the Treaties. As a result, the term 'European state' does not imply recognition of statehood by the EU, which does not have the power to do this, nor by the member states, which have the independent right to recognize whomever they wish," contends the paper. The study concludes that Kosovo can legally apply for candidate status through the conventional procedure provided for by Article 49.<sup>25</sup>

Absent some dramatic development, it is not expected that the member states that have not yet recognized Kosovo will soon take such a step, or at least not all five of these member states. Furthermore, with the exception of the European Parliament, no call for them to extend such recognition has been issued from any quarter of the EU. Even in the European External Action Service (EEAS), the fact that five states have not recognized Kosovo continues to be seen not as an obstacle but as an advantage, for these states have made it possible for the EU to remain neutral on the country's status, which may be "facilitative" for the Kosovo-Serbia dialogue.

For Kosovo, perhaps the most important part of the EU's efforts will be the insistence that Serbia achieve comprehensive normalization of relations with Kosovo. And those in the EU believe that this must be done in such a way that "both parties will continue unimpeded on their respective European paths." But at least until now, Serbia is not blocking, nor is it able formally to block, Kosovo's advancement in the European integration process. This is something that can be done only by states that have not recognized Kosovo, or by other member states. The EU nonetheless wishes to ensure that, when Serbia becomes a member of the EU, it will not be in a position to impede the subsequent integration of Kosovo.

---

24 "EU candidate status for Kosovo – an attainable goal." June 2017.

25 Treaty of Lisbon.

## Conclusions

Without a doubt, this year will bring greater dynamism in the EU enlargement process in the Western Balkans. The developments that are expected to take place, which have been surveyed in this paper, demonstrate a renewed energy and interest in the region which has not been apparent in recent years.

By approving a strategy exclusively for the Western Balkans in February, as well as the annual packages for the enlargement process in April, the Commission will be drawing a clear distinction between Turkey and the Western Balkans Six in the enlargement process. It is thought that this will have a positive influence in increasing the support for enlargement among current member states, as well as among their citizens, who, when they express opposition to enlargement, do so primarily because of their doubts regarding the accession of Turkey.

The year 2018 will also bring planned dates indicating when each country may take steps toward EU accession. Montenegro and Serbia will be able to conclude negotiations by 2023 and become members in 2025. By that time the other countries should be advanced in the process. But this represents only one possible positive scenario, which will depend on fulfillment of many conditions.

The European Commission's enlargement strategy, which will be approved on 6 February 2018, will also set clear timelines for when negotiations with Montenegro and Serbia can be concluded, and for when they can become members. In the course of the year Albania and Macedonia may receive recommendations from the European Commission to begin accession negotiations. Bosnia and Herzegovina, which has applied for accession, is expected finally to submit its answers to the questionnaire, and the Commission is expected to begin work on preparing its opinion regarding the granting of candidate status. Kosovo is not expected to be able to take any concrete steps, except if it chooses to submit a formal application for accession to the EU.

Applying for accession to the EU may be a test that is necessary for Kosovo to undertake, but it also carries risks. The application might not be considered at all; it might instead be shoved into a drawer, or even rejected due to the lack of recognition by five member states. But if Kosovo does not apply, then it will continue for years to be stuck in the dilemma of whether or not it can become a candidate country while not being recognized by all member states, and it will forgo the chance of advancing concretely and formally in the process. It will also continue to watch as other countries progress, and as the gap widens between them.

The year 2018 will also pose a challenge for the dialogue on the normalization of relations between Kosovo and Serbia. The EU and the presidents of the two states, Hashim Thaçi of Kosovo and Aleksandar Vučić of Serbia, have grand aspirations for reaching an historic agreement, but the lack of clarity in Kosovo makes the prospects for such an agreement difficult.

In the European Union, the economic situation has improved markedly: all member states have experienced economic growth; none of them has fallen into recession; in all of them, unemployment is falling; and the financial crisis has been overcome. This has made it

possible for the EU to think about restoring confidence in the enlargement process. But domestic political developments in some of the member states, especially the rise in support for the extreme right, will pose a challenge for EU policies, including its policies regarding the process of EU enlargement.