

The New Methodology of Enlargement and its Potential Effects on Kosovo: **A Difficult Balance Between Politicization and Credibility?**

Policy Paper

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EXECUTIVE SUMMARY

The recent EU enlargement methodology, announced in February 2020, arguably aims to make the process more reliable and credible, but also more political. This paper identifies the main trends that characterise the new methodology and analyses whether and to what extent the revised rules have indeed balanced between the EU seemingly diverse goals to ensure better delivery of reform while allowing member countries more room to participate and potentially obstacle the process of decision-making. The analysis centres on the following question: how the different goals of the revised EU enlargement methodology play out in the specific case of Kosovo, a country that faces multiple challenges, faced with this new context where the state of reforms call for better monitoring, while member states' individual concerns shape a more

politicized approach to enlargement? To tackle these aspects, the empirical part of the analysis draws on a range of first sources - relevant EU documents and semi-structured interviews with experts and diplomats working on Kosovo. In the conclusions, the paper shows how the new rules are expected to work in the context of weak state in Kosovo, highlighting in particular: the bilateral issues and non-recognizers' attitudes, which relate to increasing politicization; expectations on better monitoring and waning EU credibility. Experts advanced the idea that that the 'meritocratic approach' and especially the phenomena of politicization in the new enlargement methodology risks empowering both EU member states and local leaders to further avoid responsibility and commitment, not the other way around.

In its February 2020 Communication, EU Commissioner Olivér Várhelyi presented the main changes brought by the new enlargement methodology, announcing that the process shall become more reliable and credible, but also more political. The focus is on difficult areas of reform like rule of law, which have proven impervious to the transformative power of Europe in the Western Balkans. Some of the new changes, especially those targeting a more consistent assessment of reforms and rigorous conditionality, are supported by the accumulated findings that Balkan countries lag behind in terms of substantial reforms. Still, the direct impetus of the new methodology is the push from specific member countries to assert control over enlargement-related decisions, a process so far led by the technocratic arm of the Union, the Commission. Consequently, the new methodology reflects the EU's need to balance between two diverse and at times contradictory goals – ensure delivery of reforms at the receiving end of enlargement while better incorporate member countries' concerns in the decision-making process.

This paper identifies the main trends that characterize the new methodology and analyses whether and to what extent the revised rules have indeed balanced between the EU seemingly diverse goals to ensure better delivery of reform while allowing member countries more room to participate and potentially obstacle the process of decision-making. We focus on the case of Kosovo. The country is emblematic of the poor and often façade state of reforms driven by the EU, including a special EU mission focusing in the area of RoL, EULEX. At the same time, Kosovo has been the

locus area of EU member countries' efforts to question the work of the Commission, and increase their take in the decision-making process, a phenomenon obvious especially during the eventful visa liberalization process. Moreover, the five member countries that failed to recognize the Kosovo statehood, the so-called 'non-recognizers', have made sure that Kosovo is a continuous subject of political contestation and questioning at the EU Council. Its bilateral problems with neighboring countries pose additional challenges for the future of Kosovo's EU integration when considering the increasing trends of politicization. As such, Kosovo offers a 'critical case' to explore how the different goals of the revised enlargement strategy play out in a context where the state of reforms call for better monitoring, while member states' individual concerns shape a more politicized approach to enlargement.

Given that the research question is forward looking, we analyze possible repercussions of the new methodology on Kosovo by considering indices from region-wide events that follow the announcement of the new methodology and the more idiosyncratic case factors - bilateral problems and lack of full EU recognition. The empirical analysis draws on a range of first sources - relevant EU documents and semi-structured interviews with experts and diplomats working on Kosovo.

The paper is organized in three main sections. Section I identifies the main trends that define innovations to EU's enlargement strategy in the Western Balkans -1) better monitoring of required reforms; 2) more political steer; and 3) further clarity of

required reforms. Section II explores both the challenges and the opportunities that these revisions entail for the region, based on indices from key enlargement events that follow the announcement of the new methodology. Section III analyses how the new rules are expected to work in the context of Kosovo, taking into account the double challenge of bilateral problems and lack of full EU recognition.

In the conclusions we stress that without a proper balance with merit-based and credible decision-making rules, the new methodology offers member states more space to delay and obstruct enlargement decisions for purely political concerns. In the context of Kosovo, which faces the double hurdle of bilateral problems and international recognition, most experts and diplomats we consulted with pointed towards the challenges and very few possible opportunities of the revised enlargement rules. Specifically, they raised the potential of escalating bilateral issues with Serbia and the unpredictable role that the non-recognisers can play in the new enlargement set-up. Consequently, the risk of politicization and bilateral issues spilling over the EU decision-making process remains very palpable. Very few experts believe that the addition of member countries in the process, including during the monitoring stages, can add to the efforts of the Commission and potentially improve the delivery of reforms. Ultimately, the reshuffled enlargement rules imply waning EU credibility and the risk of EU being perceived as a toothless actor, with negative repercussions for the transformative power of Europe.

The recent EU enlargement methodology, announced in February 2020, arguably aims to make the process more reliable and credible, but also more political. This paper identifies the main trends that characterise the new methodology and analyses whether and to what extent the revised rules have indeed balanced between the EU seemingly diverse goals to ensure better delivery of reform while allowing member countries more room to participate and potentially obstacle the process of decision-making.

2

EU's Revisions of Enlargement Conditionality

2.1 Developing a 'Second Generation' Criteria

During the process of Balkan enlargement, the EU has gradually elevated its enlargement criteria, to a 'second generation' conditionality, which insists on irreversibility and sustainability of reforms on the ground. The Rule of Law (RoL) criterion is centerpiece of the EU's evolving strategy. The 2018 enlargement specifically strategy outlines the shift of

the EU conditionality: 'Progress along the European path is an objective and merit-based process which depends on the concrete results..., with the RoL, ... being an utmost priority.'¹ Brussels officials have continuously explained what the revised conditionality aims at: 'We need to see the reforms, especially in the RoL, be implemented more vigorously and produce sustainable results.'²

To this end, the EU has improved both the

¹ European Commission, "Enlargement package: Commission publishes reports on the Western Balkans partners and Turkey, 17 April 2018, http://europa.eu/rapid/press-release_IP-18-3342_en.htm

² Ibid.

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clarity and the credibility of what is required from target countries. The introduction of time sensitive targets, thresholds of progress, rigorous monitoring mechanisms and track records of implementation has accrued during critical junctures of enlargement in the Balkans.³

First, the 2006 *Renewed Consensus on Enlargement* announced, 'enhanced rules governing the accession process.'⁴ RoL dimensions—judicial reform, administrative capacity, the fight against corruption and organized crime and human rights—were singled out as urgent issues to be addressed early on in the accession process. The consensus also raised the bar on what would be considered as progress by identifying 'a satisfactory track record of implementation', closely linked with 'the pace of accession'⁵. The enhanced conditionality, especially the RoL criterion, received yet another boost in 2011. On the occasion, the Commission introduced new supporting mechanisms - 'regular monitoring, structured dialogues, peer reviews, institution building, twinning, and financial assistance' including detailed scrutiny via expert missions and collaboration with relevant agencies in related areas - in order to achieve better results on the ground.⁶ The opening of accession negotiation with Serbia in 2013

also triggered the 'fundamentals first' principle, which streamlined EU's emphasis on specific areas of reform, particularly RoL. Later on, the 2015 enlargement strategy announced a more scrupulous method of annual assessments including the commission's use of comparable scales to monitor and ascertain undertaken reform.

In 2018, when the EU was entertaining the possibility of opening accession negotiations with Albania and North Macedonia, the enlargement strategy noted that: 'Existing negotiation tools, such as detailed action plans, will be expanded to all Western Balkan countries. Assessment of reform implementation will be enhanced, including through new advisory missions'⁷. By 2020, under the pressure of select member countries and lingering reforms among Western Balkan candidates the Commission advanced a new methodology to 'yield better results on the ground'. Accordingly, 'The Commission will ... further strengthen measures on the rule of law and institution- building. Results on these reforms will be a requirement for ... progress overall.'⁸

The new methodology of February 2020 patches together and fortifies three major trends, some of which have long been in the making - 1) better monitoring of

3 Arolda Elbasani & Senada Šelo Šabić, 2018, Rule of law, corruption and democratic accountability in the course of EU enlargement, *Journal of European Public Policy*, 25:9, 1317-1335.

4 European Commission, "Commission proposes renewed consensus on enlargement", 8 November 2006 https://ec.europa.eu/commission/presscorner/detail/en/IP_06_1523

5 Ibid.

6 European Commission, "Enlargement Strategy and Main Challenges 2011-2012", 12 October 2011, https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/key_documents/2011/package/strategy_paper_2011_en.pdf

7 Ibid.

8 European Commission, "Enhancing the accession process - A credible EU perspective for the Western Balkans", 5 February 2020, https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/enlargement-methodology_en.pdf ([europa.eu](https://ec.europa.eu))

required reforms; 2) more political steer; and 3) further clarity of required reforms. They are framed in terms of opportunities for countries at the receiving end of enlargement to deliver substantial reforms. Yet, each trend poses both opportunities and challenges for the prospect of target countries to advance in the path of EU integration. They can be particularly challenging in the context of Kosovo, marked by bilateral problems and contested statehood.

2.2 Better Monitoring

A major trend of the revised EU conditionality, which is stressed also in the new methodology, is to improve monitoring of reforms given the long-term finding that candidates and potential candidates from the Balkans tend to pursue the required reforms only on paper.⁹

Typically, all across the region, a new generation of pragmatist elites that bet their fortunes on the goal of EU accession have increasingly pursued EU-required legal and institutional changes that come in various forms - reform strategies, action plans, cross institutional working groups, parliamentary initiatives, constitutional changes and continuous institutional crafting and re-crafting. Yet, most changes proved squeaky and reversible. The resulting compliance is more often than not confined

to the formal and verbal level, but it falls short of the threshold of substantial change. Frequently, elites across the region use various illicit strategies to undermine the very rules they have revised and committed to during the policy making process. At times, the new changes served as a window of opportunity for political elites to take control over the new institutions.

Those illicit strategies of resistance are particularly strong in the case of contested or weak states such as Kosovo, which lack consolidated institutions and the breaks they enforce on political elites. To be sure, under the pressure of the EU and other international actors, Kosovo has been active in reshuffling its institutional framework, including in the area of RoL and anti-corruption.¹⁰ Yet, indices of RoL confirm few net gains throughout the period 2010-20 (table 1). Any slight gains in specific areas are typically reversed soon after. The latest Transparency International Anti-Corruption Perceptions Index reveals worse scores of corruption than the previous year.¹¹

9 V. Vučković and V. Đorđević Eds. *Balkanizing Europeanization: Fight against Corruption and Regional Relations in the Western Balkans*. Peter Lang, 2019.

10 Vladimir Đorđević and Eraldin Fazliu, "Europeanization of Kosovo: Travails of Europe's Youngest State." In V. Vučković and V. Đorđević Eds. *Balkanizing Europeanization: Fight against Corruption and Regional Relations in the Western Balkans*. Peter Lang, 2019.

11 Transparency International, *Country Report 2020 Kosovo*, <https://www.transparency.org/en/countries/kosovo>

Table 1: Kosovo Scores of RoL, 2010-2020

	2020	2018	2016	2014	2012	2010
Rule of Law (average)	5.5	5.8	5.5	5.5	5.5	5.5
Separation of powers	5	6	6	6	6	6
Judiciary	5	6	5	5	5	5
Corruption	5	5	5	5	5	5
Civil rights	7	6	6	6	6	6

Source: BTI scoreboard, BTI uses a scale of 1 (lowest) to 10 (highest) score.

Given the identified gap between institutional compliance and actual change, as well as the many illicit strategies of resistance that loom behind, improving monitoring of the EU-led reforms would certainly benefit substantial reforms on the ground and subsequently the chances of Kosovo's EU integration. As the enlargement Commissioner, Olivér Várhelyi, stressed, this is exactly what the new methodology aims at: 'We looked at how to improve the chances of these countries becoming Member States, and we have seen that we have to improve the delivery of the reforms in the region ... We need reforms to last and to work in this region..., therefore assessment of the progress is key and the reinforcement of the assessment is key.'¹²

2.3 More Political Steer

Another trend, which capitalizes on the findings of flimsy reforms across the region, emphasizes the need for member countries to be more directly involved in the process of enlargement, hence increasing 'political steer' in the process. The EU Enlargement Commissioner explains that this too is a major aim of the new methodology: 'it is time to put the political nature of the process front and center and ensure stronger steering and high-level engagement from the Member States.'¹³

Such 'steer' has been traditionally limited to high level political and policy dialogue but would now drip down to 'all bodies under the Stabilisation and Association Agreement (SAA) [that need] focus much more on the key political issues and reforms,

¹² Remarks by Commissioner Olivér Várhelyi at the press conference on the revised enlargement methodology, 5 February 2020 https://ec.europa.eu/commission/presscorner/detail/en/statement_20_208

¹³ Ibid. p. 4

while Inter-Governmental Conferences will provide stronger political steering for the negotiations.¹⁴ To this end, the Commission also aims to stress the political nature of the process via regular EU-Western Balkans summits and intensified ministerial contacts. Importantly, 'Member States will be invited to contribute more systematically to the accession process...[they] will also have the opportunity to review and monitor overall progress more regularly.' This way, the mechanisms that underpin the EU process of monitoring, but also EU decision making would become more politically sensitive¹⁵. The changes imply a shift away from the Commission as the major and often the decisive actor of enlargement towards a diversified forum of actors involved in assessing and ultimately deciding about the conduct of required reforms.

Such political steer would certainly have repercussions for the path of and speed of enlargement. The involvement of various political actors, institutions and forums of dialogue can help to fortify the monitoring process and double check on the delivery of reform. At the same time, the involvement of more political players can add uncertainty to the process. Specific member countries' contingent interests more than the record of reform may ultimately determine the pace of accession.

In the context of Kosovo, both the chance of member countries to ensure better assessment of ongoing reform and the challenge of contingent political interests blocking the process have already shown to happen in various occasions. During the visa liberalization process, for example, key member countries, particularly France and Netherlands, have attempted to checker Commission's evaluation of progress.¹⁶ In 2019, France didn't fully buy into the Commission's reporting of Kosovo compliance with the visa roadmap, instead arguing that the reported progress on corruption didn't make justice to the existing stalemate on the ground. The French Ministry of Interior had even created a special committee with Kosovo counterparts to work separately on RoL issues, a process which Kosovo authorities interpreted as 'an incident' which allowed the re-opening of the visa roadmap after commission's reporting of the fulfillment of associated criteria.¹⁷ Netherlands, too, has in various occasions doubted Commission's reporting on fulfillment of the visa Roadmap from Kosovo and made it clear that Dutch authorities were not happy with country's record against corruption, despite the commission's passing note on corruption.¹⁸ The challenge in this case is that whereas the Commission's roadmap identified specific issues that Kosovo needed to

14 European Commission, "A more credible, dynamic, predictable and political EU accession process. Commission lays out its proposals" 5th of February 2020, https://ec.europa.eu/neighbourhood-enlargement/news_corner/news/more-credible-dynamic-predictable-and-political-eu-accession-process-commission_en

15 Gentiola Madhi, 'EU and the Western Balkans: When Enlargement Gets Politicised', ISPI, 6 February 2020, <https://www.ispionline.it/it/pubblicazione/eu-and-western-balkans-when-enlargement-gets-politicised-25020>

16 Gentiola Madhi, " Politicizing EU Enlargement: The Case of Kosovo Visa Liberalization," in Ioannis Armakolas et. al State Building in Post-Independence Kosovo, Prishtina: KFOS 2020.

17 Ibid.

18 Gentiola Madhi, " Politicizing EU Enlargement: The Case of Kosovo Visa Liberalization," in Ioannis Armakolas et. al State Building in Post-Independence Kosovo, Prishtina: KFOS 2020.

comply with, member countries raised general issues, which are difficult to pinpoint and thus fulfill. Such additions risk making conditionality a jungle of unspecified criteria that is difficult to credibly monitor.

2.4 Increasing Clarity and Credibility

In the face of doubts that inclusion of a wider range of actors risk pending conditionality to member country's contingent needs, the 2019 methodology of enlargement takes over to fend such risks: 'It is important that candidate countries know the benchmarks against which their performance will be measured and that Member States share a clear understanding of what exactly is requested from the candidates.'¹⁹ The commission also insists that 'These conditions must be objective, precise, detailed, strict and verifiable' in order to offset the risk of politicization.

The new methodology also promised a better use of both positive and negative rewards in relation to the monitoring process, thus promising to make it more credible. Accordingly, 'While reform progress needs to be incentivised and rewarded more tangibly, there is equally a need for more decisive measures proportionally sanctioning any serious or prolonged stagnation or even backsliding in reform implementation.' Ultimately, the Commission pledges to be the ultimate voice in enlargement

decisions. This is especially important when considering that bilateral problems between specific countries can be used to delay the decision-making process. Per the Commission, "All parties must abstain from misusing outstanding issues in the EU accession process. In the same vein, Member States and institutions must speak with one voice in the region, sending clear signals of support and encouragement, and speaking clearly and honestly on shortcomings when they occur."²⁰

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¹⁹ European Commission, "Enhancing the accession process - A credible EU perspective for the Western Balkans", 5 February 2020, p. 6, https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/enlargement-methodology_en.pdf (europa.eu)

²⁰ Ibid.

3

Back-clashes to the Revised Enlargement Strategy

Major enlargement events that followed the introduction of the new EU methodology offer indices that the EU is already caught between contradictory aims – better monitoring and more politicization. Specifically, waning appetite for enlargement amongst key EU Member States, like France, Netherlands or Denmark, and peaking politicization of the enlargement bureaucratic machine has shifted attention towards specific member countries' contingent interests, making the process less clear and credible.

3.1 Blockages of the Process Despite Noted Progress

Some of the blockages that would associate the new methodology were already clear before it was adopted. In June 2019, for example, the Dutch Parliament voted against opening of accession negotiations with Albania and Northern Macedonia citing RoL problems. This was despite Commission's preparation of a negotiation framework with both countries based on their positive record of reforms. The Dutch veto further triggered a discussion among member countries on a possible 'decoupling' of

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the European integration process of North Macedonia and Albania in the Council, even though there are many voices opposing this solution.²¹ Next, in October 2019, France together with two other states decided to veto the opening of negotiations with both North Macedonia and Albania namely out of concerns about the state of reforms but de facto mostly because of internal politics.²² The enlargement methodology adopted later in February 2020²³, by and large takes on board the French proposal to attribute a more prominent role to member countries. It, thus, creates more room for member states to officially use their 'veto cards' against Commission's recommendation on recorded progress in the future.

Few months after the launch of the new EC methodology, on November 17, Bulgaria unexpectedly vetoed the start of the EU negotiations with North Macedonia. At the time, the Commission had long recommended opening of accession negotiations with the country and all member countries were on the same line about the country's recorded progress. Yet, Bulgaria blocked the process raising a pure bilateral issue – the lack of existence of a Macedonian language separate from Bulgarian. Bulgaria's veto on the country's bid to start negotiations also prevented Albania from starting accession talks. Most importantly, Bulgaria's blockage of the

process brought forth another challenge – the use of historic disputes as a criterion for advancing membership talks. The Council meeting of December 2020 incorporated a reference to 'reinterpretation of history' as a 'last-ditch' effort by the outgoing German EU Presidency to find a compromise that could convince Sofia to unblock the EU accession talks for North Macedonia.²⁴ On December 18, 2020, both the Czech Republic and Slovakia blasted the inclusion arguing that any reference to 'reinterpretation of history' sets a dangerous precedent in allowing disputes over history and language to become criteria for the start of EU membership talks.

Major enlargement events that followed the introduction of the new EU methodology offer indices that the EU is already caught between contradictory aims – better monitoring and more politicization.

21 European Western Balkans, ' Kefalogiannis: Decoupling of Albania and North Macedonia would send a wrong message', November 2019, <https://europeanwesternbalkans.com/2019/11/12/ewb-interview-kefalogiannis-decoupling-of-albania-and-north-macedonia-would-send-a-wrong-message/>

22 Gentiola Madhi, " Politicizing EU Enlargement: The Case of Kosovo Visa Liberalization," in Ioannis Armakolas et. al State Building in Post-Independence Kosovo, Prishtina: KFOS 2020

23 Remarks by Commissioner Olivér Várhelyi at the press conference on the revised enlargement methodology, 5 February 2020, https://ec.europa.eu/commission/presscorner/detail/en/statement_20_208

24 Bojidar Kolov, "North Macedonia's EU Challenges, the Bulgarian ego and mechanisms of defence", New Eastern Europe, December 2020, <https://neweasterneurope.eu/2020/12/14/north-macedonias-eu-challenges-the-bulgarian-ego-and-mechanisms-of-defence/>

Overall, enlargement events that followed the introduction of the new methodology show that increased incorporation of member countries in the process of enlargement, hence politicization, increases the number of veto players and makes it difficult for the union to reaching the required unanimity in enlargement decisions. In an institutional context where Council decisions on enlargement require the consensus of all member countries, the accession process can easily pend to bilateral problems that may exist between specific countries, but also member countries' specific agendas. The politicization of the enlargement also tends to negatively impact the next goal of EU new methodology—improving clarity and credibility of EU conditionality. Particularly, the current hold-up in accession talks with North Macedonia and Albania has shaken EU credibility.²⁵ Such blockages are difficult to solve in the context of fuzzy balancing between the supranational push for enlargement and the more national politicised agendas, or the 'division of labor' between the Commission and the Council, currently tilting towards the Council gaining more control in the process.

Some of the blockages that would associate the new methodology were already clear before it was adopted. In June 2019, for example, the Dutch Parliament voted against opening of accession negotiations with Albania and Northern Macedonia citing RoL problems.

²⁵ Miruna Butnaru Troncotă, "Any delays in ICCs are not good signs", Albanian Daily News, October 2020, <https://albaniandailynews.com/news/any-delays-in-iccs-are-not-good-signs> ; <https://thebarricade.online/miruna-troncota-nm/>



Kosovo: The Double Challenge of the New Rules for a Contested State

Whereas the region-wide events that follow the new methodology point at the challenge of politicization more than the opportunities of better monitoring, Kosovo offers the epitomic case of how the new rules fare in a context marked by bilateral problems and lack of full EU recognition. Given the double challenges that the country faces, most experts and diplomats we consulted with were reluctant to discuss the specific case

of Kosovo. Still, most of them too pointed towards the challenges and very few on possible opportunities that the new rules pose in the context of Kosovo contested statehood. Specifically, they raised the potential of escalating bilateral issues with Serbia and the role that the non-recognisers can play in the new enlargement set-up.

4.1 Kosovo's main Burden: Bilateral Issues and International Recognition

Due to its bilateral issues with other Western Balkan countries, the new methodology will most likely pose additional problems of politicization in the case of Kosovo. Unresolved matters regarding Kosovo statehood and its relations with Serbia are rated as the most important obstacles in Kosovo's path towards EU integration. Despite some initial successes, such as signing the Brussels Agreement in 2013, the Belgrade-Prishtina Dialogue facilitated by the EU since 2011 has stalled. After an impasse lasting for already 20 months, the high-level EU-facilitated talks between Belgrade and Prishtina continued somehow in July 2020. Yet, all the diplomats and experts consulted by the authors noted that in the last years Kosovo's main political parties and its leaders have become increasingly divided over key aspects of the Dialogue. The diplomatic US move of September 2020, although contentious and unstable because of the change of the US cabinet, arguably provided an impetus for the newly appointed EU Special Representative, Miroslav Lajčak, to energize his efforts of mediation between Prishtina and Belgrade. Still, the US initiative could also be seen as a heavy foreign policy loss for the EU, which sees itself as the primary mediator in the Balkans.²⁶ The stalling of the dialogue has repercussions for Kosovo

recognition inside the EU and more broadly, and relatedly for the country's progress in the ladder of EU integration.

Regional cooperation and good neighborly relations are key elements in the EU integration process of all the Western Balkan countries. The tense relations between Serbia and Kosovo don't exactly fit into EU's understanding of good relations and additional measures may be needed to circumvent the issue. When Kosovo's SAA was finalized back in 2015, for example, the discussions on Kosovo status and relations with Serbia, were simply circumvented by allowing the Commission – and not the individual Member States – to sign the Agreement as a legal entity on behalf of the EU. The exception provided the legal solution for the EU to avoid the potential veto of the five non-recognizers and move forward in the relations with Kosovo.

Tense relations with Serbia have further implications for Kosovo's international recognition. In the last 2 years, a total of 13 countries, which had previously recognised the former Serb province, revoked their recognition: many as a result of a concerted, global Serb campaign to undermine Kosovo's independence.²⁷ Despite the EU-facilitated repeated diplomatic meetings and formal commitments taken over the last years, great mistrust prevails among both countries. The much talked about 'land swap', or the creation of the Association of

²⁶ Mare Ushkovska, 'The EU's Rivalry With the U.S. Is Complicating Serbia-Kosovo Talks', *World Politics Review* 9 November 2020, <https://www.worldpoliticsreview.com/articles/29200/the-eu-s-rivalry-with-the-u-s-is-complicating-serbia-kosovo-talks>

²⁷ Craig Turp-Balazs 'Serbia's campaign to reduce the number of countries which recognise Kosovo is working', *Emerging Europe*, 16 January 2020, <https://emerging-europe.com/news/serbias-campaign-to-reduce-the-number-of-countries-which-recognise-kosovo-is-working/>

Serb majority municipalities proved to be mutually unacceptable solutions. Instead of facilitating dialogue, these debates have deepened mistrust among both parties, but also between citizens of Kosovo and Serbia.

Among all WB countries, Kosovo has the highest probability of being blocked by the member states – not just by the non-recognisers – but also by neighboring countries which might potentially join the EU before Kosovo does. This is valid most evidently for Serbia, but there are tensions also with Montenegro or Bosnia Herzegovina that might pose some risks for future negative evolutions. The revised enlargement methodology and increased politicization can only exacerbate such risks. Bulgaria has already set a dangerous precedent by using identity discourses to block the progress of North Macedonia in the road of EU accession.

4.2 Non-recognizers – A Subsiding challenge?

Under the new methodology, Kosovo is expected to prove to all EU Member States that the country is a reliable and serious partner able to deliver required reforms in a timely manner. This applies to the 5 non-recognisers - Spain, Greece, Cyprus, Romania and Slovakia - which are perceived as the most pressing or 'traditional' pressure facing Kosovo in the road to EU integration. At a first glance, the new rules introduce less predictability for Kosovo's

future, as any member country can block the process at any stage. For the five EU non-recognizers this could effectively mean the perfect scenario for political obstruction and sabotage of Kosovo's enlargement process in order to send a clear message that the country should not be treated as an independent state or an equal to other WB countries. In this sense, several experts argued that it will be evidently more challenging for Kosovo to cope separately with several Member States one by one instead of the more consensus-seeking Commission. One expert considered that currently Kosovo is left 'in a limbo' by the new methodology, and in order to overcome that Kosovo diplomacy should concentrate more on bilateral agreements with EU member states, 'meaning to engage bilaterally to convince member countries to vote pro Kosovo in the Council' more than pushing for recognition.²⁸

Few experts held contrasting views. They underlined that although since the declaration of independence in 2008, the 5 non-recognizers have been a key source of tension in the country's relations with the EU, the challenges arising from their contestation of Kosovo statehood have gradually subsided. As one expert noted: 'Currently the non-recognisers are the least of all other problems that Kosovo has.'²⁹ The long and eventful visa liberalization process with Kosovo provides ample evidence that non-recognizers have abstained from raising substantial issues or using the political space at their disposal to block the process

²⁸ Interview no 3

²⁹ Interview no 1

in the Council.³⁰ Instead, it was other member countries that raised the issue and demanded the commission double check its reporting on implementation of required standards in the areas of Rule of Law.³¹

An expert from Romania even argued that Kosovo's excessive focus on diplomatic recognition, which targeted mainly non-recognizers, was an unnecessary use of resources in a 'one way street'. In his view, Kosovo's authorities focus mainly on the task of convincing doubtful member countries on recognising statehood proved more inefficient compared to showing their advancement of RoL reform, for example.³² In general, most non-recognizers have become more flexible and willing to compromise on topics outside recognition and this could be an encouraging sign for the years to come. A Romanian diplomat that we interviewed underlined that in July 2019, Kosovo started its one-year Chairmanship (2019/2020) of the SEECP,³³ and neither Romania nor Greece that are members in SEECP opposed the event. Moreover, Kosovo was first invited to a SEECP meeting during Romania's presidency in the organisation back in 2014.³⁴

During Romania's Presidency of the Council of the European Union, in 2019, Kosovo was invited to participate in one of the Informal

meeting of foreign affairs ministers of all Member States which included also foreign ministers of candidate countries, a meeting known as the Gymnich format (named after the palace in Germany where it was first organised). Then Kosovo's First Deputy Prime Minister and Foreign Minister, Behgjet Pacolli, attended the meeting. Allowing Kosovo to participate en par with other candidate countries shows that Romania has no intention of taking an obstructive attitude towards Kosovo.

Nevertheless, the more assuring role of Romania may not necessarily be replicated by other non-recognizers. As one expert pointed, there are clear differences among the 5 non-recognizers attitude towards Kosovo, and this could become more visible in the future negotiations. They are usually divided into three sub-groups: a. 'soft non-recognisers', with more proactive member states such as Slovakia, that support Kosovo directly; b. 'ambivalent non-recognisers' somewhere in the middle, showing signs of indirect support, such as Romania and Greece and c. 'hardline non-recognisers', the least favourable to Kosovo's statehood and with a more vocal denial of any contacts or cooperation - such as Spain and Cyprus.³⁵ These sub-groupings of EU's non-recognizers could shift and change position in the future, which makes any calculations

30 Doris Manu, "A view from Brussels: the EU's institutional set-up and political concerns influencing the visa liberalisation process with Kosovo." in Ioannis Armakolas et. al Local and International Determinants of Kosovo's Statehood, Vol. 1. Prishtina: KFOS 2019.

31 Gentiola Madhi, " Politicizing EU Enlargement: The Case of Kosovo Visa Liberalization," in Ioannis Armakolas et. al State Building in Post-Independence Kosovo, Prishtina: KFOS 2020.

32 Interview no 2

33 SEECP consists of the following participants: Albania, Bosnia and Herzegovina, Bulgaria, Croatia, Greece, Hungary, Kosovo, Republic of North Macedonia, Moldova, Montenegro, Romania, Serbia, Turkey, and Slovenia. See more in <https://europeanwesternbalkans.com/2019/07/15/kosovos-chairmanship-over-seecp-begins-today/>

34 Ministry of Foreign affairs, Kosovo, SEECP. <https://www.mfa-ks.net/en/politika/553/seecp/553>

35 Interview no 5

on the impact of the new methodology on Kosovo even more unpredictable.

4.3 An Extra-motivating Factor for Kosovo?

Few of the experts we consulted with saw the new enlargement rules through optimistic lenses, argued that a better political supervision of the EU enlargement processes, and related decisions was long needed, especially on issues of rule of law. As an expert noted, 'the increasing role of member states and the Council in the process could bring a better inclusion of EU citizens and more scrutiny over the ways the Commission currently handles the assessment of reforms and related decisions on enlargement. This way, we have an extra check on what the Commission does to stimulate reforms in the Balkans and with what results.'³⁶

For Kosovo, this new methodology could be looked at also as an opportunity to advance more targeted reforms, not just as an extra burden. The larger involvement of all Member States in the monitoring of the achievements - or fallbacks of EU driven reforms, including field missions to the countries with experts from both the EC and the Member States, could also mean that the local leaders will be held accountable for their actions and commitment to reforms by extra 27 'observers'.

Some consider that a better supervision would even be necessary for Kosovo, where local leaders have learned very well how to 'tick boxes' and satisfy the Commission 'on paper' and when it doesn't work they found it much easier to blame the EU for their own failures.³⁷ This is partly condoned by citizens' views which tend to think that the political elite is responsible, not the EU is responsible for for the stalemate.³⁸ In the context of the revised methodology, it will be very challenging for these leaders to 'trick' all individual member countries carefully watching the process, so they will be hopefully forced to get out of their 'business as usual' mode and commit to substantial reforms. As an interviewee suggested, "it will be thanks to this anticipation of events - tracking down potential ambiguities in the process, identifying particularly challenging reform areas, and pinpointing measures to prioritize - that Kosovo, should it ever abide by the new enlargement methodology, will deliver."³⁹

4.4 EU's Waning Credibility

Despite the few benefits of monitoring, what came out very strongly in the interviews is that the new rules can exacerbate EU's waning credibility. By allowing more space for member states' national agendas, the Commission might lose its already eroding authority and could risk to be perceived

³⁶ Interview no 3

³⁷ Interview no 2

³⁸ Balkans in Europe Policy Advisory Group (BIEPAG), 'Between a rock and a hard place: Public opinion and integration in the Western Balkans' December 2020, <https://biepag.eu/wp-content/uploads/2020/12/Between-a-rock-and-a-hard-place-English.pdf>

³⁹ Alejandro Estesó Perez, 'Renewing hope? An analysis of the new EU enlargement methodology and its implications for Kosovo', Group for Legal and Political Studies, Policy Analysis 01/2020, <http://www.legalpoliticalstudies.org/wp-content/uploads/2020/04/GLPSPolicyAnalysis012020NewEnlargementStrategy.pdf>

as being 'useless' or a 'toothless tiger'.⁴⁰ As one expert put it, 'more pressure from member states might discourage further commitments for reforms in the Balkans, but especially in Kosovo, where there is the risk that public attitudes vis-à-vis the EU to be drastically changing and take a U turn. More negative perceptions on Brussels, not seeing it as a trustworthy and reliable partner after years of 'empty promises' could clearly be a result of the new methodology, if applied on Kosovo'⁴¹. Another expert similarly maintained that politicization would have detrimental effects in the EU's transformative power in Kosovo with the Commission hiding behind the same empty words: 'limited progress'.

So, future enlargement decisions will depend more on member-states elections' results, and certain national leader's populist agendas than on actions of candidate or potential candidate states.⁴² In return, this would affect the Commission's work and jeopardise the system of benchmarks. One expert even raised concerns over EU's capacity to properly monitor Kosovo's progress in the context marked by lack of political consensus in the EU.⁴³

Bulgaria's veto of opening accession negotiations with North Macedonia in November 2020 was given as an example of potential 'game changer' for EU relations

with Kosovo too. The case might encourage other countries to do the same in the future and obstruct common decisions simply by invoking national symbols and 'reinterpretation of history', which remain very sensitive topics in the region,⁴⁴ especially in Serbia and Kosovo. Some experts interpret the Bulgarian veto as an illustration of the fact that 'identity discourses and ethno-politics are still alive and have the capacity to influence high level decisions inside the EU.'⁴⁵ In return, this could fuel discontent and lack of EU credibility among sections of Kosovar society, specifically when concerning the Dialogue facilitated by the EU and the outcome of this process.

Some experts also outlined that extra-politicisation of enlargement deepens the asymmetry and sometimes conflict of power between the political arm of the Union, the Council and its bureaucratic arm, the Commission. Accordingly, 'the EU will now be perceived as weak because it allows too much asymmetry of power between the Council and the Commission in a file that used to be controlled mainly by the Commission. Even the EC's Annual Progress Reports, as the strategic documents that offer the main overview of the enlargement-led reforms, might lose their credibility and importance in this new context'⁴⁶ Some of the interviewed experts and diplomats also expressed concerns that the new

40 Interview no 3

41 Interview no 4

42 Interview no 1

43 Interview no 3

44 Interview no 1

45 Interview no 4

46 Interview no 1

rules might legitimize new ways of political influence in the enlargement process, and the entire process will become less transparent, because we will not know for sure what exactly is being discussed and with what arguments in the Council, given that its meetings are not public⁴⁷.

Other experts warned that those 'gaps' in the EU credibility will have repercussions for the form and depth of reforms on the ground. As one expert noted, this might be the path towards even more 'policy stasis' and no significant change, a phase of stagnation and mimicry of reforms that characterised Kosovo for the last 5 years.⁴⁸ In general most experts we consulted with share a persistent fear that the disappointment with the EU enlargement delays and recent politicisation of the Council would backlash in growing EU scepticism, unwillingness to conduct reforms and more zero-sum game in Kosovar politics. Still, most experts appear worried that the 'meritocratic approach' and especially the phenomenon of politicization advanced by the Commission in the new enlargement package will end up empowering both EU member states and Balkan leaders to further avoid responsibility and commitment, not the other way around.

Whereas the region-wide events that follow the new methodology point at the challenge of politicization more than the opportunities of better monitoring, Kosovo offers the epitomic case of how the new rules fare in a context marked by bilateral problems and lack of full EU recognition. Given the double challenges that the country faces, most experts and diplomats we consulted with were reluctant to discuss the specific case of Kosovo.

47 Interview no 3

48 Interview no 1

Conclusions

The Commission's new approach on enlargement, launched just weeks before the COVID pandemic erupted in March 2020, aimed to reinvigorate the accession process by making it more predictable, more credible, more dynamic and subject to stronger political steering. The events that marked processes of enlargement during 2020, however, showed that the EU's aim to insert 'more credibility' to enlargement and its monitoring aspect remains wishful thinking. Specifically, the other goal to allow member countries more space in the process of enlargement proved instrumental for rebellious member states to veto enlargement, and has thus backfired on EU's aim of credibility. The challenges of politicization out-weight opportunities of rigorous monitoring and credibility to the extent that any individual country can decide to block the process. Political interests that play out in the Council and/or member countries 'stubborn' stuck into specific national interests has worked to pend EU decisions to member countries' political contingencies. Moreover, we also underlined that the main driver of these changes was the lack of trust of the member states toward the Commission, thus seeking more control over enlargement. This way, the new methodology places the Commission in a more difficult position than before, as it has no political tool to pressure the MS. A weakened influence of the Commission poses another great risk for future negotiations in the process - more fragmentation, brought by the fact that member states will never speak with one voice in the region, which was the case for the Commission. All in all, the reshuffled enlargement rules imply waning EU credibility and the risk of EU being perceived as a toothless actor, in Kosovo and beyond, with negative repercussions for the transformative power of Europe.

The analysis of the enlargement-related events since the adoption of the new methodology by and large shows that the balance of different goals that the EU aims at has in fact tipped towards more politicization of the decision-making process. Specifically, the inclusion of member states concerns at all stages of decision-making process creates more room for bilateral problems and politically contingent concerns to tip the balance and even block the process. Without a proper balance with merit-based and credible decision-making rules, the new methodology offers member states more space to delay and obstruct enlargement decisions for purely political concerns. The Bulgarian veto to opening accession negotiations with North Macedonia based on issues related to ethno-political narratives and interpretations of history, and despite North Macedonia demonstrable progress of

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reforms, shows that bilateral problems and political concerns may shape and determine enlargement-related decisions in the future. At least, the new methodology empowers such an alternative.

We analysed how the new rules are expected to work in the context of weak state in Kosovo, highlighting in particular: a) the bilateral issues and non-recognizers' attitudes, which relate to increasing politicization; b) expectations on better monitoring; c) waning credibility. All these elements are expected to have negative repercussions in the case of Kosovo, which additionally suffers from political instability and a crisis of governance, that add to its well-known 'bad neighborly' relations. We also found that non-recognizers have more diverse positions towards Kosovo than before, some of them visibly softening their position. Still, we argue that the risk that the non-recognizers could use the new instruments of enlargement methodology to obstruct Kosovo's path in the future remains very palpable.

LIST OF INTERVIEWS

Interview no 1, Diplomat, Ministry of Foreign Affairs, Romania, 12 November 2020.

Interview no 2, Diplomat, Ministry of Foreign Affairs, Romania, 15 November 2020.

Interview no 3, Diplomat, Ministry of Foreign Affairs, Germany, 21 November 2020.

Interview no 4, Expert in foreign affairs, Kosovo, 22 November 2020.

Interview no 5, Expert in EU relations with Kosovo, 24 November 2020.

All interviews had been conducted in online format, due to COVID-19 pandemic restrictions.

