Some Considerations on the Western Balkan States’ Process of Accession to the European Union

Lector Andreea Nicoleta DRAGOMIR, Ph.D.¹ and Sergiu Gabriel BERINDEA²

¹Lucian Blaga University of Sibiu, Romania
E-mail: andreea.dragomir@ulbsibiu.ro
²Undergraduate student, The School of Law, Lucian Blaga University of Sibiu

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Abstract
When someone gets married or starts a relationship, the family grows, and a similar phenomenon is witnessed in the case of associations, irrespective of their type, when states, organisations, or structures join it. The European family has gradually grown larger as a result of the states that expressed their wish to join what is now known as an unprecedented social, economic, political, and legal structure in the history of Europe.

This article seeks to answer a series of legitimate questions, which are raised time and time again when the expansion or contraction of the European Union are debated. It examines the conditions a state must fulfil in order to become a member of the European Union and the stages of the accession process against the current relations between the Western Balkan countries and the EU.

At a time when one of the twenty-eight member states left the Union and the EU borders were reconfigured, the article attempts to explore the European Union’s enlargement strategy in the Western Balkans after Croatia’s accession, which came into force on 1 July 2013.

The present article focuses on the other six Western Balkan states—Serbia, Montenegro, Albania, North Macedonia, Bosnia and Herzegovina, and Kosovo—, which are at different stages in the process of joining the European Union.

Keywords: enlargement of the European Union, accession, Western Balkans, Serbia, Montenegro, Albania, North Macedonia, Bosnia and Herzegovina, Kosovo.

Introduction

The idea of a union of the Europeans has existed since the dawn of the Renaissance, yet without crystallizing into a project the size of the European Union. For instance, in 1306, Dante Aligheri notes in his De Monarchia the urgency of establishing a universal monarchy under the rule of a Holy Roman Emperor. Later, in 1605, Tommaso Campanella, the famed Italian poet, philosopher, and theologian, advocated the development of an economic union and a European mint.

World War II would much later cause significant material, moral, and social casualties in Europe, which prompted the states on the continent to identify the best solutions to maintain a state of peace among the peoples of Europe.

At the Yalta Conference, which took place between 4 and 11 February 1945, the leaders of the three Allies—Winston Churchill, the Prime Minister of Great Britain, Franklin Roosevelt, the President of the United States and Joseph Stalin, the leader of the Soviet Union—discussed the effects of the war and the power wielded by Nazi Germany, while searching for recovery solutions.\(^1\)

The Conference adopted the Declaration on Liberated Europe, which ratifies “the right of all people to choose the form of government under which they will live . . . and to create democratic institutions of their own choice.” However, the Wehrmacht’s capitulation divided Europe in two areas with distinct interests: one based on the communist ideology, with a state-planned and operated economy, and one whose economic system and production were dictated by the dynamics between supply and demand.\(^2\)

Winston Churchill’s 1946 speech at the University of Zurich, where he urged Europeans to look to the future and give up thinking about the past, promoted the idea of a united Europe, which stemmed from the desire to establish the “United States of Europe.”\(^3\) The United States of Americaparticipated in this project, supporting the anti-communist resistance by equipping Germany with weapons.\(^4\)

This was the context that led to the Treaty Establishing the European Coal and Steel Community (ECSC), which was signed on 18 April 1951 by the heads of state and government and which entered into force a year later. This treaty would mark the beginning of the European Communities.

The period spanning 1951 to 1973 had seen the emergence of several organizations, institutions, and bodies, with a series of objectives regarding customs, health protection, and the average standard of living and quality of life. This was also a time when common policies were adopted in various fields: agriculture, transport, commercial competition.

After the fall of communism, the Western Balkan states intensified their efforts to join the European communities, with the international European organizations offering support and guidance to the states of Central and Eastern Europe on how to build democratic societies.

The Western Balkan countries benefit from a programme launched in 1999,\(^5\) titled the “Stabilization and Association Process,”\(^6\) which is designed to help with their integration into the

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2. Gyula Fábián, Drept instituțional al Uniunii Europene, 2nd ed., Ha meni, Bucharest, 2018, p. 18;
European Union and made possible the EU accession of the first Western Balkan state, Croatia, on 1 July 2013. This paved the way for membership negotiations in the case of Serbia and for Bosnia and Herzegovina and Kosovo to become potential candidates to the process. Accession talks were initiated with Serbia in 2014 and Montenegro in 2012. Since 2014 and 2005, Albania and North Macedonia have qualified as candidate countries; on 26 March 2020, the European Council approved the opening of accession negotiations with them.\(^7\) Bosnia and Herzegovina and Kosovo applied for membership in 2016.

At the Thessaloniki Summit, held on 19 and 20 June 2003, the European Council confirmed “its determination to fully and effectively support the European perspective of the countries of the Western Balkans, which will become an integral part of the European Union once they meet the established criteria.”\(^8\)

The European Council meeting in Brussels of 14 and 15 December 2006 reiterated the need to facilitate travel visas, which would therefore encourage the emergence of more travel opportunities, promoting contact between people in the European Union and the countries of the Western Balkans, and strengthening the accession plans.

In 2018, the European Commission led by Jean-Claude Juncker adopted a vision of EU enlargement aimed at the countries of the Western Balkans\(^9\) and identified the need for reforms and good neighbourly relations. The strategy stipulates concrete objectives for 2018 and 2020 in areas of interest such as: the rule of law, security and migration, socio-economic development, transport and energy efficiency, and the digital agenda. For these reforms to achieve their goals, the Commission has increased pre-accession assistance funds.

The EU-Western Balkans Summit, organised in Sofia on 17 May 2018, brought together the heads of state and government of the European Union’s member states and the leaders of the six Western Balkan states with a view to adopting the Sofia Declaration,\(^10\) through which the Union reaffirmed its “unequivocal support for the European perspective of the Western Balkans,” and assessing their status as potential member states. The Union commended them for their contribution to the common foreign and security policy, the fight against corruption and organized crime, while encouraging them to take firm action against human trafficking, illegal drug production, illicit migration, and drug smuggling, and stressing the need for more opportunities for young people.

The integration of the Western Balkan states has been the focus of many of the European officials’ recent meetings. The EU-Western Balkans Informal Meeting, held in Brussels on 16 and 17 February 2020, Ursula von der Leyen, the new President of the European Commission, reiterated the Union’s interest in the accession of these states: “I think it is in our common geostrategic interest to have the Western Balkans as close as possible to the European Union.”\(^11\)

It is of vital interest to establish relations with the neighbouring countries on a common foundation of independence and, if possible, of shared values, to form an genuinely long-term pole of international influence.\(^12\)

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\(^{10}\)Presidency conclusions of the Thessaloniki European Council (19 and 20 June 2003), available at: https://www.consilium.europa.eu/ro/policies/enlargement/
\(^{14}\)Source: https://romania.europalibera.org/a/mai-este-posibil%C4%83-extinderea-ue-spre-balcani/-30438090.html, Accessed 2 May 2020
\(^{15}\)Ion Anghel, Grigore Silași, Adrian Crăciunescu, Diplomația Uniunii Europene, Universul Juridic, Bucharest, 2015, p. 396
The latest agenda aimed at increased enlargement has given structure to EU’s foreign policy, but the full spectrum of its positive effects is yet to be harnessed, and must be thoroughly applied, especially in the Balkans and Turkey, for the EU to become a space of reconciliation, stability, economic exchanges—in short, a geographical and historical space in every sense of the word.

In order for the EU enlargement strategy to be legitimate, legal measures must be taken. These include strict control of the accession conditions, which preserve the cohesion and solidarity of the area. The political measures must clearly outline Europe’s new borders by establishing the exact status of the neighboring states, thus encouraging and aiding with medium-term integration.

As for the perspectives in common foreign, security, and defense policy, it should be noted that, with a shift of the center of economic gravity to the Asia-Pacific region and China—which is a genuine economic power—, the G7 would no longer include a European state. These developments would bring about a transfer of diplomatic and military power through a fiercer arms race involving the new powers. In turn, these transformations could double at the doorstep of the EU, where the trajectories of reform in the neighbouring states are divergent: in Ukraine, the EU experiences head-on rivalry with Moscow, and in the South, the European influence is jeopardized by foreign investors such as China and Qatar. The internal cohesion of the EU’s neighbours has been weakened by the emergence of counter-models. Association agreements have been delayed and no EU member state is able to meet such a challenge. However, the EU has many strengths: it has one of the largest internal markets in the world, an active trade policy, a policy of development and humanitarian aid, a way of life based on the rule of law and democracy.

This is the general framework in which the EU aims to promote European integration, encouraging peace, the adoption of its core principles, and the well-being of peoples, while also providing a common basis for interdependence and shared values.

The Copenhagen criteria and the accession of the Western Balkan countries to the European Union

Until 1995, the accession of new member states was not subject to express conditions imposed by the European Community. Thus, their integration depended more on the agreement of the member states and the candidate countries, often to the detriment of the Union’s position; this was due to the political structure of the Community, which resembled that of the states. The fall of the communist regime and the interest in the integration of the states whose political and economic structure no longer resembled the Communities, gave rise to the need to establish accession criteria.

The Copenhagen European Council of 21 and 22 June 1993 delineated the first criteria that the new states must meet, with the Madrid European Council of 1995 adding a final criterion, which refers to states’ capacity to apply the Union’s provisions in point of justice and administration.

The Copenhagen criteria are as topical as ever and remain the backbone of the European Union’s enlargement process in the Western Balkans and Turkey, just as much as they were in 1993. This guardian of community values is the guarantee that the integration process is not hastened, and
that the pace is dictated by the extent to which the candidate countries observe the accession conditions.\textsuperscript{15}

Candidate countries are conditioned on compliance with the accession criteria, which promote democratic institutional reforms and the development of market economy in order to stimulate the ability of states to compete on the world market.\textsuperscript{16} The conditions a state must meet in order to join the European Union are:

- the political criterion – concerns the requirement to possess stable institutions that guarantee democracy and the rule of law by introducing the separation of powers\textsuperscript{17} and ensuring the observance of human rights and the protection of minorities. The political criterion prevails, in that it is impossible to start accession talks unless these conditions are met.
- the economic criterion – refers to the existence of a market economy and the candidate state’s potential for competitiveness on both the European and world market. It has been argued that, in the absence of this criterion, a state may do more harm than good to the European economy. The economic integration requires the potential candidate country to reach a level of development similar to that of the member states.\textsuperscript{18}
- the Community acquis criterion – the third and last criterion represents the capacity of the state to assume the membership obligations, i.e., to adopt and abide by the values of the Union, its history, aims and rules.

The European Commission reports each state’s progress annually, and candidate and potential candidate countries receive the financial support needed to implement the measures required to join the European Union.

The 1995 Madrid European Council strengthened the Copenhagen criteria and added the criterion of simplifying the administration for an effective adoption of the Community acquis.\textsuperscript{19}

The Treaty on European Union\textsuperscript{20} stipulates provisions according to which any European state observing and undertaking to promote the values of the Union\textsuperscript{21} may apply for membership. These values “common to the Member States in a society characterised by pluralism, non-discrimination, tolerance, justice, solidarity and equality between women and men” are respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities.

The procedure for accession to the European Union

The process of accessing the Union is not simple, being determined by the progress the candidate country makes in taking on and implementing the Community acquis.

The accession procedure laid out in Article 49 of the Treaty on European Union includes the following steps:

\begin{itemize}
  \item \textsuperscript{15}Štefan Füle, Copenhagen Criteria – the backbone of EU Enlargement, Conference: 20 years that changed Europe, Copenhagen, 14 May 2013, Conference Report, pp. 9-10
  \item \textsuperscript{16}European Legal Research & Training Network, Enlargement under Copenhagen Conditionality: The path towards EU integration – ‘Nobody said it would be easy’, Rotterdam, 2015, p. 8
  \item \textsuperscript{17}Gyula Fábián, op. cit., p. 52
  \item \textsuperscript{18}Huguette Laermans, Paul Roosens, The enlargement of the European Union, EKON. MISAO PRAKSA DBK. GOD XVIII, 2009, p. 399
  \item \textsuperscript{19}Suhal Semsit, The EU’s enlargement and neighbourhood policy strategies – The role of political conditionality, in The European Neighbourhood Policy in a Comparative Perspective, Florence Production Ltd, Devon, 2016, p. 221
  \item \textsuperscript{20}See Article 49 of the Treaty on European Union (consolidated version), published in OJ C 202, 7.6.2016
  \item \textsuperscript{21}Idem, Article 2
\end{itemize}
• The candidate country decides internally to begin the accession process;
• The Government lodges an application for membership with the Council of the European Union;22
• The Council consults with the European Commission on the political, economic, and legal status of the state concerned;23
• The Commission issues a report on the situation in said country and submits it to the European Council, which recommends the start of the accession negotiations;
• An extraordinary accession conference is organized, in which the Member States and the potential candidate country discuss the points of negotiations;
• Negotiations officially start, during which compliance with the Copenhagen criteria is verified and the Community acquis is taken on;
• Following the negotiations, the European Parliament approves the conclusion of the talks, the Commission issues a final position, and the European Council decides by unanimous vote the conclusion of the Accession Treaty;
• The candidate state and all the member states of the European Union ratify the Accession Treaty by referendum or vote in Parliament;
• The Treaty comes into force.

The accession process of the Western Balkan countries is ensured through careful monitoring of their progress and the Accession Agreement issued by the most influential institutions of the European Union, which consist of representatives of all the member states.

The Western Balkan states are at a different stages of the pre-accession and accession process, as follows:
- Candidate states that have started accession negotiations: Albania, North Macedonia, Montenegro, and Serbia.
- Potential candidate countries: Bosnia and Herzegovina and Kosovo.24

The Western Balkan states’ status in the accession process

The twentieth century ended as it began, with bloodshed in the Balkans. At the end of World War I, the Warsaw Pact established a new state for the southern Slavic peoples: the Serbs, Croats, and Slovenes. In 1929, this state had been named the Kingdom of Yugoslavia and after World War II, its official name was changed to the Socialist Federal Republic of Yugoslavia, consisting of several socialist republics: Bosnia–Herzegovina, Croatia, Macedonia, Montenegro, Serbia, and Slovenia.25

The drive for independence that characterised the late 1980s encouraged the Croats and Slovenes to strive for independence as well. The Serbs tried to stop them and went to war with their old enemies, the Croats. When Bosnia–Herzegovina declared independence in 1992, the Serbs attempted an ethnic cleansing of the Croats and Muslims living in the region, which marked one of the most shameful and terrifying endeavours since World War II. As a result of UN intervention, Serbia was forced to accept Bosnia–Herzegovina’s independence. Since then, the remainder of the component republics have also gained their independence, the latest being Kosovo.

22On 22 June 1995, Romania lodged its application for membership and the Snagov Declaration, which is an agreement of all political parties to support Romania’s preparations for accession to the European Union.
23Gyula Fábián, op. cit., p. 53
24This status of potential candidate country is without prejudice to the various stances on the state and complies with UNSCR 1244/1999 and ICJ’s Advisory Opinion on Kosovo’s declaration of independence.
Candidate countries currently negotiating accession to the EU

The dependability of the accession process is strengthened by affording closer attention to the fundamental reforms essential for the success of the integration into the EU. Negotiations will be guided by:

- A roadmap for the chapters on the rule of law, equivalent to previous action plans, which are the benchmark for opening negotiations. Interim benchmarks are later established. Until these criteria are met, no other chapters are provisionally closed.
- A roadmap on the functioning of democratic institutions and public administration reforms.
- Closer ties with the economic reform programme, with a view to supporting the countries concerned to meet the economic criteria.

The European Commission's Communication of February 2020 states that the EU shall address potential issues in the following of ways:

- Member states can decide to suspend negotiations partially or, in the most serious of cases, fully. Closed chapters could be reopened or re-evaluated if issues that need to be re-examined arise.
- The scope and extent of the EU funding could be reduced, with the exception of the support granted to civil society.
- The benefits of closer integration, such as access to EU programs or unilateral concessions for market access, could be temporarily suspended or withdrawn.

ALBANIA

Its application for membership to the European Union was lodged in 2009. The first steps towards accession identified by the Commission were made in 2012, and a year later, the Commission recommended granting Albania candidate status, which the country officially acquired in June 2014. The 2013 parliamentary elections represented a point of major interest, in that the satisfactory results made it possible for the Union to cooperate with the Albanian institutions, which were led by decision-makers who supported divergent views on the state’s accession to the European Union.26

In 2018 and 2019, the European Commission recommended that accession negotiations with Albania start, but the conditions imposed by the Council in 2018 on matters such as legal reform and the fight against corruption and organized crime had made the accession impossible until March 2020. The Council noted that significant progress has been made in taking the accession process forward and meeting the conditions required by the Council in 2018, and, in turn, decided to open accession negotiations, provided that the European Council approved the start of the talks, drafted a proposal for a negotiation framework, and organised the first intergovernmental conference as soon as possible.27 The Western Balkan countries’ clear merit-based policy of achieving full EU membership is in the political, security, and economic interest of the Union. At a time when global challenges and divides are increasingly numerous, such an endeavour is more than ever a geostrategic investment in a stable, strong, and united Europe.28

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26 Peter Balasz, The Future of EU enlargement, in International Issues & Slovak Foreign Policy Affairs, vol. XXII, no. 4, Research Center of the Slovak Foreign Policy Association, Slovacia, 2013, p. 13

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The accession process, which will most likely last for more than ten years, is aimed to help the country meet EU standards. One thing is clear: Albania and North Macedonia will not be joining the EU tomorrow, and the citizens of the two countries will not immediately enjoy the right of free movement within the Union. This shows that the EU has learned something from the mistakes made when Bulgaria, Romania, and Turkey were in the process of accession. Today, the procedure is considerably more complex and strict.

NORTH MACEDONIA

Although it applied for membership in 2004 and received candidate status in 2005, it is only in March 2020 that accession negotiations were opened.

On 3 March 2020, the European Commission issued a statement on the revised methodology for the accession process of the Western Balkan states and North Macedonia, focusing on the reforms to which the legal and administrative system must be subjected. It may be interpreted as an analysis of their intense judicial activity, which was carried out by the Public Prosecutor’s Office and the Special Prosecutor’s Office. The public administration has adopted a Transparency Strategy in all public institutions, by displaying and publishing financial data.

The Commission’s enlargement agenda in the Western Balkans takes into consideration the progress made by North Macedonia, and found that the conditions for starting accession negotiations have been met.

MONTENEGRO

It applied for membership in December 2008. The European Council meeting of December 2010 granted Montenegro candidate status. A year later, the Commission recommended the start of the accession negotiations, and in 2012, the European Council approved the decision to open negotiations.

The first Accession Conference was held in 2012 and was followed by eleven other ministers’ conferences, which had the role of taking negotiations to the next stage by opening new chapters or closing those already negotiated. The latest, which was organised on 10 December 2018, opened the negotiations for the 27th chapter, “Environment and climate change.” Of the total thirty-five chapters, thirty-two are still open and three were provisionally closed.

The Commission welcomes the prospect of having Montenegro as a member state, but not earlier than 2025, and only insofar as the assumed objectives are met.

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32European Commission, Communication from the Commission to the European Parliament, the Council, the European Economic And Social Committee and the Committee of the Regions - A credible enlargement perspective for and enhanced EU engagement with the Western Balkans, Strasbourg, 2018, which may be found here: https://ec.europa.eu/commission/sites/beta-political/files/communication-credible-enlargement-perspective-western-balkans_en.pdf
SERBIA

It applied for membership in December 2009 and in March 2012, the European Council granted it candidate status. The European Council endorsed the Council and the Commission’s decision to conclude a Stabilisation and Association Agreement with Serbia,\textsuperscript{33} which represents their commitment to provide political, economic, and trade support.

The European Council of 2011\textsuperscript{34} reaffirms the obligations countries must fulfil in order to become members of the Union. They are laid out in Articles 2 and 49 of the Treaty on European Union and the Conclusions of the European Council in Copenhagen of June 1993, and were strengthened in 1995 in Madrid. Since 2001, the Union has provided financial assistance through grants and loans, and from 2007, Serbia has received pre-accession assistance in implementing reforms, taking on the acquis, ensuring economic and social development, and streamlining its administrative activity. Since 2013, Serbia has benefitted from a programme aimed at supporting its communication technologies and culture.

As for the Copenhagen accession criteria, the European Council\textsuperscript{35} identified Serbia’s current status in the three areas of interest as follows:

➢ The political criterion – since Serbia is a parliamentary democracy, its legislative framework is similar to that of the Union’s institutions. The rule of law has been strengthened through constant fight against corruption and organised crime, and the establishment of the Anti-Corruption Agency has led to increased international cooperation on criminal matters. The protection of human and minority rights is at European standards, but it is necessary to train the administration, law enforcement, and the legal system to ensure effective application of their respective provisions.

➢ The economic criterion – Serbia’s efforts to create a market economy and implement reforms provides economic agents with greater stability and predictability in making long-term decisions. Progress has also been made in point of exports and investments, which, in turn, facilitate economic integration.

➢ The ability to take on obligations – Serbia has largely fulfilled the obligations undertaken under the Stabilisation and Association Agreement, but there are areas where the acquis must be adopted in the medium term\textsuperscript{36}. Recommendations were also made regarding the effective application of the acquis in areas such as food safety, transport, energy, consumer protection, and concerning the medium-term development of agriculture and rural areas, justice and human rights, justice, freedom and security, and financial control.

Accession negotiations with Serbia were opened in January 2014,\textsuperscript{37} and in December 2019, eighteen of the thirty-five chapters opened for negotiation were closed.\textsuperscript{38}

\textsuperscript{35}Ibidem
\textsuperscript{36}The European acquis must be adopted in the following areas: company law, fisheries, taxation, economic and monetary policy, statistics, enterprise and industrial policy, science and research, education and culture, customs union, external relations, foreign, security and defense, financial and budgetary provisions.
\textsuperscript{37}See General EU Position - Ministerial meeting opening the Intergovernmental Conference on the Accession of Serbia to the European Union, Brussels (21 January 2014), which may be found here: http://www.europa.rs/upload/januar%202014.pdf
Potential candidate states

BOSNIA AND HERZEGOVINA, KOSOVO

Bosnia and Herzegovina expressed its wish to join the European Union in 2016. The application was examined by the Council against a report from the Commission and reiterated the Union’s support for the Western Balkan states’ integration, provided that the provisions of the Treaty on European Union and the Copenhagen criteria are observed. The Council also highlighted the importance of complying with the “Stabilisation and Association Agreement” concluded on 1 June 2017 with the European Union, which establishes free trade areas for economic cooperation.

The European Commission’s Report submitted in 2019 states that the constitutional system of this country guarantees the fundamental principles of democracy and respects the principle of separation of powers by distinguishing between the legislative and the executive components. The Commission notes that citizens tend not to exercise their right to vote, which is attributable to the authorities’ inefficacities in providing the necessary conditions.

Kosovo concluded a “Stabilisation and Association Agreement” with the European Union on 1 April 2016. This agreement is the state’s only opportunity to demonstrate its capacity to forge and develop economic and investment relations with other member states in the Union.

A state of about two million inhabitants, whose journey towards Europe began only in 2013, Kosovo is expected to experience a relatively short process of EU integration, which we anticipate will not lengthy.

On its way to the European Union, Kosovo faces two very important problems: its independence is not recognised by states such as Cyprus, Greece, Romania, Slovakia, and Spain, and there is also unsatisfactory regional cooperation with Bosnia and Herzegovina and Serbia.

41. The declaration of independence of the Republic of Kosovo from Serbia was adopted on 17 February 2008 by a unanimous vote of the Assembly in Kosovo. All eleven representatives of the Serb minority boycotted the action. The international reaction was mixed, in that some states recognized Kosovo’s independence, while others did not.
Conclusion

The first wave of accessions to the European Union took place in 1973. Almost half a century has passed since then, and all the European states that share the values laid out in Article 2 of the Treaty on European Union are yet to fully come together. This indicates that the enlargement process of the Union is ongoing. Of course, it will not end until all the European countries have made tangible progress towards meeting the Copenhagen criteria.

Some countries have only just begun the complex accession process, and safeguarding European goals implies, among others, affording closer attention to the states who want to join the Union, especially at a time when the Union’s borders are being reconfigured.

Geographically, the Western Balkans are surrounded by EU member states. The peoples of the EU and the European region have a common heritage and history, and prospects defined by common opportunities and challenges. Citizens want to live in prosperous and equally developed states, where the rule of law is strong and corruption uprooted.

People tend to see the order in which they live as the natural order. For the Europeans, the European Union is the natural order. This world is, however, threatened by many crises, which affect the trust of the citizens on the continent in the future of the European projects. Flexibility, not rigidity, can save Europe. It involves adopting common policies to ensure the security of the external borders, free trade policies, and increased legitimacy, with the latter being primarily achieved through efforts aimed at withstanding any form of adversity.

After all, survival is like composing a poem: not even the poet knows how it is going to end before it does.

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44. Ivan Krastev, Post Europa, Comunicare.ro, 2017, p.149