

Kosovo's long road to EU Membership

Kosovo: longo caminho até à adesão plena à UE

F. Marina Azevedo Leitão

<https://orcid.org/0000-0002-8427-461X>

Isabel Maria Freitas Valente, Ph.D.

<https://orcid.org/0000-0003-2403-5147>

Abstract

Kosovo's quest for EU full membership can be analyzed from several angles. This article limits itself to the analysis of EU's current position on those amalgamation aspirations. In doing so, after reviewing EU enlargement strategy, its attractiveness and the process of accession of new members, particular attention is given to some stumbling blocks that hinder Kosovo's EU integration, demonstrating how feeble their prospects are in this moment of renewed focus on the EU's enlargement.

Keywords: EU-Enlargement; European Union; Membership; Kosovo.

Resumo

As aspirações de adesão do Kosovo à União Europeia (UE) podem ser analisadas sob vários ângulos. Este artigo limita-se à análise da posição atual da UE sobre essas aspirações. Deste modo, depois de rever a estratégia de alargamento da UE, a sua atratividade e o processo de adesão de novos membros, é dada especial atenção a alguns obstáculos que impedem a integração do Kosovo na UE, demonstrando que há ainda um longo caminho para os kosovares conseguirem cumprir os critérios de convergência impostos pelos 27.

Palavras-chave: Alargamento da UE; União Europeia; Adesão; Kosovo.

Introduction

In its 2008 declaration of independence, Kosovo expressed its wish to “become fully-integrated into the Euro-Atlantic family of democracies” and its “intention to take all the steps necessary to facilitate full membership in the European Union as soon as

feasible”¹. As Aidan Hehir pointed out: “[g]iven Kosovo is a small, landlocked country with limited resources, membership to the European Union has naturally always been one of its top priorities”². However, more than a decade after unilaterally declared independence from Serbia, Kosovo – the youngest European country – continues to encounter a myriad of obstacles regarding its universal recognition as a sovereign State in the international system and, despite its people’s hopes, is also still locked out of the EU³. Furthermore, compared to neighboring countries, Kosovars are the only population in the region who do not have the freedom to travel within the Western European countries, in the Schengen area, without a visa⁴. Considering these scenarios and especially the fact that Kosovo’s population is, in a general way, exceptionally hopeful in relation to the possibility to acquire the European membership status in a near future with 90% of citizens posed in favor of this chance⁵, the aim of this writing is to analyze the current position and prospects of European Union instances on these amalgamation aspirations. Therefore, the focus of this study are Kosovo’s quest for EU full membership and the communitarian perspectives for future expansion of the continental bloc according to the EU’s enlargement strategy presented on February 6, 2018 during the plenary session of the European Parliament in Strasbourg. Based on an exploratory research made by using specialized literature and on an essay-type methodology it is expected that this study may contribute to a more in-depth reflection on Kosovars’ ambitions regarding the EU (not so foreseeable, as we will argue) future membership.

Expanding the Union: a historical overview

The European process of integration is an unparalleled project founded on the vision of a renewed and invigorated Europe without the old divisions from the past and unite around a set of common goals and institutions. Its expansion was made possible due a series of enlargements and through the consolidation of peace and prosperity on the ‘oldest-old Continent’ and today, more than sixty years after its factual gestation –

¹ ASSEMBLY OF THE REPUBLIC OF KOSOVO – *Kosovo Declaration of Independence*. [On-line], 2008. [Retrieved June 30, 2018], from https://www.assembly-kosova.org/common/docs/Dek_Pav_e.pdf

² HEHIR, A. – Kosovo is still locked out of the EU ten years after declaring independence – why?. *The Conversation*. [On-line], February 6, 2018. [Retrieved June 30, 2018], from <http://theconversation.com/kosovo-is-still-locked-out-of-the-eu-ten-years-after-declaring-independence-why-91869>

³ IDEM, IBIDEM.

⁴ PALOKAJ, A. – *Kosovo-EU Relations: The History of Unfulfilled Aspirations?*. Pristina: Kosovo Foundation for Open Society, 2013, p. 6.

⁵ MARTINO, F. – EU enlargement: a new strategy, with hands by the brakes. *Osservatorio Balcani e Caucaso, Transeuropa*. [On-line], March 1, 2018. [Retrieved June 30, 2018], from <https://www.balcani-caucaso.org/eng/Areas/Serbia/EU-enlargement-a-new-strategy-with-hands-by-the-brakes-186173>

and despite the multiple shadows that lie on the horizon – there is no doubt, as noted by Zacarias that:

[...] the European integration process is among the most successful peace projects in contemporary world history, if not the best of them all. [As a matter of fact] formerly hostile countries, confronted by devastating conflicts now live peacefully and share common values. Now they are building together an ever-growing economic union, a genuine European citizenship, a coherent set of rules applicable to all Member States and they are strengthening a set of supranational institutions responsible for preserving the common interest.⁶

Agreeing with this perspective and complementing it with the thinking of many other enthusiastic subject matter experts, we can then consider the European experience of integration as the “last utopia of international relations”, through which was possible to put an end to a multiseular history of fratricidal wars, hatreds and rivalries that had led, more than once, Europe to the ruin⁷. In fact, this intention to make war both unthinkable and materially inconceivable was the basic priority of the six countries that took place in the treaty that established the forerunner of the European Union – the European Coal and Steel Community (ECSC): France, West Germany, Italy, Belgium, the Netherlands and Luxembourg. Without ever being conceived as a ‘one-to-one’ venture, since it was established, that original community has evolved significantly, becoming the EU in 1992 which nowadays gathers almost thirty States: its borders are now the Atlantic Ocean, the Barents Sea, Russia, the Asian and African shores.

As known, after the creation of the ECSC, as a sectorial economic community aimed at the common management of certain important raw materials for the war industry, the first enlargement took place in 1973 with the entry of new states to that ‘club of six’: Denmark and United Kingdom. Being the closest neighbor of the UK, Ireland joined at the same time. The next new member was Greece, becoming the 10th member state in 1981, followed by Spain and Portugal in 1986⁸. Already after the signing of Maastricht Treaty of February 7, 1992 which consecrated the name and established the European Union as we know it today, EU enlargement took place in three different stages. The first one took place in 1995 with the accession of Austria, Finland and Sweden,

⁶ ZACARIAS, A. P. – O Alargamento da União Europeia em tempos de novos desafios. In Dane, F. (ed.). *A União Europeia alargada em tempos de novos desafios*. Rio de Janeiro: Konrad Adenauer Stiftung, 2014. pp. 63-68.

⁷ LESSA, A. C. – A construção da Europa: a última utopia das relações internacionais. Brasília: IBRI, 2013, p. 15.

⁸ LAERMANS, H. and ROOSENS, P. – The enlargement of the European Union. *Ekonomika Praksa DBK GOD XVIII. 2*. [On-line], 2009, pp. 397-410. [Retrieved June 30, 2018], from <https://pt.scribd.com/document/250748300/The-Enlargement-of-the-EU>

while the second one was completed on May, 2004, bringing the number of Member States to twenty-five with the accession of Cyprus, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovakia and Slovenia. This one was an unblemished enlargement towards Eastern Europe and clearly the largest in the EU's history, not only in terms of territory and number of states, but also in terms of population. Three years later, and part of the same 'wave', was the accession of the States of the Balkan Peninsula – Bulgaria and Romania – in 2007. These countries were unable to join in 2004 and according to the Commission, constitute part of the fifth enlargement although in many analysis it is referred to as the sixth. Lastly, on July 1, 2013 Croatia joined to the EU as its 28th Member State while the European Union remains open to any country wishing to become part of it as long as they respect its values in order to the continuous growth of the European project as well as the expansion of the area of peace, stability and prosperity that characterizes it and as a model of integration that it is.

In the meantime, in the growing body of literature on the EU and among its many scholars, it is quite consensual the understanding that through this process of expansion, the EU has been accomplishing countless achievements⁹. In fact, from the institution's point of view and considering it as a whole, through the gradual inclusion of new members, EU has been able to reaffirm the fundamental values that underpin it: freedom, democracy, the rule of law, respect for human rights and for the dignity of every single human being¹⁰. Its continuous growth is also, in an historical perspective, a unique endeavor to promote the integration of the Continent in a peaceful manner. In reality, it represents the materialization of a historical effort to promote and achieve the objective to establish a sort of 'common house' guided by the principles of cooperation and mutual interdependence between all its components, as well as by economic (e.g.: the elimination of customs barriers) and political goals (e.g.: ensuring the peace and a harmonious coexistence within its geographical coordinates) although, realistically, the chasing of these purposes always faced some obstacles (e.g.: the opposition and contestation of the so-called 'Eurosceptic')¹¹. Likewise, and still from the same point of view, the expansion allows to place the EU, not only in a better position to respond to the multiple challenges arising from the process that has been called globalization, but also in a better *locus* to face major international problems (e.g.: contemporary forms of slave labor, trafficking in human beings, organized crimes, terrorism, etc.) in a more effective way by sharing communal rules and through concerted decision-making practices,

⁹ NUROGLU, E. and KURTAGIC, H. – Costs and Benefits of the EU Enlargement: The impact on the EU and SEE Countries. *Journal of Economic and Social Studies*. [On-line] 2 (2), 2012, pp. 41-64. [Retrieved June 30, 2018], from <https://mpira.ub.uni-muenchen.de/54741/>

¹⁰ ZACARIAS, A. P. – O Alargamento da União Europeia..., pp. 63-68.

¹¹ European Commission – *Five years of and enlarged EU: economic achievements and challenges*. [On-line] Brussels: Directorate-General for Economic and Financial Affairs, 2009. [Retrieved June 30, 2018], from http://ec.europa.eu/economy_finance/publications/pages/publication14078_en.pdf

consolidating itself, in this way, as an ‘unidentified political object’ or – if we prefer – a novel political entity with a well-recognized international reputation¹². Following this approach, the communitarian instances referred to the enlargement as “the Union’s most successful foreign policy instrument”¹³. Additionally, some academics often refer to it as the praiseworthy concretization of a vision – the vision of the founding fathers which made possible different peoples of Europe coexist in an institutional framework that leads them to work together towards a shared project of security, development and prosperity in an atmosphere of peace and stability¹⁴. Besides the reasons evocated, and in parallel, EU enlargement also benefits the States involved. As a matter of fact, once they access to the EU, they are part of a family of democratic European countries committed to glue together on essential questions concerning their common future¹⁵. Moreover, enlargement helps them to reform their institutions and develop their communities and cultures¹⁶. In another front, economically, the access to the single market of the Union is too of huge importance: it represents an impetus to the reconstruction and modernization of the economies, creates export and investment opportunities, thus more jobs for the citizens while it led to improve living standards¹⁷. A comprehensive survey on the impact of the EU enlargement on the Member States can be found in Avery, Faber & Schmidt¹⁸ which analyzes the effects of accession and membership in this vertical dimension, mostly on the states of the latest waves of accessions. In a similar scrutiny, in its “*Five years of an enlarged EU*” report’s¹⁹, the Commission reviews EU enlargement in 2004/2007 concluding it was an overall success for the EU and its citizens, as well as to the new and old members. Thus, the lesson that can be drawn from these analyses is that enlargement can be seen as “a key transformational force” or a “driving force for the reforms” inspiring political and economic changes among those who join²⁰. Taking these considerations into account, despite some remaining skeptical about its benefits and in the primary years of this twenty-first century “European integration is

¹² IDEM, IBIDEM. .

¹³ COMMISSION OF THE EUROPEAN COMMUNITIES – *Wider Europe – Neighbourhood: A New Framework for Relation with our Eastern and Southern Neighbours*, [On-line], 2003. [Retrieved June 30, 2018], from http://eeas.europa.eu/archives/docs/enp/pdf/pdf/com03_104_en.pdf

¹⁴ FAUSTINO, P. (coord.) – *O alargamento da União Europeia e os Media: impactos no sector e nas identidades locais*, Lisboa: Media XXI / Formalpress – Publicações e Markting, Lda., 2006.

¹⁵ EUROPEAN COMMISSION – *Good to know about EU Enlargement*, [On-line]. Brussels: European Commission – Directorate General for Enlargement, 2009. [Retrieved June 30, 2018], from https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/publication/screen_mythfacts_a5_en.pdf

¹⁶ ZACARIAS, A. P. – *O Alargamento da União Europeia...*, pp. 63-68.

¹⁷ NUROGLU, E. and KURTAGIC, H. – *Costs and Benefits of the EU Enlargement...*, pp. 45-67.

¹⁸ AVERY, G., FABER, A. and SCHMIDT, A. (ed.) – *Enlarging the European Union: Effects on the new member states and the EU*. Brussels: Trans Europe Policy Studies Association, 2009.

¹⁹ EUROPEAN COMMISSION – *Five years of and enlarged EU...*

²⁰ IDEM, IBIDEM.

generally seen as not being on the best shape”²¹, it seems then to make sense to refer the EU process of expansion as a ‘win-win project’; an “enriching experience” for all involved²².

Steps towards joining

Conceived as a union that aim to improve political and economic circumstances to deliver peace, stability and prosperity, the European Union has been over the decades a strong pole of attraction for several countries. However, despite membership in the EU is “a choice of free and democratic nations who decide to share the European identity and to pool their sovereignty under the EU”, accession of new members is not automatic²³. In fact, “it depends on the adequate preparation of the applicant country and on the EU’s capacity to integrate new members”²⁴. Furthermore, some countries may one day aspire to accession, but most of them – as those in North Africa between Morocco and Egypt for example, whose belonging to the African Continent is indisputable – will never be part of it, at least because of geographical imperatives. Nevertheless, to the vast majority of other countries who are not excluded for that reason and that are strongly aligning with European standards, the simple intention of applying for EU membership and receiving candidate status implies a long and rigorous journey²⁵. Standing briefly on this point, it is appropriate to emphasize that the beginning of Article 49 of the Treaty on the European Union specifies that:

Any European state which respects the values referred to in Article 2 and is committed to promoting them may apply to become a member of the Union. The European Parliament and national parliaments shall be notified of this application. The applicant state shall address its application to the Council, which shall act unanimously after consulting the Commission and after receiving the assent of the European Parliament, which shall act by an absolute majority of its component members.

²¹ HOTI, A. and GERGURI, D. Media Freedom – A Challenge in Kosovo’s European Integration Process. *Europolity*. 9 (2), 29-46. [On-line], [Retrieved June 30, 2018], Available at https://www.researchgate.net/publication/289529488_MEDIA_FREEDOM_-_A_CHALLENGE_IN_KOSOVO%27S_EUROPEAN_INTEGRATION_PROCESS

²² ZACARIAS, A. P. – O Alargamento da União Europeia..., pp. 63-68.

²³ EUROPEAN COMMISSION – *Enlargement – Stabilization and Association Process*. [On-line], 2016. [Retrieved June 30, 2018], from https://ec.europa.eu/neighbourhood-enlargement/policy/glossary/terms/sap_en

²⁴ IDEM, IBIDEM.

²⁵ NUROGLU, E. and KURTAGIC, H. – Costs and Benefits of the EU Enlargement..., pp. 45-67.

Article 49 provides then the legal basis for a country to join the EU while the remainder of it specifies the legal procedure to be followed. Roughly speaking, it establishes some explicit criteria that a country must meet to be eligible to apply for EU membership²⁶. First of all, the aspirant member must be a “European state” and this conceptualization should be accurately analyzed. As Dessus et al. explains, “[t]wo sub-criteria seem to be contained in these two words”²⁷: the applicant entity must be a “state” and “European”, which most likely seems to refer to the recognition status and to historical and cultural ties to the European continent as well as geographic location. Secondly, it must respect and uphold the common values of the Member States set out in Article 2. These are the respect for human dignity, freedom, democracy, equality and the rule of law, as well as the respect for human rights of persons belonging to minorities and respect for a pluralistic society and for non-discrimination, tolerance, justice, solidarity and equality between women and men (article 2 of the Treaty on the European Union).

Despite not being explicit in the Treaties, the applicant must also satisfy the EU eligibility conditions, referred to as the Copenhagen criteria. Thus, countries wishing to join need to have: (i). stable institutions guaranteeing democracy, the rule of law, human rights, and respect for protection of minorities; (ii). a functioning market economy and the capacity to cope with competition and market forces in the EU; (iii). the ability to take on and effectively implement the obligations of membership, including adherence to aims of political, economic, and monetary union (*acquis communautaire*)²⁸.

The European Council that took place in Madrid in December 1995, “shifted the EU policy firmly towards enlargement” and also added that the candidate country must be able to apply EU law, as well as, to ensure that the EU law transposed into national legislation is effectively implemented through appropriate administrative and judicial structures²⁹.

For the Western Balkan countries, in addition to the three Copenhagen criteria, other membership conditions were set out in the so-called Stabilization and Association Process (SAP), launched in 1999. The European Commission defines it as “the European Union’s policy towards Western Balkans, established with the aim of eventual EU membership”³⁰ and, in simple terms, these additional conditions relate primarily to regional cooperation and good neighborly relations.

²⁶ DESSUS, Z., MERJA, A., REXHA, A. and STRATULAT C. – Kosovo’s EU candidate status: a goal within reach? Discussion paper. *European Policy Centre*, [On-line], 2017. [Retrieved June 30, 2018], from http://www.epc.eu/documents/uploads/pub_7812_kosovoseucandidatestatus.pdf?doc_id=1873

²⁷ IDEM, IBIDEM.

²⁸ STAAB, A. – *The European Union Explained: institutions, actors, global impact*. 2nd Edition. Bloomington: Indiana University Press, 2011.

²⁹ HOTI, A. and GERGURI, D. Media Freedom – A Challenge in Kosovo’s..., p. 1011.

³⁰ EUROPEAN COMMISSION – *Enlargement – Stabilization and...*

Regarding the legal procedure to be followed, in synthesized terms, once the Council unanimously agrees to begin with the accession negotiations, discussions may be formally opened³¹. The negotiation has several separate policy areas, called *chapters of the acquis* (presently 35). They form the basis of the accession negotiations for each candidate country and each candidate proceeds separately from one stage of the process to the next. As observed by the authors that we have been following in this point, “thanks to this process, the prospect of accession acts as a powerful incentive for reforms, providing simultaneous benefits to the EU and to its acceding members”³². When negotiations are concluded to the desired level for both sides, a comprehensive Draft Accession Treaty is then submitted for approval by the three communitarian instances involved: the Council of the EU, the European Commission and the European Parliament. If approved, the treaty is signed and then ratified. Once the ratification process is done, the treaty enters into force and the candidate country becomes an EU Member State³³. As may result from this prior analysis, the accession process is not an easy one, since once a country submits an application to the Council of the EU, it activates a sequence of procedures that may, or may not, result in the country being admitted as a member³⁴. Even so, that inherent uncertainty does not limit ambitions.

Kosovo as a member of the Union: a goal within reach?

With regard to Kosovo, ever since its declaration of independence, this inauspicious corner of Europe that has been at the center of some of the most controversial episodes in the post-Cold War era, has been fully committed to the process of European integration with the clear purpose of joining the EU; “an objective which is quite often shown by the political leaders of Kosovo”³⁵.

In several studies dealing with these ambitions, some researchers point to the attractiveness that European Union could possibly have for Kosovo and to the very advantages that may derive from EU membership³⁶. After all, as we already have seen, belonging to the Union aggregate a set of benefits to those who accede. As such, faced with high unemployment, widespread corruption and organized crime, uneven economic development, significant hindrances to its further integration into Western political, economic and military structures, highly restrictive freedom of movement within

³¹ NUROGLU, E. and KURTAGIC, H. – Costs and Benefits of the EU Enlargement..., pp. 45-67.

³² IDEM, IBIDEM.

³³ IDEM, IBIDEM.

³⁴ IDEM, IBIDEM.

³⁵ HOTI, A. and GERGURI, D. Media Freedom – A Challenge in Kosovo's..., p. 1011.

³⁶ HEHIR, A. – Kosovo is still locked out of the...

Europe, as well as many other internal challenges as the fragile peace between Kosovars and ethnic Serbs in the north of the country, for Kosovo, EU membership could not only signify a positive boost against its perennial problems through a successful institutional and economic progress, but also the “recognition that has become a political player in Europe”³⁷. It is thus evident that the European Union may represent a wide array of positive opportunities for the country. Such a perception is equally shared by a large number of kosovar citizens as reflected in the answers evaluated in several opinion studies published in recent years by well-established institutes as well as business research and consulting firm companies based in Pristina, such as Ubo Consulting, the Research Institute of Development and European Affairs and the Pristina Institute for Political Studies³⁸. According to those studies, kosovar citizens point between the most important benefits deriving from EU membership “the right and freedom to travel, study, work and live anywhere in the European Union, which has been always the top choice ranging from 58% (2014) to a 77% (2012), with the latest result standing at 70% (2015)” (*idem*). Also, according to Cucchi, “[a] better quality life (57%), better future (56%), more jobs (45%), and improved economic situation (40%) have been other high-selected options among citizens”³⁹.

Considering these aspirations, and in order to consolidate them, several steps to draw near the European Union have been taken over the past years by Kosovo’s representatives. The region’s latest achievement and one of the “most significant steps so far between the EU and Kosovo in legal terms”, has been the signing of the Stabilization and Association Agreement (SAA) on 27 October 2015⁴⁰, that establishes, for the first time, a “contractual relationship” between the EU and Kosovo, entailing mutual rights and obligations for both entities⁴¹. As stated by the Council of the EU, its objective is to “support Kosovo’s progress on its European path”, helping the region to make the necessary reforms to align itself with EU standards as well as creating a wide array of economic and commercial opportunities⁴². Since most Balkan countries formally submitted a EU membership application shortly before or after their respective SAAs ente-

³⁷ DESSUS, Z., MERJA, A., REXHA, A. and STRATULAT C. – Kosovo’s EU candidate status...

³⁸ CUCCHI, U. – *Kosovo, European Integration and the SAA: An analysis of citizens’ perceptions*. Pristina: Prishtina Institute for Political Studies, [On-line], 2017. [Retrieved June 30, 2018], from <http://www.legalpoliticalstudies.org/wp-content/uploads/2017/11/GLPS-Kosovo-European-Integration-and-the-SAA-An-analysis-on-citizens%E2%80%99-perceptions.pdf>

³⁹ IDEM, IBIDEM.

⁴⁰ PALOKAJ, A. and TUHINA, G. – *The Upshot of the SAA: Kosovo-EU relations*. Pristina: Kosovo Foundation for Open Society. [On-line], 2017, [Retrieved June 30, 2018], from http://kfos.org/wp-content/uploads/2016/11/MSA-ENG_TEXT-2.compressed.pdf

⁴¹ COUNCIL OF THE EUROPEAN UNION – *Stabilisation and Association agreement between the European Union and the European Atomic Energy Community, of the one part, and Kosovo*, of the other part*, [On-line], 2015. [Retrieved June 30, 2018], from <http://data.consilium.europa.eu/doc/document/ST-10728-2015-REV-1/en/pdf>

⁴² IDEM, IBIDEM.

red into force, according to Dessus et al., “[t]he SAA is also commonly consider to be the formal step that precedes the launch of an EU membership application”⁴³. Stressing its importance Palokaj & Tuhina, state that:

With this agreement Kosovo closes the long and difficult process of establishment of contractual agreements with the EU. Kosovo gains huge opportunities to access the EU market, and both the numerous opportunities that this agreement provides and its implementation will result in reforms that will change the country and the society for better. The EU too closes a long process that started with Zagreb Summit in autumn 2000. In this summit, the SAA process was initiated and the European perspective of the region was declared, conditioned on regional cooperation⁴⁴.

Entered into force on April 1, 2016, this agreement undoubtedly has “historical significance” by opening a new phase in the EU-Kosovo relationship⁴⁵.

However, it is important to note that, with its statehood being disputed, there are some hurdles that block Kosovo path to success in the aiming to reach its goal to apply for EU membership and receive the candidate status⁴⁶. The very first of them is related to its limited sovereignty. This is primarily suggested by the fact that Article 49 of the Treaty on European Union seems to impose a condition that Kosovo is unable to meet, that is being qualified as a “state”⁴⁷. As is Known, with five EU member states refusing to recognize it as a State – therefore, as a subject of international law with personality and power to conclude treaties –, namely Cyprus, Greece, Romania, Slovakia and Spain, Kosovo does not fulfil the “state” requirement and this multiple lack of recognition by these five EU members complicate the process of Kosovo’s membership of the large EU family⁴⁸. There are several reasons for this, such as a non-fully empowerment to deal with all the aspects of EU enlargement (such as the rule of law); or the impossibility to signing legal agreements⁴⁹. The EU, fully aware of this dilemma, was striven to overcome this impasse by attacking it from a technical angle. Appart from the pressures from the European Parliament, which constantly calls upon the five member states to recognize Kosovo without further ado, a clear proof of this effort was the very

⁴³ DESSUS, Z., MERJA, A., REXHA, A. and STRATULAT C. – Kosovo’s EU candidate status..., p. 2.

⁴⁴ PALOKAJ, A. and TUHINA, G. – *The Upshot of the SAA* ..., p. 5.

⁴⁵ IDEM, IBIDEM.

⁴⁶ DESSUS, Z., MERJA, A., REXHA, A. and STRATULAT C. – Kosovo’s EU candidate status..., p. 11.

⁴⁷ IDEM, IBIDEM.

⁴⁸ HOTI, A. and GERGURI, D. Media Freedom – A Challenge in Kosovo’s..., p.1019.

⁴⁹ KOETH, W. – *La Bosnie, le Kosovo et l’UE: une adhésion est-elle possible en l’absence d’une pleine souveraineté?* [On-line], 2012, [Retrieved June 30, 2018], from https://www.eipa.eu/wp-content/uploads/2017/11/WKO_Eipascope2012_1_FR.pdf

SAA. In fact, the SAA with Kosovo is different from SAAs established by the EU with others Balkan states⁵⁰. Generally speaking, it includes the same things as other agreements, but there is an important distinction: it was only signed by EU Council and not by individual member states⁵¹. However, and although the EU makes great efforts to not discuss the Kosovo's status a lot, it should not be forgotten that "the presence of [an] asterisk in the treaty seems to suggest that Kosovo's peculiar statehood may resurface in its pursuit of EU membership"⁵². Nowadays, there are some arguments according to which Kosovo can in fact begin the procedure of obtaining EU's candidate status even without being recognized by all member states. However, it should not be forgotten, that at the beginning of his term, the EU Enlargement Commissioner Johannes Hahn, has answered negatively to the question of whether Kosovo could be a candidate for accession to the EU without being recognized by all member states. Bearing in mind this statement (assuming that it remains valid) and the fact that "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", specially Spain due to its domestic situation, which has worsened following the referendum on Catalonia independence, we can then consider the non-recognition by the mentioned five EU member states, as one of the biggest problems on Kosovo's path towards the EU⁵³. But if this is a legal question of undoubted importance, there are other larger challenges possibly blocking Kosovo's near future accession, since the region still seems to be a bit far from fully meeting all membership criteria. About this matter, in order to evaluate how far Kosovo has gone in complying with the membership criteria, every year the European Commission publishes the findings of the Progress Reports on Kosovo. Based on the conclusions exposed on Kosovo's 2018 Report⁵⁴, let us now briefly analyze and present some of them in the political sphere, although it should not be overlooked that the political criteria are not everything that Kosovo has to meet before it can join the EU.

- i. With regard to the functioning of its democratic institutions, Kosovo have been experiencing some institutional blockades. In this report the European

⁵⁰ PALOKAJ, A. and TUHINA, G. – *The Upshot of the SAA: Kosovo-EU...*

⁵¹ Idem, ibidem.

⁵² DESSUS, Z., MERJA, A., REXHA, A. and STRATULAT C. – Kosovo's EU candidate status..., p. 5.

⁵³ TUHINA, G. and PALOJAK, A. – *New Momentum in EU Enlargement: Kosovo's Potential Benefits*. Pristina: Kosovo Foundation for Open Society. [On-line], 2018. [Retrieved June 30, 2018], from http://kfos.org/wp-content/uploads/2018/02/EN_Punimi-Momenti-i-Ri.pdf

⁵⁴ As noted by the European Commission: "[t]his report covers the period from October 2016 to February 2018. It is based on input from a variety of sources including contributions from the government of Kosovo, the EU Member States, European Parliament reports and information from various international and non-governmental organizations", Cfr. EUROPEAN COMMISSION – *Kosovo* 2018 Report* [On-line], 2018. Retrieved June 30, 2018, from <https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/20180417-kosovo-report.pdf>

Commission puts in evidence that the continuing political fragmentation and polarization, as well as the frequent absence of parliamentarians from plenary sessions or the obstructive behavior by some of them is adversely affecting the role of the country's highest institution – the Assembly – and its impacting the effectiveness of the government. Furthermore, after the latest elections, held in June 2017, “the new ruling coalition has had limited success in bringing forward EU related reforms and building consensus on key strategic issues for Kosovo”⁵⁵.

- ii. Furthermore, Kosovo has not yet managed to adopt an effective electoral reform. Problems highlighted in the 2018 Progress Report concerns, among other relevant issues, the lack of transparency in political financing that undermine the integrity of the political process and “continues to expose the democratic process to significant risks of corruption and undue influence”⁵⁶.
- iii. As Kochenov states, “the assurance of democracy and the Rule of Law is unthinkable without the participation of the executive”⁵⁷. Then, the functioning of the executive is crucial. In relation to this issue, the 2018 Report mostly concentrates on the necessity to improve the parliamentary oversight of the executive, since this “remains weak”⁵⁸.
- iv. Since an empowered civil society is too a crucial component of any democratic system, the 2018 Report highlights the progress made over the years at the level of cooperation between the central government and civil society, but stresses the need of a strategy to ensure a meaningful involvement and cooperation also at local level.
- v. Regarding the reform of public administration, the Progress Report concludes that Kosovo has reached a level of preparation, especially with the review of agencies and (semi)independent bodies. However, “[t]he continued politicization of the public administration remains a concern, and adversely affects the efficiency and professional independence of the public administration”⁵⁹.
- vi. In parallel, the rule of law continues to be one of the biggest problems facing Kosovo. The 2018 Report notes little progress has been made in Kosovo's judicial system and, according to the European Commission:

⁵⁵ IDEM, IBIDEM.

⁵⁶ IDEM, IBIDEM.

⁵⁷ KOCHENOV, D. – *EU Enlargement and the Failure of Conditionality: Pre-accession conditionality in the field of democracy and the rule of law*. Hague: Kluwer Law International, 2008.

⁵⁸ EUROPEAN COMMISSION – *Kosovo* 2018 Report...*

⁵⁹ IDEM, IBIDEM.

“Kosovo’s judicial system is at an early stage”⁶⁰. The same conclusion was drawn from the previous report of 2015, which seem to suggest that little or no progress has been made until now. In fact, among other things, the 2018 report criticizes the administration of justice and is concerned with political interference in the judicial structures.

- vii. Fighting corruption is another priority for institutions of Kosovo. In this area, the European Commission finds that Kosovo is also at an “early stage”, and despite some progress was made in the past few years to combat this phenomenon, “[c]oncerted efforts are needed to tackle this problem in a comprehensive and strategic matter”⁶¹. The corruption problem in Kosovo is also highlighted for United States ambassador to Kosovo, Greg Delawie, who states that corruption blocks democracy, negatively impacts economic development and increases social inequality. Then, a comprehensive and strategic approach is still necessary to ensure real results in fighting the endemic corruption in the region.
- viii. A very similar evaluation was given regarding the fight against organized crime. According to the Commission, in this area Kosovo is still at an early stage and despite it is noted that “[s]ome progress was made with the track record on high level corruption and organized crime cases” stands out the fact that “[t]he Kosovo authorities need to be more effective in their efforts to fight money laundering and the relevant law should be brought in line with EU *acquis* and international standards”⁶².
- ix. The Kosovan legal framework guarantees the protection of fundamental and human rights in accordance with European standards found in the Convention for the protection of various human rights in Article 22 of the Constitution of Kosovo. However, according to 2018 Report “additional efforts are needed regarding enforcement”⁶³. The denial of rights of persons belonging to minorities, including Roma and Ashkali and displaced persons or gender-based inequality are some of the gaps the Progress Report highlights, which also requires compliance with the precise human rights strategies and legislation.
- x. Also in the area of human rights, a critical situation is emerging regarding the freedom of expression where the Progress Report emphasizes the fact that the progress recorded in this field is still not enough. In fact, despite Kosovo benefiting from a pluralistic and lively media environment, accor-

⁶⁰ IDEM, IBIDEM.

⁶¹ IDEM, IBIDEM.

⁶² IDEM, IBIDEM.

⁶³ IDEM, IBIDEM.

ding to the Commission, “threats and attacks against journalists have continued”⁶⁴. Alongside this, the Kosovan Assembly has shown “limited commitment to finding a solution for sustainable funding of public broadcaster, leaving it vulnerable to political pressure”⁶⁵. This is not a matter of minor of importance. As we are pertinently reminded by Hoti and Gërguri:

“Media freedom is an important challenge for any country that aspires to join the EU, not only because freedom of the press is a fundamental right and one of the values of the European Union, but also because freedom of the media is considered an indicator of a country’s democracy. The media play a major role in the functioning of democracy in providing the right information, creating transparency and making the public ‘the supervisor’ of the work of government and political institutions – namely, by fulfilling the role of journalism as a ‘watchdog’, especially through what is called investigative journalism”⁶⁶.

Reflecting on the findings described above and on what they disclose, it seems to manifest that that Kosovo still has a long way to go in terms of undertaking structural reforms and various obstacles to overcome in order to move forward along its European path and, eventually, accede to the European Union. This seems to be too the current position of EU’s instances on Kosovars’ ambitions regarding the EU future membership. The last event proving this conclusive approach is the EU’s new enlargement strategy, entitled “*A Credible Enlargement Perspective for and enhanced EU engagement with the Western Balkans*”, adopted by the European Commission on February 6, 2018. With it, the EU is preparing itself to open its doors to several countries in Western Balkans: Serbia, Macedonia, Albania, Montenegro, and Bosnia and Herzegovina and, in addition to these, also Kosovo. However, the EU Commission makes it very clear what route is necessary to undertake until a possible accession to the European Community and this new approach to the Western Balkans, by no means signifies an easy ride. In fact, in order to take advantage of what the Commission calls a “historic window of opportunity”, the region’s leaders are tasked to “urgently redouble their efforts, address vital reforms and complete their political, economic and social transformations, bringing all stakeholders on board from across the political spectrum and from civil society”⁶⁷. Additionally, the European Commission also highlights that, despite the evidence of

⁶⁴ IDEM, IBIDEM.

⁶⁵ IDEM, IBIDEM.

⁶⁶ HOTI, A. and GERGURI, D. Media Freedom – A Challenge in Kosovo’s..., p.1019.

⁶⁷ EUROPEAN COMMISSION – *A credible enlargement perspective for and enhanced EU engagement with the Western Balkans*, [On-line], 2018. [Retrieved June 30, 2018], from https://ec.europa.eu/commission/sites/beta-political/files/communication-credible-enlargement-perspective-western-balkans_en.pdf

some progresses, all WB6 countries, Kosovo included, still have a lot of work to do, since there are still clear “links with criminality and corruption at every level of administration”, “widespread sense of injustice”, “political interference and control of the media”, and a lack of “functioning market economies”⁶⁸. As such, and considering the findings of the 2018 Progress Report, Kosovo should do its utmost to deliver tangible reforms, strengthen institutions and enforce the rule of law, since it is facing many considerable internal problems in the areas of rule of law, electoral reform, reform of the public administration, the fight against both organized crime and corruption, media relations and civil society’s involvement in decision-making, and so on. But if in one hand, the EU’s new enlargement strategy made clear that accession to the European Union cannot be won without building strong and independent institutions, working toward greater transparency in public procurement, and also without the elimination of organized-crime networks that are still made as powerful players in the region, this new document also shows – in a positive interpretation – that the EU has maintained its support for the future of the region as an integral part of the EU, since the strategy envisages that Kosovo, alongside the others aspirant countries, could achieve accession as member of the EU. After all, “European institutions have confirmed on numerous occasions that, much like its Balkan neighbors, «Kosovo is Europe»”⁶⁹.

Nonetheless, this EU’s new strategy does not pose a tangible promise that the EU door is open to Kosovo in an immediate future. In fact, the European Union’s approach towards Kosovo is “the least clear in terms of countries in the region”⁷⁰. Analyzing it, the strategy specifically refers to Kosovo only in the context of the dialogue with Serbia. In this sense the strategy calls for “a full and comprehensive normalization of relations”, adding that a comprehensive normalization of relations between Kosovo and Serbia “in the form of a legally binding agreement” is urgent and crucial so that Serbia and Kosovo can advance on their respective European paths⁷¹. This is mainly suggested because the relations between the Serbia and Kosovar governments are still tense, with the former remaining firm in its decision to not recognize an independent Kosovo, often using heated rhetoric when it comes to the region. Then, for Kosovo, perhaps the most important EU’s effort concentrated in the strategy is the insistence to “overcoming the legacy of the past, by achieving reconciliation and solving open issues well before their accession to the EU”. And Brussels believes that this must be done in such a way that both parties “can advance on their respective European paths”⁷².

⁶⁸ IDEM, IBIDEM.

⁶⁹ DESSUS, Z., MERJA, A., REXHA, A. and STRATULAT C. – Kosovo’s EU candidate status..., p. 2.

⁷⁰ TUHINA, G. and PALOJAK, A. – *New Momentum in EU Enlargement...*, p. 14.

⁷¹ EUROPEAN COMMISSION – *A credible enlargement...*

⁷² IDEM, IBIDEM.

Furthermore, the document sets a clear schedule for only two candidate countries, stating that Montenegro and Serbia should be ready for membership in 2025. Albania and Macedonia, in turn, are expected to start negotiations soon. In other respects, the document is ambiguous about other countries' priorities and timetables for the EU integration process, offering opening of the accession negotiations for Bosnia and Herzegovina only by 2023 and giving no date at all for Kosovo. Additionally, the strategy provides no definition on the status of a Candidate Country for membership, continuing to address Kosovo with an asterisk (*) without prejudicing the various positions regarding the political status of Kosovo and in accordance with UN Resolution 1244/1999 and the ICJ Opinion on the Kosovo Declarations of Independence.

Regardless of difficulties and realities, the Kosovar authorities should not fade in their efforts. After all, as Martino points: "[t]he EU's new strategy represents an important step, most of all for the political message it sends to the region"⁷³. Even with the severe tone of one who is indisposed to tolerate new members who are not up to the challenge "Brussels is reigniting hopes"⁷⁴. Kosovo should then seize the opportunity to secure a legally binding agreement that resolves its disputes with Serbia and, of equal importance, should implement reforms, strengthen institutions and enforce the rule of law in order to meet EU eligibility conditions. These well-known objectives clearly stand in Kosovo's way ahead. It is up to Kosovo to accelerate, satisfy and implement them.

Conclusions

In fulfillment of our general objective, we can conclude that the expansion of European Union is the most visible aspect of the successful transposition, to other countries, of the European model and the values that composed it: democracy, the rule of law, protection of human rights as well as the consolidation of peace and security.

More than ten years after its independence, Kosovo is not a member of the EU, but aspires to join. However, the long road to the EU membership is well-known.

As discussed, the European Union has naturally its own concerns about Kosovo's prospective membership. In this sense, the communitarian instances warned about the unsatisfactory rule of law in the region, citing lack of judicial independence, and has criticized the country's limited results in the fight against organized crime as well as corruption. In addition, it calls for institutional improvements such as electoral reforms and changes in public administration.

⁷³ MARTINO, F. – EU enlargement: a new strategy, with...

⁷⁴ IDEM, IBIDEM.

Furthermore, Kosovo's long list of pending reforms, members of the EU are divided when it comes to Kosovo international status. Spain, Slovakia, Cyprus, Romania, and Greece do not recognize the country's 2008 independence and this multiple lack of recognition may complicate its pursuit of EU membership.

Taking into account the EU's renewed focus on enlargement, and in reading between the lines of the new strategy, high signs are given that the road ahead for the accession of Kosovo to the EU is still long, since the country lingers as the weakest link among all six Western Balkans hopeful candidates. However, the window of opportunity is here, and it must be seized by Kosovar authorities.

Bibliographic References

Assembly of the Republic of Kosovo – *Kosovo Declaration of Independence*. [On-line], 2008. [Retrieved June 30, 2018], from https://www.assembly-kosova.org/common/docs/Dek_Pav_e.pdf

EVERY, G., FABER, A. and SCHMIDT, A. (ed.) – *Enlarging the European Union: Effects on the new member states and the EU*. Brussels: Trans Europe Policy Studies Association, 2009..

COMMISSION OF THE EUROPEAN COMMUNITIES – *Wider Europe – Neighbourhood: A New Framework for Relation with our Eastern and Southern Neighbours*, [On-line], 2003. [Retrieved June 30, 2018], from http://eeas.europa.eu/archives/docs/enp/pdf/pdf/com03_104_en.pdf

COUNCIL OF THE EUROPEAN UNION – *Stabilisation and Association agreement between the European Union and the European Atomic Energy Community, of the one part, and Kosovo*, of the other part*, [On-line], 2015. [Retrieved June 30, 2018], from <http://data.consilium.europa.eu/doc/document/ST-10728-2015-REV-1/en/pdf>

CUCCHI, U. – *Kosovo, European Integration and the SAA: An analysis of citizens' perceptions*. Pristina: Prishtina Institute for Political Studies, [On-line], 2017. [Retrieved June 30, 2018], from <http://www.legalpoliticalstudies.org/wp-content/uploads/2017/11/GLPS-Kosovo-European-Integration-and-the-SAA-An-analysis-on-citizens%E2%80%99-perceptions.pdf>

DESSUS, Z., MERJA, A., REXHA, A. and STRATULAT C. – Kosovo's EU candidate status: a goal within reach? Discussion paper. *European Policy Centre*, [On-line], 2017. [Retrieved June 30, 2018], from http://www.epc.eu/documents/uploads/pub_7812_kosovoseucandidatestatus.pdf?doc_id=1873

EUROPEAN COMMISSION – *Five years of and enlarged EU: economic achievements and challenges*. [On-line] Brussels: Directorate-General for Economic and Financial Affairs, 2009. [Retrieved June 30, 2018], from http://ec.europa.eu/economy_finance/publications/pages/publication14078_en.pdf

EUROPEAN COMMISSION – *Good to know about EU Enlargement*, [On-line]. Brussels: European Commission – Directorate General for Enlargement, 2009. [Retrieved June 30, 2018], from https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/publication/screen_mythfacts_a5_en.pdf

EUROPEAN COMMISSION – *Enlargement – Stabilization and Association Process*. [On-line], 2016. [Retrieved June 30, 2018], from https://ec.europa.eu/neighbourhood-enlargement/policy/glossary/terms/sap_en

EUROPEAN COMMISSION – *Kosovo* 2018 Report* [On-line], 2018. Retrieved June 30, 2018, from <https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/20180417-kosovo-report.pdf>

EUROPEAN COMMISSION – *A credible enlargement perspective for and enhanced EU engagement with the Western Balkans*, [On-line], 2018. [Retrieved June 30, 2018], from https://ec.europa.eu/commission/sites/beta-political/files/communication-credible-enlargement-perspective-western-balkans_en.pdf

FAUSTINO, P. (coord.) – *O alargamento da União Europeia e os Media: impactos no sector e nas identidades locais*, Lisboa: Media XXI / Formalpress – Publicações e Marketing, Lda., 2006. *GazetaExpress* (2018). Delawie: Corruption is deep rooted in Kosovo. 22 June 2018. Retrieved June 30, 2018 from <https://www.gazetaexpress.com/en/news/delawie-corruption-is-deep-rooted-in-kosovo-174249/>

HEHIR, A. – Kosovo is still locked out of the EU ten years after declaring independence – why?. *The Conversation*. [On-line], February 6, 2018. [Retrieved June 30, 2018], from <http://theconversation.com/kosovo-is-still-locked-out-of-the-eu-ten-years-after-declaring-independence-why-91869> Hoti, A. and

- Gërguri, D. (2017). The Copenhagen Political Criteria for joining the EU: the case of Kosovo. *Teoria in Praksa*. 54 (6). Retrieved June 30, 2018, from <https://ssrn.com/abstract=3097791>
- HOTI, A. and GERGURI, D. Media Freedom – A Challenge in Kosovo’s European Integration Process. *Europolity*. 9 (2), 29-46. [On-line], [Retrieved June 30, 2018], Available at https://www.researchgate.net/publication/289529488_MEDIA_FREEDOM_A_CHALLENGE_IN_KOSOVO%27S_EUROPEAN_INTEGRATION_PROCESS
- KOCHENOV, D. – *EU Enlargement and the Failure of Conditionality: Pre-accession conditionality in the field of democracy and the rule of law*. Hague: Kluwer Law International, 2008.
- KOETH, W. – *La Bosnie, le Kosovo et l’UE: une adhésion est-elle possible en l’absence d’une pleine souveraineté?*, [On-line], 2012. [Retrieved June 30, 2018], from https://www.eipa.eu/wp-content/uploads/2017/11/WKO_Eipascope2012_1_FR.pdf
- LAERMANS, H. and ROOSENS, P. – The enlargement of the European Union. *Ekon. Misao Praksa DBK GOD XVIII*. 2. [On-line], 2009, pp. 397-410. [Retrieved June 30, 2018], from <https://pt.scribd.com/document/250748300/The-Enlargement-of-the-EU>
- LESSA, A. C. – *A construção da Europa: a última utopia das relações internacionais*. Brasília: IBRI, 2013.
- MARTINO, F. – EU enlargement: a new strategy, with hands by the brakes. *Osservatorio Balcani e Caucaso, Transeuropa*. [On-line], March 1, 2018. [Retrieved June 30, 2018], from <https://www.balcani-caucaso.org/eng/Areas/Serbia/EU-enlargement-a-new-strategy-with-hands-by-the-brakes-186173>
- NUROGLU, E. and KURTAGIC, H. – Costs and Benefits of the EU Enlargement: The impact on the EU and SEE Countries. *Journal of Economic and Social Studies*. [On-line] 2 (2), 2012, pp. 41-64. [Retrieved June 30, 2018], from <https://mpira.ub.uni-muenchen.de/54741/>
- PALOKAJ, A. – *Kosovo-EU Relations: The History of Unfulfilled Aspirations?*. Pristina: Kosovo Foundation for Open Society, 2013.
- PALOKAJ, A. and TUHINA, G. – *The Upshot of the SAA: Kosovo-EU relations*. Pristina: Kosovo Foundation for Open Society. [On-line], 2017, [Retrieved June 30, 2018], from http://kfos.org/wp-content/uploads/2016/11/MSA-ENG_TEXT-2.compressed.pdf
- STAAB, A. – *The European Union Explained: institutions, actors, global impact*. 2nd Edition. Bloomington: Indiana University Press, 2011.
- TUHINA, G. and PALOJAK, A. – *New Momentum in EU Enlargement: Kosovo’s Potential Benefits*. Pristina: Kosovo Foundation for Open Society. [On-line], 2018. [Retrieved June 30, 2018], from http://kfos.org/wp-content/uploads/2018/02/EN_Punimi-Momenti-i-Ri.pdf
- ZACARIAS, A. P. – O Alargamento da União Europeia em tempos de novos desafios. In Dane, F. (ed.). *A União Europeia alargada em tempos de novos desafios*. Rio de Janeiro: Konrad Adenauer Stiftung, 2014. pp. 63-68.

Artigo Recebido a 26 de janeiro de 2020 | Aceite a 19 de maio de 2020

(Página deixada propositadamente em branco)

