

CHALLENGES FOR SERBIA'S INTEGRATION IN THE EUROPEAN UNION: DOES THE EU NEED A NEW APPROACH?

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Abstract. In the last years, Serbia's determination to join the European Union seems to have decreased. Whether the official positions and the state documents consider the European integration a strategic national interest, recent criticism from both parts have occurred. Therefore, through this article, we intend to discuss the challenges for Serbia's integration in the European Union, focusing on: the adherence to the rule of law's principle, the problem of Kosovo, and the Ukrainian war. In conclusions, we will try to argue that it is hardly to imagine any European Union's progress with Serbia under the current strategy. However, all the variables must be carefully quantified, and maybe, in the light of Russia's aggression in Ukraine, we need a geopolitical approach at this moment, promoting stability and reconciliation in the Western Balkans.

Keywords: Serbia, European Union, integration, rule of law, Kosovo, Ukrainian war, Russia.

Introduction

Following the civil wars of the 1990s, Serbia experienced a process of democratization. In October 2000, Serbia's civil uprising led to the overthrow of the autocratic regime, and a new generation of political elites sought to align Serbia with the trajectory of the European perspective. For its part, the European Union initiated a broad relationship with Serbia: it lifted the sanctions regime on Serbia, it pledged a commitment worth \$ 2 billion for the country's reconstruction, it offered a trade agreement, allowing Serbia's access to the European markets for most of its exports, and, in November 2000, it approved the Stabilization and Association Process (SAP) for Serbia.

In 2003, Serbia was recognized as a potential candidate country for the European Union, at the Thessaloniki Council. The Belgrade administration submitted the official application for membership in December 2009, and it was granted EU

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candidate status, by the European Council, in March 2012. Subsequently, the negotiation process Serbia-European Union began on January 21st, 2014. So far, 22 out of 35 negotiation chapters have been opened, of which two chapters are provisionally closed.¹

Currently, the European Union is the largest provider of financial assistance to Serbia, supporting the socio-economic and fundamental reforms through the Instrument for Pre-Accession Assistance (IPA). For 2021-2023, the IPA III funding for national programmes amounts to € 571 million for Serbia.²

However, Serbia's integration process in the European Union is threatened by several challenges. The European Commission's 2022 Report covers the developments in the political landscape - elections and democratic processes, judiciary and corruption, fundamental rights and freedom of expression, as well as economy, market reforms, European Union's integration and regional relations. But the Report indicates that little progress has been made during the period under review.

At the same time, EU Member States insist that progress in negotiation should increasingly depend on Serbia's alignment with EU's foreign policy. The Report mentions that:

Following Russia's unprovoked and unjustified aggression against Ukraine, Serbia did not align with the EU restrictive measures against Russia and majority of Declarations by the High Representative on behalf of the EU on this matter. Serbia's alignment rate with relevant High Representative declarations on behalf of the EU and Council Decisions therefore dropped from 64 % in 2021 to 45 % in August 2022. A number of actions and statements by Serbia went against EU foreign policy positions. Serbia is expected, as a matter of priority, to fulfil its commitment and progressively align with the EU Common Foreign and Security Policy, including with EU restrictive measures, in line with EU-Serbia negotiating framework.³

In this context, Serbia's integration in the European Union is slowed and postponed as a result of various challenges. In 2024, the most important challenges for Serbia are: the commitment to the rule of law's principle and to the preservation of the democratic values, the vision over the problem of Kosovo, and its balance position between European Union, USA, Russia and China, in the context of the Ukrainian war. About all these challenges, we will share our points of view.

1. Challenges regarding the principle of the rule of law and the preservation of the democratic values

On December 17th, 2023, Serbia held parliamentary elections for the third time in less than four years, which were combined with early local elections. This was done to prevent the ruling Serbian Progressive Party (SNS) from losing power in key cities, including the capital Belgrade. The heavy involvement of Serbian President

Aleksandar Vučić in the campaign made it more likely that SNS would prevail than if these elections had been held separately and without his support.⁴

Based on the preliminary findings of the OSCE/ODHIR International Election Observation Mission and local observers, there was evidence of unprecedented manipulation and voter fraud, most notably in Belgrade:

The IEOM positively assessed the voting in 93 per cent of the 1,220 polling stations observed. Negative assessments were primarily attributed to overcrowding and inadequate measures to ensure secrecy of the vote, at odds with long-standing ODIHR and Venice Commission recommendations. Serious irregularities observed by the IEOM included 9 cases of vote buying and 5 cases of ballot box stuffing. The IEOM noted instances of group or family voting in some 19 per cent of polling stations. In 14 instances, unauthorized persons were observed monitoring voter turnout. The IEOM also witnessed 22 instances of voters taking photos of their ballots, and 20 attempts to influence voters for whom to vote. Additional procedural shortcomings were noted in 39 per cent of the observations, primarily due to PB members' improper implementation of procedures, potentially indicative of the lack of adequate training. These included ballot boxes not being properly sealed in 9 per cent of observations, inconsistent verification of voters' identities in about 4 per cent, improper checking of voters' fingers for invisible ink in 9 per cent, and a lack of inking voters' fingers at the time of voting in 9 per cent of the cases. Unauthorized persons were present at polling stations in 3 per cent of the observations, at times with an intimidating presence.⁵

In contrast to the European Commission, which gave a hesitant statement on December 19th, 2023, urging Serbian authorities to address credible reports of irregularities in a transparent manner⁶, the European Parliament passed a critical resolution on February 8th, 2024, that calls for “an independent international investigation by respected international legal experts and institutions into the irregularities of the parliamentary, provincial and municipal elections, with special attention to the elections to the Belgrade City Assembly” and “urges the Commission to launch an initiative to send an expert mission to Serbia to assess the situation as regards the recent elections and post-election developments in an effort to facilitate the preconditions for establishing a necessary societal dialogue to attempt to restore the public's trust and confidence in institutions, and to assess and address the systemic rule of law issues in Serbia [...]”⁷

In reaction, President Aleksandar Vučić started a campaign against Serbia's EU membership, using state-controlled media: “The European Union, on the other hand, was represented for 42 minutes, of which 34.1 percent were extremely negative, and 18.2 percent were negative”, according to BIRODI published media monitoring.⁸

Since Aleksandar Vučić came to power, he has used frequent snap elections, which keep Serbia in eternal campaign mode and have earned it the label of “electoral autocracy” as one of his power tactics. This time, however, the opposition parties managed to form an unusually strong alliance called “Serbia against Violence”. Pre-election polls showed the opposition coalition within reach of a majority in the Belgrade Municipal Assembly, which explains the massive vote rigging in the capital. According to the official electoral commission, the ruling Serbian Progressive Party won 49 of the 110 seats there, while Serbia against Violence took 42.

On the other hand, we observe, in the last decade, the erosion of institutions. Serbia’s media landscape has been largely captured by the state and its judiciary has been corrupted. Serbian Progressive Party controls the entire country. President Aleksandar Vučić has increasingly taken open acts of defiance toward Serbia’s European partners, such as shaking hands with Vladimir Putin and signing trade deals with China. Additionally, the ethno-national rhetoric and the victimizing narratives create a social environment of fear, hopelessness, and anger, in which citizens become easy prey for populist manipulation.

As evidence shows, Serbia’s alarming actions and anti-EU rhetoric seem to be in direct opposition to the EU’s goals of stability and democratic transformation in the Western Balkans. While both Serbia and the European Union are, officially, still committed to the country’s EU integration, the tactics currently used by the European Union and its partners to gently pull Serbia away from Russia have failed.

Therefore, it is hardly to imagine any progress with Serbia under the current strategy, linking advancements in negotiations with those related to the rule of law and fundamental rights. Probably, at some point, even the suspension of the EU accession negotiations will no longer be a taboo if key conditions are not fulfilled. On the other hand, let’s observe the international context: the European Parliament elections this June may bring a shift toward the Far Right, and a second Trump Presidency looks increasingly likely after US elections this November. Both these evolutions would expand President Vučić’s room for manoeuvre towards Brussels and key European partners.

During Belgian Presidency of the Council of the European Union, the rule of law has taken central stage, enhanced by the debates on the EU’s internal reform and enlargement. These debates emphasize that “the rule of law is a non-negotiable constitutional principle for the EU’s functioning and a precondition for joining the EU” and “the EU cannot function without reciprocity, mutual trust and without all its members adhering to its principles.” Because the enlargement process has already been restructured, with negotiations organized into six clusters and the possibility for candidate countries to phase into specific EU policies and programmes, the debates recommend “setting a goal for both sides (EU and candidate countries) to be ready

for enlargement by 2030”, “breaking down accession rounds into smaller groups of countries (‘regatta’) to ensure a merit-based approach and to manage potential conflicts”, and highlight “nine principles for future enlargement strategies that all aim to make the process more effective, credible, and politically guided.”⁹ In conclusion, the European Union is likely to change its approach towards any candidate country, strengthening its ability to protect the rule of law - strengthening budgetary conditionality, and refining Article 7 TEU via a treaty revision.

2. Serbia, Kosovo and the European Union

The question of Kosovo has led to a form of “blackmail” that exasperates Serbia, since the European Union implies that Serbia can only become a member if it acknowledges Kosovo:

Specifically, Serbia is expected to continuously: a) Implement in good faith all agreements reached in the dialogue with Kosovo; b) Fully respect the principles of inclusive regional cooperation; c) Resolve through dialogue and spirit of compromise other outstanding issues, on the basis of practical and sustainable solutions and cooperate on the necessary technical and legal matters with Kosovo; d) Cooperate effectively with EULEX and contribute actively to a full and unhindered execution by EULEX of its mandate throughout Kosovo.¹⁰

But, one year after the Ohrid Agreement regarding “The Path to Normalisation of Relations between Kosovo and Serbia”, sealed in March 2023, the European Commission has bemoaned both sides’ failure to implement their obligations. The High Representative, Joseph Borell, stated, in 17 March 2024:

It is regrettable that despite extensive efforts by the EU and the broader international community, there has been so far very limited progress by both Kosovo and Serbia in implementing the obligations they accepted under this Agreement. The EU recalled repeatedly that the Agreement is binding in its entirety under international law. Therefore, any lack of implementation does not only endanger the Parties’ European integration, it also damages their reputation as credible and reliable partners. It is now high time for both Kosovo and Serbia to break the current vicious cycle of crises and tensions, and move into a new - European - era. The Agreement offers a better future for the citizens of Kosovo and Serbia and the entire region.¹¹

Firstly, the Ohrid Agreement was not signed as President Aleksandar Vučić refused, and, secondly, tensions repeatedly flared up again “with the alleged

kidnapping of three Kosovo police officers by Serbia and the EU-dubbed ‘terrorist attack’ in Banjska on 24 September, led by Milan Radoicic, former vice president of the Belgrade-backed Kosovo Serb political party Serbian List.”¹²

In 28 March 2024, President Aleksandar Vučić rejected assessments that Serbia is abandoning its European path after announcing a possible exit from the Council of Europe if that organization accepts Kosovo, a former province of Serbia whose independence Belgrade does not recognize. He was supported by former Prime Minister Ana Brnabic: “Admission of Kosovo to the Council of Europe would violate the statute of that institution and jeopardize its role in the protection of human rights and the rule of law.”¹³

On April 16th, 2024, the Parliamentary Assembly of the Council of Europe voted, by an overwhelming majority of 131-29, to support Kosovo membership. In May 2024, the Intergovernmental Council of Europe is due to make the final decision whether to admit Kosovo to the pan-European human rights body.

Serbia under President Aleksandar Vučić will not democratize and improve easily its rhetoric and position towards Kosovo in order to achieve good neighbourly relations and European integration. More civilized and open dialogue of all the stakeholders will be the key to influencing public attitudes towards normalization. The pro-EU opposition in Serbia can bring alternative and moderate positions to the table. The European Union should also set out a clear path for Serbia to join. President Vučić may agree to continue to engage with the EU proposal if there is some form of compensation, such as a quick EU entry and additional financial assistance.

3. The Impact of Ukraine’s war on Serbia

The Ukrainian war led to considerable strains in international relations and had a significant impact on Serbia. The deterioration of relations between the European Union and Russia has also affected its political landscape. Some politicians and certain political parties in Serbia have used this war to advance their agendas and to intensify polarization. Before the war in Ukraine, since 2014, Serbia has adopted a neutral position and sought to maintain good relations with both sides. When the war in Ukraine broke out, it became extremely difficult to maintain the balance.

Serbia’s National Security Strategy is based on the belief that progress towards EU’s membership is necessary for the country stability and development:

The National Security Strategy of the Republic of Serbia [...] is the highest strategic document whose implementation protects the national values and interests of the Republic of Serbia from challenges, risks and threats to security in all areas of social life. Its starting points are: the preservation of sovereignty and territorial

integrity, military neutrality, care for the Serbian people outside the borders of the Republic of Serbia, European integration and an effective rule of law.¹⁴

The European integration and membership of the European Union are a national interest and strategic orientation of the Republic of Serbia, and:

By becoming a member of the European Union, the Republic of Serbia would become part of an organization that represents one of the most important global actors and it would gain the opportunity to influence the decision-making process within that organization. In doing so, it would also enhance its own capacity to protect and pursue other national interests and goals.¹⁵

But the Strategy also emphasizes that: “Possible conditioning of the Republic of Serbia in the process of accession to the European Union regarding further ‘normalization of relations’ with the Provisional Institutions of Self-Government in Priština slows down and hinders the realization of its full membership of the European Union, which is why it is vital that the normalization process remains status-neutral.”¹⁶

At the same time, Serbia aims to strengthen its ties with the USA, Russia and China, in order to ensure the country’s stability. Serbia is, however, a target of Russia's foreign political interference. Historically, Russia has been close to Serbia, as both countries are Slavic and adhere to the Orthodox religion. Russia has backed local resistance to accession to NATO and supports Serbia’s stance towards Kosovo. Furthermore, Russian influence in the region is not only political, but also economic as visible in the energy sector. Since 2009, the Russian company “Gazprom Neft” has been a majority-owner (51% of the shares) of the Serbian petroleum state company “NIS”.

Presently, Belgrade administration continues its policy of balance between the West and Russia, drawing criticism from the members of the European Union. The latter, as well as Russia, requested Serbia to choose a clear foreign political orientation. Serbia has decided, however, to follow a policy that will refuse to impose any sanctions on Russia, while supporting UN resolutions and EU statements supporting the territorial integrity of Ukraine.

For example, although Serbia voted against the UN General Assembly resolution on the militarization of Crimea in December 2020, it has repeatedly voted for resolutions against Russia in the UN Assembly in February 2022. On the other hand, some representatives of Serbia publicly stated that the efforts of the Ukrainians

to keep Donbas are equivalent to Belgrade's attempts to keep Kosovo within its borders. At the same time, Serbian nationalists were surprised when Moscow used Kosovo as a precedent for recognizing the separatist entities of Luhansk and Donetsk as independent states. In October 2022, the UN General Assembly voted against Moscow's request for a secret ballot to condemn the Russian Federation's decision to annex four occupied parts of Ukraine, and Serbia again voted against Moscow.¹⁷

Lately, we can observe some changes in Serbia's position towards Russia. For example, in September 2022, Serbia's Foreign Minister signed a plan of consultations for 2023-2024 with his Russian counterpart, which happened two days after President Vladimir Putin announced to hold referendums in Ukrainian territories to annex them.¹⁸ The admission of Kosovo to the Council of Europe would further distance Serbia from European Union and push it deeper into Russia's embrace. The possible Serbia's withdrawing from the Council of Europe would mean abandoning the European path that Serbia has been pursuing for years.

Conclusion

Last years' events have significantly changed and reduced the pace of Serbia's negotiations with the European Union in order to integrate into the organization. The criticism received by Serbia from the European Union and its Member States, following the parliamentary and local elections, determined strong reactions of the Serbian officials. The admission of Kosovo to the Council of Europe, which seems imminent, may cause Serbia to withdraw from this organization, with multiple, negative consequences for the European integration process, the regional stability of the Balkans and Serbia's foreign policy orientation. Finally, Serbia's moderate balance between the great powers begins to suffer fluctuations, and Serbia will continue to hedge between the West, Russia, and China.

For European Union, the big prize - Kosovo recognized by Serbia in exchange of some form of Serb autonomy - remains, as ever, out of reach. Even if, on November 8th, 2023, the European Commission adopted a new Growth Plan for the Western Balkans, with the aim of bringing Western Balkan partners closer to the EU through offering some of the benefits of EU membership in advance, they may not be attractive and sufficient. On the other hand, the European debates and some Member States requests for enhanced protection of the rule of law principle, through budgetary conditionality, and treaty revision, may further discourage Serbia's motivation for European integration.

All these crises may consume the European Union's capacities to follow its objectives in Serbia and in the Western Balkans. In the short term, the EU will not be able to fix the problems, perhaps only to manage and keep an eye on them. But, in the medium term, the EU should think geopolitically. In the light of Russia's aggression in

Ukraine, the West (the European Union and NATO) must promote and get more stability and reconciliation in the Western Balkans, must carefully quantify the ratio between idealism and pragmatism, inclusively through quick negotiations and significant financial support. Otherwise, we may see further destabilization, possible secession of parts of Kosovo and Bosnia and Herzegovina, and violence in the Western Balkans.

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