



European Union and dilemmas unresolved balkan

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Abstract.

The European Union is a "sui generis" organization (a special type), which one is evolving over the time. This organization is a conglomerate of nations which have a single goal, the progress of their country, in principle, always working through the advancement of the organization in general. Ways of organizing and the functioning of the EU, with some modifications, the weathered dignity, the challenge of growth. However, the changes can only move forward. Given this fact, we refer to the most important challenge of Europe and his Constitution. Ratification of the Treaty of Lisbon cut "troubled souls" in the EU since it is known that the treaty contained over 70% of the content of the European Constitutional Treaty. We can say that the European politics, this time has passed the test of challenging which was submitted to the mark the continuation of reforms in contradiction with their slowdown and stagnation.

With the beginning of the democratic development in Eastern Europe, the Albanians were the first who asked for their right to self-determination. For European recognition of the new republic crucial was status of a Republic and the combination of the principles of the concept of "European" and that "classic". When there was not stability in Balkans, when the war in former Yugoslavia started in Slovenia, Croatia, Bosnia and Herzegovina, Kosovo was not independent, when the war began in the Presheva Valley, and in Macedonia, Kosovo was not independent. In a conclusion the answer to this wrong perception would be: the independence of Kosovo has stabilized the Balkans.

Key words: *European Constitution, Treaty of Lisbon, legal-constitutional status.*



1. Introduction

The European Union as an organization of a special kind that was created from six states and later growing gradually into a conglomerate of states is constantly evolving with a single goal, their progress always working in principle through the advancement of the organization in general. Managing the EU's growing complexity is important in itself, as a means of making the EU more competitive and also in terms of bringing other candidate countries closer together. The latter is related to the functioning of a full democracy, which requires responsibility and power of citizens. The way of organization and operation of the EU, with some modifications, adequately coped with the challenge of growth. The study's findings might serve as a springboard for more comprehensive scientific research (Maloku, Qerimi & Maloku: 2022:173), the perspective of EU integration in the Western Balkans. This paper contributes to the existing scientific literature (Maloku,,Jasarevc & Maloku, 2021:52) and especially to that of European integrations.

2. Methodology

The scientific methods used in this paper are mainly methods of analysis, synthesis and comparative, which help to analyze, synthesize and compare the theoretical views of local and foreign authors (Maloku & Maloku, 2020:323), who have researched in relation to the problem of research. Methodological opus means two methods. In fact, it comes to methods of analyzing the meta-analytic literature and examples of good practice in the introduction section, the theoretical part of the paper, with proper use and the method of content analysis and case studies (Maloku, 2015:30)

3. Results and Discussion

During the last decade, the European Union's strategy for the Western Balkans has focused on stability in the region, based on a clear concept of security. This strategy was a direct consequence of the failure to stop the use of violence in 1998 in Kosovo. Europe has a clear strategy regarding the integration of the region in general, and Kosovo in particular, because it is not and cannot remain as a "BLACK SPOT" in the Balkans. The Western Balkans is the most unpredictable space, states with ethnic problems, poverty and contested history, with centuries-old problems. Professors Shabani and Maloku (2021) explain the influence of different sociological factors that influence the increase in criminality in their books *Sociology* (2021) and *Topics covered by social pathology* (2021). These Balkan states passed the communist period, accepting the multi-party system and political pluralism in the 1990s. The ethnic war and numerous problems were carried over even after the victory of the multi-party system and the market economy, where the only hope of the Balkans was and remains integration into the EU and the Euro-Atlantic structures, otherwise this region cannot be separated from the struggles of nationalism and the centuries-old events in which they have passed.



The history and development of criminality at the international level and in the Western Balkans, and more specifically for the etiology and phenomenology of criminality, have been best explained by the authors Jasarevic and Maloku (2021) in their book *Criminology (etiology and phenomenology of criminality)*. The criminal procedure aspect has been analyzed by the same authors Jasarevic and Maloku (2021) in the book *Law and Criminal Procedure I and II*. Although some kind of inter-regional stability has been achieved, as well as economic progress, the overall situation in the Western Balkans remains complicated. With the development of human society, various forms of criminality, especially organized crime, have developed (Maloku, 2015:461). The crime rate is high and corruption prevalent. Savings measures and investments are low and infrastructure reconstruction is slow. Today's modern criminal law has come a long way through different historical periods (Karovic, et al, and 2020: 108), therefore, today we have a much better legal way to fight and prevent this negative phenomenon. Ultimately, the EU should be more involved in "training" and assisting the countries of the Western Balkans as they strive to achieve sustainable economic development and to improve their institutions. To be fair, it should be said that the EU already has a multilateral presence in the region, including a peacekeeping role. The political geography remains to be clarified; the final status of Kosovo is a very controversial issue. More than a decade since the beginning of the dialogue, that is, since 2011, mediated by the EU, it seems to have turned into a "dead end" and apparently the successful conclusion has become unpredictable and impossible. This stagnation depends more on the LEADERS and not on the leadership, where we take as an example the recent events such as the "Washington Agreement" and the impasse of EU enlargement as well as global developments played a key role in the course of the dialogue. A defining and threatening moment for peace and democracy came Russia's military aggression against Ukraine, affecting the Kosovo-Serbia dialogue, and from the results of the war in Ukraine, the suspension of the dialogue will also depend, even though the world is condemning Russia, which has lost enough of her allies for the crimes committed in Ukraine. Bosnia-Herzegovina is still mired in uncertainty regarding its existence as a political entity and is quite fragile economically due to its extreme dependence on foreign aid. Much of the region continues to suffer from high unemployment and "brainwashing". This country, with its large ethnic and religious divisions, with nationalist politicians, considers the European agenda a secondary issue. Even the presidents of the federal units have not hidden their ambitions for changing the borders and the serial division of Bosnia, which contradicts the principles established by the EU. Being a functional state is far away, therefore the aspiration for the EU is considered a road that has no end in sight. Bosnia and Herzegovina is providing a test of the EU's ability to act strongly and effectively when needed. However, some lessons should be kept in mind in order to achieve better results. For Bosnia and Herzegovina as a country of ethnic divisions, the reformist forces in the Western Balkans aim for a civic policy, although the Serbian state representatives are working unwaveringly for the separation of the Republican Srpska from the state community of Bosnia and Herzegovina and the "unification" with the brotherly people in Serbia.



On the other hand, the head of the Croatian Democratic Union of Bosnia and Herzegovina (HDZiBH) calls for a "territorial reorganization" of the country, which according to them is related to another ethnic division that would make this multi-ethnic country consisting of the Federation unworkable of Bosnians and Croats, as well as from Republica Srpska and Brcko District. With all these tensions in the region, reformist forces want to put an end to the ethnic principle and the influence of neighboring countries in destabilization by proposing a new version of the "Baltic model" where, according to this model, the six countries of the Western Balkans must enter into a bilateral partnership with Portugal, the Netherlands, Ireland, Denmark, Sweden and Finland with the "European principle" prevailing. Serbia is faced with internal problems, corruption, the non-independent justice system, with proclaimed unemployment, in reality extreme poverty in this country is estimated at a high percentage. The official statistics speak of emigration from this country to EU countries and elsewhere, otherwise the country is more concerned with politics than with the market economy, with political games, anger towards neighbors, and the battles between Serbian politicians have not stopped. There reigns a nationalist climate in power taking everything forward. The political power encouraging and inciting to make problems with the neighbors, do not expect at all to send police and military forces in each situation more or less critical or at all to demonstrate that we are here. The troubled, hopeless Serbian economy has encouraged this country not to let go of politics even though the economy still remains without hope to develop and increase the gross domestic product. Judiciary tainted by politics, appointments of judges are the main problems for this country. They don't like any country in the region anymore, nor are they interested in seriously working for peace, they tend to make traps, blackmail regional countries, they fight with political words, greeting each other as if it were the time of the early historical years. Serbian politics still made politics with two chairs, in Moscow and the other in Brussels. Serbia's internal policy is affecting the Kosovo-Serbia dialogue, which seems to be more oriented towards the processes of Integration and membership in the EU. The Government of Serbia is following a policy causing blockades in the dialogue and is more oriented towards the processes of integration and membership in the EU, while the Government of Kosovo is currently not showing aspirations for a new motivation, but for the successful conclusion of the dialogue. Requires strong support and solutions from EU institutions and member states, the USA and the United Kingdom. On the other hand, perhaps unfavorable trends are influencing such as the decline of Vucics influence, the war in Ukraine and the 2022 elections where he won 120 seats while the majority of the rest have 126 seats, these numbers show that it is the visionary time to remove the blockade by building a democratic, peace-loving and prosperous society, the first since 2014 that does not have control over power. In exchange for membership in the European Union, Serbia must recognize the independence and sovereignty of Kosovo, although the disposition of the Serbian population is against Serbia's entry into the EU if the condition for it is the recognition of Kosovo. For the Western Balkans, the complete normalization of relations between Pristina is essential of Belgrade. Without new political demands of the autochthonous Albanians and without any other demands or warning, the conflict happened and no one is a winner there, only losers, everyone is in the staged conflict.

In these circumstances, only a visionary leadership would remove the blockade by building a democratic, peaceful and prosperous society. The case of Serbia is extremely delicate. The policy of good neighborliness, as one of the basic criteria for progress on the integration path, is very degrading for Serbia. The EU expresses its concern about the declarations circulating in Kosovo and Serbia in which war and conflict are mentioned, asking both sides to immediately put an end to the hostilities between them and the inciting declarations. At the same time, they prevent Kosovo from recognizing independence with activities and lobbying that was caused by the mass migration of Kosovars towards the Schengen area. Territorial claims and obstructions to the state of Kosovo, as a joint project between Kosovars and internationals, the coming to power of nationalists (in whose programs ties with Russia still occupy a place), move Serbia away from the integration path. On the other hand, the Serbian state maintains friendly relations with Macedonia, a state that has no stability, is riddled with gross corruption that has impoverished the citizens of Macedonia, with an economic monopoly, high benefits from the ruling party, and in recent years the cup has been full. In this state with economic criminality and control of public money with big party businesses, controlling customs, the media and staging cases of ethnic conflicts and hiding business and organized crime from Macedonian citizens. Organized crime is a serious criminal offense, which is the result of a planned and directed action by a large number of people united in secret groups, gangs, and terrorist organizations, often connected to people in power structures. (Maloku, 2021:173). The Macedonian people are tired of a profiteering power that took their future by hiding behind the imaginary nationalist cards of endangering the state. There, for how many years now, a business climate has reigned but with very few ethnic risks, every time business and war have been endangered. Among the Macedonians it has increased then the voids have been made on the Albanians. The West wants political change and the Albanians of Macedonia, other parties should come to the scene pro-Western and not motivated or worried by the age-old problems which will be solved with a new political class in the domain of Macedonians and Albanians there. Even Kosovo is not able to become democratic, also with big problems of corruption, without security, the flight of citizens, the hiding and silence of intellectuals, without the ability of people to find a model of democratic stability, where the citizen will take the interest proper democratic where every person enriched without an economic base and with politicized justice, civil and public service, party and family, low-quality education, party and political constitutional court and party and clan embassies cannot speak on his behalf. One lesson is that the visible and strong anchor of the EU is crucial for the stability of the region and its economic development. Another is that the EU's attitude towards the Western Balkans should not be based on the idea of an economic playing field. The oft-cited distinction between "fair" and "free" trade is applicable here. The countries of the Western Balkans need strong institutions, which will ensure effective governance of the private and public sector. Domestic efforts have an important role to play in this regard. Practically, more should be done. The region needs assistance from the EU, which will help overcome the pitfalls of high unemployment, deteriorating social cohesion and rising crime. For development to take root, well-planned financial aid must be accompanied by appropriate trade agreements

(preference agreements), regional infrastructure projects (roads, bridges, power grids and airports) and measures to stimulate foreign direct investment. Towards the country. Criminality represents the group of all actions that endanger and/or damage the basic values of man (protected by law). (Maloku & Maloku, 2021:60). Likewise, strong cooperation - interregional and with the EU authorities - is necessary to fight crime. There is no need to mention that the economic development of the Western Balkans will also strengthen the fight against terrorism. On the one hand, Europe's agenda has more plans and increasingly includes the political and economic dynamics in the Western Balkans. And on the other hand, the European Parliament's (EP) foreign affairs committee raised serious concerns about the economic and social situation in the Western Balkans and called on the EU to adopt a clearer strategy for integration. In a draft resolution, the committee also urged countries to work together to improve regional infrastructure and, in most cases, to cooperate better with the UN war crimes tribunal. Serbia-Montenegro asked you to solve the problems arising from the federal union and the status of Kosovo. The resolution mentioned achieving greater political stability, implementing administrative reforms and increasing the fight against crime and corruption as top priorities for Albania, while calling on Macedonia to implement key peace agreements and especially decentralization. The Western Balkans still looks like an explosive mix of weak states, pre-states and current or future protectorates struggling with great difficulty to maintain standards and progress towards stability and European integration. Furthermore, we do not have a clear idea of how many quasi-states exist in the Balkans and to what extent they function. The recent outbreak of violence in Kosovo led many to think that the region is once again spiraling out of control. The truth is that the battle is not over. There is an immediate need to look at this situation, but the view must be done through the eyes of the peoples living in the region. In the wake of its engagement in Southeast Europe, the international community has behaved as if it had the "right solutions" and faced the problem by imposing these solutions. This approach cannot be continued any further. This approach creates a crisis of legitimacy and facilitates the growth of anti-Western populism. This is a failed formula. The region is unable to achieve lasting prosperity and stability without the mechanisms of regional integration. At the same time, it is clear that the dysfunctional states and protectorates, which dominate the region, are not capable of integrating the Balkans into European flows. The transition from a weak state to a member state is the critical task facing the Balkan countries today. Today's constitutional arrangements neither work nor are they subject to genuine critical evaluation. They lead to a state of flow, but not to a successful transition. These agreements were drawn up to end crises - generally armed conflicts - by addressing precisely the right of this or that state to exist. But these constitutional arrangements have sidelined and left unresolved many critical issues concerning states' capacity for efficient administration, including their monopoly on law enforcement and tax collection. Moreover, they are, to some extent, imposed by the international community, and as a result, the public views them with some suspicion. This is most evident in Bosnia and Kosovo, where international actors hold executive power. In Bosnia, the residual influence of nationalist actors is a permanent feature.

In Kosovo, the ability of the central authorities has not been proven and cannot be proven, as long as international actors play the determining role in decision-making. It is extremely important that international efforts to strengthen the governance structures in the Balkans intensify both engagement and transparency. In order for this to happen, the countries of the region must learn to feel directly engaged in the transformations of society. As we have said above, the post-Yugoslav constitutions emerged from the wars for the right to exist of the Balkan states. Now is the time to focus on the processes of reforms and on the process of convincing the ordinary citizen of the need for these reforms. On the one hand, this means reconstruction of the public administration and macro-economic adjustments that will make it possible for the state to provide its services efficiently. On the other hand, there is an urgent need to deepen the democratization process to ensure improvements in political representation. The countries of the Western Balkans want to be members of the European Union tomorrow, but the international community is still in the region today. Both the efficiency and the legitimacy of its presence will depend on how successful the EU will be in turning this prospect of membership into an effective motivation for political and economic reforms. The accession process presupposes the existence of functional states that have the desire and ability to respond to the conditionality mechanism. This has not yet been achieved in the Western Balkans. This means that the EU faces a big dilemma - it must not discourage the Western Balkan countries in their aspirations, but neither must it lower its criteria for membership. A specific strategy is required to overcome this dilemma and Brussels should discuss this with both the governments and the communities of the region. If we find a smart strategy, we will finally be able to find the line between failure and success in Europe. Albania is the legendary example of how a country, through no fault of others, itself stops the integration processes, but also because of the high level of corruption that has gripped the current government. During the last years, Albania has lost its place in the integration process, due to disagreements between the position and the opposition regarding the implementation of the legislation required by the EU. Unlike other countries, in recent years Montenegro has been praised by Brussels for the speed of implementing the necessary reforms. One of the main problems in this country is a state bureaucracy installed two decades ago and a high level of corruption. . The seduction of Bosnian Serbs with separatist policies from Belgrade, the problems in the Preševo Valley, the tense relations with Kosovo, the problems with the authority of the Serbian Orthodox Church in Montenegro (although the Agreement was signed with Prime Minister Dritan Abazović) and Macedonia, do this rather problematic country for its neighbors and for the integration process. Problems similar to the Balkan country, such as the lack of rule of law, unemployment, insufficient economic development, ethnic problems, etc., in the case of Kosovo, the European path is made even more difficult by its non-recognition by all member countries and the inability to participate in all European and regional initiatives. The EU-Kosovo SAA, which has been in force since April 2016, as well as the ERA (European Reform Agenda), still serves as a necessary tool to guide the implementation of reforms. However, in July 2018, the Commission assessed that Kosovo met the standards for liberalization, where then the 100% tariff for imports from Serbia and Bosnia and Herzegovina was removed, enabling the



resumption of the Belgrade-Pristina dialogue, but a year later the Covid-19 Pandemic was announced as a global shock that did not spare even the Western Balkans. The EU was also affected, was financial support for the Balkans in the amount of 3.3 billion euros, which provided relief and was a clear message about the EU's political commitment to the region. After the resignation of the then Prime Minister Ramush Haradinaj in July 2019, and with the constitution of the new Assembly in December 2019, where on February 3, 2020, Albin Kurti assumed his new position, he declared a commitment to follow the reforms related to the EU, with economic development and the fight against crime t organized. This government was dismissed after two months due to a motion of no confidence which led to a political crisis where, on June 3, 2020, the new government was led by the new Prime Minister Avdullah Hoti. As a result of the political situation, the implementation of the package stalled of the three public administration reform laws approved in February 2019, as well as the constitutional review of the Law on salaries and the Law on public officials. On June 30, 2020, the Constitutional Court declared the Law on salaries unconstitutional and decided that the Law on public officials should be amended so that it enters into force. In August 2020, the Assembly of Kosovo adopted a Law for the prevention of the Covid-19 pandemic to provide the legal framework for the required public health measures for which the European Commission had recommended emergency measures respecting the rule of law and democratic standards of rights of man. The COVID-19 pandemic limited the holding of court hearings in Kosovo, however, limited progress has been made in the fight against corruption, including the investigation and prosecution of property confiscation and organized crime in the courts. Kosovo is at an early stage in the fight against crime organized, although in July 2020, Europol and the Kosovo Police signed a working agreement, and until then Kosovo was the only partner without cooperation. The paper provides a brief summary of the criminal legal aspect, namely the material legal aspect (Maloku, 2020:21) of the problems and challenges that Kosovo faces for EU integration. Insufficient financial resources undermine the implementation of basic human rights and the implementation of the Law on the Protection of Children and ensuring gender equality as well as the rights of minorities. The economic criterion has limited progress, as far as good neighborly relations are concerned. And regional cooperation, it should be noted that in April 2020 the government removed the tariffs imposed since November 2018 for imports from Serbia and Bosnia and Herzegovina. As for the Kosovo-Serbia Dialogue, Kosovo must make an urgent agreement to advance on their European paths and align with European standards. The lack of unity in the EU for the recognition of Kosovo makes this path even more difficult. The last Progress Report of the European Commission, which was very affirmative for Kosovo's European path, and the conclusions of the EU Council, which were a setback for this process, prove how divided the EU is in the case of Kosovo. Being the only country in the Balkans with a visa regime, Kosovars feel forgotten by the EU. But even the political class in Kosovo, both in position and in opposition, have the process of European integration rather as political rhetoric, to escape from the real problems faced by the population, such as the lack of rule of law, unemployment, the low level in education, health, social welfare, high level



corruption etc. If we add to all these the successive scandals in the Ministry of Internal Affairs, which is the main bearer of meeting the European criteria, then this path is even more distant.

The European agenda in Kosovo must be carried from political rhetoric to politics sectoral, let's face it: we need to improve law and order, for our own good - point first, and at the same time, to move forward in the integration process.

4. Conclusion

The prospect of EU integration of this part of the continent was a taboo subject until 1999. And only at the Thessaloniki Summit in June 2003 were the Western Balkan states offered a real opportunity to become members. It is extremely important that the peoples of the region understand this fact - that regardless of what it seems, - they are in transition, not in flux. It is understandable that the enlargement process depends on the aspiration offered by the official Brussels for the Balkan countries, but also on the readiness of the Balkan countries to fulfill the criteria required in the integration process. Neither side, neither Brussels nor the Balkan countries, take the enlargement process seriously. The EU, through the criteria which it makes tougher every year, wants the process of enlargement in the Balkans, after the admission of Croatia, to continue when "some work within the house" is settled, mainly of an economic and security nature, but also due to internal political problems, increasing migration, etc. Heads of state and government of the EU member countries have mentioned the year 2022 as an opportunity to continue the enlargement process in the Balkans, but until then, through pre-membership instruments, Brussels intends to keep the integration aspiration alive. On the other hand, the heads of state in the Balkans with their policies, especially in recent years, have proven that the process of accession to the European family is in the background. If they are not enticed with investment projects in the coming years, Euroscepticism in the political classes of these countries, but also among ordinary citizens, will increase. Although the EU had many successes in expanding the area of stability and peace in Europe, when it comes to the Balkans, the achievements are quite modest in the last two decades. The characteristic of the Balkans is the presence of contradictions in itself in this area where the vast majority was under Ottoman rule and the rest under the rule of the Austro-Hungarian Empire where political history does not begin with the understanding of ethnic groups and unfortunately it was the peoples of the Balkans who started four the last wars in Europe where we saw a failure of both European and world diplomacy. The main findings of this paper should contribute to and initiate not only scientific workers, but also experts from practice, to launch a series of research projects in the future with the aim of obtaining relevant (scientific) (Maloku, Kastrati, Gabela and Maloku, 2022:139). Knowledge about the perspective of EU integration.

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