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The EU – No heaven: A Savior from Hell?

Case study of Albania on its path to Europeanization

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Abstract

In this study, the outcome of EU governance and thus Europeanization in Albania – in its path to accession - is to be analysed and its results explained. Albania, a candidate country to join the EU, has been praised for its constructive regional policy and, as a NATO member, is shielded from any security threat. Indeed, Albania has not historically had any inter-ethnic conflict, given the homogeneous population, nor has the country engaged in any direct war with neighbouring countries. Furthermore, its path to accession is not further restricted by unresolved bilateral issues with any countries in the region or an EU Member State. To a certain extent, it provides a clean slate for analysing the results of the double level game between the EU and gatekeeper elites. Thus, the study can be replicated to other candidate countries in the region, following any possible resolution of lingering bilateral conflicts.

In Albania, as the EU has declared a halt to enlargement, has Europeanization too, hit the brake? I maintain that the domestic and international politics often entwine, and in the case of enlargement towards Albania I aim to elucidate when and how. The critical juncture and starting point of analysing EU Albania interactions was Albania obtaining EU candidate status in June 2014 when the politically lead European Commission was declaring a halt to enlargement. One main hypothesis is that in the presence of a vague commitment on the part of the EU, reforms will pay mere lip-service to Europeanization. I refer as well to other determinants of choice that inform the strategies of interaction between the EU and Albania. The candidate status sets the start of the analysis EU Albania interactions.

The methodological approach I employ in this research is largely qualitative. I envisage a mechanism of intervening variables in a process which yields results of Europeanization in Albania, in order to offer an explanation of what happened and why. My resulting theory develops process tracing predictions and performs a root cause analysis dependent on a causal sequence and links between the contributing factors and the root cause(s). I perform this study by relying on historical and legal analysis as an inherent part of my argument. By explaining the development of EU institutions and EU modes of Europeanization vis-à-vis candidate countries, it is possible to infer causality through this type of analysis. Moreover, I supplement process tracing with other qualitative methods analysing official

declarations, public speeches, political statements, and press releases of the main EU, Western Balkans' and Albanian actors. I complete the analysis with semi-structured interviews with Albanian and EU Member States diplomats, along with insights from EU officials and experts both in Brussels and Tirana. My field research in Tirana has culminated in an original survey on Albanian public opinion, carried out from 5 to 19 November 2016, regarding the issues of concern for Albania and perceptions of the EU in the country.

The study reveals only lip service is being paid to the concept of Europeanization. The domestic adaptation is not based on institutional compatibility or understood as 'command' and 'compulsion' that entail a hierarchical, asymmetric, top-down relation. Instead, the domestic adaptation is understood as a process to support mobilization for domestic reforms that have to be initiated from within, at the domestic level. The logic of Europeanization then becomes that of shaping beliefs at the domestic level. This study has confirmed that Europeanization, before a halt in enlargement, as a process, is dependent on socialization, a direct mode of Europeanization under the logic of appropriateness. These are largely shaped by their interactions where both parties come to have a clear understanding of the direction taken by their relation.

The introduced causal mechanism is valid as there is a weaker relative dependence, in the presence of an inward-looking EU marred by internal challenges that has imposed a halt - a wait and see approach - on considering enlargement as a priority. The vague commitment on enlargement serves as an amplifier to strategic calculations on Level II, gatekeeper elites. At the same time, alternative flows of investments and/or money, coupled with the security shield of NATO, commands only a formal adoption of the *acquis* on the part of gatekeeper elites, but not its implementation. The EU on the other hand, will – within the limits of its toolbox – maintain a lenient policy to maintain gatekeeper elites on the negotiation table.

Indeed, in Albania, reforms are adopted only nominally to get the country just ahead of the curve in its path to accession. Internally, Albanians struggle within a competitive authoritarianism where the sole concern of gatekeeper elites lies in gaining and keeping privileges by overtly resorting to political patronage. Democratic institutions are not enough to resist such practices. In fact, competitive authoritarianism flourishes in this paradox, where legislative loopholes, enforcement of

patronage, co-option and corruption are all skilfully managed so as not to inspire a violent domestic dissent or external condemnation. The high leverage points to address Europeanization predicaments in the country remain to better the economic situation through international cooperation so that people are not concerned with making ends meet. Thus, setting the ground for better conditions to support a stronger and larger involvement of citizens in decision making processes. Empowering Civil Society remains a political imperative to answer the appeals of European citizens and to address the concerns of Albanians that yearn for progress in the path of Europeanization.

The results of the public opinion survey I conducted in Tirana further underlines the bleak socio-economic and institutional situation in the country. Albanians struggle to make ends meet and harbour a deep mistrust toward their political system, both political parties and government.

The exchanges and interactions between the EU and gatekeeper elites have largely resulted with the formal adoption of legislation but no effective implementation or track record. Arenas of contestation are largely corrupted and thus there is limited room for effective push back on competitive authoritarian practices that engulf public life.

The EU may be entrenched in its internal dimensions and may have, for now, lost its appetite for enlargement, but the Albanians do still largely regard the EU positively both on political and economic levels and are optimistic about its future. Membership of Albania in the EU is still seen as beneficial for the country. Issues like Brexit or the purported weakening of EU influence in the world seem not to be a concern for Albanians. They are aware of the issues the EU is facing, like the migrant crisis and terrorism; Albanians have an understanding of the economic crisis the EU economy has undergone. The perception's of Albanians on the challenges the EU is facing does not seem to be at odds with European results at the EU level.

More should be done as the linkages of the EU in the region are ever weaker, the threat of democratic backsliding within the Union – with elections in France, Germany and the Netherlands - plus the vagueness of the accession perspective may put into question the EU's role in championing democracy in the wider region.

The EU has a large set of tools that can be used in the region, but they have to be used strategically, coherently and effectively, measuring

steps towards the path of accession to be taken not too slowly, nor too fast. Postponing accession *sine die*, may undermine achievements in these past two decades and threaten stability in the region. The high leverage points – international economic cooperation and empowering civil society are good starting points.

Moreover, the enlargement process should be renewed and rethought for the EU to be fully accountable to public opinion, but as well, to inspire progress in issues of concern to Albanians, and those concerning the wider Western Balkans' region. In doing so, clarity of policy steps is necessary for to make any headway. The EU should set short and medium term goals to afford local and national politicians the opportunity to confront their constituency with results. The evaluation of the progress attained should aim for full transparency, moving away from a technical exercise to a politically accountable one. This is attainable by putting in place a diligent credible process which by setting and holding its ground inspires those reforms domestically and, most importantly, inspires their application for the concrete progress of society.

Abbreviations

AMA	Audiovisual Media Authority
CEC	Central Election Commission
DP	The Democratic Party
EU	The European Union
MARRI	Migration, Asylum, Refugees Regional Initiative
NATO	North Atlantic Treaty Organization
OSCE	Organization for Security and Cooperation in Europe
RCC	Regional Cooperation Council
RYCO	The Regional Youth Cooperation Office of the WB
SEECF	South-East European Cooperation Process
SEETO	South East Europe Transport Observatory
SMI	The Social Movement for Intergration Party
SP	The Socialist Party

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Chapter 1 Introduction

1.1 Setting the scene and research question

Europeanization has been understood to “represent[t] a process of major structural transformation”¹ that illustrates the “structural impact of the EU”². Specifically in the case of enlargement, “external governance takes place when parts of the *acquis communautaire* are extended to non-member states”.³ Indeed, in defining enlargement I use the definition of Schimmelfennig and Sedelmeier that refer to it as “a process of *gradual and formal horizontal institutionalization* of organizational rules and norms”.⁴ “*Institutionalization*” occurs through the constant and repeated interaction between interested actors that in turn result in being “normatively patterned”.⁵ These norms spread well beyond their members and embrace the aspiring countries that conform to them in what has been termed as “[h]orizontal institutionalization”.⁶

The reason for countries adapting to these norms may be two-fold: on one hand “to mitigate negative externalities of regional integration”, or on the other hand, as a correction of existing structural problems.⁷ The degree of Europeanization is understood “as the domestic impact of, and adaptation to, European governance”.⁸ Thus, in the case of enlargement, European governance exceeds the realm of voluntary adoption of the *acquis communautaire* and presupposes consistent coordinated efforts aiming at producing mutually accepted and binding

¹ K. Featherston and G. A. Kazamias, *Europeanization and the Southern Periphery*, Routledge, New York, 2001, p. 3.

² *Ibid.*, p.10.

³ S. Lavenex, “EU External Governance in ‘Wider Europe’”, *Journal of European Public Policy* vol. 11, no. 4, 2004, p. 691.

⁴ F. Schimmelfennig and U. Sedelmeier “The politics of EU Enlargement: Theoretical and comparative perspectives” in F. Schimmelfennig and U. Sedelmeier (eds.), *The Politics of European Union Enlargement*, London, Routledge, 2005, p. 5.

⁵ *Ibid.*

⁶ *Ibid.*

⁷ *Ibid.*

⁸ F. Schimmelfennig, “EU External Governance and Europeanization Beyond the EU”, in D. Levi-Faur, *The Oxford Handbook of Governance*, Oxford, Oxford University Press, 2012, p.1.

agreements.⁹ These I argue, are products of preferences and politics in the domestic level as well as the EU governance at the European level. Thus, a causal mechanism cannot but take into consideration the EU governance and in this research, I attempt to clarify the interaction between the latter and the domestic level in Albania and the impact and outcome of this interaction. For the purpose of this study, the outcome of EU governance and thus Europeanization in Albania – in its path to accession - is to be analyzed and its results explained.¹⁰ Given a halt in EU enlargement, has Europeanization too, hit the break? I cannot but agree with Putnam that “[d]omestic politics and international relations are often somehow entangled”, in my case study of Albania I aim to elucidate “[w]hen?” and “[h]ow?”¹¹

Specifically, in an attempt to reduce the property space, I will analyze European governance frameworks over enlargement vis-a-vis Albania, which represents the case of a candidate country whereby the EC recognized that the decision to grant to the country the candidate status “is also an encouragement to step up the pace of reforms”.¹² Indeed, the EU governance towards the Western Balkans has been conditionality led, with values, rules and regulations being projected under the premises of a possible membership.¹³ The EU enlargement policy has been “[a] political glue that [... holds] the Balkans together” but its strength depends on the benefits it entails and the credibility of the process tightly linked to the power on the part of EU to deliver on its

⁹ A. Benz, “Entwicklung von Governance im Mehrebenensystem der EU”, in Ingeborg Tömmel (ed.), *Die Europäische Union. Governance und Policy Making VS Verlag*, Wiesbaden, 2008, pp. 36-57; R. Mayntz, "Governance Theory als fortentwickelte Steuerungstheorie?" in G. Folke Schuppert (ed.), *Governance-Forschung, Vergewisserung über Stand und Entwicklungslinien*, Baden-Baden, Nomos, 2005; F. Scharpf, *Interaktionsformen: Akteurszentrierter Institutionalismus in der Politikforschung*, Opladen, 2000.

¹⁰ Schimmelfennig, “EU External Governance and Europeanization Beyond the EU”, *op. cit.*, p. 5.

¹¹ R. D. Putnam, “Diplomacy and domestic politics: the logic of two-level games”, *International Organization*, vol. 42, no. 3, 1988, p. 427.

¹² European Commission, *Commission Staff Working Document, Albania 2014 Progress Report*, SWD (2014) 304 final, Brussels, 8 October 2014, p. 1. See as well A. L. George, and A. Bennett, *Case Studies and Theory Development in the Social Sciences*, Cambridge, Massachusetts, MIT Press, 2004, p. 210.

¹³ See F. Schimmelfennig and U. Sedelmeier, “Governance by conditionality: EU rule transfer to the candidate countries of Central and Eastern Europe”, *Journal of European Public Policy* vol. 11 no. 4: 2004, pp. 661-679.

promises.¹⁴ The EU traction has been largely based in the composite formula “of stability, prosperity, security and personal freedoms” and the necessary support to state building with the final “possibility of joining a powerful and rich regional club.”¹⁵

In the case of Albania, exogenous factors namely the security threat at the time at the dissolution of Yugoslavia and the involvement of NATO and EU in the region, set the ground to reconnect to the West as a natural rational choice. This move benefited the security of the nation and furthered state building, given that the country was in its early stage of transition from communism.

Internally, Albania can count on a homogeneous population with a culture of high religious tolerance.¹⁶ Albania has had no inter-ethnic conflicts or direct war with neighbouring countries. In this the internal conditions inherited from a failed communist regime were to set Albania apart from former Yugoslav countries in the region. Albania’s preoccupation was to rebuild the country and in doing so, political elites’ statements suggest that another key concern of foreign policy was to provide support for ethnic Albanians living in the neighboring countries. This was the Albanian *perfect storm* when starting the journey.¹⁷

The EU has underlined the good neighborhood relations - a Copenhagen plus criteria – as a prerequisite to the Stabilization and Association process, “past conflicts, [...] the treatment of minorities and ensuring equal rights for all citizens remain key challenges to stability in the Western Balkans and need to be fully addressed.”¹⁸ Indeed,

¹⁴ Schimmelfennig, “EU External Governance and Europeanization Beyond the EU”, *op. cit.*, p. 3. H. Grabbe, “Beyond Wait-and-See: the Way Forward for EU Balkan Policy”, *European Council on Foreign Relations Policy Brief*, London, May 2010. p. 2; See as well F. Schimmelfennig and U. Sedelmeier “Introduction: Conceptualizing the Europeanization of Central and Eastern Europe” in F. Schimmelfennig and U. Sedelmeier (eds.), *The Europeanization of Central and Eastern Europe*, Ithaca, NY, Cornell University Press, 2005, pp.1-28.

¹⁵ H. Grabbe, “Six Lessons of Enlargement Ten Years On: The EU’s Transformative Power in Retrospect and Prospect”, in N. Copsey and T. Haughton (eds.) *The JCMS Annual Review of the European Union in 2013, 2014*, p. 40.

¹⁶ C. Glatz, “Don’t Use God as an ‘armor’ to wage violence, pope says in Albania”, *Catholic News Service*.

¹⁷ George and Bennett, *op.cit.*, p. 180.

¹⁸ European Commission, *Enlargement Strategy and Main Challenges 2013-2014*, COM(2013) 700 final, Brussels, 16.10.2013, p. 15. On Copenhagen ‘Plus’ criteria see S. Blockmans, *Tough*

[s]tabilisation [...] is in the EU's own interest" thus "enlargement policy continues to be [seen as] a strategic investment in peace, security, prosperity, and stability in Europe "¹⁹

Albania has been praised for its constructive regional policy.²⁰ Indeed, the EC has underlined that "[r]egional cooperation and good neighbourly relations form an essential part of Albania's process of moving towards the EU".²¹ The country is actively involved in a number of regional initiatives as the South-East European Cooperation Process, the Central European Initiative, the Regional Cooperation Council, the Energy Community Treaty, the Central European Free Trade Agreement and the Adriatic and Ionian Initiative.²² On a particularly strategic matter Albania continued to participate in the implementation of the Trans-Adriatic Pipeline and Ionian Adriatic Pipeline projects.²³ Moreover, Albania continues its active participation in the US-Adriatic Charter (A5) and in 2014 held its presidency.²⁴ Furthermore, the country has consolidated its constructive regional policy through improving bilateral relations with enlargement and neighborhood countries.²⁵

Thus, Albania is not further burdened in its path to accession by bilateral, unresolved issues with countries in the region or an EU Member State. To a certain extent, it provides a clean slate for analyzing the results of the double level game between the EU and gatekeeper elites. Thus, the study can be replicated to other candidate countries in the region, following any possible resolution of lingering bilateral conflicts.

Love: *The European Union's Relations with the Western Balkans*, The Hague, Asser Press, 2007, pp. 246-7,252.

¹⁹ European Commission, 2016 *Communication on EU Enlargement Policy*, COM(2016) 715 final, Brussels 9.11.2016, p. 9.

²⁰ "A short-lived rise in nationalist rhetoric in late 2012 and early 2013 triggered concerns among neighbours and other partners but subsided thereafter." See European Commission, *Commission Staff Working Document Albania 2013 Progress Report*, SWD (2013) 414 final, Brussels, 16.10.2013, p. 11.

²¹ European Commission, *Commission Staff Working Document, Albania 2014 Progress Report*, SWD (2014) 304 final, Brussels, 8 October 2014, p. 13.

²² *Ibid.*

²³ European Commission, SWD(2014) 304 final *op.cit.*, p.13; European Commission, *Commission Staff Working Document Albania 2015 Report*, SWD(2015) 213 final, Brussels, 10.11.2015, p. 22.

²⁴ European Commission, SWD(2015) 213 final *op.cit.*, p. 22.

²⁵ European Commission, SWD(2014) 304 final *op.cit.*, p. 14; European Commission, 2016 *Communication on EU Enlargement Policy*, COM(2016) 715 final, Brussels 9.11.2016, p. 7.

In many interviews conducted in Brussels, the EU integration and returning to Europe has been portrayed as key to Albania's identity. It is perceived as the rightful home of the Albanians, and as interviews conducted for this study have highlighted that Albania does not seek or have any other integration alternatives.²⁶ In addition, a senior official of the US Department of Justice during an interview underlined that "[the USA] support[s] Albania in joining the EU, we cannot have the country become a 51st State of the USA".²⁷

The Albanian gatekeeper elites have long understood that the way they engage in the process of Europeanization "are *customs*" not simply clearly stated rules but ^{shared consciously} and publicly.²⁸ Clearly stating these rules of interaction may be helpful in removing any uncertainty and this may happen after the players have been playing for some time.²⁹ I argue that both the EU and the Albanian gatekeeper elites have agreed to these tacit rules.³⁰

In the case of Albania, the continuous interaction with the EU, is traceable back to 1990, when the gatekeeper elites exiting from a deep seclusion were not fully aware of the rules of international interaction nonetheless opened talks with the EU and NATO.³¹ As Wittgenstein reminds us:

"When do you know how to play chess? All the time? Or just while you are making a move? And during each move, [do you play] the whole of chess? – And how

²⁶ Senior official 1, Mission of the Republic of Albania to the European Union, interview, Brussels, 31 March 2015; Senior official 2, Mission of the Republic of Albania to the European Union, interview, Brussels, 31 March 2015; Senior official 1, The Permanent Delegation of Albania to NATO, interview, NATO Headquarters, Brussels, 20 March 2015; Senior official 2, The Permanent Delegation of Albania to NATO, interview, NATO Headquarters, Brussels, 20 March 2015; Senior Official, NATO Headquarters, interview, Brussels, 15 April 2015.

²⁷ Senior Official of the United States Department of Justice Criminal Division International Criminal Investigative Training Assistance Program (ICITAP), interview, Tirana, 19 July 2016.

²⁸ L. Wittgenstein, *Philosophical investigations*, Oxford, Blackwell. 1953, p. 199.

²⁹ N. G. Onuf, *World of our making: Rules and rule in social theory and International Relations*, Columbia, University of South Carolina Press, 1989, pp. 85-86.

³⁰ See Senior Diplomat, EU Member State, Block of Embassies, interview, Tirana, 02 February 2017.

³¹ In 1992, Albania requested NATO membership . See A. Çopani, "The Democratic Process and Albanian Security Policy", *NATO Review*, no. 40, 1992, p. 23. See also A. Çopani, and C. P. Danopoulos, "The Role of the Military in the Democratization of Marxist-Leninist Regimes: Albania as a Case Study", *Mediterranean Quarterly* 6, no. 2, 1995, pp. 117-134.

queer that knowing how to play chess takes so short a time, and a game so much longer.”³²

I take as a critical juncture in this study, the candidate status Albania obtained in June 2014 at the same time in which the politically lead European Commission would declare of a halt in enlargement. One main hypothesis is that in presence of a vague commitment on the part of the EU, the reforms will be a lip-service to Europeanization. The candidate status sets the start of the analysis of the results of EU – Albania interactions.

Domestic actors may well be incentivized to hold on short-term achievable goals that allow them to present themselves as bearer of concrete results on election dates.³³ The description of Featherstone - as I showcase throughout the analysis done in this thesis - holds true in the case of Albania:

“With a mistrust of others, it is rational to defend accumulated privileges. The government, for its part, approaches the social dialogue in a manner that smacks of opportunism – reviving the process only when it needs to introduce painful reforms, dropping it when it does not go the way it wants.[...] The signal given here is that difficult policy shifts depend on an external force to strengthen the domestic reform process.”³⁴

In addition of evaluating context in which they unfold the relative dependence and any present asymmetries – useful indicators – that only coupled with analysis of past decisions and behaviors inform a rational calculation of costs of one’s strategy.³⁵

The EU has adopted toward candidate countries a “governance by conditionality” by projecting its values, rules and regulations, under the

³² Wittgenstein, *op. cit.*, p. 59.

³³ M. Bregu, Chairwoman of the European Integration Committee of the Parliament of Albania, EPC, Policy Dialogue, “EU Enlargement to the Balkans: The role of the member states”, Brussels, 29 September 2015.

³⁴ K. Featherstone, “Greece and EMU: Between External Empowerment and Domestic Vulnerability”, *Journal of Common Market Studies*, vol. 41, no. 5, 2003, p. 937

³⁵ G. H. Snyder, “The Security Dilemma in Alliance Politics”, *World Politics*, vol. 36, no. 4, 1984, pp. 471 – 472, 474 - 475

premise of membership.³⁶ However, some scholars underline that conditionality is not a top-down demand, nor “a clear-cut independent or intervening variable and does not fit narrowly positivist framework” but a process, results of which are dependent on an interaction of domestic and European actors³⁷ much like Europeanization.³⁸

Thus, the EU and Albania, as a candidate country under the newfound circumstances continue their exchanges, based on clear – tacitly agreed – directions that inform their relationship – between equals - built on negotiating and bargaining.³⁹ The mode of Europeanization pertaining to this case, is then socialization - a direct mode under the logic of appropriateness.⁴⁰ Indeed, it serves well the purpose of this study - before a fading membership perspective - as of ‘whether’ and ‘to which extent’ does Albania pursue Europeanization.

1. 2 Methodology and research design

The methodological approach I intend to employ in this research is largely qualitative. In this regard I will be employing the method of process-tracing as envisaged by Alexander George and Andrew Bennett. Process-tracing “identif[ies] the intervening causal process – the causal chain and causal mechanism – between an independent

³⁶ F. Schimmelfennig, and U. Sedelmeier, “Governance by conditionality: EU rule transfer to the candidate countries of Central and Eastern Europe”, *Journal of European Public Policy* vol. 11 no. 4, 2004, pp. 661-679.

³⁷ I define EU actors in the large sense, both EU Member States, and implementing institutions involved in the enlargement policy.

³⁸ J. Hughes, G. Sasse, C. Gordon, “Conditionality and Compliance in the EU’s Eastward Enlargement: Regional Policy and the Reform of Sub-national Government”, *Journal of Common Market Studies*, vol. 42, no. 3, 2004, pp. 523-551. J. Hughes, G. Sasse, C. Gordon, “Enlargement and Regionalization: the Europeanization of Local and Regional Governance in CEE States”, H. Wallace (ed.), *Interlocking Dimensions of European Integration*, London, Palgrave, Macmillan, 2001, pp. 145-178.

³⁹ A. Benz, “Entwicklung von Governance im Mehrebenensystem der EU“, in I. Tömmel (ed.), *Die Europäische Union. Governance und Policy Making VS Verlag*, Wiesbaden, 2008, pp. 36-57; T. Börzel, “European Governance – Verhandlungen und Wettbewerb im Schatten der Hierarchie”, in I. Tömmel (ed.), *Die Europäische Union. Governance und Policy Making VS Verlag*, Wiesbaden, 2008, p. 65

⁴⁰ See J. T. Checkel, “Why comply? Social learning and European identity change”, *International Organization* vol. 55, no.3, 2001, pp. 553-588.

variable (or variables) and the outcome of the dependent variable.”⁴¹

The suggested causal mechanisms serve to fill the gap between law-like generalizations. “The difference between a law and a mechanism is that between a static correlation (‘if X, then Y’) and a ‘process’ (‘X leads to Y through steps A, B, C’).”⁴² Process-tracing may be used to study said intervening steps ensuring thus the authenticity of the general law.

Utilizing the pre-existing terminology employed by King, Keohane and Verba, what George and Bennett refer to as causal mechanisms are nothing other than *intervening variables*, causal capacities, unreal and undetectable, that fail to manifest themselves with their observed outcomes.⁴³ Falletti and Lynch maintain that causal mechanisms “intervene” in a systematic cross-case covariation stated by a law-like generalization where ‘X leads to Y’ can be disregarded in absence of such law-like generalization.⁴⁴ This is undoubtedly a different stance from causality as conceived by critical realism where systematic cross-case covariation is *irrelevant* to a causal claim unless it is performed in laboratory conditions.⁴⁵

George and Bennett’s approach is critical to the law-like generalizations put forth by neopositivists. The authors maintain that no differentiation is possible between a causal relationship and a non-causal one. Moreover, a law-like generalization is not typically encountered in the world.⁴⁶ They do propose “causal mechanisms” as a solution to this conundrum, and with it offer an explanation of what happened and why it happened, thus discovering novel insights.

“[U]ltimately unobservable physical, social, or psychological processes through which agents with causal capacities operate, but only in specific contexts or conditions, to transfer energy, information, or matter to other entities. In so doing, the causal agent changes the

⁴¹ A. L. George, and A. Bennett, *Case Studies and Theory Development in the Social Sciences*, Cambridge, Massachusetts, MIT Press, 2004, p. 172.

⁴² George and Bennett, *op.cit.*, p. 141

⁴³ G. King, R. O. Keohane, and S. Verba, *Designing social inquiry: Scientific inference in qualitative research*, Princeton, Princeton University Press, 1994, pp. 85-87.

⁴⁴ T. G. Falletti, and J. F. Lynch. “Context and causal mechanisms in political analysis.” *Comparative Political Studies* vol. 42, no. 9, 2009, pp. 1146-1147

⁴⁵ M. Kurki, *Causation in International Relations: Reclaiming causal analysis*, Cambridge, Cambridge University Press, 2008, 1st edn., p. 198.

⁴⁶ George and Bennett, *op.cit.*, pp. 132, 133.

affected entity's characteristics, capacities or propensities in ways that persist until subsequent causal mechanisms act upon it.”⁴⁷

Hence, disregarding systematic cross-case covariation, George and Bennett focus on “ultimately unobservable” series of steps, which produce, observed outcomes.⁴⁸ I recognize that there is a contradiction as, on one hand, George and Bennett suggest researchers to be weary in using law-like generalizations – but on the other hand, they imply a connection between their causal mechanisms and law-like generalizations.

“If we are able to measure changes in the entity being acted upon after the intervention of the causal mechanism and in temporal or spatial isolation from other mechanisms, then the causal mechanism may be said to have generated the observed change in this entity. The inferential challenge, of course is to isolate one causal mechanism from another, and more generally, to identify the conditions under which a particular mechanism becomes activated.”⁴⁹

George and Bennet maintain “that a theory can be derived or modified based on the evidence within a case, and still be tested against new facts or new evidence within the same case, as well as against other cases”.⁵⁰ Similarly, by following the available evidence, I develop a theory - process tracing predictions - about the case study in hand. Following the Bayesian reasoning, one of my aims is to define the probability of an outcome - Europeanization in Albania - based on newfound evidence.

The degree of Europeanization in Albania, serves as the problem to be defined through a causal mechanism as stated above. I thus perform a root cause analysis which is dependent on the causal sequence and

⁴⁷ George and Bennett, *op.cit.*, pp. 132, 133.

⁴⁸ George and Bennett’s conception of “observability” (See George and Bennett, *op.cit.*, pp. 143–144) is admirably nuanced, fully accepting the notion that the boundaries of the observable change over time with the construction of more and more refined equipment to augment and extend the senses. But there is little sense in their account that any factor will remain undetectable, or that such an undetectable factor could ever serve a meaningful explanatory role.

⁴⁹ George and Bennett, *op.cit.*, p. 137.

⁵⁰ George and Bennett, *op.cit.*, p. 187.

links between the contributing factors and the root cause(s). In employing process-tracing and proposing a causal mechanism concerned with explaining the outcomes of Europeanization in Albania I maintain that it is necessary to “consider multiple feedback loops and complex causal relations”.⁵¹

Largely focusing on qualitative data analysis, I use process-tracing as a means through which I can draw causal relationships between the two variables. The independent variables will be the domestic political elites in their role of gatekeeper elites on one hand, and on the other hand, the use of EU governance in the region.⁵²

The reason behind the choice of using process-tracing as a means of analysis is the consistent lack of a temporal or geographical comparisons that could be comparable to the institutional and legal integration in the European Union. The Western Balkans are no CEECs and the realities in other current candidate states are peculiar to each case, where inter-state disputes further increase the risks of politicisation of their enlargement process. In this case study, process-tracing is carried through a historical and legal analysis, which is an inherent part of my argument. By explaining the development of EU institutions and EU modes of Europeanization vis-a-vis candidate countries, it is possible to infer causality through this type of analysis. Moreover, I supplement process tracing with other qualitative methods analysis of official declarations, public speeches, political statements, and press releases of the main EU and Western Balkans’ and Albanian actors. I complete the analysis with, semi-structured interviews with Albanian and EU Member States diplomats but as well interventions from EU officials and experts both in Brussels and Tirana. My field research in Tirana has culminated in an original survey on Albanian public opinion - carried out from 05 November 2016 to 19 November 2016 in Tirana - regarding the issues of concern for Albania and perception of the EU in the country.

All of the above, by recognizing that interpretations of ‘what they say’ and ‘what they mean’ cannot be extrapolated by the broader context. The literature has argued that there is a “dialectical relationship between context, speech acts, and institutional change”, and where

⁵¹ C. M. Radaelli and S. Saurugger, “The Europeanization of Public Policies: Introduction”, *Journal of Comparative Analysis: Research and Practice*, vol. 10, no. 3, 2008, p. 215.

⁵² J. Tolstrup, “Gatekeepers and Linkages”, *Journal of Democracy*, vol. 25, no. 4, 2014, p. 126.

there is a shift in context and enlargement perspectives, there is a different nuance within what is said and what it meant.⁵³

In so doing the analysis through process-tracing methods can be further legitimized as a proper method of analysis. There are three types of methods used by process-tracing research designs: theory-testing, theory-building, and explaining-outcome.⁵⁴ Specifically, throughout this research I will use both theory-building and explaining-outcome methods to reason how EU interaction with the gatekeeper elites over enlargement affects the outcomes on europeanization efforts and develop a theory on 'when' and 'how' this interaction may yield to effective europeanization of the country. Therefore, in the final part of this thesis I intend to draw on the findings to build a theoretical framework that is important for understanding the impact and outcome of europeanization in candidate countries.

The Europeanization process in Albania "can usefully be conceived as a two-level game" where at "the national level" gatekeeper elites seek to fulfill their preferences which will grant them political and economic power; while at the European level, "national governments see to maximize their own ability to satisfy domestic pressures, while minimizing the adverse consequences of foreign developments".⁵⁵

Hence, in analyzing the process of Europeanization in Albania I consider both levels where the European level - Level I - where negotiators seek a "tentative agreement" and domestic level - Level II - which "is required to endorse or implement a Level I agreement."⁵⁶ In level II the "win-set" is "the set of all possible Level I agreements" that would be ratified by constituents "when simply voted up or down."⁵⁷ In evaluating the impact and outcome of Europeanization in Albania, I pay attention to the "strategies" behind a Level I agreement, conditions

⁵³ K. M. Fierke and A. Wiener "Constructing institutional interests: EU and NATO enlargement" in F. Schimmelfennig and U. Sedelmeier (eds.), *The Politics of European Union Enlargement*, London, Routledge, 2005, p. 115.

⁵⁴ George and Bennett, *op.cit.*, p.181.

⁵⁵ Putnam, *op.cit.*, p. 434.

⁵⁶ *Ibid.*, p. 436.

⁵⁷ *Ibid.*, p. 437. A thorough explanation of the concept of 'win-set' is offered in K. A. Shepsle and B. R. Weingast, "The institutional Foundations of Committee Power," *American Political Science Review*, vol. 81, no.1, 1987, pp. 85-104.

under which “preferences and coalitions” are formed at the domestic level - Level II - and implemented by their “institutions”.⁵⁸

Like in chess, making a move in the Europeanization board is dependent on the moves of the other player(s). Just like in playing chess, learning how to make a move is rather straightforward, the question is if one is willing to play the game until the end, it certainly requires a long-term commitment.

The gatekeeper elites may hold the momentum of the accession process if it is perceived as against their political agenda. The EU has served as a guide for systemic reforms but ultimately has failed before gatekeeper elites adopting populist agendas filled with nationalistic rhetoric.⁵⁹

An extensive literature has established the characteristics of a modern democracy: free and fair elections where all citizens have the right to vote and thus legitimate the work of executives and legislatures, which are not, on the other hand restricted by any external influence⁶⁰; political and socio-economic rights including the fundamental rights such as freedom of speech and association are guaranteed.⁶¹ Even democratic regimes may, on occasion pose some limitations on these, but those do not result in an unbalanced, discriminatory implementation.

I argue then, that Europeanization just ahead of the curve as seen in Albania - and I might add in the Western Balkans region - is firmly established in the competitive authoritarianism plaguing the domestic level where the sole concern lies in gaining and keep privileges by overtly resorting to political patronage.⁶² Democratic institutions are not enough to resist such a regime. Indeed, competitive authoritarianism flourishes before this paradox: legislative loopholes, enforcement of

⁵⁸ Putnam, *op.cit.*, p. 442.

⁵⁹ Grabbe, “Six Lessons of Enlargement Ten Years On” *op.cit.*, pp. 44-45.

⁶⁰ See S. Mainwaring, D. Brinks, and A. Pérez Linan, “Classifying Political Regimes in Latin America, 1945-1999”, *Studies in Comparative International Development* vol. 36, no. 1, 2001 pp. 37-65. This definition is consistent with what Larry Diamond calls “mid-range” conceptions of democracy. See L. Diamond, *Developing Democracy: Toward Consolidation*, Baltimore, Johns Hopkins University Press, 1999, pp. 13-15.

⁶¹ S. Levitsky and L. A. Way, “Elections Without Democracy: The Rise of Competitive Authoritarianism”, *Journal of Democracy*, vol. 13, no. 2, 2002, p. 53.

⁶² A. Sinagra, “Il futuro della democrazia albanese nel prossimo decennio”, in *Scritti in memoria di Maria Rita Saulle*, vol. II, p. 1537 ss, Editoriale Scientifica, Napoli, 2014.

patronage, cooption and corruption are all means to an end, skillfully managed so as not to inspire a violent domestic dissent or external condemnation.⁶³ Yet, it is a fine line that poses a constant threat to stability. The conundrum before the autocratic incumbents, is to either hold on to power in open violation of democratic rules and risk domestic unrest together with international sanctions or allow a change in power?⁶⁴ Albania will be holding its elections later this year in June 2017, but as Levitsky and Way remark “succession is not democratization”.⁶⁵ In the case study in hand I go on to analyze “four arenas of contestation” in Albania, the elections and the functioning of the parliament and the judiciary but as well that of the media.⁶⁶ The EU on its part, has adopted a proportional response with the view of limiting adverse consequences on its doorstep.⁶⁷

Thus, I perform a root cause analysis on the basis of a causal mechanism that is to explain the degree of Europeanization in Albania. I maintain and I attempt to showcase throughout the thesis how the root causes of this predicament are to be found in the gatekeeper elites and the (mis)use of the EU power. In presence of competitive authoritarianism and with the EU - increasingly challenged by internal crisis and further limited on enlargement by an unfavorable public opinion - exerting a policy of stability in the region, gatekeeper elites will resort to political patronage that will result in paralyzing the “arenas of contestation”.⁶⁸ This is *sustainable* due to gatekeeper elites freezing arenas of opposition before an unfavorable EU public opinion on enlargement and thus an EU adopting an inward looking, wait and see approach. The performed root cause analysis has been endorsed in the interviews I have conducted with senior diplomats of several EU

⁶³ These dilemmas are presented in an insightful way in A. Schedler, “The Nested Game of Democratization by Elections”, *International Political Science Review* vol. 23, no.1, 2002, pp.103–122.

⁶⁴ See Levitsky and Way, *op.cit.*, pp. 58-59.

⁶⁵ *Ibid.*, p. 59. See as well Ministria e Puneve te Brendshme, “Takimi me Diasporen/Vota e emigranteve, paraprihet nga regjistrimi i tyre”, Tirane, 19 Nentor 2016.

⁶⁶ Levitsky and Way, *op.cit.*, p. 54.

⁶⁷ See Putnam, *op.cit.*, p. 434.

⁶⁸ Levitsky and Way, *op.cit.*, p. 54.

Member States in Tirana.⁶⁹ The results of these interview all indicate that, the EU seems to have little alternatives at the moment.⁷⁰

The high leverage points to address Europeanization predicaments in the country remain to better the economic situation through international cooperation so that people are not concerned with making ends meet and are more involved in decision making processes, which brings us to the imperative of empowering civil society and effectively innovate the enlargement process so that to answer the appeal of Europeans and the people of Western Balkans that want progress not just reports in the path of Europeanization.⁷¹

⁶⁹ Senior Diplomat, EU Member State, interview, Tirana, 12 January 2017; Senior Diplomat, EU Member State, interview, Tirana, 13 January 2017; Senior Diplomat, EU Member State, Block of Embassies, interview, Tirana, 19 January 2017; Senior Diplomat 2, EU Member State, interview, Tirana, 19 January 2017; Senior Diplomat, EU Member State, Block of Embassies, interview, Tirana, 02 February 2017;

⁷⁰ *Ibid.*

⁷¹ Senior Diplomat, EU Member State, interview, Tirana, 12 January 2017; Senior Diplomat, EU Member State, interview, Tirana, 19 January 2017; Senior Diplomat, EU Member State, Block of Embassies, interview, Tirana, 02 February 2017; European Commission, European Commission, *Commission Staff Working Document Albania 2015 Report*, SWD(2015) 213 final, Brussels, 10.11.2015; European Commission, *Commission Staff Working Document, Albania 2016 Report*, SWD(2016) 364 final, Brussels, 9.11.2016.; Cf. European Commission, *Commission Staff Working Document, Albania 2014 Progress Report*, SWD (2014) 304 final, Brussels, 8 October 2014.

Problem:

- Europeanization in Albania

Subproblems:

- Competitive Authoritarianism
- EU Favoring “stability”

Root causes:

- Gatekeeper elites

(Mis)Use of EU Power

Intermediate causes:

Gatekeeper elite gain and keep power and privileges

Inward looking approach of the EU

Immediate causes:

- Domestic groups pressure on government – Clientelism
- Minimize adverse consequences of foreign developments

⇒ ***High Leverage points***

Sub problem symptoms:

- Numb arenas of contestation;
- Inward looking, public opinion

Should my argument be valid, I illustrate below it is that we would we expect to observe in the Europeanization process in Albania. If the case does not carry my expectations – then my causal mechanism is inadequate.

First and foremost, we would observe the endurance of democratic institutions but no level playing field among the contenders of political power. There are evident deficiencies in functioning of executives and legislatures, concerns regarding the conduct of free and fair elections and exercise of fundamental rights where while civil and political liberties are formally guaranteed and do not have a cost for the State the socio-economic and labor rights are not applied which gives the gatekeeper elites a powerful tool to tame dissent.⁷² Thus, while arenas of contestation exist they remain non-consequential in effectively challenging the elites in power.⁷³

The “relative dependence” of the EU and the Western Balkans’ countries informed by the needs and capacities to provide for these needs both at the EU and domestic level, and existing alternatives to the same assistance.⁷⁴ The more serving and the greater is the number of alternatives, the lesser the dependence. Seen from the gatekeeper’s perspective “[r]ejecting links with one external actor [is] easier if another such actor is willing to help make up the costs of doing so.”⁷⁵ The “degree of strategic interest” is tightly connected to the ‘relative dependence’, as it informs the strategy applied by parties to keep the other on the negotiating table and “[it’s] resources out of the opponent’s hands”.⁷⁶ In the case of the EU and Albania, factors such as geography and a difference in power play a role in these calculations.⁷⁷ If the interest is substantial there will be somewhat a persisting – at least formal – leniency.

In presence of a vague commitment on part of the EU, serves as an amplifier of strategic calculations as defined above. In such a case - the announced halt in enlargement but maintaining the European

⁷² See Mainwaring, Brinks, and Pérez Linan *op.cit.* pp. 37-65. This definition is consistent with what Larry Diamond calls “mid-range” conceptions of democracy. See Diamond, *op.cit.* pp. 13-15. On the socio-economic and labour rights See On social economic rights see A. Sinagra, Finiamola di prenderci in giro. Liberismo economico e mortificazione delle ragioni del lavoro, in *Confronto-L'anima dell'Adriatico*, n. 9, Edizioni “Confronto”, ottobre 2011, p. 10.

⁷³ Levitsky and Way, *op.cit.*, p. 54.

⁷⁴ Snyder, *op.cit.*, pp. 471 - 472.

⁷⁵ Tolstrup, *op.cit.*, p.130.

⁷⁶ Snyder, *op.cit.*, p. 472.

⁷⁷ *Ibid.*, p. 472

perspective of the Western Balkans - gatekeeper elites will “create an uneven playing field” by “legally” harassing, persecuting, or extorting cooperative behavior from critics.”⁷⁸ The EU on its part, will continue its wait and see, lenient approach for the sake of stability.

The interests of the EU and gatekeeper elites are proved to be cofinal, and all lead to stability. The EU is somehow entrapped in its relations with the region, and concretely in this case study, with Albania.⁷⁹

The EU’s “behavior in the recent past” informs forthcoming steps and prospects of the gatekeeper elites.⁸⁰ The EU - as argued above - has a strategic interest to maintain stability in the region of Western Balkans and it is an understanding of the gatekeeper elites, that EU conditions on the path to integration are likely to be adjusted along the way and thus concessions given without full application of demanded reforms, under the principle of ‘strict but fair’ approach, then gatekeeper elites will continue to do just enough to get ahead of the curve.

Most of foreign policy is informed by assessing the “audience costs”.⁸¹ “All political actors, democratic or not, must pay attention to the preferences and interests of the groups that back them. The cost of displeasing your supporters is your audience cost [...selecting] gatekeeping strategies with an eye toward how [...] audiences [or public opinion] will react.”⁸²

The EU credibility in enlargement has arguably suffered, having a larger toolset and ability “to make concessions” to put to use vis-à-vis candidate countries such as Albania, and thus a large win-set on one hand;⁸³ and on the other hand with its inability to “deliver” the final objective for domestic level that of membership.⁸⁴ Hence, the gatekeeper elites will proceed in maintaining the balance between their ‘own’ preferences and those of their constituents, resorting to

⁷⁸ Levitsky and Way, *op.cit.*, p. 53.

⁷⁹ Snyder, *op.cit.*, p. 474.

⁸⁰ *Ibid.*

⁸¹ See J. D. Fearon, “Domestic Political Audiences and the Escalation of International Disputes”, *American Political Science Review*, vol. 88, no. 3, 1994, pp. 577-592.

⁸² Tolstrup, *op.cit.*, p.129.

⁸³ Putnam, *op.cit.*, p. 439. Should there be no concessions to make the risk is that to lead to a crossroad or damage relations beyond repair. See as well T. C. Schelling, *The Strategy of Conflict*, Cambridge, Massachussets, Harvard University Press, 1960, pp. 19-28.

⁸⁴ Putnam, *op.cit.*, p. 439.

patronage. The EU on the other hand, will maintain its wait and see approach, before imminent developments in national politics of some member states and intra-EU concerns.⁸⁵

1. 3 Roadmap of the chapters

The dissertation has five chapters where the first chapter is an introduction where I set the research question and research design. In studying Europeanization and accession path of a candidate country such as in the case study of Albania - before the uncertainty of the future of the EU - in the second chapter I review theoretical perspectives that have defined the EU integration. I consider it to be a stepping stone to build on what the Union has been centered in and what could be its future and that of those countries that have the ambition to join. Who are at the front row in defining EU policies, what is the role of EU institutions?

The analysis continues with a comprehensive study on arrangements and models used in EU enlargement. The analysis highlights that the enlargement policy has had at its core, since its inception, the *unanimous action* of the high contracting parties, confirming, thus, its governmental nature. Conditionality, as firstly spelled out in Copenhagen, has continued to be applied to applicants, and to date is applied to the Western Balkans and Turkey. I trace the introduction of conditionality to the Seville European Council where strengthening of administrative and judicial capacities has been viewed as instrumental to accepting and implementing the responsibilities deriving from the Treaties and the adoption of the *acquis*.⁸⁶

Thus, the study of EU governance – Europeanization - in Albania as a result of the EU enlargement policy is done throughout by means of intergovernmentalism lenses. The EU Member States maintain control over the enlargement process, with the assumption that they act at the

⁸⁵ At the time of writing this thesis, France, Germany and the Netherlands are in electoral campaign, the UK is undergoing the Brexit talks and the migrant crisis is a constant threat, as it is the concern of terrorism.

⁸⁶ Cf. *Seville European Council Conclusions*, 21–22 June 2002, 13463/02, Brussels, 24 October 2002. p. 5

international level (EU level) purposefully on domestic preferences.⁸⁷ The negotiating and bargaining thus, is carried by Member States following the redlines of national interests by means of trading side payments and possible package deals.⁸⁸ The supranational institutions like the EC, having condensed powers delegated by the EU Member States, serve as implementing factors and ensure the collective enforcement of decisions taken.⁸⁹

The conditionality approach has certainly had an impact in enlargement, while arguably it has increased the leverage on candidate countries, it has often resulted as a non-consequential exercise of ticking boxes.⁹⁰ Moreover, it creates the illusion that once the chapters and benchmarks are met the accession is an automated exercise devoid of political interference.

The analysis of the EU rule of law culminates with Lisbon Treaty, whereby Article 49 does not assist in bringing clarity on applied accession conditionality. Admittedly, it is unclear how one can *effectively* measure compliance of the values and ideals it refers to. The analysis further confirms that the Member States are at the forefront of the EU enlargement policy internally restricted by public opinion that by means of referendum provisions or simply through democratic confrontation on the election day has a say on the direction of EU policy. Enlargement policy that does not garner much consensus, which has inspired a cautious stance on the part of the EU.

⁸⁷ Cf. D. Wincott, "Institutional Interaction and European Integration: Towards an everyday critique of liberal Inter-governmentalism", *Journal of Common Market Studies*, vol. 33, no. 4, p. 601; K. O. Fioretos, "The Anatomy of Autonomy: Interdependence, Domestic Balances of Power, and European Integration", *Review of International Studies* vol. 23, no. 3 1997, p. 301.

⁸⁸ M. A. Pollack, "Theorizing EU Policy-Making", in H. Wallace, M. A. Pollack and A. R. Young (eds.), *Policy-making in the European Union*, Oxford, Oxford University Press, 2010, 6th edn., pp. 19-21

⁸⁹ See C. J. Bickerton, D. Hodson, and U. Puetter "The New Intergovernmentalism: European Integration in the Post-Maastricht Era: The New Intergovernmentalism", *Journal of Common Market Studies*, vol. 53, no. 4 2015, p. 717.

⁹⁰ Cf. European Commission, *Commission Staff Working Document Albania 2013 Progress Report*, SWD (2013) 414 final, Brussels, 16.10.2013; European Commission, *Commission Staff Working Document, Albania 2014 Progress Report*, SWD (2014) 304 final, Brussels, 8 October 2014; European Commission, *Commission Staff Working Document Albania 2015 Report*, SWD(2015) 213 final, Brussels, 10.11.2015; European Commission, *Commission Staff Working Document, Albania 2016 Report*, SWD(2016) 364 final, Brussels, 9.11.2016.

The theoretical perspectives on integration and the evolutions of arrangements applied to enlargement within the EU legal framework lay the necessary foundation to analyze the EU modes of governance and Europeanization toward a candidate country, in my case study - Albania.

The renewed consensus for enlargement, marks a turn on the degree of explicitness or possibility of enlargement. Indeed, following the review of the literature on EU modes and rules of governance I make an argument of why the governance by conditionality approach is not effectively applied in practice. The costs of non-compliance to be paid by the gatekeeper elites do not outweigh benefits they garner by alternative means. Given the current internal and political predicaments of the EU and power to deliver on an already vague commitment, the relationship between the EU and a candidate country is one between equals. It develops throughout their interactions where both parties come to have a clear understanding of the direction taken by their relation. Thus, I argue that the Europeanization mode in Albania has shifted away from the hierarchical, asymmetric, direct mode of conditionality. The domestic adaptation to reforms is seen in the frame of supporting mobilization for domestic reforms to be initiated within the country. Thus, I argue, the mode for Europeanization in Albania is that of socialization, a direct mode under the logic of appropriateness, shaped and developed by interactions where both parties come to have a clear understanding of the direction taken by their relation.

In the third chapter, I table both socio-political developments within the EU, as determinants of EU enlargement. The European Commission for the first time shifted away from a merely technical to a political leadership pioneered by a seasoned politician, Mr. Jean-Claude Juncker.

Before internal concerns there has been thus a declaration for a halt in enlargement at least during Mr. Juncker's EC Presidency term. However, these same internal concerns like the migration crisis would endow with newfound attention the region of the Western Balkans. After a historic consideration of the developments in Albania starting from the early '90 I conclude that geopolitical and geoeconomic consideration of stability are determinants of EU enlargement policy as applied to the Western Balkans.

The research results on the Berlin Process and its agenda further confirm to this argument. The Berlin Process has been seen as a restart of enlargement process where components of connectivity - transport and energy projects - underline the vision and ambition of creating an economic block in the continent and highlight the geopolitics and geoeconomics relevance of the region. While the socio-economic mindset, as marked by my interviewees, has been argued to be a novelty, the lack of fundings for the implementation of these projects, which remain those of IPA II, underlines a business as usual approach. The Berlin Process, thus, to date, remains a public diplomacy exercise, useful to all parties involved.

In the fourth chapter I delve into the analysis of four arenas of contestation and to what extent the legislation in place nominally and practically translates the fundamentals first approach to effective europeanization in the country. I support my analysis with semi-structured interviews in Tirana and an original survey conducted one week prior and one week after of the latest enlargement package report on Albania.

The results confirm a prevailing lip-service Europeanization in the country. Arenas of contestation are largely numb and thus there is no room for effective push back on competitive authoritarian practices that engulf public life. The EU may be entrenched in its internal dimension and may have for now, lost its appetite for enlargement, but the Albanians do still largely consider EU and a possible EU membership positively. The public seems to be aware of the challenges the EU faces and the results are not at odds when compared with the latest Eurobarometer results. However, Albanians remain optimistic about the future of the EU and seem not particularly shaken by Brexit or the purported weakening of EU influence in the world. What is undeniable is that “in spite of many differences amongst its Member States, is by far the wealthiest and most stable continent in the world.”⁹¹ Albanians understand that the Union is no heaven, will it, however, be(come) a savior from hell?

⁹¹ J.C., Juncker, “State of the Union 2015: Time for Honesty, Unity and Solidarity, 09 September 2015, Strasbourg, France.

In the last and fifth chapter of this dissertation I review the argument made throughout and table implications of the findings, empirical, theoretical and those relevant to policy. It is clear that enlargement has to be resuscitated as a policy with more coherence, strategic use of the EU toolbox and with increased ownership not only of domestic level actors, but most importantly of citizens lead reforms supporting efforts.

Chapter 2

Enlargement Policy of the EU

2. 1 Theoretical Perspectives on EU Integration

Enlargement as a foreign policy takes place against a complex backdrop that affects the internal and external dimensions of the EU presence, which is ever more in limbo between looking inward and engaging in europeanization. The domestic considerations within the EU have pushed enlargement down the EU policy priority list. I maintain that in order to understand the EU stance concerning further enlargement is crucial to understand some of the debates, centred in low politics¹ – economic and social motives – bringing about EU integration. These debates are instrumental not only to understand the dynamics, interaction and reactions between EU member states and europeans but as well to see through critical lenses the motivations laying behind new europeans joining the Union. The European integration theory sheds light to the current debates, institutions, rules and norms dictating europeanization and enlargement towards external actors. I argue that in order to understand how europeanization impacts external actors, it is fundamental to review theoretically the political and institutional unification of the EU, how that is translated in the EU legal framework, the treaties, and most importantly what are the modes and application of EU governance which engender mechanisms of europeanization exercised by the Union, understood as both Member States and institutions. How does this unfold in the EU policy towards the Western Balkans?

I maintain that the EU was born and in its core remains an economic project. The theories I review are those concerned with socio-economic

¹ Cf. table 2.1 Main approaches to integration provided in F. Andreatta, “Theory and the European Union’s International Relations”, in C. Hill and M. Smith (eds.), *International Relations and the European Union*, Oxford, Oxford University Press, 2011, p. 28.

issues of 'low politics' and that albeit in different degrees see both the institutions and the Member States as central actors in devising EU policy.² Following a synthetic analysis below, I argue that for the purpose of this study, concerned with the enlargement policy towards Albania, as part of the wider Western Balkans region, the enlargement policy of the EU can be viewed best under intergovernmental lenses.

2.1.1 Neo-functional Theories and EU Integration

Neo-functionalism represents a theoretical lens through which to study EU integration and its effects. Like liberals, neo-functionalists were persuaded that 'low politics' focused on socio-economic matters affecting citizens were true motive of integration.³ Integration, thus would come as a result of improving socio-economic conditions and increasing opportunities for development and growth for Europeans. Neo-functionalism has gained prominence in academic research of EU integration and has been increasingly employed by researchers. Its pioneers have been Ernst B. Haas and Leon Lindberg who were interested in EU integration as a mean through which to create a set of hypotheses to be tested in other settings. Integration comes as the result of interactions between individuals within a system that facilitate agreements favorable to the whole collectivity.⁴ The process of 'functional spill-over' maintains that integration within a sector would lead to integration in additional sectors. The process eventually becomes self-sustained promoting the creation of a supranational political entity in Brussels.

A second type of the spill-over process has been defined by George as 'political' spill-over, in which both supranational actors i.e European Commission and subnational actors i.e interest groups within member

² *Ibid.*, p. 24.

³ *Ibid.*

⁴ See E. B. Haas, "International Integration: The European and the Universal Process", *International Organization*, vol. 15, no. 3, 1961, pp. 366-392; L. N. Lindberg, *The Political Dynamics of European Economic Integration*, Stanford, Stanford University Press, 1963 p. 123, cited in M. Eilstrup-Sangiovanni, (ed.), *Debates on European Integration: A Reader*, Basingstoke, Palgrave Macmillan, 2005; L. N. Lindberg and S. A. Scheingold, *Europe's Would-Be Polity: Patterns of Change in the European Community*, New Jersey, Prentice-Hall, 1970.

states, advocate for further integration.⁵ Haas argued that the subnational actors interested in a given sector had to engage with the supranational authority in charge of said sector. It would not be long until benefits of integration would materialize and cause of shift in attention from national to supranational entity, becoming an incentive for further integration. On the other hand, the supranational actors such as the European Commission would welcome the newfound interest and use it in favor of securing advantages for the Union by means of new agreements among member states on European policies. The 'community method' in EU policy making emerged from neo-functional perspective. This 'procedural code' would dictate expectations and behaviour both of the supranational actor, the European Commission and that of member states involved in the process.⁶

Stone and Sandholtz in addressing European integration and supranational governance, evaluate the influence on one another of three causal factors: economic interdependence between countries; organizations' and institutions' ability of overcoming pressures and capacity to over-rule nation-state regulations; and primacy of the market in over-ruling national regulatory regimes.⁷ This perspective is grounded in constructivist approaches which favor norms and interaction as primary mode of informing international relations. Indeed, it is this frequent interaction and the resulting socialization in the beginning of the Union as a sole economic community that facilitated this process of coming together. Given the successes of economic interactions this theoretical approach recognizes the spillover effect that further pushed for integration across other sectors. Together with cross-sectoral integration, supranational interest groups surface and their interlocutors will continue to be not only national governments but as well supranational structures. This dialogue, once established, needs to be regulated at the supranational level and demands

⁵ S. George, *Politics in the European Union*, Oxford, Oxford University Press, 1991. See as well F. Andreatta, *op. cit.* p. 25.

⁶ M. A. Pollack, "Theorizing EU Policy-Making", in H. Wallace, M. A. Pollack and A. R. Young (eds.), *Policy-making in the European Union*, Oxford, Oxford University Press, 2010, 6th edn., pp. 17-19.

⁷ A. S. Sweet and S. Wayne "European Integration and Supranational Governance", *Journal of European Public Policy*, vol. 4, no. 3 1997, p. 297.

codification of said institutions. This is what has happened with the EU. Lee McGowan illustrates it best by underlining that the evolution of the EU as a supranational political entity came forth with the consolidation of the interest groups at the EU level which facilitated integration notwithstanding national disagreements.⁸ Neo-functional theoretical approaches have faced criticism “mainly because of the lack of empirical evidence for its predictions.”⁹ However, notwithstanding such criticism the theory has been used widely to explain the cross-sectoral integration in the last decade. Neofunctionalist maintain that states delegate part of their sovereignty in favor of ensuring the functioning of the pre-existent EU governance defined as supranational legal and policy framework. We understand that neofunctionalist approach rests on the will of the individual actor to further cooperation. Furthermore, the development of foreign policy and mechanisms for exerting an effective foreign policy rests on the on public opinion to provide it.

2.1.2 Intergovernmentalism and EU Integration

Compared to ‘high politics’ theories, like realism and federalism, the liberal worldview is certainly better apt to explain the EU integration.¹⁰ For one, liberals are less stringent, compared to realists, in defining actors in the international realm, where international organizations are as well recognized as actors. Moreover, liberals do believe there is space for cooperation between states and accept the successes attained in this by the EU.¹¹ Ruggie et al. underline that liberals shared with neo-functionalists the prominence of ‘low politics’ and that of cooperation, but they could not dismiss the realist reluctance of ceding national sovereignty.¹²

⁸L. McGowan, “Theorising European Integration: Revisiting Neo-Functionalism and Testing its Suitability for Explaining the Development of EC Competition Policy?”, *European Integration Online Papers*, vol. 11, No. 3, 2007.

⁹ M. Godowska, “The Relevance of Neofunctionalism in Explaining European Integration in Its Origins and Today”, *Journal for Perspectives of Economic Political and Social Integration* vol. 18, no.1–2, 2012, pp. 145–155.

¹⁰ Cf. table 2.1 Main approaches to integration provided in F. Andreatta, *op. cit.* p. 28.

¹¹ *Ibid.*, p. 32.

¹² See J. G. Ruggie, P. J. Katzenstein, R. O. Keohane, and P. C. Schmitter, “Transformations in World Politics: The Intellectual Contributions of Ernst B. Haas” *Annual Review of Political Science*, vol. 8, 2005, pp. 271-296.

Intergovernmentalism, for one, stands in direct contrast with neo-functional theories. The deepening of EU integration, for scholars like Stanley Hoffman and Andrew Moravcsik, relies on the will of sovereign states. Moravcsik was among the first to argue that liberal intergovernmentalism in Europe was the result of sovereign states aiming to further their individual national interests.¹³ Indeed, Moravcsik has argued that the EU “strengthens the state”, more specifically that “EC institutions strengthen the autonomy of national political leaders vis-a-vis particularistic social groups within their domestic polity”.¹⁴

Under these premises EU integration within an institutionalized legal framework is possible through three different steps in intergovernmental interaction: defining national preferences; bargaining process between sovereign states; the option of institutional choice and protection of national sovereignty.¹⁵ In the first step national leaders compile both domestic constituencies interests and own interests and use these to define their national preferences toward the EU. Contrary to what neo-functionalists maintain, national preferences are defined by interests of different parties and institutions in member states that reflect different economics and are not shaped by participation at the supranational level. In the second step the governments take a seat in the bargaining table where the relative power of each member state is embodied in the final agreement and where there is no space of influence for international institutions. This is the point of departure from the neo-functionalists who praised the mediating role of the European Commission and the celebration of member state's interest in the Council. Intergovernmentalists underline the bargaining power, package deal offers and side payments in the EU decision making.¹⁶ In the third and final step, Moravcsik underlines the importance of institutional choice in decision making – opting for QMV or delegating national authority to supranational actors like the European Commission or the European Court of Justice – in order to assure states abide by their mutual commitments. There is an ever present assumption in all of the

¹³ A. Moravcsik, *The Choice for Europe: social purpose and state power from Messina to Maastricht*, Ithaca, Cornell University Press, 1998, p.18.

¹⁴ A. Moravcsik, “Preferences and Power in the European Community: A Liberal Intergovernmentalist Approach”, *Journal of Common Market Studies*, vol. 31, no. 4, 1993 p. 507.

¹⁵ Moravcsik, *The Choice for Europe*, *op.cit.*, p. 18.

¹⁶ Pollack, *op.cit.*, pp. 19-21.

three steps above: member states have fixed preferences and act to attain those preference within the legal framework of the institutions within which they interact.¹⁷

In opposition to neorealist models, Moravcsik juxtaposes “two types of general international relations theory often seen as contradictory: a liberal theory of national preference formation and an intergovernmentalist analysis of interstate bargaining and institutional creation”¹⁸. It is clear that by combining the intergovernmental bargaining with rational state interests Moravcsik comes to the conclusion that governments are assumed to act purposively in the international arena, but on the basis of goals which are defined domestically, thus “the foreign policy goals of national governments are viewed as varying in response to shifting pressure from domestic social groups”.¹⁹ Wincott, criticizes this stance as Moravcsik cannot account on where state interests come from.²⁰ Fioretos also maintains that preferences are the ‘weakest’ element of Moravcsik liberal intergovernmentalism. Fioretos argues that it is “not clear how governments discriminate between their own preferences and those of domestic groups”.²¹ It seems as if Moravcsik ignores “domestic interdependence between interest groups and governments”.²²

Furthermore it has been argued that Moravcsik’s intergovernmentalist bias neglects supranational pressures within the EU by granting prominence to interstate negotiations.²³ Indeed sociological and constructivist institutionalism maintain that institutions could shape actors’ preferences more deeply than envisioned by rational-choice perspectives. Wincott underlines that it is the supranational character of the EU that favors said interstate negotiations. Moravcsik account of the EU - at the lowest common denominator – the intergovernmental

¹⁷ Moravcsik, *The Choice for Europe*, *op.cit.*, pp. 19-20.

¹⁸ Moravcsik, *Preferences and Power in the European Community*, *op.cit.*, p. 482.

¹⁹ *Ibid.*, p. 481.

²⁰ D. Wincott, “Institutional Interaction and European Integration: Towards an everyday critique of liberal Inter-governmentalism”, *Journal of Common Market Studies*, vol. 33, no. 4, p. 601.

²¹ K. O. Fioretos, “The Anatomy of Autonomy: Interdependence, Domestic Balances of Power, and European Integration”, *Review of International Studies* vol. 23, no. 3 1997, p. 299

²² *Ibid.*, p. 301

²³ Wincott, *op.cit.*, pp. 602-603.

bargaining process seem to neglect this supranational framework that defines the possibilities in interstate negotiations.

Moravcsik and Nicolaïdis, further bring the example of negotiations that brought about the Amsterdam Treaty.²⁴ The authors maintain that those that had sponsored this legally binding document had vested interests in its approval.²⁵

In researching a pattern of political action of EU member states since 1992 with the Maastricht Treaty, Bickerton, Hodson, and Puetter maintain that subsequent treaties only confirmed the state of affairs as defined in Maastricht and no further political uniformity was achieved. They view EU integration as a pure supranationalism, seeing that EU institutions and EU governance have “concentrated the powers and activities of national governments and national representatives.”²⁶ In this view the legislative process in the EU is overly complex due to the fact that largely it is rooted outside the supranational character of the EU system. Ultimately, Bickerton et al. argue that the progressive reform of EU structures is dependent on number of powerful states—such as Germany and France—at the detriment of its supranational character. Therefore, liberal intergovernmentalism understands the EU integration as the result of powerful states delegation of powers to a supranational entity. Indeed, it is by focusing on the nation-state in the international system, that Bickerton et. al. manage to trace a progressive economic and political integration within the EU. In this view the Treaty of Lisbon is the result of collective cooperation of member states in ensuring positive results for all those involved, that brings about the need of controlling the outcome. Philippe Schmitter maintains that this would be an impossible mission for any nation-state.²⁷

2.1.3 Institutionalism and EU Integration

²⁴ A. Moravcsik, and K. Nicolaïdis, “Explaining the Treaty of Amsterdam: Interests, Influence, Institutions”, *Journal of Common Market Studies*, vol. 37, no. 1, 1999, p. 63.

²⁵ *Ibid.*

²⁶ C. J. Bickerton, D. Hodson, and U. Puetter “The New Intergovernmentalism: European Integration in the Post-Maastricht Era: The New Intergovernmentalism”, *Journal of Common Market Studies*, vol. 53, no. 4, 2015, p. 717.

²⁷ P. C. Schmitter, “Ernst B. Haas and the legacy of Neofunctionalism”, *Journal of European Public Policy*, vol. 12, no. 2, 2005, pp. 255-272.

For realists the international system is marred by distrust among states, as anarchy reigns and in such uncertain environment states are self-centered rational players aiming to increase their gain in a zero-sum game.²⁸ Institutionalists share realists' assumptions, however, consider cooperation - given the presence of certain conditions - an adequate response.²⁹

Institutionalists build their argument around the power of institutions - conceived as rules, norms, practices, and decision-making procedures - in informing expectations and getting around mistrust and uncertainty that affects co-operation. This is achieved by repeated, constant and long-term interactions which extend the lifespan of the game while creating room for socialization and thus provide incentives for complying with agreed rules and regulations through which benefits may extend beyond a mere *do ut des* practice in the here and now, to a cooperation that may effectively yield diffuse reciprocities. Indeed, institutions through the repeated and constant interaction provide greater insight on behavior of its members. In this cooperation credibility is key, and it oftentimes comes in the form of carrots and sticks where compliance is rewarded and defection is severely sanctioned. Compliance with agreed set of rules and norms allow for greater coordination and efficiency among states as negotiations occur within established frameworks and multilaterally with greater opportunities for gains and lower transaction costs.³⁰ Institutionalism provides a safe home for international law and cooperation debunking realism interpretation of the same theoretical assumptions. Institutionalism as a tool for analyzing the EU obtained a scholarly recognition in parallel with and as a reaction to the introduction of institutions within theories like Marxism and neo-realism. In the 1950s-1970s politics was analyzed outside the framework of institutions considered secondary players to other causal mechanisms, as is the distribution of power. However, throughout the 1980s and 1990s

²⁸ A. M. Slaughter, "International Relations, Principal Theories", in R. Wolfrum (ed.), *Max Planck Encyclopedia of Public International Law Online Edition*, Oxford, Oxford University Press, 2011, p. 2.

²⁹ R. O. Keohane, *After Hegemony: Cooperation and Discord in the World Political Economy*, Princeton, Princeton University Press, 1984.

³⁰ Slaughter, *op. cit.*, p. 3.

institutionalism developed with three primary branches, each of which conceived institutions and their relevance differently.³¹

American political scientist coined rational-choice institutionalism in an effort to factor US Congressional institutions in legislative behavior and policymaking. While earlier accounts of rational-choice models had read politics as a series of simple-majority voting, Kenneth Shepsle maintained that the committee system, and what later, within the EU, would come to be known as the practice of comitology could be instrumental in solidly informing legislative outcomes.³² Scholars such as Moe, Kiewiet and McCubbins have studied in detail the results of such practice in the agenda setting and the difficulties associated to pass on the floor any associated amendment on draft legislation. Moreover these studies have ventured in creating 'principal-agent' models aiming at investigating the conditions under which legislative principals are able to restrain the exercise of the delegated powers of their respective agents.³³ Hence, rational-choice institutionalism maintains that institutions are instrumental to maximizing political profit of principal actors.

Institutions exert thus a significant influence in the voting architecture while vetoing alternatives as acceptable or unacceptable resulting in a "structure-induced equilibrium"; Shepsle continued his studies in the same direction concentrating in "equilibrium institutions", how these are structured to secure mutual benefits and how do institutions reform or endure over time.³⁴ Other scholars like Epstein and O'Halloran,³⁵ and

³¹ J. G. March and J. P. Olsen, "The New Institutionalism: Organizational Factors in Political Life", *The American Political Science Review*, vol. 78, no. 3, 1984, pp. 734-749; P. A. Hall, and R. C. R. Taylor, "Political Science and the Three New Institutionalisms", *Political Studies*, vol. 44, 1996, pp. 936-957.

³² K. A. Shepsle, "Institutional Arrangements and Equilibrium in Multidimensional Voting Models," *American Journal of Political Science* vol. 23, 1979. pp. 23-57; K. A. Shepsle "Institutional Equilibrium and Equilibrium Institutions" in Herbert F. Weisberg, (ed.), *Political Science: The Science of Politics*, New York, Agathon, 1986, pp. 51-82.

³³ T. M. Moe, "The New Economics of Organization" *American Journal of Political Science*, vol. 28, No. 4, 1984, pp. 739-777; R. D. Kiewiet and M. D. McCubbins, *The Logic of Delegation*, Chicago, University of Chicago Press, 1991.

³⁴ Shepsle, *Institutional Arrangements and Equilibrium in Multidimensional Voting Models*, *op. cit.*, 23-57; Shepsle, *Institutional Equilibrium and Equilibrium Institutions*, *op. cit.*, pp. 51-82.

³⁵ D. Epstein, and S. O'Halloran, *Delegating Powers: A Transaction Cost Politics Approach to Policy Making Under Separate Powers*, Cambridge, U.K., Cambridge University Press, 1999.

Huber and Shipan³⁶ have spearheaded a “transaction-cost approach” aiming at reducing transaction cost in devising public policy.

Rational-choice institutionalism was coined and applied to the American context at first, but it did not take long before the same approach was applied to the EU. In focusing on cooperation and ordinary legal procedure or co-decision scholars maintained that it was reductive to conceive decision making as a sole product of intergovernmental bargaining. Instead they argued that formal rules and procedures have a weight in formulating policy outcomes.³⁷ Scholars George Tsebelis, Geoffrey Garrett, among others have factored in rational choice terms both the functioning and the choice of EU institutions, which have been widely used in comparative political studies.³⁸

On the other hand sociological institutionalism have conceived institutions in a way that would allow for them to embody, in addition to formal rules, as well accepted practices and customs. Scholars maintaining this approach define institutions as self-molding actors influencing their own preferences beyond what could have been observed by rational-choice approaches.³⁹

The middle way has been taken by historical institutionalists, which have focused on how institutions over a period of time may come to control the behavior of the actors who founded them.⁴⁰ In this view, institutions create ‘increasing returns’ as they positively enforce actors to obey by their rules, proportionally adapting to a shift in circumstances.⁴¹

³⁶ J. D. Huber, and C. R. Shipan, *Deliberate Discretion: The Institutional Foundations of Bureaucratic Autonomy*. Cambridge, UK., Cambridge University Press, 2002.

³⁷ F. W. Scharpf, “The Joint Decision Trap: Lessons from German Federalism and European Integration”, *Public Administration* vol. 66, 1988, pp. 239-278.

³⁸ G. Garrett, and G. Tsebelis, “An Institutional Critique of Intergovernmentalism”, *International Organization*, vol. 50, 1996, pp. 269–99.

³⁹ Pollack, *op.cit.*, p. 22

⁴⁰ P. A. Hall, *Governing the Economy: The Politics of State Intervention In Britain and France*, New York, Oxford University Press, 1986; S. Steinmo, and K. Thelen, *Structuring politics: historical institutionalism in comparative analysis*, Cambridge, UK., Cambridge University Press, 1992.

⁴¹ P. Pierson, "Increasing Returns, Path Dependence, and the Study of Politics", *The American Political Science Review* 94, no. 2, 2000, pp. 251-267.

Hence, policy-making is tightly associated with *inertia*, or 'lock-ins', that allow for institutions maintain equilibrium notwithstanding shifts in politics. It follows that path-dependence is possible even when casual events happening in particular time and space may affect the chain of events and decisions that follow.⁴² Thus earlier decisions or policies influence decision-makers to continue down the path of institutional and political legacy even when doing so presents an unsatisfactory result. These insights have contributed to the EU integration literature closely researching the evolution of European integration.⁴³ Pierson has studied in length path-dependence applied to the EU integration evolution historically.⁴⁴ In focusing on the conditions under which the European Union further integrated the author explores path-dependency grounding his study in a rationalist approach. Pierson maintains that notwithstanding the primary input and role played by member states in devising EU institutions, the former may not always be in the position to restrain the morphing of institutions and policies they created. A first reason may be found in the behavior of member states government, may agree to loss of sovereignty in favor of the EU, swayed by short term electoral concerns, typical to democratic societies. A second reason may be found in results of institutional decisions which member states may be able to correct or not through further decisions. A third reason may be found in the shift of preferences caused by elections and newly formed governments that receives as legacy an *acquis communautaire* negotiated by in accordance with preferences of previous governments. A final reason of may be found in the institutional lock-in caused both by top-down pressures resisting change and bottom-up support as public opinion adapts and partakes in vested interests of continuing down the path of established EU policies.

2.1.4 Conclusion

⁴² D. Acemoglu, and J. A. Robinson, *Why Nations Fail: The Origins of Power, Prosperity and Poverty*, New York, Crown, 2012.

⁴³ K. A. Armstrong, and S. Bulmer, *The Governance of the Single European Market*, Manchester, UK., Manchester University Press, 1998.

⁴⁴ P. Pierson, "The Path to European Integration: A Historical Institutionalist Analysis", *Comparative Political Studies*, vol. 29, no. 2, 1996, pp. 123-163.

In addition consulting these debates, one can deduct the possibilities laying ahead the future for the EU, in a time when finding a balance between widening and deepening seems to be more than ever necessary.⁴⁵ In the European level, the deepening voices have come to the fore. One EU Member State diplomat in Tirana, when asked on the ideal trade-off between widening and deepening, stated “we do not know where Europe is going”.⁴⁶ Europeans perceive the EU to be undemocratic, it is important to have this discussion.

For the purposes of this thesis, the review of the theoretical framework provides the starting point in discussing modes of EU governance and the extent of success achieved in europeanization in Albania as a case study, but more generally in the Western Balkans candidate countries. As, briefly discussed above the low politics theoretical lenses, compile manners and motivation for EU integration centred on the common interest which may as well be the lower common denominator given that the EU remains largely an economic project.

Neofunctionalist theoretical lenses, are adopted mainly to trace the economic progress within the EU given both at the functional and political sways toward a tighter integration that can benefit all. Indeed, neo-fuctionalism portrays the reality of the functioning of the EU internal market and monetary and common commercial policy which is an exclusive competence of the EU and where the three causal factors analized by Stone and Sandholtz that culminate in the market primacy of have made the case for Member States to delegate their authority to the EU.⁴⁷ As a result of the success in market integration the cross-sectoral integration that ensued opened the way to new dialogues between Member States and EU institutions notably sparking different degrees of decision autonomy on part of the EU institutions. Based thus, ultimatley, on the will of individual actor to delegate its

⁴⁵ Senior Diplomat, EU Member State, interview, Tirana, 12 January 2017; Senior Diplomat, EU Member State, interview, Tirana, 13 January 2017; Senior Diplomat, EU Member State, Block of Embassies, interview, Tirana, 19 January 2017; Senior Diplomat, EU Member State, interview, Tirana, 19 January 2017; Senior Diplomat, EU Member State, Block of Embassies, interview, Tirana, 02 February 2017;

⁴⁶ Senior Diplomat, EU Member State, interview, Tirana, 19 January 2017.

⁴⁷ See The European Union, *Consolidated version of the Treaty on European Union*, 26.10.2012, OJ C 326 Treaty on the Functioning of the European Union, Art. 3. Cf. Sweet and Wayne *op. cit.*, p. 297.

sovereignty in favor of pre-existing institutional and legal framework and thus further cooperation.

Institutionalism shares realists concerns of uncertainty in a zero-sum game playing field. Nonetheless, in presence of certain conditions embraces cooperation. Institutions, by means of repeated and long-term interactions – known as socialization - have the power to tame mistrust and uncertainty facilitating thus cooperation. Institutionalism assumes that Member States on the basis of socialization are willing to accept a loss today for a potential gain tomorrow. The ‘principal-agents’ analyses, when applied to the EU enlargement policy confirm that Member States (principals) do take every step of the way the decisions for the process to move forward, and even if, say the European Commission were to take a political initiative, say to recommend opening of negotiations toward a candidate country, said political act is only that, a recommendation.⁴⁸

Intergovernmentalism recognizes, just like neo-functionalists, the weight of ‘low politics’ and cooperation in EU integration, however are reluctant to easily dismiss the issue of national sovereignty.⁴⁹ EU integration relies on the will of Member States to further their national interests.⁵⁰ The assumption is that Member States act purposefully on domestic preferences.⁵¹ The national preferences shaped in their entirety by the interaction of domestic groups as in constituents and interest groups with national government. De facto, leaving no room to the supranational level to mold these preferences. The bargaining process, thus is carried by Member States, the agreement will be thus delineated by and imbued with condensed national interests. Inevitably to reach an agreement, in absence of any supranational mediation, the bargaining power, possible package deals and side payments drive EU decision making.⁵² Following these premises, norms and institutions

⁴⁸ Cf. T. M. Moe, “The New Economics of Organization” *American Journal of Political Science*, vol. 28, No. 4, 1984, pp. 739-777; R. D. Kiewiet and M. D. McCubbins, *The Logic of Delegation*, Chicago, University of Chicago Press, 1991.

⁴⁹ See J. G. Ruggie, P. J. Katzenstein, R. O. Keohane, and P. C. Schmitter, “Transformations in World Politics: The Intellectual Contributions of Ernst B. Haas” *Annual Review of Political Science*, vol. 8, 2005, pp. 271-296.

⁵⁰ Moravcsik, *The Choice for Europe*, *op.cit.*, p. 18.

⁵¹ Cf. Wincott, *op.cit.*, p. 601; Fioretos, *op.cit.*, p. 301.

⁵² Pollack, *op.cit.*, pp. 19-21.

informed by national representative and national sovereign powers, serve as implementing factors and checks on collective enforcement.⁵³ I maintain, and attempt to prove throughout this thesis and especially in the following sections of this chapter, the EU enlargement policy has been and remained the intergovernmental policy *par excellence*. Moreover, initiatives like the Berlin Process showcase that certain powerful states like Germany and France continue to provide guidance and direction to the Union as a whole.⁵⁴

2. 2 The EU Rule of Law

Based on the previously treated theoretical debates and scholarly contributions we can argue that EU Member States would agree to a supranational legal system and hence enable an EU governance provided that the European Court of Justice was to warrant Member States' authority vis-a-vis EU institutions; a common legal system would be an instrument for explaining and upholding the treaties and legislation produced by the functioning of the institutions;⁵⁵ furthermore the EU institutions and Member States could avail themselves of a unified legal system facilitating cooperation and ensure compliance with supranational law. How does the Lisbon Treaty satisfy Member States conditions? What are the novelties or development brought about in matters of enlargement? Which are institutions' competencies and powers in driving enlargement? These are a few questions I attempt to provide an answer to in the upcoming pages.

2.2.1 The Lisbon Treaty: decision making and working of institutions

⁵³ See Bickerton, *et al. op. cit.*, p. 717.

⁵⁴ *Ibid.*

⁵⁵ K. J. Alter, *Establishing the Supremacy of European Law: The Making of an International Rule of Law in Europe*, Oxford, Oxford University Press, 2006, p. 5.

Upon an attentive evaluation, the Lisbon Treaty does not break with the past as regards the institutions role and functioning in policy-making and in adopting new legislation. Indeed, since the European Economic Community (EEC), the Member States devised an institutional framework whose core could be amended only upon ratification of all Member States as prescribed by their constitutional requirements.⁵⁶ The unanimity rule may very well explain why no fundamental changes were made to the role and functioning of EU institutions. Indeed unanimity has forged the path of compromise between supporters of supranationalism and those of intergovernmentalism “the two polar forces whose constant cycle of confrontation and accommodation” has defined “much of the EU’s institutional and constitutional development”.⁵⁷ Indeed the EU institutional framework mirrors compromises between federalists who promote a supranational Europe and promoters of national sovereignty that see EU as a result of intergovernmental bargaining.

The Lisbon Treaty main novelties, however, include coding all pre-existent institutional practices that followed the entry in force of the TEU. Grainne de Búrca maintains that the inter-institutional balance achieved under the EC Treaty of 1957 had been deeply nuanced by the TEU in 1992 and by the formal and informal bodies and customs developed in the EU decision making.⁵⁸ This is why the Convention on the Future of Europe brought representatives of the Member States to agree on drafting a new treaty – replacing the EC treaty of 1957 and the Treaty on the European Union of 1992 - aiming to fill the EU deficit

⁵⁶ See A. Dashwood, “The Institutional Framework and the Institutional Balance” in M. Dougan and S. Currie (eds.), *50 years of the European Treaties: Looking back and Thinking Forward*, Oxford, Hart, 2009, pp. 2– 4. It could be argued that the EEC’s institutional framework is traced back to the European Coal and Steel Community (ECSC) Treaty, 1951 where it established a High Authority, an Assembly, the Council of Ministers and a Court of Justice that served as a base for those of EEC in 1957.

⁵⁷ M. Dougan, “The Treaty of Lisbon 2007: Winning Minds not Hearts”, *Common Market Law Review*, vol. 45, no. 3, 2008, pp. 617, 692.

⁵⁸ De Búrca, Grainne “The Institutional Development of the EU: A Constitutional Analysis” in P. Craig and G. de Búrca, *The Evolution of EU Law*, Oxford, Oxford University Press, 1999, p. 55. For a broadly similar diagnosis, see also J. Peterson and M. Shackleton, “The EU’s Institutions. An Overview” in J. Peterson and M. Shackleton (eds.), *The Institutions of the European Union*, Oxford, Oxford University Press, 2006, p. 7.

in democracy, transparency and efficiency.⁵⁹ After the missed opportunity of ratifying the Constitutional Treaty, the Member States came to the conclusion “that, after two years of uncertainty over the Union’s treaty reform process, the time has come to resolve the issue and for the Union to move on.”⁶⁰ The Lisbon Treaty – contrary to the failed Constitutional Treaty – did not replace the founding treaties but substantially amended them by including previously reached compromises under the failed Constitutional Treaty.⁶¹

To this day the EU decision making is dependent on an “institutional triangle”⁶² which refers to the institutions created by the Rome Treaties in 1957: the European Commission, the Council and the Parliament which closely interdependent relations define EU policy making. Primarily, the Lisbon Treaty underlines that the Council continues to hold a primary role in EU decision-making as it acts upon the directions received by the European Council, which the Lisbon Treaty recognizes as a EU institution.⁶³ Indeed, the institutional history of the EU ever since the Luxembourg Compromise shows Member States are “at the heart both of the Union’s legislative process and of its political process.”⁶⁴ In 1986 with the Single European Act the European Parliament has seen an increasing role and power in the inter-

⁵⁹ See Treaty of Nice amending the Treaty on European Union, the Treaties establishing the European Communities, Official Journal of the European Communities 10.03.2001 OJ C 80, p. 85 and European Council of Laeken, Presidency Conclusions, 14 -15 December 2001, Annex I: *Laeken Declaration on the future of the European Union*, in Bulletin of the European Union 2001, No. 12, pp. 19– 23.

⁶⁰ European Council of Brussels, *Presidency Conclusions*, 11177/07, 20 July 2007, p. 2.

⁶¹ See e.g. P. Craig, “The Treaty of Lisbon, process, architecture and substance”, *European Law Review*, vol. 33, no. 2, 2008, p. 158. See also H. Bribosia, “The Main Institutional Innovations of the Lisbon Treaty” in S. Griller and J. Ziller, (eds.), *The Lisbon Treaty – EU Constitutionalism without a Constitutional Treaty?*, New York, Springer, 2008, p. 57. Bribosia maintains that this is the case as the institutional reforms included to the Constitutional Treaty did not provide the grounds for it to be rejected in France and in the Netherlands.

⁶² For the first ‘official’ use of this concept, see Report on European Institutions. Presented by the Committee of Three to the European Council, October 1979, retrieved 07 July 2015, <http://aei.pitt.edu/999/>. In part V of the report reference is made to a “triangular pattern that has already emerged in the years before Direct Elections, with the Parliament seeking to establish close and direct relations with the Council as well as Commission” and argues that “this approach would be an efficient one in terms of Community functioning, insofar as it would create a more complete and stable institutional balance.”

⁶³ Consolidated version of the Treaty on European Union – Title I Common Provisions - Article 4 TEU, 26.10.2012, OJ C 326.

⁶⁴ A. Dashwood, “States in the European Union”, *European Law Review*, vol. 23, no.1, 1998, p. 209.

institutional decision making process. Moreover, Member States control in the EU institutional framework may be witnessed in the stronger role reserved to the national parliaments.⁶⁵

Thus, the Lisbon Treaty has confirmed that the legislative and executive powers are shared between the (intergovernmental) European Council and the Council and the (supranational) European Parliament and European Commission.⁶⁶ How do these interact in decision making process regarding EU enlargement policy and more specifically which is the procedure and which are the roles played by the 'institutional triangle' in the accession process? I synthesize below the accession process and the steps along the EU ladder, followed by the analysis of the power these institutions hold under Lisbon Treaty.

A country that "respects the values" of the EU and is committed to "promoting them" may address its application to the Council which upon consultation with the European Commission and having received its positive opinion and consent of the European Parliament acting by a majority of its members, shall by unanimity grant the candidate status to the country.⁶⁷ Furthermore upon receiving a positive recommendation by the European Commission the Council may decide by unanimity vote to open negotiations. Before opening said negotiations, the European Commission performs a "screening" of the *acquis* and thus measures the level of alignment of national legislation with the *acquis communautaire* and if appropriate set benchmarks to be met prior to opening negotiations. Upon the evaluation of the European Commission the Council always by unanimity may open a new negotiation chapter. Upon satisfactory results the Commission may recommend to provisionally close a chapter. On which the Council decides by unanimity. Upon concluding the negotiations for all chapters, the terms and conditions, additional safeguard clauses and transitional arrangements are embedded into the accession treaty between the Member States and the candidate state. Upon European Parliament consent and unanimity vote in the Council the accession treaty may be signed. Upon signature the treaty is submitted by the high contracting parties for ratification as prescribed by their constitutional

⁶⁵ M. Dougan, "The Treaty of Lisbon 2007: Winning Minds not Hearts", *Common Market Law Review*, vol. 45, no. 3, 2008, p. 693.

⁶⁶ P. Craig, "The Treaty of Lisbon, process, architecture and substance", *European Law Review*, vol. 33, no. 2, 2008, p.158.

⁶⁷ Article 98 ECSC, Article 237 EEC, Article 205 EAEC, which were merged in Article O Treaty of the European Union in Maastricht and now with Lisbon Treaty Article 49 TEU.

rules.

The European Council is acknowledged as an EU institutions under the Lisbon Treaty. Article 15 (1) TEU reiterates “[t]he European Council shall provide the Union with the necessary impetus for its development and shall define the general political directions and priorities thereof” clarifying that it will be upon the Council, the European Commission and the European Parliament to translate said directions in policy and decision-making. Nevertheless, the Lisbon Treaty entrusts the European Council with the power to take legally binding decisions of a “quasiconstitutional” or “high-politics” nature.”⁶⁸ On the other hand, the role of the Council as defined by Article 16(1) TEU “shall, jointly with the European Parliament, exercise legislative and budgetary functions. It shall carry out policy-making and coordinating functions as laid down in the Treaties.”⁶⁹

The European Commission is endowed with the power to “take appropriate initiatives” serving “the general interest of the Union”.⁷⁰ It does so by enforcing the application of the Treaties, and ensuring the functioning of EU institutions is in line with treaty provisions.⁷¹ Moreover, Union legislative acts may be adopted only upon a Commission proposal, unless otherwise prescribed by the Treaties.⁷² As far as it concerns the President of the European Commission Article 17(6) underlines that s/he shall “lay down guidelines within which the Commission is to work”.⁷³ In the following chapter of this thesis I explore the politics behind the EU enlargement and President Juncker’s political leadership of the European Commission.

The European Parliament must consent to any new accession by majority vote of its members. Moreover, due to its legislative powers and most importantly those on financial matters the European

⁶⁸ M. Dougan, “The Treaty of Lisbon 2007: Winning Minds not Hearts”, *Common Market Law Review*, vol. 45, no. 3, 2008, p. 627. The possibility afforded by the Lisbon Treaty, article 50 TEU withdraw from the European Union by notifying the Council and negotiate with the Union - upon guidelines received by the European Council – the agreement on the terms for withdrawal.

⁶⁹ See ex Article 202 TEC.

⁷⁰ Consolidated version of the Treaty on European Union – Article 17 TEU, 26.10.2012, OJ C 326.

⁷¹ Consolidated version of the Treaty on European Union – Article 17 (1) TEU, 26.10.2012, OJ C 326.

⁷² Consolidated version of the Treaty on European Union – Article 17 (2) TEU, 26.10.2012, OJ C 326.

⁷³ Consolidated version of the Treaty on European Union – Article 17 (6) TEU, 26.10.2012, OJ C 326.

Parliament directly influences the amounts allocated to the Instrument for Pre-accession Assistance (IPA).⁷⁴ Moreover, for the conclusion of a Stabilization and Association Agreement, the consent of the European Parliament is crucial.⁷⁵ The European Parliament's Committee on Foreign Affairs is constantly in contact with the Commissioner for enlargement negotiations, high-level government officials and representatives of civil society. Parliament resolutions on European Commission's country reports and enlargement strategy give a considerable input in EU enlargement policy. The European Parliament moreover supports the accession efforts of candidates and potential candidates by maintaining an open dialogue and bilateral cooperation with counterpart's national parliaments.

2.2.2 Application of the Treaty Procedure - a brief history

After having reviewed treaty provisions and institutional functioning regarding the enlargement policy and accession procedure, I attempt to follow with an analysis on the development of the enlargement policy.

Enlargement does not only extend rights and obligations to new member states and citizens but as well introduces new policy and institutional needs that changes the EU legal framework. These changes have been implemented and agreed on in the Treaties, a result of a consistent exchange between Member States and EU institutions. These legal developments have answered specific demands of each enlargement round. The *acquis communautaire*, the EU member states, their public opinion and the gatekeeper elites may all provide a certain input in the EU governance that may result in emphasizing certain developments in a given enlargement round. At the same time, the applicant profile, EU Member States champions and detractors for its possible membership, regional geopolitical and geoeconomic plays, all of which may determine the interpretation of enlargement rules and their application.

⁷⁴ Consolidated version of the Treaty on European Union – Article 14 (1) TEU, 26.10.2012, OJ C 326.

⁷⁵ Consolidated version of the Treaty on the Functioning of the European Union - Article 218(6) TFEU, 9.5.2008, OJ C 115.

The Schuman declaration laid the ground for the European project to be “open to the participation of the other countries of Europe”.⁷⁶ Any country in order to be admitted had to be “European” and “willing to take part” in the European project. The original Community Treaties proposed three enlargement models and procedural arrangements mirroring the roles given to Member States and thus, different understandings of integration.

2.2.2.1 Enlargement dependent on the Member States

The first enlargement model was very much dependent on Member States who *de facto* dictated the terms of accession. The Treaty establishing the European Coal and Steel Community (ECSC) in its Article 98 provided that:

“Any European State may apply to accede to this Treaty. It shall address its application to the Council, which shall act unanimously after obtaining the opinion of the High Authority; the Council shall also determine the terms of accession, likewise acting unanimously. Accession shall take effect on the day when the instrument of accession is received by the Government acting as depository of this Treaty.”

Hence, the enlargement was carried by the ECSC through the Council and High Authority without any mention to the Member States or any Accession Treaty. Despite the fact that the unanimity requirement within the Council would allow any Member State to veto the process, the Coal and Steel Community seemed the one to embody the prerogative to open the Treaty to other high contracting parties. Once the Treaty was opened, the enlargement of the organization was to be effective when the instrument of accession with possibly the terms of accession defined by the Council were received by the French government.

A second enlargement model was envisaged by the unrealized European Political Community (EPC) which while grounded on the

⁷⁶ The European Union, “The Schuman Declaration – 9 May 1950”.

above mentioned elements, did include supranational elements. Reference is made to the Article 116 (1) of the Treaty establishing the European Political Community:

“1. Accession to the Community shall be open to the Member States of the Council of Europe and to any other European State which guarantees the protection of human rights and fundamental freedoms mentioned in Article 3.

2. Any State desirous of acceding to the present Statute shall address its request to the European Executive Council. The latter shall inform the Council of National Ministers and the Parliament of the Community accordingly.

3. Accession shall form the subject of an instrument of accession which shall form a Protocol to the present Statute. This instrument, which shall contain the necessary amendments to the Statute, shall be drawn up by the European Executive Council with the concurrence of the Council of National Ministers. It shall be submitted to the Parliament of the Community for approval.

4. The instrument of accession shall come into force as soon as the European Executive Council has promulgated it, and the State concerned has deposited its instrument of ratification with the European Executive Council“

Similarly to Article 98 ECSC, the enlargement procedure under EPC did not provide a role for the Member States. Indeed, the Community institutions, including the Parliamentary organ were to evaluate and approve the enlargement to other high contracting parties. Moreover, this time around, substantive conditions of admission were introduced. Article 3 EPC makes reference of the need to comply with “[...] the Convention for the Protection of Human Rights and Fundamental Freedoms signed in Rome on 4 November 1950, together with those of the protocol signed in Paris on 20 March 1952, are an integral part of the present Statute”.

It should be noted that the above mentioned process was never used by EPC as it never expanded, worthy of note is the fact that the same ECSC was enlarged in the context of enlargement of European Atomic Energy Community (EAEC) and the European Economic Community (EEC) established by the Rome Treaties for a third integration model, as Article 237 EEC, and similarly article 205 EAEC recite:

“Any European State may apply to become a member of the Community. It shall address its application to the Council which, after obtaining the opinion of the Commission, shall act by means of a unanimous vote. The conditions of admission and the amendments to this Treaty necessitated thereby shall be the subject of an agreement between the Member States and the applicant State. Such agreement shall be submitted to all the contracting States for ratification in accordance with their respective constitutional rules.”

The enlargement procedure envisaged in both EAEC and EEC differed from the previous devised mechanisms. Firstly, the EEC and EAEC Treaties presented the novelty of “member[ship] of the Community” much like the EPC Treaty. Thus suggesting the need and effectively introducing a political commitment on the part of the applicant. This requirement seemed to be missing from the previous ECSC Treaty. Secondly, the role of Member States is clearly spelled out in Articles 237 EEC and 205 EAEC where both Member States and applicant(s) were active part in the negotiation and acceptance of the terms of admission. On the contrary in Article 98 ECSC the terms of admission were effectively an executive decision taken by the Council, with practically no involvement of Member States or applicant(s).

Ever since the Rome procedure has been the standard mechanism applied to membership. However, Member States were to build on it with additional requirements. An example of it can be seen in the UK accession to the EEC where the Council of Ministers noted that “one Member State considered the re-establishment of the British economy must be completed before Great Britain’s request can be considered”.⁷⁷

⁷⁷ J. P. Puissochet, *L’Elargissement des Communautés européennes. Présentation du Traité et des Actes relatifs à l’adhésion du Royaume-Uni, du Danemark et de l’Irlande*, Paris, Éditions

A Member State, thus, could halt the enlargement process by invoking an additional argument despite the positive opinion of the Commission affording the opening of negotiations.⁷⁸ Moreover, in the Hague Summit (1969) the representatives of the Member States agreed that:

“In so far as the applicant States accept the Treaties and their political finality, the decisions taken since the entry into force of the Treaties and the options made in the sphere of development, the Heads of State or Government have indicated their agreement to the opening of negotiations between the Community on the one hand and the applicant States on the other. They agreed that the essential preparatory work could be undertaken as soon as practically and conveniently possible; by common consent, the preparations would take place in a most positive spirit.”⁷⁹

Each round of enlargement further enforced the above mentioned principle, whereby the applicants, in addition of accepting the Treaties and their political ideals, had to translate and implement the *acquis* through sound administrative and judicial system. Indeed the Seville European Council underlined that “[t]he candidate countries must take all necessary measures to bring their administrative and judicial capacity up to the required level”.⁸⁰ Indeed any difficulty and delay to do so on part of the applicant would be overcome by means of transitional measures embedded in the Accession Treaty.⁸¹

Techniques et Économiques, 1973, p. 16; F. Nicholson and R. East, *From Six to Twelve. The Enlargement of the European Communities*, Harlow, Essex, Longman, 1987, p. 56; C. Preston, *Enlargement and Integration in the European Union*, London, Routledge, 1997, p. 31; D. W. Urwin, *The Community of Europe: A History of European Integration since 1945*, New York, Longman 1995, p. 129.

⁷⁸ Adhésion du Royaume-Uni, de l'Irlande, du Danemark et de la Norvège: Préparation de la négociation. Avis de la Commission du 29 septembre 1967: Préparation de l'Avis: Groupe de travail” Adhésions et Associations” COM (67) 750; Bull EC Supp 11–1967, retrieved 27 July 2015.

⁷⁹ Conférence au sommet des Chefs d'Etat et de gouvernement, La Haye, 1er-2 décembre 1969; See L. J. Brinkhorst and M. J. Kuijper, “The integration of the new Member States in the Community legal order”, vol. 9, no. 4, *Common Market Law Review*, 1972, p. 364.

⁸⁰ See *Seville European Council Conclusions*, 21–22 June 2002, 13463/02, Brussels, 24 October 2002. p. 5

⁸¹ See the Accession Treaty with Denmark, Ireland, (Norway), and the UK provided for a Member States' transfer of competence in the field of fisheries, chapter 3 of Act of Accession, [1972] OJ

2.2.2.2. The Member States and the *acquis*: towards an enlargement policy

While Treaty provisions did set the basic rules for enlargement, Member States were never shy to introduce ad hoc additions to said rules to be applied on a specific enlargement round. In addition of being largely molded by Member States, rules defining enlargement - such as in Article 237 EEC - were firm regarding the adoption of the *acquis*. The Member States representatives in The Hague would underline:

“[t]he European Communities remain the original nucleus from which European unity has been developed and intensified. The entry of other countries of this continent to the Communities — in accordance with the provisions of the Treaties of Rome — would undoubtedly help the Communities to grow to dimensions more in conformity with the present state of world economy and technology.”

Lastly, in the enlargement procedure as envisaged by the EEC, the applicant was in charge in preparing and fulfilling the substantive conditions for acceding to the Communities.

The EU, taking into consideration previously adopted substantive conditions, further fleshed out accession requirements to determine the norms for enlargement. The European Council already in 1978 expressed that “respect for and maintenance of representative democracy and human rights in each member State are essential elements of membership in the European Communities.”⁸² It was followed by the Declaration on Respect of Democracy and Human Rights of 1983 in Stuttgart.⁸³ These declarations came after a Common Declaration on Fundamental Rights signed in 1977 by the presidents of

L73; See as well Cases 3, 4, and 6/76 Kramer [1976] ECR 1279; Case 804/79 Commission v United Kingdom [1981] ECR I-1045. On adjustments to the treaties in Accession Treaties, and their limits, see Case C-413/04 European Parliament v Council [2006] ECR I-11221, and Case C-414/04 European Parliament v Council [2006] ECR I-11279;

⁸² European Council, *Conclusions of the Presidency*, Copenhagen, 7–8 April 1978.

⁸³ European Council, *Solemn Declaration on European Union*, Stuttgart 19 June 1983, Bulletin of the European Communities, no. 6/1983.

the European Commission, European Parliament and the Council.⁸⁴ These new norms were specifically used for the Central Eastern European Countries (CEECs) but since have been the stepping stone for enlargement used vis-à-vis the Western Balkans, Turkey and until March 2015 towards Iceland.⁸⁵

Following on the European Commission suggestions⁸⁶, the European Council in 1993 defined the Copenhagen criteria, based on which the EU membership was dependent on

“stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities, the existence of a functioning market economy as well as the capacity to cope with competitive pressure and market forces within the Union. Membership presupposes the candidate’s ability to take on the obligations of membership including adherence to the aims of political, economic and monetary union”.⁸⁷

These criteria were then to be transposed in the framework of the Treaty provisions, in Article O of the Treaty on European Union (TEU) signed in Maastricht:

“Any European State may apply to become a Member of the Union. It shall address its application to the Council, which shall act unanimously after consulting the

⁸⁴ Bull EC 3/77, 5 and Official Journal of the European Communities, C 103/01, 27 April 1977.

⁸⁵ See EU-Western Balkans Summit—Declaration, Thessaloniki, 21 June 2003; European Council, Presidency Conclusions, Brussels, 16/17 December 2004 (Turkey); See K. Inglis, Kirtyn, “EU Enlargement: Membership Conditions Applied to Future and Potential Member States” in S. Blockmans and A. Łazowski (eds), *The European Union and its Neighbours—A legal appraisal of the EU’s policies of Stabilisation, partnership and integration*, The Hague, T.M.C Asser Press, 2006, p. 61; Further on the Western Balkans S. Blockmans, *Tough Love—The European Union’s Relations with the Western Balkans*, The Hague, T.M.C Asser Press, 2007, pp. 282 et seq.

⁸⁶ See Commission of the European Communities, *Towards a Closer Association with the Countries of Central and Eastern Europe*, Edinburgh, 11–12 December 1992, SEC (92) 2301 final, 2 December 1992; Commission of the European Communities, *Towards a closer Association with the Countries of Central and Eastern Europe*, Communication by the Commission to the Council, in view of the meeting of the European Council in Copenhagen, 21–22 June 1993, SEC (93) 648 final. See also, A. Mayhew, *Recreating Europe: The European Union’s Policy towards Central and Eastern Europe*, New York, Cambridge University Press, 1998; K. E. Smith, “The Evolution and Application of EU Membership Conditionality” in M. Cremona (ed.), *The Enlargement of the European Union*, Oxford, Oxford University Press, 2003, pp. 105, 113.

⁸⁷ European Council, *Presidency Conclusions*, Copenhagen, 21–22 June 1993.

Commission and after receiving the assent of the European Parliament, which shall act by an absolute majority of its component members. The conditions of admission and the adjustments to the Treaties on which the Union is founded, which such admission entails, shall be the subject of an agreement between the Member States and the applicant State. This agreement shall be submitted for ratification by all the contracting States in accordance with their respective constitutional requirements.”⁸⁸

The criteria were further clarified in the 1995 Madrid European Council, where it was underlined that a mere political commitment to the *acquis*, as requested by the Hague Summit in 1969, would not suffice to secure accession. In addition, the candidate countries had to pay attention to their administrative capacities so that to ensure effective implementation of the *acquis*.⁸⁹

Nonetheless, in the previous year, in the Essen European Council in order to launch the pre-accession strategy these norms were further developed. The European Council confirms associated countries “can become members of the European Union if they so desire and as soon as they are able to fulfil the necessary conditions”.⁹⁰ These had been laid “on a comprehensive strategy [...] for preparing these countries for accession to the European Union” geared towards building “structured relations which encourage mutual trust and will provide a framework for addressing topics of common interest”.⁹¹

Furthermore, the European Commission had proposed a further consolidation of the pre-accession strategy, which was agreed during the Luxembourg European Council in 1997.⁹² Thus, the EU “accession partnerships and increased pre-accession aid” became an integral part

⁸⁸ See C. Hillion, “The Enlargement of the European Union: A Legal Analysis”, in A. Arnall, and D. Wincott (eds), *Accountability and Legitimacy in the European Union*, Oxford, Oxford University Press, 2003, p. 403; F. Hoffmeister, “Earlier enlargements”, in A. Ott, and K. Inglis (eds) *Handbook on European Enlargement: A Commentary on the Enlargement Process*, T.M.C Asser Press, 2002, pp. 90–91. The Single European Act had previously accommodated the European Parliament’s desire to take a role in the enlargement process. Indeed, in article 49 TEU we encounter the conditionality set on EU values as defined in Art 6(1) TEU.

⁸⁹ European Council, *Presidency Conclusions*, Madrid 15–16 December 1995.

⁹⁰ European Council, *Presidency Conclusions*, Essen, 9–10 December 1994.

⁹¹ European Council, *Presidency Conclusions*, Essen, 9–10 December 1994.

of the accession process - defined through short, medium and long-term accession priorities which applicants had to attain.⁹³ The new strategy introduced monitoring of the applicants who “[would] proceed at [their] own rate, depending on [their] degree of preparedness”.⁹⁴

It could be argued that since, the EU and its Member States have used the carrot of membership to gain influence in the candidate countries, to stir them into complying with burdensome structural reforms. The EU advocacy went as far as to involve European state building by pushing into the EU *acquis* and accession conditions, rules and principles of other regional organization.⁹⁵ The transformative power vested in the enlargement policy made of the EU a normative power in Europe. Enlargement delineated a model for member state, and - at the same time - underlined what was normality or the role in which the EU had been “catapulted into”.⁹⁶

As mentioned above, the norms of enlargement go far beyond the EU *acquis*. Thus, the pre-accession approach has raised some criticism of possible double standards, affecting the credibility of norms and values advocated by the EU. Ultimately, raising questions on the effectiveness of its normative power.⁹⁷ The Lisbon Treaty may as well serve as an

⁹² European Council, *Presidency Conclusions*, Luxembourg, 12 and 13 December 1997.

⁹³ European Council, *Presidency Conclusions*, Luxembourg, 12 and 13 December 1997.

⁹⁴ On the pre-accession strategy, refer to P. Nicolaides, “Preparing for Accession to the European Union: How to Establish Capacity for Effective and Credible Application of EU Rules” in M. Cremona (ed), *The Enlargement of the European Union*, Oxford, Oxford University Press, 2003, pp. 9, 43; K. E. Smith, *The making of EU foreign policy: the case of Eastern Europe*, London, UK, Palgrave Macmillan, 2004, p. 122;

⁹⁵ H. Grabbe, *A Partnership for Accession? The Implications of EU Conditionality for the Central and East European Applicants*, Robert Schuman Centre Working Paper 12/99, European University Institute, 1999; A. Albi, *EU Enlargement and the Constitutions of Central and Eastern Europe*, Cambridge University Press, 2005, pp. 46 et seq.

⁹⁶ See H. Sjursen, *Enlargement in perspective. The EU's quest for identity*, RECON Online Working Paper 2007/15; K. E. Smith, “The conditional offer of membership as an instrument of EU foreign policy: reshaping Europe in the EU's image?” *Marmara Journal of European Studies* vol. 8, no.1-2, 2000, p. 33; J. Pelkmans, and A. Murphy, “Catapulted into leadership: the community's trade and aid policies vis-à-vis Eastern Europe”, *Journal of European Integration*, vol. 14, no.2-3, 1991, p. 125.

⁹⁷ The flaws of conditionality in the enlargement context have been pointed out by large amount of scholarship, refer to: A. Albi, “Ironies in Human Rights Protection in the EU: Pre-Accession Conditionality and Post-Accession Conundrums”, *European Law Journal*, vol. 15, no.1, 2009, p. 46;

D. Kochenov, *EU Enlargement and the Failure of Conditionality*, The Hague, Kluwer Law International, 2008.

attempt to compensate the gap between the applied accession conditionality and membership obligations. The eligibility requirement established in Article 49 TEU, refers to “the values referred to in Article 2” of the TEU, which includes “respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities.” Nevertheless, a full alignment of the two was not completed.⁹⁸

2.2.2.2.1 The EU institutions role in enlargement

The development of the accession process, including the country specific pre-accession strategy, underlines the strong role played by the European Council – read Member States – who would delegate their powers to the European Commission so that to implement the pre-accession strategy and monitor the applicants progress. It is in this context, post-Copenhagen, that a paradigm shift is observed in enlargement as a policy: the EU is actively involved in assisting countries to prepare for accession with the European Council assisted by the European Commission to apply the EU governance.⁹⁹ Indeed, the pre-accession strategy inherently comprised a close cooperation between the European Commission, the Council and the European Council in defining, refining and implementing enlargement in line with the EU requirements. An example of this close cooperation can be seen in concluding an Accession Partnership (AP). The European Commission drafts the individual partnership document highlighting the priorities of the candidate country and the conditions on accession based on the Copenhagen Criteria. The Council then shall adopt the AP by qualified majority voting and only then it is submitted to the

⁹⁸ See U. Sedelmeier, Ulrich, “After Conditionality: Post-accession Compliance with EU law in East Central Europe”, *Journal of European Public Policy*, vol. 15, no. 6, 2008, p. 806; D. Kochenov, “A Summary of Contradictions: An Outline of the EU’s Main Internal and External Approaches to Ethnic Minority Protection”, *Boston College International and Comparative Law Review*, vol. 31, no.1, 2008, pp. 1-51; C. Hillion, “Enlargement of the European Union: The discrepancy between Accession conditionality and membership obligations”, vol. 27, no. 2, 2003, *Fordham International Law Journal*, pp. 715-740.

⁹⁹ European Council, *Presidency Conclusions*, Essen, 9–10 December 1994; Commission of the European Communities, *The Europe Agreements and Beyond: A Strategy to Prepare the Countries of Central and Eastern Europe For Accession*, COM (94) 320 final, Brussels, 13 July 1994; Commission of the European Communities, *Follow up to Commission Communication on ‘The Europe Agreements and Beyond: A Strategy to Prepare the Countries of Central and Eastern Europe for Accession’*, COM(94) 361 final, Brussels, 27 July 1994.

candidates.¹⁰⁰ Following the EC drafting and Council approval, the EU adopts a top-down approach - as the partnering country has no other option than to accept the partnership agreement in its entirety as no negotiation on it ever takes place.¹⁰¹ As a follow up, candidates' progress in fulfilling the roadmap of priorities is transmitted to the European Council annually by the European Commission.¹⁰² These reports, reportedly inform the Council decision on and if - moving forth with the negotiations. However, following talks in the Brussels bubble, it is very rare that the European Commission does submit a recommendation (with a given content) to the Council without being 'instructed to'.¹⁰³ While the European Council may have become a constitutive power, the European Commission became equally powerful in defining a prospective EU member state: politically, from an economic standpoint, legal framework, and administrative capacity. The intimate involvement of institutions was more evident than ever in the accession negotiations. Nevertheless, it is worthy of note that the Treaties provided only for Member States and the applicant state to be involved in these negotiations.¹⁰⁴

In an attempt to summarize, the-post Copenhagen EU enlargement encompasses substantive conditions, and non-EU norms that come together to allow the EU to engage actively and normatively in (EU Member) state building. This newly formed EU cosmos allowed for greater role and impact of the EU institutions as opposed to the state driven or 'business as usual' enlargement. Effectively enlargement became a common policy of the EU both in the substance and through the scope of the institutional framework engaged in it at all levels of EU governance. In the Treaties said policy and competences of the Union and Member States in the matter have not been spelled out neither has there been any debate concerning it. Its successful management relies

¹⁰⁰ Council Regulation 622/98 ([1998] OJ L85/1); for a recent example of an AP, see Council Decision 2008/ 157/EC of 18 February 2008 on the principles, priorities and conditions contained in the Accession Partnership with the Republic of Turkey and repealing Decision 2006/35/EC ([2008] OJ L51/4). Art 2 of Council Regulation 622/98 ([1998] OJ L85/1).

¹⁰¹ Lecture, Erwan Lannon, Bruges, 07 April 2015.

¹⁰² Previously the Commission would give only two opinions on any membership application, thus the progress report on candidates appears to be a novelty.

¹⁰³ Official, European Commission, Interview, Brussels, 18 January 2016.

¹⁰⁴ The role played by the institutions was already visible at the first enlargement of the EEC, noted by J. P. Puissochet, *L'Elargissement des Communautés européennes. Présentation du Traité et des Actes relatifs à l'adhésion du Royaume-Uni, du Danemark et de l'Irlande*, Paris, Éditions Techniques et Économiques, 1973, p. 16;

on close cooperation between institutions and Members states, cooperation that has seen its lowest level in the last years.¹⁰⁵

2.2.3. Renewed consensus for enlargement

Following the big bang enlargement round and the unsuccessful Constitutional Treaty both the EU institutions and Member States revisited their position on EU enlargement through a “renewed consensus for enlargement”.¹⁰⁶

In its 2006 Enlargement Strategy, the EU underlined that it “honors the commitments made to the countries already in the process, but is cautious in assuming any new commitments”.¹⁰⁷

The EU has used conditionality as an answer to the rising mistrust and dissatisfaction on the handling of its expansion. Conditionality has been set to apply already in the phase of the opening of the negotiations for accession. Upon receiving the European Commission recommendation, the Council defines the benchmarks to be met by the candidate for opening and closing of a particular chapter.¹⁰⁸ Failing to meet pre-established benchmarks may cause the suspension of the negotiations either by not opening a chapter or re-opening a provisionally closed one. The European Commission clearly states the

¹⁰⁵ See J. Kelley, “New Wine in Old Wineskins: Policy Learning and Adaption in The new European Neighborhood Policy”, *Journal of Common Market Studies*, vol. 44, no.1, 2006, pp. 29-55; A. Magen, “The Shadow of Enlargement: Can the European Neighbourhood Policy Achieve Compliance?”, *The Columbia Journal of European Law*, vol. 12, no. 2, pp. 384-427. The enlargement methodology has been adapted to other policies, i.e neighbourhood policy.

¹⁰⁶ Council of the European Union, *Presidency Conclusions, 14-15 December 2006*, Brussels, 12 February 2007.

¹⁰⁷ European Commission, *Enlargement Strategy and Main Challenges 2006-2007*, COM (2006) 649 final, Brussels, 08.11.2006, p. 15.

¹⁰⁸ European Commission, *Enlargement Strategy and Main Challenges 2006-2007: Including annexed special report on the EU's capacity to integrate new members*, COM(2006) 649, p. 10. According to the “Benchmarks are a new tool introduced as a result of lessons learnt from the fifth enlargement. Their purpose is to improve the quality of the negotiations, by providing incentives for the candidate countries to undertake necessary reforms at an early stage. [...] In general, opening benchmarks concern key preparatory steps for future alignment (such as strategies or action plans), and the fulfilment of contractual obligations that mirror *acquis* requirements. Closing benchmarks primarily concern legislative measures, administrative or judicial bodies, and a track record of implementation of the *acquis*. For chapters in the economic field, they also include the criterion of being a functioning market economy.” The substance of such benchmarks, and thus the evaluation of their attainment, is not public as it was suggested to further transparency.

link between conditionality and accession negotiations as “[t]he pace of negotiations depends on the pace of reforms on the ground” and maintains that “the negotiations offer countries the opportunity to demonstrate their ability to complete the necessary reforms and meet all membership requirements”.¹⁰⁹ Moreover, the candidates are to adopt all of the growing amount of European *acquis* - both ‘hard-law’ legislation and principles as defined by the European Court of Justice case law¹¹⁰ - before accession.¹¹¹ In addition of underlining that enlargement policy was to be driven by a method of ‘strict and fair conditionality’, as exemplified in the 2006 Enlargement strategy, the EU sought “ways to foster public support for further enlargement, to address the enlargement challenges and to ensure the EU’s integration capacity [for] a renewed consensus on enlargement”.¹¹² Which have been the results?

The conditionality driven pre-accession approach has affected the enlargement procedure. Firstly, it increased EU leverage on the candidate comply with membership requirement. Nevertheless, this has been seen as a ‘tick the boxes’ exercise where at least formally reforms are adopted but where there is little to no substantial qualitative improvement in the domestic system. I delve concretely on the fundamentals for Albania’s progress in the accession path in the fourth chapter of this thesis. Secondly, conditionality applied to the opening or closing of the chapters has further limited the scope of negotiation between the parties as envisioned in Article 49(2).¹¹³ It further raises expectations of candidate countries that once the chapters are opened and closed, accession should be granted. Moreover, the number of chapters has grown up to 35 and proportionally so the benchmarks required to be met. All of the above mounts to additional difficulty for the candidate countries and possible delay in the way to accession. Thirdly, the process in itself is highly politicized and politically charged as the approval of the benchmarks and their fulfillment is dependent on

¹⁰⁹ European Commission, *Enlargement Strategy and Main Challenges 2006-2007: Including annexed special report on the EU’s capacity to integrate new members*, COM(2006) 649, pp. 5-6.

¹¹⁰ More recently, there is been a shift to the ‘EU *acquis*’ notably in the context of enlargement. On this concept, C. Delcourt, “The *acquis communautaire*: Has the concept had its day?”. *Common Market Law Review*, vol. 38, no.4 2001, pp. 829-870.

¹¹¹ European Commission, *Agenda 2000: For a stronger and wider Union*, 13 July 1997.

¹¹² European Commission, *Enlargement Strategy and Main Challenges 2006-2007: Including annexed special report on the EU’s capacity to integrate new members*, COM(2006) 649, pp. 3-4.

¹¹³ S. Blockmans, “EU Enlargement as a Peacebuilding Tool” in J. Wouters, S. Blockmans, and T. Ruys (eds), *The European Union and Peacebuilding*, The Hague, T.M.C Asser Press, 2009.

the unanimous approval of the Member States, which continue to control the process.¹¹⁴ Moreover, the absorption capacity has been trumpeted as a further reason for Member States to consider or not EU further enlargement.¹¹⁵ The commitment and respect of the *acquis* by a candidate country is purportedly an inherent assurance for the widening of the Union not to affect the scope of its deepening. Indeed the absorption capacity has been considered the fourth criterion as defined by the Copenhagen European Council, as “the Union’s capacity to absorb new members, [and keep] the momentum of European integration is in the general interest of both the Union and the candidate countries”. In the Corfu European Council the Member States underlined the need for an institutional reform to adapt the Union to the accession of the Central Eastern European states.¹¹⁶

Indeed, the absorption capacity has inspired several treaty changes and to this day remains a paramount condition for enlargement. On one hand, the Amsterdam Treaty was received with criticism as unsuccessful in meeting enlargement needs.¹¹⁷ On the other, the provisions introduced by the Nice Treaty were barely sufficient to open the possibility of enlargement.¹¹⁸ However, the argument for institutional

¹¹⁴ European Commission, *Enlargement Strategy and Main Challenges 2006-2007: Including annexed special report on the EU’s capacity to integrate new members*, COM(2006) 649; European Commission, *Turkey Negotiating Framework: Principles governing the negotiations*, 03 October 2005, pt. 5; European Commission, *Iceland Negotiating Framework: Principles governing the negotiations*, pt. 17. “In the case of a serious and persistent breach in Turkey of the principles of liberty, democracy, respect for human rights and fundamental freedoms and the rule of law on which the Union is founded, the Commission will, on its own initiative or on the request of one third of the Member States, recommend the suspension of negotiations and propose the conditions for eventual resumption. The Council will decide by qualified majority on such a recommendation, after having heard Turkey, whether to suspend the negotiations and on the conditions for their resumption. The Member States will act in the Intergovernmental Conference in accordance with the Council decision, without prejudice to the general requirement for unanimity in the Intergovernmental Conference. The European Parliament will be informed.”

¹¹⁵ See F. Amtenbrink, Fabian “On the European Union’s Institutional Capacity to Cope with Further Enlargement” in S. Blockmans and S. Prechal (eds), *Reconciling ‘Deepening’ and ‘Widening’ of the European Union*, The Hague, T.M.C Asser Press, 2008, p.111-131; M. Emerson, S. Aydin, J. De Clerck-Sachsse, and G. Noutcheva, *Just What is this “Absorption Capacity” of the European Union?*, Center for European Policy Studies (CEPS) Policy Brief, no. 113, 2006.

¹¹⁶ European Council, *Presidency Conclusions*, Corfu 24–25 June 1994, retrieved 10 July 2015.

¹¹⁷ European Council, *Presidency Conclusions*, Luxembourg, 12 and 13 December 1997.

¹¹⁸ See in particular, Protocol 10 on the Enlargement of the European Union and the Declaration on the Enlargement of the European Union, included in the *Final Act of the Conference* which adopted the Treaty of Nice.

reform was forcefully raised at the time of ratification of Lisbon Treaty, where the absorption capacity became *condicio sine qua non* for enlargement.¹¹⁹ Public opinion has been a centerpiece in the enlargement decision. In this thesis, I do pay a particular attention in chapter four to the Albanian public opinion on the EU and European public opinion vis-à-vis enlargement. The acceding countries must be in the conditions to fulfill “obligations of Union membership and the Union must be able to function” both of these aspects are crucial to further communication efforts and earn Europeans’ support on EU enlargement.¹²⁰ In matters of enlargement, legitimacy and economic sustainability have come to be evaluated jointly to the absorption capacity. The special report on the Union absorption capacity as prepared by the European Commission with inputs of the European Parliament and upon request of the European Council states:

“The EU’s absorption capacity, or rather integration capacity, is determined by the development of the EU’s policies and institutions, and by the transformation of applicants into well-prepared Member States [...] Integration capacity is about whether the EU can take in new members at a given moment or in a given period, without jeopardizing the political and policy objectives established by the Treaties. Hence, it is first and foremost a functional concept.”¹²¹

Accordingly, the European Council concluded that “[a]s the Union enlarges, successful European integration requires that EU institutions function effectively and that EU policies are further developed and financed in a sustainable manner”.¹²² Moreover, the European Court of Justice maintained that Article 237 EEC defines:

“[A] precise procedure encompassed within well-defined limits for the admission of new Member States, during

¹¹⁹ G. Edwards, “Reforming the Union’s Institutional Framework: a new EU Obligation?” in C. Hillion (ed.), *EU Enlargement: A Legal Approach*, Oxford, Hart, 2004, p. 23.

¹²⁰ European Commission, *Enlargement Strategy and Main Challenges 2006-2007*, COM (2006) 649 final, Brussels, 08.11.2006. European Council, *Presidency Conclusions, 14–15 December 2006*, 16879/1/06, Brussels, 12 February 2007, p. 2.

¹²¹ European Commission, *Enlargement Strategy and Main Challenges 2006-2007: Including annexed special report on the EU’s capacity to integrate new members*, COM(2006) 649 - Annex 1: Special Report on the EU’s capacity to integrate new members.

¹²² European Council, *Presidency Conclusions, 14–15 December 2006*, 16879/1/06, Brussels, 12 February 2007, p. 3.

which the conditions of accession are to be drawn up by the authorities indicated in the article itself; thus the legal conditions for such accession remain to be defined within the context of that procedure without it being possible to determine the context judicially in advance [leaving the ECJ unable to] give a ruling on the form or subject-matter of the conditions which might be adopted.”¹²³

The European Court of Justice has indeed validated the political nature intrinsic to enlargement where Member States have free reign. The literature has considered this decision to be an instance of “political question doctrine”.¹²⁴ Interviews conducted both in Brussels and Tirana, indicate the need to open the debate over the future of the Union, possible institutional arrangements that may as well affect membership as we have known it to this day.¹²⁵

The EU has thus coined several labels for third countries in their path to accession. Indeed, a third country is ‘eligible’ upon meeting the substantive conditions set forth by the Treaties. An eligible country may apply to the Union to become a ‘potential candidate’ upon preliminary assessment of the European Council that the country has the perspective to become a Member State.¹²⁶ A potential candidate becomes a ‘candidate’ upon positive evaluation by the European Council and positive opinion of the European Commission with the possibility to open negotiations. Moreover, a candidate becomes an ‘acceding’ state upon signature of the Accession Treaty and open to ratification of the high contracting parties.¹²⁷ Upon conclusion of the

¹²³ European Court of Justice, Case 93/78 *Lothar Mattheus v Doego Fruchtimport und Tiefkuhlkost eG*, Judgment of the Court of 22 November 1978. ECLI:EU:C:1978:206.

¹²⁴ See as well U. Becker, *EU-Enlargements and Limits to Amendments of the EC Treaty*, 2001, Jean Monnet Working Paper, VI Admissible content of transitional measures; S. Douglas-Scott, *Constitutional Law of the European Union*, Harlow, Longman, 2002, p. 238.

¹²⁵ Interviews conducted in Brussels and Tirana 09.2015 to 02.2017.

¹²⁶ See European Council, *Conclusions of the Presidency*, Santa Maria de Feira, 19–20 June 2000, retrieved 27 July 2015, http://www.europarl.europa.eu/summits/fei1_en.htm; European Council, *Presidency Conclusions*, Copenhagen, 21–22 June 1993, retrieved 07 July 2015 http://www.consilium.europa.eu/en/european-council/conclusions/pdf-1993-2003/presidency-conclusions_copenhagen-european-council_21-and-22-june-1993/; European Commission, *EU-Western Balkans Summit—Declaration*, Press Release Thessaloniki, 21 June 2003, 10229/03, (Presse 163).

¹²⁷ The ‘acceding state’ status has some legal implications as pointed out by the Court in Judgment of the Court (Grand Chamber) of 28 November 2006, *European Parliament v Council of the European Union*, Directive 2003/54/EC – Common rules for the internal market in electricity – Directive 2004/85/EC – Temporary derogations in favour of Estonia – Legal basis. Case C-413/04,

ratification process the applicant becomes a Member State.¹²⁸

Reading Article 49 TEU may be misleading in understanding the procedure of decision-making concerning the evaluation of a candidate country. It may suggest that the Council takes its decision upon consulting the European Commission and the European Parliament. However, the decision-making procedure starts with the Council requesting the European Commission to present its Opinion on the application for membership of a candidate country.¹²⁹

In the case of Albania, the Commission's Opinion on the country's application was published only after the consultation held in the German Parliament, applying the amended ratification procedure prescribed under the Lisbon Treaty, following the judgment of the *Bundesverfassungsgericht* accepting the Lisbon Treaty as compatible with the Basic Law.¹³⁰ It acknowledged that while the EU has the structure of a federal state, its decision-making is dependent on international law, hence the EU abides by "the principle of the equality of states". Thus in absence of democratic mechanisms respecting the above mentioned principle of equality that would allow the European people voice their will, "the peoples of the European Union [represented by] Member States, remain the decisive holders of [...] Union authority".¹³¹ The judgement states the German Government should consult with the Parliament as

"an amendment of the Treaty law can be brought about solely or decisively by the institutions of the European Union - albeit under the requirement of unanimity in the Council -, a special responsibility is incumbent on the

ECLI: EU:C:2006:741, for instance in application of "the principles of equality, good faith and solidarity among current and future Member States".

¹²⁸ K. Inglis, "The Union's Fifth Accession Treaty: New Means to Make Enlargement Possible", *Common Market Law Review*, vol. 41, no. 4, 2004, pp. 937-973; E. Lannon, "Le Traité d'Adhésion d'Athènes: Les négociations, les conditions de l'admission et les principales adaptations des Traités résultant de l'élargissement de l'UE à vingt-cinq Etats membres", *Le Cahiers de Droit Européen*, vol. 40, 2004, pp. 15-94; A. Lazowski, "And Then They Were Twenty-Seven . . . A Legal Appraisal of the Sixth Accession Treaty", *Common Market Law Review*, vol. 44, no. 2, 2007, pp. 401-430.

¹²⁹ Cf. European Commission, *Opinion on Iceland's application for membership of the EU*, COM(2010) 62, Brussels, 24 February 2010, p. 2.

¹³⁰ BVerfG, Judgment of the Second Senate of 30 June 2009 – 2 BvE 2/08 – paras. (1-421). See also Press Release No. 72/2009 of 30 June 2009. Prior to the judgment, the Bundestag had already proposed that the German government seek its approval before the start of new accession negotiations, as recalled in the House of Lords Report (above n 42) 20.

¹³¹ BVerfG, Judgment of the Second Senate of 30 June 2009 *op. cit.*

national constitutional bodies in the context of participation. In Germany, this responsibility for integration must on the national level comply with the constitutional requirements".¹³²

Indeed, this requirement has been extended to various stages of the enlargement process as in the case of the application submitted by Albania. While the consultation with the German Parliament is not binding for the government, it is preferred the two reach a common position.¹³³ In absence of such agreement the enlargement may halt. While this requirement may further increase the bargaining power of Germany it may inspire similar domestic conditions in other Member States.¹³⁴ Upon the German approval "[t]he Council decided to implement the procedure laid down in Article 49 of the Treaty on the European Union. Accordingly, the Commission [was] invited to submit its opinion".¹³⁵

Another founder Member State of the European Union, France, has been cautious on further enlargement. Since 2005, the French Constitution provides that every future enlargement has to be approved by a referendum, which can be superseded by a 3/5 majority vote in the parliament to ratify the accession treaty. Thus, confirming both the political nature of enlargement and the weight of public opinion.¹³⁶

The analysis above exemplifies how each Member State singularly acquires the prerogative to evaluate an application even before the European Commission and the European Parliament can submit their views on the matter. It begs the question whether this practice may be acceptable in the view of Article 49 (1) TEU according to which the Council expresses its views upon receiving the opinion of the European Commission. Moreover, the Council has established conditions for the

¹³² *Ibid.*

¹³³ This is foreseen in "Act on Cooperation between the Federal Government and the German Bundestag in matters concerning the European Union dated 4 July 2013 (I, p.2170)" § 9 EUZBBG 'opening of negotiations on accession and treaty amendments', which also stipulates that the Bundesregierung – Federal Government may take a decision that contradicts the position of the Bundestag for 'foreign or integration' policy. Both institutions may turn to the Bundesverfassungsgericht, in case they believe their rights have been violated. The Law on the Federal Constitutional Court [BVerfGG] clearly states the above mentioned corrective measures § 13(5-15).

¹³⁴ See Putnam, *op. cit.*, pp. 427- 460.

¹³⁵ Council of the European Union, *Council conclusions, Albania – Application for EU membership*, 16 November 2009, 15913/09 (Presse 328), p. 10.

¹³⁶ Senior Diplomat, EU Member State, Block of Embassies, interview, Tirana, 19 January 2017.

preliminary assessment and transmitting the application to the European Commission. Hence, in the case of Serbia the European Commission was asked to submit its Opinion only after the International Court of Justice (ICJ) Advisory Opinion on Kosovo's declaration of independence¹³⁷ and upon evaluation of Serbian reactions to it.¹³⁸

All of the above further gives an opportunity for Member States to interpret, eventually slowing the process and have the upper hand in resolving lingering bilateral issues during pre-accession with candidate countries.¹³⁹ Admittedly, this is not a fair approach, as an EU Member State diplomat in Tirana put it, nonetheless, it is a practice used by all Member States.¹⁴⁰

2.2.4 Conclusion

The European project originally was laid to be “open to the participation of the other countries of Europe”.¹⁴¹ Nonetheless, soon - what became known as the EU – developed its own models and arrangements to enlargement. As I make the case throughout this section, while the adopted models for enlargement were three, effectively only two were ever used. All of them refer to ‘unanimous action’ within the Council and in the Treaty of Rome, the third model adopted and used to this day, clearly makes reference to the Member States and their

¹³⁷ ICJ, *Accordance with International Law of the Unilateral Declaration of Independence in Respect of Kosovo, Advisory Opinion*, I.C.J Reports 2010, p. 403.

¹³⁸ In view of the protracted controversy over the status of Kosovo, some Member States insisted that Serbia had to deal with the ICJ Opinion in ‘an appropriate manner’, before the Council could transmit its membership application to the Commission. See UN General Assembly Resolution (A/RES/64/298), 13 October 2010. The UN General Assembly Resolution (A/RES/64/298) adopted following the International Court’s Opinion persuaded some Member States that the precondition was met. The European Commission however was not called to present its Opinion. The conclusions of the General Affairs Council note that “[t]he Council briefly discussed recent developments with regard to Serbia”. See as well, Council of the European Union, Press Release General Affairs, Presse 236, Brussels, 13 September 2010.

¹³⁹ The Commission would underline how bilateral issues were affecting the enlargement process. See Commission of the European Communities, *Enlargement Strategy and Main Challenges 2009-2010*, COM(2009) 533, Brussels, 14.10.2009, p. 6. See as well Council of the European Union, Press Release General Affairs, Presse 370, Brussels, 7 December 2009; See as well European Council, *Conclusions*, Brussels 10-11 December 2009. The Member States did not expand nor did they follow up on the topic.

¹⁴⁰ Senior Diplomat, EU Member State, interview, Tirana, 13 January 2017.

¹⁴¹ The European Union, “The Schuman Declaration – 9 May 1950”.

involvement in enlargement.

However, ever since the Seville European Council, the applicants are asked take on additional measures to align their administrative and judicial capacities to the required level, as instrumental to effectively accepting and implementing the responsibilities defined in the Treaties and the *acquis*.¹⁴² This is one of the many possible examples of the proactive involvement of Member States to build on the adopted model with additional criteria that were increasingly adopted and applied to specific enlargement rounds. Already in 1978, the European Council would insert as conditions the respect of democracy and human rights which were clearly spelled out in the European Council in Copenhagen and to date are applied to the Western Balkans and Turkey.¹⁴³

The European Union since the European Council in Essen had delineated a comprehensive strategy for assisting associated countries in their path to EU accession.¹⁴⁴ This support took the form of an accession partnership (AP) agreements and related aid to meet the defined priorities.¹⁴⁵ It could be argued that with these AP agreements, the EU started its transformative quest and set its state building ambitions vis-à-vis aspiring applicants.

The approach the EU had set based on achieving benchmarks and conditions has had an impact in enlargement. While arguably it has increased the leverage on candidate countries, it has often resulted as a non-consequential exercise of ticking boxes as we will see in the case study of Albania reforms are adopted but not heeded. Thus, remaining a *lettre morte*. Moreover, it creates the illusion that once the chapters and benchmarks are met the accession is an automated exercise devoid of political interference. The unanimity rule, is applicable in the approval of all the benchmarks and closing of chapters, affording to Member States control on the lengthy process

¹⁴² Cf. *Seville European Council Conclusions*, 21–22 June 2002, 13463/02, Brussels, 24 October 2002. p. 5

¹⁴³ Cf. European Council, *Conclusions of the Presidency*, Copenhagen, 7–8 April 1978; Cf. European Council, *Presidency Conclusions*, Copenhagen, 21–22 June 1993.

¹⁴⁴ See European Council, *Presidency Conclusions*, Essen, 9–10 December 1994.

¹⁴⁵ See European Council, *Presidency Conclusions*, Luxembourg, 12 and 13 December 1997.

that have since brought the number of chapters to 35.¹⁴⁶

The politics applied to enlargement has been excused on the ground of the fourth criterion of Copenhagen, the absorption capacity of the EU. Originally, this was intended as an institutional arrangement to accommodate all Member States and maintain the proper functioning of the Union. However, with time this has gained another valence as it is assessed together with legitimacy and economic sustainability. Even the European Court of Justice (ECJ) in *Mattheus v Doego* have signed on the political nature of enlargement and the free reign that Member States have on the matter.

Following the big-bang enlargement the EU in its renewed consensus for enlargement would be cautious in taking on new commitments and tie any development to progress achieved by the single aspiring countries.¹⁴⁷

The Lisbon treaty has been seen as an improvement of the founding treaties and had no purpose to replace them. Indeed, Lisbon confirms the unanimity rule and thus tables no substantial change to the functioning of the EU institutions. Theoretically, it is in line with the selected intergovernmental lens through which to view enlargement towards Albania, and more generally towards the Western Balkans. Institutions, while formally coming to the front row of enlargement still are functional in implementing decisions taken by Member States.¹⁴⁸ The Treaty revision made in Lisbon served to codify existing practices whereby the EC, the EP and the Council form the institutional triangle upon which close relationship EU policy making is dependent. Referring specifically to enlargement, Article 49 of the Lisbon Treaty does not assist in bringing clarity on applied accession conditionality. Admittedly, it is unclear how one can effectively measure compliance of

¹⁴⁶ See European Commission, *Iceland Negotiating Framework: Principles governing the negotiations* pt. 17; See European Commission *Turkey Negotiating Framework: Principles governing the negotiations*, 03 October 2005, pt. 5;

¹⁴⁷ Cf. European Commission, *Enlargement Strategy and Main Challenges 2006-2007: Including annexed special report on the EU's capacity to integrate new members*, COM(2006) 649 pp. 5-6,15.

¹⁴⁸ Cf. Bickerton, Christopher J., Dermot Hodson, and Uwe Puetter "The New Intergovernmentalism: European Integration in the Post-Maastricht Era: The New Intergovernmentalism", *Journal of Common Market Studies*, vol. 53, no. 4 2015, p. 717.

the values and ideals it refers to. Thus, the EU has been severely criticized of raising the bar and of adopting double standards that ultimately undermine the credibility of norms and values advocated by the EU. So much so, as in the recent years, questions have been raised on the effectiveness of EU normative power both for its Member States and aspiring ones.¹⁴⁹

In conclusion, the EU member states remain at the forefront on enlargement. The public opinion is equally at the forefront of these political decisions be that through referendum provisions or simply the democratic confrontation on the election day EU Member States are reluctant to move forward with a policy that does not garner much consensus. The vague commitment on the part of the EU, since the renewed consensus for enlargement, and even more so with Juncker's leadership of the EU Commission has allowed gatekeeper elites to further disengage from reforms. The EU engagement remains anchored to the geopolitical and geoeconomic strategy of the Western Balkans region, as we will see in the chapter three. All of the above have determined the interpretation of enlargement rules and their application.

2.3 EU modes and rules of governance

2.3.1 EU governance and its application to enlargement

Following the development of enlargement as a policy and the direction given by Member States and the implementing role given to the EU institution I attempt to analyze and compile the EU modes of governance through which the EU yields mechanisms of Europeanization in external actors, most notably candidate countries.

The term 'governance' which I use in here is the one used in the field of international relations most notably by Rosenau to introduce the idea of political order in the international realm under anarchy.¹⁵⁰ The actors

¹⁴⁹ See Freedom House, *Nations in Transit 2016*.

¹⁵⁰ J. N. Rosenau, E. O. Czempiel, *Governance Without Government: Order and Change in World Politics*, Cambridge, UK., Cambridge University Press, 1992.

interacting in the sphere of international politics bring about regulatory and persuasive policies that overcome the limits posed by anarchy. Institutionalization is part of this process and whenever the EU projects its formal rules and principles beyond the geographical scope of the Union, and thus expands its normative influence, the EU wields its governance.¹⁵¹

European governance and Europeanization are like the input and output of what the EU is and what the EU does. The EU exerts its regulatory policy affecting the conduct of “public and private actors across a great variety of integrated policy areas” which results to a certain degree of Europeanization understood “as the domestic impact of, and adaptation to, European governance”.¹⁵² The point of departure for the analysis is again the EU regulatory policy.¹⁵³

European governance, especially in the case of enlargement, exceeds the realm of voluntary adoption of the *acquis communautaire*, instead presupposes consistent coordinated efforts aiming at producing mutually accepted and binding agreements.¹⁵⁴ The EU follows its internal mechanisms to solicit europeanization namely hierarchy, market and network.¹⁵⁵ The EU is the promoter of its own model of

¹⁵¹ S. Lavenex and F. Schimmelfennig, “EU rules beyond EU borders: Theorizing external governance in European politics”, *Journal of European Public Policy*, vol. 16, no. 6, p. 794.

¹⁵² F. Schimmelfennig, “EU External Governance and Europeanization Beyond the EU”, in D. Levi-Faur, *The Oxford Handbook of Governance*, Oxford, Oxford University Press, 2012, p.1.

¹⁵³ G. Majone, *Evidence, Argument and Persuasion in the Policy Process*: New Haven, Yale University Press, 1989, p.167. As Majone points out, the relatively limited room for financial manoeuvre, with the lion's share of financial resources going on agriculture and development, means that the EU Commission will tend to safeguard its vested institutional interests by extending its regulatory rather than distributive policy powers (Eichener 1996). This does of course not imply, that Europeanization effects are restricted to EU regulatory policies. There are many other areas and mechanisms by which European integration exert adaptation pressure on domestic arrangements, including, for instance, territorial policy, regional policy, as well as cognitive impacts such as identity changes.

¹⁵⁴ Benz, “Entwicklung von Governance im Mehrebenensystem der EU“, in Ingeborg Tömmel (ed.), *Die Europäische Union. Governance und Policy Making VS Verlag*, Wiesbaden, 2008, pp. 36-57; R. Mayntz, “Governance Theory als fortentwickelte Steuerungstheorie?” in G. Folke Schuppert (ed.), *Governance-Forschung, Vergewisserung über Stand und Entwicklungslinien*, Baden-Baden, Nomos, 2005; F. Scharpf, *Interaktionsformen: Akteurszentrierter Institutionalismus in der Politikforschung*, Opladen, 2000.

¹⁵⁵ S. Lavenex and D. Lehmkuhl, (eds.) “Switzerland's flexible integration in the EU”, *Swiss Political Science Review*, vol. 15, no. 4, 2009, pp. 547-712.

regional integration funded on “intensive multilateralism”;¹⁵⁶ indeed, by power of example in contributing within international organizations advances the practice of multilateralism.¹⁵⁷ The EU draws on its own experience, also, when committing to peace and prosperity especially in its immediate neighbourhood.¹⁵⁸ Moreover, constitutional values of EU member states such as rule of law, democracy and human rights remain a fundamental point in the EU foreign policy agenda.¹⁵⁹

The EU has further supported these values by promoting development and doing so by contributing to the transnational markets’ regulation following a ‘neoliberal’ path of opening market opportunities and hence economic liberalization.¹⁶⁰ The EU regulatory framework has, thus, expanded its reach and with it the EU policy-making with the rules and norms which inform it.¹⁶¹

The European governance and its outputs in europeanization have been studied extensively within the framework of enlargement policy - in the words of the European Commission - is EU’s “most successful foreign policy”.¹⁶² The enlargement policy exemplifies the normative power and the the EU traction on candidate countries.¹⁶³

¹⁵⁶ W. Wallace, “Europe after the Cold War: Interstate order or post-sovereign regional system?”, *Review of International Studies* vol. 25, no. 5, 1999, pp. 201-223.

¹⁵⁷ K. V. Laatikainen and Smith, K. E., “Introduction. The European Union at the United Nations: Leader, partner or failure?”, in K. V. Laatikainen and K. E. Smith (eds.), *The European Union at the United Nations: Intersecting Multilateralisms*, Basingtoke, Palgrave, 2006, pp. 1-23.

¹⁵⁸ M. Farrell, “From EU model to external policy? Promoting regional integration in the rest of the world”, in S. Meuner and K. R. McNamara (eds.), *Making History: European Integration and Institutional Change at Fifty.*, Oxford, Oxford University Press, 2007, 299-315.

¹⁵⁹ I. Manners, “Normative power Europe: A contradiction in terms?”, *Journal of Common Market Studies* vol. 40, no. 2, 2002. pp. 235-258.

¹⁶⁰ S. R. Hurt, “Co-operation and coercion? The Cotonou Agreement between the European Union and ACP States and the end of the Lomé Convention”, *Third World Quarterly*, vol. 24, no.1, 2003. pp. 161-176.

¹⁶¹ G. Majone, (ed.), *Regulating Europe*, London, Routledge, 1996; J. Orbie, “A civilian power in the world? Instruments and objectives in European Union external policies”, in J. Orbie (ed.), *Europe’s Global Role*, Aldershot, Ashgate, 2008, pp. 1-33.

¹⁶² Commission of the European Communities, *Wider Europe – Neighbourhood: A New Framework for Relations with our Eastern and Southern neighbours*, COM(2003) 104 final, Brussels, 11.3.2003, p. 5

¹⁶³ H. Grabbe, *The EU’s Transformative Power: Europeanization Through Conditionality in Central and Eastern Europe*, New York, Palgrave Macmillan 2005; F. Schimmelfennig and U. Sedelmeier, *The Europeanization of Central and Eastern Europe*, Ithaca, N.Y., Cornell University Press, 2005.

Scholars have increasingly centred their attention to the candidate countries and the contextualised enlargement policy.¹⁶⁴ In doing so, they have distanced themselves from more traditional *parcours* in foreign policy analysis and have embraced the institutionalist component of the EU actorness.¹⁶⁵ The EU - seen under traditional analytical foreign policy lenses - has been criticized on many levels from lacking the operational mandate and competences, and dubbed incoherent and inconsistent in its foreign policy approach.¹⁶⁶

Nevertheless, the EU governance is understood as institution building, rules' projection and regulatory policies. This change of perspective is noticeable in a shift on the object of study. Contrary to the traditional state centric foreign policy analysis, the governance approach focuses on definite groups of norms and regulatory policies and their external projection.¹⁶⁷ On the EU realm scholars such as Héritier and Tömmel have understood the governance approach as a criticism of the supranational binding norms.¹⁶⁸ Beyond the EU, however, it has gained

¹⁶⁴ L. Friis, and A. Murphy, "The European Union and Central and Eastern Europe: Governance and Boundaries", *Journal of Common Market Studies* vol. 37 no. 3, 1999 pp. 211-232; H. Grabbe, *The EU's Transformative Power: Europeanization Through Conditionality in Central and Eastern Europe*, New York, Palgrave Macmillan 2005; F. Schimmelfennig and U. Sedelmeier, *The Europeanization of Central and Eastern Europe*, Ithaca, N.Y., Cornell University Press, 2005;

¹⁶⁵ S. Lavenex and F. Schimmelfennig, "EU rules beyond EU borders: Theorizing external governance in European politics", *Journal of European Public Policy*, vol. 16, no. 6, pp.792, 794.

¹⁶⁶ C. Hill, "The Capability-Expectations Gap, or Conceptualising Europe's International Role", *Journal of Common Market Studies* vol. 31, no.1, 1993, pp.305-328;

¹⁶⁷ S. Lavenex and F. Schimmelfennig, "EU rules beyond EU borders: Theorizing external governance in European politics", *Journal of European Public Policy*, vol. 16, no. 6, p. 794. This approach is closer to conceptualizations of the EU's international role that depart from the unitary foreign policy actor model and emphasize its "variable and multi-dimensional presence". See D. Allen, and M. Smith, "Western Europe's presence in the contemporary international arena", *Review of International Studies*, vol. 16, no.1, 1990, p. 20; See also C. Bretherton, and J. Vogler, *The European Union as Global Actor*, New York, Routledge, 2006 or its constitution as a "system of external relations" that is fragmented across pillars and levels of policy-making. See C. Hill, "The Capability-Expectations Gap, or Conceptualising Europe's International Role", *Journal of Common Market Studies* vol. 31, no.1, 1993, pp. 305-328. R. H. Ginsberg, "Conceptualizing the European Union as an International Actor: Narrowing the Theoretical Capability-Expectations Gap", *Journal of Common Market Studies*, vol. 37, no. 3, 1999, pp. 429-454. The external governance approach is one way of analyzing the effects of this fragmented multi-dimensional presence based on the projection of the *acquis communautaire*.

¹⁶⁸ A. Héritier, "New Modes of Governance in Europe: Policy-Making without Legislating?" in: A. Héritier (ed.), *Common Goods: Reinventing European and International Governance*, Rowman & Littlefield Publishers, Lanham, Md., 2002 pp. 185-206; Tömmel, Inge-borg (ed.), *Die Europäische Union. Governance und Policy Making VS Verlag*, Wiesbaden, 2008.

prominence for having extended EU authority.¹⁶⁹ Scholars like Michael Smith¹⁷⁰ and Sandra Lavenex¹⁷¹ have identified a spectrum of EU governance based on shifts in regulatory and organizational boundaries. Thus, “external governance takes place when parts of the *acquis communautaire* are extended to non-member states”.¹⁷²

These range from the adoption in full of the *acquis communautaire* to a more selective one. The enforcement of these agreements is proportional to the commitment adopted and goes from judicial and political enforcement to *bona fide* principle of conduct.

Indeed, “governance by conditionality” has been the means of projecting EU values, rules and regulations beyond its territory under the promise of future membership.¹⁷³ However, under Juncker Presidency of the EU Commission, the enlargement option seems less clear and the credibility of EU conditionality is at stake. In Juncker’s words “ongoing negotiations will continue, and notably the Western Balkans will need to keep a European perspective, but no further enlargement will take place over the next five years.”¹⁷⁴ It is time thus to explore as well other modes of Europeanization such as socialization or externalization vis-à-vis candidate countries.¹⁷⁵

¹⁶⁹ L. Friis, and A. Murphy, “The European Union and Central and Eastern Europe: Governance and Boundaries”, *Journal of Common Market Studies* vol. 37 no. 3, 1999 pp. 211-232; S. Lavenex, EU “External Governance in ‘Wider Europe’”, *Journal of European Public Policy* vol. 11, no. 4, 2004, pp. 688-708; S. Lavenex, “A Governance Perspective on the European Neighbourhood Policy: Integration Beyond Conditionality?”, *Journal of European Public Policy* vol. 15 no.6, 2008, pp. 938-955; K. Weber, M. Smith, and M. Baun, (eds.), *Governing Europe’s Neighbourhood. Partners or Periphery?* Manchester, Manchester University Press, 2007.

¹⁷⁰ M. Smith, “The European Union and a changing Europe: Establishing the boundaries of order”, *Journal of Common Market Studies*, vol. 34, no. 1, 1996, pp. 5–28.

¹⁷¹ S. Lavenex, EU “External Governance in ‘Wider Europe’”, *Journal of European Public Policy* vol. 11, no. 4, 2004, pp. 688-708; S. Lavenex, “A Governance Perspective on the European Neighbourhood Policy: Integration Beyond Conditionality?”, *Journal of European Public Policy* vol. 15 no.6, 2008, pp. 938-955.

¹⁷² S. Lavenex, EU “External Governance in ‘Wider Europe’”, *Journal of European Public Policy* vol. 11, no. 4, 2004, p. 691

¹⁷³ F. Schimmelfennig and U. Sedelmeier “Governance by conditionality: EU rule transfer to the candidate countries of Central and Eastern Europe”, *Journal of European Public Policy* vol. 11 no. 4: 2004, pp. 661-679.

¹⁷⁴ J. C., Juncker, *A New Start for Europe: My Agenda for Jobs, Growth, Fairness and Democratic Change*, 2014, p. 11.

¹⁷⁵ F. Schimmelfennig and U. Sedelmeier, *The Europeanization of Central and Eastern Europe*, Ithaca, N.Y., Cornell University Press, 2005.

2.3.2 Mechanisms of Europeanization

Direct modes of Europeanization are those in which the EU proactively projects its model, its regulatory policies and norms beyond its borders.¹⁷⁶ On the other hand indirect modes of europeanization occur as either the result of a proactive role of third parties or the EU just by 'being' causes casual externalities.¹⁷⁷ The logic of consequence following the rational paradigm foresees that europeanization occurs by means of introducing benefits that mold actors' utility considerations and preferences.¹⁷⁸ On the other hand the logic of appropriateness maintains that Europeanization comes as a result of the exposure to the EU model, its rules and norms, which by virtue of their recognized legitimacy command the alignment of external actors.¹⁷⁹

The EU proactively projects its model, its regulatory policies and norms beyond its borders by setting them as conditions for external actors to be met so that to be entitled to benefits and not face sanctions. The benefits under the EU conditionality package include market access, membership prospects and financial and development aid. On the other hand, possible sanctions include withdrawal of such benefits or prolonged delay in obtaining such benefits in the first place.

This exchange in the form of *do ut des* is based on formal binding agreements hence the provision of the carrot and the stick where compliance is rewarded and any infringement strictly sanctioned. The authority originating from these agreements would not be enforceable without the consent of the subjects, the external parties.¹⁸⁰ Indeed, the impact of Europeanization is far more noticeable when its domestic adaptation appears to be more likely such as in cases where European

¹⁷⁶ F. Schimmelfennig, "EU External Governance and Europeanization Beyond the EU", in D. Levi-Faur, *The Oxford Handbook of Governance*, Oxford, Oxford University Press, 2012, p. 3.

¹⁷⁷ F. Schimmelfennig, "EU External Governance and Europeanization Beyond the EU", in D. Levi-Faur, *The Oxford Handbook of Governance*, Oxford, Oxford University Press, 2012, p. 3.

¹⁷⁸ F. Schimmelfennig and U. Sedelmeier "Introduction: Conceptualizing the Europeanization of Central and Eastern Europe" in F. Schimmelfennig and U. Sedelmeier (eds.), *The Europeanization of Central and Eastern Europe*, Ithaca, NY, Cornell University Press, 2005, pp.1-28.

¹⁷⁹ J. G. March, and J. P. Olsen, *Rediscovering Institutions: The Organizational Basis of Politics*, New York, Free Press, 1989.

¹⁸⁰ Tömmel, Inge-borg (ed.), *Die Europäische Union. Governance und Policy Making VS Verlag*, Wiesbaden, 2008, p. 26

policies “imply incremental rather than fundamental departures from existing arrangements at the domestic level.”¹⁸¹

This hierarchical relationship presupposes an asymmetric power exerted by one of the parties. Norms, values and regulatory policies have to be adopted in full, as discussed in the previous sections, external actors do not have an opportunity to negotiate these terms. Schimmelfennig and Sedelmeier underline that clarity on the modes of enforcement pertaining to a hierarchical relationship are at the foundations of a top down reform process build on external incentives.¹⁸² Other authors have referred to these modes of foreign policy and externalities as “compulsory impact”¹⁸³ or “compliance”¹⁸⁴ or simply of ‘positive’ integration.¹⁸⁵

Conditionality as a mode of Europeanization is proportionally compelling to the benefits found under the EU package, the credibility of its processes and the enforcement of norms. Thus it is dependent on the EU material power and its capability to wave it strategically. Its material power is based on its market power, which is instrumental in obtaining leverage by developing and consistently enforcing linkages between market access and strengthening rule of law and human rights.¹⁸⁶ Additionally, the sacrifices to be sustained by third countries should be outweighed by benefits coming with alignment.¹⁸⁷ In the history of enlargement credibility has been dependent on the consistent

¹⁸¹ C. Knill and D. Lehmkuhl, “How Europe Matters: Different Mechanisms of Europeanization”, *European Integration online Papers*, vol. 3, no.7, 1999, p. 8.

¹⁸² F. Schimmelfennig and U. Sedelmeier “Governance by conditionality: EU rule transfer to the candidate countries of Central and Eastern Europe”, *Journal of European Public Policy* vol. 11 no. 4: 2004, pp. 664-665; F. Schimmelfennig and U. Sedelmeier (eds.), *The Europeanization of Central and Eastern Europe*, Ithaca, NY, Cornell University Press, 2005, pp.1-28.

¹⁸³ T. Diez, S. Stetter, M. Albert, “The European Union and Border Conflicts: The Transformative Power of Integration”, *International Organization*, vol. 60, no. 3, 2006, pp. 572-573.

¹⁸⁴ M. Bauer, C. Knill, D. Pitschel, “Differential Europeanisation in Eastern Europe: The Impact of Diverse EU Regulatory Governance Patterns”, *Journal of European Integration* vol. 29, no. 4, 2007, pp. 405-23.

¹⁸⁵ F. W. Scharpf, *Governing in Europe. Effective and Democratic*, Oxford, Oxford University Press, 1999; F. W. Scharpf, *Mehrebenenpolitik im vollendeten Binnenmarkt*, MPIFG Discussion Paper 94/4, Köln, Max-Planck Institut für Gesellschaftsforschung, 1994; P. Taylor, *The Limits of European Integration*, London, Croom Helm, 1983.

¹⁸⁶ S. Lavenex, “The Power of Functionalist Extension: How EU Rules Travel”, *Journal of European Public Policy*, vol. 21, no. 6, 2014, p. 889.

¹⁸⁷ F. Schimmelfennig, “EU External Governance and Europeanization Beyond the EU”, in D. Levi-Faur, *The Oxford Handbook of Governance*, Oxford, Oxford University Press, 2012, p. 3.

reference and applicability of conditionality throughout the process and by means of power on the side of EU to deliver on its promises upon external actors meeting the requested conditions.¹⁸⁸

The traditional analysis of foreign policy focuses onto conditionality as the main path to inducing europeanization. To be noted, these conditions set and agreed by the parties are not strictly political but purportedly hold a legal relevance enforceable through the European Court of Justice, cognizant of possible limits posed by extraterritoriality.¹⁸⁹ Especially before the case of transposition of the *acquis communautaire* the EU internal legal authority is extended outside EU territory.¹⁹⁰

Socialization condenses all persuasive efforts of the EU vis-à-vis external actors where its model, norms and rules are valid and legitimate. This direct mode of Europeanization under the logic of appropriateness is increasingly effective if it fits with the domestic conditions of external actors, which identify with the EU model and its values and under premises of a relationship between equals are further strengthened by consistent exchanges.¹⁹¹ Indeed early cross-national research focusing on EU governance concluded that results differ depending on the mode of Europeanization and on the domestic realities it is applied to.¹⁹²

¹⁸⁸ F. Schimmelfennig and U. Sedelmeier “Introduction: Conceptualizing the Europeanization of Central and Eastern Europe” in F. Schimmelfennig and U. Sedelmeier (eds.), *The Europeanization of Central and Eastern Europe*, Ithaca, NY, Cornell University Press, 2005, pp.1-28.

¹⁸⁹ J. Scott, “Extraterritoriality and territorial extension in EU law”, *American Journal of Comparative Law*, vol. 62, no. 1, 2014, pp. 87–125.

¹⁹⁰ Confront with S. Lavenex, “The Power of Functionalist Extension: How EU Rules Travel”, *Journal of European Public Policy*, vol. 21, no. 6, 2014, p. 890. The author considers ‘Legal Authority’ to be a direct mode of Europeanization on par with conditionality.

¹⁹¹ J. T. Checkel, “Why comply? Social learning and European identity change”, *International Organization* vol. 55, no.3, 2001, pp. 553-588.

¹⁹² T. A. Börzel, *The Domestic Impact of Europe. Institutional Adaptation in Germany and Spain*, PhD thesis, European University Institute, Florence, 1999; C. Knill, and A. Lenschow, “Coping with Europe: the impact of British and German administrations on the implementation of EU environmental policy”, *Journal of European Public Policy*, vol. 5, no. 4, 1998, pp. 595–14; C. Knill, “European Policies: The Impact of National Administrative Traditions”, *Journal of Public Policy*, vol. 18, no.1, 1998, pp. 1–28; D. Lehmkuhl, *The Importance of Small Differences. The Impact of European Integration On Road Haulage Associations in Germany and the Netherlands*, The Hague, Thela Thesis, 1999.

These exchanges are based not as much in finding policy solutions than in clear directions, that were agreed upon and govern their relationship.¹⁹³ This relationship develops by means of negotiating and bargaining.¹⁹⁴ In terms of EU governance vis-à-vis external actors, Europeanization occurs by means of a consistent horizontal coordination of rules and norms.¹⁹⁵ A definite depart from the hierarchical mode of conditionality, this mode of Europeanization is concerned with questions of 'whether' and 'to which extent' do external actors comply. It is concerned with paving the way for wider policy reforms.¹⁹⁶

Externalization as a mode of Europeanization occurs indirectly affecting preferences of external actors either as a result of their proactive role in adopting EU rules and norms or by virtue of the EU "presence" which may cause casual externalities.¹⁹⁷ Moreover, given the scope of EU integration, market size and EU institutional power the cost of deviating from such rules and norms would be high.¹⁹⁸ The key trigger for externalization to occur is 'competition' which provides an institutionalized regulatory framework of interaction between various actors. The regulatory framework depends on mutual recognition of demand and supply of goods and services in the Single Market, which leads to a voluntary adoption of market regulation.¹⁹⁹

¹⁹³ Benz, "Entwicklung von Governance im Mehrebenensystem der EU ", in Inge-borg Tömmel (ed.), *Die Europäische Union. Governance und Policy Making VS Verlag*, Wiesbaden, 2008, pp. 36-57;

¹⁹⁴ T. Börzel, "European Governance – Verhandlungen und Wettbewerb im Schatten der Hierarchie", in Inge-borg Tömmel (ed.), *Die Europäische Union. Governance und Policy Making VS Verlag*, Wiesbaden, 2008, p. 65

¹⁹⁵ A. Magen, "The *Acquis Communautaire* as an Instrument of EU External Influence", *European Journal of Law Reform*, vol. 9, no.3, 2007, p. 365.

¹⁹⁶ C. Knill and D. Lehmkuhl, "An Alternative Route of European Integration: The Community's Railway Policies", *West European Politics*, vol.23, no.1, 2000, pp. 65-88.

¹⁹⁷ D. Allen, and M. Smith, "Western Europe's presence in the contemporary international arena", *Review of International Studies*, vol. 16, no.1, 1990, pp. 19-39.

¹⁹⁸ D. Bach, and A. L. Newman, "The European regulatory state and global public policy: Micro-institutions, macro-influence", *Journal of European Public Policy*, vol. 14, no.6, 2007, pp. 827 - 846.

¹⁹⁹ Benz, A. "Entwicklung von Governance im Mehrebenensystem der EU ", in Inge-borg Tömmel (ed.), *Die Europäische Union. Governance und Policy Making VS Verlag*, Wiesbaden, 2008, p. 46; S. Schmidt, "Mutual recognition as a new mode of governance", *Journal of European Public Policy*, vol.14, no. 5, 2007, pp. 800-813.

Imitation is an indirect mode of Europeanization in which external actors identify with the EU values and under the premise of the logic of appropriateness, adopt those in an attempt to provide solutions to own problems. Emulation, contrary to socialization occurs without a purposeful action on the side of EU.²⁰⁰

2.3.3 Conclusion

In the review above I enlist the EU modes and rules of governance and their domestic impact resulting in different degrees of Europeanization. Ultimately with the aim to delineate the scope of Europeanization in candidate countries, and pave the theoretical ground for the empirical observations in the case of Albania.

At the centre of the matter remains the EU regulatory policy and the comprehensive strategy for enlargement, we referred to in the previous section, that results in binding agreements. The EU has founded these agreements after its own practices such as multilateralism, its own democratic values, and its recent history of fostering peace and prosperity. Increasingly the EU has used its internal mechanisms of hierarchy, market access and networks to achieve this.

The governance approach has been seen under different angles by scholars as I illustrate above, however it is undeniable that it has been a clear tool to extend EU authority. The EU has projected its model to external actors dangling carrots as incentives of compliance. The sanctions, however possible, are as usual subject to political considerations.

The hierarchical relationship formed throughout repeated interactions in time that in the case study in hand, I argue the modes of enforcement or compliance are ever so blurry in presence of lesser incentives and greater alternatives with lesser strings attached available to gatekeeper elites. Conditionality, as a means to Europeanization, in the case study of this thesis, is thus put into question. Even more so, when in the stage of candidate status, aspiring countries have already access to EU

²⁰⁰ F. Schimmelfennig, "EU External Governance and Europeanization Beyond the EU", in D. Levi-Faur, *The Oxford Handbook of Governance*, Oxford, Oxford University Press, 2012, p. 3.

market. Which are then the options left the EU has to incentivize rule of law and human rights? Credibility of the process driven by conditionality alone has been undermined, as mentioned, by a high politicisation of enlargement and inability to guarantee the desired result of membership. The costs of non-compliance to be paid by the gatekeeper elites do not outweigh benefits they garner by alternative means.

I argue that in the case of Albania, the mode of Europeanization in the country is that of socialization, to the degree that it fits with the domestic conditions in the country. For the reasons outlined above, the relationship between the EU and a candidate country is one between equals, given the current internal and political predicaments of the EU and power to deliver on an already vague commitment. The relationship between the EU and a candidate country develops throughout their interactions where both parties come to have a clear understanding of the direction taken by their relation. I maintain thus, that the questions with which in this case study are 'whether' and 'to which extent 'does Europeanization occur in Albania. A deeper evaluation on its results in Albania will be done in the chapters ahead.

Chapter 3

The politics behind enlargement

Ever since the end of the '90 enlargement policy towards the Western Balkans has been that of “securitization” where it was considered that the region required an extraordinary political heavylifting.¹ In 2014, with the leadership of Jean-Claude Juncker at the European Commission, the position maintained by the EU towards the region was spelled out, not unreasonable or unrealistic given that none of the candidate countries would have been ready before 2019. However, the stance has largely been interpreted as a halt to enlargement and possibly a disengagement from the region where Europeanization was left largely in autopilot. The EU is battling with the migrant crisis and that of Brexit which as I will show make for the most prominent concerns among citizens. In the matters of security and the support in facing the migrant crisis the Western Balkans countries acquired newfound attention on the part of the EU. What is the relevance the region acquires before an ever changing multilateralism? The pillars informing the Berlin Process agenda hint to the geo-economic value the region has for the EU, be that in inviting cooperation for forming a regional market, with particular attention given to connectivity and energy projects. My argument is that the diplomatic exercise cannot make up for lacking in policy engagement.

3.1 Juncker's European Commission Presidency

In 2014 the provisions of Article 17 (7) TEU, for the first time, were applied in an attempt to bring more legitimacy to the work of the

¹ A. Higashino, “For the sake of 'peace and security'? The role of security in the European Union enlargement eastwards”, *Cooperation and Conflict*, vol. 39, no. 4, 2004, pp. 349-350.

European Commission (EC) and to the whole EU decision making process. Indeed, prior to the European Parliament elections, political parties were asked to nominate their candidates for the EC presidency (or “Spitzenkandidat”), the candidate of the political party winning the most seats was going to be nominated by the European Council with a qualified majority vote.² The EC President, for the first time, received a direct democratic legitimacy and was hence invested with an opportunity to lead politically the Commission *in solidum* with the appointed Commissioners putting forth the general interest of the Union.³

Mr. Jean-Claude Juncker elected pursuant rule 117 of European Parliaments Rules of Procedure that states “the President shall request the candidate to make a statement and present his or her political guidelines to Parliament” had all intentions to lead a political Commission. In this line, he introduced his program “A New Start for Europe: My Agenda for Jobs, Growth, Fairness and Democratic Change” in which Mr. Juncker acknowledged the financial difficulties and the severe hit accused by the EU following the on-going crisis which risk undoing “decades of European integration”.⁴ Mustering his long experience in public service within the EU bubble, Mr. Juncker had understood the need of focus in a Union that cannot afford being “often ill-prepared” in face of “global challenges”.⁵ The divide between the Europeans and the EU institutions is evident, “[o]ne has to be really deaf and blind not to see this”.⁶

In view of this newfound democratic legitimacy and opportunity to lead a political Commission, it is necessary to analyze the content of Juncker’s political guidelines and its meaning for enlargement countries

² While according to Article 214 (2) TEC the European Parliament “approved” the EC candidate for President with the Treaty of Lisbon Article 17 (7) TEU the European Parliament “elect[s]” the candidate introducing thus a political accountability between Parliament and EC. With the Treaty of Nice introduced a major change in the decision-making process of the European Council as it waived the requirement of unanimity and instead introduced that of qualified majority, abolishing *de facto* the veto power that each Member State previously had on a given candidate.

³ See J.C., Juncker, *State of the Union 2015: Time for Honesty, Unity and Solidarity*, 09 September 2015, Strasbourg, France.

⁴ J.C., Juncker, *A New Start for Europe: My Agenda for Jobs, Growth, Fairness and Democratic Change*, 2014, p. 3.

⁵ *Ibid.*

⁶ *Ibid.*, p. 17.

and for the purpose of this thesis, the meaning it has for the Western Balkans and more specifically for Albania who obtained the candidate status around the same time of the EP elections, in June 2014. My argument is that Juncker's political clout allowed him to put in words - at an especially critical time for Europe – the position maintained by the EU towards the Western Balkans. Indeed, Juncker's declaration underscores a vague commitment on part of the EU to assist Europeanization of the Western Balkans that coupled with past actions may only inform steps and prospects for the future of the gatekeeper elites in these countries.⁷ Indeed, the EU vague commitment is evident in the “paradox [where] the process seems to approach realization [without] a calendar” may push the domestic actors to hold on short-term achievable goals that allow them to present themselves as bearer of concrete results on election dates.⁸

Given, the EU's behavior vis-à-vis the Western Balkans in the context of enlargement, domestic actors are straining on the leash to “create an uneven playing field” and obtain “cooperative behaviour from critics” effectively consolidating a competitive authoritarian regime.⁹ Simon Mordue, Director for Strategy and Turkey in European Commission, DG Near remarked that in the enlargement countries “there is not a cross party consensus in working toward the EU agenda”.¹⁰ In the name of stability, the EU will continue to deliver concessions, even if unsatisfied with the degree of progress in key reform areas. Thus gatekeeper elites will do just enough to get ahead of the curve. EU continuing to engage, as a Senior diplomat of an EU Member State in Tirana admits “what other choice do we have?”.¹¹

All the while, Mr. Juncker confirmed that his efforts would be directed at “restor[ing] European citizens' confidence” focusing on achieving concrete results on key policy areas.¹² These ranged from focusing on

⁷ Snyder, *op.cit.*, p. 474.

⁸ M. Bregu, Albanian Parliament, Chairman of the Committee for EU Integration, EPC, Policy Dialogue, “EU Enlargement to the Balkans: The role of the member states”, Brussels, Belgium, 29 September 2015.

⁹ Levitsky and Way, *op.cit.*, p. 53.

¹⁰ S. Mordue, Director for Strategy and Turkey in European Commission, DG Near, EPC, Policy Dialogue, “EU Enlargement to the Balkans: The role of the member states”, Brussels, Belgium, 29 September 2015.

¹¹ Senior Diplomat, EU Member State, Block of Embassies, interview, Tirana, 02 February 2017.

¹² Juncker, *A New Start for Europe op.cit.*, pp. 3-4.

enhancing a positive environment for entrepreneurship with the view to vigorously facilitate growth and more jobs; promoting and facilitating the “digital single market”; strategise and diversify energy supplies with “a new European Energy Union”; focusing on relaunching and utilizing in its fullest the potential of the EU internal market which cannot fully be developed without “[a] deeper and [f]airer Economic and Monetary Union”. These priorities could be summed up with bringing about more “Europe in this Union” and summoning more “Union in this Union” inevitably, thus, putting the EU first, and adopt an inward-looking approach.¹³

“For the European Union, and for my Commission in particular, this means two things: first, investing in Europe's sources of jobs and growth, notably in [the] Single Market; and secondly, completing our Economic and Monetary Union to creating the conditions for a lasting recovery.”¹⁴

Following a careful consideration of the above, one cannot dismiss that security within the EU - fighting organized crime and terrorism and guaranteeing fundamental rights - is essential to enjoy the prosperity and opportunities in a renewed environment of democracy and a more effective and responsive common foreign policy.¹⁵ Evidently, the once most successful foreign policy of the EU, enlargement, does not appear to be among Mr. Juncker's political priorities. In addition, the reshuffling and change in the name of the portfolio of ‘EU Commissioner for EU Neighbourhood Policy and Enlargement Negotiations’ further underlines a departure from enlargement being a *priority* policy to a negotiation exercise for the Union.

On one hand, Mr. Juncker has acknowledged the successes of the enlargement policy in uniting Europe, nonetheless, he believes that it is time “to take a break from enlargement so that we can consolidate what has been achieved among the 28” thus “under [his] Presidency of the Commission, ongoing negotiations will continue, and notably the Western Balkans will need to keep a European perspective, but no further enlargement will take place over the next five years.”¹⁶

¹³ Juncker, *State of the Union 2015*, *op.cit.*

¹⁴ *Ibid.*

¹⁵ Juncker, *A New Start for Europe op.cit.*, pp. 6-12.

¹⁶ *Ibid.*, p. 12.

There is a need to “anticipate events” and to “identify common responses”, and doing so “in partnership between the Union institutions and the Member States, in line with the Community method”.¹⁷ However, in business as usual fashion of negotiations in Brussels, EU priorities not necessarily match those of Western Balkan people’s, at least, in the exercise of giving and taking just enough, so that no adverse foreign policy developments may ensue. Instability in the Western Balkans would be a detriment to complying with many priorities set in Juncker’s political guidelines. Especially as the internal and external challenges the Union faces have proven to require Western Balkans’ cooperation and alignment with the EU priorities. I concede that focus on key policies is certainly necessary; nonetheless, concrete results cannot be delivered with an inward approach where minimal foreign policy efforts are put on the EU’s doorstep which comprises enlargement as well as neighbourhood countries. Rather, I argue that the solution may only be found through a truthful evaluation of the weight of the Western Balkans in the Union both in the present and for the future, by turning away from business as usual and appeasement of petty demands of domestic elites. It is essential that the EU embraces its revolutionary potential and restores the rules - which had been distorted - in the Brussels negotiation tables. The future of 18 million people in the Western Balkans cannot serve as a currency to pay for stability and *status quo*.

3.1.1 Eurobarometer

The latest Eurobarometer of May 2016, brings to the fore that the economic situation remains a top concern together with unemployment taking the third and fifth place at EU level respectively.¹⁸ However, since 2011 the mentions of economic situations as a concern for the EU have decreased by 40%. Security is the top concern with migration and terrorism mentioned respectively by 48% and 39% of Europeans interviewed.¹⁹

¹⁷ *Ibid.*, pp. 11,13.

¹⁸ European Commission, *Standard Eurobarometer 85, Wave EB85.2, Spring 2016, Report European Citizenship*, May 2016, pp. 6, 8.

¹⁹ European Commission, *Standard Eurobarometer 85, Wave EB85.2, Spring 2016, Report European Citizenship*, May 2016, p. 4.

At national level within the Member States, concern over unemployment remains high at 33% and since 2012 has been the highest issue of concern and has seen only an 18% improvement since 2013.²⁰

Europeans put at the first place of their personal concerns rising prices and inflation, costs of living marked by 26% of them.²¹ Followed by pensions mentioned by 16% and health and social security marked by 15% of respondents.²² Household financial situation and unemployment are, with 15% and 14%, at the fourth and fifth position on Europeans personal concerns.²³

As far as it goes to the level of trust Europeans place in the EU, only 33% answer affirmatively, while trust in their national parliament is at a bare 28% and trust in their government gathers only 27% of positive answers. Nonetheless, since 2015 the proportion of Europeans trusting the national institutions has risen, with 65% trusting the national parliament and 68% trusting their government but the proportion of Europeans trusting the EU remains at a meagre 45%.²⁴

The hope on a positive future for the European Union is maintained by 50% of Europeans, which has reached its lowest levels since 2013 Eurobarometer, which used to gather 53% of affirmative answers.²⁵

Economic situation and unemployment - as above - are among top concerns for Europeans where 47% believe “the worst is still to come” and other 41% believe that “the impact of the crisis on jobs has already reached its peak”. The optimism among Europeans has reached the lowest point since 2013.²⁶ The free movement of people, goods and services within the EU and peace among Member States of the EU

²⁰ European Commission, *Standard Eurobarometer 85, Wave EB85.2, Spring 2016, Report European Citizenship*, May 2016, p. 8.

²¹ European Commission, *Standard Eurobarometer 85, Wave EB85.2, Spring 2016, Report European Citizenship*, May 2016, p. 13.

²² *Ibid.*

²³ *Ibid.*

²⁴ *Ibid.*, p. 14.

²⁵ European Commission, *Standard Eurobarometer 85, Wave EB85.2, Spring 2016, Report European Citizenship*, May 2016, p. 19.

²⁶ European Commission, *Standard Eurobarometer 85, Wave EB85.2, Spring 2016, Report European Citizenship*, May 2016, p. 24.

attracts 56% and 55% of Europeans consents as successes achieved by the EU.²⁷

3.1.2 Concurring Issues

3.1.2.1 Migration crisis

Referring to the public opinion above, and key concerns and challenges faced at the EU level among which immigration and terrorism are key issues, one cannot deny that part of the solution (or problem dependent upon how it is managed) are the Western Balkans. As an EU expert on organized crime recalls “security within the EU it is closely linked with the fight of organized crime and terrorism in the Western Balkan countries”.²⁸ The region’s proximity to the EU makes of it a buffer zone and it has proven an ally in managing the migration crisis.²⁹ In the words of Stefan Gehrold, Director of the Konrad Adenauer Stiftung (KAS) European Office:

“With the term Balkans route and images of thousands of refugees crossing the countries of the region, the Balkans returned to Europe’s headlines and gained public attention worldwide [...they] became the primary transit route for refugees towards the West and therefore they’ve been affected with unforeseen political, humanitarian and organisation challenges.”³⁰

Indeed, for the first time in decades, the Western Balkans imported a crisis that was not theirs, as refugees crossed from an EU Member State Greece to a non – Member State such as the Former Yugoslav Republic of Macedonia to Serbia onto other EU Member States. Following several interviews with the well-informed technocrats in the

²⁷ European Commission, *Standard Eurobarometer 85, Wave EB85.2, Spring 2016, Report European Citizenship*, May 2016, p. 39.

²⁸ EU Expert on organized crime, Albanian State Police Directorate, interview, Tirana, 19 July 2016.

²⁹ See Juncker, *A New Start for Europe op.cit.*, p. 10.

³⁰ S. Gehrold, Director of the Konrad Adenauer Stiftung (KAS) European Office, Friends of Europe, “Balkan Partnerships: Strengthening the Regions’ ties”, Brussels, 16 February 2016.

Brussels bubble, I understood that the EU had long considered all the options, including paying court to all possible players. Brussels has hosted a number of high level meetings regarding the migration crisis, most notably, the Valetta summit focused on the cooperation with third countries (Africa) and a Meeting on the Western Balkans Migration Route where the EU and Western Balkans' leaders agreed on 17-point plan of action.³¹ It appears to be a programmatic document with a declaratory commitment as the Western Balkan countries pledge to respond "temporar[ily]" to refugee needs, reiterate their commitment to exchange informations that are nonetheless dependent on limited capacities of national authorities.³² Moreover, this 17 point plan and in line with international refugee law, allows national authorities to refuse entry to any national "who do not confirm a wish to apply for international protection".³³ Notably refugees consider the Western Balkans as a transiting route towards the wealthier EU. Hence, according to sources in Brussels, Albania, as early as October 2015 was considered, an option in the Balkan route: to re-direct the influx of refugees in the Adriatic.³⁴

All the while Italy and Greece continue suffering a huge pressure - as entry points for migrants originating from the Middle East. The European Council agreed to relocate an amount of 40.000 persons to be distributed amongst different Member States.³⁵ The Dublin Regulations – the European legal framework on asylum - is under strain as it no longer responds in an efficient manner to the needs of EU Member States but also of asylum seekers. The crisis has been depicted as one that had torn the EU apart:

"not only several countries bear the burden of the system
- Greece, Italy as entry points and Germany, Austria and
Sweden as final destinations - but also the deadlines to

³¹ See European Council, "Valletta Summit on migration", 11-12 November 2015; Leaders' Statement, Leaders' Meeting on refugee flows along the Western Balkans Route.

³² High Official, Albanian State Police, interview, Tirana, 06 December 2016.

³³ See European Council, "Valletta Summit on migration", 11-12 November 2015; Leaders' Statement, Leaders' Meeting on refugee flows along the Western Balkans Route.

³⁴ Officials, the EU, interviews - EC DG Migration and Home Affairs, the Council of European Union Foreign Affairs C.11 Working Party on the Western Balkans Region, European Parliament DG for External Policies of the Union 15 09 2015 – 15 February 2016.

³⁵ European Commission, *Relocation and Resettlement: EU Member States urgently need to deliver*, Press Release, Brussels, 16 March 2016.

get an application processed are slow and also it entailed many dramatic family separations.”³⁶

In the case of the Western Balkans instead, this crisis has been dubbed an opportunity, Commissioner Hahn agreed that “[t]his crisis has opened the window, in the way that much more people, politicians, are looking to the Western Balkans”.³⁷ Underlining that the “commitment to EU enlargement, and to the conditions it involves, is therefore a long-term investment in Europe's own security and prosperity” highlighting the need for an “increased cooperation” towards which the EU remains invested.³⁸ Nonetheless, in an EU – Western Balkans gathering, Ivan Korcok, Slovak State Secretary for Foreign and European Affairs warned that the EU once again may send mixed messages to “the Western Balkans, who are subject to very strong criteria if they want to make progress towards the EU” while the EU itself is “starving for stability”.³⁹

In calling out the vagueness of the EU politics, Albanian Minister of Foreign Affairs, Ditmir Bushati demanded “more certainty and more clarity” when referring to the Western Balkans enlargement process and “a little bit more soul and political determination coming from the European Union, because there is a feeling that we are being called on in times of crisis [...] we need to also discuss, with a little bit more of a strategic tone, the near future of our relations.”⁴⁰

Shada Islam, Director of Policy at Friends of Europe, in line with the argument I build across this thesis, reminds that the process is “two-way street” and a ‘double level game’ where all the parties involved have to show a “degree of determination” on Europeanization.⁴¹

³⁶ EU Official, Expert on Migration, interview, Brussels, 03 December 2015.

³⁷ J. Hahn, EU Commissioner, European Neighbourhood Policy and Enlargement Negotiations, Friends of Europe, “Balkan Partnerships: Strengthening the Regions’ ties”, Brussels, 16 February 2016.

³⁸ European Commission, Press Release, “Western Balkans and Turkey: enlargement process key to strengthened economic and political stability in the region”, Brussels, 10 November 2015.

³⁹ I. Korcok, Slovak State Secretary for Foreign and European Affairs and Plenipotentiary of Slovakia's Presidency of the Council of the EU, Friends of Europe, “Balkan Partnerships: Strengthening the Regions’ ties”, Brussels, 16 February 2016.

⁴⁰ D. Bushati, Albanian Minister of Foreign Affairs, Friends of Europe, “Balkan Partnerships: Strengthening the Regions’ ties”, Brussels, 16 February 2016.

⁴¹ S. Islam, Director of Policy at Friends of Europe, Friends of Europe, “Balkan Partnerships: Strengthening the Regions’ ties”, Brussels, 16 February 2016.

In this context, it was reported that Ms. Federica Mogherini, EU High Representative for Foreign Affairs and Security Policy visited Albania in early March 2016 to discuss the country's progress on the path of EU integration and praised Albania for its constructive stance in the region and for "fully aligning its foreign policy with that of the EU".⁴² Ms. Mogherini as well commended the country's "contribution in facing [the Union's] security challenges".⁴³ Thereafter, Minister Bushati and Ms. Mogherini signed on behalf of the Council of Ministers of the Republic of Albania and the European Union respectively, the Agreement on security procedures for exchanging and protecting classified information.⁴⁴ The signing of this agreement was done at the time when refugees were crossing from Greece into the region to reach northern EU member states. In the Western Balkans, the former Yugoslav Republic of Macedonia has been among the countries directly affected by the crisis. The increased tensions rising at the border of Greece and the former Yugoslav Republic of Macedonia lead a closure of the Balkans route, with Serbia as well closing its borders. Arguably the decision to close the border between Greece and the former Yugoslav Republic of Macedonia had come as a result of the then imminent parliamentary election which were then postponed to December 2016. It all warned that the migrant crisis had well gotten out of hand.⁴⁵ Subsequently, Mr. Tahiri, Albanian Minister of Interior, had mentioned the existence of a contingency plan should there be a need to open the border to refugees.⁴⁶

On one hand, the cooperation and readiness shown by the region has made a case for arguing the 'ally' card in addition to that of 'stability' and prompting technocrats in Brussels to (re)consider the success of enlargement policy. However, as regards to migration and progress - or

⁴² Ministry of Foreign Affairs Albania, Press Release "EU High Representative Federica Mogherini visits Tirana", 05 March 2016.

⁴³ *Ibid.* See collaboration between Albania and the EU in the field of security, Minister Bushati and High Representative Mogherini signed the 'Agreement between the European Union and the Council of Ministers of the Republic of Albania on security procedures for exchanging and protecting classified information.

⁴⁴ Ministry of Foreign Affairs Albania, Press Release "EU High Representative Federica Mogherini visits Tirana", 05 March 2016.

⁴⁵ Sinisa Jakov Marusic, "Macedonia MPs Vote to Delay June 5 Elections", *Balkan Insight*, 18 May 2016.

⁴⁶ Edison Kurani, "Avramopoulos for the refugee crisis: "Albania will not be on its own in this", *Independent Balkan News Agency*, 18 March 2016.

lack thereof - in getting ever closer to the EU, it is telling that in 2014, the same year Albania was granted the candidate status and Juncker's political leadership of the European Commission would mark a halt in enlargement, Albanian citizens made for 16,950 asylum applications to the EU. The asylum application toward the EU would reach 67,950 in 2015 and at the end of 2016 Albanian citizens would have filed 20,650 asylum applications to the EU.⁴⁷ On the other hand, can the EU focus on Western Balkans on the face of refugee crisis? In the words of Simon Mordue, "if anything, [Europe was] reminded about the importance to move forth with the shaping and forming stability in our neighbourhood."⁴⁸ The *sudden* reminder that the EU project cannot be complete without the integration of the Western Balkans might result shocking for 'euro-skeptics' and those suffering from a 'chronic' enlargement fatigue.⁴⁹

The EU and the Western Balkans are having an arranged marriage and will have to make it work. Much will depend on the way the EU will choose to maintain and strengthen the links with the region. Key in achieving this will be an optimistic outlook in accepting flaws that were - and some would argue still are - common to the region and the EU. It is time to show more, more in terms of structural funds to support these candidates and potential candidates in getting ever closer to joining the EU. Most importantly, accept that in the complex Balkan's scene individuality of each and single country has to be taken into account. 'Integrate to integrate' can be a good marketing motto but may oversimplify a reality that historically has all but ever been simple. The region ultimately may define the results in the multi-crisis game at hand - Brexit being a new addition - which cannot altogether be delinked from the European future.

⁴⁷ See as well Eurostat, "Asylum and first time asylum applicants by citizenship, age and sex. Annual aggregated data (rounded)". These compared to the 122,065 asylum applications from war torn Syria in 2014, and 368,350 asylum applications for 2015, to the 285,325 asylum application in 2016.

⁴⁸ S. Mordue, Director for Strategy and Turkey in European Commission, DG Near, EPC, Policy Dialogue, "EU Enlargement to the Balkans: Taking stock and moving forward", Brussels, 18 November 2015.

⁴⁹ E. Bushi, "The Western Balkans and the EU: An Arranged Marriage", *The Huffington Post Politics*, 09 March 2016.

3.1.2.2 Brexit

Mr. David Cameron, the now Former UK Prime Minister, ran his electoral campaign on the promise to hold a referendum that would determine the future of the UK in the EU. Brexit was equated with regaining national sovereignty over UK policies and “the promise of a brighter future for Britain” – a promise that seems fading when looking beyond populist chants.⁵⁰ In the months of talks leading to the referendum, the UK obtained several concessions from the EU including protection of the pound currency and reassurance that British contribution was not used to “to bail out countries in the eurozone.”⁵¹ Upon British demands, the Union recognized competitiveness as “[its] essential objective.”⁵² Most importantly, the British gained a seven years moratorium on intra-EU migration that as Premier Cameron’s would put it “preven[t] the abuse of free movement and preventing our welfare system acting as a magnet for people to come to our country.”⁵³ In promoting and obtaining this additional concession the British de facto obtained a halt in EU political integration stressing the need for enhanced role of national parliament so that to “never be forced into political integration with the rest of Europe”.⁵⁴ Juncker would motivate enhancing the role of national parliaments as a means to “bring[ing] the Union closer to the people” where better results may be achieved acting together and facing “tremendous foreign policy challenges”.⁵⁵ Arguably euroskepticism and sedimented grievances are at the origin of calls for the referendum and its results.

The UK, while an important economy for the EU, represents around 25% in total EU trade flows.⁵⁶ To this date is unclear whether Theresa May’s government will receive the green light to trigger article 50 of the Lisbon Treaty, and effectively leave the EU, however should this happen the market power leverage of the EU would drastically

⁵⁰ See P. Vimont, “Brexit, Another European Tale of Unfulfilled Promises”, *Carnegie Europe*, 11 November 2016.

⁵¹ Prime Minister’s Office, David Cameron, “PM statement following European Council meeting: 19 February 2016”, 20 February 2016.

⁵² *Ibid.*

⁵³ *Ibid.*

⁵⁴ *Ibid.*

⁵⁵ See Juncker, *State of the Union 2015*, *op.cit.*

⁵⁶ Eurostat, *Statistics Explained, International Trade 2014-2015*.

diminish. Nonetheless, caution has informed many EU partners economic strategy. Some like the BRICS have viewed the Union with some suspicion since 2008 and a possible Brexit may only weaken the Union's "strategic importance".⁵⁷ Nonetheless, Mr. Juncker would ensure EU partners that "the continued existence of the European Union is not under threat".⁵⁸

It is now, on the UK's hand to decide 'if' and 'when' following the article 50 TEU to formally notify the European Council of its decision to withdraw from the EU. Unless there is a formal notification on part of the UK talks on the withdrawal cannot formally start.⁵⁹

Currently the issue of Brexit contributed to an inward looking EU and raises perplexities of the people in the Western Balkans regarding the perspective of integrating in a house that is burning down that has shown double standards may not be after all, the solution to all their problems. In his "State of the Union" addresses Mr. Juncker has maintained a rigorous silence on EU enlargement, which caused quite the uproar among Western Balkans' scholars.⁶⁰ Nonetheless, since 2014 the halt, or autopilot on enlargement has been rationalized and watered down by the EU bubble technocrats and Brussels diplomats with the purported argument that none of the countries seated on the negotiating table can possibly deliver the burdensome membership criteria by 2019.⁶¹ On the other hand borrowing the words of Mr. Juncker himself, this "credible and honest European perspective" may well be in an attempt to feed some stability in what has been dubbed "[t]he tragic European region" to prevent the surge of "the old demons of the past".⁶² In the next section I explore the 'stability' argument as a determinant of EU enlargement towards the Western Balkans.

⁵⁷ See Juncker, *State of the Union 2015*, *op.cit.*

⁵⁸ See J.C., Juncker, "State of the Union 2016", 14 September 2016, Strasbourg, France.

⁵⁹ See Vimont, *op.cit.*

⁶⁰ See Juncker, *State of the Union 2015*, *op.cit.*; Juncker, *State of the Union 2016 op.cit.*; See as well M. Cheresheva, "Juncker's Silence on Enlargement Alarms Balkan Watchers", *Balkan Insight*, 14 September 2016.

⁶¹ Interviews conducted in Brussels and Tirana.

⁶² Juncker, *A New Start for Europe op.cit.*, p. 21.

3. 2 The determinant of EU enlargement towards the Western Balkans

3.2.1 The possibility of enlargement

In this section I explore the stability argument as a determinant of the EU's enlargement policy towards the Western Balkans focusing on Albania. My argument is that the EU had had historically security concerns that pushed for its involvement in the region will an end goal of obtaining stability.

I begin by critically assessing the backdrop against which the EU *promised* enlargement to the Western Balkans. The cost of engagement is outweighed by the cost of exclusion – instability – in the Union's doorstep.

The EU promise of enlargement refers to “a process of *gradual and formal horizontal institutionalization* of organizational rules and norms” where “horizontal institutionalization” maintains that interactions among actors are regulated by EU norms that progressively develop even after the country is member of the organization.⁶³ Nonetheless, the literature has agreed that where decision making elites highlight a sense of urgency pertaining to an issue that require exceptional measures or “securitization”; when the same is moved in the normal political agenda resorting to “desecuritization” and where these moves are accepted by the public, the full circle of “securitization” is completed.⁶⁴ While the “international pressure [is] a necessary condition” for Europeanization in Albania, the positive public opinion on a possible EU membership has made the EU integration a common denominator at the top of every political party's agenda, at least formally.⁶⁵ Nonetheless, I argue

⁶³ F. Schimmelfennig and U. Sedelmeier “The politics of EU Enlargement: Theoretical and comparative perspectives” in F. Schimmelfennig and U. Sedelmeier (eds.), *The Politics of European Union Enlargement*, London, Routledge, 2005, p. 5.

⁶⁴ Higashino, *op. cit.*

⁶⁵ Putnam, *op.cit.*, p. 430. See G. T. Allison, *Essence of Decision: Explaining the Cuban Missile Crisis*, Boston, Little, Brown, 1971, p. 149 where he maintains “Applied to relations between nations, the bureaucratic politics model directs attention to intra-national games, the overlap of which constitutes international relations”; P. J. Katzenstein (ed.), *Between Power and Plenty: Foreign Economic Policies of Advanced Industrial States*, Madison, University of Wisconsin Press, 1978, p. 4, where he maintains “The main purpose of all strategies of foreign [...] policy is to make domestic policies compatible with the international [ones]”.

that each step undertaken in the enlargement process informs the next. Stability in the Western Balkans remains a common EU interest. Keeping the process alive is a small prize to pay to minimize possible downfalls in the EU doorstep. However, stability at all costs has given to gatekeeper elites in these two decades a wide room of manoeuvre and allowed them to hold on the last shred of legitimacy without delivering effective reform. Indeed, reforms have been equalled to doing just the bare minimum to justify getting a step closer to the enlargement process game.

On the one hand, the EU, within the enlargement process, has used its norms to mold state authority in the region, facing competition of vested interests of various international actors.⁶⁶ On the other hand, gatekeeper elites have used the EU values as premises to justify policy decisions that effectively have been instrumental for consolidating their grip on power by progressively rendering null any arena of contestation.⁶⁷

The Albanian gatekeeper elites have long understood that the way they engage in the process of Europeanization “are *customs*” not simply clearly stated rules but ^{shared consciously} and publicly.⁶⁸ Clearly stating these rules of interaction may be helpful in removing any uncertainty and this may happen after the players having been playing for some time.⁶⁹ Thus, I argue, the Europeanization process then “can usefully be conceived as a two-level game” where at “the national level” gatekeeper elites seek to fulfil their preferences which will grant them political and economic power; while at the European level, “national governments see to maximize their own ability to satisfy domestic pressures, while minimizing the adverse consequences of foreign developments”.⁷⁰

EU, as part of its Wider Europe policy, has had as its paramount goal to secure peace and stability in the region.⁷¹ Prosperity of the Union is key to enlargement, and while accessing countries receive much support a

⁶⁶ I. J. Manners, “Normative Power Europe: A Contradiction in Terms?”, *Journal of Common Market Studies*, vol. 40, no. 2, 2002, p. 252.

⁶⁷ See Levitsky and Way, *op.cit.*, p. 54.

⁶⁸ Wittgenstein, *op. cit.*, p. 199.

⁶⁹ N. G. Onuf, *op.cit.*, pp. 85-86.

⁷⁰ Putnam, *op.cit.*, p. 434.

⁷¹ J. W. Scott, “Wider Europe: Geopolitics of Inclusion and Exclusion at the EU’s New External Boundaries”, in J. W. Scott (ed.) *EU Enlargement, Region Building and Shifting Borders of Inclusion and Exclusion*, Farnham, Ashgate, 2006, p. 23.

contribution is expected, just like in any other partnership. However, making a step toward including all the Western Balkans could be explained in the measure that the exclusion from the process, as it has been proven in the past, would wage instability at the Union's door.⁷² Furthermore the material costs - of one day enlarging toward the Western Balkans - are contained, especially given the possibility of limiting obligations through bilateral agreements or post-accession transitioning periods, while geopolitically the gains may be considerable.⁷³

In the Western Balkans borders, have proven to be transient and often leaving outside parts of people that in the newly found home were to constitute a minority.⁷⁴ In the early 90s the Albanian government was to receive increasing economic support aimed at fostering development and thus contain the potential effect of the Albanian factor to the severe Yugoslav crisis.⁷⁵

3.2.2 A purgatory of sorts in Albanian foreign policy

In the midst of Balkan chaos, crumbling and inflamed from Zagreb to Pristina, Albania seemed a safe-haven; a bridge for stability and cooperation among the various nations inhabiting the small peninsula at the heart of Europe. The Albanian political elite arguably has continued from early 1990s until today to pursue the same foreign policy line. Security concerns, at first, prevailed: "Albanian foreign policy concentrated on preserving the country's territorial independence [...] from Albania's hostile Balkan neighbours".⁷⁶ Then, as today, the immediate need of shielding the country from the potential consequences arising from the conflicts in Yugoslavia could not and cannot be divided by reportedly another major goal: having the rights of

⁷² W. Mattli and T. Plümper "The demand-side politics of EU enlargement" in F. Schimmelfennig, and U. Sedelmeier (eds.), *The Politics of European Union Enlargement*, London, Routledge, 2005, p. 54.

⁷³ A. Moravcsik and M. A. Vachudova "Preferences, power and equilibrium: The causes and consequences of EU enlargement" in F. Schimmelfennig, & U. Sedelmeier (eds.), *The Politics of European Union Enlargement*, London, Routledge, 2005, pp. 204 - 205.

⁷⁴ T. Gallagher "Nationalism and Democracy in South-East Europe" in G. Pridham, and T. Gallagher (eds.), *Experimenting with Democracy: Regime Change in the Balkans*, London, Routledge, 2000, pp. 97-98.

⁷⁵ J. Pettifer "Albania: The democratic deficit in the post-communist period" in G. Pridham, and T. Gallagher (eds.), *Experimenting with Democracy: Regime Change in the Balkans*, London, Routledge, 2000, p. 240.

⁷⁶ M. Vickers, *The Albanians: A modern History*, London, I.B.Tauris, 1995, p. 180.

ethnic Albanians acknowledged and respected. However, the domestic elite “has often lacked the ability to put forward a united vision of the national interest”.⁷⁷ The country had been longing for freedom and democratic reforms for more than 45 years, it was time to put these reforms in place, and for this, the Albanian elite made use of all the help they could get.

The dowry of the little country has been a heavy one dictated by history and enforced by geography. Its outside borders are surrounded largely by ethnic Albanians, citizens of governments with often opposing interests to those of Albania. Co-existing in a heated area marked by history of “grievance[s] and greed” has required an impressive ability of maintaining equilibrium of interests, perceptions, needs, wishes and political will, both regional and international.⁷⁸ Accomplishing this heavy duty would not have been an easy task for anyone, even less so for the Albanian political elite exiting the dark ages of the most hermetic type of communism. Indeed, in terms of foreign policy Albania had not had any relations with the West. It consumed relations with Yugoslavia in 1949, separated from the USSR in 1961 and it could not hold on either to the Chinese, leading a solitary existence until the first wave of democracy.⁷⁹

Albania was thus affected by nearly fifty years of communism, with both its politics and socio-economic areas in disorder due to the lack of pluralistic participatory culture that marked the bumpy long road ahead. The economic growth had come to a stop, where agriculture and industry had halved their output in the first years of the 1990s; “inflation is running at 300 per cent and unemployment is estimated at over 50 per cent of the working force”.⁸⁰ Reforms proposed by the Albanian Party of Labour in the 1990s were superficial and failed at *fooling* the international community into accepting the country among its midst.⁸¹ The foreign embassies in Tirana were occupied by hundreds of

⁷⁷ J. Pettifer, and M. Vickers, *The Albanian Question: Reshaping the Balkans*, London, I.B.Tauris, 2007, p. 180.

⁷⁸ A. Bellamy, “Grievance and Greed”, *World Today*, vol. 57, no. 4, April 2001, p. 10.

⁷⁹ R. Lani, “Albanian Foreign Policy between Geography and History”, *International Spectator*, vol. 33, no. 2, 1998, p. 79.

⁸⁰ E. Biberaj, *Kosova: The Balkans Powder Keg*, Conflict Studies 258, London, Research Institute for the Study of Conflict and Terrorism, 1993, p. 18.

⁸¹ E. Biberaj, “Albania at the Crossroads”, *Problems of Communism*, vol. 40, no. 5, 1991, p. 3.

Albanians seeking to flee the country given the continued violence shown by Alia's government.⁸² The European Parliament was forced into action on 12 July 1990 when it condemned the government for violating the rights of its citizens as prescribed by the Helsinki Declaration, while congratulating European countries for the support given to the refugees.⁸³ The resolution called upon the Foreign Affairs Ministers to pressure the Albanian government in finding a peaceful solution to the crisis.⁸⁴ The humanitarian aid and the opportunity to reconnect to Europe were pre-requisites upon the democratic efforts that were to be made in the respect of human rights and in the upcoming elections.

The Democratic Party leadership sought, on its part, immediately a partnership with the United States (US). As early as 1992, Sali Berisha visited the White House where he expressed to George H.W. Bush the readiness of Albania to be a valid ally in defending US interests in the Balkans while acknowledging that the support of the US was crucial in performing the radical reforms the country was in need of.⁸⁵ Indeed, Albania appeared, since early 1990s, as it has today, a full member of NATO, to have been a valid ally in mitigating the repercussions of the fall of Yugoslavia, while fostering stability and peace in the Balkans.⁸⁶

The West, especially the United States, purposefully supported the newly formed democratic government in strengthening its grip in the region, with the aim of solving the unrest inherited from the past and prevent Albania from being dragged into the Yugoslav saga.⁸⁷ Indeed, Berisha was cherished by the international community, forced between a rock and a hard place; on one side, the fall of Yugoslavia, in which

⁸² *Ibid.*

⁸³ European Parliament, "Resolution of 12 July 1990 condemning the behavior of communist government", *Official Journal of the European Communities*, C 231, 17 September 1990.

⁸⁴ *Ibid.*

⁸⁵ E. Biberaj, *Albania in Transition: The Rocky Road to Democracy*, Boulder, Colorado, Westview Press, 1998, p. 232.

⁸⁶ See J. Pomfret, and D. B. Ottaway, "U.S., Albania Form 'the Weirdest Relationship'" *Washington Post*, 20 November 1995.

⁸⁷ J. Pettifer, "Albania: The democratic deficit in the post-communist period" in G. Pridham and T. Gallagher (eds.), *Experimenting with Democracy: Regime Change in the Balkans*, London, Routledge, 2000, p. 240.

they wanted to avoid flaming in the Albanian factor, and on the other, the lingering phantoms of communism, the “increasingly authoritarian tendencies”.⁸⁸ On its part, the US, within a five-year period from 1992 to 1996, disbursed \$200 million to facilitate reform implementation and meeting humanitarian emergency faced by the country.⁸⁹

The relationship Albania has with EU has been dictated very much by the perceived direct dependence Albania has had towards the EU particularly on economic assistance; on the other hand the EU perceived assymetry in strategic interest towards the Western Balkans - informed by geopolitics and geoeconomics - imposes the EU engagement in the region. Even more so when in presence of competitors able to provide for the country's needs that influence the direct independence as referenced above. Thus the gatekeeper elites know far well that the EU has no option left but to engage as walking away from the negotiation table is not credible.⁹⁰

The EU, as well, has been significantly involved in the country since the first days of transition, with the humanitarian operation Pelikan that was to continue until 1993, supported by the European Commission (EC) aid mounting to 2 million ECU.⁹¹ Albania was among the first beneficiaries of European Commission's Humanitarian Aid and Civil Protection Department (ECHO) founded in 1992, when it first opened an office in Albania in 1997 to aid in humanitarian relief. ECHO's activities intensified, peaking in 1999, as it assisted the country when it faced a humanitarian emergency where nearly 500,000 Albanian Kosovan refugees sought shelter in Albania.⁹² The estimated aid Albania received through ECHO amounted to nearly 142 million euro and helped the country in facing both internal crisis and those originated by regional spill-over.⁹³

⁸⁸ D. Huisinga, “Consolidation of Democracy and the rule of law in Albania: OSCE assistance efforts”, *Helsinki Monitor*, vol. 9, no. 4, 1998, p. 20.

⁸⁹ Biberaj, *Albania in Transition*, *op.cit.*, p. 232.

⁹⁰ Snyder, *op.cit.*, p. 473

⁹¹ M. Bogdani and J. Loughlin, *Albania and the European Union: The tumultuous Journey towards Integration and Accession*, London, I.B.Tauris, 2007, p. 210.

⁹² ECHO Humanitarian Aid Office, *ECHO in Albania, Europe's Solidarity with People in Distress*, Brussels, 2002, p. 4.

⁹³ *Ibid.*

The Copenhagen Council had encouraged and invited all Central and Eastern European Countries to continue their efforts in modernizing economies.⁹⁴ The EC maintained that “the economic and political conditions required” have to be met in order to ensure that a country is “able to assume the obligations of membership”.⁹⁵ In short, Copenhagen required that a candidate country could account for a sound institutional structure that could serve democracy in respecting human rights and rule of law, as well as have in place a functional market economy able to contribute and cope with competition of the common market.⁹⁶

The 1992 agreement on trade cooperation was to mark the relationship between Albania and the EU, with Albania being the first SEE country to conclude a trade agreement with EC.⁹⁷ By means of this agreement, Albania could benefit from the financial aid provided by PHARE.⁹⁸ Towards end of June 1993, the indicative program PHARE 1993-1994 was signed by Mr. Ruli and Sir Brittan.⁹⁹ The good will in striving towards their required standards, and most importantly the will for maintaining progress in reforms, persuaded the Commission to extend further the application of PHARE to Albania with regards to sectors involving restructuring and privatization of businesses, provide further support to the private sector including the modernization of the financial system and development of job market and social sectors.¹⁰⁰ In June 1995, the European Investment Bank granted a loan of 10 million ECU to support financing for small and medium enterprises in the industrial sector, tourism, energy and environment.¹⁰¹

⁹⁴ European Council, *Presidency Conclusions*, Copenhagen 21-22 June 1993, p. 13.

⁹⁵ *Ibid.*

⁹⁶ *Ibid.*

⁹⁷ Bogdani and Loughlin, *op. cit.*, pp. 116, 211.

⁹⁸ European Commission, *Implementation of Community assistance to the countries of East and Central Europe (PHARE) in 1992 and 1993. Third and fourth annual reports from the Commission to the Council and the European Parliament*. COM (95) 13 final, Brussels, 20 February 1995.

⁹⁹ European Commission, Press Release, place and date unknown.

¹⁰⁰ European Commission, *Implementation of Community assistance to the countries of East and Central Europe (PHARE) in 1992 and 1993, op.cit.*

¹⁰¹ EU CORDIS, *European Investment Bank (EIB) financing in Central and Eastern Europe*, place and date unknown.

However, the pro-US stance of the government caused some tensions with the opposition, which, for the sake of domestic power play, had every incentive to demonize the foreign policy conducted by the newly erected democratic government. Former communists under new labels and symbols were in the opposition, and not surprisingly saw the West and the US as the enemy and thus was resistant to the democratization path that the country had undertaken. The official argument of the opposition was that with Albania favoring the relations with the US, the government was jeopardizing the European future of the country by adding to the already hefty burden inherited by the country, which furthered security concerns.¹⁰²

With fellow democrats entering in the White House, the relations between the two countries further flourished: the memorandum of understanding on military was signed in October 1993 by which furthered cooperation and offered training opportunities to Albanian officials both in Albania and in the United States.¹⁰³ The US Secretary of Defense, William Perry and Assistant Secretary of Defense Joseph Nye, in a state visit to Albania, praised the Albanian contribution towards stability in the Balkans, especially in the constructive role it played in hindering a spill-over of Bosnian troubles to Kosovo.¹⁰⁴ Through these steps, Albania turned its focus towards seeking and concluding bilateral agreements with NATO members from United States to Turkey.¹⁰⁵ Soon after, in 1992, Albania requested NATO membership.¹⁰⁶ In February 1994, Sali Berisha went personally to the NATO Headquarters to sign the Partnership for Peace Agreement.¹⁰⁷

¹⁰² See also Y. Polovina, "The Irritation of Europe", *24 Ore*, 22 August 1993, pp. 4-5.

¹⁰³ Biberaj, *Albania in Transition*, *op.cit.*, p. 233.

¹⁰⁴ See S. Zhulali, "The Importance of William Perry's Visit to our Country", *Rilindja Demokratike*, 29 July 1994, pp. 1-2.

¹⁰⁵ A. Çopani, "The New Dimensions of Albania's Security Posture," *NATO Review*, no. 2, March 1996, pp. 24-28. See also M. Sullivan, "Seeking the Security of Military Might", *Transition*, vol. 1, no. 15, 1995, pp. 8-10.

¹⁰⁶ A. Çopani, "The Democratic Process and Albanian Security Policy", *NATO Review*, no. 40, 1992, p. 23. See also A. Çopani, and C. P. Danopoulos, "The Role of the Military in the Democratization of Marxist-Leninist Regimes: Albania as a Case Study", *Mediterranean Quarterly* 6, no. 2, 1995, pp. 117-134.

¹⁰⁷ NATO, *Signatures of Partnership for Peace Document*, date and place unknown.

Security concerns and fear to be left aside and alone amidst the rogue of falling Yugoslavia, Albania's decision to strengthen its ties with NATO and its allies was certainly advantageous, and NATO itself could count on the small but valuable partner. Indeed, as of June 1995 Albania offered its air and port facilities to NATO. In a meeting of defense ministers of NATO allies and Partnership for Peace countries, the country reiterated that NATO membership continued to be its final aim.¹⁰⁸ In addition, public opinion in Albania looked favorably both at full membership of the country in NATO (84% approval rate), and for receiving NATO forces in the country (70% approval rate).¹⁰⁹

Moreover, the Policy of Security and Defense of the Republic of Albania, the new military doctrine of the country, considers use of arm forces for defense as a final resort while assuring to respect the principle of inviolability of existing borders so that no territorial claim would be advanced vis-à-vis neighboring countries.¹¹⁰

In 1991 the Macedonians would gain their independence as a sovereign state, due to a consensual agreement with no reprisals between Macedonians and the Yugoslav National Army.¹¹¹ However, among its neighbours the independence of Former Yugoslav Republic of Macedonia was not accepted due to disputes that persist today, Albanians have been the only one to recognize the Macedonians.¹¹²

The independent state of the former Yugoslav Republic of Macedonia was instrumental to Albania's security as it served as a divisor between the unfriendly Serbia and Greece; not to mention that, in case of further dismantling of the former Yugoslav Republic of Macedonia, it would

¹⁰⁸ Biberaj, *Albania in Transition*, *op.cit.*, p. 231.

¹⁰⁹ Genc Pollo's speech at the Albanian Society, *Ushtria dhe Koha*, 14 June 1995, p. 4 quoting a survey conducted by United States Information Agency.

¹¹⁰ The Council of Defense, *Politika e Sigurimit dhe e Mbrojtjes e Republikës së Shqipërisë*, Tirane, The Military Publishing House, 1995. See also interview with General Sheme Kosova in *Mbrojtja*, no. 10, October 1995, pp. 4-7; A. Koçeku, "On the New Military Doctrine", *Mbrojtja*, no. 6, June 1995, pp. 6-8; and A. Koçeku and Zija Lagji, "On the Vision and Contents of the New Albanian Military Doctrine", *Ushtria dhe Koha*, 31 may 1995, p. 1.

¹¹¹ B. Szajkowski "Macedonia: An unlikely road to democracy" in G. Pridham, and T. Gallagher (eds.), *Experimenting with Democracy: Regime Change in the Balkans*, London, Routledge, 2000, pp. 250 – 251.

¹¹² *Ibid.*, p. 251.

further worsen the already precarious conditions of ethnic Albanians living in the country.¹¹³ The Albanian President Berisha, would have by far preferred the former Yugoslav Republic of Macedonia as an “independent” interlocutor rather than one governed by Milosevic.¹¹⁴ Indeed, within the room of maneuver Berisha had in influencing the ethnic Albanians living in the former Yugoslav Republic of Macedonia, the message conveyed was the one of integration and participation within the state structures that would both ensure representation of Albanians needs and secure the stability of the newborn Macedonian state. Moreover, the good neighborhood attitude towards the former Yugoslav Republic of Macedonia was shown by Albania in facilitating access of goods in overcoming the Greek embargo.¹¹⁵

Weary about the possible alliance of Serbia and Greece that was to include Bulgaria, at the direct expense of the former Yugoslav Republic of Macedonia, pushed Tirana to swiftly establish good relations with Sofia. Berisha and Zhelev, signed an agreement in 1993 that would foster greater trust and mutual support among the two nations.¹¹⁶ Following this foreign policy line, further cooperation agreements on military were signed with Bulgaria, Croatia and the former Yugoslav Republic of Macedonia as Albania hosted the meeting of defense ministers from the region at the end of March 1996, aiming to sow the seed of mutual security, understanding and cooperation.¹¹⁷

Furthermore, in early 1998 Fatos Nano, Albanian Prime Minister, met his Macedonian counterpart Branko Crvenkovski, were in Tetovo, largely inhabited by ethnic Albanians, Nano called for a European future for all the Balkans and their people, wherever they live.¹¹⁸ Indeed, “Albania appeared to be everything that Serbia was not”, with increasing “economic progress, a Western policy orientation, and a pro-NATO stance in the Balkans”.¹¹⁹

¹¹³ See Biberaj, *Albania in Transition*, *op.cit.*, p. 239.

¹¹⁴ *Ibid.*, p. 240.

¹¹⁵ *Ibid.*

¹¹⁶ *Ibid.*, p. 237.

¹¹⁷ *Ibid.*, p. 231.

¹¹⁸ *Ibid.*, p. 264.

¹¹⁹ Pettifer, “Albania: The democratic deficit in the post-communist period”, *op. cit.*, p. 243.

Nevertheless, the instability from the disintegration of Yugoslavia was only at its beginnings: Kosovo in 1998 had, with its 500 000 refugees, a severe impact on Albania.¹²⁰

The fate of the Albanians within the Albanian State borders was to be challenged as well. The pyramid schemes emergence and their attraction exemplified that the path to undertake in institutions and state building was still a long one. The schemes offered a get rich quick formula with returns as high as 50 per cent of the invested capital. Capital flow was possible largely because of unlawful activities during the Bosnian war in evading the restrictions imposed on Yugoslavia, the non-existent banking services provided for no other investing alternatives of remittances, and perceptions of Albanians were such that post-communist period allowed for effort-free profits, like it did in the wealthy West.¹²¹

Any attempt to prevent the chaos that was to follow as a result of these schemes' collapse, would have required an abrupt halt of the miraculous mechanisms that enriched many (and was to impoverish many more). It would have resulted in disastrous results at the upcoming 1996 parliamentary elections. Nevertheless, the chaos was at best only postponed carrying with it even worse results: police and army were in disarray, central government was overthrown and arm depots were wide open for anyone needing firearms.¹²² Under these internal challenges, the Albanian parliamentary elections of 29 June 1997 were short of a miracle. It took an uncompromising effort from both international and Albanian side to organize them, and the result favoring the socialist coalition was not challenged as it was considered to represent the true expression of the citizens' will.¹²³ Of equal importance was the evaluation process, in which the international community approached the process and delivered the results in unison.¹²⁴

In 1999 the Commission would take a further step towards enlargement, this time towards South East Europe were a renewed

¹²⁰ Pettifer *op.cit.*, pp. 246 - 247.

¹²¹ Huisinga, *op. cit.*, p. 21.

¹²² T. Judah, *Kosovo: War and Revenge*, New Haven, CT, Yale University Press, 2000, p. 128.

¹²³ Huisinga, *op. cit.*, p. 22.

¹²⁴ *Ibid.*

association agreement was to be put in place with Bosnia and Herzegovina, Croatia, Serbia and Montenegro, and Albania.¹²⁵ These agreements aimed at the establishment and consolidation of democracy, rule of law, prosperity and stability in the region, while offering a prospect for full membership.¹²⁶ Their possibility was formally introduced during Cologne European Council and implemented under Stabilization and Association Process.¹²⁷ The Commission's Composite Paper highlighted that the Kosovo crisis was a paramount threat to Europe and that in light of this "the enlargement process [...] is calling for resolute and courageous action".¹²⁸ Romano Prodi, then President of the European Commission, underlined that the "hard line" stance towards countries who had made considerable efforts, would "become disillusioned and turn their backs on us. Their economic policies will begin to diverge, and an historic opportunity will have been lost - perhaps forever".¹²⁹

Enlargement, comprising South East Europe, was introduced as an exceptional measure, the only one that could save Europe from an all too well known history that could repeat itself.¹³⁰ The EU's effort were to be channelled through "the Stability Pact" and "focus the maximum international effort" materialized in "an economic development fund, managed jointly by the EU and the countries of the region, destined for big infrastructure projects and institution building."¹³¹

The early 90s have been a wake up call for Europe and its leaders, awoken with yet another war at their doorstep. Albania's borders, then like today, were shared with States where part of the population was made of ethnic Albanians and the same potential mixture of minorities is present accross the Balkans. Albanian governments, across political spectrum have called to unite the Albanians wherever they live, in

¹²⁵ Commission of the European Communities, Communication from the Commission to the Council and the European Parliament on the Stabilisation and Association Process for Countries of South-Eastern Europe — Bosnia and Herzegovina, Croatia, Federal Republic of Yugoslavia, Former Yugoslav Republic of Macedonia and Albania. COM(99)235 final, Brussels, 26 May 1999.

¹²⁶ *Ibid.*

¹²⁷ See European Commission, *EU-Western Balkans Summit—Declaration*, Press Release Thessaloniki, 21 June 2003, 10229/03, (Presse 163).

¹²⁸ European Commission, *Composite Paper: reports on progress towards accession by each of the candidate countries*, 1999, p. 4.

¹²⁹ R. Prodi President of the European Commission on Enlargement, SPEECH/99/130, 13 October 1999.

¹³⁰ Higashino, *op.cit.*, p. 350.

¹³¹ European Commission, *Composite Paper*, *op.cit.*, p. 37.

Europe. This is what Fatos Nano, then Albanian Prime Minister said in its visit to neighbouring Macedonia, and this is today what reportedly Albanian government seeks for all Albanians in the region and beyond.

3.3 The Berlin Process

The Western Balkans political elites have acknowledged the halt in enlargement in the face of the multi-challenges the Union faces today. Its inward looking approach and the vague commitment toward supporting europeanization in the region leave an opened question on the perspectives and future for the Western Balkans people. Even more so, as I am to demonstrate in the following chapter, before an increasing distrust towards the political elites, followed by an ever so common lip-service to democracy in adopted reforms set to remain *lettre morte*. Before these warning signes of a U-turn in democratization in the region and before the risk of loosing momentum and fueling instability the EU embarked in a public diplomacy exercise the Berlin Process. Envisioned as a process to start on the symbolic 2014, centenary of the start of the WWI and end by 2018, hundreed years after the end of WWI.

3.3.1 Western Balkans' Summit Berlin 2014

Following the halt in EU enlargement, the Berlin Process was conceived as an effort to keep the European perspective alive by confirming the EU political support to the Western Balkans. The first meeting took place in Berlin in August 2014, the attendees where political representatives from countries of the Western Balkans plus Slovenia and Croatia as well as Austria and France as forthcoming hosts of the Summit. The Berlin Process was born as a complementary process to enlargement, to ensure “a speedy progress” in answering people’s demands for “a prosperous [economic and political] future”.¹³² The Western Balkans need to continue the reform path and with the Berlin Process the EU is set to support the countries in their path to

¹³² A. Merkel, in European Commission, Audiovisual Services, Western Balkans Summit: common press conference by Angela Merkel, German Federal Chancellor, Edi Rama, Albanian Prime Minister and Jose Manuel Barroso, 28 August 2014.

economic development, forge new ties and stronger cooperation that could ensure a landmark transformation and sustained stability. Indeed, in the meeting the representatives of States pledged, through an inclusive process, to continue “reforms aimed at increasing legal certainty [...], to uphold and reinforce the independence of their judiciary, and to work more intensively together across borders in regional and bilateral structures”.¹³³ Mr Edi Rama, Albanian Prime Minister, speaking on behalf of the SEECP underlined the role of the EU in maintaining peace and stability in “a region [formerly] known for war, genocide, ethnic cleansing” [that is committed to undertake] the changes needed to ensure that the EU sees [the Western Balkans] as reliable partners” [and prepare for the] possibility of enlargement” whenever the region and the EU “show[s] is ready”.¹³⁴ The Western Balkans’ people are willing to start on a new leaf and build on trust and maintain peace, the EU can offer both its assistance and its experience in achieving this. The 2014 EC Enlargement Strategy viewed the process as “instrumental for encouraging reforms and agreeing realistic priorities for core connectivity investments [and] resolve [...] bilateral issues”.¹³⁵ As Barroso put it “the closer [the countries of the Western Balkans] are to each other, the closer they are to the EU”, which should serve as a reassurance to the region regarding its European perspective and believes the approach is adequate “to defend the long term prosperity” but as well “defend European stability”.¹³⁶ By initiating this process Chancellor Angela Merkel linked her political fate to the advancement of the Western Balkans in attaining their European future. Historically, starting from the '90, Germany has engaged with the Western Balkans especially in the aftermath of conflicts putting forth efforts for stabilisation and strengthening the rule of law and assisting in

¹³³ See Western Balkan’s Heads of States and Governments, *Final Declaration by the Chair of the Conference on the Western Balkans*, Berlin, 28 August 2014.

¹³⁴ E. Rama, in European Commission, Audiovisual Services, Western Balkans Summit: common press conference by Angela Merkel, German Federal Chancellor, Edi Rama, Albanian Prime Minister and Jose Manuel Barroso, 28 August 2014.

¹³⁵ European Commission, *Enlargement Strategy and Main Challenges 2014-15*, COM(2014) 700 final, Brussels, 8.10.2014.

¹³⁶ Jose Manuel Barroso in in European Commission, Audiovisual Services, Western Balkans Summit: common press conference by Angela Merkel, German Federal Chancellor, Edi Rama, Albanian Prime Minister and Jose Manuel Barroso, 28 August 2014.

building a market economy.¹³⁷ The current challenge is to adequately channel the EU support to the Western Balkans and help transform these odd neighbours into a region. Chancellor Merkel emphasized that “[a]ll states in the Western Balkans should have the opportunity to join the European Union if they fulfill the accession requirements”.¹³⁸

The three pillars of the Berlin Agenda centre around diplomacy, economy and connectivity ‘soft measures’: resolution of existing bilateral disputes, connecting the region and its people through sizeable infrastructure projects. Given the geoeconomic relevance of the Western Balkans it is not surprising that one of the points agreed in Berlin is active participation in the energy policy where cooperation within the Energy Community for South East Europe is seen as instrumental to ensure in a sustainable manner energy security, and efficiency.¹³⁹

Equally significant is bringing people closer to one another, instrumental in this are exchange programs designed for the youth with a view of building bridges and eradicating possible lingering mistrust among its people. It may be argued that these ambitious goals can be attained only if governments and civil society come together and contribute to consolidating transparent and efficient practices of decision-making and ensure people's effective participation.

3.3.2 A double and parallel restart for enlargement

While the start of the Berlin Process comes at a demanding time for both the EU and the Western Balkans, it is not a novelty: other

¹³⁷ See J. Wanninger, “Les Balkans occidentaux, pierre de touché de la politique étrangère allemande et européenne”, Mai 2016, Notes de l’Ifri/Notes du Cerfa 130.

¹³⁸ A. Merkel, in European Commission, Audiovisual Services, Western Balkans Summit: common press conference by Angela Merkel, German Federal Chancellor, Edi Rama, Albanian Prime Minister and Jose Manuel Barroso, 28 August 2014.

¹³⁹ See Western Balkan’s Heads of States and Governments, *Final Declaration by the Chair of the Conference on the Western Balkans*, Berlin, 28 August 2014; See Energy Community Official Website, *Treaty Establishing the Energy Community*; The Energy Community established in 2005 in Athens, is engaged in energy policy making and it extends to the EU, SEE and Black Sea. The Contracting Parties of the Energy Community are Albania, Bosnia and Herzegovina, Kosovo*, Former Yugoslav Republic of Macedonia, Moldova, Montenegro, Serbia and Ukraine.

initiatives have previously centred in building participatory societies through economic and societal development.¹⁴⁰ It has been for long time understood that the advancement in democracy, market economy and improved people to people relations is condition sine qua non for a sustained stability and prosperity. The EU policies, towards the Western Balkans, including enlargement, have adopted a regional approach ever since the Dayton Peace Agreement in 1996.¹⁴¹ The European Council in June 2005 would further underline the EU belief that the “future of the Western Balkans lies in the European Union” recalling that “regional cooperation and good neighbourly relations” are an integral part of the EU policy.¹⁴²

The Stability Pact, it may be argued was a precursor of the Berlin Process, with the ambition of bringing together more different countries, regional and international organizations “to develop a shared strategy for stability and growth in south-eastern Europe”.¹⁴³ The EU had then introduced the Stabilization and Association Agreements for the countries of the Western Balkans.¹⁴⁴ These agreements were instrumental to foster an all rounded cooperation in policy and socio-economic issues. The Stability Pact grasped the attention of the international community as it showcased how the Western Balkans, until then known as a powder keg could flourish free of conflicts, strengthening its economic and human capital. More recently, the Brdo process pioneered by Croatia and Slovenia is earnest in shining the light on the importance of stability and peaceful resolution of inter-state disputes and concentrate efforts on development by co-financing strategic projects of common interest for both the EU and the region.¹⁴⁵ It appears then that the Berlin Process is not a novelty, neither in

¹⁴⁰ Other regional initiatives include the Regional Cooperation Council (RCC), South East Europe Transport Observatory (SEETO), South-East Cooperation Process (SEECp), Migration, Asylum, Refugees Regional Initiative (MARRI), EU-Western Balkans Ministerial Forum on Justice and Home Affairs. The Regional Cooperation Council and South East Europe Transport Observatory have been included within the Berlin Process while no reference is made to the other three initiatives.

¹⁴¹ See E. Prifti ed., *The Future of the Western Balkans Thessaloniki@10 (2003-2-2013)*, European Union Institute for Security Studies.

¹⁴² European Council, *Presidency Conclusions, Brussels, 16-17 June 2005*.

¹⁴³ B. Hombach, “Stability Pact for South-Eastern Europe: A New Perspective for the Region”.

¹⁴⁴ Including Albania, Bosnia-Herzegovina, Croatia and the Federal Republic of Yugoslavia and the Former Yugoslav Republic of Macedonia.

¹⁴⁵ *Conclusions of the Leaders' Meeting of the Brdo Process*, Slovenia, 25 July 2013.

approach nor in prospected results. Some studies have questioned its added value as “the Berlin Agenda priorities appear to be to a certain extent a ‘repackage’ of the Union’s normative approach to membership [...] and of the regional competitive and growth strategy (SEE 2020)”.¹⁴⁶ The economic crisis and austerity policies have been quite taxing for the enlargement strategy, which has been seen to loose traction in the region which has suffered a regression in democratization, reaching levels recorded in 2004.¹⁴⁷ Therefore the process centered in both the economic and social development of the region serves as “a double and parallel restart for [...] enlargement” benefitting both the Western Balkans and the EU.¹⁴⁸ The process however, seems to be ever developing, as it was admitted by an EU Member State senior diplomat in Tirana, “the [only] added value, perhaps, is political - a timely public diplomacy exercise of gathering the region’s representatives together and show the EU interest”.¹⁴⁹ Admittedly, “thinking about socio-economic needs” is perhaps its added value.¹⁵⁰ The EU, arguably, by doing this may want to gain back some leverage over its Western Balkans partners. It was clear then, it is clear now: “the europeanisation of the region is fundamentally in [EU’s] own interest” losing momentum may ultimately cause “the balkanisation of European politics.”¹⁵¹ As another senior diplomat in Tirana would confirm me, the Western Balkans are indispensable allies to create an economic block before other competitors such as China, Russia and the US.¹⁵²

3.3.3 Western Balkans’ Summit Vienna 2015

In the second Western Balkans summit in 2015 hosted in Vienna the most prominent issues remained good governance and connectivity

¹⁴⁶ See ShtetiWeb, “Albania in the Berlin Process: Current Achievements and Upcoming Challenges for the Paris Summit Fall 2015; Cf. with Regional Cooperation Council, *South East Europe 2020: Jobs and Prosperity in a European Perspective*, November 2013.

¹⁴⁷ See Freedom House, *Nations in Transit 2016*; See as well World Justice Project, *Rule of Law Index 2016*

¹⁴⁸ H. Swoboda, “Western Balkans: New hope coming from Berlin, Vienna and Paris”, *International Institute for Middle East and Balkan Studies*, 8 May 2015.

¹⁴⁹ Senior Diplomat, EU Member State, Block of Embassies, interview, Tirana, 02 February 2017.

¹⁵⁰ Senior Diplomat, EU Member State, Block of Embassies, interview, Tirana, 02 February 2017.

¹⁵¹ Hombach, *op. cit.* ; See as well Snyder, *op. cit.*, p. 472

¹⁵² Senior Diplomat, EU Member State, Block of Embassies, interview, Tirana, 19 January 2017.

with the ambition to bring closer the region and its people. It has been acknowledged that “more efforts are needed to accelerate domestic reform processes” in an effort to provide solutions to people’s concerns, by facilitating development and preserving stability in the region.¹⁵³ The representatives of the Western Balkans during a high-level meeting hosted in Brussels in April 2015 had exchanged views on the connectivity agenda. The points they agreed upon are directed at implementing concrete infrastructure plans in the region, centred on the identified three corridors connecting the region with the EU.¹⁵⁴ The proposed projects are fully aligned with South East Europe Transport Observatory SEETO, Treaty establishing the Transport Community and the Priority projects of Energy Community (PECI)¹⁵⁵. These will abide by the “soft” measures as are rail reform implementation, road safety, Intelligent Transport System (ITS), harmonized procedures for border-crossing, and implementation of Integrated Border Management (IBM).¹⁵⁶ In the energy sector, regional soft measures concentrate around market development, cross-border balancing and capacity allocation.¹⁵⁷ The end results of these efforts are removing obstacles to intra-regional trade, have proper regulatory frameworks in place and reap the benefits of an open regional market. Indeed, the Western

¹⁵³ Western Balkan’s Heads of States and Governments, *Final Declaration by the Chair of the Vienna Western Balkans Summit 27 August 2015*.

¹⁵⁴ Western Balkans Summit Vienna 2015, Addendum; The three main corridors are: the **Mediterranean Corridor** – Rijeka – Zagreb – Belgrade/Sarajevo – Ploče :: Rijeka – Ploče – Bar – Tirana/Durres – Igoumenitsa ; **Orient/East-Med Corridor** – Budapest – Belgrade – Podgorica – Bar :: Belgrade – Nis – Kumanovo/Pristina – Skopje – Thessaloniki ; **Rhine/Danube Corridor** – Vukovar – Novi Sad – Belgrade – Drobeta – Turnu Severin/Brcko – Sisak.

¹⁵⁵ SEETO, *Memorandum of Understanding on the development of the South East Europe Core Regional Transport Network*, Luxembourg, 11 June 2004.

See as well South East Europe Transport Observatory, <http://www.seetoint.org/>. The Council of the EU in June 2008 delegated the European Commission, to negotiate on behalf of the Union with Albania, Bosnia & Herzegovina, Croatia, the former Yugoslav Republic of Macedonia, Montenegro and Serbia as well as Kosovo* (then under Resolution 1244(1999) of the United Nations Security Council) on a “*Treaty establishing the Transport Community*”. Its purpose is to deepen and consolidate the integration of the Western Balkans in the EU transport network by preferential access to the EU transport market provided that the Western Balkans abide by EU regulations and strive for further regional integration in the field.

; See as well decision of the Ministerial Council of the Energy Community D/2015/09/MC-EnC: On the implementation of Regulation (EU) No. 347/2013 of the European Parliament and of the Council on guidelines for trans-European energy infrastructure. It defines the framework to identify Projects of Energy Community Interest (PECIs) and Projects of Mutual Interest (PMIs). Cf. with Energy Community, *the Energy Community Strategy*, which framed the criteria for evaluation of projects; Energy Community, *Energy Community Priority Infrastructure Projects*.

¹⁵⁶ See Annex 1 and Western Balkans Summit Vienna 2015, Addendum.

¹⁵⁷ See Annex 1 and Western Balkans Summit Vienna 2015, Addendum.

Balkans' leaders committed to "identify and address [...] all relevant measures [for] immediate connectivity benefits [...] and at a reasonable cost".¹⁵⁸

Investments in infrastructure are seen as source of employment and economic growth for the region in addition of bringing the countries and the people of the region closer to one another and to Europe. It is of outmost importance that "the process [is beneficial] to [Western Balkans'] citizens still before accession".¹⁵⁹ The projects agreed upon, in addition to connecting the region and its people, with the required EUR 7.7 billion investment in the next 15 years, would yield an increase in GNP of 1% and recruit to the workforce 4% of the region's manpower or simply put, employ 200 000 people.¹⁶⁰ The witnessed increment in growth in Albania and Kosovo was largely a result of investing in infrastructure.¹⁶¹ We can argue thus, that these measures may in short-medium term improve the region's economy and in the long run strengthen its competitiveness.

The EU and a few International Financial Institutions (IFIs) are backing the investment needed to implement these projects. The Albanian delegation's Working Paper on the Berlin Summit identified and proposed possible investment resources to tap into for the required investments. These included national contributions, Instrument for Pre-accession Assistance (IPA) funds, funds from the EC Connecting Europe facility¹⁶², alongside with possible bilateral assistance and investments from IFIs.¹⁶³ The EU channels most of the funding through the Western Balkans Investment Framework (WBIF) where IFIs, bilateral aid and WB countries gather and direct the funds to strategic

¹⁵⁸ European Commission – Statement Western Balkans 6 meeting in Brussels, Brussels, 21 April 2015.

¹⁵⁹ *Ibid.*

¹⁶⁰ See M. Holzner, R. Stehrer and H. Vidovic, *Infrastructure Investment in the Western Balkans*, The Vienna Institute for International Economic Studies.

¹⁶¹ *Ibid.*

¹⁶² The Connecting Europe Facility (CEF) is an instrument used to finance the policy on European transport infrastructure: both constructing new projects and maintain and improve pre-existent ones. For the period 2014-2020 CEF has a budget of EUR 24.05 billion. European Commission, Innovation and Networks Executive Agency, CEF Transport.

¹⁶³ Ministry of Foreign Affairs of Albania, "Albanian working paper for the Western Balkans Conference in Berlin, Germany, August 28, 2014: Vision of the Western Balkans by 2020: A Vibrant, Peaceful Region Well Prepared to Join the EU and Providing a Decent Life to All its Inhabitants".

investments in the region.¹⁶⁴ In addition the EC has approved a fund of EUR 1 billion under IPA II dedicated to connectivity and technical assistance.¹⁶⁵ The pre-accession assistance is viewed as a solid investment both for the future of the region that has European aspirations and that of the Union. Membership has its privileges and its obligations and the EU funds are supporting enlargement countries to take on those obligations. The four energy projects and six transport projects in the region which were agreed upon are expected to cost 616.6 million of which only 33% or 205.7 million are grants of IPA II Multi-country program.¹⁶⁶

In the Vienna Summit, ensuring a better and brighter future for the youth has been recognized as the basis for ensuring ever growing sustainable growth and stability for the region.¹⁶⁷ Following up on commitments taken by the Joint Declaration on Youth Cooperation and the Positive Agenda for Youth in the Western Balkans, adopted during the Brdo Summit on 23 April 2015, the Western Balkans' leaders agreed to establish in a wide cooperation with the civil society, under a region wide ownership, the Regional Youth Cooperation Office of the Western Balkans based on the Franco-German model.¹⁶⁸ Empowering youth as a catalyst for "lasting political, economic and social stability of the region" is consistent with the regions' European ambitions.¹⁶⁹ Accordingly, the Positive Agenda for the Youth in the Western Balkans reflects on available resources and tools that facilitate learning from the European experience for better chances of employability and for eradicating the malaise of historical distrust.¹⁷⁰ By intensifying exchanges within the region, people may build bridges of trust and cooperation founded on "common and mutual interests" that can in turn

¹⁶⁴ The IFIs involved are the Council of Europe Development Bank; the European Bank for Reconstruction and Development; the European Investment Bank; the World Bank Group; the KfW Development Bank.

¹⁶⁵ See European Commission, "Instrument for Pre-Accession Assistance (IPA II) 2014-2020: Multi-Country Co-Financing of Connectivity Projects in the Western Balkans".

¹⁶⁶ See European Commission, "Connectivity Agenda: Co-financing of Investment Projects in the Western Balkans in 2015, p. 11.

¹⁶⁷ See Western Balkans' Heads of States and Governments, *Final Declaration by the Chair of the Vienna Western Balkans Summit 27 August 2015*.

¹⁶⁸ See *Joint Declaration on the Establishment of the Regional Youth Cooperation Office of the Western Balkans*, Vienna, 27 August 2015; See as well Meeting of Ministers of Foreign Affairs at Brdo, 23 April 2015, *Joint Statement*. Reference is made to the Positive agenda for the Youth in the Western Balkans afford the opportunity to acknowledge and make better use of the tools and programs already available; Cf. Annex 2 Western Balkans Summit Vienna 2015, Addendum.

¹⁶⁹ See Meeting of Ministers of Foreign Affairs at Brdo, 23 April 2015, *Joint Statement*.

¹⁷⁰ *Ibid.*

give vigour to the regions efforts to further reforms and progress by upholding fundamentals of equality and solidarity.¹⁷¹ In this view the people of the region look favorably to using exchange programs both intra-region and with the EU. The Western Balkans' leaders commit to strengthen the capacity of existing programs like CEEPUS (Central European Exchange Program for University Studies) and look forward to establishing National Agencies on Erasmus + programme.¹⁷² Furthermore, the participating States pledge to make a better and increased use of european funds on youth empowerment notably by relying on the Education Reform Initiative of South Eastern Europe (ERI SEE) particularly for capacity building and exchanges in research and education¹⁷³.

The representatives of Albania and Serbia signed a bilateral memorandum of understanding on the margins of the Berlin Summit on a youth exchange initiative between the two countries, which was subsequently embraced by others in the region.¹⁷⁴ The Working Group on Regional Youth Cooperation gathers civil society and government representatives from all the Western Balkans, which - with the assistance provided by the Franco-German Youth Office - have laid down the framework of the Regional Youth Cooperation Office (RYCO).

¹⁷⁵

The initiative has been welcomed especially for its inclusiveness of all relevant actors and consequent regional ownership.¹⁷⁶ The CSOs have been vocal in underlining one of the most significant goals of RYCO is to give voice to those who are “overlooked”, those who are disenfranchised and abused. Empowering these youngsters, concentrate efforts on building capability.¹⁷⁷ A region wide cooperation may not yield the desired results if it does not tap into the existing resources at the grassroots, not only local structures but as well civil

¹⁷¹ *Joint Declaration on the Establishment of the Regional Youth Cooperation Office of the Western Balkans*, Vienna, 27 August 2015.

¹⁷² Western Balkan's Heads of States and Governments, *Final Declaration by the Chair of the Vienna Western Balkans Summit 27 August 2015*.

¹⁷³ *Education Reform Initiative of South Eastern Europe*.

¹⁷⁴ See Western Balkans Summit Vienna 2015, Addendum.

¹⁷⁵ See *The Franco-German Youth Office (FGYO)*.

¹⁷⁶ Western Balkan's Heads of States and Governments, *Final Declaration by the Chair of the Vienna Western Balkans Summit 27 August 2015*. Reference made to points 30-37 Youth, Education, Science and Research.

¹⁷⁷ See Civil Society Forum Belgrade of the Western Balkans Summit Series, *Civil Society Forum Belgrade of the Western Balkans Summit Series*, 11-13 May 2016, Novi Sad/Belgrade.

society. Should this be followed through, the initiative may propel Western Balkans societies in the path to EU integration.¹⁷⁸ The EC Enlargement Strategy for 2015 confirms this perspective as it advocates for “[a] stronger role for civil society organisations and a much more supportive and enabling environment” to further the necessary reforms.¹⁷⁹ An effective participation in decision making is vital in holding the government accountable, fosters a better understanding of the EU promoted reforms and their benefits and support institutional efforts in mending fences.¹⁸⁰

The Berlin Process has been instrumental in affording to the civil society the opportunity to have their say at a high-level political gathering. The Civil Society Forum held on the margins of the Western Balkans Summit in Vienna made for an improvement on the debates within the Summit.¹⁸¹ The CSOs were vocal on concrete measures directed to address challenges regarding regional cooperation, high unemployment and freedom of expression and called on the institutional support of the governments on existing successful efforts in the region.¹⁸² In a first of its kind debate held with Sebastian Kurz, Edi Rama, Johannes Hahn, Igor Crnadak and Igor Luksic representatives of civil society debated about the pressures the regions was under as the refugee crisis in the Balkan Route unfolded. The CSO’s reiterated that government lead efforts on regional cooperation should include as well existing successful CSO’s initiatives across the region.¹⁸³ Civil society can offer a useful contribution as well in matters of economic development and has expressed its goodwill to be included from early on, in decisions of the National Economic Council. The CSOs voiced as well their concern on freedom of expression.

¹⁷⁸ See Senior Diplomat, EU Member State, interview, Tirana, 19 January 2017.

¹⁷⁹ European Commission, *EU Enlargement Strategy*, COM(2015) 611 final, Brussels, 10.11.2015.

¹⁸⁰ *Ibid.*

¹⁸¹ See Western Balkan’s Heads of States and Governments, *Final Declaration by the Chair of the Vienna Western Balkans Summit 27 August 2015*.

¹⁸² See Western Balkans Summit Vienna 2015 Civil Society Forum Media Information, “Western Balkans Civil Society voices out its demands to Europe’s leaders: Securing freedom of expression, creating jobs and prosperity, enhancing regional cooperation”, Vienna, August 27 2015; See as well Western Balkans Summit Vienna 2015 Civil Society Forum, Recommendations of the Civil Society Organizations for the Vienna Summit 2015 Long Version.

¹⁸³ See Western Balkans Summit Vienna 2015 Civil Society Forum Media Information, “Western Balkans Civil Society voices out its demands to Europe’s leaders: Securing freedom of expression, creating jobs and prosperity, enhancing regional cooperation”, Vienna, August 27 2015; See as well Western Balkans Summit Vienna 2015 Civil Society Forum, Recommendations of the Civil Society Organizations for the Vienna Summit 2015 Long Version.

Further efforts should be put forth to ensure the independence of public broadcasters and regulatory bodies, as it has been assessed, the region has a long way ahead to ensure transparent, merit based and free from political meddling hiring in the media outlets.¹⁸⁴ Strong concerns remain on media outlet's ownership, which remains opaque to the general public.

In the Final Declaration of the Vienna Summit, representatives of the Western Balkans' welcomed the involvement of civil society as "an additional important element of the Berlin Process."¹⁸⁵ The Forum hosted in Vienna was followed by the one held in Belgrade, in May 2016.¹⁸⁶ In Belgrade it was noted that democratization in the Western Balkans is undergoing a steady regression.¹⁸⁷ The CSOs reiterated their goodwill in providing fresh ideas and to work hand in hand with government authorities to ensure effectiveness of reforms by employing novel instruments for monitoring and consultation.¹⁸⁸ The message was clear, the path to the EU integration without consistently involving the civil society is a mere lip service to the EU and to the people of the region.

Furthermore, the CSOs have attained concrete results in facilitating reconciliation in the region. They can build coalitions with one another and media outlets to sensitize people and government alike, and play a remarkable role in the resolution of disputes.¹⁸⁹ This service is of particular importance as the region cannot, get ever closer to the EU with unresolved disputes which in addition of being a concrete threat to the stability of the region, take attentions and energies away from the reforms needed for EU integration.¹⁹⁰ This is why good-neighbourhood relations were added as 'Copenhagen plus' criteria.¹⁹¹

¹⁸⁴ *Ibid.*

¹⁸⁵ See Western Balkans's Heads of States and Governments, *Final Declaration by the Chair of the Vienna Western Balkans Summit 27 August 2015*.

¹⁸⁶ See Civil Society Forum Belgrade of the Western Balkans Summit Series, *Civil Society Forum Belgrade of the Western Balkans Summit Series*, 11-13 May 2016, Novi Sad/Belgrade.

¹⁸⁷ See Zselyke Csaky, "Back Where We Started in the Balkans", *Freedom House*, 20.04.2016; Transformation Index BTI 2016, *East-Central and Southeast Europe*.

¹⁸⁸ See Civil Society Forum Belgrade of the Western Balkans Summit Series, *Civil Society Forum Belgrade of the Western Balkans Summit Series*, 11-13 May 2016, Novi Sad/Belgrade.

¹⁸⁹ *Ibid.*

¹⁹⁰ N. Dimitrov, M. Djolai, N. Wunsch, "Removing obstacles to EU accession: Bilateral disputes in the Western Balkans", BIEPAG, Policy Brief.

¹⁹¹ See Blockmans, *Tough Love op. cit.*, pp. 246-7 and 252

In Vienna the Western Balkans' Leaders in the Declaration on Regional Cooperation and the Solution of Bilateral Disputes, convened "not [to] block [each others'] EU path" and to peacefully resolve any issue of contention and overcoming the shadows of the past.¹⁹² In this pursuit the attendees commit "to make full use of the EU macro-regional strategies for the Danube and the Adriatic-Ionian regions as well as of the OSCE, the Central European Initiative".¹⁹³ Moreover, the Vienna Summit was successful in capitalizing on the above mentioned declaration as two agreements putting an end to border disputes were signed between Montenegro and Bosnia and Herzegovina and Montenegro and Kosovo.¹⁹⁴ It is no question that overcoming of intra-state disputes is responsibility of the parties involved, however, as it was shown in Vienna, the EU can and should be more actively involved in mediating resolution and ensure thus that these do not spill over the EU integration path of the region.

3.3.4 Western Balkans' Summit Paris 2016

The enlargement process remains the goal of the region, and in the summit in Paris, leaders from the region and their counterpart underlined the importance of rule of law, fundamental right, fighting corruption and organized crime.¹⁹⁵ These issues are followed attentively by France, indeed interviews conducted with French officials confirm that the Commission's negotiation approach known as 'frontloading' - where chapters 23 and 24 concerned with rule of law, fundamental rights and freedom and security are to be opened first and closed last - was originally proposed by France.¹⁹⁶ Harlem Désir, Minister of State for European Affairs in various meetings held with Western Balkans high officials noted that while France support the

¹⁹² See Annex 3, Western Balkans Summit Vienna 2015, Addendum, Declaration on Regional Cooperation and the Solution of Bilateral Disputes.

¹⁹³ See Western Balkan's Heads of States and Governments, *Final Declaration by the Chair of the Vienna Western Balkans Summit 27 August 2015*. —

¹⁹⁴ See Government of Montenegro, "Montenegro signs border agreements with Bosnia and Herzegovina and Kosovo", 26.08.2015.

¹⁹⁵ See Senior Diplomat, EU Member State, Block of Embassies, interview, Tirana, 19 January 2017.

¹⁹⁶ See Senior Diplomat, EU Member State, Block of Embassies, interview, Tirana, 19 January 2017.

enlargement to the Western Balkans, necessary reforms directed to ensuring rule of law and fundamental rights are to be implemented.¹⁹⁷

The French President François Hollande underlined the European perspective of the Western Balkans, as building Europe without the Western Balkans can be only a bleak attempt to deny the historic realities of Europe, particularly those of the World Wars.¹⁹⁸ Hollande reaffirmed his country's support to enlargement provided that the countries comply with the necessary reforms.¹⁹⁹ The participation of François Hollande at the Brdo Summit lent a much-needed political support to enlargement.²⁰⁰ Thus, the Brdo Summit underlines the importance of Western Balkans' ownership in getting ever closer to the EU. Thus, it followed naturally that in 2016, France offered to host the third Western Balkans Summit in Paris.

In the Ministerial Conference held on 24 May 2016 in Paris, the representatives of the Western Balkans together with Croatia, Slovenia, Germany, Austria and Italy and in presence of Commissioner Hahn and Alain Le Roy Secretary-General of the European External Action Service (EEAS) discussed the agenda of the Paris Summit.²⁰¹ Mr Désir confirmed France commitment to supporting the rapprochement and good neighbourhood relations of countries in the region.²⁰²

In 2016 Paris Summit the representatives of the region in the format of heads of state and government together with ministers of economy and foreign affairs met with their counterpart from Croatia, Slovenia,

¹⁹⁷ French Ministry of Foreign Affairs and International Development, "Albania – Meeting between Harlem Désir and Klajda Gjoshaj, Minister for European Integration", 28 October, 2015, Paris, France; French Ministry of Foreign Affairs and International Development, "Albania – Visit by Harlem Désir, Minister of State for European affairs", 30 March 2016, Tirana, Albania; French Ministry of Foreign Affairs and International Development, "Western Balkans - Harlem Désir's participation in the Bled Strategic Forum", 5-6 September 2016, Slovenia; French Ministry of Foreign Affairs and International Development, "Albania – Visit by Harlem Désir", 7-8 December 2016, Tirana, Albania.

¹⁹⁸ AFP, "Hollande participe à un sommet inédit des pays des Balkans", *Le Point*, 25 July 2013.

¹⁹⁹ *Ibid.*

²⁰⁰ STA, T.M. "Ex-YU Presidents Agree to Continue Brdo Process", *The Slovenia Times*, 03 July 2013.

²⁰¹ See French Ministry of Foreign Affairs and International Development, "Albania – Meeting between Harlem Désir and Klajda Gjoshaj, Minister for European Integration", 28 October, 2015, Paris, France, ; French Ministry of Foreign Affairs and International Development, "Participation of the Foreign Ministers of the countries to the 2016 Paris Balkans Summit", 24 May 2016.

²⁰² French Ministry of Foreign Affairs and International Development, "Western Balkans – Harlem Désir's participation in a forum", 30 May 2016.

Austria, Germany, Italy, the EU representatives as well as representatives of the host France.²⁰³ Once again the attendees highlighted the re-found vigour in intra-region cooperation facilitated by the Berlin Process and the Brdo process. The concentration of efforts around a clear agenda on “transport, energy, and people to people contacts” have been widely appreciated. In Paris, the participants could discuss the developments achieved under the projects approved in Vienna 2015 summit and the implementation of the required soft measures instrumental in streamlining rules and procedures and thus facilitating the progress of infrastructure projects.

New investments on the railway and a programme on hydropower and energy efficiency were approved where the EU pledged other EUR 150 million in grants.²⁰⁴ Prime Minister Rama expressed his satisfaction “that the seriousness shown by the Albanian government in the programming of this phase” reaped results as one of the approved connectivity projects is rebuilding the railway in Albania.²⁰⁵ The energy sector projects together with the adopted road map on building a regional market for electricity are seen as instrumental for economic development, and regional market integration with the view to merge it with the EU market. The EU and the Energy Community will be following the progress in their implementation. In this CEFTA and especially the additional Protocol 5 on Trade Facilitation is seen as a catalyst of these regional market integration efforts.²⁰⁶

In the Paris Summit the Regional Youth Cooperation Office (RYCO) was formally established as the Western Balkans representatives signed the agreement on youth cooperation framed after the Franco-German experience.²⁰⁷ This office core work will be education in democratic values, cultural diversity, and promote exchange programs with the end result being bringing Western Balkans’ youth together, focusing on similarities while cherishing their diversity. These

²⁰³ Western Balkan’s Heads of States and Governments, *Final Declaration by the Chair of the Paris Western Balkans Summit*, 4 July 2016.

²⁰⁴ *Ibid.*

²⁰⁵ Albanian Prime Minister’s Office, “Paris Summit: The integration of the Western Balkans, an unstoppable process”, 05 July 2016.

²⁰⁶ Central European Free Trade Agreement, Trade Facilitation.

²⁰⁷ The Regional Youth Cooperation Office of the Western Balkans, RYCO – Agreement signed during the Western Balkans Summit in Paris on 04 July 2016.

commitments follow on the Positive Agenda for the youth of the Western Balkans that together with the increased opportunities offered under the umbrella of Erasmus + ensure better perspectives for young people in employment.²⁰⁸ The representatives agreed that “the RYCO would provide a major contribution to the reconciliation and the European future of the region”.²⁰⁹ However, to date the Regional Youth Cooperation Office is not working. Malaise over the proposed Secretary General, a Serbian national from the Kosovan counterparts persist. This despite a gentleman agreement that given that the headquarters are in Tirana, the Secretary General should be Serbian and the Deputy Secretary General Kosovan.²¹⁰

Paris maintained the tradition started in Vienna encouraging CSOs of the region to contribute to the works of the summit.²¹¹ The Western Balkan Sustainability Charter and its implementation took primary stage, growth can be sustainable and the CSOs seize the opportunity to call on Western Balkan’s governments to follow through on commitments taken in COP21 and pursue a sustainability agenda to create jobs and growth.²¹² Moreover, CSOs applaud the signature of RYCO agreement and suggest that Croatia and Slovenia join these regional efforts and Erasmus + should extend to the whole region.²¹³ However, the civil society was quick to warn that these suggested initiatives should by no means serve as an excuse for any possible reduction of funds directed at youth activities in the region.²¹⁴

Stability of the region is important for its people and for the EU, the steady steps taken toward reconciling the region have been welcomed by the EU. The Vienna Declaration on Regional Cooperation and the

²⁰⁸ Western Balkan’s Heads of States and Governments, *Final Declaration by the Chair of the Paris Western Balkans Summit*, 4 July 2016.

²⁰⁹ *Ibid.*

²¹⁰ Senior Diplomat, EU Member State, Block of Embassies, interview, Tirana, 02 February 2017

²¹¹ See Friedrich Ebert Stiftung, Citizens for Europe, European Alternatives, *Civil Society Forum of the Western Balkans Summit Series Paris 3-4 July 2016 Results and Recommendations*; Cf. Civil Society Forum Belgrade of the Western Balkans Summit Series, *Civil Society Forum Belgrade of the Western Balkans Summit Series*, 11-13 May 2016, Novi Sad/Belgrade.

²¹² See WB6 and Energy Community, Western Balkan Sustainability Charter, 4 July 2016, Paris; See as well Citizens for Europe, *Civil Society Forum Paris – Key Policy Proposals from Civil Society Actors*.

²¹³ *Ibid.*

²¹⁴ *Ibid.*

Solution of Bilateral Disputes of August 2015 was followed up by another conference “Western Balkans: Energizing the Enlargement Process by Solving Bilateral Disputes” in April 2016.²¹⁵ Participants agreed that it is crucial to galvanize the political commitment attained in Vienna by identifying tools, mechanisms that best can serve the purpose of facilitating economic development and growth in the region and take stock of the progress made in this direction. The EU integration path goes hand in hand with good neighbourhood relations in the region. The lingering disputes in the region regard border demarcation inherent to former Yugoslavia, but as well political disputes regarding statehood and identity like the name dispute between the Former Yugoslav Republic of Macedonia and Greece. Disputes where an EU member State is involved charge the resolution efforts politically and if these intersect with the enlargement accession negotiations, heighten arguments of a political blackmail which contributes to lessening the EU leverage and cast a shadow on the transparency of the enlargement process. Albanian Foreign Affairs Minister Bushati underlined that countries in the region are aware that “open bilateral disputes have at best slowed down the accession process or at worst prevented it from going forward”.²¹⁶ These intertwined issues are further aggravated by heated interethnic relations in the region, which make any intra-region mediation impossible due to lingering distrust of possible hidden agendas. Civil society has pushed that existing mediation effort in the region include the active participation of Bulgaria, Romania and Greece and that the EU engages more actively by appointing a coordinator within EEAS on bilateral disputes.²¹⁷ Practically, it has been suggested that these can be overcome by connecting “dispute resolution mechanisms [with] economic development mechanisms” that highlight the mutual importance of the two.²¹⁸

²¹⁵ See Annex 3, Western Balkans Summit Vienna 2015, Addendum, Declaration on Regional Cooperation and the Solution of Bilateral Disputes;

²¹⁶ Albanian Ministry of Foreign Affairs, Ditmir Bushati, Conference “Western Balkans: Energizing the Enlargement Process by Solving Bilateral Disputes”, 25-26 April Vienna, Austria.

²¹⁷ See Friedrich Ebert Stiftung, Citizens for Europe, European Alternatives, *Civil Society Forum of the Western Balkans Summit Series Paris 3-4 July 2016 Results and Recommendations*.

²¹⁸ Albanian Ministry of Foreign Affairs, Ditmir Bushati, Conference “Western Balkans: Energizing the Enlargement Process by Solving Bilateral Disputes”, 25-26 April Vienna, Austria.

Stability remains an important reason of political engagement in the Western Balkans, many interviews conducted both in Brussels and Tirana confirm it. It is understood however, that “preserving the status quo will not hold”.²¹⁹ The Berlin Process was initially a political one, however it became clear to everyone that “without connectivity the process would not work”, the EU has always have the sense that if we do not engage others will.²²⁰ The substance in reforms is lacking, from one year to the other – indeed the last two years – even the once known ‘progress reports’ are now called ‘country reports’ as “there is no progress”.²²¹

Indeed, in the case of Albania, France is eager to see implementation of adopted reforms starting with the vetting law.²²² In an official visit for launching the Regional Youth Cooperation Office, French Minister of State for European Affairs Mr Harlem Désir confirmed to Prime Minister Rama the French support on enlargement towards the Western Balkans, underlining the importance of chapters 23 and 24.²²³ A significant political signal for the region is the visit of François Hollande in Albania and Serbia scheduled in March 2017. It will be the first time a French President to visit the country of the eagles. A senior French Diplomat in Tirana, confirms that the message France wants to transmit is that of a stronger international cooperation “France is here, France is with you”.²²⁴

The results achieved, as mentioned above, serve as “proof that the Berlin Process meant as an accelerator of the EU” [has yielded] practical and political effects of cooperation”.²²⁵ However, more critical voices, like the Chairwoman of the European Integration Committee of the Parliament of Albania, Ms Majlinda Bregu, would like to see in this “very nice and beautiful political willingness” more economic backing as it is lamented that the main financial support comes from existing

²¹⁹ Senior Diplomat, EU Member State, Block of Embassies, interview, Tirana, 02 February 2017.

²²⁰ Senior Diplomat, EU Member State, Block of Embassies, interview, Tirana, 02 February 2017.

²²¹ Senior Diplomat, EU Member State, Block of Embassies, interview, Tirana, 02 February 2017.

²²² Senior Diplomat, EU Member State, Block of Embassies, interview, Tirana, 19 January 2017.

²²³ Senior Diplomat, EU Member State, Block of Embassies, interview, Tirana, 19 January 2017.

²²⁴ See Senior Diplomat, EU Member State, Block of Embassies, interview, Tirana, 19 January 2017. See as well French Ministry of Foreign Affairs and International Development, “Albania – Visit by Harlem Désir”, Tirana December 7-8, 2016.

²²⁵ Albanian Ministry of Foreign Affairs, Ditmir Bushati, Conference “Western Balkans: Energizing the Enlargement Process by Solving Bilateral Disputes”, 25-26 April Vienna, Austria.

instruments such as IPA II.²²⁶ The expectation was that the EC, IMF and EBRD would be more resilient in finding new means to instil growth and facilitate development in the region. The efforts put forth by the EU and a few IFIs to strengthen the market economy of the region seem to be far too little.²²⁷ The criticism stands, as it is confirmed by a senior diplomat given that the process started as a political one and many efforts to bring in investors were not successful, the only substantial economic support remains that of IPA II funds and existing bilateral donations.²²⁸

3.3.5 Towards Trieste 2017

On the 12 of July 2017, it will be Italy's turn to host in Trieste the Western Balkan Summit. It was announced by Italian Foreign Affairs and International Cooperation Minister, Mr Angelino Alfano before the Commissions for Foreign Affairs of the Chamber and Senate.²²⁹ Italy has always been an avid supporter of enlargement in the Western Balkans. In the enlargement policy toward the region, Italy has seen the potential of instilling peace and stability by means of incentives to resolve prolonged disputes. The many possibilities that would unfold for Italy as a result of integration of the region in the EU with the foreseen advantages in economy and security and the geographic rebalancing within the EU between north and south.²³⁰

Preparations are underway and at the time I am completing the writing of this thesis the agenda seems to be centred on rule of law and justice, freedom and security, as well as instilling growth by facilitating new investment on small and medium enterprises (SMEs) and strengthening cooperation in fighting corruption.²³¹ These themes are among the most important goals Italy seeks to attain through enlargement policy in the region. In interviews conducted the above mentioned themes were salient. Italy follows with attention the

²²⁶ M. Bregu, "European membership perspective is the only guarantee of peace in the region", *European Western Balkans*, 26.09.2016.

²²⁷ *Ibid.*

²²⁸ Senior Diplomat, EU Member State, Block of Embassies, interview, Tirana, 02 February 2017.

²²⁹ ANSA, "A Trieste vertice 2017 del Balcani Occidentali", 18 Gennaio 2017.

²³⁰ See Ministry of Foreign Affairs and International Cooperation, "Rapporto 2020: Le Scelte di Politica Estera", Rome, Ministry of Foreign Affairs and International Cooperation pp. 57-60; Senior Diplomat, EU Member State, interview, Tirana, 13 January 2017.

²³¹ ANSA, "A Trieste vertice 2017 del Balcani Occidentali", 18 Gennaio 2017.

implementation of the justice reform, fighting corruption and organize crime in the view to strengthen, thus a common area of freedom, justice and security by encouraging synergies between the regional and EU integration.²³²

On the 23 of January 2017 in a meeting held in Tirana gathering the Italian Ambassadors in the region the Italian Undersecretary for Foreign Affairs and International Cooperation, Vincenzo Amendola with Envoy Extraordinary of the Italian Ministry of Foreign Affairs and International Cooperation Mr Michele Giacomelli, exchanged views on the current situation in the region, expectations and possibilities to further the regional cooperation in view of the upcoming Summit in Trieste.²³³ Minister Alfano reminded that this is an occasion “to further strengthen the strategic partnership between Italy and the countries in the region, that should be done in parallel to the efforts within the UN Security Council”.²³⁴

3.4 Conclusion

The EU enlargement policy toward the Western Balkans has been motivated by strategic interests. The costs of engagement have always been outweighed by the costs of a resulting instability. Moreover, starting in the beginning of the '90 - as supported by interviews and the relaunch of enlargement by means of the Berlin Process – the Western Balkans have been seen as an important piece of the European puzzle. Either the EU would engage, or else other would and are engaging through investments and thus political leverage in the region. In Albania alone the spike in Chinese investment has caused some alarm.²³⁵ The new domestic and as a result foreign policy developments of allies like the US and raising populist demands in European countries that threaten regime changes across Europe do on one hand, pose the risk of undoing “decades of European integration”²³⁶ and on the other,

²³² Senior Diplomat, EU Member State, interview, Tirana, 13 January 2017.

²³³ Italian Ministry of Foreign Affairs and International Cooperation, “Alfano interviene in videoconferenza degli Ambasciatori Italiani dei Paesi dell’area adriatico-balcanica”, 23.01.2017.

²³⁴ *Ibid.*

²³⁵ M. Tanner, “Russia Never Went Away from the Balkans”, *Balkan Insight*, 08 February 2017; F. Mejdini “Chinese Buy Rights to Oil Fields in Albania”, *Balkan Insight*, 21 March 2016; G. Erebara “Chinese to Build Albanian Highway to Macedonia”, *Balkan Insight*; Senior Diplomat, EU Member State, Block of Embassies, interview, Tirana, 19 January 2017; Senior Diplomat, EU Member State, Block of Embassies, interview, Tirana, 02 February 2017.

²³⁶ Juncker, *A New Start for Europe op.cit.*, p. 3.

reaffirm the importance of the region before the changing multilateralism.

Nonetheless, the Juncker's European Commission Presidency, served to solidify nearly a decade of ambiguity in the EU policy toward the Western Balkans that started with the renewed consensus for enlargement. As it has argued by international studies there has been an alarming regress and no progress in the region. Maintaining momentum is certainly less costly than facing instability or hostile interests in the EU doorstep. For it to happen there should be goodwill and interest on both parties on the path of Europeanization. Disengagement from the region is not an option for the EU, however the tools for Europeanization are much more dependent on the interactions between the parties by means of socialization, and not on concrete leverage. The interactions of both parties have informed the choices and policy decisions they both have had. Arguably, at the moment to the detriment of the future of 18 million people living in the Western Balkans.

The rules of negotiation in Brussels have been adapted throughout these two decades and there is clarity on all parties involved that the EU is forcefully inward looking and the countries of the region know that there is no simple automatism in the enlargement process where public opinion limits the course of action.²³⁷ There is a growing understanding, that the *ambiguous* relationship is being revived in times of need like the migration crisis. However, as much as the government have been lenient towards EU requests, it is noteworthy to point at the increasing numbers of asylum applications from the region. Important figures if compared to those of war torn Syria that are telling on the situation in the region. Yet, it seems that once again we are living in a conundrum similar to the end of the '90 when the then President of the EC Prodi warned against maintaining a "hard line" or else be ready to see these countries "turn their backs on [the EU]".²³⁸

The region should be seen as more than just a ticking bomb - a threat of instability - indeed the several connectivity projects and those in the field of energy, recognize the geo-economic value the region has for the EU. However, efforts put in place are little more than those of a diplomatic exercise. Funds for the approved investment projects are

²³⁷ See Putnam, *op.cit.*

²³⁸ R. Prodi President of the European Commission on Enlargement, SPEECH/99/130, 13 October 1999.

coming from the same budget and no new investments have been assured.

On one hand, in order to reach concrete results in connecting the region through a region wide market the relations between countries and any lingering bilateral disputes should be resolved. The Berlin Process brought about some progress in this direction but much more needs to be done. The long-term tool for strengthening young generations connection to one another, the Regional Youth Cooperation Office, was conceived in the first Western Balkans summit in Berlin 2014 and it is yet to start its activities.

On the other hand, new investment from China, Russia and the political influence of the US concretely presents a threat to the project the EU has in forming in the continent an economic block. Indeed, the preparatory agenda for the next Western Balkans summit in Trieste highlights the focus on small and medium enterprises, underlining the attention towards instilling growth in the region.

The Berlin Process has been a pragmatic reminder for both the EU and the Western Balkans about the importance of cooperation and its ultimate goal was to serve as a reassurance of their European perspective.

Nonetheless, more should be done as the linkages of the EU in the region are ever more weak, the threat of democratic backsliding within the Union – with elections in France, Germany and the Netherlands - plus the vagueness of the accession perspective may put into question the EU role in championing democracy in the wider region.²³⁹ The Western Balkans are thought to be governed by an elite whose main interest is clinging to power, this state capture weakens trust in democracy and risks to encourage the rise of populism “offering simple solutions to complex political and social problems”.²⁴⁰ The context is further burdened by raising socio-economic concerns and weak democratic traditions that clash with a rising authoritarianism.²⁴¹

²³⁹ See as well Citizens for Europe, *Civil Society Forum Paris – Key Policy Proposals from Civil Society Actors*.

²⁴⁰ See Civil Society Forum Skopje agenda, *Reclaiming Democracy, Europe and Social Justice*, 24 November 2016, Skopje The Former Yugoslav Republic of Macedonia Conclusions: Democracy, Europe, Social Justice: Future Strategies

²⁴¹ See Civil Society Forum Skopje 2016 “Reclaiming Democracy, Europe and Social Justice”, 24 November 2016, Skopje The Former Yugoslav Republic of Macedonia.

In the next chapter I attempt to analyze and assess progress in reforms in Albania since receiving the candidate status and recent developments in the public opinion. What is undeniable is that “in spite of many differences amongst its Member States, is by far the wealthiest and most stable continent in the world.” ²⁴² The question is now if both parties the domestic gatekeeper elites, and the EU will move from preventing the ‘worst case’ to achieving the ‘best case’.

²⁴² Juncker, *State of the Union 2015*, *op.cit.*

Chapter 4

Empirical observation on the EU Enlargement Policy

The case of Albania

4.1 Fundamentals first

Starting from early 2000, the EU came up with a “Programme for the Prevention of Violent Conflicts”, with a view to ensure “[a] coherent early warning, analysis and action”.¹ The warning indicators for potential instability are to be found in the Constitution which guarantees the respect of human rights by means of ensuring the rule of law.² In addition, indicators like freedom of expression, peaceful co-existence among different communities, a steady economic situation, social and regional disparities are seen in the geopolitical context.³

Accordingly, already in 2013 Enlargement Commissioner Štefan Füle suggested a change of course in the EU enlargement towards the Western Balkans where the conditions to be met were going to be centred in five “fundamentals” namely the rule of law, strengthening economic governance, support for democratic institutions, respect for fundamental rights and ties between the enlargement countries and EU member states.⁴ Arguably, this shift in policy was dictated by lesson learnt in the last decade of EU enlargement and “fundamentals first” emerged as the main theme of 2013 Strategy paper.⁵ The EC has since adopted a novel *modus operandi* with an increased focus on and

¹ European Council, *Presidency Conclusions, Göteborg 15-16 June 2001*, p. 12. See Council of the European Union, *Draft European Union Programme for the Prevention of Violent Conflicts*, Brussels 07 June 2001.

² Council of the European Union, *Draft European Union Programme for the Prevention of Violent Conflicts*, Brussels 07 June 2001.

³ *Ibid.*

⁴ European Commission, Stefan Füle, European Commissioner for Enlargement and Neighbourhood Policy, *Enlargement Package 2013*, Press Release, Brussels 16, October 2013.

⁵ *Ibid.*

frontloading of rule of law.⁶

What novelty does the 2015 enlargement package introduce? Simon Mordue, European Commission, DG Near, Director for Strategy and Turkey, highlights that the EC has revived the “fundamentals first” approach by introducing a multiannual overarching strategy evaluation grid covering the European Commission term.⁷ The enlargement package does not only focus on progress attained but for the first time provides a roadmap of issues to be tackled in the short and long term. Effectively carving a roadmap to better preparing the countries to take on membership obligations. Moreover, the evaluation scales are now harmonized to facilitate comparison and promote transparency on the path of accession process. Nonetheless, Mr. Mordue admits that “all assessment include subjectivity” and the EC “in line with our aim of full transparency” has decided to “include a detailed annex on [each country’s] report” which was result of a close collaboration with other international organizations such as the OSCE, Council of Europe and IMF.⁸

The environment where we are working has changed, not how many and how fast but how seamless integration is going to be and the EC, in the words of the Director for Strategy for Enlargement is focusing on “three to four reforms in the upcoming 18 months and make the process more political.”⁹ This “political frontloading” comes as a result of lessons learnt from past enlargement rounds, reforms and possible resolution of conflicts takes time thus starting as soon as possible with these thorny issues gives leverage to the EU in pushing a clear reform agenda domestically. The EU Member States are cognizant that the path to full compliance is a steep one thus among my interviewees there were expressed suggestions of being more fair than strict on

⁶ See European Commission, *Enlargement strategy and main challenges 2012-2013*, COM(2012) 600 final, Brussels, 10.10. 2012.

⁷ S. Mordue, Director for Strategy and Turkey in European Commission, DG Near, EPC, Policy Dialogue, “EU Enlargement to the Balkans: Taking stock and moving forward”, Brussels, 18 November 2015.

⁸ *Ibid.*

⁹ S. Mordue, Director for Strategy and Turkey in European Commission, DG Near, EPC, Policy Dialogue, “EU Enlargement to the Balkans: The role of the member states”, Brussels, 29 September 2015

these.¹⁰

These fundamentals have been part of long processes and should be tackled early on in the process so that to secure concrete results, to be clear these processes do not entail only setting up laws and institutions but most importantly an enforcement track record.¹¹

Ms. Bregu, Chairwoman of the Committee for EU Integration in the Albanian Parliament underlined the need for the enlargement process to become “more innovative” stressing the need for “more decision and less rhetoric”. The stability in the region and each in each of our countries, good standards of democracy and good governance are crucial. In order to find an answer to enlargement all of us should not “insist that the answer must come from the EU Member States”.¹² If there is lack of standards the Western Balkans should move and so should the EU keeping the process going and not wait for the EU to digest enlargement.

In the following chapter I adopt the theoretical framework envisaged by Steven Levitsky and Lucan A. Way to evaluate the developments in Albania, since obtaining the candidate status.¹³ A modern democracy is based on free and fair elections where all eligible citizens have the right to cast their ballot by means of which legitimate the work of executives and legislatures, which are not, on the other hand restricted by any external influence¹⁴; political and socio-economic rights including the fundamental rights such as freedom of speech and association are preserved.¹⁵ It has been recognized that even democratic regimes may, on occasion restrict these liberties but these do not amount to disrupting the balance and fairness where the same rules are applied to both government and opposition.

The analysis that follows shows that we are in the presence of a hybrid

¹⁰ Senior Diplomat, EU Member State, Block of Embassies, interview, Tirana, 02 February 2017.

¹¹ J. Hahn, EU Enlargement Day interview with EU Commissioner Johannes Hahn, European Western Balkans, Brussels, 01 June 2016.

¹² M. Bregu, Chairwoman of the European Integration Committee of the Parliament of Albania, EPC, Policy Dialogue, “EU Enlargement to the Balkans: The role of the member states”, Brussels, 29 September 2015

¹³ Levitsky and Way, *op.cit.*, pp. 51-65.

¹⁴ See Mainwaring, Brinks, and Pérez Linan *op.cit.* pp. 37-65.

¹⁵ Levitsky and Way, *op.cit.*, p. 53.

regime as defined by Juan Linz [a lesser] form of authoritarianism.¹⁶ Indeed, I argue that Albanians live under a competitive authoritarianism.¹⁷ Democratic institutions - as I try to showcase throughout my analysis - may not be enough to resist an authoritarian turn. Indeed, competitive authoritarianism flourishes under the premises of this paradox. The use of legislative loopholes, enforcement of patronage, cooption and corruption are all means to an end, in the game of thrones of the Albanian political landscape. It all is skilfully managed so as not to inspire a violent domestic dissent or external condemnation.¹⁸ Yet, it is a fine line that poses a constant threat to stability. It results in a conundrum for autocratic incumbents, should they hold on to power in blatant violation of democratic rules, cause domestic unrest and face sanctions by international system or allow a change in power? ¹⁹ Albania will be holding its elections later this year in June 2017, but as Levitsky and Way remark “succession is not democratization”. ²⁰

There is no level playing field between government and opposition, yet the democratic institutions may be used by dissenting voices to confront the government is specific “arenas of contestation” that I do analyse below.²¹

4.1.1 Elections

In analyzing progress in the area of democracy, I evaluate the last parliamentary and local elections held in Albania in June 2013 and 2015 respectively. The results are slightly positive as, on one hand, elections are “positively assessed by the international election

¹⁶ J. J. Linz, *Totalitarian and Authoritarian Regimes*, Boulder, Colorado, Lynne Rienner Publishers, 2000, p. 34.

¹⁷ See Levitsky and Way, *op.cit.*, pp. 53-54.

¹⁸ These dilemmas are presented in an insightful way in Schedler, *op. cit.*, pp.103–122.

¹⁹ See Levitsky and Way, *op.cit.*, pp. 58-59.

²⁰ Levitsky and Way, *op.cit.*, p. 59. See as well Ministria e Puneve te Brendshme, “Takimi me Diasporen/Vota e emigrantëve, paraprihet nga regjistrimi i tyre”, Tirane, 19 Nentor 2016. Albanians living outside the country to this day are not afforded the opportunity to cast their vote. Unless they travel to Albania during elections.

²¹ Levitsky and Way, *op.cit.*, p. 54.

observation mission”.²² On the other hand, they are “bitterly fought” between the two main political parties that resort to “abus[e] of state power” to further their interest and use media coverage to “violent[ly] harass[s] opposition”.²³

In June 2013, the parliamentary elections were regularly held, as Albanians elected 140 members of parliament “for a four-year term under a regional proportional system within 12 multi-member electoral districts”.²⁴ The political participation was wide as “[s]ixty-six political parties and two independent candidates were registered as contestants” and grouped around the two main political parties the Democratic Party (DP) and the Socialist Party (SP).²⁵

The institutional rules and procedures prior to the elections where in place as the Constitution and the Electoral Code both amended in 2008 and 2012 respectively hold provisions directed to upholding fundamental rights and freedoms laying the basis for democratically held elections.²⁶ Nonetheless, the “implementation and enforcement by all main stakeholders fell short” hindering thus trust and “confidence in the electoral process”.²⁷

The political context had been heavy since the 2009 parliamentary elections where both Democratic Party (DP) lead by Sali Berisha and Socialist Party (SP) lead by Edi Rama had gathered nearly an equal support from the electorate. The government majority was obtained with the votes of the Socialist Movement for Integration (SMI) lead by Ilir Meta. The Central Elections’ Commission (CEC) was affected by the game of thrones as in March 2013, three months prior to the elections the DP lead governing coalition lost its ally, the Socialist Movement for Integration. The Republican Party became then the second largest

²² European Commission, *Commission Staff Working Document Albania 2013 Progress Report*, SWD (2013) 414 final, Brussels, 16.10.2013, p. 5.

²³ Levitsky and Way, *op.cit.*, p. 55. See as well OSCE/ODIHR, *Election Observation Mission Final Report*, Warsaw, 10 October 2013, p. 1. In comparison to the 2013 elections in the local election of June 2015 the tone of the political campaign had somewhat improved, however the main political parties did not refrain from personal attacks to discredit the opponents. See as well OSCE/ODIHR, *Election Observation Mission Final Report*, Warsaw, 8 September 2015, p. 2.

²⁴ OSCE/ODIHR, *Election Observation Mission Final Report*, Warsaw, 10 October 2013, p. 5.

²⁵ OSCE/ODIHR, *Election Observation Mission Final Report*, Warsaw, 10 October 2013, p. 1.

²⁶ Cf. OSCE/ODIHR, *Election Observation Mission Final Report*, Warsaw, 10 October 2013, p. 6.

²⁷ OSCE/ODIHR, *Election Observation Mission Final Report*, Warsaw, 10 October 2013, p. 1.

political party in the governing coalition – and following the sacking of the representative of SMI - after a vote in the Albanian Parliament, gained a seat in the CEC

This subsequent change in composition of the CEC does not find any ground in the Electoral Code, whereby Article 18 does not provide for a shift in the composition of the governing coalition nor that of the opposition to authorize the early termination of the mandate of a CEC member. In the parliamentary debate, however, the reason of the early termination was justified on the alleged ineligibility of the dismissed CEC member to hold office on the grounds of having been previously dismissed from another public office. Nonetheless, the argument of a political motivated manoeuvre holds, as SMI was never called to replace its member within CEC given its departure from the governing coalition. The three CEC members proposed by the opposition SP and the Human Rights Union Party (HRUP) were also terminated and the Parliament requested that the opposition proposed replacements so as to act on the resignation notice received from the CEC. The Electoral Code in Article 18.2 provides for the parliament to approve resignations of CEC members without specifying a term to do so, while Article 19.3 provides the parliament should appoint new members within the term of 48 hours. The opposition called the early termination of its CEC members unsubstantiated, hence the opposition would not comply with Parliament's request and put forth new nominations for the positions. Following this political exchange starting from mid-April 2013, two months before the elections, the CEC was working with only four members.²⁸ Thus, the Central Elections' Commission was hindered from functioning properly.

Thus the Parliament, was called to determine the number of seats for each district. Instead of referring to 2013 population statistics, the Legislative body decided to use the 2009 population statistics.

Article 75 of the Electoral Code states that - while the number of seats to be elected in each district ranges from 4 to 32 - the number of seats are allocated in proportion to the number of citizens of each district, so that each elected member in the Parliament to represent an equal number of constituents. The arbitrary decision taken by the Parliament

²⁸ See OSCE/ODIHR, *Election Observation Mission Final Report*, Warsaw, 10 October 2013, p. 5.

undermined the principle of equal representation as under 2013 population statistics the districts of Berat and Korçë should have been allocated one seat less and the districts of Durres and Tirana should have been allocated an additional seat. Moreover, this infringes on the provision of para. 7.3 of 1990 OSCE Copenhagen Document in accordance with which States pledge to “guarantee universal and equal suffrage to adult citizens”.²⁹

The local elections, scheduled every four years, held on 21 June 2015 were equally marked by a polarized atmosphere between the now opposition lead by DP and the government majority of SP and SMI.³⁰ Following the candidate status granted to Albania by the EC, the DP started a boycott of the works in the Parliament. The European Parliament, through two of its main parties EPP and S&D and their respective representatives, Eduard Kukan and Knut Fleckenstein, brokered an agreement centred on building a constructive political dialogue between political parties, including debates on thorny issues like barring from seeking a nomination or holding a public office any individual with criminal records.³¹ In this agreement the ruling majority committed to seek the opposition participation on important reforms and to work together in reviewing and aligning rules and procedures of parliamentary inquiry committees to best international standards.³²

4.1.1.1 Electoral campaign

The political campaigns started with political parties and prominent politicians holding rallies to present their candidates. Nonetheless, there was limited political debate between contestants with no

²⁹ See OSCE/ODIHR, *Election Observation Mission Final Report*, Warsaw, 10 October 2013, pp. 5-6. See also OSCE, *Document of the Copenhagen Meeting of the Conference on the Human Dimension of the CSCE*, p. 6.

³⁰ These elections were the first for Albania after receiving the candidate status and the first following the 2014 revision of local government units where in the newly-formed 61 municipalities Albanians elected majors and local councils.

³¹ E. Kukan, K. Fleckenstein, “Press Statement by Knut Fleckenstein and Eduard Kukan on political dialogue and cooperation in Albania”, Brussels, 17 December 2014; E. Kukan, K. Fleckenstein, “Breakthrough in Tirana: Press Statement by Knut Fleckenstein and Eduard Kukan on political dialogue and cooperation in Albania”, Brussels, 23 December 2014;

³² See Kuvendi Republika e Shqiperise, *Rezolute e marreveshjes politike mes Mazhorances Qeverisese dhe Opozites ne Kuvendin e Republikes se Shqiperise*, 24.12.2014.

involvement of prominent career politicians. The agenda of most political parties was centred on economic development, employment, the fight against corruption, and EU integration. The heated and often personal, accusations between DP and SP political parties representatives during the campaign diverted the attention away from solid topic of concern for Albanian citizens.³³ The government used official events such as opening of roads, schools and hospitals, inauguration of factories and opening of employment opportunities for campaign purposes. A do ut des practice was used in rallying events where the ruling coalition Socialist Party and the Socialist Movement for Integration during the local elections continued misuse state power for electoral purposes.³⁴ Furthermore, the main political parties, resorted to politically motivated neglect in (failing to) implement the existing legal framework, which hindered the proper functioning of elections administration, thus allowing room for irregularities.³⁵ The members of the Central Election Commission (CEC) waived under pressure, undermining public's trust in having a free and fair system in place administering the elections.³⁶ These were an infringement on para. 5.4 of OSCE Copenhagen Document whereby "a clear separation between the State and political parties" shall be preserved and where participating states pledged that "political parties will not be merged with the State".³⁷ Furthermore there were widespread allegations that public-sector workers were pressured to attend rallies or gather support for the governing party or else face consequences such as termination of employment.³⁸ In addition, the phenomenon of vote-buying,

³³ See OSCE/ODIHR, *Election Observation Mission Final Report*, Warsaw, 10 October 2013, p. 13.

³⁴ Examples include, Ilir Meta Chairman of the Albanian Parliament, and chair of SMI, handing out legalization certificates in Vore broadcasted on television (24 May); Erjon Veliaj Footage of Mr. Veliaj handing out legalization certificates broadcasted on television (23 and 26 May). Moreover, on 1st June, Mr. Veliaj together with Prime Minister Rama and Minister of Education Ms. Nikolla, appeared to the construction site of the Olympic Park in Tirana. On 2 June, together with Mr. Meta, Mr. Viktor Tusha, SMI candidate for mayor in Lezhe, visited the construction site for a new bridge in Lezhe. Both of them made another appearance together on 8 June, at the inauguration of a new ferry line from Shengjin to Brindisi.

³⁵ OSCE/ODIHR, *Election Observation Mission Final Report*, Warsaw, 8 September 2015, p. 1.

³⁶ OSCE/ODIHR, *Election Observation Mission Final Report*, Warsaw, 8 September 2015, p. 1.

³⁷ See also OSCE, *Document of the Copenhagen Meeting of the Conference on the Human Dimension of the CSCE*, p. 6.

³⁸ See OSCE/ODIHR *Election Observation Mission Final Report*, Warsaw, 10 October 2013, p. 13. The OSCE/ODIHR EOM noted that schools would close during daytime rallies, with teachers

especially targeting vulnerable strata of the population, resurfaced leading up to the election day.³⁹ Especially during the local elections of June 2015, the EOM of OSCE/ODIHR observed many cases of group voting and proxy voting, notably with political party activists possibly exerting pressure on voters.⁴⁰ Following these instances of overt abuse of state power, blurring the lines of public good and particular party interests the Ombudsperson intervened establishing a working group and invited citizens victims of abuse to report these instances. Citizens may face various repercussions and lose their jobs should they decide to report these instances.⁴¹ Article 21 of the Electoral Code provides for the CEC to ensure there is no misuse of state power and resources, evaluate complaints and refer severe abuse amounting to criminal behaviour to law enforcement bodies.⁴² Nonetheless, the complaint mechanisms were hardly referred to.

The media coverage of the political campaigns above was adequate in that constituents were informed of the stance of main political parties.⁴³ However, according to OSCE/ODIHR media did not provide coverage for smaller political parties nor abide by the limits imposed on paid

and students obliged to attend. The OSCE/ODIHR EOM noted schoolchildren amounted to 30 per cent of those attending.

³⁹ See OSCE/ODIHR, *Election Observation Mission Final Report*, Warsaw, 10 October 2013, p. 14. "The OSCE/ODIHR EOM received multiple reports of vote-buying from at least seven districts and was made aware of at least two arrests. A DP candidate was recorded buying votes in Tirana in a hidden camera TV show aired on 11 June, on which the SP filed a report to the Prosecutor of Tirana. On 21 June, the police in Tropoje arrested a man in Lekbibaj on charges of vote-buying and issued a press release asking local citizens to report attempts to buy their votes. OSCE/ODIHR EOM LTOs in Kukës confirmed an attempt of vote-buying of local university students." Among the methods used were direct payments to secure votes and/or to hand over ID-s to political parties before the elections. See as well regarding the local elections of June 2015, OSCE/ODIHR, *Election Observation Mission Final Report*, Warsaw, 8 September 2015, pp. 2, 13.

⁴⁰ OSCE/ODIHR, *Election Observation Mission Final Report*, Warsaw, 8 September 2015, p. 3.

⁴¹ See Republika e Shqipërisë, Avokati i Popullit, "Raport Vjetor: Per veprimtarine e Avokatit te Popullit: 1 Janar -31 Dhjetor 2013", Tirane, Shkurt 2014.

⁴² See OSCE/ODIHR, *Election Observation Mission Final Report*, Warsaw, 10 October 2013, p. 20.

⁴³ There are 3 national television (TV) channels (public channel RTSH, TV Klan and TV Top Channel), 71 local TV channels, 113 cable TV channels and 71 radio stations. Print media are numerous, although circulation and impact are limited. Internet provides an open sphere for public discourse. According to the Postal and Electronic Communications Authority, as of early 2012, there were some 175,000 households with broadband subscription. TV has the highest share of advertising market and is considered the primary source of information due to its wide geographical coverage.

political advertising in favour of the two main parties.⁴⁴ The public broadcaster while granting equal coverage to the main political parties, leaned favourably towards the DP.⁴⁵ On the other hand the private broadcasters like TV Klan, notoriously DP partisan, to which granted a largely positive coverage. Others like Top Channel and Vizion Plus while more balanced reserved a more critical tone towards the DP. The news channels News 24 and Ora News provided a balanced coverage while print media took sides with Shqip and Shqiptarja.com aligning with SP and Mapo and Panorama with DP.⁴⁶ Article 84.1 of the Electoral Code sets as an obligation for broadcasters to feature tapes prepared by candidates in the news added to the affiliation of media owners that irreducibly brought about self-censorship and a single-nuanced viewpoint on issues.

“Private radios and televisions shall not allocate airtime to political subjects for their electoral campaign. Electoral campaign information prepared and transmitted during the news editions based on the materials made available by the electoral subjects should be clearly identifiable in compliance with the CEC instructions.”⁴⁷

The Internet remains the only media outlet free of interference and thus greatly contributes in providing additional viewpoints. The next elections in Albania are expected in June 2017, and already there have been attempts have been in the works on the part of the government majority to control dissenting internet pages. I expand more on freedom of speech on the section analysing media landscape.

⁴⁴ The OSCE/ODIHR EOM media monitoring revealed that the DP exceeded the 90-minutes legal limit on TV Klan (187 minutes), Vizion Plus (235 minutes), News 24 (204 minutes), Ora News (226 minutes). SP exceeded the legal limit on Klan TV (148 minutes), Top Channel (148 minutes), Vizion Plus (161 minutes), News 24 (125 minutes), Ora News (111 minutes).

⁴⁵ See OSCE/ODIHR, *Election Observation Mission Final Report*, Warsaw, 10 October 2013, pp. 2, 15, 17, 18.

⁴⁶ OSCE/ODIHR, *Election Observation Mission Final Report*, Warsaw, 10 October 2013, p. 18. See as well as a reference on media coverage of the local elections of June 2015, OSCE/ODIHR, *Election Observation Mission Final Report*, Warsaw, 8 September 2015, p. 17.

⁴⁷ Article 84.1 OSCE, The Electoral Code of the Republic of Albania, approved by Law no. 10019, dated 29 December 2008, amended by Law no. 74/2012, dated 19 July 2012 and Law no. 31/2015, dated 2 April 2015.

4.1.1.2 The turn against transparency

Article 23.4 of the Electoral Code entrusted the CEC to adopting, implementing and/or amending regulation and thus ensure transparency where “no later than 60 days from the election date”.⁴⁸ The CEC was not fully functional thus did not adopt the normative acts with the required qualified majority vote as specified by the Electoral Code; it did not supervise the compilation of voters list in each district nor the establishment of the Counting Centres and Counting Teams, drafting of the ballots and any actions taken by the VCCs, failing as well to make use of the available information technology.⁴⁹ Instead the CEC adopted decisions no. 426 of 17 May, no. 445 and 446 of 20 May and no. 621 of 21 June by simple majority and failed to amend outdated acts CEC Instruction no. 4 of 9 March 2009 on the organization and function of Voting Centre Commissions (VCCs) which is relevant only to the then 2009 parliamentary elections political landscape and legal framework. Moreover, the CEC could not respect deadlines in calling of sessions and in publishing the decisions on its website, in breach of what is provided for by the law. In addition, while the Electoral Code provided for testing of electronic counting and electronic voter verification systems – given that the necessary regulations were not in place - the tests of these electronic systems were aborted a week prior to the elections.⁵⁰

Another issue that ammount on concerns regarding transparency is the campaign financing, which remains not fully regulated. It allows for loopholes and the possibility of vested interests’ involvement in policy-making following the Election Day. A political party’s finances and expenditures are reported to CEC’s auditors only following the final

⁴⁸ OSCE, *The Electoral Code of the Republic of Albania*, approved by Law no. 10019, dated 29 December 2008, amended by Law no. 74/2012, dated 19 July 2012 and Law no. 31/2015, dated 2 April 2015. In Article 23. 4 “Normative acts of the CEC have a permanent nature, and, as a rule, they shall be applicable for all elections. These acts shall be reviewed in case the law is amended or for other reasons that legitimate their amendments. Acts on the preparation of elections, as a rule, shall be approved or amended no later than 60 days from the election date.”

⁴⁹ OSCE, *The Electoral Code of the Republic of Albania*, approved by Law no. 10019, dated 29 December 2008, amended by Law no. 74/2012, dated 19 July 2012 and Law no. 31/2015, dated 2 April 2015. Art. 24 – CEC decision-making; Art. 61 – Supervision by the CEC of the voter lists compilation; Art. 62 – Establishment and location of polling units; Art. 94 – Location and preparation of the Ballot Counting Centres; Art. 95 – Establishment of Counting Teams (CT); Art. 98 – Content of the ballot papers; Art. 101 – Preliminary actions of the VCC; Art. 103 – Stamping the ballot papers; Art. 179 – The Action Plan on the use of information technology in elections.

⁵⁰ OSCE/ODIHR, *Election Observation Mission Final Report*, Warsaw, 10 October 2013, p. 2.

elections' results. The CEC is required to publish these reports together with informations of any donor exceeding ALL 100 000 donation.⁵¹ The Group of States against Corruption (GRECO) of the Council of Europe issued a report addressing the issue of political funding, and assessed in overall positive terms the efforts made by the Albanian authorities to enhance transparency in this area.⁵² However, the EC has noted that regarding financial support to political parties and financing of electoral campaigns "there is no track record of effective control, or deterrent penalties for wrongdoing" leaving policy making vulnerable to corruption.⁵³ The legal framework addressing corruption is in place, however, its application and "legal certainty ha[s] been undermined" by an inconsistent interpretation.⁵⁴ Violations in the ethical conduct are frequent and unfortunately there are limited and inefficient mechanisms to seek remedy. The implemented reforms did not have the desired impact, with meagre results which in turn cemented the mistrust of the public opinion towards public administration.⁵⁵ The Albanian government counts the fight to corruption among its key priorities for which reportedly a large consultation with the civil society has been undertaken.⁵⁶

4.1.1.3 Evaluation and recommendations

The election days both in 2013 and 2015 were tainted by some tensions.⁵⁷ Nonetheless this and other similar cases of violence were isolated and the elections generally were non-violent.⁵⁸

⁵¹ OSCE/ODIHR, *Election Observation Mission Final Report*, Warsaw, 10 October 2013, pp. 2, 15.

⁵² Yves Marie Doublet, *Political funding, Thematic Review of GRECO's Third Evaluation Round, Group of States Against Corruption*, Council of Europe, Strasbourg, France 2013.

⁵³ European Commission, Commission Staff Working Document Albania 2015 Report, SWD(2015) 213 final, Brussels, 10.11.2015, p.16.

⁵⁴ *Ibid.* p. 17.

⁵⁵ *Ibid.*

⁵⁶ Republika e Shqipërisë, Këshilli i Ministrave, "Strategjia ndërkombëtare kundër korrupsionit 2015-2020, Mars 2015. The national anti-corruption strategy (2015-20) and action plan (2015-17), with a budget of EUR 12 million.

⁵⁷ In 2013 parliamentary elections, a violent clash between political supporters outside the Laq Voting Centre resulted in one supporter's death and two were injured; In 2014 tensions amounted before the counting centre of Vore. Protesters called for a re-count of the votes.

⁵⁸ OSCE/ODIHR, *Election Observation Mission Final Report*, Warsaw, 10 October 2013, p. 22. See as well OSCE/ODIHR, *Election Observation Mission Final Report*, Warsaw, 8 September 2015, p. 3.

Considering the issues identified in both parliamentary and local elections of 2013 and 2015 respectively there are a number of considerations to be made.

- Electoral campaign should be free from pressures and or threat to attend events and/or vote a specific political party or coalition. Any infringement on the right of free and fair vote should be investigated by authorities and adjudicated.
- Referring to article 84.1 of the Electoral Code, campaign material prepared by political subjects should not be imposed for broadcast, even more so if not specifically noted as political propaganda. To this end, the AMA should effectively conduct media monitoring and apply fines where broadcasters fail to comply with regulations.
- Moreover, libel and defamation continue to be criminal offenses, upon which the right and freedom of expression hinges. Recommendations have been made included by OSCE/ODIHR to replace it with civil fines.⁵⁹
- The independence of the CEC as central election administration should be ensured. It takes an effort of all stakeholders to ensure that the decision making, administration and obedience to rules and procedures be a priority and not be overshadowed by political party affiliation and particularistic interests.
- In the same vein, abuse of state power and resources should not be an 'accepted issue' to the point that is often overtly flaunted. Any abuse should be investigated and perpetrators be held accountable.

4.1.2 Legislature

4.1.2.1 Meeting and organizing

As showcased above, the political landscape in Albania is dominated by two main political parties SP and DP where the SMI often has been

⁵⁹ OSCE/ODIHR, *Election Observation Mission Final Report*, Warsaw, 10 October 2013, p. 28; See as well OSCE/ODIHR, *Election Observation Mission Final Report*, Warsaw, 8 September 2015, p. 25.

aligning itself on the left or right to form different governing coalitions. In the past elections, the legislature has seen indeed weak majority governments where the difference was made by a handful elected member of Parliaments of the SMI. In the analysis below, it is evident that the preferred means of opposition is boycott of the Parliament. Thus, the legislature does not serve “as a place for meeting and organizing and (to the extent that an independent media exists) as a public platform from which to denounce the regime.”⁶⁰

The EU integration has been and remains at the very centre of government and parliamentary efforts.⁶¹ The majority of the Albanian people support the full membership of Albania in the EU. An inclusive and transparent political dialogue remains a primary condition for Albania’s progress in the EU integration process, which has been, ever since the fall of communism part of the national agenda and a strategic goal for the country. Indeed, EU integration – formally - has been seen as a mean to and end: consolidate democracy, rule of law and guarantee the independence of institutions, strengthening the functioning of market economy, ensuring respect of human and minority rights, all of which are core values on the basis of which the EU has been founded. The Parliament, has been invested with an important role in the process of EU integration, which includes prerogatives of oversight - crucial to ensure success of the process. Obtaining a cross-party consensus, the Parliament adopted a Resolution on European Integration in support of the High Level Dialogue EU – Albania pledging for a comprehensive participation of all political forces, in satisfying the 5 key priorities identified by the EC as a condition for opening the accession negotiations.⁶² The five key criteria concern the reform of judiciary and the public administration, fight against corruption and organized crime, protection of human rights and property rights.⁶³ The Parliament commits, thus, to analyse as a priority - in a process of wide consultations - the existing legal framework with the aim of aligning the Albanian legislation with that of the EU, and ensure that all future legislative initiatives are in line with the Albanian

⁶⁰ Levitsky and Way, *op.cit.*, p. 56.

⁶¹ European Commission, *Commission Staff Working Document Albania 2013 Progress Report*, SWD (2013) 414 final, Brussels, 16.10.2013, p. 6.

⁶² Kuvendi Republika e Shqipërisë, Rezolutë, *Për procesin e integritetit evropian të Shqipërisë*, 27.11.2013.

⁶³ European Commission, *Commission Staff Working Document, Albania 2014 Progress Report*, SWD (2014) 304 final, Brussels, 8 October 2014, p. 1.

Constitution and the *acquis*. It recognizes the importance of including the civil society in the integration process of the country, making it an integral part of the efforts put forward to fulfil the 5 priorities indicated above. In accordance, the High-Level Dialogue and Joint Working Groups EU-Albania have spearheaded efforts tailored after the country's socio-economic needs towards fulfilling the political criteria.

These initiatives that have seen government and opposition work together. The opposition has had somewhat the opportunity to exercise its function of checking on the executive and in doing so has supported the reform process.⁶⁴ However, in these past 25 years of transition, this has not always been the case. In July 2014, immediately after Albania received the candidate status to join the EU, the Democratic Party (DP) started a parliamentary boycott. It ended in December 2014 upon an agreement between government and opposition where the parties pledged to engage in a constructive political debate taking place in the parliament.⁶⁵ This agreement was facilitated by the continuous support of the European Parliament and its two main political groups European People's Party (EPP) and Socialists and Democrats (S&D).⁶⁶ The governing majority and the opposition acknowledged the need of a stable and constructive political dialogue to fulfil Albania's European ambitions. It is a common responsibility of both main political parties to create the conditions and ensure that such a dialogue is held in the Parliament. The parties agreed that the opposition would return to the Parliament and resume in full its participation in the parliamentary work, abandoning thus, the boycott of the Parliament as well as that of its committees. On its part the governing majority agreed not to sideline the opposition by using its qualified majority of 3/5 but whenever possible, seek its input on important reforms. All political parties pledged to work so that the political dialogue is held primarily in the Parliament, as well as respect the Constitution and the decisions of the Constitutional Court. More concretely, the governing majority and the opposition agreed to review the rules and regulation and align them to the best international practices, in order to improve the functioning of

⁶⁴ *Ibid.*

⁶⁵ See Kuvendi Republika e Shqiperise, *Rezolute e marreveshjes politike mes Mazhorances Qeverisese dhe Opozites ne Kuvendin e Republikes se Shqiperise*, 24.12.2014.

⁶⁶ See as well E. Kukan, K. Fleckenstein, "Press Statement by Knut Fleckenstein and Eduard Kukan on political dialogue and cooperation in Albania", Brussels, 17 December 2014; E. Kukan, K. Fleckenstein, "Breakthrough in Tirana: Press Statement by Knut Fleckenstein and Eduard Kukan on political dialogue and cooperation in Albania", Brussels, 23 December 2014.

the inquiry committees. Crucial in reaching this agreement was to find a consensual solution - with the support of the EU and the Venice Commission - on the issue of individuals with criminal records, who hold a public office or seek to be elected or nominated to one.⁶⁷ The initial step taken in this direction was the establishment of two committees of inquiry entrusted with investigating any such person currently holding public office.⁶⁸ In December 2015, constitutional amendments and a law on the integrity of officials appointed to public office, unequivocally assert the ineligibility of offenders with criminal record to run for or hold a public office.⁶⁹ The desired impact was first and foremost restore people's trust in the functioning of the elective offices, independent institutions and those of public administration by preventing the candidacy of individuals with criminal records and releasing from duty any individual that were sentenced or against whom precautionary measures are taken in accordance to the legislative act referred above. Inherently, these measures are taken to safeguard the democratic functioning of public institutions from influence or partaking in public policy and decision making of individuals with criminal records. It is, however, responsibility of elected officials at national and local level or 500 citizens with the right to vote, to request a vetting on an individual, and should the vetting result

⁶⁷ Kuvendi Republika e Shqipërise, Ligj no. 138/2015 Për garantimin e integritetit të personave që zgjidhen, emërohen ose ushtrojnë funksione publike, 17.12.2015; Kuvendi Republika e Shqipërise, Vendim no. 17/2016 *Për përcaktimin e rregullave të detajuara mbi zbatimin e ndalimeve të parashikuara në ligjin nr. 138/2015 "Për garantimin e integritetit të personave që zgjidhen, emërohen ose ushtrojnë funksione publike"* 04.03.2016; Kuvendi Republika e Shqipërise, Ligj no. 38/2016 *Për disa shtesa dhe ndryshime në ligjin nr. 138/2015 "Për garantimin e integritetit të personave që zgjidhen, emërohen ose ushtrojnë funksione publike"*, 14.04.2016;

⁶⁸ Komisioni për Emërimet në Administratën Shtetërore, Entet Publike, Shoqëritë Tregtare Shtetërore; Komisioni për Dekriminalizimin - Komisioni ka pasur për objekt të veprimtarisë së tij zbatimin e çështjeve të trajtuara në Kuvendi Republika e Shqipërise, *Rezolute e marreveshjes politike mes Mazhorances Qeverisë dhe Opozites në Kuvendin e Republikës së Shqipërise*, 24.12.2014.

⁶⁹ Kuvendi Republika e Shqipërise, Ligj no. 138/2015 Për garantimin e integritetit të personave që zgjidhen, emërohen ose ushtrojnë funksione publike, 17.12.2015; Kuvendi Republika e Shqipërise, Ligj no. 76/2016 *Per disa shtesa dhe ndryshime ne ligjin nr. 8417, date 21.10.1998, "Kushtetuta e Republikës së Shqipërise"*, te Ndryshuar, date 22.07.2016; Kuvendi Republika e Shqipërise, Vendim no. 17/2016 *Për përcaktimin e rregullave të detajuara mbi zbatimin e ndalimeve të parashikuara në ligjin nr. 138/2015 "Për garantimin e integritetit të personave që zgjidhen, emërohen ose ushtrojnë funksione publike"* 04.03.2016; Kuvendi Republika e Shqipërise, Ligj no. 38/2016 *Për disa shtesa dhe ndryshime në ligjin nr. 138/2015 "Për garantimin e integritetit të personave që zgjidhen, emërohen ose ushtrojnë funksione publike"*, 14.04.2016;

inconclusive any proponent is fined with ALL 100 000.⁷⁰ The immediate tangible results were voluntary resignations and several terminations especially at local level.⁷¹ Most recently, the CEC reported that it had voted to invalidate the mandates of Shkelqim Selami, MP elected from SMI and Dashamir Tahiri MP elected from DP as well as Elvis Roshi, Mayor of Kavaje as they had withheld information on their criminal record when running for office.⁷²

The Parliament, in addition, strengthened its role in the integration process of Albania, as it took on the responsibility of oversight related to the implementation of the legal framework, policies and financial assistance related to EU integration. It is now mainly on the Parliament to inform the public on the progress in the accession process and ensure cooperation with the civil society aiming thus at facilitating a more comprehensive integration process.^{73 74} In practice, however, the parliament's rules and procedures need to be aligned with the new

⁷⁰ Art. 7 of Kuvendi Republika e Shqiperise, Ligj no. 138/2015 Për garantimin e integritetit të personave që zgjidhen, emërohen ose ushtrojnë funksione publike, 17.12.2015; Kuvendi Republika e Shqiperise, Ligj no. 76/2016 *Per disa shtesa dhe ndryshime ne ligjin nr. 8417, date 21.10.1998, "Kushtetuta e Republikes se Shqiperise", te Ndryshuar, date 22.07.2016;* Kuvendi Republika e Shqiperise, Vendim no. 17/2016 *Për përcaktimin e rregullave të detajuara mbi zbatimin e ndalimeve të parashikuara në ligjin nr. 138/2015 "Për garantimin e integritetit të personave që zgjidhen, emërohen ose ushtrojnë funksione publike"* 04.03.2016; Kuvendi Republika e Shqiperise, Ligj no. 38/2016 *Për disa shtesa dhe ndryshime në ligjin nr. 138/2015 "Për garantimin e integritetit të personave që zgjidhen, emërohen ose ushtrojnë funksione publike,* 14.04.2016;

⁷¹ European Commission, *Commission Staff Working Document, Albania 2016 Report*, SWD(2016) 364 final, Brussels, 9.11.2016, pp. 6 – 7.

⁷² Republika e Shqiperise, Vendim no. 174 date 29.12.2016 “ Per shqyrtimin e rezultatit të verifikimit të Prokurorisë së Përgjithshme për funksionarin publik Z. Elvis Roshi, Kryetar i Bashkisë Kavaje, në zbatim të ligjit no. Ligj no. 138/2015 “Për garantimin e integritetit të personave që zgjidhen, emërohen ose ushtrojnë funksione publike”, 17.12.2015; Republika e Shqiperise, Vendim no. 175 date 29.12.2016 “Per shqyrtimin e rezultatit të verifikimit të Prokurorisë së Përgjithshme për funksionarin publik Z. Shkelqim Selami, Deputet i Kuvendit të Shqiperise, në zbatim të te ligjit no. Ligj no. 138/2015 “Për garantimin e integritetit të personave që zgjidhen, emërohen ose ushtrojnë funksione publike”, 17.12.2015; Republika e Shqiperise, Vendim no. 176 date 29.12.2016 Per shqyrtimin e rezultatit të verifikimit të Prokurorisë së Përgjithshme për funksionarin publik Z. Dashamir Tahiri, Deputet i Kuvendit të Shqiperise, në zbatim të ligjit no. Ligj no. 138/2015 “Për garantimin e integritetit të personave që zgjidhen, emërohen ose ushtrojnë funksione publike”, 17.12.2015; F. Mejdini, “Albania sacks MPs and Mayor for hiding convictions”, *Balkan Insight*, 29 December 2016.

⁷³ Kuvendi Republika e Shqiperise, Ligj no. 15/2015 Per rolin e Kuvendit në procesin e pntegritimit të Republikes së Shqiperise në Bashkimin Europian, date 05.3.2015.

⁷⁴ See Kuvendi Republika e Shqiperise, *Keshilli Kombetar i Integritetit Europian*.

acquired role of the parliament. It is significant, that to this date, the capacity of the Parliament to verify the alignment of the existing legislation with the *acquis* and most importantly its implementation is at a low level.⁷⁵ In the same legislative act, the Parliament established within its structure, the National Council for European Integration, the highest national structure for EU integration.⁷⁶ The National Council for European Integration role is to encourage and ensure an inclusive cooperation between political parties, state institutions and civil society, enhancing transparency in decision-making related to the EU integration. It is responsible to encourage the debate on policies of EU integration, implemented by the state institutions with civil society and other interested actors. Moreover, it analyses the existing practices and legal framework related to the process of EU integration, on issues under review, encouraging cooperation between permanent parliamentary commissions and other structures responsible for EU integration.⁷⁷ It fosters partnership and exchange of information with the President of the Republic, Speaker of the Parliament and the Prime Minister, in the person of the Director of the National Council for European Integration and reports on its activities to the Parliament at least once a year. In addition, it monitors the implementation of the obligations for opening of and gives its informed opinion on the negotiations. The National Council for European Integration is chaired by the Chair of the European Integration Committee Ms. Majlinda Bregu DP and the Deputy-Chair is Mr. Taulant Balla, Chair of the Albanian Delegation of the Stabilization and Association Parliamentary Committee EU – Albania.⁷⁸ Nonetheless, to date, the Council has not

⁷⁵ European Commission, Commission Staff Working Document Albania 2015 Report, SWD(2015) 213 final, Brussels, 10.11.2015, p. 7; See as well European Commission, *Commission Staff Working Document, Albania 2016 Report*, SWD(2016) 364 final, Brussels, 9.11.2016, p. 7.

⁷⁶ Kuvendi Republika e Shqiperise, Ligi no. 15/2015 Per rolin e Kuvendit ne procesin e pntegrimitt te Republikes se Shqiperise ne Bashkimin Europian, date 05.3.2015.

⁷⁷ The Stabilization and Association Parliamentary Committee EU - Albania is a common structure of the Albanian Parliament and the European Parliament that functions in accordance to the Stabilization and Association Agreement; The European Integration Committee is a permanent structure within the Albanian Parliament, that has among its area of responsibility EU integration, alignment of Albanian legal framework to that of the *acquis*, monitoring and implementation of the commitments under the Stabilization and Association Agreement, as well as EU financial assistance for Albania.

⁷⁸ Refer to European Parliament, List of Albanian Delegation Members to the EU-Albania Stabilization and Association Parliamentary Committee.

obtained full capacity to exercise its prerogatives as a fulcrum of exchanges on the EU integration process.⁷⁹

4.1.2.2 Legislature and civil society

An inclusive dialogue between decision makers and different stakeholders is crucial in improving the quality of the legislative process. In November 2015, the Parliament adopted a law n. 119/2015 on the establishment of the National Council on Civil Society (NCCS).⁸⁰ Its purpose is to ensure institutional cooperation with civil society organizations in the Republic of Albania, in favour of consolidating democracy, good governance, and transparency in decision making for public good, by effectively including the civil society in this process. In this line it aims at establishing an institutional cooperation with civil society organizations in drafting and implementing the national strategy and roadmap on integration, for creating a facilitating framework for the sector of civil society and relations of cross-sectorial cooperation between state institutions and civil society organizations as well as for the development of social capital. This law defines the principles and procedures through which the process of dialogue and counsel is implemented.⁸¹ In this regard there has been some improvement however, there have been as well cases where draft legislation has not been published on the official website, and or shared with MPs at a short notice not providing the necessary time to allow for a thorough evaluation and inputs. Moreover, there is concern on the transparency and inclusiveness of public consultations, which do lack of a proper set of rules and regulations.⁸² In addition, upon reviewing the NCCS composition, there is some concern on civil society organization representation and the independence of the Council since half of its

⁷⁹ See as well European Commission, *Commission Staff Working Document, Albania 2016 Report*, SWD(2016) 364 final, Brussels, 9.11.2016, p. 7.

⁸⁰ Kuvendi Republika e Shqipërisë, Ligj no. 119/2015 Për krijimin dhe funksionimin e Këshillit Kombëtar për Shoqërinë Civile 06.11.2015.

⁸¹ Art. 4: “principle of counsel”; principle of transparency”; “principle of counsel with interest groups”.

⁸² On the role of civil society see Western Balkans Summit Vienna 2015 Civil Society Forum Media Information, “Western Balkans Civil Society voices out its demands to Europe’s leaders: Securing freedom of expression, creating jobs and prosperity, enhancing regional cooperation”, Vienna, August 27 2015.

members are representatives selected among government institutions. More in detail, the NCCS is composed of 27 members of which 13 are representatives of state institutions and 13 representatives of civil society organizations of which only four on democratization, rule of law, human rights and EU integration, economic, territorial and environmental development, welfare and social services, healthcare and betterment of life quality.⁸³ One representative is selected from the business community and should be as well member of the National Economic Council. The Chair of the National Council on Civil Society is the Minister of Social Welfare and Youth while the Deputy-Chair is selected by a majority vote of its members on a three years mandate. It is to show that politics should not weaken the potential of available processes on the contrary these must be “fully implemented in practice” including empowering CSOs by adjusting the fiscal framework which they are subjected to.⁸⁴

The independent institutions boards and directors remain very much dominated by the political parties, as the parliament continues to appoint and dismiss them by simple majority. High politicization of the public service remains, thus, a stigma from which even independent institutions cannot escape. In this way the parliament limits their independence whereby the existing legislation aiming to ensure an efficient system of policymaking is partially implemented.⁸⁵ These shortcomings are clearly visible in the lack of manpower to monitor and report on the European integration coordination system and the results attained by the national plan on EU integration. Inconsistencies have been seen between the results attained in comparison to the government workplan, policy proposals and costs and funding available for cross-sectoral strategies.⁸⁶ Indeed, the slow pace in implementing

⁸³ The most prominent figures in the list include: Prime Minister Office, Ministry of Justice, Ministry of Interior, Ministry of EU Integration, Ministry of Finance, Ministry of Environment, Ministry of Healthcare, Ministry of Education and Sport, Ministry of Culture, Ministry of Welfare and Youth, Ministry of Innovation and Public Administration, Ministry for the relations with the Parliament, Agency for the Support to Civil Society.

⁸⁴ See European Commission, *Commission Staff Working Document Albania 2015 Report*, SWD(2015) 213 final, Brussels, 10.11.2015, p. 8; See as well European Commission, *Commission Staff Working Document, Albania 2016 Report*, SWD(2016) 364 final, Brussels, 9.11.2016, p. 9.

⁸⁵ European Commission, *Commission Staff Working Document, Albania 2014 Progress Report*, SWD (2014) 304 final, Brussels, 8 October 2014, p. 6.

⁸⁶ European Commission, *Commission Staff Working Document Albania 2015 Report*, SWD(2015) 213 final, Brussels, 10.11.2015, p. 10.

key requirement can be observed in the case of the national strategy for development and integration for 2015-2020 that was approved by a decision of the Council of Ministers only last year.⁸⁷ Further efforts are needed on defining the criteria for transparency and merit based appointments for the members of independent institutions, including granting them the full autonomy to govern their internal structures and employ their budget.⁸⁸

4.1.3 Rule of law

The Copenhagen criteria have underlined as a pre-requisite the guarantee of democratic, transparent, stable and accountable institutions that are centred around people's exercise of power having as its fulcrum the national parliament.⁸⁹ To this end there is still room for work to build a steady, constructive and reliable dialogue between decision makers and civil society. The rule of law remains a core value of the EU and as specified by the Council countries aspiring to join the Union should address from early on shortcomings in the "judiciary [...human] rights [...] freedom and security"⁹⁰ The commitment from early on in the negotiations is instrumental to putting in place the necessary legislation and attain a solid track record of implementation, facilitating a gradual and consolidated positive practice. Ms. Majlinda Bregu, Chairwoman of the Committee for EU Integration in the Albanian Parliament, during a Policy Dialogue in Brussels, underlined that chapters 23 and 24 are the heaviest reform that Albania should face. It would be beneficial for all to start the process with this - as Ms. Bregu calls it - "pre-screening" so that "to monitor day by day, it gives

⁸⁷ Republika e Shqipërisë, Ministria e Mbrojtjes, *Strategjia Kombëtare për Zhvillim dhe Integrim 2015 - 2020*, aprovuar nga Këshilli i Ministrave, me VKM nr. 348, datë 11.5.2016.

⁸⁸ European Commission, *Commission Staff Working Document Albania 2015 Report*, SWD(2015) 213 final, Brussels, 10.11.2015, p. 7.

⁸⁹ European Commission, *Enlargement Strategy and Main Challenges 2013-2014*, COM(2013) 700 final, Brussels, 16.10.2013, p. 8.

⁹⁰ Council of the European Union, General Affairs, *Press Release*, Brussels, 5 December 2011,18089/11, PRESSE 472, p. 11; See as well European Commission, *Enlargement Strategy and Main Challenges 2013-2014*, COM(2013) 700 final, Brussels, 16.10.2013, p. 7.

the government work and [incentives to] implement these reforms”.⁹¹

As early as 2010 the Commission’s progress report on Albania underlined the main concern among the required key criteria for the country continued to be strengthening the rule of law.⁹² Indeed, the five key criteria where Albania’s effort must concentrate in order to open the accession negotiations remain reform of judiciary and the public administration, fight against corruption and organized crime, protection of human rights and property rights; a partial overlap on the conditions highlighted in 2010 for being granted the candidate status.⁹³ One could argue that the conferral of the candidate status to Albania in 2014 was *premature*, without the 12 key criteria having been met in full, but on the other hand, interviews conducted confirm that the enlargement policy is largely affected by political considerations and that if conditions were to be followed strictly there would be a loss in momentum.⁹⁴ Thus, conditionality may result at times as being too much, too soon and too little followed through, but this by no means entails that it is not to be abided by.

In view of starting the accession negotiations it is crucial for the country to maintain a steady progress in ensuring a non-partisan professional public administration that is not subservient to a particular government coalition but is committed to public service; avail itself with the best international support and commit to successfully pursue the reform of judiciary aiming to guarantee a free, functioning and accountable judiciary that restores trust on equality before the law; to this end,

⁹¹ M. Bregu, Chairwoman of the European Integration Committee of the Parliament of Albania, EPC, Policy Dialogue, “EU Enlargement to the Balkans: The role of the member states”, Brussels, 29 September 2015.

⁹² European Commission, *Enlargement Strategy and Main Challenges 2013-2014*, COM(2013) 700 final, Brussels, 16.10.2013, p. 7.

⁹³ European Commission, *Commission Staff Working Document, Albania 2014 Progress Report*, SWD (2014) 304 final, Brussels, 8 October 2014, p. 1.

⁹⁴ See Senior Official of the United States Department of Justice Criminal Division International Criminal Investigative Training Assistance Program (ICITAP), interview, Tirane, 19 July 2016; EU Expert on organized crime, Albanian State Police Directorate, interview, Tirana, 19 July 2016; High Official, Albanian State Police, interview, Tirana, 06 December 2016; Senior Diplomat, EU Member State, interview, Tirana, 12 January 2017; Senior Diplomat, EU Member State, interview, Tirana, 13 January 2017; Senior Diplomat, EU Member State, Block of Embassies, interview, Tirana, 19 January 2017; Senior Diplomat, EU Member State, interview, Tirana, 19 January 2017; Senior Diplomat, EU Member State, Block of Embassies, interview, Tirana, 02 February 2017.

fighting corruption and infiltration of organized crime in public administration remains a *condicio sine qua non* that requires not only to have in place legislation but secure its implementation delivering “a solid track record of proactive investigations, prosecutions and convictions”; equally important is ensure solid implementation of existing legislation against discrimination and strengthen the respect of human rights and property rights.⁹⁵

Having the principle of rule of law in place and having it respected, requires an independent and functioning public administration and judiciary, a challenge, that to be overcome requires concrete actions where decision makers are required to go beyond words.⁹⁶ Unfortunately, the judiciary is highly politicised and the law is not equal for all, as statistics on high level sentences for serious crimes remain low.⁹⁷

In an attempt to upholding the commitment toward fulfilling reforms, which as mentioned above are considered crucial for further steps toward the EU, the Albanian Parliament has discussed and approved a number of laws that, if fully reinforced could contribute to an headway toward the EU. Already in September 2014, Albania amended the protection of personal data law to further assists the Commissioner for the Right of Information and Protection of Personal Data in providing information, investigate and address cases of violations to the authorities.⁹⁸ The role of the Ombudsman was strengthened, now able to directly address the Parliament on its own initiative, in order to present reports on human and constitutional rights conditions in the country and assist in compiling reports to be presented before international jurisdictions and organizations in which Albania is a member.⁹⁹

As far as it concerns de-politicization the adoption of the Civil Service Law, is instrumental to ensure accountability within the ranks of the

⁹⁵ European Commission, *Commission Staff Working Document, Albania 2014 Progress Report*, SWD (2014) 304 final, Brussels, 8 October 2014, p. 1.

⁹⁶ *Ibid.*, p. 11.

⁹⁷ See Levitsky and Way, *op.cit.*, pp. 56-57.

⁹⁸ Kuvendi Republika e Shqiperise, Ligj no. 120/2014 *Per disa ndryshime dhe shtesa ne ligjin no. 9887, date 10.3.2008, “Per Mbrojtjen e te dhenave personale”, te ndryshuar*, 18.9.2014.

⁹⁹ Kuvendi Republika e Shqiperise, Ligj no. 155/2014 *Per disa shtesa dhe ndryshime ne ligjin no. 8454, date 4.2.1999, “Per Avokatin e Popullit”, te ndryshuar*, 27.11.2014.

public administration and was an integral part of the EU package for obtaining the candidate status.¹⁰⁰ Nonetheless, accountability both top – down and bottom – up, between different bodies of state administration remains blurry. While the existing legislation regulating the functioning of the state administration is adequate, it is unclear to which extent the recommendations of independent institutions like the Ombudsman and the High State Control bodies are headed as for the lack of monitoring.¹⁰¹ Another progress in this direction is to be found in the process for the appointment of high offices, whereby the President of the Republic, in consultation with the parliamentary groups, select the candidates for the positions of judges in the Highest Court of the Republic of Albania.¹⁰² In practice however, principles of impartiality and independence of the judiciary are tainted by the high level of politicization appointment, transfer and termination of judges and prosecutors. Indeed High Court and Constitutional Court members are appointed by the President of the Republic that shall obtain the simple majority from the parliament on candidates suggested by the High Council of Justice in charge of evaluating the candidatures, for new appointments, promotions and transfers.¹⁰³ The need of the parliamentary consent has in practice led to stalls in the process and rejections of nominees.¹⁰⁴ A remarkable example of this was the instance when the parliament voted on the appointments to the judiciary, where it endorsed one nomination to the High Council of

¹⁰⁰ Kuvendi Republika e Shqiperise, Ligj no. 161/2013 *Për miratimin e Aktit Normativ nr. 5, datë 30.09.2013 “Për disa ndryshime në ligjin nr. 152/2013 “Për nëpunësin civil”* 17.10.2013, retrieved 20 January 2015.

¹⁰¹ See as well European Commission, Commission Staff Working Document Albania 2015 Report, SWD(2015) 213 final, Brussels, 10.11.2015, p. 16; Senior Diplomat, EU Member State, interview, Tirana, 12 January 2017; Senior Diplomat, EU Member State, interview, Tirana, 13 January 2017; Senior Diplomat, EU Member State, Block of Embassies, interview, Tirana, 19 January 2017; Senior Diplomat, EU Member State, interview, Tirana, 19 January 2017; Senior Diplomat, EU Member State, Block of Embassies, interview, Tirana, 02 February 2017.

¹⁰² Kuvendi Republika e Shqiperise, Ligj no. 177/2014 *Per disa ndryshime dhe shitesa ne ligjin no. 8588, date 15.3.2000, “Per Organizimin dhe Funksionimin e Gjykates se Larte te Republikes se Shqiperise”*, *te ndryshuar me date 18.12 2014*.

¹⁰³ *Ibid.*, Art. 4.2

¹⁰⁴ European Commission, *Commission Staff Working Document, Albania 2016 Report*, SWD(2016) 364 final, Brussels, 9.11.2016, p.15.

Justice ¹⁰⁵ but rejected the presidential nominations to the High Court.¹⁰⁶

Moreover, the General Prosecutor – himself appointed by the Parliament – advises the President of the Republic on appointments, transfers and releases from duty of prosecutors.¹⁰⁷ These instances of political interference in the judiciary has led to cases of selective justice aggravated by a lack of thorough monitoring and evaluation of ethical standards in the selection, appointment and exercise of the responsibilities for judges and prosecutors.¹⁰⁸ For instance, both judges and prosecutors despite the requirement - and failure - to declare annually their assets to date do not face any sanctions.¹⁰⁹

In an effort to assure transparency the law n. 138/2015 and its subsequent amendment on the integrity of those appointed to high offices aim at shielding the democratic institutions of the country from unlawful influence in policy and decision-making. ¹¹⁰ The law on the organization and functioning of the High Court¹¹¹, together with the

¹⁰⁵ Kuvendi Republika e Shqipërisë, Vendim no. 86/2014 *Për zgjedhjen e zonjës Albana Shtylla anëtare e Këshillit të Lartë të Drejtësisë*, 30.10.2014; Kuvendi Republika e Shqipërisë, Vendim no. 87/2014 *Për zgjedhjen e zotit Vangjel Kosta anëtar i Këshillit të Lartë të Drejtësisë*, 30.10.2014;

¹⁰⁶ Kuvendi Republika e Shqipërisë, Vendim no. 88/2014 “Për mosdhënien e pëlqimit për emërimin e zonjës Elona Stavri (Toro) anëtare e Gjykatës së Lartë” 30.10.2014; Kuvendi Republika e Shqipërisë, Vendim no. 89/2014 “Për mosdhënien e pëlqimit për emërimin e zotit Sokol Ngresi anëtar i Gjykatës së Lartë” 30.10.2014;

¹⁰⁷ European Commission, Commission Staff Working Document Albania 2015 Report, SWD(2015) 213 final, Brussels, 10.11.2015, p. 14.

¹⁰⁸ A code of ethics for judges has existed since 2000 but had no real impact on their accountability. In 2014, a code of conduct was adopted for the prosecution service. See as well European Commission, Commission Staff Working Document Albania 2015 Report, SWD(2015) 213 final, Brussels, 10.11.2015, pp. 13,16; European Commission, *Commission Staff Working Document, Albania 2016 Report*, SWD(2016) 364 final, Brussels, 9.11.2016, p.15.

¹⁰⁹ European Commission, Commission Staff Working Document Albania 2015 Report, SWD(2015) 213 final, Brussels, 10.11.2015, p. 13.

¹¹⁰ Kuvendi Republika e Shqipërisë, Ligj no. 138/2015 *Për garantimin e integritetit të personave që zgjidhen, emërohen ose ushtrojnë funksione publike*, 17.12.2015; Kuvendi Republika e Shqipërisë, Ligj no. 38/2016 *Për disa shtesa dhe ndryshime në ligjin nr. 138/2015 “Për garantimin e integritetit të personave që zgjidhen, emërohen ose ushtrojnë funksione publike*, 14.04.2016.

¹¹¹ Kuvendi Republika e Shqipërisë, Ligj no. 8588, date 15.3.2000 *Per Organizimin dhe Funkzionimin e Gjykatës së Lartë dhe Republikës së Shqipërisë*, (ndryshuar me ligjin nr. 151/2013) (ndryshuar me ligjin nr.177/2014). On transparency of income and assets, see Republika e Shqipërisë, Gjykata e Lartë.

much-needed amendments to the Criminal¹¹² and Civil¹¹³ codes as well as the Code of Civil Procedure¹¹⁴ are key in laying the ground for the reform of the judiciary. In addition, the Law on Judicial Administration¹¹⁵ defines the legal framework for the work of courts and its staff where independence and commitment to public service remains problematic. The memorandum of understanding between the Ministry of Justice and the High Council of Justice and the Ombudsman which seeks to limit overlapping of responsibilities and possible breach of conduct continues to be implemented.¹¹⁶ Nonetheless, one of the most important steps towards taking advantage of the gained momentum was entrusting an ad hoc Parliamentary Committee on Justice Reform to delivering, as the result of an inclusive process, a complete justice reform.¹¹⁷

4.1.3.1 The judicial reform

Albanian authorities have shown goodwill in working together with international bodies, such as the Council of Europe, European Commission for democracy through law (Venice Commission), to put

¹¹² Kuvendi Republika e Shqiperise, Ligj no. 135/2015 Për disa ndryshime dhe shtesa në ligjin nr. 7895, datë 27.1.1995, “Kodi Penal i Republikës së Shqipërisë”, të ndryshuar, 5.12.2015.

¹¹³ Kuvendi Republika e Shqiperise, Ligj no. 113/2016 Për disa shtesa në ligjin nr. 7850, datë 29.7.1994, “Kodi Civil i Republikës së Shqipërisë”, të ndryshuar, 3.11.2016.

¹¹⁴ Kuvendi Republika e Shqiperise, Ligj no. 114/2016 Për disa ndryshime dhe shtesa në ligjin nr. 8116, datë 29.3.1996, “Kodi i Procedurës Civile i Republikës së Shqipërisë”, të ndryshuar, 3.11.2016, retrieved 06 November 2016; Kuvendi Republika e Shqiperise, Ligj no. 160/2013 Për një ndryshim në ligjin nr. 8116, datë 29.3.1996, “Kodi i Procedurës Civile i Republikës së Shqipërisë”, të ndryshuar, 17.10.2013.

¹¹⁵ Kuvendi Republika e Shqiperise, Ligj no. 98/2016, Për organizimin e pushtetit gjyqësor në Republikën e Shqipërisë, 06.10.2016.

¹¹⁶ Reference is made to Kuvendi Republika e Shqiperise, Ligj no. 8678, date 14.05.2001, “Per organizimin dhe funksionimin e Ministrise se Drejtesise”, i ndryshuar, ne ligjin nr. 8811 date 17.05.2001 “Per organizimin dhe funksionimin e Keshillit te Larte te Drejtesise”, i ndryshuar, ne ligjin nr. 8454, date 04.02.1999 “Per Avokatin e Popullit”, i ndryshuar, ne aplikimin e rezolutes: Rezoluta no. 2, date 14.06.2012, te Kuvendit te Shqiperise “Per vleresimin e veprimtarie se institucionit te Avokatit te Popullit, per vitin 2011”

¹¹⁷ Kuvendi Republika e Shqiperise, Vendim no. 107/2015 Per nje ndryshim ne vendimin e Kuvendit Nr. 96/2014 “Per krijimin e Komisionit te Posaçem Parlamentar per reformen ne sistemin e drejtesise”, te ndryshuar, 17.12.2015; See as well Kuvendi Republika e Shqiperise, Ligj no. 115/2016 Për organet e qeverisjes së sistemit të drejtësisë, 3.11.2016; Kuvendi Republika e Shqiperise, Vendim no. 104/2014 Për miratimin e përbërjes së Komisionit të Posaçëm Parlamentar për Reformën në Sistemin e Drejtësisë, 04.12.2014.

forth the basis for a functioning and independent judiciary by adopting required constitutional amendments.¹¹⁸ Moreover, legislation regulating immunity rights and possible sanctions was put in place to ensure accountability of justice, prosecutors and other high officials. Most notably rules of suspension and termination of members of the High Council of Justice - which according to Art. 3 of law 177/2014, are drafted and adopted by its members - opens up to criticism of partiality as it does not involve all relevant stakeholders.¹¹⁹

The judicial reform was approved on 22 July 2016, somewhat reluctantly by the Albanian political elites. It is the result of lengthy 18 months of *minutious* work and negotiations. The reform was adopted by unanimity in the Albanian Parliament, a major success considering the ever-present conflict between government and opposition. In supporting the work of the three main political parties LSI, PD, and PS, the US ambassador Mr. Donald Lu and EU Head of Delegation Ms. Romana Vlahutin committed to mediate between the parties for reaching consensus on the reform. "The United States is proud to have supported the drafting and negotiation of this strong reform package and we look forward to continuing our enduring partnership, which is now much stronger" Ambassador Lu stated.¹²⁰ On the other hand, the EU High Representative Federica Mogherini and EU Enlargement Commissioner Johannes Hahn welcomed the reform as an

"[...] unprecedented step [which] addresses a longstanding request by the overwhelming majority of the citizens [...]. It is also a major contribution to the fight against corruption and organised crime. These are all key

¹¹⁸ Kuvendi Republika e Shqiperise, Ligj no. 76/2016 *Per disa shtesa dhe ndryshime ne ligjin nr. 8417, date 21.10.1998, "Kushtetuta e Republikes se Shqiperise", te Ndryshuar*, date 22.07.2016. See as well European Commission, *Commission Staff Working Document, Albania 2016 Report*, SWD(2016) 364 final, Brussels, 9.11.2016, p.13.

¹¹⁹ Kuvendi Republika e Shqiperise, Ligj no. 177/2014 *Per disa ndryshime dhe shtesa ne ligjin nr. 8588, date 15.3.2000, "Per Organizimin dhe Funksionimin e Gjykeses se Larte te Republikes se Shqiperise", te ndryshuar me date 18.12 2014. Art. 3 "Mënyra e funksionimit të Këshillit për Emërimet rregullohet nëpërmjet një rregulloreje të hartuar dhe miratuar prej tij."*

¹²⁰ Embassy of the United States of America Tirana, *Statement by U.S. Ambassador Donald Lu*, Tirana 22 July 2016.

priorities for Albania on its path towards integration into the EU.”¹²¹

The judicial reform amends 46 articles of the Albanian constitution laying the ground for the creation of new justice institutions in an effort to fight corruption and political influence in the judiciary. In greater detail the newly established institutions are as follows. The High Judicial Council which guarantees the independence, responsibility [...] of the Judiciary in the Republic of Albania and the High Prosecutorial Council which guarantees the independence, accountability, discipline, status and career advancement of prosecutors in the Republic of Albania and will be proposing to the Parliament the candidate for the position of General Prosecutor.¹²²

The High Council of Justice (HCJ) is effectively replaced by the High Judicial Council (HJC) which comes with less political strings attached and extends its competence of evaluation, appointment, promotion and transfer as well as any disciplinary measures to judges of the High Court. The Justice Appointment Council will evaluate the fulfilment of legal, professional and moral requirements for the candidates of the Constitutional Court and the newly instituted High Justice Inspector, which is entrusted with investigating any misconduct of the members of the higher courts.¹²³ This measure aims at limiting politicization of the process and political interference in the judiciary.

In the same prospective, the Council of Prosecutors, advisory body to the General Prosecutor Office (GPO) will be acquiring further independence.

¹²¹ European Commission, *Statement by High Representative/Vice-President Federica Mogherini and Commissioner Johannes Hahn on the adoption of judicial reform in Albania*, Brussels, 22 July 2016.

¹²² Kuvendi Republika e Shqipërisë, Ligj no. 76/2016 *Per disa shtesa dhe ndryshime ne ligjin nr. 8417, date 21.10.1998, “Kushtetuta e Republikës së Shqipërisë”, te Ndryshuar*, date 22.07.2016. The Parliament will approve the General Prosecutor with a 3/5 majority. The General Prosecutor mandate under the reform is reduced from 9 to 7 years with no possibility of reappointment.

¹²³ Magistrates are currently held accountable through inspections by both the Ministry of Justice and the HCJ. Despite the memorandum of understanding between these two bodies, the risk of overlapping inspections remained. See Republika e Shqipërisë, Ministria e Drejtësisë, “Memorandum Bashkëpunimi ndërmjet Ministrisë së Drejtësisë, Këshillit të Lartë të Drejtësisë, dhe Avokatit të Popullit “Per referimin e rasteve dhe masave administrative ndaj funksionareve te drejtësisë kur konstatohen shkelje te ligjit” Tirana, 12.02.2013; See as well European Commission, *Commission Staff Working Document, Albania 2016 Report*, SWD(2016) 364 final, Brussels, 9.11.2016, pp. 15 – 16.

Both of the newly constituted institutions have 11 members, 6 of which are selected from judges and prosecutors, while the remaining 5 members will be selected from the Parliament from non-judge, non-prosecutor jurists.¹²⁴ These politically nominated members are appointed by a sub-commission of the Law Commission of the Albanian Parliament composed of 5 members 3 from the government and 2 from the opposition. The final approval of the selected 10 'political' members is approved by the Parliament with a 3/5-majority vote. The Chair of the High Judicial Council will be elected among its members and only when matters of strategy and budget are to be considered the Minister of Justice will be sitting in the HJC.

Moreover, through the appointment of the Commission for the vetting process the parliament will have a say on the appointment of all judges and prosecutors in the Republic of Albania.¹²⁵ Once applying before the Office of the President of the Republic all the candidates for the 21 positions authorize an annual asset control and limitation to their privacy. The International Monitoring Operation (IMO), a consultative body composed of foreign judges and prosecutors is the first selection step for the candidates, which then are referred to the Parliament. After the selection of the 21 proposed commissioners, it is the Parliament to appoint them with 3/5-majority vote.¹²⁶ Worthy of note is the possibility, both in the case of 10 'political' members - of the High Judicial Council and the High Council of Prosecution – and the 21 commissioners of the vetting process, that the Parliament may not find the needed votes to appoint them. In such case the process is resolved with a the 'political' members being chosen randomly while the list of 21 commissioners is approved *en block* – as it may fail to be approved with 3/5 voting majority but as well it may not find 2/3 majority (94 votes) to overthrow the proposed list as selected by the parliamentary committees.

¹²⁴ Two lay members will be selected from the legal professions, two from among law professors and the School of Magistrates, and one member from civil society.

¹²⁵ A law on the re-evaluation of judges, prosecutors and legal advisors was adopted. As part of measures to fight corruption and re-establish public trust in the judiciary, the law provides for the re-evaluation (vetting) based on 3 criteria: integrity through assets assessment, background assessment (inappropriate links with organised crime) and professional competence. These commissioners are members of the Independent Qualification Commission - *Komisionit të Pavarur të Kualifikimit*, College of Appeal - *Kolegjit të Apelimit* and two public commissioners.

¹²⁶ Kuvendi Republika e Shqipërisë, Ligj no. 76/2016 *Per disa shtesa dhe ndryshime ne ligjin nr. 8417, date 21.10.1998, "Kushtetuta e Republikës së Shqipërisë", te Ndryshuar*, date 22.07.2016; Art. 11 provides for a vote in plenary session. See Kuvendi Republika e Shqipërisë, Ligj no. 84/2016 *Për rivlerësimin kalimtar të gjyqtarëve dhe prokurorëve në Republikën e Shqipërisë*, 30.08.2016.

The Serious Crimes Prosecutor - under the General Prosecutor – is renamed as Special Prosecution Office composed of 10 prosecutors. It exercises criminal prosecution and represents the prosecution before special courts, and the Supreme Court. Special courts try criminal offenses of corruption and organized crime, and criminal charges against the President, Speaker of Parliament, Prime Minister, member of the Council of Ministers, judges of the Constitutional Court and the Supreme Court, Attorney General, member of the Supreme Judicial Council and the Supreme Council of the Prosecution, and the directors of central institutions as defined in the Constitution or the law, as well as charges against former officials of the foregoing.

The law on vetting was adopted by the parliament at the end of August 2016.¹²⁷ It defines the rules and procedures for the re-evaluation of the office holders as specified in the art. 179/b of the Constitution and guarantee the functioning state institutions, independence of the judiciary, and restore people's trust in institutions. The criteria on which this re-evaluation is carried out are that of wealth assessment, clearance, and professional assessment.¹²⁸ The High Inspectorate of Declaration and Audit of Assets and Conflict of Interests (HIDAACI) carries a thorough evaluation of assets based on the current legislation on asset declaration of public office holders, legislation relevant to preventing conflict of interest in the exercise of public functions and the Code of Administrative Procedure.¹²⁹

The Balkan Investigative Reporting Network in June 2016 released a study done on information provided by the High Inspectorate of Declaration and Audit of Assets and Conflict of Interests (HIDAACI), where it was evident that there was reason to believe “indicators of hidden illegal income” were present when analyzed the “incoming and outgoing cash and asset flows”.¹³⁰ Indeed, as much as 80% of the

¹²⁷ Kuvendi Republika e Shqipërise, Ligj no. 84/2016 *Për rivlerësimin kalimtar të gjyqtarëve dhe prokurorëve në Republikën e Shqipërisë*, 30.08.2016.

¹²⁸ *Ibid.*, Art. 4.

¹²⁹ *Ibid.*, Artt. 4 and 33.

The HIDAACI functions according to the law Kuvendi Republika e Shqipërise, Ligj no. 45.2014, *Per disa ndryshime dhe shtesa ne lighin nr. 9049, date 10.04.2003, “Per deklarimin dhe kontrollin e pasurive, te detyrimeve financiare te te zgjedhurve dhe te disa nepunesve publike”, te ndryshuar, 24.04.2014; Kuvendi Republika e Shqipërise, Ligj no. 44/2014 Per disa shtesa dhe ndryshime ne ligjin. Nr. 9367, date 7.4.2005, “Per parandalimin e konfliktit te interesave ne ushtrimin e funksioneve publike”, te ndryshuar, 24.04.2014;*

¹³⁰ Reference made to Council of Europe, Practitioner manual on processing and analysing income and asset declaration of public officials, January 2014.

Appeal Court's magistrates asset declarations had financial inconsistencies throughout their careers.¹³¹

The Commission¹³² and the Appeal Panel¹³³ decide on the final evaluations of office holders where priority in the process receive members of the Constitutional Court, High Court and General Prosecutor Office. Nonetheless, the same law provides for magistrates to resign with a written notice to the President of the Republic, within three months of entry in force of the law, and should there have started the re-evaluation procedure is terminated. This allows for all those concerned to elude possible sanctions.¹³⁴

The DP members of the parliament boycotted the works of the parliament after their 28 proposed amendments were not included in the adopted law 84/2016 above, thus the opposition and together with the Union of the Judges of Albania subsequently referred the law to the Constitutional Court claiming that the law was violating the constitution. The Constitutional Court deliberated on 22 December 2016 based on Artt. 131/a and 134/1/c of the Constitution and Artt. 49, 51, 51/a, 26, 72 of Law n. 8577, dated 10.02.2000 on the functioning of the Constitutional Court, that the vetting law is not in violation of the Constitution, thus rejecting the application for suspending it.¹³⁵

As a further step in putting in place the legislation to effectively implement the changes in the Constitution the ad hoc Parliamentary Committee on Justice Reform, in the second phase of the reform, identified a number of laws instrumental to the implementation of the justice reform. These regulate the office of the prosecutor, status and immunities of judges and prosecutors, as well as the organization of Constitutional Court, and other newly established institutions targeting organized crime and corruption.¹³⁶ Currently, the political forces in the

¹³¹ B. Likmeta, "The Integrity Gap: Albania's Appeals Court Judges Asset Disclosures Raise Red Flags", *Balkan Insight*, 17 June 2016.

¹³² It is an independent commission for evaluation, as foreseen by Art. 1797b para. 5 of the Constitution.

¹³³ It is an ad hoc appeal panel to the Constitutional Court.

¹³⁴ Art. 56, Kuvendi Republika e Shqipërisë, Ligj no. 84/2016 *Për rivlerësimin kalimtar të gjyqtarëve dhe prokurorëve në Republikën e Shqipërisë*, 30.08.2016.

¹³⁵ Republika e Shqipërisë, Gjykata Kushtetuese, *Press Release*, 22 December, 2016.

¹³⁶ Kuvendi Republika e Shqipërisë, Ligj no. 84/2016 *Për rivlerësimin kalimtar të gjyqtarëve dhe prokurorëve në Republikën e Shqipërisë*, 30.08.2016; Kuvendi Republika e Shqipërisë, Ligj no. 97/2016, *Për organizimin dhe funksionimin e prokurorisë në Republikën e Shqipërisë*, 06.10.2016; Kuvendi Republika e Shqipërisë, Ligj no. 96/2016 *Për statusin e gjyqtarëve dhe prokurorëve në*

parliament are continuing their efforts on another larger legislative package of 40 by-laws and laws that are part of the third phase of the reform.¹³⁷

4.1.3.2 Corruption and organized crime

Corruption is a wide spread phenomenon that has permeated all sectors of public life including law enforcement. The Transparency International Corruption Perception index confirms that corruption is strongly felt in Albania.¹³⁸ Crimes related to public sector corruption, active and passive corruption, abuse of duty, corruption at high levels and those related to the private sector like, conflict of interest and those of asset declaration are all specified within the Criminal Code. The Court of Serious Crimes is entitled to judge cases involving high government officials and local government officials, judges, prosecutors and other judiciary officials except those officials that are to be judged in first instance by the High Court and investigated by the General Prosecutor Office as specified by Art. 141 of the Constitution.¹³⁹

The strategies on public administration¹⁴⁰ and anti-corruption¹⁴¹ aim to strengthen transparency in public service, these were a product of comprehensive and extensive consultation with private sector and civil

Republikën e Shqipërisë, 06.10.2016; Kuvendi Republika e Shqipërisë, Ligj no. 99/2016 *Për disa shtesa dhe ndryshime në ligjin nr. 8577, datë 10.2.2000, "Për organizimin dhe funksionimin e Gjykatës Kushtetuese të Republikës së Shqipërisë"* 06.10.2016; Kuvendi Republika e Shqipërisë, Ligj no. 95/2016 *Për organizimin dhe funksionimin e institucioneve për të luftuar korrupsionin dhe krimin e organizuar*, 06.10.2016;

¹³⁷ See Kuvendi Republika e Shqipërisë Komisioni per çështjet Ligjore, Administratën Publike dhe te Drejtat e Njeriut; See as well European Commission, *Commission Staff Working Document, Albania 2016 Report*, SWD(2016) 364 final, Brussels, 9.11.2016, p. 13.

¹³⁸ The Transparency International Corruption Perceptions Index 2015 places Albania at no. 88 out of 168 countries with a score of 36 over 100 (where 0 is highly corrupt and 100 is very clean). See Transparency International, *Corruption Perception Index 2016, Albania*, rank 83/176, score 39/100.

¹³⁹ Kuvendi Republika e Shqipërisë Projektligji "Per disa shtesa dhe ndryshime ne Ligj no. 7905, date 21.3.1995, "Kodi i Procedures Penale i Republikës se Shqipërisë", te ndryshuar, 18.11.2013; Kuvendi Republika e Shqipërisë Projektligji "Per disa shtesa dhe ndryshime ne Ligj no. 7905, date 21.3.1995, "Kodi i Procedures Penale i Republikës se Shqipërisë", te ndryshuar, 03.06.2014.

¹⁴⁰ Republika e Shqipërisë, Minister per Inovacion dhe Administratën Publike, Departamenti i Administratës Publike, *Strategjia Ndersektoriale e Reformes ne Administratën Publike 2015-2020*

¹⁴¹ Republika e Shqipërisë, Keshilli i Ministrave, Ministri per çështjet Vendore, *Strategjia Kombetare Kunder Korrupsionit 2015-2017*.

society. Clear timeframes to achieve specific goals have been set with the relative budget for each single action for a total EUR 12 million. Recommendations have been put forth to improve impact indicators and thus results.¹⁴² While overall action plans are in place, there are shortcomings in their implementation.

Moreover, the past year some progress was made with the adoption of a number of laws directed at fighting corruption, like the law on whistleblower protection¹⁴³ and the law on organization and functioning of institutions in order to successfully fight corruption and provide law enforcement agencies with access to national electronic public records.¹⁴⁴ It cannot be denied that there are still challenges ahead in capacity building to effectively implement the existing legislation but as well update the existing legislation i.e on interception and surveillance, admissibility of the obtained evidence before court and other limits on investigations.¹⁴⁵ As mentioned above, while legislation is in place, further efforts should be put forth to implement it.

A reason for this lack of implementation may be found in the many and frequent changes to the legal framework that have been subject of nuanced interpretation, but not only, available mechanisms to address cases of corruption remain complex and inefficient and have so far yielded limited results in improving public perception regarding corruption and functioning of government administration.¹⁴⁶ Indeed the officials who received a final sentencing for corruption related crimes are still very few.¹⁴⁷

¹⁴² See as well European Commission, Commission Staff Working Document Albania 2015 Report, SWD(2015) 213 final, Brussels, 10.11.2015, pp. 10, 17.

¹⁴³ Kuvendi Republika e Shqiperise, Ligj no. 60/2016 “Për sinjalizimin dhe mbrojtjen e sinjalizuesve”, 02.06.2016.

¹⁴⁴ Kuvendi Republika e Shqiperise, Ligj no. 95/2016 *Për organizimin dhe funksionimin e institucioneve për të luftuar korrupsionin dhe krimin e organizuar*, 06.10.2016.

¹⁴⁵ European Commission, *Commission Staff Working Document, Albania 2016 Report*, SWD(2016) 364 final, Brussels, 9.11.2016, p. 17.

¹⁴⁶ European Commission, Commission Staff Working Document Albania 2015 Report, SWD(2015) 213 final, Brussels, 10.11.2015, p. 17.

¹⁴⁷ Statistical information from the Ministry of Interior indicate that for the criminal offence of corruption, the following were the sentences pronounced: in 2009 the individuals that were sentenced were 45; 2010 the individuals that were sentenced were 48; 2011, the individuals that were sentenced were 72; 2012, the individuals that were sentenced were 39; 2013, the individuals that were sentenced were 70.

The battle with the organized crime has been and remains critical to substantial headway in consolidating the rule of law. Organized crime has been allegedly infiltrating politics, judiciary and economy.¹⁴⁸ Albanian authorities and law enforcement agencies have to further concentrate their efforts to investigate, prosecute and sentence individuals and criminal networks operating in different areas and at all different levels.¹⁴⁹ Financial investigations and possibly confiscation of assets remain at lower level and the EU in its latest progress report recommends for further investigation on possible infiltration of public and private sectors by organized crime.¹⁵⁰

The most recurrent cases of criminal investigation remain cultivation and trafficking of cannabis but as well human trafficking.¹⁵¹ Nonetheless, a positive trend of increased efforts by law enforcement in these and other areas of organized crime has been witnessed.¹⁵² However, the number of cases targeting money laundering and confiscation of assets remain low and efforts to proactively investigate

¹⁴⁸ European Commission, *Enlargement Strategy and Main Challenges 2013-2014*, COM(2013) 700 final, Brussels, 16.10.2013, p. 6.

¹⁴⁹ European Commission, *Enlargement Strategy and Main Challenges 2013-2014*, COM(2013) 700 final, Brussels, 16.10.2013, pp. 6-7; European Commission, *Commission Staff Working Document, Albania 2014 Progress Report*, SWD (2014) 304 final, Brussels, 8 October 2014, p. 12.

¹⁵⁰ European Commission, *Commission Staff Working Document Albania 2015 Report*, SWD(2015) 213 final, Brussels, 10.11.2015, p.16; See as well as European Commission, *Commission Staff Working Document, Albania 2016 Report*, SWD(2016) 364 final, Brussels, 9.11.2016, p. 17.

¹⁵¹ Albanian State Police Official, interview, Tirana, 16 December 2016.

¹⁵² See as well European Commission, *Commission Staff Working Document, Albania 2014 Progress Report*, SWD (2014) 304 final, Brussels, 8 October 2014, p. 3; Republika e Shqipërisë, Ministria e Punëve të Brendshme, Drejtoria e Policisë së Shtetit, *Informacion mbi disa operacione policore të zhvilluara në të gjithë vendin nga data 1-10 Tetor 2016*; Republika e Shqipërisë, Ministria e Punëve të Brendshme, Drejtoria e Policisë së Shtetit, *Informacion mbi disa operacione policore të zhvilluara në të gjithë vendin nga data 11-20 Tetor 2016*; Republika e Shqipërisë, Ministria e Punëve të Brendshme, Drejtoria e Policisë së Shtetit, *Informacion mbi disa operacione policore të zhvilluara në të gjithë vendin nga data 21-30 Nëntor 2016*; Republika e Shqipërisë, Ministria e Punëve të Brendshme, Drejtoria e Policisë së Shtetit, *Informacion mbi disa operacione policore të zhvilluara në të gjithë vendin nga data 11-20 Dhjetor 2016*; Republika e Shqipërisë, Ministria e Punëve të Brendshme, Drejtoria e Policisë së Shtetit, *Informacion mbi disa operacione policore të zhvilluara në të gjithë vendin nga data 11-20 Janar 2017*; Republika e Shqipërisë, Ministria e Punëve të Brendshme, Drejtoria e Policisë së Shtetit, *Informacion mbi disa operacione policore të zhvilluara në të gjithë vendin nga data 21-31 Janar 2017*.

such cases are being stepped up as well through international cooperation.¹⁵³

A crucial component in delivering on final sentences for criminal individuals and hitting criminal groups is a strong cooperation between police and prosecutors. Nonetheless, many of the registered cases to the Serious Crime Prosecution Office are then transmitted to local prosecutors and subsequently dropped on basis of poor evidence.¹⁵⁴ The cases of convictions for drugs remain low especially if compared to the market scale of cultivation and trafficking of drugs in the Western Balkans region.¹⁵⁵

The threat of terrorism and extremism has touched the Western Balkans as well. A prevention-oriented cooperation with timely sharing of information and best practices to promote counter-terrorism initiatives and preparedness in responding to such threats, can make a difference. The EU has been proactive in not only enlisting the Western Balkans as partners against terrorism and terror motivated activities but is active in developing the Western Balkans Counter Terrorism Initiative.¹⁵⁶

In the Paris Western Balkans Summit the representatives of the region, confirmed their interest in cooperating with the Salzburg Forum and the Western Balkans counter-terrorism initiative.¹⁵⁷ In addition, they pledged to make use of the Southeast European Law Enforcement Centre and implement the SEECP joint statement on terrorism of 2015.¹⁵⁸ Moreover, Albania has volunteered to host the NATO Centre on Foreign Fighters following a recommendation of the Obama administration given the geostrategic importance to NATO and the

¹⁵³ Albanian State Police Official, interview, Tirana, 16 December 2016.

¹⁵⁴ *Ibid.*

¹⁵⁵ Albania has dropped 19 positions on WJP Rule of Law Index, see World Justice Project, *Rule of Law Index 2016*; See as well European Commission, Commission Staff Working Document Albania 2015 Report, SWD(2015) 213 final, Brussels, 10.11.2015, p. 18.

¹⁵⁶ See Council of the European Union, *Vienna Declaration – Tackling Violent Extremism and Terrorism*, Brussels, 25 March 2015; Council of the European Union, *EU Western Balkan counter-terrorism initiative: integrative plan of action* Brussels, 4 December 2015.

¹⁵⁷ Western Balkan's Heads of States and Governments, *Final Declaration by the Chair of the Paris Western Balkans Summit*, 4 July 2016.

¹⁵⁸ *Ibid.*; See as well Southeast European Law Enforcement Centre, www.selec.org; See as well SEECP *Joint Statement on Terrorism*, Tirana, 24.02.2015.

region.¹⁵⁹ Michael Turner, President of the NATO Assembly underlined the good cooperation existing between the EU and NATO in the area of security and stability in the region.¹⁶⁰

4.1.4 Media

4.1.4.1 Freedom of speech in the Western Balkans

One of the elements informing the readiness of a country to join the EU is the ability to safeguard the freedom of expression.¹⁶¹ It is enshrined in the values upon which the EU is founded and the capacity to uphold them is at the core of evaluating the readiness of a country, which goes hand in hand with promoting democracy, good governance and accountability.¹⁶² Indeed, if stripped of this fundamental human right, a society cannot enjoy reliable and objective information that contributes - by scrutinizing institutions - to dialogue, transparency encouraging thus good governance and ultimately thus is in service of democracy. Rightfully, Ulrike Lunacek, Member of the European Parliament reminds us that “freedom of expression starts with a freedom of thought: criticism and difference of opinion are part of life and daring to think different than you are told”.¹⁶³ Those who have learnt to dare and think critically have the freedom of expression.

In the negotiations’ talks freedom of expression is inherent within Chapters 10 Information Society and Media and Chapter 23 Judiciary and Fundamental Rights. Christian Danielsson, Director General for Enlargement at the European Commission, during Speak UP 3 conference in Brussels, assured that the EC will put the accent in media professionalism and extend the aspect of social media in the

¹⁵⁹ F. Mejdini, “Albania to Host NATO Centre on Foreign Fighters”, *Balkan Insight*, 23 June 2016.

¹⁶⁰ F. Mejdini, “NATO Urged to Strengthen Presence in Balkans”, *Balkan Insight*, 31 May 2016.

¹⁶¹ European Commission, *Speak UP! Conference Conclusions and Recommendations by the Chair*.

¹⁶² See Artt. 2 and 49 The European Union, *Consolidated version of the Treaty on European Union*, 26.10.2012, OJ C 326.

¹⁶³ Ulrike Lunacek, *Speak-Up! 3 Conference*, Brussels, 4 November 2015.

context of democracy.¹⁶⁴ Indeed, the Speak UP! 2 discussions in June 2013 have inspired the EC to follow attentively developments in the area of media and information in the Western Balkans.¹⁶⁵ Moreover, in recognizing the importance of freedom of expression the European Commission has established guidelines for supporting freedom of mass media in the enlargement countries.¹⁶⁶ The Instrument for Pre-Accession Assistance (IPA II) is invested in fostering a positive environment for exercising in full freedom of expression by supporting solid media professionals' associations to safeguard media integrity that in turn may empower a healthy and robust internal governance immune from external pressures worthy of people's trust and attention.¹⁶⁷ It is however, the responsibility of State institutions to assess the degree of freedom of expression against the existing legal framework and its implementation taking as reference the principles that have inspired the case law of the European Court of Human Rights (ECtHR) and the Council of Europe Parliamentary Assembly Resolution 1636 (2008) on indicators for media in a democracy and existing EU directives.¹⁶⁸ As prescribed by Article 10 of the European Convention on Human Rights "the exercise of [...] freedoms [since it entails] duties and responsibilities, [may be restricted] by law" to the extent it is "necessary in a democratic society" abiding by the principle of proportionality. Judges should, thus, refrain thus from using the law to punish journalists only because they have been critical to government institutions. Any violation of its principles and attempt to restrict the exercise of freedom of media should be duly investigated and

¹⁶⁴ C. Danielsson, *Speak-Up! 3 Conference*, Brussels, 4 November 2015.

¹⁶⁵ Opening speech by J. Hahn, Commissioner for European Neighbourhood Policy and Enlargement Negotiations, *Speak-Up! 3 Conference*, Brussels, 4 November 2015.

¹⁶⁶ European Commission, *DG Enlargement Guidelines for EU support to media freedom and media integrity in enlargement countries 2014-2020*.

¹⁶⁷ *Ibid.*

¹⁶⁸ See Directive 2010/13/EU of the European Parliament and of the Council of 10 March 2010 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services (**Audiovisual Media Services Directive**); Directive 2002/19/EC of the European Parliament and of the Council of 7 March 2002 on access to and interconnection of, electronic communications networks and associated facilities (**Access Directive**); Directive 2002/21/EC of the European Parliament and of the Council of 7 March 2002 on a common regulatory framework for electronic communications networks and services (**Framework Directive**);

See Council of Europe, Parliamentary Assembly, *Indicators for media in a democracy*.

perpetrators prosecuted.¹⁶⁹ On their part, mass media should support the establishment of media professionals' associations and pledge to uphold labour standards so that the working setting may not be a determinant of self-censorship and lower quality of information. These measures ultimately, if executed, may contribute to restore audience's confidence in the media.

The Western Balkans have much work ahead in order to overcome obstacles that stand in the way of fully enjoying freedom of expression and restoring confidence in media outlets. Politics continues to influence the editorial content of broadcasters resorting as well to (mis)using the legal framework.¹⁷⁰ There are cases where governments "themselves contribute to a climate of fear which demonizes journalists critical of government policy as traitors".¹⁷¹ Outlets, which reserve a more favourable coverage to government activities, are thought to receive the most public money and government advertisement.¹⁷² In addition, the media sector suffers from a lack of "self-regulation" and it has not been unprecedented for political interest groups to use the justice system to harass and strongly limit "critical journalism".¹⁷³ Jeta Xharra, Journalist of the Balkan Investigative Reporting Network (BIRN) notes that "there is a rise in campaigns and the investment on the part of the corrupt elites are forced to put forth to mud good journalists".¹⁷⁴ There are three teams of investigative journalists in Kosovo, Albania and Serbia that have followed privatization deals and investigation on privatization of State companies. In the case of BIRN Serbia bully government officials have failed to scare off donors out of supporting

¹⁶⁹ European Commission, *Speak UP! Conference Conclusions and Recommendations by the Chair*.

¹⁷⁰ *Ibid*.

¹⁷¹ See J. Hahn, Commissioner for European Neighbourhood Policy and Enlargement Negotiations, *Speak-Up! 3 Conference*, Brussels, 4 November 2015. European Commission, *Enlargement Strategy and Main Challenges 2013-2014*, COM(2013) 700 final, Brussels, 16.10.2013, p. 10.

¹⁷² European Commission, *Speak Up! 2. Conclusions*, retrieved 5 November 2015. It is worth to note that the law on public procurement have been amended in line with international standards. Kuvendi Republika e Shqipërisë, Ligj no.182/2014 *Për disa ndryshime dhe shtesa në ligjin nr.9643, datë 20.11.2006, "Për prokurimin publik" të ndryshuar*, 24. 12 2014.

¹⁷³ European Commission, *DG Enlargement Guidelines for EU support to media freedom and media integrity in enlargement countries 2014-2020*.

¹⁷⁴ There are three types of journalists: the scary, the mercenary and the nice journalists. Jeta Xharra, Session 1, Freedom of Expression in the Western Balkans and Turkey: Progress and Persisting Challenges, *Speak-Up! 3 Conference*, Brussels, 4 November 2015.

investigative journalism.¹⁷⁵ In Albania, BIRN - says Ms. Xharra - was threatened by the Prime Minister Rama.¹⁷⁶ While in Kosovo, in the past six years has been involved in two legal battles among which requesting to the then Prime Minister Hashim Thaçi to provide access to public records related to the expenses sustained by public officials paid by the Kosovo taxpayers. The PM did not yet implement the decision of the court.¹⁷⁷ Mr. Johannes Hahn, Commissioner for European Neighbourhood Policy and Enlargement Negotiations has expressed his disappointment, stressing that instances, like the ones described above, are in clear contrast with a non-partisan professional administration.¹⁷⁸ For Commissioner Hahn, “[f]reedom of media is at the core of the EU integration process and is not negotiable!”¹⁷⁹

Another issue of concern remain economic pressures, as mass media is regarded as a business and not as a public service, where journalists are mercenaries, hired pens in a competitive system for relevance and power. Moreover, employment conditions of journalist in the WB are difficult: journalists are dependent on their employer which resort to non-contractual hiring that leaves them vulnerable in front of powerful pressures.¹⁸⁰ To date, the provisions of the labour code continues to go unheeded with delays in receiving their remuneration, non-paid social contribution checks are in contrast with having in place a competitive and transparent market economy.¹⁸¹ There is a need for transparency in media ownership and limits to its concentration in the hands of few individuals or interest groups that may by doing so limit its

¹⁷⁵ J. Xharra, Session 1, Freedom of Expression in the Western Balkans and Turkey: Progress and Persisting Challenges, *Speak-Up! 3 Conference*, Brussels, 4 November 2015.

¹⁷⁶ *Ibid.*

¹⁷⁷ *Ibid.*

¹⁷⁸ See J. Hahn, Commissioner for European Neighbourhood Policy and Enlargement Negotiations, *Speak-Up! 3 Conference*, Brussels, 4 November 2015. European Commission, *Enlargement Strategy and Main Challenges 2013-2014*, COM(2013) 700 final, Brussels, 16.10.2013, p. 9.

¹⁷⁹ See J. Hahn, Commissioner for European Neighbourhood Policy and Enlargement Negotiations, *Speak-Up! 3 Conference*, Brussels, 4 November 2015.

¹⁸⁰ F. Raunig, Session 1, Freedom of Expression in the Western Balkans and Turkey: Progress and Persisting Challenges, *Speak-Up! 3 Conference*, Brussels, 4 November 2015.

¹⁸¹ See as well European Commission, *Commission Staff Working Document, Albania 2016 Report*, SWD(2016) 364 final, Brussels, 9.11.2016, p. 23.

independence, pluralism and quality of information.¹⁸² Pluralism of information provides different point of views, which are essential for grasping the essence of the reality. The EU Charter of Fundamental Rights in its Article 11 Freedom of expression and information, calls for “freedom and pluralism of the media”. In the Western Balkans, the first striking fact is the multitude of media in a small market and one might think that this oversupply is positive but in reality information is rather limited.¹⁸³ Nonetheless, more often than not in the Western Balkans we hear different media outlooks speak in unison raising little to no criticism on the work of the executive. It begs the question whether these societies are free from vices like corruption or organized crime or otherwise media has become complaisant.¹⁸⁴

The Council of Europe’s Commissioner for Human Rights Mr. Nils Muižnieks notes a longstanding concern stressing that “an investigation has to lead to the identification of those calling for attacks and violence against journalists”. On the other hand, Mr. Muižnieks invites media to look critically on themselves and how they report on themselves as “hate speech and its various reproductions remain”.¹⁸⁵ His office remains engaged in calling off efforts to reinstate defamation as a criminal offence.¹⁸⁶

The Parliament should work to approve laws empowering specific institutions in upholding the freedom of expression should be enforced so that to ensure their independence and empower them to establish a track record instrumental in properly evaluating the readiness of a country in this domain.¹⁸⁷ Moreover, the legislature in complying with their responsibilities need to effectively seek civil society and media

¹⁸² See J. Hahn, Commissioner for European Neighbourhood Policy and Enlargement Negotiations, *Speak-Up! 3 Conference*, Brussels, 4 November 2015.

¹⁸³ F. Raunig, Session 1, Freedom of Expression in the Western Balkans and Turkey: Progress and Persisting Challenges, *Speak-Up! 3 Conference*, Brussels, 4 November 2015

¹⁸⁴ See J. Hahn, Commissioner for European Neighbourhood Policy and Enlargement Negotiations, *Speak-Up! 3 Conference*, Brussels, 4 November 2015.

¹⁸⁵ N. Muiznieks, Commissioner for Human Rights, Council of Europe, *Speak-Up! 3 Conference*, Brussels, 4 November 2015.

¹⁸⁶ *Ibid.*

¹⁸⁷ European Commission, *DG Enlargement Guidelines for EU support to media freedom and media integrity in enlargement countries 2014-2020*.

advice when evaluating the state of implementation and strengthen legislation so to respond to the needs of ethical and free journalism.¹⁸⁸

Overall, the EC evaluates positively the existing legal framework for freedom of expression in the enlargement countries, however its enforcement and the practices in the area continue to raise concern.¹⁸⁹

4.1.4.2 Freedom of speech in Albania

The Albanian Constitution and the pertinent laws adopted are in accordance with international law in assuring “individual liberties including the right to privacy, freedom of expression and sanctions against incitement of hatred”.¹⁹⁰ Strives have been made to uphold freedom of expression whereby libel and defamation cannot amount to prison sentences, nonetheless they remain criminal offences subject to maximum fine of ALL 3 million at odds with international standards.¹⁹¹ Edi Paloka and Arben Ristani, both DP Members of Parliament were sentenced by the Supreme Court ALL 200 000 in fines, following the law suit PM Edi Rama initiated for defamation. Pursuant of Art. 71.2 of the Constitution “[t]he mandate of a deputy ends [...] when he is convicted by final court decision for the commission of a crime.”¹⁹²

¹⁸⁸ See Western Balkans Summit Vienna 2015 Civil Society Forum Media Information, “Western Balkans Civil Society voices out its demands to Europe’s leaders: Securing freedom of expression, creating jobs and prosperity, enhancing regional cooperation”, Vienna, August 27 2015.

¹⁸⁹ See J. Hahn, Commissioner for European Neighbourhood Policy and Enlargement Negotiations, *Speak-Up! 3 Conference*, Brussels, 4 November 2015.

¹⁹⁰ See Art. 10 Kuvendi Republika e Shqiperise, Ligi no. 8417, datë 21.10.1998, “Kushtetuta e Republikës së Shqipërisë”; See as well European Commission, *Commission Staff Working Document, Albania 2016 Report*, SWD(2016) 364 final, Brussels, 9.11.2016, p. 22. “There were three cases of hate speech registered by police and prosecution in the reporting period. Five complaints on hate speech were submitted to the Commissioner for the protection against Discrimination on the grounds of sexual orientation.”

¹⁹¹ See paragraph 47 of the 2011 UNHCR General Comment No. 34 to Article 19 of the ICCPR. See as well the Joint Declarations of the UN Special Rapporteur on Freedom of Opinion and Expression, the OSCE Representative on Freedom of the Media and the OAS Special Rapporteur on Freedom of Expression of 30 November 2000, 10 December 2002, and 4 February 2010. See as well European Commission, *Commission Staff Working Document, Albania 2016 Report*, SWD(2016) 364 final, Brussels, 9.11.2016, p. 22.

¹⁹² See E. Kurani, “Supreme Court penalizes two opposition leaders following the Prime Minister’s lawsuit”, *Independent Balkan News Agency*, 05/06/2015.

The broadcast media is regulated by the law on Public and Private Radio and Television amended on 4 March 2013 whereby the Audiovisual Media Authority (AMA) serves as the national regulatory and licensing authority.¹⁹³ The audiovisual transmission should be free, impartial and objective, respectful of political and religious beliefs, personality, dignity and rights of other fundamental freedoms of man. This is functional to the guarantee of the freedom of expression, right to information that preserves the secrecy of sources of information and safeguards privacy. Nonetheless, there are concerns related to political interference on media, it is note worthy that both management boards members of AMA and the public broadcaster RTSH are elected by the parliament.¹⁹⁴ Indeed the law 97/2013 “falls short of requiring politically inclusive governing bodies [...] therefore risking that both institutions would remain political instruments of the parliamentary majority”.¹⁹⁵ Reference is made to Artt. 9.4 and 94.4 regarding to the board members of both AMA and RTSH whereby “[i]n all cases the commission takes into account the preservation of the balance [whereby] the candidates for up for election as board members [...] are submitted for approval to the Parliament's plenary.” Indeed, the progress reports of the Commission have criticized the inability of the

¹⁹³ See Autoriteti i Mediave Audiovizive, retrieved 05 December 2016, <http://ama.gov.al/en/about-ama/> ; Kuvendi Republika e Shqiperise, Ligj no. 8410 dated 30.09.1998 “On public and private Radio and Television in the Republic of Albania”, 30.09.1998; Kuvendi Republika e Shqiperise, Ligj no. 8410, dated “On the Radio and Television in the Republic of Albania”, 30.09.1998; and Kuvendi Republika e Shqiperise, Ligj no. 9742 dated “On Digital Broadcasting in the Republic of Albania”, 28.05.2007; Kuvendi Republika e Shqiperise, Ligj no. 22/2016 Per disa shtesa dhe ndryshime ne ligjin no. 97/2013, *Per mediat audiovizive ne Republiken e Shqiperise*, 10.03.2016. Directive 2010/13/EU of the European Parliament and of the Council of 10 March 2010 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services (Audiovisual Media Services Directive); Directive 2002/19/EC of the European Parliament and of the Council of 7 March 2002 on access to and interconnection of, electronic communications networks and associated facilities (Access Directive); Directive 2002/21/EC of the European Parliament and of the Council of 7 March 2002 on a common regulatory framework for electronic communications networks and services (Framework Directive);

¹⁹⁴ Kuvendi Republika e Shqiperise, Ligj no. 22/2016 Per disa shtesa dhe ndryshime ne ligjin no. 97/2013, *Per mediat audiovizive ne Republiken e Shqiperise*, 10.03.2016.

¹⁹⁵ See OSCE, The Representative on Freedom of the Media Dunja Mijatovic, *Regular Report to the Pemanent Council for the period from 30 November 2012 to 13 June 2013*, 13 June 2013, p. 4; See Autoriteti i Mediave Audiovizive, *Transparenca*.

government to act upon “identified priorities”.¹⁹⁶ Moreover, AMA, actually is hindered from exercising in full its functions in practice, for which the EC calls for “its independence [be] guaranteed”.¹⁹⁷

The parliamentary elections of June 2013 were “competitive” and in compliance with fundamental freedoms according to the electoral observation mission of OSCE/ODIHR.¹⁹⁸ The media coverage of the campaign was adequate in that constituents were informed on the stance of main political parties.¹⁹⁹ Article 84.1 of the Electoral Code sets as an obligation for broadcasters to feature “[e]lectoral campaign information prepared” by candidates in the news to this one should add the affiliation of media owners that engenders self-censorship and a single-nuanced viewpoint on issues.²⁰⁰ Indeed, OSCE/ODIHR noted that violations of the legal limit of paid political advertising in favour of the two main parties by certain media outlets were observed, as smaller political parties received no coverage.²⁰¹ The RTSH, the public broadcaster granted equal coverage to the main political parties, but was observed to be lenient towards the DP, until then part of the governing coalition.²⁰² On the other hand the private broadcasters like TV Klan, known to be a DP supporter, granted to the later a largely positive coverage. Others like Top Channel and Vizion Plus while more balanced reserved a more critical tone towards the governing coalition lead by DP. The news channels News 24 and Ora News provided a

¹⁹⁶ European Commission, *Commission Staff Working Document, Albania 2014 Progress Report*, SWD (2014) 304 final, Brussels, 8 October 2014, p. 1.

¹⁹⁷ *Ibid.*

¹⁹⁸ European Commission, *Enlargement Strategy and Main Challenges 2013-2014*, COM(2013) 700 final, Brussels, 16.10.2013, p. 18.

¹⁹⁹ There are 3 national television (TV) channels (public channel RTSH, TV Klan and TV Top Channel), 71 local TV channels, 113 cable TV channels and 71 radio stations. The consumption of print media, that is equally numerous is limited. Internet remains largely an open platform for public debate. Nonetheless, the TV remains the main source of information. Please refer to AMA.

²⁰⁰ Article 84.1 on Electoral campaign on private radio and television stations. The Electoral Code of the Republic of Albania, Approved by Law no. 10019, dated 29 December 2008, amended by Law no. 74/2012, dated 19 July 2012 and Law no. 31/2015, dated 2 April 2015; See as well OSCE/ODIHR Election Observation Mission Final Report, Warsaw, 8 September 2015, pp. 2, 15.

²⁰¹ The OSCE/ODIHR EOM media monitoring revealed that the DP exceeded the 90-minutes legal limit on TV Klan (187 minutes), Vizion Plus (235 minutes), News 24 (204 minutes), Ora News (226 minutes). SP exceeded the legal limit on Klan TV (148 minutes), Top Channel (148 minutes), Vizion Plus (161 minutes), News 24 (125 minutes), Ora News (111 minutes).

²⁰² See OSCE/ODIHR, *Election Observation Mission Final Report*, Warsaw, 10 October 2013, pp. 2, 15, 17, 18.

balanced coverage, all the while print media took sides with Shqip and Shqiptarja.com aligning with SP and Mapo and Panorama with DP.²⁰³

“New media”, including “social media” are more than ever before gaining momentum and traction in a market where the internet remains the only mass media outlet free of interference and thus greatly contributes in providing additional viewpoints and one would hope, serve to control exercise of power.²⁰⁴ However, recently the SP, through a draft bill has requested for mandatory registration of portals during electoral campaign. Those sites that fail to do so and engage in “electoral propaganda” will be shut down.²⁰⁵ The draft bill states that “[t]he usage of web portals which are not controlled by the Media Monitoring Board for electoral propaganda is prohibited”.²⁰⁶ Nonetheless, experts in the field have warned against engaging in such initiative: Darian Pavli, Programme Director for the Soros Foundation in Tirana, along with dismissing as “confusing” the draft bill believes “[t]he imposition of the model currently in use for audiovisual media in the online space is very problematic.”²⁰⁷

4.2 Public opinion

4.2.1 Public opinion in Albania

In an attempt to have an understanding of the perception on the current socio-economic and political situation in Albania and the understanding there is about the EU, during my field research in Albania that started on the 23rd June 2016 and is ongoing at the moment I am writing this thesis, I conducted an anonymous survey. The survey was conducted from the 5-19 of November 2016, one week prior and one week after

²⁰³ OSCE/ODIHR, *Election Observation Mission Final Report*, Warsaw, 10 October 2013, p. 18. See as well as a reference on media coverage of the local elections of June 2015, OSCE/ODIHR, *Election Observation Mission Final Report*, Warsaw, 8 September 2015, p. 17.

²⁰⁴ European Commission, *Speak Up! 2. Conclusions*.

²⁰⁵ G. Erebara, “Albania Ruling Party Seeks More Control of Online Media”, *Balkan Insight*, 14 December 2016.

²⁰⁶ *Ibid.*

²⁰⁷ *Ibid.*

the release of the enlargement package by the European Commission. This survey has been conducted in a time where debates around the EU and reforms Albania is undertaking to get ever closer to accession were in the order of the day. The 14 questions selected were among the questions asked by the European Commission, Eurobarometer, some of which were asked at the last Eurobarometer on May 2016 to Europeans. The questions asked have a parallel to the Balkan Barometer 2016.²⁰⁸ These will serve to have a degree of comparison with the results both within the EU and the wider South East Europe (SEE) region. The questionnaire was conducted electronically, questions were submitted entirely in Albanian language.²⁰⁹ The sample was chosen randomly, to people whose usual place of residence is Albania, hence have a first-hand experience with the current situation in the country. There were 323 unique visits to the questionnaire of which 208 submitted their answers. The question options were randomized and positioned vertically so that not to lead the respondent's answers and thus affect the results. The analysis of the data was conducted both on Microsoft Excel and 'R' which has allowed me to merge the data and the answers in clusters such as society, economy and institutions.

The majority of the respondents are in the age group 25-39 years old making 57,21% of respondents. The second most important age group is that of 15-24 years old making 37.5% of respondents. Among these, students make 48.57% of the respondents and 46.15% of the respondents are people presumably holding a university degree given as the end of their studies is '20+'. The sample, thus, portrays those who are likely to vote in the next elections and possible referendum to join the EU. Moreover, the sample predominantly portrays that fraction of the society who is educated, still studying or presumably holding a university degree.

²⁰⁸ See Regional Cooperation Council, *Public Opinion Survey Balkan Barometer 2016*.

²⁰⁹ Typeform Platform

Table 1

Question 1 - Age of sample		
Options	No. Answers	Percentage
15-24	78	37.5
25-39	119	57.21
40-54	9	4.33
NA	2	0.96

Question 2 - End of Studies of Sample		
Options	No. Answers	Percentage
15	2	0.96
16-19	6	2.88
20+	96	46.15
Student	101	48.57
NA	3	1.44

Table 2

When asked about how much trust you have in certain institutions, and given the options as below, the results on the trust Albanians place in their political parties are clear-cut. A staggering 90.38% of the respondents say they tend not to trust political parties. In comparison 72% of Europeans tend not to trust their national parliament.²¹⁰

Table 3

Question 3.1 - Trust in Political Parties

²¹⁰ European Commission, *Standard Eurobarometer 85, Wave EB85.2, Spring 2016, Report European Citizenship*, May 2016, p. 14.

Options	No. Answers	Percentage
Tend to trust	11	5.29
Tend not to trust	188	90.38
Don't Know/No Answer	9	4.33

Despite the acclaimed efforts in furthering reforms, most notably that of the judiciary, 80.29% of the respondents tend not to trust their government. In comparison 73% of Europeans tend not to trust their governments.²¹¹

Table 4

Question 3.2- Trust in Government		
Options	No. Answers	Percentage
Tend to trust	18	5.29
Tend not to trust	167	80.29
Don't Know/No Answer	23	11.06

Reference is made to the Balkan Barometer data in SEE region corruption continues to affect nearly every realm of public life. In Albania politicians at the national level and the judiciary are perceived as the most corrupt gathering the 52% and 24% of respondents respectively.²¹² Indeed, 81% of the interviewed Albanians believe that law is not applied and enforced effectively.²¹³ Among which 86% somewhat disagree that the law is applied to everyone equally.²¹⁴ In 2016 Balkan Barometer, 78% of Albanians believe that the judiciary is influenced by politics.²¹⁵ It follows that 81% of interviewed Albanians do not have confidence in courts and judiciary.²¹⁶ Participations of citizens

²¹¹ *Ibid.*

²¹² Regional Cooperation Council, Public Opinion Survey Balkan Barometer 2016, p.114.

²¹³ *Ibid.*, p.110.

²¹⁴ *Ibid.*, p.111.

²¹⁵ *Ibid.*

²¹⁶ *Ibid.*, p.112.

in decision making in Albania is low, civic involvement in affecting government decisions is left to private discussions for 39% of respondents and 37% of Albanians do not even discuss on possible actions to take in order to affect decision making.²¹⁷ The main reasons behind this civic apathy is for 38% total disengagement from public life and for 37% an utter belief of being unable to influence government decisions as an individual.²¹⁸

My survey sample seems equally split with regards to the trust they place in the EU. Among the respondents 49.04% tend to trust the EU against 28.85% that tend not to trust the EU and 22.12% who do not know or do not wish to answer. In comparison, 33% of the Europeans tend to trust the EU.²¹⁹ By comparison, we could argue that Albanians are more trusting to the EU than Europeans are.

Table 5

Question 3.3 - Trust in the EU		
Options	No. Answers	Percentage
Tend to trust	102	49.04
Tend not to trust	60	28.85
Don't Know/No Answer	46	22.12

When asked about the two most important issues facing the EU at the moment, in analysing all the answers provided, among which not all respondents selected the requested two options, it shows that

²¹⁷ *Ibid.*, p.116.

²¹⁸ *Ibid.*, p.117.

²¹⁹ European Commission, Standard Eurobarometer 85, Wave EB85.2, Spring 2016, Report European Citizenship, May 2016, p. 14.

Albanians believe the three most important issues EU is facing at the moment are migration with 59.13% of the respondents, followed by terrorism with 50.47% of the respondents and the economic situation with 48.08% of the respondents. This is not far detached from the answers provided in the latest Eurobarometer of May 2016 where at EU level, migration is mentioned by 48% of the respondents and terrorism is a concern for 39% of them. The economic situation in EU level, much like in the conducted survey in Tirana, comes at third place with 19% of the respondents.²²⁰

Table 6

Question 4 - Issues facing the EU (ALL)		
Options	No. Answers	Percentage
Immigration	123	59.13
Terrorism	105	50.48
Economic Situat.	100	48.08
Unemployment	44	21.15
Brexit	34	16.35
EU's Influence	46	22.12

Even when adjusting the sample, and analysing the answers provided by 171 respondents who correctly indicated two options, 29.81% of them considers migration to be an issue the EU is facing, followed by 25.32% answering terrorism and 24.36% pointing to the economic situation. It seems that even when comparing all sample versus the

²²⁰ European Commission, Standard Eurobarometer 85, Wave EB85.2, Spring 2016, Report European Citizenship, May 2016, p. 4.

adjusted sample the issues Albanians perceive as the most important for the EU remain migration and terrorism.

Table 7

Question 4 - Issues facing the EU (ADJ)		
Options	No. Answers	Percentage
Immigration	93	29.81
Terrorism	79	25.32
Economic Situat.	76	24.36
Unemployment	25	8.01
Brexit	24	7.69
EU's Influence	15	4.81

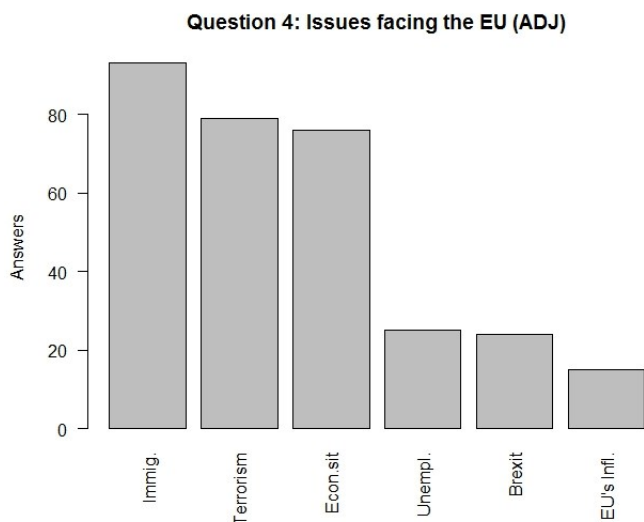


Figure 1

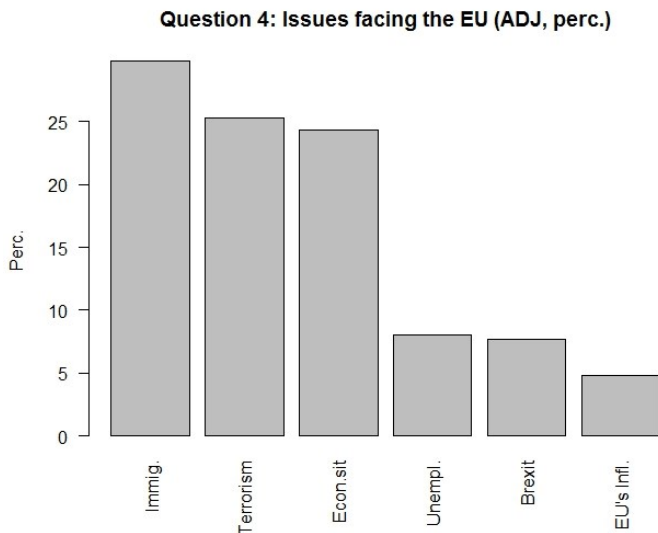


Figure 2

When arranging all sample data in three clusters, where *society* comprises issues of migration and terrorism; *economy* comprising issues of economic situation and unemployment and *institutions* comprises Brexit and the EU influence in the world, the results indicate that 81.73% of the respondents believe the EU faces issues pertaining to *society*, followed by 59.13% that believe EU faces issues related to *economy* and only 27.4% consider *institutions* to be an issue. Referring to the results conducted on the sample as above, we can deduct that Albanians are not particularly alarmed by Brexit and the possibly undermined EU influence in the world.

Table 8

Question 4 - Issues facing the EU (ALL - merged)		
Options	No. Answers	Percentage
Society	170	81.73
Economy	123	59.13

Institutions	57	27.4
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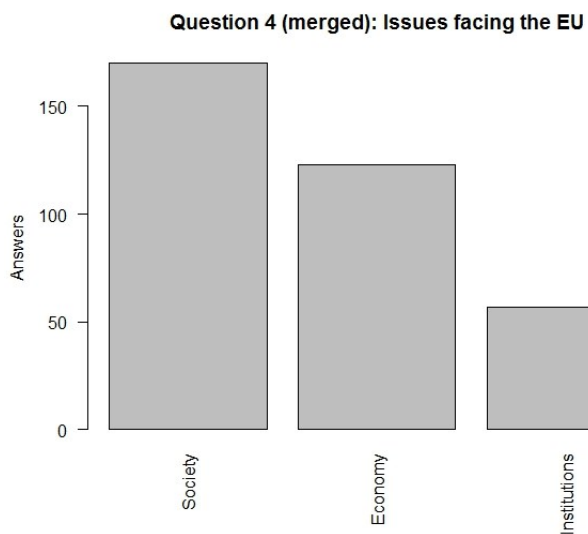


Figure 3

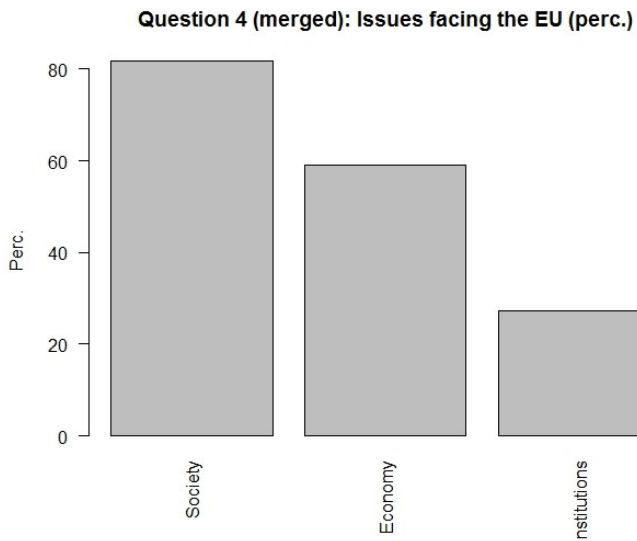


Figure 4

When we adjust our sample, and analyse the answers provided by the 171 respondents who correctly indicated two options, yet again issues within *society* gather 64.42% of respondents, while 44.71% of them indicate issues pertaining to *economy* are an issue for the EU. Only 18.27% of the surveyed maintain that Brexit and/or the EU influence in the world are an issue for the EU.

Table 9

Question 4 - Issues facing the EU (ADJ - merged)		
Options	No. Answers	Percentage
Society	134	64.42
Economy	93	44.71
Institutions	38	18.27

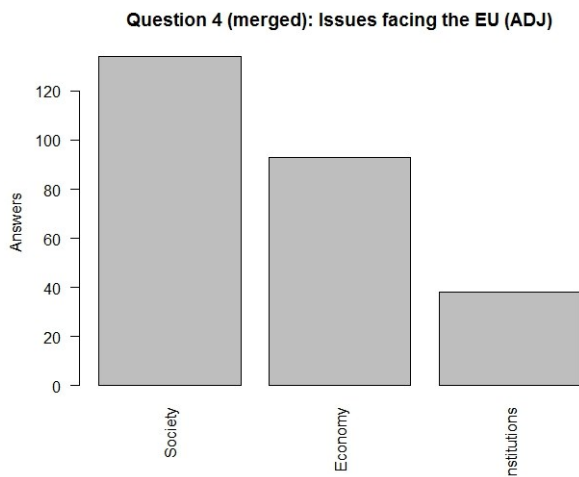


Figure 5

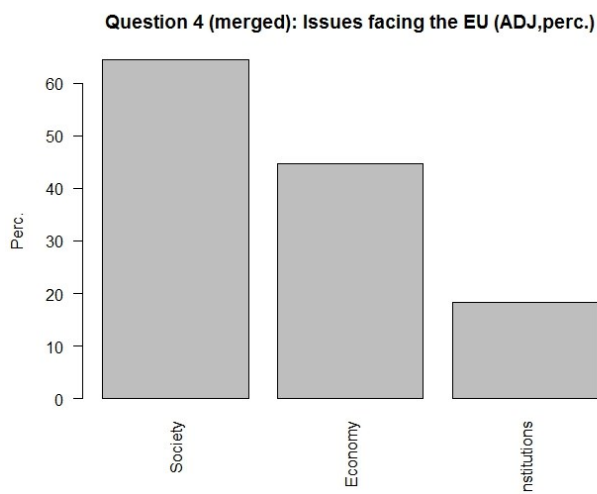


Figure 6

When asked about the two most important issues facing at the moment Albania, 58.17% of all respondents consider unemployment to be an issue, followed by 51.92% that indicate economic situation. The third

most important issue for Albania according to 47.6% of respondents is crime. Unemployment is, as well, the top concern at national level for 33% of Europeans.²²¹ According to the Balkan Barometer, Albanians maintain that the two most important issues Albania faces are first, with 69% of answers unemployment and second, for 60% of answers is the economic situation.²²² Corruption according to 35% of respondents is at the third place.²²³

Table 10

Question 5 - Issues facing Albania (ALL)		
Options	No. Answers	Percentage
Crime	99	47.6
Democracy	82	39.42
Economic Situat.	108	51.92
Unemployment	121	58.17
Healthcare	76	36.54
Education	62	29.81
Other	46	22.12

When adjusting the sample, and analysing the answers provided by 147 respondents who correctly indicated two options, we observe that unemployment remains at the top of concerns for 24.56% of respondents. It is followed by the economic situation for 20.28% of respondents. Contrary from the results obtained by analysing all the sample as above, when adjusting the sample to those 147 respondents who correctly indicated two options, democracy and rule of law is the third most important issue the country faces. Crime is considered an issue by 18.86% of the respondents.

²²¹ European Commission, *Standard Eurobarometer 85, Wave EB85.2, Spring 2016, Report European Citizenship*, May 2016, p. 8.

²²² Regional Cooperation Council, *Public Opinion Survey Balkan Barometer 2016*, p. 42.

²²³ *Ibid.*

Table 11

Question 5 - Issues facing Albania (ADJ)		
Options	No. Answers	Percentage
Crime	53	18.86
Democracy	55	19.57
Economic Situat.	57	20.28
Unemployment	69	24.56
Healthcare	23	8.19
Education	22	7.83
Other	2	0.71

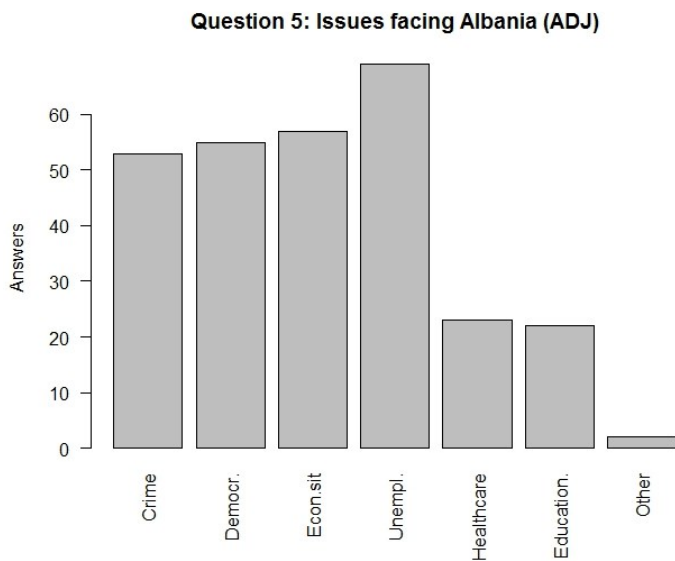


Figure 7

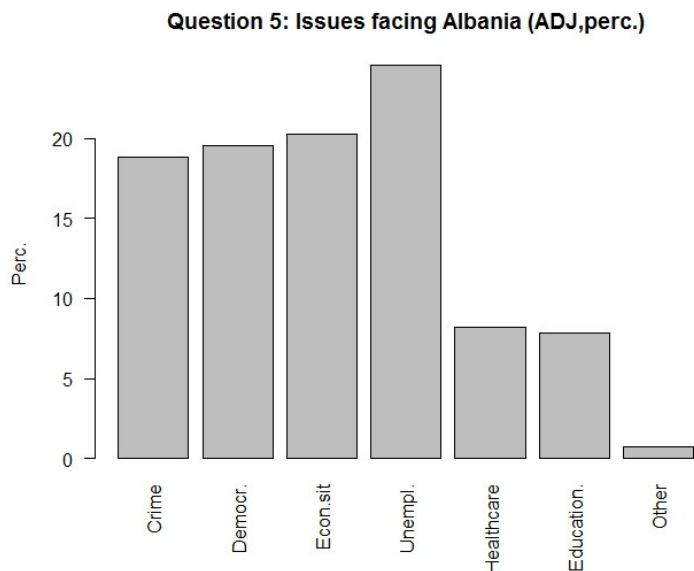


Figure 8

When arranging data of all respondents in four clusters, *society* comprising issues of crime, healthcare and education; *economy* comprising issues of economic situation and unemployment and *institutions* comprising issues such as democracy and rule of law and the fourth cluster called *other*, the results for all the sample indicate that 82.69% of the respondents believe Albania faces issues pertaining to *economy*, followed by 70.67% that believe issues Albania faces are related to *society* and only 39.42.% consider *institutions* to be an issue. From the analysis of these data, the malaise Albanians have on the economic wellbeing of their society is evident.

Table 12

Question 5 - Issues facing Albania (ALL - merged)

Options	No. Answers	Percentage
Society	147	70.67
Economy	172	82.69
Institutions	82	39.42
Other	5	2.4

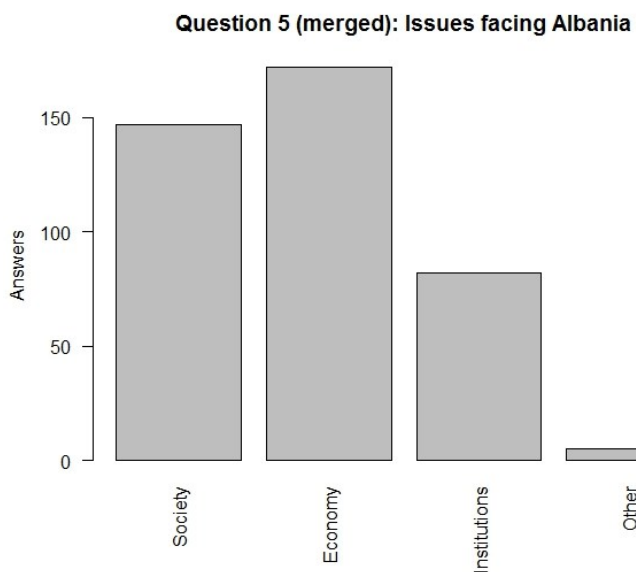


Figure 9

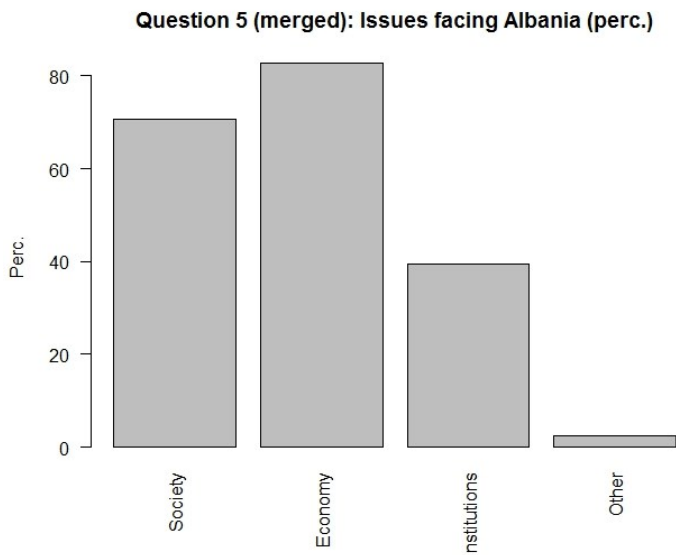
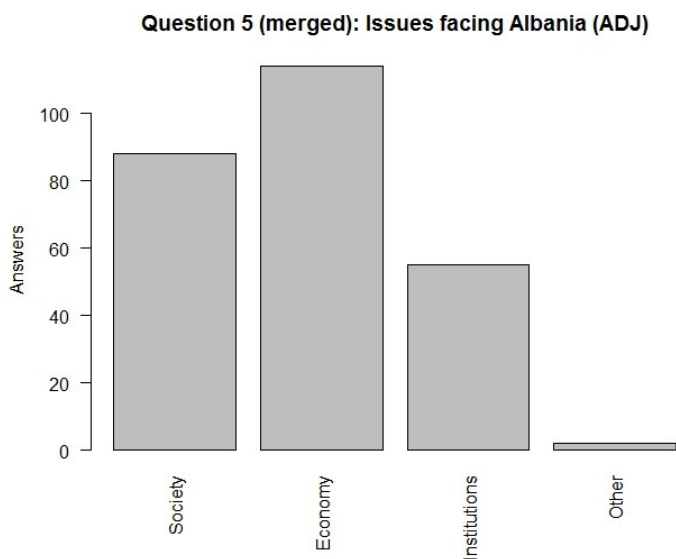


Figure 10

When analysing data of the 147 respondents that indicated correctly two options and arrange the data in four clusters, *society* comprising issues of crime, healthcare and education; *economy* comprising issues of economic situation and unemployment and *institutions* comprising issues such as democracy and rule of law and the fourth cluster called *other*, the results for the adjusted sample indicate that 54.81% of the respondents believe Albania faces issues pertaining to *economy* followed by 42.31% that believe the country faces issues related to *society* and 26.44% consider *institutions* to be an issue. Even when we adjust the sample, *economy* results the top concern in Albania.

Table 13

Question 5 - Issues facing Albania (ADJ - merged)		
Options	No. Answers	Percentage
Society	88	42.31
Economy	114	54.81
Institutions	55	26.44
Other	2	0.96

**Figure 11**

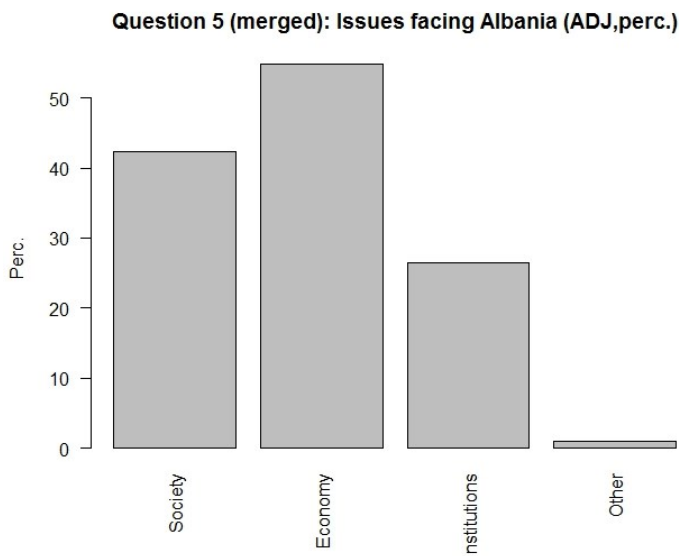


Figure 12

When asked about the two most important issues Albanians are facing personally at the moment, 61.54% of all the respondents refer to inflation, followed by 40.38% that indicate unemployment. The third most important issue according to 34.62% of respondents is the education system. Europeans as well, place inflation at the top of their personal concerns with 26% of answers while unemployment gathers only 14% of answers.²²⁴

Table 14

Question 6 - Personal Issues (ALL)		
Options	No. Answers	Percentage

²²⁴ European Commission, *Standard Eurobarometer 85, Wave EB85.2, Spring 2016, Report European Citizenship*, May 2016, p. 13.

Inflation	128	61.54
Healthcare	66	31.73
Unemployment	84	40.38
Education	72	34.62
Work Condit.	49	23.56
Other	28	13.46

When adjusting the sample, and analysing the 179 respondents that correctly indicated two options, we observe that inflation remains the top concern as 31.04% of respondents consider it to be an issue. It is followed by 19.7% of respondents who consider unemployment as an issue. Similarly, the education system remains the third most important issue that Albanians face personally.

Table 15

Question 6 - Personal Issues (ADJ)		
Options	No. Answers	Percentage
Inflation	104	31.04
Healthcare	47	14.03
Unemployment	66	19.7
Education	53	15.82
Work Condit.	42	12.54
Other	23	6.87

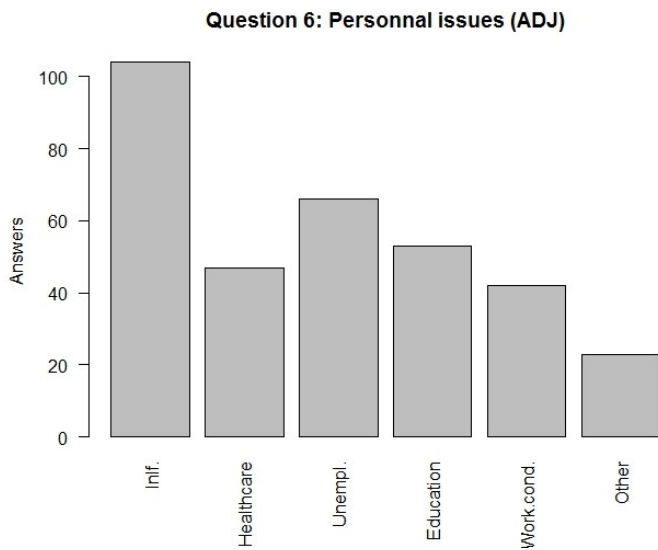


Figure 13

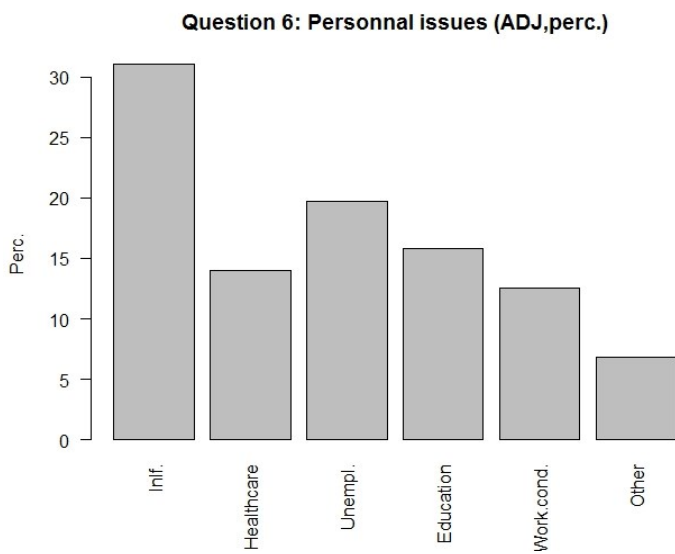


Figure 14

When arranging data of all respondents in three clusters where *society* comprises health and social security, education, working conditions; *economy*, comprises inflation and unemployment and the third cluster called *other*, the results for all the sample indicate that 69.23% of the respondents face issues pertaining to *society*, followed by 76.44% that are mostly concerned with issues related to *economy*.

Table 16

Question 6 - Personal Issues (ALL - merged)		
Options	No. Answers	Percentage
Society	144	69.23
Economy	159	76.44
Other	28	13.46

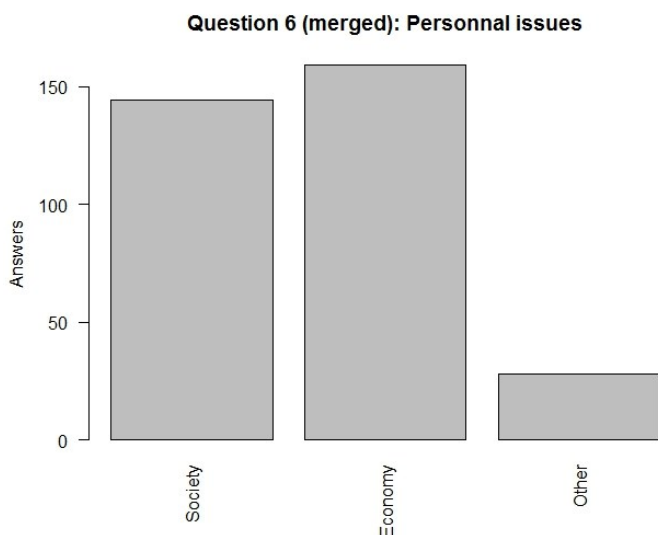


Figure 15

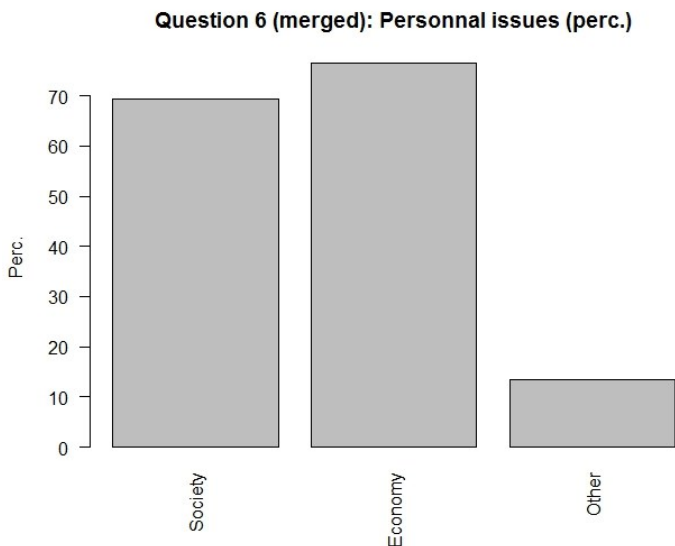


Figure 16

When analysing data of the 179 respondents who correctly indicated two options and arrange said data in three clusters, were under *society* we find the options of health and social security, education, working conditions; under *economy*, we find inflation and unemployment and under the third cluster we find *other*, the results indicate that 63.46% of the respondents believe the issues Albanians face are those pertaining to *economy* followed by 55.77% that believe the issues are related to *society* and 11.06% have answered *other*. Even when we adjust the sample economy results as the top concern among respondents.

Table 17

Question 6 - Personal Issues (ADJ - merged)

Options	No. Answers	Percentage
Society	116	55.77
Economy	132	63.46
Other	23	11.06

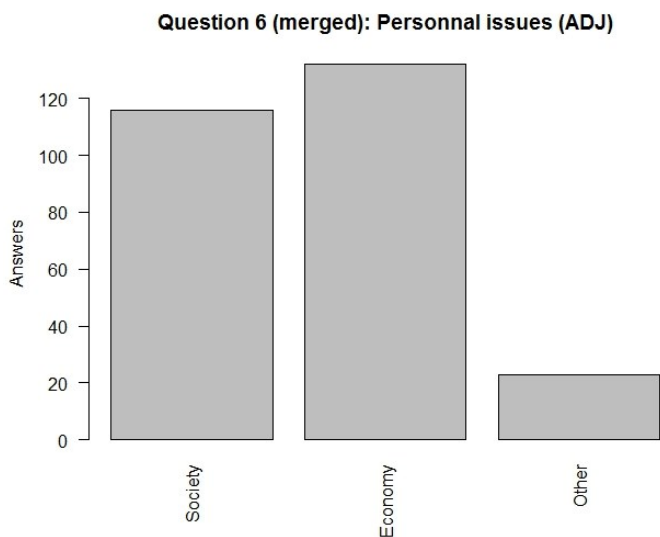


Figure 17

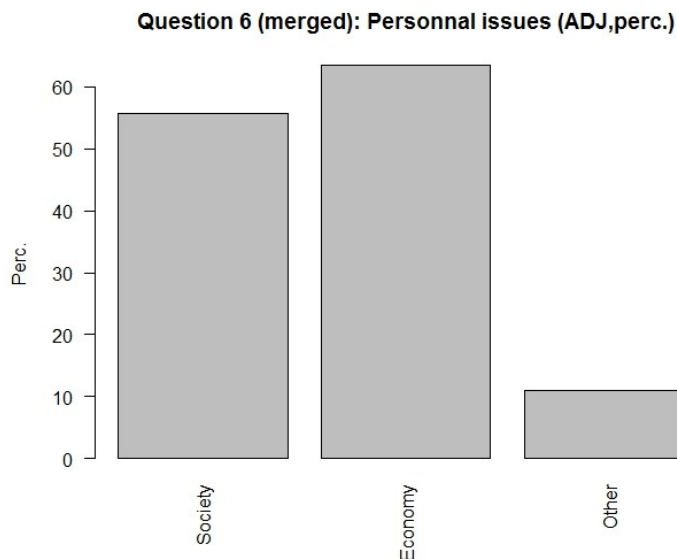


Figure 18

When asked about the feeling they personally associate with the EU, and where respondents could indicate more than an option, for 52.88% of answers the EU is hope, 22.12% trust the EU in comparison with 21.15% of answers who associate the EU with indifference and 17.31% of answers associate the EU with mistrust.

Table 18

Question 7 - Feeling EU		
Options	No. Answers	Percentage
Enthusiasm	28	13.46
Hope	110	52.88
Trust	46	22.12
Indifference	44	21.15
Anxiety	17	8.17
Mistrust	36	17.31
Reject	11	5.29
DN/NA	25	12.02

When arranging data of all responders and all given answers in four clusters were the first cluster named *positive* comprises enthusiasm, hope, trust; the second cluster is *indifference*, and the third cluster is named *negative* and comprises anxiety, mistrust, rejection towards the EU, the last cluster is *no answer*. The results indicate a majority of answers were positive with 60.1% followed by the *negative* answers reaching 24.04% and those of *indifference* and *no answer* making for a total of 33.17%.

Table 19

Question 7 - Feeling EU (merged)		
Options	No. Answers	Percentage
Positive	125	60.1

Indifference	44	21.15
Negative	50	24.04
NA	25	12.02

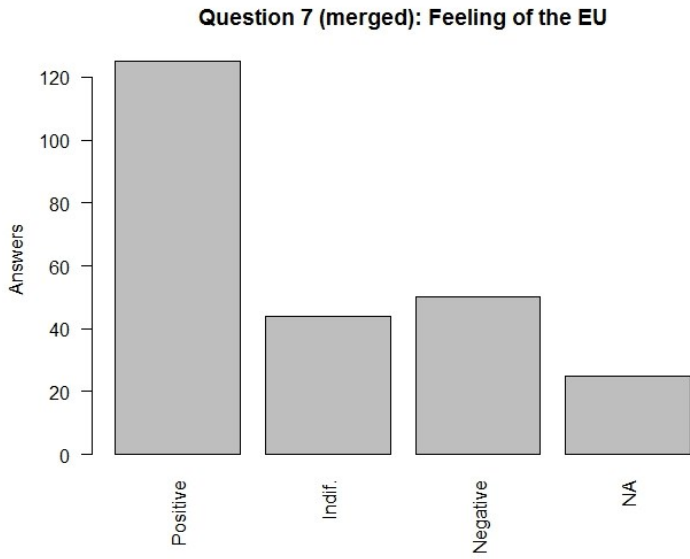


Figure 19

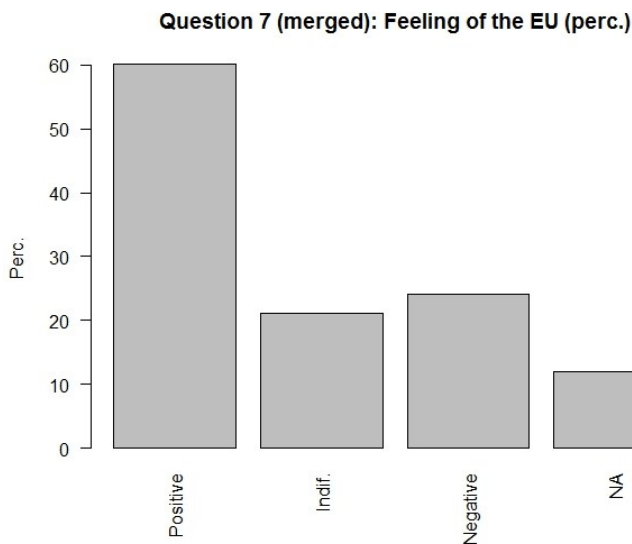


Figure 20

When asked about the meaning the EU has for them personally, and where respondents could indicate more than an option, 70.19% of given answers associate the EU to cultural diversity, 51.92% of given answers indicate the EU means economic prosperity while for 37.02% of them associate the EU with anxiety. According to Balkan Barometer, Albanians do personally equate the meaning of EU membership for 55% of the respondents with freedom to study and/or work in the EU and for 54% of them with economic prosperity.²²⁵

Table 20

Question 8 -Meaning EU

²²⁵ Regional Cooperation Council, *Public Opinion Survey Balkan Barometer 2016*, p. 52.

Options	No. Answers	Percentage
Peace	26	12.5
Economic prosperity	108	51.92
Democracy	44	21.15
Cultural diversity	146	70.19
Anxiety	77	37.02
Loss of cultural id.	16	7.69
DN/NA	13	6.25

When arranging data of all responders and all given answers in three clusters were the first cluster named *positive* comprises peace, economic prosperity, democracy and cultural diversity; the second cluster named *negative* comprises anxiety and loss of cultural diversity, and the third cluster named *negative* comprises anxiety, mistrust, rejection towards the EU, and the last cluster is named no *answer*. The results of all answers show the majority of answers were *positive* with 89.42% followed by the *negative* answers reaching a 43.27%.

Table 21

Question 8 -Meaning EU (merged)		
Options	No. Answers	Percentage
Positive	186	89.42
Negative	90	43.27
NA	13	6.25

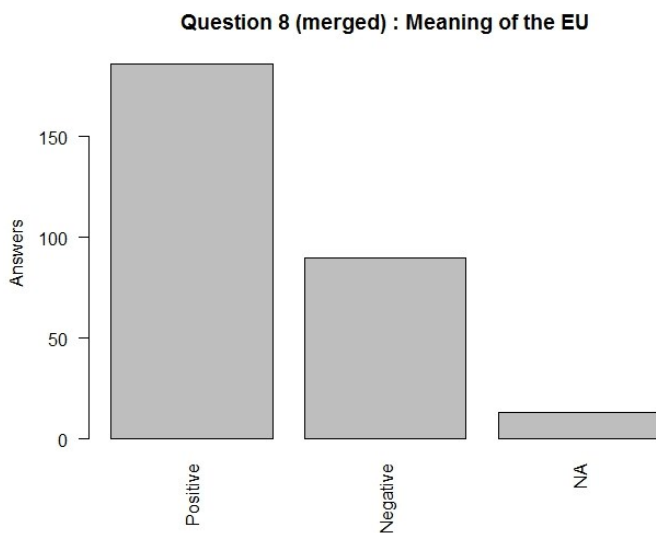


Figure 21

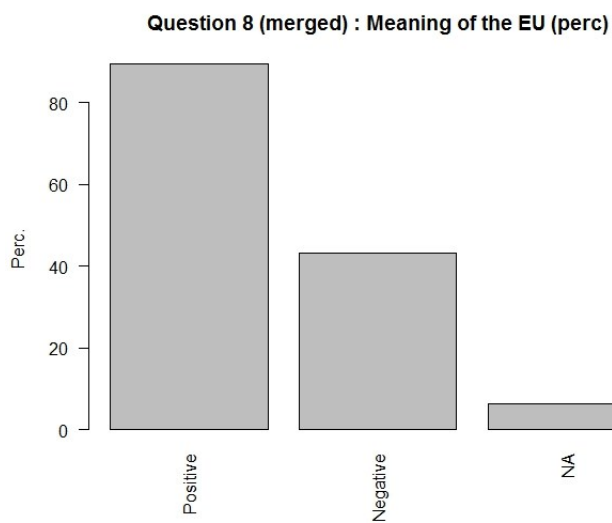


Figure 22

When asked which among the given options they think is the most positive result of the EU, free movement obtains the majority of the consents with 62.02%. The Europeans believe as well free movement to be the most successful result of the EU with 56% of the respondents.²²⁶

Table 22

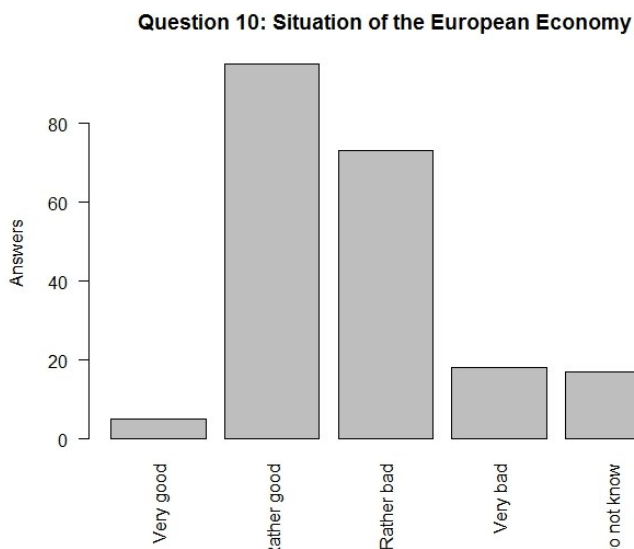
Question 9 - Most positive result of the EU		
Options	No. Answers	Percentage
Free mov.	129	62.02
Peace	24	11.54
Influence	19	9.13
Economic power	36	17.31

When asked how they would judge the current situation of the European economy, 48.07% of the respondents said assess the situation of the European economy positively. On the contrary, 43.75% of respondents assess the situation of the European economy negatively.

²²⁶ European Commission, *Standard Eurobarometer 85, Wave EB85.2, Spring 2016, Report European Citizenship*, May 2016, p. 39.

Table 23

Question 10 -Situation of the European Economy		
Options	No. Answers	Percentage
Very good	5	2.4
Rather good	95	45.67
Rather bad	73	35.1
Very bad	18	8.65
DN/NA	17	8.17

**Figure 23**

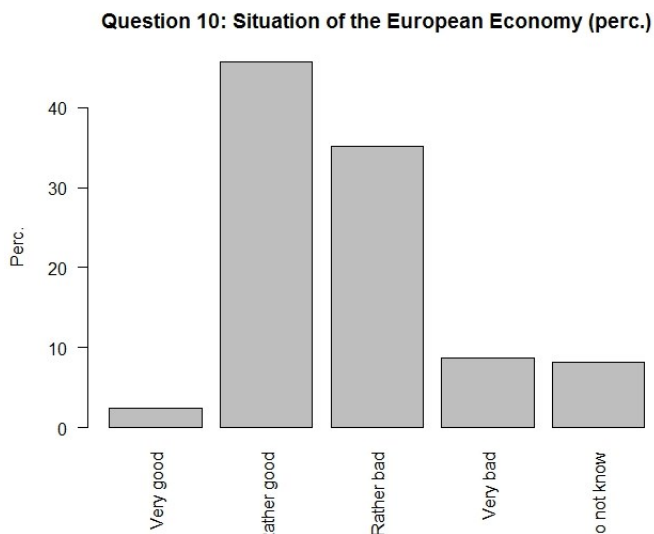


Figure 24

When asked how respondents evaluate the impact of the crisis on employment, 50.96% of the respondents believe that the impact of the crisis on employment has reached its peak, followed by 30.29% of the responders believe that the worst is still to come. At the European level, 41% of respondents believe that the impact of the crisis on jobs has reached its peak and for 47% of them the worst is still to come.²²⁷

Table 24

Question 11 - Impact of the crisis on employment		
Options	No. Answers	Percentage

²²⁷ European Commission, *Standard Eurobarometer 85, Wave EB85.2, Spring 2016, Report European Citizenship*, May 2016, p. 24.

Still to come	63	30.29
Peak	106	50.96
DN/NA	39	18.75

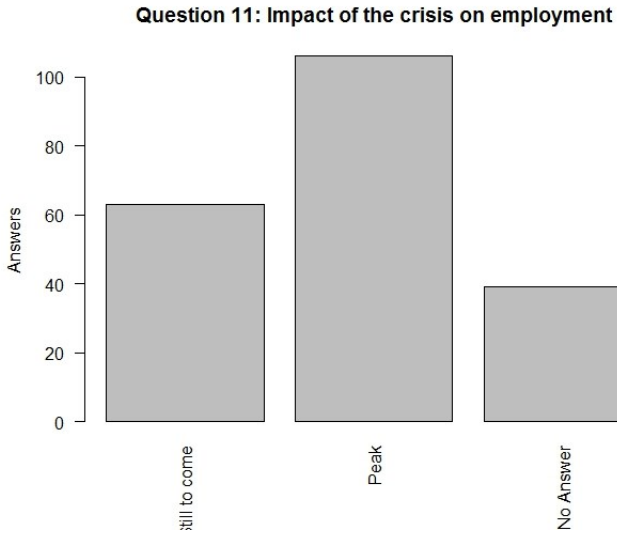


Figure 25

Question 11: Impact of the crisis on employment (perc.)

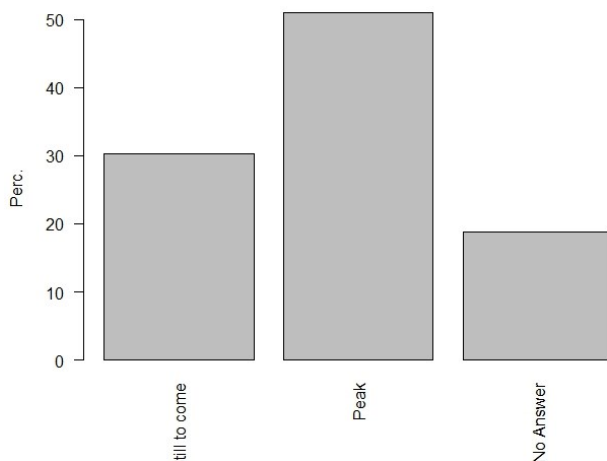


Figure 26

When asked about the future of the EU, 61.06% are somewhat optimistic, while 38.94% are somewhat pessimistic. The Europeans are somewhat less optimistic about the future of the EU with only 50% of European being on the optimistic spectrum, this has reached, by comparison, the lowest levels since 2013.²²⁸

Table 25

Question 12 -Future of the EU		
Options	No. Answers	Percentage
Very opt.	8	3.85
Fairly opt.	119	57.21
Fairly pes.	69	33.17
Very pes.	12	5.77

²²⁸ European Commission, *Standard Eurobarometer 85, Wave EB85.2, Spring 2016, Report European Citizenship*, May 2016, p. 19.

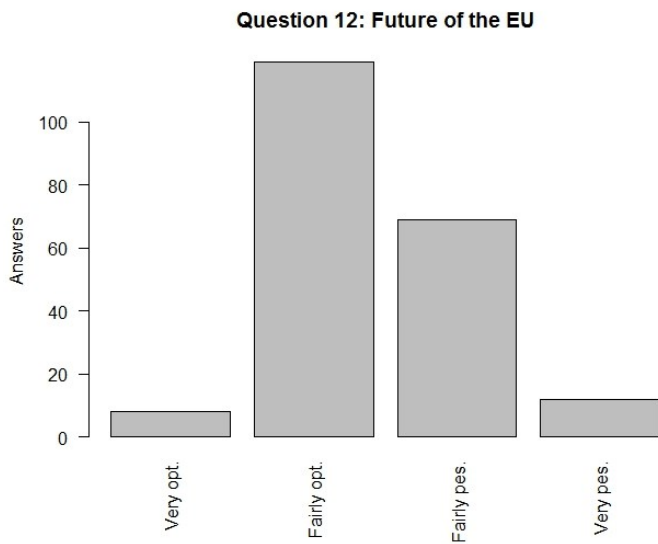


Figure 27

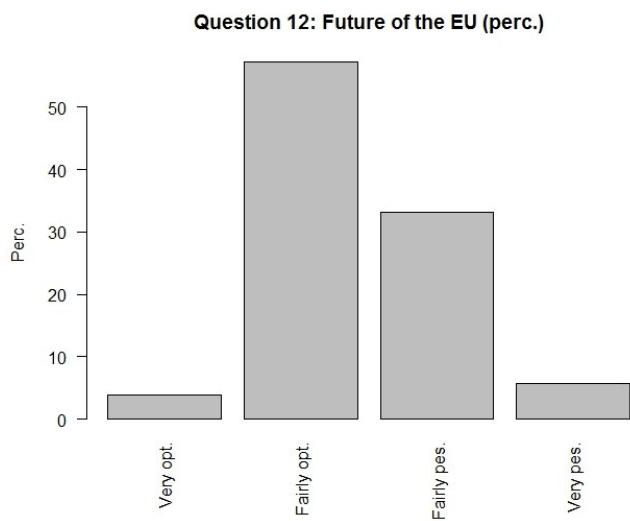


Figure 28

When asked, all being considered, 71.15% of the respondents believe Albania would benefit from the EU membership. According to Balkan Barometer, 41% of the Albanians expect accession to be finalized by 2020, while 29% of them believe that accession will be completed by 2025.²²⁹ In comparison at SEE regional level, 24% of respondents believe accession will happen by 2020, while 26% of the respondents do not hold any hope on actually ever acceding to the EU.²³⁰

Table 26

Question 13 - Albania would benefit from EU membership		
Options	No. Answers	Percentage
Would benefit	148	71.15
Would not benefit	29	13.94
DN/NA	31	14.9

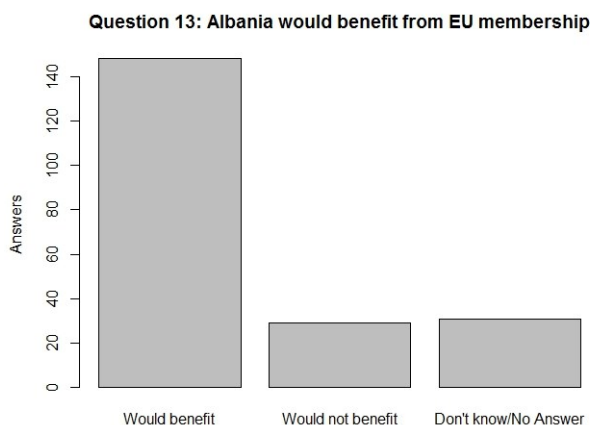


Figure 29

²²⁹ Regional Cooperation Council, *Public Opinion Survey Balkan Barometer 2016*, p. 51.

²³⁰ *Ibid.*

Question 13: Albania would benefit from EU membership (perc.)

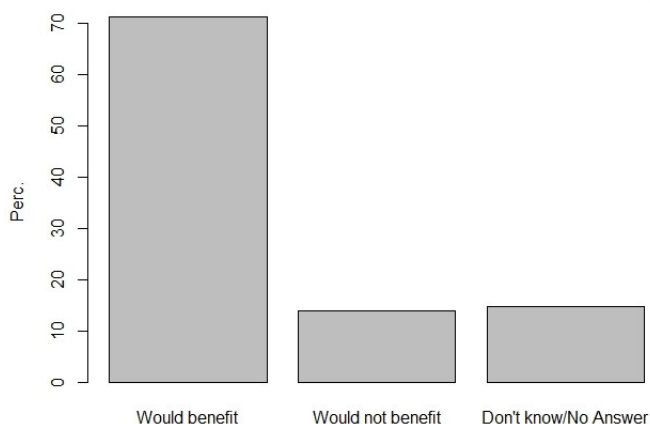


Figure 30

When asked about their nationality in the future, 65.87% of the responders believe will have some European elements in their identity.

Table 27

Question 14 - Nationality in the future		
Options	No. Answers	Percentage
Nationality only	32	15.38
Some EU elements	137	65.87
DN/NA	39	18.75

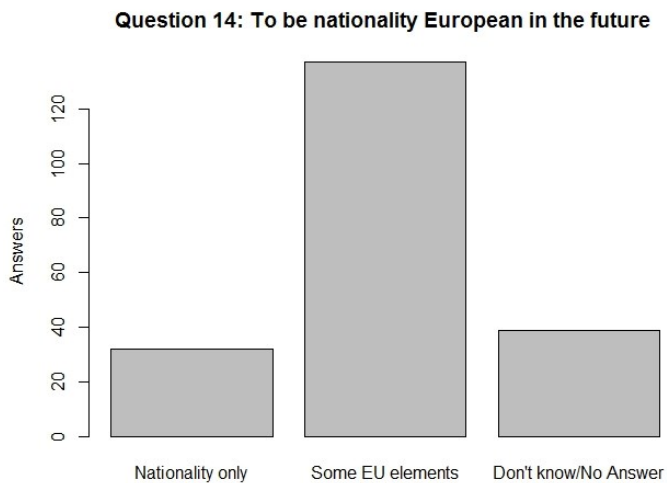


Figure 31

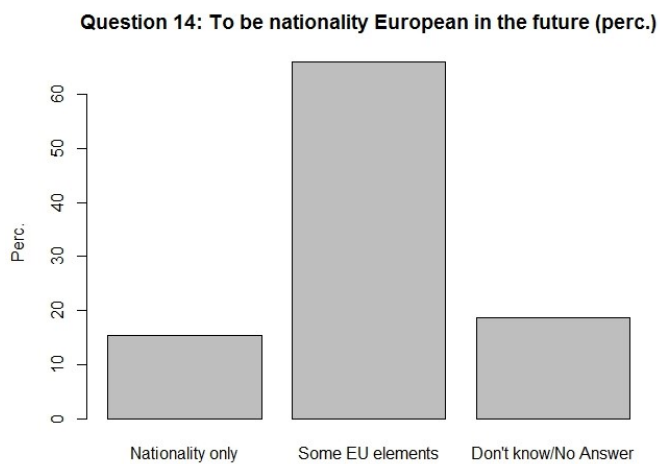


Figure 32

4.2.2 Eurobarometer – enlargement fatigue

Following the overview Albanians make of the developments in their society, and their stance vis-à-vis EU, in order to come full circle and understand the European public opinion on enlargement and more specifically on enlargement to include Albania, I have referred to available data from the Eurobarometer in the years and talked to diplomats in Tirana regarding the public opinion at their national level on the enlargement towards the Western Balkans and thus as well Albania. Indeed, the EC in the enlargement strategy for 2014 notes that “[the] policy depends on the support of EU citizens [...dependent on fostering] an informed debate” on the matter.²³¹

Since 1996 the European public opinion at the European level, has been reluctant in accepting Albania as an EU member garnering low approvals.²³² In 2010 reaching only 28.95% of affirmative answers.²³³ More generally, when in 2014 Europeans were asked about enlargement to include other countries in the future years, 49% of them are against and 37% are for enlargement.²³⁴

In 2010, the countries which were mostly against Albania joining the EU were Germany (77%), Italy (65%), UK (59%) and France (57%).²³⁵

In the same period, the champions of enlargement towards Albania are mostly from the CEECs with the exception of Sweden where 57% of public opinion is in favour of Albania joining the EU. In the same period Romanians support enlargement towards Albania by 52% of the respondents. It is followed by Poland with 46% and Hungary with 40% supporting enlargement towards Albania. With regard to the high level

²³¹ European Commission, *Enlargement Strategy and Main Challenges 2013-2014*, COM(2013) 700 final, Brussels, 16.10.2013, p. 16.

²³² European Commission, *Public Opinion Table* “For each of the following countries, are you in favour or not of it becoming part of the European Union in the future? Albania”.

²³³ European Commission, *Public Opinion Table* “For each of the following countries, are you in favour or not of it becoming part of the European Union in the future? Albania”.

²³⁴ European Commission, *Standard Eurobarometer 81, Spring 2014, Public Opinion in the European Union*, June 2014, p. 137; See as well European Commission, *Standard Eurobarometer 81, Spring 2014, Public Opinion in the European Union*, June 2014, pp. 143,144.

²³⁵ European Commission, *Public Opinion Table* “For each of the following countries, are you in favour or not of it becoming part of the European Union in the future? Albania”.

of support to enlargement in Sweden, still in 2014, 48% of the Swedish public opinion is in favour of enlargement.²³⁶ Perhaps, as my interviewee in the Swedish Embassy in Tirana put it, enlargement is not a hot topic, something about which public opinion is much concerned about. Moreover, it is an understanding of the Swedish diplomat that more could be done to further communicate the benefits of EU enlargement.²³⁷

Still in 2014, Germany and France remain weary about a possible enlargement to include new countries, as 71% and 69% of respondents in these countries were against enlargement respectively.²³⁸

For Germany, the enlargement policy is contended by two sides. On the one hand, Germany appreciates the strategic relevance for the Western Balkans of the European perspective; on the other hand, the resistance of public opinion towards enlargement has conditioned Germany's engagement on enlargement.²³⁹ While Germany supports enlargement towards the Western Balkans, there is a 'but' ...²⁴⁰

The public opinion in France remains largely uninformed about the Western Balkans, French people still associate the region with its infamous past of war and ethnic cleansing.²⁴¹ My interviewee agrees that as demonstrated in the previous section much more needs to be done on fundamental rights and rule of law in Albania.²⁴² On the other hand, the EU membership of the countries in the region does not affect largely France due to its limited economic relations with the countries of the region.²⁴³

²³⁶ European Commission, *Standard Eurobarometer 81, Spring 2014, Public Opinion in the European Union*, June 2014, p. 144.

²³⁷ Senior Diplomat, EU Member State, interview, Tirana, 12 January 2017.

²³⁸ European Commission, *European Commission, Standard Eurobarometer 81, Spring 2014, Public Opinion in the European Union*, June 2014, p. 144.

²³⁹ Senior Diplomat, EU Member State, Block of Embassies, interview, Tirana, 02 February 2017

²⁴⁰ Senior Diplomat, EU Member State, Block of Embassies, interview, Tirana, 02 February 2017

²⁴¹ Senior Diplomat 1, EU Member State, Block of Embassies, interview, Tirana, 19 January 2017

²⁴² Senior Diplomat 1, EU Member State, Block of Embassies, interview, Tirana, 19 January 2017

²⁴³ France is the 8th supplier of Albania, and is responsible for 2% of its imports. Albania is France's 136th customer. Ambassade de France en Bulgarie, Service Economique Regional de Sofia Antenne du SER a Tirana. "Les échanges commerciaux entre la France et l'Albanie en 2016".

4.3 Conclusion

The fundamentals first approach and political frontloading promoted by the EU through the European Commission is ultimately aiming and preserving democracy and rule of law. However, when analysing developments in Albania since obtaining the candidate status, the results we observe are not encouraging. Indeed, following the analysis above conducted by using the framework envisaged by Levitsky and Way, I conclude that Albania is past the strifes of transition and it has tendencies of an hybrid regime, a competitive authoritarianism. Democratic institutions are an empty shell, manipulated and used to serve particularistic interests. Public life is highly politicised. In the parliamentary elections, political participation is extensive, in a country of barely 3 million inhabitants one can find as many as sixty-six political parties on the ballot. Yet, this political fragmentation provides a leeway to the main political parties, SP and DP that have in the past decade governed by garnering these different political voices under large coalitions. The electoral campaigns have been harshly fought and abuse of state power and resources has been evident. Moreover, the partisan media groups have been used to cover a biased campaign directed to mud by means of personal attacks the opposition. Moreover, simple citizens have been threatened with serious repercussions for their life, like losing their employment, should they refuse to partake in political rallies.

Moreover, the Central Electoral Commission entrusted with managing every aspect of the elections leading to the election day have been hindered from functioning properly. Most notably, for 2013 elections we observe political neglect in implementing the legal framework. Concerns of transparency have been raised, given that the financing of electoral campaigns remains largely unregulated and reports of donations, including only larger donation over ALL 100 000, are delivered only after the election day.²⁴⁴ The elections results have been further tainted by a severe breach in “guarantee[ing] universal and

²⁴⁴ OSCE/ODIHR Election Observation Mission Final Report, Warsaw, 10 October 2013, pp. 2, 15.

equal suffrage to adult citizens”²⁴⁵ with an ad hoc and unlawful allocation of seats in electoral districts, and to this day not affording the right of vote to Albanians living abroad.²⁴⁶

Following the election day, these governing coalitions have often marked the fragility of government majority. Especially in 2013 with the departure of SMI from the DP led majority coalition. These have pursued – at least formally – the EU integration. However, throughout the legislative works, even in presence of cross-party support, legislative acts are a mere lip-service to Europeanization. The results are measured as well through indicators of public opinion. Albanians remain concerned mostly to make ends meet, as the results for all the sample indicate that 82.69% of the respondents believe Albania faces issues pertaining to *economy*.²⁴⁷ This is further confirmed by the answers given regarding personal concerns where once again issues pertaining to economy garner 76.44% of the affirmative answers given by respondents.²⁴⁸

The Parliament is in charge of oversight of the transposition of the *acquis* in the national legislation, but yet lacks the manpower to do so.²⁴⁹ Independent institutions that would be an asset in this regard, are as well dominated by political parties, emblematic is that within the

²⁴⁵ See OSCE/ODIHR Election Observation Mission Final Report, Warsaw, 10 October 2013, pp. 5-6. See also Document of the Copenhagen Meeting of the Conference on the Human Dimension of the CSCE, p. 6.

²⁴⁶ Ministria e Puneve te Brendshme, “Takimi me Diasporen/Vota e emigranteve, paraprihet nga regjistrimi i tyre”, Tirane, 19 Nentor 2016.

²⁴⁷ Even the results of the adjusted sample indicate that 54.81% of the respondents believe Albania faces issues pertaining to *economy*. Compare it to the single options - for all sample - 58.17% is concerned with unemployment and 51.92% considers the economic situation a serious issue in their society. When adjusting the sample, unemployment remains at the top of concerns for 24.56% of respondents, followed by the economic situation with 20.28% of respondents.

²⁴⁸ Even the results of the adjusted sample indicate that 63.46% of the respondents believe the issues Albanians face are those pertaining to *economy*. Compare it to the single options - for all sample - 61.54% of all the respondents refer to inflation, followed by 40.38% that indicate unemployment. When adjusting the sample, inflation remains the top concern with 31.04% of respondents, followed by unemployment gathering 19.7% of respondents affirmative answers.

²⁴⁹ European Commission, *Commission Staff Working Document, Albania 2014 Progress Report*, SWD (2014) 304 final, Brussels, 8 October 2014, p.6; European Commission, Commission Staff Working Document Albania 2015 Report, SWD(2015) 213 final, Brussels, 10.11.2015, p. 7; See as well European Commission, *Commission Staff Working Document, Albania 2016 Report*, SWD(2016) 364 final, Brussels, 9.11.2016, p. 7.

National Council on Civil Society there are more political members than those from the civil society.

These concerns have been confirmed by all interviews conducted in Tirana. Senior diplomats of EU Member States do point out that the legislative framework is not the bigger problem; the legislations is in place - often approved with international institutions backing such as the Venice Commission- institutions are in place but there is no track record of implementation.

Organized crime that has infiltrated politics, judiciary and economy although financial investigations remain low. Furthermore, the cases that land before a court are few and the sentences for serious crimes regarding corruption or organized crime remain low. The situation is further aggravated by the failure to comply with the ethical standards and have in place a system of monitoring and evaluation. Thus, connected to the organized crime, is the pervasive corruption which reports of Transparency International confirm to be strongly felt in Albania.²⁵⁰ While national strategies and legislation aimed at fighting corruption are in place the shortcomings in implementation persist.²⁵¹ This is an area indeed where legislation is abundant, and because of the frequent amendments and nuanced interpretations available mechanisms to address violations are not referred to and thus inefficient.

The analysis of the data gathered from my survey, indicates that 47.6% of the respondents consider crime to be the third most important issue Albania faces at the moment.

After, I have adjusted the sample to those respondents who correctly indicated two options, democracy and rule of law is the third most important issue the country faces for 19.57% of respondents. According to the latest Balkan Barometer, 35% of the respondents in Albania

²⁵⁰ The Transparency International Corruption Perceptions Index 2015 places Albania at no. 88 out of 168 countries with a score of 36 over 100 (where 0 is highly corrupt and 100 is very clean). See *The Transparency International Corruption Perceptions Index 2015*.

²⁵¹ Republika e Shqipërisë, Keshilli i Ministrave, Ministri për çështjet Vendore, *Strategjia Kombëtare Kundër Korrupsionit 2015-2017*; Kuvendi Republika e Shqipërisë, Ligj no. 95/2016 *Për organizimin dhe funksionimin e institucioneve për të luftuar korrupsionin dhe krimin e organizuar*, 06.10.2016.

enlisted corruption – in the third place following unemployment and economic situation - as an issue facing their society.²⁵²

As illustrated, a stark 81% of the interviewed Albanians are not confident that the rule of law is enforced effectively.²⁵³ Among which 86% are not confident that everyone is equal before the law.²⁵⁴ In 2016 Balkan Barometer results, 78% of Albanians believe that the judiciary is influenced by politics.²⁵⁵ It follows that 81% of interviewed Albanians do not have confidence in courts and judiciary.²⁵⁶ The data above, is an addition to the analysis based on the critical overview of the adopted legislation and its implementation complemented by contrasting the findings with reports of international institutions especially those of the EU. It all indicates that there is an intrinsic link between politics and mistrust in functioning of institutions.

These may be some of the compounding reasons behind the deep mistrust Albanians have toward their political system both political parties and government. Indeed, in the survey above, only 9.62% of the respondents tend to trust political parties and only 19.71% tend to trust the government. The disillusion and disengagement from the public life and an overwhelming civic apathy is motivated by a deep seated conviction that the system is rigged beyond redemption and a single citizen cannot be able to make a difference.²⁵⁷

As an example, the vetting of individuals holding public office is dependent on an initiative of peers or relative large number of constituents. Following which should the investigation on the individual result non-consequential then the initiator(s) is required to pay a hefty fine of ALL 100 000 effectively annihilating even the public attempt to call for accountability.²⁵⁸

²⁵² Regional Cooperation Council, *Public Opinion Survey Balkan Barometer 2016*, p. 42.

²⁵³ *Ibid.*, p. 110.

²⁵⁴ *Ibid.*, p. 111.

²⁵⁵ *Ibid.*

²⁵⁶ *Ibid.*, p. 112.

²⁵⁷ *Ibid.*, p. 117

²⁵⁸ Art. 7 of Kuvendi Republika e Shqiperise, Vendim no. 17/2016 *Për përcaktimin e rregullave të detajuara mbi zbatimin e ndalimeve të parashikuara në ligjin nr. 138/2015 “Për garantimin e integritetit të personave që zgjidhen, emërohen ose ushtrojnë funksione publike”* 04.03.2016; Kuvendi Republika e Shqiperise, Ligj no. 76/2016 *Per disa shtesa dhe ndryshime ne ligjin nr. 8417, date 21.10.1998, “Kushtetuta e Republikës së Shqiperisë”, te Ndryshuar, date 22.07.2016;* Kuvendi Republika e Shqiperise, Vendim no. 17/2016 *Për përcaktimin e rregullave të detajuara*

More than six months have passed since the reform of the judiciary was approved unanimously on the 22 July 2016, and yet there is no concrete sign of implementation starting with the vetting process.

The freedom of speech is guaranteed in the Constitution and is part of EU negotiation chapters 10 Information Society and Media and 23 Judiciary and Fundamental Rights. Nonetheless, politics and judiciary have been active to silence dissenting voices, governments themselves have contributed to a climate of fear that condemns journalism. The legal loopholes on libel for instance have been used to persecute journalists but not only. Economic pressures, in a field marred by informality are quite frequent. Often the network of media owners is not transparent nor there is a safeguard against monopoly for media shareholders. It all have caused a unison of voices in small markets that portray an abundance of media outlets. This is at least suspicious, as either that means that there is nothing opaque to investigate and report upon or that media has been domesticated autocratic powers.

The EU interest remains stability along its borders, and including within its family the last open zone laying in middle of its territory, the Western Balkans. As confirmed by Albanian diplomats, the Western Balkans, specifically Albania, do not have other integration options, other than the EU. A senior official of the US Department of Justice in a recent interview underlined that “we support Albania in joining the EU, we cannot have the country become a 51st State of the USA”.²⁵⁹ On the other hand, the EU has no other option than keeping alive the enlargement process and for the sake of its identity and credibility.²⁶⁰

mbi zbatimin e ndalimeve të parashikuara në ligjin nr. 138/2015 “Për garantimin e integritetit të personave që zgjidhen, emërohen ose ushtrojnë funksione publike” 04.03.2016; Kuvendi Republika e Shqipërisë, Ligj no. 38/2016 *Për disa shtesa dhe ndryshime në ligjin nr. 138/2015 “Për garantimin e integritetit të personave që zgjidhen, emërohen ose ushtrojnë funksione publike,”* 14.04.2016;

²⁵⁹ Senior Official of the United States Department of Justice Criminal Division International Criminal Investigative Training Assistance Program (ICITAP), interview, Tirana, 19 July 2016.

²⁶⁰ See Fierke, Wiener *op.cit.*, p. 109. Interview with an official, Mission of the Republic of Albania to the European Union, Brussels, 31 March 2015.

Chapter 5

A conclusion

5.1 Review of the argument

In the case study at hand, I have aimed to provide an answer to the main question, before a halt in enlargement, has Europeanization in Albania hit the break?

I have argued that enlargement as a policy, from its inception has had a strong intergovernmental component, indeed the EU Member States have never renounced their prerogative of controlling the policy. The EU institutions involved in enlargement like the European Commission, European Parliament and the same Council have condensed powers delegated to them by Member States who by means of praxis do inform on the timing and content of the recommendations presented by the Commission on the developments of applicant countries.

The political frontloading and fundamentals first approach has been aiming to support democracy and rule of law in the applicant countries. In Albania, the reforms and legislation to implement them have been adopted but effective implementation remains the bigger concern.

Thus, it is unsurprising that the public opinion is deeply disillusioned by political parties and the government as Albanians struggle to make ends meet. In comparison, the EU is seen under a positive outlook, and Albanians still maintain that EU membership would benefit the country and seem unshaken in this conviction despite the internal challenges the EU faces, among which a possible Brexit.

In light of a thorough analysis on the development of enlargement as a policy I investigate the EU modes of governance in delivering Europeanization. Specifically, in a shifting context such as that in which the EU foreign policy is exerted I argue that the mode of Europeanization vis-à-vis Albania as a candidate country is that of

socialization. The relationship between the EU and a candidate country is one between equals and it ever evolving throughout their interactions where both parties come to have a clear understanding of the direction taken by their relation. Conditionality, on the other hand, cannot be effective as long as it is enforced to the extent of a non-consequential ticking the box exercise and especially when the EU has held a lesser degree of explicitness on the region's enlargement possibility.

Article 49 of the Lisbon Treaty provides for a wide range of values, ideals shared by the Union and to which applicant countries should aspire to meet. However, it is unclear how compliance to such a range of values and ideals can be effectively measured.

Moreover, absorption capacity and public opinion has been used to further burden the accession path of aspiring countries. Indeed, enlargement does not garner much consensus among Europeans. The EU caution in dealing with enlargement countries has been noticeable since the renewed consensus for enlargement.

The Juncker's political leadership of the European Commission has put in words the vague commitment on the part of the EU, and the Berlin Process as a relaunch and a double of enlargement has underlined the geopolitical and geo-economics relevance of the region for the EU. Indeed, among the three pillars of the Berlin Process connectivity agenda, comes to the fore, with projects on transport corridors and most importantly energy related investments.

Internal concerns of the EU have confirmed the dependence within the European continent, especially as the relationship with the region is revived in times of need as the migration crisis has demonstrated. Yet, it seems like we are before a historic recurrence, before a conundrum similar to that in the '90 where the - hard or lenient - stance the EU will take vis-à-vis the region will define the relationship with the region.

To date the lip-service Europeanization, is to be traced to two root causes the gatekeeper elites keeping gates more closed than open, and the (mis)use of the EU power. The balance of this interaction is kept within a fine line that poses a constant threat to stability, the same that the EU is trying to maintain in the region.

Initiatives like the Berlin Process, while useful diplomatic exercises cannot make for a substitute of a lacking policy. Linkages with the region should be build, and strengthened, by means of empowering civil society, by means of international cooperation investments thus targeting the economic and civic empowerment of the people and ultimately facilitate that support for reforms from the grassroots.

5.2 Implications and findings

5.2.1 Empirical implications

The European project originally was laid to be “open to the participation of the other countries of Europe”.¹ Nonetheless, the EU has developed its own models and arrangements to enlargement where the ‘unanimous action’ has kept EU member States in the driving seat of enlargement. Conditionality on enlargement can be traced back to 1978 when the European Council underlined the importance of respect of democracy and human rights that were later to be spelled out in Copenhagen and effectively applied since Seville European Council where applicants were tasked to strengthen their capabilities in administration and judiciary to effectively implement the *acquis*.² The EU has taken increasingly a more proactive role, by means of a comprehensive strategy entailing detailed priorities, directed to countries aspiring to membership.³ In the negotiation phase as well, the unanimity rule affects the approval of benchmarks and closing of negotiating chapters, which is a lengthy politicised process.⁴ The path of the aspiring countries is further rendered burdensome by the application of a fourth Copenhagen criterion, the absorption capacity. Originally intended as an institutional arrangement aiming to

¹ The European Union, “The Schuman Declaration – 9 May 1950”.

² Cf. European Council, *Conclusions of the Presidency*, Copenhagen, 7–8 April 1978; Cf. European Council, *Presidency Conclusions*, Copenhagen, 21–22 June 1993.

³ See European Council, *Presidency Conclusions*, Essen, 9–10 December 1994.; See European Council, *Presidency Conclusions*, Luxembourg, 12 and 13 December 1997.

⁴ See European Court of Justice, Case 93/78 Lothar Mattheus v Doego Fruchtimport und Tiefkuhlkost eG. Judgment of the Court of 22 November 1978. ECLI:EU:C:1978:206. See European Commission, *Turkey Negotiating Framework: Principles governing the negotiations*, 03 October 2005, pt. 5; European Commission, *Iceland Negotiating Framework: Principles governing the negotiations*, pt. 17.

accommodate all Member States and ensure the proper functioning of the Union, is now evaluated together with legitimacy and economic sustainability. These concerns are inherently evident in public opinion and in institutional safeguards implemented within EU Member States be that a referendum provision for enlargement or simply the democratic confrontation on the election day. The reluctance of engaging in enlargement is thus dictated by the public opinion as enlargement does not garner much consensus.⁵ The EU engagement clings to geopolitical and geoeconomic calculations with regards to candidate countries in the Western Balkans.

The political frontloading, and the fundamentals first approach is purportedly aiming and preserving democracy and rule of law. The developments in Albania, are all but encouraging. In the beginning of the '90 there was a belief that Albania, a former communist country, had embarked on a transition path. Today however, what my analysis brought to the fore is a country engulfed in a hybrid regime of competitive authoritarianism. Democratic institutions remain subservient to particularistic interests. Elections may grant a succession in power, but that is not synonymous with democratization. Indeed, political campaigns are marred by irregularities, payoffs, threats and episodes of violent personal attacks to the opposition. Before this context, it is no surprise that the Central Electoral Commission in the last two elections has been annihilated, unable to carry out its duties. Resulting in a breach in "guarantee[ing] universal and equal suffrage to adult citizens"⁶. Indeed, the Albanian electorate remains to this day discriminated whereby Albanians living abroad have no institutional means to cast their ballot on the election day.⁷

The deeply fragmented governing coalitions, follow the election day. These have legislature after legislature pursued - at least formally – the EU integration. Nonetheless, the results indicate that there is a mere lip-service to Europeanization in Albania.

⁵ European Commission, *Standard Eurobarometer 81, Spring 2014, Public Opinion in the European Union*, June 2014, p. 137.

⁶ See OSCE/ODIHR, *Election Observation Mission Final Report*, Warsaw, 10 October 2013, pp. 5-6. See also OSCE, *Document of the Copenhagen Meeting of the Conference on the Human Dimension of the CSCE*, p. 6.

⁷ Ministria e Puneve te Brendshme, "Takimi me Diasporen/Vota e emigrantëve, paraprihet nga regjistrimi i tyre", Tirane, 19 Nentor 2016. Albanians living outside the country to this day are not afforded the opportunity to cast their vote. Unless they travel to Albania during elections.

Interviews conducted in Tirana, endorse the analysis and its conclusion as they do underline that the legislative framework is not the bigger problem; the legislations is in place - often approved with international institutions backing such as the Venice Commission- institutions are in place but there is no track record of implementation.

The results of the public opinion survey I conducted in Tirana from the 05 November to 19 November 2016, further underline the bleak socio-economic and institutional situation in the country. Albanians remain mainly concerned to make ends meet.⁸ The results for all the sample indicate that 82.69% of the respondents believe Albania faces issues pertaining to *economy*. Even the results of the adjusted sample indicate that 54.81% of the respondents confirm Albania faces issues pertaining to *economy*. Compare it to the single options - for all sample - 58.17% is concerned with unemployment and 51.92% considers the economic situation a serious issue in their society. When adjusting the sample, unemployment remains at the top of concerns for 24.56% of respondents, followed by the economic situation with 20.28% of respondents. Indeed, civil and political rights alone, do not serve to grant the wellbeing of citizens if the State is not invested in ensuring that socio-economic rights are as well respected.

Following a comparison with the Balkan Barometer of 2016, these results in Albania hold true, 69% of answers is unemployment and for 60% of answers economic situation are the two most important issues Albania faces at the moment.⁹

Organized crime has infiltrated politics, judiciary and economy. Transparency International confirms corruption is strongly felt in Albania.¹⁰ While national strategies and legislation aimed at fighting corruption are in place, however, the shortcomings in implementation persist.¹¹ Indeed, it comes as no surprise that 47.6% of the

⁸ See On social economic rights see A. Sinagra, Finiamola di prenderci in giro. Liberismo economico e mortificazione delle ragioni del lavoro, in *Confronto-L'anima dell'Adriatico*, n. 9, Edizioni "Confronto", ottobre 2011, p. 10.

⁹ Regional Cooperation Council, *Public Opinion Survey Balkan Barometer 2016*, p. 42.

¹⁰ The Transparency International Corruption Perceptions Index 2015 places Albania at no. 88 out of 168 countries with a score of 36 over 100 (where 0 is highly corrupt and 100 is very clean). See Transparency International *Corruption Perceptions Index 2015*.

¹¹ Republika e Shqiperise, Keshilli i Ministrave, Ministri per çeshtjet Vendore, *Strategjia Kombetare Kunder Korrupsionit 2015-2017*; Kuvendi Republika e Shqiperise, Ligj no. 95/2016

respondents in Tirana consider crime to be the third most important issue Albania faces at the moment. The figures of the adjusted sample taking into account those respondents who correctly indicated two options, democracy and rule of law is the third most important issue the country faces for 19.57% of respondents. Crime is considered an issue by 18.86% of the respondents. In the same line, according to Balkan Barometer, corruption in Albania - with 35% of respondents - is the third most important issue facing the country.¹²

Media outlets have no power to denounce abuse of power, indeed in a small market there is a multitude of voices, which are worryingly speaking in unison. Does it mean that there is nothing to investigate and report? Or has the media fallen prey to autocratic powers? The analysis indicates that the latter is the case.

Albanians harbour a deep mistrust toward their political system both political parties and government. In the conducted survey only 9.62% of the respondents tend to trust political parties and only 19.71% tend to trust the government. The data above, is an addition to the analysis based on the critical overview of the adopted legislation and its implementation complemented by contrasting the findings with reports of international institutions especially those of the EU. It all indicates that there is an intrinsic link between politics and mistrust in functioning of institutions.

On the other hand, as regards the trust Albanians place in the EU, the results indicate that Albanians are equally split where 49.04% of respondents tend to trust the EU against 28.85% that tend not to trust it and 22.12% who do not know or do not wish to answer. In comparison, 33% of the Europeans tend to trust the EU.¹³ Albanians, thus, trust the EU more than the Europeans do.

When asked about the feeling they personally associate with the EU, the results indicate a majority of answers were positive with 60.1%¹⁴

Për organizimin dhe funksionimin e institucioneve për të luftuar korrupsionin dhe krimin e organizuar, 06.10.2016.

¹² Regional Cooperation Council, *Public Opinion Survey Balkan Barometer 2016*, p. 42.

¹³ European Commission, *Standard Eurobarometer 85, Wave EB85.2, Spring 2016, Report European Citizenship*, May 2016, p. 14.

¹⁴ The cluster named *positive* comprises enthusiasm, hope, trust.

followed by the *negative* answers reaching 24.04%¹⁵ and those of *indifference* and *no answer* making for a total of 33.17%.

When asked about the meaning the EU_has for them personally, and where respondents could indicate more than an option, the results of all answers show the majority of answers were *positive* with 89.42%¹⁶ followed by the *negative* answers reaching a 43.27%.¹⁷ These results are validated as well in comparison with the results of Balkan Barometer for Albania, where Albanians for 55% of the respondents do personally equate the meaning of EU membership with freedom to study and/or work in the EU and for 54% of them with economic prosperity.¹⁸

Indeed, with 48.07% of the respondents, Albanians assess the situation of the European economy positively. On the contrary, 43.75% of respondents assess the situation of the European economy negatively.

Albanians think the most positive result of the EU is free movement by 62.02% of respondents.¹⁹ The Europeans believe as well free movement to be the most successful result of the EU with 56% of the respondents.²⁰

A large 71.15% of the respondents believe Albania would benefit from the EU membership. However, expectations on when it is going to happen may be over optimistic, as Balkan Barometer shows that 41% of the Albanians expect accession to be finalized by 2020, while 29% of them believe that accession will be completed by 2025.²¹

When asked about their nationality in the future, 65.87% of the responders believe will have some European elements in their identity.

When asked about the future of the EU, 61.06% are somewhat optimistic, while 38.94% are somewhat pessimistic. The Europeans are

¹⁵ The cluster named *negative* comprises anxiety, mistrust, rejection towards the EU.

¹⁶ The cluster named *positive* comprises peace, economic prosperity, democracy and cultural diversity.

¹⁷ The cluster named *negative* comprises anxiety, mistrust, rejection towards the EU.

¹⁸ Regional Cooperation Council, *Public Opinion Survey Balkan Barometer 2016*, p. 52.

¹⁹ The options included free movement, peace, influence in the world economic power.

²⁰ European Commission, *Standard Eurobarometer 85, Wave EB85.2, Spring 2016, Report European Citizenship*, May 2016, p. 39.

²¹ Regional Cooperation Council, *Public Opinion Survey Balkan Barometer 2016*, p. 51.

somewhat less optimistic about the future of the EU with only 50% of European being on the optimistic spectrum, this has reached, by comparison, the lowest levels since 2013.²²

The findings above suggest a bleak picture on socio-economic and institutional level. The exchanges and interactions between the EU and gatekeeper elites, have largely resulted with the formal adoption of legislation but no effective implementation or track record has been to date inspired by EU level of engagement with the gatekeeper elites. Indeed, interviews conducted in Tirana confirm a prevailing of lip-service Europeanization in the country. Arenas of contestation are largely numb and thus there is no room for effective push back on competitive authoritarian practices that engulf public life.

The EU may be entrenched in its internal dimension and may have for now, lost its appetite for enlargement, but the Albanians do still largely consider EU positively both on political and economic level and are optimistic about its future. Membership of Albania in the EU is still regarded as beneficial for the country. Issues like Brexit or the purported weakening of EU influence in the world seem not to concern much Albanians. They are aware of issues the EU is facing, like the migrant crisis and terrorism as well as Albanians have an understanding of the economic crisis the EU economy has undergone. The Albanians seem realistic on the challenges the EU is undergoing, when compared to results in the EU level.

The EU interest remains stability along its borders, and including within its family the last open zone laying in middle of its territory, the Western Balkans. As confirmed by Albanian diplomats, the Western Balkans, specifically Albania, do not have other integration options, other than the EU.²³ A senior official of the US Department of Justice in a recent interview underlined that “we support Albania in joining the EU, we

²² European Commission, *Standard Eurobarometer 85, Wave EB85.2, Spring 2016, Report European Citizenship*, May 2016, p. 19.

²³ Senior official 1, Mission of the Republic of Albania to the European Union, interview, Brussels, 31 March 2015; Senior official 2, Mission of the Republic of Albania to the European Union, interview, Brussels, 31 March 2015; Senior official 1, The Permanent Delegation of Albania to NATO, interview, NATO Headquarters, Brussels, 20 March 2015; Senior official 2, The Permanent Delegation of Albania to NATO, interview, NATO Headquarters, Brussels, 20 March 2015; Senior Official, NATO Headquarters, interview, Brussels, 15 April 2015.

cannot have the country become a 51st State of the USA”.²⁴ On the other hand, the EU has no other option than keeping alive the enlargement process and for the sake of its identity and credibility.²⁵

Thus, Albanians understand that the Union is no heaven, will it, however, be(come) a saviour from hell?

5.2.2 Theoretical implications

The EU has projected its model to external actors dangling carrots as incentives of compliance. The sanctions, however possible, are as usual subject to political considerations. The initially hierarchical relationship formed throughout repeated interactions has - with time – shifted to a level playing field between equals. This because the logic of Europeanization is not anymore that of legal authority, through conditionality, but that of shaping beliefs of domestic actors. The domestic adaptation is not based on institutional compatibility or understood as ‘command’²⁶ and ‘compulsion’²⁷ that entail a hierarchical, asymmetric, top-down relation. Instead, the domestic adaptation is understood as a process to support mobilization for domestic reforms, that have to be initiated from within, at the domestic level.

I have argued that in presence of lesser incentives on the part of the EU and a number of alternatives available to gatekeeper elites, which have lesser strings attached, conditionality does not serve as a mean of Europeanization. This study has confirmed that Europeanization, as a process, before a halt in enlargement, is dependent on socialization, a direct mode of Europeanization under the logic of appropriateness, shaped and developed by interactions where both parties come to have a clear understanding of the direction taken by their relation.

²⁴ Senior Official of the United States Department of Justice Criminal Division International Criminal Investigative Training Assistance Program (ICITAP), interview, Tirana, 19 July 2016.

²⁵ See Fierke, Wiener *op.cit.*, p. 109. Interview with an official, Mission of the Republic of Albania to the European Union, Brussels, 31 March 2015.

²⁶ Cf. J. Nye, *The Future of Power*, New York, Public Affairs, 2011.

²⁷ Cf. M. Barnett, and R. Duvall, “Power in international politics”, *International Organization*, vol. 59, no.1, 2005, pp. 39 - 75.

		Direct [Political-administrative]		Indirect [Socio-economic]	
	Logic	Consequence	Appropriateness	Consequence	Appropriateness
Europeanization Mode		Conditionality	Socialization	Market	Imitation
Europeanization Logic		Legal Authority	Molding Beliefs of Domestic Actors	Molding Domestic Opportunity Structures	Emulation
Understanding Domestic Adaptation		Institutional Compatibility Command ²⁸ Compulsion ²⁹	Support Mobilization for Domestic Reforms	Resource and Power Redistribution Between Domestic Actors	

I see the Europeanization process in Albania through Putnam's double-level game, where I consider both levels where the European level - Level I – is where negotiators seek a “tentative agreement” and domestic level - Level II - which “is required to endorse or implement a Level I agreement.”³⁰

²⁸ Cf. J. Nye, *The Future of Power*, New York, Public Affairs, 2011.

²⁹ Cf. M. Barnett, and R. Duvall, “Power in international politics”, *International Organization*, vol. 59, no.1, 2005, pp. 39 - 75.

³⁰ Putnam, *op.cit.*, p. 436.

In level II the “win-set” is “the set of all possible Level I agreements” that would be ratified by constituents “when simply voted up or down.”³¹ In evaluating the impact and outcome of Europeanization in Albania, I pay attention to the “strategies” behind a Level I agreement, conditions under which “preferences and coalitions” are formed at the domestic level - Level II - and implemented by their “institutions”.³²

The empirical findings in Albania are analysed against the framework on determining regime type and analysing arenas of contestation provided by Levitsky and Way.³³ While there are democratic institutions, they are subservient to particularistic interests and often hindered from functioning effectively. The results indicate that all areas of public life are highly politicised.

These findings are informative for deducting strategies, or choices behind the Level I - EU level – agreements, for which I make use of the valuable input of Snyder.³⁴ Ultimately analysing the Level II preferences by viewing decision makers under the lines provided by Tolstrup.³⁵

The findings of the thorough analysis of normative output of the legislatures and comparing and contrasting results with the findings obtained in the public opinion survey yielded as an outcome theory building on Europeanization in Albania as a candidate country, ‘whether’ and ‘to which extent’ occurs.

The findings corroborate the causal mechanism. In presence of an inward-looking EU, marred by internal challenges that have imposed a halt, a wait and see approach, on considering enlargement an EU policy priority has defined a weaker relative dependence between the Union and countries in the region. The vague commitment on enlargement, serves as an amplifier to strategic calculations on Level II, gatekeeper elites. At the same time, in the case study in hand, alternative flows of investments and/or money coupled with the security shield of NATO commands only a formal adoption of the *acquis* on the part of gatekeeper elites but no implementation.

³¹ *Ibid.*, p. 437.

³² *Ibid.*, p. 442.

³³ Levitsky and Way, *op.cit.*

³⁴ Snyder, *op.cit.*, p. 472.

³⁵ Tolstrup, *op.cit.*

The EU however, will – within the limits of its toolbox – maintain a lenient policy to maintain gatekeeper elites on the negotiation table. The EU has a high level of strategic interest conditioned by geography and geopolitical calculations ever more evident before the ongoing migration crisis.³⁶ Stability or the *status quo*, is a common interest of both gatekeeper elites and the EU. Stability within the country, is paramount for gatekeeper elites to execute beneficial gatekeeping strategies by resorting to patronage. The EU on the other hand, favors the *status quo* in order to minimize consequences of foreign developments. These choices are determined by the recognition of relevant support levels in the domestic level. In the EU public opinion is wary about enlargement; the Albanian public opinion largely trusts the EU, far more than it trusts the national government or political parties, and believes EU accession would be beneficial for the country. These audience balance is instrumental for gatekeeper elites to maintain formally EU integration as their political priority and thus hold a shred of legitimacy before their constituency. Even more so, when it is clear that on the part of the EU there are political and policy calculations dictated by those same audience calculations that have put on hold any more forceful and serious foreign policy engagement. All of which ultimately contributes to the degree of Europeanization in Albania.

I conclude that the root causes of the degree of – lip-service – Europeanization in Albania are found in the gatekeeper elites and the (mis)use of the EU power. On the one hand, the EU continues to be challenged internally and restricted by an unfavourable public opinion in matters of enlargement thus its main interest remains on maintaining stability. On the other hand, the gatekeeper elites resort to patronage and effectively paralyze the ‘arenas of contestation’, where elections result in mere succession, legislatures are largely paralyzed or inefficient to check on government, the judiciary is unable to enforce the rule of law, and the media are a tool of the incumbents more than a platform to denounce misconduct.³⁷ Thus, the resulting political regime is that of competitive authoritarianism.

The gatekeeper elites make use of legislative loopholes, enforcement of patronage, co-option and corruption are all means to an end, skilfully

³⁶ Snyder, *op.cit.*, p. 472.

managed so as not to inspire a violent domestic dissent or external condemnation.³⁸ The conundrum before the autocratic incumbents, is to either hold on to power in open violation of democratic rules and risk domestic unrest together with international sanctions or allow a change in power?³⁹ The balance is kept within a fine line that poses a constant threat to stability, the same that the EU is trying to maintain in the region.

The EU credibility in enlargement has suffered. The Union has a larger toolset and ability “to make concessions” to put to use vis-à-vis candidate countries such as Albania, and thus a large win-set on one hand;⁴⁰ and on the other hand, there is its inability to “deliver” the final objective for domestic level that of membership.⁴¹

The vague commitment, the European perspective and past behaviour towards candidate countries, i.e Turkey, reassures candidate countries, like Albania that in business as usual fashion the enlargement process will be kept – at least formally – before calculations dictated from geography – geopolitics and geo-economics.⁴² The ‘strict but fair’ approach is yet another confirmation of the socialization mode of Europeanization as mentioned above where the EU encourages reforms but is in no position to legally or politically sanction non-compliance.⁴³ The gatekeeper elites will continue to engage in reforms at least formally, and implement just enough to get ahead of the curve. In the next section I will argue the policy implications of these findings.

5.2.3 Policy implications

The EU enlargement policy toward the Western Balkans has been motivated by strategic interests. The costs of engagement have always

³⁷ Levitsky and Way, *op.cit.* p. 54.

³⁸ These dilemmas are presented in an insightful way in Schedler, *op.cit.*

³⁹ See Levitsky and Way, *op.cit.* pp. 58-59.

⁴⁰ Putnam, *op.cit.*, p. 439.

⁴¹ *Ibid.*, p. 439.

⁴² Snyder, *op.cit.*, p. 474. See as well R. Youngs, *The Uncertain Legacy of Crisis: European Foreign Policy Faces the Future*, Washington, Brookings Institution Press, 2014.

⁴³ Senior Diplomat, EU Member State, Block of Embassies, interview, Tirana, 02 February 2017.

been outweighed by the costs of a resulting instability. Nonetheless, a decade of ambiguity in the EU policy toward the Western Balkans – traced back to the renewed consensus for enlargement – has been spelled out in Juncker’s political leadership of the European Commission. Maintaining momentum is certainly less costly than facing instability or hostile interests in the EU doorstep, especially before new studies arguing a regress in the region.⁴⁴ Disengagement from the region is not an option for the EU, however Europeanization relies on interactions between the parties by means of socialization, and not on concrete leverage or linkages the EU has. These interactions, as I illustrate in the previous section, have informed the choices and policy decisions of the parties.

The gatekeeper elites have acknowledged the halt in enlargement as the EU battles with the migrant crisis and that of Brexit which raise the most concerns among European citizens. Its inward looking approach and the vague commitment toward supporting europeanization in the region leave an opened question on the perspectives and future for the Western Balkans people.

Yet, it seems that once again we are living in a conundrum similar to the end of the ’90 when the then President of the EC Prodi warned against maintaining a “hard line” or else be ready to see these countries “turn their backs on [the EU]”.⁴⁵ In Albania alone the spike in Chinese investment has raised some concerns as it presents a threat to the EU project of forming an economic block in the continent.⁴⁶

The new domestic and - as a result - foreign policy developments of allies like the US and raising populist demands in European countries that threaten regime changes across Europe do on one hand, pose the

⁴⁴ See Freedom House, *Nations in Transit 2016*; See as well World Justice Project, *Rule of Law Index 2016*.

⁴⁵ R. Prodi President of the European Commission on Enlargement, SPEECH/99/130, 13 October 1999.

⁴⁶ M. Tanner, “Russia Never Went Away from the Balkans”, *Balkan Insight*, 08 February 2017; F. Mejdini “Chinese Buy Rights to Oil Fields in Albania”, *Balkan Insight*, 21 March 2016; G. Erebara “Chinese to Build Albanian Highway to Macedonia”, *Balkan Insight*, 17 March 2015; Senior Diplomat, EU Member State, Block of Embassies, interview, Tirana, 19 January 2017; Senior Diplomat, EU Member State, Block of Embassies, interview, Tirana, 02 February 2017.

risk of undoing “decades of European integration” and on the other, reaffirm the importance of the region before the changing multilateralism.⁴⁷

The rules of negotiation in Brussels have been adapted throughout these two decades and there is clarity on all parties involved that the EU is forcefully inward looking and the countries of the region know that there is no simple automatism in the enlargement process where public opinion limits the course of action.⁴⁸ There is a growing understanding, that the *ambiguous* relationship is being revived in times of need like the migration crisis when the Western Balkans countries acquired newfound attention on the part of the EU.

Before these warning signes of a U-turn in democratization in the region and before the risk of loosing momentum and risking instability the EU embarked in a public diplomacy exercise the Berlin Process. Envisioned as a process to start on the symbolic 2014, centenary of the start of the WWI and end by 2018, hundreded years after the end of WWI.

The Berlin Process has been a pragmatic reminder for both the EU and the Western Balkans about the importance of cooperation and its ultimate goal was to serve as a reassurance of the regions’ European perspective. The pillars informing the Berlin Process agenda hint to the geo-economic value the region has for the EU, be that in inviting cooperation for forming a regional market, with particular attention given to connectivity and energy projects. The upcoming Summit in Trieste focuses on small and medium enterprises, underlining the attention towards instilling growth in the region.

The Berlin Process, is yet another example that confirms the Member States, especially the founders and most prominent ones like Germany and France continue to provide guidance and direction to the Union and shape its policies.⁴⁹

The initiative ambitions, if realized would certainly facilitate the attainment of stability in the region. In the eve of the fourth Summit

⁴⁷ J.C., Juncker, *A New Start for Europe: My Agenda for Jobs, Growth, Fairness and Democratic Change*, 2014, p. 3.

⁴⁸ See Putnam, *op.cit.*

⁴⁹ Bickerton et al. *op.cit.*, p. 717.

there have been some agreements on lingering bilateral disputes most notably between Montenegro, Bosnia and Herzegovina and Kosovo. The Regional Youth Cooperation Office, seen as a long-term tool for educating the young generations with a culture of peace and cooperation was conceived in the first Western Balkans summit in Berlin 2014 but it is yet to start its activities. In a heavy context burdened by raising socio-economic concerns and weak democratic traditions. The gatekeeper elites have plunged the trust Albanians have in democratic institutions and risks to encourage the rise to power of those that by means of populism offer a quick fix to complex socio-economic and political issues. Indeed, the Berlin Process has been criticised for not bringing to the political will as well an economic backing. Interviews conducted in Tirana have concurred with this criticism, however it was clear that these meagre economic support is not for lack of trying. Investors are not willing to put their money in the region. This is why the connectivity agenda, largely relies on pre-existing IPA funds.⁵⁰ However, a public diplomacy exercise cannot be a good enough substitute of lacking in policy engagement. More should be done as the linkages of the EU in the region are ever weaker, the threat of democratic backsliding within the Union – with elections in France, Germany and the Netherlands - plus the vagueness of the accession perspective may put into question the EU role in championing democracy in the wider region.⁵¹

The EU has a wide toolbox that can be used in the region, but it has to be used strategically, coherently and effectively, measuring steps towards the path of accession, not too slow and not too fast. Postponing accession *sine die*, may undermine achievements in these past two decades and threaten stability in the region.

The root cause analysis, suggest that high leverage points to address Europeanization predicaments in the country remain to better the economic situation through international cooperation so that people are not concerned with making ends meet. This could support a larger involvement of citizens in decision making processes. Thus,

⁵⁰ Senior Diplomat, EU Member State, interview, Tirana, 12 January 2017; Senior Diplomat, EU Member State, interview, Tirana, 19 January 2017; Senior Diplomat, EU Member State, Block of Embassies, interview, Tirana, 02 February 2017.

⁵¹ See as well Western Balkans Summit, Citizens for Europe, *Civil Society Forum Paris – Key Policy Proposals from Civil Society Actors*.

empowering civil society remains an imperative if the EU wants to inspire change from the grassroots. Moreover, the EU itself has to start engaging in the region with an innovative enlargement process, meeting demands of its public opinion but as well inspire progress in issues of concern for Albanians.

In doing so, clarity on the next policy steps to be undertaken is necessary for a headway. The EU should set short and medium term goals so that to afford to domestic actors the opportunity to confront their constituency with results. The evaluation of the progress attained should aim to full transparency, adopt of shift in turning a technical exercise to a politically accountable one. This is attainable by putting in place a diligent, credible process which by setting and holding its ground may inspire reforms domestically and most importantly ensure support for their application and yield thus a concrete progress in the society.

Appendix

Survey conducted in Tirana, 05-19 November 2016

Original questions with English translation

1. Grupmosha juaj:

15-24 vjeç

25-39 vjeç

40-54 vjeç

55+ vjeç

*Age group:

15-24 old

25-39 old

40-54 old

55+ old

2. Shkollimi (Fundi i shkollimit)

15 vjeç

16-19 vjeç

20+ vjeç

Akoma me studime

*Education (End of)

15 y.o

16-19 y.o

20+ y.o

Still studying

3. Do te doja t'iu pyesja lidhur me besimin qe keni ndaj disa institucioneve. Per secilin nga istitucionet ne vijim, ju lutem te me thoni nese keni tendence ti zini bese, te mos i zini bese, apo nuk dini.

3.1 Partite politike

3.2 Qeverine

3.3 Bashkimin Evropian

* I would like to ask you a question about how much trust you have in certain institutions. For each of the following institutions, please tell me if you tend to trust it or tend not to trust it, or don't know.

3.1 Political Parties

3.2 The nationality government

3.3 The EU

- Tend to trust
- Tend not to trust
- Don't know/No Answer

4. Cilat mendoni te jene dy nga çeshtjet me te rendesishme me te cilat perballet Bashkimi Evropian ne kete moment?

- Migracioni
- Terrorizmi
- Situata ekonomike
- Papunesia
- Dalja e Britanise se Madhe nga Bashkimi Evropian
- Ndikimi i Bashkimit Evropian ne bote

*What do you think are the two most important issues facing the EU at the moment?

- Immigration
- Terrorism
- Economic situation
- Unemployment
- Brexit
- EU's Influence in the World

5. Cilat mendoni te jene **dy** çeshtjet me te rendesishme me te cilat perballat vendi yne ne kete moment?

- Kriminaliteti
- Demokracia dhe sundimi e ligjit
- Situata ekonomike
- Papunesia
- Sistemi i shendetesise
- Sistemi arsimor
- Tjeter

*What do you think are **the two** most important issues facing our country at the moment?

- Crime
- Democracy and Rule of Law
- Economic situation
- Unemployment
- Healthcare system
- The Educational System
- Other

6. Personalisht cilat jane **dy** nga çeshtjet me te rendesishme me te cilat ju perballeni ne kete moment?

- Rritja e çmimeve/inflacion/kosto e jeteses
- Shendeti dhe sigurimet shoqerore
- Papunesia
- Sistemi arsimor
- Kushtet e punes
- Tjeter

*Personally what are the **two most** important issues you are facing at the moment?

- Rising prices/inflation/cost of living
- Health and social security

- Unemployment
- The education system
- Working conditions
- Other

7. Bashkimi Evropian ju jep personalisht ndjesine e ____? (Me shume se nje pergjigje e mundur)

- Entuziazem
- Shprese
- Besim
- Indifference
- Angeshti
- Mosbesim
- Refuzimi ndaj tij
- Nuk e di/pa pergjigje

*Does the EU give you personally the feeling of ____? (Multiple answers possible)

- Enthusiasm
- Hope
- Trust
- Indifference
- Anxiety
- Mistrust
- Rejecting it
- Don't know/No Answer

8. Çfare do te thote Bashkimi Evropian per ju personalisht? (Me shume se nje pergjigje e mundur)

- Paqe
- Zhvillim ekonomik
- Demokraci
- Liri udhetimi, studimi dhe pune kudo ne Bashkimin Evropian
- Diversitet kulturor
- Humbja e identitetit kulturor
- Nuk e di/ Tjeter

***What does the EU mean to you personally?** (Multiple answers possible)

- Peace
- Economic Prosperity
- Democracy
- Freedom to travel, study, work anywhere in the EU
- Cultural diversity
- Loss of cultural identity
- Don't know/ Other

9. Cili nga me poshte mendoni te jete rezultati me pozitiv i Bashkimit Evropian?

- Levizja e lire e njerezve, te te mirave dhe sherbimeve brenda Bashkimit Evropian
- Paqe mes Vendeve Anetare te Bashkimit Evropian
- Ndikimi politik dhe diplomatik i Bashkimit Evropian ne bote
- Fuqia ekonomike e Bashkimit Evropian

***Which of the following do you think is the most positive result of the EU ?**

- The free movement of people, goods and services within the EU
- Peace among the Member States of the EU
- The political and diplomatic influence of the EU in the rest of the world
- The Economic power of the EU

10. Si e vleresoni situaten aktuale te ekonomise evropiane?

- Shume mire
- Mire
- Te perkeqesuar se tepermi
- Shume keq
- Nuk e di

*How would you judge the current situation in each of the following?

The situation of the European Economy?

- Very good
- Rather Good
- Rather Bad
- Very Bad
- Don't know

11. Si e vleresoni ndikimin e krizes ne punesim?

- Me e keqja ende do te vije
- Ndikimi i krizës në vendet e punës tashmë ka arritur kulmin
- Nuk e di/Asnje pergjigje

***Impact of the crisis on employment?**

- The worst is still to come
- The impact of the crisis on jobs has already reached its peak
- Don't know/No Answer

12. Do te thoje se je _____ mbi te ardhmen e Bashkimit Evropian?

- Shume optimist
- Mjaft optimist
- Mjaft pesimist
- Shume pesimist

*** Would you say that you are _____ about the future of the EU?**

- Very optimistic
- Fairly optimistic
- Fairly pessimistic
- Very pessimistic

13. Duke patur parasysh sa me siper, do te thoje se Shqiperia do te perfitonte apo jo nga te qenurit anetare e Bashkimit Evropian?

- Do te perfitonte
- Nuk do te perfitonte
- Nuk e di/Asnje pergjigje

*** Taking everything into account, would you say that Albania would benefit or not from being a member of the European Union?**

- Would benefit
- Would not benefit

- Don't know/No Answer

14. Ne te ardhmen e afert e shihni veten si

- Kombesia vetem
- Disa elemente evropiane ne identitet
- Nuk e di/Asnje pergjigje

*** In the near future do you see yourself as...**

- Nationality only
- Some European element in identity
- Don't know/No Answer

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