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Unarticulated Foreign Policy as a Manifestation of Drifting Away from the EU Membership Goal**

ABSTRACT

The author conducts an analysis of existing normative acts to shed light on the controversial EU role in the “normalization process” and to highlight the complex dynamics and consequences in the realm of Serbia’s EU integrations, including through the lenses of CFSP. The article reveals how the clash between these two priorities is instrumentalized to deflect from the poor democratic performance in critically important areas for EU accession—rule of law and fundamental rights. The author argues that Serbia’s current situation should be observed in the context of the *de facto* abandonment of the EU accession goal, which is also largely tied to the political distaste for further Europeanization of the institutional and legal order. Drawing on theoretical insights (primarily from rational choice theory) and through empirical illustrations from the EU accession process, the author examines the marginalization of EU accession objectives in the favour of the *status quo*. The paper’s structure includes theoretical examination, empirical analysis of Serbia’s foreign policy trajectory, analysis of normative acts, exploration of veto areas hindering EU integration, and concluding reflections. Ultimately, the article underscores the necessity for transparent and inclusive communication

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and consultations, arguing that in the case changes, a redefined social contract would be necessary to realign the priorities with public expectations.

KEYWORDS: *EU accession, coherence, veto areas, normative acts, normalization, political elites, common foreign and security policy.*

INTRODUCTION

A philosophical dilemma frequently attributed to the medieval French thinker Jean Buridan goes like this: an imaginary donkey is both hungry and thirsty, placed equidistant from a bundle of hay and a bucket of water. Struggling to make a choice because there was no reason for him to prefer one over the other, the donkey dies both hungry and thirsty.¹ Deliberating on the unfortunate fate of 'Buridan's donkey,' Rescher considers the issue of decision-making in the context of equivalent alternatives, identifying the 'problem of choice without preference.'² Rational preferences lead to rational choices, but a rational preference among equivalent objects is impossible.³ Reflecting on Rescher's research on this subject, Weintraub makes a counter-argument that rational choices might be possible even when options appear to be similar or comparable.⁴ Under those circumstances, making a choice would be reasonable even when there is no sufficient or obvious reason for it.⁵ While the aforementioned primarily applies to philosophical arguments explaining the intricacies of free will and rationality in individuals, in this paper, it is used as an introduction to the clash of preferences in Serbian foreign/EU accession policy, especially in the context of diverging processes surrounding the territorial integrity in Kosovo-Metohija⁶ and the EU accession goal.

However, what happens when the decision-maker's interests are more motivated by shorter-term, rather than longer-term objectives? This article argues that the foreign policy approach appears to be tactical (short-term-oriented), while claiming to be strategic (longer-term-oriented). Apart from the superficial lack of motivation to choose between the two seemingly contradictory goals, foreign political decisions also largely correlate with

¹ George Edward Hughes, *John Buridan on Self-Reference: Chapter Eight of Buridan's 'Sophismata', with a Translation, an Introduction, and a Philosophical Commentary*, Cambridge University Press, New York, 1982.

² Nicholas Rescher, *Cosmos and Logos: Studies in Greek Philosophy*, De Gruyter, Berlin/Boston, 2005, p. 89.

³ *Ibid.*

⁴ Ruth Weintraub, "What Can We Learn from Buridan's Ass?", *Canadian Journal of Philosophy*, Vol. 42, No. 3/4 (2012), pp. 281–284.

⁵ *Ibid.*

⁶ Hereinafter: *Kosovo*, while implying that province's constitutional status.

reluctance to accept the Europeanization of the institutional/legal order. Therefore, the “Buridan’s donkey” metaphor is only partially accurate. Whereas the EU expectations regarding the normalization process with Priština and alignment with the Common Foreign and Security Policy (CFSP) are controversial/challenging, contrastingly, the absence of progress in areas of chief national competences – rule of law and fundamental rights – points out the distaste towards EU accession, which forms a broader subject of this paper. The author primarily aims to underscore that the lack of a strategic foreign policy act should be observed in the context of the absence of an EU accession strategy.

This article has a dual focus. Firstly, the author points out the clash between the two mentioned priorities: European integration and the preservation of Kosovo-Metohija within Serbia, which are sometimes perceived as mutually exclusive. Attention is also paid to the analysis of existing normative acts and how they address these contradictions. The author argues that while it is understandable that the EU requests full alignment in domains of political and economic integration (including the CFSP), its role in the context of the normalization process is controversial and likely unprecedented.⁷ Secondly, while noting these contradictions, the author contends that the clash between these two priorities is being instrumentalized in the political discourse/activities to avoid focusing on the Europeanization process, i.e., the democratization and fulfillment of the Copenhagen and other criteria. Namely, high political dilemmas surrounding the EU and Kosovo are (ab)used to divert attention from the fact that the situation in the areas fundamental to the Europeanization process – rule of law and fundamental rights – is underdeveloped. Whereas the lack of progress in these fundamental areas signals an aversion towards EU accession as the (main) objective, it also causes additional dissonance between normative acts, technical-political processes (accession negotiations) and the the fact that, in practice, the EU accession is actually no longer treated as a (primary) goal. However, unwilling to declare the abandoning of that goal and conduct profound changes in the domains of rule of law and fundamental rights, these aspects are marginalized in the official discourse in favor of high-political conditions surrounding Kosovo and CFSP, to shift the focus on the EU responsibility for the overall stalemate. In essence, the responsibility for internal affairs is evaded by diverting attention to other domains and their relations to foreign actors, to build a convincing argument about the futility of EU integration process.

Therefore, given the lack of interest in achieving EU membership, the “Buridan’s donkey” metaphor is inapplicable. Likewise, building on that

⁷ For precedents in the context of EU accession consult (in Serbian): Miloš Petrović, Maja Kovačević and Ivana Radić Milosavljević, *Srbija i Evropska unija dve decenije nakon Solunskog samita*, Institut za međunarodnu politiku i privredu, Beograd, 2023, str. 274–312.

argument, the author contends that the *de facto* abandonment of the EU accession goal needs to be clearly communicated through normative acts and public discourse because, as a major policy shift, it would require a new form of social contract. To conclude, the reluctance to achieve convincing progress in areas that are technically crucial for EU membership (Chapters 23 and 24) is shaping the foreign policy choices of Serbia in a way that the EU accession goal is *de facto* abandoned. The adapted goal, to “remain on the EU path,”⁸ in practice implies maintaining a “safe” distance from the EU and curtailing its influence. This *status quo* approach is presented as being in the country’s best interest, despite the fact that it has not been articulated through any normative act, nor did it include any kind of public consultation procedure.

Using examples from political practice and normative frameworks, the author reflects on how decision-makers attempt to navigate contradictory priorities while considering their political interests. When it comes to theoretical inputs, the author uses the rational choice theory approach to analyze the lack of coherent foreign policy, which is observed in the context of the growing marginalization of the EU accession goal in Serbia, as well as some realist inputs. The structure of the paper is as follows: After the introduction, the author will move to the theoretical section, followed by the more empirical segment examining the “veto areas” surrounding the EU integrations of Serbia in the context of its unarticulated foreign policy direction. An overview of relevant documents in the context of colliding objectives will ensue, followed by the concluding remarks.

THEORETICAL PART

The rational choice theory (RCT) is frequently used to examine socio-political occurrences in the context of the intentional will of actors who act rationally, pursuing their self-interest, which leads to certain consequences.⁹ According to Lovett, the rational choice theory is characterized by several methodological standpoints: (1) a purposeful actor assumption – there are actors (both individuals and collective agents) capable of acting purposefully in the realm of social developments; (2) utility theory assumption – each purposeful actor has a ‘utility function’ which provides a concise mathematical summary of whatever choices or decisions we expect them to make; (3) rationality assumption (tightly related to the utility aspect) – discrete purposeful actors

⁸ Agencije, Vučić: Srbija će možda morati uvesti sankcije Rusiji, AlJazeera, 2023, Available from: <https://balkans.aljazeera.net/news/balkan/2023/2/2/posebna-sjednica-skupstine-srbije-o-kosovu-vucic-pred-zastupnicima> (Accessed 10 March 2024).

⁹ Hans Morgenthau, *In Defense of the National Interest: A Critical Examination of American Foreign Policy* (reprint), reprint, University Press of America, 1982.

could optimize their utility functions, given whatever constraints they happen to face (making the latter two “the two sides of the same coin”).¹⁰ According to Schmidt and Wight, who refer to Legro and Moravcsik, units (i.e. countries) are rational in the conventional sense that they select a strategy by choosing the most effective available means to achieve their ends, subject to constraints imposed by environmental uncertainty and incomplete information.¹¹

One of the main claims of the realist school (for instance, Morgenthau) is that states are capable of acting rationally, pursuing their self-interests in foreign policy. As the rational choice theory might also encompass nations, its applicability when it comes to the purposeful actor assumption appears to be unquestionable. The same applies to the latter two RCT assumptions (utility theory assumption and rationality): from the realist perspective, countries are capable of planning their actions and altering them in accordance with the challenges and circumstances they are facing. Countries formulate strategies, including foreign policy ones, aiming to accomplish their national interests and navigate through different obstacles.

The aforementioned approach, centered around the constrained purposeful standpoint, is useful for considering strategic planning and challenges in terms of pursuing national interests. As Lovett identifies, RCT does not have universal applicability; for instance, its applicability is limited in situations when decisions are not made deliberately, but spontaneously, or when constraints are extremely restrictive and there are no real choices to make.¹²

Regarding the latter aspect, this is where we circle back to Buridan’s donkey: are the choices faced by Serbia (preserving territorial integrity vs. EU accession) such that it is impossible to disclaim a preference or make any rational selection, or are these choices perhaps incomplete or even false? Attempting to delve into these ambiguities, the author will put emphasis on, broadly speaking, three main areas critical for EU accession of Serbia: CFSP alignment, the Belgrade-Priština normalization process, and the rule of law and fundamental rights. The main argument will be that, while the first two aspects are presented in the political discourse as the most important contributors to the prolonged EU path, the third area – namely, Chapters 23 and 24, which are actually fundamental to the entire Europeanization process, are being marginalized in discourse and activities. The line of thought is that, while the discourse is often framed to correspond to the “Kosovo vs. EU” dilemma, with the authorities claiming preference of the first, the author hypothesizes that EU accession is not dropped exclusively due to Kosovo (and related) requirements,

¹⁰ Frank Lovett, “Rational Choice Theory and Explanation”, *Rationality and Society*, Vol. 18, No. 2/2006, pp. 240–241.

¹¹ Brian Schmidt and Colin Wight, “Rationalism and the “rational actor assumption” in realist international relations theory”, *Journal of International Political Theory*, Vol. 19, No. 2/2023, p. 158.

¹² Frank Lovett, *Ibid*, p. 242.

but due to reluctance to enforce radical changes in the third domain that would curtail interests of the elites, namely, the rule of law and judiciary.

The rational choice theory approach is frequently perceived as a tool to explain social phenomena by showing how they arise from the intentional pursuit of self-interest by social actors, including individuals.¹³ This pursuit is driven by the individuals' preferences and calculations; they make choices that are optimal in the context of incurred/expected costs and benefits. The leaders might believe that the costs or compromises associated with aligning with the EU exceed the benefits, causing them to prioritize their (group's) interests. However, one should bear in mind that the self-interests of the elites should not be equated to national interests. As Apostolov-Dimitrijević argues (also referring to other sources), the democratization in Serbia from 2000 onwards, apart from depending on the domestic actors, also became growingly and progressively influenced by the EU conditionality – an important mechanism that challenged the domestic constraints to democratization; this European leverage „became not only a carrot, but a stick with which to encourage continuous reform”.¹⁴ This growing dependence on the EU became especially evident during the second decade of the 21st century, when Serbian-EU approximation coincided with the polycrises period.¹⁵ Unable to consider accessions (but nonetheless launching membership talks with Montenegro and Serbia), and primarily concerned in the preservation of the Western Balkans' stability, a particular form of pragmatism from the EU side was gaining momentum in the form of stabilitocracy. The stabilitocracy developed as a consequence of an alignment of interests between the EU and local elites, which put the primary emphasis on the democratization.

Bieber considers stabilitocracies to be the governments that claim to maintain stability, simulate EU integration and rely on informal, clientelistic structures, media control, and the inflation of crises to undermine democracy and the rule of law.¹⁶ Kmezić notes that, despite the EU hopes that the rule of law reforms would enable the democratic transformation in the WB, their faulty and selective implementation, influenced by the elites, has over the previous decade led to the strengthening of stabilitocracy, rather than democracy.¹⁷ Vučković recognizes stabilitocracy consisting out of declarative

¹³ Ibid, p. 238.

¹⁴ Dunja Apostolov-Dimitrijevic, “Democratization in Serbia: an analysis of rational choice and structuralist explanations”, *Review of European and Russian Affairs*, Vol. 9, No. 1/2015, p. 11.

¹⁵ For the latter, consult (in Serbian): Slobodan Samardžić, *Evropska unija: sistem u krizi*, Izdavačka knjižarnica Zorana Stojanovića Sremski Karlovci, Novi Sad, 2016.

¹⁶ Florian Bieber, “The Rise (and Fall) of Balkan Stabilitocracies”, *Horizons: Journal of International Relations and Sustainable Development*, No. 10/2018, p. 176.

¹⁷ Marko Kmezić, “EU Rule of Law Conditionality: Democracy or ‘Stabilitocracy’ Promotion in the Western Balkans?” in: Jelena Džankić, Soeren Keil and Marko

support to the EU integration, combined with autocratic governance tools.¹⁸ Aware of the significance of European integration but in practice growing distant from meeting the membership criteria, the leaderships in Belgrade and Podgorica (ab)used the circumstances to assume greater dominance in the social, political and economic arena at the expense of institutions. The EU's self-interest in stability, coupled with the (secondary) intention to support the regional democratization process, materialized in the so-called stability-democracy dilemma, with the former containing more weight in the actual EU policymaking.¹⁹ Priority to preserve a short-term stability over building a resilient democracy in the long-term benefited the elites which focused on short-term goals.

However, the invasion of Ukraine has caused tectonic foreign policy changes²⁰ which also reflected on the enlargement policy, which became seen as an instrument to strengthen long-term resilience and security through expansion. Whereas the preceding two years have so far failed to result in improving the decision-making procedures and providing more space for the future member states, they did see some very visible results in terms of elevating the status of partners ranging from the Caucasus to the Western Balkans. Contrastingly, the "front-runner candidates" have remained similarly (un)prepared – well ahead of the other candidates in technical terms of opened/closed negotiating chapters/clusters, but far off from concluding them. However, while the latest Montenegrin government, inaugurated in 2023, has made its priority to fulfill the rule of law interim benchmarks to begin closing the negotiating chapters/negotiations,²¹ in Serbia, this subject appears reduced to technical considerations in the Ministry of European Integration.²² The fact that Serbia did not open a single cluster since 2021,

Kmezić (eds), *The Europeanisation of the Western Balkans. New Perspectives on South-East Europe*, Palgrave Macmillan, Cham, 2019.

¹⁸ Vladimir Vučković, *Europeanizing Montenegro – the European Union, the rule of law and regional cooperation*, Lexington Books, 2021, p. 19.

¹⁹ Nicholas Ross Smith, Nina Markovic Khaze, and Maja Kovacevic "The EU's Stability-Democracy Dilemma in the Context of the Problematic Accession of the Western Balkan States," *Journal of Contemporary European Studies*, Vol. 29, No. 2/2021, pp. 169–83.

²⁰ Ana Jović-Lazić and Ivona Lađevac, *Serbia's approach to the EU and Russia – Implications for its internal and foreign policy*, *Medjunarodni problemi*, Vol. LXXV, No. 1, pp. 39–64.

²¹ Consilium, Montenegro, Consilium, 2024, Available from: <https://www.consilium.europa.eu/en/policies/enlargement/montenegro/> (Accessed 20 February 2024).

²² Ministry of European Integration, Mišćević: We are working on two important things, one of which is Serbia's accelerated integration into the EU, MEI, 2024, Available from: <https://www.mei.gov.rs/eng/news/2038/more/w/0/miscevic-we-are-working-on-two-important-things-one-of-which-is-serbias-accelerated-integration-into-the-eu/> (Accessed 20 February 2024).

despite the Commission's positive opinion on technical readiness in Cluster 3, cannot be attributed solely to geopolitics. Whereas the external circumstances *did* aggravate Serbia's status, in the Fundamentals cluster (essential for the accession talks) the country has been underperforming for years. The most recent manifestation of non-alignment in the Fundamentals cluster are the 2023 election irregularities, with the European Parliament declaring that Serbia did not fulfil its commitments to free and fair elections.²³

Overall stagnation or regression in fundamentally important areas signals the lack of interest of the decision-makers in European integration. The unwillingness to adhere to EU legislation and values also reflects a growing anti-EU sentiment. The fact that the country has revised its national *acquis* harmonization plan three times between 2016-2022 indicates poor and inconsistent planning.²⁴ This indicates that attaining EU membership does not constitute a national priority, which contradicts normative and other acts (as will be discussed later). The discrepancies between various acts and policies, including foreign policy, are a consequence of the lack of ambition to achieve EU membership. The unwillingness to adapt to the *acquis*, while contradicting the obligations assumed by Serbia as part of its accession negotiations, also indicates a lack of genuine belief that European integration could advance the national cause, or perhaps the lack of belief that it could advance the status of the political elites. In that regard, the national interest is at risk of being instrumentalized by the political elites' interest when it comes to the EU path, including some kind of deinstitutionalization of foreign policy to conform to shorter-term (or party) interests, rather than the longer-term national interest of EU membership.

It could be argued that the EU membership does not constitute the primary goal, but rather represents an "inherited" obligation. Analyzing some comparable trends in EU-Turkish relations, Schimmelfennig writes about Brussels' "rhetorical entrapment," as a mechanism by which actors are compelled to act in conformance with their prior argumentative commitments (like adopted norms and promises), thus contributing to overcoming resistance to EU accession.²⁵ However, in Turkey, this mechanism faded out as this country began to dishonor its own commitments as an EU

²³ European Parliament, Serbia did not fulfil its commitments to free and fair elections, say MEPs, EP, 2024, Available from: <https://www.europarl.europa.eu/news/en/press-room/20240202IPR17327/serbia-did-not-fulfil-its-commitments-to-free-and-fair-elections-say-meps> (Accessed 28 February 2024).

²⁴ Ministarstvo za evropske integracije, NPAA, MEI, 2024, Available from: <https://www.mei.gov.rs/dokumenta/nacionalna-dokumenta.733.html> (Accessed 11 April 2024).

²⁵ Frank Schimmelfennig, "Rhetorical Entrapment in EU-Turkey Relations" in: Wulf Reiners, Ebru Turhan (eds), *EU-Turkey Relations*, Palgrave Macmillan, Cham, 2021, pp. 139–156.

candidate country.²⁶ This situation is comparable to Serbia in a sense that the lack of affinity towards EU integration might result in the overcoming of this rhetorical entrapment and no longer perceiving Belgrade as a future EU member.

VETO AREAS IN SERBIA'S EU INTEGRATION PROCESS

In essence, the connection between RCT and realism in international relations is rooted in their mutual focus on self-interest, strategic activities, and the cost-benefit analysis towards reaching those objectives. Expanding on theoretical foundations, the author explores realist perspectives and their manifestation in political realities, focusing on three key challenges: the normalization process, Common Foreign and Security Policy (CFSP), and the Fundamentals cluster (chapters 23, 24).

Maintaining the *status quo* seems to be the current objective of the authorities. According to Simpson, small states lack the capacity to be revisionists in realist terms, so they adopt a multi-directional approach.²⁷ Serbia's efforts to balance its foreign policy are evident in its non-alignment with the Common Foreign and Security Policy (CFSP) and other domains crucial for political integration, as well as in its evolving relationships with third-party actors. Instead of prioritizing EU membership (as mandated by its own acts), Serbia is focusing on building broader international partnerships, often attributing them to interests in Kosovo-Metohija. However, these partnerships extend beyond the Kosovo issue and also aim to bolster Serbia's bargaining position vis-à-vis the EU. Some authors recognize this strategy as "hedging," which involves elements such as economic pragmatism, binding engagement, limited bandwagoning, dominance denial, and indirect balancing.²⁸ Regardless of the specific aspect of realism at play, relations with the EU are perceived as more transactional than profound, with the integration goal taking a backseat to mere cooperation.

Preserving the status quo involves balancing the expectations of the EU and Russia, as demonstrated by Serbia's non-alignment with the Common Foreign and Security Policy (CFSP). While verbally condemning the invasion, Serbia refrains from implementing economic measures against its primary international partner regarding Kosovo-Metohija. Multiple alliances serve

²⁶ Ibid.

²⁷ Archie W. Simpson, "Realism, Small States and Neutrality", in: Davide Orsi, J. R. Avgustin and Max Nurnus (eds.), *Realism in Practice – An Appraisal*, E-International Relations Publishing, Bristol, 2018, p. 126.

²⁸ Kristina Nikolić, Serbia Hedging its Bets Between West and East, *Journal of Balkan Studies*, Vol. 3, 2/2023, pp. 59–90.

as a balancing response to the ongoing EU-Russia power struggle and the reluctance to grant greater influence on internal affairs to either party, given their perceived indispensability. However, this “balancing of partnerships” contradicts obligations assumed during the EU accession process. The insufficient alignment with CFSP indirectly affects the normalization process, but solely attributing pro-Russian stances to Kosovo would be simplistic. The reluctance to enact measures against Russia also stems from socio-political Russophilia linked to identity.²⁹ Consequently, incomplete CFSP alignment poses risks to the political reputation of the authorities, reliant on support from Russophile voters. This non-alignment, stemming from the partnership with Russia, extends beyond Kosovo, adversely impacting the EU partnership, particularly considering CFSP’s elevated importance in enlargement policy, alongside other unfavorable alignment indicators.³⁰

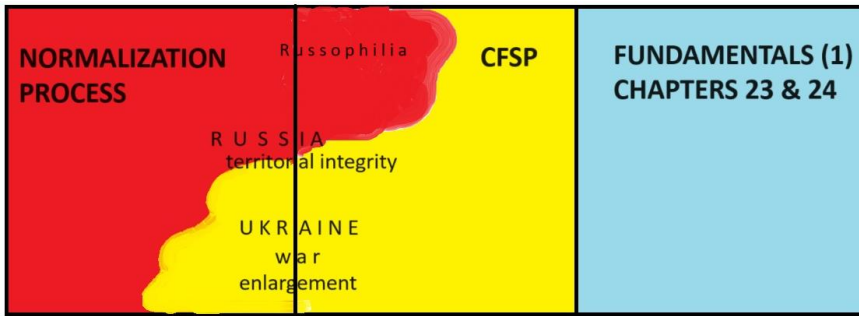
The EU’s normalization process approach, particularly with regard to Serbia, is controversial and presents significant challenges, often resulting in diverging stances within the EU. This issue carries substantial weight, and this paper does not seek to dispute its importance. While acknowledging its relevance to EU accession, it’s argued that the Kosovo aspect is only indirectly linked to CFSP alignment, particularly regarding Russia, and entirely unrelated to the rule of law and fundamental rights (Picture 1). However, even if both the normalization process and CFSP alignment were exclusively viewed through geopolitical lenses, Chapters 23 and 24 of the Fundamentals cluster receive the lowest grades in European Commission progress reports.³¹ These chapters, integral to the Europeanization process, fall under national competences, and their poor scores cannot be solely attributed to geostrategic or exogenous influences.³² Rather than demonstrating pro-European stances by more deeply aligning with non-geopolitical aspects such as judiciary and fundamental rights, these domains remain marginalized, indicating a lack of intention to join the EU.

²⁹ Consult chapters on Serbia, Montenegro: Pan-Slavism and Slavophilia in Contemporary Central and Eastern Europe, Mikhail Suslov, Marek Čejka and Vladimir Đorđević (eds), Palgrave Macmillan, Cham, 2023.

³⁰ Since 2022, the CFSP argument is used to speed up EU integration in Southeastern/Eastern Europe.

³¹ Clusters 1 and 6 are evaluated identically (2,6), albeit the Fundamentals carry essential political weight. See (in Serbian): Miloš Petrović, „Političke posledice prepoznavanja perspektive članstva u Evropskoj uniji za tri istočna partnera”, *Evropsko zakonodavstvo*, Vol.XXIII, No. 85, p. 27.

³² EU Negotiating Platform in 2014 stated that Serbia could meet the membership criteria in mid-term. See: Ministarstvo pravde, Opšta pozicija EU, MP, 2014, Available from: https://www.mpravde.gov.rs/files/pregovaracki_okvir%201.pdf (Accessed 10 April 2024), p. 4. However, Serbia has not made convincing progress even a decade later.



Picture 1: Simplified illustration of the “veto-chapters“ in Serbian EU integration process (self-made). Unlike the first two (partially overlapping) segments, the poor performance in the *Fundamentals* cannot be attributed to external/geopolitical influences/overlappings, but to domestic institutional/democratization issues.

The cost-benefit calculations of domestic WB political actors are intricately linked to several factors, including the role of domestic veto players, adoption costs for domestic political actors, and the credibility of EU threats and promises, all of which have proven challenging for the EU to achieve.³³ In Serbia, veto players such as the Russophile public and political elites wield significant influence, while the adoption costs for domestic elites remain high due to the extensive reforms required to make institutions functional. Furthermore, the credibility of EU threats and rewards has been problematic for years. The reluctance towards EU accession is evident in the stagnant degree of membership preparedness, both overall and in the *Fundamentals* cluster.³⁴ Maintaining the *status quo* inevitably leads to stagnation. Over the past decade, this strategy has proven effective in maintaining favorable ties with the EU, as perceived by the elites, while mitigating excessive interference from Brussels, particularly in areas concerning the rule of law, judiciary, fundamental rights, and justice, freedom, and security. Despite the prolonged process of European integration, this stagnation should not be interpreted as inaction by the elites but rather as strategic maneuvering to preserve the *status quo*. Why? Because any significant approximation or divergence could endanger their privileged status. The objective to “remain on the EU path” indicates the country’s interest in cooperation rather than outright EU accession.

³³ Vladimir Đorđević, Richard Turcsanyi, and Vladimir Vučković, “Beyond the EU as the ‘Only Game in Town’: the Europeanisation of the Western Balkans and the role of China”, *Eastern Journal of European Studies*, Vol. 12, Issue 2/2021, p. 28.

³⁴ Strahinja Subotić et al., *Spremnost i napredak Srbije ka članstvu u Evropskoj uniji*, CEP, 2023, Available from: <https://cep.org.rs/wp-content/uploads/2023/11/izvestaj-ek-2023.pdf> (Accessed 1 April 2024).

For decades, achieving EU membership has been Serbia's national goal. Serbia is expected to fulfill various criteria, including the Copenhagen criteria, encompassing stable institutions ensuring democracy, the rule of law, human rights, and minority protection; economic conditions, such as a functioning market economy and capability to compete in the EU market; and the ability to adopt and implement EU obligations, as per the EU acquis criteria, including political, economic, and monetary union objectives. Additionally, Serbia is expected to meet the Madrid criteria, which entail developing administrative capacities, and adhere to the Stabilisation and Association Process, involving contractual relations, financial assistance, political dialogue, trade relations, and regional cooperation. Since the 2022 invasion, achieving full CFSP harmonization has also become a focus. Serbia's preparedness for membership has remained similar since 2016 onwards.³⁵

Despite the challenge of maintaining EU credibility regarding membership conditions,³⁶ it's evident that Serbia's progress in meeting EU requirements in crucial integration areas, particularly in Judiciary and Fundamental Rights, remains notably underdeveloped. This includes concerns regarding insufficiently independent institutions, combating corruption and organized crime, ensuring freedom of expression, and protecting political and civil liberties. Specifically, in terms of Chapters 23 and 24 membership preparedness, the Commission identifies "some level of preparation" (grade 2), which not only falls below the average for the Fundamentals cluster (2.6) but also below the general average (which has consistently hovered around 3, indicating "moderate preparedness") for years.³⁷

This implies that in domains crucial for Serbia's EU accession progress, institutions remain stagnant across all "veto domains," regardless of their correlation or lack thereof with the normalization process and Kosovo as the national objective. If we assume decision-makers to be rational and motivated by intention, purpose, and interest, the reasons behind Serbia's stagnant position towards the EU cannot solely be attributed to Kosovo-related specificities. Instead, it reflects a reluctance to make substantial progress in the *Fundamentals* cluster, despite negotiations having commenced a decade ago. Serbian foreign policy exhibits these antagonisms and distancing from the EU across various aspects, despite the country formally considering itself a future member state in normative acts.

³⁵ Ibid.

³⁶ Frank Schimmelfennig and Ulrich 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 European Commission, Serbia 2023 Report, EC, 2023, Available from: https://neighbourhood-enlargement.ec.europa.eu/document/download/9198cd1a-c8c9-4973-90ac-b6ba6bd72b53_en?filename=SWD_2023_695_Serbia.pdf (Accessed 30 March 2024).

THE OVERVIEW OF RELEVANT DOCUMENTS IN THE CONTEXT OF COLLIDING OBJECTIVES

The 2005 strategy for Serbia-Montenegro's EU accession acknowledged the "unfinished state framework," including relations with Podgorica and the Kosovo issue, as impediments to formulating the strategy itself.³⁸ It emphasized Belgrade's expectation of EU support in creating conditions for mutually acceptable solutions, given its strategic determination to join the EU. The EU played a pivotal role in both instances: facilitating the redesign of the Serbo-Montenegrin union and organizing the Montenegrin independence referendum. Furthermore, it remained deeply involved in fostering cooperation between Belgrade and Priština, while attempting to navigate disagreements over the international position of the latter through a status-neutral approach or "constructive ambiguity." This approach aimed to produce shorter-term results by deploying technical language and emphasizing governance while avoiding contentious political issues, as described by Bargues et al. as a 'functional strategy.'³⁹ The Stabilization and Association Agreement (SAA) was signed in 2008 but only entered into force in 2013. Article 135 stipulates that it is not enforced in Kosovo-Metohija, although this does not preclude its current or future status.⁴⁰

In 2010, under the auspices of the United Nations, Belgrade recognized the formal EU leadership in the "normalization process," a principle subsequently embedded in acts related to Serbia's accession.^{41,42} In 2011, the

³⁸ Vlada Republike Srbije, Nacionalna strategija za pristupanje Srbije i Crne Gore Evropskoj uniji, VRS, 2005, Available from: <http://www.parlament.gov.rs/upload/documents/seio/NAC STRAT UNDP 2006 gledanje.pdf> (Accessed 30 March 2024), p. 10.

³⁹ Pol Bargués-Pedreny, Assem Dandashly, Hylke Dijkstra, and Gergana Noutcheva, "Engagement against All Odds? Navigating Member States' Contestation of EU Policy on Kosovo", *The International Spectator* 59, 2024, pp. 19–38.

⁴⁰ Ministarstvo za evropske integracije, Sporazum o stabilizaciji i pridruživanju, MEI, 2008, Available from: <https://www.mei.gov.rs/upload/documents/sporazumi sa eu/ssp prevod sa anexima.pdf> (Accessed 30 March 2024), p. 64.

⁴¹ Serbia's role in the normalization process has been frequently evaluated as constructive. US ambassador in Belgrade stated in 2023 that it was questionable whether Washington could count on Albin Kurti as a partner, adding that he did not remember such deep disagreements with Priština. As per: Beta, US Ambassador: Serbia is our partner, the question is whether Kurti is, N1, 2023, Available from: <https://n1info.ba/english/news/us-ambassador-serbia-is-our-partner-the-question-is-whether-kurti-is/> (Accessed 30 March 2024).

⁴² Krstić observes Serbia's European integration process in the context of efforts to "destigmatize" and "normalize" its European status. See: Milan Krstić, *Strategije destigmatizacije u spoljnoj politici država: studija slučaja spoljne politike Republike Srbije od 2001. do 2018. godine* (PhD thesis), Fakultet političkih nauka, Beograd, p. 150.

European Commission recommended that the Council recognize Serbia as an EU candidate country, citing the progress achieved and urging Belgrade to re-engage in dialogue with Priština and swiftly implement concluded agreements.⁴³ The European Commission's Strategy paper in the same year underscored the need to address challenging areas like the judiciary, fundamental rights, justice, freedom, and security as early as possible, allowing the candidate country sufficient time to establish a credible reform track record.⁴⁴ Initially applied ahead of Croatia's EU entry, this strategy was first fully implemented in Montenegro and Serbia. These areas, crucial for meeting EU political membership criteria, require significant changes regarding the rule of law, establishment of independent institutions, enforcement of true separation of powers, and combating corruption and organized crime. Addressing some of these aspects may conflict with the short-term interests of political elites seeking to retain power.

In 2013, the EU brokered the First Agreement of Principles Governing the Normalization of Relations, wherein Belgrade committed to accepting the functioning of institutions across Kosovo, including a unified police force and integration of judicial authorities. In return, Serbia expected the establishment of the Community/Association of Serbian municipalities as a form of autonomy for Kosovo Serbs,⁴⁵ and implicitly, support from the European Commission and European Council for the opening of EU accession negotiations.⁴⁶ However, while as a consequence of this (transactional) approach Serbia became one of the accession frontrunners, the Association/Community of Serbian municipalities hasn't been established, causing additional concerns in the (Kosovo) Serbian community, and complicating Belgrade's approach towards the dialogue. Nonetheless, the transactional logic in the EU-Serbian relations continued to revolve around Kosovo.

Negotiation framework for Serbia (2014) *inter alia* envisages "continued engagement of Serbia, in accordance with the SAA conditions, aimed at visible and sustainable improvement of relations with Kosovo*"⁴⁷ Serbia's opening

⁴³ EUR-Lex, Commission Opinion on Serbia's application for membership of the European Union, 2011, Available from: <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX%3A52011DC0668> (Accessed 31 March 2024).

⁴⁴ European Commission, Enlargement Strategy and Main Challenges 2011-2012, EC, 2011, Available from: https://neighbourhood-enlargement.ec.europa.eu/document/download/f9f9f2f9-2818-429a-9380-4d30c04903d2_en?filename=strategy_paper_2011_en.pdf (Accessed 31 March 2024), p. 3.

⁴⁵ Government of the Republic of Serbia, Brussels Agreement, 2013, Available from: <https://www.srbija.gov.rs/specijal/en/120394> (Accessed 31 March 2024).

⁴⁶ Marko Dašić, *Medjunarodni politički položaj kao odrednica spoljne politike malih država: studija slučaja Republike Srbije od 2000. do 2018. godine*, PhD thesis, Faculty of Political Sciences, Belgrade, 2020, p. 221.

⁴⁷ Ministarstvo pravde, Opšta pozicija EU, op. cit, str. 7.

statement on that occasion outlined that “fully understanding that the EU accession process and normalization must proceed in parallel and mutually support each other, Serbia will remain fully committed to continuing the normalization process and dialogue with Priština”, as well as that “the goal of the accession negotiations is the membership in the EU with all the rights and obligations that come with it” and that by doing so it “aims to protect all vital interests of its citizens.”⁴⁸ Moreover, the first opened negotiating area was Chapter 35 (concerning Kosovo, alongside 32 – financial control), while chapters 23 and 24 ensued shortly.⁴⁹

The 2019 Defense Strategy highlights that integrating into the EU aligns the country with a broader security community based on mutual assistance and solidarity, while reiterating its opposition to Kosovo’s international recognition.⁵⁰ It affirms Serbia’s commitment to security and defense consultations with the EU, including potential joint actions within the Common Security and Defense Policy.^{51,52} Likewise, the 2020 National Security Strategy emphasizes the importance of EU membership, acknowledging its positive impact on political, economic, and social stability. However, it also notes that certain requirements related to further “normalization of relations” with institutions in Priština hinder the realization of its membership goal. Thus, maintaining a status-neutral normalization process is deemed crucial.⁵³ Both strategies emphasize Serbia’s national interest in retaining claim over the breakaway territory.

Simultaneously, the preparedness to meet EU membership criteria in the fundamentals cluster has worsened or stagnated amid the lack of separation of powers and increasing authoritarianism,⁵⁴ indicating a declining political interest in EU accession. Legal harmonization efforts between mid-July

⁴⁸ Vlada Republike Srbije, Uvodna izjava Republike Srbije, 2014, Available from: https://www.mpravde.gov.rs/files/pregovori_uvodnaizjava%201.pdf (Accessed 17 February 2024), p. 7–10.

⁴⁹ European Commission, Serbia, EC, 2024, Available from: https://neighbourhood-enlargement.ec.europa.eu/enlargement-policy/serbia_en (Accessed 17 February 2024).

⁵⁰ Pravno-informacioni sistem, Strategija odbrane Republike Srbije, PiS, 2019, Available from: <https://www.pravno-informacioni-sistem.rs/SlGlasnikPortal/eli/rep/sgrs/skupstina/strategija/2019/94/1> (Accessed 17 February 2024).

⁵¹ Ibid.

⁵² Serbian participation in CSDP-led missions and operations is positively evaluated by the European Commission.

⁵³ Pravno-informacioni sistem, Strategija nacionalne bezbednosti Republike Srbije, PiS, 2019, Available from: <https://www.pravno-informacioni-sistem.rs/SlGlasnikPortal/eli/rep/sgrs/skupstina/strategija/2019/94/2> (Accessed 17 February 2024).

⁵⁴ Damir Kapidžić, “The rise of illiberal politics in Southeast Europe”, *Southeast European and Black Sea Studies*, Vol. 20, No.1/2020, p. 4.

2022 and 2023 revealed a mere 29% alignment rate (with only 72 out of 245 acts adopted during that period).⁵⁵ Drawing on illiberal practices in Czechia (which could also apply to Serbia, author's note), Weiss examines "de-Europeanization" as a counterpoint to Europeanization, consisting of disengagement from EU policymaking, a shift in professional norms toward national perspectives, and a departure from foundational EU norms.⁵⁶ This drift away from EU standards, norms, policies, and practices is evident in both Serbia's political discourse and practice, stemming from perceived excessive, inadequate, or arbitrary EU conditionality, as well as concerns regarding high political costs, populist issues, partisanship, and its impact on institutions and power retention prospects.

The 2020 revised methodology failed to substantially improve the quality and pace of stalled accession negotiations, as the issues were predominantly political rather than technical.⁵⁷ Additionally, the pandemic highlighted distancing from the EU, evident in humanitarian and health domains,⁵⁸ along with more critical tones in the 2020 Progress Report. The report highlighted issues such as disproportionate violence during post-lockdown protests in Belgrade and partial boycotts of opposition parties in various elections, leading to a lack of pluralism in institutions.⁵⁹ However, it also noted Serbia's continued engagement in the normalization dialogue,⁶⁰ emphasizing the importance of Belgrade's constructive approach.

The war in Ukraine significantly influenced the attitudes of EU elites and citizens towards EU enlargement, leading to changes in the CFSP that also affected EU-Serbian relations.⁶¹ Firstly, Brussels implemented various

⁵⁵ Ministarstvo za evropske integracije, Izveštaj o sprovođenju NPAA za treće tromesečje 2023, MEI, 2023, Available from: https://www.mei.gov.rs/upload/documents/nacionalna_dokumenta/npaa/npaa_23_trece_tromesecje_novembar.pdf (Accessed 10 February 2024), p.1.

⁵⁶ Tomáš Weiss, "De-Europeanisation of Czech policy towards Eastern Partnership countries under populist leaders", *Journal of European Integration*, Vol. 43, No. 5/2021, p. 588.

⁵⁷ Ivana Radić Milosavljević and Spasimir Domaradzki, "The EU's raison d'état in the Western Balkans: Can the new enlargement methodology help?", *Medjunarodni problemi*, Vol. LXXIV, No 3/2023, pp. 391–410.

⁵⁸ E.g., Serbian authorities were more inclined towards cooperation with China during the early stage of the pandemic.

⁵⁹ European Commission, Serbia 2020 Report, EC, 2020, Available from: https://neighbourhood-enlargement.ec.europa.eu/system/files/2020-10/serbia_report_2020.pdf (Accessed 30 March 2024), p. 4.

⁶⁰ *Ibid*, p. 67.

⁶¹ Duško Lopandić, Neven Cvetičanin and Mariana Maksimović, "The European Union at a Historical Watershed", in: Duško Dimitrijević and Toni Mileski (eds.), *International Organizations: Serbia and Contemporary World Vol. 1*, Institute

restrictive measures against Moscow. Secondly, the decoupling from Russia resulted in increased pressure on EU candidates to follow suit, a step Belgrade mostly declined except for some symbolic gestures. This refusal to align with the CFSP led to a drop in Serbia's harmonization rate, posing an additional obstacle to its EU path due to unanimous support across Europe and consequences for EU accession. Thirdly, the EU's enlargement policy was expanded and reactivated in response to the crisis, aiming to promote additional regional stability, cooperation, and peace following the war, which also impacted Brussels' efforts to accelerate reconciliation between Belgrade and Priština. As CFSP and normalization aspects became increasingly intertwined, presenting a challenge for Belgrade, there was also a lack of focus on aligning the judiciary and fundamental rights with EU standards. This suggests a lack of commitment to meeting membership criteria in all three fundamental areas, indicating a lack of interest in joining the Union.

CONCLUDING REMARKS: LOOKING BEYOND "BURIDAN'S DONKEY"

In their earlier research, Djukanović and Lađevac highlighted the importance of predictability in contemporary international relations, stressing the necessity of adopting a foreign policy strategy to define goals and tasks in states' external activities.⁶² However, in Serbia, the absence of a foreign policy strategy and predictability can be attributed to the lack of an EU accession strategy. On one hand, this absence correlates with the contentious normalization process with Priština and indirectly affects CFSP alignment. Conversely, poor performance in the Fundamentals cluster, crucial to the Europeanization process, cannot be solely attributed to external or geopolitical factors. This paper aims to demonstrate that foreign policy is increasingly influenced by the *de facto* abandonment of the EU accession goal, even though this decision has not been officially articulated to the domestic or international community. This trend is evident across various domains, particularly judiciary and fundamental rights. As closer alignment with the EU entails greater exposure to Brussels' demands in areas such as the division of powers, judiciary functionality, internal affairs, and fundamental rights, political elites are inclined to maintain the *status quo*. However, this directly contradicts Serbia's obligations and actions aimed at securing EU accession.

Therefore, the author argues that political rhetoric reminiscent of Buridan's donkey is utilized to maintain the alleged strategic importance of EU

of International Politics and Economics, Belgrade, Faculty of Philosophy of the University of St. Cyril and Methodius, Skopje, 2022, p. 446.

⁶² Dragan Đukanović and Ivona Lađevac, "Prioriteti spoljnopolitičke strategije Republike Srbije", *Međunarodni problemi*, Vol. LXI, br. 3/2009, p. 360.

accession while shifting blame onto the Union for any negative developments in the process. The Union is portrayed as imposing impossible conditions and hindering Serbian accession progress. These narratives serve to lower public expectations regarding EU accession while portraying authorities as striving to achieve national interests amidst “impossible” obstacles. Anti-EU sentiments are employed to evade comprehensive obligations assumed during the accession process, particularly in meeting criteria related to Cluster 1, such as combating corruption, organized crime, and enhancing institutional effectiveness. The reluctance to further align with the EU is reinforced by linking Kosovo-Metohija with other domains, such as CFSP and relations with Russia, and portraying the EU as an unsuccessful and flawed project. This fosters a sense of futility regarding European integration goals and discourages further Europeanization efforts across various domains.

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