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EXAMINING THE GAP BETWEEN EU FUNDAMENTAL VALUES IN THEORY AND PRACTICE: A CASE STUDY OF MACEDONIA'S JOURNEY TOWARD EU ACCESSION[1]

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Abstract: *The objective of this paper is to assess the gap between the EU's commitment to its values and the fairness of its accession process, in particular the Macedonian journey to the EU, which is not only contradictory to the EU's core values but also contradictory to the principle of equal rights and self-determination. For this purpose, the methodology consists of conducting qualitative analysis based on two bilateral agreements and analyzing the evolution of EU requirements and their implications. The paper argues that rather than enforcing the Copenhagen criteria and making the country's pre-accession progress contingent on the strengthening of the rule of law, the EU has expended enormous effort in what was essentially a political bilateral dispute between states, with the resolution of the dispute to be replaced as a pre-accession criterion. The paper concludes that the EU should return to its fundamental values and prioritize merit-based criteria in the enlargement process, not a politically based decision.*

Keywords: *International Law; Rule of Law; EU Fundamental Values; Bilateral Disputes; EU Enlargement*

INTRODUCTION

The rule of law is a moral imperative for all societies. At the core of the rule of law is that any exercise of power should be subject to the law: "the rule of law, not men". Dicey set out the first modern definition of the rule of law. He defined it as three "kindred conceptions" that a rule of law state should uphold: a government limited by law, equality under the law for all citizens, and the protection of human and civil rights (Dicey 1914).

This idea became especially prominent outside the limits of "traditionally" democratic states due to the recent wave of democratization worldwide, including in Central and Eastern Europe. The "promotion of the Rule of Law" has gained prominence in international organizations dealing with emerging and transitional nations. From this angle, it is not surprising that it was added as an independent element to the Copenhagen political criteria and that the Commission had to consider it during the pre-accession process. On a worldwide scale, the EU fits into the broader global process of "exporting the rule of law" very effectively. According to Koen Lenaerts, President of the European Union's Court of Justice, the rule of law has become part of the EU's "*raison d'être*" or European DNA (Reynders 2023, 1).

[1] In this paper, the author will use the name "Republic of Macedonia" or simply "Macedonia" when referring to the country.

The united Europe was built on a dream that became a reality. A dream that Jean Monnet and Robert Schuman had to bring Europeans together. The Schuman Declaration is a turning point in the history of Europe. The declaration includes objectives like striving for peace, overcoming national rivalries, accomplishing mutual solidarity, and a blueprint for a closer integration of the Member States.

The European Union is founded on shared principles of democracy, the rule of law, and fundamental rights. This has been enshrined in Article 2 of the Treaty on European Union, which lists "respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities. These values are common to the Member States in a society where pluralism, non-discrimination, tolerance, justice, solidarity, and equality between women and men prevail" as the shared values in which the Union is rooted. While Member States accepted the commitment to uphold European principles in theory, the level of adherence to these values in practice is far more challenging. This is especially evident in the debates and choices surrounding the enlargement process. On the other hand, future Member States are scrutinized for their adherence to these ideals before joining the Union.

Before joining the EU, all new Member States must adhere to the EU's fundamental values, as determined by the so-called "Copenhagen criteria". Thus, the fundamental Treaty provision governing EU expansion, Article 49(1) TEU, states that "[a]ny European State that respects the values referred to in Article 2 [TEU] and is "committed to promoting them may apply to become a member of the Union". In its relations with the rest of the world, the Union is required to "uphold and promote its values" as well as "contribute to peace, security (...) as well as the strict observance and development of international law, including respect for the principles of the United Nations Charter".

Democracy and the rule of law are among the fundamental values upon which European integration is based. Even earlier, the rule of law is mentioned in the TEU's Preamble, which states that the EU is inspired "by the cultural, religious, and humanistic inheritance of Europe, from which have developed the universal values of the inviolable and inalienable rights of the human person, freedom, democracy, equality, and the rule of law". Similarly, the Preamble of the EU Charter of Fundamental Rights states that "the Union is founded on democratic and legal principles".

Following the ratification of the TEU, the European Commission emphasized that adherence to the rule of law is "the backbone of any modern constitutional democracy" and that adherence to the rule of law is a prerequisite for upholding all rights and obligations derived from treaties and international law.

METHODOLOGY AND LITERATURE REVIEW

The paper discusses and analyzes fundamental principles of international law and basic European values enshrined in the Treaty on European Union (TEU). The study will examine and interpret the implementation of the enlargement condition and the over-politized way of settling bilateral disputes among candidate countries. The research, law documents of the European Commission, and European integration literature, such as books, journals, and articles,

will be used to analyze the EU's approach towards the accession of Western Balkan countries and evaluate whether there is consistency in upholding EU principles. By examining this issue, we can gain insight into the EU's commitment to its values and the fairness of its accession process.

For years, many researchers and academics have focused on enlargement policy and the accession negotiations with the new Member States, in our case, the Macedonian path to the European Union. For example, in the policy brief: "EU-North Macedonia Accession Negotiations: The Implications of the Bulgarian Conditions", Malinka Ristevska Jordanova and Simonida Kacarska analyze the conditions the Bulgarian government has set forward given the preparation of the negotiating framework and the first intergovernmental conference between the EU and the Republic of North Macedonia and their possible impact and the options for addressing these new challenges for the process of accession of North Macedonia to the EU, focusing on the forthcoming EU negotiating framework in line with the new enlargement methodology, where conditionality framework is a condition for the entire accession process (Risteska and Kacarska 2020, 1). In the article published in Politico, titled "EU's two-faced 'values'", the author Hans Kundnani argues that "beyond its usual rhetoric, the EU is doing very little to try to uphold the international rule of las outside its borders. In other words, Europeans must live by these values rather than proclaim them. The EU's founding treaty claims it "is founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights". But the bloc is pretty inconsistent in the way it promotes these values beyond its external borders" (Politico 2019). Ana-Maria Andreea Anghelescu, in the paper "Views on the Future of Europe from the EU's Neighbouring Countries" describes the road to EU as a "marathon where the finish line is constantly being moved forward, a marathon in which every obstacle is slowing us down and every encouragement is accelerating us forward" (Anghelescu 2021). Elena Basheska in her paper "EU Enlargement in Disregard of the Rule of Law: A Way Forward Following the Unsuccessful Dispute Settlement Between Croatia and Slovenia and the Name Change of Macedonia" touches upon the "disrespect of the fundamental principle of sovereign equality of states in the EU enlargement process and particularly with regard to settlement of bilateral disputes, which has become an important accession condition outside the Copenhagen criteria, where almost naturally undermine EU values and especially the rule of law principle" (Basheska 2022, 222). These and many more authors discuss certain aspects of this topic.

SOVEREIGN EQUALITY OF STATES AND HUMAN RIGHTS THROUGH THE PRISM OF INTERNATIONAL LAW NORMS

The main principles of international law norms include respect for human rights and fundamental freedoms and the equality of nations. According to the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations (1970):

> The sovereign equality of states implies their judicial equality, the rights inherent in their full sovereignty, a duty to respect the personality of other states, the inviolability of territorial integrity, and the political independence of state to

> freely choose and develop their political, social, economic and cultural systems, and a duty to comply fully and in good faith with their international obligations and to live in peace with other states and a duty not to intervene in matters within the domestic jurisdiction of any state, for any reason whatever, in the internal or external affairs of any other state.

When we talk about equality, recognized as a right of states, I believe that the most crystallized definition we can find is Article 4 of the Montevideo Convention on Rights and Duties of States, which states that: "States are judicially equal, enjoy the same rights, and have equal capacity in their exercise. The right of each one does not depend upon its power to assure its exercise but upon the simple fact of its existence as a person under international law (Vasileska 2021). According to the Encyclopaedia of Public International Law:

> Territorial integrity and political independence are two fundamental aspects of state sovereignty that are traditionally intertwined with the fundamental principle of the prohibition of the threat or use of force and are widely recognized as independent principles of international law. The concept of territorial integrity refers to the physical and demographic resources that lay inside the - State's territory (land, sea, and airspace) and are delimited by the State's frontiers and - boundaries. Political independence refers to the non-material aspects of state sovereignty and authority, such as the freedom of political decision-making and the direction of a state's domestic and foreign affairs (Bernhardt 1981, 481).

The sovereign equality of states, which allows states to exercise their sovereign rights freely and requires them to consider the sovereign rights of other states (Charter of the United Nations 1945), is the most fundamental concept of the UN Charter, if not *jus cogens.* Regarding the resolution of bilateral disputes, which has grown to be a crucial criterion for admission outside of the Copenhagen criteria, disregarding the fundamental principle of sovereign equality of states would almost inevitably undermine EU values, particularly the rule of law principle.

According to Basheska, this sets the way for the enlargement process to be over-politicized, rendering the EU's enlargement statute ineffective and weakening both the transformative effect of the pre-accession process and the EU's values (Basheska 2022, 222). In such situations, the focus of candidate countries is not so much on implementing necessary changes as it is on overcoming political obstacles and hurdles to earn the support of EU Member States or please the Union—an aspect that EU institutions have frequently missed.

"KEEP YOUR FRIENDS CLOSE AND YOUR ENEMIES EVEN CLOSER": BILATERAL DISPUTE WITH THE NEXT-DOOR NEIGHBOUR

"If angels were to govern men", James Madison said, "neither external nor internal controls on government would be necessary". History has shown that EU governments are no exception: they repeatedly breach fundamental EU values. It occurs in individual cases or in a systemic manner, which may result in a major and continuous violation of EU values, which may even lead to the overthrow of a rule of law policy (Kochenov et al. 2016).

The EU's enlargement to the Western Balkans epitomizes an imperfect and highly politicized enlargement process. The Macedonian name saga lasted over three decades before being settled under significant international pressure, if not actual US and EU intervention. The story of the name dispute settlement is not one of which the EU should be particularly proud (Kochenov et al. 2016). It is the story of politics triumphing over the rule of law during the enlargement process and the depreciation of EU values.[2]

The "historic" agreement between the Hellenic Republic and the Republic of Macedonia opened Pandora's box for Macedonia's EU accession process and that Prespa was just an illusion. Why an illusion? Everyone thought that by signing the Final Agreement for the settlement of the differences as described in the United Nations Security Council resolutions 817 (1993) and 845 (1993), the termination of the Interim Accord of 1995, and the establishment of a strategic partnership between the Parties, in short, the Prespa Agreement would open the gates for Macedonia toward the European perspective. Even the Greek Deputy Prime Minister Evangelos Venizelos, in 2014, arriving in a double capacity both as an EU official (as president of the Council of the EU) and a Greek official, added that he was under the impression that his Macedonian interlocutors "understand very well that Greece is the real gateway towards the European perspective and the Euro-Atlantic destiny of this country" (Marusic 2014).

The vicious circle of continuous demands imposed on Macedonia began with the Conclusions of the Declaration on Yugoslavia by the European Community on 16 December 1991, precisely 100 days after the referendum for independence on 8 September 1991, when the people of Macedonia chose to live in an independent state with its natural and rightly sovereign name selected. The last part of the Conclusions states:

> The Community and its Member States also require a YugoslavRepublic to commit itself, before recognition, to adopt constitutional and political guarantees ensuring that it has no territorial claims towards a neighboring Community State and that it will conduct no hostile propaganda activities versus a neighboring Community State, including the use of a denomination which implies territorial claims (European Community: Declaration on Yugoslavia 1991).

Greece objected to the existence of Macedonia with such a name even before it became an independent state. Greek opposition to the very existence of the Macedonian nation is concealed by their challenge to the name "Republic of Macedonia".

Macedonia's transition was characterized by the standard political and economic changes many post-socialist nations experienced and by particular difficulties related to the so-called name issue. The request to join the UN was made in July 1992 but wasn't accepted until April 1993.

Following the General Assembly's approval and the Security Council's recommendation, the Republic of Macedonia was admitted to the UN in 1993 under the provisional name "the Former Yugoslav Republic of Macedonia" until a mutually agreed solution was reached.

[2] See more on the illegality of the Prespa Agreement and violations of international law: Vasileska, Larisa: Ensuring International Respect for The Fundamental Human Right of People to Self-Determination (2018); Vasileska, Larisa: Recognition of Human Rights and Equality of Nations in International Law (2021).

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In 1995, the two countries signed the Interim Accord, which imposed a binding "Code of Conduct". The two sides started talks to resolve the name dispute under the Secretary General of the United Nations auspices, based on Article 5 of the Interim Accord, establishing a legally binding "Code of Conduct". Based on Article 5 of the Interim Accord, the two parties began negotiations under the auspices of the Secretary General of the United Nations to reach an agreement on the name issue.

On 17 June 2018, Foreign Ministers N. Kotzias and N. Dimitrov signed in Prespa, in the presence of the Prime Ministers of the two countries, Tsipras and Zaev, and in the presence of the Personal Envoy of the UN Secretary-General Mr. Nimetz, who acted as witness, the "Final Agreement for the settlement of the differences as described in the UN Security Council resolutions 817 (1993) and 845 (1993), the termination of the Interim Accord of 1995 and the establishment of a Strategic Partnership between the two Parties", which entered into force on 12.02.2019. This international agreement creates a legal obligation for the Republic of Macedonia to change its constitutional name from "Republic of Macedonia" to "Republic of North Macedonia," setting a precedent in international law (Saveski 2020, 1193).

Two years after signing the Prespa Agreement, former Personal Envoy of the Secretary-General of the United Nations, Matthew Nimetz, in 2020, in the article "The Macedonian 'Name' Dispute: The Macedonian Question—Resolved?" wrote, and here we will quote his words, "the Macedonian 'name' dispute was, to most outsiders who somehow were faced with trying to understand it, certainly one of the more unusual international confrontations (Nimetz 2020, 205). The "'Macedonian Question' represents a strategic, multi-dimensional controversy that has been on the European agenda since the 19th century: although now generally viewed as a problem largely solved by the Prespa Agreement, there is no guarantee that the naming controversy will not fester in the region, ready to cause trouble in the future" (Nimetz 2020, 205). In every respect, "the Prespa Agreement is a work in progress. Whether it is a success or not, whether Greece and North Macedonia have truly resolved their differences, and whether the Macedonian Question of the 1880s has finally been resolved will be for future generations to determine" (Nimetz 2020, 214).

The Prespa Agreement did not, as anticipated, instantly pave the way for talks on North Macedonia's accession. Following Greece's long veto over the name issue, it is now Bulgaria that says "no" over an issue that is no less controversial and challenging for most people to understand: the historical heritage and the nature of the Macedonian identity and language. After years of "broken promises diplomacy" (Jones and Anghel 2023, 6) that led to the loss of credibility in the enlargement process, France delivered a draft proposal to Macedonian and Bulgarian authorities aimed at removing Bulgaria's veto on Macedonia's EU accession talks. According to the so-called "French proposal", Bulgaria's demands will be incorporated into Macedonia's negotiation framework with the EU.

The Bulgarian position was formalized in two documents: the government's Framework Position of 9 October 2019 and the parliamentary Declaration adopted with the support of all parliamentary parties the following day, 10 October 2019.

The position supports the opening of accession negotiations. Still, it imposes new conditions on the Republic of North Macedonia, claiming they derive from the 2017 Treaty on Friendship, Good Neighbourly Relations, and Cooperation between the Republic of Macedonia

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and the Republic of Bulgaria. The Framework Position includes detailed conditions for accession, separately for the first and second intergovernmental conferences and chapters 35 and 10. The Bulgarian Government's Statement, annexed to the March 2020 Council conclusions, focuses on general conditions, the conditions for the first intergovernmental conference, and Chapter 35 (Kacarska and Jordanova 2020, 5).

To be more precise, here I am referring to the "Statement by the Republic of Bulgaria with regard to the adoption of the Council Conclusions on Enlargement and Stabilisation and Association Process - The Republic of North Macedonia and the Republic of Albania" from 25 March 2020, which clearly defines the Bulgarian stance regarding what is expected from the Macedonian counterpart to continue the enlargement process of the Republic of North Macedonia to the EU.[34]

The recent second French-sponsored agreement with Bulgaria shows that Sofia now exercises disproportionate influence over Macedonian's future. And with the new bilateral dispute, new questions arise: Isn't Europe meant to be a continent that values linguistic and cultural variety and treats all countries with respect and decency? Isn't the question of who you are and what language you speak a question only for the people's concern, or should it be a condition for EU accession?

When we analyze the Bulgarian demands, they demonstrate that they either significantly deviate from the essence of the articles of the 2017 Treaty on Friendship, Good Neighbourly Relations and Cooperation between the Republic of Macedonia and the Republic of Bulgaria or add up new conditions that have no grounding in the treaty. Bulgaria chose to use its newly acquired position as an EU Member State to coerce and impose its interpretation of the treaty as a basis for endorsing its national interests, or rather, its current perception and understanding of those interests (Kacarska and Jordanova 2020, 10).

Such an interpretation and possible application of the principle of good neighborliness is contrary to international law—the UN Charter, which bases friendly relations between nations on the principles of equal rights and peoples' self-determination, and the Declaration on Principles of International Law on Friendly Relations and Cooperation among States in accordance with the United Nations Charter, which establishes the principles of good neighborliness.

Article 3 of TEU states that:

> In its relations with the wider world, the Union shall uphold and promote its values and interests and contribute to protecting its citizens. It shall contribute to peace, security, the sustainable development of the Earth, solidarity, and mutual respect among peoples, as well as to the strict observance and the development of international law, including respect for the principles of the United Nations Charter (Official Journal of the European Union C 326/17).

[3] More on the Council Conclusions on Enlargement and Stabilisation and Association Process the Republic of North Macedonia and the Republic of Albania: https://data.consilium.europa.eu/doc/document/CM-1946-2020-INIT/en/pdf?fbclid=IwAR09dx4Hwjel1ug8vIH2v0qdb3yGXAE8tOQRNiPipKdWMzMOuRXRmBlyRts

[4] More on the Council Conclusions on Enlargement and Stabilisation and Association Process - Albania and the Republic of North Macedonia: https://www.consilium.europa.eu/en/press/press-releases/2020/03/25/council-conclusions-on-enlargement-and-stabilisation-and-association-process/?fbclid=IwAR0JF-YLbH4EgXjOntx1EbuKf-5GdJrlM5NYXBxTJuJqlP0J2cFuoMw62es

Article 2(1)-(5) of the UN Charter and the Universal Declaration on Human Rights, and the International pacts on civil and political, economic, social, and cultural rights guarantee human dignity, self-determination, and the right to sovereign equality of states. The Preamble of the UN Charter places the self-determination principle firmly in the context of international security: the denial of self-determination is described as a threat to peace and security, and the exercise of self-determination as the basis of peaceful international relations:

> By virtue of the principle of equal rights and self-determination of peoples enshrined in the Charter, all peoples have the right freely to determine, without external interference, their political status and to pursue their economic, social, and cultural development, and every State has the duty to respect this right in accordance with the provisions of the Charter (Danspeckgruber and Gardner, Encyclopedia Princetoniensis).

The chosen name of the State is a fundamental, inherent element of the right to self-determination, which is the foundation of the United Nations and the European Union. Identity issues cannot be the subject of negotiations or international agreements. It is the right of every nation to decide their own identity. The adjective before Macedonia's new name now clearly shows the consequences of the Prespa Agreement signed by the Macedonians and Hellenic Republic foreign ministers, and that is denying the Macedonian identity, creating a new nation, a new country with a new history.

According to international law, all states have the same rights and capacity to exercise those rights. The protection of territorial integrity and the political independence of states to freely choose and develop their political, social, economic, and cultural systems are all implied by the sovereign equality of states, as is their judicial equality, the rights inherent in their full sovereignty, a duty to respect other states' identities, the inviolability of their territorial integrity, and their obligation to comply fully and in good faith with their international commitments and to coexist in peace with other states.

A violation of that principle beyond the degree of tolerance would also violate the concept of good neighborliness. This will be explored in the course of this paper.

Not only does the current enlargement framework undermine the rule of law as a fundamental component of the enlargement regulation and further deteriorate the rule of law in the involved candidate countries, but it is also ineffective because it includes the somewhat subjective, imprecise, vague, and unverifiable condition for settlement of bilateral disputes.

Karl Marx said that "history repeats itself, first as a tragedy, second as a farce" (Bhaskar 2023). In the Macedonian case, this is true, and this time with the so-called "French proposal" and the annual reports on the implementation of the agreement and protocols with Bulgaria, which are now part of the Negotiating Framework for the accession to the EU.

WHEN CONDITIONALITY BECOMES BLACKMAIL

Macedonia's path to membership in the European Union is a complex rapprochement process that has evolved into a frustrating obstacle course that resembles an odyssey and continues to be a never-ending agony.

Macedonian society is once again at a critical juncture in its recent history. Eighteen years after acquiring candidate status, there is eventually a concrete possibility for an active start of its negotiations for EU membership. However, for the process to begin, the so-called "French proposal" must be followed to resolve differences with Bulgaria, a Member State that has repeatedly opposed Macedonia's accession to the Union, and the actual negotiations with the EU are supposed to begin only when Macedonia includes the Bulgarian minority in its Constitution. But including Bulgarians in the Macedonian Constitution is not the only requirement; there are other list of demands that Macedonia needs to "swallow",[5] relating to the history, identity, and language of the country before accession negotiations could start, ignoring the fact that such issues have never been part of the criteria for membership of the EU.

As former EU Ambassador to Macedonia, Erwan Fouéré (2023) wrote: "The "French proposal 'has left the Macedonian government with a terrible choice – 'damned if we do, damned if we don't''. All of these 'conditions' will be discussed and explained".

The official state policy of Bulgaria, one of the Member States of the EU, continues to be the outright denial of the existence of the Macedonian minority in Bulgaria, as well as of Macedonian identity, language, culture, and history. According to Sofia, the Macedonian language is Bulgarian by another name. In addition to language, the Bulgarian government has raised the issue of history. It says that there is no Macedonian nation but that Communist Yugoslavia created it as an "artificial" nation.

From 1963 onwards, denying the existence of the Macedonian minority has been an official state policy and doctrine. In February 2007, less than two months after Bulgaria joined the EU, the Supreme Court upheld lower court denials of the party's registration. The European Commission reminded Bulgaria in September 2007 of its commitment to respect the ECtHR judgment and the EU Directive that all EU citizens are protected from racial or ethnic discrimination. Justice Commissioner Franco Frattini announced that the Commission would investigate whether the Directive had been appropriately integrated into Bulgarian legislation (Minority Rights Group 2024).

At the beginning of 2022, 11 pending Macedonian cases were at the European Court of Human Rights (ECtHR). Nine cases were related to the refusal to register Macedonian associations in Bulgaria. Three relate to OMO Ilinden, four concern the Association of Repressed Macedonians, one to the Macedonian Club for Ethnic Tolerance in the Republic of Bulgaria, and one to the civil initiative to recognize the Macedonian national minority. To this day, the party is not recognized, and members have accused authorities of harassing, intimidating, and detaining them.

[5]Here I am using the words of the Dutch expert on the Western Balkans, Hans van den Berg and his tweet on the "French" proposal": "Yes, the French proposal stinks but MK just has to swallow it like all the other neighbouring nationalist narratives/demands": https://twitter.com/bipdirector/status/1623685094748585987?ref_src=twsrc%5Etfw

Other demands imposed by Bulgaria included Macedonia renouncing any claim to the existence of a Macedonian minority in Bulgaria, despite repeated decisions by the European Court of Human Rights in Strasbourg urging Bulgaria to recognize the existence of Macedonian minority groups in Bulgaria, which the country has studiously ignored (The number of ethnic Macedonians living in Bulgaria is a source of contention, with indications of harassment and intimidation, according to Minority Rights Group International) (Minority Rights Group 2024).

Legal professionals from within the country, many European agencies and authorities, and non-governmental groups focusing on monitoring the legal sector agree that Bulgaria is violating the fundamentals of international law. According to all previous rankings, Bulgaria remains at the top of the Council of Europe Member States list regarding the number of unenforced judgments from the European Court of Human Rights (ECtHR). This is additional evidence that official Sofia completely disregards international law, undermining its value and devaluing the EU. Bulgaria persistently refuses to implement 16 judgments of the European Court of Human Rights regarding the registration of Macedonian associations in this country; thus, the number of cases in which the Council of Europe points the finger at Sofia for disregarding the judgments of the European Court of Human Rights rose to a total of 182 (Council of Europe, Department for the Execution of Judgments of the European Court of Human Rights 2023).

When asked on the issues of implementing ECHR judgments, the 14th Secretary General of the Council of Europe, Marija Pejcinović Burić, stated and urged EU Member States to show increased political will to implement judgments from the European Court of Human Rights and to improve their capacity for doing so: "Complying with court rulings is essential to the rule of law" (Council of Europe 2023).

This does not seem to apply to Bulgaria, and Europe continues to be too tolerant and permissive towards this kind of Bulgarian behavior, which directly harms the reputation of the EU itself.

The EU is founded on the recognition of diversity and uniqueness. This principle of respecting diverse identities fosters an environment of mutual understanding and cooperation among Member States. It promotes the idea that every nation's history and national identity should be acknowledged and valued, leading to a stronger sense of unity within the Union. Giving diverse identities respect is a critical foundation of the Union because it allows members to collaborate without pushing their interpretations of the past or national identity on one another. Because the EU is based on consensus, no single state or nation can force its historical narrative on others (Bieber 2020). However, according to EU Negotiating Framework Article 5 of the principles governing the negotiations, the interpretation of history is one of the conditions in the accession negotiations (Conference on Accession to the European Union - North Macedonia, General EU Position).

What started as a bilateral dispute between two neighboring countries and a proposal of one country member of the European Union is now the proposal for the general EU position.[6]

[6] The general EU position is in "the line with the Council conclusions of 25 March 2020, endorsed by the members of the European Council on 26 March 2020, the Council [approved in June 2022] a general Negotiating Framework, taking into account the aforementioned conclusions, as well as other relevant Council conclusions, the renewed consensus on enlargement, and established practice".

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Bilateral issues got mixed up with the Copenhagen criteria. They became a condition on the way to EU membership. Attention instead of reforms, justice, rule of law, functional institutions, and free media went to the topics imposed by Bulgaria.

In this period of the so-called accession talks, there were a lot of controversial statements by a high official from the European Union asking us to amend our Constitution to advance fundamental rights and further reinforce our commitment to the values that mirror the EU's motto: "United in diversity". With this, they made it clear that the condition for the official start of the negotiation process is the inclusion of the Bulgarians (Bulgarian minority) in the Constitution. In international law, this is called direct interference in the internal affairs of another state, and it is a violation of the latter's sovereignty. Such intervention is prohibited by the United Nations Charter (Article 2.7), which states that states should not "intervene in matters to preserve the independence of weaker states against the interventions and pressures of more powerful ones (…) interference or attempted threat against the personality of the State or against its political, economic and cultural elements".

Before the proposal's acceptance in the Macedonian Parliament, European Commission President Ursula Von der Leyen visited Skopje on 14 July 2022 and spoke at a session of the national legislature, where she urged MPs to accept the compromise offered by France.

There is "no doubt that the Macedonian language is your language. We fully respect that, and that is why in the 'French proposal', the naming of the language is 'Macedonian' without any criteria from the EU", said Ursula Von Der Leyen (Samardjiev 2022). What is interesting here is the fact that on 19 July 2022, the Bulgarian government issued a unilateral statement reminding the EU Member States that it does not recognize the existence of a Macedonian language, which it considers merely a regional written form of the Bulgarian language.

This directly violates the fundamental values upon which the European Union is founded. The articles of the Charter of Fundamental Rights of the EU, adopted in 2000 and made legally binding by the Treaty of Lisbon, where it is prohibited discrimination on grounds of language (Article 21) and places an obligation on the Union to respect linguistic diversity (Article 22). In an EU based on the motto "United in diversity", languages are the most direct expression of our culture. Linguistic diversity "is a reality, observance of which is a fundamental value of the EU. Article 3 of the Treaty on European Union (TEU) states that the Union shall respect its rich cultural and linguistic diversity" (Fact Sheets on the European Union: Language Policy).

Von Der Leyen added, "The proposal also respects your national identity. I assure you that bilateral issues, such as the interpretation of history, are not conditions in the accession negotiations" (Samardjiev 2022). Just a little clarification: Article 12 of the Treaty on Good Neighbourly Relations with Bulgaria from 2017, and as of 25 March 2020, this requirement is an official position. It is part of the negotiating framework for the EU accession, which refers to the implementation of the Joint Multidisciplinary Expert Commission on Historical and Educational Issues, which should reach agreement on the key figures and events from "our" common history up to 1944, on specific dates for the joint commemoration of those events and figures on which agreement has been reached; and replacement of information signs and other indications, including those on historical and cultural monuments, in pursuance of the agreed texts. And this time, the condition is history.

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As mentioned before, the general and official EU position is in "line with the Council conclusions of 25 March 2020, endorsed by the members of the European Council". In continuation, we will explain the conclusions reached.

The Negotiating Framework and the Principles governing the negotiations (the accession negotiations) will be based on:

> Article 49 of the Treaty on European Union (TEU) and, accordingly, take into account all relevant European Council conclusions, as well as the Joint Statement of the members of the European Council of March 2020 endorsing the enhanced enlargement methodology, the renewed consensus on enlargement agreed by the December 2006 European Council and the conclusions of the 1993 European Council in Copenhagen, the pace of enlargement must take into account the Union's capacity to absorb new members, which is an important consideration in the general interest of both the Union and North Macedonia. Negotiations are opened on the basis that North Macedonia respects and is committed to promoting the values on which the Union is founded, referred to in Article 2 TEU, namely the respect for human dignity, freedom, democracy, equality, the rule of law, and respect for human rights, including the rights of persons belonging to minorities. Negotiations are also opened on the basis that North Macedonia has achieved a high degree of compliance with the membership criteria, notably the political criteria set by the Copenhagen European Council in 1993 and the Stabilisation and Association Process conditionality established by the Council in 1997. In view of the above, North Macedonia's commitment to good neighbourly relations and closer regional cooperation, including through achieving tangible results and implementing in good faith bilateral agreements, including the Prespa Agreement with Greece and the Treaty on Good Neighbourly Relations with Bulgaria of 2017 as well as the annual reviews and measures for its effective implementation under its article 12 (General EU position).[7]

"Concrete results" of "definitive agreement" require Macedonian historians to admit that their predecessors and heroes leading their political movements before 1944 were Bulgarians working for Bulgarian unity. While "implementation" entails ensuring that once historians "agree" on this Bulgarian version of events, governments ensure that this is the only version of history people learn or hear about.

Bulgaria appears to have viewed it primarily as an exercise for Macedonia to reexamine its historical narrative, but not its own, including the controversial Bulgarian occupation of Macedonia during World War II and Bulgaria's alliance with Nazi Germany and the deportation of the Jewish populations to their deaths in the Nazi extermination camp at Treblinka.

By insisting on its version of the turbulent events in the Western Balkan region during and after the two World Wars, Bulgaria is demanding that Macedonian history textbooks remove any reference to Bulgaria as the "fascist occupier" during the Second World War,

[7] Article 12 of the Treaty on Good Neighbourly Relations with Bulgaria from 2017, refers to the implementation of the Joint Multidisciplinary Expert Commission on Historical and Educational Issues, that should reach agreement on the key figures and events from "our" common history up to 1944, that are now part of the Negotiating Framework.

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Bulgarian negotiators reflect a reluctance by Bulgaria's political establishment to confront its troubled history, particularly its role during the Second World War (Fouéré 2023).

There is little doubt that the necessity to overcome the veto power held by Europe's single Member States and extend majority voting to all areas in which the EU has competence is a critical issue at the heart of the debate on the future of European integration. A proposition that all EU Member States vote yes or agree with can be overruled by just one country using its veto and holding a Member State hostage, regardless of how an entire neighboring nation feels about it, should be abolished.

For many politicians in Macedonia, a country that started its European journey after Slovenia and before Croatia and one of the most pro-European countries, Bulgaria as one of the Member States in the EU, questioning the country's right to build its own identity and history has only fuelled resentment.

The current deadlock situation, sparked by the "Friendship treaty", certainly didn't contribute to maintaining good neighborly relations but sparked hatred and nationalism, and it fuelled a situation with the potential to endanger peace and stability in the region. In addition, the conflict between Sofia and Skopje may create a risky precedent for Member States and candidate countries concerning the enlargement process. This policy might favor Member States over applicant nations in various conflicts. This would imply that these matters, rather than crucial EU norms like the rule of law and the combat of corruption, might be obligations.

Even though the majority of Macedonian citizens are against the official EU "indecent" proposal, which goes against all the founding principles and EU values by which the European Union was built, and not even sure if there will be new vetoes by Bulgaria or even other Member States of the EU, no one can be sure at this moment, because we haven't even started with the accession talks, nor opened one of the required Chapters, thirty-five in particular, that the Macedonian government, with a lot of "European pressure", is pushing for the constitutional changes in the parliament, not once considering the national interests, the interest of the Macedonian nation, or Macedonian sovereignty.

Also, we must consider the other side when we analyze the situation in the Western Balkan countries, which are now focused solely on achieving these accession criteria. We must consider the potential challenges and obstacles that these countries may face in the process. When the priority of one country is only finding a solution to the bilateral dispute, it neglects the upholding of other conditions, fundamental clusters of negotiating chapters for the EU accession: creating a more democratic society based on the rule of law, with functioning democratic institutions, public administration reform, impartiality of the judiciary and fight against corruption.

Evidence of this notion is continuous EU Strategies and reports for the Western Balkans. In the latest one, the European Commission identified state capture as a significant impediment to deep reforms in the Western Balkans, claiming that "the countries show clear elements of state capture, including links with organized crime and corruption at all levels of government and administration, as well as a strong entanglement of public and private interests" (Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the regions 2023 Communication on EU enlargement policy). EU conditionality for the Western Balkan countries has shown that it fails to

confront state capture effectively and contributes to the consolidation of such processes by allowing informal networks to tighten their hold on power.

CONCLUSION

The motto of the European Union is "United in Diversity". It refers to Europe, its values, and its cultural, religious, and humanist heritage. This phrase clearly explains both the notion of unity and diversity. The concepts expressing unity are not new. They recall and appropriately take up the formula of 'ever closer union' included in the Preamble of the Treaty on European Union. The path towards ever closer ties is gradual and proceeds—as heralded right from the Schuman Declaration of 9 May 1950—from concrete achievements that create actual solidarity. However, "unity" is not an end but has a specific goal: forging a "common destiny". The notion of "diversity" lies in the strong call for people to be proud of their national identity and history and respect everyone's rights.

Article 49 of the TEU states that any European state can join the EU if it follows the Copenhagen criteria, respects fundamental freedoms and human and minority rights, and upholds the rule of law. These criteria are based on Articles 49 and 6(1) of the TEU. The decision to approve a framework for a third country's candidacy to join the Union is based on material criteria rather than the individual will of EU Member States.

The paper argues that the enlargement process for the Western Balkan countries has frequently been politicized by EU Member States, which have shown a lack of neutrality in the two cases presented in the paper. The treatment of the Republic of Macedonia is the most flagrant example of the accession process turning into politics. According to the previous enlargement procedures, good neighborliness has been implemented outside of its legal framework in situations of power imbalance, benefiting Member State politics rather than the interests of justice.

The supremacy of bilaterally imposed conditions, which have nothing to do with the acquis or international standards, will threaten the principle of predictability and positive and negative conditionality. The Bulgarian demands now incorporated in the negotiating framework are contrary to the methodology declared by the Union itself, which is that all countries must abstain from misusing outstanding issues in the EU accession process. Compliance with membership responsibilities and set standards is a must, not a choice, for EU candidate countries and any other member of these bodies, including all EU Member States.

The paper argues that although the EU is theoretically a union of values, reality dictates otherwise. According to the treaties, current members must adhere to those values, and prospective members are to follow the same trend if they wish to accede to the EU. In this paper, we demonstrated that certain Member States fail to abide by the said values and that the other members of the European Union are ignoring those violations or lack the legal capacity to act effectively against non-compliance with the founding values set out in Article 2 of the TEU.

It's reasonable to argue that Macedonia has come to symbolize the least favorable aspect of the EU's enlargement strategy. During the past 20 years, politics rather than policy have largely shaped Macedonia's EU integration process.

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Respect for legal norms and standards and the return of international law to the pedestal of societal values must be imperative for humanity today. Otherwise, the only norm by which the world will be governed will be force, which introduces chaos and anarchy.

In conclusion, the EU must return to its fundamental tenets of EU values and the philosophical and political assumptions that guide them. In the case of the Western Balkan countries, the European Union should return to the Treaty of the European Union, particularly paragraph 6 of the Preamble, where it is emphasized that the EU will respect all countries' traditions, history, cultural identity, and national identity. Also, the Charter of Fundamental Rights of the EU guarantees national identity and dignity for every person and every nation and state. The EU should also refer to the right to self-determination derived from international law, the Charter of the United Nations, and the Covenant on Civil and Political Rights.

Nevertheless, it is essential that the EU, especially in times of uncertainty and in the current geopolitical context that the EU and the whole world are facing, rethinks and revitalizes its enlargement policies. The negotiation framework should consistently prioritize merit-based criteria, particularly those under the Cluster "Fundamentals", while avoiding conflicts arising from bilateral issues that could imperil them.

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