

The Balkan Turtle Race

A warning for Ukraine



The face of a hundred-years old turtle

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Executive summary

Zeno, an Athenian philosopher, once imagined a race between Achilles and a slow-moving turtle. The turtle was given a head start, which decided the race. However slowly the turtle moved, Zeno argued, Achilles would never be able to catch up. This is, alas, how the current EU accession process for the Western Balkans works.

Albania has been a member of the Council of Europe since 1995, a member of NATO since 2009, a candidate for EU membership since 2014, and stuck on the accession path since then. According to the European Commission's own assessments, Albania is better prepared today when it comes to issues such as the rule of law or the independence of the judiciary than Serbia. In a merit-based process, the relevant chapters (23 "Judiciary and fundamental rights" and 24 "Justice, freedom and security") should be opened immediately for Albania, as they were for Serbia many years ago. In the world of Zeno, however, this might still take years. Why?

Montenegro has been a member of the Council of Europe since 2007, following its independence in May 2006. It is in NATO since 2017 and has been negotiating accession with the EU since June 2012. Over a decade later, the EU is still not prepared to say that it might be ready for Montenegro to become the 28th member state by some fixed date (January 2026? January 2027?) if it met all criteria. The EU did so in previous enlargements. Why not now?

North Macedonia has been a member of the Council of Europe since 1995, a member of NATO since March 2020 and an official candidate for EU accession since 2005. North Macedonia has been stuck due to a series of bilateral vetos by different member states: Greece, France, now Bulgaria. The EU also expects that it will take North Macedonia many more years to open all negotiating chapters. Few point out how absurd this is. According to the European Commission's own assessments of preparedness, North Macedonia is today already *as prepared or better prepared* in 23 of 33 chapters than Montenegro which has already opened *all* chapters. Why this difference? Zeno would have an answer.

The EU considers some issues, such as the rule of law, of "fundamental" importance in the accession negotiations. This makes sense. The Commission found that Albania, North Macedonia and frontrunner Montenegro are all *equally* prepared, and all ahead of Serbia and Turkey on these very issues. So what difference does the focus on fundamentals really make during accession negotiations? And how can such a process inspire difficult reforms?

The answer is: it doesn't. In recent years neither Serbia nor Bosnia nor North Macedonia have made progress. Transformation is a chimera. Accession has turned into farce. Achilles never catches up and the turtle only inches forward.

This is dangerous. It is also easy to remedy, if there is the will. One way to reenergize the accession process immediately is for the EU to show that it is still possible for countries that meet membership criteria, as objectively assessed by the European Commission, to become members. The Council could declare in 2022 that it is getting ready for Montenegro, the most advanced candidate with the longest positive track record, to become a member by early 2026, *if it meets the criteria*.

At the same time the European Union could send a strong signal to the whole region: any European democracy that meets the criteria, including respect for human rights and the rule of law, *as assessed by the European Commission in its annual reports*, should gain access to the European Single Market and to the four freedoms – the free movement of goods, people, services and capital. Its citizens and businesses would thus enjoy many of the same rights as those from EU members or Norway and Iceland enjoy today. With this step, the assessments of progress – merit" – would immediately matter once again.

„Let us recall, now, that paradox.

Achilles runs ten times faster than the tortoise and gives the animal a headstart of ten meters. Achilles runs those ten metres, the tortoise one; Achilles runs that meter, the tortoise runs a decimeter; Achilles runs that decimeter, the tortoise runs a centimetre; Achilles runs that centimeter, the tortoise, a millimetre; fleet-footed Achilles, the millimetre, the tortoise a tenth of a milimeter, and so on to infinity, without the tortoise being overtaken ...”

Jorge Luis Borges¹

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¹ Jorge Luis Borges, Avatars of the Tortoise.

The paradox of motion

Zeno was an Athenian philosopher born around 490 BC who liked to question common sense. He gained fame through his paradoxes of motion.

Once, Zeno imagined a race between Achilles and a slow-moving turtle.² The turtle was given a head start. According to Zeno, this decided the race. However slow the turtle would continue to move, Zeno argued, *Achilles would never be able to catch up*. Achilles must first reach the point where the turtle started. By this time, it will have moved on. By the time Achilles reaches that other point, it will have moved on again. The turtle remains the frontrunner, *ad infinitum*. It is impossible to catch up on a distance subdivided into an infinite number of stretches *if one assumes that Achilles needs to stop at each of these stations*.

This is not, of course, how motion happens. But this is how the current EU accession process for the Western Balkans works today.

Take Albania. A member of the Council of Europe since 1995, a member of NATO since 2009, a candidate for EU membership since 2014, Albania has been stuck on the accession road because of two things which have nothing to do with its performance: a bilateral veto of Bulgaria that stops North Macedonia advancing; and a decision of many in the EU that the progress of Albania and North Macedonia must be linked. In the Zeno race to accession it is thus far behind Serbia, member of the Council of Europe since 2003 and negotiating since 2014. According to the European Commission's own in-depth assessments, Albania is better prepared *today* when it comes to fundamental issues of the rule of law or the independence of the judiciary than Serbia. So logically, the relevant chapters (23 "Judiciary and fundamental rights" and 24 "Justice, freedom and security") should be opened immediately, as they have been for Serbia for many years. But no, in the absurd world of Zenoan motion, it might take many more years for this to happen.

Or take Montenegro. A member of the Council of Europe since 2007, shortly after it became independent in May 2006, and a member of NATO since 2017, it has been negotiating accession with the EU since June 2012. One decade later, nobody in the EU is prepared to say that it might be time soon to prepare for it to welcome the 28th member state. Why not? At its Gothenburg summit in 2001 the EU stated that Slovakia, Lithuania and Latvia might – given continuing reforms – be full members by 2004.³ All it would take now would be for the Council to repeat its language from 2001:

"Provided that Montenegro continues reforms and meets the accession criteria, it should be possible to complete negotiations by mid-2024. The objective is that Montenegro will become a full member on 1 January 2026."⁴

Or take North Macedonia. A member of the Council of Europe since 1995, a member of NATO since March 2020, an official candidate for EU accession since 2005, North Macedonia has been stuck at this stage due to a series of bilateral vetos.

² Why "turtle" and not "tortoise"? The American Society of Ichthyologists and Herpetologists uses "turtle" to describe all species of the order Testudines, both land-dwelling and sea-dwelling. "Tortoise" is the more specific term for the slow-moving land-dwelling kind only.

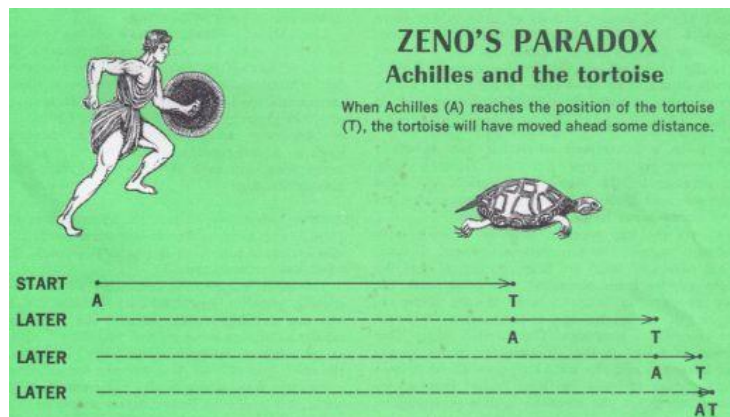
³ European Commission, [Presidency conclusions Gothenburg European Council 15 and 16 June 2001](#), 18 June 2001.

⁴ *Ibid.*

These days, the EU is discussing its “negotiating framework” with North Macedonia, in which it outlines a series of additional hurdles that the country will need to overcome *before* the opening of any negotiating chapters, including deeply controversial constitutional changes. It is likely that it will therefore take North Macedonia many more years to open even a few chapters. Which is absurd or, to put it philosophically, Zenoan: according to the European Commission’s own assessments of preparedness for EU membership North Macedonia is today *as prepared or better prepared* as Montenegro in 23 of 33 chapters. In a world of fair conditionality, these chapters should all be opened at once at the very beginning of accession talks. In the world of the Balkan turtle race, this might take years.

Sometimes EU members refer to weaknesses in the rule of law or to the lack of respect for fundamental rights to justify all of this. This is not convincing. When it comes to the issues which the EU considers “fundamental”, Albania, North Macedonia and frontrunner Montenegro are not only all equally prepared, and all three are also ahead of Serbia and far ahead of Turkey, both of which *were* allowed to start accession negotiations a long time ago. Also, one objective way to assess how Balkan candidate countries are doing compared to EU members on human rights and rule of law issues is to examine their track records in the Council of Europe. When it comes to the implementation of judgements of the European Court of Human Rights, the Balkan candidates are already doing better than many EU member states. This is an important track record, but not in the world of the turtle race.

In the world of Zeno, performance and merit are irrelevant, perception and prejudice rules, and those who are behind will never catch up.



The old days – how countries used to join the EU

Croatia was the last country to join the EU. The process was as follows:

- Croatia applied for membership in 2003.
- It became an official candidate one year later (2004). At that time Croatia had not yet met some of the key conditions laid down by the European Union to open talks (which included full cooperation with the International Tribunal for the Former Yugoslavia).
- It started accession talks another year later (October 2005).

- During the process that followed, three dozen policy areas – or “chapters” – were opened and closed.
- It concluded accession negotiations after six years (2011).
- Croatia joined the EU one decade after it had applied (2013).

The period between Croatia’s membership application and the opening of talks lasted 32 months. The negotiations then took 68 months.

Austria, Finland and Sweden opened accession negotiations in February 1993. It took them 13 months to complete them. However, when these talks opened, all three countries had already concluded talks to join the European Economic Area and the EU single market, and had adopted most EU laws and rules.

Slovakia, Lithuania, Latvia and Malta took 34 months to complete their negotiations between February 2000 and December 2002.

The Czech Republic, Cyprus, Estonia, Hungary, Poland and Slovenia negotiated for 56 months.

Bulgaria and Romania negotiated for 58 months.

The Croatian negotiations were the longest of any country that ever joined the EU. However, all three countries currently negotiating with the EU have already taken significantly longer, with no end in sight.

Length of EU accession talks (till end of June 2022)

Country	Length	Status
Latvia, Lithuania, Slovakia	34 months	Completed
Estonia, Poland, Slovenia	56 months	Completed
Bulgaria, Romania	58 months	Completed
Croatia	68 months	Completed
Serbia	101 months	closed 2 chapters
Montenegro	120 months	closed 3 chapters
Turkey	200 months	closed 1 chapter

Accession talks as farce

“A farce is a broad satire or comedy, though now it’s used to describe something that is supposed to be serious but has turned ridiculous.”

Accession negotiations are taking longer than ever before. However, it is not the length of the negotiations that has turned the Western Balkan accession process into a farce. It is the gap between what the EU says and how the process actually works.

This is how the European Commission recently described the principles governing the accession negotiations and the negotiations procedure:

“The objective of the negotiations is that Albania and North Macedonia **adopt the EU *acquis* in its entirety** and ensure its full implementation and enforcement upon accession.

The draft negotiating frameworks build on the experience of past enlargements ... and duly reflect **the countries’ own merits** and specific situations.

Credibility is reinforced through an even **stronger focus on fundamental reforms**, starting with the rule of law, the functioning of democratic institutions and public administration as well as the economy of the two countries.”⁵






The EU claims three things about the accession process.

1. It is focused on merit: Accession countries advance in accordance with the reforms they carry out. This makes the process predictable.
2. It is based on “fundamentals first”, such as the rule of law and democratic standards. By focusing on these early during the accession process, progress on these issues has become more likely.
3. A credible, predictable and merit-based process increases reform motivation. It works.

Alas, the reality is different. Progress has *not* been related to merit for a long time. The “fundamentals first” approach has not worked. And the motivation of candidate countries to carry out reforms has declined, the longer the process has been ongoing.

At the heart of any successful accession process are reforms that prepare candidate countries to become members. There are specific criteria: adopting EU laws and building the required institutions when it comes to food safety, environmental protection or industrial standards. There are general criteria: having an economy “capable of resisting competitive pressures within the European Union”; and political criteria, such as the rule of law or minority rights. Meeting these criteria enables the EU safely to remove barriers to trade and services. It guarantees that EU laws are applied across all member states. It allows courts across the EU to accept judgements made by courts in all member states, creating a unified legal space.

The accession process is structured around subject areas, so-called “chapters.”⁶ To assess preparedness in so many different fields is a big practical challenge for the European Commission. This is an area where the Commission invests a lot of resources. There are regular, annual assessments of preparedness in accession countries, undertaken by the staff of the European Commission. The Commission then communicates where each country stands in relation to the goal of being well prepared for membership. These evaluations are the essential basis for any fair and merit-based accession process. To be transparent and credible and track progress objectively it uses five categories:

Well advanced	 (1)
Good level of preparation	 (2)
Moderately prepared	 (3)
Some level of preparation	 (4)
Early stage	 (5)

⁵ European Commission, [“Commission drafts negotiating framework for Albania and North Macedonia”](#), 1 July 2020.

⁶ See European Commission, [“Enhancing the accession process – A credible EU perspective for the Western Balkans”](#), 5 February 2020.

So what do recent evaluations show? We start with Serbia, the biggest country in the Western Balkans, which has been in accession talks since January 2014. According to the Commission assessments of preparedness for EU membership, Serbia has made little progress since 2015, and *no* progress since 2019. By 2021, Serbia had reached a “good level of preparation” (2) in six chapters, two of which the Council declared provisionally closed.

European Commission assessments of Serbia⁷

Chapter	2015	2019	2020	2021
1	Free movement of goods	3	3	3
2	Freedom of movement for workers	3	3	3
3	Establishment and service provision	3	3	3
4	Free movement of capital	3	3	3
5	Public procurement	3	3	3
6	Company law	2	2	2
7	Intellectual property law	2	2	2
8	Competition policy	3	3.5	3
9	Financial services	3	3	3
10	Information society and media	3	3	3
11	Agriculture and rural development	5	4	4
12	Food safety, veterinary, phytosanitary	3	3	3
13	Fisheries	3	3	3
14	Transport policy	3	2	2
15	Energy	3	3	3
16	Taxation	3	3	3
17	Economic and monetary policy	3	3	3
18	Statistics	3	3	3
19	Social Policy and employment	3	3	3
20	Enterprise and industrial policy	3	3	3
21	Trans-European networks	3	3	3
22	Regional policy, structural instruments	3	3	3
23	Judiciary and fundamental rights	4	4	4
24	Justice, freedom and security	4	4	4
25	Science and research	2	2	2
26	Education and culture	2	2	2
27	Environment and climate change	5	4	4
28	Consumer and health protection	3	3	3
29	Customs union	3	2	2
30	External relations	3	3	3
31	Foreign, security and defence policy	3	3	3
32	Financial control	3	3	3
33	Financial and budgetary provisions	5	4	4
Total	103	98.5	98.0	98.0

Let us look at North Macedonia, the eternal candidate (since 2005).

⁷ European Commission, “[Serbia 2015 Report](#)”, 10 November 2015; “[Serbia 2019 Report](#)”, 29 May 2019; “[2021 Enlargement package: European Commission assesses and sets out reform priorities for the Western Balkans and Turkey](#)”, 19 October 2021.

European Commission assessments of North Macedonia⁸

Chapter	2015	2019	2020	2021
1	Free movement of goods	3	3	3
2	Freedom of movement for workers	5	5	5
3	Establishment and service provision	3	3	3
4	Free movement of capital	3	3	3
5	Public procurement	3	3	3
6	Company law	2	2	2
7	Intellectual property law	3	3	3
8	Competition policy	3	3	3
9	Financial services	3	3	3
10	Information society and media	2	3	3
11	Agriculture and rural development	3	3	3
12	Food safety, veterinary, phytosanitary	4	2	2
13	Fisheries	3	3	3
14	Transport policy	3	3	3
15	Energy	3	3	3
16	Taxation	3	3	3
17	Economic and monetary policy	3	3	3
18	Statistics	3	3	3
19	Social Policy and employment	3	3	3
20	Enterprise and industrial policy	3	3	3
21	Trans-European networks	2	2	2
22	Regional policy, structural instruments	3	3	3
23	Judiciary and fundamental rights	4	3.5	3.5
24	Justice, freedom and security	3	3	3
25	Science and research	2	2	2
26	Education and culture	3	3	3
27	Environment and climate change	3	4	4
28	Consumer and health protection	3	3	3
29	Customs union	2	2	2
30	External relations	3	3	3
31	Foreign, security and defence policy	3	3	3
32	Financial control	3	3	3
33	Financial and budgetary provisions	5	5	5
Total		100	99.5	99.5

Strikingly, since 2015 there has been *no* progress made by North Macedonia in any of the chapters, except a small step forward under “judiciary and fundamental rights” (Chapter 23). North Macedonia has reached a “good level of preparation” in five chapters.

The Commission did not carry out any similarly thorough evaluation in Bosnia and Herzegovina before 2019. Its findings since then show the same dynamic as in Serbia and North Macedonia: no movement. The EU is currently failing to incentivize reforms in Bosnia.⁹

⁸ European Commission, [“The Former Yugoslav Republic of Macedonia 2015 Report”](#), 10 November 2015; [“North Macedonia 2019 Report”](#), 29 May 2019; [“North Macedonia 2020 Report”](#), 6 October 2020; [“2021 Enlargement package: European Commission assesses and sets out reform priorities for the Western Balkans and Turkey”](#), 19 October 2021.

⁹ This used to be different. Read ESI, [Escaping the first circle of hell or the secret behind Bosnian reforms](#), 10 March 2016. In 2006 Bosnia was doing as well as Montenegro.

European Commission assessments of Bosnia since 2019¹⁰

Chapters	2019	2020	2021	
1	Free movement of goods	5	5	5
2	Freedom of movement for workers	4	4	4
3	Establishment and service provision	5	5	5
4	Free movement of capital	3	3	3
5	Public procurement	4	4	4
6	Company law	4	4	4
7	Intellectual property law	3	3	3
8	Competition policy	4	4	4
9	Financial services	3.5	3.5	3.5
10	Information society and media	5	5	5
11	Agriculture and rural development	5	5	5
12	Food safety, veterinary, phytosanitary	4	4	4
13	Fisheries	5	5	5
14	Transport policy	4	4	4
15	Energy	5	5	5
16	Taxation	4	4	4
17	Economic and monetary policy	5	5	5
18	Statistics	5	5	5
19	Social Policy and employment	4	4	4
20	Enterprise and industrial policy	5	5	5
21	Trans-European networks	4	4	4
22	Regional policy, structural instruments	5	5	5
23	Judiciary and fundamental rights	4	4	4
24	Justice, freedom and security	4	4	4
25	Science and research	4	4	4
26	Education and culture	5	5	5
27	Environment and climate change	4.5	4.5	4.5
28	Consumer and health protection	5	5	5
29	Customs union	4	4	4
30	External relations	4	4	4
31	Foreign, security and defence policy	4	4	4
32	Financial control	5	5	5
33	Financial and budgetary provisions	5	5	5
	Total	144	144	144

Montenegro has been in accession talks since 2012, the longest of all Western Balkan countries. There *has* been progress, though it has been slow in recent years. By 2021 Montenegro reached a good level of preparation in seven chapters, three of which the Council declared provisionally closed.

¹⁰ European Commission, "[Analytical Report Bosnia and Herzegovina](#)", 29 May 2019; "[2020 Enlargement Package and An Economic and Investment Plan for the Western Balkans](#)", 6 October 2020; "[2021 Enlargement package: European Commission assesses and sets out reform priorities for the Western Balkans and Turkey](#)", 19 October 2021.

Slow progress – European Commission assessments of Montenegro¹¹

Chapter	2015	2019	2020	2021	
1	Free movement of goods	3	3	3	3
2	Freedom of movement for workers	5	4	4	4
3	Establishment and service provision	3	3	3	3
4	Free movement of capital	3	3	3	3
5	Public procurement	3	3	3	3
6	Company law	3	2	2	2
7	Intellectual property law	1	2	2	2
8	Competition policy	3	3	3	3
9	Financial services	3	3	3	3
10	Information society and media	3	3	3	3
11	Agriculture and rural development	4	3	3	3
12	Food safety, veterinary, phytosanitary	4	3	3	3
13	Fisheries	5	4.5	4	4
14	Transport policy	3	2.5	2.5	2.5
15	Energy	3	2	2	2
16	Taxation	3	3	3	3
17	Economic and monetary policy	3	3	3	3
18	Statistics	4	3	3	3
19	Social Policy and employment	4	4	4	4
20	Enterprise and industrial policy	3	3	2.5	2.5
21	Trans-European networks	3	3	2.5	2.5
22	Regional policy, structural instruments	3	3	3	3
23	Judiciary and fundamental rights	3	3	3	3
24	Justice, freedom and security	3	3	3	3
25	Science and research	2	2	2	2
26	Education and culture	2	2	2	2
27	Environment and climate change	5	4	4	4
28	Consumer and health protection	3	3	3	3
29	Customs union	3	3	3	3
30	External relations	2	2	2	2
31	Foreign, security and defence policy	2	2	2	2
32	Financial control	3	3	3	3
33	Financial and budgetary provisions	5	5	5	4
	Total	105	98	96.5	95.5

Finally, let us look at Albania. Albania has seen as much progress as Montenegro in recent years. It has reached a good level of preparation in two chapters. However, Albania has not yet been allowed to open accession talks.

¹¹ European Commission, “[Montenegro 2015 Report](#)”, 10 November 2015; “[Montenegro 2019 Report](#)”, 29 May 2019; “[2020 Enlargement Package and An Economic and Investment Plan for the Western Balkans](#)”, 6 October 2020; “[2021 Enlargement package: European Commission assesses and sets out reform priorities for the Western Balkans and Turkey](#)”, 19 October 2021.

European Commission assessments of Albania¹²

Chapter	2015	2019	2020	2021
1	Free movement of goods	3	3.5	3.5
2	Freedom of movement for workers	5	4	4
3	Establishment and service provision	3	3	3
4	Free movement of capital	3	3	3
5	Public procurement	4	4	3
6	Company law	3	3	3
7	Intellectual property law	4	3.5	3.5
8	Competition policy	3	3.5	3.5
9	Financial services	3	3	3
10	Information society and media	3	3	3
11	Agriculture and rural development	5	4	4
12	Food safety, veterinary, phytosanitary	4	4	4
13	Fisheries	5	5	4
14	Transport policy	4	4	4
15	Energy	3	3	3
16	Taxation	3	3	3
17	Economic and monetary policy	3	3	3
18	Statistics	4	3	3
19	Social Policy and employment	4	4	4
20	Enterprise and industrial policy	3	3	3
21	Trans-European networks	4	4	4
22	Regional policy, structural instruments	3	3	3
23	Judiciary and fundamental rights	4	4	3.5
24	Justice, freedom and security	5	3.5	3.5
25	Science and research	5	5	4
26	Education and culture	3	3	3
27	Environment and climate change	5	4	4
28	Consumer and health protection	5	5	5
29	Customs union	3	3	3
30	External relations	3	3	3
31	Foreign, security and defence policy	2	2	2
32	Financial control	3	3	3
33	Financial and budgetary provisions	4	4	4
Total	121	116	114.5	111.5

What is striking about these five in-depth evaluations is that they show *no* link between the formal status of a country and the state of preparedness.

Montenegro has been negotiating since 2012. Serbia since 2014. North Macedonia and Albania, both candidates, have not started negotiations at all. Bosnia and Herzegovina is not even a candidate. However, all this seems irrelevant to the reform process. Albania made progress outside of the process. Montenegro made progress inside the process. Serbia (negotiating), North Macedonia (a candidate) and Bosnia (not a candidate) did not. Opening and then continuing accession talks did *not* make reforms more likely. North Macedonia,

¹² European Commission, "[Albania 2015 Report](#)", 10 November 2015; "[Albania 2019 Report](#)", 29 May 2019; "[2020 Enlargement Package and An Economic and Investment Plan for the Western Balkans](#)", 6 October 2020; "[2021 Enlargement package: European Commission assesses and sets out reform priorities for the Western Balkans and Turkey](#)", 19 October 2021.

which has been waiting to open accession talks since 2009, is as prepared today to join the EU as Serbia, and almost as prepared as Montenegro. Albania is not far behind.

This raises a fundamental question: what has been the *point* of eight years of accession talks with Serbia and ten years with Montenegro if a country that never opened negotiations is as prepared for accession as they are?

October 2021 – European Commission average assessments of 33 chapters¹³

	Montenegro	Serbia	North Macedonia	Albania	Bosnia
Average	2.9	3.0	3.0	3.4	4.4

Opening chapters as bizarre ritual

“The EU accession process continues to be based on established criteria, fair and rigorous conditionality, and the principle of own merits.” (European Commission)¹⁴

After accession negotiations start, the EU requires all negotiating chapters to be opened. In the past this was done either one by one or in groups. More recently it was decided to do this in clusters. This makes no real difference: it was always possible to open more than one at a time. Montenegro already opened all of its chapters. Serbia opened two thirds, Turkey about half. Only countries which opened accession talks can open chapters.

Table: Number of chapters opened¹⁵

	Country	Chapters
1	Montenegro	33
2	Serbia	21
3	Turkey	16
4	Albania, Bosnia, Kosovo, North Macedonia	0

But what does opening chapters mean practically? The answer may surprise casual observers: it means nothing. It is a political ritual with no content.

The opening of chapters takes place at a meeting of representatives of the EU member states and the accession country called *intergovernmental conference*. Since Serbia opened accession talks in January 2014 it has had 13 meetings of the intergovernmental conference. The last one took place on 14 December 2021 in Brussels.

The Serbian delegation was led by prime minister Ana Brnabic. EU member states were represented by a state secretary from Slovenia.¹⁶ The meeting produced a declaration that

¹³ European Commission, [“2021 Enlargement package: European Commission assesses and sets out reform priorities for the Western Balkans and Turkey”](#), 19 October 2021.

¹⁴ European Commission, [“Reforms in the Western Balkans and Turkey: annual assessments and recommendations”](#), 29 May 2019.

¹⁵ According to the European Commission but Serbia opened 21 chapter but government of Serbia says 22 since it counts the chapter on Kosovo (“Other issues”) as opened.

¹⁶ Council of the EU, [“Thirteenth meeting of the Accession Conference with Serbia at Ministerial level”](#), 14 December 2021.

Serbia and the EU “opened four negotiating chapters.”¹⁷ These four chapters covered important subjects:

- Chapter 14 – Transport policy
- Chapter 15 – Energy
- Chapter 21 – Trans-European networks
- Chapter 27 – Environment and climate change

Oliver Varhelyi, the EU commissioner in charge for enlargement, described this meeting as “an *important* step forward on Serbia’s path to joining the EU.”¹⁸ Ursula von der Leyen, the European Commission’s president “warmly welcomed ... an *important* step.”¹⁹ During a public governmental session in Belgrade Ana Brnabic stressed that she brought “excellent news from Brussels ... Serbia is the only country in the region that at this moment has received a positive signal from the EU and we should all be proud about this.”²⁰

All of this suggested that opening chapters was somehow a *reward* for hard work carried out by the Serbian government, perhaps even a signal of encouragement to the rest of the region. It was nothing of the sort.

In 2015, Serbia was *moderately prepared* in three of these four chapters and *at an early stage* in one. The Commission’s evaluation then showed that between 2015 and 2019, Serbia made progress in the level of preparedness in two of these four chapters. However, none of these chapters were opened in 2019.

Serbia made *no* progress in the level of preparedness in these four chapters between 2019 and 2021. And yet, this time they were opened.

2015, 2019 and 2021 assessments of Serbia²¹

Chapter	2015	2019	2021
14 Transport policy	3	2	2
15 Energy	3	3	3
21 Trans-European networks	3	3	3
27 Environment and climate change	5	4	4
Total	14	12	12

On 14 December 2021, Commission president Ursula von der Leyen tweeted that opening four new chapters with Serbia “will speed up negotiations.”²² Alas, nowhere in recent years is there any evidence for this. ESI has shown many years ago that in the case of Turkey progress

¹⁷ Formally, there are 35 chapters but two are special: chapter 34 on “institutions” that “covers the institutional and procedural rules of the EU.” And chapter 35 on “other issues”, which “includes miscellaneous issues which come up during the negotiations but which are not covered under any other negotiating chapter.” These are not opened. In the case of Serbia chapter 35 includes among other issues the normalization of relations with Kosovo. The government in Belgrade sometimes considers this as opened. Prime minister Brnabic, recently said Serbia “has 22 out of 35 chapters opened.” See Tanjug, “[Palata Srbije](#)”, 14 December 2021.

¹⁸ Oliver Varhelyi’s Twitter profile, “[Tweet from 14 December 2021](#)”, 14 December 2021.

¹⁹ Ursula von der Leyen’s Twitter profile, “[Tweet from 14 December 2021](#)”, 14 December 2021.

²⁰ Tanjug, “[Palata Srbije](#)”, 14 December 2021.

²¹ European Commission, “[Serbia 2015 Report](#)”, 2015; “[Serbia 2019 Report](#)”, 2019; “[2021 Enlargement package: European Commission assesses and sets out reform priorities for the Western Balkans and Turkey](#)”, 19 October 2021.

²² Ursula von der Leyen’s Twitter profile, “[Tweet from 14 December 2021](#)”, 14 December 2021.

was no more likely in opened than in closed chapters.²³ This has remained the case. Look at all 15 chapters Serbia had opened by early 2019. *None* of these saw recent progress.

2019 to 2021 – Serbia: alignment in 15 open chapters²⁴

Chapter	Opened	2019	2021	
32	Financial control	Dec 2015	3	3
23	Judiciary and fundamental rights	July 2016	4	4
24	Justice, freedom and security	July 2016	4	4
5	Public procurement	Dec 2016	3	3
25	Science and research	Dec 2016	2	2
20	Enterprise and industrial policy	Feb 2017	3	3
26	Education and culture	Feb 2017	2	2
7	Intellectual property law	June 2017	2	2
29	Customs union	June 2017	2	2
6	Company law	Dec 2017	2	2
30	External relations	Dec 2017	3	3
13	Fisheries	June 2018	3	3
33	Financial and budgetary provisions	June 2018	4	4
17	Economic and monetary policy	Dec 2018	3	3
18	Statistics	Dec 2018	3	3
	Total		43	43

The only – modest – progress since 2019 took place in a chapter that had *not* been opened yet (chapter 8 – Competition policy).

2019 to 2021 – Serbia: alignment in 18 not yet opened chapters²⁵

Chapter	2019	2021	
1	Free movement of goods	3	3
2	Freedom of movement for workers	3	3
3	Establishment and service provision	3	3
4	Free movement of capital	3	3
8	Competition policy	3.5	3
9	Financial services	3	3
10	Information society and media	3	3
11	Agriculture and rural development	4	4
12	Food safety, veterinary, phytosanitary	3	3
14	Transport policy	2	2
15	Energy	3	3
16	Taxation	3	3
19	Social Policy and employment	3	3
21	Trans-European networks	3	3
22	Regional policy, structural instruments	3	3
27	Environment and climate change	4	4
28	Consumer and health protection	3	3
31	Foreign, security and defence policy	3	3
	Total	55.5	55

²³ ESI, [The Chapter Illusion. For honesty and clarity in EU-Turkey relations](#), 15 May 2017.

²⁴ European Commission, “[Serbia 2019 Report](#)”; “[2021 Enlargement package: European Commission assesses and sets out reform priorities for the Western Balkans and Turkey](#)”.

²⁵ *Ibid.*

Commission President Von der Leyen described the opening of four chapters with Serbia at the Intergovernmental Conference in late 2021 as “a signal of EU commitment to the Western Balkans.”²⁶ But what did it signal? North Macedonia, which is not negotiating, was as *close as Serbia in December 2021 to meeting EU standards* in this cluster of four chapters, but remained stuck.

*2021 – European Commission assessment of Serbia and North Macedonia*²⁷

Chapter		North Macedonia	Serbia
14	Transport policy	3	2
15	Energy	3	3
21	Trans-European networks	2	3
27	Environment and climate change	4	4
	Total	12	12

Nothing really changes in the negotiations after a chapter is opened. There is not more money. There is not more attention. There are no additional activities. Opening chapters is no reward. Opening chapters is no incentive or signal for others. Opening chapters does not make future progress more likely.

Sometimes leaders in the Balkans play along with this theatre, and pretend that opening chapters means something. Often, they no longer do. In October 2018, while talking to an international audience at the Belgrade Security Forum, Aleksandar Vucic, president of Serbia, said:

“Do you really think when we speak about Serbia that if you are going to say ‘Now we are going to open two chapters, or three chapters, even my ministers in the room are laughing, but it is not fun for me, do you really think that someone cares about it? Do you really think it is going to be news for people here? No, it is not. And it is because nobody knows what will happen after that.’”²⁸

Fundamentals first?

For many years the EU has stressed the particular importance of some issues that it began to refer to as “fundamentals”: the functioning of the rule of law, respect for human rights, economic governance and resolving bilateral disputes between enlargement countries and with existing member states.²⁹ The logic of focusing on these is compelling: having new laws without the courts to enforce them is no progress. But did it work?

In 2013, Stefan Fule, then EU commissioner for enlargement, presented what he called a “fundamentals first” approach:

“... we confirm that *the rule of law remains at the heart of the accession process*. The new approach to the rule of law that we launched last year needs also a cultural change. It requires that, early in the process, countries ensure that they have the administrative

²⁶ Ursula von der Leyen’s Twitter profile, [“Tweet from 14 December 2021”](#), 14 December 2021.

²⁷ European Commission, [“2021 Enlargement package: European Commission assesses and sets out reform priorities for the Western Balkans and Turkey”](#), 19 October 2021.

²⁸ Belgrade Security Forum, [“Grand Opening and Panel Western Balkans and the EU”](#), 18 October 2018.

²⁹ European Commission, [“Speech – Enlargement Package 2013”](#), 16 October 2013.

capacity and this has to be backed by the political will. It gives countries maximum time to develop *solid track records of implementation*, delivering reforms that are deeply rooted and irreversible; and it ensures that *benefits will be felt by the citizens* during the process and not just at the end.”³⁰

At the heart of the “fundamentals first” agenda are two chapters dealing with rule of law issues: Judiciary and fundamental rights (chapter 23) and Justice, freedom and security (chapter 24). Montenegro and Serbia were told that they had to open chapters 23 and 24 at the very beginning of their accession talks. They were asked to develop *detailed action plans* for both chapters. They would then update these plans every six months.

Montenegro has worked on this now since 2013. By January 2017, Montenegro’s action plan for chapter 24 was 236 pages long and covered 416 measures in 10 areas from “migration” and “asylum” to “external borders and Schengen” and “police cooperation and fight against organised crime.”³¹ It set out measures, ranging from adopting legislation to establishing working groups, procuring equipment to hiring additional staff. For each measure the plan stated a responsible authority, a deadline, indicators of results and indicators of impact.

At the time, Montenegrin authorities wrote that of the 416 measures and sub-measures included in the action plan, 212 were due to be implemented by the end of 2016. Of these, according to the government, 75 percent were implemented, 11 percent partially implemented and 14 percent not implemented yet.³² Montenegro updated these action plans until 2020. Now the new government works on new action plans focused on the priority areas of chapters 23 and 24.

What happened since 2013? Looking back, something remarkable emerges: North Macedonia and Albania, which never opened negotiations or drew up Chapter 23 and 24 action plans, are today as prepared as Montenegro on the “fundamentals” assessed under chapters 23 and 24. All three are also ahead of Serbia (and far ahead of Turkey).

Making progress on these issues matters. However, ten years of accession talks with Montenegro and eight years of talks with Serbia based on “fundamentals first” did not lead to better preparation than NOT having accession negotiations with North Macedonia and Albania.

2021 – Where candidate countries stand on Rule of Law Fundamentals³³

Priority reform area	N.Macedonia	Montenegro	Albania	Serbia	Turkey
Functioning of judiciary	3.5	3	3	4	5
Fight against corruption	3.5	4	4	4	5
Fight against organised crime	4	3.5	4	4	4
Freedom of expression	3.5	4	3.5	4	5
Total	14.5	14.5	14.5	16	19

³⁰ European Commission, “[Speech – Enlargement Package 2013](#)“, 16 October 2013. See also, six years later: European Commission, “[Reforms in the Western Balkans and Turkey: annual assessments and recommendations](#)“, 29 May 2019.

³¹ The other six are: visa policy; judicial cooperation in civil and criminal matters; fight against terrorism; cooperation in the field of drugs; customs cooperation; counterfeiting of the euro.

³² Government of Montenegro, “Action Plan for chapter 24. Semi-annual report July-December 2016”, January 2017, p. 3, available for download [here](#).

³³ European Commission, “[2021 Enlargement package: European Commission assesses and sets out reform priorities for the Western Balkans and Turkey](#)“, 19 October 2021.

At the same time Turkey, the country that has negotiated the longest with the EU, has the worst level of preparation on fundamentals among all candidates today, and is backsliding.

Is this the dystopian future of the Balkan accession process: the longer accession talks proceed, the less its impact?

Turkey assessment of “Rule of Law Fundamentals” since 2015³⁴

Priority reform area	2015	2019	2020	2021
Functioning of judiciary	4	5	5	5
Fight against corruption	4	5	5	5
Fight against organised crime	4	4	4	4
Freedom of expression	4	5	5	5
Total	16	19	19	19

Macron and the old question of EU reform before enlargement

Today we see a meaningless race between seven turtles, all following Zenoan logic. All move slowly. For long periods, some do not move at all. They are never allowed to overtake one another. It is hard to think of a less inspiring race. For citizens of Balkan countries it has become both meaningless and opaque. It is not surprising that publics in candidate countries have lost interest in this process. So is this enlargement process doomed? And why is it not being changed, when the problems are quite so glaring?

None of this is accidental. In recent years EU leaders have sent many clear signals to countries that *whatever* they do, even the current frontrunners might never join the EU. But few have been as outspoken and blunt as the president of France, in 2019 and again in 2022.

On 23 June 2022, following the meeting of the European Council where EU member states disappointed all of the Western Balkans while granting Ukraine and Moldova candidate status, Emmanuel Macron explained his views, and that they remained unchanged since 2019 when he stopped the opening of accession talks with Albania and North Macedonia.

Yes, Macron noted, promises had been made.

“We have countries which are committed in this [accession] procedure, I mean, as far as they are concerned, the train has already left the station. In any case they are on the platform with a ticket in their hands. These are mainly the Western Balkan countries. Today, we cannot tell Serbia, Montenegro, Albania or North Macedonia that it is over! They committed themselves [to this path] they made lots of efforts, some of them in order to open new chapters and some others with a longtime candidate status in order to open the first chapters. So, in this context, we need to advance. This is a question of credibility but also a geopolitical issue, relating to the stabilization of the Western Balkans.”

But is having new members also good for the EU? Macron expressed strong doubts:

³⁴ European Commission, “[Turkey 2015 Report](#)”, 10 November 2015; “[Turkey 2019 Report](#)”, 29 May 2019; “[Turkey 2020 Report](#)”, 6 October 2020; “[2021 Enlargement package: European Commission assesses and sets out reform priorities for the Western Balkans and Turkey](#)”, 19 October 2021.

“When we talk to our neighbourhood and we want to stabilize it, we tell them: ‘Enter the house!’ And what we do not think of, is that we can have a neighbourhood that does not stay with us in the same house ... Then at a certain point time there is a contradiction between this geopolitical approach and our ambition to deepen the ties inside the EU.”

This, he stressed, is a reason the accession process is going to remain painfully slow: “This tension is the reason why we make, for instance, Serbia wait so long.” Macron noted that there was a geopolitical advantage of offering a “prospect”:

“So the geopolitical response in the current context of war is to keep on offering a membership prospect.”

He also noted that offering this “prospect” without any likelihood of its being achieved, came with costs:

“Do I think that, in the long run, this is the right prospect to offer? Let me tell you frankly, and like what I said three years ago: ‘No!’ Because this will take time, and we witness a kind of enlargement fatigue amongst those countries ... It is a long road to travel.”

This is why Macron returned to proposing alternatives, assuming that the current process would not lead to results any time soon:

“This is why I proposed in the meantime a European Political Community which I think is the right answer. This means, we have got our EU. There is a process of enlargement. They entered in this process. Good for them, but let’s be clear it will take a lot of time. Some may not be able to finalize this process. But in the meantime we need to think much more quickly and stabilize our neighbourhood.”

Macron’s vision is not of a European Union admitting four, six or nine new members in the next decade:

“And let’s be honest, we don’t have to live in the same house all together but we can live in the same street.”

Does Macron expect Ukraine or Moldova to actually join the EU? It seems not, either:

“I mean, such a strong integration that we shall not sacrifice it in the name of a broader geopolitical need. We must combine the two. So I follow the same philosophical line as the one I had three years ago.”

All the same, Macron agreed to offer them candidate status:

“But right now, since NATO told before, and for good reasons, ‘no’ to Ukraine, we would have made a political error and left a vacuum by saying ‘no’ to Ukraine and Moldova.”

Why?

“Because the political community I have just mentioned does not exist today. We could not leave a geopolitical and strategic vacuum there. This is the meaning of the European prospect and the candidate status these countries are granted.”³⁵

³⁵ Elysée.fr, [“Conseil européen des 23 et 24 juin 2022 – La conférence de presse”](#), 24 June 2022.

These are deeply held convictions on Macron's part. They are neither new, nor surprising. Already in April 2018 French president Emmanuel Macron had warned the European Parliament:

"I don't want a Balkans that turns toward Turkey or Russia, but I don't want a Europe that, functioning with difficulty at 28 and tomorrow as 27, would decide that we can continue to gallop off, to be tomorrow 30 or 32, with the same rules."³⁶

In May 2018, Emmanuel Macron repeated at the EU Western Balkan summit in Sofia:

"What we've seen over the past 15 years is a path that has weakened Europe every time we think of enlarging."³⁷

In October 2019, Emmanuel Macron warned that the EU was not prepared to admit any new members: "It does not work well with 27, so how can one explain that it will work better with 28, 29, 30, 32?" Macron challenged what he called the "teleology of enlargement": Offering "every neighbour accession", Macron noted emphatically, was "bizarre."³⁸ This was not the Europe France wanted.

This has not changed.

Jolt I – Montenegro as member in 2026

Given the reality of Zenoan enlargement, the frustrations of the current turtle race and the reality that this reflects deeply held views among some current EU leaders that the EU should not admit many new members, fundamental questions arise about ways for the accession process to become once again a meaningful reform race, with incentives for participants and a sense among leaders and publics that all of this matters.

No guarantees can now be given that in the end there will not be a veto by one or more member states. But doesn't this doom the process? What can realistically be done now?

One concrete and simple step the EU could take would be to indicate that the EU is getting ready for Montenegro to be a full member of the EU by early 2026 if it manages to reach the stage of being well prepared. This would show that the door does, in fact, remain open for those who perform best.

Such a signal would be a positive jolt to a lethargic accession process. It would also be justified. And it would clearly not overburden the EU. Montenegro has some 620,000 inhabitants. Its is so small that its accession would cost the EU very little. As the EU already had 28 members until the UK left, there is no need to change any EU institutions first. Montenegro has no problems with its neighbours. Its many minorities are treated well. In fact, no ethnic group or nation constitutes an absolute majority among Montenegro's population. Multi-ethnic parties are the rule rather than the exception. Its track record in the implementation of rulings of the European Court of Human Rights is strong. In the Reporters

³⁶ EurActiv, ["The Brief – Macron pulls the Balkan rug"](#), 25 April 2018.

³⁷ Politico Europe, ["Macron pours cold water on Balkan EU membership hopes"](#), 17 May 2018.

³⁸ Elysee, ["Conférence de presse à l'issue du Conseil européen des 17 et 18 octobre 2019"](#), 18 October 2019.

Without Borders index (2022) Montenegro ranks 63 of 180 countries, ahead of six EU member states: Cyprus, Poland, Malta, Hungary, Bulgaria, and Greece.³⁹

In 1999, Montenegro took in tens of thousands of Kosovar refugees. In 2008, it recognized Kosovo's independence. From 2010 to 2014, it supported the NATO-led operation in Afghanistan and later the follow-on mission to train and assist the Afghan security forces. Montenegro has been a loyal member of NATO for more than five years. In 2022, it supported EU sanctions against Russia. A few weeks ago, in June 2022, Charles Michel, the president of the European Council, explained in Podgorica:

“Montenegro has been a consistent partner for the EU over many years. In fact, for more than a decade, Montenegro has a 100% record of aligning with our common foreign and security policy. This shows your strong commitment to becoming a member of the EU. And with your new government ... now is the time to speed up your integration with the EU.”⁴⁰

Slovakia, Lithuania and Latvia opened their accession negotiations on 15 February 2000 and closed them on 13 December 2002. It took them 34 months to finish the complete negotiations and adopt all of the *acquis* in this time. Montenegro started its accession negotiations in June 2012, more than 10 years ago. It already made progress. If Montenegro receives a motivating target, it is perfectly possible for it to get to a good level of preparation in all chapters and fundamentals by mid-2024. Take more time for ratification, and Montenegro would be able to accede to the EU in early 2026.

In the past, the EU always set indicative dates for accession. It did so for Lithuania, Latvia, Slovakia and others at the summit in Gothenburg in 2001:

“Provided that progress towards meeting the accession criteria continues at an unabated pace, the road map should make it possible to complete negotiations by the end of 2002 for those candidate countries that are ready. The objective is that they should participate in the European Parliament elections of 2004 as members.”⁴¹

The Council could do the same now:

“Provided that Montenegro continues reforms and meets the accession criteria, it should be possible to complete negotiations by mid-2025. The objective is that Montenegro will become a full member on 1 January 2026.”

Looking at past enlargement rounds, this is clearly a realistic goal.

Jolt II – Closed chapters, four freedoms and merit

It is easy to see what is missing in the current accession process: there is no longer any connection between merit and formal progress. Politically, countries' preparation is assessed according to meaningless criteria: potential candidate / candidate; opening talks / not opening

³⁹ Reporters without Borders, [Index 2022](#), accessed 30 May 2022.

⁴⁰ [Remarks by President Charles Michel after his meeting in Podgorica with President of Montenegro Milo Djukanovic](#), 14 June 2022.

⁴¹ European Commission, [Presidency conclusions Gothenburg European Council 15 and 16 June 2001](#), 18 June 2001.

talks; opening chapters / not opening chapters. Countries are arbitrarily stopped and made to wait. It is an exercise in motivation-destruction.

In reality, there already is one meaningful indicator: how many chapters are closed, i.e. how prepared are candidates to join the EU. This should directly reflect the assessments made by the Commission.

So far, Serbia closed only two chapters: “science and research” and “education and culture.”⁴² Serbia has not been able to close any other chapter in these past five years.⁴³ In ten years of negotiations, Montenegro closed the same two chapters as Serbia, plus one on foreign policy.⁴⁴ Then the Commission announced that no new chapters will be closed until Montenegro and Serbia meet interim benchmarks for chapters 23 and 24.⁴⁵

Number of chapters closed

	Country	Chapters
1	Montenegro	3
2	Serbia	2
3	Turkey	1
4	Albania, Bosnia, Kosovo, North Macedonia	0

A far more meaningful table would be one showing *all* chapters in *all* countries where the Commission found a good level of preparation. And a meaningful process would be one where closing as many chapters as possible opens a door to an attractive destination that can be reached depending truly on the merit and performance of candidate countries.

Number of chapters with “good preparation” – June 2022

	Country	Chapters
1	Montenegro	7
2	Serbia	6
3	North Macedonia	5
4	Albania	2
5	Bosnia	0

Citizens in candidate countries are interested in processes that transform their lives, help their countries get more prosperous, remove barriers, strengthen the rule of law and in the end lead to membership of an attractive club of nations. One way for the EU to re-energize the accession process would be to show that this is still possible in ways that do not undermine its own role and functionality. At the same time as sending a clear signal to Montenegro the European Union must send a signal to the whole region: that any country which meets the

⁴² Since January 2014 Serbia closed two chapters: 25 – Science and research (December 2016) and 26 – Education and culture (February 2017). Both chapters were opened and closed on the same day.

⁴³ Ministry of European Affairs of Montenegro, “[EU Accession Negotiations: Analysis of Benchmarks for Montenegro through comparison with Croatia and Serbia](#)”, January 2018.

⁴⁴ Montenegro closed chapters: 25 – Science and research (December 2012), 26 – Education and culture (April 2013) and 30 External relations (June 2017). Chapter 30 was opened in March 2015 and closed in June 2017.

⁴⁵ European Commission, [Montenegro 2021 Report](#), 19 October 2021.

necessary standards will definitely gain something meaningful even if the EU has not managed to reform itself sufficiently to admit many new members.

Aleksander Vucic, the Serbian president, explained in October 2018:

“We need to do something big in the Western Balkans and we need to offer something substantive for the future of the Western Balkans. And it is not only about Serbia, Macedonia or Bosnia. If we underestimate all the other factors, people’s will and their disappointments, I am very much afraid that we will not be able to keep stability and tranquility in the next ten or twenty years.”⁴⁶

In January 2020 he elaborated on this, meeting EU High Representative Josep Borrell, at their joint press conference:

“I asked Mr Borrell for the EU to do something that is outside of the usual pattern, as they call it ‘out of the box.’ I asked him for the EU in the future to consider some solutions that would be different – I also told this to President Macron and he spoke a bit about it – to consider some solutions as they had after the Thessaloniki Summit.

This is if we cannot go into the EU right now to then see if we at least can work on not having borders with the EU and in the Western Balkans because that would mean a lot for the citizens and economies ... For our citizens to see concrete benefits. Of course, with an understanding that on the European path of Serbia the key for us is to join the EU as full members at the end.”⁴⁷

In June 2021, Kosovo’s prime minister Albin Kurti proposed to work towards “a special relationship with the EU, similar to the European Economic Area (EEA) arrangement.”⁴⁸ In October 2021 Zlatko Lagumdžija, former prime minister and two times foreign minister of Bosnia, called for an integration of the Western Balkans in the EU Single Market.⁴⁹ In January 2021, Elmar Brok, longtime member of the European Parliament, head of its foreign affairs committee and member of the German CDU party board, called on the EU to offer the Western Balkans states membership in the Single Market as “a realistic interim solution.”⁵⁰ Similar calls were made by Brok’s colleagues: a German, Doris Pack (EPP) in July 2021, and an Austrian, Hannes Swoboda (S&D).⁵¹ European media like the Swiss NZZ or the German FAZ wrote about this idea favorably.⁵²

Belgian prime minister Alexander De Croo held a speech in Berlin at a conference on 9 May 2022. On EU enlargement he explained:

“If you look at it geopolitically, integrating Ukraine, Moldova and the Western Balkan is something we really must do. Nothing would be more dangerous for Europe than to sit still, defend the status quo and retreat behind our borders. Our European neighborhood

⁴⁶ Belgrade Security Forum, [“Grand Opening and Panel Western Balkans and the EU”](#), 18 October 2018.

⁴⁷ Kurir, [“Predsednik Vucic i Borel se obracaju medijima”](#), 31 January 2020.

⁴⁸ Government of Republic of Kosovo, [“Prime Minister Kurti at the Tirana Summit: Kosovo cannot engage in initiatives that are adapted to deny it citizenship, we will engage only as equals”](#), 10 June 2021.

⁴⁹ The Economist Events, [“Western Balkans Summit 2021”](#), 14 October 2021.

⁵⁰ FAZ, [“Dabei sein, ohne mitzubestimmen”](#), 24 January 2021.

⁵¹ Twitter profile, [“Doris Pack”](#), 22 July 2021; N1, [“Hannes Swoboda: Dodika treba smjesti na mjesto gdje pripada”](#), 16 October 2021.

⁵² FAZ, [“Was tun mit dem Balkan?”](#), 1 January 2021; Neue Züricher Zeitung, [“Die Erweiterung der EU auf dem Balkan ist tot – jetzt ist der EWR der realistische Weg”](#), 22 July 2021;

would be turned into vassal states. Either through military force by Russia, or through an aggressive investment policy, that we are already seeing today in the Balkans ...

The challenge is not bureaucratic or legalistic, it is a geostrategic one. It is a project of value integration and the single biggest challenge of our European generation. This is not done overnight. It will take years of determination to achieve.

Today, we need to anchor Ukraine solidly in Europe. Just like Moldova or the countries of the Western Balkans. We should allow them to come closer to our Union: by enabling their citizens to benefit directly from our democratic space and single market, by having them participate in some of our institutions, by showing their citizens they are Europe as much as we are. Let us take this bold step for a European Union that takes responsibility for its whole neighborhood, actually for its whole continent. A truly inclusive Europe.”⁵³

All this suggests a way forward: the EU could declare that any European democracy that meets the required criteria, including respect for human rights and the rule of law, *as assessed by the European Commission in its annual reports*, should gain access to the European Single Market and to the four freedoms – the free movement of goods, people, services and capital. Its citizens and businesses would thus enjoy most of the same rights as those from EU members or Norway and Iceland enjoy today.

For this, no reform of the accession process is required. The accession process proceeds as now. It is no parallel track, nor an alternative to accession: enjoying the four freedoms as a result of domestic reforms would simply be a meaningful step on the road to eventual full accession, which remains the ultimate goal. There is one process (accession) with one goal (membership). However, on that path there is now a meaningful interim goal that can be reached on merit: the four freedoms for citizens and businesses.

Admitting countries that meet the criteria, including the rule of law, to the Single Market does not complicate EU decision making. Joining the Single Market does not first require EU internal reform. Nor will anyone claim that this risks rendering the EU dysfunctional. All of this would also mean that when a new Balkan country joins the EU no new hard borders need to be created in the region. It would be a win-win-win: for citizens of the region, for their governments (as long as they are serious about reforms) and for the EU as a force for positive transformation.

Merit, performance and the moment a country gains access to the 4 freedoms

Priority reform area	2025
Functioning of judiciary	2
Fight against corruption	2
Fight against organised crime	2
Freedom of expression	2

⁵³ Prime Minister of Belgium, [“Europe Speech: A Fight for Freedom. How Putin’s war renews Europe”](#), 9 May 2022.

Chapter	2025	
1	Free movement of goods	2
2	Freedom of movement for workers	2
3	Establishment and service provision	2
4	Free movement of capital	2
5	Public procurement	2
6	Company law	2
7	Intellectual property law	2
8	Competition policy	2
9	Financial services	2
10	Information society and media	2
11	Agriculture and rural development	2
12	Food safety, veterinary, phytosanitary	2
13	Fisheries	2
14	Transport policy	2
15	Energy	2
16	Taxation	2
17	Economic and monetary policy	2
18	Statistics	2
19	Social Policy and employment	2
20	Enterprise and industrial policy	2
21	Trans-European networks	2
22	Regional policy, structural instruments	2
23	Judiciary and fundamental rights	2
24	Justice, freedom and security	2
25	Science and research	2
26	Education and culture	2
27	Environment and climate change	2
28	Consumer and health protection	2
29	Customs union	2
30	External relations	2
31	Foreign, security and defence policy	2
32	Financial control	2
33	Financial and budgetary provisions	2



Persistence as virtue

ANNEX: The Balkans, the EU and the Strasbourg court

Human rights matter. Implementing court judgements matters. Having a track record of complying with the standards of international organisations matters. And the oldest club of European democracies – the Council of Europe – should matter more when it comes to assessing fundamentals.

This leads to one concrete proposal for “fundamentals”: focus on the track record of candidates in institutions that they have already joined. Since all EU members and all Western Balkan candidates are members of the Council of Europe – and Kosovo, which applied for membership, should be admitted as soon as possible – looking at their record when it comes to respect for the moral constitution of the continent, the European Convention on Human Rights, and the judgements of the European Court of Human Rights in Strasbourg (ECtHR), is an obvious way to assess them.

In doing so, the best indicator of states’ compliance with the European Convention on Human Rights is the number of judgements of the Strasbourg court under so-called “enhanced supervision” by the Committee of Ministers. These cases are still “open”, meaning that these judgements are not yet fully implemented, and considered of particular importance, owing to the gravity or systemic nature of the violation. They are periodically reviewed by the Committee of Ministers during the three day “human rights meetings” it holds four times a year in Strasbourg.

ECtHR judgements – leading cases under enhanced supervision, end 2021

Number of cases	Countries
56	Russia – expelled in March 2022
53	Ukraine
37	Turkey
33	Romania
23	Italy
21	Azerbaijan
20	Bulgaria
14	Hungary
11	Poland
7	Greece, Moldova
5	Armenia, Belgium, Georgia, <i>Serbia</i> , Malta
4	France, United Kingdom
3	Lithuania, <i>North Macedonia</i> , Portugal
2	<i>Albania</i> , Croatia, Cyprus, Spain, Sweden
1	<i>Bosnia and Herzegovina</i> , Czech Republic, Finland, Iceland, Ireland, Netherlands, Norway, Slovak Republic, Switzerland
0	Andorra, Austria, Denmark, Estonia, Germany, Latvia, Liechtenstein, Luxembourg, Monaco, <i>Montenegro</i> , San Marino, Slovenia

There were 2,496 such open cases under enhanced supervision at the end of 2021. 2,153 of these were repetitive cases, meaning that they concerned a similar violation to one already found in another case against the offending state. The first such case is called the “leading case.” If one wants to know how many serious human rights violations identified by the Strasbourg Court have not been resolved, one needs to look at the number of leading cases

under enhanced supervision. There were 343 of these at the end of 2021: the highest amount in the history of the Court.

The worst offender was, until its expulsion in March this year, Russia with 56 cases. Ukraine was next, with 52, Turkey third with 37. A quarter of the Council of Europe's 46 members have none at all. Six have 20 or more, including Bulgaria. But how are Albania, Bosnia, Montenegro, North Macedonia and Serbia doing?

The five non-EU Balkan countries are performing well: Montenegro has no leading cases under enhanced supervision, Bosnia one, Albania two, North Macedonia three and Serbia five. Many EU countries have more.

One can also look at all leading cases that are not under enhanced but under standard supervision. In this case their execution is primarily supervised by the secretariat of the Council of Europe rather than the Committee of Ministers directly. Again, the Western Balkan five compare well.

ECtHR – leading cases under standard supervision, end 2021

Number of cases	Countries
159	Russia
> 50	Ukraine (51 cases), Romania (65), Bulgaria (68), Turkey (98)
20-40	Croatia, Poland, Azerbaijan, Greece, Italy, Hungary, Moldova
10-25	Bosnia (11 cases), Albania (12), North Macedonia (12), Germany, Lithuania, Portugal, Belgium, Armenia, Slovak Republic, France, Georgia, Spain
< 10	Andorra, Luxembourg, Monaco, Sweden, Czech Republic, Estonia, Iceland, Ireland, Liechtenstein, Norway, Denmark, San Marino, Slovenia, Austria, Montenegro , United Kingdom, Cyprus, Latvia, Netherlands, Switzerland, Serbia , Finland, Malta

Finally, one can look how many leading cases, under enhanced and standard supervision, have been closed (see below).

One meaningful and ambitious goal would be for all Western Balkan states – as well as for Ukraine and Moldova – to aim for full compliance with ECtHR judgements. This would be a track record that truly matters, strengthening both EU influence and the role of the Strasbourg court.

ECtHR leading cases closed of only some selected countries (as of 7 June 2022)

Country	total	Closed	% closed
Azerbaijan	54	5	9 %
Ukraine	216	110	51 %
Hungary	96	51	53 %
Albania	32	18	56 %
Turkey	382	247	65 %
Romania	307	199	65 %
Bulgaria	272	176	65 %
Bosnia	40	29	73 %
Italy	223	164	74 %
N. Macedonia	62	48	77 %
Serbia	59	46	78 %
Belgium	97	77	79 %
Poland	183	145	79 %
Denmark	16	13	81 %
Greece	201	168	83 %
Germany	84	71	84 %
Croatia	149	129	86 %
Montenegro	36	31	86 %
United Kingdom	213	201	94 %
France	307	283	92 %
Sweden	42	40	95 %