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A DECADE OF NEGOTIATIONS: THE NEGOTIATION PROCESS OF THE REPUBLIC OF SERBIA WITH THE EUROPEAN UNION AND THE CHALLENGES OF STRUCTURAL REFORMS A DECADE LATER[***]

Abstract

The negotiation process between the Republic of Serbia and the European Union (EU), which began in January 2014, faced significant challenges during the past decade, which led to a temporary halt in the process of Serbia's accession to full membership in the EU. Despite the kick-off of implementing the revised EU enlargement methodology in February 2020, its failure to accelerate Serbia's accession process stems from the demanding nature of the structural reforms that Serbia must undertake in order to comply with EU standards and principles. These reforms cover various sectors, including the judiciary, public administration, and economic management. The paper investigates the causes of the stall in the negotiation process, such as political resistance,

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institutional resilience, lack of administrative capacity, and the need for institutional transformation, a decade after the start of negotiations in these areas. Moreover, the issue of corruption and the rule of law remains a significant social and political problem. Serbia's negotiation process with the EU has repeatedly exposed the need for the establishment of an independent and efficient judicial system, free from political influence and corruption. Reforms have been launched whilst certain benchmarks have been met, which shows the country's *de facto* commitment to the EU integration. Using the methods of document content analysis and discourse analysis, this paper critically examines the mutual interaction between Serbia's long-term negotiation process with the European Union and the delicate process of implementing structural reforms in the period from January 2014 to January 2024. The paper also critically evaluates the political dimensions of the EU enlargement process, including the asymmetric application of accession conditionality and the imposition of unprecedented political requirements on Serbia compared to other candidate countries.

Keywords: EU accession process, revised enlargement methodology, EU accession negotiations, structural reforms, Serbia, European Commission, EU Member States

INTRODUCTION

Serbia's quest for membership in the European Union (EU) has now spanned over a decade of formal negotiations, reflecting both the transformative ambitions of EU enlargement and the complex realities of domestic reform. The EU accession process is fundamentally designed as a catalyst for comprehensive political, economic, and societal change – using conditionality tied to democratic governance, rule of law, market liberalization, and harmonization with the EU acquis to align candidate countries closely with European norms and standards (Grabbe 2006; Schimmelfennig and Sedelmeier 2005). This strategy builds on the EU's earlier successes during the Eastern enlargement waves of 2004 and 2007, where conditionality significantly influenced democratization and governance reforms in post-communist states (Vachudova 2005; Sedelmeier 2011). However, the context of the Western Balkans – and Serbia in particular – poses unique challenges, reflecting deeper structural issues and geopolitical complexities that complicate straightforward

adoption and internalization of EU norms (Bieber 2020; Richter and Wunsch 2020).

Indeed, ever since the EU's 2003 Thessaloniki Summit pledge that the "future of the Western Balkans lies in the EU," Serbia has been consistently urged to undertake deep structural reforms, especially in critical sectors such as judicial independence, anti-corruption measures, public administration efficiency, and democratic governance (Anastasakis 2005, 77–79; Bieber and Kmezić 2017). These areas have become central conditions under the EU's revised enlargement methodology adopted in 2020, emphasizing a merit-based, cluster-oriented approach intended to accelerate integration by rewarding genuine progress and sanctioning stagnation or regression (European Commission 2020; Wunsch and Richter 2022). Theoretically, such conditionality leverages what scholars describe as the EU's "transformative power" – the credible promise of EU membership acts as an external anchor, motivating candidate countries to democratize, modernize institutions, and align legislation and policies with the acquis communautaire (Grabbe 2006; Börzel and Risse 2012).

However, Serbia's actual experience over the past decade underscores significant challenges and limitations to this model. While formal legislative alignment and policy commitments have been considerable, the reality of implementing reforms on the ground has often lagged, reflecting what scholars term a persistent "implementation gap" or "compliance gap" (Noutcheva 2009; Dimitrova and Toshkov 2009). In particular, Serbia's progress has been hindered by entrenched domestic power structures resistant to substantive reforms, with political elites frequently accused of using EU accession processes strategically, adopting formal reforms while resisting changes that threaten established interests and patronage networks (Kmezić 2019; Bieber 2018). Moreover, Serbia's negotiation process has coincided with episodes of notable democratic backsliding, characterized by erosion in media freedom, weakening of independent institutions, and declining standards in electoral integrity, illustrating a paradoxical trend of illiberal regression occurring simultaneously with the formal pursuit of EU integration (Levitsky and Way 2010; Bieber 2020). This phenomenon, sometimes described as "stabilitocracy," points to regimes maintaining superficial compliance with EU standards to secure international legitimacy and economic benefits, while undermining democratic norms domestically (Richter and Wunsch 2020; Džankić, Keil and Kmezić 2019).

Geopolitical considerations further complicate Serbia's EU accession trajectory. Situated at the intersection of conflicting international interests, Serbia maintains a delicate balancing act between its proclaimed strategic goal of EU membership and maintaining close ties with non-Western actors, particularly Russia and China, whose influence in the Balkans has grown markedly in recent years (Bechev 2017; Dufalla and Metodieva 2024). The EU's intensified geopolitical stance following Russia's invasion of Ukraine in 2022 has elevated foreign policy alignment – including the adoption of sanctions against Russia – to a critical litmus test for accession credibility, placing Serbia under unprecedented pressure to clarify its strategic orientation (Dufalla and Metodieva 2024; European Commission 2023).

Thus, a decade since Serbia began its formal accession negotiations, the country's record reflects an uneven trajectory characterized by incremental reform achievements overshadowed by substantial governance deficits, democratic backsliding, and strategic ambiguity. Serbia's case exemplifies broader debates in the academic literature about the effectiveness of EU conditionality in contexts marked by entrenched illiberal politics, geopolitical tensions, and uncertain EU enlargement prospects (Bieber 2020; Vachudova 2019). Analyzing Serbia's experience offers critical insights into the potentials and limitations of the EU's transformative agenda in contemporary enlargement processes, highlighting the intricate interplay between external EU incentives and domestic political dynamics (Grabbe 2006; Wunsch and Richter 2022).

THE EU ACCESSION NEGOTIATION PROCESS (2014–2024)

Serbia's EU accession negotiations formally began in January 2014, following its candidacy grant in 2012 and pivotal steps such as the EU-facilitated Brussels Agreement with the Autonomous Province of Kosovo and Metohija (hereinafter: AP Kosovo and Metohija) in 2013. Over the past decade, the negotiation process has been structured around the EU's new approach that front-loads fundamental issues – notably judiciary and fundamental rights (Chapter 23) and justice, freedom, and security (Chapter 24) – to ensure early focus on the rule of law (European Commission 2023). Negotiations have been organized into 35 chapters (grouped into clusters under a revised methodology since

2020), covering the entire EU acquis communautaire. As of late 2023, Serbia had opened 22 out of 35 chapters of the acquis, with only two chapters provisionally closed (chapters 25–Science and Research, and 26–Education and Culture), reflecting the slow and painstaking nature of the process (European Commission 2023). Critical chapters remain in limbo, especially those tied to governance: for instance, Chapter 23 on judiciary reform and Chapter 24 on justice and security were opened early but cannot be closed until the end, keeping reform pressure on throughout the negotiations (Kmezić 2019). Moreover, Chapter 35 – dealing with Serbia's external relations, notably the normalization of relations with the AP Kosovo and Metohija – has effectively become a make-or-break political criterion. Progress under this chapter has been halting, as political agreements with the AP Kosovo and Metohija see periodic crises and remain only partially implemented, highlighting how bilateral disputes can hinder overall accession progress (Vachudova 2019, 70–73). Together with the EU's own hesitations and evolving methodology, these factors have made Serbia's accession timeline highly uncertain. A process once optimistically projected to conclude within a decade has stretched longer, as both Brussels and Belgrade grapple with "enlargement fatigue" and the complexity of unfinished reforms in Serbia's political and institutional landscape (Bieber 2020; Richter and Wunsch 2020).

Serbia's EU accession negotiations, launched in January 2014, have followed a structured legal and institutional framework defined by the EU's negotiating rules. The process began with the adoption of a Negotiating Framework by the Council of the EU, setting out the principles governing the talks, including a strong focus on the rule of law and the normalisation of relations with the AP Kosovo and Metohija as determinants of overall progress (European Commission 2022, 150–58). Under this framework, negotiations are organized into 35 chapters of the EU's acquis communautaire (body of EU law) – each covering a specific policy area – plus an additional Chapter 35 addressing the normalization with the AP Kosovo and Metohija. In line with the EU's 2012 "new approach" to enlargement, Chapters 23 and 24 (Judiciary and Fundamental Rights; Justice, Freedom and Security) were given central importance, to be opened early and closed last, making reforms in these areas pivotal for the pace of the entire accession (European Commission 2020, 31–34). This structure reflects the EU's founding values of the rule of law and fundamental rights, and it ensures that Serbia's progress on

judicial reform, anti-corruption, and security standards can effectively anchor broader alignment with the EU acquis.

Screening and Opening Benchmarks: A first phase of the negotiations was the screening process, an in-depth analytical examination of each acquis chapter conducted between Serbia and the European Commission. During 2014–2015, the Commission screened Serbian legislation to identify gaps relative to EU laws and standards. For each chapter, the Commission then issued a screening report with recommendations and, where necessary, opening benchmarks – specific conditions Serbia needed to meet before formal negotiations on that chapter could start. In practice, many chapters, especially those in technical areas, had no opening benchmarks and could be opened relatively smoothly. However, Chapter 23 (judiciary and fundamental rights) and Chapter 24 (justice, freedom, and security) were conditioned on comprehensive action plans. Serbia drafted detailed Action Plans for Chapters 23 and 24, outlining reforms and timelines, which were approved by the European Commission and the Council as opening benchmarks in 2016. The Action Plan for Chapter 23 focused on judicial independence, reducing political influence, anti-corruption measures, and fundamental rights protections, while the Chapter 24 plan addressed border security, migration and asylum systems, the fight against organized crime, and law enforcement cooperation (European Commission 2016, 54–60). The Council opened Chapters 23 and 24 in July 2016 after judging these plans adequate, marking a shift of the negotiations into the substantive phase (European Commission 2022, 152–56).

Structure and Evolution of the Negotiation Framework**:** By 2018, Serbia had opened a number of chapters beyond the rule-of-law area, gradually advancing the breadth of negotiations. Out of 35 acquis chapters, 22 chapters were opened by 2021, and two were provisionally closed (chapters on science and education, which carried few requirements) (European Commission 2022, 150–58). The negotiation framework evolved in line with EU policy improvements. In February 2020, the European Commission introduced a revised enlargement methodology aimed at reinvigorating the process and enhancing credibility (European Commission 2020). Serbia formally accepted the revised methodology in June 2021, adapting its negotiation structure to the new approach (European Commission 2022, 155–60). This revised framework groups the acquis chapters into six thematic

"clusters" and seeks to inject more high-level political engagement and predictability into the talks. Under the cluster approach, chapters are no longer opened one-by-one over many years, but rather as clusters of related chapters: for example, Cluster 1 covers the "Fundamentals" (rule of law, public administration reform, economic criteria), Cluster 2 the Internal Market, Cluster 3 Competitiveness and Inclusive Growth, Cluster 4 the Green Agenda and Sustainable Connectivity, Cluster 5 Resources, Agriculture and Cohesion, and Cluster 6 External Relations (European Commission 2020, 13–15). All chapters within a cluster are opened together once the opening benchmarks for that cluster are met, allowing a more comprehensive push on related reforms. Notably, Cluster 1 (Fundamentals) – which includes Chapters 23 and 24, as well as public procurement, statistics, financial control, and economic criteria – was opened at the very start of Serbia's negotiations and remains the linchpin for overall progress. By the end of 2021, Serbia had met the conditions to open Cluster 4 (Green Agenda), which was officially opened in an Intergovernmental Conference in December 2021 (European Commission 2022, 153–54). The European Commission has confirmed that Serbia also fulfilled opening benchmarks for Cluster 3 (Competitiveness & Inclusive Growth), making it technically ready to open next (European Commission 2022, 183–86). However, despite the Commission's positive assessment, the opening of Cluster 3 was subsequently blocked by certain EU member states for political reasons, illustrating that Serbia's accession progress is constrained not only by its own reform performance but also by the political dynamics within the EU itself.

Role of Chapters 23 and 24 (Judiciary, Fundamental Rights, Justice, and Security): The prominence of Chapters 23 and 24 in Serbia's accession talks cannot be overstated. These chapters are part of the "Fundamentals" first cluster and carry the strictest conditionality. The EU acquis under Chapter 23 covers judicial reform, anti-corruption policy, fundamental rights, and the protection of minorities, while Chapter 24 covers justice, security, migration, border control, asylum policy, police cooperation, and the fight against organized crime. The function of these chapters is to ensure Serbia establishes an independent, efficient judiciary and robust safeguards for the rule of law and security – prerequisites for EU membership. To this end, the EU has instituted a system of benchmarks and regular assessments within these chapters. Upon opening Chapters 23 and 24, the EU Council set "interim

benchmarks" that Serbia must meet to demonstrate progress (European Commission 2020, 31–34). These include measurable steps like adopting constitutional amendments to strengthen judicial independence, improving the track record of prosecutions and convictions in high-level corruption and organized crime cases, and aligning legislation with European human rights standards. No other chapters can be closed until the EU assesses that the interim rule-of-law benchmarks are sufficiently met – a rule designed to prevent Serbia from advancing in easier areas while neglecting core democratic reforms (European Commission 2020, 31–34). In practice, this means that Serbia must show a solid track record in reforming its judiciary and fighting corruption and crime before it can conclude negotiations. Progress is monitored through European Commission annual reports and ad hoc expert missions. For example, the Commission's Serbia 2022 Report notes that Serbia is "*moderately prepared*" in the judiciary and fundamental rights area and has made *limited progress*, highlighting steps such as the February 2022 constitutional amendments on judicial appointments as an important move to reduce political influence on judges and prosecutors (European Commission 2022, 1602–05, 1613–22). At the same time, the report stresses that many recommendations remain unmet – Serbia still needs to adopt new laws to implement the constitutional changes, create a new anti-corruption strategy, and improve media freedom (European Commission 2022, 1634–42). In Chapter 24, the EU similarly found "some level of preparation" and *some progress*, for instance, due to Serbia's efforts in managing migration flows and initial steps in aligning with Schengen border security norms, but also pointed out delays in fully reforming the police and aligning visa policies with the EU (European Commission 2022, 4377–88, 4395–404). By keeping these chapters under close scrutiny throughout the negotiation, the EU aims to ensure that reforms in justice and security are not only adopted on paper but also implemented and sustained.

Benchmarks, Action Plans, and Progress Assessments: Serbia's experience illustrates the dense web of benchmarks and plans guiding the accession negotiations. The Action Plans for Chapters 23 and 24 serve as blueprints for reform and are themselves living documents. Serbia revised these plans in 2020 to address new recommendations and delays in implementation. For Chapter 23, a revised Action Plan was adopted in 2020 to recalibrate reform targets and timelines, especially after the initial years showed modest results. The revised plan put greater

emphasis on qualitative progress indicators and introduced an "early warning" reporting mechanism to identify implementation gaps across the dozens of institutions involved (European Commission 2022, 1602–10). Similarly, the Action Plan for Chapter 24 was updated in July 2020, with the Serbian Ministry of Interior and related agencies committing to new deadlines for meeting EU interim benchmarks (European Commission 2022, 4438–44). To measure progress against these benchmarks, the European Commission and Council use a range of assessment tools. Chief among them are the Commission's Annual Progress Reports (now termed country reports), which evaluate Serbia's alignment and reforms in each chapter. These reports use a qualitative scale (ranging from "early stage" to "well advanced" preparation) to describe the state of alignment and "no progress" to "good progress" to describe reform efforts year-on-year. For instance, the Commission's 2021 and 2022 reports on Serbia both acknowledged incremental progress in judicial reforms (like reducing the influence of Parliament over judicial appointments) but urged more results in prosecuting corruption and organized crime, often noting that progress was only partial or laws were only "*partially implemented*" (European Commission 2022, 1634–42; Richter and Wunsch 2020, 740–42). In addition to these annual reports, the EU may deploy peer review missions – expert teams that evaluate on-site the functioning of institutions such as courts, prosecution services, border police, etc. Their findings feed into whether interim benchmarks are considered fulfilled. Furthermore, Intergovernmental Conferences at the ministerial level are convened to take stock of progress. Under the revised methodology, these high-level conferences allow for a "*political steer*" – essentially a forum where the EU and Serbia review cluster progress and set priorities. They occur when key milestones are reached, for example, when interim benchmarks in the Fundamentals cluster are met, or when a new cluster is ready to open (European Commission 2020, 9–11). This added political dialogue was intended to keep reforms from stalling and to maintain momentum through the lengthy negotiation process.

Institutional Coordination and Implementation in Serbia**:** Meeting the extensive requirements of EU accession has demanded significant coordination within Serbia's government. Institutionally, Serbia has developed a framework to manage negotiations and harmonize its laws with the EU acquis. The Ministry of European Integration (established in 2017 by merging the former European Integration Office into a ministry)

plays a central coordinating role. A high-ranking Chief Negotiator (for much of the period 2015–2022, this role was held by then-Minister of European Integration Jadranka Joksimović) leads the Serbian negotiating team and liaises with the European Commission and EU Member States. Within Serbia, negotiating groups are organized for each chapter or cluster, typically led by the relevant ministry or agency. For example, the Ministry of Justice heads the Chapter 23 negotiating group, while the Ministry of Interior coordinates Chapter 24, each working with dozens of other institutions (judicial councils, anti-corruption agency, police directorate, etc.) to implement reforms. To oversee and synchronize these efforts, the Serbian government in 2021 established an Inter-institutional Coordination Body for the rule of law chapters, bringing together representatives from the judiciary, prosecution, ministries, and independent bodies (European Commission 2022, 1606–15). This Coordination Body meets regularly to monitor the execution of the Action Plan for Chapter 23, troubleshoot inter-agency issues, and ensure that reform measures (e.g. drafting of new judiciary laws, training of judges, setting up new institutions like an independent prosecution office) stay on schedule. The European Commission (2022, 1606–15) noted that by 2022, this body had held several meetings and helped improve the judiciary's monitoring and reporting mechanisms. Serbia has also improved transparency by publishing periodic reports on action plan implementation – for instance, semi-annual reports on Chapter 23 reforms are made public, allowing both the EU and Serbian civil society to track progress. Civil society organizations, under frameworks like the National Convention on the EU, are consulted (to varying degrees) on chapter-related reforms, providing external monitoring and input on issues such as human rights or judicial integrity. Administrative capacity remains a challenge: the Commission's reports frequently emphasize the need for Serbia to allocate "sufficient human and financial resources for EU accession work across all institutions" (European Commission 2022, 200–208). This includes everything from hiring and training staff who can draft EU-aligned legislation, to empowering independent bodies like the anti-corruption agency, to improving inter-ministerial coordination on complex reforms. In terms of legal harmonization, Serbia has steadily adopted EU-aligned laws in many chapters – by 2024, large parts of economic, trade, and sectoral legislation are already in line with the acquis. However, full harmonization in Chapters 23 and 24 is particularly demanding: it requires not just passing laws

(such as a new Law on the Prevention of Corruption or amendments to the Criminal Procedure Code) but also demonstrating their effective enforcement. The Commission's monitoring has highlighted that Serbia's legal alignment in justice and home affairs must translate into concrete results like independent judiciary appointments, convictions of corrupt officials, decreased backlog of court cases, and dismantling of criminal networks (European Commission 2022, 2495–2504). These outcomes are precisely what the interim benchmarks seek to measure.

The 2020 Revised Methodology in Practice**:** Serbia's adoption of the EU's revised enlargement methodology in 2021 has subtly shifted the negotiation dynamics. While the fundamental requirements remain the same, the cluster system means Serbia's progress is now evaluated in broader strokes. Rather than focusing on individual chapters in isolation, the EU assesses clusters holistically – for example, Cluster 1 (Fundamentals) will only be considered for closure when reforms in judiciary (chap. 23), security (chap. 24), public procurement (chap. 5), statistics (chap. 18), and financial control (chap. 32) *together* reach an adequate level. This encourages Serbia to advance on all these fronts in parallel. It also comes with the political *reward* that if Serbia makes a major breakthrough in one fundamental area (say, judicial reform), it can potentially accelerate movement in related chapters or receive increased EU integration benefits even before membership (European Commission 2020, 13–15). Another feature of the new methodology is the possibility of "phasing-in" to EU policies and funds before accession, for well-performing candidates – for instance, deeper integration into EU programs or the single market clusters. For Serbia, this means that strong performance on governance reforms could unlock closer ties or investments even during negotiations, adding an incentive for genuine implementation. On the flip side, the methodology also foresees corrective measures in case of serious backsliding: negotiations in certain areas can be stalled or even reopened if reforms regress (European Commission 2020, 9–11). While Serbia's negotiations have not been formally frozen in any area, the pace has effectively slowed when reform momentum faltered – as seen in 2022 when domestic elections and political distractions delayed reform laws (European Commission 2022, 173–80). Under the cluster approach, such slowdowns can hold back the opening of entire clusters. Indeed, the EU has signaled that advancement to new clusters will not happen until Serbia re-energizes reforms in the rule of law domain (European Commission 2022, 183–86). This

integrated approach underscores that Serbia's path to EU membership by 2024 and beyond is contingent on sustained political will to meet the detailed requirements of the negotiation framework.

In summary, from 2014 to 2024 Serbia's accession negotiations have been characterized by an evolving but rigorous framework of legal alignment and institutional reform, with the EU's acquis chapters and methodology providing the roadmap. Screening set the baseline, action plans and benchmarks have guided reforms chapter-by-chapter, and the revised 2020 methodology now frames the process in broader clusters to encourage comprehensive progress. Chapters 23 and 24 stand at the heart of this process – through these, the EU demands deep-seated changes to Serbia's judiciary and governance, monitored via interim benchmarks and annual assessments. Serbia's government has created coordinating bodies and plans to tackle these obligations, achieving certain milestones like constitutional reforms and improved administrative capacity, but still faces ongoing challenges in translating EU-inspired laws into tangible, track-record outcomes. The period up to 2024 shows an intricate dance between Serbia's implementation efforts and the EU's conditionality: while Serbia has aligned a large share of its legislation with the acquis and opened most negotiation chapters, the credibility of its accession process will ultimately rest on the integrity of its institutions and the durability of rule-of-law reforms. The European Commission's annual reports – and broader research on the Western Balkans – indicate that progress has been real but uneven, with reforms often fragmentary or reversible in the absence of strong domestic commitment (Richter and Wunsch 2020, 752–54). Therefore, the legal-institutional mechanisms of accession negotiations serve not only to open chapters but to continually test Serbia's readiness for membership. As negotiations advance under the cluster methodology, the focus remains on ensuring that Serbia's legal harmonization is coupled with genuine institutional change, fulfilling the EU's stringent criteria by the time accession talks conclude.

However, a critical assessment of Serbia's EU integration process must also take into account the broader political dimensions of EU enlargement that extend beyond the formal conditionality framework. Historically, EU accession has never been a purely technocratic, merit-based exercise. The accession of Bulgaria and Romania in 2007 demonstrated that the EU was willing to admit countries that had not fully met the Copenhagen criteria, particularly in the areas of judicial reform, anti-corruption, and rule of law, instead relying on post-accession

monitoring mechanisms such as the Cooperation and Verification Mechanism (CVM) to address remaining deficiencies (Kochenov 2008; Noutcheva 2009). More recently, the EU's decision to grant candidate status to Ukraine in June 2022, amid the ongoing Russian-Ukrainian conflict, has further underscored the fundamentally political character of enlargement decisions. Ukraine was granted candidate status despite not fulfilling virtually any of the standard benchmarks regarding the rule of law, judicial independence, or anti-corruption performance – conditions that Serbia has been working to meet for over a decade (European Commission 2023). This asymmetric application of conditionality has reinforced perceptions in Serbia and across the Western Balkans that the EU applies different standards to different candidate countries depending on prevailing geopolitical interests (Bieber 2020; Vachudova 2019).

Furthermore, Serbia's negotiation process has been uniquely burdened by political conditions that have not been imposed on any other EU candidate country. The requirement to normalize relations with the AP Kosovo and Metohija under Chapter 35, which effectively conditions Serbia's accession progress on the resolution of a deeply contested sovereignty and territorial issue, represents an unprecedented form of political conditionality in the history of EU enlargement (Kmezić 2019). No other candidate country has been required to renounce claims over part of its internationally recognized territory as a precondition for EU membership. Additionally, despite the European Commission's own confirmation that Serbia had fulfilled the opening benchmarks for Cluster 3 (Competitiveness and Inclusive Growth), the opening of this cluster was blocked by certain EU member states for political reasons unrelated to Serbia's reform performance (European Commission 2022, 183–86). Such instances reveal that the pace of Serbia's accession is shaped not only by its own reform trajectory but also by the internal political dynamics and strategic calculations of EU member states themselves. A comprehensive analysis of Serbia's EU integration process must therefore account for these structural asymmetries and the inherently political nature of the enlargement process, rather than attributing the stagnation of negotiations solely to domestic reform deficiencies.

CHALLENGES IN JUDICIAL AND POLITICAL REFORMS

At the heart of Serbia's negotiation challenges lies the agenda of structural reforms, especially in the judiciary, public administration, and anti-corruption frameworks. Over the past ten years, Serbia has adopted numerous new laws, strategies, and even constitutional amendments aimed at strengthening the rule of law – often directly spurred by EU accession requirements. Notably, in 2022, the Serbian Parliament approved constitutional changes to depoliticize judicial appointments and enhance the independence of judges and prosecutors, a reform carried out in consultation with the Venice Commission to meet EU recommendations (European Commission 2023). On paper, these steps address key EU benchmarks and seemingly align with European standards. However, scholars and observers caution that many of these reforms remain superficial or incomplete – a case of institutional change without genuine behavioral change (Kmezić 2019). Despite new laws, the judiciary continues to suffer from political influence, selective justice, and inefficiency, indicating a pattern of "partial compliance" where formal alignment with EU norms does not necessarily translate into implementation (Noutcheva 2009). Endemic issues of state capture – in which political elites informally control ostensibly independent institutions – persist in Serbia's governance, undermining the spirit of the rule-of-law reforms (Richter and Wunsch 2020). For example, high-profile corruption cases and organized crime investigations often stall or avoid prosecution if they implicate government-aligned interests, revealing the limits of reform depth. The European Commission's annual reports consistently find Serbia only "moderately prepared" in the judiciary and anti-corruption chapters, noting limited progress in establishing a track record of impartial justice. Independent watchdogs likewise report that, despite an expanded legal toolkit, judicial independence is fragile and prosecutors still face pressures in politically sensitive cases (Kmezić 2019). In sum, while the EU negotiation process has prompted an unprecedented overhaul of Serbia's legal framework, the entrenched political practices and power structures in the country have slowed the transformative impact that such reforms are intended to have. This discrepancy between rule adoption and rule application is a core challenge of Serbia's accession effort a decade later, reflecting the broader difficulty of entrenching liberal-democratic governance in

a context where illiberal tendencies remain strong (Richter and Wunsch 2020).

Serbia's pursuit of European Union membership entails comprehensive judicial and political reforms, framed by legal requirements for the rule of law and democratic governance. These challenges are rooted in doctrinal debates on judicial independence, institutional design, and anti-corruption norms, all under the umbrella of EU legal conditionality. In the context of EU accession negotiations – notably Chapter 23 on Judiciary and Fundamental Rights – Serbia is expected to align its legal and constitutional framework with European standards. The following sections examine key issues in an academic and comparative perspective: the legal theory behind judicial independence in the EU accession context; Serbia's 2022 constitutional amendments viewed through comparative constitutional law; the development of anti-corruption legislation in light of EU rule of law benchmarks; institutional safeguards for the separation of powers; and the phenomenon of 'rule of law backsliding' in the EU enlargement process.

Judicial Independence in the EU Accession Context

In the context of EU accession, judicial independence is not only a democratic principle but a legal prerequisite anchored in the Copenhagen criteria for membership (European Council 1993). Legal theory frames judicial independence as a cornerstone of the rule of law, requiring that judges be free from undue influence by the executive or legislative branches. This principle has both an institutional dimension – guaranteeing the judiciary's autonomy as a branch of government – and an individual dimension – protecting judges' decisional independence in specific cases (Preshova, Damjanovski and Nechev 2017). The EU's conditionality places significant weight on this principle: candidate countries must establish structural safeguards (such as independent judicial councils, merit-based judge selection, and secure tenure) to ensure an impartial and professional judiciary (Kmezić 2017). This emphasis reflects the EU's interest in ensuring that national courts can reliably enforce the *acquis communautaire* and protect fundamental rights upon accession (Kochenov 2008). In Serbia's case, persistent concerns about political influence over courts have spurred EU-supported reforms to insulate judicial appointments and discipline from partisan politics (European Commission 2022). The legal-theoretical debates

here center on how to design institutions that uphold de facto judicial independence, not merely de jure independence, especially in post-authoritarian contexts where informal pressures can undermine formal guarantees (Mendelski 2018). Thus, judicial independence in the EU accession context is both a normative ideal and a practical benchmark: it requires aligning Serbia's judicial governance with European standards and fostering a culture of judicial professionalism immune from political interference.

Constitutional Amendments of 2022 in Comparative Perspective

In 2022, Serbia undertook significant constitutional amendments aimed at strengthening judicial independence, a move largely driven by EU reform benchmarks under Chapter 23 (European Commission 2022). From a comparative constitutional law perspective, these amendments align with broader post-communist trends to depoliticize the judiciary by limiting the influence of the legislative and executive branches in judicial appointments (Venice Commission 2021). Serbia's reforms, approved by a national referendum, reconfigured the High Judicial Council and High Prosecutorial Council to have a majority of members elected by judges and prosecutors themselves, rather than by politicians, drawing on models found in other European jurisdictions (Preshova, Damjanovski and Nechev 2017). Such changes were designed to curtail the longstanding practice of parliamentary appointment of judges, which had raised concerns about politicization and judicial subservience to ruling parties (Preshova, Damjanovski and Nechev 2017). The Venice Commission – the Council of Europe's advisory body on constitutional matters – largely endorsed the 2022 amendments as a step toward compliance with European standards, while recommending continued vigilance to ensure that the new formal safeguards translate into *actual* judicial independence in practice (Venice Commission 2021). Comparatively, Serbia's approach mirrors reforms in neighboring EU aspirants like Montenegro and North Macedonia, which similarly revised their constitutions to fortify judicial councils and insulate courts from political pressures (Džankić, Keil and Kmezić 2019). By examining Serbia's constitutional changes through a comparative lens, one observes a common doctrinal thread: the effort to balance judicial accountability (through transparent appointment and evaluation criteria) with judicial

independence (by minimizing direct political control), in line with European rule-of-law norms.

ANTI-CORRUPTION LEGISLATION AND EU RULE OF LAW BENCHMARKS

Serbia has adopted a comprehensive body of anti-corruption legislation to meet the rule of law benchmarks set out in EU accession Chapter 23 (European Commission 2022). These measures include laws on the prevention of corruption, the establishment of an independent anti-corruption agency, stricter rules on public officials' asset disclosure and conflict of interest, as well as protections for whistleblowers. From a legal standpoint, this legislative framework is intended to fulfill EU standards drawn from international conventions (such as the United Nations Convention against Corruption) and EU best practices, as well as specific criteria outlined in Serbia's Chapter 23 Action Plan (European Commission 2021). Doctrinal debates in the legal literature, however, emphasize that formal compliance through legislation is not sufficient; effective enforcement and a demonstrated "track record" of high-level corruption prosecutions are crucial indicators of genuine reform (Mungiu-Pippidi 2015; Mendelski 2018). The EU's conditionality regime explicitly requires not just the adoption of laws, but their *implementation*, evidenced by impartial investigations, indictments, and final convictions in corruption cases involving officials. Scholars note that without independent institutions – including specialized prosecutors and courts – capable of impartially applying these laws, anti-corruption reforms risk becoming mere window-dressing (Mendelski 2018; Richter and Wunsch 2020). In the Serbian context, the European Commission's progress reports have acknowledged some progress in aligning laws with the EU acquis, but continue to highlight limited results in dismantling patronage networks or in prosecuting high-level corruption cases (European Commission 2022). This gap between rule-of-law legislation and real-world impact illustrates a broader theoretical point: the existence of legal rules does not automatically guarantee the rule of law. The challenge, therefore, lies in translating legal changes into a culture of integrity and accountability – a common difficulty observed across Southeast European countries transitioning from clientelistic political systems (Mungiu-Pippidi 2015). Ongoing monitoring under Chapter 23 serves to keep anti-corruption efforts in Serbia under scrutiny, linking

the credibility of Serbia's EU bid to sustained performance in curbing corruption.

Institutional Safeguards for Separation of Powers

A robust separation of powers is fundamental to ensuring that judicial reforms are sustainable and insulated from political oscillations. Constitutional scholars underscore that formal guarantees of judicial independence must be coupled with broader institutional "checks and balances that prevent any one branch of government from accumulating excessive power" (Pech and Scheppele 2017). In Serbia, the constitution and related laws provide certain safeguards – such as life tenure for judges (after a probationary period), immunity for judicial decisions, and the autonomous administration of the courts – all designed to uphold the separation of powers (Venice Commission 2016). The 2022 constitutional amendments further aimed to entrench such safeguards by reducing direct political influence over the judiciary and prosecution, thereby reinforcing the classical Montesquieuan notion of three coequal and independent branches of government (Venice Commission 2021). From a doctrinal standpoint, these reforms resonate with principles of comparative constitutional design that advocate institutions like judicial councils, constitutional courts, and independent oversight bodies as intermediaries maintaining the balance of power (Kmezić 2017). For instance, Serbia's Constitutional Court plays a key role in reviewing legislation and government acts for compliance with the constitution, acting as a check on the executive and legislature. However, effective checks and balances depend not only on constitutional text but also on political culture and the commitment of officials to respect the rule of law in practice (Džankić, Keil and Kmezić 2019). Persistent challenges in many Western Balkan states, including Serbia, involve informal power structures and executive dominance that can erode the practical functioning of the separation of powers despite formally sound laws (Richter and Wunsch 2020). This has led to scholarly discussions about "institutional resilience" – the ability of judicial and other oversight bodies to withstand pressure and enforce limits on power. In sum, establishing legal safeguards is a necessary step, but their durability hinges on continued institutional vigilance and a political environment that values constitutionalism over short-term partisan interests.

Rule of Law Backsliding and Compliance under EU Enlargement Law

The phenomenon of "rule of law backsliding" – where initially enacted reforms stagnate or are reversed – has become a subject of theoretical discussion in both EU internal and enlargement contexts (Pech and Scheppele 2017). While EU candidate countries like Serbia often adopt extensive reforms on paper to meet accession conditions, maintaining those reforms over time is an ongoing challenge, particularly if domestic political will wanes or if the incentives of EU membership lose credibility (Noutcheva 2009). EU enlargement law, as reflected in accession negotiation frameworks, attempts to address this risk by instituting mechanisms such as interim benchmarks, rigorous monitoring, and the possibility of halting or reversing negotiation progress in cases of serious backsliding (Council of the European Union 2012). Notably, the EU's revised accession methodology of 2020 places the rule of law at the heart of the process: chapters on judiciary and fundamental rights (and justice, freedom, and security) are opened early and closed last, and negative trends can impact the overall pace of negotiations (European Commission 2020). This approach is intended to create a constant incentive for compliance and to detect backsliding early. Nevertheless, academic critiques suggest that external conditionality has inherent limits: if domestic actors engage in only superficial compliance, or if entrenched elites find ways to circumvent reforms while formally ticking the EU's boxes, the EU's leverage may be insufficient to prevent regression (Kochenov 2008; Richter and Wunsch 2020). This has been evidenced in other post-accession contexts in East-Central Europe, where formal adoption of EU-compliant laws was followed by a re-concentration of power once external pressure diminished (Mendelski 2018). In Serbia's case, the durability of recent judicial and political reforms will depend on both the strict enforcement of new constitutional and legal provisions and on the depth of domestic commitment to uphold the spirit of these reforms, even amid electoral changes or geopolitical uncertainties (Džankić, Keil and Kmezić 2019). The interplay between EU conditionality and national politics thus remains critical. Compliance is not a one-time checklist exercise but a prolonged process of legal and institutional transformation – one that must be internalized by domestic institutions to guard against backsliding (Noutcheva 2009). As Serbia moves forward in the EU accession process, its experience will continue

to test the effectiveness of EU legal conditionality in fostering genuine rule-of-law consolidation versus merely transient compliance.

ECONOMIC REFORMS AND GOVERNANCE

Economic transformation has been another focal point of Serbia's EU negotiations, intertwined with the political reform agenda. Over the past decade, Serbia's economy has undergone significant changes under the guidance of EU norms and international financial institutions – from tightening fiscal discipline to improving the business regulatory environment. Early in the negotiation period, Serbia embarked on austerity measures and restructuring (especially around 2014–2015, often in coordination with the IMF), which helped reduce public deficits and debt, restoring macroeconomic stability. The EU has complemented these efforts by integrating Serbia (and its Western Balkan peers) into frameworks like the annual Economic Reform Programme (ERP) exercise, which mirrors the EU's own economic governance process and sets out priority structural reforms to boost competitiveness and growth (Besimi and Monastiriotis 2019). Reforms have included modernizing tax administration, overhauling public financial management, simplifying licensing procedures, and partially privatizing or reorganizing state-owned enterprises. By conventional metrics, Serbia's economy in 2024 is more stable and open than it was a decade ago, with moderate growth, controlled inflation, and substantially increased trade with the EU (the EU accounts for around two-thirds of Serbia's trade) – outcomes in line with the expected benefits of the EU integration process. However, the depth and sustainability of economic reforms remain in question, as does the degree to which they translate into convergence with EU living standards. Analysts note that the Western Balkan region experienced a notable deceleration in structural reform momentum and economic convergence after the global financial crisis of 2008 and during periods when the EU's enlargement agenda lost priority (Besimi and Monastiriotis 2019). In Serbia's case, while headline fiscal and growth figures improved in the late 2010s, progress on underlying issues – such as strengthening the rule of law in economic governance, reducing corruption, and improving the efficiency of the public administration – was limited. These factors continue to deter higher levels of investment and innovation. Corruption and bureaucratic inefficiencies impose a hidden tax on the economy, and Serbia's governance indicators in areas

like regulatory quality and control of corruption have seen only modest improvement, if not stagnation, over the negotiation decade (European Commission 2023). The concept of "state capture," whereby well-connected economic interests and political elites dominate key sectors, applies to Serbia's political economy and inhibits truly fair competition (Richter and Wunsch 2020). Moreover, regional economic studies suggest that without the credible prospect of imminent EU membership, governments in the Balkans often lack the incentive to undertake politically sensitive reforms that could disrupt patronage networks (Vachudova 2019). Serbia's reform trajectory supports this argument: reform spurts often coincided with periods of high EU engagement, while slowdowns aligned with times of EU ambivalence or domestic electoral politics. In quantitative terms, research has found a strong correlation between EU integration milestones and reform adoption in Southeast Europe (Besimi and Monastiriotis 2019), yet also warns that in the absence of consistent pressure, partial reforms can plateau. Thus, economically, Serbia stands at a crossroads a decade into negotiations – having achieved a basic level of macro-stability and integration with European markets, but still facing significant structural challenges in governance and productivity that EU-oriented reforms have not fully resolved. Completing the "second generation" reforms (e.g., judiciary effectiveness, property rights enforcement, competition policy) is essential for Serbia to genuinely catch up with EU economies (Bartlett and Prica 2017). The coming years will test whether the prospect of EU accession (potentially revitalized by new EU investment initiatives and a post-2022 geopolitical push for enlargement) can propel Serbia into addressing these remaining hurdles in its economic governance.

CONCLUSION: PROSPECTS AND REFLECTIONS AFTER A DECADE

A decade into Serbia's EU accession negotiations, the balance sheet of progress presents a sobering picture of both achievements and shortcomings. On one hand, the negotiation process has undeniably anchored Serbia in a framework of European norms: a vast body of EU-compliant legislation has been adopted, institutions have been created or reformed on EU models, and the country's foreign policy narrative remains tied to eventual EU membership. On the other hand, the quality of democratic governance and the rule of law in Serbia has not improved

commensurately with these formal changes, as persistent challenges in judicial reform and anti-corruption implementation continue to raise concerns (Richter and Wunsch 2020). This dichotomy underscores a central lesson of the past decade: EU conditionality can guide and catalyze reforms, but its effectiveness is heavily contingent on domestic political will and the credibility of the EU's offer (Noutcheva 2009). In Serbia's case, the interplay between domestic reform constraints and the EU's own inconsistencies in applying accession criteria has contributed to a deceleration of the transformative momentum initially expected from the integration process. At the same time, EU factors – such as the slowing pace of enlargement, mixed messages from member states, and a reluctance to confront authoritarian tendencies forcefully – have weakened the pull of Europeanization (Vachudova 2019). The result is a protracted accession journey where technical alignment has advanced, but normative change lags behind.

Looking forward, the next phase of Serbia's EU journey will require reinvigorating the reform momentum and rebuilding mutual trust. For Serbia, this means demonstrating tangible commitment to core EU values: implementing laws in good faith, safeguarding media freedom and pluralism, ensuring independent judiciary and anti-corruption bodies, and aligning its foreign policy decisively with the EU at critical moments. These steps are necessary to convince skeptical EU actors that Serbia's membership would strengthen, not dilute, the Union's political cohesion. For the EU, it may require a recalibration of its approach – possibly offering incremental rewards (such as phased integration into single market sectors or observer status in EU institutions) to sustain incentives, as well as a clearer geopolitical commitment to enlargement in the Western Balkans to outcompete alternative influences (Dufalla and Metodieva 2024). Encouragingly, the EU's renewed attention to the region (for example, the 2018 "Credible Enlargement Perspective" strategy and revived high-level engagement in 2021–2023) suggests that Brussels recognizes the strategic importance of completing the Balkans' integration. Yet, strategies and promises will only bear fruit if followed by consistent action. As academic analyses warn, "enlargement fatigue" and the rise of illiberalism both within the EU and among candidates could turn the accession process into an empty ritual if not addressed (Vachudova 2019; Bieber 2020).

In conclusion, Serbia's decade-long negotiation process vividly illustrates both the transformative reach and the inherent limits of the

EU's enlargement policy. It stands as a test case of whether the EU can still act as a democratizing force in its neighborhood when confronted with resilient illiberal politics. The coming years will be decisive: either Serbia will undertake the profound structural changes necessary to break the pattern of stalled reforms and meet the EU's entry standards, or its European integration aspirations will remain indefinitely unrealized, reinforcing a regional trend of stagnant Europeanization. The stakes of this outcome extend beyond Serbia itself – they will signal the future of EU influence and the prospects of democratic consolidation in the Western Balkans at a time when the very idea of an "ever-enlarging Union" hangs in the balance (Anastasakis 2005; Levitsky and Way 2010). As Serbia and the EU both navigate internal and external challenges, their negotiation saga enters its second decade with an acute awareness that the credibility of the EU accession process – and the promise of a Europe whole, free, and at peace – depends on recoupling formal progress with substantive democratic change. The lesson of the past ten years is clear: without genuine political transformation, integration on paper will not suffice to achieve integration in reality. The task ahead is to ensure that the next decade delivers on the fundamental reforms that the first decade has left incomplete, thereby turning Serbia's European future from a negotiated possibility into a lived reality (Vachudova 2005; Grabbe 2006).

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ДЕЦЕНИЈА ПРЕГОВОРА: ПРЕГОВАРАЧКИ ПРОЦЕС РЕПУБЛИКЕ СРБИЈЕ СА ЕВРОПСКОМ УНИЈОМ И ИЗАЗОВИ СТРУКТУРНИХ РЕФОРМИ ДЕЦЕНИЈУ КАСНИЈЕ[***]

Резиме

Процес преговора између Републике Србије и Европске уније (ЕУ), који је почео у јануару 2014. године, суочио се са значајним изазовима током протекле деценије, што је довело до привременог застоја у процесу приступања Србије пуноправном чланству ЕУ. Упркос почетку примене ревидиране методологије проширења ЕУ у фебруару 2020. године, њен неуспех да убрза процес приступања Србије произилази из захтевне природе структурних реформи које Србија мора да предузме како би се ускладила са стандардима и принципима ЕУ. Ове реформе обухватају различите секторе, укључујући правосуђе, јавну управу и економско управљање. Рад истражује узроке застоја у процесу преговора, као што су политички отпор, институционална отпорност, недостатак административних капацитета и потреба за институционалном трансформацијом деценију након почетка преговора у овим областима. Штавише, питање корупције и владавине права остаје значајан друштвени и политички проблем. Процес преговора Србије са ЕУ је више пута открио потребу за успостављањем независног и ефикасног правосудног система, слободног од политичког утицаја и корупције.

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Реформе су покренуте док су испуњени одређени критеријуми, што показује де факто посвећеност земље интеграцијама у ЕУ. Користећи методе анализе садржаја докумената и анализе дискурса, овај рад критички испитује међусобну интеракцију између дугорочног преговарачког процеса Србије са Европском унијом и деликатног процеса спровођења структурних реформи у периоду од јануара 2014. до јануара 2024. године. Рад такође критички оцењује политичке димензије процеса проширења ЕУ, укључујући асиметричну примену условљености приступања и наметање претходно невиђених политичких захтева Србији у поређењу са другим земљама кандидатима.

Кључне речи: процес приступања ЕУ, ревидирана методологија проширења, преговори о приступању ЕУ, структурне реформе, Србија, Европска комисија, државе чланице ЕУ

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