# The Phasing-in Approach for Accelerated Integration into the European Union, or Encapsulation into the Western Balkans

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**Abstract:** The war in Ukraine and the vulnerability of the Western Balkans clearly highlight how important it is to complete the unification of the European Union. The EU and the Western Balkans share geopolitical interests, and the accession negotiations should be seen as a new opportunity for accelerated integration, based on conditionalities. A new enlargement methodology as a general political framework has been transposed into the new generation of negotiation frameworks for North Macedonia and Albania. One of the key novelties of the new methodology is the potential for accelerated integration and (gradual) "phasing-in" to individual EU policies, the EU market, and EU programs, coupled with increased funding and investments. The main pillars of the enlargement package are the EU fundamentals. Why not start mirroring those fundamentals in practice, bringing the accession negotiations closer to key areas of mutual interest, such as the European Rule of Law Mechanism, through phasing-in to the European Semester, followed by the European Single Market, supported through the IPA instrument, and consider establishing a Western Balkans Cohesion Fund? These are complex mechanisms and therefore, beginning at an early stage would be highly beneficial for both sides.

**Keywords:** regional cooperation, accelerated accession, new methodology, negotiation framework, gradual integration, phasing-in, learning by doing

### Context, regional cooperation, and a clear EU perspective

The war in Ukraine and the vulnerability of the Western Balkans clearly highlight how important it is to complete the unification of the European continent and make the European Union stronger and more resilient to any current or future threats. When? As soon as possible, and sooner is better than later, which means within no more than 5-7 years. During this period we must deepen and enrich regional cooperation both among the Western Balkan countries and with the European Union within the accession negotiations process, using all available instruments, notably through the new enlargement methodology (Directorate-General for Neighbourhood and Enlargement Negotiations, 2020), and using the "gradual phasing-in" (Council of European Union, 2022) approach as a main leverage.

As a region, we should sometimes remind ourselves that all Western Balkan countries are part of the Stabilization and Association Process (SAP), they all have Stabilization and Association Agreements (SAAs) in force, they have all applied for EU membership, and all are parties to CEFTA, as well as energy and transport treaties, which means that all should be playing according to the same rules. At the same time, not all Western Balkan countries are a member of the WTO or NATO, not all are part of open accession negotiations, or follow the EU Common Foreign Security Policy (CFSP) and Common Security and Defence Policy (CSDP), including the restrictive measures and sanctions introduced against Russia. Working together with all these differences is a real challenge.

In that sense, regional cooperation should only be seen through the lens of enlargement or the full-fledged EU membership of all the Western Balkan countries, and it should not be seen as an attempt to freeze enlargement at a level lower than full-fledged membership. The widespread impression is that politicians from the Western Balkans are not afraid of regional cooperation, but they are afraid that we can be encapsulated into the region without a real EU perspective. Therefore, regional cooperation can only be successful if it is blended with the accession negotiations through the new methodology.

Time is an important factor, and when the process finds itself in a stalemate for more than a decade, people start losing interest in the process, particularly the young generations, including the administration working on it. Therefore, a clear timeframe must be promoted, simply because dragging the process of enlargement further out in circumstances of war, and a lack of clear perspective can result in new generations that will lose trust in the capability of the EU and the attractiveness of the values and strength of the Western world. Therefore, this is the right time for the EU to design a new Agenda 2030 based on the historical success of the Agenda 2000 and set the political and financial stage in order to complete the unification of the EU.

## The new enlargement methodology and its potential through the negotiation frameworks

The geopolitical interests of the EU in the Western Balkans are evident, and the new methodology for accession negotiations should be seen as a new opportunity for the accelerated integration of the Western Balkan countries into the EU by making the process more political and better steered. Even though many of the elements of the methodology sound the same as before, the changes are deep, and the novelties are substantial. In short, the new approach is more political, more complex and strategic, more sensitive to political changes, more dynamic, but also more demanding and more expensive. However, the implementation or practical application of the new methodology is still to be tested in practice. The implementation can be seen as a tipping point in the enlargement process, and it can go either way, accelerating or slowing down the accession negotiations.

The new methodology can be considered a general political framework that has been transposed into the new generation of negotiation frameworks for North Macedonia and Albania, adopted by the Council of the EU on 18 July, 2022. The two negotiation frameworks fully reflect the new methodology. By definition, the negotiation framework (General EU position, 2022) defines the principles governing the negotiations, with the ultimate goal of full-fledged membership and the pace of the negotiations based on the countries' merits and the

Union's capacity to absorb new members. It requires full respect for all the defined political and economic criteria, as well as the ability to take on the obligations of membership. In addition, the importance of the good-faith implementation of the bilateral agreements concluded with Greece (2018) and Bulgaria (2017) is underlined. To ensure the dynamism of the negotiations, 33 chapters are grouped into six thematic clusters, with a stronger focus on core sectors, and starting and closing the negotiations with the Fundamentals cluster. Derogations are possible in extremely rare and well-justified cases, and transitional measures can be negotiated if well-elaborated.

The negotiation framework also sets clear negotiating procedures, starting with the formal process of screening (explanatory and bilateral screening process), opening negotiations by cluster, starting from the Fundamentals cluster, using opening benchmarks (OBM) per cluster (the opening benchmarks for the Fundamentals cluster will be a Roadmap for the Rule of Law and, as a novelty in the case of MKD and AL, a Roadmap for PAR as well), interim benchmarks (IBM) for the Rule of Law, and closing benchmarks (CBM) per chapter (for 28 chapters) and for the Fundamentals cluster as a whole. All decisions on the opening and closing of clusters and chapters will be taken by unanimity.

### Phasing-in: leverage or a challenge?

One of the most interesting parts of the new enlargement methodology, although it is not clearly elaborated by the European Commission, is the potential for accelerated integration and (gradual) "phasing-in" (Council of European Union, 2022) to individual EU policies, the EU market, and EU programs, coupled with increased funding and investments, including through performance-based and reform-oriented IPA support and closer cooperation with IFIs to leverage support. However, it is clear that gradual phasing-in to some policies through participation in commissions or council bodies, programmes, or agencies will not automatically confer a right to vote in the decision-making process until a country achieves full-fledged membership or the Treaty is changed.

This accelerated integration through the phasing-in approach has been transposed and elaborated within the negotiation framework for North Macedonia in slightly more detail:

- "Closer integration with the European Union, through accelerated integration and "phasing in" to individual EU policies, the EU market and EU programs... primary focus should be given to areas where the candidate country already has the capacity and expertise for exports to the EU, and on areas of mutual strategic interest where the candidate country has significant production but needs to meet EU norms and standards (e.g. production of critical raw materials), and as well on areas where there is a vast untapped potential (e.g. digital/green economy).
- ▶ Increased investments and funding, including intensifying the pre-accession assistance in line with applicable legal provisions, rules, and procedures and closer cooperation with relevant IFI's to leverage investments and support; the use of EU funding should create a strong European preference and a strong local economy by projects being implemented, to the extent possible, by EU and local businesses, in full compliance with the EU acquis, including the legal framework of the respective financial instruments, and the international commitments of the EU" (General EU position, 2022).

Considering the importance of the accelerated accession negotiations, including the gradual phasing-in and awarding policies (trade and funds), this aspect of the methodology requires much more detailed clarification and well-elaborated procedures on how it will work in practice, using the cluster screening reports (findings, recommendations, and benchmarks), identifying early integration measures, phasing-in to individual EU policies, programs and agencies. It will be important to clearly set the role of the SAA bodies in monitoring progress, proposing initiatives and decisions, and finally, when and how the award funding procedure will be triggered to match a merit-based enlargement progress, performance, and commitment per country.

In my view, we clearly need to start from the logic of "fundamentals first". The main pillars of the enlargement package are the fundamentals. Following that approach, why not mirror those fundamentals into the accession process through the new methodology and philosophy of

the enlargement in practice? In fact, to bring the accession negotiations closer to the key areas of mutual interest, the EU should consider testing the phasing-in approach in key areas related to fundamentals, starting with the European Rule of Law Mechanism (European Commission, 2022a), and the Justice Scoreboard (European Commission, 2022b), encouraging and complementing at the same time structural reforms through phasing-in to the European Semester (European Council & Council of the EU, n.d.) and the European Single Market (European Union, n.d.), supported through the IPA instrument, and considering establishing a (Western Balkan) Cohesion Fund. We should also add to this list the need to fully comply with the Common Foreign Security Policy, including introducing restrictive measures and sanctions and extending cooperation and compliance with the Common Security and Defence Policy. These are complex mechanisms and require thorough preparation before being able to take on full participation, therefore beginning at an early stage would be instrumental for both sides.

The first step in preparing for gradual phasing-in needs to be made by the European Commission services, including

- mapping all of the 350+ European Commission committees (European Commission, n.d.a), including their legal bases, scope, and rules of procedures, to see where countries in the negotiation phase can already participate in their work, and if they cannot, whether the committees are open to third countries and whether they can be open to the countries that are in the process of accession negotiations,
- mapping all Union programs within the EU Budget 2021-2027 (European Commission, n.d.b), in addition to IPA III and the programs in which WB countries are already participating, identifying which programs can be opened for the participation of the Western Balkan countries, at what stage of the accession negotiations, at what scope, and to what extent,
- mapping all Union agencies (European Parliament, n.d.), including their legal bases, scope, and rules of procedures, indicating in which agencies experts from the Western Balkan countries are already participating and in which ones they could participate in the future, taking inventory of all the IT networks and databases to which

Western Balkan countries can be attached, not only to contribute to them but also to use the available data, to join procurement schemes, etc., and

mapping all 150+ Council of the EU preparatory bodies (Council of the European Union, 2022) and selecting those whose work needs to be followed closely by experts from the WB countries through detailed political and technical briefings of the agendas, draft policy papers, draft decisions, legislative proposals, etc.

Once the maps, charts, and inventories are ready, this wide-ranging exercise should be followed by a comprehensive presentation and elaboration of the results, first at the political level of those Western Balkan countries that are already in the process of accession negotiations, and then to the relevant experts. Doing so will enhance the understanding of the scope, procedures, and technical elements that are needed in order for the country to make the necessary decisions at the national level and propose meaningful gradual phasing-in integration in areas of mutual interest. The Council for Stabilization and Association could be the first decision-making level for some elements of phasing-in, while the Council of the EU and its relevant bodies (GAC, COREPER, and COELA) could do the same for those elements of phasing-in where the anonymity of the MSs is required.

### Phasing-in through the "fundamentals first" approach

Considering the "fundamentals first" approach as the most relevant, the focus should be on those areas that are of key common interest for the EU and the Western Balkan countries, starting with:

1. The rule of law, as a backbone of the Euro-Atlantic community, has developed over several hundred years, through good times and bad times. Therefore, democracy, freedom of speech, and free media should be protected at any cost, since these are key values that make this part of the world a leader on the global scene. Democracy cannot be exercised at its full potential unless the judicial system is fully independent and relieved from political interference and pressure,

unless prosecutors are fully professional and equipped properly, unless intelligence services are under strict and rigid scrutiny by parliament and independent civil society bodies, and unless preventing and fighting corruption, as well as an uncompromising fight against organized crime is priority number one for both the government and society as a whole.

Therefore, it is worth considering that Western Balkan countries are fully incorporated into the Rule of Law (RoL) mechanism (through a step-by-step approach), including the Justice Scoreboard. If we all agree that the RoL is key, and if it is the most important part of the Fundamentals cluster (which, according to the new methodology and our negotiation framework, will be opened first and closed last, or only at the end of the accession negotiations), then we should start phasing-in through the RoL mechanism, launching a learning platform to introduce all the elements and procedures of the mechanism and the Scoreboard, to encode them in our legal system, train experts, and build the capacities of our institutions and entire civil society to act within it. Transparency is self-evident if the media are also incorporated well into the mechanism, leaving no excuses for politicians who do not act in line with their promises. The logic of the new methodology is exactly that transparency will force politicians to become more accountable.

2. The Economic Governance Framework, which includes all the economic criteria (Council of the European Union, 2023) is an essential part of the accession process, but the Economic Reform Program (ERP) is only a good basis rather than a comprehensive tool to introduce the Western Balkan countries into the European Semester (including the Fiscal Compact rules). If we want to make the free-market economy reforms irreversible and economic governance stronger, we must make the Economic Governance Framework and the European Semester compulsory for the Western Balkan countries as well. This is a very complex and demanding process, but we have to start doing it, and sooner is better than later.

Therefore, we may consider defining a detailed Roadmap for all the Western Balkan countries, which should be gradual, step-bystep, incorporated into the Economic Governance Framework and European Semester, as well as launching a learning platform to introduce all the elements and procedures of the Economic Governance Framework and the European Semester, to encode them gradually into our legal system, and train and build the capacity of our institutions and entire civil society to act within it (in addition to the ERP that we already have).

3. The Common Regional Market must become an instrument that connects our trade and economies. Some positive steps have been taken in the right direction (e.g. through the agreements signed under the Berlin process), but we need to ensure that all Western Balkan countries are on board, that all follow the WTO and EU rules, and that they comply fully with the EU standards and norms, fully respect the CEFTA agreements, and fully implement the SAAs (i.e. that they are not in breach of their SAA obligations). Either we follow the same rules, or the process will not work, no matter what framework we use. The Regional Cooperation Council (RCC) can coordinate, but we need to strengthen the role and direct involvement of the Commission services and the expertise of the EU MSs, including the exchange of relevant experiences.

The current activities should be extended to a higher level, starting with the Regional Cooperation Council and the Commission's relevant services, to conduct clear and thorough analyses of where each of the WB countries stand, including all topics related to the action plan for achieving the Common Regional Market. We need to be clear what the starting point is and what distance there is between where the countries stand at the moment, which of the EU legislations, norms, and standards they need to transpose into their national legal systems, followed by the RCC producing specific tailor-made roadmaps for each of the WB countries to meet the European Single Market requirements, with guidance from the Commission services (or together). The Common Regional Market should not be used to lower the EU norms and standards.

4. Extending IPA-type assistance should be considered, as well as introducing a new Cohesion Fund for the Western Balkans, thus bringing financial instruments closer to the real cohesion policy. This may be the real game changer, to be used as leverage to bring back the trust of people from the WB countries in the EU. On the other side, it may become the main political tool for the EU to reward the successfully implemented reforms with an accelerated decrease of the economic disparities.

5. The Common Foreign Security Policy, including the introduced restrictive measures and sanctions, and extending cooperation and compliance with the Common Security and Defence Policy, should be added to the "fundamentals first approach" as a crucial topic, considering all the tectonic movements after the aggression of Russia on the sovereign Ukraine state. Therefore, CFSP keeping the EU united should be a gravity force for all the countries of the WB region, if they strategically choose to do so, and it should be used for strengthening the political connections of the region with the Union and the western world. Regional economic and market integration (chain production, open Balkan, or CRM), and regional political unity can only work if we are all heading in the same direction.

When we talk about the CFSP, we also have to look more closely at restrictive measures and the sanctions policy and mechanisms (EEAS, n.d.), such as the sanctions against countries, economic operators, or even individuals that pose a threat to our security and/or public order, or for example, joining the EU Foreign direct investments (FDI) screening coordination mechanism (European Commission, n.d.c) in specific areas and in critical infrastructure.

It would be highly beneficial to consider adding the CFSP (and CSDP) to the list of topics of interest for the phasing-in approach. We need to have access to an entry door (through the European External Action Services - EEAS) in a coordinated manner, with all the relevant channels of information and adequate support mechanisms that make us able to implement all the agreed sanctions and other measures (e.g. being part of the FDI coordination screening mechanism). Access to these mechanisms should be gradual, but only for those countries that are fully in line with the CFSP. EEAS should be in a leading role, with adequate staff ready to give necessary advice and expertise. It could conduct analyses of the existing national mechanisms in all WB countries, responsible for following and initiating compliance procedures with the CFSP, especially with the national mechanisms to follow the implementation of the restriction measures and sanctions, including products with dual use.

We should also look back to the lessons learned from the enlargement process and reuse some of the forgotten instruments that were useful and productive, such as the accession partnership action plans. Why not draft country accession partnerships for all the Western Balkan countries, with a clear list of priorities and targets, on top of the EC reports? In addition, the National Plans for the Adoption of the Acquis (NPAA) should become a compulsory exercise, produced by WB countries and fine-tuned by the Commission's professional services.

The world is complicated, the EU is a complex machine, and the Western Balkan region is a challenging place. Nothing will be the same as before 24 February, 2022, we will all have to change and adjust fast, thinking and deciding while on the move.

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